



## 2005 SENATE BILL 284

August 10, 2005 - Introduced by Senators ROESSLER, OLSEN and A. LASEE, cosponsored by Representatives KESTELL, TOWNSEND, OTT, JESKEWITZ and MUSSER. Referred to Committee on Health, Children, Families, Aging and Long Term Care.

1     **AN ACT** *to repeal* 48.981 (1) (fm); *to renumber and amend* 48.21 (1) (b), 48.981  
2           (3) (a) 2. and 48.981 (3) (c) 1.; *to amend* 48.02 (15), 48.21 (1) (a), 48.425 (1) (f),  
3           48.425 (1) (g), 48.427 (3m) (intro.), 48.427 (3m) (a) 1., 48.428 (2) (a), 48.428 (2)  
4           (b), 48.43 (5) (c), 48.57 (3m) (a) 2., 48.57 (3n) (a) 2., 48.62 (2), 48.75 (1g) (a) 1.,  
5           48.977 (1), 48.981 (3) (c) 4. and 938.02 (15); and *to create* 48.21 (1) (b) 1., 48.427  
6           (3m) (am), 48.981 (3) (a) 2. a., 48.981 (3) (a) 2. b., 48.981 (3) (a) 2. c., 48.981 (3)  
7           (a) 2. d. and 48.981 (3) (a) 2d. of the statutes; **relating to:** the investigation of  
8           child abuse or neglect reports in which a person who is not a caregiver of the  
9           child is suspected of the abuse or neglect of the child; defining the persons who  
10          are considered to be relatives of a child or juvenile for purposes of the Children's  
11          Code and the Juvenile Justice Code; extending the time for which a child may  
12          be held in custody when additional time is required to determine whether the  
13          filing of a petition initiating proceedings under the Children's Code is  
14          necessary; and the transfer of guardianship and custody of a child to a county

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1 department of human services or social services in a county other than  
2 Milwaukee County for the placement of a child for adoption in the home of the  
3 child's foster or treatment foster parents.

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***Analysis by the Legislative Reference Bureau***

This bill makes various changes to the Children's Code and the Juvenile Justice Code relating to the investigation of child abuse or neglect reports in which a person who is not a caregiver of the child is suspected of the abuse or neglect of the child; defining the persons who are considered to be relatives of a child or juvenile for purposes of the Children's Code and the Juvenile Justice Code; extending the time for which a child may be held in custody when additional time is required to determine whether the filing of a petition initiating proceedings under the Children's Code is necessary; and the transfer of guardianship and custody of a child to a county department of human services or social services (county department) in a county other than Milwaukee County for placement of the child for adoption in the home of the child's foster or treatment foster parents. The changes are as follows:

***Child abuse investigations of noncaregivers***

Under current law, certain persons having reasonable cause to suspect that a child seen in the course of professional duties has been abused or neglected or having reason to believe that a child seen in the course of professional duties has been threatened with abuse or neglect and that abuse or neglect of the child will occur must report that suspected or threatened abuse or neglect to the county department of human services or social services or, in Milwaukee County, to the Department of Health and Family Services (DHFS) or a child welfare agency under contract with DHFS (collectively "agency") or to the sheriff or police department. Current law also permits any other person having reason to suspect that a child has been abused or neglected or reason to believe that a child has been threatened with abuse or neglect and that abuse or neglect of the child will occur to make such a report.

Current law requires the sheriff or police department to refer to an agency all cases of child abuse or neglect reported to it and the agency, within 24 hours after receiving a report, to initiate a diligent investigation to determine if the child is in need of protection or services. Current law also specifies certain procedures that an agency must follow in investigating cases in which there is reason to suspect that the child was abused or neglected, or was threatened with abuse or neglect, by a caregiver, which is defined under current law as a relative, guardian, or legal custodian of the child; a person who resides or has resided regularly or intermittently in the same dwelling as the child; an employee of a residential facility or a residential care center for children and youth in which the child was or is placed; a person who provides or has provided care for the child in or outside of the child's home; or any other person who exercises or has exercised temporary or permanent control or supervision over the child.

