



1997 ASSEMBLY BILL 266

April 11, 1997 - Introduced by Representatives KRUG, HUEBSCH, PLOUFF, FREESE, RYBA, GOETSCH, HANSON, LADWIG, ZIEGELBAUER, M. LEHMAN, BOYLE, MUSSER, SERATTI and SYKORA, cosponsored by Senators HUELSMAN, C. POTTER, PANZER, BUETTNER, ROSENZWEIG, FARROW and WEEDEN. Referred to Committee on Children and Families.

1 **AN ACT to repeal** 48.345 (11) and 48.357 (4m); **to renumber** 938.368; **to amend**
2 48.06 (4), 48.067 (6), 48.10, 48.13 (11m), 48.13 (13), 48.185 (1), 48.245 (4), 48.245
3 (7), 48.357 (1), 48.357 (2m), 48.363 (1m), 48.365 (2g) (a), 48.365 (2m) (ag), 48.365
4 (7), 48.368 (2) (intro.), 48.396 (1), 48.415 (4) (a), 48.415 (8), 48.42 (2) (d), 48.427
5 (1m), 48.48 (title) and (intro.), 48.977 (1), 48.977 (3), 252.15 (5) (a) 19., 767.53
6 (1) (c) (intro.), 767.53 (1) (c) 2., 767.53 (1) (c) 3., 767.53 (1) (c) 5., 938.067 (6),
7 938.10, 938.245 (4), 938.245 (7) (a), 938.245 (7) (b), 938.27 (5), 938.357 (1),
8 938.357 (2m), 938.363 (1m), 938.365 (2m) (ag) and 938.396 (1); **to create** 48.42
9 (1m) (d), 48.42 (2g), 938.368 (2) and 938.396 (2) (g) of the statutes; and **to affect**
10 1995 Wisconsin Act 275, section 9310 (5) (e) and (f); **relating to:** substitute care
11 providers of children, termination of parental rights, the appointment of a

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- 1 relative of a child as the guardian of the child, paternity determinations and the
2 duties of juvenile court intake workers.
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Analysis by the Legislative Reference Bureau

This bill makes various changes relating to a foster parent or treatment foster parent of a child or a relative or guardian of a child who is providing care and maintenance for the child (substitute care provider), termination of parental rights (TPR), the appointment of a relative of a child as the guardian of the child, paternity determinations and the duties of an intake worker of the court assigned to exercise jurisdiction under the children's code and the juvenile justice code (juvenile court).

Substitute care providers

Under current law, a substitute care provider may, subject to certain exceptions, be present at any hearing under the children's code or the juvenile justice code involving the child and may make a written or oral statement during a change in placement, revision of dispositional order, extension of dispositional order or TPR fact-finding or dispositional hearing or submit a statement prior to such a hearing relevant to the issue of the hearing. Current law requires the juvenile court to notify a child's substitute care provider of all hearings involving the child in a proceeding on a petition alleging that the child is delinquent, has violated a civil law or ordinance or is in need of protection or services. Currently, failure to give that notice to a substitute care provider does not deprive the juvenile court of jurisdiction, but if the hearing is a hearing at which the substitute care provider may make a statement, the substitute care provider may request a rehearing.

This bill requires the juvenile court to notify a child's substitute care provider of all hearings on a TPR petition involving the child and permits a substitute care provider who is not provided notice of a TPR dispositional hearing to request a rehearing at any time prior to the entry of an order either dismissing the petition or granting the TPR. The bill also eliminates the requirement that the juvenile court permit a substitute care provider to make a statement at, or submit a statement prior to, a TPR fact-finding hearing. In addition, the bill requires any statement made by a substitute care provider at or prior to a hearing under the children's code or the juvenile justice code to be made under oath or affirmation.

Under current law, subject to certain exceptions, the results of a test for the presence of the human immunodeficiency virus (HIV) are confidential and may not be disclosed unless specifically authorized by the individual who is the subject of the test. Current law, however, permits the disclosure of those test results to a child's substitute care provider. This bill permits a juvenile's HIV test results to be disclosed to a secured correctional facility in which the juvenile is placed.

Termination of parental rights

Under current law, a person filing a petition for involuntary TPR may also petition the juvenile court for a temporary order and injunction prohibiting the person whose parental rights are sought to be terminated from visiting or contacting the child who is the subject of the TPR petition. Under current law, a dispositional

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order for a child in need of protection or services under the children's code (CHIPS), a juvenile in need of protection or services under the juvenile justice code (JIPS) or a juvenile who has been adjudged delinquent may also contain reasonable rules of parental visitation. This bill provides that a temporary order or injunction prohibiting a parent from visiting or contacting a child who is the subject of a TPR proceeding suspends the portion of any CHIPS, JIPS or delinquency order setting rules of parental visitation until the termination of the temporary order or injunction.

