



## 1997 ASSEMBLY BILL 601

November 11, 1997 - Introduced by JOINT LEGISLATIVE COUNCIL. Referred to  
Committee on Children and Families.

1     **AN ACT** *to renumber* 48.975 (4); *to renumber and amend* 48.975 (3) (a) and  
2     48.975 (5); *to amend* 46.10 (14) (cm) 1. and 2., 48.975 (2) and 48.975 (4); *to*  
3     *repeal and recreate* 46.10 (14) (cm) 1.; and *to create* 48.975 (3) (a) 3., 48.975  
4     (3) (a) 4., 48.975 (3m), 48.975 (4) (b), (c) and (d) and 48.975 (5) (a) to (e) of the  
5     statutes; **relating to:** adoption assistance, granting rule-making authority  
6     and making appropriations.

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### *Analysis by the Legislative Reference Bureau*

This bill is explained in the NOTES provided by the joint legislative council in  
the bill.

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

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

PREFATORY NOTE: This bill was prepared for the joint legislative council's special  
committee on adoption laws (special committee).

#### Introduction

Under current law, adoption assistance is provided by the department of health  
and family services (DHFS) to the adoptive or proposed adoptive parents of a child to

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assist in the care of that child after an agreement between the adoptive or proposed adoptive parents and DHFS (adoption assistance agreement) has been signed and the child has been placed for adoption with the adoptive or proposed adoptive parents. DHFS may provide adoption assistance only if DHFS has determined that adoption assistance is necessary to assure the child's adoption. DHFS currently provides adoption assistance for maintenance, medical care and nonrecurring adoption expenses.

Under Title IV-E of the federal Social Security Act, 42 USC 670 to 679a, matching federal funds are available to states for most adoption assistance benefits. Federal statutes and regulations set forth certain requirements with respect to adoption assistance programs. Section 48.975 (5), stats., requires DHFS to promulgate administrative rules to implement the adoption assistance program, and most aspects of the adoption assistance program are set forth in administrative rules. [See ch. HSS 50, subch. II, Wis. adm. code.]

Current administrative rules limit eligibility for adoption assistance to children with “special needs” as described by DHFS in s. HSS 50.03 (1) (b), Wis. adm. code. The description includes children who have at least one of the following special needs at the time of adoptive placement:

1. The child is 10 years of age or older if age is the only factor in determining eligibility.
2. The child is a member of a sibling group of 3 or more children who must be placed together.
3. The child exhibits moderate or intensive difficulty-of-care problems, as defined by DHFS by rule. (These difficulty-of-care problems are described in s. HSS 56.09 (3), Wis. adm. code.)
4. The child belongs to a minority race and children of that minority race cannot be readily placed due to a lack of appropriate placement resources.

This bill makes several changes to the adoption assistance program and creates new provisions relating to that program. As described below, the 2 primary features of the bill relate to: a) providing adoption assistance under a deferred adoption assistance agreement, as discussed below, for a child who is at high risk of developing moderate or intensive difficulty-of-care problems (“at-high-risk child”); and b) allowing the amendment of an adoption assistance agreement if there is a substantial change in circumstances.

As discussed below, the bill also clarifies current law relating to parental liability for substitute care for children receiving adoption assistance. In addition, as discussed in the NOTES following the pertinent SECTIONS of the bill, the bill: a) clarifies current law regarding the amount of an adoption assistance monthly maintenance payment; b) requires DHFS to promulgate a rule to reflect current federal law with respect to the extenuating circumstances under which an adoption assistance agreement may be entered into after an adoption; and c) requires DHFS to promulgate a rule regarding photolisting of a child with the adoption information exchange that does not require photolisting under circumstances when photolisting is not required by federal law as a prerequisite for the state to receive federal matching funds for adoption assistance.

*Deferred Adoption Assistance Agreements for At-High-Risk Children*

The bill requires DHFS to promulgate administrative rules governing the adoption assistance program that include in the definition of a child with “special needs” a child who, at the time of adoptive placement, is at high risk of later developing moderate or intensive difficulty-of-care problems. The bill further provides that if a child is a child with special needs based solely on being at high risk, the following adoption assistance benefits are available:

1. Reimbursement for nonrecurring adoption expenses (currently limited by s. HSS 50.05 (3), Wis. adm. code, to \$2,000 maximum).
2. Medical assistance for the child.

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3. An adoption assistance monthly maintenance payment that is *initially* set at \$0.

