

## CHAPTER 48.

## CHILD PROTECTION AND REFORMATION.

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48.01 Definitions; juvenile court; jurisdiction; officers. (1) As used in this chapter:

(a) The words "neglected child" shall mean any child under the age of 18 years who is abandoned by his parent, guardian or custodian; or who lacks proper parental care by reason of the fault or habits of the parent, guardian or custodian; or whose parent, guardian or custodian neglects or refuses to provide proper or necessary subsistence, education or other care necessary for the health, morals or well-being of such child; or whose parent, guardian or custodian neglects or refuses to provide the special care made necessary by the mental condition of the child; or who engages in an occupation or is in a situation dangerous to life or limb or injurious to his health or morals; or who is in a home, other than his own, to which the state department of public welfare has refused or is refusing to issue a foster home permit.

(b) The words "dependent child" shall mean any child under the age of eighteen years who is homeless or destitute or without proper support through no fault of his parent, guardian or custodian.

(c) The words "delinquent child" shall mean any child under the age of 18 years who has violated any law of the state or any county, city, town or village ordinance; or who by reason of being wayward or habitually disobedient, is uncontrolled by his parent, guardian or custodian; or who is habitually truant from school or home; or who habitually so deports himself as to injure or endanger the morals or health of himself or others; or, if below 21 years of age, shall unlawfully and carnally know and abuse any female under the age of 18 years, or assault intending carnal knowledge and abuse, or violate section 351.34 or section 351.41.

(2) (a) All courts of record in this state shall have original jurisdiction of all cases of neglected, dependent and delinquent children.

(b) The judges of the several courts of record in each county of this state shall at intervals of not less than one year designate one or more of their number whose duty it shall be to hear at such places and times as he or they may set apart for such purposes all such cases; and in case of the absence, sickness or other disability of such judge, he shall designate a judge of any court of record whose duty it shall be to act temporarily in his place. Such court shall be known as the juvenile court. This paragraph (b) shall not apply to counties having a population of 500,000 or more.

(3) The findings of the juvenile court shall be entered in a book or books or deposited in a file to be kept for that purpose, and the clerk and stenographic reporter of the court so designated shall be respectively the clerk and reporter of such juvenile court, except that in any county of a population of 500,000 or more, the clerk and assistants and reporter shall be appointed by the judge of the children's court of such county and such appointments shall be made according to the county civil service commission laws, except that the reporter shall be exempt from civil service. In case of the absence or disability of the clerk of the juvenile court, the judge may depute one of the assistants in the office of said clerk with full powers to perform the duties of the clerk of said juvenile court during such absence or disability. Such clerk shall take and file the official oath and shall receive such salary as shall be fixed by the county board. The reporter shall attend all sessions of said court, take down in shorthand the testimony taken and proceedings had at such sessions and promptly transcribe the same or parts thereof as directed by the judge, and forthwith file a copy with the clerk of such court, and shall also furnish such other copies as the judge shall order. The reporter of the children's court in counties of a population of 500,000 or more shall be paid for his services in furnishing such transcript in the same manner and in the same amounts as circuit court reporters are paid pursuant to section 252.20. Whenever the court shall enter an order committing a child to an institution or agency, a transcript of all of the evidence in the case, prepared by the reporter, shall be transmitted by the clerk of the court to such institution or agency, together with a supplementary statement prepared by the court under its direction, based on information contained in the files of the court in relation to the child so committed, setting forth such facts therein as the court may deem suitable for the guidance of the institution or agency in properly caring for the child committed to its care. A copy of the birth certificate of such child or, if a birth certificate is not obtainable, other documentary evidence satisfactory to the court of the date of birth of such child shall be obtained for inclusion in the supplementary report. Unless the judge shall order otherwise or unless the person concerning whom the proceeding is instituted demands a public hearing or trial, the hearing or trial of all matters relating to dependent, neglected, or delinquent children shall be private, and all persons, except the officers of the court, the parties, their witnesses and counsel, shall be excluded therefrom; and the record thereof shall not be open to the public except upon the order of the judge. The court shall hear and determine cases of children without a jury in cases which are appealable to the circuit court under section 48.07 (8). In cases not so appealable there shall be a jury trial if a jury is demanded. Justice court practice in civil actions shall govern the selection of jurors.

(4) Whenever in any county containing one or more cities of the second or third class any court is designated as the juvenile court and there is no clerk of such court other than the register in probate, the judge may appoint, by an instrument in writing filed with the county clerk, a clerk of the juvenile court, who shall be a stenographer and shall perform the duties of clerk and reporter of such court. Such clerk shall take and file the official oath and shall receive such salary as shall be fixed by the county board.

(5) (a) Except as otherwise provided in this paragraph and paragraphs (am) and (ar) the juvenile court shall have exclusive jurisdiction of proceedings under this chapter involving:

1. Delinquency, neglect or dependency of children residing within the county;
2. Voluntary or involuntary transfer of the care, control and custody of children within the county (except as provided in section 48.28) and the termination of parental rights as provided in section 48.07 (7);
3. Commitment of mentally defective and mentally disordered children under 18, the procedure to be pursuant to the provisions of chapter 51; and
4. Child or children in unlicensed foster homes.

(am) If in any of the cases in par. (a) of this subsection either the child or the parent, guardian or custodian is at the time of filing of petition present within some other county, but does not reside therein, the juvenile court of such other county shall have concurrent jurisdiction. In all cases of delinquent children over 16 years of age, the criminal courts or magistrates shall have concurrent jurisdiction with the juvenile court, and in cases wherein a male minor child between 18 and 21 years of age is charged with having unlawfully and carnally known and abused any female under the age of 18 years or with assault intending carnal knowledge and abuse and when any offense under s. 351.34 or 351.41 is committed by a male minor child within the age limits provided herein the criminal court or magistrate having jurisdiction thereof may, in any proper case where it shall appear that the public interests will be adequately protected and the welfare of such minor will be promoted, waive jurisdiction in favor of the juvenile court which shall then have jurisdiction to determine whether or not such minor is delinquent

in the manner as charged and otherwise dispose of such case as provided in s. 48.07. Nothing contained herein shall deprive other courts of the right to determine the custody of children upon writs of habeas corpus, or when such custody is incidental to the determination of causes pending in such courts.

(ar) Except in counties having a population of 500,000 or more courts of civil jurisdiction shall have concurrent jurisdiction with the juvenile court in proceedings against children under 18 years for forfeitures for violations of county or municipal ordinances enacted in conformity with section 85.84, provided that the sole penalty in civil court for nonpayment of any forfeiture shall be suspension of the child's driver's license which the court is hereby empowered to decree. Such suspension shall not be stayed during the pendency of any appeal.

(b) Whenever the juvenile court shall determine any child to be delinquent, such child shall continue for the purposes of sections 48.01 to 48.28 under the jurisdiction of the court until he becomes twenty-one years of age, unless discharged prior thereto.

(c) Whenever in the hearing of a case of a child alleged to be delinquent, neglected or dependent, it shall appear that an adult has been guilty of contributing to, encouraging or tending to cause by any act or omission, the delinquency, neglect or dependency of the child, the court shall have power to make orders with respect to the conduct of such adult in his relationship to the said child as provided in section 48.08.

(d) Judges of juvenile courts are granted power and authority to commit mentally deficient children under 18 years of age pursuant to the provisions of chapter 51.

(e) Whenever in the hearing of a case of a child, alleged to be delinquent or neglected, it is made to appear that such child is mentally deficient and that its welfare will be promoted by commitment to either of the institutions named in section 51.22 (1) and (2), or to another similar institution, the juvenile court may order a judicial inquiry as to the suspected mental deficiency of said child according to the provisions of chapter 51. The order of the court for such inquiry shall serve in lieu of the application or petition otherwise required by law for such inquiry.

**History:** 1951 c. 259, 414; 1953 c. 160

As used in (5) (am) and other pertinent sections in ch. 48, relating to child protection, the term "criminal courts" has reference to a court functioning as a court, and not to the judge thereof functioning as a magistrate. Where a judge of the district court of Milwaukee county, having no jurisdiction to try a charge for the offense of assault and theft while armed (340.39), issued a warrant for the arrest of a 17-year-old boy on such a charge and set a date for a preliminary hearing, the judge was functioning as a magistrate and not as a court, and such proceedings before him were not proceedings in, and did not constitute an

assumption of jurisdiction by, a "criminal court" within the meaning of the provision in 48.01 (5) (am); hence, in the interim and while the boy is still 17, the juvenile court could assume jurisdiction in the matter and enter a judgment adjudging the boy to be a delinquent child by reason of such offense and committing him to the custody of the state department of public welfare, with the effect, under 48.07 (3), that such judgment of the juvenile court barred any further criminal proceedings in the matter. State ex rel. White v. District Court, 262 W 139, 54 NW (2d) 189.

**48.013 Children's court for counties of 500,000 or more.** In each county having a population of 500,000 or more there is hereby created and established a separate inferior court to serve as the juvenile court of such county with the jurisdiction and powers as hereinafter specified.

(1) **NAME OF COURT; MAINTENANCE AND RECEIPTS.** Such court shall be known as the "Children's Court of (here insert name of county) County, Wisconsin," and shall be established and maintained at the expense of the county and all receipts of said court shall be paid to the county treasurer, except that the court may direct the clerk to receive and disburse sums paid under court order for the support and maintenance of children.

(2) **SEAT OF COURT; PROCESS; SEAL.** Such court shall be held at the county seat or at such other place within the county designated by the county board. The board of supervisors of such county shall provide suitable accommodations, furniture, equipment, records, stationery, blanks and such other supplies as may be necessary for the proper operation of such court. The court shall be a court of record and shall have an official seal, bearing such design as the first judge of said court shall prescribe and the inscription "Children's Court of (here insert name of county) County, Wisconsin—Seal."

(3) **JURISDICTION, POWERS AND DUTIES.** Such court shall have such jurisdiction, powers and duties as are now given or which may hereafter be given by law to circuit courts when acting as juvenile courts and shall also have jurisdiction in actions or proceedings involving the custody of children under 18 years of age, whether raised by habeas corpus or otherwise, except such children as are wards of or whose care and custody is under the control of other courts. Where the words "juvenile court" are used in the statutes, they shall be deemed and taken to include the children's court or the judge

of the children's court in counties of 500,000 or more, except as otherwise specifically provided.

(4) PRACTICE AND PROCEDURE. Practice and procedure in such court shall be the same as in now or may be hereafter provided by law for circuit courts when acting as juvenile courts.