Under current law, intentional or reckless homicide by a parent of a child's other parent is a ground for involuntary TPR. That ground must be established by proving that a parent of the child has been a victim of first-degree intentional or reckless homicide or 2nd-degree intentional homicide under the law of this state and that the person whose parental rights are sought to be terminated has been convicted of that homicide. This bill expands that ground for involuntary TPR by including under that ground not only first-degree intentional or reckless homicide or 2nd-degree intentional homicide of a parent under the law of this state, but also homicide under federal law or the law of another state that is comparable to such intentional or reckless homicide under the law of this state.

Under current law, continuing denial of visitation under a CHIPS or a JIPS dispositional order, change in placement order, revision of dispositional order or extension of dispositional order is a ground for involuntary TPR. This bill eliminates continuing denial of visitation under a CHIPS or JIPS change in placement order as a grounds for involuntary TPR.

Relative guardianship

Current law permits the juvenile court to appoint a relative of a child as the guardian of the child if the juvenile court makes certain findings, including a finding that the child has been found to be in need of protection or services and has been placed, or continued in a placement, outside of his or her home for a cumulative total of one year or longer. Currently, if the juvenile court appoints a relative of such a child as the guardian of the child, the juvenile court may designate the child's placement with the relative as the child's permanent foster home placement. Current law also provides that if a child's placement with a relative is designated as the child's permanent foster or treatment foster home placement while a CHIPS dispositional order, revision order or extension order is in effect with respect to the child, the dispositional, revision or extension order remains in effect until 30 days after the guardianship terminates, a change in placement order is entered, the dispositional order, revision order or extension order is terminated or the child attains 18 years of age.

This bill eliminates the reference to a permanent treatment foster home placement in the provision relating to the length of a dispositional, revision or extension order when a child's placement with a relative is designated as the child's permanent placement. The bill also extends the provision relating to the length of a CHIPS dispositional, revision or extension order when a child's placement with a relative is designated as the child's permanent placement to a JIPS dispositional, revision or extension order. In addition, the bill changes the definition of "relative"

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for purposes of the law permitting a juvenile court to appoint a relative of a child in need of protection or services as the guardian of the child so that, for purposes of that law, "relative" is defined by reference to the relatives who are eligible to receive kinship care payments under the Wisconsin works (W-2) program rather than by reference to the relatives who are eligible to receive payments as nonlegally responsible relatives under the aid to families with dependent children (AFDC) program.

Paternity determinations

Under current law, subject to certain exceptions, records of the proceedings of the court assigned to exercise jurisdiction in actions affecting the family (family court) relating to a paternity determination must be placed in a closed file. Current law, however, permits those records to be disclosed to certain persons if the child is the subject of a proceeding under the children's code. This bill permits records of the family court relating to a paternity determination to be disclosed to certain persons if the juvenile is the subject of a proceeding under the juvenile justice code.

Under current law, subject to certain exceptions, the records of the juvenile court are not open to inspection and their contents may not be disclosed. Current law, however, permits the juvenile court to open to certain requesters its records from a proceeding under the children's code relating to the paternity of a child who is the subject of a paternity determination proceeding in family court. This bill permits the juvenile court to open to certain requesters its records from a proceeding under the juvenile justice code relating to the paternity of a juvenile who is the subject of a paternity determination proceeding in family court.

Duties of intake workers

Finally, under current law, information indicating that a child should be referred to the juvenile court as delinquent, in need of protection or services or in violation of a civil law or ordinance must be referred to the juvenile court intake worker who must conduct an intake inquiry to determine whether the available facts establish jurisdiction and to determine the best interests of the child and the public with regard to any action to be taken. Currently, if the intake worker determines that the child should be referred to the juvenile court, the intake worker must request that the district attorney, corporation counsel or other representative of the public interest file a petition. Current law, however, when describing the general powers and duties of an intake worker, the powers of a judge to act as an intake worker, the duty of an intake worker when a parent or child objects to the terms of an informal disposition or deferred prosecution agreement and the duty of an intake worker when an informal disposition or deferred prosecution agreement is cancelled, requires an intake worker or judge acting as an intake worker to recommend, rather than request, that a petition be filed. This bill requires an intake worker or judge acting as an intake worker to request, not recommend, that a petition be filed in those cases.

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For further information see the *state and local* 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:

1 **SECTION 1.** 48.06 (4) of the statutes is amended to read:

2 48.06 (4) STATE AID. State aid to any county for court services under this section
3 shall be at the same net effective rate that each county is reimbursed for county
4 administration under s. 46.495, ~~except as provided in s. 301.26~~. Counties having a
5 population of less than 500,000 may use funds received under ~~ss. s. 46.495 (1) (d) and~~
6 ~~301.26~~, including county or federal revenue sharing funds allocated to match funds
7 received under s. 46.495 (1) (d), for the cost of providing court attached intake
8 services in amounts not to exceed 50% of the cost of providing court attached intake
9 services or \$30,000 per county per calendar year, whichever is less.

