



**SENATE AMENDMENT 1,
TO 1995 SENATE BILL 501**

March 12, 1996 - Offered by COMMITTEE ON JUDICIARY.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 4, line 1: after the semicolon insert: “transferring custody of a child
3 to a relative when there is no less drastic alternative than transferring custody from
4 the parent; adoption of a child by a relative;”.

5 **2.** Page 34, line 14: delete that line and substitute:

6 “(gm) Emotional damage for which the child’s parent, guardian or legal
7 custodian has neglected, refused or been unable for reasons other than poverty to
8 obtain the necessary treatment or to take steps to ameliorate the symptoms.”.

9 **3.** Page 35, line 2: delete lines 2 to 4 and substitute: “intellectual functioning.
10 “Emotional damage” shall be evidenced”.

11 **4.** Page 35, line 9: delete lines 9 to 18.

12 **5.** Page 38, line 11: after “unable” insert: “for reasons other than poverty”.

13 **6.** Page 43, line 1: delete lines 1 to 23 and substitute:

14 “1. Unless granted leave by the court not to do so, personally, or through a
15 trained designee, meet with the child and, if the child is old enough to communicate,

1 interview the child, determine the child’s goals and concerns regarding his or her
2 placement and assess the appropriateness and safety of the child’s environment.

3 2. Make clear and specific recommendations to the court concerning the best
4 interest of the child at every stage of the proceeding.”.

5 **7.** Page 44, line 8: before that line insert:

6 “**SECTION 38m.** 48.24 (5) of the statutes, as affected by 1995 Wisconsin Act 77,
7 is amended to read:

8 48.24 (5) The intake worker shall ~~recommend~~ request that a petition be filed,
9 enter into an informal disposition or close the case within 40 days or sooner of receipt
10 of referral information. If the case is closed or an informal disposition is entered into,
11 the district attorney, corporation counsel or other official under s. 48.09 shall receive
12 written notice of such action. If a law enforcement officer has made a
13 recommendation concerning the child, the intake worker shall forward this
14 recommendation to the district attorney, corporation counsel or other official under
15 s. 48.09. With respect to petitioning a child to be in need of protection or services,
16 information received more than 40 days before filing the petition may be included to
17 establish a condition or pattern which, together with information received within the
18 40–day period, provides a basis for conferring jurisdiction on the court. The judge
19 shall dismiss with prejudice any such petition which is not referred or filed within
20 the time limits specified within this subsection.”.

21 **8.** Page 45, line 5: before that line insert:

22 “**SECTION 40m.** 48.245 (5m) of the statutes is created to read:

23 48.245 (5m) An informal disposition is terminated if the district attorney or
24 corporation counsel files a petition within 20 days after receipt of notice of the

1 informal disposition under s. 48.24 (5). In such case statements made to the intake
2 worker during the intake inquiry are inadmissible.”.

3 **9.** Page 46, line 6: delete lines 6 to 13 and substitute:

4 **SECTION 42m.** 48.27 (3) (a) 2. of the statutes is created to read:

5 48.27 (3) (a) 2. Failure to give notice under subd. 1. to a foster parent, treatment
6 foster parent or other physical custodian described in s. 48.62 (2) does not deprive the
7 court of jurisdiction in the action or proceeding. If a foster parent, treatment foster
8 parent or other physical custodian described in s. 48.62 (2) is not given notice of a
9 hearing under subd. 1. and if the court is required under this chapter to permit that
10 person to make a written or oral statement during the hearing or to submit a written
11 statement prior to the hearing and that person does not make or submit such
12 statement, that person may request a rehearing on the matter during the pendency
13 of an order resulting from the hearing. If the request is made, the court shall order
14 a rehearing.”.

15 **10.** Page 54, line 21: before that line insert:

16 **“SECTION 53m.** 48.355 (1) of the statutes, as affected by 1995 Wisconsin Act 77,
17 is amended to read:

18 48.355 (1) INTENT. In any order under s. 48.345 the judge shall decide on a
19 placement and treatment finding based on evidence submitted to the judge. The
20 disposition shall employ those means necessary to maintain and protect the child’s
21 well-being which are the least restrictive of the rights of the parent or child and
22 which assure the care, treatment or rehabilitation of the child and the family,
23 consistent with the protection of the public. ~~Wherever~~ Whenever possible, and, in
24 cases of child abuse and neglect, when it is consistent with the child’s best interest

1 in terms of physical safety and physical health the family unit shall be preserved and
2 there shall be a policy of transferring custody from the parent only where there is no
3 less drastic alternative. If there is no less drastic alternative than transferring
4 custody from the parent, there shall be a policy of transferring custody to a relative
5 whenever possible.”.

