



1999 ASSEMBLY BILL 526

October 12, 1999 – Introduced by Representative CULLEN, cosponsored by Senator HUELSMAN. Referred to Committee on Family Law.

1 **AN ACT to repeal** 48.235 (1) (b), 48.235 (5), 48.41 (2) (d), 48.433 (8) (a) 2., 48.434
2 (3), 48.434 (6), 632.896 (1) (c) 2. and 948.24; **to consolidate, renumber and**
3 **amend** 48.433 (8) (a) (intro.) and 1.; **to amend** 20.435 (3) (jj), 46.03 (18) (am),
4 46.03 (18) (b), 46.10 (2), 46.215 (1) (h), 46.215 (1) (i), 46.22 (1) (c) 4., 48.025 (2),
5 48.14 (1), 48.14 (2) (b), 48.23 (2), 48.23 (4), 48.235 (1) (c), 48.235 (8) (c), 48.31 (1),
6 48.36 (1) (a), 48.368 (1), 48.371 (3) (intro.), 48.38 (4) (d) 3., 48.40 (2), 48.42 (1)
7 (intro.), 48.42 (2) (a), 48.422 (7) (bm), 48.428 (1), 48.432 (3) (a) 2., 48.432 (3) (a)
8 4., 48.432 (4) (a), 48.432 (7) (a), 48.433 (2), 48.433 (3), 48.433 (6) (a), 48.433 (7)
9 (a) 3., 48.433 (7) (b), 48.433 (7) (c), 48.433 (7) (d), 48.433 (7) (e), 48.434 (2), 48.434
10 (4), 48.434 (5), 48.434 (7), 48.46 (3), 48.48 (3m) (a), 48.48 (17) (a) 5., 48.48 (17)
11 (a) 9., 48.57 (1) (e), 48.57 (1) (j), 48.61 (5), 48.63 (3), 48.64 (1m), 48.685 (1) (bg),
12 48.685 (1) (d), 48.75 (1g) (a) 4., 48.78 (2) (a), 48.98 (4) (b), 48.981 (7) (a) 13., 49.32
13 (1) (b), 51.30 (4) (b) 18. c., 69.14 (3) (c), 69.15 (2) (a) (intro.), 69.15 (2) (b), 69.15
14 (6) (b), 71.05 (6) (b) 22., 103.10 (3) (b) 2., 146.82 (2) (a) 9. c., 146.82 (2) (a) 18m.,

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1 252.15 (5) (a) 19., 301.03 (18) (b), 301.12 (2), 632.896 (1) (c) 1., 632.896 (1) (c) 5.,
2 785.05, 806.07 (3), 808.04 (7) and 938.368 (1); **to repeal and recreate** 48.433
3 (5), subchapter XIX (title) of chapter 48 [precedes 48.81], 48.81 to 48.97,
4 subchapter XX (title) of chapter 48 [precedes 48.973] and chapter 882; and **to**
5 **create** 48.432 (3) (a) 1m., 48.432 (3) (a) 4m., 48.973, 48.976, 48.979, 48.9795 and
6 252.15 (5) (a) 20. of the statutes; **relating to:** a uniform adoption act, granting
7 rule-making authority, making an appropriation and providing penalties.

Analysis by the Legislative Reference Bureau

This bill eliminates current law relating to adoption and enacts instead the Uniform Adoption Act (1994) (UAA) as drafted by the National Conference of Commissioners on Uniform State Laws.

CURRENT LAW

Under current law, the adoption of a child begins with placement of the child for adoption. Current law permits the department of health and family services (DHFS), a county department of human services or social services (county department) or a child welfare agency (collectively referred to as an “agency”) to place a child for adoption in a licensed foster home without a court order if the agency is the guardian of the child. Current law also permits a parent having physical custody of a child to place the child for adoption with a relative without a court order.

Current law, however, does not permit a parent to place a child with a nonrelative without a court order. Instead, the parent and the proposed adoptive parent must petition the court assigned to exercise jurisdiction under the children’s code (juvenile court) for an order approving the placement of the child with the proposed adoptive parent. The petition for adoptive placement must be accompanied by a petition for the voluntary termination of the petitioning parent’s parental rights to the minor (TPR). On the filing of the petitions, the juvenile court must schedule a hearing; ascertain the paternity of the child; and order DHFS or a county department to investigate the proposed placement, interview the petitioners, provide counseling if requested and report its recommendation to the juvenile court, unless a child welfare agency has already investigated the proposed placement and interviewed the petitioners. At the beginning of the hearing the juvenile court must review all payments made or agreed to be made by the proposed adoptive parent to the birth parent in connection with the pregnancy or with the birth, placement or adoption of the child to determine whether any of those payments are coercive to the birth parent. Current law provides that making any payment to a birth parent conditional on the surrender of the child, the TPR or the finalization of the adoption is presumed to be coercive. If the juvenile court finds that the agreement is coercive, the juvenile court must dismiss the petitions or amend the agreement to delete the

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coercion. After the hearing, the juvenile court must make a conclusion whether the placement is in the best interest of the child. If the placement is approved, the juvenile court must proceed immediately with the TPR hearing. If the juvenile court orders the TPR, the juvenile court must order the child to be placed with the prospective adoptive parents and appoint an agency to be the guardian of the child.

Current law also specifies a procedure for the adoption of a foreign child. Under current law, before bringing a foreign child into this country for adoption, the prospective adoptive parent of the foreign child must file a bond with DHFS conditioned on the child not becoming dependent on public funds for support before the adoption is finalized. The prospective adoptive parent must also file with DHFS for review a certified copy of a judgment, order or other document of the foreign jurisdiction freeing the child for adoption. If DHFS finds that the judgment, order or other document frees the child for adoption, if DHFS has been furnished with a home study recommending the prospective adoptive parent, if a child welfare agency has been identified to provide services for the child and if the prospective adoptive parent has filed the bond, then DHFS must certify to the U.S. immigration and naturalization service that all preadoptive requirements that can be met before a child is brought into this country have been met. Within 60 days after the child is brought into the country, the prospective adoptive parent must file a petition for adoption or a TPR petition, or both. If a petition for adoption is not filed or is withdrawn or denied, the juvenile court must transfer guardianship of the child to an agency and order the agency to file a TPR petition, must order the prospective adoptive parent to show cause why the bond should not be forfeited and may order that the physical custody of the child remain with a suitable individual with whom the child has been living.

After a child is placed for adoption, the prospective adoptive parent must file a petition for adoption with the juvenile court. A relative, a stepparent, the prospective adoptive parent of a foreign child or a prospective adoptive parent who has the approval of the child's guardian may file a petition for adoption at any time after complying with all of the requirements relating to placement for adoption. Any other person, for example, a nonrelative, may not file a petition for adoption until the child has been in the home of the petitioner for six months or more. On the filing of the petition, the juvenile court must schedule a hearing within 90 days after the filing and order an agency to make an investigation to determine whether the child is a proper subject for adoption and whether the petitioner's home is suitable for the child. If the petitioner is a stepparent, the juvenile court must order a screening, rather than an investigation, consisting of no more than one interview and a background check. After reviewing the report of the screening, the juvenile court may either proceed on the petition or order a full investigation of the stepparent. Current law also requires the agency that is the guardian of a child, if any, to file its recommendation with the juvenile court and requires DHFS to file a recommendation, except that DHFS is not required to file a recommendation if the guardianship agency has filed a recommendation, if an agency has filed a report of its investigation or if the petitioner is a relative. At the hearing, which the petitioner and the child, if 14 years of age or over, must attend, the juvenile court must ascertain

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the paternity of a nonmarital child, if not already determined, and grant the adoption, if all necessary consents, reports and recommendations have been filed and if the juvenile court finds that the adoption is in the best interest of the child.

After the adoption, the relationship of parent and child between the natural parent and the adopted child ceases to exist, unless the natural parent is the spouse of the adoptive parent, and the relationship of parent and child thereafter exists between the adoptive parent and the adopted child, except that the juvenile court may grant reasonable visitation rights to a relative who has maintained a relationship similar to a parent–child relationship with a child who has been adopted by a relative or stepparent and the child may continue to inherit through a deceased natural parent if the remaining natural parent remarries and the stepparent adopts the child.

Also, after the adoption, the state registrar of vital statistics (state registrar) must prepare a new birth certificate, unless the adoptive parents request otherwise, and impound the original birth certificate and all other information relating to the adoption. Current law provides that all adoption records are closed and may not be disclosed except by order of the juvenile court for good cause shown or except as follows:

1. The juvenile court must disclose to the adoptive parents the child’s medical record.
2. The agency that placed the child for adoption must, on the request of an adoptive parent or the adoptee, if 18 years of age or over, provide the requester with medical and genetic information about the adoptee and the adoptee’s birth parents and with nonidentifying social history information about the adoptee’s family.
3. DHFS must release medical information that it has in its centralized birth record file to an adoptive parent, an adoptee 18 years of age or over or an offspring of an adoptee if 18 years of age or over and must, if that information is not on file, conduct a search for the birth parents, on request, to obtain that information.
4. DHFS must disclose the original birth certificate of an adoptee and identifying information about the adoptee’s birth parents to an adoptee 21 years of age or over if the birth parents have filed affidavits authorizing that disclosure, and DHFS must, if those affidavits are not on file, conduct a search for the birth parents, on request, to inform the birth parent that he or she may file the affidavit.
5. The agency that placed the child for adoption or that accepted guardianship of the child following TPR must disclose identifying information about a birth parent of an adoptee under 21 years of age to the adoptee’s adoptive parent if the birth parent has filed with the agency a written authorization of that disclosure, and must disclose identifying information about an adoptive parent of an adoptee under 21 years of age to the adoptee’s birth parent if the adoptive parent has filed with the agency a written authorization of that disclosure.

Finally, current law expressly prohibits or permits certain activities in connection with an adoption. Specifically, no person, other than an agency, a parent seeking to place his or her own child for adoption, an individual who has received a favorable recommendation regarding his or her fitness to be an adoptive parent or a person providing adoption information exchange services or adoption information,

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may advertise for the purpose of finding a child to adopt or advertise that the person will find an adoptive home, arrange for or assist in an adoption or adoptive placement or place a child for adoption. Current law also permits certain payments in connection with an adoption and prohibits all other payments. Payments permitted under current law include payments for services provided by a child welfare agency, medical and hospital care received by the birth mother in connection with the pregnancy or birth of the child or received by the child, counseling for the birth parents, living expenses of the birth mother not to exceed \$1,000, investigation of the proposed adoptive placement, legal and other services received by a birth parent or the child, maternity clothes, local transportation of a birth parent that is related to the pregnancy or adoption, foster care for the child pending his or her adoptive placement, birthing classes and a gift for the birth mother not to exceed \$50 in value. If the juvenile court finds that an impermissible payment has been made, the juvenile court may dismiss the petition for adoption and refer the matter to the district attorney for prosecution.

THE BILL***Placement***

The bill permits a parent having legal and physical custody of a child, a guardian or agency authorized by the juvenile court or an agency to which a child has been relinquished by his or her parent, that is, the parent has voluntarily surrendered his or her rights to the child to the agency for purposes of adoption, to place a child for adoption. A child may be placed for adoption, however, only with a prospective adoptive parent for whom a favorable preplacement evaluation has been prepared by a person certified by DHFS to prepare evaluations, except that a preplacement evaluation is not required for the placement of a child with a relative. In those cases, the prospective adoptive parent must be evaluated during the pendency of the adoption proceeding. The preplacement evaluation must be based on a personal interview and home visit with the prospective adoptive parent and on interviews with persons who know the prospective adoptive parent and must contain information as to the age, nationality, religion, marital and family history, physical and mental health, education and employment history, property and income and criminal, child abuse or neglect and domestic abuse history of the proposed adoptive parent. The evaluator must assess this information to determine whether placement of the child, or any child, in the home of the prospective adoptive parent would pose a significant risk of harm to the physical or psychological well-being of the child. The bill requires an agency placing a child for adoption to place the child with a prospective adoptive parent selected by the child's parent or guardian, if the agency has agreed to do so, or, if the agency has not so agreed, to place the child in accordance with the best interest of the child. In determining the best interest of the child, the agency must consider certain individuals in the following order of preference:

1. An individual who has previously adopted a sibling of the child.
2. An individual with characteristics selected by the birth parent.
3. An individual who has had prior physical custody of the child.
4. A relative of the child.

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An agency may not delay or deny a placement based on the race, national origin or ethnic background of the child and must place siblings together, if practicable and in their best interest. A person placing a child for adoption must disclose to the prospective adoptive parents background information about the child and the child's natural parents, including their medical, social and psychological histories and any history of convictions or delinquency adjudications.

The bill also permits a health care facility to release a child to an individual or agency if the child's mother authorizes the release. A copy of the authorization must be sent to DHFS within 72 hours after the child is released and the person to whom the child is released must, within 30 days after the release, report to DHFS on the disposition of the child, that is, whether a petition for adoption has been filed, whether an agency has acquired custody of the child, whether the child has been returned to his or her parent or whether the child has been transferred to another individual. If DHFS does not receive the report within 45 days after the release, DHFS must investigate to determine the child's whereabouts. If the person to whom the child is released does not take action with respect to the adoption of the child, DHFS must immediately remove the child from that person's physical custody.

Consent or relinquishment

Subject to certain exceptions, the juvenile court may grant a petition for adoption when a parent or guardian has placed the child for adoption without agency involvement only if one of the following persons has consented to the adoption:

1. The birth mother and one of the following:
 - a. A man who was married to the birth mother if the child was born during or within 300 days after the end of the marriage.
 - b. A man who attempted to marry the mother, but the marriage is or could be declared invalid, if the child was born during or within 300 days after the end of the attempted marriage.
 - c. A man who has been judicially determined to be the father of the child or who has signed a statement acknowledging his paternity and who has supported and visited or communicated with the child or who has married or attempted to marry the child's mother after the child's birth, but before the placement.
 - d. A man who has received the child into his home and openly held out the child as his own.
2. The child's guardian, if authorized by the juvenile court to consent to the child's adoption.
3. The child's current adoptive parents.

When an agency has placed the child for adoption, the juvenile court may grant a petition for adoption only if the agency and any parent who has not relinquished the child to the agency consents to the adoption. Generally, the child must also consent to the adoption, if 12 years of age or over.

Under the bill, the consent of various persons is not required. Those persons include an individual who has relinquished the child to an agency, an individual whose parental rights to the child have been terminated or determined not to exist, an incompetent parent, a man who has not been married to the mother and who denies his paternity or disclaims his interest in the child, the personal representative

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of a deceased parent's estate and a parent who fails to appear or answer in a TPR or adoption proceeding. The bill also permits the juvenile court to dispense with the consent of a guardian or agency if the juvenile court finds that consent is being withheld contrary to the best interest of the child and to dispense with the consent of a child 12 years of age or over if the juvenile court finds that it is not in the best interest of the child to require that consent.

A parent may consent to the adoption of his or her child or relinquish the child to an agency for adoption at any time after the child is born. Before executing a consent or relinquishment, the parent must have been informed of the meaning and consequences of adoption, the availability of counseling and legal counsel and the procedure for prohibiting the release of background information about and the identity of the parent. The parent must also have been informed that indentifying information about the parent will be made available, on request, to the adoptee on attaining 18 years of age, to the adoptive parent or guardian of the adoptee before the adoptee attains 18 years of age or, if the adoptee is deceased, to a direct descendant of the adoptee who has attained 18 years of age or to the parent or guardian of a direct descendent under 18 years of age unless the parent prohibits the disclosure of that information. The parent must execute the consent or relinquishment in the presence of a judge, an individual designated by a judge, an employe designated by an agency to take consents, an attorney, a military officer or a foreign service officer. The person in whose presence the consent or relinquishment is executed must certify that the parent understood the consent or relinquishment, signed it voluntarily, was furnished the required information, was offered counseling and legal counsel and was informed of his or her obligation to provide background information about the child's medical, social and psychological history. The consent or relinquishment must contain instructions on how to revoke or set aside the consent or relinquishment and may provide for its revocation if another consent or relinquishment is not executed within a specified time, if the parental rights of another individual are not terminated or if the petition for adoption is denied or withdrawn. The consent or relinquishment must also state all of the following:

1. That the parent voluntarily and unequivocally consents to the transfer of custody of the child to the prospective adoptive parent or agency for purposes of adoption.
2. That the parent understands that the consent or relinquishment is final and, except under limited circumstances, may not be revoked or set aside.
3. That the parent understands that the adoption will terminate his or her parental rights and obligations to the child, other than the payment of child support arrears.
4. That the parent has received or been offered a copy of the consent or relinquishment, counseling, legal counsel and information about the meaning and consequences of adoption.
5. That the parent has not received or been offered money or anything of value for the consent or relinquishment, except as authorized by law.
6. That the parent has had an opportunity to sign a document stating whether and under what circumstances identifying information about the parent may be

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disclosed; and has been advised of the obligation to provide background information about the child's history.

7. That the parent believes that adoption is in the best interest of the child.

8. That the parent waives notice of the proceeding for adoption.

A consent entitles the prospective adoptive parent to custody of the child and imposes on him or her the duty to support the child. A relinquishment entitles the agency to custody of the child and empowers the agency to place the child for adoption, consent to the child's adoption and delegate the duty to support the child to the prospective adoptive parents. Both a consent and a relinquishment terminate any duty that the parent had to the child, except to pay child support arrears, and terminate the right of the parent to object to the adoption and to receive notice of the adoption proceeding.

A consent or relinquishment may be revoked if the parent notifies the prospective adoptive parent or agency within 192 hours (eight days) after the birth of the child or complies with any other instructions for revocation specified in the consent or relinquishment or if the parent and prospective adoptive parent agree to the revocation. The juvenile court must set aside a consent or relinquishment if the parent proves by clear and convincing evidence that the consent or relinquishment was obtained by fraud or duress or proves by a preponderance of the evidence that a condition permitting revocation, as provided for in the consent or relinquishment, has occurred. A consent may also be set aside if the parent proves by a preponderance of the evidence that a petition for adoption has not been filed within 30 days after the placement. If the consent or relinquishment of a parent who had custody of the minor when the consent or relinquishment was executed is set aside on the grounds of fraud or duress or revoked, the juvenile court must dismiss the adoption proceeding and return the child to the parent. If the consent or relinquishment of a parent who had custody of the minor when the consent or relinquishment was executed is set aside because a condition permitting revocation, as provided for in the consent or relinquishment, has occurred or because a petition has not been filed within 30 days after the placement, the juvenile court must dismiss any petition that may be pending and return the child to the parent, unless returning the child would be detrimental to the child. If the consent or relinquishment of a parent who did not have custody of the child when the consent or relinquishment was executed is set aside, the juvenile court must dismiss any petition that may be pending and issue an order for the care and custody of the child according to the best interest of the child.

Juvenile court procedures

The bill specifies the procedures that the juvenile court must follow in processing a petition for adoption.

A juvenile court in this state has jurisdiction over a proceeding for adoption if the child has lived in this state for six consecutive months immediately before the commencement of the proceeding or, if the child is less than six months of age, from soon after birth; the prospective adoptive parent has lived in this state for six consecutive months immediately before the commencement of the proceeding, the agency that placed the child is located in this state and the child and his or her

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parent, or the child and prospective adoptive parent, have a significant connection with this state; the child is physically present in this state and has been abandoned or it is necessary in an emergency to protect the child; or no other state has jurisdiction or another state has declined jurisdiction because this state is the more appropriate forum for the proceeding. A juvenile court in this state, however, does not have jurisdiction if a proceeding for the custody or adoption of the child is pending in a court in another state or a court in another state has issued a decree concerning the custody of the child, unless that court does not have continuing jurisdiction to modify the decree or has declined to exercise that jurisdiction or does not have jurisdiction over the adoption of the child or has declined to exercise that jurisdiction.

The bill requires a minor parent, an incompetent parent or an indigent parent to be represented by counsel, unless the indigent parent declines. The bill permits the juvenile court to appoint a guardian ad litem for the child if the proceeding is uncontested and requires the juvenile court to appoint a guardian ad litem for the child if the proceeding is contested.

The bill requires a proceeding for adoption or TPR to be heard by a court without a jury and to be closed to the general public. The bill also permits the juvenile court to make an interim order for the custody of the child in an uncontested proceeding and requires the juvenile court to make such an order in a contested proceeding. The bill prohibits a petitioner from removing the child from this state for more than 30 days without the permission of the court or, if an agency adoption, the permission of the agency.

A person with whom a child has been placed for adoption or who has been selected as a prospective adoptive parent or a person with whom a child has not been placed for adoption or who has not been selected as a prospective adoptive parent, but who has had physical custody of the child for at least six months immediately before filing the petition, has standing to petition for adoption. A person with whom a child is placed for adoption must file the petition within 30 days after the placement.

The bill specifies what information must be contained in the petition for adoption and what documents must be filed with the juvenile court before the hearing on the petition. Those documents include the child's birth certificate; any consent, relinquishment or disclaimer of parental interest that has been executed; any TPR order or order concerning custody or visitation with the child; any evaluation of the prospective adoptive parent; the background information provided by the parent; a document indicating that the parent does not wish to have any identifying information about the parent disclosed; and a document stating the name and address of any person entitled to receive notice of the proceeding.

The bill requires notice of the adoption proceeding to be served, within 20 days after the filing of the petition, on any individual or agency whose consent to the adoption is required; on any possible father of the child; on any person who has custody of or visitation rights with the child; on the spouse of the petitioner, if the spouse has not joined in the petition; on the child's grandparent, if the child's parent is deceased and has not consented to the adoption, relinquished the child or had his or her parental rights terminated; on any person who has revoked his or her consent

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or relinquishment; and on any person who can provide relevant information about the adoption. If a person fails to respond to a notice within 20 days after its service, the person may not appear in the proceeding and is not entitled to receive any further notice of the proceeding. If at any time in the proceeding the juvenile court finds that an unknown father may not have received notice of the proceeding, the juvenile court must determine if the unknown father can be identified. If the father is identified, the juvenile court must require notice to be served on him. If the father is not identified or his whereabouts are unknown, the juvenile court must order publication of the notice, if the juvenile court determines that publication is likely to lead to receipt of notice by the father, or may dispense with publication if the juvenile court determines that publication is not likely to lead to receipt of notice.

After the filing of the petition for adoption, but before the decree of adoption is entered, a parent, guardian or agency that intends to place, or has placed, a child for adoption, a parent who is the spouse of a stepparent who intends to adopt the child or a prospective adoptive parent may file a petition to terminate the parental rights of a parent of the child. Under the bill, a person's parental rights may be terminated on any of the following grounds:

1. If the person fails to respond or claim paternity within 20 days after service of the notice of the TPR proceeding.

2. If the juvenile court dispenses with notice because publication of the notice is not likely to lead to the person receiving notice.

3. If the person has failed to support and visit regularly with the child and has not manifested an ability and willingness to assume custody of the child, unless the person proves that he or she had a compelling reason for not doing so.

4. If the person has been convicted of abandonment, torture, chronic abuse, sexual abuse or homicide of a child or of violating a domestic abuse, child abuse or harassment restraining order and the facts of the crime or violation show that the person is unfit to maintain a parental relationship with the child.

5. The person was not married to the child's mother when the child was conceived or born and is not the biological or adoptive father of the child.

6. If termination of the person's parental rights is justified on any of the grounds specified in current law, for example, abandonment, continuing need of protection or services, continuing parental disability, continuing denial of periods of physical placement, failure to assume parental responsibility, incestuous parenthood, intentional homicide of a parent, parenthood as a result of a sexual assault, commission of a serious felony against one of the person's children or prior involuntary TPR to another child.

Even if the respondent had a compelling reason for not supporting, visiting and being able to assume custody of the child and even if a TPR is not otherwise justified, the juvenile court may still order a TPR on any of the following grounds:

1. If the respondent is not able or willing promptly to assume custody and pay for the child's support.

2. If the respondent is not able or willing promptly to establish and maintain contact with the child and to pay for the child's support.

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3. If placing the child with the respondent would pose a substantial risk to the well-being of the child.

4. If failure to TPR would be detrimental to the child.

If a TPR order is granted, the relationship of parent and child between the respondent and the child is terminated, except for the obligation to pay child support arrears, the right of the respondent to withhold his or her consent to the adoption and to receive notice of the adoption proceeding is extinguished and the order is a final order for purposes of appeal. If a TPR petition is denied, the juvenile court must dismiss the underlying petition for adoption and determine the custody of the child.

After a petition for adoption is filed, the juvenile court must order an evaluator certified by DHFS to make an evaluation of the child's placement with the prospective adoptive parent. The evaluation must be based on a personal interview with the prospective adoptive parent in his or her residence, observation of the relationship between the child and the prospective adoptive parent and certain information that must be included in the report on the evaluation. That information includes any changes in the life of the prospective adoptive parent since the preplacement evaluation; the condition of the child; the expenses incurred, paid or to be paid and anything of value exchanged or to be exchanged in connection with the adoption; any specific concerns about the suitability of the prospective adoptive parent or his or her home; the finding of the evaluator about that suitability; and the recommendation of the evaluator about granting the petition. The evaluation must be filed within 60 days after it is ordered, unless the evaluator has specific concerns about the well-being of the child, in which case the evaluation must be filed immediately.

The juvenile court must hold a hearing on the petition for adoption not less than 90 days nor more than 180 days after the petition is filed, unless the juvenile court sets an earlier or later date for good cause shown. At least ten days before the hearing the prospective adoptive parent must file with the juvenile court an accounting of any payments made in connection with the adoption and the attorney for the prospective adoptive parent, the attorney for the parent or guardian, the agency, if an agency is involved, and the guardian of the child must file affidavits with the court itemizing any fees received in connection with the adoption.

The juvenile court must grant the adoption if it finds that the adoption will be in the best interest of the child, that the petitioner is a suitable adoptive parent for the child and that the various requirements governing an adoption proceeding have been met, for example, notice has been served on everyone entitled to receive notice or dispensed with; all necessary consents, relinquishments, disclaimers and TPR's have been obtained; any required evaluations have been filed; the Indian Child Welfare Act and any interstate or intercountry compact on adoption, if applicable, have been complied with; the juvenile court has reviewed the accounting of payments and affidavits of fees and has denied, modified or ordered reimbursement of any unauthorized, unreasonable or unnecessary payments; the petitioner has received the report on the child's background; and any document signed by the birth parent prohibiting the disclosure of his or her identity has been filed. Even if the juvenile court finds that a prohibited activity has occurred, the juvenile court must still grant

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the adoption, if the juvenile court finds that the adoption is in the best interest of the child, the petitioner is suitable and the other requirements have been met, and report the prohibited activity to the appropriate authorities.

After the adoption, the relationship of parent and child between the former parent and the adoptee terminates, except for the duty to pay child support arrears, and any existing order for visitation or communication ceases. After the adoption, the adoptive parent and child have the relationship of parent and child.

The bill limits the challenges that may be made to a decree of adoption as follows:

1. A person who waived notice of the adoption proceeding or who failed to respond in the proceeding may not move to vacate or annul the decree.
2. No person may challenge the decree on the ground that another person failed to comply with an agreement for visitation with the child.
3. No person may challenge the decree more than six months after it is entered. If a person challenges a decree, the person must show by clear and convincing evidence that the decree is not in the best interest of the child.