(5) PERSONNEL; BOND; SALARIES. The court shall have a clerk with such assistants as the county board of supervisors shall determine, and a stenographic reporter, each of whom except such reporter shall be appointed by the judge of such court pursuant to sections 16.31 to 16.44 except that persons presently occupying any of such positions in the juvenile court of any such county and who were appointed to such positions pursuant to civil service rules in such county shall be transferred as of the first Monday in June 1949 to the position of clerk and assistants in the children's court of such county, and who shall be paid such compensation as the said county board shall determine. Such clerk shall be an officer of the court, and before entering upon his duties shall take and subscribe the constitutional oath of office and furnish an official bond in such amount and with such sureties as the county board shall determine. Such oath and bond shall be filed in the office of the clerk of the circuit court of such county. Such clerk shall have the powers and duties as are now prescribed by law for the juvenile court in counties containing one or more cities of the first class. The reporter of said court shall be deemed an officer of such court and shall take and file the constitutional oath of office. He shall be furnished with all necessary supplies.

(6) JUDGE; QUALIFICATIONS; ELECTION; TERM; COMPENSATION. On the first Tuesday of April, 1949, and every 6 years thereafter, there shall be elected in the same manner as circuit judges of such county are elected, a judge for said court. No person shall be eligible to the office of such judge unless for 5 years immediately prior to January 1 of the year of such election he shall have been both a resident of such county and an attorney licensed to practice in the circuit courts of Wisconsin. No judge of said court shall practice law while holding such office nor shall he be a candidate for election to any other office while holding the office of judge of said children's court. Such judge shall hold his office for 6 years from the first Monday of June next following his election and until his successor is elected and qualified. Such judge may be removed from office in the manner provided for the removal of circuit judges, the resignation of such judge shall be made to the governor, and vacancies in such office shall be filled as vacancies in the office of circuit judge are filled. Such judge shall be paid an annual salary of \$12,000 to be paid in instalments by the county in the same manner as the salaries of constitutional county officers of such county are paid, which salary shall not be lowered during his term of office. Such judge shall, before entering upon the duties of his office, take and subscribe the oath of office prescribed in the constitution for judicial office, which oath shall be filed in the office of the clerk of the circuit court of such county.

(7) ADDITIONAL POWERS OF JUDGE. The judge of the children's court is authorized and empowered to solemnize the rites of marriage. He shall also have power to take acknowledgments and administer an oath.

(8) DEPUTY SHERIFFS OF CHILDREN'S COURT. The sheriff of such county shall upon request of the judge of the children's court assign such deputy sheriffs, one of whom shall be a woman, who shall be designated as deputy sheriffs of the children's court, and each of whom shall receive the same salary as is paid to other deputy sheriffs of said county. Such deputy sheriffs shall act as attendants upon the children's court during its sessions. The judge of said children's court shall have the power to make such necessary rules and regulations, to be entered in full upon the records of said court, concerning the attendance and duties of such deputy sheriffs as such judge shall deem proper, and it shall be the duty of such deputy sheriffs to conform to the same.

(9) SUBSTITUTE JUDGE. Any judge of a court of record of such county may hold court as judge of said children's court upon request of the judge of such court, and in case of the absence, sickness or other disability of the judge of such court without such request having been made, the senior circuit judge of the circuit court of such county shall designate some judge of a court of record in said county to so hold court, whose duty it shall be to act temporarily in the place of said judge of the children's court and while so doing such judge, so substituting, shall have all of the powers of the regularly elected judge of the children's court.

(10) TRANSFERRING ACTIONS AND PROCEEDINGS. All actions, proceedings, pleadings, and process which may be pending in the circuit court of such county sitting as the juvenile court of such county on the first Monday of June of 1949, and the records and files of all similar past transactions of such court, shall on that day be transferred, returnable and continued to and become actions, proceedings, pleadings and process in and of the chil-

dren's court of such county, and such actions, proceedings, pleadings and process shall on and after that date be deemed and treated as pending in the children's court of such county for all purposes and to the same extent and with the same effect as if such actions, proceedings, pleadings and process had been originally commenced, had and taken in said children's court, and all motions, orders, writs and proceedings then pending in the juvenile court jurisdiction of the circuit court of such county shall be heard, executed and disposed of in and by the children's court, which court shall have powers as may be in accordance with law to enforce the previous orders and judgments of the said circuit court of such county exercising juvenile court jurisdiction.

(11) **REVIEW BY SUPREME COURT.** The orders and judgments of the children's court in all actions and proceedings tried before it may be appealed from, examined and reviewed by the supreme court of Wisconsin in the same manner as orders and judgments of the circuit court may be appealed from and reviewed.

(12) **CIVIL SERVICE STATUS PROBATION DEPARTMENT.** The establishment of the children's court shall in no manner affect the civil service status of the members of the juvenile court probation department heretofore established in accordance with section 48.02, the ordinances of the county board and the provisions of 16.31 to 16.44.

**History:** 1951 c. 247 s. 14.

See note to 48.01, citing State ex rel. White v. District Court, 262 W 139, 54 NW (2d) 139.

**48.015 Board of juvenile court judges.** The juvenile court judges of the state constitute the "Board of Juvenile Court Judges". The board shall meet at least twice each year at such time and place as it determines. The board shall elect a chairman, secretary and such other officers from its number as it deems necessary. Such officers shall perform such duties as the board prescribes. The board shall make such rules and regulations as it deems advisable, not inconsistent with law. Each juvenile court judge attending the meetings of the board shall on presenting his certificate of attendance to the county or municipal treasurer be reimbursed for his travel and hotel bills out of the funds made available for his court.

**48.02 Appointment and compensation of probation officer.** (1) In counties whose population is 500,000 or over, the judge of the juvenile court or where an inferior court has been established having concurrent jurisdiction in juvenile court matters with the circuit court, the judge of said court shall appoint a chief probation officer and as many more probation officers of the juvenile or such inferior court as shall be fixed by the county board. All such probation officers shall be appointed according to the rules of the county civil service commission. Whenever the county board of such county shall so determine, the office of chief probation officer shall be combined with the office of superintendent of the detention home as provided for in section 48.12 (3).

(2) In counties having less than 500,000 population the county board may, in its discretion, provide for the appointment of one or more probation officers; and in case such provision is made the judge of the juvenile court shall appoint such officer or officers to serve in said court. All such probation officers must have the minimum qualifications specified for state probation officers under civil service law; provided, that this subsection shall not apply to any person who shall have been employed as a probation officer by any county of this state on August 31, 1929. Such officers may be removed at will during the first 6 months of their employment and thereafter shall be removed only for the causes specified in sub. (6).

(3) In case of the absence or disability of any of said probation officers for any period of more than three weeks the judge of the juvenile court may designate some competent person, having the qualifications of an original appointee, to act as probation officer during such period.

(4) In counties having less than one hundred fifty thousand population probation officers and temporary substitutes shall receive such annual salary for their services as shall be fixed by the judge of the juvenile court, with the approval of the county board, which shall be payable monthly by the county in which such juvenile court is situated.

(5) The probation officers appointed pursuant to this section shall constitute the probation department of the court. Wherever there is a chief probation officer the probation department shall be under the supervision of the chief probation officer, who shall have the power to perform all the duties of the court, except those reserved to the judge, or to the court after filing of the petition. A reasonable amount for postage, stationery and other necessary expenses shall be allowed to the probation department upon requisition therefor made to the county clerk.

(6) Any probation officer or his substitute may be removed by the judge of the juvenile court or in counties of 500,000 or more by the judge of an inferior court established having concurrent jurisdiction in juvenile court matters with the circuit court for incompe-

tence, or willful or habitual neglect to perform the duties of his office, or for some other good cause; provided, that in counties to which sections 16.31 to 16.44 are applicable, removal shall be made only in accordance with these sections.

(7) If the state department of public welfare certified to the juvenile court of a county that it has adequate personnel and facilities, the court may place juveniles on probation to the department.

**History:** 1951 c. 302; 1953 c. 70.

**48.03 Duties of probation officers.** It shall be the duty of the probation department to make such investigations and exercise such discretionary powers as the court may direct, to keep a written record of such investigations and to submit the same to the judge. Upon the placing of any person on probation, the probation department shall, under the direction of the court, prescribe the conditions of probation and shall instruct such person regarding the same. Such department shall keep informed concerning the conduct and condition of each person on probation under its supervision and shall report thereon to the judge as he may direct. Each probation officer shall use all suitable methods to aid persons on probation and to bring about improvement in their conduct and condition. The probation department shall keep full records of its work and shall keep accurate and complete accounts of money collected from persons under its supervision, shall give receipts therefor and make reports thereon as the judge may direct. For the purposes of sections 48.01 to 48.12, probation officers receiving salaries shall have the powers of police officers and deputy sheriffs.

**48.04 Special probation officers; referees.** (1) If deemed advisable, the juvenile court of any county may appoint one or more persons to serve, without compensation, as special probation officers during the pleasure of the court. Such special probation officers shall, under the direction of the court, perform the same duties as salaried probation officers in any case assigned to them, but shall not be vested with police powers. They may be reimbursed out of funds made available to the juvenile court for such actual and necessary traveling expenses incurred in the discharge of their duties as the juvenile court in its discretion may order.

(2) The court may appoint a suitable person to act as a referee of the juvenile court to hear cases coming within the provisions of sections 48.01 to 48.07 and duly referred as hereinafter provided. In any case in which a jury is demanded the hearing shall be before the court. Such referee shall hold office during the pleasure of the court. The hearing of any case may be referred to such referee by a suitable order of the court. Any case so referred shall be heard in the first instance by such referee in the manner provided for the hearing of cases by the court. In all cases coming before the referee the procedure shall comply with the requirements of and conform to the procedure provided for the hearing of such cases by the court. Upon the conclusion of the hearing in each case the referee shall file with the court all papers relating to the case together with, if so required by the court, his conclusions and recommendations in writing. Such conclusions and recommendations to the extent and in the form confirmed by order of the court, shall become the judgment of the court; provided, that no child shall be committed to an institution without review of the evidence by the court. A hearing by the court shall also be accorded in all other cases in which any person, or the parent or guardian of any child whose case has been heard by a referee, files a request for a further hearing within ten days after the referee has filed his conclusions and recommendations. A referee appointed pursuant to this subsection shall receive such compensation as shall be fixed by the county board.