An adoption assistance agreement that provides for an initial monthly maintenance payment of \$0 for an at-high-risk child is commonly referred to as a deferred adoption assistance agreement. Under a deferred adoption assistance agreement, if there is a substantial change in circumstances, that is, if the child later develops moderate or intensive difficulty-of-care problems, the adoptive or proposed adoptive parents may then request that the adoption assistance agreement be amended to increase the monthly maintenance payments above the \$0 level. The process for requesting an amendment to an adoption assistance agreement is discussed below.

*Amendments of an Adoption Assistance Agreement Due to a Substantial Change in Circumstances*

The bill provides that if an adoption assistance agreement is in effect, including a deferred adoption assistance agreement for an at-high-risk child, and if the adoptive or proposed adoptive parents believe there has been a substantial change in circumstances, the adoptive or proposed adoptive parents may request that the adoption assistance agreement be amended to increase the amount of the monthly maintenance payment.

The bill requires DHFS to promulgate an administrative rule defining a substantial change in circumstances and requires the definition to include: a) situations in which an at-high-risk child has developed moderate or intensive difficulty-of-care problems; and b) situations in which a child's difficulty-of-care problems have increased from the moderate level to the intensive level under DHFS's schedule of difficulty-of-care levels.

The bill requires DHFS to do all of the following if DHFS receives a request to amend an adoption assistance agreement:

1. Determine whether there has been a substantial change in circumstances.
2. If there has been a substantial change in circumstances, offer to increase the amount of monthly maintenance payments based on criteria established by DHFS by rule.
3. If the increase offered by DHFS is agreed to by the adoptive or proposed adoptive parents, amend the adoption assistance agreement in writing to specify the increased amount of monthly maintenance payments.

The bill also permits DHFS to propose to the adoptive or proposed adoptive parents that an adoption assistance agreement be amended to adjust the amount of monthly maintenance payments. An adjustment proposed by DHFS goes into effect only if an adjustment is agreed to by the adoptive or proposed adoptive parents.

*Parental Liability for Substitute Care for Children Receiving Adoption Assistance*

Under current law, in general, parental liability for the cost of care and maintenance of a child who has been placed by a court order in a residential, nonmedical facility ("substitute care") is determined by using the percentage standard established by the department of workforce development for child support and by applying the percentage standard under rules promulgated by DHFS under s. 46.247, stats., unless a court modifies the amount based on a consideration of various factors. Current law, however, provides that if a parent who is required to pay for the cost of substitute care is receiving adoption assistance under s. 48.975, stats., for a child who is in substitute care, the parent's liability for the cost of substitute care may not exceed the amount of adoption assistance payments unless the court finds, after considering various factors, that limiting the amount of the parent's liability to the amount of adoption assistance payments is unfair to the child or to either of the child's parents.

The bill:

1. Limits, except as provided, the maximum liability for the cost of substitute care of a child for a parent who is receiving adoption assistance for that child to the amount of the adoption assistance monthly *maintenance* payments received by the parent.

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(DHFS currently interprets the statute as applying only to those monthly maintenance payments; thus, this statutory clarification does not affect current practice.)

2. Specifies that if an adoption assistance agreement provides for a \$0 monthly maintenance payment, the payment of \$0 is considered to be an adoption assistance maintenance payment for purposes of determining parental liability for the cost of substitute care. Thus, parental liability for the cost of substitute care in such cases is limited to \$0, unless a court finds that limitation to be unfair to the child or to either of the child's parents. This includes situations in which an adoption assistance agreement is in effect under s. 48.975 (3) (a) 3., stats., as created by the bill, covering a child with special needs based solely on being at high risk of developing moderate or intensive difficulty-of-care problems.

1           **SECTION 1.** 46.10 (14) (cm) 1. and 2. of the statutes are amended to read:

2           46.10 (14) (cm) 1. Except as provided in subd. 2., if a parent who is required to  
3 pay child support under par. (b) or (c) is receiving adoption assistance under s. 48.975  
4 for the child for whom support is ordered, the amount of the child support payments  
5 determined under par. (b) or (c) may not exceed the amount of the adoption assistance  
6 maintenance payments under s. 48.975 (3) (a).

7           2. Subdivision 1. does not apply if, after considering the factors under par. (c)  
8 1. to 11., the court finds by the greater weight of the credible evidence that limiting  
9 the amount of the child support payments to the amount of the adoption assistance  
10 maintenance payments under s. 48.975 (3) (a) is unfair to the child or to either of the  
11 parents.

