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1999  
1997 BILL

Due  
Week of  
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Proof all amended  
stats. w/ stats.  
If you find any discrepancies,  
please document them for GMM  
to review when he returns,  
next week.

Reprints

1 AN ACT *to repeal* 48.235 (1) (b), 48.235 (5), 48.41 (2) (d), 48.433 (8) (a) 2., 632.896  
2 (1) (c) 2. and 948.24; *to consolidate, renumber and amend* **48.433 (8)** (a)  
3 (intro.) and 1.; *to amend* **20.435 (3) (jj)**, **46.03** (18) (am), 46.03 (18) (b), 46.10 (2),  
4 46.215 (1) (h), 46.215 (1) (i), 46.22 (1) (c) 4., 48.025 (2), 48.14 (l), 48.14 (2) (b),  
5 48.23 (2), 48.23 (4), 48.235 (1) (c), 48.235 (8), 48.31 (l), 48.36 (1) (a), 48.368 (l),  
6 48.371 (3), 48.40 (2), 48.42 (1) (intro.), 48.42 (2) (a), 48.428 (l), 48.432 (3) (a) 2.,  
7 48.432 (3) (a) 4., 48.432 (4) (a), 48.432 (7) (a), 48.433 (2), 48.433 (3), 48.433 (6)  
8 (a), 48.433 (7) (e), 48.48 (3m) (a), 48.48 (17) (a) 5., 48.48 (17) (a) 9., 48.57 (1) (e),  
9 48.57 (1) (j), 48.61 (5), 48.63 (3), 48.75 (lg) (a) 4., 48.78 (2) (a), 48.98 (4) (b),  
10 48.981 (7) (a) 13., 49.32 (1) (b), 51.30 (4) (b) 18. c., 69.14 (3) (c), 69.15 (2) (a)  
11 (intro.), 69.15 (2) (b), 69.15 (6) (b), 71.05 (6) (b) 22., 103.10 (3) (b) 2., 146.82 (2)  
12 (a) 9. c., 252.15 (5) (a) 19., 632.896 (1) (c) l., 632.896 (1) (c) 5., 785.05, 808.04 (7)  
13 and **938.368** (1); *to repeal and recreate* **48.433** (5), subchapter XIX of chapter  
14 48 [precedes 48.811, subchapter XX (title) of chapter 48 [precedes 48.9731,

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1 851.51 (2) and chapter 882; and **to create 48.432 (3)** (a) Im., 48.432 (3) (a) 4m.,  
 2 48.973, 48.976, 48.978, 48.979 and 252.15 (5) (a) 20. of the statutes; **relating**  
 3 **to:** a uniform adoption act, granting rule-making authority, making an  
 4 appropriation and providing penalties.

to the birth parent

**Analysis by the Legislative Reference Bureau**

This bill eliminates current law relating to adoption and enacts instead the Uniform Adoption Act (1994) (UAA) as drafted by the National Conference of Commissioners on Uniform State Laws.

**CURRENT LAW**

Under current law, the adoption of a child begins with placement of the child for adoption. Current law permits the department of health and family services (DHFS), a county department of human services or social services (county department) or a child welfare agency (collectively referred to as an "agency") to place a child for adoption in a licensed foster home without a court order if the agency is the guardian of the child. Current law also permits a parent having physical custody of a child to place the child for adoption with a relative without a court order.

all payments made or agreed to be made by

Current law, however, does not permit a parent to place a child with a nonrelative without a court order. Instead, the parent and the proposed adoptive parent must petition the court assigned to exercise jurisdiction under the children's code (juvenile court) for an order approving the placement of the child with the proposed adoptive parent. The petition for adoptive placement must be accompanied by a petition for the voluntary termination of the petitioning parent's parental rights to the minor (TPR). On the filing of the petitions, the juvenile court must schedule a hearing; ascertain the paternity of the child; and order DHFS or a county department to investigate the proposed placement, interview the petitioners, provide counseling if requested and report its recommendation to the juvenile court, unless a child welfare agency has already investigated the proposed placement and interviewed the petitioners. At the beginning of the hearing the juvenile court must review ~~any agreement between the birth parent and the proposed adoptive parent relating to the payment of any expenses in connection with the birth and placement of the child to determine whether any conditions in the agreement are coercive to the birth parent.~~ Current law provides that making the payment of a birth parent's expenses conditional on the surrender of the child, the TPR or the finalization of the adoption is presumed to be coercive. If the juvenile court finds that the agreement is coercive, the juvenile court must dismiss the petitions or amend the agreement to delete the coercion. After the hearing, the juvenile court must make a conclusion whether the placement is in the best interest of the child. If the placement is approved, the juvenile court must proceed immediately with the TPR hearing. If the juvenile court orders the TPR, the juvenile court must order the child to be placed

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with the prospective adoptive parents and appoint an agency to be the guardian of the child.

Current law also specifies a procedure for the adoption of a foreign child. Under current law, before bringing a foreign child into this country for adoption, the prospective adoptive parent of the foreign child must file a bond with DHFS conditioned on the child not becoming dependent on public funds for support before the adoption is finalized. The prospective adoptive parent must also file with DHFS for review a certified copy of a judgment, order or other document of the foreign jurisdiction freeing the child for adoption. If DHFS finds that the judgment, order or other document frees the child for adoption, if DHFS has been furnished with a home study recommending the prospective adoptive parent, if a child welfare agency has been identified to provide services for the child and if the prospective adoptive parent has filed the bond, then DHFS must certify to the U.S. Immigration and Naturalization Service that all preadoptive requirements that can be met before a child is brought into this country have been met. Within 60 days after the child is brought into the country, the prospective adoptive parent must file a petition for adoption or a TPR petition, or both. If a petition for adoption is not filed or is withdrawn or denied, the juvenile court must transfer guardianship of the child to an agency and order the agency to file a TPR petition, must order the prospective adoptive parent to show cause why the bond should not be forfeited and may order that the physical custody of the child remain with a suitable individual with whom the child has been living.

After a child is placed for adoption, the prospective adoptive parent must file a petition for adoption with the juvenile court. A relative, a stepparent, the prospective adoptive parent of a foreign child or a prospective adoptive parent who has the approval of the child's guardian may file a petition for adoption at any time after complying with all of the requirements relating to placement for adoption. Any other person, for example, a nonrelative, may not file a petition for adoption until the child has been in the home of the petitioner for ~~6~~<sup>six</sup> months or more. On the filing of the petition, the juvenile court must schedule a hearing within 90 days after the filing and order an agency to make an investigation to determine whether the child is a proper subject for adoption and whether the petitioner's home is suitable for the child. If the petitioner is a stepparent, the juvenile court must order a screening, rather than an investigation, consisting of no more than one interview and a background check. After reviewing the report of the screening, the juvenile court may either proceed on the petition or order a full investigation of the stepparent. Current law also requires the agency that is the guardian of a child, if any, to file its recommendation with the juvenile court and requires DHFS to file a recommendation, except that DHFS is not required to file a recommendation if the guardianship agency has filed a recommendation, if an agency has filed a report of its investigation or if the petitioner is a relative. At the hearing, which the petitioner and the child, if 14 years of age or over, must attend, the juvenile court must ascertain the paternity of a nonmarital child, if not already determined, and grant the adoption, if all necessary consents, reports and recommendations have been filed and if the juvenile court finds that the adoption is in the best interest of the child.

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After the adoption, the relationship of parent and child between the natural parent and the adopted child ceases to exist, unless the natural parent is the spouse of the adoptive parent, and the relationship of parent and child thereafter exists between the adoptive parent and the adopted child, except that the juvenile court may grant reasonable visitation rights to a relative who has maintained a relationship similar to a parent-child relationship with a child who has been adopted by a relative or stepparent and the child may continue to inherit through a deceased natural parent if the remaining natural parent remarries and the stepparent adopts the child.

Also, after the adoption, the state registrar of vital statistics (state registrar) must prepare a new birth certificate, unless the adoptive parents request otherwise, and impound the original birth certificate and all other information relating to the adoption. Current law provides that all adoption records are closed and may not be disclosed except by order of the juvenile court for good cause shown or except as follows:

1. The juvenile court must disclose to the adoptive parents the child's medical record.

2. The agency that placed the child for adoption must, on the request of an adoptive parent or the adoptee, if 18 years of age or over, provide the requester with medical and genetic information about the adoptee and the adoptee's birth parents and with nonidentifying social history information about the adoptee's family.

3. DHFS must release medical information that it has in its centralized birth record file to an adoptive parent, an adoptee 18 years of age or over or an offspring of an adoptee if 18 years of age or over and must, if that information is not on file, conduct a search for the birth parents, on request, to obtain that information.

4. DHFS must disclose the original birth certificate of an adoptee and identifying information about the adoptee's birth parents to an adoptee 21 years of age or over if the birth parents have filed affidavits authorizing that disclosure, and DHFS must, if those affidavits are not on file, conduct a search for the birth parents, on request, to inform the birth parent that he or she may file the affidavit.

**THE BILL,*****Placement***

The bill permits a parent having legal and physical custody of a child, a guardian or agency authorized by the juvenile court or an agency to which a child has been relinquished by his or her parent, that is, the parent has voluntarily surrendered his or her rights to the child to the agency for purposes of adoption, to place a child for adoption. A child may be placed for adoption, however, only with a prospective adoptive parent for whom a favorable preplacement evaluation has been prepared by a person certified by DHFS to prepare evaluations, except that the juvenile court may excuse the preparation of a preplacement evaluation for good cause shown and a preplacement evaluation is not required for the placement of a child with a relative. In those cases, the prospective adoptive parent must be evaluated during the pendency of the adoption proceeding. The preplacement evaluation must be based on a personal interview and home visit with the prospective adoptive parent and on interviews with persons who know the

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prospective adoptive parent and must contain information as to the age, nationality, religion, marital and family history, physical and mental health, education and employment history, property and income and criminal history of the proposed adoptive parent. The evaluator must assess this information to determine whether placement of the child, or any child, in the home of the prospective adoptive parent would pose a significant risk of harm to the physical or psychological well-being of the child. The bill requires an agency placing a child for adoption to place the child with a prospective adoptive parent selected by the child's parent or guardian, if the agency has agreed to do so, or, if the agency has not so agreed, to place the child in accordance with the best interest of the child. In determining the best interest of the child, the agency must consider certain individuals in the following order of preference:

1. An individual who has previously adopted a sibling of the child.
2. An individual with characteristics selected by the birth parent.
3. An individual who has had prior physical custody of the child.
4. A relative of the child.

An agency may not delay or deny a placement based on the race, national origin or ethnic background of the child and must place siblings together, if practicable and in their best interest. A person placing a child for adoption must disclose to the prospective adoptive parents background information about the child and the child's natural parents, including their medical, social and psychological histories and any history of convictions or delinquency adjudications.

The bill also permits a health care facility to release a child to an individual or agency if the child's mother authorizes the release. A copy of the authorization must be sent to DHFS within 72 hours after the child is released and the person to whom the child is released must, within 30 days after the release, report to DHFS on the disposition of the child, that is, whether a petition for adoption has been filed, whether an agency has acquired custody of the child, whether the child has been returned to his or her parent or whether the child has been transferred to another individual. If DHFS does not receive the report within 4.5 days after the release, DHFS must investigate to determine the child's whereabouts. If the person to whom the child is released does not take action with respect to the adoption of the child, DHFS must immediately remove the child from that person's physical custody.

***Consent or relinquishment***

Subject to certain exceptions, the juvenile court may grant a petition for adoption when a parent or guardian has placed the child for adoption without agency involvement only if one of the following persons has consented to the adoption:

1. The birth mother and one of the following:
  - a. A man who was married to the birth mother if the child was born during or within 300 days after the end of the marriage.
  - b. A man who attempted to marry the mother, but the marriage is or could be declared invalid, if the child was born during or within 300 days after the end of the attempted marriage.
  - c. A man who has been judicially determined to be the father of the child or who has signed a statement acknowledging his paternity and who has supported and

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visited or communicated with the child or who has married or attempted to marry the child's mother after the child's birth, but before the placement.

d. A man who has received the child into his home and openly held out the child as his own.

2. The child's guardian, if authorized by the juvenile court to consent to the child's adoption.

3. The child's current adoptive parents.

When an agency has placed the child for adoption, the juvenile court may grant a petition for adoption only if the agency and any parent who has not relinquished the child to the agency consents to the adoption. Generally, the child must also consent to the adoption, if 12 years of age or over.

Under the bill, the consent of various persons is not required. Those persons include an individual who has relinquished the child to an agency, an individual whose parental rights to the child have been terminated or determined not to exist, an incompetent parent, a man who has not been married to the mother and who denies his paternity or disclaims his interest in the child, the personal representative of a deceased parent's estate and a parent who fails to appear or answer in a TPR or adoption proceeding. The bill also permits the juvenile court to dispense with the consent of a guardian or agency if the juvenile court finds that consent is being withheld contrary to the best interest of the child and to dispense with the consent of a child 12 years of age or over if the juvenile court finds that it is not in the best interest of the child to require that consent.

A parent may consent to the adoption of his or her child or relinquish the child to an agency for adoption at any time after the child is born. Before executing a consent or relinquishment, the parent must have been informed of the meaning and consequences of adoption, the availability of counseling and legal counsel@+&. ~~consequences of misidentifying the other parent~~ and the procedure for releasing background information about and the identity of the parent. The parent must execute the consent or relinquishment in the presence of a judge, an individual designated by a judge, an employe designated by an agency to take consents, an attorney, a military officer or a foreign service officer. The person in whose presence the consent or relinquishment is executed must certify that the parent understood the consent or relinquishment, signed it voluntarily, was furnished the required information, was offered counseling and legal counsel and was informed of his or her obligation to provide background information about the child's medical, social and psychological history. The consent or relinquishment must contain instructions on how to revoke or set aside the consent or relinquishment and may provide for its revocation if another consent or relinquishment is not executed within a specified time, if the parental rights of another individual are not terminated or if the petition for adoption is denied or withdrawn. The consent or relinquishment must also state all of the following:

1. That the parent voluntarily and unequivocally consents to the transfer of custody of the child to the prospective adoptive parent or agency for purposes of adoption.

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2. That the parent understands that the consent or relinquishment is final and, except under limited circumstances, may not be revoked or set aside.

3. That the parent understands that the adoption will terminate his or her parental rights and obligations to the child, other than the payment of child support arrears.

4. That the parent has received or been offered a copy of the consent or relinquishment, counseling, legal counsel and information about the meaning and consequences of adoption.

5. That the parent has not received or been offered money or anything of value for the consent or relinquishment, except as authorized by law.

6. That the parent has had an opportunity to sign a document stating whether and under what circumstances identifying information about the parent may be disclosed; and has been advised of the obligation to provide background information about the child's history.

7. That the parent believes that adoption is in the best interest of the child.

8. That the parent waives notice of the proceeding for adoption.

A consent entitles the prospective adoptive parent to custody of the child and imposes on him or her the duty to support the child. A relinquishment entitles the agency to custody of the child and empowers the agency to place the child for adoption, consent to the child's adoption and delegate the duty to support the child to the prospective adoptive parents. Both a consent and a relinquishment terminate any duty that the parent had to the child, except to pay child support arrears, and terminate the right of the parent to object to the adoption and to receive notice of the adoption proceeding.

A consent or relinquishment may be revoked <sup>eight</sup> if the parent notifies the prospective adoptive parent or agency within 192 hours (~~30 days~~) after the birth of the child or complies with any other instructions for revocation specified in the consent or relinquishment or if the parent and prospective adoptive parent agree to the revocation. The juvenile court must set aside a consent or relinquishment if the parent proves by clear and convincing evidence that the consent or relinquishment was obtained by fraud or duress or proves by a preponderance of the evidence that a condition permitting revocation, as provided for in the consent or relinquishment, has occurred. A consent may also be set aside if the parent proves by a preponderance of the evidence that a petition for adoption has not been filed within 60 days after the placement. If the consent or relinquishment of a parent who had custody of the minor when the consent or relinquishment was executed is set aside on the grounds of fraud or duress or revoked, the juvenile court must dismiss the adoption proceeding and return the child to the parent. If the consent or relinquishment of a parent who had custody of the minor when the consent or relinquishment was executed is set aside because a condition permitting revocation, as provided for in the consent or relinquishment, has occurred or because a petition has not been filed within 60 days after the placement, the juvenile court must dismiss any petition that may be pending and return the child to the parent, unless returning the child would be detrimental to the child. If the consent or relinquishment of a parent who did not have custody of the child when the consent or relinquishment was executed is set



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aside, the juvenile court must dismiss any petition that may be pending and issue an order for the care and custody of the child according to the best interest of the child.

**Juvenile court procedures**

The bill specifies the procedures that the juvenile court must follow in processing a petition for adoption.

A juvenile court in this state has jurisdiction over a proceeding for adoption if the child has lived in this state for ~~6~~<sup>six</sup> consecutive months immediately before the commencement of the proceeding or, if the child is less than ~~6~~<sup>six</sup> months of age, from soon after birth; the prospective adoptive parent has lived in this state for ~~6~~<sup>six</sup> consecutive months immediately before the commencement of the proceeding, the agency that placed the child is located in this state and the child and his or her parent, or the child and prospective adoptive parent, have a significant connection with this state; the child is physically present in this state and has been abandoned or it is necessary in an emergency to protect the child; or no other state has jurisdiction or another state has declined jurisdiction because this state is the more appropriate forum for the proceeding. A juvenile court in this state, however, does not have jurisdiction if a proceeding for the custody or adoption of the child is pending in a court in another state or a court in another state has issued a decree concerning the custody of the child, unless that court does not have continuing jurisdiction to modify the decree or has declined to exercise that jurisdiction or does not have jurisdiction over the adoption of the child or has declined to exercise that jurisdiction.