**48.05 Children not to be sent to the county home.** No child under sixteen years of age shall be sent as a poor person to any county home for support and care; but the county superintendents or other officers having the care of the poor shall bring all such cases, when brought to their notice, into the juvenile court in the manner provided in section 48.06.

**48.06 Petition; summons; warrant; release of children.** (1) Whenever any person gives to the juvenile court information tending to show that a child is neglected, dependent or delinquent, or that such child has committed any act or has pursued a course of conduct which if found true would make him a delinquent child, the court shall make preliminary inquiry to determine whether the public interests or the interests of the child require that formal jurisdiction should be acquired, and may authorize a petition to be filed. The petition shall be verified under oath, alleging briefly the facts which bring said child within the definitions of a neglected, dependent or delinquent child. The person making such petition shall suffer no personal risk greater than when the proceeding is upon warrant, providing said petition is made in good faith. The petition shall also state the name, age and residence (1) of the child, and the name and residence (2) of his parents, (3) of his legal guardian if there be one, (4) of the person or persons having custody or control of the

child, or (5) of the nearest known relative if no parent or guardian can be found. If any of these facts are not known or cannot be ascertained by the petitioner the petition shall so state.

(2) After a petition shall have been filed and after such further investigation as the court may direct, unless the parties hereinafter named shall voluntarily appear, the court shall issue a summons reciting briefly the substance of the petition, and requiring the person or persons who have the custody or control of the child to appear personally and bring the child before the court at a time and place stated; provided, however, that whenever a proceeding involves dependency, neglect, or application for termination of parental rights, if the court is satisfied that the child is within the jurisdiction of the court, the presence in court of such child may be waived by the court. If the person so summoned shall be other than the parent or guardian of the child, then the parent or guardian or both shall also be notified of the pendency of the case and of the time and place appointed, at least 24 hours before the hearing. Summons may be issued requiring the appearance of any other person whose presence, in the opinion of the judge, is necessary.

(3) Service of summons shall be made personally by the delivery of a copy thereof to the persons summoned; provided, that if the judge is satisfied that it is impracticable personally to serve such summons or the notice to the parent or guardian provided for in subsection (2), he may make an order providing for the service of such summons or notice by registered mail addressed to their last known addresses or by publication thereof, or both, as he may direct. Service of summons, process or notice pursuant to sections 48.01 to 48.12, may be made by any suitable person under the direction of the court. The judge may authorize the payment of necessary traveling expenses incurred by any person summoned or otherwise required to appear at the hearing of any case coming within the provisions of sections 48.01 to 48.12, and such expenses when approved by the judge shall be a charge upon the county.

(4) If any person summoned shall fail without reasonable cause to appear, he may be proceeded against for contempt of court. In case the summons cannot be served or the parties served fail to obey the same, or in any case when it shall be made to appear to the judge that the service will be ineffectual a *caipias* may be issued for the parent, or guardian, or for the child.

(5) Whenever any officer takes a child into custody, he shall, unless it is impracticable or has been otherwise ordered by the court, accept the written promise of the parent, guardian or custodian to be responsible for the presence of such child in the court at the time fixed. Thereupon such child may be released in the custody of the parent, guardian or custodian, or in the custody of a probation officer or other person designated by the court. If not so released such child shall be taken immediately to the place of detention designated by the court, and the officer taking him shall immediately notify the court and shall file a petition as provided in subsection (1) of this section, when directed to do so by the court.

(6) In the case of any child ordered or taken into custody by a probation or police officer and pending the final disposition of the case, the child may be released in the custody of a parent, guardian or custodian, or of a probation officer or other person appointed by the court, to be brought before the court at the time designated. When not so released, such child, pending the hearing of the case, shall be detained in such place of detention as shall be designated by the court, subject to further order. Provided, that any child under eighteen years of age against whom a petition has been filed or who is being detained pending the filing of a petition may, in the discretion of the chief probation officer or of the judge of the juvenile court, be permitted to give bond or security in such reasonable sum as may be fixed by such officer or judge as will assure the presence of such child at any hearing or proceeding.

(7) Nothing in this section shall be construed as forbidding any peace officer, police officer or probation officer from immediately taking into custody any child who is found violating any law or ordinance, or who is reasonably believed to be a fugitive from his parents or his guardian, or from justice, or whose surroundings are such as to endanger his health, morals or welfare, unless immediate action is taken; provided, that in every such case the officer taking any child under sixteen years of age into custody shall immediately report such fact to the court and the case shall then be proceeded with as provided in sections 48.01 to 48.12.

Under (1) and (2), in proceedings to transfer the permanent custody of a child and terminate parental rights, the person who has the custody of the child is not only a proper, but also a necessary, party, whether or not he or she is the parent or guardian. A party to proceedings under this section does not mean adversary party in the sense of the ordinary lawsuit in which there are a plaintiff and a defendant, since such proceedings are in the nature of a judicial investigation without adversary parties, but a person having custody of the child, or a parent or guardian of such child, is a party to such proceedings in the sense that he or she has the right to appear and give

testimony, to be represented by counsel, to call witnesses, and to cross-examine witnesses. In re Aronson, 263 W 604, 58 NW (2d) 553.

State juvenile court does not have jurisdiction under 48.06 and 48.07, to commit to department a child of one-fourth Indian ancestry not entered on the tribal rolls but

residing on an Indian reservation with her mother who is an enrolled member of the tribe and who maintains tribal relations, if the acts of delinquency were committed by the child on the Indian reservation. Such court does have jurisdiction to commit such child for acts of delinquency committed off the reservation. 40 Atty. Gen. 205.

**48.07 Judgment; modifications; additional proceedings; appeal.** (1) If the court shall find that the child is delinquent, neglected or dependent, it may:

(a) Place the child on probation or under supervision in his own home or in the custody of a relative or other fit person, upon such terms as the court shall determine; or

(b) Commit the child to a suitable public institution, the department of public welfare, or in counties of 500,000 or more to the county department of public welfare created by section 49.51 (2), or to a suitable child welfare agency licensed by the state department of public welfare and authorized to care for children or to place them in suitable family homes. The terms and duration of such commitments, other than to the department of public welfare, or in counties of 500,000 or more to the county department of public welfare created by section 49.51 (2), shall in each case be fixed by the court, subject to modification by the court on its own motion or otherwise; provided that the court upon application before commitment may consider the wishes of the parent, guardian or custodian in the selection of a suitable institution or agency; or,

(c) Make such further disposition as the court may deem to be for the best interests of the child.

(d) In any case involving a male minor between eighteen and twenty-one years of age where the criminal court shall have waived jurisdiction in favor of the juvenile court as provided in paragraph (a) of subsection (5) of section 48.01 the court may place such minor on probation, as provided in this section, until twenty-five years of age or commit him to such institution and for such term as he might have been committed to by the criminal court.

(e) The court shall suspend for not less than 30 days nor more than one year any motor vehicle operator's license issued to any such person under 18 and more than 16 years of age when it finds that such person has violated any provision of chapter 85 regulating moving vehicles or of any county or municipal ordinance conforming thereto. But the provisions of section 85.08 (29) shall not be applicable to the first such suspension unless the court shall so order.

(1a) If the court shall find that the child has violated a county or municipal ordinance enacted in conformity with section 85.84, it may decree a forfeiture in accordance with the terms of the ordinance and enforce payment thereof under subsection (1) or by suspension of the child's driver's license until the forfeiture has been paid. Such suspension shall not be stayed during the pendency of any appeal.

(2) Every order made under this section shall be based on a finding of fact, entered of record.

(2a) Upon the discovery of additional evidence which raises a question as to the advisability of the commitment made in any case in any juvenile court, the parent, guardian or next friend of the child so committed may at any time petition the court for a rehearing and if the court deems such rehearing advisable, it may again hear the case and make such disposition thereof as is in the best interests of the child.

(3) No adjudication upon the status of any child in the jurisdiction of the juvenile court shall operate to impose any of the civil disabilities ordinarily imposed by conviction, nor shall any child be deemed a criminal by reason of such adjudication, nor shall such adjudication be deemed a conviction, nor shall any child be charged with or convicted of a crime in any court, except as provided in section 48.11. The disposition of a child or any evidence given in the juvenile court shall not be admissible as evidence against the child in any case or proceeding in any other court, nor shall such disposition or evidence disqualify a child in any future civil service examination, appointment or application. No costs shall be assessed against nor fines imposed upon any child in the juvenile court.

(4) It is declared to be the intent of this chapter that each child coming within the jurisdiction of the juvenile court shall receive such care, guidance and control, preferably in his own home, as will conduce to the child's welfare and the best interests of the state; and when such child is removed from his own family, to secure for him custody, care and discipline as nearly as possible equivalent to that which should have been given by his parents.

(5) A parent, guardian or next friend of any child who has been temporarily committed by the court to the custody of a county home for dependent children or a private institution, or agency, or to a person, or such institution, agency or person, may at any time file with the court a verified petition for the release or transfer of such child and a modi-



fication of the order of commitment, stating therein the reasons for such modification. If upon examination of the petition and after giving the institution, agency or person having the temporary custody of the child an opportunity to reply, if the petition was filed by some other person, the court is of the opinion that an investigation should be had, it may, upon due notice to all concerned, proceed to hear the facts and determine the question at issue. The court may thereupon order that such child be restored to the custody of its parent or guardian or be retained in the custody of the institution, agency or person and may direct such institution, agency or person to make such other arrangements for the child's care and welfare as the circumstances of the case may require, or the court may make a further order or commitment.

(6) (a) Whenever a child is committed by the court to custody other than that of his parent and no provision is otherwise made by law for the support of such child, compensation for the care of such child, when approved by order of the court, shall be a charge upon the county, except in counties maintaining a county home for dependent children. In counties in which such a home is being maintained, the county board may authorize the payment for care of children in private homes or private institutions and fix the maximum rate to be paid therefor. But the court may, after giving a parent a reasonable opportunity to be heard, adjudge that such parent shall pay in such manner as the court may direct such sum as will cover in whole or in part the support of such child at the county home for dependent children or at any private home or private institution in which such child is being cared for, and if such parent shall wilfully fail or refuse to pay such sum he may be proceeded against as for contempt of court.

(b) Except as otherwise provided in paragraph (a), a licensed child welfare agency into whose care and custody a child has been committed by a juvenile court shall be entitled to recover from the county chargeable for the support of such child, a reasonable sum to be agreed upon by the juvenile court and such agency, with the approval of the county board of supervisors, for his care and maintenance in an institution or in a family home, less in either case any amounts received pursuant to paragraph (a). Such amounts shall be payable as are other claims against the county and an amount sufficient to pay all such claims shall be appropriated annually by the county.