Within 30 days after a decree of adoption becomes final, the clerk of the juvenile court must send to the state registrar a report of the adoption containing the information necessary to issue a new birth certificate. The state registrar must issue a new birth certificate for a child born in this state, unless the juvenile court orders, or the adoptive parents or child, if 12 years of age or over, request, that a new birth certificate not be issued. If the state registrar issues a new birth certificate, the state registrar must seal the original birth certificate for 99 years after the child's date of birth.

Confidentiality of records

Under the bill, all records pertaining to an adoption, whether in the possession of the juvenile court, an agency, the state registrar, an attorney or another provider of professional services, are confidential and may not be disclosed, except by order of the juvenile court or as otherwise provided in the bill.

The bill requires the juvenile court or an agency to disclose nonidentifying information about an adoptee, the adoptee's former parents and the adoptee's genetic history to the parent or guardian of an adoptee under 18 years of age, the adoptee, if 18 years of age or over, an emancipated adoptee, the direct descendant of a deceased adoptee, if 18 years of age or over, or the parent or guardian of a direct descendant of a deceased adoptee, if the direct descendant is under 18 years of age.

If the juvenile court receives a statement from a physician explaining how a health condition may seriously affect the health of an adoptee or a direct descendant of an adoptee, the juvenile court must make a diligent effort to notify the adoptee, if 18 years of age or over, the parent or guardian of the adoptee, if the adoptee is under 18 years of age or a direct descendant of a deceased adoptee that nonidentifying information about the health condition may be requested from the juvenile court. Similarly, if the juvenile court receives a statement from a physician explaining why a serious health condition of an adoptee or a direct descendant of an adoptee should be communicated to the adoptee's genetic parent or sibling to enable them to make an informed reproductive decision, the juvenile court must make a diligent effort to

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notify the genetic parent or sibling that nonidentifying information about the health condition may be requested from the juvenile court.

If the state registrar receives a request for additional information about an adoptee, the state registrar must refer the requester to the court or agency that has the records about the adoptee. If no court or agency has the information, the state registrar must, on request, conduct a search for the birth parent to obtain the information as under current law.

The bill requires the state registrar to disclose identifying information about an adoptee's former parent to the adoptee, if 18 years of age or over, the adoptee's parent or guardian, if the adoptee is under 18 years of age, a direct descendant of a deceased adoptee, if 18 years of age or over, or the parent or guardian of a direct descendant of a deceased adoptee, if the direct descendant is under 18 years of age, on request unless the former parent or an adult descendant of a deceased or incompetent former parent has prohibited that disclosure.

The bill also requires the state registrar to disclose identifying information about an adoptee or a direct descendant of a deceased adoptee to the adoptee's former parent on request if the adoptee, or direct descendant has attained 18 years of age.

In addition, the bill requires the state registrar to disclose identifying information about an adult sibling of an adoptee who is 18 years of age or over if the sibling is also an adoptee. In disclosing information about an adult sibling, the state registrar may not also disclose information about the adoptee's former parent if the former parent has prohibited that disclosure.

The state registrar must also disclose the original birth certificate of an adoptee to the adoptee, if 18 years of age or over, the parent or guardian of an adoptee, if under 18 years of age, a direct descendant of a deceased adoptee, if 18 years of age or over, or the parent or guardian of a direct descendant of a deceased adoptee, if the direct descendant is under 18 years of age, unless any individual named as a parent on the birth certificate has prohibited that disclosure. Ninety-nine years after an adoptee's birth, however, the adoptee's original birth certificate is unsealed and may be disclosed in the same manner as any public record.

A person who is eligible to obtain information about an adoption may petition the juvenile court to obtain information not otherwise available under the bill. In determining whether to grant the petition, the juvenile court must make specific findings as to why the petitioner is seeking the information, if the petitioner is an adoptee under 18 years of age or the parent or guardian of an adoptee under 18 years of age, whether the subject of the information has requested that the information not be disclosed, whether the subject of the information is alive, whether the petitioner's request can be satisfied without disclosing the information and the likely effect on the adoptee and his or her original and adoptive families of disclosing the information. The juvenile court may order the information to be disclosed if the juvenile court determines that good cause exists for disclosing the information, that there is a compelling reason for disclosing the information and that the benefit of disclosing the information is greater than the harm.

ASSEMBLY BILL 526***Prohibited and permissible activities***

The bill prohibits certain activities in connection with an adoption. Under the bill:

1. No person, other than a parent, a guardian, an agency, or a person providing adoption information exchange services or adoption information, may place a child for adoption or advertise that a child is available for adoption.

2. No person, other than an individual with a favorable preplacement evaluation or an agency, may advertise that the person is willing to accept a child for adoption.

3. No person, other than a person with a favorable preplacement evaluation or a waiver of that requirement, a relative or a stepparent, may obtain custody of a child for the purposes of adoption.

4. No person may place a child for adoption with a person, other than a stepparent or relative, unless the person has a favorable preplacement evaluation or a waiver of that requirement.

The bill prohibits certain payments in connection with an adoption. Under the bill, no person may pay, give or offer to pay or give, and no person may request, receive or accept, money or anything of value for the placement of a child for adoption, a consent to an adoption or a relinquishment for the purposes of adoption. The bill also prohibits a parent from receiving any payment, even a lawful payment, with the intent not to consent to an adoption or to relinquish his or her child for adoption.

The bill expressly permits an adoptive parent to make certain payments in connection with an adoption. Those payments include payments for the services of an agency, advertising to locate a child for adoption, medical and other expenses incurred in connection with the birth or any illness of the child, counseling for the birth parent and child, the mother's living expenses for a reasonable time before the birth of the child and for no more than six weeks after the child's birth, expenses incurred in obtaining background information about the child, legal fees, court costs, travel and other administrative expenses, expenses incurred in obtaining evaluations of the adoptive parent and any other services that the juvenile court finds are reasonably necessary. The payment of those expenses may not be made contingent on placement of the child for adoption, relinquishment of the child for adoption or consent to the adoption. If the adoption is not finalized, a person who is authorized to make a payment is not liable for that payment unless the person has agreed to make the payment regardless of the outcome of the adoption proceeding.

Similarly, the bill expressly permits an agency to charge a prospective adoptive parent for the cost of certain services rendered in connection with an adoption. Those costs include the cost of medical and other expenses incurred in connection with the child's birth, counseling, the mother's living expenses, expenses incurred in obtaining background information about the child, legal fees and other administrative expenses and expenses incurred in obtaining evaluations of the adoptive parent.

The bill also provides penalties for certain violations committed in connection with an adoption. Under the bill, the following persons are subject to penalties:

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1. A person, other than a parent, who has a duty to disclose background information about a child and who intentionally fails to disclose that information.

2. An employe of an agency, the juvenile court or the state registrar who intentionally destroys background information about a child.

3. A prospective adoptive parent who knowingly fails to furnish information or who knowingly furnishes false information to an evaluator.

4. An evaluator who knowingly prepares a false evaluation.

5. A parent who knowingly misidentifies the other parent.

6. A person who knowingly makes an unauthorized disclosure of confidential information, whether identifying or nonidentifying, or who gives or offers to give, or who accepts or agrees to accept, anything of value for that disclosure.

Stepparent and adult adoptions

Finally, the bill makes special provisions for stepparent and adult adoptions.

In general, the procedures of a stepparent adoption are similar to those of a stranger adoption, except that certain procedures are relaxed for a stepparent adoption. For example, a preplacement evaluation is not required for a stepparent adoption and the juvenile court may, but is not required to, order a postpetition evaluation of a stepparent. The legal consequences of a stepparent adoption differ from those of a stranger adoption in that a stepparent adoption does not terminate the relationship between the child and the parent who is the stepparent's spouse, an existing visitation order for a relative of the stepparent's spouse survives the adoption decree, the juvenile court may approve an existing visitation agreement for the former parent or a grandparent through the former parent and the stepchild continues to have the right of inheritance or intestate succession from or through the former parent.

The bill permits an adult to adopt another adult in order to create a parent-child relationship. An adult may not, however, adopt his or her spouse and, if the adult adoptee is incompetent, the procedures for the adoption of a child must be followed. Because an adult may consent to his or her own adoption, notices to, and the consent of, the adoptee's parents are not required. Instead, the consent only of the adoptee, the prospective adoptive parent and the parent's spouse is required.

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.** 20.435 (3) (jj) of the statutes is amended to read:
- 2 20.435 (3) (jj) *Searches for birth parents and adoption record information;*
- 3 *foreign adoptions.* The amounts in the schedule for paying the cost of searches for
- 4 birth parents under ss. 48.432 (4) and 48.433 (6) and for paying the costs of

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1 reviewing, ~~certifying and approving~~ and certifying foreign adoption documents
2 under s. ~~48.838~~ 48.976 (2) and (3). All moneys received as fees paid by persons
3 requesting a search under s. 48.432 (3) (c) or (4), or 48.433 (6) or ~~48.93 (1r)~~ requesting
4 information under s. 48.95 and paid by persons for the review, and certification and
5 approval of foreign adoption documents under s. ~~48.838~~ 48.976 (2) and (3) shall be
6 credited to this appropriation.

7 **SECTION 2.** 46.03 (18) (am) of the statutes is amended to read:

8 46.03 (18) (am) Paragraph (a) does not prevent the department from charging
9 and collecting the cost of adoptive placement investigations and child care as
10 authorized under s. ~~48.837 (7)~~ 48.96 (3) (a) 8.

11 **SECTION 3.** 46.03 (18) (b) of the statutes is amended to read:

12 46.03 (18) (b) Except as provided in s. 46.10 (14) (b) and (c), any person
13 receiving services provided or purchased under par. (a) or the spouse of the person
14 and, in the case of a minor, the parents of the person, and, in the case of a foreign child
15 described in s. ~~48.839 (1)~~ 48.82 (8) who became dependent on public funds for his or
16 her primary support before an order granting his or her adoption, the resident of this
17 state ~~appointed guardian of the child by a foreign court~~ who brought the child into
18 this state for the purpose of adoption, shall be liable for the services in the amount
19 of the fee established under par. (a). If a minor receives services without consent of
20 a parent or guardian under s. 51.47, the department shall base the fee solely on the
21 minor's ability to pay.

22 **SECTION 4.** 46.10 (2) of the statutes is amended to read:

23 46.10 (2) Except as provided in subs. (2m) and (14) (b) and (c), any person,
24 including but not limited to a person admitted, committed or placed under s. 975.01,
25 1977 stats., s. 975.02, 1977 stats., and s. 975.17, 1977 stats., and ss. 51.10, 51.13,

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1 51.15, 51.20, 51.35 (3), 51.37 (5), 51.45 (10), (11), (12) and (13), 55.05, 55.06, 971.14
2 (2) and (5), 971.17 (1), 975.06 and 980.06, receiving care, maintenance, services and
3 supplies provided by any institution in this state including University of Wisconsin
4 Hospitals and Clinics, in which the state is chargeable with all or part of the person's
5 care, maintenance, services and supplies, any person receiving care and services
6 from a county department established under s. 51.42 or 51.437 or from a facility
7 established under s. 49.73, and any person receiving treatment and services from a
8 public or private agency under s. 971.17 (3) (d) or (4) (e), 980.06 (2) (c) or 980.08 (5)
9 and the person's property and estate, including the homestead, and the spouse of the
10 person, and the spouse's property and estate, including the homestead, and, in the
11 case of a minor child, the parents of the person, and their property and estates,
12 including their homestead, and, in the case of a foreign child described in s. 48.839
13 ~~(1)~~ 48.82 (8) who became dependent on public funds for his or her primary support
14 before an order granting his or her adoption, the resident of this state appointed
15 ~~guardian of the child by a foreign court~~ who brought the child into this state for the
16 purpose of adoption, and his or her property and estate, including his or her
17 homestead, shall be liable for the cost of the care, maintenance, services and supplies
18 in accordance with the fee schedule established by the department under s. 46.03
19 (18). If a spouse, widow or minor, or an incapacitated person may be lawfully
20 dependent upon the property for their support, the court shall release all or such part
21 of the property and estate from the charges that may be necessary to provide for those
22 persons. The department shall make every reasonable effort to notify the liable
23 persons as soon as possible after the beginning of the maintenance, but the notice or
24 the receipt thereof is not a condition of liability.

25 **SECTION 5.** 46.215 (1) (h) of the statutes is amended to read:

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1 46.215 (1) (h) To administer juvenile welfare services under s. 938.57; and, if
2 contracted to do so by the department, to accept custody and guardianship of children
3 upon the order of a competent court, and to place children for adoption ~~and to make~~
4 ~~recommendations relating to the adoption of children under s. 48.85~~ under s. 48.82
5 (3).

6 **SECTION 6.** 46.215 (1) (i) of the statutes is amended to read:

7 46.215 (1) (i) To make ~~such investigations as~~ the evaluations that are provided
8 for in s. 48.88 (2) (a) and (c), ~~if contracted to do so by the department and if the court~~
9 ~~having jurisdiction so directs~~ ss. 48.83, 48.91 and 48.94 (11).

10 **SECTION 7.** 46.22 (1) (c) 4. of the statutes is amended to read:

11 46.22 (1) (c) 4. Make ~~investigations which~~ the evaluations that are provided for
12 under s. 48.88 (2) (a) and (c), ~~if the court having jurisdiction so directs~~ ss. 48.83, 48.91
13 and 48.94 (11).

14 **SECTION 8.** 48.025 (2) of the statutes is amended to read:

15 48.025 (2) The declaration provided in sub. (1) may be filed at any time except
16 after a termination of the father's rights under subch. VIII or s. 48.90. The
17 declaration shall be in writing, signed by the person filing the declaration and shall
18 contain the person's name and address, the name and last-known address of the
19 mother, the month and year of the birth or expected birth of the child and a statement
20 that he has reason to believe that he may be the father of the child.

21 **SECTION 9.** 48.14 (1) of the statutes is amended to read:

22 48.14 (1) The termination of parental rights to a minor in accordance with
23 subch. VIII or s. 48.90.

24 **SECTION 10.** 48.14 (2) (b) of the statutes is amended to read:

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1 48.14 (2) (b) The appointment and removal of a guardian of the person for a
2 child under ss. 48.427, 48.428, 48.43, 48.831, 48.832, ~~48.839 (4) (a), 48.977 and,~~
3 48.978, 48.979 and 48.9795 and ch. 880 and for a child found to be in need of
4 protection or services under s. 48.13 because the child is without parent or guardian.

5 **SECTION 11.** 48.23 (2) of the statutes is amended to read:

6 48.23 (2) RIGHT OF PARENTS TO COUNSEL. Whenever a child is the subject of a
7 proceeding involving ~~a contested adoption or the involuntary~~ termination of parental
8 rights or a contested adoption, any parent under 18 years of age who appears before
9 the court shall be represented by counsel; but no such parent may waive counsel. ~~A~~
10 ~~minor parent petitioning for the voluntary termination of parental rights shall be~~
11 ~~represented by a guardian ad litem.~~ If a proceeding involves ~~a contested adoption~~
12 ~~or the involuntary~~ termination of parental rights or a contested adoption, any parent
13 18 years old or older who appears before the court shall be represented by counsel;
14 but the parent may waive counsel provided the court is satisfied such waiver is
15 knowingly and voluntarily made.

16 **SECTION 12.** 48.23 (4) of the statutes is amended to read:

17 48.23 (4) PROVIDING COUNSEL. In any situation under this section in which a
18 person child or a parent under 18 years of age has a right to be represented by counsel
19 or is provided counsel at the discretion of the court and counsel is not knowingly and
20 voluntarily waived, the court shall refer the person to the state public defender and
21 counsel shall be appointed by the state public defender under s. 977.08 without a
22 determination of indigency. If the referral is of a person who has filed a petition
23 under s. 48.375 (7), the state public defender shall appoint counsel within 24 hours
24 after that referral. Any counsel appointed in a petition filed under s. 48.375 (7) shall
25 continue to represent the child in any appeal brought under s. 809.105 unless the

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1 child requests substitution of counsel or extenuating circumstances make it
2 impossible for counsel to continue to represent the child. In any situation under sub.
3 (2) or (2m) in which a parent 18 years of age or over or an adult expectant mother is
4 entitled to representation by counsel; counsel is not knowingly and voluntarily
5 waived; and it appears that the parent or adult expectant mother is unable to afford
6 counsel in full, or the parent or adult expectant mother so indicates; the court shall
7 refer the parent or adult expectant mother to the authority for indigency
8 determinations specified under s. 977.07 (1). In any other situation under this
9 section in which a person has a right to be represented by counsel or is provided
10 counsel at the discretion of the court, competent and independent counsel shall be
11 provided and reimbursed in any manner suitable to the court regardless of the
12 person's ability to pay, except that the court may not order a person who files a
13 petition under s. 813.122 or 813.125 to reimburse counsel for the child who is named
14 as the respondent in that petition.

15 **SECTION 13.** 48.235 (1) (b) of the statutes is repealed.

16 **SECTION 14.** 48.235 (1) (c) of the statutes is amended to read:

17 48.235 (1) (c) The court shall appoint a guardian ad litem for any child who is
18 the subject of a proceeding to terminate parental rights, whether voluntary or
19 involuntary, for a child who is the subject of a contested adoption proceeding and for
20 a child who is the subject of a proceeding under s. 48.977 or 48.978. The court may
21 appoint a guardian ad litem for a child who is the subject of an uncontested adoption
22 proceeding.

23 **SECTION 15.** 48.235 (5) of the statutes is repealed.

24 **SECTION 16.** 48.235 (8) (c) of the statutes is amended to read:

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1 48.235 (8) (c) 1. In an uncontested termination of parental rights and adoption
2 proceeding ~~under s. 48.833~~ in which an agency placed the child for adoption, the court
3 shall order the agency that placed the child for adoption to pay the compensation of
4 the child's guardian ad litem.

5 2. In an uncontested termination of parental rights and adoption proceeding
6 ~~under s. 48.835 or 48.837~~ in which the child's parent or guardian placed the child for
7 adoption, the court shall order the proposed adoptive parents to pay the
8 compensation of the child's guardian ad litem. If the proposed adoptive parents are
9 indigent, the court may order the county of venue to pay the compensation, in whole
10 or in part, and may order the proposed adoptive parents to reimburse the county, in
11 whole or in part, for the payment.

12 **SECTION 17.** 48.31 (1) of the statutes is amended to read:

13 48.31 (1) In this section, "fact-finding hearing" means a hearing to determine
14 if the allegations in a petition under s. 48.13 or 48.133 or a petition to terminate
15 parental rights under subch. VIII are proved by clear and convincing evidence.

16 **SECTION 18.** 48.36 (1) (a) of the statutes is amended to read:

17 48.36 (1) (a) If legal custody is transferred from the parent or guardian or the
18 court otherwise designates an alternative placement for the child by a disposition
19 made under s. 48.345 or by a change in placement under s. 48.357, the duty of the
20 parent or guardian or, in the case of a transfer of guardianship and custody ~~under~~
21 ~~s. 48.839 (4)~~ of a foreign child brought into this country for the purpose of adoption,
22 the duty of the ~~former guardian~~ person who brought the child into this country for
23 the purpose of adoption to provide support shall continue even though the legal
24 custodian or the placement designee may provide the support. A copy of the order
25 transferring custody or designating alternative placement for the child shall be

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1 submitted to the agency or person receiving custody or placement and the agency or
2 person may apply to the court for an order to compel the parent or guardian to provide
3 the support. Support payments for residential services, when purchased or
4 otherwise funded or provided by the department or a county department under s.
5 46.22, 46.23, 51.42 or 51.437, shall be determined under s. 46.10 (14).

6 **SECTION 19.** 48.368 (1) of the statutes is amended to read:

7 48.368 (1) If a petition for termination of parental rights is filed under s. 48.41
8 ~~or~~, 48.415 or 48.90 or an appeal from a judgment terminating or denying termination
9 of parental rights is filed during the year in which a dispositional order under s.
10 48.355 or an extension order under s. 48.365 is in effect, the dispositional or
11 extension order shall remain in effect until all proceedings related to the filing of the
12 petition or an appeal are concluded.

13 **SECTION 20.** 48.371 (3) (intro.) of the statutes is amended to read:

14 48.371 (3) (intro.) At the time of placement of a child in a foster home, treatment
15 foster home, group home or child caring institution or, if the information is not
16 available at that time, as soon as possible after the date on which the court report
17 or permanency plan has been submitted, but no later than 7 days after that date, the
18 agency, as defined in s. 48.38 (1) (a), responsible for preparing the child's permanency
19 plan shall provide to the foster parent, treatment foster parent or operator of the
20 group home or child caring institution information contained in the court report
21 submitted under s. 48.33 (1), 48.365 (2g), 48.425 (1), ~~48.831 (2) or 48.837 (4) (e) or~~
22 48.979 (2) or permanency plan submitted under s. 48.355 (2e), 48.38, 48.43 (1) (c) or
23 (5) (c), 48.63 (4) or ~~48.831~~ 48.979 (4) (e) relating to findings or opinions of the court
24 or agency that prepared the court report or permanency plan relating to any of the
25 following:

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1 **SECTION 21.** 48.38 (4) (d) 3. of the statutes is amended to read:

2 48.38 (4) (d) 3. That the placement is made to facilitate the anticipated adoptive
3 placement of the child under s. ~~48.833 or 48.837~~ 48.82.

4 **SECTION 22.** 48.40 (2) of the statutes is amended to read:

5 48.40 (2) "Termination of parental rights" means that, pursuant to a court
6 order under this subchapter, all rights, powers, privileges, immunities, duties and
7 obligations existing between parent and child are permanently severed.

8 **SECTION 23.** 48.41 (2) (d) of the statutes is repealed.

9 **SECTION 24.** 48.42 (1) (intro.) of the statutes is amended to read:

10 48.42 (1) PETITION. (intro.) A proceeding for the termination of parental rights
11 shall be initiated by petition which may be filed by the child's parent, an agency or
12 a person authorized to file a petition under s. 48.25 ~~or 48.835~~. The petition shall be
13 entitled "In the interest of (child's name), a person under the age of 18" and
14 shall set forth with specificity:

15 **SECTION 25.** 48.42 (2) (a) of the statutes is amended to read:

16 48.42 (2) (a) The parent or parents of the child, unless the child's parent has
17 waived the right to notice under s. ~~48.41 (2) (d)~~ 48.85 (6) (e), 48.89 (5) (b) or 48.94 (6)
18 (c) or (7) (a), notice has been dispensed with under s. 48.89 (4) (d) or notice is not
19 required under s. 48.89 (1) (a) 3.

20 **SECTION 26.** 48.422 (7) (bm) of the statutes is amended to read:

21 48.422 (7) (bm) Establish whether a proposed adoptive parent of the child has
22 been identified. If a proposed adoptive parent of the child has been identified and
23 the proposed adoptive parent is not a relative of the child, the court shall order the
24 petitioner persons specified in s. 48.92 (2) (a) to (e) to submit a report to the court
25 containing the information specified in s. ~~48.913 (7)~~ the documents specified in s.

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1 ~~48.92 (2) (a) to (e). The court shall review the report those documents to determine~~
2 ~~whether any payments or agreement to make payments set forth in the report are~~
3 ~~coercive to the birth parent of the child or to an alleged to presumed father of the child~~
4 ~~or are impermissible under s. 48.913 (4). Making any payment to or on behalf of the~~
5 ~~birth parent of the child, an alleged or presumed father of the child or the child~~
6 ~~conditional in any part upon transfer or surrender of the child or the termination of~~
7 ~~parental rights or the finalization of the adoption creates a rebuttable presumption~~
8 ~~of coercion. Upon a finding of coercion, the court shall dismiss the petition or amend~~
9 ~~the agreement to delete any coercive conditions, if the parties agree to the~~
10 ~~amendment. Upon a finding that payments which are impermissible under s. 48.913~~
11 ~~(4) have been made, the court may dismiss the petition and may refer the matter to~~
12 ~~the district attorney for prosecution under s. 948.24 (1). This paragraph does not~~
13 ~~apply if the petition was filed with a petition for adoptive placement under s. 48.837~~
14 ~~(2) documents is not authorized under s. 48.96 or is unreasonable or unnecessary~~
15 ~~when compared with the expenses customarily incurred in connection with an~~
16 ~~adoption and shall deny, modify or order reimbursement of any payment that is not~~
17 ~~authorized under s. 48.96 or that is unreasonable or unnecessary when compared~~
18 ~~with the expenses customarily incurred in connection with an adoption.~~
19 ~~Notwithstanding a finding that an unreasonable, unnecessary or unauthorized~~
20 ~~payment has been made or agreed to be made, the court shall accept the admission,~~
21 ~~if the conditions specified in pars. (a), (b) and (c) have been met, and shall report any~~
22 ~~unauthorized payment to the appropriate authorities.~~

23 **SECTION 27.** 48.428 (1) of the statutes is amended to read:

24 48.428 (1) A court may place a child in sustaining care if the court has
25 terminated the parental rights of the parent or parents of the child or has appointed

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1 a guardian for the child under s. ~~48.831~~ 48.979 and the court finds that the child is
2 unlikely to be adopted or that adoption is not in the best interest of the child.

3 **SECTION 28.** 48.432 (3) (a) 1m. of the statutes is created to read:

4 48.432 (3) (a) 1m. An emancipated adoptee.

5 **SECTION 29.** 48.432 (3) (a) 2. of the statutes is amended to read:

6 48.432 (3) (a) 2. An adoptive parent of an individual or adoptee.

7 **SECTION 30.** 48.432 (3) (a) 4. of the statutes is amended to read:

8 48.432 (3) (a) 4. The ~~offspring~~ direct descendant of an individual or adoptee if
9 the requester is 18 years of age or older.

10 **SECTION 31.** 48.432 (3) (a) 4m. of the statutes is created to read:

11 48.432 (3) (a) 4m. The parent or guardian of a direct descendant of an
12 individual or adoptee if the direct descendant has not attained 18 years of age.

13 **SECTION 32.** 48.432 (4) (a) of the statutes is amended to read:

14 48.432 (4) (a) Whenever any person specified under sub. (3) wishes to obtain
15 medical and genetic information about an individual whose birth parent's rights
16 have been terminated in this state at any time, or whose birth parent consented to
17 his or her adoption before February 1, 1982, or medical and genetic information
18 about the birth parents of such an individual or adoptee, and the information is not
19 on file with the department, or agency contracted with under sub. (9), the
20 department shall give the person the name and address of the court or agency that
21 has that information and, if the court or agency is in another state, shall assist the
22 person in locating the court or agency. If no court or agency has the information, the
23 person may request that the department or agency conduct a search for the birth
24 parents to obtain the information. The request shall be accompanied by a statement
25 from a physician certifying either that the individual or adoptee has or may have

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1 acquired a genetically transferable disease or that the individual's or adoptee's
2 medical condition requires access to the information.

3 **SECTION 33.** 48.432 (7) (a) of the statutes is amended to read:

4 48.432 (7) (a) If the department or another agency that maintains records
5 relating to the adoption of an adoptee or the termination of parental rights of an
6 individual receives a report from a physician stating that a birth parent or another
7 offspring of the birth parent has acquired or may have a genetically transferable
8 disease, the department or agency shall notify the individual or adoptee of the
9 existence of the disease, if he or she is 18 years of age or over, or notify the individual's
10 or adoptee's guardian, custodian or adoptive parent if the individual or adoptee is
11 under age 18 or notify a direct descendant of a deceased adoptee, if the direct
12 descendant is 18 years of age or over, or the parent or guardian of a direct descendant
13 of a deceased adoptee, if the direct descendant is under 18 years of age.

