

**1977 Assembly Bill 874**

Date published: **May 17, 1978**

**CHAPTER 354, Laws of 1977**

**AN ACT** to repeal 48.04 (3), 48.08 (3), 48.195, 48.22, 48.28, 48.38 (1), 48.51 and 946.42 (3) (c); to renumber 48.06 (3), 48.23, 48.26, 48.27, 48.31, 48.32, 48.38 (title)

and (2), 48.395 and 48.99; to renumber and amend 48.16, 48.17 and 48.47; to amend 17.10 (6), 46.001, 46.03 (7) (a), 48.04 (2), 48.06 (1) (a), 48.07 (2) and (3), 48.22 (title) and (1) to (3), as renumbered, 48.396 (1), as renumbered, 48.42 (3), 48.44, 48.45 (1) and (4), 48.48 (1) to (4) and (4m) (a) to (c), 48.50, 48.52 (title), (1) (intro.) and (2) (a), 48.57 (1) (a) to (d) and (g), 48.58 (1) (b), (c) and (d), 48.64 (1), 48.90 (2), 51.10 (2) (d) 5, 115.81 (8) and 880.15 (1); to repeal and recreate 48.01, 48.02, 48.06 (2), 48.08 (2), 48.12, 48.13, 48.14 (2) (b) and (3), 48.18, 48.19, 48.20, 48.21, 48.24 to 48.25, 48.275, 48.29 to 48.30, 48.33, 48.34, 48.345, 48.35, 48.37 and 48.63 (title), (1) and (3); and to create 48.023, 48.06 (1) (am) and (3), 48.065, 48.067, 48.069, 48.09, 48.10, 48.125, 48.135, 48.14 (4) to (7), 48.17 (2), 48.205, 48.207, 48.208, 48.209, 48.22 (5), 48.227, 48.23, 48.235, subchapter V (title) of chapter 48, 48.255, 48.263, 48.27, 48.273, 48.305, 48.31, 48.315, 48.317, 48.32, 48.335, 48.343, 48.355, 48.357, 48.36, 48.363, 48.365, subchapter VII (title) of chapter 48, 48.47 (2), 48.98 (4), 48.99, 48.995 and 977.08 (2) (g) of the statutes, relating to a revision of the children's code and providing penalties.

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

SECTION 1. 17.10 (6) of the statutes is amended to read:

17.10 (6) OTHERS. All other appointive county officers, by the officer, or body that appointed them, at pleasure, except ~~probation officers and their substitutes~~ disposition staff, and intake workers appointed pursuant to under ch. 48 who may be removed for cause only. Removals by a body, other than the county board, consisting of 3 or more members may be made by an affirmative vote of two-thirds of all the members thereof.

SECTION 2. 46.001 of the statutes is amended to read:

**46.001 Purposes of chapter.** The purposes of this chapter are to conserve human resources in Wisconsin; to provide a just and humane program of services to ~~dependent and neglected~~ children in need of protection or services and children born out of wedlock; to prevent dependency, mental illness, ~~mental deficiency~~ developmental disability, mental infirmity, delinquency, crime and other forms of social maladjustment by a continuous attack on causes; to provide effective aid and services to all persons in need thereof and to assist such persons to achieve or regain self-dependence at the earliest possible date; to provide a just, humane and efficient program for the rehabilitation of juvenile delinquents and other offenders; to avoid duplication and waste of effort and money on the part of public and private agencies; and to ~~co-ordinate~~ coordinate and integrate a social welfare program.

SECTION 3. 46.03 (7) (a) of the statutes is amended to read:

46.03 (7) (a) Promote the enforcement of laws for the protection of ~~mentally deficient, dependent, neglected and developmentally disabled~~ children, delinquent children, children in need of protection or services and children born out of wedlock; and to this end ~~co-operate~~ cooperate with juvenile courts and licensed child welfare agencies and institutions (public and private) and take the initiative in all matters involving the interests of such children where adequate provision therefor has not already been made.

SECTION 4. The unnumbered subchapter title which precedes section 48.01 of the statutes is numbered subchapter I (title).

SECTION 5. 48.01 and 48.02 of the statutes are repealed and recreated to read:

**48.01 Title and legislative purpose.** (1) This chapter may be cited as "The Children's Code". This chapter shall be interpreted to effectuate the following express legislative purposes:

(a) To provide judicial and other procedures through which children and all other interested parties are assured fair hearings and their constitutional and other legal rights are recognized and enforced, while protecting the public safety.

(b) To provide for the care, protection and wholesome mental and physical development of children, preserving the unity of the family whenever possible.

(c) Consistent with the protection of the public interest, to remove from children committing delinquent acts the consequences of criminal behavior and to substitute therefore a program of supervision, care and rehabilitation.

(d) To divert children from the juvenile justice system to the extent this is consistent with protection of children and the public safety.

(e) To respond to children's needs for care and treatment through community-based programs and to keep children in their homes whenever possible.

(f) To assure that children pending adoptive homes will be placed in the best homes available and protected from adoption by persons unfit to have responsibility for raising children.

(2) This chapter shall be liberally construed to effect the objectives contained in this section. The best interests of the child shall always be of paramount consideration, but the court shall also consider the interest of the parents or guardian of the child and the interests of the public.

**48.02 Definitions.** In this chapter, unless otherwise defined:

(1) "Adult" means a person who is 18 years of age or older.

(2) "Child" means a person who is less than 18 years of age.

(2m) "Court", when used without further qualification, means the juvenile court.

(3) "Court intake worker" means any person designated to provide intake services under s. 48.067.

(4) "Department" means the department of health and social services.

(5) "Developmentally disabled" means having a developmental disability, as defined in s. 51.01 (5).

(6) "Foster home" means a home operated by a person required to be licensed under s. 48.62 for the care and maintenance of one to 4 foster children.

(7) "Group foster home" means any facility operated by a person required to be licensed by the department under s. 48.64 (3) for the care and maintenance of 5 to 8 foster children.

(8) "Guardian ad litem" means a lawyer admitted to practice in this state who is appointed to protect the interest of the child or an incompetent in a particular court proceeding.

(9) "Guardian" means the person named by the court having the duty and authority of guardianship.

(10) "Judge", if used without further qualification, means the judge of the juvenile court.

(11) "Legal custodian" means a person, other than a parent or guardian, or an agency to whom legal custody of the child has been transferred by a court, but does not include a person who has only physical custody of the child.

(12) "Legal custody" means a legal status created by the order of a court, which confers the right and duty to protect, train and discipline the child, and to provide food, shelter, legal services, education and ordinary medical and dental care, subject to the

rights, duties and responsibilities of the guardian of the child and subject to any existing parental rights and responsibilities and the provisions of any court order.

(13) "Parent" means either a biological parent or a parent by adoption. If the child is born out of wedlock but not subsequently legitimated or adopted, "parent" includes a person adjudged in a judicial proceeding to be the biological father. "Parent" does not include any person whose parental rights have been terminated.

(14) "Physical custody" means actual custody of the person in the absence of a court order granting legal custody to the physical custodian.

(15) "Relative" means a parent, grandparent, brother, sister, first cousin, nephew, niece, uncle or aunt. This relationship may be by consanguinity or direct affinity.

(16) "Secure detention facility" means a locked facility approved by the department under s. 46.16 for the secure, temporary holding in custody of children.

(17) "Shelter care facility" means a publicly or privately operated nonsecured place of temporary care and custody for children.

(18) "Trial" means a fact-finding hearing to determine jurisdiction.

SECTION 6. 48.023 of the statutes is created to read:

**48.023 Guardianship.** A person appointed by the court to be the guardian of a child under this chapter has the duty and authority to make important decisions in matters having a permanent effect on the life and development of the child and the duty to be concerned about the child's general welfare, including but not limited to:

(1) The authority to consent to marriage, enlistment in the U.S. armed forces, major medical, psychiatric and surgical treatment, and obtaining a motor vehicle operator's license.

(2) The authority to represent the child in legal actions and make other decisions of substantial legal significance concerning the child but not the authority to deny the child the assistance of counsel as required by this chapter.

(3) The right and duty of reasonable visitation of the child.

(4) The rights and responsibilities of legal custody except when legal custody has been vested in another person.

SECTION 7. The unnumbered subchapter title which precedes section 48.03 of the statutes is numbered subchapter II (title).

SECTION 8. 48.04 (2) of the statutes is amended to read:

48.04 (2) If the county contains one or more cities of the ~~second~~ 2nd or ~~third~~ 3rd class ~~and the court designated as the juvenile court does not have a clerk 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 and such deputies as may be needed, who shall ~~be a stenographer and shall~~ perform the duties of clerk and reporter of such court as directed by the judge. ~~This~~ The clerk and deputies shall take and file the official oath and shall receive such salary as the county board determines.

SECTION 9. 48.04 (3) of the statutes is repealed.

SECTION 10. 48.06 (1) (a) of the statutes is amended to read:

48.06 (1) (a) In counties having a population of 500,000 or more, the county board of supervisors shall provide the court with the services necessary for investigating and supervising cases by operating a children's court center under the supervision of a director who shall be appointed as provided in s. 46.21 (4) under the laws governing civil service in the county. The director shall be the chief administrative officer of ~~said~~ the center and of the intake, and probation and detention sections ~~thereof~~ and secure detention facilities

of the center except as ~~herein~~ otherwise provided in this subsection, and as ~~such~~ the officer shall be charged with administration of the personnel and services of ~~such~~ the sections and of the secure detention ~~home~~ facilities, and be responsible for supervising both the operation of the physical plant and the maintenance and improvement of the buildings and grounds of ~~said~~ the center. The center shall include investigative services for all children alleged to be ~~dependent or neglected~~ in need of protection or services to be provided by the county department of public welfare, and the services of an assistant district attorney or assistant corporation counsel or both, who shall be assigned to the center to provide investigative as well as legal work in ~~such~~ the cases. The chief judge of the county board of judges shall formulate written judicial policy governing intake and juvenile court services and the director shall be charged with executing ~~such~~ the judicial policy. The chief judge or a designee shall direct and supervise the work of all personnel of the court, except the work of the district attorney or corporation counsel assigned thereto. The county board of public welfare shall develop policies and establish necessary rules and regulations for the management and administration of the nonjudicial operations of the children's court center, but any such policy, rule or regulation shall be subject to adoption of a different policy, rule or regulation by the county board of supervisors by a majority of the members thereof present and voting; and the director thereof shall report and be responsible to the director of institutions and departments for the execution of all nonjudicial operational policies, rules and regulations governing the center, including activities of probation officers whenever they are not performing services for the court. The director of ~~said~~ the center shall also be responsible for the preparation and submission to the county board of public welfare of the annual budget for the center except for ~~such~~ the judicial functions or responsibilities which are delegated by law to the judge or judges and clerk of circuit court. ~~Such~~ The board shall make provision in the organization of the office of director for the devolution of the director's authority in the case of temporary absence, illness, disability to act or a vacancy in position and shall establish the general qualifications for the position. ~~Such~~ The board shall have the further authority to investigate, arbitrate and resolve any conflict in the administration of the center as between judicial and nonjudicial operational policy, rules and regulations, except that the final disposition thereof shall be subject to the approval of the county board of supervisors by a majority of the members thereof present and voting, but shall not have authority or assert jurisdiction over the disposition of any case or child after a written order for ~~detention~~ is made under s. ~~48.29 (2)~~ 48.21 or if a petition is filed ~~pursuant to s. 48.20~~ under s. 48.25. All personnel of the intake, ~~detention~~ and probation sections, ~~including employes~~ and of the secure detention ~~home~~ facilities, shall be appointed under civil service by the director except that existing court service personnel having permanent civil service status may be reassigned to any of the respective sections within the center specified ~~herein~~ in this paragraph.

SECTION 11. 48.06 (1) (am) of the statutes is created to read:

48.06 (1) (am) All intake workers beginning employment after the effective date of this act (1977) shall have such qualifications as are required of persons having comparable responsibilities under the county merit system.

SECTION 12. 48.06 (2) of the statutes is repealed and recreated to read:

48.06 (2) COUNTIES WITH A POPULATION UNDER 500,000. In counties having less than 500,000 population, the county board of supervisors shall authorize the county social services department or court or both to provide intake services required by s. 48.067 and agency staff needed to carry out the objectives and provisions of this chapter under s. 48.069. All intake workers beginning employment after the effective date of this act (1977) shall have those qualifications as are required of persons having comparable responsibilities under the county merit system. All such workers shall be governed in their intake work, including their responsibilities for recommending the filing of a petition and

entering into an informal disposition, by general written policies which shall be formulated by the judge.

SECTION 13. 48.06 (3) of the statutes is renumbered 48.06 (4).

SECTION 14. 48.06 (3) of the statutes is created to read:

48.06 (3) The court or agency responsible for providing intake services under s. 48.067 shall specify one or more persons to provide intake services. If there is more than one such worker, one of the workers shall be designated as chief worker and shall supervise other workers.

SECTION 15. 48.065, 48.067 and 48.069 of the statutes are created to read:

**48.065 Juvenile court commissioners.** (1) The board of supervisors of any county may authorize the judge to appoint one or more part-time or full-time juvenile court commissioners who shall serve at the discretion of the judge. A juvenile court commissioner shall be licensed to practice law in this state and shall have been so licensed for at least 2 years immediately prior to appointment and shall have a demonstrated interest in the welfare of children. Law clerks, bailiffs and deputies shall be assigned to the court commissioner at the discretion of the judge.

(2) A juvenile court commissioner, if authorized to do so by a judge, may, under this chapter:

(a) Issue summonses.

(b) Conduct hearings under s. 48.21 and thereafter order a child held in or released from custody.

(c) Conduct appearances under s. 48.243 (3).

(d) Conduct plea hearings.

(e) Enter into consent decrees.

(f) Conduct prehearing conferences.

(g) Conduct all proceedings on petitions under s. 48.125.

(h) Perform such other duties, not in conflict with this chapter, as the judge may direct.

(3) The juvenile court commissioner may not:

(a) Conduct waiver hearings under s. 48.18.

(b) Conduct fact-finding or dispositional hearings except petitions under s. 48.125 or hearings on the termination of parental rights or on adoptions.

(c) Make dispositions other than approving consent decrees.

(4) When acting officially, the juvenile court commissioner shall sit at the courthouse or the usual juvenile court facility. Any decision of the juvenile court commissioner shall be reviewed by the judge upon the request of any interested party.

**48.067 Powers and duties of intake workers.** To carry out the objectives and provisions of this chapter but subject to its limitations, intake workers shall:

(1) Provide intake services 24 hours a day, 7 days a week, for the purpose of screening children taken into custody and not released under s. 48.20 (2);

(2) Interview, unless impossible, any child who is taken into physical custody and not released, and where appropriate interview other available concerned parties. If the child cannot be interviewed, the intake worker shall consult with the child's parent or a responsible adult. No child may be placed in a secure detention facility unless and until he or she has been interviewed in person by an intake worker.