The bill requires a minor parent, an incompetent parent or an indigent parent to be represented by counsel, unless the indigent parent declines. The bill permits the juvenile court to appoint a guardian ad litem for the child if the proceeding is uncontested and requires the juvenile court to appoint a guardian ad litem for the child if the proceeding is contested.

The bill requires a proceeding for adoption or TPR to be heard by a court without a jury and to be closed to the general public. The bill also permits the juvenile court to make an interim order for the custody of the child in an uncontested proceeding and requires the juvenile court to make such an order in a contested proceeding. The bill prohibits a petitioner from removing the child from this state for more than 30 days without the permission of the court or, if an agency adoption, the permission of the agency

A person with whom a child has been placed for adoption or who has been selected as a prospective adoptive parent or a person with whom a child has not been placed for adoption or who has not been selected as a prospective adoptive parent, but who has had physical custody of the child for at least ~~6~~<sup>six</sup> months immediately before filing the petition, has standing to petition for adoption. A person with whom a child is placed for adoption must file the petition within 30 days after the placement.

The bill specifies what information must be contained in the petition for adoption and what documents must be filed with the juvenile court before the hearing on the petition. Those documents include the child's birth certificate; any consent, relinquishment or disclaimer of parental interest that has been executed;

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any TPR order or order concerning custody or visitation with the child; any evaluation of the prospective adoptive parent; the background information provided by the parent; the parent's authorization to disclose information about and the identity of the parent; and a document stating the name and address of any person entitled to receive notice of the proceeding.

The bill requires notice of the adoption proceeding to be served, within 20 days after the filing of the petition, on any individual or agency whose consent to the adoption is required; on any possible father of the child; on any person who has custody of or visitation rights with the child; on the spouse of the petitioner, if the spouse has not joined in the petition; on the child's grandparent, if the child's parent is deceased and has not consented to the adoption, relinquished the child or had his or her parental rights terminated; on any person who has revoked his or her consent or relinquishment; and on any person who can provide relevant information about the adoption. If a person fails to respond to a notice within 20 days after its service, the person may not appear in the proceeding and is not entitled to receive any further notice of the proceeding. If at any time in the proceeding the juvenile court finds that an unknown father may not have received notice of the proceeding, the juvenile court must determine if the unknown father can be identified. If the father is identified, the juvenile court must require notice to be served on him. If the father is not identified or his whereabouts are unknown, the juvenile court must order publication of the notice, if the juvenile court determines that publication is likely to lead to receipt of notice by the father, or may dispense with publication if the juvenile court determines that publication is not likely to lead to receipt of notice.

After the filing of the petition for adoption, but before the decree of adoption is entered, a parent, guardian or agency that intends to place, or has placed, a child for adoption, a parent who is the spouse of a stepparent who intends to adopt the child or a prospective adoptive parent may file a petition to terminate the parental rights of a parent of the child. Under the bill, a person's parental rights may be terminated on any of the following grounds:

1. If the person fails to respond or claim paternity within 20 days after service of the notice of the TPR proceeding.
2. If the juvenile court dispenses with notice because publication of the notice is not likely to lead to the person receiving notice.
3. If the person has failed to support and visit regularly with the child and has not manifested an ability and willingness to assume custody of the child, unless the person proves he had a compelling reason for not doing so.
4. If the person has been convicted of a violent crime or of violating a domestic abuse or child abuse restraining order and the facts of the crime or violation show that the person is unfit to maintain a parental relationship with the child.
5. The person was not married to the child's mother when the child was conceived or born and is not the biological or adoptive father of the child.
6. If termination of the person's parental rights is justified on any of the grounds specified in current law, for example, abandonment, continuing need of protection or services, continuing parental disability, continuing denial of periods of physical placement, failure to assume parental responsibility, incestuous

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*Commission of a serious felony against one of the person's children or prior involuntary TPR to another child*

parenthood, intentional homicide of a parent or parenthood as a result of a sexual assault.

Even if the respondent had a compelling reason for not supporting, visiting and being able to assume custody of the child and even if a TPR is not otherwise justified, the juvenile court may still order a TPR on any of the following grounds:

1. If the respondent is not able or willing promptly to assume custody and pay for the child's support.
2. If the respondent is not able or willing promptly to establish and maintain contact with the child and to pay for the child's support.
3. If placing the child with the respondent would pose a substantial risk to the well-being of the child.
4. If failure to TPR would be detrimental to the child.

If a TPR order is granted, the relationship of parent and child between the respondent and the child is terminated, except for the obligation to pay child support arrears, the right of the respondent to withhold his or her consent to the adoption and to receive notice of the adoption proceeding is extinguished and the order is a final order for purposes of appeal. If a TPR petition is denied, the juvenile court must dismiss the underlying petition for adoption and determine the custody of the child.

After a petition for adoption is filed, the juvenile court must order an evaluator certified by DHFS to make an evaluation of the child's placement with the prospective adoptive parent. The evaluation must be based on a personal interview with the prospective adoptive parent in his or her residence, observation of the relationship between the child and the prospective adoptive parent and certain information that must be included in the report on the evaluation. That information includes any changes in the life of the prospective adoptive parent since the preplacement evaluation; the condition of the child; the expenses incurred, paid or to be paid and anything of value exchanged or to be exchanged in connection with the adoption; any specific concerns about the suitability of the prospective adoptive parent and his or her home; the finding of the evaluator about that suitability; and the recommendation of the evaluator about granting the petition. The evaluation must be filed within 60 days after it is ordered, unless the evaluator has specific concerns about the well-being of the child, in which case the evaluation must be filed immediately.

*or*

The juvenile court must hold a hearing on the petition for adoption not less than 90 days, ~~or~~ <sup>or</sup> more than 180 days after the petition is filed, unless the juvenile court sets an earlier or later date for good cause shown. At least ~~10~~ <sup>ten</sup> days before the hearing the prospective adoptive parent must file with the juvenile court an accounting of any payments made in connection with the adoption and the attorney for the prospective adoptive parent, the attorney for the parent or guardian, the agency, if an agency is involved, and the guardian of the child must file affidavits with the court itemizing any fees received in connection with the adoption.

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The juvenile court must grant the adoption if it finds that the adoption will be in the best interest of the child, that the petitioner is a suitable adoptive parent for the child and that the various requirements governing an adoption proceeding have been met, for example, notice has been served on everyone entitled to receive notice

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or dispensed with; all necessary consents, relinquishments, disclaimers and TPR's have been obtained; any required evaluations have been filed; the Indian Child Welfare Act and any interstate or intercountry compact on adoption, if applicable, have been complied with; the juvenile court has reviewed the accounting of payments and affidavits of fees and has denied, modified or ordered reimbursement of any unauthorized, unreasonable or unnecessary payments; the petitioner has received the report on the child's background; and any document signed by the birth parent concerning the disclosure of his or her identity has been filed. Even if the juvenile court finds that a prohibited activity has occurred, the juvenile court must still grant the adoption, if the juvenile court finds ~~the adoption~~ <sup>that</sup> is in the best interest of the child, the petitioner is suitable and the other requirements have been met, and report the prohibited activity to the appropriate authorities.

After the adoption, the relationship of parent and child between the former parent and the adoptee terminates, except for the duty to pay child support arrears, and any existing order for visitation or communication ceases. After the adoption, the adoptive parent and child have the relationship of parent and child.

The bill limits the challenges that may be made to a decree of adoption as follows:

1. A person who waived notice of the adoption proceeding or who failed to respond in the proceeding may not move to vacate or annul the decree.
2. No person may challenge the decree on the ground that another person failed to comply with an agreement for visitation with the child. <sup>SIX</sup>
3. No person may challenge the decree more than ~~6~~ <sup>SIX</sup> months after it is entered. If a person challenges a decree, the person must show by clear and convincing evidence that the decree is not in the best interest of the child.

Within 30 days after a decree of adoption becomes final, the clerk of the juvenile court must send to the state registrar a report of the adoption containing the information necessary to issue a new birth certificate. The state registrar must issue a new birth certificate for a child born in this state, unless the juvenile court orders, or the adoptive parents or child, if 12 years of age or over, request, that a new birth certificate not be issued. If the state registrar issues a new birth certificate, the state registrar must seal the original birth certificate for 99 years after the child's date of birth.

**Confidentiality of records**

Under the bill, all records pertaining to <sup>an</sup> adoption, whether in the possession of the juvenile court, an agency, the state registrar, an attorney or another provider of professional services, are confidential and may not be disclosed, except by order of the juvenile court or as otherwise provided in the bill.

The bill requires the juvenile court or <sup>an</sup> agency to disclose nonidentifying information about an adoptee, the adoptee's former parents and the adoptee's genetic history to the parent or guardian of <sup>the</sup> adoptee, the adoptee, if 18 years of age or over, an emancipated adoptee, the direct descendant of a deceased adoptee, if 18 years of age or over, or the parent or guardian of a direct descendant of a deceased adoptee, if the direct descendant is under 18 years of age.

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If the juvenile court receives a statement from a physician explaining how a health condition may seriously affect the health of an adoptee or a direct descendant of an adoptee, the juvenile court must make a diligent effort to notify the adoptee, if 18 years of age or over, the parent or guardian of the adoptee, if the adoptee is under 18 years of age or a direct descendant of a deceased adoptee that nonidentifying information about the health condition may be requested from the juvenile court. Similarly, if the juvenile court receives a statement from a physician explaining why a serious health condition of an adoptee or a direct descendant of an adoptee should be communicated to the adoptee's genetic parent or sibling to enable them to make an informed reproductive decision, the juvenile court must make a diligent effort to notify the genetic parent or sibling that nonidentifying information about the health condition may be requested from the juvenile court.

If the state registrar receives a request for additional information about an adoptee, the state registrar must refer the requester to the court or agency that has the records about the adoptee. If no court or agency has the information, the state registrar must, on request, conduct a search for the birth parent to obtain the information as under current law.

The bill requires the state registrar to disclose identifying information about an adoptee's former parent to the adoptee, if 18 years of age or over, the adoptee's parent or guardian, if the adoptee is under 18 years of age, a direct descendant of a deceased adoptee, if 18 years of age or over, or the parent or guardian of a direct descendant of a deceased adoptee, if the direct descendant is under 18 years of age, on request if the former parent or an adult descendant of a deceased or incompetent former parent authorizes that disclosure either unconditionally or on the condition that the requester authorizes the disclosure of similar information about himself or herself.

The bill also requires the state registrar to disclose identifying information about an adoptee or a direct descendant of a deceased adoptee to the adoptee's former parent on request if the adoptee, if 18 years of age or over, the parent or guardian of the adoptee, if under 18 years of age, a direct descendant of a deceased adoptee, if 18 years of age or over, or the parent or guardian of a direct descendant of a deceased adoptee, if the direct descendant is under 18 years of age, authorizes that disclosure either unconditionally or on the condition that the former parent authorizes the disclosure of similar information about himself or herself.

In addition, the bill requires the state registrar to disclose identifying information about an adult sibling of an adoptee who is 18 years of age or over if the sibling is also an adoptee and both the sibling and the adoptee authorize the disclosure. In disclosing information about an adult sibling, the state registrar may not also disclose information about the adoptee's former parent unless authorized by the former parent.

The state registrar must also disclose the original birth certificate of an adoptee to the adoptee, if 18 years of age or over, the parent or guardian of an adoptee, if under 18 years of age, or a direct descendant of a deceased adoptee, if each individual named as a parent on the birth certificate consents to the disclosure. Ninety-nine

**BILL**

years after an adoptee's birth, however, the adoptee's original birth certificate is unsealed and may be disclosed in the same manner as any public record.

A person who is eligible to obtain information about an adoption may petition the juvenile court to obtain information not otherwise available under the bill. In determining whether to grant the petition, the juvenile court must make specific findings as to why the petitioner is seeking the information, whether the subject of the information has requested that the information not be disclosed, whether the subject of the information is alive, whether the petitioner's request can be satisfied without disclosing the information, the likely effect of disclosing the information and the age, maturity and needs of the petitioner. The juvenile court may order the information to be disclosed if the juvenile court determines that good cause exists for disclosing the information, that there is a compelling reason for disclosing the information and that the benefit of disclosing the information is greater than the harm.

**Prohibited and permissible activities**

for a person providing adoption information exchange services or adoption information

The bill prohibits certain activities in connection with an adoption. Under the bill:

1. No person other than a parent, guardian or agency may place a child for adoption or advertise that a child is available for adoption.

2. No person, other than an individual with a favorable preplacement evaluation or an agency, may advertise that the person is willing to accept a child for adoption.

3. No person, other than a person with a favorable preplacement evaluation or a waiver of that requirement, a relative or a stepparent, may obtain custody of a child for the purposes of adoption.

4. No person may place a child for adoption with a person, other than a stepparent or relative, unless the person has a favorable preplacement evaluation or a waiver of that requirement.

The bill prohibits certain payments in connection with an adoption. Under the bill, no person may pay, give or offer to pay or give, and no person may request, receive or accept, money or anything of value for the placement of a child for adoption, a consent to an adoption or a relinquishment for the purposes of adoption. The bill also prohibits a parent from receiving any payment, even a lawful payment, with the intent not to consent to an adoption or to relinquish his or her child for adoption.

The bill expressly permits an adoptive parent to make certain payments in connection with an adoption. Those payments include payments for the services of an agency, advertising to locate a child for adoption, medical and other expenses incurred in connection with the birth of the child, counseling for the birth parent and child, the mother's living expenses, expenses incurred in obtaining background information about the child, legal fees and other administrative expenses and expenses incurred in obtaining evaluations of the adoptive parent. The payment of those expenses may not be made contingent on placement of the child for adoption, relinquishment of the child for adoption or consent to the adoption. If the adoption is not finalized, the person making the payments is not entitled to reimbursement for payments already made.

For a reasonable time before the birth of the child and for no more than 5 weeks after the child's birth

for any illness

, court costs, travel

and any other services that the juvenile court finds are reasonably necessary

a person who is authorized to make a payment is not liable for that payment unless the person has agreed to make the payment regardless of the outcome of the adoption proceeding

**BILL**

, whether identifying or nonidentifying,

Similarly, the bill expressly permits an agency to charge a prospective adoptive parent for the cost of certain services rendered in connection with an adoption. Those costs include the cost of medical and other expenses incurred in connection with the child's birth, counseling, the mother's living expenses, expenses incurred in obtaining background information about the child, legal fees and other administrative expenses and expenses incurred in obtaining evaluations of the adoptive parent.

The bill also provides penalties for certain violations committed in connection with an adoption. Under the bill, the following persons are subject to penalties:

1. A person, other than a parent, who has a duty to disclose background information about a child and who intentionally fails to disclose that information.
2. An employe of an agency, the juvenile court or the state registrar who intentionally destroys background information about a child.
3. A prospective adoptive parent who knowingly fails to furnish information or who knowingly furnishes false information to an evaluator.
4. An evaluator who knowingly prepares a false evaluation.
5. A parent who knowingly misidentifies the other parent.
6. A person who knowingly makes an unauthorized disclosure of confidential information or who gives or offers to give, or who accepts or agrees to accept, anything of value for that disclosure.

***Stepparent and adult adoptions***

Finally, the bill makes special provisions for stepparent and adult adoptions.

In general, the procedures of a stepparent adoption are similar to those of a stranger adoption, except that certain procedures are relaxed for a stepparent adoption. For example, a preplacement evaluation is not required for a stepparent adoption and the juvenile court may, but is not required to, order a postpetition evaluation of a stepparent. The legal consequences of a stepparent adoption differ from those of a stranger adoption in that a stepparent adoption does not terminate the relationship between the child and the parent who is the stepparent's spouse, an existing visitation order for a relative of the stepparent's spouse survives the adoption decree, the juvenile court may approve an existing visitation agreement for the former parent or a grandparent through the former parent and the stepchild continues to have the right of inheritance or intestate succession from or through the former parent.

The bill permits an adult to adopt another adult in order to create a parent-child relationship. An adult may not, however, adopt his or her spouse and, if the adult adoptee is incompetent, the procedures for the adoption of a child must be followed. Because an adult may consent to his or her own adoption, notices to, and the consent of, the adoptee's parents are not required. Instead, the consent only of the adoptee, the prospective adoptive parent and the parent's spouse is required.

## BILL

For further information **see** the **state and local** 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:***

1           **SECTION 1.** 20.435 (3) (jj) of the statutes is amended to read:

2           20.435 (3) (jj) ***Searches for birth parents and adoption record information,***  
3 ***foreign adoptions.*** The amounts in the schedule for paying the cost of searches for  
4 birth parents under ss. 48.432 (4) and 48.433 (6) and for paying the costs of  
5 reviewing, ~~certifying and approving~~ and certifying foreign adoption documents  
6 under s. ~~48.838~~ 48.976 (2) and (3). All moneys received as fees paid by persons  
7 requesting a search under s. 48.432 (3) (c) or (4), or 48.433 (6) or ~~48.93 (1r)~~ requesting  
8 information under s. 48.95 and paid by persons for the review; and certification ~~and~~  
9 ~~approval~~ of foreign adoption documents under s. ~~48.838~~ 48.976 (2) and (3) shall be  
10 credited to this appropriation.

11           **SECTION 2.** 46.03 (18) (am) of the statutes is amended to read:

12           46.03 (18) (am) Paragraph (a) does not prevent the department from charging  
13 and collecting the cost of adoptive placement investigations ~~and child care~~ as  
14 authorized under s. ~~48.837 (7)~~ 48.96 (3) (a) 8.

15           **SECTION 3.** 46.03 (18) (b) of the statutes is amended to read:

16           46.03 (18) (b) Except as provided in s. 46.10 (14) (b) and (c), any person  
17 receiving services provided or purchased under par. (a) or the spouse of the person  
18 and, in the case of a minor, the parents of the person, and, in the case of a foreign child  
19 described in s. ~~48.839 (1)~~ 48.82 (8) <sup>✓</sup> who became dependent on public funds for his or  
20 her primary support before an order granting his or her adoption, the resident of this  
21 state ~~appointed guardian of the child by a foreign court~~ who brought the child into



## BILL

## SECTION 3

1 this state for the purpose of adoption, shall be liable for the services in the amount  
2 of the fee established under par. (a). If a minor receives services without consent of  
3 a parent or guardian under s. 5 1.47, the department shall base the fee solely on the  
4 minor's ability to pay.