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This bill permits, rather than requires, the sheriff or police department to refer to an agency a case in which a person who is not a caregiver of a child is suspected of the abuse or neglect, or of the threatened abuse or neglect, of the child and permits, rather than requires, the agency to initiate a diligent investigation to determine if the child is in need of protection or services. In cases in which a caregiver is suspected of the abuse or neglect, or of the threatened abuse or neglect, of a child, in which a caregiver is suspected of facilitating or failing to take action to prevent the suspected or threatened abuse or neglect of a child, or in which it cannot be determined who abused or neglected a child, the sheriff or police department must refer the case to an agency and the agency must investigate the case as under current law.

***Definition of “relative” in Children’s Code and Juvenile Justice Code***

Currently, for purposes of the Children’s Code and the Juvenile Justice Code, a “relative” of a child or juvenile is defined as a parent, grandparent, greatgrandparent, stepparent, brother, sister, first cousin, nephew, niece, uncle, or aunt, whether the relationship is by blood, marriage, or adoption. For the purpose of determining eligibility to receive kinship care or long-term kinship care payments for providing care and maintenance for a child, for the purpose of determining eligibility to be appointed as the guardian of a child in need of protection or services, and for the purpose of exempting a relative who is providing care and maintenance for a child from having to obtain a foster home license, the definition is expanded to include a stepbrother or stepsister, any person of a preceding generation as denoted by the prefix grand, great, or great-great, and the spouse of any relative, even if the marriage is terminated by death or divorce. The definition is also expanded for purposes of investigating any suspected or threatened abuse or neglect of a child by a caregiver of the child to include a second cousin, stepgrandparent, stepbrother, stepsister, half brother, half sister, brother-in-law, sister-in-law, stepuncle, or steptaunt.

This bill expands the definitions of a “relative” of a child or juvenile for purposes of the Children’s Code and the Juvenile Justice Code to include, in addition to the relatives currently listed in those definitions, a stepbrother, stepsister, half brother, half sister, brother-in-law, sister-in-law, second cousin, stepuncle, steptaunt, any person of a preceding generation as denoted by the prefix grand, great, or great-great, and the spouse of any relative, even if the marriage is terminated by death or divorce. The bill also conforms the various other definitions of “relative” found in the Children’s Code to the expanded definition, except that under the bill the definitions of “kinship care relative,” “long-term kinship care relative,” and “relative,” for purposes of eligibility to be appointed as the guardian of a child in need of protection or services, do not include a parent of the child.

***Holding a child in custody***

Under current law, if a child who has been taken into custody under the Children’s Code is not released, a judge of the court assigned to exercise jurisdiction under the Children’s Code (juvenile court) or a circuit court commissioner must conduct a hearing within 48 hours of the time the decision to hold the child in custody was made, exclusive of Saturdays, Sundays, and legal holidays, and a petition initiating proceedings under the Children’s Code must be filed by the time of the

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hearing. If a hearing is not held within the time required or if a petition is not filed by the time of the hearing, the child must be released, except that if a hearing is held, but no petition is filed, the child may be held in custody for an additional 72 hours, exclusive of Saturdays, Sundays, and legal holidays, if the juvenile court judge or circuit court commissioner determines that probable cause exists to believe that the child is an imminent danger to himself or herself or others or that the child's parent, guardian, or legal custodian or another responsible adult is neglecting, refusing, unable, or unavailable to provide adequate supervision and care for the child.

This bill permits a child to be held in custody for an additional 72 hours, when no petition is filed by the time of the custody hearing, if the juvenile court judge or circuit court commissioner determines that probable cause exists to believe that additional time is required to determine whether the filing of a petition initiating proceedings under the Children's Code is necessary.

***Placement of a child for adoption***

Under current law, if the parental rights of both parents or of the only living parent of a child are terminated, the juvenile court must do one of the following:

1. Transfer guardianship and custody of the child pending adoptive placement to a county department that is authorized to accept guardianship of a child, for purposes of placing a child for adoption, to a child welfare agency that is licensed to accept guardianship of a child and to place the child for adoption, to DHFS, to a relative with whom the child resides, or to an individual who has been appointed guardian of the child by a court of a foreign jurisdiction.