(3) Determine whether the child shall be held under s. 48.205 and such policies as the judge shall promulgate under s. 48.06 (1) or (2);

(4) If the child is not released, determine where the child shall be held;

(5) Provide crisis counseling during the intake process when such counseling appears to be necessary;

(6) Receive referral information, conduct intake inquiries, make recommendations as to whether a petition should be filed, and enter into informal dispositions under such policies as the court promulgates under s. 48.06 (1) or (2);

(7) Make referrals of cases to other agencies if their assistance appears to be needed or desirable;

(8) Make interim recommendations to the court concerning children awaiting final disposition under s. 48.355; and

(9) Perform any other functions ordered by the court, and assist the court in developing written policies or carrying out its other duties when the court so requests.

**48.069 Powers and duties of disposition staff.** (1) The staff of the department, the court or a county department of public welfare or social services, or a licensed child welfare agency designated by the court to carry out the objectives and provisions of this chapter shall:

(a) Supervise and assist a child pursuant to informal dispositions, a consent decree or order of the court.

(b) Offer family counseling.

(c) Make an affirmative effort to obtain necessary or desired services for the child and the child's family and investigate and develop resources toward that end.

(d) Prepare reports for the court recommending a plan of rehabilitation, treatment and care.

(e) Perform any other functions consistent with this chapter which are ordered by the court.

(2) Licensed child welfare agencies and the department shall provide services under this section only upon the approval of the agency from whom services are requested.

(3) The agency responsible for disposition staff may agree with the agency responsible for providing intake services that the disposition staff may be designated to provide some or all of the intake services.

(4) Disposition staff employed to perform the duties specified in sub. (1) after the effective date of this act (1977) shall have the qualifications required under the county merit system.

SECTION 16. 48.07 (2) and (3) of the statutes are amended to read:

48.07 (2) LICENSED CHILD WELFARE AGENCY. The court may request the services of a ~~licensed~~ child welfare agency licensed under s. 48.60 in accordance with procedures established by that agency. ~~Such~~ The child welfare agency shall receive no compensation for these services but may be reimbursed out of funds made available to the court for the actual and necessary ~~traveling~~ expenses incurred in the performance of duties for the court.

(3) COUNTY WELFARE DEPARTMENT IN POPULOUS COUNTIES. In counties having a population of 500,000 or more, the director of the county welfare department may ~~request~~ be ordered by the court to authorize his department to provide services for furnishing emergency shelter care to any child whose need therefor, either by reason of ~~dependency,~~ neglect need of protection and services or delinquency ~~or for protective reasons, is brought~~

~~to the attention of the department. Upon such request, the, is determined by the intake worker under s. 48.205. The court may authorize the director to appoint members of his the county welfare department to furnish emergency shelter care services for such the child. The emergency shelter care may be given in the county children's home, a foster home or an agency-operated institution or may be provided by the furnishing of home-maker's services by the department in the home where the child resides. Such emergency shelter care shall be provided for separate periods of not to exceed 24 hours each, except that if any part of such period falls on a day on which the court is not in session, the period shall be extended to 5 p.m. of the first day thereafter on which a court session is held. The person appointed to furnish such services shall file a petition under s. 48.20 in court before the expiration of such period provided as specified in s. 48.207.~~

SECTION 17. 48.08 (2) of the statutes is repealed and recreated to read:

48.08 (2) Each person designated to furnish services for the court under ss. 48.067 and 48.069 has the power of police officers and deputy sheriffs only for the purpose of taking children into physical custody where the child comes voluntarily or is suffering from illness or injury or is in immediate danger from his or her surroundings and removal from the surroundings is necessary.

SECTION 19. 48.08 (3) of the statutes is repealed.

SECTION 20. 48.09 and 48.10 of the statutes are created to read:

**48.09 Representation of the interests of the public.** The interests of the public shall be represented in proceedings under this chapter as follows:

- (1) By the district attorney, in any matter arising under s. 48.12.
- (2) By the district attorney or, if designated by the county board, by the corporation counsel, in any matter concerning a civil law violation arising under s. 48.125.
- (3) By the city attorney, in any matter concerning a city ordinance violation arising under s. 48.125.
- (4) By any appropriate person designated by the county board in any matter concerning a noncity ordinance violation arising under s. 48.125.
- (5) By the district attorney or, if designated by the county board, by the corporation counsel, in any matter arising under s. 48.13.
- (6) By any appropriate person designated by the county board in any matter arising under s. 48.14.

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

SECTION 21. The unnumbered subchapter title preceding section 48.12 of the statutes is numbered subchapter III (title) and amended to read:

CHAPTER 48  
SUBCHAPTER III  
JURISDICTION

SECTION 22. 48.12 of the statutes, as affected by chapter 29, laws of 1977, is repealed and recreated to read:

**48.12 Jurisdiction over children alleged to be delinquent.** The court has exclusive jurisdiction, except as provided in ss. 48.17 and 48.18, over any child 12 years of age or older who is alleged to be delinquent because he or she has violated any federal or state criminal law.

SECTION 23. 48.125 of the statutes is created to read:

**48.125 Jurisdiction over children alleged to have violated civil laws or ordinances.** The court has exclusive jurisdiction over any child alleged to have violated a law punishable by forfeiture or a county, town or other municipal ordinance, except as provided under s. 48.17.

SECTION 24. 48.13 of the statutes, as affected by chapter 29, laws of 1977, is repealed and recreated to read:

**48.13 Jurisdiction over children alleged to be in need of protection or services.** The court has exclusive original jurisdiction over a child alleged to be in need of protection or services which can be ordered by the court, and:

- (1) Who is without a parent or guardian;
- (2) Who has been abandoned;
- (3) Who has been the victim of sexual or physical abuse including injury which is self-inflicted or inflicted by another by other than accidental means;
- (4) Whose parent or guardian signs the petition requesting jurisdiction and states that he or she is unable to care for, control or provide necessary special care or special treatment for the child;
- (5) Who has been placed for care or adoption in violation of law;
- (6) Who is habitually truant from school;
- (7) Who is habitually truant from home and either the child or a parent signs the petition requesting jurisdiction and attests in court that reconciliation efforts have been attempted and have failed;
- (8) Who is receiving inadequate care during the period of time a parent is missing, incarcerated, hospitalized or institutionalized;
- (9) Who is at least age 12, signs the petition requesting jurisdiction and attests in court that he or she is in need of special care and treatment which the parent, guardian or legal custodian is unwilling to provide;
- (10) Whose parent, guardian or legal custodian neglects, refuses or is unable for reasons other than poverty to provide necessary care, food, clothing, medical or dental care or shelter so as to seriously endanger the physical health of the child;
- (11) Who is suffering emotional damage for which the parent or guardian is unwilling to provide treatment, which is evidenced by one or more of the following characteristics, exhibited to a severe degree: anxiety, depression, withdrawal or outward aggressive behavior; or
- (12) Who, being under 12 years of age, has committed a delinquent act as defined in s. 48.12.

SECTION 25. 48.135 of the statutes is created to read:

**48.135 Referral of children to proceedings under chapter 51.** If a child alleged to be delinquent or in need of protection or services is before the court and it appears that the child is developmentally disabled, mentally ill, alcoholic or drug dependent, the court as defined in ch. 51 may proceed under ch. 51.

SECTION 26. 48.14 (2) (b) and (3) of the statutes are repealed and recreated to read:

48.14 (2) (b) The appointment and removal of a guardian of the person for a child under ss. 48.43 and 48.85 and ch. 880 and for a child found to be in need of protection or services under s. 48.13 because the child is without parent or guardian.

(3) The adoption of children, except in counties having a population of 500,000 or more.

SECTION 27. 48.14 (4) to (7) of the statutes are created to read:

48.14 (4) Proceedings under the interstate compact on juveniles under s. 48.991.

(5) Proceedings under chs. 51 and 55 which apply to minors.

(6) Consent to marry under s. 245.02.

(7) Appeals under s. 115.81.

SECTION 28. 48.16 of the statutes is renumbered 48.185 and amended to read:

**48.185 Venue.** Venue for any proceeding under ss. 48.12 ~~and~~, 48.125, 48.13 ~~shall~~, 48.135, 48.14 and 48.18 may be in any of the following: the county where the child resides, the county where ~~he~~ the child is present or, in the case of a violation of a state law or a county, town or municipal ordinance, the county where the violation occurred. Venue for any proceeding under s. 48.363 or 48.365 shall be in the county where the dispositional order was issued, unless the child's county of residence has changed, or the parent of the child has resided in a different county of this state for 6 months. In either case, the court may, upon a motion and for good cause shown, transfer the case, along with all appropriate records, to the county of residence of the child or parent.

SECTION 29. 48.17 of the statutes is renumbered 48.17 (1) and amended to read:

**48.17 (title) Jurisdiction over traffic and boating, civil law and ordinance violations.**

(1) (title) **TRAFFIC VIOLATIONS.** ~~Courts~~ Except for ss. 342.06 (2) and 344.48 (1), and s. 346.67 when death or injury occurs, courts of criminal and civil jurisdiction shall have exclusive jurisdiction in proceedings against children 16 or older for violations of ss. 30.50 to 30.80, of chs. 341 to 349, or 350, and of traffic regulations as defined in s. 345.20. A child convicted of a traffic or boating offense in a court of criminal or civil jurisdiction shall be treated as an adult for sentencing purposes except that the court may disregard any minimum period of incarceration specified for the offense.

SECTION 30. 48.17 (2) of the statutes is created to read:

48.17 (2) **CIVIL LAW AND ORDINANCE VIOLATIONS.** Courts of civil jurisdiction shall have concurrent jurisdiction with the juvenile court in proceedings against children aged 16 or older for violations of law punishable by forfeiture or violations of county, town or other municipal ordinances. The citation procedures described in ss. 23.50 to 23.85 and 66.119, respectively, may be used in such cases where applicable to adults charged with the same offense. If a citation is issued to a child, the issuing agency shall within 7 days notify the child's parent or guardian. If a court of civil jurisdiction finds that the child violated a law punishable by forfeiture or violated a municipal ordinance, it may enter any of the dispositional orders permitted under s. 48.343 (1), (2) or (5). If a child fails to pay the forfeiture imposed by the court of civil jurisdiction, the court shall not impose a jail sentence but may suspend any license issued under ch. 29 for not less than 30 nor more than 90 days, or suspend the child's operating privilege, as defined in s. 340.01 (40), for not less than 30 nor more than 90 days. If a court of civil jurisdiction suspends a license under this section, it shall immediately take possession of the suspended license and forward it to the department which issued the license, together with the notice of suspension clearly stating that the suspension is for failure to pay a forfeiture imposed by the court. If the forfeiture is paid during the first 30 days after the license is suspended, the suspension shall be reduced to the minimum period of 30 days. If it is paid thereafter, the court shall immediately notify the department, which shall thereupon return the license to the person.

SECTION 31. 48.18 of the statutes is repealed and recreated to read:

**48.18 Jurisdiction of criminal courts over children 16 or older; waiver hearing.** (1) If a child is alleged to have violated a state criminal law on or after his or her 16th birthday, the child or district attorney may apply to the court to waive its jurisdiction under this chapter. The judge may initiate a petition for waiver if the judge disqualifies himself or herself from any future proceedings on the case.

(2) The waiver hearing shall be brought on by filing a petition alleging delinquency drafted under s. 48.255 and a petition for waiver of jurisdiction which shall contain a brief statement of the facts supporting the request for waiver.

(3) (a) The child shall be represented by counsel at the waiver hearing. Written notice of the time, place and purpose of the hearing shall be given to the child, any parent, guardian or legal custodian, and counsel at least 3 days prior to the hearing. Where parents entitled to notice have the same address, notice to one constitutes notice to the other. Counsel for the child shall have access to the social records and other reports consistent with s. 48.293.

(b) The child has the right to present testimony on his or her own behalf including expert testimony and has the right to cross-examine witnesses at the hearing.

(c) The child does not have the right to a jury at a hearing under this section.

(4) The judge shall determine whether the matter has prosecutive merit before proceeding to determine if it should waive its jurisdiction.

(5) If prosecutive merit is found, the judge, after taking relevant testimony and considering other relevant evidence, shall base its decision whether to waive jurisdiction on the following criteria:

(a) The personality and prior record of the child, including whether the child is a proper subject for commitment to a facility for the mentally ill or developmentally disabled, whether the child has been previously found delinquent, whether such delinquency involved the infliction of serious bodily injury, the child's motives and attitudes, the child's physical and mental maturity, the child's pattern of living, prior offenses, prior treatment history and apparent potential for responding to future treatment.

(b) The type and seriousness of the offense, including whether it was against persons or property, the extent to which it was committed in a violent, aggressive, premeditated or wilful manner, and its prosecutive merit.

(c) The adequacy and suitability of facilities, services and procedures available for treatment of the child and protection of the public within the juvenile justice system.

(d) The desirability of trial and disposition of the entire offense in one court if the juvenile was allegedly associated in the offense with persons who will be charged with a crime in a court of criminal jurisdiction.

(6) After considering the criteria under sub. (5) (a) to (d), the judge shall state its finding with respect to the criteria on the record, and, if it determines on the record that it is established by clear and convincing evidence that it would be contrary to the best interests of the child or of the public to hear the case, the judge shall enter an order waiving its jurisdiction and referring the matter to the district attorney for appropriate proceedings in the criminal court, and the criminal courts shall thereafter have exclusive jurisdiction.

(7) Stenographic notes of the hearing shall be kept. No notes may be transcribed except upon order of the court.

(8) When waiver is granted, the child, if held in secure custody, shall be transferred to an appropriate officer or adult facility and shall be eligible for bail in accordance with chs. 968 and 969.

SECTION 32. The unnumbered subchapter title preceding section 48.19 of the statutes is numbered subchapter IV (title) and amended to read:

CHAPTER 48

SUBCHAPTER IV

HOLDING A CHILD IN CUSTODY

SECTION 33. 48.19 of the statutes is repealed and recreated to read:

**48.19 Taking a child into custody.** (1) A child may be taken into custody under:

- (a) A warrant;
- (b) A capias issued by a judge of the juvenile court in accordance with s. 48.28;
- (c) An order of the judge if made upon a showing satisfactory to the judge that the welfare of the child demands that the child be immediately removed from his or her present custody. The order shall specify that the child be held in custody under s. 48.207; or

(d) Circumstances in which a law enforcement officer believes on reasonable grounds that:

1. A capias or a warrant for the child's apprehension has been issued in this state, or that the child is a fugitive from justice;
2. A capias or a warrant for the child's apprehension has been issued in another state;
3. The child is committing or has committed an act which if committed by an adult would be a crime;
4. The child has run away from his or her parents, guardian or legal or physical custodian;
5. The child is suffering from illness or injury or is in immediate danger from his or her surroundings and removal from those surroundings is necessary;
6. The child has violated the terms of court-ordered supervision;
7. The child has violated the conditions of an order under s. 48.21 (4); or
8. The child has violated a civil law or a local ordinance punishable by a forfeiture, provided that in any such case the child shall be released as soon as reasonably possible under s. 48.20 (2).

(2) When a child is taken into physical custody as provided in this section, an intake worker, or another at his or her direction, shall immediately attempt to notify the parent, guardian or legal custodian of the child by the most practical means and shall continue such attempt until the parent, guardian or legal custodian of the child is notified.