14 **SECTION 34.** 48.433 (2) of the statutes is amended to read:

15 48.433 (2) Any birth parent whose rights have been terminated in this state
16 at any time, or who has consented to the adoption of his or her child in this state
17 before February 1, 1982, or, if the birth parent is deceased or has been declared
18 incompetent, an adult descendant of the birth parent may file with the department,
19 or agency contracted with under sub. (11), an affidavit ~~authorizing~~ prohibiting the
20 department or agency ~~to provide the child with his or her~~ from providing a person
21 specified under sub. (3) with a copy of the child's original birth certificate and or with
22 any other available information about the birth parent's identity and location. An
23 affidavit filed under this subsection may be revoked at any time by notifying the
24 department or agency in writing.

25 **SECTION 35.** 48.433 (3) of the statutes is amended to read:

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1 48.433 (3) Any person ~~21~~ 18 years of age or over whose birth parent's rights
2 have been terminated in this state or who has been adopted in this state with the
3 consent of his or her birth parent or parents before February 1, 1982, the adoptive
4 parent or guardian of a person under 18 years of age whose birth parent's rights have
5 been terminated in this state or, if the person whose birth parent's rights have been
6 terminated or who has been adopted is deceased, a direct descendent of that person
7 who has attained the age of 18 years or the parent or guardian of a direct descendent
8 who has not attained 18 years of age may request the department, or agency
9 contracted with under sub. (11), to provide the person with the following:

10 (a) The ~~person's~~ original birth certificate of the person whose birth parent's
11 rights have been terminated or who has been adopted.

12 (b) Any available information regarding the identity and location of ~~his or her~~
13 the birth parents of the person whose birth parent's rights have been terminated or
14 who has been adopted.

15 **SECTION 36.** 48.433 (5) of the statutes is repealed and recreated to read:

16 48.433 (5) (a) The department or agency contracted with under sub. (11) shall
17 disclose the information specified in sub. (3) (a) and (b) in any of the following
18 circumstances:

19 1. The department or agency does not have on file an unrevoked affidavit under
20 sub. (2) from either birth parent or a document described in s. 48.95 (4) (b) or (7)
21 signed by either birth parents.

22 2. One of the birth parents was unknown at the time of the proceeding for
23 termination of parental rights or consent to adoption and the known birth parent has
24 not filed an unrevoked affidavit under sub. (2) or a document described in s. 48.95
25 (4) (b) or (7).

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1 (b) The department or agency contracted with under sub. (11) shall disclose the
2 information specified in sub. (3) (a), but not the information specified in sub. (3) (b),
3 if the department or agency does not have on file a document described in s. 48.95
4 (7) signed by both birth parents.

5 (c) The department or agency contracted with under sub. (11) shall disclose the
6 information specified in sub. (3) (b) 2., but not the information specified in sub. (3)
7 (a), if the department or agency does not have on file an unrevoked affidavit under
8 sub. (2) from the birth parent who is the subject of the information or a document as
9 described in s. 48.95 (4) (b) signed by the birth parent who is the subject of the
10 information or, if the birth parent is deceased or has been declared incompetent,
11 signed by an adult descendant of the birth parent.

12 **SECTION 37.** 48.433 (6) (a) of the statutes is amended to read:

13 48.433 (6) (a) If the department, or agency contracted with under sub. (11), ~~does~~
14 ~~not have~~ has on file an affidavit under sub. (2) from ~~each known~~ either birth parent
15 or a document described in s. 48.95 (4) (b) or (7) signed by either birth parent, it shall,
16 within 3 months after the date of the original request, undertake a diligent search
17 for each birth parent who has ~~not~~ filed an affidavit under sub. (2) or signed a
18 document described in s. 48.95 (4) (b) or (7). The search shall be completed within
19 6 months after the date of the request, unless the search falls within one of the
20 exceptions established by the department by rule. ~~If any information has been~~
21 ~~provided under sub. (5), the department or agency is not required to conduct a search.~~

22 **SECTION 38.** 48.433 (7) (a) 3. of the statutes is amended to read:

23 48.433 (7) (a) 3. The fact that the birth parent ~~has the right to file with the~~
24 ~~department the~~ may revoke an affidavit filed under sub. (2) or a document described
25 in s. 48.95 (4) (b) or (7).

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1 **SECTION 39.** 48.433 (7) (b) of the statutes is amended to read:

2 48.433 (7) (b) Within 3 working days after contacting a birth parent, the
3 department, or agency contracted with under sub. (11), shall send the birth parent
4 a written copy of the information specified under par. (a) and a blank copy of the an
5 affidavit revoking the affidavit filed under sub. (2) or the document described in s.
6 48.95 (4) (b) or (7).

7 **SECTION 40.** 48.433 (7) (c) of the statutes is amended to read:

8 48.433 (7) (c) If the birth parent files revokes the affidavit filed under sub. (2)
9 or a document described in s. 48.95 (4) (b) or (7), the department, or agency contracted
10 with under sub. (11), shall disclose the requested information if as permitted under
11 sub. (5).

12 **SECTION 41.** 48.433 (7) (d) of the statutes is amended to read:

13 48.433 (7) (d) If the department or an agency has contacted a birth parent
14 under this subsection, and the birth parent does not file revoke the affidavit filed
15 under sub. (2) or the document described in s. 48.95 (4) (b) or (7), the department may
16 not disclose the requested information about that birth parent.

17 **SECTION 42.** 48.433 (7) (e) of the statutes is amended to read:

18 48.433 (7) (e) If, after a search under this subsection, a known birth parent
19 cannot be located, the department, or agency contracted with under sub. (11), may
20 disclose the requested information if the other birth parent has not filed an
21 unrevoked affidavit under sub. (2) or a document described in s. 48.95 (4) (b) or (7).

22 **SECTION 43.** 48.433 (8) (a) (intro.) and 1. of the statutes are consolidated,
23 renumbered 48.433 (8) (a) and amended to read:

24 48.433 (8) (a) If a birth parent is known to be dead deceased and has ~~not~~ filed
25 an unrevoked affidavit under sub. (2) or a document described in s. 48.95 (4) (b) or

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1 (7), the department, or agency contracted with under sub. (11), shall so inform the
2 requester. The department or agency may not provide the requester with his or her
3 original birth certificate or with the identity of that parent, but shall provide the
4 requester with any available information it has on file regarding the identity and
5 location of the other birth parent if ~~both of the following conditions exist: 1. The the~~
6 other birth parent has not filed an unrevoked affidavit under sub. (2) or a document
7 described in s. 48.95 (4) (b) or, if the other birth parent is deceased or has been
8 declared incompetent, an adult descendant of the other birth parent has not filed a
9 document described in s. 48.95 (4) (b).

10 **SECTION 44.** 48.433 (8) (a) 2. of the statutes is repealed.

11 **SECTION 45.** 48.434 (2) of the statutes is amended to read:

12 48.434 (2) Any birth parent of a child may file with the agency that placed the
13 child for adoption under s. 48.833 ~~or that was appointed the guardian of the child~~
14 ~~under s. 48.837 (6) (d) a written authorization for~~ 48.82 (3) a document prohibiting
15 the agency to ~~release~~ from releasing any available information about the birth
16 parent's identity and location to ~~one or both~~ the adoptive parents of the child.

17 **SECTION 46.** 48.434 (3) of the statutes is repealed.

18 **SECTION 47.** 48.434 (4) of the statutes is amended to read:

19 48.434 (4) A ~~written authorization~~ document filed under sub. (2) ~~or (3)~~ may be
20 revoked at any time by notifying the agency in writing.

21 **SECTION 48.** 48.434 (5) of the statutes is amended to read:

22 48.434 (5) Upon the request of an adoptive parent of a child, the agency
23 receiving the request shall provide to the adoptive parent any available information
24 about the identity and location of a birth parent of the child if unless the agency has
25 on file an unrevoked ~~written authorization~~ document filed by that birth parent under

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1 sub. (2) ~~authorizing or a document described in s. 48.95 (4) (b) prohibiting~~ the release
2 of that information to the adoptive parent.

3 **SECTION 49.** 48.434 (6) of the statutes is repealed.

4 **SECTION 50.** 48.434 (7) of the statutes is amended to read:

5 48.434 (7) This section does not apply if the adopted child is ~~21~~ 18 years of age
6 or over.

7 **SECTION 51.** 48.46 (3) of the statutes is amended to read:

8 48.46 (3) An adoptive parent who has been granted adoption of a child under
9 s. ~~48.91 (3)~~ 48.92 or 48.94 may not petition the court for a rehearing under sub. (1)
10 or move the court under s. 806.07 for relief from the order granting adoption. A
11 petition for termination of parental rights under s. 48.42 or 48.90 and an appeal to
12 the court of appeals shall be the exclusive remedies for an adoptive parent who
13 wishes to end his or her parental relationship with his or her adopted child.

14 **SECTION 52.** 48.48 (3m) (a) of the statutes is amended to read:

15 48.48 (3m) (a) The child does not have parents or a guardian or the parental
16 rights to the child have been terminated by a tribal court in accordance with
17 procedures that are substantially equivalent to the procedures specified in subch.
18 VIII or s. 48.90.

19 **SECTION 53.** 48.48 (17) (a) 5. of the statutes is amended to read:

20 48.48 (17) (a) 5. Place children in a county children's home in the county, to
21 accept guardianship of children when appointed by the court and to place children
22 ~~under its guardianship for adoption~~ under s. 48.82.

23 **SECTION 54.** 48.48 (17) (a) 9. of the statutes is amended to read:

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1 48.48 **(17)** (a) 9. Use in the media a picture or description of a child ~~in its~~
2 ~~guardianship whom the department is attempting to place for adoption under s.~~
3 ~~48.82~~ for the purpose of finding adoptive parents for that child.

4 **SECTION 55.** 48.57 (1) (e) of the statutes is amended to read:

5 48.57 **(1)** (e) If a county department in a county with a population of 500,000
6 or more and if contracted to do so by the department, to place children in a county
7 children's home in the county under policies adopted by the county board of
8 supervisors, to accept guardianship of children when appointed by the court and to
9 place children ~~under its guardianship~~ for adoption under s. 48.82.

10 **SECTION 56.** 48.57 (1) (j) of the statutes is amended to read:

11 48.57 **(1)** (j) To use in the media a picture or description of a child ~~in its~~
12 ~~guardianship whom the county department is attempting to place for adoption under~~
13 ~~s. 48.82~~ for the purpose of finding adoptive parents for that child.

14 **SECTION 57.** 48.61 (5) of the statutes is amended to read:

15 48.61 **(5)** If licensed to do so, to accept guardianship of children when appointed
16 by the court, and to place children ~~under its guardianship~~ for adoption under s. 48.82;

17 **SECTION 58.** 48.63 (3) of the statutes is amended to read:

18 48.63 **(3)** Subsection (1) does not apply to the placement of a child for adoption.
19 Adoptive placements may be made only as provided under ~~ss. 48.833, 48.835, 48.837~~
20 ~~and 48.839~~ s. 48.82.

21 **SECTION 59.** 48.64 (1m) of the statutes is amended to read:

22 48.64 **(1m)** FOSTER HOME, TREATMENT FOSTER HOME AND GROUP HOME AGREEMENTS.
23 If an agency places a child in a foster home, treatment foster home or group home
24 under a court order or voluntary agreement under s. 48.63, the agency shall enter
25 into a written agreement with the head of the home. The agreement shall provide

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1 that the agency shall have access at all times to the child and the home, and that the
2 child will be released to the agency whenever, in the opinion of the agency placing
3 the child or the department, the best interests of the child require it. If a child has
4 been in a foster home, treatment foster home or group home for 6 months or more,
5 the agency shall give the head of the home written notice of intent to remove the
6 child, stating the reasons for the removal. The child may not be removed before
7 completion of the hearing under sub. (4) (a) or (c), if requested, or 30 days after the
8 receipt of the notice, whichever is later, unless the safety of the child requires it or,
9 in a case in which the reason for removal is to place the child for adoption under s.
10 ~~48.833~~ 48.82, unless all of the persons who have the right to request a hearing under
11 sub. (4) (a) or (c) sign written waivers of objection to the proposed removal. If the
12 safety of the child requires earlier removal, s. 48.19 shall apply. If an agency removes
13 a child from an adoptive placement, the head of the home shall have no claim against
14 the placing agency for the expense of care, clothing or medical treatment.

15 **SECTION 60.** 48.685 (1) (bg) of the statutes is amended to read:

16 48.685 (1) (bg) "Foster home" includes a placement for adoption under s. ~~48.833~~
17 48.82 of a child for whom adoption assistance will be provided under s. 48.975 after
18 the adoption is finalized.

19 **SECTION 61.** 48.685 (1) (d) of the statutes is amended to read:

20 48.685 (1) (d) "Treatment foster home" includes a placement for adoption under
21 s. ~~48.833~~ 48.82 of a child for whom adoption assistance will be provided under s.
22 48.975 after the adoption is finalized.

23 **SECTION 62.** 48.75 (1g) (a) 4. of the statutes is amended to read:

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1 (e) "Minor" means a person who has not attained 18 years of age.

2 (f) "Parent" has the meaning given in s. 48.02 (13), except that, in addition,
3 "parent" includes an individual whose consent to the adoption of a minor is required
4 under s. 48.85 (1) (a) 1.

5 (g) "Place for adoption" means to select a prospective adoptive parent for a
6 minor and to transfer physical custody of the minor to the prospective adoptive
7 parent.

8 (h) "Relative" means a grandparent, greatgrandparent, sibling, first cousin,
9 aunt, uncle, great-aunt, great-uncle, niece or nephew of an individual, whether
10 related to the individual by whole blood or half blood, marriage or adoption.
11 "Relative" does not include an individual's stepparent.

12 (i) "Relinquishment" means the voluntary surrender to an agency by a minor's
13 parent or guardian, for the purpose of the minor's adoption, of the rights of the parent
14 or guardian with respect to the minor.

15 (j) "State" means a state of the United States, the District of Columbia, the
16 Commonwealth of Puerto Rico or any territory or insular possession that is subject
17 to the jurisdiction of the United States.

18 (k) "Stepparent" means an individual who is the spouse or surviving spouse of
19 a parent of a child but who is not a parent of the child.

20 **(2) WHO MAY ADOPT OR BE ADOPTED.** Subject to this subchapter, any individual
21 may adopt or be adopted by any other individual for the purpose of creating the
22 relationship of parent and child between them.

23 **(3) NAME OF ADOPTEE AFTER ADOPTION.** The name of an adoptee designated in
24 a decree of adoption takes effect as specified in the decree.

ASSEMBLY BILL 526**(4) LEGAL RELATIONSHIP BETWEEN ADOPTEE AND ADOPTIVE PARENT AFTER ADOPTION.**

1 (4) LEGAL RELATIONSHIP BETWEEN ADOPTEE AND ADOPTIVE PARENT AFTER ADOPTION.
2 After a decree of adoption becomes final, each adoptive parent and the adoptee have
3 the legal relationship of parent and child and have all of the rights and duties of that
4 relationship.

(5) LEGAL RELATIONSHIP BETWEEN ADOPTEE AND FORMER PARENT AFTER ADOPTION.

5 (5) LEGAL RELATIONSHIP BETWEEN ADOPTEE AND FORMER PARENT AFTER ADOPTION.
6 Except as otherwise provided in s. 48.94 (3), when a decree of adoption becomes final
7 the legal relationship of parent and child between each of the adoptee's former
8 parents and the adoptee terminates, except for a former parent's duty to pay
9 arrearages for child support, and any previous order for visitation or communication
10 with the adoptee terminates.

11 (6) OTHER RIGHTS OF ADOPTEE. A decree of adoption does not affect any right or
12 benefit that was vested in the adoptee before the decree became final.

13 (7) PROCEEDINGS SUBJECT TO INDIAN CHILD WELFARE ACT. A proceeding under
14 this subchapter that pertains to an Indian child, as defined in 25 USC 1903 (3), is
15 subject to the Indian Child Welfare Act, 25 USC 1901 to 1963.

16 (8) RECOGNITION OF ADOPTION IN ANOTHER JURISDICTION. A decree or order of
17 adoption issued by a court of any other state that is entitled to full faith and credit
18 in this state, or a decree or order of adoption issued by a court or administrative entity
19 in another country acting under that country's law or under any convention or treaty
20 on intercountry adoption that the United States has ratified, has the same effect as
21 a decree or order of adoption issued by a court of this state. The rights and obligations
22 of any person who is subject to a decree or order of adoption issued by a court or
23 administrative entity of another jurisdiction described in this subsection as to
24 matters that are within the jurisdiction of this state shall be determined as though
25 the decree or order were issued by a court of this state.

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1 **48.82 Placement of minor for adoption. (1) WHO MAY PLACE MINOR FOR**
2 ADOPTION. (a) The only persons who may place a minor for adoption are as follows:

3 1. A parent having legal custody and physical custody of the minor, as provided
4 in pars. (b) and (c).

5 2. A guardian expressly authorized by the court to place the minor for adoption.

6 3. An agency to which the minor has been relinquished for adoption.

7 4. An agency expressly authorized to place the minor for adoption by a court
8 order terminating the parental rights to the minor of the minor's parent or
9 terminating the relationship between the minor and the minor's guardian.

10 (b) Except as provided in par. (c), a parent having legal custody and physical
11 custody of a minor may place the minor for adoption, even if the other parent has not
12 executed a consent to the adoption, has not executed a relinquishment or has not had
13 his or her parental rights to the minor terminated.

14 (c) A parent having legal custody and physical custody of a minor may not place
15 the minor for adoption if the other parent also has legal custody of the minor or has
16 a right of visitation with the minor and that other parent's whereabouts are known,
17 unless that other parent agrees in writing to that placement or, before the placement,
18 the parent who intends to place the minor for adoption sends notice of the intended
19 placement to the other parent's last-known address.

20 (d) An agency may place a minor for adoption, even if only one of the minor's
21 parents has executed a relinquishment or has had his or her parental rights to the
22 minor terminated.

23 **(2) DIRECT PLACEMENT FOR ADOPTION BY PARENT OR GUARDIAN.** (a) A parent or
24 guardian who is authorized under sub. (1) to place a minor directly for adoption may
25 place the minor only with a prospective adoptive parent for whom a favorable

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1 preplacement evaluation has been prepared under s. 48.83 (1) to (6) or for whom a
2 preplacement evaluation is not required under s. 48.83 (1) (b).

3 (b) A parent or guardian placing a minor directly for adoption shall personally
4 select a prospective adoptive parent for the direct placement of the minor. Subject
5 to s. 48.96, the parent or guardian may be assisted by another person, including an
6 attorney, a health care provider or an agency, in locating a prospective adoptive
7 parent or in transferring legal custody and physical custody of the minor to a
8 prospective adoptive parent.

9 (c) A prospective adoptive parent shall furnish a copy of the preplacement
10 evaluation to the parent or guardian and may provide any additional information
11 requested by the parent or guardian. The preplacement evaluation and any
12 additional information shall be edited to exclude any identifying information, except
13 that information identifying a prospective adoptive parent need not be edited if the
14 prospective adoptive parent agrees to the disclosure of that information. Subject to
15 s. 48.96, a prospective adoptive parent may be assisted by another person in locating
16 a minor who is available for adoption.

17 (d) If a consent to the minor's adoption is not executed at the time the minor
18 is placed for adoption, the parent or guardian who places the minor for adoption shall
19 furnish to the prospective adoptive parent a signed writing stating that the transfer
20 of physical custody is for the purpose of adoption and that the parent or guardian has
21 been informed of the provisions of this subchapter relating to placement for adoption,
22 consent to adoption, relinquishment and termination of parental rights. The writing
23 shall authorize the prospective adoptive parent to provide support and medical and
24 other care for the minor pending execution of the consent within a time specified in
25 the writing. The prospective adoptive parent shall acknowledge in a signed writing

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1 that he or she accepts responsibility for the minor's support and medical and other
2 care and for returning the minor to the physical custody of the parent or guardian
3 if the consent is not executed within the time specified.

4 (e) A person who provides services with respect to direct placements for
5 adoption shall furnish to an individual who inquires about the person's services a
6 written statement of the person's services and a schedule of the person's fees.

7 **(3) PLACEMENT FOR ADOPTION BY AGENCY.** (a) An agency shall furnish to an
8 individual who inquires about the agency's services a written statement of those
9 services, including the agency's procedures for selecting a prospective adoptive
10 parent for a minor and a schedule of the agency's fees.

11 (b) An agency that places a minor for adoption shall authorize in writing the
12 prospective adoptive parent to provide support and medical and other care for the
13 minor pending entry of a decree of adoption. The prospective adoptive parent shall
14 acknowledge in writing that he or she accepts responsibility for the minor's support
15 and medical and other care.

16 (c) On request by a parent who has relinquished his or her child under s. 48.85,
17 the agency to which the parent has relinquished the child shall promptly inform the
18 parent as to whether the child has been placed for adoption, whether a petition for
19 adoption of the child has been granted, denied or withdrawn and, if the petition was
20 not granted, whether another placement has been made.

21 **(4) PREFERENCES FOR PLACEMENT WHEN AGENCY PLACES MINOR.** (a) 1. An agency
22 may place a minor for adoption only with an individual for whom a favorable
23 preplacement evaluation has been prepared under s. 48.83 (1) to (6).

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1 2. Subject to subd. 1., if an agency has agreed to place a minor with a
2 prospective adoptive parent selected by the minor's parent or guardian, the agency
3 shall place the minor with that prospective adoptive parent.

4 3. Subject to subd. 1., if an agency has not agreed to place a minor with a
5 prospective adoptive parent selected by the minor's parent or guardian, the agency
6 shall place the minor in accordance with the best interest of the minor.

7 (b) In determining the best interests of a minor under par. (a) 3., an agency shall
8 consider the following individuals in the following order of preference:

9 1. An individual who has previously adopted a sibling of the minor and who
10 makes a written request to adopt the minor.

11 2. An individual with characteristics requested by the parent or guardian of the
12 minor, if the agency locates an individual with those characteristics within a time
13 agreed to by the parent or guardian and agency.

14 3. An individual who has had physical custody of the minor for 6 months or
15 more within the preceding 24 months or for half or more of the minor's life, whichever
16 is less, and who makes a written request to adopt the minor.

17 4. A relative with whom the minor has established a positive emotional
18 relationship and who makes a written request to adopt the minor.

19 5. Any other individual selected by the agency.

20 (c) Unless necessary to comply with a request under par. (b) 2., an agency may
21 not delay or deny a minor's placement for adoption solely on the basis of the minor's
22 race, national origin or ethnic background. An individual for whom a favorable
23 preplacement evaluation has been prepared and who makes a written request to
24 adopt a minor or the guardian ad litem of a minor may maintain an action or
25 proceeding for equitable relief against an agency that violates this paragraph.

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1 (d) If practicable and in the best interest of minors who are siblings, an agency
2 shall place siblings with the same prospective adoptive parent selected in accordance
3 with pars. (a) to (c).

4 (e) If an agency places a minor under par. (a) 3., an individual described in par.
5 (b) 3. may commence an action or proceeding within 30 days after the placement to
6 challenge the placement. If the individual proves by a preponderance of the evidence
7 that the minor has substantial emotional ties to the individual and that an adoptive
8 placement of the minor with the individual would be in the best interest of the minor,
9 the court shall place the minor with the individual.

10 **(5) RECRUITMENT OF ADOPTIVE PARENTS BY AGENCY.** An agency receiving funds
11 under s. 20.435 (3) (dd) or 42 USC 670 to 675 shall make a diligent search for and
12 actively recruit prospective adoptive parents for minors under the agency's
13 guardianship or legal custody whose care may be funded from those sources and who
14 are difficult to place for adoption because of a special need. The department shall
15 promulgate rules prescribing the procedure for recruiting prospective adoptive
16 parents under this subsection.

17 **(6) DISCLOSURE OF BACKGROUND INFORMATION.** (a) As early as practicable before
18 a prospective adoptive parent accepts physical custody of a minor, a person placing
19 the minor for adoption shall furnish to the prospective adoptive parent a written
20 report containing all of the following information that is reasonably available from
21 any person who has had legal custody or physical custody of the minor or who has
22 provided medical, psychological, educational or other similar services to the minor:

23 1. A current medical and psychological history of the minor, including an
24 account of the minor's prenatal care, medical condition at birth, any drug or
25 medication taken by the minor's mother during pregnancy, any medical,

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1 psychological or psychiatric examination and diagnosis of the minor made
2 subsequent to the minor's birth, any physical, sexual or emotional abuse suffered by
3 the minor and a record of any immunizations and other health care received by the
4 minor while in foster care or other out-of-home care.

5 2. Relevant information concerning the medical and psychological history of
6 the minor's genetic parents and relatives, including any known disease or hereditary
7 predisposition to disease, any addiction to alcohol or any other drug, the health of the
8 minor's mother during her pregnancy and the health of each of the minor's parents
9 at the time of the minor's birth.

10 3. Relevant information concerning the social history of the minor and the
11 minor's parents and relatives, including all of the following:

12 a. The minor's school enrollment and performance history, the results of any
13 educational testing of the minor and any special educational needs of the minor.

14 b. The minor's racial, ethnic and religious background, tribal affiliation and a
15 general description of the minor's parents.

16 c. An account of the minor's past and current relationship with any individual
17 with whom the minor has regularly lived or visited.

18 d. The level of educational and vocational achievement of the minor's parents
19 and relatives and any noteworthy accomplishments of those parents and relatives.

20 4. Information concerning any felony conviction of a parent of the minor, any
21 order terminating the parental rights of a parent of the minor and any proceeding
22 in which a parent of the minor was alleged to have abused, neglected, abandoned or
23 otherwise mistreated the minor, a sibling of the minor or the minor's other parent.

24 5. Information concerning any conviction or delinquency adjudication of the
25 minor.

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1 6. Information necessary to determine the minor's eligibility for any state or
2 federal benefits, including adoption assistance under s. 48.975, or any other
3 financial, medical or similar assistance.

4 (b) Before a hearing on a petition for adoption of a minor, the person who placed
5 the minor for adoption shall furnish to the prospective adoptive parent a
6 supplemental written report containing any information required under par. (a) that
7 was unavailable to that person before the minor was placed for adoption but which
8 became reasonably available to that person after the placement.

9 (c) The court may request that a respondent in a termination of parental rights
10 proceeding under s. 48.90 supply the information required under this subsection.

11 (d) A report furnished under this subsection shall indicate who prepared the
12 report and shall be edited to exclude any personally identifiable information about
13 any individual who furnished any information for the report and any individual
14 about whom any information is reported, unless that individual consents to the
15 disclosure of that personally identifiable information.

16 (e) Information furnished under this subsection may not be used as evidence
17 in any civil or criminal proceeding against an individual who is the subject of the
18 information.

19 (f) The department shall prescribe forms that are designed to obtain the specific
20 information sought under this subsection. The department shall provide those forms
21 to any person who is authorized to place a minor for adoption or who provides services
22 relating to the placement of a minor for adoption.

23 **(7) INTERSTATE PLACEMENT.** An adoption in this state of a minor brought into this
24 state from another state by a prospective adoptive parent or by a person who places

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1 the minor for adoption in this state is governed by the laws of this state, including
2 this subchapter and ss. 48.988 and 48.989.

