



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-0691/P3
EAW:kjf&cdc

DOA:.....Bork, BB0059 - Family first prevention services

FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION

AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

CHILDREN

1. Family first prevention services

This bill makes certain changes to child welfare laws to allow foster care payments to be made on behalf of a child who is placed with his or her parent in a licensed family-based residential alcohol or drug abuse treatment facility in order to claim federal funding under Title IV-E of the federal Social Security Act. Under current law, the court assigned to exercise jurisdiction under the Children's Code ("children's court") has jurisdiction over a child alleged to be in need of protection or services ("CHIPS"). Current law establishes the grounds for alleging CHIPS. This bill adds that the children's court has jurisdiction over a child whose parent is residing in a residential family-based alcohol or drug abuse treatment program, if the parent requests jurisdiction in order to have his or her child reside at the program. The bill requires DCF to prepare a permanency plan for such a child, and allows DCF to place the child with the parent at the treatment program under a voluntary agreement or by an order of the children's court if the parent consents and if such a placement is recommended by the permanency plan. If a child is placed with his or her parent under such a voluntary agreement or an order of the children's court, the bill authorizes DCF to provide foster care funding for the placement.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 48.02 (14m) of the statutes is created to read:

48.02 (14m) “Qualifying residential family-based treatment facility” means a certified residential family-based alcohol or drug abuse treatment facility that meets all of the following criteria:

(a) The treatment facility provides, as part of the treatment for substance abuse, parenting skills training, parent education, and individual and family counseling.

(b) The substance abuse treatment, parenting skills training, parent education, and individual and family counseling is provided under an organizational structure and treatment framework that involves understanding, recognizing, and responding to the effects of all types of trauma and in accordance with recognized principles of a trauma-informed approach and trauma-specific interventions to address the consequences of trauma and facilitate healing.

SECTION 2. 48.13 of the statutes is amended to read:

48.13 Jurisdiction over children alleged to be in need of protection or services. Except as provided in s. 48.028 (3), the court has exclusive original jurisdiction over a child alleged to be in need of protection or services which can be ordered by the court, and if one of the following applies:

(1) ~~Who~~ The child is without a parent or guardian;

(2) ~~Who~~ The child has been abandoned;

(2m) ~~Whose~~ The child's parent has relinquished custody of the child under s. 48.195 (1);.

(3) ~~Who~~ The child has been the victim of abuse, as defined in s. 48.02 (1) (a) or (b) to (g), including injury that is self-inflicted or inflicted by another;.

(3m) ~~Who~~ The child is at substantial risk of becoming the victim of abuse, as defined in s. 48.02 (1) (a) or (b) to (g), including injury that is self-inflicted or inflicted by another, based on reliable and credible information that another child in the home has been the victim of such abuse;.

(4) ~~Whose~~ The child's parent or guardian signs the petition requesting jurisdiction under this subsection and is unable or needs assistance to care for or provide necessary special treatment or care for the child;.

(4m) ~~Whose~~ The child's guardian is unable or needs assistance to care for or provide necessary special treatment or care for the child, but is unwilling or unable to sign the petition requesting jurisdiction under this subsection;.

(5) ~~Who~~ The child has been placed for care or adoption in violation of law;.

(8) ~~Who~~ The child is receiving inadequate care during the period of time a parent is missing, incarcerated, hospitalized or institutionalized;.

(9) ~~Who~~ The child is at least age 12, signs the petition requesting jurisdiction under this subsection and is in need of special treatment or care which the parent, guardian or legal custodian is unwilling, neglecting, unable or needs assistance to provide;.

(10) ~~Whose~~ The child's parent, guardian or legal custodian neglects, refuses or is unable for reasons other than poverty to provide necessary care, food, clothing, medical or dental care or shelter so as to seriously endanger the physical health of the child;.

(10m) ~~Whose~~ The child's parent, guardian or legal custodian is at substantial risk of neglecting, refusing or being unable for reasons other than poverty to provide necessary care, food, clothing, medical or dental care or shelter so as to endanger seriously the physical health of the child, based on reliable and credible information that the child's parent, guardian or legal custodian has neglected, refused or been unable for reasons other than poverty to provide necessary care, food, clothing, medical or dental care or shelter so as to endanger seriously the physical health of another child in the home;.