10 **SECTION 2.** 48.067 (6) of the statutes is amended to read:

11 48.067 (6) Receive referral information, conduct intake inquiries, ~~make~~
12 ~~recommendations as to whether~~ request that a petition should be filed, and enter into
13 informal dispositions under policies promulgated under s. 48.06 (1) or (2);

14 **SECTION 3.** 48.10 of the statutes is amended to read:

15 **48.10 Power of the judge to act as intake worker.** The duties of the intake
16 worker may be carried out from time to time by the judge at his or her discretion, but
17 if a ~~recommendation~~ request to file a petition is made or an informal disposition is
18 entered into, the judge shall be disqualified from participating further in the
19 proceedings.

20 **SECTION 4.** 48.13 (11m) of the statutes is amended to read:

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1 48.13 (11m) Who is suffering from an alcohol and other drug abuse
2 impairment, exhibited to a severe degree, for which the parent, guardian or legal
3 custodian is neglecting, refusing or unable to provide treatment; or

4 **SECTION 5.** 48.13 (13) of the statutes is amended to read:

5 48.13 (13) Who has not been immunized as required by s. 252.04 and not
6 exempted under s. 252.04 (3); ~~or,~~

7 **SECTION 6.** 48.185 (1) of the statutes is amended to read:

8 48.185 (1) Subject to sub. (2), venue for any proceeding under ss. 48.13, 48.135
9 and 48.14 (1) to (9) may be in any of the following: the county where the child resides,
10 or the county where the child is present ~~or, in the case of a violation of a state law or~~
11 ~~a county, town or municipal ordinance, the county where the violation occurred.~~
12 Venue for proceedings brought under subch. VIII is as provided in this subsection
13 except where the child has been placed and is living outside the home of the child's
14 parent pursuant to a dispositional order, in which case venue is as provided in sub.
15 (2). Venue for a proceeding under s. 48.14 (10) is as provided in s. 801.50 (5s).

16 **SECTION 7.** 48.245 (4) of the statutes is amended to read:

17 48.245 (4) The intake worker shall inform the child and the child's parent,
18 guardian and legal custodian in writing of their right to terminate the informal
19 disposition at any time or object at any time to the fact or terms of the informal
20 disposition. If an objection arises the intake worker may alter the terms of the
21 agreement or ~~recommend to~~ request the district attorney or corporation counsel ~~that~~
22 to file a petition ~~be filed~~. If the informal disposition is terminated the intake worker
23 may ~~recommend to~~ request the district attorney or corporation counsel ~~that~~ to file a
24 petition ~~be filed~~.

25 **SECTION 8.** 48.245 (7) of the statutes is amended to read:

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1 48.245 (7) If at any time during the period of informal disposition the intake
2 worker determines that the obligations imposed under it are not being met, the
3 intake worker may cancel the informal disposition. Within 10 days after the
4 cancellation of the informal disposition, the intake worker shall notify the district
5 attorney, corporation counsel or other official under s. 48.09 of the cancellation and
6 ~~recommend whether or not~~ request that a petition should be filed. The judge shall
7 dismiss with prejudice any petition which is not filed within the time limit specified
8 in this subsection.

9 **SECTION 9.** 48.345 (11) of the statutes is repealed.

10 **SECTION 10.** 48.357 (1) of the statutes is amended to read:

11 48.357 (1) The person or agency primarily responsible for implementing the
12 dispositional order, the district attorney or the corporation counsel may request a
13 change in the placement of the child, whether or not the change requested is
14 authorized in the dispositional order and shall cause written notice to be sent to the
15 child or the child's counsel or guardian ad litem, parent, foster parent, treatment
16 foster parent or other physical custodian described in s. 48.62 (2), guardian and legal
17 custodian. The notice shall contain the name and address of the new placement, the
18 reasons for the change in placement, a statement describing why the new placement
19 is preferable to the present placement and a statement of how the new placement
20 satisfies objectives of the treatment plan ordered by the court. Any person receiving
21 the notice under this subsection or notice of the specific foster or treatment foster
22 placement under s. 48.355 (2) (b) 2. may obtain a hearing on the matter by filing an
23 objection with the court within 10 days of receipt of the notice. Placements shall not
24 be changed until 10 days after such notice is sent to the court unless the parent,
25 guardian or legal custodian and the child, if 12 or more years of age, sign written

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1 waivers of objection, except that placement changes which were authorized in the
2 dispositional order may be made immediately if notice is given as required in this
3 subsection. In addition, a hearing is not required for placement changes authorized
4 in the dispositional order except where an objection filed by a person who received
5 notice alleges that new information is available which affects the advisability of the
6 court's dispositional order.

7 **(2r)** If a hearing is held under ~~this subsection~~ sub. (1) or (2m) and the change
8 in placement would remove a child from a foster home, treatment foster home or
9 other placement with a physical custodian described in s. 48.62 (2), the court shall
10 permit the foster parent, treatment foster parent or other physical custodian
11 described in s. 48.62 (2) to make a written or oral statement during the hearing or
12 to submit a written statement prior to the hearing, relating to the child and the
13 requested change in placement. Any written or oral statement made under this
14 subsection shall be made under oath or affirmation.