3 (8) INTERCOUNTRY PLACEMENT. An adoption in this state of a minor brought into
4 this state from another country by a prospective adoptive parent or by a person who
5 places the minor for adoption in this state is governed by this subchapter, subject to
6 any convention or treaty on intercountry adoption that the United States has ratified
7 and any federal law that is relevant to intercountry adoption.

8 **48.83 Preplacement evaluation. (1) PREPLACEMENT EVALUATION REQUIRED.**

9 (a) Except as provided in par. (b), only an individual for whom a current, favorable
10 written preplacement evaluation has been prepared may accept physical custody of
11 a minor for the purpose of adoption. A preplacement evaluation is current if it is
12 prepared or revised within 12 months before the placement of a minor with the
13 individual for adoption. A preplacement evaluation is favorable if it contains a
14 finding that the individual is suited to be an adoptive parent, either in general or for
15 a particular minor.

16 (b) A preplacement evaluation is not required if a parent or guardian places a
17 minor directly with a relative of the minor for the purpose of adoption, but an
18 evaluation of the relative is required during the pendency of the proceeding for
19 adoption.

20 (2) PREPLACEMENT EVALUATOR. (a) A preplacement evaluation may be prepared
21 only by an individual certified by the department to make a preplacement
22 evaluation.

23 (b) An agency from which an individual is seeking to adopt a minor may require
24 the individual to be evaluated by a qualified employe or independent contractor of

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1 the agency, even if the individual has received a favorable preplacement evaluation
2 from another qualified evaluator.

3 **(3) TIMING AND CONTENT OF PREPLACEMENT EVALUATION.** (a) An individual may
4 request a preplacement evaluation without first having located a prospective minor
5 adoptee and may request more than one preplacement evaluation.

6 (b) A preplacement evaluation shall be completed within 45 days after it is
7 requested. An evaluator shall give priority to a preplacement evaluation requested
8 by an individual who has located a prospective minor adoptee.

9 (c) A preplacement evaluation shall be based on all of the following:

10 1. A personal interview with, and visit to the residence of, the individual being
11 evaluated.

12 2. Personal interviews with other persons who know the individual being
13 evaluated and who may have information that is relevant to the evaluation.

14 3. The information required under par. (d).

15 (d) A preplacement evaluation shall contain all of the following information
16 about the individual being evaluated:

17 1. Age and date of birth, nationality, racial or ethnic background and any
18 religious affiliation.

19 2. Marital status and family history, including the age and location of any child
20 of the individual and the identity and relationship to the individual of any other
21 person living in the individual's household.

22 3. Physical and mental health and any history of alcohol or other drug abuse.

23 4. Educational and employment history and any special skills.

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1 5. Property and income, including any outstanding financial obligations as
2 indicated in a current credit report or financial statement furnished by the
3 individual.

4 6. Any previous request for an evaluation or previous involvement in an
5 adoptive placement and the outcome of the previous evaluation or placement.

6 7. Whether the individual has been charged with having committed domestic
7 abuse, as defined in s. 968.075 (1) (a), or a violation of ch. 948 and the disposition of
8 the charge, whether there are any substantiated reports of child abuse or neglect
9 against the individual as indicated by information maintained by the department
10 and whether the individual has been subject to a court order restricting the
11 individual's right to custody or visitation with a child or to a domestic abuse
12 restraining order and injunction under s. 813.12.

13 8. Whether the individual has been convicted of a crime.

14 9. Whether the individual has located a parent interested in placing a minor
15 with the individual for adoption and, if so, a brief description of the parent and minor.

16 10. Any other facts or circumstances that may be relevant in determining
17 whether the individual is suited to be an adoptive parent, including the quality of the
18 environment in the individual's home and the functioning of other children in the
19 individual's home.

20 (e) An individual being evaluated shall submit to being fingerprinted and shall
21 sign a release permitting the evaluator to obtain from any appropriate law
22 enforcement agency any record indicating whether the individual has been convicted
23 of a crime.

24 (f) An individual being evaluated shall, at the request of the evaluator, sign any
25 release necessary for the evaluator to obtain the information required under par. (d).

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1 **(4) DETERMINING SUITABILITY TO BE ADOPTIVE PARENT.** (a) An evaluator shall
2 assess the information required under sub. (3) to determine whether the information
3 raises a specific concern that placement of any minor, or a particular minor, in the
4 home of the individual being evaluated would pose a significant risk of harm to the
5 physical or psychological well-being of the minor.

6 (b) If an evaluator determines that the information assessed under par. (a) does
7 not raise a specific concern as specified in par. (a), the evaluator shall find that the
8 individual being evaluated is suited to be an adoptive parent. The evaluator may
9 comment about any factor that in the evaluator's opinion makes the individual
10 suited to be an adoptive parent, either in general or for a particular minor.

11 (c) If an evaluator determines that the information assessed under par. (a)
12 raises a specific concern as specified in par. (a), the evaluator, on the basis of the
13 original or any further investigation, shall find that the individual is or is not suited
14 to be an adoptive parent. The evaluator shall support the finding with a written
15 explanation.

16 **(5) FILING AND COPIES OF PREPLACEMENT EVALUATION.** (a) If a preplacement
17 evaluation contains a finding that an individual is suited to be an adoptive parent,
18 the evaluator shall give the individual a signed copy of the preplacement evaluation.
19 At the individual's request, the evaluator shall provide a copy of the preplacement
20 evaluation to a person authorized under s. 48.82 (1) to place a minor for adoption.
21 The evaluator shall edit the copy provided to a person authorized to place a minor
22 for adoption to exclude any identifying information, unless the individual who is the
23 subject of the preplacement evaluation requests otherwise.

24 (b) If a preplacement evaluation contains a finding that an individual is not
25 suited to be an adoptive parent, either in general or for a particular minor, the

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1 evaluator shall immediately give a signed copy of the preplacement evaluation to the
2 individual and the department. The department shall retain for 10 years the copy
3 of the evaluation and a copy of any court order concerning the preplacement
4 evaluation issued under sub. (6) or (7).

5 (c) An evaluator shall retain for 3 years the original of any completed or
6 incomplete preplacement evaluation prepared by the evaluator and a list of every
7 source for each item of information in the preplacement evaluation.

8 (d) An evaluator who conducts a preplacement evaluation in good faith is not
9 subject to civil liability for anything contained in the preplacement evaluation.

10 **(6) REVIEW OF EVALUATION.** (a) Within 90 days after an individual receives a
11 preplacement evaluation that contains a finding that the individual is not suited to
12 be an adoptive parent, the individual may petition the court for a review of the
13 preplacement evaluation.

14 (b) If the court determines that the petitioner has failed to prove by a
15 preponderance of the evidence that the petitioner is suited to be an adoptive parent,
16 the court shall order that the petitioner not be permitted to adopt a minor and shall
17 send a copy of the order to the department to be retained by the department with a
18 copy of the original preplacement evaluation.

19 (c) If the court determines that the petitioner has proved by a preponderance
20 of the evidence that the petitioner is suited to be an adoptive parent, the court shall
21 find that the petitioner is suited to be an adoptive parent and shall order that the
22 petitioner be permitted to commence or continue a proceeding for the adoption of a
23 minor. The court shall send a copy of the order to the department to be retained by
24 the department with a copy of the original preplacement evaluation.

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1 **(7) ACTION BY DEPARTMENT.** If, before a decree of adoption is issued, the
2 department learns from an evaluator or another person that a minor has been placed
3 for adoption with an individual who is the subject of a preplacement evaluation on
4 file with the department containing a finding that the individual is unsuited to be
5 an adoptive parent, the department shall immediately review the preplacement
6 evaluation and investigate the circumstances of the placement and may request that
7 the individual return the minor to the physical custody of the person who placed the
8 minor or place the minor in the physical custody of the department. If the individual
9 refuses that request, the department shall immediately file a petition under s. 48.13
10 (5) to remove the minor from the home of the individual and, pending a hearing, the
11 court shall make an appropriate order for the care and physical custody of the minor.

12 **48.84 Transfer of physical custody by health care facility for purposes**
13 **of adoption. (1) DEFINITION.** In this section, “health care facility” has the meaning
14 given in s. 150.84 (2).

15 **(2) AUTHORIZATION TO TRANSFER PHYSICAL CUSTODY.** (a) A health care facility
16 shall release a minor for the purpose of adoption to an individual or agency that is
17 not otherwise legally entitled to the physical custody of the minor if the woman who
18 gave birth to the minor signs an authorization of the transfer of physical custody of
19 the minor.

20 (b) An authorization under par. (a) shall be signed in the presence of an employe
21 of the health care facility who is authorized by the health care facility to witness that
22 authorization. An authorized employe in whose presence an authorization under
23 par. (a) is signed shall attest to the signing in writing.

24 **(3) REPORTS TO DEPARTMENT.** (a) No later than 72 hours after a health care
25 facility releases a minor under sub. (2), the health care facility shall transmit to the

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1 department a copy of the authorization required under sub. (2) (a) and shall report
2 to the department all of the following:

3 1. The name, address and telephone number of the individual who authorized
4 the release.

5 2. The name, address and telephone number of the person to whom physical
6 custody of the minor was transferred.

7 3. The date of the transfer.

8 (b) No later than 30 days after a health care facility releases a minor under sub.
9 (2), the person to whom physical custody of the minor was transferred shall report
10 to the department which, if any, of the following dispositions has occurred:

11 1. A petition for the adoption of the minor has been filed. If so, the person shall
12 report the name and address of the petitioner.

13 2. An agency has acquired legal custody of the minor. If so, the person shall
14 report the name and address of the agency.

15 3. The minor has been returned to his or her parent or other person having legal
16 custody of the minor. If so, the person shall report the name and address of the parent
17 or other person having legal custody of the minor.

18 4. Physical custody of the minor has been transferred to another individual.
19 If so, the person shall report the name and address of that individual.

20 (4) ACTION BY DEPARTMENT. (a) If the department receives a report from a health
21 care facility under sub. (3) (a), but does not receive the report required under sub. (3)
22 (b) within 45 days after the release of a minor under sub. (2), the department shall
23 immediately investigate to determine the whereabouts of the minor.

24 (b) If none of the dispositions specified in sub. (3) (b) 1. to 3. has occurred or if
25 physical custody of the minor has been transferred to an individual as described in

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1 sub. (3) (b) 4., but that individual has not filed a petition for the adoption of the minor,
2 the department shall immediately take action to remove the minor from the physical
3 custody of the individual to whom the minor has been transferred.

4 (c) In addition to the actions required under pars. (a) and (b), the department
5 may also review and investigate the placement of the minor for compliance with s.
6 48.82 (1) to (6) and may petition the court for an order compelling that compliance.

7 **48.85 Consent to and relinquishment for adoption. (1) PERSONS WHOSE**
8 **CONSENT IS REQUIRED.** (a) Unless consent is not required or is dispensed with under
9 sub. (2), in a direct placement of a minor for adoption by a parent or guardian who
10 is authorized under s. 48.82 (1) to place the minor for adoption, the court may grant
11 a petition to adopt the minor only if consent to the adoption has been executed by one
12 of the following:

13 1. The woman who gave birth to the minor and one of the following:

14 a. The man, if any, who is or has been married to the woman, if the minor was
15 born during the marriage or within 300 days after the granting of a decree of legal
16 separation, divorce or annulment between the man and the woman.

17 b. The man, if any, who attempted to marry the woman before the minor's birth
18 by a marriage solemnized in apparent compliance with the law, although the
19 attempted marriage is or could be declared invalid, if the minor was born during the
20 attempted marriage or within 300 days after the granting of a decree of legal
21 separation, divorce or annulment between the man and the woman.

22 c. The man, if any, who has been judicially determined to be the father of the
23 minor, or who has signed a statement acknowledging his paternity of the minor, and
24 who has provided, in accordance with his financial means, reasonable and consistent
25 payments for the care and support of the minor and has visited or communicated

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1 with the minor, or who, after the minor's birth, but before the minor's placement for
2 adoption, has married the woman who gave birth to the minor or attempted to marry
3 her by a marriage solemnized in apparent compliance with the law, although the
4 attempted marriage is or could be declared invalid.

5 d. The man, if any, who has received the minor into his home and openly held
6 out the minor as his child.

7 2. The minor's guardian, if the guardian has been expressly authorized by a
8 court to consent to the minor's adoption.

9 3. The current adoptive mother and father of the minor.

10 (b) Unless consent is not required or is dispensed with under sub. (2), in a
11 placement of a minor for adoption by an agency, the court may grant a petition to
12 adopt the minor only if consent to the adoption has been executed by all of the
13 following:

14 1. The agency that placed the minor for adoption.

15 2. Any individual described in par. (a) who has not relinquished the minor.

16 (c) Unless the court dispenses with the minor's consent under sub. (2) (b), a
17 petition to adopt a minor who has attained the age of 12 years may be granted only
18 if, in addition to any consent required under par. (a) or (b), the minor has executed
19 an informed consent to the adoption.

20 **(2) PERSONS WHOSE CONSENT IS NOT REQUIRED.** (a) Consent to the adoption of a
21 minor is not required of any of the following persons:

22 1. An individual who has relinquished the minor to an agency for the purpose
23 of adoption.

24 2. An individual whose parental rights to the minor have been judicially
25 terminated or determined not to exist.

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1 3. A parent who has been judicially declared incompetent.

2 4. A man who has not been married to the woman who gave birth to the minor
3 and who, after the conception of the minor, executes a verified statement denying
4 paternity or disclaiming any interest in the minor and acknowledging that his
5 statement is irrevocable when executed.

6 5. The personal representative of a deceased parent's estate.

7 6. A parent or other person who has not executed a consent or relinquishment
8 and who fails to file an answer or make an appearance in a proceeding for
9 termination of parental rights or adoption within 20 days after service of notice of
10 the proceeding.

11 (b) The court may dispense with the consent to the adoption of a minor of any
12 of the following persons:

13 1. A guardian or agency whose consent is otherwise required upon a finding
14 that the consent is being withheld contrary to the best interest of the minor.

15 2. A minor who has attained the age of 12 years upon a finding that it is not
16 in the best interest of the minor to require the consent.

17 **(3) INDIVIDUALS WHO MAY RELINQUISH MINOR.** A parent or guardian whose
18 consent to the adoption of a minor is required under sub. (1) may relinquish to an
19 agency all rights with respect to the minor, including legal custody and physical
20 custody of the minor and the right to consent to the minor's adoption.

21 **(4) TIME AND PREREQUISITES FOR EXECUTION OF CONSENT OR RELINQUISHMENT.** (a)
22 A parent whose consent to the adoption of a minor is required under sub. (1) may
23 execute a consent to the adoption of the minor or a relinquishment only after the
24 minor is born. A parent who executes a consent or relinquishment may revoke the
25 consent or relinquishment within 192 hours after the birth of the minor.

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1 (b) A guardian may execute a consent to the adoption of a minor or a
2 relinquishment at any time after being authorized by a court to do so.

3 (c) An agency that places a minor for adoption may execute its consent to the
4 adoption of the minor at any time before or during the hearing on the petition for
5 adoption of the minor.

6 (d) A minor adoptee whose consent to his or her adoption is required may
7 execute the consent at any time before or during the hearing on the petition for
8 adoption of the minor.

9 (e) Before executing a consent to an adoption or a relinquishment, a parent
10 must have been informed of all of the following:

11 1. The meaning and consequences of adoption.

12 2. The availability of counseling.

13 3. The availability of legal counsel.

14 4. The procedure for releasing information about the health and other
15 characteristics of the parent that may affect the physical or psychological well-being
16 of the adoptee and the procedure under ss. 48.433, 48.434 and 48.95 for prohibiting
17 the release of the parent's identity to an adoptee, an adoptee's direct descendant or
18 an adoptive parent.

19 5. That identifying information about the parent will be made available, on
20 request, to the adoptee, upon attaining 18 years of age; to an adoptive parent or
21 guardian of the adoptee before the adoptee attains 18 years of age; to a direct
22 descendant of the adoptee who has attained 18 years of age, if the adoptee is
23 deceased; or to the parent or guardian of a direct descendant of the adoptee who has
24 not attained 18 years of age, if the adoptee is deceased; unless the parent indicates
25 in a signed document that the parent does not wish to have identifying information

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1 about the parent released. The parent shall be given an opportunity to sign a
2 document indicating that the parent does not wish to have identifying information
3 about the parent released. The parent shall also be informed that a decision to deny
4 the release of identifying information may be reversed at any time.

5 (5) PROCEDURE FOR EXECUTION OF CONSENT OR RELINQUISHMENT. (a) A parent or
6 guardian executing a consent to an adoption or a relinquishment shall sign or
7 confirm the consent or relinquishment in the presence of one of the following persons:

8 1. A judge of a court of record.

9 2. An individual whom a judge of a court of record has designated to take
10 consents or relinquishments.

11 3. An employe, other than an employe of an agency to which a minor is
12 relinquished, whom an agency has designated to take consents or relinquishments.

13 4. An attorney, other than an attorney who is representing an adoptive parent
14 or the agency to which a minor is relinquished.

15 5. A commissioned officer on active duty in the military service of the United
16 States, if the person executing the consent or relinquishment is in military service.

17 6. An officer of the foreign service, or a consular officer, of the United States in
18 another country, if the person executing the consent or relinquishment is in that
19 country.

20 (b) A minor adoptee executing a consent shall sign or confirm the consent in the
21 presence of the court presiding over the proceeding for adoption or in a manner that
22 the court directs.

23 (c) A parent who is a minor is competent to execute a consent or relinquishment
24 if the parent has had access to counseling and has had the advice of an attorney who

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1 is not representing an adoptive parent or the agency to which the parent's child is
2 being relinquished.

3 (d) An individual before whom a consent or relinquishment is signed or
4 confirmed under par. (a) shall certify in writing that he or she orally explained the
5 contents and consequences of the consent or relinquishment and that, to the best of
6 his or her knowledge or belief, the individual executing the consent or
7 relinquishment has done, or has had done for him or her, all of the following:

8 1. Read or was read the consent or relinquishment and understood it.

9 2. Signed the consent or relinquishment voluntarily and received or was offered
10 a copy of the consent or relinquishment, together with the information described in
11 sub. (4) (e) 1. to 5.

12 3. Was given an opportunity to sign the document described in sub. (4) (e) 5.

13 4. Received or was offered counseling services and information about adoption
14 that explains the meaning and consequences of an adoption.

15 5. If the individual is a minor, was advised by an attorney who is not
16 representing an adoptive parent or the agency to which the parent's child is being
17 relinquished or, if the individual is an adult, was informed that he or she has the right
18 to have an attorney who is not representing an adoptive parent or the agency to
19 which the minor is being relinquished.

20 6. Been advised of the obligation to provide the information required under s.
21 48.82 (6).

22 (e) A prospective adoptive parent named or described in a consent to the
23 adoption of a minor shall sign a statement indicating that he or she intends to adopt
24 the minor, acknowledging that he or she is obligated to return legal custody and
25 physical custody of the minor to the minor's parent if the parent revokes the consent

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1 within the time specified in sub. (4) (a) and acknowledging that he or she is
2 responsible for the minor's support and medical and other care if the consent is not
3 revoked.

4 (f) If an agency accepts a relinquishment, an employe of the agency shall sign
5 a statement accepting the relinquishment, acknowledging that the agency is
6 obligated to return legal custody and physical custody of the minor to the minor's
7 parent if the parent revokes the relinquishment within the time indicated in sub. (4)
8 (a) and acknowledging that the agency is responsible for the minor's support and
9 medical and other care if the relinquishment is not revoked.

10 (g) An individual before whom a consent or a relinquishment is signed or
11 confirmed shall certify having received the statement required under par. (e) or (f).

12 (h) A consent by an agency to the adoption of a minor who is in the agency's legal
13 custody shall be executed by the head of the agency or by an individual authorized
14 by the agency to execute consents and shall be signed or confirmed under oath in the
15 presence of an individual authorized to take acknowledgments.

16 (i) A consent or relinquishment executed or confirmed in another state or
17 country is valid if executed or confirmed in accordance with this section or with the
18 law and procedure of the state or country where executed.

19 **(6) CONTENT OF CONSENT OR RELINQUISHMENT.** (a) A consent to the adoption of
20 a minor or relinquishment required from a parent or guardian shall be in writing and
21 shall contain in plain English or, if the native language of the parent or guardian is
22 a language other than English, in the native language of the parent or guardian all
23 of the following information:

24 1. The date, place and time of the execution of the consent or relinquishment.

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1 2. The name, date of birth and current mailing address of the individual
2 executing the consent or relinquishment.

3 3. The date of birth and the name or pseudonym of the minor.

4 4. If a consent, the name, address, telephone number and telecopier number
5 of the attorney representing the prospective adoptive parent with whom the
6 individual executing the consent has placed or intends to place the minor for
7 adoption.

8 5. If a relinquishment, the name, address, telephone number and telecopier
9 number of the agency to which the minor is being relinquished.

10 6. Specific instructions on how to revoke the consent or relinquishment and
11 how to commence an action to set aside the consent or relinquishment.

12 (b) A consent to the adoption of a minor executed by a parent or guardian shall
13 state that the parent or guardian is voluntarily and unequivocally consenting to the
14 transfer of legal custody and physical custody of the minor to, and to the adoption of
15 the minor by, a specific adoptive parent whom the parent or guardian has selected.

16 (c) A relinquishment shall state that the parent or guardian executing the
17 relinquishment is voluntarily and unequivocally consenting to the transfer of legal
18 custody and physical custody of the minor to the agency to which the minor is being
19 relinquished for the purpose of adoption.

20 (d) A consent to the adoption of a minor or relinquishment executed by a parent
21 or guardian shall state all of the following:

22 1. That the parent or guardian understands that after the consent or
23 relinquishment is signed or confirmed in substantial compliance with sub. (5), the
24 consent or relinquishment is final and, except under a circumstance specified in sub.
25 (8) or (9), may not be revoked or set aside for any reason, including the failure of an

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1 adoptive parent to permit the parent or guardian executing the consent or
2 relinquishment to visit or communicate with the minor.

3 2. That the parent or guardian understands that the adoption will terminate
4 all parental rights and obligations of the parent or guardian with respect to the
5 minor, except for arrearages of child support, and that the adoption will remain valid
6 whether or not any agreement for visitation or communication with the minor is later
7 performed.

8 3. That the parent or guardian has received or been offered a copy of the consent
9 or relinquishment, together with the information described in sub. (4) (e) 1. to 5.; has
10 received or been offered counseling services and information about adoption that
11 explains the meaning and consequences of an adoption; has been advised, if the
12 parent is a minor, by an attorney who is not representing an adoptive parent or the
13 agency to which the minor adoptee is being relinquished or has been informed, if the
14 parent or guardian is an adult, that he or she has the right to have an attorney who
15 is not representing an adoptive parent or the agency to which the minor is being
16 relinquished; has been given an opportunity to sign the document described in sub.
17 (4) (e) 5.; and has been advised of the obligation to provide the information required
18 under s. 48.82 (6).

19 4. That the parent or guardian has not received or been promised any money
20 or anything of value for the consent or relinquishment, except for the payments
21 authorized under s. 48.96 (3).

22 5. That the minor is not an Indian child, as defined in the Indian Child Welfare
23 Act, 25 USC 1901 to 1963.

24 6. That the parent or guardian believes that the adoption of the minor is in the
25 best interest of the minor.

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1 7. That, if a consent, the parent or guardian waives notice of any proceeding
2 for the adoption of the minor, unless the adoption is contested, appealed or denied.

3 (e) A relinquishment may provide that the parent or guardian executing the
4 relinquishment waives notice of any proceeding for the adoption of the minor being
5 relinquished unless the adoption is contested, appealed or denied or waives notice
6 of any such proceeding even if the adoption is contested, appealed or denied.

7 (f) A consent to the adoption of a minor or relinquishment may provide for its
8 revocation if any of the following occurs:

9 1. Another consent or relinquishment is not executed within a specified period
10 of time.

11 2. A court decides not to terminate the parental rights to the minor of another
12 individual.

13 3. In a direct placement for adoption, a petition for adoption by a prospective
14 adoptive parent who is named or described in the consent is denied or withdrawn.

15 **(7) CONSEQUENCES OF CONSENT OR RELINQUISHMENT.** (a) Except under a
16 circumstance specified in sub. (8), a consent to the adoption of a minor that is
17 executed by a parent or guardian in substantial compliance with subs. (5) and (6) is
18 final and irrevocable and does all of the following:

19 1. Unless the court orders otherwise to protect the welfare of the minor, entitles
20 the prospective adoptive parent named or described in the consent to the legal
21 custody and physical custody of the minor and imposes on that individual the
22 responsibility to support and provide medical and other care for the minor.

23 2. Terminates any duty of the parent or guardian who executed the consent
24 with respect to the minor, except for arrearages of child support.

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1 3. Terminates any right of the parent or guardian who executed the consent to
2 object to the minor's adoption by the prospective adoptive parent and to receive
3 notice of the proceeding for adoption unless the adoption is contested, denied or
4 appealed.

5 (b) Except under a circumstance specified in sub. (9), a relinquishment of a
6 minor to an agency that is executed by a parent or guardian in substantial
7 compliance with subs. (5) and (6) is final and irrevocable and does all of the following:

8 1. Unless the court orders otherwise to protect the welfare of the minor, entitles
9 the agency to which the minor is relinquished to the legal custody of the minor until
10 a decree of adoption becomes final.

11 2. Empowers the agency to which the minor is relinquished to place the minor
12 for adoption, consent to the adoption of the minor and delegate to a prospective
13 adoptive parent the responsibility to support and provide medical and other care for
14 the minor.

15 3. Terminates any duty of the parent or guardian who executed the
16 relinquishment with respect to the minor, except for arrearages of child support.

17 4. Terminates any right of the parent or guardian who executed the
18 relinquishment to object to the minor's adoption and, unless otherwise provided in
19 the relinquishment, to receive notice of the proceeding for adoption.

20 **(8) REVOCATION OF CONSENT.** (a) In a direct placement by a parent or guardian
21 of a minor for adoption, a consent to the adoption is revoked if any of the following
22 occurs:

23 1. Within 192 hours after the birth of the minor, a parent who executed the
24 consent notifies in writing the prospective adoptive parent, or the prospective

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1 adoptive parent's attorney, that the parent revokes the consent, or the parent
2 complies with any other instructions for revocation specified in the consent.

3 2. The parent or guardian who executed the consent and the prospective
4 adoptive parent named or described in the consent agree to revoke the consent.

5 (b) In a direct placement by a parent or guardian of a minor for adoption, the
6 court shall set aside the consent if the parent or guardian who executed the consent
7 establishes any of the following:

8 1. By clear and convincing evidence, before a decree of adoption is issued, that
9 the consent was obtained by fraud or duress.

10 2. By a preponderance of the evidence, before a decree of adoption is issued,
11 that, without good cause, a petition for adoption was not filed within 30 days after
12 the date on which the minor was placed for adoption.

13 3. By a preponderance of the evidence, that a condition permitting revocation
14 has occurred, as expressly provided for in the consent under sub. (6) (f).

15 (c) If the consent of a parent or guardian who had legal custody and physical
16 custody of a minor when the minor was placed for adoption or when the consent was
17 executed is revoked, the prospective adoptive parent shall immediately return the
18 minor to the legal custody and physical custody of the parent or guardian and move
19 to dismiss any proceeding pending for the adoption of the minor or for termination
20 of parental rights to the minor. If the minor is not returned immediately, the parent
21 or guardian who revoked the consent may petition the court for appropriate relief
22 and the court shall hear the petition expeditiously.