12           **SECTION 2.** 46.10 (14) (cm) 1. of the statutes, as affected by 1997 Wisconsin Act  
13 .... (this act), is repealed and recreated to read:

14           46.10 (14) (cm) 1. Except as provided in subd. 2., if a parent who is required to  
15 pay child support under par. (b) or (c) is receiving adoption assistance under s. 48.975  
16 for the child for whom support is ordered, the amount of the child support payments  
17 determined under par. (b) or (c) may not exceed the amount of the adoption assistance  
18 maintenance payments under s. 48.975 (3) (a). If an agreement under s. 48.975 (4)  
19 is in effect that provides for a payment of \$0 under s. 48.975 (3) (a), the payment of

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1       \$0 shall be considered to be an adoption assistance maintenance payment for  
2       purposes of this subdivision.

## NOTE: SECTIONS 1 and 2:

1. Limit, except as provided, the maximum liability for the cost of substitute care of a child for a parent who is receiving adoption assistance for that child to the amount of the adoption assistance monthly *maintenance* payments received by the parent.

2. Specify that if an adoption assistance agreement provides for a \$0 monthly maintenance payment, the payment of \$0 is considered to be an adoption assistance maintenance payment for purposes of determining parental liability for the cost of substitute care. Thus, parental liability for the cost of substitute care in such cases is limited to \$0, unless a court finds that limitation to be unfair to the child or to either of the child's parents. This includes situations in which an adoption assistance agreement is in effect under s. 48.975 (3) (a) 3., stats., as created by the bill, covering a child with special needs based solely on being at high risk of developing moderate or intensive difficulty-of-care problems.

3       **SECTION 3.** 48.975 (2) of the statutes is amended to read:

4       48.975 (2) APPLICABILITY. The department may provide adoption assistance  
5       only for a child with special needs and only when it the department has determined  
6       that such assistance is necessary to assure the child's adoption.

NOTE: Specifies that DHFS may provide adoption assistance only for a child with special needs. Section 48.975 (5) (b) stats., as created by this bill, requires DHFS to promulgate an administrative rule defining a child with special needs.

7       **SECTION 4.** 48.975 (3) (a) of the statutes is renumbered 48.975 (3) (a) 1. and  
8       amended to read:

9       48.975 (3) (a) 1. ~~For~~ Except as provided in subd. 3., for support of a child who  
10       was in foster care or treatment foster care immediately prior to placement for  
11       adoption, the initial amount of adoption assistance for maintenance shall be  
12       equivalent to the amount of that child's foster care or treatment foster care payment.  
13       ~~For~~ at the time that the agreement under sub. (4) (a) is signed or a lesser amount if  
14       agreed to by the proposed adoptive parents and specified in that agreement.

15       2. Except as provided in subd. 3., for support of a child not in foster care or  
16       treatment foster care immediately prior to placement ~~with a subsidy~~ for adoption,  
17       the initial amount of adoption assistance for maintenance shall be equivalent to the

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1 uniform foster care rate in effect at the time that the agreement under sub. (4) (a)  
2 is signed or a lesser amount if agreed to by the proposed adoptive parents and  
3 specified in that agreement.

4 **SECTION 5.** 48.975 (3) (a) 3. of the statutes is created to read:

5 48.975 (3) (a) 3. For support of a child who is defined under rules promulgated  
6 by the department under sub. (5) (b) as a child with special needs based solely on  
7 being at high risk of developing moderate or intensive difficulty-of-care problems,  
8 the initial amount of adoption assistance for maintenance shall be \$0.

9 **SECTION 6.** 48.975 (3) (a) 4. of the statutes is created to read:

10 48.975 (3) (a) 4. The amount of adoption assistance for maintenance may be  
11 changed under an amended agreement under sub. (4) (b) or (c). If an agreement is  
12 amended under sub. (4) (b) or (c), the amount of adoption assistance for maintenance  
13 shall be the amount specified in the amended agreement but may not exceed the  
14 uniform foster care rate that would be applicable to the child if the child were in foster  
15 care during the time for which the adoption assistance for maintenance is paid.

NOTE: With respect to adoption assistance maintenance payments, SECTIONS 4, 5 and 6 do the following:

1. Provide that for a child who is defined as a child with special needs solely on the basis that the child is an at-high-risk child, the initial amount of monthly maintenance payments must be set at \$0.

2. Provide that for a child who is *not an at-high-risk child and who was in foster care or treatment foster care* immediately prior to placement for adoption, the initial amount of adoption assistance monthly maintenance must be equivalent to the amount of that child's foster care or treatment foster care monthly payment at the time that the adoption assistance agreement is signed *or a lesser amount* if agreed to by the proposed adoptive parents and specified in the adoption assistance agreement.