5 ~~SECTION 4. 46.10 (2) of the statutes, as affected by 1997 Wisconsin Act 27, is~~  
6 amended to read:

7 46.10 (2) Except as provided in subs. (2m) and (14) (b) and (c), any person,  
8 including but not limited to a person admitted, committed or placed under s. 975.01,  
9 1977 stats., s. 975.02, 1977 stats., and s. 975.17, 1977 stats., and ss. 48.366, 51.10,  
10 51.13, 51.15, 51.20, 51.35 (3), 51.37 (5), 51.45 (10), (11), (12) and (13), 55.05, 55.06,  
11 938.183, 938.34 (4h) or (4m), 938.357 (4) and (5) (e), 971.14 (2) and (5), 971.17 (l),  
12 975.06 and 980.06, receiving care, maintenance, services and supplies provided by  
13 any institution in this state including University of Wisconsin Hospitals and Clinics,  
14 in which the state is chargeable with all or part of the person's care, maintenance,  
15 services and supplies, any person receiving care and services from a county  
16 department established under s. 51.42 or 51.437 or from a facility established under  
17 s. 49.73, and any person receiving treatment and services from a public or private  
18 agency under s. 97 1.17 (3) (d) or (4) (e), 980.06 (2) (c) or 980.08 (5) and the person's  
19 property and estate, including the homestead, and the spouse of the person, and the  
20 spouse's property and estate, including the homestead, and, in the case of a minor  
21 child, the parents of the person, and their property and estates, including their  
22 homestead, and, in the case of a foreign child described in s. ~~48.839 (1)~~ 48.82 (8) who  
23 became dependent on public funds for his or her primary support before an order  
24 granting his or her adoption, the resident of this state appointed guardian of the child  
25 by a foreign court who brought the child into this state for the purpose of adoption,

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1 and his or her property and estate, including his or her homestead, shall be liable for  
 2 the cost of the care, maintenance, services and supplies in accordance with the fee  
 3 schedule established by the department under s. 46.03 (18). If a spouse, widow or  
 4 minor, or an incapacitated person may be lawfully dependent upon the property for  
 5 their support, the court shall release all or such part of the property and estate from  
 6 the charges that may be necessary to provide for those persons. The department  
 7 shall make every reasonable effort to notify the liable persons as soon as possible  
 8 after the beginning of the maintenance, but the notice or the receipt thereof is not  
 9 a condition of liability.

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SECTION 5. 46.215 (1) (h) of the statutes, ~~as affected by 1997 Wisconsin Act 27~~ ✓

is amended to read:

46.215 (1) (h) To administer juvenile welfare services under s. 938.57; and, if  
 contracted to do so by the department, to accept custody and guardianship of children  
 upon the order of a competent court, and to place children for adoption ~~and to make~~  
~~recommendations relating to the adoption of children under s. 48.85~~ under s. 48.82 ✓

(3).

SECTION 6. 46.215 (1) (i) of the statutes, ~~as affected by 1997 Wisconsin Act 27~~ ✓

is amended to read:

46.215 (1) (i) To make ~~such investigations as~~ the evaluations that are provided  
 for in s. ~~48.88 (2) (a) and (c), if contracted to do so by the department and if the court~~  
~~having jurisdiction so directs~~ ss. 48.83, 48.91 and 48.94 (11).

SECTION 7. 46.22 (1) (c) 4. of the statutes is amended to read:

46.22 (1) (c) 4. Make ~~investigations which~~ the evaluations that are provided for  
 under s. ~~4-888 (2) (a) and (c), if the court having jurisdiction so directs~~ ss. 48.83, 48.91  
and 48.94 (11).

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**SECTION 8**

1           **SECTION 8.** 48.025 (2) of the statutes is amended to read:

2           48.025 (2) The declaration provided in sub. (1) may be filed at any time except  
3 after a termination of the father's rights under subch. VIII or s. 48.90. The  
4 declaration shall be in writing, signed by the person filing the declaration and shall  
5 contain the person's name and address, the name and last-known address of the  
6 mother, the month and year of the birth or expected birth of the child and a statement  
7 that he has reason to believe that he may be the father of the child.

8           **SECTION 9.** 48.14 (1) of the statutes is amended to read:

9           48.14 (1) The termination of parental rights to a minor in accordance with  
10 subch. VIII or s. 48.90.

11           ~~**SECTION 10.** 48.14 (2) (b) of the statutes is amended to read:~~

12           ~~48.14 (2) (b) The appointment and removal of a guardian of the person for a~~  
13 ~~child under ss. 48.427, 48.428, 48.43, 48.831, 48.832, 48.839 (4) (a) and 48.977,~~  
14 ~~48.978 and 48.979 and ch. 880 and for a child found to be in need of protection or~~  
15 ~~services under s. 48.13 because the child is without parent or guardian.~~

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16           **SECTION 11.** 48.23 (2) of the statutes is amended to read:

17           48.23 (2) **RIGHT OF PARENTS TO COUNSEL.** Whenever a child is the subject of a  
18 proceeding involving ~~a contested adoption or the involuntary~~ termination of parental  
19 rights or a contested adoption, any parent under 18 years of age who appears before  
20 the court shall be represented by counsel; but no such parent may waive counsel. A  
21 ~~minor parent petitioning for the voluntary termination of parental rights shall be~~  
22 ~~represented by a guardian ad litem.~~ If a proceeding involves ~~a contested adoption~~  
23 ~~or the involuntary~~ termination of parental rights or a contested adoption, any parent  
24 18 years old or older who appears before the court shall be represented by counsel;

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**BILL**

1 but the parent may waive counsel provided the court is satisfied such waiver is  
2 knowingly and voluntarily made.

3 ~~SECTION 12. 48.23 (4) of the statutes is amended to read:~~

4 ~~48.23 (4) PROVIDING COUNSEL. In any situation under this section in which a~~  
5 ~~person child or a parent under 18 years of age has a right to be represented by counsel~~  
6 ~~or is provided counsel at the discretion of the court and counsel is not knowingly and~~  
7 ~~voluntarily waived, the court shall refer the person to the state public defender and~~  
8 ~~counsel shall be appointed by the state public defender under s. 977.08 without a~~  
9 ~~determination of indigency. If the referral is of a person who has filed a petition~~  
10 ~~under s. 48.375 (7), the state public defender shall appoint counsel within 24 hours~~  
11 ~~after that referral. Any counsel appointed in a petition filed under s. 48.375 (7) shall~~  
12 ~~continue to represent the child in any appeal brought under s. 809.105 unless the~~  
13 ~~child requests substitution of counsel or extenuating circumstances make it~~  
14 ~~impossible for counsel to continue to represent the child. In any situation under sub.~~  
15 ~~(2) in which a parent 18 years of age or older is entitled to representation by counsel;~~  
16 ~~counsel is not knowingly and voluntarily waived; and it appears that the parent is~~  
17 ~~unable to afford counsel in full, or the parent so indicates; the court shall refer the~~  
18 ~~parent to the authority for indigency determinations specified under s. 977.07 (1).~~  
19 ~~In any other situation under this section in which a person has a right to be~~  
20 ~~represented by counsel or is provided counsel at the discretion of the court,~~  
21 ~~competent and independent counsel shall be provided and reimbursed in any~~  
22 ~~manner suitable to the court regardless of the person's ability to pay, except that the~~  
23 ~~court may not order a person who files a petition under s. 813.122 or 813.125 to~~  
24 ~~reimburse counsel for the child who is named as the respondent in that petition.~~

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SECTION 13. 48.235 (1) (b) of the statutes is repealed.

**BILL**

**SECTION 14**

1 **SECTION 14.** 48.235 (1) (c) of the statutes is amended to read:

2 48.235 (1) (c) The court shall appoint a guardian ad litem for any child who is  
3 the subject of a proceeding to terminate parental rights, whether voluntary or  
4 involuntary, for a child who is the subject of a contested adoption proceeding and for  
5 a child who is the subject of a proceeding under s. 48.977. The court may appoint a  
guardian ad litem for any child who is the subject of an uncontested adoption  
proceeding.

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20-77

8 **SECTION 15.** 48.235 (5) of the statutes is repealed.

9 ~~**SECTION 16.** 48.235 (8) of the statutes is amended to read:~~

10 ~~**48.235** (8) COMPENSATION. On order of the court, the guardian ad litem  
11 appointed under this chapter shall be allowed reasonable compensation to be paid  
12 by the county of venue, except that compensation shall be paid by the proposed  
13 adoptive parents in uncontested termination proceedings and uncontested adoption  
14 cases under ss. 48.835 and 48.837 in which the child's parent or guardian placed the  
15 child for adoption and by the agency in uncontested termination proceedings and  
16 uncontested adoptions under s. 48.833 in which the agency placed the child for  
17 adoption. If the proposed adoptive parents are unable to pay, the court may direct  
18 that the county of venue pay the compensation, in whole or in part, and may direct  
19 that the proposed adoptive parents reimburse the county, in whole or in part, for the  
20 payment. If the court orders a county to pay the compensation of the guardian ad  
21 litem, the amount ordered may not exceed the compensation paid to private  
22 attorneys under s. 977.08 (4m) (b). At any time before the final order for adoption,  
23 the court may order that payments be placed in an escrow account in an amount  
24 estimated to be sufficient to pay the compensation of the guardian ad litem.~~

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25 ~~**SECTION 17.** 48.31 (1) of the statutes is amended to read:~~

**BILL**

1 48.31 (1) In this section, "fact-finding hearing" means a hearing to determine  
 2 if the allegations in a petition under s. 48.13 or a petition to terminate parental rights  
 3 under subch. VIII are proved by clear and convincing evidence.

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21-3  
4

4 **SECTION 18.** 48.36 (1) (a) of the statutes, ~~as affected by 1997 Wisconsin Act 27,~~

5 is amended to read:

6 48.36 (1) (a) If legal custody is transferred from the parent or guardian or the  
 7 court otherwise designates an alternative placement for the child by a disposition  
 8 made under s. 48.345 or by a change in placement under s. 48.357, the duty of the  
 9 parent or guardian or, in the case of a transfer of guardianship and custody under  
 10 ~~s. 48.839 (4)~~ of a foreign child brought into this country for the purposes of adoption,  
 11 the duty of the ~~former guardian~~ person who brought the child into this country for  
 12 the purposes of adoption to provide support shall continue even though the legal  
 13 custodian or the placement designee may provide the support. A copy of the order  
 14 transferring custody or designating alternative placement for the child shall be  
 15 submitted to the agency or person receiving custody or placement and the agency or  
 16 person may apply to the court for an order to compel the parent or guardian to provide  
 17 the support. Support payments for residential services, when purchased or  
 18 otherwise funded or provided by the department or a county department under s.  
 19 46.22, 46.23, 51.42 or 51.437, shall be determined under s. 46.10 (14).

20 **SECTION 19. 48.368** (1) of the statutes is amended to read:

21 48.368 (1) If a petition for termination of parental rights is filed under s. 48.4 1  
 22 ~~or~~, 48.4 15 <sup>✓</sup> or 48.90 or an appeal from a judgment terminating or denying termination  
 23 of parental rights is filed during the year in which a dispositional order under s.  
 24 48.355 or an extension order under s. 48.365 is in effect, the dispositional or

**BILL**

**SECTION 19**

1 extension order shall remain in effect until all proceedings related to the filing of the  
2 petition or an appeal are concluded.

3 **SECTION 20.** 48.371 (3) of the statutes is amended to read:

4 48.371 (3) At the time of placement of a child in a foster home, treatment foster  
5 home, group home or child caring institution or, if the information is not available  
6 at that time, as soon as possible after the date on which the court report or  
7 permanency plan has been submitted, but no later than 7 days after that date, the  
8 agency, as defined in s. 48.38 (1) (a), responsible for preparing the child's permanency  
9 plan shall provide to the foster parent, treatment foster parent or operator of the  
10 group home or child caring institution information contained in the court report  
11 submitted under s. 48.33 (1), 48.365 (2g), 48.425 (1), ~~48.831 (2) or 48.837 (4) (e) or~~  
12 48.978 (2) or permanency plan submitted under s. 48.355 (2e), 48.38, 48.43 (1) (c) or  
13 **(5) (c), 48.63 (4) or 48.831 (4) (e) 48.978 (4) (e)** relating to findings or opinions of the  
14 court or agency that prepared the court report or permanency plan relating to any  
15 mental, emotional, cognitive, developmental or behavioral disability of the child.  
16 The foster parent, treatment foster parent or operator of a group home or child caring  
17 institution receiving information under this subsection shall keep the information  
18 confidential

Insert  
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22-78

19 **SECTION 21.** 48.40 (2) of the statutes is amended to read:

20 **48.40** (2) "Termination of parental rights" means that, pursuant to a court  
21 order under this subchapter, all rights, powers, privileges, immunities, duties and  
22 obligations existing between parent and child are permanently severed.

23 **SECTION 22.** 48.41 (2) (d) of the statutes is repealed.

24 **SECTION 23.** 48.42 (1) (intro.) of the statutes is amended to read:

**BILL**

1           **48.42 (1) PETITION.** (intro.) A proceeding for the termination of parental rights  
2 shall be initiated by petition which may be filed by the child's parent, an agency or  
3 a person authorized to file a petition under s. 48.25 ~~or 48.835~~. The petition shall be  
4 entitled "In the interest of . . . . . (child's name), a person under the age of 18" and  
5 shall set forth with specificity:

6           **SECTION 24.** 48.42 (2) (a) of the statutes is amended to read:

7           48.42 (2) (a) The parent or parents of the child, unless the child's parent has  
8 waived the right to notice under s. ~~48.41 (2) (d)~~ <sup>✓</sup> ~~48.85 (6) (e)~~ <sup>✓</sup> ~~48.89 (5) (a)~~ <sup>✓</sup> or 48.94 (6)  
9 (c) or (7) (a), notice has been dispensed with under s. 48.89 (4) (d) or notice is not  
10 required under s. 48.89 (1) (a) 3. <sup>✓</sup>

*Insert  
23-10*

*48.979*

11           **SECTION 25.** 48.428 (1) of the statutes is amended to read:

12           48.428 (1) A court may place a child in sustaining care if the court has  
13 terminated the parental rights of the parent or parents of the child or has appointed  
14 a guardian for the child under s. ~~48.831~~ ~~48.978~~ and the court finds that the child is  
15 unlikely to be adopted or that adoption is not in the best interest of the child.

16           **SECTION 26.** 48.432 (3) (a) 1m. of the statutes is created to read:

17           48.432 (3) (a) 1m. An emancipated adoptee.

18           **SECTION 27.** 48.432 (3) (a) 2. of the statutes is amended to read:

19           48.432 (3) (a) 2. An adoptive parent of an individual or adoptee.

20           **SECTION 28.** 48.432 (3) (a) 4. of the statutes is amended to read:

21           48.432 (3) (a) 4. The ~~offspring~~ direct descendant of an individual or adoptee if  
22 the requester is 18 years of age or older.

23           **SECTION 29.** 48.432 (3) (a) 4m. of the statutes is created to read:

24           48.432 (3) (a) 4m. The parent or guardian of a direct descendant of an  
25 individual or adoptee if the direct descendant has not attained 18 years of age.



## BILL

1           **SECTION 30.** 48.432 (4) (a) of the statutes is amended to read:

2           48.432 (4) (a) Whenever any person specified under sub. (3) wishes to obtain  
3 medical and genetic information about an individual whose birth parent's rights  
4 have been terminated in this state at any time, or whose birth parent consented to  
5 his or her adoption before February 1, 1982, or medical and genetic information  
6 about the birth parents of such an individual or adoptee, and the information is not  
7 on file with the department, or agency contracted with under sub. (9), the  
8 department shall give the person the name and address of the court or agency that  
9 has that information and, if the court or agency is in another state, shall assist the  
10 person in locating the court or agency. If no court or agency has the information, the  
11 person may request that the department or agency conduct a search for the birth  
12 parents to obtain the information. The request shall be accompanied by a statement  
13 from a physician certifying either that the individual or adoptee has or may have  
14 acquired a genetically transferable disease or that the individual's or adoptee's  
15 medical condition requires access to the information.

16           **SECTION 31.** 48.432 (7) (a) of the statutes is amended to read:

17           48.432 (7) (a) If the department or another agency that maintains records  
18 relating to the adoption of an adoptee or the termination of parental rights of an  
19 individual receives a report from a physician stating that a birth parent or another  
20 offspring of the birth parent has acquired or may have a genetically transferable  
21 disease, the department or agency shall notify the individual or adoptee of the  
22 existence of the disease, if he or she is 18 years of age or over, or notify the individual's  
23 or adoptee's guardian, custodian or adoptive parent if the individual or adoptee is  
24 under age 18 or notifi a direct descendant of a deceased adontee. if the direct

**BILL**

1 ~~descendant is 18 years of age or over, or the parent or guardian of a direct descendant~~  
2 ~~of a deceased adoptee, if the direct descendant is under 18 years of age.~~

3 **SECTION 32.** 48.433 (2) of the statutes, is amended to read:

4 48.433 (2) Any birth parent whose rights have been terminated in this state  
5 at any time, or who has consented to the adoption of his or her child in this state  
6 before February 1, 1982, ~~or, if the birth parent is deceased or has been declared~~  
7 ~~incompetent, an adult descendant of the birth parent~~ may file with the department,  
8 or agency contracted with under sub. (11), an affidavit authorizing the department  
9 or agency to provide ~~the child with his or her~~ a person specified under sub. (3) with  
10 a copy of ~~the child's~~ original birth certificate and with any other available information about  
11 the birth parent's identity and location. An affidavit filed under this subsection may  
12 be revoked at any time by notifying the department or agency in writing.