23 (d) If the consent of a parent or guardian who had legal custody and physical
24 custody of a minor when the minor was placed for adoption or when the consent was
25 executed is set aside under par. (b) 1., the court shall order the prospective adoptive

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1 parent to return the minor to the legal custody and physical custody of the parent or
2 guardian and dismiss any proceeding pending for the adoption of the minor.

3 (e) If the consent of a parent or guardian who had legal custody and physical
4 custody of a minor when the minor was placed for adoption or when the consent was
5 executed is set aside under par. (b) 2. or 3. and no ground exists under s. 48.90 for
6 termination of the parental rights of the parent to the minor or no grounds exist for
7 terminating the guardianship, the court shall dismiss any proceeding pending for
8 the adoption of the minor and order the prospective adoptive parent to return the
9 minor to the legal custody and physical custody of the parent or guardian, unless the
10 court finds that returning the minor will be detrimental to the minor.

11 (f) If the consent of a parent or guardian who did not have physical custody of
12 a minor when the minor was placed for adoption or when the consent was executed
13 is revoked or set aside and no ground exists under s. 48.90 for termination of the
14 parental rights of the parent to the minor or no grounds exist for terminating the
15 guardianship, the court shall dismiss any proceeding pending for the adoption of the
16 minor and issue an order providing for the care and custody of the minor according
17 to the best interest of the minor.

18 **(9) REVOCATION OF RELINQUISHMENT.** (a) A relinquishment is revoked if any of
19 the following occurs:

20 1. Within 192 hours after the birth of the minor, a parent who executed the
21 relinquishment gives written notice to the agency that accepted the relinquishment
22 that the parent revokes the relinquishment, or the parent complies with any other
23 instructions for revocation specified in the relinquishment.

24 2. The parent or guardian who executed the relinquishment and the agency
25 that accepted the relinquishment agree to revoke the relinquishment.

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1 (b) The court shall set aside a relinquishment if the parent or guardian who
2 executed the relinquishment establishes any of the following:

3 1. By clear and convincing evidence, before a decree of adoption is issued, that
4 the relinquishment was obtained by fraud or duress.

5 2. By a preponderance of the evidence, that a condition permitting revocation
6 has occurred, as expressly provided for in the relinquishment under sub. (6) (f).

7 (c) If a relinquishment by a parent or guardian who had legal custody and
8 physical custody of a minor when the relinquishment was executed is revoked, the
9 agency that accepted the relinquishment shall immediately return the minor to the
10 legal custody and physical custody of the parent or guardian and move to dismiss any
11 proceeding pending for the adoption of the minor. If the minor is not returned
12 immediately, the parent or guardian who revoked the relinquishment may petition
13 the court for appropriate relief and the court shall hear the petition expeditiously.

14 (d) If a relinquishment by a parent or guardian who had legal custody and
15 physical custody of a minor when the relinquishment was executed is set aside under
16 par. (b) 1., the court shall order the agency that accepted the relinquishment to
17 return the minor to the legal custody and physical custody of the parent or guardian
18 and dismiss any proceeding pending for the adoption of the minor.

19 (e) If a relinquishment by a parent or guardian who had legal custody and
20 physical custody of a minor when the relinquishment was executed is set aside under
21 par. (b) 2. and no ground exists under s. 48.90 for termination of the parental rights
22 of the parent to the minor or no grounds exist for terminating the guardianship, the
23 court shall dismiss any proceeding pending for the adoption of the minor and order
24 the agency that accepted the relinquishment to return the minor to the legal custody

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1 and physical custody of the parent or guardian, unless the court finds that returning
2 the minor would be detrimental to the minor.

3 (f) If a relinquishment by a parent or guardian who did not have physical
4 custody of a minor when the relinquishment was executed is revoked or set aside and
5 no grounds exist under s. 48.90 for termination of the parental rights of the parent
6 to the minor or no grounds exist for terminating the guardianship, the court shall
7 dismiss any proceeding pending for the adoption of the minor and issue an order
8 providing for the care and custody of the minor according to the best interest of the
9 minor.

10 **48.86 General procedure for adoption of minors; jurisdiction and**
11 **venue. (1) JURISDICTION.** (a) Except as otherwise provided in pars. (b) and (c), a
12 court of this state has jurisdiction over a proceeding for the adoption of a minor
13 commenced under s. 48.88 or 48.94 if any of the following conditions is met:

14 1. Immediately before commencement of the proceeding, the minor lived in this
15 state with a parent, guardian, prospective adoptive parent or another person acting
16 as a parent for at least 6 consecutive months, excluding periods of temporary
17 absence, or, if the minor is less than 6 months of age, the minor lived in this state from
18 soon after birth with any of those individuals and there is available in this state
19 substantial evidence concerning the minor's present or future care.

20 2. Immediately before commencement of the proceeding, the prospective
21 adoptive parent lived in this state for at least 6 consecutive months, excluding
22 periods of temporary absence, and there is available in this state substantial
23 evidence concerning the minor's present or future care.

24 3. The agency that placed the minor for adoption is located in this state and it
25 is in the best interest of the minor that a court in this state assume jurisdiction

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1 because the minor and the minor's parent, or the minor and the prospective adoptive
2 parent, have a significant connection with this state and there is available in this
3 state substantial evidence concerning the minor's present or future care.

4 4. The minor and the prospective adoptive parent are physically present in this
5 state and the minor has been abandoned or it is necessary in an emergency to protect
6 the minor because the minor has been subjected to or threatened with mistreatment
7 or abuse or has been subjected to neglect.

8 5. It appears that no other state would have jurisdiction under prerequisites
9 substantially in accordance with subd. 1., 2., 3. or 4., or another state has declined
10 to exercise jurisdiction on the ground that this state is the more appropriate forum
11 to hear a petition for adoption of the minor, and it is in the best interest of the minor
12 that a court of this state assume jurisdiction.

13 (b) A court of this state may not exercise jurisdiction over a proceeding for
14 adoption of a minor if at the time the petition for adoption is filed a proceeding
15 concerning the custody or adoption of the minor is pending in a court of another state
16 exercising jurisdiction substantially in conformity with ch. 822 or this subchapter,
17 unless the proceeding is stayed by the court of the other state.

18 (c) If a court of another state has issued a decree or order concerning the custody
19 of a minor who may be the subject of a proceeding for adoption in this state, a court
20 of this state may not exercise jurisdiction over a proceeding for the adoption of the
21 minor unless all of the following conditions are met:

22 1. The court of this state finds that the court that issued the decree or order does
23 not have continuing jurisdiction to modify the decree or order under jurisdictional
24 prerequisites substantially in accordance with ch. 822 or has declined to assume
25 jurisdiction to modify the decree or order; or does not have jurisdiction over a

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1 proceeding for adoption under prerequisites substantially in accordance with par. (a)
2 1., 2., 3. or 4. or has declined to assume jurisdiction over a proceeding for adoption.

3 2. The court of this state has jurisdiction over the proceeding.

4 **(2) VENUE.** A petition for adoption of a minor may be filed in the court of the
5 county in which a petitioner lives, the minor lives or an office of the agency that
6 placed the minor is located.

7 **48.87 General procedure for adoptions of minors; general procedural**
8 **provisions. (1) APPOINTMENT OF ATTORNEY OR GUARDIAN AD LITEM.** (a) In a proceeding
9 under this subchapter that may result in the termination of parental rights to a
10 minor, the court shall appoint an attorney for any indigent, minor or incompetent
11 person who appears in the proceeding and whose parental rights to the minor may
12 be terminated, unless the court finds that the incompetent person has sufficient
13 financial means to hire an attorney, or the indigent person declines to be represented
14 by an attorney.

15 (b) The court shall appoint a guardian ad litem for a minor adoptee in a
16 contested proceeding under this subchapter and may appoint a guardian ad litem for
17 a minor adoptee in an uncontested proceeding under this subchapter.

18 **(2) NO RIGHT TO JURY TRIAL.** A proceeding under this subchapter for adoption
19 or termination of parental rights shall be heard by the court without a jury.

20 **(3) CONFIDENTIALITY OF PROCEEDINGS.** Except for a proceeding under s. 48.96,
21 the general public shall be excluded from a hearing under this subchapter.

22 **(4) CUSTODY DURING PENDENCY OF PROCEEDING.** To protect the welfare of a minor
23 adoptee, the court shall make an interim order for the legal custody and physical
24 custody of the minor adoptee according to the best interest of the minor adoptee in
25 a contested proceeding under this subchapter and may make an interim order for the

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1 legal custody and physical custody of the minor adoptee in an uncontested
2 proceeding under this subchapter.

3 (5) REMOVAL OF ADOPTEE FROM STATE. Before a decree of adoption is issued, a
4 petitioner may not remove a minor adoptee for more than 30 consecutive days from
5 the state in which the petitioner resides without the permission of the court, if the
6 minor adoptee was placed directly for adoption, or, if an agency placed the minor
7 adoptee for adoption, without the permission of the agency.

8 **48.88 General procedure for adoption of minors; petition for adoption**
9 **of minor. (1) STANDING TO PETITION TO ADOPT.** (a) Except as otherwise provided in
10 par. (c), the following individuals are the only individuals who have standing to
11 petition to adopt a minor under this section:

12 1. An individual with whom the minor has been placed for adoption or who has
13 been selected as a prospective adoptive parent by a person authorized under s. 48.82
14 (1) to place the minor for adoption.

15 2. An individual with whom the minor has not been placed for adoption or who
16 has not been selected or rejected as a prospective adoptive parent under ss. 48.82 to
17 48.84, but who has had physical custody of the minor for at least 6 months
18 immediately before seeking to file the petition for adoption and who is allowed to file
19 the petition by the court for good cause shown.

20 (b) The spouse of a petitioner shall join in the petition unless legally separated
21 from the petitioner or judicially declared incompetent.

22 (c) A petition for adoption of a minor stepchild by a stepparent may be filed
23 under s. 48.94 and a petition for adoption of an emancipated minor may be filed under
24 s. 882.05.

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1 **(2) TIME FOR FILING PETITION.** Unless the court allows a later filing, a prospective
2 adoptive parent with standing to petition to adopt under sub. (1) (a) 1. shall file a
3 petition for adoption by no later than 30 days after the date on which a minor is
4 placed for adoption with that individual.

5 **(3) CAPTION OF PETITION.** The caption of a petition for adoption of a minor shall
6 contain the name of, or a pseudonym for, the minor.

7 **(4) CONTENT OF PETITION.** (a) A petition for adoption of a minor shall be signed
8 and verified by the petitioner and shall contain all of the following information or
9 state why any of the following information is not contained in the petition:

10 1. The full name, age and place and duration of residence of the petitioner.

11 2. The current marital status of the petitioner, including the date and place of
12 any marriage, the date of any legal separation, divorce or annulment and, if the
13 petitioner's spouse is incompetent, the date on which a court determined that the
14 petitioner's spouse is incompetent.

15 3. A statement that the petitioner has the facilities and resources to provide for
16 the care and support of the minor.

17 4. A statement that a preplacement evaluation containing a finding that the
18 petitioner is suited to be an adoptive parent has been prepared or revised within the
19 12 months preceding the placement or that a preplacement evaluation is not
20 required under s. 48.83 (1) (b).

21 5. The first name, sex and date, or approximate date, and place of birth of the
22 minor and a statement that the minor is or is not an Indian child, as defined in the
23 Indian Child Welfare Act, 25 USC 1901 to 1963.

24 6. The circumstances under which the petitioner obtained physical custody of
25 the minor, including the date of placement of the minor with the petitioner for

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1 adoption and the name of the agency that placed the minor or the name or
2 relationship to the minor of the individual who placed the minor.

3 7. The length of time that the minor has been in the physical custody of the
4 petitioner or, if the minor is not in the physical custody of the petitioner, the reason
5 why the petitioner does not have physical custody of the minor and the date and
6 manner in which the petitioner intends to obtain physical custody of the minor.

7 8. A description and estimate of the value of any property of the minor.

8 9. A statement that the minor has been placed in compliance with any
9 applicable law governing interstate or intercountry placements of minors or, if the
10 minor has not been placed from another state or another country, a statement that
11 the laws governing interstate or intercountry placements of minors are not
12 applicable.

13 10. The name or relationship to the minor of any individual who has executed
14 a consent to the adoption of the minor, a relinquishment of the minor or a disclaimer
15 of parental interest with respect to the minor, and the name or relationship to the
16 minor of any individual whose consent or relinquishment may be required, but who
17 has not executed a consent or relinquishment or has not had his or her parental
18 rights terminated, and any fact or circumstance that may excuse the lack of consent,
19 relinquishment or termination of parental rights.

20 11. A statement whether the petitioner has filed in any court a previous petition
21 to adopt a minor and the disposition of that petition.

22 12. A description of any previous court order or pending proceeding known to
23 the petitioner concerning the custody of or visitation with the minor and any other
24 fact known to the petitioner that is needed to establish the jurisdiction of the court.

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1 (b) The petitioner shall request in the petition that the court do all of the
2 following:

3 1. Permit the petitioner to adopt the minor as the petitioner's child.

4 2. Approve the full name by which the minor is to be known if the petition is
5 granted.

6 3. Grant any other relief sought by the petitioner.

7 **(5) REQUIRED DOCUMENTS.** (a) Before the hearing on a petition for the adoption
8 of a minor, the following documents shall be filed with the court:

9 1. A certified copy of the birth certificate or other record of the date and place
10 of birth of the minor.

11 2. Any consent to the adoption of the minor, relinquishment of the minor or
12 disclaimer of parental interest with respect to the minor that has been executed and
13 any written certification required under s. 48.85 (5) (d) and (g) from the individual
14 before whom the consent or relinquishment was executed.

15 3. A certified copy of any court order terminating the parental rights of a parent
16 of the minor or terminating a guardianship of the minor.

17 4. A certified copy of any marriage certificate and any decree of divorce,
18 annulment or legal separation of each parent or former parent of the minor and a
19 certified copy of any court order determining that a parent or former parent of the
20 minor is incompetent.

21 5. A certified copy of any current court order, or the petition in any pending
22 proceeding, concerning the custody of or visitation with the minor.

23 6. A copy of the preplacement evaluation and of the evaluation made during the
24 pendency of the proceeding for adoption.

25 7. A copy of any report containing the information required under s. 48.82 (6).

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1 8. A document signed under s. 48.85 (4) (e) 5.

2 9. A certified copy of any marriage certificate and any decree of divorce,
3 annulment or legal separation of the petitioner and a certified copy of any court order
4 determining that the petitioner’s spouse is incompetent.

5 10. A copy of any adoption assistance agreement under s. 48.975 or any other
6 agreement with a public agency to provide a subsidy for the benefit of a minor
7 adoptee with a special need.

8 11. If an agency placed the minor for adoption, a verified document from the
9 agency stating the circumstances under which the agency obtained legal custody of
10 the minor for the purpose of adoption; that the agency complied with any applicable
11 law governing an interstate or intercountry placement of the minor; the name or
12 relationship to the minor of any individual whose consent to the adoption of the
13 minor is required, but who has not executed a consent or a relinquishment or who
14 has not had his or her parental rights terminated, and any fact or circumstance that
15 may excuse the lack of consent, relinquishment or termination of parental rights;
16 whether the agency has executed its consent to the proposed adoption; and whether
17 the agency waives notice of the proceeding for adoption.

18 12. A document stating the name and address, if known, of any person who is
19 entitled to receive notice of the proceeding for adoption.

20 (b) If an item required under par. (a) is not available, the person responsible
21 for furnishing the item shall file an affidavit explaining the absence of the item.

22 **48.89 General procedure for adoption of minors; notice of pendency of**
23 **proceeding. (1) SERVICE OF NOTICE.** (a) Unless notice has been waived, notice of
24 a proceeding for the adoption of a minor shall be served, within 20 days after the date
25 on which the petition for adoption is filed, on all of the following persons:

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1 1. An individual whose consent to the adoption is required under s. 48.85 (1)
2 (a) or (c), except that notice need not be served on an individual whose parental rights
3 to the minor or whose guardianship of the minor has been terminated.

4 2. An agency whose consent to the adoption is required under s. 48.85 (1) (b)
5 1.

6 3. An individual whom the petitioner knows is claiming to be, or who is named
7 as, the father or a possible father of the minor and whose paternity of the minor has
8 not been judicially determined, except that notice need not be served on an individual
9 who has executed a verified statement, as described in s. 48.85 (2) (a) 4., denying
10 paternity or disclaiming any interest in the minor.

11 4. An individual, other than the petitioner, who has legal custody or physical
12 custody of the minor or who has a right of visitation with the minor under a court
13 order issued by a court in this state or any other state.

14 5. The spouse of the petitioner, if the spouse has not joined in the petition.

15 6. A grandparent of the minor if the grandparent's child is a deceased parent
16 of the minor and if, before death, the deceased parent had not executed a consent to
17 the adoption of the minor or a relinquishment or the parental rights of the deceased
18 parent had not been terminated.

19 (b) The court shall require notice of a proceeding for adoption of a minor to be
20 served on any person whom the court finds, at any time during the proceeding, is any
21 of the following:

22 1. A person described in par. (a) who has not been given notice of the proceeding.

23 2. An individual who has revoked a consent to the adoption of the minor or a
24 relinquishment under s. 48.85 (8) (a) or (9) (a) or who is attempting to have a consent
25 to the adoption or a relinquishment set aside under s. 48.85 (8) (b) or (9) (b).

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1 3. A person who, based on a previous relationship with the petitioner, the minor
2 or a parent or an alleged parent of the minor, can provide information that is relevant
3 to the proposed adoption and that the court, in its discretion, wants to hear.

4 **(2) CONTENT OF NOTICE.** A notice required under sub. (1) shall use a pseudonym
5 for a petitioner or any individual named in the petition for adoption who has not
6 waived confidentiality. The notice shall contain all of the following information:

7 (a) The caption of the petition.

8 (b) The address and telephone number of the court in which the petition is
9 pending.

10 (c) A concise summary of the relief requested in the petition.

11 (d) The name, mailing address and telephone number of the petitioner or the
12 petitioner's attorney.

13 (e) A conspicuous statement of the method of responding to the notice and the
14 consequences of a failure to respond.

15 (f) Any other information required under s. 801.09.

16 **(3) MANNER AND EFFECT OF SERVICE.** (a) Personal service of the notice required
17 under sub. (1) shall be made in the manner prescribed for service of a summons under
18 ss. 801.10 and 801.11, unless the court otherwise directs.

19 (b) Except as otherwise provided in par. (c), a person who fails to respond to a
20 notice under sub. (1) within 20 days after its service may not appear in or receive
21 further notice of the proceeding for adoption.

22 (c) An individual who is a respondent in a petition for termination of parental
23 rights under s. 48.90 that is served on the individual with the notice required under
24 sub. (1) may not appear in or receive further notice of the proceeding for adoption or

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1 the proceeding for termination of parental rights unless the individual responds to
2 the notice as required under s. 48.90 (4) (a).

3 (4) INVESTIGATION AND NOTICE TO UNKNOWN FATHER. (a) If at any time in a
4 proceeding for the adoption of a minor or a proceeding for termination of parental
5 rights to a minor under s. 48.90 the court finds that an unknown father of the minor
6 may not have received notice of the proceeding, the court shall determine whether
7 the unknown father can be identified. The court shall make that determination
8 based on evidence that includes evidence acquired from inquiries, including the
9 inquiries under par. (b), of appropriate persons to identify the unknown father for the
10 purpose of providing notice.

11 (b) The inquiries required under par. (a) shall include all of the following:

12 1. Whether the woman who gave birth to the minor was married at the probable
13 time of conception of the minor, or at a later time.

14 2. Whether the woman who gave birth to the minor was cohabiting with a man
15 at the probable time of conception of the minor.

16 3. Whether the woman who gave birth to the minor has received any payments
17 or promises of support, other than from a governmental agency, with respect to the
18 minor or because of her pregnancy.

19 4. Whether the woman who gave birth to the minor has named any individual
20 as the father of the minor on the birth certificate of the minor or in connection with
21 applying for or receiving public assistance.

22 5. Whether any individual has formally or informally acknowledged or claimed
23 paternity of the minor in a jurisdiction in which the woman who gave birth to the
24 minor resided during or since her pregnancy or in the jurisdiction in which the minor
25 has resided or resides at the time of the inquiry.

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1 (c) If an inquiry under par. (b) identifies as the father of the minor an individual
2 who has not received notice of the proceeding, the court shall require notice to be
3 served on that individual under sub. (3), unless service is not possible because the
4 whereabouts of the individual are unknown.

5 (d) If after inquiry under par. (b) the court finds that personal service cannot
6 be made on the father of the minor because the identity or whereabouts of the father
7 are unknown, the court shall order publication of the notice only if, on the basis of
8 all information available, the court determines that publication is likely to lead to
9 receipt of notice by the father. If the court determines that publication is not likely
10 to lead to receipt of notice by the father, the court may dispense with publication of
11 a notice.

12 (e) If in an inquiry under this subsection the woman who gave birth to the minor
13 fails to disclose the identity of a possible father of the minor or to reveal the
14 whereabouts of that possible father, the person conducting the inquiry shall advise
15 the woman that the proceeding for adoption may be delayed or subject to challenge
16 if a possible father is not given notice of the proceeding, that the lack of information
17 about the father's medical and genetic history may be detrimental to the minor and
18 that the woman is subject to a civil penalty if she knowingly misidentifies the father.

19 **(5) WAIVER OF NOTICE.** (a) A person who is entitled to receive notice under sub.
20 (1) may waive the notice before the court or in a consent to adoption, relinquishment
21 or other document signed by the person.

22 (b) Except for the purpose of moving to revoke or set aside a consent to adoption
23 or relinquishment on the ground that it was obtained by fraud or duress, a person
24 who has waived notice under par. (a) may not appear in the proceeding for adoption.

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1 **48.90 Petition for termination of parental rights. (1) AUTHORIZATION.**

2 Any of the following persons may file a petition to terminate the parental rights to
3 a minor of a parent or alleged parent of the minor:

4 (a) A parent or guardian of the minor who has selected a proposed adoptive
5 parent for the minor and who intends to place, or has placed, the minor with the
6 proposed adoptive parent.

7 (b) A parent whose spouse has filed a petition under s. 48.94 to adopt the
8 parent's child.

9 (c) A prospective adoptive parent of the minor who has filed a petition under
10 s. 48.88 or 48.94 to adopt the minor.

11 (d) An agency that has selected a prospective adoptive parent for the minor and
12 that intends to place, or has placed, the minor with the proposed adoptive parent.

13 **(2) TIMING AND CONTENT OF PETITION.** (a) A person specified in sub. (1) may file
14 a petition under this section at any time after a petition for adoption has been filed
15 under s. 48.88 or 48.94 and before a decree of adoption is entered.

16 (b) A petitioner under this section shall sign and verify the petition and file the
17 petition with the court. The petition shall state all of the following information:

18 1. The name of the petitioner.

19 2. The name of the minor.

20 3. The name and last-known address of the parent or alleged parent whose
21 parental rights to the minor are sought to be terminated.

22 4. The facts and circumstances forming the basis for the petition and the
23 grounds on which the petitioner seeks the termination of parental rights.

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1 5. If the petitioner is a prospective adoptive parent, that the petitioner intends
2 to proceed with the petition to adopt the minor if the petition to terminate parental
3 rights is granted.

4 6. If the petitioner is a parent or guardian of the minor or is an agency, that the
5 petitioner has selected the prospective adoptive parent who is the petitioner in the
6 proceeding for adoption.

7 **(3) SERVICE OF PETITION AND NOTICE.** (a) A petition to terminate parental rights
8 under this section and a notice of hearing on the petition shall be served on the
9 respondent, with notice of the proceeding for adoption, in the manner specified in s.
10 48.89 (3) and (4).

11 (b) The notice of hearing shall inform the respondent of the method of
12 responding to the petition and shall advise the respondent of all of the following:

13 1. That the respondent has the right to be represented by an attorney
14 regardless of ability to pay under s. 48.23 and ch. 977 and may be entitled to have
15 an attorney appointed by the court.

16 2. That, if the respondent fails to respond within 20 days after service and, in
17 the case of an alleged father who has not already filed a claim of paternity, fails to
18 file a claim of paternity within 20 days after service, the court will terminate the
19 respondent's parental rights to the minor, unless the proceeding for adoption is
20 dismissed.

21 **(4) GROUNDS FOR TERMINATION OF PARENTAL RIGHTS.** (a) If the respondent is
22 served with a petition to terminate parental rights under this section and a notice
23 of hearing on the petition and fails to respond within 20 days after the service and,
24 in the case of an alleged father who has not already filed a claim of paternity, fails
25 to file a claim of paternity within 20 days after the service, the court shall terminate

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1 the respondent's parental rights to the minor, unless the proceeding for adoption is
2 dismissed.

3 (b) If under s. 48.89 (4) the court dispenses with service of the petition on the
4 respondent, the court shall terminate the respondent's parental rights to the minor,
5 unless the proceeding for adoption is dismissed.

6 (c) If the respondent responds and asserts his or her parental rights, the court
7 shall proceed expeditiously with a hearing. If the court finds, by clear and convincing
8 evidence, that any of the following grounds exists and finds, by a preponderance of
9 the evidence, that termination of parental rights is in the best interest of the minor,
10 the court shall terminate the respondent's parental rights to the minor:

11 1. In the case of a minor who has not attained the age of 6 months at the time
12 the petition for adoption is filed, unless the respondent proves by a preponderance
13 of the evidence that the respondent had a compelling reason for not complying with
14 this subdivision, the respondent has failed to do all of the following:

15 a. Pay reasonable prenatal, natal and postnatal expenses in accordance with
16 the respondent's financial means.

17 b. Make reasonable and consistent payments, in accordance with the
18 respondent's financial means, for the support of the minor.

19 c. Visit regularly with the minor.

20 d. Manifest an ability and willingness to assume legal custody and physical
21 custody of the minor if, from the time of the minor's birth to the time of the filing of
22 the petition, the minor was not in the physical custody of the minor's other parent.

23 2. In the case of a minor who has attained the age of 6 months at the time the
24 petition for adoption is filed, unless the respondent proves by a preponderance of the
25 evidence that the respondent had a compelling reason for not complying with this

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1 subdivision, the respondent, for a period of at least 6 consecutive months
2 immediately preceding the filing of the petition, has failed to do all of the following:

3 a. Make reasonable and consistent payments, in accordance with the
4 respondent's financial means, for the support of the minor.

5 b. Communicate or visit regularly with the minor.

6 c. Manifest an ability and willingness to assume legal custody and physical
7 custody of the minor if, during those 6 consecutive months, the minor was not in the
8 physical custody of the other parent.

9 3. The respondent has been convicted of a crime specified in s. 48.355 (2d) (b)
10 1. or 2., or of violating a temporary restraining order or injunction under s. 813.12,
11 813.122 or 813.125 and the facts of the crime or violation and the respondent's
12 behavior indicate that the respondent is unfit to maintain a relationship of parent
13 and child with the minor.

14 4. The respondent is a man who was not married to the minor's mother when
15 the minor was conceived or born and who is not the biological or adoptive father of
16 the minor.

17 5. Termination of parental rights is justified on a ground specified in s. 48.415.