In contrast, current law requires the amount of adoption assistance monthly maintenance for a child who was in foster care or treatment foster care immediately prior to adoption to be equivalent to that child's foster care or treatment foster care monthly payment.

3. Provide that for a child who is *not an at-high-risk child and who was not in foster care or treatment foster care* immediately prior to placement for adoption, the initial amount of adoption assistance monthly maintenance must be equivalent to the uniform foster care rate at the time that the adoption assistance agreement is signed *or a lesser amount* if agreed to by the proposed adoptive parents and specified in the adoption assistance agreement.

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In contrast, current law requires the amount of adoption assistance monthly maintenance for a child who was not in foster care or treatment foster care immediately prior to placement with a subsidy to be equivalent to the uniform foster care rate.

4. For all children for whom an adoption assistance agreement is in place, permit the amount of adoption assistance monthly maintenance to be changed under an amended adoption assistance agreement, as described in s. 48.975 (4) (b) to (d), stats., as created by this bill, but specifies that the amount of adoption assistance monthly maintenance specified in the amended agreement may not exceed the uniform foster care rate that would be applicable to the child if the child were in foster care during the time for which adoption assistance maintenance is paid.

1           **SECTION 7.** 48.975 (3m) of the statutes is created to read:

2           48.975 (3m) DURATION. The adoption assistance may be continued after the  
3           adoptee reaches the age of 18 if that adoptee is a full-time high school student.

NOTE: Moves this provision from current s. 48.975 (4), stats., relating to procedure.

4           **SECTION 8.** 48.975 (4) of the statutes is amended to read:

5           48.975 (4) PROCEDURE. ~~A~~ Except in extenuating circumstances, as defined by  
6           the department by rule promulgated under sub. (5) (a), a written agreement to  
7           provide adoption assistance shall be made prior to legal adoption. An agreement to  
8           provide adoption assistance may be made only for children a child who, at the time  
9           of placement for adoption, is in the guardianship of the department or other agency  
10          authorized to place children for adoption or ~~for children~~ in the guardianship of an  
11          American Indian tribal agency in this state. ~~The adoption assistance may be~~  
12          ~~continued after the child reaches the age of 18 if that child is a full-time high school~~  
13          ~~student.~~

NOTE: Does the following:

1. If there are extenuating circumstances (which DHFS must define by administrative rule), provides an exception to the requirement that an adoption assistance agreement be signed prior to adoption. (The addition of this provision changes current statutes to reflect current federal guidelines and current administrative rules that define "extenuating circumstances".)

2. Clarifies that an adoption assistance agreement may be made only for a child who, at the time of placement for adoption, is in the guardianship of DHFS, another agency authorized to place children for adoption or an American Indian tribal agency in this state.

3. Deletes from the subsection on procedure the provision that adoption assistance may be continued after the child reaches the age of 18 if that child is a full-time high school student. This provision is included in s. 48.975 (3m), stats., as created by the bill.

**ASSEMBLY BILL 601****SECTION 9**

1           **SECTION 9.** 48.975 (4) of the statutes, as affected by 1997 Wisconsin Act ... (this  
2 act), is renumbered 48.975 (4) (a).

3           **SECTION 10.** 48.975 (4) (b), (c) and (d) of the statutes are created to read:

4           48.975 (4) (b) If an agreement to provide adoption assistance is in effect and  
5 if the adoptive or proposed adoptive parents believe there has been a substantial  
6 change in circumstances, as defined by the department by rule promulgated under  
7 sub. (5) (c), the adoptive or proposed adoptive parents may request that the  
8 agreement be amended to increase the amount of adoption assistance for  
9 maintenance. If a request is received, the department shall do all of the following:

10           1. Determine whether there has been a substantial change in circumstances,  
11 as defined by the department by rule promulgated under sub. (5) (c).

12           2. If there has been a substantial change in circumstances, offer to increase the  
13 amount of adoption assistance for maintenance based on criteria established by the  
14 department by rule promulgated under sub. (5) (d).

15           3. If an increased amount of adoption assistance for maintenance is agreed to  
16 by the adoptive or proposed adoptive parents, amend the agreement in writing to  
17 specify the increased amount of adoption assistance for maintenance.

18           (c) The department may propose to the adoptive or proposed adoptive parents  
19 that an agreement to provide adoption assistance be amended to adjust the amount  
20 of adoption assistance for maintenance. If an adjustment in the amount of adoption  
21 assistance for maintenance is agreed to by the adoptive or proposed adoptive  
22 parents, the agreement shall be amended in writing to specify the adjusted amount  
23 of adoption assistance for maintenance.