6 **11.** Page 55, line 13: after “order” insert: “, the district attorney or the
7 corporation counsel”.

8 **12.** Page 60, line 7: before that line insert:

9 “**SECTION 58m.** 48.363 (1m) of the statutes is created to read:

10 48.363 (1m) If a hearing is held under sub. (1), any party may present evidence
11 relevant to the issue of revision of the dispositional order. In addition, the court shall
12 permit a foster parent, treatment foster parent or other physical custodian described
13 in s. 48.62 (2) of the child to make a written or oral statement during the hearing, or
14 to submit a written statement prior to the hearing, relevant to the issue of revision.”.

15 **13.** Page 65, line 3: before that line insert:

16 “**SECTION 67m.** 48.38 (4) (bm) of the statutes is created to read:

17 48.38 (4) (bm) The availability of a placement with a relative of the child and,
18 if a decision is made not to place the child with an available relative, why placement
19 with the relative is not appropriate.”.

20 **14.** Page 65, line 7: before that line insert:

21 “**SECTION 68m.** 48.38 (5) (c) 6. am. of the statutes is created to read:

22 48.38 (5) (c) 6. am. Being placed in the home of a relative of the child.”.

23 **15.** Page 67, line 5: delete “other than the child’s other parent”.

24 **16.** Page 71, line 3: delete lines 3 to 13 and substitute:

1 “**SECTION 82m.** 48.415 (6) (a) (intro.) and 1. of the statutes are consolidated,
2 renumbered 48.415 (6) (a) and amended to read:

3 48.415 (6) (a) Failure to assume parental responsibility ~~may, which shall be~~
4 established by a showing proving that a child is a nonmarital child who has not been
5 adopted or whose parents have not subsequently intermarried under s. 767.60, that
6 paternity was not adjudicated prior to the filing of the petition for termination of
7 parental rights and: 1. ~~The~~ the parent or the person or persons who may be the father
8 parent of the child have been given notice under s. 48.42 but have failed to appear
9 or otherwise submit to the jurisdiction of the court and that such person or persons
10 have never had a substantial parental relationship with the child; ~~or~~”.

11 **17.** Page 73, line 4: before the period insert: “as evidenced by a final judgment
12 of conviction”.

13 **18.** Page 73, line 10: after “by a” insert “final”.

14 **19.** Page 73, line 21: before the period insert: “as evidenced by a final
15 judgment of conviction”.

16 **20.** Page 76, line 2: delete “The” and substitute: “Notwithstanding any other
17 order under s. 48.355 (3), the”.

18 **21.** Page 78, line 10: after “terminated” insert “under sub. (3)”.

19 **22.** Page 78, line 14: after “terminated” insert “under sub. (3)”.

20 **23.** Page 78, line 15: after the last period insert: “If the court enters an order
21 under this subsection, the court shall terminate the guardianship under s. 48.977.”.

22 **24.** Page 78, line 16: before that line insert:

23 “**SECTION 99d.** 48.427 (4) of the statutes is amended to read:

1 48.427 (4) ~~The court may enter an order terminating the parental~~ If the rights
2 of one or both parents ~~and are terminated under sub. (3), the court may enter an order~~
3 placing the child in sustaining care under s. 48.428.

4 **SECTION 99g.** 48.427 (6) (intro.) of the statutes is amended to read:

5 48.427 (6) (intro.) If an order is entered under sub. (3) ~~or (4)~~, the court shall:

6 **SECTION 99m.** 48.427 (7) of the statutes is created to read:

7 48.427 (7) (a) If an order is entered under sub. (3), the court may orally inform
8 the parent or parents who appear in court of the ground for termination of parental
9 rights specified in s. 48.415 (10).

10 (b) In addition to the notice permitted under par. (a), any written order under
11 sub. (3) may notify the parent or parents of the information specified in par. (a).”.

12 **25.** Page 79, line 16: after the last period insert: “If the court transfers
13 guardianship of the child to an agency listed in s. 48.427 (3m) (a) 1. to 4., the court
14 shall terminate the guardianship under s. 48.977.”.

15 **26.** Page 79, line 17: before that line insert:

16 “**SECTION 101m.** 48.43 (1) (intro.) of the statutes is amended to read:

17 48.43 (1) (intro.) The court shall enter a judgment setting forth its findings and
18 disposition in accordance with s. 48.426 in an order implementing the disposition
19 chosen. If the court dismisses the petition under s. 48.427 (2), the order shall contain
20 the reasons for dismissal. If the disposition is for the termination of parental rights
21 under s. 48.427 (3) ~~or (4)~~, the order shall contain all of the following:”.