2. Transfer guardianship of the child to a county department, child welfare agency, or DHFS and custody of the child to a relative or to an individual in whose home the child has resided for at least 12 consecutive months immediately prior to the termination of parental rights (TPR).

This bill permits the juvenile court, following a TPR, to transfer guardianship and custody of a child to a county department of a county other than Milwaukee County for placement of the child for adoption by the child's foster parent or treatment foster parent, only if the county department has agreed to accept guardianship and custody of the child and the foster parent or treatment foster parent has agreed to adopt the child.

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

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

1           **SECTION 1.** 48.02 (15) of the statutes is amended to read:

2           48.02 (15) "Relative" means a parent, ~~grandparent, greatgrandparent,~~  
3           stepparent, brother, sister, stepbrother, stepsister, half brother, half sister,

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1 brother-in-law, sister-in-law, first cousin, 2nd cousin, nephew, niece, uncle, or  
2 aunt. This relationship shall be, stepuncle, stepaunt, or any person of a preceding  
3 generation as denoted by the prefix of grand, great, or great-great, whether by blood,  
4 marriage, or legal adoption, or the spouse of any person named in this subsection,  
5 even if the marriage is terminated by death or divorce.

6 **SECTION 2.** 48.21 (1) (a) of the statutes is amended to read:

7 48.21 (1) (a) If a child who has been taken into custody is not released under  
8 s. 48.20, a hearing to determine whether the child shall continue to be held in custody  
9 under the criteria of ss. 48.205 to 48.209 shall be conducted by the judge or a circuit  
10 court commissioner within 48 hours of the time the decision to hold the child was  
11 made, excluding Saturdays, Sundays, and legal holidays. By the time of the hearing  
12 a petition under s. 48.25 shall be filed, except that no petition need be filed ~~where~~  
13 when the child is taken into custody under s. 48.19 (1) (b) or (d) 2. or 7. or where when  
14 the child is a runaway from another state, in which case a written statement of the  
15 reasons for holding -a- the child in custody shall be substituted if the petition is not  
16 filed. If no hearing has been held within 48 hours, excluding Saturdays, Sundays,  
17 and legal holidays, or if no petition or statement has been filed at the time of the  
18 hearing, the child shall be released except as provided in par. (b) ~~par. (b) and (bm).~~  
19 A parent not present at the hearing shall be granted a rehearing upon request for  
20 good cause shown.

21 **SECTION 3.** 48.21 (1) (b) of the statutes is renumbered 48.21 (1) (b) (intro.) and  
22 amended to read:

23 48.21 (1) (b) (intro.) If no petition has been filed by the time of the hearing, a  
24 child may be held in custody with approval of the judge or circuit court commissioner  
25 for an additional 72 hours from the time of the hearing, excluding Saturdays,

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1 Sundays, and legal holidays, only if, as a result of the facts brought forth at the  
2 hearing, the judge or circuit court commissioner determines that probable cause  
3 exists to believe ~~that~~ any of the following:

4 2. That the child is an imminent danger to himself or herself or to others, ~~that,~~

5 3. That probable cause exists to believe that the parent, guardian, or legal  
6 custodian of the child or other responsible adult is neglecting, refusing, unable, or  
7 unavailable to provide adequate supervision and care ~~or,~~

8 4. That, if the child is an expectant mother who was taken into custody under  
9 s. 48.19 (1) (cm) or (d) 8., ~~that~~ probable cause exists to believe that there is a  
10 substantial risk that if the child expectant mother is not held, the physical health of  
11 the unborn child, and of the child when born, will be seriously affected or endangered  
12 by the child expectant mother's habitual lack of self-control in the use of alcohol  
13 beverages, controlled substances, or controlled substance analogs, exhibited to a  
14 severe degree, and to believe that the child expectant mother is refusing or has  
15 refused to accept any alcohol or other drug abuse services offered to her or is not  
16 making or has not made a good faith effort to participate in any alcohol or other drug  
17 abuse services offered to her. The

18 (bm) An extension under par. (b) may be granted only once for any petition. In  
19 the event of failure to file a petition within the extension period provided for in ~~this~~  
20 ~~paragraph~~ par. (b), the judge or circuit court commissioner shall order the child's  
21 immediate release from custody.