24           (d) An agreement to provide adoption assistance may be amended more than  
25 once under par. (b) or (c).

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NOTE: Does the following:

1. Provides that if an adoption assistance agreement is in effect and if the adoptive or proposed adoptive parents believe there has been a substantial change in circumstances, as defined by DHFS by rule, the adoptive or proposed adoptive parents may request that the adoption assistance agreement be amended to increase the amount of adoption assistance monthly maintenance.

2. Provides that if DHFS receives such a request, DHFS must do all of the following:

a. Determine whether there has been a substantial change in circumstances, as defined by DHFS by rule.

b. If there has been a substantial change in circumstances, offer to increase the amount of adoption assistance monthly maintenance based on criteria established by DHFS by rule for determining the amount of the increase to be offered by DHFS.

c. If the increase offered by DHFS is agreed to by the adoptive or proposed adoptive parents, amend the adoption assistance agreement in writing to specify the increased amount of adoption assistance monthly maintenance.

3. Permits DHFS to propose to the adoptive or proposed adoptive parents that an adoption assistance agreement be amended to adjust the amount of adoption assistance monthly maintenance; and provides that if an adjustment is agreed to by the adoptive or proposed adoptive parents, the agreement must be amended in writing to specify the adjusted amount of adoption assistance monthly maintenance.

4. Permits an adoption assistance agreement to be amended and reamended.

1       **SECTION 11.** 48.975 (5) of the statutes is renumbered 48.975 (5) (intro.) and  
2 amended to read:

3       48.975 (5) RULES. (intro.) The department shall promulgate rules necessary to  
4 implement this section-, which shall include all of the following:

5       **SECTION 12.** 48.975 (5) (a) to (e) of the statutes are created to read:

6       48.975 (5) (a) A rule defining the extenuating circumstances under which an  
7 initial agreement to provide adoption assistance under sub. (4) (a) may be made after  
8 adoption. This definition shall include all circumstances under which federal  
9 statutes, regulations or guidelines provide that federal matching funds for adoption  
10 assistance are available to the state if an initial agreement is made after adoption,  
11 but may not include circumstances under which federal statutes, regulations or  
12 guidelines provide that federal matching funds for adoption assistance are not  
13 available if an initial agreement is made after adoption.

14       (b) A rule defining a child with special needs, which shall include a child who  
15 the department determines has, at the time of placement for adoption, moderate or

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1 intensive difficulty-of-care problems, as defined by the department, or who the  
2 department determines is, at the time of placement for adoption, at high risk of  
3 developing those problems.

4 (c) A rule defining the substantial change in circumstances under which  
5 adoptive or proposed adoptive parents may request that an agreement made under  
6 sub. (4) be amended to increase the amount of adoption assistance for maintenance.  
7 The definition shall include all of the following:

8 1. Situations in which a child who was defined as a child with special needs  
9 based solely on being at high risk of developing moderate or intensive  
10 difficulty-of-care problems has developed those problems.

11 2. Situations in which a child's difficulty-of-care problems have increased from  
12 the moderate level to the intensive level as set forth in the department's schedule of  
13 difficulty-of-care levels promulgated by rule.

14 (d) Rules establishing requirements for submitting a request under sub. (4) (b),  
15 criteria for determining the amount of the increase in adoption assistance for  
16 maintenance that the department shall offer if there has been a substantial change  
17 in circumstances and the procedure to appeal the decision of the department  
18 regarding the request.

19 (e) A rule regarding when a child must be photolisted with the adoption  
20 information exchange under s. 48.55 in order to be eligible for adoption assistance.  
21 The rule may not require photolisting under any circumstances in which photolisting  
22 is not required by federal statutes, regulations or guidelines as a prerequisite for the  
23 state to receive federal matching funds for adoption assistance.

NOTE: Provides that the administrative rules promulgated by DHFS to implement  
the adoption assistance program must do all of the following:

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1. Define the extenuating circumstances under which an initial adoption assistance agreement may be made after adoption. As discussed in the NOTE following SECTION 8, above, current statutes do not permit an initial adoption assistance agreement to be made after an adoption, even though current administrative rules do permit such an agreement to be made after adoption in extenuating circumstances. SECTION 8 of the bill amends the statutes to permit an initial adoption assistance agreement to be made after adoption, and this SECTION explicitly requires DHFS to promulgate an administrative rule defining the extenuating circumstances under which such an agreement may be made after adoption. Current federal guidelines provide that an initial adoption assistance agreement may be entered into after finalization of an adoption in extenuating circumstances, as set forth in those guidelines. The bill requires the definition of extenuating circumstances in the administrative rules to include all circumstances under which federal statutes, regulations or guidelines provide that federal matching funds for adoption assistance are available to the state if an initial agreement is made after adoption, but prohibits the definition from including circumstances under which federal statutes, regulations or guidelines provide that federal matching funds for adoption assistance are not available if an initial agreement is made after adoption.