15 **SECTION 11.** 48.357 (2m) of the statutes is amended to read:

16 48.357 **(2m)** The child, the parent, guardian or legal custodian of the child or
17 any person or agency primarily bound by the dispositional order, other than the
18 person or agency responsible for implementing the order, may request a change in
19 placement under this subsection. The request shall contain the name and address
20 of the place of the new placement requested and shall state what new information
21 is available which affects the advisability of the current placement. This request
22 shall be submitted to the court. In addition, the court may propose a change in
23 placement on its own motion. The court shall hold a hearing on the matter prior to
24 ordering any change in placement under this subsection if the request states that
25 new information is available which affects the advisability of the current placement,

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1 unless written waivers of objection to the proposed change in placement are signed
2 by all parties entitled to receive notice under sub. (1) and the court approves. If a
3 hearing is scheduled, the court shall notify the child, the parent, guardian and legal
4 custodian of the child, any foster parent, treatment foster parent or other physical
5 custodian described in s. 48.62 (2) of the child and all parties who are bound by the
6 dispositional order at least 3 days prior to the hearing. A copy of the request or
7 proposal for the change in placement shall be attached to the notice. If all the parties
8 consent, the court may proceed immediately with the hearing. ~~If a hearing is held~~
9 ~~under this subsection and the change in placement would remove a child from a~~
10 ~~foster home, treatment foster home or other placement with a physical custodian~~
11 ~~described in s. 48.62 (2), the court shall permit the foster parent, treatment foster~~
12 ~~parent or other physical custodian described in s. 48.62 (2) to make a written or oral~~
13 ~~statement during the hearing or to submit a written statement prior to the hearing,~~
14 ~~relating to the child and the requested change in placement.~~

15 **SECTION 12.** 48.357 (4m) of the statutes is repealed.

16 **SECTION 13.** 48.363 (1m) of the statutes is amended to read:

17 48.363 (1m) If a hearing is held under sub. (1), any party may present evidence
18 relevant to the issue of revision of the dispositional order. In addition, the court shall
19 permit a foster parent, treatment foster parent or other physical custodian described
20 in s. 48.62 (2) of the child to make a written or oral statement during the hearing, or
21 to submit a written statement prior to the hearing, relevant to the issue of revision.
22 Any written or oral statement made under this subsection shall be made under oath
23 or affirmation.

24 **SECTION 14.** 48.365 (2g) (a) of the statutes is amended to read:

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1 48.365 (2g) (a) At the hearing the person or agency primarily responsible for
2 providing services to the child shall file with the court a written report stating to
3 what extent the dispositional order has been meeting the objectives of the plan for
4 the child's rehabilitation or care and treatment. ~~The juvenile offender review~~
5 ~~program may file a written report regarding any child examined by the program.~~

6 **SECTION 15.** 48.365 (2m) (ag) of the statutes is amended to read:

7 48.365 (2m) (ag) In addition to any evidence presented under par. (a), the court
8 shall permit a foster parent, treatment foster parent or other physical custodian
9 described in s. 48.62 (2) of the child to make a written or oral statement during the
10 hearing, or to submit a written statement prior to the hearing, relevant to the issue
11 of extension. Any written or oral statement made under this paragraph shall be
12 made under oath or affirmation.

13 **SECTION 16.** 48.365 (7) of the statutes is amended to read:

14 48.365 (7) Nothing in this section may be construed to allow any changes in
15 placement. ~~Revocation and other changes~~ Changes in placement may take place only
16 under s. 48.357.

17 **SECTION 17.** 48.368 (2) (intro.) of the statutes is amended to read:

18 48.368 (2) (intro.) If a child's placement with a guardian appointed under s.
19 48.977 (2) is designated by the court under s. 48.977 (3) as a permanent foster home
20 ~~or treatment foster home~~ placement for the child while a dispositional order under
21 s. 48.345, a revision order under s. 48.363 or an extension order under s. 48.365 is
22 in effect with respect to the child, such dispositional order, revision order or extension
23 order shall remain in effect until the earliest of the following:

24 **SECTION 18.** 48.396 (1) of the statutes is amended to read:

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1 48.396 (1) Law enforcement officers' records of children shall be kept separate
2 from records of adults. Law enforcement officers' records of children shall not be
3 open to inspection or their contents disclosed except under sub. (1b) ~~or~~ (1d) or (5) or
4 s. 48.293 or by order of the court. This subsection does not apply to the
5 representatives of newspapers or other reporters of news who wish to obtain
6 information for the purpose of reporting news without revealing the identity of the
7 child involved, to the confidential exchange of information between the police and
8 officials of the school attended by the child or other law enforcement or social welfare
9 agencies or to children 10 years of age or older who are subject to the jurisdiction of
10 the court of criminal jurisdiction.

11 **SECTION 19.** 48.415 (4) (a) of the statutes is amended to read:

12 48.415 (4) (a) That the parent has been denied periods of physical placement
13 by court order in an action affecting the family or has been denied visitation under
14 an order under s. 48.345, ~~48.357~~, 48.363, 48.365, 938.345, ~~938.357~~, 938.363 or
15 938.365 containing the notice required by s. 48.356 (2) or 938.356 (2).