(11) ~~Who~~ The child is suffering emotional damage for which the parent, guardian or legal custodian has neglected, refused or been unable and is neglecting, refusing or unable, for reasons other than poverty, to obtain necessary treatment or to take necessary steps to ameliorate the symptoms;.

(11m) ~~Who~~ The child is suffering from an alcohol and other drug abuse impairment, exhibited to a severe degree, for which the parent, guardian or legal custodian is neglecting, refusing or unable to provide treatment; or.

(13) ~~Who~~ The child has not been immunized as required by s. 252.04 and not exempted under s. 252.04 (3).

SECTION 3. 48.13 (14) of the statutes is created to read:

48.13 **(14)** The child's parent is residing in a qualifying residential family-based treatment facility, signs the petition requesting jurisdiction under this subsection, and, with the department's consent, requests that the child reside with him or her at the qualifying residential family-based treatment facility.

SECTION 4. 48.207 (1) (L) of the statutes is created to read:

48.207 **(1)** (L) With a parent in a qualifying residential family-based treatment facility if the child's permanency plan includes a recommendation for such a

placement under s. 48.38 (4) (em) before the placement is made and the parent consents to the placement.

SECTION 5. 48.345 (3) (c) of the statutes is amended to read:

48.345 (3) (c) A foster home licensed under s. 48.62, a group home licensed under s. 48.625, a foster home, group home, or similar facility regulated in another state, or in the home of a guardian under s. 48.977 (2).

SECTION 6. 48.345 (3) (cm) of the statutes is amended to read:

48.345 (3) (cm) A group home described in s. 48.625 (1m) or a similar facility regulated in another state, if the child is at least 12 years of age, is a custodial parent, as defined in s. 49.141 (1) (b), or an expectant mother, is receiving inadequate care, and is in need of a safe and structured living arrangement.

SECTION 7. 48.345 (3) (d) of the statutes is amended to read:

48.345 (3) (d) A residential ~~treatment care~~ care center for children and youth operated by a child welfare agency licensed under s. 48.60, or a similar facility regulated in another state.

SECTION 8. 48.345 (3) (e) of the statutes is created to read:

48.345 (3) (e) With a parent in a qualifying residential family-based treatment facility, or a similar facility regulated in another state, if the child's permanency plan includes a recommendation for such a placement under s. 48.38 (4) (em) before the placement is made.

SECTION 9. 48.38 (2) (intro.) of the statutes is amended to read:

48.38 (2) PERMANENCY PLAN REQUIRED. (intro.) Except as provided in sub. (3), for each child living in a foster home, group home, residential care center for children and youth, juvenile detention facility, shelter care facility, qualifying residential family-based treatment facility with a parent, or supervised independent living

arrangement, the agency that placed the child or arranged the placement or the agency assigned primary responsibility for providing services to the child under s. 48.355 (2) (b) 6g. shall prepare a written permanency plan, if any of the following conditions exists, and, for each child living in the home of a guardian or a relative other than a parent, that agency shall prepare a written permanency plan, if any of the conditions specified in pars. (a) to (e) exists:

SECTION 10. 48.38 (2) (d) of the statutes is amended to read:

48.38 (2) (d) The child was placed under a voluntary agreement between the agency and the child's parent under s. 48.63 (1) (a) or (bm) or (5) (b) or under a voluntary transition-to-independent-living agreement under s. 48.366 (3).

SECTION 11. 48.38 (4) (em) of the statutes is created to read:

48.38 (4) (em) A recommendation regarding placement with a parent in a qualifying residential family-based treatment facility.

SECTION 12. 48.48 (17) (a) 3. of the statutes is amended to read:

48.48 (17) (a) 3. Provide appropriate protection and services for children and the expectant mothers of unborn children in its care, including providing services for those children and their families and for those expectant mothers in their own homes, placing the those children in licensed foster homes or group homes in this state or a similar facility regulated in another state within a reasonable proximity to the agency with legal custody, placing the those children in the homes of guardians under s. 48.977 (2), placing those children in a qualifying residential family-based treatment facility with a parent or in a similar facility regulated in another state, or contracting for services for those children by licensed child welfare agencies in this state or a similar child welfare agency regulated in another state, except that the department may not purchase the educational component of private day treatment

programs unless the department, the school board, as defined in s. 115.001 (7), and the state superintendent of public instruction all determine that an appropriate public education program is not available. Disputes between the department and the school district shall be resolved by the state superintendent of public instruction.