18 (d) If the respondent proves by a preponderance of the evidence that he or she
19 had a compelling reason for not complying with par. (c) 1. or 2. and that termination
20 of parental rights is not justified on a ground specified in par. (c) 3., 4. or 5., the court
21 may terminate the parental rights to the minor of the respondent only if the court
22 finds, by clear and convincing evidence, that any of the following grounds exists and,
23 by a preponderance of the evidence, that termination of parental rights is in the best
24 interest of the minor:

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1 1. If the minor is not in the legal custody and physical custody of the minor's
2 other parent, the respondent is not able or willing promptly to assume legal custody
3 and physical custody of the minor and to pay for the minor's support, in accordance
4 with the respondent's financial means.

5 2. If the minor is in the legal custody and physical custody of the minor's other
6 parent and a stepparent, and the stepparent is the prospective adoptive parent, the
7 respondent is not able or willing promptly to establish and maintain contact with the
8 minor and to pay for the minor's support, in accordance with the respondent's
9 financial means.

10 3. Placing the minor in the respondent's legal custody and physical custody
11 would pose a risk of substantial harm to the physical or psychological well-being of
12 the minor because the circumstances of the minor's conception, the respondent's
13 behavior during the mother's pregnancy or since the minor's birth, or the
14 respondent's behavior with respect to other minors, indicates that the respondent is
15 unfit to maintain a relationship of parent and child with the minor.

16 4. Failure to terminate the parental rights to the minor of the respondent would
17 be detrimental to the minor.

18 (e) In making a determination under par. (d) 4., the court shall consider any
19 factor that is relevant in making that determination, including the respondent's
20 efforts to obtain or maintain legal custody and physical custody of the minor, the role
21 of other persons in thwarting the respondent's efforts to assert his or her parental
22 rights, the respondent's ability to care for the minor, the age of the minor, the quality
23 of any previous relationship between the respondent and the minor and between the
24 respondent and any other minor children, the duration and suitability of the minor's

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1 present custodial environment and the effect that a change in the minor's physical
2 custody might have on the minor.

3 **(5) EFFECT OF ORDER GRANTING PETITION.** An order under this section granting
4 a petition to terminate parental rights has all of the following effects:

5 (a) The order terminates the relationship of parent and child between the
6 respondent and the minor, except for any obligation to pay arrearages of child
7 support.

8 (b) The order extinguishes any right the respondent had to withhold his or her
9 consent to a proposed adoption of the minor or to receive any further notice of a
10 proceeding for the adoption of the minor.

11 (c) The order is a final order for purposes of appeal.

12 **(6) EFFECT OF ORDER DENYING PETITION.**

13 (a) If the court denies a petition under this section to terminate parental rights,
14 the court shall dismiss the proceeding for adoption and shall determine the legal
15 custody and physical custody of the minor according to the criteria specified in s.
16 48.92 (4).

17 (b) An order under this section denying a petition to terminate parental rights
18 is a final order for purposes of appeal.

19 **48.91 Evaluation of adoptee and prospective adoptive parent. (1)**

20 **EVALUATION DURING PROCEEDING FOR ADOPTION.** (a) After a petition for the adoption
21 of a minor is filed, the court shall order an individual who is qualified under s. 48.83
22 (2) to make an evaluation of the minor's placement with the proposed adoptive
23 parent.

24 (b) The court shall provide the evaluator with copies of the petition for adoption
25 and of the items filed with the petition.

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1 **(2) CONTENT OF EVALUATION.** (a) The evaluator shall personally interview the
2 petitioner in the petitioner's residence, observe the relationship between the adoptee
3 and the petitioner, obtain the information specified in par. (b) and base the
4 evaluation on that personal interview, observation and information.

5 (b) An evaluation under sub. (1) (a) shall be in writing and shall contain all of
6 the following information:

7 1. An account of any change in the petitioner's marital status or family history,
8 physical or mental health, home environment, property, income or financial
9 obligations since the filing of the preplacement evaluation.

10 2. All reasonably available information concerning the physical, mental and
11 emotional condition of the adoptee that is not included in any report on the adoptee's
12 health, genetic and social history filed in the proceeding for adoption.

13 3. Copies of any court order, judgment or decree, or any significant documents
14 from a pending legal proceeding, affecting the adoptee, the petitioner or any child of
15 the petitioner.

16 4. A list of the expenses, fees or other charges incurred, paid or to be paid, and
17 anything of value exchanged or to be exchanged, in connection with the adoption.

18 5. Any behavior or characteristic of the petitioner that raises a specific concern,
19 as described in s. 48.83 (4) (a), about the petitioner or the petitioner's home.

20 6. A finding by the evaluator concerning the suitability of the petitioner and
21 the petitioner's home for the adoptee and a recommendation concerning the granting
22 of the petition for adoption.

23 **(3) TIME AND FILING OF EVALUATION.** (a) The evaluator shall complete the
24 evaluation and file the evaluation with the court within 60 days after receipt of the
25 court's order for an evaluation, unless the court for good cause allows a later filing.

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1 (b) If an evaluation raises a specific concern, as described in s. 48.83 (4) (a), the
2 evaluator shall file the evaluation immediately and shall explain in the evaluation
3 why the specific concern poses a significant risk of harm to the physical or
4 psychological well-being of the adoptee.

5 (c) The evaluator shall provide the petitioner with a copy of the evaluation
6 when the evaluation is filed with the court and shall retain for 3 years after the date
7 of filing a copy of the evaluation and a list of every source for each item of information
8 contained in the evaluation.

9 **48.92 Dispositional hearing; decree of adoption. (1) TIME FOR HEARING**
10 **ON PETITION.** The court shall set a date and time for hearing the petition for adoption.
11 The hearing may be held no sooner than 90 days, and no later than 180 days, after
12 the date on which the petition for adoption is filed, unless the court for good cause
13 sets an earlier or later date and time.

14 **(2) DISCLOSURE OF FEES AND CHARGES.** At least 10 days before the hearing the
15 following individuals shall file the following documents with the court:

16 (a) The petitioner shall file with the court a signed and verified accounting of
17 any payment or disbursement of money or anything of value made or agreed to be
18 made by or on behalf of the petitioner in connection with the adoption, including any
19 payment prohibited or authorized under s. 48.96. The accounting shall include the
20 date and amount of each payment or disbursement made, the name and address of
21 each recipient and the purpose of each payment or disbursement.

22 (b) The attorney for the petitioner shall file with the court an affidavit itemizing
23 any fee, compensation or other thing of value received by, or agreed to be paid to, the
24 attorney incidental to the placement and adoption of the minor.

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1 (c) The attorney for each parent of the minor or for the guardian of the minor
2 shall file with the court an affidavit itemizing any fee, compensation or other thing
3 of value received by, or agreed to be paid to, the attorney incidental to the placement
4 and adoption of the minor.

5 (d) If an agency placed the minor for adoption, the agency shall file with the
6 court an affidavit itemizing any fee, compensation or other thing of value received
7 by the agency for, or incidental to, the placement and adoption of the minor.

8 (e) If a guardian placed the minor for adoption, the guardian shall file with the
9 court an affidavit itemizing any fee, compensation or other thing of value received
10 by the guardian for, or incidental to, the placement and adoption of the minor.

11 **(3) GRANTING PETITION FOR ADOPTION.** (a) The court shall grant a petition for
12 adoption if the court determines that the adoption will be in the best interest of the
13 minor, that the petitioner is a suitable adoptive parent for the minor and that all of
14 the following requirements have been met:

15 1. At least 90 days have elapsed since the filing of the petition for adoption,
16 unless the court, for good cause shown, waives this requirement.

17 2. The adoptee has been in the physical custody of the petitioner for at least 90
18 days, unless the court, for good cause shown, waives this requirement.

19 3. Notice of the proceeding for adoption has been served on, or dispensed with
20 as to, any person entitled to receive notice under s. 48.89.

21 4. Every necessary consent to the adoption, relinquishment, waiver, disclaimer
22 of parental interest and judicial order terminating parental rights, including an
23 order issued under s. 48.90, has been obtained and filed with the court.

24 5. Any evaluation required under this subchapter has been filed with and
25 considered by the court.

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1 6. If applicable, any requirement of this subchapter governing an interstate or
2 intercountry placement for adoption has been met.

3 7. If applicable, the requirements of the federal Indian Child Welfare Act, 25
4 USC 1901 to 1963, have been met or, if not applicable, the court has determined that
5 the minor is not subject to that act.

6 8. The court has reviewed the accounting and affidavits required under sub.
7 (2), and the court has denied, modified or ordered reimbursement of any payment or
8 disbursement that is not authorized under s. 48.96 or that is unreasonable or
9 unnecessary when compared with the expenses customarily incurred in connection
10 with an adoption.

11 9. The petitioner has received each report required under s. 48.82 (6).

12 10. Any document signed under s. 48.85 (4) (e) 5. prohibiting the release of a
13 former parent's identity has been filed with the court.

14 (b) Notwithstanding a finding by the court that an activity prohibited under
15 s. 48.96 has occurred, if the court makes the determinations required under par. (a),
16 the court shall grant the petition for adoption and report the violation to the
17 appropriate authorities.

18 (c) Except as otherwise provided in s. 48.94 (3) (b) 2., the court shall inform the
19 petitioner and any other person affected by an order for visitation or communication
20 with the adoptee existing at the time that the decree of adoption is entered that the
21 decree of adoption terminates any such existing order for visitation or
22 communication.

23 **(4) DENIAL OF PETITION FOR ADOPTION.** If the court denies a petition for the
24 adoption of a minor, the court shall dismiss the proceeding and issue an appropriate
25 order for the legal custody and physical custody of the minor. If the court denies the

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1 petition for adoption because a consent to the adoption or a relinquishment is
2 revoked or set aside under s. 48.85 (8) or (9), the court shall determine the legal
3 custody and physical custody of the minor as provided in those subsections. If the
4 court denies the petition for adoption for any other reason, the court shall determine
5 the legal custody and physical custody of the minor according to the best interest of
6 the minor.

7 **(5) DECREE OF ADOPTION.** (a) A decree of adoption shall state or contain all of
8 the following:

9 1. The original name of the adoptee, if the adoptive parent is a stepparent or
10 relative and, in all other adoptions, the original name of the adoptee or a pseudonym.

11 2. The name of the petitioner for adoption.

12 3. Whether the petitioner is married or unmarried.

13 4. Whether the petitioner is a stepparent of the adoptee.

14 5. The name by which the adoptee is to be known and the date on which the
15 name takes effect.

16 6. Information to be incorporated into a new birth certificate to be issued by the
17 state registrar of vital statistics, unless the petitioner or an adoptee who has attained
18 12 years of age requests that a new birth certificate not be issued.

19 7. The adoptee's date and place of birth, if known, or, in the case of an adoptee
20 born outside the United States, the adoptee's date and place of birth as determined
21 under par. (b).

22 8. The effect of the decree of adoption as specified in s. 48.81 (4) to (6).

23 9. That the adoption is in the best interest of the adoptee.

24 (b) In determining the date and place of birth of an adoptee born outside the
25 United States, the court shall do as follows:

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1 1. Enter the date and place of birth as specified in the birth certificate from the
2 country of origin, the U.S. state department's report of birth abroad or the documents
3 of the U.S. immigration and naturalization service.

4 2. If the exact place of birth is unknown, enter the information that is known
5 and designate a place of birth according to the best information known with respect
6 to the country of origin.

7 3. If the exact date of birth is unknown, determine a date of birth based on
8 medical evidence as to the probable age of the adoptee and other evidence that the
9 court considers appropriate.

10 4. If the documents described in subd. 1. are not available, determine the date
11 and place of birth based on evidence that the court finds appropriate to consider.

12 (c) Unless a petitioner requests otherwise, the decree of adoption may not name
13 a former parent of the adoptee.

14 (d) Except for a decree of adoption of a minor by a stepparent issued under s.
15 48.94 (12), a decree of adoption of a minor shall contain a statement that the adoption
16 terminates any order for visitation or communication with the minor that was in
17 effect before the decree is issued.

18 (e) A decree of adoption that substantially complies with this subsection may
19 not be challenged solely because one or more of the items required under this
20 subsection are not contained in the decree.

21 **(6) FINALITY OF DECREE.** A decree of adoption issued under this subchapter is
22 a final order for purposes of appeal when it is entered and becomes final for other
23 purposes on the expiration of the time for filing an appeal, if no appeal is filed, or on
24 the denial or dismissal of any appeal filed within the time for filing an appeal.

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1 **(7) CHALLENGES TO DECREE.** (a) The court of appeals and the supreme court shall
2 hear an appeal from a decree of adoption or other appealable order issued under this
3 subchapter expeditiously.

4 (b) A decree or order issued under this subchapter may not be vacated or
5 annulled on the application of a person who waived notice of any proceeding under
6 this subchapter or who was properly served with notice of a proceeding under this
7 subchapter and who failed to respond or appear, file an answer or file a claim of
8 paternity within 20 days after service of the notice.

9 (c) No person may challenge the validity of a decree of adoption issued under
10 this subchapter on the ground that a person has failed to comply with an agreement
11 for visitation or communication with an adoptee.

12 (d) No person may bring a challenge to the validity of a decree of adoption or
13 other order issued under this subchapter more than 6 months after the date on which
14 the decree or order is entered. If a challenge is brought by a person whose parental
15 rights to an adoptee have been terminated by a decree or order issued under this
16 subchapter, the court shall deny the challenge, unless the court finds, by clear and
17 convincing evidence, that the decree or order is not in the best interest of the adoptee.

18 **48.93 Birth certificate. (1) REPORT OF ADOPTION.** (a) Within 30 days after
19 the date on which a decree of adoption becomes final, the clerk of the court shall
20 prepare a report of the adoption on a form furnished by the state registrar of vital
21 statistics and certify and send the report to the state registrar. The report shall
22 include all of the following information:

23 1. Information in the court's records of the proceeding for adoption that is
24 necessary to locate and identify the adoptee's birth certificate or, if the adoptee was

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1 born outside the United States, evidence the court finds appropriate to consider as
2 to the adoptee's date and place of birth.

3 2. Information in the court's records of the proceeding for adoption that is
4 necessary to issue a new birth certificate, unless the court, the adoptive parent or an
5 adoptee who has attained the age of 12 years requests that a new birth certificate not
6 be issued.

7 3. The file number of the decree of adoption and the date on which the decree
8 became final.

9 (b) Within 30 days after the date on which a decree of adoption is amended or
10 vacated, the clerk of court shall prepare a report of that action on a form furnished
11 by the state registrar of vital statistics and shall certify and send the report to the
12 state registrar. The report shall include information necessary to identify the
13 original report of adoption and information necessary to amend or withdraw any new
14 birth certificate that was issued as a result of the original report of adoption.

15 **(2) ISSUANCE OF NEW BIRTH CERTIFICATE.** (a) Except as otherwise provided in par.
16 (d), on receipt of a report of adoption prepared under sub. (1), a report of adoption
17 prepared under the law of another state or country, a certified copy of a decree of
18 adoption together with information necessary to identify the adoptee's original birth
19 certificate and to issue a new birth certificate, or a report of an amended decree of
20 adoption, the state registrar of vital statistics shall do one of the following:

21 1. Issue a new birth certificate for an adoptee born in this state and furnish a
22 certified copy of the new birth certificate to the adoptive parent and to an adoptee
23 who has attained the age of 12 years.

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1 2. Forward a certified copy of the report of adoption for an adoptee born in
2 another state to the state registrar of the state of birth or the closest equivalent
3 official of that state.

4 3. Issue a certificate of foreign birth for an adoptee adopted in this state who
5 was born outside the United States and who was not a citizen of the United States
6 at the time of birth and furnish a certified copy of that certificate to the adoptive
7 parent and to an adoptee who has attained the age of 12 years.

8 4. Notify an adoptive parent of the procedure for obtaining a copy of a revised
9 birth certificate through the U.S. state department for an adoptee who was born
10 outside the United States and who was a citizen of the United States at the time of
11 birth.

12 5. In the case of an amended decree of adoption, issue an amended birth
13 certificate according to the procedure specified in subd. 1. or 3., as applicable, or
14 follow the procedure specified in subd. 2. or 4., as applicable.

15 (b) Unless otherwise directed by the court, a new birth certificate issued under
16 par. (a) 1. or 3. or an amended birth certificate issued under par. (a) 5. shall include
17 all of the information specified in s. 69.15 (2) (a).

18 (c) The state registrar shall substitute the new or amended birth certificate for
19 the original birth certificate in the system of vital statistics. The original birth
20 certificate and all copies of the original birth certificate in the system of vital
21 statistics shall be sealed and are not subject to inspection until 99 years after the
22 adoptee's date of birth, except by court order or as provided in s. 48.433 or 48.95.

23 (d) If the court orders, or the adoptive parent or an adoptee who has attained
24 the age of 12 years requests, that a new or amended birth certificate not be issued,
25 the state registrar may not issue a new or amended birth certificate for an adoptee

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1 under par. (a), but if the adoptee was born in another state, the state registrar shall
2 forward a certified copy of the report of adoption or the amended decree of adoption
3 to the state registrar of the state of birth or the closest equivalent official of that state.

4 (e) On receipt of a report that an adoption has been vacated, the state registrar
5 shall do one of the following:

6 1. If the former adoptee was born in this state, restore the original birth
7 certificate to its place in the system of vital statistics, seal any new or amended birth
8 certificate issued under par. (a) and not allow inspection of any sealed birth
9 certificate, except on court order or under s. 48.433 or 48.95.

10 2. If the former adoptee was born in another state, forward the report to the
11 state registrar or closest equivalent official of the state of birth.

12 3. If the former adoptee was born outside the United States and was a citizen
13 of the United States at the time of birth, notify the person who was granted legal
14 custody of the former adoptee after the adoption was vacated of the procedure for
15 obtaining a copy of the original birth certificate through the U.S. state department.

16 (f) On request of an individual who was listed as a parent on a child's original
17 birth certificate and who furnishes proof of the individual's identity, the state
18 registrar shall provide the individual with a noncertified copy of the original birth
19 certificate.

20 **48.94 Adoption of stepchild by stepparent. (1) OTHER PROVISIONS**
21 **APPLICABLE TO ADOPTION OF STEPCHILD.** Except as otherwise provided in this section,
22 ss. 48.86 to 48.93 apply to the adoption of a stepchild by a stepparent.

23 **(2) STANDING TO ADOPT STEPCHILD.** (a) A stepparent has standing under this
24 section to petition to adopt a stepchild who is the child of the stepparent's spouse if
25 any of the following requirements is met:

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1 1. The stepparent's spouse has sole legal custody and physical custody of the
2 stepchild and the stepchild has been in the physical custody of the spouse and the
3 stepparent during the 60 days preceding the filing of the petition for adoption.

4 2. The stepparent's spouse has joint legal custody of the stepchild with the
5 stepchild's other parent and the stepchild has resided primarily with the spouse and
6 the stepparent during the 12 months preceding the filing of the petition for adoption.

7 3. The stepparent's spouse is deceased or has been judicially declared
8 incompetent, but before dying or being judicially declared incompetent had legal
9 custody and physical custody of the stepchild, and the stepchild has resided
10 primarily with the stepparent during the 12 months preceding the filing of the
11 petition for adoption.

12 4. An agency placed the stepchild with the stepparent under s. 48.82 (3).

13 (b) For good cause shown, a court may allow an individual who does not meet
14 any of the requirements specified in par. (a), but who has the consent of the custodial
15 parent of a minor, to file a petition for adoption under this section. A petition allowed
16 under this paragraph shall be treated as if the petition had been filed by a
17 stepparent.

18 (c) A petition for adoption by a stepparent may be joined with a petition under
19 s. 48.90 to terminate the parental rights of the parent of the adoptee who is not the
20 stepparent's spouse.

21 **(3) LEGAL CONSEQUENCES OF ADOPTION OF STEPCHILD.** (a) Except as otherwise
22 provided in pars. (b) and (c), the legal consequences of an adoption of a stepchild by
23 a stepparent are as specified in s. 48.81 (3) to (6).

24 (b) An adoption by a stepparent does not affect any of the following:

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1 1. The relationship between the adoptee and the adoptee's parent who is the
2 adoptive stepparent's spouse or deceased spouse.

3 2. An existing court order for visitation or communication with the adoptee by
4 an individual who is related to the adoptee through the parent who is the adoptive
5 stepparent's spouse or deceased spouse.

6 3. The right of the adoptee or a descendant of the adoptee to inheritance or
7 intestate succession through or from the adoptee's former parent.

8 4. A court order or agreement for visitation or communication with the adoptee
9 that is approved by the court under sub. (13).

10 (c) Failure to comply with a court order or agreement for visitation or
11 communication with an adoptee is not a ground for challenging the validity of an
12 adoption by a stepparent.

13 **(4) CONSENT TO ADOPTION.** Unless consent is not required under s. 48.85 (2), the
14 court may grant a petition to adopt a stepchild only if a consent to the adoption has
15 been executed by a stepchild who has attained the age of 12 years and by one of the
16 following:

17 (a) The stepchild's parents, as described in s. 48.85 (1) (a).

18 (b) The stepchild's guardian, if expressly authorized by a court to consent to the
19 stepchild's adoption.

20 (c) An agency that placed the stepchild for adoption by the stepparent.

21 **(5) CONTENT OF CONSENT BY STEPPARENT'S SPOUSE.** (a) A consent to the adoption
22 of a stepchild by the stepchild's stepparent executed by a parent who is the
23 stepparent's spouse shall be signed or confirmed in the presence of an individual
24 specified in s. 48.85 (5), or an individual authorized to take acknowledgements.

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1 (b) A consent under par. (a) shall be in writing, shall contain the statements
2 described in s. 48.85 (6) (a) 1. to 3. and (d) 3. to 6., may contain the statement
3 described in s. 48.85 (6) (f) and shall state all of the following:

4 1. That the parent executing the consent has legal custody and physical custody
5 of the stepchild and that the parent voluntarily and unequivocally consents to the
6 adoption of the stepchild by the stepparent.

7 2. That the parent executing the consent understands and agrees that the
8 adoption will not terminate that parent's parental rights to the stepchild.

9 3. That the parent executing the consent understands and agrees that the
10 adoption will terminate the parental rights to the stepchild of the stepchild's other
11 parent and will terminate any existing court order for custody, visitation or
12 communication with the stepchild except as follows:

13 a. The stepchild and any descendant of the stepchild will retain rights of
14 inheritance or intestate succession from or through the stepchild's other parent.

15 b. A court order for visitation or communication with the stepchild by an
16 individual related to the stepchild through the parent executing the consent, or an
17 agreement or order concerning another individual that is approved by the court
18 under sub. (13), survives the decree of adoption, but failure to comply with the order
19 or agreement is not a ground for revoking or setting aside the consent or the adoption.

20 c. The other parent remains liable for arrearages of child support unless
21 released from that obligation by the parent executing the consent, any guardian ad
22 litem of the stepchild and any governmental entity providing public assistance to the
23 stepchild.

24 (c) A consent under par. (a) may not waive further notice of the proceeding for
25 adoption of the stepchild by the stepparent.

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1 **(6) CONTENT OF CONSENT BY STEPCHILD'S OTHER PARENT.** (a) A consent to the
2 adoption of a stepchild by the stepchild's stepparent executed by the stepchild's
3 parent who is not the stepparent's spouse shall be signed or confirmed in the presence
4 of an individual specified in s. 48.85 (5).

5 (b) A consent under par. (a) shall be in writing, shall contain the statements
6 described in s. 48.85 (6) (a) 1. to 3. and (d) 3. to 6., may contain the statement
7 described in s. 48.85 (6) (f) and shall state all of the following:

8 1. That the parent executing the consent voluntarily and unequivocally
9 consents to the adoption of the stepchild by the stepparent and the transfer to the
10 stepparent and stepparent's spouse of any right the parent executing the consent has
11 to legal custody or physical custody of the stepchild.

12 2. That the parent executing the consent understands and agrees that the
13 adoption will terminate that parent's parental rights to the stepchild and will
14 terminate any existing court order for custody, visitation or communication with the
15 stepchild except as follows:

16 a. The stepchild and any descendant of the stepchild will retain rights of
17 inheritance or intestate succession from or through the parent executing the consent.

18 b. A court order for visitation or communication with the stepchild by an
19 individual related to the stepchild through the stepchild's other parent, or an
20 agreement or order concerning another individual that is approved by the court
21 under sub. (13), survives the decree of adoption, but failure to comply with the terms
22 of the order or agreement is not a ground for revoking or setting aside the consent
23 or the adoption.

24 c. The parent executing the consent remains liable for arrearages of child
25 support unless released from that obligation by the other parent, any guardian ad

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1 litem of the stepchild and any governmental entity providing public assistance to the
2 stepchild.

3 3. That the parent executing the consent has provided the adoptive stepparent
4 with the information required under s. 48.82 (6).

5 (c) A consent under par. (a) may waive notice of the proceeding for the adoption
6 of the stepchild by the stepparent, unless the adoption is contested, appealed or
7 denied.

8 **(7) CONTENT OF CONSENT BY OTHER PERSONS.** (a) A consent to the adoption of a
9 stepchild by the stepchild's stepparent executed by the guardian of the stepchild or
10 by an agency shall be in writing and shall be signed or confirmed in the presence of
11 the court or in a manner that the court directs. The consent may waive notice of the
12 proceeding for adoption, unless the adoption is contested, appealed or denied, and
13 shall contain all of the following:

14 1. A statement of the circumstances under which the guardian or agency
15 obtained the authority to consent to the adoption of the stepchild by the stepparent.

16 2. The statements required under subs. (4) and (5), other than the statements
17 that can be made only by a parent of the stepchild.

18 (b) A consent to the adoption of a stepchild by the stepchild's stepparent
19 executed by the stepchild shall be signed or confirmed in the presence of the court
20 or in a manner that the court directs.

21 **(8) PETITION TO ADOPT.** A petition by a stepparent to adopt a stepchild shall be
22 signed and verified by the petitioner and shall contain all of the following
23 information or state why any of the following information is not contained in the
24 petition:

25 (a) The information required under s. 48.88 (4) (a) 1., 3., 5. and 8. to 12. and (b).

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1 (b) The current marital status of the petitioner, including the date and place
2 of marriage, the name and date and place of birth of the petitioner's spouse and, if
3 the spouse is deceased, the date, place and cause of death of the spouse and, if the
4 spouse is incompetent, the date on which a court determined that the spouse is
5 incompetent.

6 (c) The length of time that the stepchild has been in the physical custody of the
7 petitioner and the petitioner's spouse or, if the stepchild is not in the physical custody
8 of the petitioner and the petitioner's spouse, the reason why the petitioner and the
9 petitioner's spouse do not have physical custody of the stepchild and when the
10 petitioner and the petitioner's spouse intend to obtain physical custody of the
11 stepchild.

12 (d) The length of time that the petitioner's spouse or the petitioner has had legal
13 custody of the stepchild and the circumstances under which the petitioner's spouse
14 or petitioner obtained legal custody of the stepchild.

15 **(9) REQUIRED DOCUMENTS.** (a) After a petition to adopt a stepchild is filed, the
16 following documents shall be filed with the court:

17 1. Any document specified in s. 48.88 (5) (a) that is relevant to an adoption by
18 a stepparent.

19 2. A copy of any agreement to waive arrearages of child support.

20 (b) If an item required under par. (a) is not available, the person responsible
21 for furnishing the item shall file an affidavit explaining the absence of the item.