16 **SECTION 20.** 48.415 (8) of the statutes is amended to read:

17 48.415 (8) INTENTIONAL OR RECKLESS HOMICIDE OF PARENT. Intentional or reckless
18 homicide of a parent, which shall be established by proving that a parent of the child
19 has been a victim of first-degree intentional homicide in violation of s. 940.01,
20 first-degree reckless homicide in violation of s. 940.02 or 2nd-degree intentional
21 homicide in violation of s. 940.05 or a crime under federal law or the law of any other
22 state that is comparable to a crime specified in this subsection and that the person
23 whose parental rights are sought to be terminated has been convicted of that
24 intentional or reckless homicide or crime under federal law or the law of any other
25 state as evidenced by a final judgment of conviction.

ASSEMBLY BILL 266**SECTION 21**

1 **SECTION 21.** 48.42 (1m) (d) of the statutes is created to read:

2 48.42 **(1m)** (d) A temporary order under par. (b) or an injunction under par. (c)
3 suspends the portion of any order under s. 48.345, 48.363, 48.365, 938.345, 938.363
4 or 938.365 setting rules of parental visitation until the termination of the temporary
5 order under par. (b) or injunction under par. (c).

6 **SECTION 22.** 48.42 (2) (d) of the statutes is amended to read:

7 48.42 **(2)** (d) Any other person to whom notice is required to be given by ch. 822,
8 excluding foster parents and treatment foster parents who shall be provided notice
9 as required under sub. (2g).

10 **SECTION 23.** 48.42 (2g) of the statutes is created to read:

11 48.42 **(2g)** NOTICE REQUIRED. (a) In addition to causing the summons and
12 petition to be served as required under sub. (2), the petitioner shall also notify any
13 foster parent, treatment foster parent or other physical custodian described in s.
14 48.62 (2) of the child of all hearings on the petition. The first notice to any foster
15 parent, treatment foster parent or other physical custodian described in s. 48.62 (2)
16 shall be written, shall have a copy of the petition attached to it, shall state the nature,
17 location, date and time of the initial hearing and shall be mailed to the last-known
18 address of the foster parent, treatment foster parent or other physical custodian
19 described in s. 48.62 (2). Thereafter, notice of hearings may be given by telephone
20 at least 72 hours before the time of the hearing. The person giving telephone notice
21 shall place in the case file a signed statement of the time notice was given and the
22 person to whom he or she spoke.

23 (b) Failure to give notice under par. (a) to a foster parent, treatment foster
24 parent or other physical custodian described in s. 48.62 (2) does not deprive the court
25 of jurisdiction in the proceeding. If a foster parent, treatment foster parent or other

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1 physical custodian described in s. 48.62 (2) is not given notice of a hearing under par.
2 (a) and if the court is required under s. 48.427 (1m) to permit that person to make
3 a written or oral statement during the hearing or to submit a written statement prior
4 to the hearing and that person does not make or submit such statement, that person
5 may request a rehearing on the matter at any time prior to the entry of an order
6 under s. 48.427 (2) or (3). If the request is made, the court shall order a rehearing.

7 **SECTION 24.** 48.427 (1m) of the statutes is amended to read:

8 48.427 **(1m)** In addition to any evidence presented under sub. (1), the court
9 shall permit the foster parent, treatment foster parent or other physical custodian
10 described in s. 48.62 (2) of the child to make a written or oral statement during the
11 ~~fact-finding or~~ dispositional hearing or to submit a written statement prior to
12 disposition, relevant to the issue of disposition.

13 **SECTION 25.** 48.48 (title) and (intro.) of the statutes are amended to read:

14 **48.48** (title) **Authority of department of health and family services.**

15 (intro.) The department of ~~health and family services~~ shall have authority:

16 **SECTION 26.** 48.977 (1) of the statutes is amended to read:

17 48.977 **(1)** DEFINITION. In this section, "relative" means a relative as defined
18 in s. 48.02 (15) or as a person specified in s. ~~49.19 (1) (a) 2.~~ a 48.57 (3m) (a).

19 **SECTION 27.** 48.977 (3) of the statutes is amended to read:

20 48.977 **(3)** DESIGNATION AS A PERMANENT PLACEMENT. If a court appoints a
21 guardian for a child under sub. (2), the court may designate the child's placement
22 with that guardian as the child's permanent foster placement, but only for purposes
23 of s. 48.368 (2) or 938.368 (2).