22 **SECTION 4.** 48.21 (1) (b) 1. of the statutes is created to read:

23 48.21 (1) (b) 1. That additional time is required to determine whether the filing  
24 of a petition initiating proceedings under this chapter is necessary.

25 **SECTION 5.** 48.425 (1) (f) of the statutes is amended to read:

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1           48.425 (1) (f) If the report recommends that the parental rights of both of the  
2 child's parents or the child's only living or known parent are to be terminated, the  
3 report shall contain a statement of the likelihood that the child will be adopted. This  
4 statement shall be prepared by an agency designated in s. 48.427 (3m) (a) 1. to 4. or  
5 (am) and include a presentation of the factors ~~which~~ that might prevent adoption,  
6 those ~~which~~ that would facilitate it adoption, and the agency ~~which~~ that would be  
7 responsible for accomplishing the adoption.

8           **SECTION 6.** 48.425 (1) (g) of the statutes is amended to read:

9           48.425 (1) (g) If an agency designated under s. 48.427 (3m) (a) 1. to 4. or (am)  
10 determines that it is unlikely that the child will be adopted, or if adoption would not  
11 be in the best interests of the child, the report shall include a plan for placing the child  
12 in a permanent family setting. The plan shall include a recommendation as to the  
13 agency to be named guardian of the child or a recommendation that the person  
14 appointed as the guardian of the child under s. 48.977 (2) continue to be the guardian  
15 of the child.

16           **SECTION 7.** 48.427 (3m) (intro.) of the statutes is amended to read:

17           48.427 (3m) (intro.) If the rights of both parents or of the only living parent are  
18 terminated under sub. (3) and if a guardian has not been appointed under s. 48.977,  
19 the court shall ~~either~~ do one of the following:

20           **SECTION 8.** 48.427 (3m) (a) 1. of the statutes is amended to read:

21           48.427 (3m) (a) 1. A county department authorized to accept guardianship  
22 under s. 48.57 (1) (e) ~~or (hm)~~.

23           **SECTION 9.** 48.427 (3m) (am) of the statutes is created to read:

24           48.427 (3m) (am) Transfer guardianship and custody of the child to a county  
25 department authorized to accept guardianship under s. 48.57 (1) (hm) for placement

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1 of the child for adoption by the child's foster parent or treatment foster parent, if the  
2 county department has agreed to accept guardianship and custody of the child and  
3 the foster parent or treatment foster parent has agreed to adopt the child.

4 **SECTION 10.** 48.428 (2) (a) of the statutes is amended to read:

5 48.428 (2) (a) Except as provided in par. (b), when a court places a child in  
6 sustaining care after an order under s. 48.427 (4), the court shall transfer legal  
7 custody of the child to the county department, the department, in a county having  
8 a population of 500,000 or more, or a licensed child welfare agency, transfer  
9 guardianship of the child to an agency listed in s. 48.427 (3m) (a) 1. to 4. or (am) and  
10 place the child in the home of a licensed foster parent, licensed treatment foster  
11 parent, or kinship care relative with whom the child has resided for 6 months or  
12 longer. Pursuant to such a placement, this licensed foster parent, licensed treatment  
13 foster parent, or kinship care relative shall be a sustaining parent with the powers  
14 and duties specified in sub. (3).