13 **SECTION 33.** 48.433 (3) of the statutes is amended to read:

14 48.433 (3) Any person ~~21~~ 18 years of age or over whose birth parent's rights  
15 have been terminated in this state or who has been adopted in this state with the  
16 consent of his or her birth parent or parents before February 1, 1982, ~~and any other~~  
17 ~~person specified in s. 48.95 (4) (b)~~ may request the department, or agency contracted  
18 with under sub. (11), to provide the person with the following:

19 (a) The person's original birth certificate of the person whose birth parent's  
20 rights have been terminated or who has been adopted.

21 (b) Any available information regarding the identity and location of ~~his or her~~  
22 the birth parents of the person whose birth parent's rights have been terminated or  
23 who has been adopted.

24 **SECTION 34.** 48.433 (5) of the statutes is repealed and recreated to read:

that person's adoptive parent or guardian or, if that person is  
deceased, a direct descendant of that person who has attained  
the age of 18 years or the parent or guardian of a direct  
descendant who has not attained 18 years of age.

**BILL**

**SECTION 34**

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48.433 (5) (a) The department shall disclose the information specified in sub. (3) (a) and (b) in any of the following circumstances:

1. The department has on file unrevoked affidavits filed under sub. (2) from both birth parents or a consent under s. 48.95 (7) signed by both birth parents.

2. One of the birth parents was unknown at the time of the proceeding for termination of parental rights or consent to adoption and the known birth parent has filed an unrevoked affidavit under sub. (2)

The department shall disclose the information specified in sub. (3) (b), but not the information specified in sub. (3) (a), if the department has on file an unrevoked affidavit filed under sub. (2) from the birth parent who is the subject of the information or a document as described in s. 48.95 (4) (b) 1. or 2. signed by the birth parent who is the subject of the information or, if the birth parent is deceased or has been declared incompetent, signed by an adult descendant of the birth parent.

**SECTION 35.** 48.433 (6) (a) of the statutes is amended to read:

48.433 (6) (a) If the department, or agency contracted with under sub. (11), does not have on file an affidavit from each known birth parent or a consent under s. 48.95 (7) signed by each known birth parent, it shall, within 3 months after the date of the original request, undertake a diligent search for each birth parent who has not filed an affidavit or signed a consent. The search shall be completed within 6 months after the date of the request, unless the search falls within one of the exceptions established by the department by rule. If any information has been provided under sub. (5), the department or agency is not required to conduct a search.

**SECTION 36.** 48.433 (7) (e) of the statutes is amended to read:

48.433 (7) (e) If, after a search under this subsection, a known birth parent cannot be located, the department, or agency contracted with under sub. (11), may

or agency contracted with under sub. (11)

has on file the documents described in s.

has on file a document as described in s. 48.95 (4)(b) 1. or 2. signed by both birth parents and

or agency

(4)(b) 1. or 2. and

or the documents described in s. 48.95 (4) (b) 1. or 2. and (7)

has on file a document as described in s. 48.95 (4)(b) 1. or 2. and a consent under s. 48.95 (7)

or agency

the documents described in

(4)(b) 1. or 2. and

Insert 26-7 7  
8

The documents described in s. 48.95 (4)(b) 1. or 2. and (7)

**SECTION 36**

**BILL**

the documents described in

(4)(b) 1. or 2. and

1 disclose the requested information if the other birth parent has filed an unrevoked  
2 affidavit under sub. (2) ~~or a consent under s. 48.95(7).~~

3 **SECTION 37.** 48.433 (8) (a) (intro.) and 1. of the statutes are consolidated,  
4 renumbered 48.433 (8) (a) and amended to read:

deceased

5 48.433 (8) (a) If a birth parent is known to be ~~dead~~ and has not filed an  
6 unrevoked affidavit under sub. (2) ~~or a consent under s. 48.95(7),~~ the department,  
7 or agency contracted with under sub. (1 l), shall so inform the requester. The  
8 department or agency may not provide the requester with his or her original birth  
9 certificate or with the identity of that parent, but shall provide the requester with  
10 any available information it has on file regarding the identity and location of the  
11 other birth parent if ~~both of the following conditions exist:~~ 1. The other birth  
12 parent has filed an unrevoked affidavit under sub. (2) or a signed document as  
13 described in s. 48.95 (4) (b) 1. or 2. or, if the other birth parent is deceased or has been  
14 declared incompetent. an adult descendant of the other birth parent has filed a  
15 signed document in s. 48.95 (4) (b) 1. or 2.

Insert  
27-16

16 **SECTION 38.** 48.433 (8) (a) 2. of the statutes is repealed.

17 **SECTION 39.** 48.48 (3m) (a) of the statutes is amended to read:

18 48.48 (3m) (a) The child does not have parents or a guardian or the parental  
19 rights to the child have been terminated by a tribal court in accordance with  
20 procedures that are substantially equivalent to the procedures specified in subch.  
21 VIII or s. 48.90.

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**SECTION 40.** 48.48 (17) (a) 5. of the statutes, ~~as created by 1997 Wisconsin Act~~  
27 is amended to read:

**BILL**

1           **48.48 (17)** (a) 5. Place children in a county children's home in the county, to  
2 accept guardianship of children when appointed by the court and to place children  
3 ~~under its guardianship~~ for adoption under s. 48.82.

4           **SECTION 41.** 48.48 (17) (a) 9. of the statutes, ~~as created by 1997 Wisconsin Act~~  
5 ~~27~~ is amended to read:

6           **48.48 (17)** (a) 9. Use in the media a picture or description of a child ~~in its~~  
7 ~~guardianship~~ whom the department is attempting to place for adoption under s.  
8 48.82 for the purpose of finding adoptive parents for that child.

9           **SECTION 42.** 48.57 (1) (e) of the statutes, ~~as affected by 1997 Wisconsin Act 27,~~  
10 is amended to read:

11           **48.57 (1) (e)** If a county department in a county with a population of 500,000  
12 or more and if contracted to do so by the department, to place children in a county  
13 children's home in the county under policies adopted by the county board of  
14 supervisors, to accept guardianship of children when appointed by the court and to  
15 place children ~~under its guardianship~~ for adoption under s. 48.82.

16           **SECTION 43.** 48.57 (1) (j) of the statutes is amended to read:

17           **48.57 (1) (j)** To use in the media a picture or description of a child in  
18 ~~guardianship~~ whom the county department is attempting to place for adoption under  
19 s. 48.82 for the purpose of finding adoptive parents for that child.

20           **SECTION 44.** 48.61 (5) of the statutes is amended to read:

21           48.61 (5) If licensed to do so, to accept guardianship of children when appointed  
22 by the court, and to place children-for adoption under s. 48.82;

23           **SECTION 45.** 48.63 (3) of the statutes is amended to read:

**BILL**

Insert  
29-3

1 48.63 (3) Subsection (1) does not apply to the placement of a child for adoption.  
2 Adoptive placements may be made only as provided under ~~ss. 48.833, 48.835, 48.837~~  
3 and ~~48.839~~ s. 48.82.

4 SECTION 46. 48.75 (lg) (a) 4. of the statutes  
5 ~~is~~ is amended to read:

6 48.75 (lg) (a) 4. The county of the public licensing agency issuing the license  
7 has a population of 500,000 or more and the placement is for adoption under s.  
8 48.833, 48.835 or ~~48.837~~ 48.82.

Insert  
29-13

9 ~~SECTION 47. 48.78 (2) (a) of the statutes is amended to read:~~  
10 48.78 (2) (a) No agency may make available for inspection or disclose the  
11 contents of any record kept or information received about an individual in its care  
12 or legal custody, except as provided under s. 48.371, 48.38 (5) (b) or (d), 48.432,  
13 48.433, ~~48.93 48.95~~ or 48.981 (7) or by order of the court.

REC  
48.81 to 48.978

14 SECTION 48. Subchapter XIX <sup>(kth)</sup> of chapter 48 [precedes 48.81] of the statutes, ~~as~~  
15 affected by 1997 Wisconsin Acts 27, 35 and (Assembly Bill 266), is repealed and  
16 recreated to read:

**CHAPTER 48**

**SUBCHAPTER XIX**

**UNIFORM ADOPTION ACT**

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**48.81 General provisions. (1) DEFINITIONS.** In this subchapter:  
(a) "Adoptee" means an individual who is adopted or who is proposed to be  
adopted.  
(b) "Agency" means a public or private entity, including the department, a  
county department under s. 48.57 (1) (e) or (hm) or a child welfare agency licensed  
under s. 48.60, that is authorized to place an individual for adoption.

SEC. RC, 48.81 to 48.97

**BILL****SECTION 48**

1 (c) "Child" means a minor or adult son or daughter, by birth or adoption.

2 (d) "Legal custody" means the right and duty to exercise continuing general  
3 supervision of a minor as authorized by law, including the right and duty to protect,  
4 educate, nurture and discipline the minor and to provide the minor with food,  
5 clothing, shelter, medical care and a supportive environment.

6 (e) "Minor" means a person who has not attained 18 years of age.

7 (f) "Parent" has the meaning given in s. 48.02 (13),<sup>✓</sup> except that, in addition,  
8 "parent" includes an individual whose consent to the adoption of a minor is required  
9 under s. 48.85 (1) (a) 1.

10 (g) "Place for adoption" means to select a prospective adoptive parent for a  
11 minor and to transfer physical custody of the minor to the prospective adoptive  
12 parent.

13 (h) "Relative" means a grandparent, greatgrandparent, sibling, first cousin,  
14 aunt, uncle, great-aunt, great-uncle, niece or nephew of an individual, whether  
15 related to the individual by whole blood or half blood, ~~affinity~~<sup>Marriage</sup> or adoption. "Relative"  
16 does not include an individual's stepparent.

17 (i) "Relinquishment" means the voluntary surrender to an agency by a minor's  
18 parent or guardian, <sup>the</sup> for purposes of the minor's adoption, of the rights of the parent  
19 or guardian with respect to the minor.

20 (j) "State" means a state of the United States, the District of Columbia, the  
21 Commonwealth of Puerto Rico or any territory or insular possession that is subject  
22 to the jurisdiction of the United States.

23 (k) "Stepparent" means an individual who is the spouse or surviving spouse of  
24 a parent of a child but who is not a parent of the child.

**BILL**

adopt or

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**(2) WHO MAY ADOPT OR BE ADOPTED.** Subject to this subchapter, any individual may be adopted by any other individual for the purpose of creating the relationship of parent and child between them.

**(3) NAME OF ADOPTEE AFTER ADOPTION.** The name of an adoptee designated in a decree of adoption takes effect as specified in the decree.

**(4) LEGAL RELATIONSHIP BETWEEN ADOPTEE AND ADOPTIVE PARENT AFTER ADOPTION.** After a decree of adoption becomes final, each adoptive parent and the adoptee have the legal relationship of parent and child and have all the rights and duties of that relationship.

**(5) LEGAL RELATIONSHIP BETWEEN ADOPTEE AND FORMER PARENT AFTER ADOPTION.** Except as otherwise provided in s. 48.94 (3), when a decree of adoption becomes final the legal relationship of parent and child between each of the adoptee's former parents and the adoptee terminates, except for a former parent's duty to pay arrearages for child support, and any previous order for visitation or communication with the adoptee terminates.

**(6) OTHER RIGHTS OF ADOPTEE.** A decree of adoption does not affect any right or benefit that was vested in the adoptee before the decree became final.

**(7) PROCEEDINGS SUBJECT TO INDIAN CHILD WELFARE ACT.** A proceeding under this subchapter that pertains to an Indian child, as defined in 25 USC 1903 (3), is subject to the Indian Child Welfare Act, 25 USC 1901 to 1963.

**(8) RECOGNITION OF ADOPTION IN ANOTHER JURISDICTION.** A decree or order of adoption issued by a court of any other state that is entitled to full faith and credit in this state, or a decree or order of adoption issued by a court or administrative entity in another country acting under that country's law or under any convention or treaty on intercountry adoption that the United States has ratified, has the same effect as



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## SECTION 48

1 a decree or order of adoption issued by a court of this state. The rights and obligations  
2 of any person who is subject to a decree or order of adoption issued by a court or  
3 administrative entity of another jurisdiction described in this subsection as to  
4 matters that are within the jurisdiction of this state shall be determined as though  
5 the decree or order were issued by a court of this state.

6 **48.82 Placement of minor for adoption. (1) WHO MAY PLACE MINOR FOR**  
7 **ADOPTION.** (a) The only persons who may place a minor for adoption are as follows:

8 1. A parent having legal custody and physical custody of the minor, as provided  
9 in pars. (b) and (c).

10 2. A guardian expressly authorized by the court to place the minor for adoption.

11 3. An agency to which the minor has been relinquished for adoption.

12 4. An agency expressly authorized to place the minor for adoption by a court  
13 order terminating the parental rights to the minor of the minor's parent or  
14 terminating the relationship between the minor and the minor's guardian.

15 (b) Except as provided in par. (c), a parent having legal custody and physical  
16 custody of a minor may place the minor for adoption, even if the other parent has not  
17 executed a consent to the adoption, has not executed a relinquishment or has not had  
18 his or her parental rights to the minor terminated.

19 (c) A parent having legal custody and physical custody of a minor may not place  
20 the minor for adoption if the other parent also has legal custody of the minor or has  
21 a right of visitation with the minor and that other parent's whereabouts are known,  
22 unless that other parent agrees in writing to that placement or, before the placement,  
23 the parent who intends to place the minor for adoption sends notice of the intended  
24 placement to the other parent's last-known address.

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1 (d) An agency may place a minor for adoption, even if only one of the minor's  
2 parents has executed a relinquishment or has had his or her parental rights to the  
3 minor terminated.

4 (2) DIRECT PLACEMENT FOR ADOPTION BY PARENT OR GUARDIAN. (a) A parent or  
5 guardian who is authorized under sub. (1) to place a minor directly for adoption may  
6 place the minor only with a prospective adoptive parent for whom a favorable  
7 preplacement evaluation has been prepared under s. 48.83 (1) to (6) or for whom a  
8 preplacement evaluation is not required under s. 48.83 (1) (b) or (c).

9 (b) A parent or guardian placing a minor directly for adoption shall personally  
10 select a prospective adoptive parent for the direct placement of the minor. Subject  
11 to s. 48.96, the parent or guardian may be assisted by another person, including an  
12 attorney, a health care provider or an agency, in locating a prospective adoptive  
13 parent or in transferring legal custody and physical custody of the minor to a  
14 prospective adoptive parent.

15 (c) A prospective adoptive parent shall furnish a copy of the preplacement  
16 evaluation to the parent or guardian and may provide any additional information  
17 requested by the parent or guardian. The preplacement evaluation and any  
18 additional information shall be edited to exclude any identifying information, except  
19 that information identifying a prospective adoptive parent need not be edited if the  
20 prospective adoptive parent agrees to the disclosure of that information. Subject to  
21 s. 48.96, a prospective adoptive parent may be assisted by another person in locating  
22 a minor who is available for adoption.

23 (d) If a consent to the minor's adoption is not executed at the time the minor  
24 is placed for adoption, the parent or guardian who places the minor for adoption shall  
25 furnish to the prospective adoptive parent a signed writing stating that the transfer

## BILL

1 of physical custody is for the purpose of adoption and that the parent or guardian has  
2 been informed of the provisions of this subchapter relating to placement for adoption,  
3 consent to adoption, relinquishment and termination of parental rights. The writing  
4 shall authorize the prospective adoptive parent to provide support and medical and  
5 other care for the minor pending execution of the consent within a time specified in  
6 the writing. The prospective adoptive parent shall acknowledge in a signed writing  
7 that he or she accepts responsibility for the minor's support and medical and other  
8 care and for returning the minor to the physical custody of the parent or guardian  
9 if the consent is not executed within the time specified.

10 (e) A person who provides services with respect to direct placements for  
11 adoption shall furnish to an individual who inquires about the person's services a  
12 written statement of the person's services and a schedule of the person's fees.

13 (3) **PLACEMENT FOR ADOPTION BY AGENCY.** (a) An agency shall furnish to an  
14 individual who inquires about the agency's services a written statement of those  
15 services, including the agency's procedures for selecting a prospective adoptive  
16 parent for a minor and a schedule of the agency's fees.

17 (b) An agency that places a minor for adoption shall authorize in writing the  
18 prospective adoptive parent to provide support and medical and other care for the  
19 minor pending entry of a decree of adoption. The prospective adoptive parent shall  
20 acknowledge in writing that he or she accepts responsibility for the minor's support  
21 and medical and other care.

22 (c) On request by a parent who has relinquished his or her child under s. 48.85,  
23 the agency to which the parent has relinquished the child shall promptly inform the  
24 parent as to whether the child has been placed for adoption, whether a petition for

## BILL

1 adoption of the child has been granted, denied or withdrawn and, if the petition was  
2 not granted, whether another placement has been made.

3 (4) **PREFERENCESFORPLACEMENTWHENAGENCYPLACESMINOR.** (a) 1. An agency  
4 may place a minor for adoption only with an individual for whom a favorable  
5 preplacement evaluation has been prepared under s. 48.83 (1) to (6).

6 2. Subject to subd. 1., if an agency has agreed to place a minor with a  
7 prospective adoptive parent selected by the minor's parent or guardian, the agency  
8 shall place the minor with that prospective adoptive parent.

9 3. Subject to subd. 1., if an agency has not agreed to place a minor with a  
10 prospective adoptive parent selected by the minor's parent or guardian, the agency  
11 shall place the minor in accordance with the best interest of the minor.