(c) The county of legal settlement shall be liable for the support of any child committed by the court to custody other than that of his parent. The county providing such support may recover the cost thereof from the county of legal settlement by filing verified claims therefor, which claims shall be payable as are other claims against the county, and any dispute relating thereto may be determined in any circuit court subject to appeal to the supreme court.

(7) (a) The court may transfer the permanent care, control and custody of a child to some other person, agency or institution, and may terminate all rights of the parents to a child and may appoint a guardian for the person of such child whenever the court finds:

1. That the person or child welfare agency (other than a parent) having the care, control and custody of such child is not fitted therefor; or

2. That the parents have abandoned such child or have substantially and continuously or repeatedly refused or being financially able have neglected to give such child parental care and protection; or

3. After the expiration of one year from the date that the temporary custody of a child has been placed with some person or agency (other than a parent) by order of a court of competent jurisdiction and while said child continues in said custody, that the parents or surviving parent, or the mother of said child, if said child is illegitimate, are not fit or proper by reason of immoral debauchery, habitual use of intoxicating liquor or narcotic drugs, or repeated lewd and lascivious behavior, and said conduct is found by the court as likely to be detrimental to the health, morals or well-being of said child; or

4. That the parents or surviving parent of said child or the mother of said child, if said child is illegitimate, has been adjudged mentally deficient more than 2 years before by a court of competent jurisdiction and on reexamination is adjudged still to be mentally deficient.

(am) Such transfer of the permanent care, control or custody of a child or termination of the rights of the parents with reference to a child shall be made only after a hearing before the court and the court shall cause notice of the time, place and purpose of such hearing to be served on the parents of such child personally at least 10 days prior to the date of hearing or if to the satisfaction of the court personal service cannot be obtained, then by publication thereof in a newspaper in the county once a week for 3 weeks prior to the date of hearing. In case of any minor parent the court shall appoint a guardian ad litem therefor in the manner provided for appointment of guardians ad litem in the county court. Such guardian ad litem shall be an attorney admitted to practice in this state and shall be allowed reasonable compensation to be paid by the

county wherein the proceeding shall be held under this chapter, upon the order of the presiding judge and the certificate of the clerk of such court.

(b) If a child is abandoned or neglected by one parent only the rights of such parent with reference to such child may be terminated as provided in paragraph (a), without affecting the rights of the other parent.

(c) Upon the application of the parents or of the surviving parent of any child, or the mother of an illegitimate child, the court may order the transfer of the permanent care, control and custody of such child, and if it appears wise, the termination of all the rights of a parent or the parents with reference to such child, provided the court after a hearing finds such transfer or termination to be in the best interests of the child.

(d) Every order of a court of record transferring the permanent care, control and custody of a child or terminating the rights of the parents or of a parent with reference to a child shall be in writing and shall recite all jurisdictional facts. Every such order shall be valid and conclusive and binding on all persons and in all proceedings after two years from the date of entry thereof; provided, however, that where such order was entered prior to July 1, 1940, the two-year limitation period above set forth shall be construed to mean within two years from and after July 1, 1940.

(8) In any case where a child is found, determined or adjudged by the juvenile court to be dependent, neglected or delinquent or in case of the transfer of the permanent control, care and custody of a child or the termination of the rights of a parent or the parents with reference to such child, appeal may be taken to the circuit court of the same county or if the circuit judge is the judge of the juvenile court, or in the children's court of a county having a population of 500,000 or more, directly to the supreme court. In the case of an appeal to the circuit court the appellant shall have a new trial which shall be without a jury unless a jury is demanded and if a jury is demanded the justice court practice in civil actions shall govern in the selection of the jurors. Such appeal may be taken within 40 days from the date of said finding, determination, or judgment in the manner in which appeals are taken from judgments in civil actions. No undertaking shall be required on such appeal. The finding, determination, or judgment of said juvenile court shall stand, pending the determination of such appeal but the circuit or supreme court may, upon application and in its discretion, stay said finding, determination or judgment pending such appeal, upon the giving of a suitable bond for the care and maintenance of such child in wholesome and proper surroundings to be approved by the court. Where such a stay has been granted by a circuit court, said circuit court shall hear such appeal within 60 days.

(9) All placements of children made under this section in foster homes, as defined in section 48.38, with the exception of placements made by the judge of the juvenile court for temporary care of less than 30 days, are subject to the provisions of this section 48.38 relating to foster homes.

**History:** 1951 c. 232; 1951 c. 247 s. 15; 1951 c. 259, 466.

**Revisor's Note 1951:** The changes are only in arrangement and terminology. (Bill 198-S.)

See note to 48.01, citing *State ex rel. White v. District Court*, 262 W 139, 54 NW (2d) 139.

At common law a putative father of an illegitimate child has, in general, the right to the custody of such child against all but the mother. A putative father of an illegitimate child, voluntarily appearing in juvenile court proceedings instituted pursuant to 48.06 and acknowledging in open court that he is the father and thereby establishing the right of the child under 237.06 to inherit from him, is a proper party to the proceedings possessing a right of appeal from a final order transferring the permanent custody of the child and terminating parental rights, even though the proceedings are not jurisdictionally defective if he has not been notified thereof either by personal service or by publication. In re *Aronson*, 263 W 604, 58 NW (2d) 553.

(7) (am), providing that the juvenile court shall order the transfer of the permanent custody of a child or the termination of parental rights only after a hearing as to which notice has been given to the parents, does not require the filing of any new petition but is only an additional step in the original proceedings instituted by the filing of the original petition. Under (8), conferring the right of appeal from the final order of the juvenile court in proceedings instituted pursuant to 48.06, but silent as to who may exercise such right of appeal, the per-

son having the custody of the child at the time of the institution of the proceedings, as well as a parent, has the right to appeal from an order transferring the permanent custody of the child, so that in the instant case the person having such custody, and appearing in the proceedings in person and by attorney, was entitled to appeal. In re *Aronson*, 263 W 604, 58 NW (2d) 553.

Ch. 117, Laws 1949, amending 48.07, by inserting a provision for commitment direct to a suitable public institution was intended to apply only to dependent or neglected children and not delinquents, and does not conflict with 54.09. 39 Atty. Gen. 141.

Commitments direct to school for boys or school for girls contrary to the provisions of 48.07 and 54.09 of the youth service act are immaterial errors in the commitment not affecting the jurisdiction of the department of public welfare. Such errors are subject to remedy at any time even after habeas corpus proceedings. 39 Atty. Gen. 307.

In view of 51.22 (5) and 48.07 (7) (a) 4, it is doubtful if the parental rights of one committed to an institution as mentally deficient, and subsequently discharged, could be terminated under 48.07, without a re-determination of mental condition. 41 Atty. Gen. 362.

The county of legal settlement is liable for support of a child committed to custody other than that of his parent, pursuant to (6), as amended in 1951. Notice to county of legal settlement is desirable but not a prerequisite to commitment of the child. The county of legal settlement is liable for

the support irrespective of notice, but a county cannot be bound by an erroneous finding of legal settlement in the absence of notice. 40 Atty. Gen. 298.

If a juvenile court invokes power of suspension of motor vehicle operator's license of a minor under 48.07 (1a), for purpose of enforcing payment of forfeiture imposed by court, such suspension remains in effect until the forfeiture is paid. Authority of

commissioner of motor vehicle department to suspend licenses under 85.08 (27) (f), is concurrent with that of juvenile court, and is to be exercised upon receipt of notice of conviction provided for by 85.08 (24) (b). 41 Atty. Gen. 59.

Information from juvenile court records showing a finding of delinquency may not be released. 41 Atty. Gen. 70.

#### 48.08 Adults contributing to the delinquency, neglect or dependency of children.

(1) No order to any adult pursuant to paragraph (c) of subsection (5) of section 48.01 shall be entered by any juvenile court until such adult shall have been afforded an opportunity to be heard upon the charges against him and the contemplated order of the court. The court shall cause notice of the time, place and purpose of such hearing to be served on such adult personally at least 10 days prior to the date of hearing. The procedure in such cases shall, as far as practicable, be the same as in other cases in the juvenile court, and shall otherwise be the procedure followed in courts of equity. The power of the court to issue orders governing the relationship of any adult to a child, where such adult has been guilty of contributing to, encouraging or tending to cause the delinquency, neglect or dependency of such child shall include the power to determine the ability of such adult to provide for the maintenance or care of such child and to direct when, how and where money for such maintenance or care shall be paid. Any adult who shall fail to comply with any order issued by a juvenile court pursuant to this section and paragraph (c) of subsection (5) of section 48.01 may be proceeded against as for contempt of court, and if the conduct of such adult involves a criminal offense, he may be proceeded against under the criminal law.

(2) When it becomes apparent at a juvenile hearing that a parent of such juvenile or the legal guardian having legal custody of such juvenile has been negligent and lax in the training and control of such juvenile and such negligence and laxity has contributed to the delinquency of such minor, the judge may bind such parent or legal guardian over to the proper court for trial for the violation of section 351.20 (3), and he shall also transmit to such court a copy of the testimony upon which such order is based.

**48.09 Commitment to public welfare department.** (1) Whenever in the opinion of the state department of public welfare it is for the best interest of a child committed to it that such child should become an inmate of the Wisconsin child center, said department may make the necessary order transferring such child to the Wisconsin child center.

(2) Whenever in the opinion of the state department of public welfare it shall be for the best interest of a child committed to the Wisconsin child center that such child become an inmate of the Wisconsin school for boys or the Wisconsin school for girls, that department may cause such child to be transferred to such school. Any child so transferred or the parent, guardian or next friend of any such child may have the action of the state department of public welfare in ordering such transfer reviewed by the court making original commitment of said child, on filing a petition in said court and after notice to the state department of public welfare in such manner as the court may direct.

Authority to transfer children to and from the school for boys or the school for girls and the child center are a proper delegation of authority and not in violation of the due process of law safeguard of the constitution. 39 Atty. Gen. 304.

**48.10 Physical and mental examination and care.** (1) The court may cause any person coming under its jurisdiction to be examined by a physician, psychiatrist or clinical psychologist as defined in section 51.23, appointed by the court, in order that the condition of such person may be given due consideration in the disposition of the case. The expenses of such examination, when approved by the court, shall be paid by the county. In counties maintaining an examination service by one or more physicians, psychiatrists and clinical psychologists such county service shall be used for the purposes of this subsection.