24 **SECTION 28.** 252.15 (5) (a) 19. of the statutes is amended to read:

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1 252.15 (5) (a) 19. If the test was administered to a child who has been placed
2 in a foster home, treatment foster home, group home ~~or~~, child caring institution or
3 secured correctional facility, as defined in s. 938.02 (15m), including a placement
4 under s. 48.205, 48.21, 938.205 or 938.21 or for whom placement in a foster home,
5 treatment foster home, group home ~~or~~, child caring institution or secured
6 correctional facility is recommended under s. 48.33 (4), 48.425 (1) (g), 48.837 (4) (c)
7 or 938.33 (3) or (4), to an agency directed by a court to prepare a court report under
8 s. 48.33 (1), 48.424 (4) (b), 48.425 (3), 48.831 (2), 48.837 (4) (c) or 938.33 (1), to an
9 agency responsible for preparing a court report under s. 48.365 (2g), 48.425 (1),
10 48.831 (2), 48.837 (4) (c) or 938.365 (2g), to an agency responsible for preparing a
11 permanency plan under s. 48.355 (2e), 48.38, 48.43 (1) (c) or (5) (c), 48.63 (4), 48.831
12 (4) (e), 938.355 (2e) or 938.38 regarding the child or to an agency that placed the child
13 or arranged for the placement of the child in any of those placements and, by any of
14 those agencies, to any other of those agencies and, by the agency that placed the child
15 or arranged for the placement of the child in any of those placements, to the child's
16 foster parent or treatment foster parent or the operator of the group home ~~or~~, child
17 caring institution or secured correctional facility in which the child is placed, as
18 provided in s. 48.371 or 938.371.

19 **SECTION 29.** 767.53 (1) (c) (intro.) of the statutes is amended to read:

20 767.53 (1) (c) (intro.) If the child is the subject of a proceeding under ch. 48 or
21 938, all of the following:

22 **SECTION 30.** 767.53 (1) (c) 2. of the statutes is amended to read:

23 767.53 (1) (c) 2. The parties to the proceeding under ch. 48 or 938 and their
24 attorneys.

25 **SECTION 31.** 767.53 (1) (c) 3. of the statutes is amended to read:

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1 767.53 (1) (c) 3. The person under s. 48.09 or 938.09 who represents the
2 interests of the public in the proceeding under ch. 48 or 938.

3 **SECTION 32.** 767.53 (1) (c) 5. of the statutes is amended to read:

4 767.53 (1) (c) 5. Any governmental or social agency involved in the proceeding
5 under ch. 48 or 938.

6 **SECTION 33.** 938.067 (6) of the statutes is amended to read:

7 938.067 (6) Receive referral information, conduct intake inquiries, ~~make~~
8 ~~recommendations as to whether~~ request that a petition should be filed, and enter into
9 deferred prosecution agreements under policies promulgated under s. 938.06 (1) or
10 (2).

11 **SECTION 34.** 938.10 of the statutes is amended to read:

12 **938.10 Power of the judge to act as intake worker.** The duties of the intake
13 worker may be carried out from time to time by the judge at his or her discretion, but
14 if a ~~recommendation~~ request to file a petition is made, a citation is issued or a
15 deferred prosecution agreement is entered into, the judge shall be disqualified from
16 participating further in the proceedings.

17 **SECTION 35.** 938.245 (4) of the statutes is amended to read:

18 938.245 (4) The intake worker shall inform the juvenile and the juvenile's
19 parent, guardian and legal custodian in writing of their right to terminate or, if the
20 juvenile is subject to a deferred prosecution agreement under sub. (2) (a) 9., to
21 request the court to terminate the deferred prosecution agreement at any time or to
22 object at any time to the fact or terms of the deferred prosecution agreement. If an
23 objection arises the intake worker may alter the terms of the agreement or
24 ~~recommnd to~~ request the district attorney or corporation counsel ~~that~~ to file a
25 petition ~~be~~ filed. If the deferred prosecution agreement is terminated the intake

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1 worker may ~~recommend to~~ request the district attorney or corporation counsel that
2 to file a petition ~~be filed~~.

3 **SECTION 36.** 938.245 (7) (a) of the statutes is amended to read:

4 938.245 (7) (a) If at any time during the period of a deferred prosecution
5 agreement the intake worker determines that the obligations imposed under it are
6 not being met, the intake worker may cancel the deferred prosecution agreement.
7 Within 10 days after the cancellation of the deferred prosecution agreement, the
8 intake worker shall notify the district attorney, corporation counsel or other official
9 under s. 938.09 of the cancellation and ~~recommend whether or not~~ request that a
10 petition should be filed. In delinquency cases, the district attorney may initiate a
11 petition within 20 days after the date of the notice regardless of whether the intake
12 worker has ~~recommended~~ requested that a petition be filed. The judge shall grant
13 appropriate relief as provided in s. 938.315 (3) with respect to any petition which is
14 not filed within the time limit specified in this subsection. Failure to object if a
15 petition is not filed within the time limit specified in this subsection waives that time
16 limit.

17 **SECTION 37.** 938.245 (7) (b) of the statutes is amended to read:

18 938.245 (7) (b) In addition to the action taken under par. (a), if the intake
19 worker cancels a deferred prosecution agreement based on a determination that the
20 juvenile's parent, guardian or legal custodian is not meeting the obligations imposed
21 under the agreement, the intake worker shall ~~recommend to~~ request the district
22 attorney, corporation counsel or other official under s. 938.09 ~~whether or not~~ to file
23 a petition should be filed requesting the court to order the juvenile's parent, guardian
24 or legal custodian to show good cause for not meeting the obligations imposed under
25 the agreement. If the district attorney, corporation counsel or other official under s.