12 (b) In determining the best interests of a minor under par. (a) 3., an agency shall  
13 consider the following individuals in the following order of preference:

14 1. An individual who has previously adopted a sibling of the minor and who  
15 makes a written request to adopt the minor.

16 2. An individual with characteristics requested by the parent or guardian of the  
17 minor, if the agency agrees to comply with the request and if the agency locates an  
18 individual with those characteristics within a time agreed to by the parent or  
19 guardian and agency.

20 3. An individual who has had physical custody of the minor for 6 months or  
21 more within the preceding 24 months or for half or more of the minor's life, whichever  
22 is less, and who makes a written request to adopt the minor.

23 4. A relative with whom the minor has established a positive emotional  
24 relationship and who makes a written request to adopt the minor.

25 5. Any other individual selected by the agency

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1 (c) Unless necessary to comply with a request under par. (b) 2., an agency may  
2 not delay or deny a minor's placement for adoption solely on the basis of the minor's  
3 race, national origin or ethnic background. An individual for whom a favorable  
4 preplacement evaluation has been prepared and who makes a written request to  
5 adopt a minor or the guardian ad litem of a minor may maintain an action or  
6 proceeding for equitable relief against an agency that violates this paragraph.

7 (d) If practicable and in the best interest of minors who are siblings, an agency  
8 shall place siblings with the same prospective adoptive parent selected in accordance  
9 with pars. (a) to (c).

10 (e) If an agency places a minor under par. (a) 3., an individual described in par.  
11 (b) 3. may commence an action or proceeding within 30 days after the placement to  
12 challenge the placement. If the individual proves by a preponderance of the evidence  
13 that the minor has substantial emotional ties to the individual and that an adoptive  
14 placement of the minor with the individual would be in the best interest of the minor,  
15 the court shall place the minor with the individual.

16 (5) RECRUITMENT OF ADOPTIVE PARENTS BY AGENCY. An agency receiving funds  
17 under s. 20.435 (3) (dd) or 42 USC 670 to 675 shall make a diligent search for and  
18 actively recruit prospective adoptive parents for minors under the agency's  
19 guardianship or legal custody whose care may be funded from those sources and who  
20 are difficult to place for adoption because of a special need. The department shall  
21 promulgate rules prescribing the procedure for recruiting prospective adoptive  
22 parents under this subsection.

23 (6) DISCLOSURE OF BACKGROUND INFORMATION. (a) As early as practicable before  
24 a prospective adoptive parent accepts physical custody of a minor, a person placing  
25 the minor for adoption shall furnish to the prospective adoptive parent a written

**BILL**

1 report containing all of the following information that is reasonably available from  
2 any person who has had legal custody or physical custody of the minor or who has  
3 provided medical, psychological, educational or other similar services to the minor:

4 1. A current medical and psychological history of the minor, including an  
5 account of the minor's prenatal care, medical condition at birth, any drug or  
6 medication taken by the minor's mother during pregnancy, any medical,  
7 psychological or psychiatric examination and diagnosis of the minor made  
8 subsequent to the minor's birth, any physical, sexual or emotional abuse suffered by  
9 the minor and a record of any immunizations and other health care received by the  
10 minor while in foster care or other out-of-home care.

11 2. Relevant information concerning the medical and psychological history of  
12 the minor's genetic parents and relatives, including any known disease or hereditary  
13 predisposition to disease, any addiction to alcohol or any other drug, the health of the  
14 minor's mother during her pregnancy and the health of each of the minor's parents  
15 at the time of the minor's birth.

16 3. Relevant information concerning the social history of the minor and the  
17 minor's parents and relatives, including all of the following:

18 a. The minor's school enrollment and performance history, the results of any  
19 educational testing of the minor and any special educational needs of the minor.

20 b. The minor's racial, ethnic and religious background, tribal affiliation and a  
21 general description of the minor's parents.

22 c. An account of the minor's past and current relationship with any individual  
23 with whom the minor has regularly lived or visited.

24 d. The level of educational and vocational achievement of the minor's parents  
25 and relatives and any noteworthy accomplishments of those parents and relatives.

## BILL

1           4. Information concerning any felony conviction of a parent of the minor, any  
2 order terminating the parental rights of a parent of the minor and any proceeding  
3 in which a parent of the minor was alleged to have abused, neglected, abandoned or  
4 otherwise mistreated the minor, a sibling of the minor or the minor's other parent.

5           5. Information concerning any conviction or delinquency adjudication of the  
6 minor.

7           6. Information necessary to determine the minor's eligibility for any state or  
8 federal benefits, including adoption assistance under s. 48.975, or any other  
9 financial, medical or similar assistance.

10           (b) Before a hearing on a petition for adoption of a minor, the person who placed  
11 the minor for adoption shall furnish to the prospective adoptive parent a  
12 supplemental written report containing any information required under par. (a) that  
13 was unavailable to that person before the minor was placed for adoption but which  
14 became reasonably available to that person after the placement.

15           (c) The court may request that a respondent in a termination of parental rights  
16 proceeding under s. 48.90 supply the information required under this subsection.

17           (d) A report furnished under this subsection shall indicate who prepared the  
18 report and shall be edited to exclude any personally identifiable information about  
19 any individual who furnished any information for the report and any individual  
20 about whom any information is reported, unless that individual consents to the  
21 disclosure of that personally identifiable information.

22           (e) Information furnished under this subsection may not be used as evidence  
23 in any civil or criminal proceeding against an individual who is the subject of the  
24 information.

## BILL

1 (f) The department shall prescribe forms that are designed to obtain the specific  
2 information sought under this subsection. The department shall provide those forms  
3 to any person who is authorized to place a minor for adoption or who provides services  
4 relating to the placement of a minor for adoption.

5 (7) INTERSTATE PLACEMENT. An adoption in this state of a minor brought into this  
6 state from another state by a prospective adoptive parent or by a person who places  
7 the minor for adoption in this state is governed by the laws of this state, including  
8 this subchapter and ss. 48.988 and 48.989.

9 (8) INTERCOUNTRY PLACEMENT. An adoption in this state of a minor brought into  
10 this state from another country by a prospective adoptive parent or by a person who  
11 places the minor for adoption in this state is governed by this subchapter, subject to  
12 any convention or treaty on intercountry adoption that the United States has ratified  
13 and any federal law that is relevant to intercountry adoption.

14 **48.83 Preplacement evaluation. (1) PREPLACEMENT EVALUATION REQUIRED.**

15 (a) Except as provided in pars. (b) and (c), only an individual for whom a current,  
16 favorable written preplacement evaluation has been prepared may accept physical  
17 custody of a minor for purposes of adoption. A preplacement evaluation is current  
18 if it is prepared or revised within 18 months before the placement of a minor with the  
19 individual for adoption. A preplacement evaluation is favorable if it contains a  
20 finding that the individual is suited to be an adoptive parent, either in general or for  
21 a particular minor.

22 (b) A court may excuse the absence of a preplacement evaluation for good cause  
23 shown, but a prospective adoptive parent so excused shall be evaluated during the  
24 pendency of the proceeding for adoption.



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**SECTION 48**

A preplacement evaluation may be prepared only

by

1 (c) A preplacement evaluation is not required if a parent or guardian places a  
2 minor directly with a relative of the minor for <sup>the</sup> purposes of adoption, but an evaluation  
3 of the relative is required during the pendency of the proceeding for adoption.

4 (2) PREPLACEMENT EVALUATOR. (a) Only an individual certified by the  
5 department to make a preplacement evaluation ~~may do so~~

6 (b) An agency from which an individual is seeking to adopt a minor may require  
7 the individual to be evaluated by a qualified employe or independent contractor of  
8 the agency, even if the individual has received a favorable preplacement evaluation  
9 from another qualified evaluator.

10 (3) TIMING AND CONTENT OF PREPLACEMENT EVALUATION. (a) An individual may  
11 request a preplacement evaluation without first having located a prospective minor  
12 adoptee and may request more than one preplacement evaluation.

13 (b) A preplacement evaluation shall be completed within 45 days after it is  
14 requested. An evaluator shall <sup>give priority to a</sup> expedite the preplacement evaluation <sup>requested by</sup> of an individual  
15 who has located a prospective minor adoptee.

16 (c) A preplacement evaluation shall be based on all of the following:

17 1. A personal interview with, and visit to the residence of, the individual being  
18 evaluated.

19 2. Personal interviews with other persons who know the individual being  
20 evaluated and who may have information that is relevant to the evaluation.

21 3. The information required under par. (d).

22 (d) A preplacement evaluation shall contain all of the following information  
23 about the individual being evaluated:

24 1. Age and date of birth, nationality, racial or ethnic background and any  
25 religious affiliation.

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*whether there are any substantiated reports of child abuse or neglect against the individual as indicated by information maintained by the department*

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2. Marital status and family history, including the age and location of any child of the individual and the identity and relationship to the individual of any other person living in the individual's household.

3. Physical and mental health and any history of alcohol or other drug abuse.

4. Educational and employment history and any special skills.

5. Property and income, including any outstanding financial obligations as indicated in a current credit report or financial statement furnished by the individual.

6. Any previous request for an evaluation or previous involvement in an adoptive placement and the outcome of the previous evaluation or placement.

7. Whether the individual has been charged with having committed domestic abuse, as defined in s. 968.075 (1) (a) *child abuse* or a violation of ch. 948 and the disposition of the charge, and whether the individual *has been* subject to a court order restricting the individual's right to custody or visitation with a child.

8. Whether the individual has been convicted of a crime.

9. Whether the individual has located a parent interested in placing a minor with the individual for adoption and, if so, a brief description of the parent and minor.

10. Any other facts or circumstances that may be relevant in determining whether the individual is suited to be an adoptive parent, including the quality of the environment in the individual's home and the functioning of other children in the individual's home.

(e) An individual being evaluated shall submit to being fingerprinted and shall sign a release permitting the evaluator to obtain from any appropriate law enforcement agency any record indicating whether the individual has been convicted of a crime.

*Or To a domestic abuse restraining order and injunction under s. 913.12*

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1 (f) An individual being evaluated shall, at the request of the evaluator, sign any  
2 release necessary for the evaluator to obtain the information required under par. (d).

3 (4) **DETERMINING SUITABILITY TO BE ADOPTIVE PARENT.** (a) An evaluator shall  
4 assess the information required under sub. (3) to determine whether the information  
5 raises a specific concern that placement of any minor, or a particular minor, in the  
6 home of the individual being evaluated would pose a significant risk of harm to the  
7 physical or psychological well-being of the minor.

8 (b) If an evaluator determines that the information assessed under par. (a) does  
9 not raise a specific concern as specified in par. (a), the evaluator shall find that the  
10 individual being evaluated is suited to be an adoptive parent. The evaluator may  
11 comment about any factor that in the evaluator's opinion makes the individual  
12 suited in general or for a particular minor. - in an adoptive parent, either

13 (c) If an evaluator determines that the information assessed under par. (a)  
14 raises a specific concern as specified in par. (a), the evaluator, on the basis of the  
15 original or any further investigation, shall find that the individual is or is not suited  
16 to be an adoptive parent. The evaluator shall support the finding with a written  
17 explanation.

18 (5) **FILING AND COPIES OF PREPLACEMENT EVALUATION.** (a) If a preplacement  
19 evaluation contains a finding that an individual is suited to be an adoptive parent,  
20 the evaluator shall give the individual a signed copy of the preplacement evaluation.  
21 At the individual's request, the evaluator shall provide a copy of the preplacement  
22 evaluation to a person authorized under s. 48.82 (1) to place a minor for adoption.  
23 The evaluator shall edit the copy provided to a person authorized to place a minor  
24 for adoption to exclude any identifying information, unless the individual who is the  
25 subject of the preplacement evaluation requests otherwise.

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either in general  
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1 (b) If a preplacement evaluation contains a finding that an individual is not  
 2 suited to be an adoptive parent of any minor, or a particular minor, the evaluator  
 3 shall immediately give a signed copy of the preplacement evaluation to the  
 4 individual and the department. The department shall retain for 10 years the copy  
 5 of the evaluation and a copy of any court order concerning the preplacement  
 6 evaluation issued under sub. (6) or (7).

7 (c) An evaluator shall retain for 2 years the original of any completed or  
 8 incomplete preplacement evaluation prepared by the evaluator and a list of every  
 9 source for each item of information in the preplacement evaluation.

10 (d) An evaluator who conducts a preplacement evaluation in good faith is not  
 11 subject to civil liability for anything contained in the preplacement evaluation.

12 (6) REVIEW OF EVALUATION. (a) Within 90 days after an individual receives a  
 13 preplacement evaluation that contains a finding that the individual is not suited to  
 14 be an adoptive parent, the individual may petition the court for a review of the  
 15 preplacement evaluation.

16 (b) If the court determines that the petitioner has failed to prove by a  
 17 preponderance of the evidence that the petitioner is suited to be an adoptive parent,  
 18 the court shall order that the petitioner not be permitted to adopt a minor and shall  
 19 send a copy of the order to the department to be retained by the department with a  
 20 copy of the original preplacement evaluation. If, at the time of the court's  
 21 determination, the petitioner has physical custody of a minor for purposes of  
 22 adoption, the court shall make an appropriate order for the care and physical custody  
 23 of the minor.

24 (c) If the court determines that the petitioner has proved by a preponderance  
 25 of the evidence that the petitioner is suited to be an adoptive parent, the court shall

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1 find that the petitioner is suited to be an adoptive parent and shall order that the  
2 petitioner be permitted to commence or continue a proceeding for the adoption of a  
3 minor. The court shall send a copy of the order to the department to be retained by  
4 the department with a copy of the original preplacement evaluation.

5 (7) ACTION BY DEPARTMENT. If, before a decree of adoption is issued, the  
6 department learns from an evaluator or another person that a minor has been placed  
7 for adoption with an individual who is the subject of a preplacement evaluation on  
8 file with the department containing a finding that the individual is unsuited to be  
9 an adoptive parent, the department shall immediately review the preplacement  
10 evaluation and investigate the circumstances of the placement and may request that  
11 the individual return the minor to the physical custody of the person who placed the  
12 minor or place the minor in the physical custody of the department. If the individual  
13 refuses that request, the department shall immediately file a petition under s. 48.13  
14 (5) to remove the minor from the home of the individual and, pending a hearing, the  
15 court shall make an appropriate order for the care and physical custody of the minor.

16 **48.84 Transfer of physical custody by health care facility for purposes**  
17 **of adoption. (1) DEFINITION.** In this section, "health care facility" has the meaning  
18 given in s. 150.84 (2).

19 (2) AUTHORIZATION TO TRANSFER PHYSICAL CUSTODY. (a) A health care facility  
20 shall release a minor for the purpose of adoption to an individual or agency that is  
21 not otherwise legally entitled to the physical custody of the minor if the woman who  
22 gave birth to the minor signs an authorization of the transfer of physical custody of  
23 the minor.

24 (b) An authorization under par. (a) shall be signed in the presence of an employe  
25 of the health care facility who is authorized by the health care facility to witness that

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1 authorization. An authorized employe in whose presence an authorization under  
2 par. (a) is signed shall attest to the signing in writing.

3 **(3) REPORTS TO DEPARTMENT.** (a) No later than 72 hours after a health care  
4 facility releases a minor under sub. (2), the health care facility shall transmit to the  
5 department a copy of the authorization required under sub. (2) (a) and shall report  
6 to the department all of the following:

7 1. The name, address and telephone number of the individual who authorized  
8 the release.

9 2. The name, address and telephone number of the person to whom physical  
10 custody of the minor was transferred.

11 3. The date of the transfer.

12 (b) No later than 30 days after a health care facility releases a minor under sub.

13 (2), the person to whom physical custody of the minor was transferred shall report  
14 to the department which, if any, of the following dispositions has occurred:

15 1. A petition for the adoption of the minor has been filed. If so, the person shall  
16 report the name and address of the petitioner.

17 2. An agency has acquired legal custody of the minor. If so, the person shall  
18 report the name and address of the agency.

19 3. The minor has been returned to his or her parent or other person having legal  
20 custody of the minor. If so, the person shall report the name and address of the parent  
21 or other person having legal custody of the minor.

22 4. Physical custody of the minor has been transferred to another individual.  
23 If so, the person shall report the name and address of that individual.

24 **(4) ACTION BY DEPARTMENT.** (a) If the department receives a report from a health  
25 care facility under sub. (3) (a), but does not receive the report required under sub. (3)

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1 (b) within 45 days after the release of a minor under sub. (2), the department shall  
2 immediately investigate to determine the whereabouts of the minor.

3 (b) If none of the dispositions specified in sub. (3) (b) 1. to 3. has occurred or if  
4 physical custody of the minor has been transferred to an individual as described in  
5 sub. (3) (b) 4., but that individual has not filed a petition for the adoption of the minor,  
6 the department shall immediately take action to remove the minor from the physical  
7 custody of the individual to whom the minor has been transferred.

8 (c) In addition to the actions required under pars. (a) and (b), the department  
9 may also review and investigate the placement of the minor for compliance with s.  
10 **48.82** (1) to (6) and may petition the court for an order compelling that compliance.

11 **48.85 Consent to and relinquishment for adoption. (1) PERSONS WHOSE**  
12 **CONSENT IS REQUIRED.** (a) Unless consent is not required or is dispensed with under  
13 sub. (2), in a direct placement of a minor for adoption by a parent or guardian who  
14 is authorized under s. 48.82 (1) to place the minor for adoption, the court may grant  
15 a petition to adopt the minor only if consent to the adoption has been executed by one  
16 of the following:

17 1. The woman who gave birth to the minor and one of the following:

18 a. The man, if any, who is or has been married to the woman, if the minor was  
19 born during the marriage or within 300 days after the granting of a decree of legal  
20 separation, divorce or annulment between the man and the woman.

21 b. The man, if any, who attempted to marry the woman before the minor's birth  
22 by a marriage solemnized in apparent compliance with the law, although the  
23 attempted marriage is or could be declared invalid, if the minor was born during the  
24 attempted marriage or within 300 days after the granting of a decree of legal  
25 separation, divorce or annulment between the man and the woman.