(2) The governing authority of any county home for dependent children may require as a condition of commitment of any child to said home that such physical and mental examination shall be made and such information furnished as shall be deemed necessary for the proper care of such child as well as of other children in said home.

(3) Whenever a child concerning whom a petition has been filed appears to the court to be in need of special care and treatment a suitable order may be made upon the parent, guardian or custodian to provide such care and treatment for such child in a hospital or otherwise. If such parent, guardian or custodian fails to provide such care the court may, after due notice, enter an order therefor, and the expenses thereof, when approved by the court, shall be a charge upon the county; but the court may adjudge that the person or

persons having the duty under the law to support such child pay part or all of the expenses of such treatment.

**48.11 Delinquent children under 16, juvenile court to try.** When any child under 16 years of age is taken into custody with or without warrant, charged with the violation of any law of this state, or the violation of any county, town, city or village ordinance, such child shall, instead of being taken before a justice of the peace or police magistrate, be taken directly before the juvenile court or if the court is not in session the child shall be placed in a juvenile detention facility provided by the county as required under section 48.12 (2) or given into the custody of the juvenile probation officer or such other person as may be designated by the juvenile court until the child can be brought before such court; and in any such case the court may proceed to hear and dispose of the case in the same manner as if the child had been brought before the court upon petition as provided in section 48.06; but in any case a petition shall be filed and the court shall require notice to be given and investigation to be made and may adjourn the hearing from time to time for this purpose.

**48.12 Detention and confinement of children.** (1) No child under 18 years of age shall be placed in or committed by the juvenile court to or held in custody pursuant to law by any sheriff or police officer in any prison, jail, lockup, police station or in any other place where such child can come into communication with any adult convicted of crime or under arrest and charged with crime; provided, that a child 14 years of age or older, whose habits or conduct are such as to constitute a menace to other children, may, by written order of the juvenile court, reciting the reasons therefor, be detained in a jail or other place of detention for adults, but in a room or ward entirely separate and apart from adults confined therein, but no such order shall be made until the state department of public welfare shall have filed with the clerk of the juvenile court its approval of such place of detention.

(2) Provision shall be made by the county board for the temporary detention of children in one of the following ways:

(a) In a detention home which shall be conducted as an agency of the court;

(b) The court may arrange for the boarding of such children temporarily in a private home in the custody of some fit person, subject to the supervision of the court;

(c) The court may arrange with any incorporated institution or agency, maintaining a suitable place of detention for children, that such institution or agency shall receive for temporary care children within the jurisdiction of the court.

(3) (a) A detention home established as an agency of the court shall be furnished and conducted, as far as possible, as a family home in charge of a superintendent. Such home, when approved by the state department of public welfare, may be a part of a public building in which there is a prison, jail, lockup or police station if it is so physically segregated from such prison, jail, lockup or police station that children detained in the home cannot communicate with or view adult prisoners convicted of, under arrest for or charged with crime. The judge may appoint a superintendent and other necessary personnel for the personal care and education of the children in such home, subject to civil service regulations in counties having civil service. In counties having a population of 500,000 or over, the office of superintendent of the detention home shall be combined with that of chief probation officer of the juvenile court as provided for in section 48.02 (1) of the statutes whenever the county board of such county shall so determine.

(b) The salaries of such personnel and also the salaries of other necessary employes appointed by the county board shall be fixed and paid in the same manner as the salaries of other county employes. The necessary expenses incurred in maintaining such detention home shall be paid by the county. In case the court shall arrange for the boarding of children temporarily detained in private homes or institutions, a reasonable sum to be fixed by the court for the board of such children shall be paid by the county.

(4) It shall be the duty of the state department of public welfare to assist counties in establishing detention facilities required for compliance with this section.

**48.13 Board of visitation.** The judge of the juvenile court may appoint a board of 6 reputable inhabitants, who will serve without compensation, to constitute a board of visitation, whose duty it shall be to visit as often as once a year, all institutions, societies and associations receiving children committed thereto by said court; said visits shall be made by not less than 2 of the members of the board, who shall go together or make a joint report; the said board of visitors shall report to the court from time to time the condition of the children received by or in charge of such associations, and institutions, and shall make an annual report to the state department of public welfare in such form as the department may prescribe. The county board may at its discretion, make appro-

priations for the payment of the actual necessary expenses incurred by the visitors in the discharge of their official duties.

**48.14 Wisconsin schools for boys or girls.** The Wisconsin school for boys shall be the place of confinement and instruction of all male delinquent children and the Wisconsin school for girls, of all female delinquent children, who are placed there by the department of public welfare but no child under 12 years of age shall be placed in either of these institutions.

**48.15 Commitment to schools.** Any child, under the age of 18, convicted of a criminal offense may, in the discretion of the judge or magistrate before whom the case is tried be committed to the state department of public welfare until the age of 21 years or until paroled in accordance with section 48.16 (2) (b).

**48.16 Removal or discharge of inmates; restoration to parents; foster homes.** (1) The state department of public welfare is hereby clothed with the sole authority to discharge any child or children from either of said schools who shall have been legally committed thereto, subject to the power of the governor to grant pardons, and it may return any such child to the court, justice or other authority which ordered or directed its commitment, when in its judgment such child is an improper subject for its care and management or shall be found incorrigible, whose continuance in the school it may deem prejudicial to the management and discipline thereof, or who, for any other cause, in its judgment, ought to be removed therefrom; and in such case said court, justice or other authority shall have power and is hereby required to proceed as might have been done if the commitment had not been ordered to such school.

(2) (a) The department may restore any child duly committed to either of said schools to the care of its parents or guardians before the expiration of its term of commitment if in its judgment such action is in the best interest of such child.

(b) The state department of public welfare may parole any child committed to the Wisconsin school for boys or the Wisconsin school for girls, whenever it is satisfied that such action is for the best interests of such child. Every such paroled child shall remain in the legal custody of the department until 21 years of age and may be returned to the institution from which paroled, in the manner provided in section 57.06 (3), or if then 16 years of age or more may be transferred to the state reformatory or home for women, as provided in section 53.18 (3).

(3) The state department of public welfare may place any child now under commitment to the school for boys or the school for girls or hereafter committed thereto, in a suitable foster boarding home upon such terms and conditions as it shall determine and whenever it considers such course expedient. Said foster home shall be subject to the provisions of sections 48.35 to 48.42. The cost to the state of the maintenance of any such child so placed shall not exceed the average per capita cost of maintenance in the institution from which such child is placed. Bills for the cost of such care shall be payable monthly out of the proper operating funds and shall be audited as are other bills. The county of legal settlement shall be chargeable with the same rates and expenses as provided under section 48.17 and such charges shall be adjusted in the manner provided by section 46.106 the same as if the child were at the institution. The department shall have the right to visit, inspect and investigate such home and to return to the institution or to replace such child in another foster home whenever it deems it advisable or necessary.

**48.17 Instruction; escapes; fees.** (1) The state department of public welfare shall place the children in the schools at such employments and instruct them in such branches of useful knowledge as are suited to their years and capacities. The superintendent of each school shall procure the return of any person escaping therefrom; and any justice of the peace, marshal or constable, upon information of such escape, shall return any such fugitive as above mentioned.

(2) When any sheriff or other person appointed by the department takes a child to any reception center established by the department he is entitled to receive therefor from the proper county his actual and necessary expenses and the further sum of \$5, and no more, for each day while necessarily so engaged.

**48.18 Liability of counties.** For each child committed to the state department of public welfare and placed in either school or in the Wisconsin child center or committed to either school or to the center after June, 1945, during its residence in such institution or a boarding home, whether under permanent or temporary commitment, the county of legal settlement shall be chargeable with the sum of \$5 per week. Such charges will be adjusted in accordance with the provisions of section 46.106. All children under commitment before June 30, 1945, and remaining under commitment to either school after such date shall continue to be a charge of the county of commitment except that the rate

to such county shall be \$5 per week for each child. This same rate shall apply to the Wisconsin child center. The term "boarding home" as used in this section means those homes in which a board payment is made by the department or any such institution. It does not mean homes in which children are placed on a basis involving no boarding costs.

**48.19 Wisconsin child center.** The Wisconsin child center shall care for and educate physically, intellectually, vocationally and morally children placed therein until temporary or permanent homes are procured for those who are eligible.

**48.20 Children entitled to admission; return; homes; fees and expenses.** (1) The department shall admit to the center only dependent and neglected children under 16 years of age, but no child who is feeble-minded, insane or epileptic shall be admitted and if committed shall be returned to the committing authority.

(2) Children received into the center may in the discretion of the department be retained until they are 21 years of age. Any child may at any time be transferred by the department from the center to some more appropriate institution.

(3) Every 3 months the superintendent of the center shall report in writing to the department the names of the children in the center, together with such data as will acquaint the department with the reason why each child has not been placed in a home and such additional information as the department desires regarding the changes occurring during the preceding 3 months.

(4) The county shall be chargeable with the compensation paid to any person for taking any child to the institution. The compensation paid to any person for taking any child to the institution shall not exceed the sum of \$5 per day and the necessary expenses, and no charge shall be made for more than one person escorting each child. No person other than a competent woman shall be employed as such escort for any child under 3 years of age, or for any girl.

Authority to transfer children to and from the school for boys or the school for girls and the child center are a proper delegation of authority and not in violation of the due process of law safeguard of the constitution. 39 Atty. Gen. 304.

**48.22 Instruction; guardianship; binding out; adoption; medical care.** (1) The children in the Wisconsin child center shall receive substantially the same education as children of like age and capacity receive in the public schools and shall have proper physical, vocational and moral training. The department of public instruction shall inspect the educational work of the center and assist the department in developing such work.

(2) The department is the legal guardian of all children permanently committed to the center. It may place children permanently or temporarily committed in families under the conditions prescribed for licensed child welfare agencies, and may make written contracts with responsible and suitable persons for keeping them during their minority, providing therein for their education in the public schools for teaching them some useful occupation, and for their kind and proper treatment as members of the families in which they are placed. The cost to the state of the maintenance of any such child so placed shall not exceed the average per capita cost of maintenance in the institution from which such child is placed. Bills for the cost of such care shall be payable monthly out of the proper operating funds and shall be audited as are other bills. The county of legal settlement shall be chargeable at the same rates for maintenance of children so placed as provided under section 48.18, and such charges shall be adjusted in the manner provided by section 46.106 the same as if the child were at the institution. The department shall have the right to visit, inspect and investigate such home and to return to the institution or to replace such child in another foster home whenever it deems it advisable or necessary.