22 **(10) NOTICE OF PENDENCY OF PROCEEDING.** Unless notice has been waived, the
23 petitioner shall serve notice of a proceeding for the adoption of a stepchild, within 30
24 days after the date on which the petition is filed, on all of the following persons:

25 (a) The petitioner's spouse.

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1 (b) Any other person whose consent to the adoption is required under this
2 section.

3 (c) Any person described in s. 48.89 (1) (a) 3., 4. and 6. and (b).

4 (d) The parents of the parent of the minor whose parental rights will be
5 terminated by the adoption, unless the identity or whereabouts of those parents are
6 unknown.

7 **(11) EVALUATION OF STEPPARENT.** (a) After a petition for the adoption of a
8 stepchild is filed, the court may order that an individual who is qualified under s.
9 48.83 (2) make an evaluation of the petitioner to assist the court in determining
10 whether the proposed adoption is in the best interest of the stepchild.

11 (b) The court shall provide the evaluator with copies of the petition for adoption
12 and of the items filed with the petition.

13 (c) Unless otherwise directed by the court, the evaluator shall personally
14 interview the petitioner and the petitioner's spouse in the petitioner's residence,
15 observe the relationship between the stepchild and the petitioner, personally
16 interview other persons who know the petitioner and who may have information
17 relevant to the evaluation, obtain the information specified in par. (d) and base the
18 evaluations on those interviews and that observation and information.

19 (d) An evaluation under par. (a) shall be in writing and shall contain all of the
20 following information:

21 1. The information required under s. 48.83 (3) (d) and (e).

22 2. The information required under s. 48.91 (2) (b) 2. to 5.

23 3. The finding required under s. 48.91 (2) (b) 6.

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1 (e) The evaluator shall complete the evaluation and file the evaluation with the
2 court within 60 days after the date of the court's order for an evaluation, unless the
3 court for good cause allows a later filing.

4 (f) Section 48.91 (3) (b) and (c) applies to an evaluation ordered under par. (a).

5 **(12) DISPOSITIONAL HEARING; DECREE OF ADOPTION.** Section 48.92 applies to a
6 proceeding for the adoption of a stepchild by a stepparent, except that the court may
7 waive the requirements of s. 48.92 (2).

8 **(13) VISITATION AGREEMENT AND ORDER.** (a) On the request of the petitioner in
9 a proceeding for the adoption of a stepchild, the court shall review a written
10 agreement that permits another individual to visit or communicate with the
11 stepchild after the decree of adoption becomes final. The agreement shall be signed
12 by the individual who is permitted visitation or communication, the petitioner, the
13 petitioner's spouse, the stepchild if 12 years of age or over and, if an agency placed
14 the stepchild for adoption, an authorized employe of the agency.

15 (b) The court may enter an order approving the agreement only if the court
16 determines that the agreement is in the best interest of the stepchild. In making that
17 determination, the court shall consider all of the following factors:

18 1. The preference of the stepchild, if the stepchild is mature enough to express
19 a preference.

20 2. Any special needs of the stepchild and how those special needs would be
21 affected by the performance of the agreement.

22 3. The length and quality of any existing relationship between the stepchild
23 and the individual who would be permitted to visit or communicate with the
24 stepchild and the likely effect on the stepchild of permitting the relationship to
25 continue.

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1 4. The specific terms of the agreement and the likelihood that the parties to the
2 agreement will cooperate in performing those terms.

3 5. The recommendation of the stepchild's guardian ad litem, attorney, social
4 worker or other counselor.

5 6. Any other factors that are relevant to the best interest of the stepchild.

6 (c) In addition to any agreement approved under pars. (a) and (b), the court may
7 approve the continuation of an existing order or issue a new order permitting the
8 stepchild's former parent, grandparent or sibling to visit or communicate with the
9 stepchild if all of the following conditions are met:

10 1. The grandparent is the parent of a deceased parent of the stepchild or the
11 parent of a parent of the stepchild whose parental rights to the stepchild are
12 terminated by the decree of adoption.

13 2. The former parent, grandparent or sibling requests that an existing order
14 be permitted to survive the decree of adoption or that a new order be issued.

15 3. The court determines that the requested visitation or communication is in
16 the best interest of the stepchild.

17 (d) In making a determination under par. (c) 3., the court shall consider the
18 factors listed in par. (b) and any objections to the requested order by the adoptive
19 stepparent and the stepparent's spouse.

20 (e) An order issued under this subsection may be enforced in a civil action only
21 if the court finds that enforcement of the order is in the best interest of the stepchild.

22 (f) The court may not modify an order issued under this subsection unless the
23 court finds that modification of the order is in the best interest of the stepchild and
24 that any of the following circumstances applies:

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1 1. All of the individuals who are subject to the order request that the order be
2 modified.

3 2. Exceptional circumstances arising since the order was issued justify
4 modifying the order.

5 (g) Failure to comply with an order approved under this subsection or with any
6 other agreement for visitation or communication with an adoptee stepchild is not a
7 ground for revoking, setting aside or otherwise challenging the validity of a consent
8 to adoption, relinquishment or decree of adoption pertaining to the stepchild, and the
9 validity of the consent, relinquishment or adoption is not affected by any later action
10 to enforce, modify or set aside the order or agreement.

11 **48.95 Records of adoption proceeding; retention, confidentiality and**
12 **access. (1) DEFINITION.** In this section, unless the context requires otherwise,
13 “records” includes all documents, exhibits and data pertaining to an adoption.

14 **(2) RECORDS CONFIDENTIAL; COURT RECORDS SEALED.** (a) All records, whether on
15 file with the court, or in the possession of an agency, the state registrar of vital
16 statistics, a register of deeds, an attorney or another provider of professional services
17 in connection with an adoption, are confidential and may not be inspected except as
18 provided in this subchapter or s. 46.03 (29), 48.432, 48.433, 48.434, 48.48 (17) (a) 9.
19 or 48.57 (1) (j) or by order of the court.

20 (b) During a proceeding for adoption, records are not open to inspection except
21 as directed by the court.

22 (c) Within 30 days after the date on which a decree of adoption becomes final,
23 the clerk of the court shall send to the state registrar of vital statistics, in addition
24 to the report of the adoption under s. 48.93 (1), a certified copy of any document
25 signed under s. 48.85 (4) (e) 5. and filed in the proceeding for adoption.

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1 (d) All records on file with the court shall be retained permanently and sealed
2 for 99 years after the date of the adoptee's birth. Sealed records and indices of the
3 records are not open to inspection by any person except as provided in this
4 subchapter or by order of the court.

5 (e) Any additional information about an adoptee, the adoptee's former parents
6 or the adoptee's genetic history that is submitted to the court within 99 years after
7 the date of the adoptee's birth shall be added to the sealed records of the court. Any
8 additional information about an adoptee, the adoptee's former parents or the
9 adoptee's genetic history that is submitted to an agency, attorney or other provider
10 of professional services within that 99-year period shall be kept confidential.

11 **(3) RELEASE OF NONIDENTIFYING INFORMATION.** (a) An adoptive parent or
12 guardian of an adoptee who has not attained the age of 18 years, an adoptee who has
13 attained the age of 18 years, an emancipated adoptee, a deceased adoptee's direct
14 descendant who has attained the age of 18 years or the parent or guardian of a
15 deceased adoptee's direct descendant who has not attained the age of 18 years may
16 request the court that granted the adoption or the agency that placed the adoptee for
17 adoption to provide the individual making the request with the nonidentifying
18 information about the adoptee, the adoptee's former parents and the adoptee's
19 genetic history that the court or agency has retained, including the information
20 specified in s. 48.82 (6).

21 (b) The court or agency from which the nonidentifying information is requested
22 under par. (a) shall furnish the individual who makes the request with a detailed
23 summary of any report or information that is relevant to the request and that is
24 included in the sealed records of the court or the confidential records of the agency.
25 The summary shall exclude identifying information concerning an individual who

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1 has filed a document requesting confidentiality with the court or agency. The
2 department shall prescribe forms and a procedure for summarizing any report or
3 information that is released under this paragraph.

4 (c) An individual who is denied access to nonidentifying information to which
5 the individual is entitled under this section or s. 48.82 (6) may petition the court for
6 relief.

7 (d) If the court receives a certified statement from a physician that explains in
8 detail how a health condition may seriously affect the health of an adoptee or a direct
9 descendant of an adoptee, the court shall make a diligent effort to notify the adoptee,
10 if the adoptee has attained the age of 18 years, an adoptive parent or guardian of the
11 adoptee, if the adoptee has not attained the age of 18 years, or a direct descendant
12 of a deceased adoptee that nonidentifying information about that health condition
13 is available and may be requested from the court.

14 (e) If the court receives a certified statement from a physician that explains in
15 detail why a serious health condition of an adoptee or a direct descendant of an
16 adoptee should be communicated to the adoptee's genetic parent or sibling to enable
17 the parent or sibling to make an informed reproductive decision, the court shall make
18 a diligent effort to notify the genetic parent or sibling that nonidentifying
19 information about that serious health condition is available and may be requested
20 from the court.

21 (f) If the state registrar of vital statistics receives a request for information
22 about an adoptee from an individual under this subsection or if an individual
23 furnishes any additional information about an adoptee to the state registrar under
24 this subsection, the state registrar shall give the individual the name and address
25 of the court or agency that has the records concerning the adoptee and, if the court

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1 or agency is in another state, shall assist the individual in locating the court or
2 agency. The state registrar shall prescribe a procedure for verifying the identity, age
3 or other relevant characteristics of an individual who requests or furnishes
4 information under this subsection.

5 (4) DISCLOSURE OF IDENTIFYING INFORMATION. (a) Except as otherwise provided
6 in this section, identifying information about an adoptee's former parent, an adoptee
7 or an adoptive parent that is contained in records, including copies of original birth
8 certificates, required by this chapter to be kept confidential or sealed may not be
9 disclosed to any person.

10 (b) The state registrar of vital statistics shall disclose identifying information
11 about an adoptee's former parent to an adoptee who has attained the age of 18 years,
12 an adoptive parent or guardian of an adoptee who has not attained the age of 18
13 years, a deceased adoptee's direct descendant who has attained the age of 18 years
14 or the parent or guardian of a deceased adoptee's direct descendant who has not
15 attained the age of 18 years on the request of any of those individuals unless the
16 adoptee's former parent or, if the former parent is deceased or has been judicially
17 declared incompetent, an adult descendant of the former parent prohibits the
18 disclosure of the former parent's name, date of birth, last-known address or other
19 identifying information either in a document signed under s. 48.85 (4) (e) 5. and filed
20 in the proceeding for adoption or in another signed document kept by the court, an
21 agency or the state registrar.

22 (c) The state registrar shall disclose identifying information about an adoptee
23 or a deceased adoptee's direct descendant to an adoptee's former parent if the former
24 parent requests the information and if the adoptee or direct descendant has attained
25 the age of 18 years.

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1 (d) The state registrar shall disclose identifying information about an adult
2 sibling of an adoptee who has attained the age of 18 years to the adoptee if the sibling
3 is also an adoptee.

4 (e) Paragraph (d) does not permit the disclosure of a former parent's identity
5 if that parent has prohibited that disclosure under this subchapter or s. 48.433 or
6 48.434.

7 **(5) ACTION FOR DISCLOSURE OF INFORMATION.** (a) To obtain information not
8 otherwise available under sub. (3), (4) or (7), an adoptee who has attained the age of
9 18 years, an adoptee who has not attained the age of 18 years but who has obtained
10 the permission of an adoptive parent or guardian, an adoptive parent or guardian of
11 an adoptee who has not attained the age of 18 years, a deceased adoptee's direct
12 descendant who has attained the age of 18 years, the parent or guardian of a
13 deceased adoptee's direct descendant who has not attained the age of 18 years or an
14 adoptee's former parent may file a petition with the court to obtain information about
15 another individual described in this paragraph that is contained in records,
16 including copies of original birth certificates, required by this subchapter to be kept
17 confidential and sealed.

18 (b) In determining whether to grant a petition under this subsection, the court
19 shall review the sealed records of the proceeding for adoption and shall make specific
20 findings concerning all of the following:

21 1. The reason why the petitioner seeks the information, if the petitioner is an
22 adoptee who has not attained 18 years of age, but who has obtained the permission
23 of a parent or guardian to seek the information, or if the petitioner is an adoptive
24 parent or guardian of an adoptee who has not attained 18 years of age.

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1 2. Whether the individual about whom the information is sought has filed a
2 signed document described in sub. (4) or s. 48.85 (4) (e) 5. requesting that the identity
3 of the individual not be disclosed.

4 3. Whether the individual about whom the information is sought is alive.

5 4. Whether it is possible to satisfy the petitioner's request without disclosing
6 the identity of another individual.

7 5. The likely effect that disclosure of the information would have on the
8 adoptee, the adoptive parents, the adoptee's former parents and other members of
9 the adoptee's original and adoptive families.

10 (c) The court may order the disclosure of the requested information only if the
11 court determines that good cause exists for the disclosure based on the findings
12 required under par. (b), that there is a compelling reason for disclosure of the
13 information and that the benefit to the petitioner of the disclosure will be greater
14 than the harm to any other individual.

15 **(6) STATEWIDE REGISTRY.** The state registrar of vital statistics shall do all of the
16 following:

17 (a) Establish a statewide confidential registry for receiving, filing and
18 retaining documents requesting or prohibiting the release of identifying
19 information.

20 (b) Prescribe and distribute forms or documents on which an individual may
21 request or prohibit the release of identifying information.

22 (c) Devise a procedure for releasing identifying information in the state
23 registrar's possession on receipt of an appropriate request and authorization.

24 (d) Cooperate with registries in other states to facilitate the matching of
25 documents filed under this section by individuals in different states.

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1 (e) Announce and publicize to the general public the existence of the registry
2 and the procedure for the consensual release of identifying information.

3 **(7) RELEASE OF ORIGINAL BIRTH CERTIFICATE.** (a) The state registrar of vital
4 statistics shall furnish a copy of an adoptee's original birth certificate on the request
5 of an adoptee who has attained the age of 18 years, an adoptive parent or guardian
6 of an adoptee who has not attained the age of 18 years or, if the adoptee is deceased,
7 a direct descendent of the deceased adoptee who has attained the age of 18 years or
8 the parent or guardian of a direct descendant who has not attained the age of 18 years
9 unless any individual who is named as a parent on the adoptee's original birth
10 certificate has prohibited that disclosure either in a document signed under s. 48.85
11 (4) (e) 5. and filed in the proceeding for adoption or in another signed document kept
12 by the court, an agency or the state registrar.

13 (b) When 99 years have elapsed after the date of birth of an adoptee whose
14 original birth certificate is sealed under this subchapter, the state registrar shall
15 unseal the original birth certificate and file the original birth certificate with any
16 new or amended birth certificate that has been issued. When unsealed, a birth
17 certificate becomes a public record and may be released under s. 69.20 or 69.21 or
18 under any other law governing the retention and disclosure of vital records.

19 **(8) CERTIFICATE OF ADOPTION.** On the request of an adoptee who has attained
20 the age of 18 years or an adoptive parent, the clerk of the court that entered a decree
21 of adoption shall issue a certificate of adoption that states the date and place of
22 adoption, the date of birth of the adoptee, the name of each adoptive parent and the
23 name of the adoptee as provided in the decree of adoption.

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1 **(9) DISCLOSURE AUTHORIZED IN COURSE OF EMPLOYMENT.** This section does not
2 prohibit an employe or agent of the court, an agency or the state registrar of vital
3 statistics from doing any of the following:

4 (a) Inspecting permanent, confidential or sealed records for the purpose of
5 discharging any obligation under this subchapter.

6 (b) Disclosing the name of the court in which a proceeding for adoption occurred
7 or the name of an agency that placed an adoptee to an individual described in sub.
8 (3), (4) or (5) who can verify his or her identity.

9 (c) Disclosing nonidentifying information contained in confidential or sealed
10 records in accordance with any other applicable state or federal law.

11 **(10) FEE FOR SERVICES.** A court, an agency or the state registrar of vital statistics
12 may charge a reasonable fee for services, including copying services, performed
13 under this section.

14 **48.96 Prohibited and permissible activities in connection with**
15 **adoption. (1) PROHIBITED ACTIVITIES IN PLACEMENT. (a) 1.** Except as otherwise
16 provided in s. 48.82, a person, other than a parent, guardian or agency, as specified
17 in s. 48.82 (1) to (3), or a person providing adoption information exchange services
18 under s. 48.55 or adoption information under s. 48.551 may not place a minor for
19 adoption or advertise in any public medium that the person knows of a minor who
20 is available for adoption.

21 2. Except as otherwise provided in s. 48.82, a person, other than an agency or
22 an individual who has a favorable preplacement evaluation, as required by s. 48.83,
23 may not advertise in any public medium that the person is willing to accept a minor
24 for adoption.

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1 3. Except as otherwise provided in s. 48.82, an individual, other than a relative
2 or stepparent of a minor, who does not have a favorable preplacement evaluation or
3 or who has an unfavorable preplacement evaluation may not obtain legal custody or
4 physical custody of a minor for the purpose of adoption.

5 4. Except as otherwise provided in s. 48.82, a person may not place or assist in
6 placing a minor for adoption with an individual, other than a relative or stepparent,
7 unless the person knows that the individual has a favorable preplacement
8 evaluation.

9 (b) Any person who violates par. (a) 1., 2., 3. or 4. may be required to forfeit not
10 more than \$5,000 for the first offense and may be required to forfeit not more than
11 \$10,000 for any 2nd or later offense. The court may enjoin from committing any
12 further violations any person who violates par. (a) 1., 2., 3. or 4. and shall inform any
13 appropriate licensing authority or other official of the violation.

14 **(2) UNLAWFUL PAYMENTS RELATED TO ADOPTION.** (a) Except as otherwise provided
15 in subs. (3) and (4), a person may not pay or give, or offer to pay or give, to any other
16 person, or request, receive or accept, any money or anything of value, directly or
17 indirectly, for any of the following:

18 1. The placement of a minor for adoption.

19 2. The consent of a parent, guardian or agency to the adoption of a minor.

20 3. The relinquishment of a minor to an agency for the purpose of adoption.

21 (b) 1. Any person who knowingly violates par. (a) may be required to forfeit not
22 more than \$5,000 for the first offense and may be required to forfeit not more than
23 \$10,000 for any 2nd or later offense.

24 2. Any person who knowingly makes a false report to the court about a payment
25 that is prohibited under par. (a) or authorized under sub. (3) or (4) may be required

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1 to forfeit not more than \$5,000 for the first offense and may be required to forfeit not
2 more than \$10,000 for any 2nd or later offense.

3 3. Any parent or guardian who knowingly receives or accepts a payment
4 authorized under sub. (3) or (4) with the intent not to consent to an adoption or to
5 relinquish a minor for adoption may be required to forfeit not more than \$5,000 for
6 the first offense and may be required to forfeit not more than \$10,000 for any 2nd or
7 later offense.

8 (c) The court may enjoin from committing any further violations any person
9 described in par. (b) 1., 2. or 3. and shall inform any appropriate licensing authority
10 or other official of the violation.

11 **(3) LAWFUL PAYMENTS RELATED TO ADOPTION.** (a) Subject to the requirements of
12 s. 48.92 (2) and (3) (a) 8. for an accounting and judicial approval of the fees and
13 charges related to an adoption, an adoptive parent or a person acting on behalf of an
14 adoptive parent may pay for any of the following:

15 1. The services of an agency in connection with an adoption.

16 2. Advertising and similar expenses incurred in locating a minor for adoption.

17 3. Medical, hospital, nursing, pharmaceutical, travel or other similar expenses
18 incurred by a mother or her minor child in connection with the birth or any illness
19 of the minor child.

20 4. Counseling services provided to a parent or a minor for a reasonable time
21 before and after the minor's placement for adoption.

22 5. Living expenses of a mother for a reasonable time before the birth of her child
23 and for no more than 6 weeks after the birth of the child.

24 6. Expenses incurred in ascertaining the information required under s. 48.82
25 (6).

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1 7. Legal services, court costs, travel and other administrative expenses
2 connected with an adoption, including any legal services performed for a parent who
3 consents to the adoption of a minor or who relinquishes the minor to an agency for
4 the purpose of adoption.

5 8. Expenses incurred in obtaining a preplacement evaluation and an
6 evaluation during the proceeding for adoption.

7 9. Any other service that the court finds is reasonably necessary.

8 (b) A parent or a guardian, a person acting on behalf of a parent or guardian
9 or a provider of a service listed in par. (a) may receive or accept a payment authorized
10 under par. (a). The payment may not be made contingent on the placement of a minor
11 for adoption, the relinquishment of a minor or the consent to the adoption of a minor.
12 If the adoption is not completed, a person who is authorized to make a specific
13 payment under par. (a) is not liable for that payment unless the person has agreed
14 in a signed writing with a provider of a service to make the payment regardless of
15 the outcome of the proceeding for adoption.

16 **(4) CHARGES BY AGENCY.** Subject to the requirements of s. 48.92 (2) and (3) (a)
17 8. for an accounting and judicial approval of the fees and charges related to an
18 adoption, an agency may charge or accept a fee or other reasonable compensation
19 from a prospective adoptive parent for any of the following:

20 (a) Medical, hospital, nursing, pharmaceutical, travel or other similar
21 expenses incurred by a mother or her minor child in connection with the birth or any
22 illness of the minor child.

23 (b) A percentage of the annual cost that the agency incurs in locating and
24 providing counseling services for adoptees, parents and prospective adoptive
25 parents.

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1 (c) Living expenses of a mother for a reasonable time before the birth of her
2 child and for no more than 6 weeks after the birth of the child.

3 (d) Expenses incurred in ascertaining the information required under s. 48.82
4 (6).

5 (e) Legal services, court costs, travel and other administrative expenses
6 connected with an adoption, including any legal services performed for a parent who
7 relinquishes a minor to the agency for purposes of adoption.

8 (f) Preparation of a preplacement evaluation and an evaluation during the
9 proceeding for adoption.

10 (g) Any other service that the court finds is reasonably necessary.

11 **(5) FAILURE TO DISCLOSE INFORMATION.** (a) Any person, other than a parent who
12 placed a minor for adoption, who has a duty to provide the nonidentifying
13 information required under s. 48.82 (6) or the nonidentifying information authorized
14 for release under s. 48.95 (3) and who intentionally refuses to provide that
15 information may be required to forfeit not more than \$5,000 for the first offense and
16 may be required to forfeit not more than \$10,000 for any 2nd or later offense. The
17 court may enjoin the person from committing any further violations of the duty to
18 furnish nonidentifying information.

19 (b) An employe or agent of an agency, the court or the state registrar of vital
20 statistics who intentionally destroys any information or report compiled under s.
21 48.82 (6) or authorized for release under s. 48.95 may be fined \$10,000 or imprisoned
22 for not more than 9 months or both.

23 (c) In addition to the penalties provided in pars. (a) and (b), an adoptive parent,
24 an adoptee or any person who is the subject of any information required under s.
25 48.82 (6) or authorized for release under s. 48.95 may maintain an action for damages

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1 or equitable relief against a person, other than a parent who placed a minor for
2 adoption, who fails to perform the duties required under s. 48.82 (6) or 48.95.

3 (d) A prospective adoptive parent who knowingly fails to furnish information
4 or who knowingly furnishes false information to an evaluator preparing an
5 evaluation under s. 48.83 or 48.91 with the intent to deceive the evaluator may be
6 fined \$10,000 or imprisoned for not more than 9 months or both.

7 (e) An evaluator who prepares an evaluation under s. 48.83 or 48.91 and who
8 knowingly omits or misrepresents any information about the individual being
9 evaluated with the intent to deceive a person authorized under this subchapter to
10 place a minor for adoption may be fined \$10,000 or imprisoned for not more than 9
11 months or both.

12 (f) A parent of a minor who knowingly misidentifies the other parent with the
13 intent to deceive the other parent, an agency or a prospective adoptive parent may
14 be required to forfeit not more than \$5,000.

15 **(6) UNAUTHORIZED DISCLOSURE OF INFORMATION.** (a) Except as authorized in this
16 subchapter, a person who provides or retains a report or record under this subchapter
17 may not disclose any identifying or nonidentifying information contained in the
18 report or record.

19 (b) A person who knowingly gives or offers to give or who accepts or agrees to
20 accept anything of value for an unauthorized disclosure of identifying information
21 made confidential by this subchapter may be fined \$10,000 or imprisoned for 9
22 months or both for the first offense and may be fined \$10,000 or imprisoned for 2
23 years or both for any 2nd or later offense.

24 (c) A person who knowingly gives or offers to give or who accepts or agrees to
25 accept anything of value for an unauthorized disclosure of nonidentifying

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1 information made confidential by this subchapter may be required to forfeit \$5,000
2 for the first offense and may be required to forfeit \$10,000 for any 2nd or later offense.

3 (d) A person who knowingly makes an unauthorized disclosure of identifying
4 or nonidentifying information from a report or record made confidential by this
5 subchapter may be required to forfeit \$2,500 for the first offense and may be required
6 to forfeit \$5,000 for any 2nd or later offense.

7 (e) The court may enjoin from committing any further violations any person
8 who makes or obtains an unauthorized disclosure of any identifying or
9 nonidentifying information made confidential by this subchapter and shall inform
10 any appropriate licensing authority or other official of the violation.

11 (f) In addition to the penalties provided in pars. (b) to (e), an individual who is
12 the subject of any of the information contained in a report or record made confidential
13 by this subchapter may maintain an action for damages or equitable relief against
14 any person who makes or obtains, or who is likely to make or obtain, an unauthorized
15 disclosure of that information.

16 (g) Identifying information contained in a report or record required by this
17 subchapter to be kept confidential or sealed may not be disclosed under s. 19.35,
18 69.20, 69.21 or under any other law of this state.

19 **48.97 Short title; uniformity of application and construction.** This
20 subchapter and ch. 882 may be cited as the "Uniform Adoption Act". This subchapter
21 and ch. 882 shall be applied and construed to effectuate the general purpose of
22 making uniform the law with respect to the subject of this subchapter and ch. 882
23 among the states enacting the Uniform Adoption Act.

24 **SECTION 66.** Subchapter XX (title) of chapter 48 [precedes 48.973] of the
25 statutes is repealed and recreated to read:

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CHAPTER 48

SUBCHAPTER XX

MISCELLANEOUS PROVISIONS

SECTION 67. 48.973 of the statutes is created to read:

48.973 Visitation rights of certain persons. (1) Upon petition by a relative who has maintained a relationship similar to a parent-child relationship with a child who has been adopted by a stepparent or relative, the court may grant reasonable visitation rights to that person if the petitioner has maintained such a relationship within 2 years prior to the filing of the petition, if the parents of the child, have notice of the hearing and if the court determines all of the following:

(a) That visitation is in the best interest of the child.

(b) That the petitioner will not undermine the parents' relationship with the child.

(c) That the petitioner will not act in a manner that is contrary to parenting decisions made by the child's parents that are related to the child's physical, emotional, educational or spiritual welfare.

(2) Whenever possible, in making a determination under sub. (1), the court shall consider the wishes of the adopted child.

(3) This section applies to every child in this state who has been adopted by a stepparent or relative regardless of the date of the adoption.

(4) Any person who interferes with visitation rights granted under sub. (1) may be proceeded against for contempt of court under ch. 785, except that a court may impose only the remedial sanctions specified in s. 785.04 (1) (a) and (c) against that person.

