

State of Wisconsin
1999-2000 LEGISLATURE

LRE24 18/PA
GMM:kmg:km

Due week of 8/9

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

Repeals to

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) (c), 48.31 (l), 48.36 (1) (a), 48.368

6 (l), 48.371 (3) (intro.), 48.38 (4) (d) 3., 48.40 (2), 48.42 (1) (intro.), 48.42 (2) (a),

7 48.422 (7) (bm), 48.428 (1), 48.432 (3) (a) 2., 48.432 (3) (a) 4., 48.432 (4) (a),

8 48.432 (7) (a), 48.433 (2), 48.433 (3), 48.433 (6) (a), 48.433 (7) (e), 48.434 (2),

9 48.434 (3), 48.434 (5), 48.434 (6), 48.434 (7), 48.46 (3), 48.48 (3m) (a), 48.48 (17)

10 (a) 5., 48.48 (17) (a) 9., 48.57 (1) (e), 48.57 (1) (j), 48.61 (5), 48.63 (3), 48.64 (lm),

11 48.685 (1) (bg), 48.685 (1) (d), 48.75 (lg) (a) 4., 48.78 (2) (a), 48.98 (4) (b), 48.981

12 (7) (a) 13., 49.32 (1) (b), 51.30 (4) (b) 18. c., 69.14 (3) (c), 69.15 (2) (a) (intro.), 69.15

13 (2) (b), 69.15 (6) (b), 71.05 (6) (b) 22., 103.10 (3) (b) 2., 146.82 (2) (a) 9. c., 146.82

14 (2) (a) 18m., 252.15 (5) (a) 19., 301.03 (18) (b), 301.12 (2), 632.896 (1) (c) 1.,

15 632.896 (1) (c) 5., 785.05, 806.07 (3), 808.04 (7) and **938.368** (1); **to repeal and**

1 **recreate** 48.433 (5), subchapter XIX (title) of chapter 48 [precedes 48.81], 48.81
2 to 48.97, subchapter XX (title) of chapter 48 [precedes 48.9731 and chapter 882;
3 and **to create 48.432 (3)** (a) lm., 48.432 (3) (a) 4m., 48.973, 48.976, 48.979,
4 48.9795 and 252.15 (5) (a) 20. of the statutes; **relating** to: a uniform adoption
5 act, granting rule-making authority, making an appropriation and providing
6 penalties.

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.

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 all payments made or agreed to be made by the proposed adoptive parent to the birth parent in connection with the pregnancy or with the birth, placement or adoption of the child to determine whether any of those payments are coercive to the birth parent. Current law provides that making any payment to a birth parent 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 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 six 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.

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.

5. The agency that placed the child for adoption or that accepted guardianship of the child following TPR must disclose identifying information about a birth parent of an adoptee under 21 years of age to the adoptee's adoptive parent if the birth parent has filed with the agency a written authorization of that disclosure, and must disclose identifying information about an adoptive parent of an adoptee under 21 years of age to the adoptee's birth parent if the adoptive parent has filed with the agency a written authorization of that disclosure.

Finally, current law expressly prohibits or permits certain activities in connection with an adoption. Specifically, no person, other than an agency, a parent seeking to place his or her own child for adoption, an individual who has received a favorable recommendation regarding his or her fitness to be an adoptive parent or a person providing adoption information exchange services or adoption information, may advertise for the purpose of finding a child to adopt or advertise that the person

will find an adoptive home, arrange for or assist in an adoption or adoptive placement or place a child for adoption. Current law also permits certain payments in connection with an adoption and prohibits all other payments. Payments permitted under current law include payments for services provided by a child welfare agency, medical and hospital care received by the birth mother in connection with the pregnancy or birth of the child or received by the child, counseling for the birth parents, living expenses of the birth mother not to exceed \$1,000, investigation of the proposed adoptive placement, legal and other services received by a birth parent or the child, maternity clothes, local transportation of a birth parent that is related to the pregnancy or adoption, foster care for the child pending his or her adoptive placement, birthing classes and a gift for the birth mother not to exceed \$50 in value. If the juvenile court finds that an impermissible payment has been made, the juvenile court may dismiss the petition for adoption and refer the matter to the district attorney for prosecution.