(3) The department may consent to the adoption of any such permanently committed ward in the manner provided by law; and such consent shall have the same effect as if given by the parents of the child. Such consent shall be in duplicate, one copy to be filed with the department and the other delivered to the county court in which the proceedings for adoption are taken. The adoption of the child ends the guardianship of the department.

(4) The department may appoint, to serve during its pleasure, agents to investigate all applicants and applications to take or adopt any such children. As directed by the department, each agent shall visit children placed in charge of any person by the department, investigate their condition and report to the department. Each agent shall be paid his necessary traveling expenses which shall be charged against the appropriation for the center.

(5) The department may consent to surgery or medical care for any child under temporary or permanent commitment to the department after first being notified by a licensed physician of the need of such care, and providing that such care is authorized under the direction of a licensed physician or surgeon.

**48.23 Center record.** The department shall provide and keep in said center a record in which shall be entered the information received from the juvenile court at the time of commitment and in addition thereto the date of reception and all available data regarding the antecedents and former environment of the child. Such record shall include the results of a physical and psychological examination of the child, by a competent physician and clinical psychologist and, when necessity therefor is indicated, by a psychiatrist. As complete a record as possible of each child shall also be kept and continued during the guardianship of the department, which shall include full information regarding every agreement for the placement of such child.

**48.24 Excusing school attendance.** The juvenile court upon written application and notice to the city, village or county superintendent and upon his consent and a showing of reasons satisfactory to the court, whether for causes or reasons specified in the statutes or not, may excuse a child from attending school (except a school to which committed) where the child would otherwise be required to attend school; any such excuse granted shall be deemed as to such child for the time stated in the order, a waiver of any statutory provision requiring school attendance. No provision of this section modifies or abrogates any other provision of law authorizing the granting of excuses, from attending school, by an authority other than the juvenile court.

Consent of the proper superintendent of schools is a prerequisite to a child being excused by juvenile court from attending school. 39 Atty. Gen. 5.

**48.28 Commitment and custody of children.** (1) The board of trustees of any existing county home for dependent children may receive into its charge and under its control dependent children and, with the consent of the person then having actual custody, neglected children when requested by the administrative officer or a child welfare department empowered by the board of supervisors to make the request, or by commitment, or by transfer of custody as provided in section 48.07 (7) any neglected or dependent child under 18 years of age residing in the county, but no child who is blind, deaf, crippled, feeble-minded, insane or epileptic shall be committed to said home for dependent children.

(2) The board of trustees of such home for dependent children may place such children in suitable homes in this state upon written contracts for family care in the same manner as licensed child welfare agencies are authorized to do. Such home is hereby constituted the legal guardian of all children whose permanent care, custody and control has been transferred to it as provided in subsection (7) of section 48.07, and may consent in the courts of this state to the adoption of any such child by any person in the manner provided by law; and such consent given in writing shall have the same force and effect as if given by the parents of such child. Such written consent shall be given in duplicate, and one copy shall be filed with the secretary of said trustees, and the other delivered to the county court in which the proceedings for adoption are taken to be there filed. On the consummation of such proceedings, the custody of said trustees over the child adopted shall cease. It shall be the duty of the court making the order of adoption to transmit a certified copy of such order to the trustees of the institution from which such child was received.

(4) It shall be the duty of the administrative official, child welfare department or the court before whom such child is presented to procure a full statement as near as possible setting forth all facts, showing why such child or children should be committed to such home for dependent children. Such statement shall give the exact name or names, age or ages of said child or children, when and where born, full name of both parents, their family history in reference to tuberculosis, syphilis, insanity and epilepsy, whether living or dead, their present residence, their previous residence, their financial condition, the name and residence of their nearest relatives, and whether they are able or not to support said child or children. The said statement must show whether such child or children are dependent upon their respective counties for support.

(5) If the administrative official, child welfare department or the judge shall find as the result of such examination that such child is dependent or neglected, he shall cause it to be examined by the county physician if there be one, and if there is none, by a respectable practicing physician. Such physician shall certify in writing that he is of the opinion that the child examined by him is of sound mind and is not affected by any chronic or contagious disease and ascertain whether there is or has been any tuberculosis, syphilis, insanity or epilepsy, and had not been exposed to any contagious disease within 15 days previous to the examination, and verify such opinion by his affidavit, which shall be attached thereto and filed in the judge's office or in the office of the administrative official or child welfare department, as the case may be. A certified copy of such finding and a statement of the facts ascertained as aforesaid, with a copy of the certificate of the physician shall be delivered with the child at such home for dependent children.

(6) In counties having a population of 500,000 or more, whenever the permanent care, control and custody of a minor is committed or transferred to the county home for

dependent children and the rights of the parents or a parent with reference to such child are terminated, the superintendent of such home shall immediately become the guardian of the estate as well as of the person of such minor and subject to the requirements of chapter 319 in so far as applicable. In lieu of giving a separate bond for each minor of whom he shall thus become guardian, such superintendent shall give one standing bond to the judges of the county court of such county, conditioned as provided in section 319.05 in an amount deemed by such judges to be sufficient to protect all such minors who may be so committed. All discharges of guardianship liability on such bond to minors covered thereby shall be noted on such bond by the register in probate of such county.

**48.29 County children's boards; organization; personnel.** (1) The county board of any county whose population is less than two hundred fifty thousand may by resolution establish a county children's board for such county and may thereafter discontinue such board by vote of a majority of all of its members at any regular meeting or at any special meeting called for this purpose.

(2) The county children's board shall consist of 5 members, at least 2 of whom shall be women, and all of whom shall be residents of the county, selected annually to hold office until the first Monday of January next succeeding and until their successors shall have been selected and shall have qualified. One of the members of said board shall be the chairman of the county board. One other member shall be appointed by the judge of the juvenile court. Two members, at least one of whom shall be a woman, shall be appointed by the state department of public welfare. The fifth member shall be elected by the other 4 members at the first meeting of the board in each calendar year. Any vacancy shall be filled by the same body which selected the member whose position is vacant.

(3) The county children's board shall organize by the election of a chairman, vice chairman and secretary from its own membership. Regular meetings shall be held at least once each month, unless otherwise determined, at a time and place fixed by the board. Special meetings shall be held upon call of the chairman or of any three members.

(4) The county children's board may discharge its duties through personnel designated for this purpose. The compensation of any person so employed shall be fixed by the county board of supervisors. Two or more county children's boards may combine in the employment of personnel and share the services and divide the cost upon some agreed basis.

(5) Persons who are applicants for employment by county children's boards in positions involving other than purely clerical and stenographic duties shall have the minimum qualifications specified for probation officers employed by counties having a population of less than one hundred and fifty thousand.

(6) The members of the county children's board shall receive no compensation for their services, but shall be reimbursed their actual and necessary expenses incurred in the discharge of their duties. Such expenses shall be payable monthly, after being audited and approved by the finance committee of the county board or other committee or officer designated by the county board.

(7) The county board shall annually appropriate to the county children's board an amount it deems advisable for the payment of the expenses of members, the salaries and expenses of personnel, and other administrative expenses. It may also make an appropriation to the county children's board for the purchase of clothing, payment for medical services, expense of boarding, and other special aid to children.

**History:** 1953 c. 410.

**48.30 County children's boards; powers and duties.** County children's boards shall have and exercise all such powers and duties as are authorized for licensed child welfare agencies under sections 48.35 to 48.38, except that such county children's board may not assume permanent care, custody or guardianship of any child. Such county children's board shall not be required to have a license to function as an authorized child welfare agency, provided that the state department of public welfare shall have certified to such county children's board that the board is in all respects qualified to receive children for the purpose of providing them with care and maintenance or of placing them in foster homes, other than adoptive homes. Such county children's board shall be subject to the conditions and provisions imposed upon child welfare agencies by section 48.37 (4). Such certification of qualification as a public child welfare agency shall be subject to revocation in accordance with the provisions of 48.39. Such county children's board shall have the following additional powers and duties:

(1) To investigate the conditions surrounding mentally defective, dependent, neglected, delinquent and illegitimate children within the county and to take every reasonable action within its power to secure for them the full benefit of all laws enacted for their benefit. This duty shall be discharged in co-operation with the juvenile court and with the public officers or boards legally responsible for the administration and enforcement of these laws.



The county children's board may also avail itself of the co-operation of any individual or private agency or organization interested in the social welfare of children in such county;

(2) To administer and expend such amounts as may be necessary out of any moneys which may be appropriated to it by the county board or donated by individuals or private organizations for the purchase of clothing, payment for medical services, expense of boarding, and other special aid to children within the county;

(4) Upon the request of the judge of the juvenile court, to investigate the home environment and other factors in the life of any child brought to the attention of the court for alleged dependency, neglect or delinquency, and to assume guidance and supervision of any child placed on probation by such court;

(5) Upon request of the state department of public welfare and under its direction, to assume the oversight of any juvenile under parole from or otherwise subject to the supervision of any state institution;

(6) To make such reports to the state department of public welfare as it may request upon any matter or situation within the county concerning any child in which said department is interested;

(7) When so directed by the county board, to administer any other county funds appropriated for the welfare of necessitous persons, either independently or in co-operation with some other board or officer;

(8) To make an annual report to the county board at its November meeting upon its work during the year, including an account of all moneys received and expended by it or under its direction and including also its recommendations, if any, for the improvement of the laws enacted for the social welfare and protection of children or of their administration. A copy of this report shall be furnished at the same time to the state department of public welfare.

**History:** 1953 c. 410.

**48.31 County children's boards; duties of the state department of public welfare.**

The state department of public welfare is empowered to assist counties in the organization of county children's boards. It shall advise with and assist such boards in developing efficient methods and standards in the discharge of their duties and shall prescribe the record forms to be used in their work. It shall also prescribe the statistical data which shall be included in the annual reports of such boards and shall compile and publish statistics upon the number, cost of support, and other important facts relating to the children under their care or supervision.