SECTION 13. 48.48 (17) (c) 4. of the statutes is amended to read:

48.48 (17) (c) 4. Is living in a foster home, group home, ~~or~~ residential care center for children and youth, qualifying residential family-based treatment facility, or a similar facility regulated in another state or in a supervised independent living arrangement.

SECTION 14. 48.57 (1) (c) of the statutes is amended to read:

48.57 (1) (c) To provide appropriate protection and services for children and the expectant mothers of unborn children in its care, including providing services for those children and their families and for those expectant mothers in their own homes, placing those children in licensed foster homes or group homes in this state or similar facilities regulated in another state within a reasonable proximity to the agency with legal custody, placing those children in the homes of guardians under s. 48.977 (2), placing those children in a qualifying residential family-based treatment facility, or in a similar facility regulated in another state, or contracting for services for those children by licensed child welfare agencies in this state or a child welfare agency regulated in another state, except that the county department may not purchase the educational component of private day treatment programs unless the county department, the school board, as defined in s. 115.001 (7), and the state superintendent of public instruction all determine that an appropriate public education program is not available. Disputes between the county department and the school district shall be resolved by the state superintendent of public instruction.

SECTION 15. 48.57 (3) (a) 4. of the statutes is amended to read:

48.57 (3) (a) 4. Is living in a foster home, group home, residential care center for children and youth, ~~or~~ subsidized guardianship home, qualifying residential family-based treatment facility, or a similar facility regulated in another state or in a supervised independent living arrangement.

SECTION 16. 48.63 (1) (bm) of the statutes is created to read:

48.63 (1) (bm) Acting under a voluntary agreement, a child's parent, the department, or a county department may place the child in a qualifying residential family-based treatment facility with a parent, if such a placement is recommended in the child's permanency plan under s. 48.38. A placement under this paragraph may not exceed 180 days from the date on which the child was removed from the home under the voluntary agreement.

SECTION 17. 48.63 (1) (c) of the statutes is amended to read:

48.63 (1) (c) Voluntary agreements may be made only under par. (a) ~~or~~, (b), or (bm) or sub. (5) (b), shall be in writing, shall state whether the child has been adopted, and shall specifically state that the agreement may be terminated at any time by the parent, guardian, or Indian custodian or by the child if the child's consent to the agreement is required. In the case of an Indian child who is placed under par. (a) ~~or~~, (b), or (bm) by the voluntary agreement of the Indian child's parent or Indian custodian, the voluntary consent of the parent or Indian custodian to the placement shall be given as provided in s. 48.028 (5) (a). The child's consent to an agreement under par. (a) ~~or~~, (b), or (bm) is required whenever the child is 12 years of age or older.

SECTION 18. 48.645 (1) (a) of the statutes is amended to read:

48.645 (1) (a) The child is living in a foster home licensed under s. 48.62 if a license is required under that section, in a foster home located within the boundaries

of a reservation in this state and licensed by the tribal governing body of the reservation, in a group home licensed under s. 48.625, in a subsidized guardianship home under s. 48.623, in a residential care center for children and youth licensed under s. 48.60, with a parent in a qualifying residential family-based treatment facility, or in a supervised independent living arrangement and has been placed in that home, center, or arrangement by a county department under s. 46.215, 46.22, or 46.23, by the department, or by a governing body of an Indian tribe in this state under an agreement with a county department under s. 46.215, 46.22, or 46.23.

SECTION 19. 48.645 (2) (a) 5. of the statutes is created to read:

48.645 (2) (a) 5. A qualifying residential family-based treatment facility when the child is residing there with a parent under a voluntary agreement under s. 48.63 (1) (bm) or when the child is placed there with a parent by an order of the court.

(END)