SECTION 68. 48.976 of the statutes is created to read:

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1 **48.976 Foreign adoption fees. (1)** In this section, “foreign adoption” means
2 the adoption of a child, who is a citizen of a foreign country, in accordance with any
3 of the types of adoption procedures specified under subchapter XIX.

4 **(2)** The department may charge a fee of not more than \$75 to the adoptive
5 parents for reviewing foreign adoption documents and for providing necessary
6 certifications required by state and federal law.

7 **(3)** The department may also charge a fee of not more than \$75 to the adoptive
8 parents for the review and certification of adoption documents for adoptions that
9 occur in a foreign country.

10 **SECTION 69.** 48.979 of the statutes is created to read:

11 **48.979 Appointment of guardian for child without a living parent for**
12 **adoptability finding. (1) TYPE OF GUARDIANSHIP.** This section may be used for the
13 appointment of a guardian of a child who does not have a living parent if a finding
14 as to the adoptability of a child is sought. Except as provided in ss. 48.977 and 48.978,
15 ch. 880 applies to the appointment of a guardian for a child who does not have a living
16 parent for all other purposes. An appointment of a guardian of the estate of a child
17 who does not have a living parent shall be conducted in accordance with the
18 procedures specified in ch. 880.

19 **(1m) PETITION.** Any of the following may file a petition for appointment of a
20 guardian for a child who is believed to be in need of protection or services because he
21 or she is without a living parent as described under s. 48.13 (1):

22 (a) The department.

23 (b) A county department.

24 (c) A child welfare agency licensed under s. 48.61 (5) to accept guardianship.

ASSEMBLY BILL 526**SECTION 69**

1 (d) A relative or family member of the child or a person whom the child has
2 resided with and who has also acted as a parent of the child.

3 (e) A guardian appointed under ch. 880 whose resignation as guardian has been
4 accepted by a court under s. 880.17 (1).

5 **(2) REPORT.** If the department, county department or child welfare agency files
6 a petition, it shall submit a report to the court containing as much of the information
7 specified under s. 48.425 (1) (a) and (am) as is reasonably ascertainable and, if
8 applicable, the information specified under s. 48.425 (1) (g). If the petition is filed
9 by a relative or other person specified under sub. (1m) (d), the court shall order the
10 department or a child welfare agency, if the department or agency consents, or a
11 county department to file a report containing the information specified in this
12 subsection. The department, county department or child welfare agency shall file
13 the report at least 5 days before the date of the fact-finding hearing on the petition.

14 **(3) FACT-FINDING HEARING.** The court shall hold a fact-finding hearing on the
15 petition, at which any party may present evidence relevant to the issue of whether
16 the child has a living parent. If the court finds that the child has a living parent, the
17 court shall dismiss the petition or grant the petitioner leave to amend the petition
18 to a petition under s. 48.42 (1).

19 **(4) DISPOSITIONAL HEARING.** (a) If the court, at the conclusion of the fact-finding
20 hearing, finds that the child has no living parent, the court shall proceed to a
21 dispositional hearing. Any party may present evidence, including expert testimony,
22 relevant to the issue of disposition. In determining the appropriate disposition, the
23 court shall consider any factors under s. 48.426 (3) (a) to (d) that are applicable.

24 (b) If the court finds that adoption is in the child's best interest, the court shall
25 order that the child be placed in the guardianship and custody of one of the following:

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1 1. A county department authorized to accept guardianship under s. 48.57 (1)
2 (e) or (hm).

3 2. A child welfare agency licensed under s. 48.61 (5) to accept guardianship.

4 3. The department.

5 (c) If the court finds that adoption is not in the child's best interest, the court
6 shall order that the child be placed in the guardianship of the department and place
7 the child in the custody of a county department or, in a county having a population
8 of 500,000 or more, the department or an agency under contract with the
9 department.

10 (d) Section 48.43 (5), (5m) and (7) applies to orders under pars. (b) and (c).

11 (e) The court shall order the custodian appointed under par. (b) or (c) to prepare
12 a permanency plan under s. 48.38 for the child within 60 days after the date of the
13 order. A permanency plan ordered under this paragraph is subject to review under
14 s. 48.38 (5). In preparing a permanency plan, the department, county department
15 or child welfare agency need not include any information specified in s. 48.38 (4) that
16 relates to the child's parents or returning the child to his or her home. In reviewing
17 a permanency plan, a court or panel need not make any determination under s. 48.38
18 (5) (c) that relates to the child's parents or returning the child to his or her home.

19 **SECTION 70.** 48.9795 of the statutes is created to read:

20 **48.9795 Transfer of guardianship upon revocation of guardian's**
21 **license or contract.** If the department revokes the license of a county department
22 licensed under s. 48.57 (1) (hm) to accept guardianship, or of a child welfare agency
23 licensed under s. 48.61 (5) to accept guardianship, or if the department terminates
24 the contract of a county department licensed under s. 48.57 (1) to (e) to accept
25 guardianship, the department shall file a motion in the court that appointed the

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1 guardian for each child in the guardianship of the county department or agency,
2 requesting that the court transfer guardianship and custody of the child. The motion
3 may specify a county department or child welfare agency that has consented to
4 accept guardianship of the child. The court shall transfer guardianship and custody
5 of the child either to the county department or child welfare agency specified in the
6 motion or to another county department under s. 48.57 (1) (e) or (hm) or a child
7 welfare agency under s. 48.61 (5) which consents to the transfer. If no county
8 department or child welfare agency consents, the court shall transfer guardianship
9 and custody of the child to the department.

10 **SECTION 71.** 48.98 (4) (b) of the statutes is amended to read:

11 48.98 (4) (b) Section ~~48.839~~ 48.82 (8) governs the placement of children who are
12 not U.S. citizens and not under agency guardianship who are brought into this state
13 from a foreign jurisdiction for the purpose of adoption.

14 **SECTION 72.** 48.981 (7) (a) 13. of the statutes is amended to read:

15 48.981 (7) (a) 13. The department, a county department under s. 48.57 (1) (e)
16 or (hm) or a licensed child welfare agency ordered to conduct ~~a screening or an~~
17 ~~investigation~~ an evaluation of a stepparent under s. ~~48.88 (2) (e)~~ 48.94 (11).

18 **SECTION 73.** 49.32 (1) (b) of the statutes is amended to read:

19 49.32 (1) (b) Any person receiving services provided or purchased under par.
20 (a) or the spouse of the person and, in the case of a minor, the parents of the person,
21 and, in the case of a foreign child described in s. ~~48.839 (1)~~ 48.82 (8) who became
22 dependent on public funds for his or her primary support before an order granting
23 his or her adoption, the resident of this state appointed guardian of the child by a
24 foreign court who brought the child into this state for the purpose of adoption, shall
25 be liable for the services in the amount of the fee established under par. (a).

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1 **SECTION 74.** 51.30 (4) (b) 18. c. of the statutes is amended to read:

2 51.30 (4) (b) 18. c. If the patient, regardless of age, has a guardian appointed
3 under s. 880.33, or if the patient is a minor with developmental disability who has
4 a parent or has a guardian appointed under s. ~~48.831~~ 48.979 and does not have a
5 guardian appointed under s. 880.33, information concerning the patient that is
6 obtainable by staff members of the agency or nonprofit corporation with which the
7 agency has contracted is limited, except as provided in subd. 18. e., to the nature of
8 an alleged rights violation, if any; the name, birth date and county of residence of the
9 patient; information regarding whether the patient was voluntarily admitted,
10 involuntarily committed or protectively placed and the date and place of admission,
11 placement or commitment; and the name, address and telephone number of the
12 guardian of the patient and the date and place of the guardian's appointment or, if
13 the patient is a minor with developmental disability who has a parent or has a
14 guardian appointed under s. ~~48.831~~ 48.979 and does not have a guardian appointed
15 under s. 880.33, the name, address and telephone number of the parent or guardian
16 appointed under s. ~~48.831~~ 48.979 of the patient.

17 **SECTION 75.** 69.14 (3) (c) of the statutes is amended to read:

18 69.14 (3) (c) If at any time after a birth certificate is filed for a registrant under
19 this subsection a birth certificate filed for the registrant at the time of birth of the
20 registrant is found or the registrant is adopted and the adoptive parents sign a birth
21 record giving their names as the adoptive parents, the state registrar shall impound
22 the birth certificate filed under this subsection and prohibit access to the birth
23 certificate for 99 years after the date of birth of the registrant except by court order
24 or except by the state registrar for processing purposes or except when authorized
25 under s. 48.432, 48.433 or 48.95 (7).

ASSEMBLY BILL 526**SECTION 76**

1 **SECTION 76.** 69.15 (2) (a) (intro.) of the statutes is amended to read:

2 69.15 (2) (a) (intro.) Except as provided under par. (b), if the state registrar
3 receives an order under sub. (1) which provides for an adoption, the state registrar
4 shall prepare, under sub. (6), a new certificate for the subject of the adoption unless
5 the court orders, or the adoptive parents or the subject of the adoption who has
6 attained the age of 12 years, requests, under s. ~~48.94~~ 48.93 (1) (a) 2., that no new
7 certificate be prepared. If the order is from a court in this state, the order shall
8 include a certified copy of the original birth certificate registered for the subject of
9 the adoption. The new certificate shall show:

10 **SECTION 77.** 69.15 (2) (b) of the statutes is amended to read:

11 69.15 (2) (b) If the state registrar receives an order under sub. (1) which
12 provides for an adoption of any person born outside of the United States by any
13 person who is a resident of this state at the time of adoption, ~~and if the adoptive~~
14 ~~parents present proof of the facts of birth to the state registrar, the state registrar~~
15 ~~shall prepare a certification of birth data for the subject of the adoption. The~~
16 ~~certification shall indicate the date and place of birth, the child's adoptive name, the~~
17 ~~adoptive parents' names, and the sources of information of each of these facts. If~~
18 ~~neither of the birth parents of the subject of the adoption are U.S. citizens, the new~~
19 ~~certification may include proof of the naturalization of the subject of the adoption the~~
20 state registrar shall issue a certificate of foreign birth as provided in s. 48.93 (2) (a)
21 3.

22 **SECTION 78.** 69.15 (6) (b) of the statutes is amended to read:

23 69.15 (6) (b) The state registrar shall register a new certificate created under
24 this section and shall impound the original certificate or the certificate registered
25 under sub. (5) and all correspondence, affidavits, court orders and other related

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1 materials and prohibit access to the original birth certificate for 99 years after the
2 date of birth of the registrant except by court order or except by the state registrar
3 for processing purposes or except when authorized under ~~ss. s.~~ 48.432 and 48.433
4 or 48.95 (7). The state registrar shall send a copy of any new certificate registered
5 under this section to the local registrar who filed the original of the replaced
6 certificate. Upon receipt of the copy, the local registrar shall destroy his or her copy
7 of the replaced certificate and file the new certificate.

8 **SECTION 79.** 71.05 (6) (b) 22. of the statutes is amended to read:

9 71.05 **(6)** (b) 22. For taxable years beginning after December 31, 1995, an
10 amount up to \$5,000 that is expended during the period that consists of the year to
11 which the claim relates and the prior 2 taxable years, by a full-year resident of this
12 state who is an adoptive parent, for adoption fees, court costs or legal fees relating
13 to the adoption of a child, for whom a final order of adoption has been entered under
14 s. ~~48.91 (3)~~ 48.92 or 48.94 during the taxable year.

15 **SECTION 80.** 103.10 (3) (b) 2. of the statutes is amended to read:

16 103.10 **(3)** (b) 2. The placement of a child with the employe for adoption ~~or as~~
17 ~~a precondition to adoption under s. 48.90 (2), but not both~~ under s. 48.82, if the leave
18 begins within 16 weeks of the child's placement.

19 **SECTION 81.** 146.82 (2) (a) 9. c. of the statutes is amended to read:

20 146.82 **(2)** (a) 9. c. If the patient, regardless of age, has a guardian appointed
21 under s. 880.33, or if the patient is a minor with developmental disability, as defined
22 in s. 51.01 (5) (a), who has a parent or has a guardian appointed under s. ~~48.831~~
23 48.979 and does not have a guardian appointed under s. 880.33, information
24 concerning the patient that is obtainable by staff members of the agency or nonprofit
25 corporation with which the agency has contracted is limited, except as provided in

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1 subd. 9. e., to the nature of an alleged rights violation, if any; the name, birth date
2 and county of residence of the patient; information regarding whether the patient
3 was voluntarily admitted, involuntarily committed or protectively placed and the
4 date and place of admission, placement or commitment; and the name, address and
5 telephone number of the guardian of the patient and the date and place of the
6 guardian's appointment or, if the patient is a minor with developmental disability
7 who has a parent or has a guardian appointed under s. ~~48.831~~ 48.979 and does not
8 have a guardian appointed under s. 880.33, the name, address and telephone
9 number of the parent or guardian appointed under s. ~~48.831~~ 48.979 of the patient.

10 **SECTION 82.** 146.82 (2) (a) 18m. of the statutes is amended to read:

11 146.82 (2) (a) 18m. If the subject of the patient health care records is a child
12 or juvenile who has been placed in a foster home, treatment foster home, group home,
13 child caring institution or a secured correctional facility, including a placement
14 under s. 48.205, 48.21, 938.205 or 938.21 or for whom placement in a foster home,
15 treatment foster home, group home, child caring institution or secured correctional
16 facility is recommended under s. 48.33 (4), 48.425 (1) (g), ~~48.837 (4) (e)~~ or 938.33 (3)
17 or (4), to an agency directed by a court to prepare a court report under s. 48.33 (1),
18 48.424 (4) (b), 48.425 (3), ~~48.831 (2), 48.837 (4) (e)~~ 48.979 (2) or 938.33 (1), to an agency
19 responsible for preparing a court report under s. 48.365 (2g), 48.425 (1), ~~48.831 (2),~~
20 ~~48.837 (4) (e)~~ 48.979 (2) or 938.365 (2g), to an agency responsible for preparing a
21 permanency plan under s. 48.355 (2e), 48.38, 48.43 (1) (c) or (5) (c), 48.63 (4), ~~48.831~~
22 ~~(4) (e)~~ 48.979 (4) (e), 938.355 (2e) or 938.38 regarding the child or juvenile or to an
23 agency that placed the child or juvenile or arranged for the placement of the child or
24 juvenile in any of those placements and, by any of those agencies, to any other of those
25 agencies and, by the agency that placed the child or juvenile or arranged for the

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1 placement of the child or juvenile in any of those placements, to the foster parent or
2 treatment foster parent of the child or juvenile or the operator of the group home,
3 child caring institution or secured correctional facility in which the child or juvenile
4 is placed, as provided in s. 48.371 or 938.371.

5 **SECTION 83.** 252.15 (5) (a) 19. of the statutes is amended to read:

6 252.15 (5) (a) 19. If the test was administered to a child who has been placed
7 in a foster home, treatment foster home, group home, child caring institution or
8 secured correctional facility, as defined in s. 938.02 (15m), including a placement
9 under s. 48.205, 48.21, 938.205 or 938.21 or for whom placement in a foster home,
10 treatment foster home, group home, child caring institution or secured correctional
11 facility is recommended under s. 48.33 (4), 48.425 (1) (g), ~~48.837 (4) (e)~~ or 938.33 (3)
12 or (4), to an agency directed by a court to prepare a court report under s. 48.33 (1),
13 48.424 (4) (b), 48.425 (3), ~~48.831 (2)~~, ~~48.837 (4) (e)~~ 48.979 (2) or 938.33 (1), to an agency
14 responsible for preparing a court report under s. 48.365 (2g), 48.425 (1), ~~48.831 (2)~~,
15 ~~48.837 (4) (e)~~ 48.979 (2) or 938.365 (2g), to an agency responsible for preparing a
16 permanency plan under s. 48.355 (2e), 48.38, 48.43 (1) (c) or (5) (c), 48.63 (4), ~~48.831~~
17 ~~(4) (e)~~ 48.979 (4) (e), 938.355 (2e) or 938.38 regarding the child or to an agency that
18 placed the child or arranged for the placement of the child in any of those placements
19 and, by any of those agencies, to any other of those agencies and, by the agency that
20 placed the child or arranged for the placement of the child in any of those placements,
21 to the child's foster parent or treatment foster parent or the operator of the group
22 home, child caring institution or secured correctional facility in which the child is
23 placed, as provided in s. 48.371 or 938.371.

24 **SECTION 84.** 252.15 (5) (a) 20. of the statutes is created to read:

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1 252.15 (5) (a) 20. If the test was administered to a child who has been placed
2 for adoption under s. 48.82 (3) or who is proposed to be placed for adoption under s.
3 48.82 (3), to the agency that placed the child or that is arranging the placement of
4 the child and, by that agency, to the proposed adoptive parents of the child.

5 **SECTION 85.** 301.03 (18) (b) of the statutes is amended to read:

6 301.03 (18) (b) Except as provided in s. 301.12 (14) (b) and (c), hold liable for
7 the services provided or purchased under par. (a) in the amount of the fee established
8 under par. (a) any person receiving those services or the spouse of the person and,
9 in the case of a minor, the parents of the person, and, in the case of a foreign child
10 described in s. ~~48.839 (1)~~ 48.82 (8) who became dependent on public funds for his or
11 her primary support before an order granting his or her adoption, the resident of this
12 state ~~appointed guardian of the child by a foreign court~~ who brought the child into
13 this state for the purpose of adoption.

14 **SECTION 86.** 301.12 (2) of the statutes is amended to read:

15 301.12 (2) Except as provided in subs. (2m) and (14) (b) and (c), any person,
16 including but not limited to a person placed under s. 48.366, 938.183, 938.34 (4h) or
17 (4m) or 938.357 (4) or (5) (e), receiving care, maintenance, services and supplies
18 provided by any institution in this state operated or contracted for by the
19 department, in which the state is chargeable with all or part of the person's care,
20 maintenance, services and supplies, and the person's property and estate, including
21 the homestead, and the spouse of the person, and the spouse's property and estate,
22 including the homestead, and, in the case of a minor child, the parents of the person,
23 and their property and estates, including their homestead, and, in the case of a
24 foreign child described in s. ~~48.839 (1)~~ 48.82 (8) who became dependent on public
25 funds for his or her primary support before an order granting his or her adoption, the

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1 resident of this state ~~appointed guardian of the child by a foreign court~~ who brought
2 the child into this state for the purpose of adoption, and his or her property and
3 estate, including his or her homestead, shall be liable for the cost of the care,
4 maintenance, services and supplies in accordance with the fee schedule established
5 by the department under s. 301.03 (18). If a spouse, widow or minor, or an
6 incapacitated person may be lawfully dependent upon the property for their support,
7 the court shall release all or such part of the property and estate from the charges
8 that may be necessary to provide for those persons. The department shall make
9 every reasonable effort to notify the liable persons as soon as possible after the
10 beginning of the maintenance, but the notice or the receipt of the notice is not a
11 condition of liability.

12 **SECTION 87.** 632.896 (1) (c) 1. of the statutes is amended to read:

13 632.896 (1) (c) 1. The department, a county department under s. 48.57 (1) (e)
14 or (hm) ~~or~~, a child welfare agency licensed under s. 48.60 or a child's parent or
15 guardian places a child in the insured's home for adoption ~~and enters into an~~
16 ~~agreement under s. 48.833 with the insured~~ under s. 48.82.

17 **SECTION 88.** 632.896 (1) (c) 2. of the statutes is repealed.

18 **SECTION 89.** 632.896 (1) (c) 5. of the statutes is amended to read:

19 632.896 (1) (c) 5. A court of a foreign jurisdiction appoints the insured as
20 guardian of a child who is a citizen of that jurisdiction, and the child arrives in the
21 insured's home for the purpose of adoption by the insured under s. 48.839 48.92 or
22 48.94.

23 **SECTION 90.** 785.05 of the statutes is amended to read:

24 **785.05 Limitation on imprisonment.** In any case in which the contempt of
25 court is based upon interference with visitation rights granted under s. 48.925 ~~(1)~~

ASSEMBLY BILL 526**SECTION 90**

1 48.973 (1), or upon failure to respond to a citation, summons or warrant under s.
2 345.28 or any other failure to pay or to appear in court for a nonmoving traffic
3 violation, the court may not impose imprisonment as a sanction under this chapter.

4 **SECTION 91.** 806.07 (3) of the statutes is amended to read:

5 806.07 (3) A motion under this section may not be made by an adoptive parent
6 to relieve the adoptive parent from a judgment or order under s. ~~48.91 (3)~~ 48.92 or
7 48.94 granting adoption of a child. A petition for termination of parental rights
8 under s. 48.42 or 48.90 and an appeal to the court of appeals shall be the exclusive
9 remedies for an adoptive parent who wishes to end his or her parental relationship
10 with his or her adoptive child.

11 **SECTION 92.** 808.04 (7) of the statutes is amended to read:

12 808.04 (7) An appeal by a party other than the state from a judgment or order
13 granting adoption, or terminating or denying termination of parental rights under
14 s. 48.90, shall be initiated by filing the notice required by s. 809.30 (2) (b) within 40
15 days of the date of entry of the judgment or order appealed from. Notwithstanding
16 s. 809.82 (2) (b), this time may not be enlarged.

17 **SECTION 93.** Chapter 882 of the statutes is repealed and recreated to read:

CHAPTER 882**ADOPTION OF ADULTS AND****EMANCIPATED MINORS**

21 **882.01 Who may adopt adult or emancipated minor.** (1) An adult may
22 adopt another adult or an emancipated minor under this chapter, except as follows:

23 (a) An adult may not adopt his or her spouse.

24 (b) An incompetent person of any age may be adopted only in accordance with
25 ss. 48.82 to 48.94.

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1 **(2)** An individual who has adopted an adult or an emancipated minor may not
2 adopt another adult or emancipated minor within one year after the adoption, unless
3 the prospective adoptee is a sibling of the adoptee.

4 **882.02 Legal consequences of adoption.** The legal consequences of an
5 adoption of an adult or emancipated minor are the same as those specified in s. 48.81
6 (3) to (6), except that the legal consequences of an adoption of an adult stepchild by
7 an adult stepparent are the same as those specified in s. 48.94 (3).

8 **882.03 Consent to adoption. (1)** Consent to the adoption of an adult or an
9 emancipated minor is required of only the following persons:

10 (a) The adoptee.

11 (b) The prospective adoptive parent.

12 (c) The spouse of the prospective adoptive parent, unless the prospective
13 adoptive parent and his or her spouse are legally separated or the court finds that
14 the spouse is not capable of giving consent or is withholding consent contrary to the
15 best interest of the adoptee and the prospective adoptive parent.

16 **(2)** The consent of the adoptee and the prospective adoptive parent shall meet
17 all of the following requirements:

18 (a) The consent shall be in writing and shall be signed or confirmed by the
19 adoptee and the prospective adoptive parent in the presence of the court or an
20 individual authorized to take acknowledgements.

21 (b) The consent shall state that the adoptee and the prospective adoptive
22 parent agree to assume toward each other the legal relationship of parent and child
23 and to have all of the rights and be subject to all of the duties of that relationship.

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1 (c) The consent shall state that the adoptee and the proposed adoptive parent
2 understand the consequences that the adoption may have on any right of
3 inheritance, property or support that each has.

4 (3) The consent of the spouse of the prospective adoptive parent shall be in
5 writing, shall be signed or confirmed in the presence of the court or an individual
6 authorized to take acknowledgements, shall state that the spouse consents to the
7 proposed adoption and understands the consequences that the adoption may have
8 on any right of inheritance, property or support that the spouse has and may contain
9 a waiver of notice of the proceeding for adoption.

10 **882.04 Jurisdiction and venue.** (1) The circuit court has jurisdiction over
11 a proceeding for the adoption of an adult or emancipated minor under this chapter
12 if a petitioner has lived in this state for at least 90 days immediately preceding the
13 filing of the petition for adoption.

14 (2) A petition for adoption under this chapter may be filed in the circuit court
15 of the county in which a petitioner lives.

16 **882.05 Petition for adoption.** (1) A prospective adoptive parent and an
17 adoptee petitioning for adoption under this chapter shall jointly file the petition for
18 adoption.

19 (2) Each petitioner shall sign and verify a petition filed under this chapter. The
20 petition shall state all of the following:

21 (a) The full name, age and place and duration of residence of each petitioner.

22 (b) The marital status of each petitioner, including the date and place of
23 marriage, if married.

24 (c) The full name by which the adoptee is to be known if the petition is granted.

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1 (d) The duration and nature of the relationship between the prospective
2 adoptive parent and the adoptee.

3 (e) That the prospective adoptive parent and the adoptee desire to assume the
4 legal relationship of parent and child and to have all of the rights and be subject to
5 all of the duties of that relationship.

6 (f) That the adoptee understands that a consequence of the adoption will be to
7 terminate the adoptee's relationship as the child of an existing parent, except that,
8 if the adoptive parent is the adoptee's stepparent, the adoption will not affect the
9 adoptee's relationship with a parent who is the stepparent's spouse, but will
10 terminate the adoptee's relationship to the adoptee's other parent, except for the
11 right of inheritance or intestate succession from or through that parent.

12 (g) The name and last-known address of any other individual whose consent
13 to the adoption is required.

14 (h) The name, age and last-known address of any child of the prospective
15 adoptive parent, including a child previously adopted by the prospective adoptive
16 parent or by his or her spouse and the date and place of the adoption.

17 (i) The name, age and last-known address of any living parent or child of the
18 adoptee.

19 **(3)** The petitioners shall attach all of the following documents to the petition:

20 (a) A certified copy of the birth certificate or other evidence of the date and place
21 of birth of the adoptee and the prospective adoptive parent, if available.

22 (b) Any required consent to the adoption that has been executed.

23 **882.06 Notice and time of hearing.** (1) No later than 30 days after the date
24 on which a petition for adoption under this chapter is filed, the petitioners shall serve
25 notice of the hearing on the petition on all individuals whose consent to the adoption

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1 is required under s. 882.03 (1), and who have not waived notice, by sending a copy
2 of the petition and notice of hearing to those individuals at the addresses stated in
3 the petition or by serving notice in the manner specified in s. 48.89 (3).

4 (2) The court shall set a date and time for hearing the petition, which must be
5 at least 30 days after the date on which the notice is served.

6 **882.07 Dispositional hearing.** (1) Both petitioners shall appear in person
7 at the hearing on the petition unless the court excuses a petitioner from appearing
8 personally for good cause shown. If the personal appearance of one or both of the
9 petitioners is excused, the excused petitioner may appear by an attorney authorized
10 in writing to make the appearance, or the hearing may be conducted by telephone
11 or some other electronic medium.

12 (2) The court shall examine the petitioners or the attorney for a petitioner who
13 is not present in person and shall grant the petition for adoption if the court
14 determines all of the following:

15 (a) That at least 30 days have elapsed since the date of service of the notice of
16 the hearing on the petition for adoption.

17 (b) That notice of the hearing on the petition for adoption has been served or
18 dispensed with as to any person whose consent to the adoption is required under s.
19 882.03 (1).

20 (c) That every necessary consent, waiver, document or judicial order has been
21 obtained and filed with the court.

22 (d) That the adoption is for the purpose of creating the relationship of parent
23 and child between the petitioners and that the petitioners understand the
24 consequences of that relationship.

25 (e) That there has been substantial compliance with this chapter.