**48.315 County department of public welfare authorized as child welfare agency.**

If the county board of supervisors of any county having a population of less than 500,000 shall decide to have child welfare services administered by the county department of public welfare under the provisions of s. 46.22 (5) (g), then such county department of public welfare shall have the additional powers and duties given county children's board under s. 48.30 (1) to (8) (introductory paragraph not to apply) and shall have and exercise all the powers and duties that are authorized for licensed child welfare agencies under ss. 48.35 to 48.38, except that such county welfare department shall not have authority to accept permanent care and custody of any child or to place children for adoption. Such county department shall not be required to be licensed or approved by the state department of public welfare to issue permits to foster homes under s. 48.38 or to function as an authorized child welfare agency; but any such permit to a foster home may be revoked by the state department of public welfare pursuant to s. 48.39 (2).

**History:** 1953 c. 513.

**48.32 Child welfare services.** The state department of public welfare, jointly with the United States children's bureau, shall prepare plans for extending and strengthening, especially in predominantly rural areas, child welfare services in conformity with the federal social security act.

**48.34 Earnings of self-supporting minors.** During any time when, by reason of abandonment, drunkenness or profligacy, a parent of a minor shall neglect or refuse to provide for his support, or for his support and education, the earnings of such minor shall be his sole property as against such parent or any creditor of such parent.

**48.35 Child welfare agencies.** (1) The term "child welfare agency" as used in sections 48.35 to 48.42 is defined as any person, firm, association or corporation, and any private institution which receives for control, care and maintenance, with or without transfer of custody, for more than seventy-five days in any consecutive twelve months' period at any one time more than four children under eighteen years of age unattended by their parents or guardians, but not counting, in the case of an individual, children related to such person, for the purpose of providing such children with care and maintenance or of placing them in foster homes whether for gain or otherwise. This term shall not apply to

any boarding school which is essentially and primarily engaged in educational work. The term "related" as used in said sections is defined to include adoption or consanguinity within the sixth degree of kindred computed according to the civil law with the person referred to or his or her spouse.

(2) Any child welfare agency licensed to do so by the state department of public welfare may receive children of the classes, ages and sex described in the license issued to it who are lawfully committed thereto or placed in the charge or control thereof and shall have and maintain the care, custody and control of such children until transferred or committed to other legal custody or control. When licensed to do so a child welfare agency may also place children in foster homes during their minority.

(3) Any child welfare agency may contract with any parent, guardian, or other person for the care and maintenance of any child.

(4) Every child welfare agency shall cause all children of school age in its care to be instructed in such branches of useful knowledge as may be suited to their respective years and capacities.

(5) Every child welfare agency shall provide reasonable accommodations for any authorized clergyman of recognized standing to give moral and religious instruction to any child in its care according to the religious belief of the child or that of his natural or adoptive parents.

**48.36 Permanent care, custody and guardianship of children and placement in foster homes.** (1) Any child welfare agency, when licensed to do so by the state department of public welfare, may assume the care, custody and guardianship of the person of any child during the period of its minority, upon an order of a competent court to this effect.

(2) Whenever a child welfare agency shall have been given the permanent care, custody and guardianship of any child pursuant to an order of a competent court and the rights of the parents of such child shall have been terminated by an order of a competent court, it may give consent to the adoption of such child pursuant to the statutes regulating adoption proceedings. It may also provide for the care of any such child as a member of a family otherwise than by adoption through a written agreement which shall clearly state the terms of the custody granted to the person or persons receiving the child and shall provide for the proper care, education and maintenance of such child during its minority. A permit as provided in section 48.38 shall be required of the person receiving any such child. Such child welfare agency shall keep and maintain careful supervision of all children so placed for care, except of those children who have been legally adopted, and its officers and agents shall visit all such homes and families as often as may be necessary to keep informed as to the condition and welfare of such children.

(3) Any child so placed with any person may be taken from such person whenever the child welfare agency which has so placed such child shall become satisfied that such child is subjected to vicious or harmful influences, or lacks wise or considerate care or attention, or that his welfare requires such action.

(4) No child welfare agency shall in any case charge or receive from the persons legally adopting any child any compensation therefor except the actual expense of taking such child to the home of such person; and in no case shall any person legally adopting any such child demand from such agency any compensation for the care, clothing or medical attendance of such child if it shall be returned to the agency.

**48.37 Licenses; records; reports.** (1) No person, other than the parent or legal guardian, and no firm, association or corporation, and no private institution shall place, assist, or arrange for the placement of any child in the control and care of any person, with or without contract or agreement, or place such child for adoption, other than a licensed child welfare agency.

(2) Every child welfare agency must be licensed annually by the state department of public welfare. Application for such license shall be made in such form as the department shall prescribe and upon forms to be furnished by the department. The applicant may furnish to the state department of public welfare the names and addresses of any persons who by reason of their official position have an interest in said application and such persons shall be consulted by the department. Before issuing such license the department shall satisfy itself that the applicant is in all respects qualified to receive children for the purpose of providing them with care and maintenance or of placing them in foster homes.

(3) Each license issued shall specify in general terms the kind of child welfare work the licensee is authorized to undertake, the ages and sex of children that may be received and the number of the same, and the territory within which said licensee, with due regard to its facilities for service, may place and supervise children, and whether such licensee is authorized to select foster homes for children and to issue permits to the same as provided in section 48.38. All such licenses shall expire one year from date of issuance, shall

not be transferable, and may be revoked by the state department of public welfare as provided in section 48.39.

(4) Each child welfare agency shall keep such records regarding each child in its control and care as the state department of public welfare shall prescribe and shall report to said department whenever called for, such facts as it may require with reference to such children, upon blanks to be furnished by the department. If the department shall at any time determine that any child is placed in an improper home, or is subjected to vicious or harmful influences, or lacks wise or considerate care or attention of that such child's welfare requires such action, it may order the person with whom such child has been placed to transfer the child to a proper home, or otherwise remedy said improper conditions, and if such transfer is not made or such conditions are not remedied within a reasonable time, but not exceeding 30 days, the department may take charge of and make suitable provision for the child.

**History:** 1951 c. 509.

**48.38 Permits to foster homes.** (1) The term "foster home" as used in sections 48.35 to 48.42 shall mean the place of residence of any person or persons who receive therein a child or children for control, care and maintenance, with or without transfer of custody; provided

(a) That any of such children are not related to such person or persons or either of them, and

(b) That the parents (natural or adoptive) or guardians of such children are not resident in the same home. No more than 4 children may be placed in a foster home unless all are in the relationship to each other of brother or sister. Exceptions to the number of children may be made by the state department of public welfare.

(2) No person shall conduct or maintain a foster home without first having obtained a permit to do so from the state department of public welfare or from a licensed child welfare agency designated to issue such permits by the state department of public welfare. Such permits shall not be issued for a longer period than one year.

(3) When designated so to do by the state department of public welfare, a licensed child welfare agency may, after investigation and upon terms prescribed by said department and subject to the inspection and approval of said department, issue permits to conduct foster homes to persons applying therefor.

(4) Every foster home shall be under the supervision of the licensed child welfare agency, if any, which issued a permit to it and of the state department of public welfare or of some person or agency designated by such department. The state department of public welfare shall adopt and enforce rules and regulations for the conduct of all foster homes to which it shall issue permits directly.

**History:** 1951 c. 509.

For the purposes of this section, a putative father, who acknowledges that he is the father of his child with whom he resides in the same house, is the "natural" parent of such child, so that such child is not a "neglected" child within the provision in 48.01 (1) (a) stating that a child is a neglected child if he is in a home, other than his own, to which the state department of public welfare refuses to issue a "foster-home" permit. In re Aronson, 263 W 604, 53 NW (2d) 553. The department cannot require that a permit under this section be issued to a home in which fewer than 4 children are received for control and care for a period of less than 24 hours a day. 39 Atty. Gen. 445.

**48.385 Same; counties may issue.** The county board of any county, except in counties of a population of 500,000 or more, may by resolution empower its pension department, or such officer or agency as is designated by law to administer the laws governing public assistance, to grant permits to foster homes within the county. A certified copy of the resolution shall be transmitted to the state department of public welfare and upon receipt thereof the said department may license such pension department, officer or agency to issue permits to foster homes subject to the same standards, rules and regulations as may be prescribed by the state department of public welfare for private child welfare agencies under sections 48.35 to 48.39.

**48.39 Revocation of licenses to child welfare agencies and permits to foster homes.**

(1) The state department of public welfare may revoke any license of a child welfare agency in case the licensee shall have substantially and wilfully violated any provision of this chapter or the provisions of such license or because such licensee is no longer qualified to receive children for the purpose of providing them with care and maintenance or placing them in foster homes.

(2) The state department of public welfare may revoke or refuse to renew any permit for a foster home, after written notice to the holder of such permit stating the grounds for such proposed revocation or refusal of renewal, in case the person to whom the same is granted shall have violated any provision of this chapter or the provisions of such permit,

or because a child in such foster home is being subjected to vicious or harmful influence or lacks wise or considerate care or attention.

(3) No license to a child welfare agency shall be revoked or renewal denied unless the holder of such license is given written notice of the grounds for such proposed revocation or refusal of renewal, a public hearing upon at least 30 days' written notice, and opportunity thereat to present testimony and to confront witnesses. Such notice shall be given by personal service thereof on the holder of such license at the address in such license specified. Such hearing shall be held in the county in which the applicant or licensee resides unless the holder of such license consents to a hearing at some other place.

(4) No order of revocation or refusal of renewal shall become effective until the final determination of any proceeding for the judicial review thereof. Such review may be had as provided in chapter 227. No undertaking of any kind shall be required for costs on such appeal.

**48.40 Violations.** (1) (a) Whenever the state department of public welfare shall be advised or shall have reason to believe that any person, firm, corporation, association or private institution, is conducting or acting as a child welfare agency in this state without being licensed as in this chapter provided, or is in any way, directly or indirectly, offering to place any child or holding himself or itself out as being able to place or dispose of children in any manner, it shall make an investigation to ascertain the facts. If it finds that such person, firm, corporation, association or private institution is so acting without a license, it may either issue a license upon application therefor, or may cause a prosecution to be instituted under the provisions of section 48.41.

(b) In addition to the penalties provided, the several circuit courts shall have jurisdiction to prevent and restrain by injunction violations of sections 48.37, 48.41 and 48.45. It shall be the duty of the several district attorneys, upon request of the state department of public welfare, to institute action for such injunction under chapter 268.