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 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, child abuse or neglect and domestic abuse 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 45 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 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

The parent must also have been informed that identifying information about the parent will be made available, on request, to the adoptee on attaining 18 years of age, to the adoptive parent or guardian of the adoptee before the adoptee attains 18 years of age, or, if the adoptee is deceased, to a direct descendant of the adoptee who has attained 18 years of age or to the parent or guardian of a direct descendant under 18 years of age, unless the parent prohibits the disclosure of that information.

prohibiting the release of

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 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 employee 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.
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 if the parent notifies the prospective adoptive parent or agency within 192 hours (eight 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~~ 30 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~~ 30 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 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 six consecutive months immediately before the commencement of the proceeding or, if the child is less than six months of age, from soon after birth; the prospective adoptive parent has lived in this state for six 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 six 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 ^{a document indicating that the parent does not wish to have any} ~~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; 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~~ ^{identifying} ~~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 that he or she had a compelling reason for not doing so.

4. If the person has been convicted of abandonment, torture, chronic abuse, sexual abuse or homicide of a child or of violating a domestic abuse, child abuse or harassment 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 parenthood, intentional homicide of a parent, parenthood as a result of a sexual assault, commission of a serious felony against one of the person's children or prior involuntary TPR to another child.

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

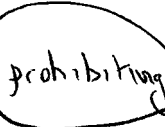
order for purposes of appeal. If a TPR petition is denied, the juvenile court must dismiss the underlying petition for adoption and determine the custody of the child.

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 or 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.

The juvenile court must hold a hearing on the petition for adoption not less than 90 days nor 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 ten 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.

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 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 that the adoption 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.



prohibiting

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.

3. No person may challenge the decree more than six 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 an 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 an 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 an adoptee under 18 years of age, 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.

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.

unless
has prohibited
~~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 conditionally or on the condition that the requester authorizes the disclosure of similar information about himself or herself.~~

or
has attained
~~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.~~

if
~~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.~~

has prohibited that disclosure
~~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, @direct descendant of a deceased adoptee, if each individual named as a parent on the birth certificate consents to the disclosure. Ninety-nine 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.~~

and
on the adoptee and his or her original and adoptive families
~~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

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

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, unless any

if the petitioner is an adoptee under 18 years of age or the parent or guardian of an adoptee under 18 years of age

if
18

has attained

has prohibited that

has prohibited that disclosure

and

on the adoptee and his or her original and adoptive families

1. No person, other than a parent, a guardian, an agency, or a person providing adoption information exchange services or adoption information, 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 or any illness of the child, counseling for the birth parent and child, the mother's living expenses for a reasonable time before the birth of the child and for no more than six weeks after the child's birth, expenses incurred in obtaining background information about the child, legal fees, court costs, travel and other administrative expenses, expenses incurred in obtaining evaluations of the adoptive parent and any other services that the juvenile court finds are reasonably necessary. 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, 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.

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, whether identifying or nonidentifying, 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.

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

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

1 requesting a search under s. 48.432 (3) (c) or (4), or 48.433 (6) or 48.93 (1r) requesting
2 information under s. 48.95 and paid by persons for the review, and certification and
3 approval of foreign adoption documents under s. ~~48.838~~ 48.976 (2) and (3) shall be
4 credited to this appropriation.

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

6 46.03 (18) (am) Paragraph (a) does not prevent the department from charging
7 and collecting the cost of adoptive placement investigations and ~~child care~~ as
8 authorized under s. ~~48.837 (7)~~ 48.96 (3) (a) 8.

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

10 46.03 **(18)** (b) Except as provided in s. 46.10 (14) (b) and (c), any person
11 receiving services provided or purchased under par. (a) or the spouse of the person
12 and, in the case of a minor, the parents of the person, and, in the case of a foreign child
13 described in s. ~~48.839 (1)~~ 48.82 (8) who became dependent on public funds for his or
14 her primary support before an order granting his or her adoption, the resident of this
15 state ~~appointed guardian of the child by a foreign court~~ who brought the child into
16 this state for the purpose of adoption, shall be liable for the services in the amount
17 of the fee established under par. (a). If a minor receives services without consent of
18 a parent or guardian under s. 51.47, the department shall base the fee solely on the
19 minor's ability to pay.