(3) Taking into custody is not an arrest except for the purpose of determining whether the taking into custody or the obtaining of any evidence is lawful.

SECTION 34. 48.195 of the statutes is repealed.

SECTION 35. 48.20 of the statutes is repealed and recreated to read:

**48.20 Release or delivery from custody.** (1) Children taken into custody shall be released from custody as soon as is reasonably possible.

(2) A person taking a child into custody shall make every effort immediately to release the child to the child's parent, guardian or legal custodian or, if the parent, guardian or legal custodian is unavailable, unwilling or unable to provide supervision for the child, may release the child to a responsible adult, and verbally counsel or warn as may be appropriate; or, in the case of a child 15 years of age or older, may release the child without immediate adult supervision, counseling or warning the child as may be

appropriate; or in the case of a runaway child, may release the child to a home authorized under s. 48.227.

(3) If the child is not released under sub. (2), the person shall deliver the child to the intake worker in a manner determined by the court and law enforcement agencies, stating in writing with supporting facts the reasons why the child was taken into physical custody and giving any child 12 years of age or older a copy of the statement in addition to giving a copy to the intake worker.

(4) If the child is believed to be suffering from a serious physical condition which requires either prompt diagnosis or prompt treatment, the person taking the child into physical custody, the intake worker or other appropriate person shall deliver the child to a hospital as defined in s. 50.33 (1) (a) and (c) or physician's office.

(5) If the child is believed to be mentally ill, drug dependent or developmentally disabled, and exhibits conduct which constitutes a substantial risk of physical harm to the child or to others, the person taking the child into physical custody, the intake worker or other appropriate person shall proceed under s. 51.15.

(6) If the child is believed to be an intoxicated person who has threatened, attempted or inflicted physical harm on himself or herself or on another and is likely to inflict such physical harm unless committed, or is incapacitated by alcohol, the person taking the child into physical custody, the intake worker or other appropriate person shall proceed under s. 51.45 (11).

(7) When a child is interviewed by an intake worker, the intake worker shall inform the child of his or her right to counsel and, in the case of a child possibly involved in a delinquent act, the right against self-incrimination. The intake worker shall review the need to hold the child in custody and shall make every effort to release the child from custody under s. 48.205 and criteria promulgated by the court under s. 48.06 (1) or (2). If the child is released from custody, the intake worker shall immediately notify the child's parent, guardian and legal custodian of the time and circumstances of the release and the person, if any, to whom the child was released. If a child is taken into custody, the intake worker may release the child to a parent, guardian or legal custodian, or, if the parent, guardian or legal custodian is unavailable, unwilling or unable to provide supervision for the child, release the child to a responsible adult; or, if a child is 15 years of age or older, release the child without immediate adult supervision.

(8) The intake worker shall base his or her decision to hold a child in custody on the criteria specified in s. 48.205 and criteria promulgated by the court under s. 48.06 (1) or (2). If a child is held in custody, the intake worker shall notify the child's parent, guardian or legal custodian of the reasons for holding the child in custody and of the child's whereabouts unless there is reason to believe that notice would present imminent danger to the child. The parent, guardian or legal custodian shall also be notified of the time and place of the detention hearing required under s. 48.21, the nature and possible consequences of that hearing, the right to counsel under s. 48.23 regardless of ability to pay, and the right to present and cross-examine witnesses at the hearing. If the parent, guardian or legal custodian is not immediately available, notice shall be given as soon as possible.

SECTION 36. 48.205, 48.207, 48.208 and 48.209 of the statutes are created to read:

**48.205 Criteria for holding a child in physical custody.** (1) A child may be held under s. 48.207, 48.208 or 48.209 if the intake worker determines that there is probable cause to believe the child is within the jurisdiction of the court and:

(a) Probable cause exists to believe that if the child is not held he or she will commit injury to the person or property of others or cause injury to himself or herself or be subject to injury by others;

(b) Probable cause exists to believe that the parent, guardian or legal custodian of the child or other responsible adult is unavailable, unwilling or unable to provide adequate supervision and care; or

(c) Probable cause exists to believe that the child will run away or be taken away so as to be unavailable for proceedings of the court or its officers.

(2) The criteria for holding a child in custody specified in this section shall govern the decision of all persons responsible for determining whether the action is appropriate.

**48.207 Places where a child may be held in nonsecure custody.** (1) A child held in physical custody under s. 48.205 may be held in any of the following places:

(a) The home of a parent or guardian.

(b) The home of a relative.

(c) A licensed foster home provided the placement does not violate the conditions of the license.

(d) A nonsecure facility operated by a licensed child welfare agency.

(e) A licensed private or public shelter care facility.

(f) The home of a person not a relative, if the placement does not exceed 30 days, though the placement may be extended for an additional 30 days for cause by the court and if the person has not had a foster home license refused, revoked or suspended within the last 2 years.

(g) A hospital as defined in s. 50.33 (1) (a) and (c) or physician's office if the child is held under s. 48.20 (4).

(h) A place listed in s. 51.15 (3) if the child is held under s. 48.20 (5).

(i) An approved public treatment facility for emergency treatment if the child is held under s. 48.20 (6).

(k) A facility under s. 48.58.

(2) If a facility listed in sub. (1) (b) to (k) is used to hold children in custody, or if supervisory services of a home detention program are provided to children held under sub. (1) (a), its authorized rate shall be paid by the county for the care of the child. If no authorized rate has been established, a reasonable sum to be fixed by the court shall be paid by the county for the supervision or care of the child.

**48.208 Criteria for holding a child in a secure detention facility.** A child may be held in a secure detention facility if the intake worker personally interviews the child and one of the following conditions applies:

(1) Probable cause exists to believe that the child has committed a delinquent act and either presents a substantial risk of physical harm to another person or a substantial risk of running away as evidenced by previous acts or attempts so as to be unavailable for a court hearing.

(2) Probable cause exists to believe that the child is a fugitive from another state and there has been no reasonable opportunity to return the child.

(3) The child consents in writing to being held in order to protect him or her from an imminent physical threat from another and such secure custody is ordered by the judge in a protective order.

(4) Probable cause exists to believe that the child, having been placed in nonsecure custody by an intake worker under s. 48.207 or by the judge or juvenile court commissioner under s. 48.21 (4), has run away or committed a delinquent act and no other suitable alternative exists.

(5) Probable cause exists to believe that the child has been adjudged or alleged to be delinquent and has run away from another county and would run away from nonsecure custody pending his or her return. A child may be held in secure custody under this subsection for no more than 24 hours unless an extension of 24 hours is ordered by the judge for good cause shown. Only one extension may be ordered by the judge.

**48.209 Criteria for holding a child in a county jail.** Subject to the provisions of s. 48.208, a county jail may be used as a secure detention facility if the criteria under either sub. (1) or (2) are met:

(1) There is no other secure detention facility approved by the department or a county which is available and:

(a) The jail meets the standards for secure detention facilities established by the department;

(b) The child is held in a room separated and removed from incarcerated adults;

(c) The child is not held in a cell designed for the administrative or disciplinary segregation of adults;

(d) Adequate supervision is provided; and

(e) The judge reviews the status of the child every 3 days.

(2) The child presents a substantial risk of physical harm to other persons in the secure detention facility, as evidenced by previous acts or attempts, which can only be avoided by transfer to the jail. The provisions of sub. (1) (a) to (e) shall be met. The child shall be given a hearing and transferred only upon order of the judge.

(3) The restrictions of this section do not apply to the use of jail for a child waived to adult court.

**SECTION 37.** 48.21 of the statutes is repealed and recreated to read:

**48.21 Hearing for child in custody.** (1) **HEARING; WHEN HELD.** (a) If a child who has been taken into custody is not released under s. 48.20, a hearing to determine whether the child shall continue to be held in custody under the criteria of ss. 48.205 to 48.209 shall be conducted by the judge or juvenile court commissioner within 24 hours of the time the decision to hold the child was made, excluding Saturdays, Sundays and legal holidays. Except for a child taken into custody under s. 48.19 (1) (b) and (d) 7, by the time of the hearing a petition under s. 48.25 shall be filed. If no hearing has been held within 24 hours or if no petition has been filed at the time of the hearing, the child shall be released except as provided in par. (b). A parent not present at the hearing shall be granted a rehearing upon request.

(b) If no petition has been filed by the time of the hearing, a child may be held in custody with approval of the judge or juvenile court commissioner for an additional 48 hours from the time of the hearing only if, as a result of the facts brought forth at the hearing, the judge or juvenile court commissioner determines that probable cause exists to believe that the child is an imminent danger to himself or herself or to others, or that probable cause exists to believe that the parent, guardian or legal custodian of the child or other responsible adult is unwilling or unavailable to provide adequate supervision and care. The extension may be granted only once for any petition. In the event of failure to file a petition within the 48-hour extension period provided for in this paragraph, the judge or juvenile court commissioner shall order the child's immediate release from custody.

(2) **PROCEEDINGS CONCERNING RUNAWAY, TRUANT OR DELINQUENT CHILDREN.** Proceedings concerning a child who comes within the jurisdiction of the court under s. 48.12 or 48.13 (6), (7) or (12) shall be conducted according to this subsection.

(a) A child held in a nonsecure place of custody may waive in writing the hearing under this section. After any waiver, a hearing shall be granted upon the request of the child or any other interested party. Any child transferred to a secure detention facility shall thereafter have a hearing under this section.

(b) A copy of the petition shall be given to the child at or prior to the time of the hearing. If possible, prior notice of the hearing, either oral or written, stating the time, place and purpose of the hearing shall be given by the person designated by the court to the child's parent, guardian and legal custodian and to the child.

(c) Prior to the commencement of the hearing, the child shall be informed by the judge or juvenile court commissioner of the allegations that have been or may be made, the nature and possible consequences of this hearing as compared to possible future hearings, the provisions of s. 48.18 if applicable, the right to counsel under s. 48.23 regardless of ability to pay if the child is not yet represented by counsel, the right to remain silent, the fact that the silence may not be adversely considered by the judge or juvenile court commissioner, the right to confront and cross-examine witnesses and the right to present witnesses.

(d) If the child is not represented by counsel at the hearing and the child is continued in custody as a result of the hearing, the child may request through counsel subsequently appointed or retained or through a guardian ad litem that the order to hold in custody be reheard. If the request is made, a rehearing shall take place as soon as may be possible. Any order to hold in custody shall be subject to rehearing for good cause.

(3) PROCEEDINGS CONCERNING CHILDREN IN NEED OF PROTECTION OR SERVICES. Proceedings concerning a child who comes within the jurisdiction of the court under s. 48.13 (1) to (5) or (8) to (11) shall be conducted according to this subsection.

(a) The parent, guardian or legal custodian may waive the hearing under this section. Agreement in writing of the child is required if he or she is over 12. After any waiver, a hearing shall be granted at the request of any interested party.

(b) If present at the hearing, a copy of the petition shall be given to the parent, guardian or legal custodian, and to the child if he or she is over 12 years of age, before the hearing begins. A person designated by the court shall diligently attempt to give prior actual notice of the time, place and purpose of the hearing to the parent, guardian and legal custodian and to the child if he or she is over 12 years of age.

(c) The court may order that the child be excluded from the hearing if it determines that it would be contrary to the child's best interest to be present and the child's counsel or guardian ad litem does not object.

(d) Prior to the commencement of the hearing, the parent, guardian or legal custodian shall be informed by the court of the allegations that have been made or may be made, the nature and possible consequences of this hearing as compared to possible future hearings, the right to counsel under s. 48.23 regardless of ability to pay, the right to confront and cross-examine witnesses and the right to present witnesses.

(e) If the parent, guardian or legal custodian or the child is not represented by counsel at the hearing and the child is continued in custody as a result of the hearing, the parent, guardian, legal custodian or child may request through counsel subsequently appointed or retained or through a guardian ad litem that the order to hold in custody be reheard. If the request is made, a rehearing shall take place as soon as may be possible. Any order to hold in custody shall be subject to rehearing for good cause.

(4) CONTINUATION OF CUSTODY. If the judge or juvenile court commissioner finds that the child should be continued in custody under the criteria of s. 48.205, he or she shall enter one of the following orders:

(a) Place the child with a parent, guardian, legal custodian or other responsible person and may impose reasonable restrictions on the child's travel, association with other persons or places of abode during the period of placement, including a condition requiring the child to return to other custody as requested; or subject the child to the supervision of an agency agreeing to supervise the child.

(b) Order the child held in an appropriate manner under s. 48.207, 48.208 or 48.209.

(5) **ORDERS IN WRITING.** All orders to hold in custody shall be in writing, listing the reasons and criteria forming the basis for the decision.

(6) **AMENDMENT OF ORDER.** An order placing a child under sub. (4) (a) on conditions specified in this section may at any time be amended, with notice, so as to return the child to another form of custody for failure to conform to the conditions originally imposed. A child may be transferred to secure custody if he or she meets the criteria of s. 48.208.

(7) If the judge or juvenile court commissioner determines that the best interests of the child and the public are served, he or she may enter a consent decree under s. 48.32 or order the petition dismissed and refer the matter to the intake worker for informal disposition in accordance with s. 48.245.

**SECTION 38.** 48.22 of the statutes is repealed.

**SECTION 39.** 48.22 (5) of the statutes is created to read:

48.22 (5) A county board may contract with privately operated shelter care facilities or home detention programs for purchase of services. The county board may delegate this authority to county social services departments.

**SECTION 40.** 48.227 of the statutes is created to read:

**48.227 Approval of runaway homes; procedures.** (1) The judge may utilize homes licensed under ss. 48.48 and 48.75 for purposes of temporary care and housing of runaway children without consent of the child's parent, guardian or legal custodian. The homes may house and care for such children until such time as:

(a) A child returns to his or her parent, guardian or legal custodian; or

(b) The court, after a hearing, orders the child's removal.

(2) Any person who operates a home under sub. (1) and licensed under ss. 48.48 and 48.75, when engaged in sheltering a runaway child without consent of the child's parent, guardian or legal custodian, shall notify the intake worker of the presence of the child in the home within 12 hours. The intake worker shall notify the parent, guardian or legal custodian as soon as possible of the child's presence in that home. The child shall not be removed from the home except with the approval of the court under sub. (3). This section does not prohibit the parent, guardian or legal custodian from conferring with the child or the person operating the home.

(3) If the child sheltered in a home under sub. (2) does not return to the parent, guardian or legal custodian within 72 hours after the time of first arrival at the home, the parent, guardian, legal custodian, runaway home or child may request a hearing, in which case the court shall schedule a hearing under s. 48.21.

(4) No person operating an approved or licensed home in compliance with this section is subject to civil or criminal liability by virtue of false imprisonment.

(6) This section does not preclude the right of the child to be released immediately upon his or her request to the custody of a parent, guardian or legal custodian.