(2) Whenever the state department of public welfare shall be advised or shall have reason to believe that any person in this state is conducting or maintaining a foster home without having a permit therefor, as in this chapter provided, it shall make an investigation to ascertain the facts and take necessary steps to protect the children in such foster home either by issuing a permit pursuant to s. 48.38 or by removing said children. The state department of public welfare may also cause a prosecution to be instituted against such person under the provisions of s. 48.41. The state department of public welfare may refuse to issue a permit to any foster home which does not comply with any rule, regulation or standard established by the department for the conduct of a foster home. The department shall be authorized with the approval of the judge of the juvenile court to remove any children from a foster home which has been denied a permit.

**History:** 1951 c. 509; 1953 c. 410.

**48.41 Penalties.** (1) Any person who shall act as a child welfare agency without a license as provided in this chapter or who shall violate any of the provisions of the statutes relating to the organization, conduct and operations of child welfare agencies, or who in any way, directly or indirectly, offers to place or dispose of any child or hold himself out as being able to place or dispose of children in any manner whatsoever, shall upon conviction thereof be punished by a fine of not less than ten nor more than five hundred dollars or by imprisonment in the county jail for not more than one year, and said term of imprisonment in case of an association or a corporation may be imposed upon its officers who participated in said violation.

(2) Any person who shall conduct or maintain a foster home without having a permit to do so as provided by section 48.38 shall upon conviction thereof be punished by a fine of not less than ten nor more than two hundred dollars, or by imprisonment in the county jail for not more than 60 days.

**48.42 Interstate placement of children.** (1) No person shall bring, or cause to be brought, or send, or cause to be sent, into this state or take, or cause to be taken, or send, or cause to be sent, out of this state any child for the purpose of placing such child in a foster home or of procuring his adoption, without first obtaining the consent of the state department of public welfare; but this section shall not apply to a resident who brings a child into the state for adoption in his own family, nor to a parent or guardian who takes or sends a child outside of the state for placement in a foster home.

(2) Such consent by the state department of public welfare shall be given only upon the following conditions:

(a) Any person who brings or sends children into this state for the purpose of placing such children in foster homes or of procuring their adoption must file with the department a bond to the state of Wisconsin, approved by the department, in the penal sum of \$1,000, conditioned that he will not bring or send into this state any child who is incor-

rigible or unsound of mind or body and that he will remove any such child who becomes a public charge or who, in the opinion of the department, becomes a menace to the community prior to his adoption or becoming of legal age, and conditioned further that all placements shall be made under the same conditions as placements may be made by licensed child welfare agencies. The state department of public welfare may waive the bond herein provided for, whenever in the opinion of said department such waiver is warranted. This paragraph shall not apply to child welfare agencies licensed in this state and no bond shall be required from such agencies.

(b) Before any child is brought or sent into this state or taken from or sent out of this state for placement in a foster home, the person bringing, taking or sending such child must obtain a certificate from the state department of public welfare that such home is a suitable home for such child.

(c) The person bringing, taking or sending such child into or out of this state, shall make a report to the state department of public welfare, at least once each year and at such other times as the department may require, as to the location and well-being of such child, until he shall be 18 years of age or until he shall be legally adopted.

(3) The state department of public welfare shall have power and authority to make all necessary rules and regulations for the enforcement of this section, not in conflict therewith, and all persons bringing, taking or sending children into or out of this state shall comply with all such rules and regulations.

**48.43 Maternity hospitals; licenses.** (1) The term "maternity hospital" as used in sections 48.43 to 48.47 is defined as a place in which any person, firm, association or corporation receives, treats or cares for more than one woman within a period of six months because of pregnancy or in childbirth or within two weeks after childbirth, but not counting in case of an individual, women related to such person or his or her spouse by consanguinity within the sixth degree of kindred computed according to the civil law.

(2) The person or persons conducting any such maternity hospital shall obtain an annual license from the state board of health, and no person conducting a maternity hospital shall receive a woman because of pregnancy or in childbirth or within two weeks after childbirth, without first obtaining such license. Such license shall not be transferable and shall expire on the thirty-first day of December of the year for which issued unless sooner revoked by the state board of health.

(3) Each such license shall state the name and address of the licensee, the specific location of the premises used and the number of women and infants that may be cared for or treated therein at any one time. No greater number of women or infants shall be lodged or cared for at any one time in any maternity hospital than is authorized by the license and no premises shall be used other than those authorized by the license. A record of licenses issued shall be kept by the state board of health.

(4) No license for a maternity hospital shall be renewed unless the person licensed to conduct the same shall have faithfully observed all of the provisions of sections 48.43 to 48.46 and the rules and regulations of the state board of health issued thereunder. Before renewing any such license the state board of health shall secure from the state department of public welfare a certification that the licensee has complied with all requirements of sections 48.44 to 48.46

Under 48.43 (1) and 48.44 (1) and (2), the state board of health may make rules and regulations relating to the use of physical equipment of maternity hospitals, including use of separate rooms for surgery and obstetrics. 39 Atty. Gen. 388.

**48.44 Application for license; supervision; records.** (1) No license for a maternity hospital shall be granted without an investigation as in this section provided. Whenever application for a license is made for a maternity hospital, the state board of health shall forthwith give notice of such application to the local health officer. The local health officer shall make such investigation of such application for license as he shall deem necessary and shall then make his recommendation to the state board of health regarding granting of such license. If within a reasonable time, but not exceeding 30 days, the local health officer has not made a recommendation to the state board of health upon any application for a license to conduct a maternity hospital the state board of health shall make the necessary investigation. The investigation of any application for a license to conduct a maternity hospital shall include an inquiry as to the number of cubic feet of air space available for each patient, the facilities for ventilation and the admission of sunlight to the rooms used for the care of mothers and their infants. No license shall be issued unless the state board of health is satisfied that the physical equipment of the place to be used as a maternity hospital is adequate for the proper care of mothers and infants. The state board of health and the local health officer shall keep informed of the nature and reputation of every such maternity hospital and shall visit and inspect the same as often as they deem necessary and for such purposes shall at all reasonable hours be given free and unre-

stricted access to every part thereof. The members and authorized agents of the state department of public welfare shall have access to such records as maternity hospitals are required to maintain under this section, and they shall be furnished with any information which they may require and which is in possession of such hospitals or the persons conducting the same and which is in relation to the welfare of the children of unmarried mothers.

(2) Each license shall specify in general terms the kind of maternity hospital which the license covers. The state board of health shall make such general rules and regulations for the various kinds of maternity hospitals as shall be necessary to effect the purposes of sections 48.43 to 48.45.

(3) The state board of health with the approval of the state department of public welfare shall prescribe forms for the registration and record of women cared for in pregnancy or in childbirth or within 2 weeks after childbirth in maternity hospitals. Every maternity hospital shall maintain a complete record of every such patient and her infant on the forms so prescribed, which record shall be kept in the office of such maternity hospital.

(4) No person connected with a maternity hospital shall directly or indirectly disclose the contents of its records as such, except in a judicial proceeding where the same is material or for the information of the state board of health, the state department of public welfare, or the local health officer. Nothing herein shall be construed to limit or modify the provisions of section 325.21.

**48.45 Conduct of maternity hospitals.** (1) No person conducting or in any way connected with the conduct of any maternity hospital shall in any way directly or indirectly offer to dispose of any child or hold himself out as being able to dispose of children in any manner.

(2) Whenever any woman is received in a maternity hospital because of pregnancy or in childbirth or within 2 weeks after childbirth, such hospital shall use diligence to ascertain whether such patient is married; and, if there is reason to believe that her child is or will be when born an illegitimate child, such hospital shall report to the state department of public welfare within 24 hours the presence of such woman.

**History:** 1953 c. 410.

**48.46 Revocation of licenses.** (1) The state board of health may revoke the license for any maternity hospital if the persons licensed to conduct the same shall have violated any provision of sections 48.43 to 48.46 or any of the rules and regulations of the state board of health issued thereunder or the provisions of such license.

(2) No license for a maternity hospital shall be revoked unless the holders of such license shall have notice in writing of the grounds for such proposed revocation, a public hearing upon at least ten days' written notice, and opportunity thereat to present testimony and to confront witnesses. Such notice may be given either by personal service thereof or by mailing the same by registered mail to the holder of such license at the address therein specified.

**48.47 Penalties.** Any person, firm, association or corporation found guilty of violating any of the provisions of sections 48.42 to 48.45 shall be punished by a fine of not less than ten nor more than five hundred dollars, or by imprisonment in the county jail for not more than one year, and said term of imprisonment in case of an association or corporation may be imposed upon its officers who participated in said violation.

**48.50 Child care centers, day nurseries, nursery schools.** (1) **PERMITS REQUIRED.** No person shall for compensation provide care and supervision for 4 or more children under the age of 7 years for periods of more than 2 hours but less than 24 hours per day unless he shall have been issued a permit therefor by the state department of public welfare. Each permit shall bear the name of the person, firm or corporation to whom it is issued, describe the premises included, and state the maximum number of children that may be cared for thereon at any one time and the period during which it shall be valid. The permit is not transferable.

(2) **APPLICATION.** Application for such permit shall be made in such form as the department shall prescribe and upon forms furnished by the department.

(3) **STANDARDS.** The department, after public hearing, shall prescribe rules and regulations for the issuance of permits, and shall establish standards for the operation of child care centers, day nurseries and nursery schools. The department shall consult with the industrial commission, the department of public instruction and the state board of health in promulgating such rules, regulations and standards which shall provide for the safety, health and welfare of the children.

(4) **PERMIT PERIOD, REVOCATION.** (a) A permit shall not be issued for a period longer than one year, and shall expire upon the date designated by the department at the time of issuance.

(b) The department may revoke any permit issued under this section when the department shall find that any permit holder has violated any provision of this section or any rule, regulation or standard established thereunder.

(c) Before revoking such permit, the department shall give the permit holder written notice of the grounds for such proposed revocation and of public hearing at least 20 days prior to such hearing. The permit holder may present testimony and confront witnesses at the hearing.

(5) ACCESS. The department's authorized agents shall visit and inspect each child care center, day nursery or nursery school as often as deemed necessary, and for such purpose shall be given unrestricted access to the premises described in the application or permit.

(6) EXEMPTIONS. Nothing contained herein shall apply to care given to children by or in homes maintained by their parents, grandparents, brothers, sisters, uncles, aunts or legal guardians of the person, nor shall anything contained herein apply to public or parochial schools, or to recreational camps meeting standards established by the state board of health.

(7) PENALTY. Any person, firm or corporation violating any provision of this section or any rule, regulation or standard established hereunder shall be fined not less than \$10 nor more than \$100 for each offense.