20 **SECTION 4.** 46.10 (2) of the statutes is amended to read:

21 46.10 (2) Except as provided in subs. (2m) and (14) (b) and (c), any person,
22 including but not limited to a person admitted, committed or placed under s. 975.01,
23 1977 stats., s. 975.02, 1977 stats., and s. 975.17, 1977 stats., and ss. 51.10, 51.13,
24 51.15, 51.20, 51.35 (3), 51.37 (5), 51.45 (10), (11), (12) and (13), 55.05, 55.06, 971.14
25 (2) and (5), 971.17 (l), 975.06 and 980.06, receiving care, maintenance, services and

1 supplies provided by any institution in this state including University of Wisconsin
2 Hospitals and Clinics, in which the state is chargeable with all or part of the person's
3 care, maintenance, services and supplies, any person receiving care and services
4 from a county department established under s. 51.42 or 51.437 or from a facility
5 established under s. 49.73, and any person receiving treatment and services from a
6 public or private agency **under s. 971.17 (3) (d) or (4) (e), 980.06 (2) (c) or 980.08 (5)**
7 and the person's property and estate, including the homestead, and the spouse of the
8 person, and the spouse's property and estate, including the homestead, and, in the
9 case of a minor child, the **parents** of the person, and their property and estates,
10 including their homestead, and, in the case of a foreign child described in s. ~~48.839~~
11 ~~(1)~~ 48.82 (8) who became dependent on public funds for his or her primary support
12 before an order granting his or her adoption, the resident of this state ~~appointed~~
13 ~~guardian of the child by a foreign court~~ who brought the child into this state for the
14 purpose of adoption, and his or her property and estate, including his or her
15 homestead, shall be liable for the cost of the care, maintenance, services and supplies
16 in accordance with the fee schedule established by the department under s. 46.03
17 (18). If a spouse, widow or minor, or an incapacitated person may be lawfully
18 dependent upon the property for their support, the court shall release all or such part
19 of the property and estate from the charges that may be necessary to provide for those
20 persons. The department shall make every reasonable effort to notify the liable
21 persons as soon as possible after the beginning of the maintenance, but the notice or
22 the receipt thereof is not a condition of liability.

23 **SECTION 5.** 46.2 15 (1) (h) of the statutes is amended to read:

24 46.215 (1) (h) To administer juvenile welfare services under s. 938.57; and, if
25 contracted to do so by the department, to accept custody and guardianship of children

1 upon the order of a competent court, and to place children for adoption ~~and to make~~
2 ~~recommendations relating to the adoption of children under s. 48.85~~ under s. 48.82
3 (3).

4 SECTION 6. 46.215 (1) (i) of the statutes is amended to read:

5 46.215 (1) (i) To make ~~such investigations as~~ the evaluations that are provided
6 for in ~~s. 48.88 (2) (a) and (c), if contracted to do so by the department and if the court~~
7 ~~having jurisdiction so directs~~ ss. 48.83, 48.91 and 48.94 (11).

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

9 46.22 (1) (c) 4. Make ~~investigations which~~ the evaluations that are provided for
10 under ~~s. 48.88 (2) (a) and (c), if the court having jurisdiction so directs~~ ss. 48.83, 48.91
11 and 48.94 (11).

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

13 48.025 (2) The declaration provided in sub. (1) may be filed at any time except
14 after a termination of the father's rights under subch. VIII or s. 48.90. The
15 declaration shall be in writing, signed by the person filing the declaration and shall
16 contain the person's name and address, the name and last-known address of the
17 mother, the month and year of the birth or expected birth of the child and a statement
18 that he has reason to believe that he may be the father of the child.

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

20 48.14 (1) The termination of parental rights to a minor in accordance with
21 subch. VIII or s. 48.90.

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

23 48.14 (2) (b) The appointment and removal of a guardian of the person for a
24 child under ss. 48.427, 48.428, 48.43, ~~48.831, 48.832, 48.839 (4) (a),~~ 48.977 and,

1 48.978, ~~48.979 and 48.9795~~ and ch. 880 and for a child found to be in need of
2 protection or services under s. 48.13 because the child is without parent or guardian.

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

4 48.23 (2) RIGHT OF PARENTS TO COUNSEL. Whenever a child is the subject of a
5 proceeding involving) termination of parental
6 rights or a contested adoption, any parent under 18 years of age who appears before
7 the court shall be represented by counsel; but no such parent may waive counsel. 4
8 ~~minor parent petitioning for the voluntary termination of parental rights shall be~~
9 ~~represented by a guardian ad litem.~~ If a proceeding involves a ~~contested adoption~~
10 ~~or the involuntary~~ termination of parental rights or a contested adoption, any parent
11 18 years old or older who appears before the court shall be represented by counsel;
12 but the parent may waive counsel provided the court is satisfied such waiver is
13 knowingly and voluntarily made.