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1 938.09 files a petition under this paragraph and if the court finds prosecutive merit
2 for the petition, the court shall grant an order directing the parent, guardian or legal
3 custodian to show good cause, at a time and place fixed by the court, for not meeting
4 the obligations imposed under the agreement. If the parent, guardian or legal
5 custodian does not show good cause for not meeting the obligations imposed under
6 the agreement, the court may impose a forfeiture not to exceed \$1,000.

7 **SECTION 38.** 938.27 (5) of the statutes is amended to read:

8 938.27 (5) The Subject to sub. (3) (b), the court shall make every reasonable
9 effort to identify and notify any person who has filed a declaration of interest under
10 s. 48.025 and any person who has been adjudged to be the biological father of the
11 juvenile in a judicial proceeding unless the biological father's rights have been
12 terminated.

13 **SECTION 39.** 938.357 (1) of the statutes is amended to read:

14 938.357 (1) The person or agency primarily responsible for implementing the
15 dispositional order or the district attorney may request a change in the placement
16 of the juvenile, whether or not the change requested is authorized in the dispositional
17 order and shall cause written notice to be sent to the juvenile or the juvenile's counsel
18 or guardian ad litem, parent, foster parent, treatment foster parent or other physical
19 custodian described in s. 48.62 (2), guardian and legal custodian. The notice shall
20 contain the name and address of the new placement, the reasons for the change in
21 placement, a statement describing why the new placement is preferable to the
22 present placement and a statement of how the new placement satisfies objectives of
23 the treatment plan ordered by the court. Any person receiving the notice under this
24 subsection or notice of the specific foster or treatment foster placement under s.
25 938.355 (2) (b) 2. may obtain a hearing on the matter by filing an objection with the

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1 court within 10 days after receipt of the notice. Placements shall not be changed until
2 10 days after such notice is sent to the court unless the parent, guardian or legal
3 custodian and the juvenile, if 12 or more years of age, sign written waivers of
4 objection, except that placement changes which were authorized in the dispositional
5 order may be made immediately if notice is given as required in this subsection. In
6 addition, a hearing is not required for placement changes authorized in the
7 dispositional order except where an objection filed by a person who received notice
8 alleges that new information is available which affects the advisability of the court's
9 dispositional order.

10 **(2r)** If a hearing is held under ~~this subsection sub. (1) or (2m)~~ and the change
11 in placement would remove a juvenile from a foster home ~~or treatment foster home,~~
12 treatment foster home or other placement with a physical custodian described in s.
13 48.62 (2), the court shall permit the foster parent ~~or treatment foster parent,~~
14 treatment foster parent or other physical custodian described in s. 48.62 (2) to make
15 a written or oral statement during the hearing or to submit a written statement prior
16 to the hearing relating to the juvenile and the requested change in placement. Any
17 written or oral statement made under this subsection shall be made under oath or
18 affirmation.

19 **SECTION 40.** 938.357 (2m) of the statutes is amended to read:

20 938.357 **(2m)** The juvenile, the parent, guardian or legal custodian of the
21 juvenile or any person or agency primarily bound by the dispositional order, other
22 than the person or agency responsible for implementing the order, may request a
23 change in placement under this subsection. The request shall contain the name and
24 address of the place of the new placement requested and shall state what new
25 information is available which affects the advisability of the current placement. This

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1 request shall be submitted to the court. In addition, the court may propose a change
2 in placement on its own motion. The court shall hold a hearing on the matter prior
3 to ordering any change in placement under this subsection if the request states that
4 new information is available which affects the advisability of the current placement,
5 unless written waivers of objection to the proposed change in placement are signed
6 by all parties entitled to receive notice under sub. (1) and the court approves. If a
7 hearing is scheduled, the court shall notify the juvenile, the parent, guardian and
8 legal custodian of the juvenile, any foster parent, treatment foster parent or other
9 physical custodian described in s. 48.62 (2) of the juvenile and all parties who are
10 bound by the dispositional order at least 3 days prior to the hearing. A copy of the
11 request or proposal for the change in placement shall be attached to the notice. If
12 all the parties consent, the court may proceed immediately with the hearing. ~~If a
13 hearing is held under this subsection and the change in placement would remove a
14 juvenile from a foster home, treatment foster home or other placement with a
15 physical custodian described in s. 48.62 (2), the court shall permit the foster parent,
16 treatment foster parent or other physical custodian described in s. 48.62 (2) to make
17 a written or oral statement during the hearing or to submit a written statement prior
18 to the hearing, relating to the juvenile and the requested change in placement.~~

19 **SECTION 41.** 938.363 (1m) of the statutes is amended to read:

20 938.363 (1m) If a hearing is held under sub. (1), any party may present
21 evidence relevant to the issue of revision of the dispositional order. In addition, the
22 court shall permit a foster parent, treatment foster parent or other physical
23 custodian described in s. 48.62 (2) of the child to make a written or oral statement
24 during the hearing, or to submit a written statement prior to the hearing, relevant

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1 to the issue of revision. Any written or oral statement made under this subsection
2 shall be made under oath or affirmation.