15 **SECTION 11.** 48.428 (2) (b) of the statutes is amended to read:

16 48.428 (2) (b) When a court places a child in sustaining care after an order  
17 under s. 48.427 (4) with a person who has been appointed as the guardian of the child  
18 under s. 48.977 (2), the court may transfer legal custody of the child to the county  
19 department, the department, in a county having a population of 500,000 or more, or  
20 a licensed child welfare agency, transfer guardianship of the child to an agency listed  
21 in s. 48.427 (3m) (a) 1. to 4. or (am) and place the child in the home of a licensed foster  
22 parent, licensed treatment foster parent, or kinship care relative with whom the  
23 child has resided for 6 months or longer. Pursuant to such a placement, that licensed  
24 foster parent, licensed treatment foster parent, or kinship care relative shall be a  
25 sustaining parent with the powers and duties specified in sub. (3). If the court



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1 transfers guardianship of the child to an agency listed in s. 48.427 (3m) (a) 1. to 4.  
2 or (am), the court shall terminate the guardianship under s. 48.977.

3 **SECTION 12.** 48.43 (5) (c) of the statutes is amended to read:

4 48.43 (5) (c) Following the hearing, the court shall make all of the  
5 determinations specified under s. 48.38 (5) (c), except the determinations relating to  
6 the child's parents. The court may amend the order under sub. (1) to transfer the  
7 child's guardianship and custody to any agency specified under s. 48.427 (3m) (a) 1.  
8 to 4. which or (am) that consents to the transfer, if the court determines that the  
9 transfer is in the child's best interest. If an order is amended, the agency that  
10 prepared the permanency plan shall revise the plan to conform to the order and shall  
11 file a copy of the revised plan with the court. Each plan filed under this paragraph  
12 shall be made a part of the court order.

13 **SECTION 13.** 48.57 (3m) (a) 2. of the statutes is amended to read:

14 48.57 (3m) (a) 2. "Kinship care relative" means a ~~stepparent, brother, sister,~~  
15 ~~stepbrother, stepsister, first cousin, nephew, niece, aunt, uncle or any person of a~~  
16 ~~preceding generation as denoted by the prefix of grand, great or great-great,~~  
17 ~~whether by blood, marriage or legal adoption, or the spouse of any person named in~~  
18 ~~this paragraph, even if the marriage is terminated by death or divorce~~ relative other  
19 than a parent.

20 **SECTION 14.** 48.57 (3n) (a) 2. of the statutes is amended to read:

21 48.57 (3n) (a) 2. "Long-term kinship care relative" means a ~~stepparent,~~  
22 ~~brother, sister, stepbrother, stepsister, first cousin, nephew, niece, aunt, uncle or any~~  
23 ~~person of a preceding generation as denoted by the prefix of grand, great or~~  
24 ~~great-great, whether by blood, marriage or legal adoption, or the spouse of any~~

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1 person named in this paragraph, even if the marriage is terminated by death or  
2 divorce relative other than a parent.

3 **SECTION 15.** 48.62 (2) of the statutes is amended to read:

4 48.62 (2) A relative as defined in s. 48.02 (15) or as specified in s. 49.19 (1) (a)  
5 or a guardian of a child, who provides care and maintenance for a the child, is not  
6 required to obtain the license specified in this section. The department, county  
7 department, or licensed child welfare agency as provided in s. 48.75 may issue a  
8 license to operate a foster home or a treatment foster home to a relative who has no  
9 duty of support under s. 49.90 (1) (a) and who requests a license to operate a foster  
10 home or treatment foster home for a specific child who is either placed by court order  
11 or who is the subject of a voluntary placement agreement under s. 48.63. The  
12 department, a county department, or a licensed child welfare agency may, at the  
13 request of a guardian appointed under s. 48.977 or 48.978 or ch. 880, license the  
14 guardian's home as a foster home or treatment foster home for the guardian's minor  
15 ward who is living in the home and who is placed in the home by court order.  
16 Relatives with no duty of support and guardians appointed under s. 48.977 or 48.978  
17 or ch. 880 who are licensed to operate foster homes or treatment foster homes are  
18 subject to the department's licensing rules.