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

15 48.23 (4) PROVIDING COUNSEL. In any situation under this section in which a
16 ~~person~~ child or a parent under 18 years of age has a right to be represented by counsel
17 or is provided counsel at the discretion of the court and counsel is not knowingly and
18 voluntarily waived, the court shall refer the person to the state public defender and
19 counsel shall be appointed by the state public defender under s. 977.08 without a
20 determination of indigency. If the referral is of a person who has filed a petition
21 under s. 48.375 (7), the state public defender shall appoint counsel within 24 hours
22 after that referral. Any counsel appointed in a petition filed under s. 48.375 (7) shall
23 continue to represent the child in any appeal brought under s. 809.105 unless the
24 child requests substitution of counsel or extenuating circumstances make it
25 impossible for counsel to continue to represent the child. In any situation under sub.

1 (2) or (2m) in which a parent 18 years of age or over or an adult expectant mother is
2 entitled to representation by counsel; counsel is not knowingly and voluntarily
3 waived; and it appears that the parent or adult expectant mother is unable to afford
4 counsel in full, or the parent or adult expectant mother so indicates; the court shall
5 refer the parent or adult expectant mother to the authority for indigency
6 determinations specified under s. 977.07 (1). In any other situation under this
7 section in which a person has a right to be represented by counsel or is provided
8 counsel at the discretion of the court, competent and independent counsel shall be
9 provided and reimbursed in any manner suitable to the court regardless of the
10 person's ability to pay, except that the court may not order a person who files a
11 petition under s. 813.122 or 813.125 to reimburse counsel for the child who is named
12 as the respondent in that petition.

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

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

15 48.235 (1) (c) The court shall appoint a guardian ad litem for any child who is
16 the subject of a proceeding to terminate parental rights, whether voluntary or
17 involuntary, for a child who is the subject of a contested adoption proceeding and for
18 a child who is the subject of a proceeding under s. 48.977 or 48.978. The court may
19 appoint a guardian ad litem for a child who is the subject of an uncontested adoption
20 proceeding.

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

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

23 48.235 (8) (c) 1. In an uncontested termination of parental rights and adoption
24 proceeding- in which an aaency placed the child for adoption, the **court**

1 shall order the agency that placed the child for adoption to pay the compensation of
2 the child's guardian ad litem.

3 2. In an uncontested termination of parental rights and adoption proceeding
4 ~~under s. 48.835 or 48.837 in which the child's parent or guardian placed the child for~~
5 adoption, the court shall order the proposed adoptive parents to pay the
6 compensation of the child's guardian ad litem. If the proposed adoptive parents are
7 indigent, the court may order the county of venue to pay the compensation, in whole
8 or in part, and may order the proposed adoptive parents to reimburse the county, in
9 whole or in part, for the payment.

10 SECTION 17. 48.31 (1) of the statutes is amended to read:

11 48.31 (1) In this section, "fact-finding hearing" means a hearing to determine
12 if the allegations in a petition under s. 48.13 or 48.133 or a petition to terminate
13 parental rights under subch. VIII are proved by clear and convincing evidence.

14 SECTION 18. 48.36 (1) (a) of the statutes is amended to read:

15 48.36 (1) (a) If legal custody is transferred from the parent or guardian or the
16 court otherwise designates an alternative placement for the child by a disposition
17 made under s. 48.345 or by a change in placement under s. 48.357, the duty of the
18 parent or guardian or, in the case of a transfer of guardianship and custody ~~under~~
19 ~~s. 48.839 (4) of a foreign child brought into this country for the purpose of adontion,~~
20 the duty of the ~~former guardian~~ person who brought the child into this country for
21 the purpose of adontion to provide support shall continue even though the legal
22 custodian or the placement designee may provide the support. A copy of the order
23 transferring custody or designating alternative placement for the child shall be
24 submitted to the agency or person receiving custody or placement and the agency or
25 person may apply to the court for an order to compel the parent or guardian to provide

1 the support. Support payments for residential services, when purchased or
2 otherwise funded or provided by the department or a county department under s.
3 46.22, 46.23, 51.42 or 51.437, shall be determined under s. 46.10 (14).