2. Define a child with special needs and include in that definition: a) a child who DHFS determines has, at the time of adoptive placement, moderate or intensive difficulty-of-care problems, which DHFS must define by rule; and b) a child who DHFS determines is, at the time of adoptive placement, at high risk of developing those difficulty-of-care problems. The special committee did *not* intend that definition to be limited to these 2 situations.

To implement s. 48.975 (3) (a) 3., stats., as created by the bill, which permits a deferred adoption assistance agreement for at-high-risk children, the special committee requested that the administrative rules contain a definition of a child with special needs that includes at-high-risk children. The committee intended that factors known at the time of adoptive placement that are indicative of a high risk of later problems, such as drug or alcohol use by the birth mother during pregnancy, a family history of significant mental illness or previous abuse or neglect of the child, be included in the definition.

3. Define the substantial change in circumstances under which adoptive or proposed adoptive parents may request that an adoption assistance agreement be amended to increase the amount of adoption assistance monthly maintenance. The definition must include: a) situations in which an at-high-risk child has developed moderate or intensive difficulty-of-care problems; and b) situations in which a child's difficulty-of-care problems have increased from the moderate level to the intensive level under DHFS's schedule of difficulty-of-care levels.

4. Establish: a) requirements with which adoptive or proposed adoptive parents must comply in submitting a request for an increase in adoption assistance monthly maintenance based on a substantial change in circumstances; b) criteria for determining the amount of the increase in adoption assistance monthly maintenance that DHFS must offer if there has been a substantial change in circumstances; and c) the procedure by which the adoptive or proposed adoptive parents may appeal DHFS' decision regarding the request.

5. State when a child must be photolisted with the adoption information exchange in order to be eligible for adoption assistance. This rule may not require photolisting under any circumstances in which photolisting is not required by federal statutes, regulations or guidelines as a prerequisite for the state to receive federal matching funds for adoption assistance.

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1           (1) The department of health and family services shall submit in proposed form  
2 the rules required under section 48.975 (5) (a) to (e) of the statutes, as created by this  
3 act, to the legislative council staff under section 227.15 (1) of the statutes no later  
4 than January 1, 1998, or the first day of the 3rd month beginning after the effective  
5 date of this subsection, whichever is later.

NOTE: Requires DHFS to submit to the legislative council staff for review proposed changes to the administrative rules as required by this bill by January 1, 1998, or by the first day of the 3rd month beginning after the day after publication of this act, whichever is later.

6           (2) Of the amounts appropriated to the department of health and family  
7 services under section 20.435 (1) (o) of the statutes, the department shall expend  
8 \$303,800 more in fiscal year 1998-99 than the department expended in fiscal year  
9 1997-98 to fund the federal share of the cost of providing medical assistance to  
10 children who are eligible for adoption assistance based solely on being at high risk  
11 of developing moderate or intensive difficulty-of-care problems, as determined by  
12 the department under the rule promulgated by the department under section 48.975  
13 (5) (b) of the statutes, as created by this act.

NOTE: Requires DHFS to expend \$303,800 more in fiscal year 1998-99 from the federal program revenue (PR-F) appropriation for the medical assistance program than DHFS expended in fiscal year 1997-98 from that appropriation to fund the federal share of the cost of providing medical assistance to at-high-risk children who are eligible for adoption assistance under this bill. This amount is based on the amended preliminary fiscal estimate prepared by DHFS for the special committee.

14           (3) The authorized FTE positions for the department of health and family  
15 services are increased by 0.5 FED position on July 1, 1998, to be funded from the  
16 appropriation under section 20.435 (3) (n) of the statutes, for the purpose of  
17 administering the adoption assistance program. Of the amounts appropriated to the  
18 department of health and family services under section 20.435 (3) (n) of the statutes,  
19 the department shall expend \$23,300 more in fiscal year 1998-99 than the

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1 department expended in fiscal year 1997-98 to fund the position increase authorized  
2 under this subsection.