22 **27.** Page 81, line 18: delete “(7)” and substitute “(7) (7m)”.

23 **28.** Page 81, line 19: delete “809.30 (2) (h)” and substitute “~~809.30 (2) (h)~~
24 809.107 (5)”.

1 **29.** Page 83, line 12: before that line insert:

2 “**SECTION 109m.** 48.833 of the statutes is amended to read:

3 **48.833 Placement of children for adoption by the department, county**
4 **departments and child welfare agencies.** The department, a county department
5 under s. 48.57 (1) (e) or (hm) or a child welfare agency licensed under s. 48.60 may
6 place a child for adoption in a licensed foster home or a licensed treatment foster
7 home without a court order if the department, county department under s. 48.57 (1)
8 (e) or (hm) or the child welfare agency is the guardian of the child or makes the
9 placement at the request of another agency which is the guardian of the child. Before
10 placing a child for adoption under this section, the department, county department
11 or child welfare agency making the placement shall consider the availability of a
12 placement for adoption with a relative of the child who is identified in the child’s
13 permanency plan under s. 48.38 or 938.38 or who is otherwise known by the
14 department, county department or child welfare agency. When a child is placed
15 under this section in a licensed foster home or a licensed treatment foster home for
16 adoption, the department, county department or child welfare agency making the
17 placement shall enter into a written agreement with the adoptive parent, which shall
18 state the date on which the child is placed in the licensed foster home or licensed
19 treatment foster home for adoption by the adoptive parent.”.

20 **30.** Page 85, line 3: delete that line and substitute: “guardian as the child’s
21 permanent foster placement, but only”.

22 **31.** Page 93, line 9: after that line insert:

1 “(e) *Termination on termination of parental rights*. If a court enters an order
2 under s. 48.427 (3p) or 48.428 (2) (b), the court shall terminate the guardianship
3 under this section.”.

4 **32.** Page 94, line 3: delete that line and substitute:

5 “**SECTION 111m.** 48.981 (1) (a) of the statutes is repealed and recreated to read:
6 48.981 (1) (a) “Abuse” has the meaning given in s. 48.02 (1) (b) to (gm) and, in
7 addition, includes physical injury inflicted on a child by other than accidental
8 means.”.

9 **33.** Page 95, line 1: delete lines 1 to 5.

10 **34.** Page 96, line 7: after “unable” insert: “for reasons other than poverty”.

11 **35.** Page 98, line 10: delete that line.

12 **36.** Page 100, line 9: delete the material beginning with that line and ending
13 with page 102, line 3.

14 **37.** Page 107, line 7: delete lines 7 and 8 and substitute:

15 “813.122 (1) (a) “Abuse” has the meaning given in s. 48.02 (1) (b) to (gm) and,
16 in addition, includes physical injury inflicted on a child by other than accidental
17 means and a threat to engage in any conduct under this paragraph or 48.02 (1) (b)
18 to (gm).”.

19 **38.** Page 107, line 10: delete that line.

20 **39.** Page 107, line 12: delete that line.

21 **40.** Page 108, line 1: delete that line and substitute:

22 “**SECTION 147m.** 938.38 (4) (bm) of the statutes is created to read:

1 938.38 (4) (bm) The availability of a placement with a relative of the child and,
2 if a decision is made not to place the child with an available relative, why placement
3 with the relative is not appropriate.

4 **SECTION 147p.** 938.38 (5) (c) 6. am. of the statutes is created to read:

5 938.38 (5) (c) 6. am. Being placed in the home of a relative of the child.”.

6 **41.** Page 116, line 14: before that line insert:

7 “(8tu) **ADOPTION BY A RELATIVE.** The treatment of section 48.833 of the statutes
8 first applies to children placed for adoption on the effective date of this subsection.

9 (8tv) **PERMANENCY PLANS.**

10 (a) The treatment of sections 48.38 (4) (bm) and 938.38 (4) (bm) of the statutes
11 first applies to permanency plans filed on the effective date of this paragraph.

12 (b) The treatment of sections 48.38 (5) (c) 6. am. and 938.38 (5) (c) 6. am. of the
13 statutes first applies to permanency plan reviews conducted on the effective date of
14 this paragraph.

15 (8tw) **DISPOSITIONAL ORDERS.** The treatment of section 48.355 (1) of the statutes
16 first applies to dispositional orders entered on the effective date of this subsection.”.

17 **(END)**