19 **SECTION 16.** 48.75 (1g) (a) 1. of the statutes is amended to read:

20 48.75 (1g) (a) 1. The person who will be licensed to operate the foster home is  
21 a relative, as defined in s. 48.02 (15) or as specified in s. 49.19 (1) (a) ~~2. a.,~~ or a  
22 guardian of the child who will be placed in the foster home.

23 **SECTION 17.** 48.977 (1) of the statutes is amended to read:

24 48.977 (1) DEFINITION. In this section, "relative" means a relative as defined  
25 ~~in s. 48.02 (15) or a person specified in s. 48.57 (3m) (a) 2~~ other than a parent.

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1           **SECTION 18.** 48.981 (1) (fm) of the statutes is repealed.

2           **SECTION 19.** 48.981 (3) (a) 2. of the statutes is renumbered 48.981 (3) (a) 2.  
3 (intro.) and amended to read:

4           48.981 (3) (a) 2. (intro.) The sheriff or police department shall within 12 hours,  
5 exclusive of Saturdays, Sundays, or legal holidays, refer to the county department  
6 or, in a county having a population of 500,000 or more, the department or a licensed  
7 child welfare agency under contract with the department all of the following types  
8 of cases reported to it. the sheriff or police department:

9           2g. The county department, department, or licensed child welfare agency may  
10 require that a subsequent report of a case referred under subd. 2. or 2d. be made in  
11 writing.

12           **SECTION 20.** 48.981 (3) (a) 2. a. of the statutes is created to read:

13           48.981 (3) (a) 2. a. Cases in which a caregiver is suspected of abuse or neglect  
14 or of threatened abuse or neglect of a child.

15           **SECTION 21.** 48.981 (3) (a) 2. b. of the statutes is created to read:

16           48.981 (3) (a) 2. b. Cases in which a caregiver is suspected of facilitating or  
17 failing to take action to prevent the suspected or threatened abuse or neglect of a  
18 child.

19           **SECTION 22.** 48.981 (3) (a) 2. c. of the statutes is created to read:

20           48.981 (3) (a) 2. c. Cases in which it cannot be determined who abused or  
21 neglected or threatened to abuse or neglect a child.

22           **SECTION 23.** 48.981 (3) (a) 2. d. of the statutes is created to read:

23           48.981 (3) (a) 2. d. Cases in which there is reason to suspect that an unborn  
24 child has been abused or there is reason to believe that an unborn child is at  
25 substantial risk of abuse.

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1           **SECTION 24.** 48.981 (3) (a) 2d. of the statutes is created to read:

2           48.981 (3) (a) 2d. The sheriff or police department may refer to the county  
3 department or, in a county having a population of 500,000 or more, the department  
4 or a licensed child welfare agency under contract with the department a case  
5 reported to the sheriff or police department in which a person who is not a caregiver  
6 is suspected of abuse or neglect or of threatened abuse or neglect of a child.

7           **SECTION 25.** 48.981 (3) (c) 1. of the statutes is renumbered 48.981 (3) (c) 1. a.  
8 and amended to read:

9           48.981 (3) (c) 1. a. ~~Within 24 hours~~ Immediately after receiving a report under  
10 par. (a), the agency shall evaluate the report to determine whether there is reason  
11 to suspect that a caregiver has abused or neglected the child, has threatened the child  
12 with abuse or neglect, or has facilitated or failed to take action to prevent the  
13 suspected or threatened abuse or neglect of the child. If the agency determines that  
14 a caregiver is suspected of abuse or neglect or of threatened abuse or neglect of the  
15 child, determines that a caregiver is suspected of facilitating or failing to take action  
16 to prevent the suspected or threatened abuse or neglect of the child, or cannot  
17 determine who abused or neglected the child, within 24 hours after receiving the  
18 report the agency shall, in accordance with the authority granted to the department  
19 under s. 48.48 (17) (a) 1. or the county department under s. 48.57 (1) (a), initiate a  
20 diligent investigation to determine if the child ~~or unborn child~~ is in need of protection  
21 or services. ~~The~~ If the agency determines that a person who is not a caregiver is  
22 suspected of abuse or neglect or of threatened abuse or neglect, the agency may, in  
23 accordance with that authority, initiate a diligent investigation to determine if the  
24 child is in need of protection or services. Within 24 hours after receiving a report  
25 under par. (a) of suspected unborn child abuse, the agency, in accordance with that

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1 authority, shall initiate a diligent investigation to determine if the unborn child is  
2 in need of protection or services. An investigation under this subd. 1. a. shall be  
3 conducted in accordance with standards established by the department for  
4 conducting child abuse and neglect investigations or unborn child abuse  
5 investigations.