NOTE: Increases the full-time equivalent (FTE) positions authorized for DHFS by 0.5 federally funded (FED) position on July 1, 1998, to be funded from the PR-F federal program operations appropriation under the youth services program of DHFS, for the purpose of administering the adoption assistance program and requires DHFS to expend \$23,300 more in fiscal year 1998-99 than DHFS expended in fiscal year 1997-98 from that appropriation to fund this position increase. The increase is related to processing applications for adoption assistance for at-high-risk children and processing requests for increased adoption assistance monthly maintenance payments when there has been a substantial change in circumstances. The increase in the number of authorized positions and the amount required to be expended are based on the amended preliminary fiscal estimate prepared by DHFS for the special committee.

3 (4) Of the amounts appropriated to the department of health and family  
4 services under section 20.435 (3) (pd) of the statutes, the department shall expend  
5 \$307,100 more in fiscal year 1998-99 than the department expended in fiscal year  
6 1997-98 to fund the federal share of all of the following:

7 (a) The cost of adoption assistance nonrecurring adoption expenses under  
8 section 48.975 (3) (c) of the statutes for children who are eligible for adoption  
9 assistance based solely on being at high risk of developing moderate or intensive  
10 difficulty-of-care problems, as determined by the department under the rule  
11 promulgated by the department under section 48.975 (5) (b) of the statutes, as  
12 created by this act.

13 (b) The cost of adoption assistance maintenance under section 48.975 (3) (a) of  
14 the statutes, as affected by this act, when there is a substantial change in  
15 circumstances, as determined by the department under the rule promulgated by the  
16 department under section 48.975 (5) (c) of the statutes, as created by this act.

NOTE: Requires DHFS to expend \$307,100 more in fiscal year 1998-99 from the PR-F appropriation for federal aid, state foster care and adoption services than DHFS expended in fiscal year 1997-98 from that appropriation. The increased expenditure of federal funds is for the following:

1. The cost of providing adoption assistance nonrecurring adoption expenses for the at-high-risk children who, under this bill, are eligible for adoption assistance under a deferred adoption assistance agreement. (According to the amended preliminary fiscal

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estimate prepared by DHFS for the special committee, the federal portion of this cost for fiscal year 1998–99 is estimated to be \$163,850.)

2. The cost of increased adoption assistance monthly maintenance payments when there is a substantial change in circumstances. (According to the amended preliminary fiscal estimate prepared by DHFS for the special committee, the federal portion of this cost for fiscal year 1998–99 is estimated to be \$143,200. It is also estimated that this cost in fiscal year 1998–99 will be attributable to those children who are already receiving adoption assistance monthly maintenance at the beginning of fiscal year 1998–99. DHFS estimates that adoption assistance monthly maintenance would not be paid in fiscal year 1998–99 for the cohort of at-high-risk children who are *first* eligible for a deferred adoption assistance agreement in fiscal year 1998–99 because DHFS presumes that if there is a substantial change in circumstances with respect to these children, it will occur after fiscal year 1998–99.)

1 (5) Of the amounts appropriated to the department of health and family  
2 services under section 20.435 (3) (pd) of the statutes, the department shall expend  
3 \$327,800 less in fiscal year 1998–99 than the department expended in fiscal year  
4 1997–98 to fund the federal share of adoption assistance maintenance under section  
5 48.975 (3) (a) of the statutes, as affected by this act.

NOTE: Requires DHFS to expend \$327,800 less in fiscal year 1998–99 than DHFS expended in fiscal year 1997–98 from the PR-F federal aid, state foster care and adoption services appropriation to DHFS based on projected savings of the federal share of the cost of adoption assistance monthly maintenance for parents who sign initial adoption assistance agreements in fiscal year 1998–99. The amended preliminary fiscal estimate prepared by DHFS for the special committee indicates that the ability to amend adoption assistance agreements to increase maintenance payments based on a substantial change in circumstances, as created in the bill, may produce such savings.

6 **SECTION 14. Appropriation changes; health and family services.**

7 (1) In the schedule under section 20.005 (3) of the statutes for the appropriation  
8 to the department of health and family services under section 20.435 (1) (b) of the  
9 statutes, as affected by the acts of 1997, the dollar amount is increased by \$212,200  
10 for fiscal year 1998–99 to fund the state share of the cost of providing medical  
11 assistance to children who are eligible for adoption assistance based solely on being  
12 at high risk of developing moderate or intensive difficulty-of-care problems as  
13 determined by the department under the rule promulgated by the department under  
14 section 48.975 (5) (b) of the statutes, as created by this act.

NOTE: Increases the general purpose revenue (GPR) appropriation to DHFS by \$212,200 in fiscal year 1998–99 for funding the *state* share of the cost of providing MA

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for at-high-risk children who are eligible for adoption assistance under this bill. The increase in the appropriation is based on the amended preliminary fiscal estimate prepared by DHFS for the special committee.