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

5 48.368 (1) If a petition for termination of parental rights is filed under s. 48.41
6 ~~or~~, 48.415 or 48.90 or an appeal from a judgment terminating or denying termination
7 of parental rights is filed during the year in which a dispositional order under s.
8 48.355 or an extension order under s. 48.365 is in effect, the dispositional or
9 extension order shall remain in effect until all proceedings related to the filing of the
10 petition or an appeal are concluded.

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

12 48.371 (3) (intro.) At the time of placement of a child in a foster home, treatment
13 foster home, group home or child caring institution or, if the information is not
14 available at that time, as soon as possible after the date on which the court report
15 or permanency plan has been submitted, but no later than 7 days after that date, the
16 agency, as defined in s. 48.38 (1) (a), responsible for preparing the child's permanency
17 plan shall provide to the foster parent, treatment foster parent or operator of the
18 group home or child caring institution information contained in the court report
19 submitted under s. 48.33 (1), 48.365 (2g), 48.425 (1), ~~48.831 (2) or 48.837 (4) (e)~~ or
20 48.979 (2) or permanency plan submitted under s. 48.355 (2e), 48.38, 48.43 (1) (c) or
21 (5) (c), 48.63 (4) or ~~48.831~~ 48.979 (4) (e) relating to findings or opinions of the court
22 or agency that prepared the court report or permanency plan relating to any of the
23 following:

24 SECTION 21. 48.38 (4) (d) 3. of the statutes is amended to read:

1 48.38 (4) (d) 3. That the placement is made to facilitate the anticipated adoptive
2 placement of the child under s. ~~48.833 or 48.837~~ 48.82.

3 **SECTION 22.** 48.40 (2) of the statutes is amended to read:

4 48.40 (2) "Termination of parental rights" means that, pursuant to a court
5 order under this subchapter, all rights, powers, privileges, immunities, duties and
6 obligations existing between parent and child are permanently severed.

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

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

9 **48.42 (1) PETITION.** (intro.) A proceeding for the termination of parental rights
10 shall be initiated by petition which may be filed by the child's parent, an agency or
11 a person authorized to file a petition under s. 48.25 ~~or 48.835~~. The petition shall be
12 entitled "In the interest of (child's name), a person under the age of 18" and
13 shall set forth with specificity:

14 **SECTION 25.** 48.42 (2) (a) of the statutes is amended to read:

15 48.42 (2) (a) The parent or parents of the child, unless the child's parent has
16 waived the right to notice under s. ~~48.41 (2) (d)~~ 48.85 (6) (e), 48.89 (5) (b) or 48.94 (6)
17 (c) or (7) (a), notice has been dispensed with under s. 48.89 (4) (d) or notice is not
18 required under s. 48.89 (1) (a) 3.

19 **SECTION 26.** 48.422 (7) (bm) of the statutes is amended to read:

20 48.422 (7) (bm) Establish whether a proposed adoptive parent of the child has
21 been identified. If a proposed adoptive parent of the child has been identified and
22 the proposed adoptive parent is not a relative of the child, the court shall order the
23 ~~petitioner~~ persons specified in s. 48.92 (2) (a) to (e) to submit ~~a report~~ to the court
24 ~~containing the information specified in s. 48.913 (7)~~ the documents specified in s.
25 48.92 (2) (a) to (e). The court shall review ~~the report~~ those documents to determine

1 whether any payments or agreement to make payments set forth in the ~~report are~~
2 ~~coercive to the birth parent of the child or to an alleged or presumed father of the child~~
3 ~~or are impermissible under s. 48.913 (4). Making any payment to or on behalf of the~~
4 ~~birth parent of the child, an alleged or presumed father of the child or the child~~
5 ~~conditional in any part upon transfer or surrender of the child or the termination of~~
6 ~~parental rights or the finalization of the adoption creates a rebuttable presumption~~
7 ~~of coercion. Upon a finding of coercion, the court shall dismiss the petition or amend~~
8 ~~the agreement to delete any coercive conditions, if the parties agree to the~~
9 ~~amendment. Upon a finding that payments which are impermissible under s. 48.913~~
10 ~~(4) have been made, the court may dismiss the petition and may refer the matter to~~
11 ~~the district attorney for prosecution under s. 948.24 (1). This paragraph does not~~
12 ~~apply if the petition was filed with a petition for adoptive placement under s. 48.837~~
13 ~~(2) documents is not authorized under s. 48.96 or is unreasonable or unnecessary~~
14 ~~when compared with the expenses customarily incurred in connection with an~~
15 ~~adoption and shall deny, modify or order reimbursement of any payment that is not~~
16 ~~authorized under s. 48.96 or that is unreasonable or unnecessary when compared~~
17 ~~with the expenses customarily incurred in connection with an adoption.~~
18 ~~Notwithstanding a finding that an unreasonable, unnecessary or unauthorized~~
19 ~~payment has been made or agreed to be made, the court shall accept the admission,~~
20 ~~if the conditions specified in pars. (a), (b) and (c) have been met, and shall report any~~
21 ~~unauthorized payment to the appropriate authorities.~~