6 b. If the investigation is of a report of child abuse or neglect or of threatened  
7 child abuse or neglect by a caregiver specified in sub. (1) (am) 5. to 8. who continues  
8 to have access to the child or a caregiver specified in sub. (1) (am) 1. to 4., or of a report  
9 that does not disclose who is suspected of the child abuse or neglect and in which the  
10 investigation does not disclose who abused or neglected the child, the investigation  
11 shall also include observation of or an interview with the child, or both, and, if  
12 possible, an interview with the child's parents, guardian, or legal custodian. If the  
13 investigation is of a report of child abuse or neglect or threatened child abuse or  
14 neglect by a caregiver who continues to reside in the same dwelling as the child, the  
15 investigation shall also include, if possible, a visit to that dwelling. At the initial visit  
16 to the child's dwelling, the person making the investigation shall identify himself or  
17 herself and the agency involved to the child's parents, guardian, or legal custodian.  
18 The agency may contact, observe, or interview the child at any location without  
19 permission from the child's parent, guardian, or legal custodian if necessary to  
20 determine if the child is in need of protection or services, except that the person  
21 making the investigation may enter a child's dwelling only with permission from the  
22 child's parent, guardian, or legal custodian or after obtaining a court order  
23 permitting the person to do so.

24 **SECTION 26.** 48.981 (3) (c) 4. of the statutes is amended to read:

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1           48.981 (3) (c) 4. The county department or, in a county having a population of  
2           500,000 or more, the department or a licensed child welfare agency under contract  
3           with the department shall determine, within 60 days after receipt of a report that the  
4           county department, department, or licensed child welfare agency investigates under  
5           subd. 1., whether abuse or neglect has occurred or is likely to occur. The  
6           determination shall be based on a preponderance of the evidence produced by the  
7           investigation. A determination that abuse or neglect has occurred may not be based  
8           solely on the fact that the child's parent, guardian, or legal custodian in good faith  
9           selects and relies on prayer or other religious means for treatment of disease or for  
10          remedial care of the child. In making a determination that emotional damage has  
11          occurred, the county department or, in a county having a population of 500,000 or  
12          more, the department or a licensed child welfare agency under contract with the  
13          department shall give due regard to the culture of the subjects. This subdivision does  
14          not prohibit a court from ordering medical services for the child if the child's health  
15          requires it.

16           **SECTION 27.** 938.02 (15) of the statutes is amended to read:

17           938.02 (15) "Relative" means a parent, ~~grandparent, greatgrandparent,~~  
18          stepparent, brother, sister, stepbrother, stepsister, half brother, half sister,  
19          brother-in-law, sister-in-law, first cousin, 2nd cousin, nephew, niece, uncle, or  
20          aunt, stepuncle, stepaunt, or any person of a preceding generation as denoted by the  
21          prefix of grand, great, or great-great, whether by blood, marriage, or legal adoption,  
22          or the spouse of any person named in this subsection, even if the marriage is  
23          terminated by death or divorce.

24           **SECTION 28. Effective date.**

**SENATE BILL 284**

1           (1) CHILD ABUSE INVESTIGATIONS OF NONCAREGIVERS. The treatment of section  
2           48.981 (3) (a) 2d. and (3) (c) 1. and 4. of the statutes, the renumbering and  
3           amendment of section 48.981 (3) (a) 2. of the statutes, and the creation of section  
4           48.981 (3) (a) 2. a., b., c., and d. of the statutes take effect on the first day of the 6th  
5           month beginning after publication.

6

**(END)**