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1           c. The man, if any, who has been judicially determined to be the father of the  
2           minor, or who has signed a statement acknowledging his paternity of the minor, and  
3           who has provided, in accordance with his financial means, reasonable and consistent  
4           payments for the care and support of the minor and has visited or communicated  
5           with the minor, or who, after the minor's birth, but before the minor's placement for  
6           adoption, has married the woman who gave birth to the minor or attempted to marry  
7           her by a marriage solemnized in apparent compliance with the law, although the  
8           attempted marriage is or could be declared invalid.

9           d. The man, if any, who has received the minor into his home and openly held  
10          out the minor as his child.

11          2. The minor's guardian, if the guardian has been expressly authorized by a  
12          court to consent to the minor's adoption.

13          3. The current adoptive mother and father of the minor.

14          (b) Unless consent is not required or is dispensed with under sub. (2), in a  
15          placement of a minor for adoption by an agency, the court may grant a petition to  
16          adopt the minor only if consent to the adoption has been executed by all of the  
17          following:

18           1. The agency that placed the minor for adoption.

19           2. Any individual described in par. (a) who has not relinquished the minor.

20          (c) Unless the court dispenses with the minor's consent under sub. (2) (b), a  
21          petition to adopt a minor who has attained the age of 12 years may be granted only  
22          if, in addition to any consent required under par. (a) or (b), the minor has executed  
23          an informed consent to the adoption.

24          (2) ~~PERSONS WHOSE CONSENT IS NOT REQUIRED.~~ (a) Consent to the adoption of a  
25          minor is not required of any of the following persons:



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Handwritten initials "kno" and a checkmark.

1           1. An individual who has relinquished the minor to an agency for purposes of  
2 adoption.

3           2. An individual whose parental rights to the minor have been judicially  
4 terminated or determined not to exist.

5           3. A parent who has been judicially declared incompetent.

6           4. A man who has not been married to the woman who gave birth to the minor  
7 and who, after the conception of the minor, executes a verified statement denying  
8 paternity or disclaiming any interest in the minor and acknowledging that his  
9 statement is irrevocable when executed.

10          5. The personal representative of a deceased parent's estate.

Handwritten note: "20 days" in a circle.

11          6. A parent or other person who has not executed a consent or relinquishment  
12 and who fails to file an answer or make an appearance in a proceeding for  
13 termination of parental rights or adoption within ~~the time required~~ after service of  
14 notice of the proceeding.

15           (b) The court may dispense with the consent to the adoption of a minor of any  
16 of the following persons:

17           1. A guardian or agency whose consent is otherwise required upon a finding  
18 that the consent is being withheld contrary to the best interest of the minor.

19           2. A minor who has attained the age of 12 years upon a finding that it is not  
20 in the best interest of the minor to require the consent.

21           **(3) INDIVIDUALS WHO MAY RELINQUISH MINOR.** A parent or guardian whose  
22 consent to the adoption of a minor is required under sub. (1) may relinquish to an  
23 agency all rights with respect to the minor, including legal custody and physical  
24 custody of the minor and the right to consent to the minor's adoption.

**BILL****(4) TIME AND PREREQUISITES FOR EXECUTION OF CONSENT OR RELINQUISHMENT. (a)**

1 A parent whose consent to the adoption of a minor is required under sub. (1) may  
2 execute a consent to the adoption of the minor or a relinquishment only after the  
3 minor is born. A parent who executes a consent or relinquishment may revoke the  
4 consent or relinquishment within 192 hours after the birth of the minor.  
5

6 (b) A guardian may execute a consent to the adoption of a minor or a  
7 relinquishment at any time after being authorized by a court to do so.

8 (c) An agency that places a minor for adoption may execute its consent to the  
9 adoption of the minor at any time before or during the hearing on the petition for  
10 adoption of the minor.

11 (d) A minor adoptee whose consent to his or her adoption is required may  
12 execute the consent at any time before or during the hearing on the petition for  
13 adoption of the minor.

14 (e) Before executing a consent to an adoption or a relinquishment, a parent  
15 must have been informed of the meaning and consequences of adoption, the  
16 availability of counseling, the availability of legal counsel, ~~the consequences of~~  
17 ~~misidentifying the other parent~~, the procedure for releasing information about the  
18 health and other characteristics of the parent that may affect the physical or  
19 psychological well-being of the adoptee and the procedure under ss. 48.433 and 48.95  
20 for the consensual release of the parent's identity to an adoptee, an adoptee's direct  
21 descendent or an adoptive parent. The parent must have had an opportunity to  
22 indicate in a signed document whether and under what circumstances the parent is  
23 or is not willing to release identifying information about the parent, and must have  
24 been informed of the procedure for changing the document at a later time.

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1           **(5) PROCEDURE FOR EXECUTION OF CONSENT OR RELINQUISHMENT.** (a) A parent or  
2 guardian executing a consent to an adoption or a relinquishment shall sign or  
3 confirm the consent or relinquishment in the presence of one of the following persons:

4           1. A judge of a court of record.

5           2. An individual whom a judge of a court of record has designated to take  
6 consents or relinquishments.

7           3. An employe, other than an employe of an agency to which a minor is  
8 relinquished, whom an agency has designated to take consents or relinquishments.

9           4. An attorney, other than an attorney who is representing an adoptive parent  
10 or the agency to which a minor is relinquished.

11           5. A commissioned officer on active duty in the military service of the United  
12 States, if the person executing the consent or relinquishment is in military service.

13           6. An officer of the foreign service, or a consular officer, of the United States in  
14 another country, if the <sup>person</sup> ~~individual~~ executing the consent or relinquishment is in that  
15 country.

16           (b) A minor adoptee executing a consent shall sign or confirm <sup>or</sup> the consent in the  
17 presence of the court presiding over the proceeding for adoption, in a manner that the  
18 court directs.

19           (c) A parent who is a minor is competent to execute a consent or relinquishment  
20 if the parent has had access to counseling and has had the advice of an attorney who  
21 is not representing an adoptive parent or the agency to which the parent's child is  
22 being relinquished.

23           (d) An individual before whom a consent or relinquishment is signed or  
24 confirmed under par. (a) shall certify in writing that he or she orally explained the  
25 contents and consequences of the consent or relinquishment and that, to the best of

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1 his or her knowledge or belief, the individual executing the consent or  
2 relinquishment has done, or has had done for him or her, all of the following:

3 1. Read or was read the consent or relinquishment and understood it.

4 2. Signed the consent or relinquishment voluntarily and received or was offered  
5 a copy of ~~it~~ the consent or relinquishment, together with the information  
described in sub. (4) (e)

6 3. ~~Was furnished the information and~~ given an opportunity to sign the  
7 document described in sub. (4) (e).

8 4. Received or was offered counseling services and information about adoption  
9 that explains the meaning and consequences of an adoption.

10 5. If the individual is a minor, was advised by an attorney who is not  
11 representing an adoptive parent or the agency to which the parent's child is being  
12 relinquished or, if the individual is an adult, was informed that he or she has the right  
13 to have an attorney who is not representing an adoptive parent or the agency to  
14 which the minor is being relinquished.

15 6. Been advised of the obligation to provide the information required under s.  
16 48.82 (6):

17 (e) A prospective adoptive parent named or described in a consent to the  
18 adoption of a minor shall sign a statement indicating that he or she intends to adopt  
19 the minor, acknowledging that he or she is obligated to return legal custody and  
20 physical custody of the minor to the minor's parent if the parent revokes the consent  
21 within the time specified in sub. (4) (a) and acknowledging that he or she is  
22 responsible for the minor's support and medical and other care if the consent is not  
23 revoked.

24 (f) If an agency accepts a relinquishment, an employe of the agency shall sign  
25 a statement accepting the relinquishment, acknowledging that the agency is

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1 obligated to return legal custody and physical custody of the minor to the minor's  
2 parent if the parent revokes the relinquishment within the time indicated in sub. (4)  
3 (a) and acknowledging that the agency is responsible for the minor's support and  
4 medical and other care if the relinquishment is not revoked.

5 (g) An individual before whom a consent or a relinquishment is signed or  
6 confirmed shall certify having received the statement required under par. (e) or (f).

7 (h) A consent by an agency to the adoption of a minor who is in the agency's legal  
8 custody shall be executed by the head of the agency or by an individual authorized  
9 by the agency to execute consents and shall be signed or confirmed under oath in the  
10 presence of an individual authorized to take acknowledgments.

11 (i) A consent or relinquishment executed <sup>or confirmed</sup> in another state or country is valid  
12 if executed <sup>or confirmed</sup> in accordance with this section or with the law and procedure ~~prevailing~~  
13 <sup>of the state or country</sup> where executed.

14 (6) ~~CONTENT OF CONSENT OR RELINQUISHMENT.~~ (a) A consent to the adoption of  
15 a minor or relinquishment required from a parent or guardian shall be in writing and  
16 shall contain <sup>e</sup> in plain English or, if the native language of the parent or guardian is  
17 a language other than English, in the native language of the parent or guardian all  
18 of the following information:

- 19 1. The date, place and time of the execution of the consent or relinquishment.
- 20 2. The name, date of birth and current mailing address of the individual  
21 executing the consent or relinquishment.
- 22 3. The date of birth and the name or pseudonym of the minor.
- 23 4. If a consent, the name, address, telephone number and telecopier number  
24 of the attorney representing the prospective adoptive parent with whom the

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1 individual executing the consent has placed or intends to place the minor for  
2 adoption.

3 5. If a relinquishment, the name, address, telephone number and telecopier  
4 number of the agency to which the minor is being relinquished.

5 6. Specific instructions on how to revoke the consent or relinquishment and  
6 how to commence an action to set aside the consent or relinquishment.

7 (b) A consent to the adoption of a minor executed by a parent or guardian shall  
8 state that the parent or guardian is voluntarily and unequivocally consenting to the  
9 transfer of legal custody and physical custody of the minor to, and to the adoption of  
10 the minor by, a specific adoptive parent whom the parent or guardian has selected.

11 (c) A relinquishment shall state that the parent or guardian executing the  
12 relinquishment is voluntarily and unequivocally consenting to the transfer of legal  
13 custody and physical custody of the minor to the agency to which the minor is being  
14 relinquished for the purposes of adoption.

15 (d) A consent to the adoption of a minor or relinquishment executed by a parent  
16 or guardian shall state all of the following:

17 1. That the parent or guardian understands that after the consent or  
18 relinquishment is signed or confirmed in substantial compliance with sub. (5), the  
19 consent or relinquishment is final and, except under a circumstance specified in sub.  
20 (8) or (9), may not be revoked or set aside for any reason, including the failure of an  
21 adoptive parent to permit the parent or guardian executing the consent or  
22 relinquishment to visit or communicate with the minor.

23 2. That the parent or guardian understands that the adoption will terminate  
24 all parental rights and obligations of the parent or guardian with respect to the  
25 minor, except for arrearages of child support, and that the adoption will remain valid

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1 whether or not any agreement for visitation or communication with the minor is later  
2 performed.

*together with the information described in sub. (4)(e)*

3 3. That the parent or guardian has received or been offered a copy of the consent  
4 or relinquishment; has received or been offered counseling services and information  
5 about adoption that explains the meaning and consequences of an adoption; has been  
6 advised, if the parent is a minor, by an attorney who is not representing an adoptive  
7 parent or the agency to which the minor adoptee is being relinquished or has been  
8 informed, if the parent or guardian is an adult, that he or she has the right to have  
9 an attorney who is not representing an adoptive parent or the agency to which the  
10 minor is being relinquished; has been ~~provided the information and~~ given an  
11 opportunity to sign the document described in sub. (4) (e); and has been advised of  
12 the obligation to provide the information required under s. 48.82 (6). ✓

13 4. That the parent or guardian has not received or been promised any money  
14 or anything of value for the consent or relinquishment, except for the payments  
15 authorized under s. 48.96 (3). ✓

16 5. That the minor is not an Indian child, as defined in the Indian Child Welfare  
17 Act, 25 USC 1901 to 1963.

18 6. That the parent or guardian believes that the adoption of the minor is in the  
19 best interest of the minor.

20 7. That, if a consent, the parent or guardian waives notice of any proceeding  
21 for the adoption of the minor, unless the adoption is contested, appealed or denied.

22 (e) A relinquishment may provide that the parent or guardian executing the  
23 relinquishment waives notice of any proceeding for the adoption of the minor being  
24 relinquished unless the adoption is contested, appealed or denied or waives notice  
25 of any such proceeding even if the adoption is contested, appealed or denied.

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1 (f) A consent to the adoption of a minor or relinquishment may provide for its  
2 revocation if any of the following occurs:

3 1. Another consent or relinquishment is not executed within a specified period  
4 of time.

5 2. A court decides not to terminate the parental rights to the minor of another  
6 individual.

7 3. In a direct placement for adoption, a petition for adoption by a prospective  
8 adoptive parent who is named or described in the consent is denied or withdrawn.

9 (7) CONSEQUENCES OF CONSENT OR RELINQUISHMENT. (a) Except under a  
10 circumstance specified in sub. (8), a consent to the adoption of a minor that is  
11 executed by a parent or guardian in substantial compliance with subs. (5) and (6) is  
12 final and irrevocable and does all of the following:

13 1. Unless the court orders otherwise to protect the welfare of the minor, entitles  
14 the prospective adoptive parent named or described in the consent to the legal  
15 custody and physical custody of the minor and imposes on that individual the  
16 responsibility to support and provide medical and other care for the minor.

17 2. Terminates any duty of the parent or guardian who executed the consent  
18 with respect to the minor, except for arrearages of child support.

19 3. Terminates any right of the parent or guardian who executed the consent to  
20 object to the minor's adoption by the prospective adoptive parent and to receive  
21 notice of the proceeding for adoption unless the adoption is contested, denied or  
22 appealed.

23 (b) Except under a circumstance specified in sub. (9), a relinquishment of a  
24 minor to an agency that is executed by a parent or guardian in substantial  
25 compliance with subs. (5) and (6) is final and irrevocable and does all of the following:



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1           1. Unless the court orders otherwise to protect the welfare of the minor, entitles  
2 the agency to which the minor is relinquished to the legal custody of the minor until  
3 a decree of adoption becomes final.

4           2. Empowers the agency to which the minor is relinquished to place the minor  
5 for adoption, consent to the adoption of the minor and delegate to a prospective  
6 adoptive parent the responsibility to support and provide medical and other care for  
7 the minor.

8           3. Terminates any duty of the parent or guardian who executed the  
9 relinquishment with respect to the minor, except for arrearages of child support.

10          4. Terminates any right of the parent or guardian who executed the  
11 relinquishment to object to the minor's adoption and, unless otherwise provided in  
12 the relinquishment, to receive notice of the proceeding for adoption.

13           **(8) REVOCATION OF CONSENT.** (a) In a direct placement by a parent or guardian  
14 of a minor for adoption, a consent to the adoption is revoked if any of the following  
15 occurs:

16           1. Within 192 hours after the birth of the minor, a parent who executed the  
17 consent notifies in writing the prospective adoptive parent, or the prospective  
18 adoptive parent's attorney, that the parent revokes the consent, or the parent  
19 complies with any other instructions for revocation specified in the consent.

20           2. The parent or guardian who executed the consent and the prospective  
21 adoptive parent named or described in the consent agree to revoke the consent.

22           (b) In a direct placement by a parent or guardian of a minor for adoption, the  
23 court shall set aside the consent if the parent or guardian who executed the consent  
24 establishes any of the following:

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1           1. By clear and convincing evidence, before a decree of adoption is issued, that  
2 the consent was obtained by fraud or duress.

3           2. By a preponderance of the evidence, before a decree of adoption is issued,  
4 that, without good cause, a petition for adoption was not filed within 60 days after  
5 the date on which the minor was placed for adoption.

6           3. By a preponderance of the evidence, that a condition permitting revocation  
7 has occurred, as expressly provided for in the consent under sub. (6) (f). ✓

8           (c) If the consent of a parent or guardian who had legal custody and physical  
9 custody of a minor when the minor was placed for adoption or when the consent was  
10 executed is revoked, the prospective adoptive parent shall immediately return the  
11 minor to the legal custody and physical custody of the parent or guardian and move  
12 to dismiss any proceeding pending for the adoption of the minor or for termination  
13 of parental rights to the minor. If the minor is not returned immediately, the parent  
14 or guardian who revoked the consent may petition the court for appropriate relief  
15 and the court shall hear the petition expeditiously.

16           (d) If the consent of a parent or guardian who had legal custody and physical  
17 custody of a minor when the minor was placed for adoption or when the consent was  
18 executed is set aside under par. (b) 1., the court shall order the prospective adoptive  
19 parent to return the minor to the legal custody and physical custody of the parent or  
20 guardian and dismiss any proceeding pending for the adoption of the minor.

21           (e) If the consent of a parent or guardian who had legal custody and physical  
22 custody of a minor when the minor was placed for adoption or when the consent was  
23 executed is set aside under par. (b) 2. or 3. and no ground exists under s. 48.90 for  
24 termination of ~~parental rights to the minor~~, the court shall dismiss any proceeding  
25 pending for the adoption of the minor and order the prospective adoptive parent to

or no grounds exist for terminating  
the guardianship

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*Or no grounds exist for terminating the guardianship*

1 return the minor to the legal custody and physical custody of the parent or guardian,  
2 unless the court finds that returning the minor will be detrimental to the minor.

3 (f) If the consent of a parent or guardian who did not have physical custody of  
4 a minor when the minor was placed for adoption or when the consent was executed  
5 is revoked or set aside and no ground exists under s. 48.90 for termination of <sup>the</sup> parental  
6 rights <sup>(of the parent)</sup> to the minor, the court shall dismiss any proceeding pending for the adoption  
7 of the minor and issue an order providing for the care and custody of the minor  
8 according to the best interest of the minor.