1           (2) In the schedule under section 20.005 (3) of the statutes for the appropriation  
2 to the department of health and family services under section 20.435 (3) (a) of the  
3 statutes, as affected by the acts of 1997, the dollar amount is increased by \$54,300  
4 for fiscal year 1998-99 to increase the authorized FTE positions for the department  
5 by 1.0 GPR position for the purpose of administering the adoption assistance  
6 program.

NOTE: Increases the GPR general program operations appropriation in the youth services program of DHFS by \$54,300 in fiscal year 1998-99 in order to fund an increase in the authorized FTE positions for DHFS of 1.0 GPR position for administering the adoption assistance program. The increase in the appropriation and the number of authorized positions is related to processing applications for adoption assistance for at-high-risk children and processing requests for increased adoption assistance maintenance when there has been a substantial change in circumstances. The increase in the appropriation and the number of authorized positions is based on the amended preliminary fiscal estimate prepared by DHFS for the special committee.

7           (3) In the schedule under section 20.005 (3) of the statutes for the appropriation  
8 to the department of health and family services under section 20.435 (3) (dd) of the  
9 statutes, as affected by the acts of 1997, the dollar amount is increased by \$310,200  
10 in fiscal year 1998-99 to fund the state share of all of the following:

11           (a) The cost of adoption assistance nonrecurring adoption expenses under  
12 section 48.975 (3) (c) of the statutes for children who are eligible for adoption  
13 assistance based solely on being at high risk of developing moderate or intensive  
14 difficulty-of-care problems, as determined by the department under the rule  
15 promulgated by the department under section 48.975 (5) (b) of the statutes, as  
16 created by this act.

17           (b) The cost of adoption assistance maintenance under section 48.975 (3) (a) of  
18 the statutes, as affected by this act, when there is a substantial change in

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1 circumstances, as determined by the department under the rule promulgated by the  
2 department under section 48.975 (5) (c) of the statutes, as created by this act.

NOTE: Increases the GPR appropriation to DHFS for state foster care and adoption services by \$310,200 in fiscal year 1998–99 for the following:

1. The cost of providing adoption assistance nonrecurring adoption expenses for the at–high–risk children who, under this bill, are eligible for adoption assistance under a deferred adoption assistance agreement. (According to the amended preliminary fiscal estimate prepared by DHFS for the special committee, the state share of this cost for fiscal year 1998–99 is estimated to be \$163,850.)

2. The cost of increased adoption assistance monthly maintenance payments when there is a substantial change in circumstances. (According to the amended preliminary fiscal estimate prepared by DHFS for the special committee, the state share of this cost for fiscal year 1998–99 is estimated to be \$146,300. It is further estimated that this cost in fiscal year 1998–99 will be attributable to those children who are already receiving adoption assistance monthly maintenance at the beginning of fiscal year 1998–99. DHFS estimates that adoption assistance monthly maintenance would not be paid in fiscal year 1998–99 for the cohort of at–high–risk children who are *first* eligible for a deferred adoption assistance agreement in fiscal year 1998–99 because DHFS presumes that if there is a substantial change in circumstances with respect to these children, it will occur after fiscal year 1998–99.)

3 (4) In the schedule under section 20.005 (3) of the statutes for the appropriation  
4 to the department of health and family services under section 20.435 (3) (dd) of the  
5 statutes, as affected by the acts of 1997, the dollar amount is decreased by \$335,000  
6 for fiscal year 1998–99 to decrease funding for the state share of adoption assistance  
7 for maintenance under section 48.975 (3) (a) of the statutes, as affected by this act.

NOTE: Decreases the GPR appropriation to DHFS for state foster care and adoption services by \$335,000 for fiscal year 1998–99 based on projected savings of the *state* share of the cost of adoption assistance monthly maintenance for parents who sign initial adoption assistance agreements in fiscal year 1998–99. The amended preliminary fiscal estimate prepared by DHFS for the special committee indicates that the ability to amend adoption assistance agreements to increase maintenance payments based on a substantial change in circumstances, as created in the bill, may produce such savings.

8 **SECTION 15. Initial applicability.**

9 (1) The creation of section 48.975 (3) (a) 3. and (5) (b) of the statutes first applies  
10 to children who are placed for adoption on the effective date of this subsection.

NOTE: Specifies that the provisions in the bill defining at–high–risk children as children with special needs first apply to children who are placed for adoption on the effective date of this subsection, that is, on July 1, 1998, or on the day after publication of this act, whichever is later.