**SECTION 41.** 48.23 of the statutes is renumbered 48.28.

**SECTION 42.** 48.23 of the statutes is created to read:

**48.23 Right to counsel.** (1) **RIGHT OF CHILDREN TO LEGAL REPRESENTATION.** Children subject to proceedings under this chapter shall be afforded legal representation as follows:

(a) Any child alleged to be delinquent under s. 48.12 or held in a secure detention facility shall be represented by counsel at all stages of the proceedings, but a child 15 years of age or older may waive counsel provided the court is satisfied such waiver is knowingly and voluntarily made and the court accepts the waiver. If the waiver is accepted, the court may not make a disposition under s. 48.34 (4m) or transfer jurisdiction over the child to adult court.

(b) If a child is alleged to be in need of protection or services under s. 48.13, the child may be represented by counsel at the discretion of the court; but a child 15 years of age or older may waive counsel provided the court is satisfied such waiver is knowingly and voluntarily made and the court accepts the waiver. If the child is not represented by counsel at the fact-finding hearing and subsequent proceedings, the court may not place the child outside his or her home in making a disposition under s. 48.345 or in approving a change of placement under s. 48.357 or an extension of placement under s. 48.365. For a child under 12 years of age, the judge may appoint a guardian ad litem instead of counsel.

(c) Any child subject to the jurisdiction of the juvenile court under s. 48.14 (5) shall be represented by counsel. No waiver of counsel may be accepted by the court.

(d) If a child is the subject of a proceeding involving a contested adoption or the involuntary termination of parental rights, the court shall appoint legal counsel or a guardian ad litem for the child.

(2) **RIGHT OF PARENTS TO COUNSEL.** (a) Whenever a child is alleged to be in need of protection or services under s. 48.13, or is the subject of a proceeding involving a contested adoption or the involuntary termination of parental rights, any parent under 18 years of age who appears before the court shall be represented by counsel; but no such parent may waive counsel. A minor parent petitioning for the voluntary termination of parental rights shall be represented by a guardian ad litem. If a proceeding involves a contested adoption or the involuntary termination of parental rights, any parent 18 years old or older who appears before the court shall be represented by counsel; but the parent may waive counsel provided the court is satisfied such waiver is knowingly and voluntarily made.

(b) No child alleged to be in need of protection or services under s. 48.13 may be placed outside his or her home under s. 48.345 unless counsel has been appointed for a nonpetitioning parent. The parent may waive counsel provided the court is satisfied such waiver is knowingly and voluntarily made.

(3) **POWER OF THE COURT TO REQUIRE REPRESENTATION AND APPOINT GUARDIANS AD LITEM.** At any time, upon request or on its own motion, the court may:

(a) Require that a child or any interested party be represented by counsel, but the child or interested party may waive counsel provided the court is satisfied such waiver is knowingly and voluntarily made.

(b) Appoint a guardian ad litem for a child or any interested party.

(4) **ROLE OF THE STATE PUBLIC DEFENDER; OTHER METHODS FOR PROVIDING COUNSEL.** In any situation under this section in which a child has a right to be represented by counsel or is provided counsel at the discretion of the court, except for situations arising under sub. (2) where the child entitled to representation is a parent; and counsel is not knowingly and voluntarily waived; and it appears that the child is unable to afford counsel in full, or the child so indicates; the court shall refer the child to the state public defender for an indigency determination and appointment of counsel under ch. 977; but if there is no state public defender program in the county, the court shall determine whether the child is indigent, if so shall appoint counsel, and shall provide for counsel's reimbursement in any manner suitable to the court. In any situation under sub. (2) in which a parent is entitled to representation by counsel; counsel is not knowingly and voluntarily waived; and it appears that the parent is unable to afford counsel in full, or the parent so indicates; the court shall refer the parent to the state public defender for an indigency determination

and appointment of counsel under ch. 977; but if there is no state public defender program in the county, the court shall determine whether the parent is indigent, and if so shall appoint counsel, and shall provide for counsel's reimbursement in any manner suitable to the court. The court may appoint a guardian ad litem in any appropriate matter. In any other situation under this section in which a person has a right to be represented by counsel or guardian ad litem or is provided counsel or guardian ad litem at the discretion of the court, competent and independent counsel or guardian ad litem shall be provided and reimbursed in any manner suitable to the court regardless of the person's ability to pay.

(5) **COUNSEL OF OWN CHOOSING.** Regardless of any provision of this section, any party is entitled to retain counsel of his or her own choosing at his or her own expense in any proceeding under this chapter.

(6) **DEFINITION.** For the purposes of this section, "counsel" means an attorney acting as adversary counsel who shall advance and protect the legal rights of the party represented, and who may not act as guardian ad litem for any party in the same proceeding.

SECTION 43. 48.235 of the statutes is created to read:

**48.235 Guardian ad litem.** A guardian ad litem appointed under this chapter shall be appointed under s. 879.23. On order of the court, the guardian ad litem shall be allowed reasonable compensation to be paid by the county in which the proceeding is held. The guardian ad litem has none of the rights of a general guardian. No person who is an interested party in a proceeding, appears as counsel in a proceeding on behalf of any party, or is a relative or representative of an interested party, may be appointed guardian ad litem in that proceeding.

SECTION 44. Subchapter V (title) of chapter 48 of the statutes is created to read:

CHAPTER 48  
SUBCHAPTER V  
PROCEDURE  
(to precede s. 48.24)

SECTION 45. 48.24 to 48.25 of the statutes, as affected by chapter 29, laws of 1977, are repealed and recreated to read:

**48.24 Receipt of jurisdictional information; intake inquiry.** (1) Information indicating that a child should be referred to the court as delinquent, in need of protection or services or in violation of a civil law or a county, town or municipal ordinance shall be referred to the intake worker, who shall conduct an intake inquiry on behalf of the court to determine whether the available facts establish prima facie jurisdiction and to determine the best interests of the child and of the public with regard to any action to be taken.

(2) As part of the intake inquiry, intake conferences may be conducted with notice to the child, parent, guardian and legal custodian. No child or other person may be compelled to appear at any conference, produce any papers or visit any place by an intake worker.

(3) If the intake worker determines as a result of the intake inquiry that the child should be referred to the court, the intake worker shall request that the district attorney, corporation counsel or other official specified in s. 48.09 file a petition.

(4) If the intake worker determines as a result of the intake inquiry that the case should be subject to an informal disposition, or should be closed, the intake worker shall so proceed. If a petition has been filed, informal disposition may not occur or a case may not be closed unless the petition is withdrawn by the district attorney, corporation counsel or other official specified in s. 48.09, or is dismissed by the judge.

(5) The intake worker shall recommend that a petition be filed or shall enter into an informal disposition or close the case within 40 days or sooner of receipt of referral information. If the case is closed or an informal disposition is entered into, the district attorney, corporation counsel or other official under s. 48.09 shall receive written notice of such action. A notice of informal disposition of an alleged delinquency case shall include a summary of facts surrounding the allegation and a list of prior intake referrals and dispositions. With respect to petitioning a child to be in need of protection or services, information received more than 40 days before filing the petition may be included to establish a condition or pattern which, together with information received within the 40-day period, provides a basis for conferring jurisdiction on the court. The judge shall dismiss with prejudice any petition which is referred after the time limits specified in this subsection. Notwithstanding the requirements of this section, the district attorney may initiate a delinquency petition under s. 48.25 within 20 days after notice that the case has been closed or that an informal disposition has been made. If an informal disposition is entered into within 40 days but is subsequently canceled, the intake worker may recommend that a petition be filed within 40 days of the date of cancellation. The judge shall dismiss with prejudice any such petition which is not referred within the 40-day period.

(6) The intake worker shall perform his or her responsibilities under this section under general written policies which the judge shall promulgate under s. 48.06 (1) or (2).

**48.243 Basic rights: duty of intake worker.** (1) Before conferring with the parent or child during the intake inquiry, the intake worker shall personally inform a child alleged to have committed a delinquent act, and parents and children over 12 years of age who are the focus of an inquiry regarding the need for protection or services, that the referral may result in a petition to the court and:

- (a) What allegations could be in the petition;
- (b) The nature and possible consequences of the proceedings including the provisions of s. 48.17 or 48.18 if applicable;
- (c) The right to remain silent and the fact that in a delinquency proceeding the silence of the child shall not be adversely considered by the court or jury, although silence of any party may be relevant in any nondelinquency proceeding;
- (d) The right to confront and cross-examine those appearing against them;
- (e) The right to counsel under s. 48.23;
- (f) The right to present and subpoena witnesses;
- (g) The right to a jury trial; and
- (h) The right to have the allegations of the petition proved beyond a reasonable doubt unless the child comes within the court's jurisdiction under s. 48.125 or is alleged to be in need of protection or services under s. 48.13 (3), (7), (9) or (10) or unless the proceeding is for the termination of parental rights, in which case the standard shall be clear and convincing evidence.

(2) This section does not apply if the child was present at a hearing under s. 48.21.

(3) If the child has not had a hearing under s. 48.21 and was not present at an intake conference under s. 48.24, the judge or juvenile court commissioner shall summon the child, parent, guardian or legal custodian as appropriate to an appearance where he or she shall be informed of basic rights under this section. This subsection does not apply to cases of informal disposition under s. 48.245.

**48.245 Informal disposition.** (1) The intake worker may enter into a written agreement with all parties which imposes informal disposition under this section if the intake worker has determined that neither the interests of the child nor of the public

require filing of a petition for circumstances relating to ss. 48.12 to 48.14. Informal disposition shall be available only if the facts persuade the intake worker that the jurisdiction of the court, if sought, would exist and upon consent of the child, parent, guardian and legal custodian.

(2) Informal disposition may provide that the child appear with a parent, guardian or legal custodian for counseling and advice, or that the child and a parent, guardian and legal custodian abide by such obligations as will tend to ensure the child's rehabilitation, protection or care. Informal disposition may not include any form of residential placement and may not exceed 6 months.

(3) The obligations imposed under an informal disposition and its effective date shall be set forth in writing. The child and a parent, guardian and legal custodian shall receive a copy, as shall any agency providing services under the agreement.

(4) The intake worker shall inform the child and the child's parent, guardian and legal custodian in writing of their right to object at any time to the fact or terms of the informal disposition, and if the objection arises the intake worker may alter the terms of the agreement or recommend to the district attorney or corporation counsel that a petition be filed.

(5) Informal disposition may be terminated at any time upon the request of the child, parent, guardian or legal custodian.

(6) An informal disposition arising out of an alleged delinquent act is terminated if the district attorney files a delinquency petition within 20 days after receipt of notice of the informal disposition under s. 48.24 (5). In such case statements made to the intake worker during the intake inquiry are inadmissible.

(7) If at any time during the period of informal disposition the intake worker determines that the obligations imposed under it are not being met, the intake worker may cancel the informal disposition and recommend to the district attorney or corporation counsel that a petition be filed. In delinquency cases notice of cancellation shall be sent to the district attorney who may initiate a delinquency petition within 20 days after notice that the informal disposition has been canceled.

(8) If the obligations imposed under the informal disposition are met, the intake worker shall so inform the child and a parent, guardian and legal custodian in writing, and no petition may be filed on the charges that brought about the informal disposition nor may the charges be the sole basis for a petition under ss. 48.13 to 48.14.

(9) The intake worker shall perform his or her responsibilities under this section under general written policies which the judge shall promulgate under s. 48.06 (1) or (2).

**48.25 Petition: authorization to file.** (1) A petition initiating proceedings under this chapter shall be signed by a person who has knowledge of the facts alleged or is informed of them and believes them to be true. If a petition is to be filed, it shall be prepared, signed and filed by the district attorney if the proceeding is under s. 48.12, or by the district attorney, city attorney or corporation counsel or other appropriate official specified under s. 48.09 if the proceeding is under s. 48.125 or 48.13. The district attorney, corporation counsel or other appropriate person designated by the court may initiate proceedings under s. 48.14 in a manner specified by the court. Counsel or a guardian ad litem for the child, parent, relative or guardian may file a petition under s. 48.13 or 48.14.

(2) In delinquency cases where there has been a case closure or informal disposition, the petition shall be filed within 20 days of receipt of the notice of closure or informal disposition. Failure to file within 20 days invalidates the petition and affirms the case closure or informal disposition. If a petition is filed within 20 days, the district attorney shall notify the parties to the agreement and the intake worker as soon as possible.

(3) If the district attorney, city attorney or corporation counsel or other appropriate official specified in s. 48.09 refuses to file a petition, any person may request the judge to order that the petition be filed and a hearing shall be held on the request. The judge may order the filing of the petition on his or her own motion. The matter may not be heard by the judge who orders the filing of a petition.

(4) Section 939.74 applies to delinquency petitions filed under this chapter.

SECTION 46. 48.255 of the statutes is created to read:

**48.255 Petition; form and content.** (1) A petition initiating proceedings under this chapter shall be entitled, "In the interest of (child's name), a person under the age of 18", and shall set forth with specificity:

(a) The name, birth date and address of the child.

(b) The names and addresses of the child's parent, guardian, legal custodian or spouse, if any; or if no such person can be identified, the name and address of the nearest relative.

(c) Whether the child is in custody, and, if so, the place where the child is being held and the time he or she was taken into custody unless there is reasonable cause to believe that such disclosure would result in imminent danger to the child or physical custodian.

(d) If violation of a criminal statute, an ordinance or another law is alleged, the citation to the appropriate law or ordinance as well as facts sufficient to establish probable cause that an offense has been committed and that the child named in the petition committed the offense.

(e) If the child is alleged to come within the provisions of s. 48.13 (1) to (11) or 48.14, reliable and credible information which forms the basis of the allegations necessary to invoke the jurisdiction of the court and to provide reasonable notice of the conduct or circumstances to be considered by the court together with a statement that the child is in need of supervision, services, care or rehabilitation.

(2) If any of the facts in sub. (1) (a), (b) or (c) are not known or cannot be ascertained by the petitioner, the petition shall so state.

(3) If the information required under sub. (1) (d) or (e) is not stated the petition shall be dismissed or amended under s. 48.263 (2).

(4) A copy of the petition shall be given to the child if the child is 12 years of age or older or alleged to have committed a delinquent act and to the parents, guardian, legal custodian and physical custodian.

SECTION 47. 48.26 and 48.27 of the statutes are renumbered 48.396 and 48.397, and 48.396 (1), as renumbered, is amended to read:

48.396 (1) Peace officers' records of children shall be kept separate from records of persons 18 or older and shall not be open to inspection or their contents disclosed except by order of the court or according to s. 48.293. This subsection shall not apply to the representatives of newspapers or other reporters of news who wish to obtain information for the purpose of reporting news without revealing the identity of the child involved or to the confidential exchange of information between the police and officials of the school attended by the child or other law enforcement or social welfare agencies or to children 16 or older who are transferred to the criminal courts.

SECTION 48. 48.263, 48.27 and 48.273 of the statutes are created to read:

**48.263 Amendment of petition.** (1) Except as provided in s. 48.255 (3), no petition, process or other proceeding may be dismissed or reversed for any error or mistake if the case and the identity of the child named in the petition may be readily understood by the court; and the court may order an amendment curing the defects.