3 **SECTION 42.** 938.365 (2m) (ag) of the statutes is amended to read:

4 938.365 **(2m)** (ag) In addition to any evidence presented under par. (a), the
5 court shall permit a foster parent, treatment foster parent or other physical
6 custodian described in s. 48.62 (2) of the juvenile to make a written or oral statement
7 during the hearing, or to submit a written statement prior to the hearing, relevant
8 to the issue of extension. Any written or oral statement made under this paragraph
9 shall be made under oath or affirmation.

10 **SECTION 43.** 938.368 of the statutes is renumbered 938.368 (1).

11 **SECTION 44.** 938.368 (2) of the statutes is created to read:

12 938.368 **(2)** If a juvenile's placement with a guardian appointed under s. 48.977
13 (2) is designated by the court under s. 48.977 (3) as a permanent foster placement for
14 the juvenile while a dispositional order under s. 938.345, a revision order under s.
15 938.363 or an extension order under s. 938.365 is in effect with respect to the
16 juvenile, such dispositional order, revision order or extension order shall remain in
17 effect until the earliest of the following:

18 (a) Thirty days after the guardianship terminates under s. 48.977 (7).

19 (b) A court enters a change in placement order under s. 938.357.

20 (c) A court order terminates such dispositional order, revision order or
21 extension order.

22 (d) The juvenile attains the age of 18 years.

23 **SECTION 45.** 938.396 (1) of the statutes is amended to read:

24 938.396 **(1)** Law enforcement officers' records of juveniles shall be kept
25 separate from records of adults. Law enforcement officers' records of juveniles shall

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1 not be open to inspection or their contents disclosed except under sub. (1b), (1d), (1g),
2 (1m), (1r) ~~or~~ (1t) or (5) or s. 938.293 or by order of the court. This subsection does not
3 apply to representatives of the news media who wish to obtain information for the
4 purpose of reporting news without revealing the identity of the juvenile involved, to
5 the confidential exchange of information between the police and officials of the school
6 attended by the juvenile or other law enforcement or social welfare agencies or to
7 juveniles 10 years of age or older who are subject to the jurisdiction of the court of
8 criminal jurisdiction.

9 **SECTION 46.** 938.396 (2) (g) of the statutes is created to read:

10 938.396 (2) (g) Upon request of a court having jurisdiction over actions
11 affecting the family, an attorney responsible for support enforcement under s. 59.53
12 (6) (a) or a party to a paternity proceeding under ss. 767.45 to 767.60, the party's
13 attorney or the guardian ad litem for the juvenile who is the subject of that
14 proceeding to review or be provided with information from the records of the court
15 assigned to exercise jurisdiction under this chapter and ch. 48 relating to the
16 paternity of a juvenile for the purpose of determining the paternity of the juvenile
17 or for the purpose of rebutting the presumption of paternity under s. 891.405 or
18 891.41, the court assigned to exercise jurisdiction under this chapter and ch. 48 shall
19 open for inspection by the requester its records relating to the paternity of the
20 juvenile or disclose to the requester those records.

21 **SECTION 47.** 1995 Wisconsin Act 275, section 9310 (5) (e) and (f) are amended
22 to read:

23 [1995 Wisconsin Act 275] Section 9310 (5) (e) The treatment of section 48.415
24 (8) of the statutes first applies to petitions for termination of parental rights under
25 section 48.42 (1) of the statutes filed on the effective date of this paragraph but

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1 ~~precludes~~ does not preclude consideration of a conviction under section 940.02 of the
2 statutes obtained before the effective date of this paragraph in determining whether
3 to terminate, or to find grounds to terminate, the parental rights of a person under
4 section 48.415 (8) of the statutes, as affected by this act.

5 (f) The treatment of section 48.415 (9m) of the statutes first applies to petitions
6 for termination of parental rights under section 48.42 (1) of the statutes filed on the
7 effective date of this paragraph, but ~~precludes~~ does not preclude consideration of a
8 conviction under section 940.01, 940.02, 940.03, 940.05, 940.225 (1) or (2), 948.02 (1)
9 or (2), 948.025, 948.03 (2) (a) or (3) (a), 948.05, 948.06 or 948.08 of the statutes or under
10 section 948.21 of the statutes if death is a consequence or a conviction of a crime
11 under federal law or the law of any other state that is comparable to such crimes
12 obtained before the effective date of this paragraph in determining whether to
13 terminate, or to find grounds to terminate, the parental rights of a person under
14 section 48.415 (9m) of the statutes, as created by this act.

SECTION 48. Initial applicability.**(1) TERMINATION OF PARENTAL RIGHTS.**

17 (a) *Homicide of parent.* The treatment of section 48.415 (8) of the statutes first
18 applies to petitions for termination of parental rights under section 48.42 (1) of the
19 statutes filed on the effective date of this paragraph, but does not preclude
20 consideration of a conviction of a crime under federal law or the law of another state
21 obtained before the effective date of this paragraph in determining whether to
22 terminate, or to find grounds to terminate, the parental rights of a person under
23 section 48.415 (8) of the statutes, as affected by this act.

