

1985 Assembly Bill 309

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1985 Wisconsin Act 70

AN ACT to repeal 48.427 (5) and 48.428 (5); to amend 48.38 (5) (e), 48.43 (title) and (1) and 767.24 (1) (c); to repeal and recreate 48.43 (5); and to create 48.43 (1) (c), 48.43 (5m) and 767.24 (1) (c) 2 to 4 of the statutes, relating to requiring periodic judicial review of court orders placing children outside of their own homes.

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

SECTION 1. 48.38 (5) (e) of the statutes is amended to read:

48.38 (5) (e) Within 30 days, the agency shall prepare a written summary of the determinations under par. (c) and shall provide a copy to the court that entered the order, the child or the child's counsel or guardian ad litem, the child's parent or guardian and the child's foster parent or operator of the facility where the child is living.

SECTION 2. 48.427 (5) of the statutes is repealed.

SECTION 3. 48.428 (5) of the statutes is repealed.

SECTION 4. 48.43 (title) and (1) of the statutes are amended to read:

48.43 (title) Court orders; contents and effect; review. (1) The court shall enter a judgment setting forth its findings and disposition in accordance with s. 48.426 in an order implementing the disposition chosen. The order shall contain all of the following:

(a) The identity of ~~the any agency which or individual that will receive guardianship and or custody of the child upon termination, if the rights of both parents are terminated,~~ and the identity of the agency which will be responsible for securing the adoption of the child or establishing the child in a permanent family setting; and

(b) If the child will be in need of continued care and treatment after termination, the agencies and persons responsible, ~~and the plan for treatment.~~

SECTION 5. 48.43 (1) (c) of the statutes is created to read:

48.43 (1) (c) If an agency receives custody of the child under par. (a), the child's permanency plan prepared under s. 48.38 by the agency. If a permanency plan has not been prepared at the time the order is entered, or if the court enters an order that is not consistent with the permanency plan, the agency shall prepare a permanency plan that is consistent with the order or revise the permanency plan to conform to the order and shall file the plan with the court within 60 days from the date of the order.

SECTION 6. 48.43 (5) of the statutes is repealed and recreated to read:

48.43 (5) (a) If the custodian specified in sub. (1) (a) is an agency, the agency shall report to the court on the status of the child at least once each year until the child is adopted or reaches 18 years of age, whichever is sooner. The agency shall file an annual report no less than 30 days before the anniversary of the date of the order. An agency may file an additional report at any time if it determines that more frequent reporting is appropriate. A report shall summarize the child's permanency plan and the recommendations of the review panel under s. 48.38 (5), if any, and shall describe any progress that has been made in finding a permanent placement for the child.

(b) The court shall hold a hearing to review the permanency plan within 30 days after receiving a report under par. (a). At least 10 days before the date of the hearing, the court shall provide notice of the time, date and purpose of the hearing to the agency that prepared the report, the child's guardian, the child, if he or she is 12 years of age or over, and the child's

foster parent or the operator of the facility in which the child is living.

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

SECTION 7. 48.43 (5m) of the statutes is created to read:

48.43 (5m) Either the court or the agency that prepared the permanency plan shall furnish a copy of the original plan and each revised plan to the child, if he or she is 12 years of age or over, and to the child's foster parent or operator of the facility in which the child is living.

SECTION 8. 767.24 (1) (c) of the statutes is amended to read:

767.24 (1) (c) 1. If the interest of any child demands it, and if the court finds that neither party is able to care for the child adequately or that neither party is fit and proper to have the care and custody of the child, the court may declare ~~any such~~ the child to be in need of protection or services and transfer legal custody of the child to a relative of the child, as defined in s. 48.02 (15), to a county agency specified in s. 48.56 (1) or to a licensed child welfare agency.

5. The charges for ~~such~~ care furnished to a child whose custody is transferred under this paragraph

shall be pursuant to the procedure under s. 48.36 except as provided in s. 767.29 (3).

SECTION 9. 767.24 (1) (c) 2 to 4 of the statutes are created to read:

767.24 (1) (c) 2. If the legal custodian appointed under subd. 1 is an agency, the agency shall report to the court on the status of the child at least once each year until the child reaches 18 years of age, is returned to the custody of a parent or is placed under the guardianship of an agency. The agency shall file an annual report no less than 30 days before the anniversary of the date of the order. An agency may file an additional report at any time if it determines that more frequent reporting is appropriate. A report shall summarize the child's permanency plan and the recommendations of the review panel under s. 48.38 (5), if any.

3. The court shall hold a hearing to review the permanency plan within 30 days after receiving a report under subd. 2. At least 10 days before the date of the hearing, the court shall provide notice of the time, date and purpose of the hearing to the agency that prepared the report, the child's parents, the child, if he or she is 12 years of age or over, and the child's foster parent or the operator of the facility in which the child is living.

4. Following the hearing, the court shall make all of the determinations specified under s. 48.38 (5) (c) and, if it determines that an alternative placement is in the child's best interest, may amend the order to transfer legal custody of the child to another relative, other than a parent, or to another agency specified under subd. 1.

SECTION 10. **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
48.38 (1)(a)	48.58	48.56 (1)