(2) With reasonable notification to the interested parties and prior to the taking of a plea under s. 48.30, the petition may be amended at the discretion of the court or person authorizing the petition. After the taking of a plea, if the child is alleged to be delinquent, the court may allow amendment of the petition to conform to the proof if such amendment is not prejudicial to the child. If the child is alleged to be in need of protection or services, the petition may be amended provided any objecting party is allowed a continuance for a reasonable time.

**48.27 Notice; summons.** (1) After a petition has been filed relating to facts concerning a situation specified under ss. 48.12, 48.125 and 48.13, unless the parties under sub. (3) voluntarily appear, the court may issue a summons requiring the person who has legal custody of the child to appear personally, and, if the court so orders, to bring the child before the court at a time and place stated.

(2) Summons may be issued requiring the appearance of any other person whose presence, in the opinion of the court, is necessary.

(3) The court shall also notify, under s. 48.273, the child and any parent, guardian and legal custodian of the child of all hearings involving the child except hearings on motions and probable cause for which notice need only be provided to the child and his or her counsel. Where parents entitled to notice have the same place of residence, notice to one shall constitute notice to the other. The first such written notice to any interested party shall have attached to it a copy of the petition.

(4) The notice shall:

(a) Contain the name of the child, and the nature, location, date and time of the hearing.

(b) Advise the child and any other party, if applicable, of his or her right to legal counsel regardless of ability to pay.

(5) Notice as specified in this section shall be provided to any person who has filed a declaration of interest under s. 48.025 and any person who has been adjudged to be the biological father of the child in a judicial proceeding unless the biological father's rights have been terminated.

(6) When a proceeding is initiated under s. 48.14, all interested parties shall receive notice and appropriate summons shall be issued in a manner specified by the court, consistent with applicable governing statutes.

**48.273 Service of summons or notice; expense.** (1) Service of summons or notice required by s. 48.27 may be made by mailing a copy thereof to the persons summoned or notified. If the persons fail to appear at the hearing or otherwise to acknowledge service, a continuance shall be granted and service shall be made personally by delivering to the persons a copy of the summons or notice; except that if the court is satisfied that it is impracticable to serve the summons or notice personally, it may make an order providing for the service of the summons or notice by certified mail addressed to the last-known addresses of the persons. Personal service shall be made at least 72 hours before the time of the hearing; mail shall be sent at least 7 days before the time of the hearing if within the state or 14 days if outside the state.

(2) Service of summons or notice required by this chapter may be made by any suitable person under the direction of the court.

(3) The expenses of service of summons or notice or of the publication of summons or notice and the traveling expenses and fees as allowed in ch. 885 incurred by any person summoned or required to appear at the hearing of any case coming within the jurisdiction of the court under ss. 48.12 to 48.14, shall be a charge on the county when approved by the court.

SECTION 49. 48.275 of the statutes, as created by chapter 29, laws of 1977, is amended to read:

**48.275 Parents contribution to cost of juvenile court services.** If the juvenile court finds a child to be delinquent under s. ~~48.34~~ 48.12, in violation of a civil law or ordinance under s. 48.125 or in need of supervision under s. ~~48.345~~ protection or services under s. 48.13, the court shall order the parents of the child to contribute toward the expense of post-adjudication services to the child the proportion of the total amount which the court finds the parents are able to pay.

SECTION 50. 48.28 of the statutes is repealed.

SECTION 51. 48.29 to 48.30 of the statutes, as affected by chapter 29, laws of 1977, are repealed and recreated to read:

**48.29 Substitution of judge.** The child, or the child's parent, guardian or legal custodian, either before or during the plea hearing, may file a written request with the clerk of the court or other person acting as the clerk for a substitution of the judge assigned to the proceeding. Upon filing the written request, the filing party shall immediately mail or deliver a copy of the request to the judge named therein. In a proceeding under s. 48.12 or 48.13 (12), only the child may request a substitution of the judge. After a request has been filed, the judge shall be disqualified to act in relation to the matter and shall promptly request assignment of another judge under s. 251.182. Not more than one such written request may be filed in any one proceeding, nor may any single request name more than one judge. This section shall not apply to proceedings under s. 48.21.

**48.293 Discovery.** (1) Copies of all peace officer reports, including but not limited to the officer's memorandum and witnesses' statements, shall be made available upon request to counsel or guardian ad litem prior to a plea hearing. The reports shall be available through the representative of the public designated under s. 48.09. The child, through counsel or guardian ad litem, is the only party who shall have access to the reports in proceedings under ss. 48.12, 48.125 and 48.13 (12). The identity of a confidential informant may be withheld pursuant to s. 905.10.

(2) All records relating to a child which are relevant to the subject matter of a proceeding under this chapter shall be open to inspection by a guardian ad litem or counsel for any party, upon demand and upon presentation of releases where necessary, at least 48 hours before the proceeding. Persons entitled to inspect the records may obtain copies of the records with the permission of the custodian of the records or with permission of the court. The court may instruct counsel not to disclose specified items in the materials to the child or the parent if the court reasonably believes that the disclosure would be harmful to the interests of the child. Sections 971.23 to 971.25 shall be applicable in all delinquency proceedings under this chapter except the court shall establish the timetable for s. 971.23 (3) and (8).

**48.295 Physical, psychological, mental or developmental examination.** (1) After the filing of a petition and upon a finding by the court that reasonable cause exists to warrant an examination, the court may order any child coming within its jurisdiction to be examined as an outpatient by a physician, psychiatrist or licensed psychologist, or by another expert appointed by the court holding at least a masters degree in social work or another related field of child development, in order that the child's physical, psychological, mental or developmental condition may be considered in the disposition of the case. The court may also order an examination of a parent, guardian or legal custodian whose ability to care for a child is at issue before the court. The expenses of an examination, if approved by the court, shall be paid by the county.

(2) If there is probable cause to believe that the child has committed the alleged offense and is not competent to proceed, or upon entry of a plea under s. 48.30 (4) (c) the

court shall order the child to be examined by a psychiatrist or licensed psychologist. The expenses of an examination, if approved by the court, shall be paid by the county. Evaluation shall be made on an outpatient basis unless the child presents a substantial risk of physical harm to the child or others; or the child, parent or guardian, and legal counsel or guardian ad litem consent to an inpatient evaluation. Any inpatient evaluation shall be for a specified period no longer than is necessary to complete the evaluation.

(3) If the child or a parent objects to a particular physician, psychiatrist, licensed psychologist or other expert as required under this section, the court shall appoint a different physician, psychiatrist, psychologist or other expert as required under this section.

**48.297 Motions before trial.** (1) Any motion which is capable of determination without trial of the general issue may be made before trial.

(2) Defenses and objections based on defects in the institution of proceedings, lack of probable cause on the face of the petition, insufficiency of the petition or invalidity in whole or in part of the statute on which the petition is founded shall be raised not later than 10 days after the plea hearing or be deemed waived. Other motions capable of determination without trial may be brought any time before trial.

(3) Motions to suppress evidence as having been illegally seized or statements illegally obtained shall be made before fact-finding on the issues. The court may entertain the motion at the fact-finding hearing if it appears that a party is surprised by the attempt to introduce such evidence and that party waives jeopardy. Only the child may waive jeopardy in cases under s. 48.12, 48.125 or 48.13 (12).

(4) If the child is not represented by counsel at a hearing, any statement by a child alleged to be delinquent shall be inadmissible at the hearing unless the child affirms the statement before the court or unless the person seeking to introduce the statement brings a motion before the court and proves beyond a reasonable doubt the child's voluntary and intelligent waiver of the right against self-incrimination and right to have counsel present. The motion shall be brought before the fact-finding hearing commences.

(5) If the child is in custody and the court grants a motion to dismiss based upon a defect in the petition or in the institution of the proceedings, the court may order the child continued in custody for not more than 48 hours pending the filing of a new petition.

(6) A motion required to be served on a child may be served upon his or her attorney of record.

**48.30 Plea hearing.** (1) The hearing to determine the child's plea to a petition under s. 48.12, 48.125 or 48.13 (12), or to determine whether any party wishes to contest an allegation that the child is in need of protection or services, shall take place on a date which allows reasonable time for the parties to prepare but is within 30 days of the filing of a petition for a child who is not being held in secure custody or within 10 days of the filing of a petition for a child who is being held in secure custody.

(2) At the commencement of the hearing under this section the child and the parent, guardian or legal custodian shall be advised of their rights as specified in s. 48.243 and shall be informed that a request for a jury trial must be made before the end of the plea hearing or be waived. Nonpetitioning parties, including the child, shall be granted a continuance of the plea hearing if they wish to consult with an attorney on the request for a jury trial or substitution of a judge.

(3) If a petition alleges that a child is in need of protection or services under s. 48.13 (1) to (11), the nonpetitioning parties and the child, if he or she is 12 years of age or older or is otherwise competent to do so, shall state whether they desire to contest the petition.

(4) If a delinquency petition under s. 48.12, a civil law violation petition under s. 48.125, or a petition alleging that a child is in need of protection or services under s. 48.13 (12) is filed, the child may plead as follows:

(a) Admit some or all of the facts alleged in the petition; however, such a plea is an admission only of the commission of the acts and does not constitute an admission of delinquency or in need of protection or services;

(b) Deny the facts alleged in the petition. If the child stands mute or refuses to plead, the court shall direct entry of a denial of the facts alleged in the petition on the child's behalf; or

(c) State that he or she is not responsible for the acts alleged in the petition by reason of mental disease or defect. This plea may be joined with an admission of par. (a) or a denial under par. (b).

(5) If the child enters a plea of not responsible by reason of mental disease or mental defect the court shall order an examination under s. 48.295 and set a date for hearing on the issue:

(a) The hearing shall be held no more than 10 days from the plea hearing for a child held in secure custody and no more than 30 days from the plea hearing for a child who is not held in secure custody.

(b) If there is a finding that the child is not responsible by reason of mental disease or defect, the court may order the filing of a petition under ch. 51. If there is no such finding, the child shall enter a plea under sub. (4) (a) or (b), and the court shall proceed under sub. (6) or (7).

(6) If the petition is not contested, the court shall set a date for the dispositional hearing which allows reasonable time for the parties to prepare but is no more than 10 days from the plea hearing for the child who is held in secure custody and no more than 30 days from the plea hearing for a child who is not held in secure custody. If all parties consent the court may proceed immediately with the dispositional hearing.

(7) If the petition is contested, the court shall set a date for the fact-finding hearing which allows reasonable time for the parties to prepare but is no more than 20 days from the plea hearing for a child who is held in secure custody and no more than 30 days from the plea hearing for a child who is not held in secure custody.

(8) Before accepting an admission of the alleged facts in a petition, the court shall:

(a) Address the parties present including the child personally and determine that the plea or admission is made voluntarily with understanding of the nature of the acts alleged in the petition and the potential dispositions.

(b) Establish whether any promises or threats were made to elicit a plea and alert unrepresented parties to the possibility that a lawyer may discover defenses or mitigating circumstances which would not be apparent to them.

(c) Make such inquiries as satisfactorily establishes that there is a factual basis for the child's plea or parent and child's admission.

SECTION 52. 48.31 of the statutes, as affected by chapters 29 and 194, laws of 1977, is renumbered 48.22, and 48.22 (title) and (1) to (3), as renumbered, are amended to read:

**48.22 (title) Establishment of secure detention facilities and shelter care facilities.** (1) The county board of one county may establish a secure detention home facility or a shelter care facility or both or 2 or more counties may join together and establish a secure detention home facility or a shelter care facility or both in accordance with s. ss. 46.16 and 46.20. In counties having a population of less than 500,000, the policies of the secure detention home facility or shelter care facility shall be determined by the judge of the

juvenile court or, in the case of a secure detention home facility or shelter care facility established by 2 or more counties, by a committee of the judges of the juvenile courts in the participating counties. In counties having a population of 500,000 or more, the nonjudicial operational policies of the secure detention home facility and the detention section of the children's court center shall be established by the county board of public welfare as specified in s. 48.06 (1), and the execution thereof shall be the responsibility of the director of the children's court center.

(2) (a) Plans for the secure detention home facility, juvenile portion of the county jail or shelter care facility shall be approved by the department as provided in s. 46.17. The plans shall be designed to protect the health, safety and welfare of the children in these facilities.

(b) If the department approves, the home secure detention facility may be a part of a public building in which there is a jail or other facility for the detention of adults if it is so physically segregated from such the jail or other facility that it may be entered without passing through areas where adults are confined and that children detained in the home facility cannot communicate with or view adults confined therein.

(c) A shelter facility shall not be in the same building as a facility for the detention of adults and shall be used for the temporary care of children.

(3) In counties having a population of less than 500,000, the public secure detention home facilities and public shelter care facility facilities shall be in the charge of a superintendent and shall be furnished and conducted, as far as possible, as a family home. The judge or, where 2 or more counties operate a joint public secure detention home facilities or public shelter care facility facilities, the committee of judges shall appoint the superintendent and other necessary personnel for the care and education of the children in the secure detention home and or shelter care facility facilities, subject to civil service regulations in counties having civil service. In counties having a population of 500,000 or more, the director of the children's court center under the direction of the county board of public welfare as specified in s. 48.06 (1) shall be in charge of and responsible for the public secure detention home facilities, the secure detention section of said the center and the personnel assigned to this section, including a detention supervisor or superintendent. The director of the children's court center may also serve as superintendent of detention if the county board of supervisors so determines.

SECTION 53. 48.305, 48.31, 48.315 and 48.317 of the statutes are created to read:

**48.305 Hearing upon the involuntary removal of a child.** If a child is removed from the physical custody of the child's parent or guardian without the consent of the parent or guardian, the court shall schedule a plea hearing and fact-finding hearing within 30 days of a request from the parent or guardian from whom custody was removed. The plea hearing and fact-finding hearing may be combined. This time period may be extended only with the consent of the requesting parent or guardian.

**48.31 Fact-finding hearing.** (1) In this section, "fact-finding hearing" means a hearing to determine if the allegations of the petition are supported beyond a reasonable doubt except for petitions under s. 48.125 or 48.13 (3), (7), (10) and (11) and petitions to terminate parental rights, which shall be proved by clear and convincing evidence.

(2) The hearing shall be to the court unless the child, parent, guardian or legal custodian exercises the right to a jury trial by demanding a jury trial at any time before or during the plea hearing. Chapter 756 and 805 shall govern the selection of jurors except that ss. 972.03 and 972.04 shall apply in cases in which the juvenile is alleged to be delinquent under s. 48.12. Chapters 901 to 911 shall govern the admissibility of evidence at the fact-finding hearing. At the conclusion of the hearing, the court or jury shall make a determination of the facts. If the court finds that the child is not within the jurisdiction

of the court or the court or jury finds that the facts alleged in the petition have not been proved, the court shall dismiss the petition with prejudice.

(3) The hearing shall be reported and the record may be transcribed upon the request of any party with the approval of the court or under s. 48.47 (2).