9 **(9) REVOCATION OF RELINQUISHMENT.** (a) A relinquishment is revoked if any of  
10 the following occurs:

11 1. Within 192 hours after the birth of the minor, a parent who executed the  
12 relinquishment gives written notice to the agency that accepted the relinquishment  
13 that the parent revokes the relinquishment, or the parent complies with any other  
14 instructions for revocation specified in the relinquishment.

15 2. The parent or guardian who executed the relinquishment and the agency  
16 that accepted the relinquishment agree to revoke the relinquishment.

17 (b) The court shall set aside a relinquishment if the parent or guardian who  
18 executed the relinquishment establishes any of the following:

19 1. By clear and convincing evidence, before a decree of adoption is issued, that  
20 the relinquishment was obtained by fraud or duress.

21 2. By a preponderance of the evidence, that a condition permitting revocation  
22 has occurred, as expressly provided for in the relinquishment under sub. (6) (f).

23 (c) If a relinquishment by a parent or guardian who had legal custody and  
24 physical custody of a <sup>✓</sup> minor when the relinquishment was executed is revoked, the  
25 agency that accepted the relinquishment shall immediately return the minor to the

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1 legal custody and physical custody of the parent or guardian and move to dismiss any  
2 proceeding pending for the adoption of the minor. If the minor is not returned  
3 immediately, the parent or guardian who revoked the relinquishment may petition  
4 the court for appropriate relief and the court shall hear the petition expeditiously.

5 (d) If a relinquishment by a parent or guardian who had legal custody and  
6 physical custody of a minor when the relinquishment was executed is set aside under  
7 par. (b) 1., the court shall order the agency that accepted the relinquishment to  
8 return the minor to the legal custody and physical custody of the parent or guardian  
9 and dismiss any proceeding pending for the adoption of the minor,

10 (e) If a relinquishment by a parent or guardian who had legal custody and  
11 physical custody of a minor when the relinquishment was executed is set aside under  
12 par. (b) 2. and no ground exists under s. 48.90 for termination of parental rights to  
13 the minor, the court shall dismiss any proceeding pending for the adoption of the  
14 minor and order the agency that accepted the relinquishment to return the minor to  
15 the legal custody and physical custody of the parent or guardian, unless the court  
16 finds that returning the minor would be detrimental to the minor.

17 (f) If a relinquishment by a parent or guardian who did not have physical  
18 custody of a minor when the relinquishment was executed is revoked or set aside and  
19 no grounds exist under s. 48.90 for termination of parental rights to the minor, the  
20 court shall dismiss any proceeding pending for the adoption of the minor and issue  
21 an order providing for the care and custody of the minor according to the best interest  
22 of the minor.

23 **48.86 General procedure for adoption of minors; jurisdiction and**

24 **venue. (1) JURISDICTION.** (a) Except as otherwise provided in pars. (b) and (c), a

or no grounds exist for terminating the guardianship

6  
12  
13

of the parent

the of the parent

or no grounds exist for terminating the guardianship

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1 court of this state has jurisdiction over a proceeding for the adoption of a minor  
2 commenced under s. 48.88 or 48.94 if any of the following conditions ~~are~~ <sup>is</sup> met:

3 1. Immediately before commencement of the proceeding, the minor lived in this  
4 state with a parent, guardian, prospective adoptive parent or another person acting  
5 as a parent for at least 6 consecutive months, excluding periods of temporary  
6 absence, or, if the minor is less than 6 months of age, the minor lived in this state from  
7 soon after birth with any of those individuals and there is available in this state  
8 substantial evidence concerning the minor's present or future care.

9 2. Immediately before commencement of the proceeding, the prospective  
10 adoptive parent lived in this state for at least 6 consecutive months, excluding  
11 periods of temporary absence, and there is available in this state substantial  
12 evidence concerning the minor's present or future care.

13 3. The agency that placed the minor for adoption is located in this state and it  
14 is in the best interest of the minor that a court in this state assume jurisdiction  
15 because the minor and the minor's parent, or the minor and the prospective adoptive  
16 parent, have a significant connection with this state and there is available in this  
17 state substantial evidence concerning the minor's present or future care.

18 4. The minor and the prospective adoptive parent are physically present in this  
19 state and the minor has been abandoned or it is necessary in an emergency to protect  
20 the minor because the minor has been subjected to or threatened with mistreatment  
21 or abuse or ~~is otherwise neglected,~~ has been subjected to neglect

22 5. It appears that no other state would have jurisdiction under prerequisites  
23 substantially in accordance with subd. 1., 2., 3. or 4., or another state has declined  
24 to exercise jurisdiction on the ground that this state is the more appropriate forum

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1 to hear a petition for adoption of the minor, and it is in the best interest of the minor  
2 that a court of this state assume jurisdiction.

3 (b) A court of this state may not exercise jurisdiction over a proceeding for  
4 adoption of a minor if at the time the petition for adoption is filed a proceeding  
5 concerning the custody or adoption of the minor is pending in a court of another state  
6 exercising jurisdiction substantially in conformity with ch. 822 or this subchapter,  
7 unless the proceeding is stayed by the court of the other state.

8 (c) If a court of another state has issued a decree or order concerning the custody  
9 of a minor who may be the subject of a proceeding for adoption in this state, a court  
10 of this state may not exercise jurisdiction over a proceeding for the adoption of the  
11 minor unless all of the following conditions are met:

12 1. The court of this state finds that the court that issued the decree or order does  
13 not have continuing jurisdiction to modify the decree or order under jurisdictional  
14 prerequisites substantially in accordance with ch. 822 or has declined to assume  
15 jurisdiction to modify the decree or order; or does not have jurisdiction over a  
16 proceeding for adoption under prerequisites substantially in accordance with par. (a)  
17 1., 2., 3. or 4. or has declined to assume jurisdiction over a proceeding for adoption.

18 2. The court of this state has jurisdiction over the proceeding.

19 (2) VENUE. A petition for adoption of a minor may be filed in the court of the  
20 county in which a petitioner lives, the minor lives or an office of the agency that  
21 placed the minor is located.

22 **48.87 General procedure for adoptions of minors; general procedural**  
23 **provisions. (1)** APPOINTMENTOFATTORNEYORGUARDIANADLITEM. (a) In a proceeding  
24 under this subchapter that may result in the termination of parental rights to a  
25 minor, the court shall appoint an attorney for any indigent, minor or incompetent

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1 person who appears in the proceeding and whose parental rights to the minor may  
2 be terminated, unless the court finds that the incompetent person has sufficient  
3 financial means to hire an attorney, or the indigent person declines to be represented  
4 by an attorney.

5 (b) The court shall appoint a guardian ad litem for a minor adoptee in a  
6 contested proceeding under this subchapter and may appoint a guardian ad litem for  
7 a minor adoptee in an uncontested proceeding under this subchapter.

8 **(2) No RIGHT TO JURY TRIAL.** A proceeding under this subchapter for adoption  
9 or termination of parental rights shall be heard by the court without a jury.

10 **(3) CONFIDENTIALITY OF PROCEEDINGS.** Except for a proceeding under s. 48.96,  
11 the general public shall be excluded from a hearing under this subchapter.

12 **(4) CUSTODY DURING PENDENCY OF PROCEEDING.** To protect the welfare of a minor  
13 adoptee, the court shall make an interim order for the legal custody and physical  
14 custody of the minor adoptee according to the best interest of the minor adoptee in  
15 a contested proceeding under this subchapter and may make an interim order for the  
16 legal custody and physical custody of the minor adoptee in an uncontested  
17 proceeding under this subchapter.

18 **(5) REMOVAL OF ADOPTEE FROM STATE.** Before a decree of adoption is issued, a  
19 petitioner may not remove a minor adoptee for more than 30 consecutive days from  
20 the state in which the petitioner resides without the permission of the court, if the  
21 minor adoptee was placed directly for adoption, or, if an agency placed the minor  
22 adoptee for adoption, without the permission of the agency.

23 **48.88 General procedure for adoption of minors; petition for adoption**  
24 **of minor. (1) STANDING TO PETITION TO ADOPT.** (a) Except as otherwise provided in

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1 par. (c), the following individuals are the only individuals who have standing to  
2 petition to adopt a minor under this section:

3 1. An individual with whom the minor has been placed for adoption or who has  
4 been selected as a prospective adoptive parent by a person authorized under s. 48.82 ✓  
5 (1) to place the minor for adoption.

6 2. An individual with whom the minor has not been placed for adoption or who  
7 has not been selected or rejected as a prospective adoptive parent under ss. 48.82 to  
8 48.84, but who has had physical custody of the minor for at least 6 months  
9 immediately before seeking to file the petition for adoption and who is allowed to file  
10 the petition by the court for good cause shown.

11 (b) The spouse of a petitioner shall join in the petition unless legally separated  
12 from the petitioner or judicially declared incompetent.

13 (c) A petition for adoption of a minor stepchild by a stepparent may be filed  
14 under s. 48.94 ✓ and a petition for adoption of an emancipated minor may be filed under  
15 s. 882.05. ✓

16 **(2) TIME FOR FILING PETITION.** Unless the court allows a later filing, a prospective  
17 adoptive parent with standing to petition to adopt under sub. (1) (a) 1. shall file a  
18 petition for adoption by no later than 30 days after the date on which a minor is  
19 placed for adoption with that individual.

20 **(3) CAPTION OF PETITION.** The caption of a petition for adoption of a minor shall  
21 contain the name of, or a pseudonym for, the minor. The caption may not contain the  
22 name of the petitioner.

23 **(4) CONTENT OF PETITION.** (a) A petition for adoption of a minor shall be signed  
24 and verified by the petitioner and shall contain all of the following information or  
25 state why any of the following information is not contained in the petition:



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1 1. The full name, age and place and duration of residence of the petitioner.

2 2. The current marital status of the petitioner, including the date and place of  
3 any marriage, the date of any legal separation, divorce or annulment and, if the  
4 petitioner's spouse is incompetent, the date on which a court determined that the  
5 petitioner's spouse is incompetent.

6 3. A statement that the petitioner has the facilities and resources to provide for  
7 the care and support of the minor.

8 4. A statement that a preplacement evaluation containing a finding that the  
9 petitioner is suited to be an adoptive parent has been prepared or revised within the  
10 18 months preceding the placement, or that the absence of a preplacement  
11 evaluation has been excused by a court for good cause shown or is not required under  
12 **s. 48.83** (1) (b) or (c).

13 5. The first name, sex and date, or approximate date, and place of birth of the  
14 minor and a statement that the minor is or is not an Indian child, as defined in the  
15 Indian Child Welfare Act, 25 USC 1901 to 1963.

16 6. The circumstances under which the petitioner obtained physical custody of  
17 the minor, including the date of placement of the minor with the petitioner for  
18 adoption and the name of the agency that placed the minor or the name or  
19 relationship to the minor of the individual who placed the minor.

20 7. The length of time that the minor has been in the physical custody of the  
21 petitioner or, if the minor is not in the physical custody of the petitioner, the reason  
22 why the petitioner does not have physical custody of the minor and the date and  
23 manner in which the petitioner intends to obtain physical custody of the minor.

24 8. A description and estimate of the value of any property of the minor.

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1           9. A statement that the minor has been placed in compliance with any  
2 applicable law governing interstate or intercountry placements of minors or, if the  
3 minor has not been placed from another state or another country, a statement that  
4 the laws governing interstate or intercountry placements of minors are not  
5 applicable.

6           10. The name or relationship to the minor of any individual who has executed  
7 a consent to the adoption of the minor, a relinquishment of the minor or a disclaimer  
8 of parental interest with respect to the minor<sup>stat</sup> and the name or relationship to the  
9 minor of any individual whose consent or relinquishment may be required, but who  
10 has not executed a consent or relinquishment or has not had his or her parental  
11 rights terminated, and any fact or circumstance that may excuse the lack of consent,  
12 relinquishment or termination of parental rights.

13           11. A statement whether the petitioner has filed in any court a previous petition  
14 to adopt a minor and the disposition of that petition.

15           12. A description of any previous court order or pending proceeding known to  
16 the petitioner concerning the custody of or visitation with the minor and any other  
17 fact known to the petitioner that is needed to establish the jurisdiction of the court.

18           (b) The petitioner shall request <sup>that the court do</sup> in the petition all of the following:

19           1. ~~That the court permit~~ <sup>Permit</sup> the petitioner to adopt the minor as the petitioner's  
20 child.

21           2. ~~That the court approve~~ <sup>Approve</sup> the full name by which the minor is to be known if  
22 the petition is granted. <sup>Grant</sup>

23           3. ~~That the court grant~~ any other relief sought by the petitioner.

24           (5) REQUIRED DOCUMENTS. (a) Before the hearing on a petition for the adoption  
25 of a minor, the following documents shall be filed with the court:

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1           1. A certified copy of the birth certificate or other record of the date and place  
2 of birth of the minor.

3           2. Any consent to the adoption of the minor, relinquishment of the minor or  
4 disclaimer of parental interest with respect to the minor that has been executed and  
5 any written certification required under s. 48.85 (5) (d) and (g) from the individual  
6 before whom the consent or relinquishment was executed.

7           3. A certified copy of any court order terminating the parental rights of a parent  
8 of the minor or terminating a guardianship of the minor.

9           4. A certified copy of any marriage certificate and any decree of divorce,  
10 annulment or legal separation of each parent or former parent of the minor and a  
11 certified copy of any court order determining that a parent or former parent of the  
12 minor is incompetent.

13           5. A certified copy of any current court order, or the petition in any pending  
14 proceeding, concerning the custody of or visitation with the minor.

15           6. A copy of the preplacement evaluation and of the evaluation made during the  
16 pendency of the proceeding for adoption.

17           7. A copy of any report containing the information required under s. 48.82 (6). ✓

18           8. A document signed under s. 48.85 (4) (e). ✓

19           9. A certified copy of any marriage certificate and any decree of divorce,  
20 annulment or legal separation of the petitioner and a certified copy of any court order  
21 determining that the petitioner's spouse is incompetent.

22           10. A copy of any adoption assistance agreement under s. 48.975 or any other  
23 agreement with a public agency to provide a subsidy for the benefit of a minor  
24 adoptee with a special need.

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1           11. If an agency placed the minor for adoption, a verified document from the  
2 agency stating the circumstances under which the agency obtained legal custody of  
3 the minor for purposes of adoption; that the agency complied with any applicable law  
4 governing an interstate or intercountry placement of the minor; the name or  
5 relationship to the minor of any individual whose consent to the adoption of the  
6 minor is required, but who has not executed a consent or a relinquishment or who  
7 has not had his or her parental rights terminated, and any fact or circumstance that  
8 may excuse the lack of consent, relinquishment or termination of parental rights;  
9 whether the agency has executed its consent to the proposed adoption; and whether  
10 the agency waives notice of the proceeding for adoption.

11           12. A document stating the name and address, if known, of any person who is  
12 entitled to receive notice of the proceeding for adoption.

13           (b) If an item required under par. (a) is not available, the person responsible  
14 for furnishing the item shall file an affidavit explaining the absence of the item.

15           **48.89 General procedure for adoption of minors; notice of pendency of**  
16 **proceeding. (1) SERVICE OF NOTICE.** (a) Unless notice has been waived, notice of  
17 a proceeding for the adoption of a minor shall be served, within 20 days after the date  
18 on which the petition for adoption is filed, on all of the following persons:

19           1. An individual whose consent to the adoption is required under s. 48.85 (1)  
20 (a) or (c), except that notice need not be served on an individual whose parental rights  
21 to the minor or whose guardianship of the minor has been terminated.

22           2. An agency whose consent to the adoption is required under s. 48.85 (1) (b)  
23 1.

24           3. An individual whom the petitioner knows is claiming to be, or who is named  
25 as, the father or a possible father of the minor and whose paternity of the minor has

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1 not been judicially determined, except that notice need not be served on an individual  
2 who has executed a verified statement, as described in s. 48.85 (2) (a) 4.,<sup>✓</sup> denying  
3 paternity or disclaiming any interest in the minor.

4 4. An individual, other than the petitioner, who has legal custody or physical  
5 custody of the minor or who has a right of visitation with the minor under a court  
6 order issued by a court in this state or any other state.

7 5. The spouse of the petitioner, if the spouse has not joined in the petition.

8 6. A grandparent of the minor if the grandparent's child is a deceased parent  
9 of the minor and if, before death, the deceased parent had not executed a consent to  
10 the adoption of the minor or a relinquishment or the parental rights of the deceased  
11 parent had not been terminated.

12 (b) The court shall require notice of a proceeding for adoption of a minor to be  
13 served on any person whom the court finds, at any time during the proceeding, is any  
14 of the following:

15 1. A person described in par. (a) who has not been given notice of the proceeding.

16 2. An individual who has revoked a consent to the adoption of the minor or a  
17 relinquishment under s. 48.85 (8) (a)<sup>✓</sup> or (9) (a)<sup>✓</sup> or who is attempting to have a consent  
18 to the adoption or a relinquishment set aside under s. 48.85 (8) (b)<sup>✓</sup> or (9) (b)<sup>✓</sup>.

19 3. A person who, based on a previous relationship with the minor, a parent or  
20 an alleged parent of the minor, ~~or the petitioner~~, can provide information that is  
21 relevant to the proposed adoption and that the court, in its discretion, wants to hear.

22 (2) **CONTENT OF NOTICE.** A notice required under sub. (1) shall use a pseudonym  
23 for a petitioner or any individual named in the petition for adoption who has not  
24 waived confidentiality. The notice shall contain all of the following information:

25 (a) The caption of the petition.

Handwritten notes: "or" in a circle at the top, a vertical line connecting it to the word "or" in the text below, and a bubble containing "petitioner" and "with the" with arrows pointing to the text.

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1 (b) The address and telephone number of the court in which the petition is  
2 pending.