22 SECTION 27. 48.428 (1) of the statutes is amended to read:

23 48.428 (1) A court may place a child in sustaining care if the court has
24 terminated the parental rights of the parent or parents of the child or has appointed

1 a guardian for the child under s. ~~48.831~~ 48.979 and the court finds that the child is
2 unlikely to be adopted or that adoption is not in the best interest of the child.

3 **SECTION 28.** 48.432 (3) (a) lm. of the statutes is created to read:

4 48.432 (3) (a) lm. An emancipated adoptee.

5 **SECTION 29.** 48.432 (3) (a) 2. of the statutes is amended to read:

6 48.432 (3) (a) 2. An adoptive parent of an individual or adoptee.

7 **SECTION 30.** 48.432 (3) (a) 4. of the statutes is amended to read:

8 48.432 (3) (a) 4. The ~~offspring~~ direct descendant of an individual or adoptee if
9 the requester is 18 years of age or older.

10 **SECTION 31.** 48.432 (3) (a) 4m. of the statutes is created to read:

11 48.432 (3) (a) 4m. The parent or guardian of a direct descendant of an
12 individual or adoptee if the direct descendant has not attained 18 years of age.

13 **SECTION 32.** 48.432 (4) (a) of the statutes is amended to read:

14 48.432 (4) (a) Whenever any person specified under sub. (3) wishes to obtain
15 medical and genetic information about an individual whose birth parent's rights
16 have been terminated in this state at any time, or whose birth parent consented to
17 his or her adoption before February 1, 1982, or medical and genetic information
18 about the birth parents of such an individual or adoptee, and the information is not
19 on file with the department, or agency contracted with under sub. (9), the
20 department shall give the person the name and address of the court or agency that
21 has that information and, if the court or agency is in another state, shall assist the
22 person in locating the court or agency. If no court or agency has the information, the
23 person may request that the department or agency conduct a search for the birth
24 parents to obtain the information. The request shall be accompanied by a statement
25 from a physician certifying either that the individual or adoptee has or may have

1 acquired a genetically transferable disease or that the individual's or adoptee's
2 medical condition requires access to the information.

3 SECTION 33. 48.432 (7) (a) of the statutes is amended to read:

4 48.432 (7) (a) If the department or another agency that maintains records
5 relating to the adoption of an adoptee or the termination of parental rights of
6 individual receives a report from a physician stating that a birth parent or another
7 offspring of the birth parent has acquired or may have a genetically transferable
8 disease, the department or agency shall notify the individual or adoptee of the
9 existence of the disease, if he or she is 18 years of age or over, or notify the individual's
10 or adoptee's guardian, custodian or adoptive parent if the individual or adoptee is
11 under age 18 or notify a direct descendant of an adoptee, if the direct
12 descendant is 18 years of age or over, or the parent or guardian of a direct descendant
13 of a deceased adoptee, if the direct descendant is under 18 years of age.

14 SECTION 34. 48.433 (2) of the statutes is amended to read:

15 48.433 (2) Any birth parent whose rights have been terminated in this state
16 at any time, or who has consented to the adoption of his or her child in this state
17 before February 1, 1982, or, if the birth parent is deceased or has been declared
18 incompetent, an adult descendant of the birth parent may file with the department,
19 or agency contracted with under sub. (11), an affidavit authorizing the department
20 or agency ^{from providing} ~~to provide the child with his or her~~ a person specified under sub. (3) with
21 a copy of the child's original birth certificate ^{or} ~~and~~ with any other available
22 information about the birth parent's identity and location. An affidavit filed under
23 this subsection may be revoked at any time by notifying the department or agency
24 in writing.

prohibiting

(b)

Renumbered 48.433 (2)(b) and

25 SECTION 35. 48.433 (3) of the statutes is amended to read:

SECTION 35

the person whose birth parent's rights have been terminated or who has been adopted