(4) The court shall make findings of fact and conclusions of law relating to the allegations of a petition filed under s. 48.13 (1) to (11). In cases alleging a child to be in need of protection or services under s. 48.13 (11), the court shall not find that the child is suffering serious emotional damage unless a licensed physician specializing in psychiatry or a licensed psychologist appointed by the court to examine the child has testified at the hearing that in his or her opinion the condition exists, and adequate opportunity for the cross-examination of the physician or psychologist has been afforded. The judge may use the written reports if the right to have testimony presented is voluntarily, knowingly and intelligently waived by the guardian ad litem or legal counsel for the child and the parent or guardian. In cases alleging a child delinquent or in need of protection or services under s. 48.13 (12) the court shall make findings relating to the proof of the violation of law and to the proof that the child named in the petition committed the violation alleged.

(5) The general public shall be excluded from hearings under this chapter unless a public fact-finding hearing is demanded by a child through his or her counsel. The court shall refuse the public hearing if the victim of an alleged sexual assault objects or in the case of a nondelinquency proceeding if a parent or guardian objects. If such a demand is not made, only the parties, their counsel, witnesses and other persons requested by a party and approved by the court may be present. Any other person the court finds to have a proper interest in the case or in the work of the court, including a member of the bar, may be admitted by the court. Any person who divulges any information which would identify the child or the family involved in any proceeding under this chapter shall be subject to ch. 295.

(6) If the court finds that it is in the best interest of the child, and if the child's counsel or guardian ad litem consents, the child may be temporarily excluded by the court from a hearing or a petition alleging him or her to be in need of protection or services.

(7) At the close of the fact-finding hearing, the court shall set a date for the dispositional hearing which allows a reasonable time for the parties to prepare but is no more than 10 days from the fact-finding hearing for a child in secure custody and no more than 30 days from the fact-finding hearing for a child not held in secure custody. If all parties consent, the court may immediately proceed with a dispositional hearing.

**48.315 Delays, continuances and extensions.** (1) The following time periods shall be excluded in computing time requirements within this chapter:

(a) Any period of delay resulting from other legal actions concerning the child, including an examination under s. 48.295 or a hearing related to the child's mental condition, prehearing motions, waiver motions and hearings on other matters.

(b) Any period of delay resulting from a continuance granted at the request of or with the consent of the child and counsel.

(c) Any period of delay caused by the disqualification of a judge.

(d) Any period of delay resulting from a continuance granted at the request of the representative of the public under s. 48.09 if the continuance is granted because of the unavailability of evidence material to the case when he or she has exercised due diligence to obtain the evidence and there are reasonable grounds to believe that the evidence will be available at the later date, or to allow him or her additional time to prepare the case and additional time is justified because of the exceptional circumstances of the case.

(e) Any period of delay resulting from the imposition of a consent decree.

(f) Any period of delay resulting from the absence or unavailability of the child.

(g) A reasonable period of delay when the child is joined in a hearing with another child as to whom the time for a hearing has not expired under this section if there is good cause for not hearing the cases separately.

(2) A continuance shall be granted by the court only upon a showing of good cause in open court on the record and only for so long as is necessary, taking into account the request or consent of the district attorney or the parties and the interest of the public in the prompt disposition of cases.

**48.317 Jeopardy.** Jeopardy attaches:

(1) In a trial to the court, when a witness is sworn.

(2) In a jury trial, when the jury selection is completed and the jury sworn.

SECTION 54. 48.32 of the statutes is renumbered 48.225.

SECTION 55. 48.32 of the statutes is created to read:

**48.32 Consent decree.** (1) At any time after the filing of a petition for a proceeding relating to s. 48.12 or 48.13 and before the entry of judgment, the judge or juvenile court commissioner may suspend the proceedings and place the child under supervision in the child's own home or present placement. The court may establish terms and conditions applicable to the parent, guardian or legal custodian, and to the child. The order under this section shall be known as a consent decree and must be agreed to by the child if 12 years of age or older; the parent, guardian or legal custodian; and the person filing the petition under s. 48.25. The consent decree may include provisions for payment of the services under s. 48.36. The consent decree shall be reduced to writing and given to the parties.

(2) A consent decree shall remain in effect up to 6 months unless the child, parent, guardian or legal custodian is discharged sooner by the judge or juvenile court commissioner. Upon the motion of the court or the application of the child, parent, guardian, legal custodian, intake worker or any agency supervising the child under the consent decree, the court may, after giving notice to the parties to the consent decree and their counsel, if any, extend the decree for up to an additional 6 months in the absence of objection to extension by the parties to the initial consent decree. If the parent, guardian or legal custodian objects to the extension, the judge shall schedule a hearing and make a determination on the issue of extension.

(3) If, prior to discharge by the court, or the expiration of the consent decree, the court finds that the child or parent, legal guardian or legal custodian has failed to fulfill the express terms and conditions of the consent decree or that the child objects to the continuation of the consent decree, the hearing under which the child was placed on supervision may be continued to conclusion as if the consent decree had never been entered.

(4) No child who is discharged by the court or who completes the period of supervision without reinstatement of the original petition may again be proceeded against in any court for the same offense alleged in the petition or an offense based on the same conduct, and the original petition shall be dismissed with prejudice. Nothing in this subsection precludes a civil suit against the child or parent for damages arising from the child's conduct.

(5) A court which, under this section, elicits or examines information or material about a child which would be inadmissible in a hearing on the allegations of the petition shall not, over objections of one of the parties, participate in any subsequent proceedings if:

(a) The court refuses to enter into a consent decree and the allegations in the petition remain to be decided in a hearing where the child denies the allegations of delinquency or

one of the parties denies the allegations forming the basis for a child in need of protection or services petition; or

(b) A consent decree is granted but the petition under s. 48.12 or 48.13 is subsequently reinstated.

SECTION 56. The unnumbered subchapter title which precedes section 48.33 of the statutes is numbered subchapter VI (title).

SECTION 57. 48.33 of the statutes is repealed and recreated to read:

**48.33 Court reports.** Before the disposition of cases of children adjudged to be delinquent or in need of protection or services an agency under s. 48.069 designated by the judge shall submit a report as specified in this section to the judge. The report shall recommend a plan of rehabilitation or treatment and care which employs the least restrictive means necessary to accomplish the purpose. The report shall include:

- (1) The social history of the child.
- (2) A statement of the objectives of the rehabilitation or treatment and care to be provided including desirable behavior changes and academic, social and vocational skills to be achieved.
- (3) The identity of the agency or person recommended to be made primarily responsible for provision of services mandated by the judge and the identity of the proposed legal custodian if custody is to be transferred to effect the treatment plan.
- (4) If placement outside the child's home is recommended, substantiation that care and services that would permit the child to remain at home have been investigated and considered and are not available or likely to become available within a reasonable time to meet the needs of the child or, if available, why such services are not appropriate. Specifically, the report shall describe:

- (a) What alternatives to the plan are available;
- (b) What alternatives have been explored; and
- (c) Why the explored alternatives are not appropriate.

(5) If placement outside the child's home is recommended, the name of the place or facility where the child shall be cared for or treated except that in the case of individual foster home treatment where the name and address of the foster parent is not available at the time of the report, that information shall be furnished to the court and the child's parent within 21 days of the court order. If after a hearing on the issue held with due notice to the parent or guardian, the judge finds that disclosure of the identity of the foster parent would result in imminent danger to the child or to the foster parent, the judge may order the name and address of the foster parent withheld from the parent or guardian.

(6) If placement more than 60 miles away from the child's home is recommended, documentation that placement within 60 miles of the child's home is either unavailable or inappropriate for the child.

SECTION 57m. 48.335 of the statutes is created to read:

**48.335 Dispositional hearings.** (1) The court shall conduct a hearing to determine the disposition of a case in which a child is adjudged to be delinquent under s. 48.12, to have violated a civil law or ordinance under s. 48.125 or to be in need of protection or services under s. 48.13.

(2) The hearing shall be reported and the record may be transcribed upon the request of any party and with the approval of the court or under s. 48.47 (2).

(3) At hearings under this section, any party may present evidence relevant to the issue of disposition, including expert testimony, and may make alternative dispositional recommendations.

(4) If the court finds that it is in the best interest of the child, and if the child's counsel or guardian ad litem consents, the child may be temporarily excluded from a dispositional hearing in a case in which he had been adjudged in need of protection and services.

(5) At the conclusion of the hearing, the court shall make a dispositional order in accordance with s. 48.355.

SECTION 57r. 48.34 of the statutes, as affected by chapter 156, laws of 1977, is repealed and recreated to read:

**48.34 Disposition of child adjudged delinquent.** If the judge adjudges a child delinquent, he or she shall enter an order deciding one or more of the dispositions of the case as provided in this section under a care and treatment plan, except that subs. (4m) and (8) shall be exclusive dispositions:

(1) Counsel the child or the parent, guardian or legal custodian.

(2) Place the child under supervision of an agency, the department if the department approves or a suitable adult, including a friend of the child, under conditions prescribed by the judge including reasonable rules for the child's conduct and the conduct of the child's parent, guardian or legal custodian, designed for the physical, mental and moral well-being and behavior of the child.

(3) Designate one of the following as the placement for the child:

(a) The home of a relative of the child.

(b) A home which need not be licensed if placement is for less than 30 days.

(c) A foster home or group foster home licensed under s. 48.62.

(d) A residential treatment center licensed under s. 48.60.

(4) If it is shown that the rehabilitation or the treatment and care of the child cannot be accomplished by means of voluntary consent of the parent or guardian, transfer legal custody to:

(a) A relative of the child;

(b) A county agency;

(c) A licensed child welfare agency; or

(4m) Transfer legal custody to the subunit of the department administering corrections for placement in a secured correctional facility, but only if:

(a) The child has been found to be delinquent for the commission of an act which if committed by an adult would be punishable by a sentence of 6 months or more; and

(b) The child has been found to be a danger to the public and to be in need of restrictive custodial treatment.

(5) If the child is found to have committed a delinquent act which has resulted in damage to the property of another, or actual physical injury to another excluding pain and suffering, the judge may order the child to repair damage to property or to make reasonable restitution for the damage or injury if the judge considers it beneficial to the well-being and behavior of the child. Objection by the child to amount of damages claimed shall entitle the child to a hearing on the question of damages before the amount of restitution is ordered.

(6) If the child is in need of special treatment and care the judge may order the child's parent, guardian or legal custodian to provide such care. If the parent, guardian or legal custodian fails or is financially unable to provide the care, the judge may order the care provided by an appropriate agency whether or not legal custody has been taken from the parents.

(7) The judge may restrict, suspend or revoke the operating privilege, as defined in s. 340.01 (40), of a child who is adjudicated delinquent under a violation of any law in which a motor vehicle is involved. Any limitation of the operating privilege shall be endorsed upon the operator's license and notice of the limitation forwarded to the department of transportation.

(8) If the judge finds that no other court services or alternative services are needed or appropriate it may impose a maximum forfeiture of \$50 based upon a determination that this disposition is in the best interest of the child and in aid of rehabilitation. Any such order shall include a finding that the child alone is financially able to pay the forfeiture and shall allow up to 12 months for payment. If the child fails to pay the forfeiture, the judge may vacate the forfeiture and order other alternatives under this section, in accordance with the conditions specified in this chapter.

(9) **SUPERVISED WORK PROGRAM.** (a) The judge may utilize as a dispositional alternative court-ordered participation in a supervised work program. The judge shall set standards for the program within the budgetary limits established by the county board. The work program may provide the child reasonable compensation reflecting a reasonable market value of the work performed, and shall be administered by the county department of public welfare or a community agency approved by the judge.

(b) The supervised work program shall be of a constructive nature designed to promote the rehabilitation of the child, shall be appropriate to the age level and physical ability of the child and shall be combined with counseling from a member of an agency staff or other qualified person. The program may not conflict with the child's regular attendance at school.

(10) **SUPERVISED INDEPENDENT LIVING.** (a) The judge may order that a child 17 or more years of age be allowed to live independently, either alone or with friends, under such supervision as the judge deems appropriate.

(b) If the plan for independent living cannot be accomplished with the consent of the parent or guardian, the judge may transfer custody of the child as provided in sub. (4) (a) to (c).

(c) The judge may order independent living as a dispositional alternative only upon a showing that the child is of sufficient maturity and judgment to live independently and only upon proof of a reasonable plan for supervision by an appropriate person or agency.

**SECTION 58.** 48.343 of the statutes is created to read:

**48.343 Disposition of child adjudged to have violated a civil law or an ordinance.** If the court finds that the child violated a civil law or an ordinance, it shall enter an order making one or more of the following dispositions:

(1) Counsel the child or the parent or guardian.

(2) Impose a forfeiture not to exceed \$25. If a child fails to pay the forfeiture, the court may suspend any license issued under ch. 29 or suspend the child's operating privilege as defined in s. 340.01 (40), for not less than 30 nor more than 90 days. The court shall immediately take possession of the suspended license and forward it to the department which issued the license, together with the notice of suspension clearly stating that the suspension is for failure to pay a forfeiture imposed by the court. If the forfeiture is paid during the first 30 days after the license is suspended, the suspension shall be reduced to the minimum period of 30 days. If it is paid thereafter, the court shall immediately notify the department, which will thereupon return the license to the person.

(3) Order the child to participate in a supervised work program under s. 48.34 (9).

(4) If the violation has resulted in damage to the property of another, or actual physical injury to another excluding pain and suffering, the court may order the child to make repairs of the damage to property or reasonable restitution for the damage or injury

if the court considers it beneficial to the well-being and behavior of the child. Any such order requiring payment for repairs or restitution shall include a finding that the child alone is financially able to pay and shall allow up to 12 months for the payment. Objection by the child to the amount of damages claimed shall entitle the child to a hearing on the question of damages before the amount of restitution is ordered.

(5) If the violation is related to unsafe use of a boat, order the child to attend a safety course under s. 30.74 (1).

(6) If the violation is of ch. 29, suspension of the license or licenses of the child issued under that chapter for not less than one year or until the child is 18 years of age, whichever occurs first.

SECTION 59. 48.345 and 48.35, as affected by chapter 29, laws of 1977, of the statutes are repealed and recreated to read:

**48.345 Disposition of child adjudged in need of protection or services.** If the judge finds that the child is in need of protection or services, it shall enter an order deciding one or more of the dispositions of the case as provided in s. 48.34 under a care and treatment plan except that the plan shall not:

(1) Transfer the custody of the child to the subunit of the department administering corrections;

(2) Order restitution;

(3) Order payment of a forfeiture;

(4) Restrict, suspend or revoke the driving privileges of the child; or

(5) Place any child not specifically found to be developmentally disabled, mentally ill or to have exceptional educational needs in facilities approved for the treatment of those categories of children under chs. 46, 49, 51, 115 and 880.

**48.35 Effect of judgment and disposition.** (1) The judge shall enter a judgment setting forth his or her findings and disposition in the proceeding.

(a) A judgment in proceedings on a petition under this chapter shall not be deemed a conviction of a crime, shall not impose any civil disabilities ordinarily resulting from the conviction of a crime and shall not operate to disqualify the child in any civil service application or appointment.

(b) The disposition of a child, and any record of evidence given in a hearing in court, shall not be admissible as evidence against the child in any case or proceeding in any other court after the child reaches majority except in sentencing proceedings after conviction of a felony and then only for the purpose of a presentence study and report.