3 (c) A concise summary of the relief requested in the petition.

4 (d) The name, mailing address and telephone number of the petitioner or the  
5 petitioner's attorney.

6 (e) A conspicuous statement of the method of responding to the notice and the  
7 consequences of a failure to respond.

8 (f) Any other information required under s. 801.09"

9 (3) **MANNER AND EFFECT OF SERVICE.** (a) Personal service of the notice required  
10 under sub. (1) shall be made in the manner prescribed for service of a summons under  
11 ss. 801.10<sup>✓</sup> and 801.11<sup>✓</sup>, unless the court otherwise directs<sup>✓</sup>.

12 (b) Except as otherwise provided in par. (c), a person who fails to respond to a  
13 notice under sub. (1) within 20 days after its service may not appear in or receive  
14 further notice of the proceeding for adoption.

15 (c) An individual who is a respondent in a petition for termination of parental  
16 rights under s. 48.90<sup>✓</sup> that is served on the individual with the notice required under  
17 sub. (1) may not appear in or receive further notice of the proceeding for adoption or  
18 the proceeding for termination of parental rights unless the individual responds to  
19 the notice as required under s. 48.90 (4) (a).<sup>✓</sup>

20 (4) **INVESTIGATION AND NOTICE TO UNKNOWN FATHER.** (a) If at any time in a  
21 proceeding for the adoption of a minor or a proceeding for termination of parental  
22 rights to a minor under s. 48.90 the court finds that an unknown father of the minor  
23 may not have received notice of the proceeding, the court shall determine whether  
24 the unknown father can be identified. The court shall make that determination  
25 based on evidence that includes evidence acquired from inquiries, including the

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1 inquiries under par. (b) , of appropriate persons to identify the unknown father for the  
2 purpose of providing notice.

3 (b) The inquiries required under par. (a) shall include all of the following:

4 1. Whether the woman who gave birth to the minor was married at the probable  
5 time of conception of the minor, or at a later time.

6 2. Whether the woman who gave birth to the minor was cohabiting with a man  
7 at the probable time of conception of the minor.

8 3. Whether the woman who gave birth to the minor has received any payments  
9 or promises of support, other than from a governmental agency, with respect to the  
10 minor or because of her pregnancy.

11 4. Whether the woman who gave birth to the minor has named any individual  
12 as the father of the minor on the birth certificate of the minor or in connection with  
13 applying for or receiving public assistance.

14 5. Whether any individual has formally or informally acknowledged or claimed  
15 paternity of the minor in a jurisdiction in which the woman who gave birth to the  
16 minor resided during or since her pregnancy, <sup>or</sup> or in the jurisdiction in which the minor  
17 has resided or resides at the time of the inquiry.

18 (c) If an inquiry under par. (b) identifies as the father of the minor an individual  
19 who has not received notice of the proceeding, the court shall require notice to be  
20 served on that individual under sub. (3), unless service is not possible because the  
21 whereabouts <sup>(3)</sup> of the individual are unknown.

22 (d) If after inquiry under par. (b) the court finds that personal service cannot  
23 be made on the father of the minor because the identity or whereabouts of the father  
24 are unknown, the court shall order publication of the notice only if, on the basis of  
25 all information available, the court determines that publication is likely to lead to

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1 receipt of notice by the father. If the court determines that publication is not likely  
2 to lead to receipt of notice by the father, the court may dispense with publication of  
3 a notice.

4 (e) If in an inquiry under this subsection the woman who gave birth to the minor  
5 fails to disclose the identity of a possible father of the minor or to reveal the  
6 whereabouts of that possible father, the person conducting the inquiry shall advise  
7 the woman that the proceeding for adoption may be delayed or subject to challenge  
8 if a possible father is not given notice of the proceeding, that the lack of information  
9 about the father's medical and genetic history may be detrimental to the minor and  
10 that the woman is subject to a civil penalty if she knowingly misidentifies the father.

11 **(5) WAIVER OF NOTICE.** (a) A person who is entitled to receive notice under sub.  
12 (1) may waive the notice before the court or in a consent to adoption, relinquishment  
13 or other document signed by the person.

14 (b) Except for the purpose of moving to revoke or set aside a consent to adoption  
15 or relinquishment on the ground that it was obtained by fraud or duress, a person  
16 who has waived notice under par. (a) may not appear in the proceeding for adoption.

17 **48.90 Petition for termination of parental rights. (1) AUTHORIZATION.**  
18 Any of the following persons may file a petition to terminate the parental rights to  
19 a minor of a parent or alleged parent of the minor:

20 (a) A parent or guardian of the minor who has selected a proposed adoptive  
21 parent for the minor and who intends to place, or has placed, the minor with the  
22 proposed adoptive parent.

23 (b) A parent whose spouse has filed a petition under s. 48.94 to adopt the  
24 parent's child. ✓



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1 (c) A prospective adoptive parent of the minor who has filed a petition under  
2 s. 48.88<sup>✓</sup> or 48.94<sup>✓</sup> to adopt the minor.

3 (d) An agency that has selected a prospective adoptive parent for the minor and  
4 that intends to place, or has placed, the minor with the proposed adoptive parent.

5 (2) **TIMING AND CONTENT OF PETITION.** (a) A person specified in sub. (1) may file  
6 a petition under this section at any time after a petition for adoption has been filed  
7 under s. 48.88 or 48.94 and before a decree of adoption is entered.

8 (b) A petitioner under this section shall sign and verify the petition and file the  
9 petition with the court. The petition shall state all of the following information:

10 1. The name or pseudonym of the petitioner.

11 2. The name of the minor.

12 3. The name and last-known address of the parent or alleged parent whose  
13 parental rights to the minor are sought to be terminated.

14 4. The facts and circumstances forming the basis for the petition and the  
15 **grounds** on which the petitioner seeks the termination of parental rights.

16 5. If the petitioner is a prospective adoptive parent, that the petitioner intends  
17 to proceed with the petition to adopt the minor if the petition to terminate parental  
18 rights is granted.

19 6. If the petitioner is a parent or guardian of the minor <sup>is</sup> ~~for~~ an agency, that the  
20 petitioner has selected the prospective adoptive parent who is the petitioner in the  
21 proceeding for adoption.

22 (3) **SERVICE OF PETITION AND NOTICE.** (a) A petition to terminate parental rights  
23 under this section and a notice of hearing on the petition shall be served on the  
24 respondent, with notice of the proceeding for adoption, in the manner specified in s.  
25 48.89<sup>✓</sup> (3) and (4).<sup>✓</sup>

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1 (b) The notice of hearing shall inform the respondent of the method of  
2 responding to the petition and shall advise the respondent of all of the following:

3 1. That the respondent has the right to be represented by an attorney  
4 regardless of ability to pay under s. 48.23<sup>✓</sup> and ch. 977<sup>✓</sup> and may be entitled to have  
5 an attorney appointed by the court.

6 2. That, if the respondent fails to respond within 20 days after service and, in  
7 the case of an alleged father who has not already filed a claim of paternity,<sup>x</sup> fails to  
8 file a claim of paternity within 20 days after service,<sup>✓</sup> the court will terminate the  
9 respondent's parental rights to the minor, unless the proceeding for adoption is  
10 dismissed.

11 (4) GROUNDS FOR TERMINATION OF PARENTAL RIGHTS. (a) If the respondent is  
12 served with a petition to terminate parental rights under this section and a notice  
13 of hearing on the petition and fails to respond within 20 days after the service and,  
14 in the case of an alleged father who has not already filed a claim of paternity, fails  
15 to file a claim of paternity within 20 days after the service, the court shall terminate  
16 the respondent's parental rights to the minor, unless the proceeding for adoption is  
17 dismissed.

18 (b) If under s. 48.89<sup>✓</sup> (4) the court dispenses with service of the petition on the  
19 respondent, the court shall terminate the respondent's parental rights to the minor,  
20 unless the proceeding for adoption is dismissed.

21 (c) If the respondent responds and asserts his or her parental rights, the court  
22 shall proceed expeditiously with a hearing. If the court finds, by clear and convincing  
23 evidence, that ~~any~~<sup>exists</sup> of the following grounds ~~exists~~<sup>exists</sup> and finds, by a preponderance of the  
24 evidence, that termination of parental rights is in the best interest of the minor, the  
25 court shall terminate the respondent's parental rights to the minor:

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1           1. In the case of a minor who has not attained the age of 6 months at the time  
2 the petition for adoption is filed, unless the respondent proves by a preponderance  
3 of the evidence that the respondent had a compelling reason for not complying with  
4 this subdivision, the respondent has failed to do all of the following:

5           a. Pay reasonable prenatal, natal and postnatal expenses in accordance with  
6 the respondent's financial means.

7           b. Make reasonable and consistent payments, in accordance with the  
8 respondent's financial means, for the support of the minor.

9           c. Visit regularly with the minor.

10          d. Manifest an ability and willingness to assume legal custody and physical  
11 custody of the minor if, from the time of the minor's birth to the time of the filing of  
12 the petition, the minor was not in the physical custody of the minor's other parent.

13          2. In the case of a minor who has attained the age of 6 months at the time the  
14 petition for adoption is filed, unless the respondent proves by a preponderance of the  
15 evidence that the respondent had a compelling reason for not complying with this  
16 subdivision, the respondent, for a period of at least 6 consecutive months  
17 immediately preceding the filing of the petition, has failed to do all of the following:

18          a. Make reasonable and consistent payments, in accordance with the  
19 respondent's financial means, for the support of the minor.

20          b. Communicate or visit regularly with the minor.

21          c. Manifest an ability and willingness to assume legal custody and physical  
22 custody of the minor if, during those 6 consecutive months, the minor was not in the  
23 physical custody of the other parent.

24          3. The respondent has been convicted of ~~violent crime, as defined in s. 969.035~~

25          ~~or of violating a temporary restraining order or injunction under s. 813.122 or~~  
*813.12, ✓*  
*2d*  
*crime specified in s. 48.355 (2d)(b) 1. or 2. ✓*

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✓

1 8 13.125 and the facts of the crime or violation and the respondent's behavior indicate  
2 that the respondent is unfit to maintain a relationship of parent and child with the  
3 minor.

4 4. The respondent is a man who was not married to the minor's mother when  
5 the minor was conceived or born and who is not the biological or adoptive father of  
6 the minor.

7 5. Termination of parental rights is justified on a ground specified in s. 48.415. ✓

8 (d) If the respondent proves by a preponderance of the evidence that he or she  
9 had a compelling reason for not complying with par. (c) 1. or 2. and that termination  
10 of parental rights is not justified on a ground specified in par. (c) 3., 4. or 5., the court  
11 may terminate the parental rights to the minor of the respondent only if the court  
12 finds, by clear and convincing evidence, that any of the following grounds exist and,  
13 by a preponderance of the evidence, that termination of parental rights is in the best  
14 interest of the minor:

15 1. If the minor is not in the legal custody and physical custody of the minor's  
16 other parent, the respondent is not able or willing promptly to assume legal custody  
17 and physical custody of the minor and to pay for the minor's support, in accordance  
18 with the respondent's financial means.

19 2. If the minor is in the legal custody and physical custody of the minor's other  
20 parent and a stepparent, and the stepparent is the prospective adoptive parent, the  
21 respondent is not able or willing promptly to establish and maintain contact with the  
22 minor and to pay for the minor's support, in accordance with the respondent's  
23 financial means.

24 3. Placing the minor in the respondent's legal custody and physical custody  
25 would pose a risk of substantial harm to the physical or psychological well-being of

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1 the minor because the circumstances of the minor's conception, the respondent's  
2 behavior during the mother's pregnancy or since the minor's birth, or the  
3 respondent's behavior with respect to other minors, indicates that the respondent is  
4 unfit to maintain a relationship of parent and child with the minor.

5 4. Failure to terminate the parental rights to the minor of the respondent would  
6 be detrimental to the minor.

7 (e) In making a determination under par. (d) 4., the court shall consider any  
8 factor that is relevant in making that determination, including the respondent's  
9 efforts to obtain or maintain legal custody and physical custody of the minor, the role  
10 of other persons in thwarting the respondent's efforts to assert his or her parental  
11 rights, the respondent's ability to care for the minor, the age of the minor, the quality  
12 of any previous relationship between the respondent and the minor and between the  
13 respondent and any other minor children, the duration and suitability of the minor's  
14 present custodial environment and the effect that a change in the minor's physical  
15 custody might have on the minor.

16 (5) **EFFECT OF ORDER GRANTING PETITION.** An order under this section granting  
17 a petition to terminate parental rights has all of the following effects:

18 (a) The order terminates the relationship of parent and child between the  
19 respondent and the minor, except for any obligation to pay arrearages of child  
20 support.

21 (b) The order extinguishes any right the respondent had to withhold his or her  
22 consent to a proposed adoption of the minor or to receive any further notice of a  
23 proceeding for the adoption of the minor.

24 (c) The order is a final order for purposes of appeal.

25 (6) **EFFECT OF ORDER DENYING PETITION.**

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1 (a) If the court denies a petition under this section to terminate parental rights,  
2 the court shall dismiss the proceeding for adoption and shall determine the legal  
3 custody and physical custody of the minor according to the criteria specified in s.  
4 48.92 (4).✓

5 (b) An order under this section denying a petition to terminate parental rights  
6 is a final order for purposes of appeal.

7 **48.91 Evaluation of adoptee and prospective adoptive parent. (1)**  
8 **EVALUATION DURING PROCEEDING FOR ADOPTION.** (a) After a petition for the adoption  
9 of a minor is filed, the court shall order an individual who is qualified under s. 48.83  
10 (2)✓ to make an evaluation of the minor's placement with the proposed adoptive  
11 parent.

12 (b) The court shall provide the evaluator with copies of the petition for adoption  
13 and of the items filed with the petition.

14 (2) **CONTENT OF EVALUATION.** (a) The evaluator shall personally interview the  
15 petitioner in the petitioner's residence, observe the relationship between the adoptee  
16 and the petitioner, obtain the information specified in par. (b) and base the  
17 evaluation on that personal interview, observation and information.

18 (b) An evaluation under sub. (1) (a) shall be in writing and shall contain all of  
19 the following information:

20 1. An account of any change in the petitioner's marital status or family history,  
21 physical or mental health, home environment, property, income or financial  
22 obligations since the filing of the preplacement evaluation.

23 2. All reasonably available information concerning the physical, mental and  
24 emotional condition of the adoptee that is not included in any report on the adoptee's  
25 health, genetic and social history filed in the proceeding for adoption.

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1           3. Copies of any court order, judgment or decree, or any significant documents  
2 from a pending legal proceeding, affecting the adoptee, the petitioner or any child of  
3 the petitioner.

4           4. A list of the expenses, fees or other charges incurred, paid or to be paid, and  
5 anything of value exchanged or to be exchanged, in connection with the adoption.

6           5. Any behavior or characteristic of the petitioner that raises a specific concern,  
7 as described in s. 48.83 (4) (a), about the petitioner <sup>✓</sup> ~~and~~ <sup>or</sup> the petitioner's home.

8           6. A finding by the evaluator concerning the suitability of the petitioner and  
9 the petitioner's home for the adoptee and a recommendation concerning the granting  
10 of the petition for adoption.

11           (3) **TIME AND FILING OF EVALUATION.** (a) The evaluator shall complete the  
12 evaluation and file the evaluation with the court within 60 days after receipt of the  
13 court's order for an evaluation, unless the court for good cause allows a later filing.

14           (b) If an evaluation raises a specific concern, as described in s. 48.83 (4) (a), the  
15 evaluator shall file the evaluation immediately and shall explain in the evaluation  
16 why the specific concern poses a significant risk of harm to the physical or  
17 psychological well-being of the adoptee.

18           (c) The evaluator shall provide the petitioner with a copy of the evaluation  
19 when the evaluation is filed with the court and shall retain for 2 years after the date  
20 of filing a copy of the evaluation and a list of every source for each item of information  
21 contained in the evaluation.

22           **48.92 Dispositional hearing; decree of adoption. (1) TIME FOR HEARING**  
23 **ON PETITION.** The court shall set a date and time for hearing the petition for adoption.  
24 The hearing may be held no sooner than 90 days, and no later than 180 days, after

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1 the date on which the petition for adoption is filed, unless the court for good cause  
2 sets an earlier or later date and time.

3 (2) **DISCLOSURE OF FEES AND CHARGES.** At least 10 days before the hearing, ~~the~~  
4 following individuals shall file the following documents with the court:

5 (a) The petitioner shall file with the court a signed and verified accounting of  
6 any payment or disbursement of money or anything of value made or agreed to be  
7 made by or on behalf of the petitioner in connection with the adoption, including any  
8 payment prohibited or authorized under s. 48.96. The accounting shall include the  
9 date and amount of each payment or disbursement made, the name and address of  
10 each recipient and the purpose of each payment or disbursement.

11 (b) The attorney for the petitioner shall file with the court an affidavit itemizing  
12 any fee, compensation or other thing of value received by, or agreed to be paid to, the  
13 attorney incidental to the placement and adoption of the minor.

14 (c) The attorney for each parent of the minor or for the guardian of the minor  
15 shall file with the court an affidavit itemizing any fee, compensation or other thing  
16 of value received by, or agreed to be paid to, the attorney incidental to the placement  
17 and adoption of the minor.

18 (d) If an agency placed the minor for adoption, the agency shall file with the  
19 court an affidavit itemizing any fee, compensation or other thing of value received  
20 by the agency for, or incidental to, the placement and adoption of the minor.

21 (e) If a guardian placed the minor for adoption, the guardian shall file with the  
22 court an affidavit itemizing any fee, compensation or other thing of value received  
23 by the guardian for, or incidental to, the placement and adoption of the minor.

24 (3) **GRANTING PETITION FOR ADOPTION.** (a) The court shall grant a petition for  
25 adoption if the court determines that the adoption will be in the best interest of the