(c) Disposition by the juvenile court of any allegation under s. 48.12 shall bar any future proceeding on the same matter in criminal court when the child reaches the age of 18. This paragraph does not affect proceedings in criminal court which have been transferred under s. 48.18.

(d) A child adjudged to be delinquent may not be proceeded against under ch. 54.

(e) If a child is found to be not responsible by reason of mental disease or defect the petition shall be dismissed with prejudice.

SECTION 60. 48.355, 48.357, 48.36, 48.363 and 48.365 of the statutes are created to read:

**48.355 Dispositional orders.** (1) **INTENT.** In any order under s. 48.34 or 48.345 the judge shall decide on a placement and treatment finding based on evidence submitted to the judge. The disposition shall employ those means necessary to maintain and protect the child's well-being which are the least restrictive of the rights of the parent or child and which assure the care, treatment or rehabilitation of the child and the family. Wherever

possible the family unit shall be preserved and there shall be a policy of transferring custody from the parent only where there is no less drastic alternative.

(2) **CONTENT OF ORDER.** (a) In addition to the order, the judge shall make findings of fact and conclusions of law based on the evidence presented to the judge to support the disposition of each individual coming before him or her.

(b) The court order shall contain:

1. The identity of the agency which is to be primarily responsible for the provision of the services mandated by the judge and, if custody is to be transferred to effect the treatment plan, the identity of the legal custodian.

2. If the child is placed outside the home, the name of the place or facility, including transitional placements, where the child shall be cared for or treated, except that in the case of individual foster home treatment where the name and address of the foster parent shall be furnished to the court and the parent within 21 days of the order, except that if, after a hearing on the issue with due notice to the parent or guardian, the judge finds that disclosure of the identity of the foster parent would result in imminent danger to the child or the foster parent, the judge may order the name and address of the prospective foster parents withheld from the parent or guardian.

3. The date of the expiration of the court's order.

4. A designation of the amount of support, if any, to be paid by the child's parent, guardian or trustee.

(3) **PARENTAL VISITATION.** If, after a hearing on the issue with due notice to the parent or guardian, the judge finds that it would be in the best interest of the child, the judge may set reasonable rules of parental visitation.

(4) **TERMINATION OF ORDERS.** All orders under this section shall terminate at the end of one year unless the judge specifies a shorter period of time. Extensions or revisions shall terminate at the end of one year unless the judge specifies a shorter period of time. Any order made before the child reaches the age of majority shall be effective for a time up to one year after its entry unless the judge specifies a shorter period of time.

(5) **EFFECT OF COURT ORDER.** Any party, person or agency who provides services for the child under this section shall be bound by the court order.

**48.357 Change in placement.** (1) Except as provided in subs. (2) to (5), prior to any change in placement authorized by a dispositional order, the person or agency primarily responsible for implementing the order shall cause written notice to be sent to the court and to the child, parent, guardian and legal custodian. The notice shall contain the name and address of the new placement, the reasons for the change in placement and a statement of how the new placement satisfies the treatment plan ordered by the court. Any party receiving the notice or notice of the specific foster placement under s. 48.355 (2) (b) 2 may obtain a hearing on the matter by filing an objection with the court within 10 days of receipt of the notice. Placements shall not be changed until 10 days after such notice is sent to the court unless the parent, guardian or legal custodian and the child, if 14 or more years of age, sign written waivers of objection.

(2) If emergency conditions necessitate an immediate change in the placement of a child placed outside the home, the person or agency primarily responsible for implementing the dispositional order may remove the child to a new placement, whether or not authorized by the existing dispositional order, without the prior notice provided in sub. (1). The notice shall, however, be sent within 48 hours after the emergency change in placement. If a new placement is authorized under the existing dispositional order, any party receiving notice may demand a hearing under sub. (1). If the new placement is not so authorized, the person or agency which made the emergency placement shall within 5 days petition the judge for a revision of the order under s. 48.363.

(3) The department may, after an examination under s. 48.50, allow a child liberty under supervision, either immediately or after a period of placement in a facility under s. 48.52. The department shall send written notice of the change to the parent, guardian, legal custodian and committing court.

(4) If a child placed with the subunit of the department administering corrections has been released on after-care or field supervision, revocation of the status and return to residential placement shall not require prior notice under sub. (1), but the notice shall be sent within 48 hours after revocation. A child on after care or field release status may be taken into custody only as provided in s. 48.19. If charged with a violation of the conditions of release, the child shall be entitled to representation by counsel at an administrative hearing conducted under ch. 227 by an independent officer of the department. Review of a revocation decision shall be by certiorari to the court by whose order the child was placed with the subunit of the department administering corrections.

(5) If the proposed change in placement would involve placing the child with the subunit of the department administering corrections other than in the manner described in sub. (4), a hearing shall be held, unless waived by the child, parent, guardian and legal custodian, before the judge makes a decision. The child shall be entitled to counsel at the hearing, and any party opposing or favoring the new placement may present relevant evidence and cross-examine witnesses. The new placement may be approved only if the judge finds, on the record, that the conditions set forth in s. 48.34 (4m) have been met.

**48.36 Payment for services.** (1) If legal custody is taken from the parent or guardian and disposition made under s. 48.355, the duty of the parent or guardian to provide support shall continue even though the legal custodian may provide the support. A copy of the order transferring custody shall be submitted to the agency or person receiving such custody and such agency or person may apply to the court for an order to compel the parent or guardian to provide the support.

(2) If a child whose legal custody has not been taken from a parent or guardian is given educational and social services, or medical, psychological or psychiatric treatment by order of the court, the cost thereof, if ordered by the court, shall be a charge upon the county. This section does not prevent recovery of reasonable contribution toward the costs from the parent or guardian of the child as the court may order based on the ability of the parent or guardian to pay. This subsection shall be subject to s. 46.03 (18).

(3) In determining county liability, this section does not apply to services specified in ch. 115 or provided by mental health boards under ch. 51.

**48.363 Revision of dispositional orders.** The parent, child, guardian or legal custodian or any person or agency bound by a dispositional order may petition for a revision in the order, or the court may on its own motion propose such a revision. The petition or court proposal shall set forth in detail the nature of the proposed revision and the reasons why it is alleged to be preferable to the order in light of the information and alternatives currently available under s. 48.33. The petition or court proposal shall be sent to all parties, any of whom may demand a hearing by filing objections to the proposed revision within 10 days. A revision of a dispositional order may transfer custody of a child to the subunit of the department administering corrections only if a hearing is held, unless waived by the child, parent, guardian and legal custodian, before the judge makes a decision on the issue. The child shall be entitled to counsel at the hearing, and any party opposing or favoring the proposed revision may present relevant evidence and cross-examine witnesses. The proposed revision may be approved only if the judge finds, on the record, that the conditions set forth in s. 48.34 (4m) have been met. No revision may extend the effective period of the original order.

**48.365 Extension of orders.** No order under s. 48.355 may be extended except as provided in this section:

(1) Pursuant to a hearing before the judge which shall include:

(a) Notice to the child or guardian ad litem or counsel, parent, guardian, legal custodian and all the parties present at the original hearing.

(b) A signed and filed court report by the person or agency designated by the judge as primarily responsible for the provision of services to the child. The report shall contain:

1. A statement to what extent this placement has been meeting the objectives of treatment, care or rehabilitation as specified in the judge's findings of fact; and

2. An evaluation of the child's adjustment to the placement, progress he or she has made, and anticipated future planning for the child; and

3. A description of efforts that have been made toward returning the child to his or her parental home, including efforts of the parents to remedy factors which contributed to the transfer of the child, and an explanation why returning the child to his or her home is not feasible.

(c) Taking of evidence to support findings of fact and conclusions of law and an order under s. 48.355 (2).

(2) The appearance of any child may be waived by consent of the child, counsel or guardian ad litem.

(3) Upon the motion of the person or agency primarily responsible for the provision of services as designated in the court order for a period of not more than 30 days if there is a showing of good cause as to why the matter was not brought before the court before the expiration date of the dispositional order pursuant to one of the provisions provided in this section.

(4) The judge shall determine which dispositions are to be considered for extensions.

(5) All orders shall be for a specified length of time not to exceed one year.

(6) Nothing in this section may be construed to allow the return of a child on after-care or field release to a secured correctional facility. Revocation may take place only under s. 48.357 (4).

SECTION 61. 48.37 of the statutes is repealed and recreated to read:

**48.37 Costs.** No costs may be assessed against any child in juvenile court.

SECTION 62. 48.38 (1) of the statutes is repealed.

SECTION 63. 48.38 (title) and (2) of the statutes are renumbered 48.35 (2) (title) and (2).

SECTION 64. 48.395 of the statutes is renumbered 48.373.

SECTION 65. Subchapter VII (title) of chapter 48 of the statutes is created to read:

CHAPTER 48

SUBCHAPTER VII

RECORDS

(to precede s. 48.38)

SECTION 66. The unnumbered subchapter title which precedes section 48.40 of the statutes is numbered subchapter VIII (title).

SECTION 67. 48.42 (3) of the statutes is amended to read:

48.42 (3) In addition to the notice provided parents under sub. (1), in a proceeding under s. 48.40 to terminate the parental rights to a child born out of wedlock and not subsequently legitimated or adopted, the court shall provide notice, as if he were a parent, to ~~those persons specified in s. 48.195~~ a person who has filed a declaration of interest

under s. 48.025, to a person who may be the natural father of the child and who is living in a familial relationship to the child, to a person who has been adjudged to be the natural father of the child and to a person alleged to the court to be the natural father of the child. Constructive notice shall be given in all cases where no person has previously been adjudged to be the natural father and the court is unable to adjudge paternity. If notice is given by publication the name of the mother shall be included in such notice only if the court following a hearing on the need for inclusion of the mother's name determines that such inclusion is essential to give effective notice to the natural father. In determining whether such inclusion is essential, the court shall consider the mother's right to privacy.

SECTION 68. The unnumbered subchapter title which precedes section 48.44 of the statutes is numbered subchapter IX (title).

SECTION 69. 48.44 of the statutes is amended to read:

**48.44 Jurisdiction over persons 18 or older.** The court has exclusive jurisdiction over persons 18 or older in the case of contributing to ~~the delinquency or neglect of a child~~ under s. 48.45 a condition of a child as described in s. 48.12 or 48.13, and over persons subject to an order under s. 48.355 (4).

SECTION 70. 48.45 (1) and (4) of the statutes are amended to read:

48.45 (1) If in the hearing of a case of a child alleged to be ~~delinquent or neglected, in a condition described in s. 48.12 or 48.13~~ it appears that any person 18 or older has been guilty of contributing to, encouraging, or tending to cause by any act or omission, ~~the delinquency or neglect~~ such condition of the child, the ~~court~~ judge may make orders with respect to the conduct of such person in his or her relationship to the child, including orders determining the ability of ~~such~~ the person to provide for the maintenance or care of ~~such~~ the child and directing when, how and where ~~money~~ funds for ~~such~~ the maintenance or care shall be paid.

(4) An act or failure to act contributes to ~~the delinquency or neglect of a child a condition of a child as described in s. 48.12 or 48.13~~, although the child ~~does~~ is not actually ~~become neglected or delinquent~~ adjudicated to come within the provisions of s. 48.12 or 48.13, if the natural and probable consequences of that act or failure to act would be to cause the child to ~~become delinquent or neglected~~ come within the provisions of s. 48.12 or 48.13.

SECTION 71. The unnumbered subchapter title which precedes section 48.46 of the statutes is numbered subchapter X (title).

SECTION 72. 48.47 of the statutes, as affected by chapter 187, laws of 1977, is renumbered 48.47 (1) and amended to read:

48.47 (1) Any person aggrieved by an adjudication of the ~~county~~ juvenile court under this chapter and directly affected thereby has the right to appeal to the court of appeals within ~~40~~ 90 days of the entry of the order in the manner in which appeals are taken from judgments in civil actions. No undertaking is required on ~~such~~ the appeal. The order of the ~~county~~ juvenile court shall stand, pending the determination of the appeal, but the court of appeals may upon application stay ~~such~~ the order. Appeal from an order granting or denying an adoption under s. ~~879.27~~ 48.91 and from any county court review under s. 48.64 (4) (c) shall be to the court of appeals.

SECTION 73. 48.47 (2) of the statutes is created to read:

48.47 (2) A child who has filed a notice of appeal shall be furnished a transcript of the proceedings appealed from or as much of it as is requested without cost upon the filing of an affidavit that the child or the person who is legally responsible for his or her care and support is financially unable or the person responsible is unwilling to purchase the transcript.

SECTION 74. The unnumbered subchapter title which precedes section 48.48 of the statutes is numbered subchapter XI (title).

SECTION 75. 48.48 (1), as affected by chapter 83, laws of 1975, to (4) and (4m) (a) to (c) of the statutes are amended to read:

48.48 (1) To promote the enforcement of the laws relating to ~~mentally retarded, dependent, neglected and delinquent children and~~, children born out of wedlock and children in need of protection or services including developmentally disabled children and to take the initiative in all matters involving the interests of such children where adequate provision therefor is not made. This duty shall be discharged in ~~co-operation~~ cooperation with the juvenile courts, county agencies, licensed child welfare agencies and with parents and other individuals interested in the welfare of children.

(2) To assist in extending and strengthening child welfare services ~~in co-operation with the United States children's bureau~~ with appropriate federal agencies and in conformity with the federal social security act and in ~~co-operation~~ cooperation with parents, other individuals and other agencies so that all children needing such services are reached;

(3) ~~To accept legal custody of children transferred to it by the juvenile court under ss. 48.34 and 48.35; s. 48.355 and guardianship of children when appointed by the juvenile court, and to provide special treatment and care when directed by the juvenile court.~~

(4) To provide appropriate care and training for children in its legal custody; including servicing those children in their own homes, placing ~~those children~~ them in licensed foster homes in accordance with s. 48.63 or contracting for their care of them by licensed child welfare agencies;

(4m) (a) ~~Was~~ Is at least 18 years of age ~~on March 23, 1972;~~

(b) ~~Is~~ Was when he or she reached age 18 in legal custody of the department or a county agency established under ss. 48.56 and 48.57 ~~on March 23, 1972;~~

(c) Is less than ~~21~~ 19 years of age ~~on June 29, 1974;~~ and

SECTION 76. 48.50 of the statutes is amended to read:

**48.50 Examination of children in legal custody of department.** (1) The department shall examine all children whose legal custody is transferred to it by the court to determine the type of placement best suited to the child and, in the case of children who have violated a state law, to the protection of the public. This examination shall include an investigation of the personal and family history of the child and his or her environment and any physical or mental examinations considered necessary.

(2) In making this examination the department may use any facilities, public or private, which offer aid to it in the determination of the correct aftercare placement for the child.

SECTION 77. 48.51 of the statutes is repealed.

SECTION 78. 48.52 (title), (1) (intro.) and (2) (a) of the statutes are amended to read:

**48.52 (title) Facilities for care of children in care of department.** (1) (intro.) The department may maintain or use the following facilities for ~~the care of~~ children in its legal custody care:

(2) (a) In addition to the facilities and services described in sub. (1), the department may use other facilities and services under its jurisdiction. The department may also use contract for and pay for the use of other public facilities or ~~contract for the use of~~ private facilities for the care and treatment of children in its legal custody care; but placement of

children in private or public facilities not under its jurisdiction does not terminate the legal custody of the department. ~~Removals to~~ Placements in institutions for the mentally ill or developmentally disabled shall be made in accordance with ss. 48.14 (5) and 48.63 and ch. 51.

SECTION 79. 48.57 (1) (a) to (d), as affected by chapters 29 and 83, laws of 1977, and (g) of the statutes are amended to read:

48.57 (1) (a) To investigate the conditions surrounding ~~mentally retarded, dependent, neglected and delinquent children and, children born out of wedlock and children in need of protection or services including developmentally disabled 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. Unless provided by another agency, county agencies shall offer social services to the caretaker of any child who is referred to the agencies as coming within the conditions specified in this paragraph. This duty shall be discharged in ~~co-operation~~ cooperation with the juvenile court and with the public officers or boards legally responsible for the administration and enforcement of these laws;

(b) To accept legal custody of children transferred to it by the juvenile court under s. ~~48.34 or 48.35~~ 48.355 and to provide special treatment and care if ordered by the juvenile court;

(c) To provide appropriate ~~care and training~~ protection and services for children in its ~~legal custody care, including providing services for children and their families in their own homes,~~ placing ~~those~~ the children in licensed foster homes in this state or another state within a reasonable proximity to the agency with legal custody or contracting for ~~care of services for~~ them by licensed child welfare agencies;

(d) To provide for the moral and religious training of children in its ~~legal custody care~~ according to the religious belief of the child or of his or her parents;

(g) Upon request of the department to ~~assume supervision of any juvenile still in the legal custody~~ provide service for any child in the care of the department;

SECTION 80. 48.58 (1) (b) and (c) of the statutes are amended to read:

48.58 (1) (b) Provide care for ~~dependent or neglected children in need of protection or services~~ referred by the county welfare department;

(c) Provide temporary shelter care for ~~dependent or neglected children in need of protection or services.~~

SECTION 81. 48.58 (1) (d) of the statutes, as created by chapter 29, laws of 1977, is amended to read:

48.58 (1) (d) Provide temporary shelter care for children taken into custody under s. ~~48.28~~ 48.19.

SECTION 82. The unnumbered subchapter title which precedes section 48.60 of the statutes is numbered subchapter XII (title).

SECTION 83. The unnumbered subchapter title which precedes section 48.62 of the statutes is numbered subchapter XIII (title).

SECTION 84. 48.63 (title), (1) and (3) of the statutes are repealed and recreated to read:

**48.63 (title) Restrictions on placement.** (1) Acting pursuant to court order or voluntary agreement, the child's parent or guardian or the department, a county agency performing child welfare services under s. 48.56 (1) or a child welfare agency licensed to place children in foster homes, may place a child or negotiate or act as intermediary for the placement of a child in a foster home. Placements made under this subsection under a

voluntary agreement shall be for a period of time not to exceed 6 months and shall not be extended. The 6-month limitation does not apply to placements made with the consent of a parent or guardian under ss. 48.34 and 48.345.

(3) No person may place a child or offer or hold himself or herself out as able to place a child, except as provided in this section. Enrollment of a child by a parent or guardian in an educational institution shall not constitute a placement for the purposes of this section.

SECTION 85. 48.64 (1) of the statutes is amended to read:

48.64 (1) FOSTER HOME AGREEMENT. If the department, a county agency specified in s. 48.56, ~~a juvenile court~~, or a child welfare agency authorized to do so, places a child in a foster home under a court order or voluntary agreement under s. 48.63, it shall enter into a written agreement with the head of ~~such the home, which~~. The agreement shall provide that the agency shall have access at all times to the child and the home, and that the child will be released to the agency whenever, in the opinion of the agency placing the child or the department, the best interests of the child require it. ~~Where~~ If a child has been in the foster home for 6 months or more, the department or agency shall give the foster parents written notice of intent to remove the child, stating the reasons for ~~such the~~ removal. The child ~~may~~ shall not be removed before completion of the hearing under sub. (4) (a) or (c), if requested, or 30 days from the receipt of the notice, whichever is later, unless the safety of the child requires it. If the safety of the child requires earlier removal, s. 48.19 shall apply. If a child is removed from an adoptive placement, the foster parents shall have no claim against the placing agency for the expense of care, clothing or medical treatment.

SECTION 86. The unnumbered subchapter title which precedes section 48.65 of the statutes is numbered subchapter XIV (title).

SECTION 87. The unnumbered subchapter title which precedes section 48.66 of the statutes is numbered subchapter XV (title).

SECTION 88. The unnumbered subchapter title which precedes section 48.78 of the statutes is numbered subchapter XVI (title).

SECTION 89. The unnumbered subchapter title which precedes section 48.79 of the statutes is numbered subchapter XVII (title).

SECTION 90. The unnumbered subchapter title which precedes section 48.81 of the statutes is numbered subchapter XVIII (title).

SECTION 91. 48.90 (2) of the statutes is amended to read:

48.90 (2) Where the placement of the child proposed to be adopted was in violation of s. 48.63 ~~or~~, 48.98 or 48.992, no petition ~~shall~~ may be filed unless there is an affirmative showing that the petitioners have complied with the provisions of the section violated.

SECTION 92. The unnumbered subchapter title which precedes section 48.98 of the statutes is numbered subchapter XIX (title).

SECTION 93. 48.98 (4) of the statutes is created to read:

48.98 (4) This section applies only to those interstate placements of children which are not covered under s. 48.99.

SECTION 94. 48.99 of the statutes is renumbered 48.987.

SECTION 95. 48.99 and 48.995 of the statutes are created to read:

**48.99 Interstate compact on the placement of children.** (1) The interstate compact on the placement of children is hereby enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

Article 1. Purpose and Policy

It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children to the end that:

(a) Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.

(b) The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

(c) The proper authorities of the state from which the placement is made may obtain the most complete information on the basis of which to evaluate a projected placement before it is made.

(d) Appropriate jurisdictional arrangements for the care of children will be promoted.

#### Article II. Definitions

As used in this compact:

(a) "Child" means a person who, by reason of minority, is legally subject to parental, guardianship or similar control.

(b) "Sending agency" means a party state, officer or employe thereof; a subdivision of a party state, or officer or employe thereof; a court of a party state; a person, corporation, association, charitable agency or other entity which sends, brings or causes to be sent or brought any child to another party state.

(c) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons.

(d) "Placement" means the arrangement for the care of a child in a family free or boarding home or in a child-caring agency or institution but does not include any institution caring for the mentally ill, mentally defective or epileptic or any institution primarily educational in character, and any hospital or other medical facility.

#### Article III. Conditions for Placement

(a) No sending agency shall send, bring or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein.

(b) Prior to sending, bringing or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:

(1) The name, date and place of birth of the child.

(2) The identity and address or addresses of the parents or legal guardian.

(3) The name and address of the person, agency or institution to or with which the sending agency proposes to send, bring or place the child.

(4) A full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

(c) Any public officer or agency in a receiving state which is in receipt of a notice pursuant to paragraph (b) of this article may request of the sending agency, or any other appropriate officer or agency of or in the sending agency's state, and shall be entitled to

receive therefrom, such supporting or additional information as it may deem necessary under the circumstances to carry out the purpose and policy of this compact.

(d) The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child.

#### Article IV. Penalty for Illegal Placement

The sending, bringing, or causing to be sent or brought into any receiving state of a child in violation of the terms of this compact shall constitute a violation of the laws respecting the placement of children of both the state in which the sending agency is located or from which it sends or brings the child and of the receiving state. Such violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any such punishment or penalty, any such violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place, or care for children.

#### Article V. Retention of Jurisdiction

(a) The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting or is discharged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.

(b) When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of one or more services in respect of such case by the latter as agent for the sending agency.

(c) Nothing in this compact shall be construed to prevent a private charitable agency authorized to place children in the receiving state from performing services or acting as agent in that state for a private charitable agency of the sending state; nor to prevent the agency in the receiving state from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in paragraph (a) hereof.

#### Article VI. Institutional Care of Delinquent Children

A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard, prior to being sent to such other party jurisdiction for institutional care and the court finds that:

1. Equivalent facilities for the child are not available in the sending agency's jurisdiction and
2. Institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship.

#### Article VII. Compact Administrator

The executive head of each jurisdiction party to this compact shall designate an officer who shall be general coordinator of activities under this compact in his or her jurisdiction and who, acting jointly with like officers of other party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

#### Article VIII. Limitations

This compact shall not apply to:

(a) The sending or bringing of a child into a receiving state by a parent, step-parent, grandparent, adult brother or sister, adult uncle or aunt, or a guardian and leaving the child with any such relative or non-agency guardian in the receiving state.

(b) Any placement, sending or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between said states which has the force of law.

#### Article IX. Enactment and Withdrawal

This compact shall be open to joinder by any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and, with the consent of Congress, the Government of Canada or any province thereof. It shall become effective with respect to any such jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until two years after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties and obligations under, this compact of any sending agency therein with respect to a placement made prior to the effective date of withdrawal.

#### Article X. Construction and Severability

The provisions of this compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

(2) Financial responsibility for any child placed under the interstate compact on the placement of children shall be determined in accordance with the provisions of article V thereof in the first instance. However, in the event of partial or complete default of performance thereunder, the provisions of ch. 52 or of any other applicable state law fixing responsibility for the support of children also may be invoked.

(3) The "appropriate public authorities" as used in article III of the interstate compact on the placement of children means the department of health and social services, and said department shall receive and act with reference to notices required by article III.

(4) As used in paragraph (a) of article V of the interstate compact on the placement of children, the phrase "appropriate authority in the receiving state" means the state department of health and social services.

(5) The officers and agencies of this state and its subdivisions having authority to place children may enter into agreements with appropriate officers or agencies of or in other party states under paragraph (b) of article V of the interstate compact on the placement of children. Any agreement which contains a financial commitment or imposes

a financial obligation on this state or subdivision or agency thereof shall not be binding unless it has the approval in writing of the department in the case of the state.

(6) Any requirements for visitation, inspection or supervision of children, homes, institutions or other agencies in another party state which may apply under the provisions of this chapter shall be deemed to be met if performed pursuant to an agreement entered into by appropriate officers or agencies of this state or a subdivision thereof as contemplated by paragraph (b) of article V of the interstate compact on the placement of children.

(7) Any court having jurisdiction to place delinquent children may place such a child in an institution or in another state under article V of the interstate compact on the placement of children and shall retain jurisdiction as provided in article V thereof.

(8) As used in article VI of the interstate compact on the placement of children, the term "executive head" means the governor.

**48.995 Interstate compact on the placement of children: additional procedure.** (1) DEFINITIONS. In this section and in s. 48.99:

(a) "Appropriate authority in the receiving state" means the department of health and social services.

(b) "Appropriate public authorities" means the department of health and social services, which shall receive and act with reference to notices required by article III.

(c) "Executive head" means the governor.

(2) FINANCIAL RESPONSIBILITY. Financial responsibility for any child placed under the provisions of the interstate compact on the placement of children shall be determined in accordance with the provisions of article V. In the event of partial or complete default of performance under the compact, the provisions of ch. 52 or of any other applicable state law fixing responsibility for the support of children may also be invoked.

(3) INTERSTATE AGREEMENTS. The officers and agencies of this state and its subdivisions having authority to place children may enter into agreements with appropriate officers or agencies of or in other party states under par. (b) of article V of the interstate compact on the placement of children. Any agreement which contains a financial commitment or imposes a financial obligation on this state or any subdivision or agency thereof shall not be binding unless it has the approval in writing of the department in matters involving the state and of the chief local fiscal officer in matters involving a subdivision of the state.

(4) REQUIREMENTS. Any requirement for visitation, inspection or supervision of children, homes, institutions or other agencies in another party state which may apply under the provisions of this chapter shall be deemed to be met if performed under an agreement entered into by appropriate officers or agencies of this state or a subdivision thereof under par. (b) of article V of the interstate compact on the placement of children.

(5) COURT JURISDICTION. Any court having jurisdiction to place delinquent children may place such a child in an institution or in another state under article V of the interstate compact on the placement of children. The court shall retain jurisdiction as provided in article V of the compact.

SECTION 96. 51.10 (2) (d) 5 of the statutes is amended to read:

51.10 (2) (d) 5. If the child is ~~neglected or dependent~~ in need of protection or services, provide for disposition under s. ~~48.35~~ 48.345; or

SECTION 97. 115.81 (8) of the statutes is amended to read:

115.81 (8) APPEAL TO COURT. Within 30 days after the decision of the state superintendent, the parent may appeal the decision to the ~~circuit or county~~ juvenile court of the county in which the child resides.

SECTION 98. 880.15 (1) of the statutes is amended to read:

880.15 (1) APPOINTMENT. If the court finds that the welfare of a minor, spendthrift or an incompetent requires the immediate appointment of a guardian of ~~his~~ the person or of ~~his~~ the estate, or of both, it may, with or without notice, appoint a temporary guardian ~~for him~~ for a period not to exceed 60 days unless further extended by order of the court. The authority of the temporary guardian may be limited to the performance of duties respecting specific property, or to the performance of particular acts, as stated in the order of appointment. All provisions of the statutes concerning the powers and duties of guardians shall apply to temporary guardians except as limited by the order of appointment. The temporary guardian shall make such reports as the court directs, and shall account to the court upon termination of ~~his~~ authority. The juvenile court judge shall have exclusive jurisdiction over the appointment of a temporary guardian of a minor for medical purposes but shall proceed in accordance with this section. No appeal may be taken from the order of appointment of a temporary guardian.

SECTION 99. 946.42 (3) (c) of the statutes is repealed.

SECTION 100. 977.08 (2) (g) of the statutes is created to read:

977.08 (2) (g) Cases involving persons entitled to counsel under ch. 48.

SECTION 101. **Cross reference changes.** In the sections of the statutes listed in Column A, the cross references shown in Column B are changed to the cross references shown in Column C:

A	B	C
Statute Sections	Old Cross References	New Cross References
20.435 (4) (dj)	48.31 (4) and 48.58 (2) (b)	48.22 (4) and 48.58 (2) (b)
48.06 (1)(b)	48.06 (3)	48.06 (4)
48.225, as renumbered	48.33 to 48.35	48.32 to 48.355
48.397, as renumbered	48.34 (1) (c) or (d), 48.35 (1) (b) or (c)	48.34, 48.345
48.41	48.35	48.355
48.425 (6n)(a)	48.34, 48.345, 48.35	48.355
48.61 (1)	48.34, 48.35	48.355
48.62 (2)	48.02 (12)	48.02 (15)
49.52 (1)	48.31 and 48.58	48.22 and 48.58
51.42 (9)(a)	48.34, 48.35	48.355
51.437 (12)(a)	48.34, 48.35	48.355
256.68 (3)(a)	48.33 to 48.35	48.32 to 48.355
631.07 (3)(b) 1	48.02 (10)	48.02 (12)

SECTION 102. **Effective date.** This act shall take effect 6 months after the date of its publication.