If less than 18 years have elapsed since the date of birth of a person

① 48.433 (3) ~~Any person 21 18 years of age or over~~ whose birth parent's rights
 2 have been terminated in this state or who has been adopted in this state with the
 3 consent of his or her birth parent or parents before February 1, 1982, ~~that person's~~
 4 ~~of a person under 18 years of age whose birth parent's rights have been terminated~~
 5 ~~adoptive parent or guardian or, if that person is deceased, a direct descendent of that~~
 6 ~~person who has attained the age of 18 years or the parent or guardian of a direct-~~
 7 ~~descendent who has not attained 18 years of age may request the department, or~~
 8 agency contracted with under sub. (11), to provide the person with the following:

⑧ (skt) (a) The person's original birth certificate of the person whose birth parent's
 9 rights have been terminated or who has been adopted.

⑩ (skt) (b) Any available information regarding the identity and location of his or her
 11 the birth parents of the person whose birth parent's rights have been terminated or
 12 who has been adopted.

SECTION 36. 48.433 (5) of the statutes is repealed and recreated to read:

14 48.433 (5) (a) The department or agency contracted with under sub. (11) shall
 15 disclose the information specified in sub. (3) ~~(a) and (b)~~ in any of the following
 16 circumstances:

- 17 1. The department or agency has on file ~~unrevoked affidavits filed~~ under sub.
 18 (2) from ~~both birth parents or the documents~~ described in s. 48.95 (4) (b) ~~and~~
 19 (7) signed by ~~both birth parents~~

- 20 2. One of the birth parents was unknown at the time of the proceeding for
 21 termination of parental rights or consent to adoption and the known birth parent has
 22 filed an ~~unrevoked~~ affidavit under sub. (2) or ~~the documents~~ described in s. 48.95 (4)

23 (b) ~~and~~ (7).

24 (b) The department or agency contracted with under sub. (11) shall disclose the
 25 information specified in sub. (3) (a), but not the information specified in sub. (3) (b),

(am) 1. and 2. to anyone. The department or agency contracted with under sub. (11) shall disclose the information specified in sub. (3) (b) 1. and 2.

1 if the department or agency ^{does not have} has on file a document described in s. 48.95 (7) signed
2 by both birth parents.

3 (c) The department or agency contracted with under sub. (11) shall disclose the
4 information specified in sub. (3) (b), but not the information specified in sub. (3) ^{stat} (a)
5 if the department or agency ^{does not have} has on file an ^{stat} unrevoked affidavit ^{stat} filed under sub. (2)
6 from the birth parent who is the subject of the information or a document as
7 described in s. 48.95 (4) (b) ~~which~~ signed by the birth parent who is the subject of
8 the information or, if the birth parent is deceased or has been declared incompetent,
9 signed by an adult descendant of the birth parent. ~~in the case of a request made under sub. (3)(b), if~~

10 SECTION 37. 48.433 (6) (a) of the statutes is amended to read:

11 48.433 (6) (a) ^(stat) If the department, or agency contracted with under sub. (11), ^{has} does
12 not have on file an affidavit ^{under sub. (2)} from each known birth parent or ^{either} the documents ^{a document}
13 described in s. 48.95 (4) (b) ~~which~~ ^{or} and (7) signed by each known birth parent, it shall,
14 within 3 months after the date of the original request, undertake a diligent search
15 for each birth parent who has ^{under sub. (2)} not filed an affidavit ^{a document} or signed the documents described
16 in s. 48.95 (4) (b) ~~which~~ ^{or} and (7). The search shall be completed within 6 months after
17 the date of the request, unless the search falls within one of the exceptions
18 established by the department by rule. ~~If any information has been provided under~~
19 ~~sub. (5), the department or agency is not required to conduct a search.~~

Insert
28-19

20 SECTION 38. 48.433 (7) (e) of the statutes is amended to read:

21 48.433 (7) (e) If, after a search under this subsection, a known birth parent
22 cannot be located, the department, or agency contracted with under sub. (11), may
23 disclose the requested information if the other birth parent has filed an ^{not} unrevoked ^{stat}
24 affidavit under sub. (2) ^{or} ~~the documents~~ described in s. 48.95 (4) (b) ~~which~~ ^{a document} and (7).

1 SECTION 39. 48.433 (8) (a) (intro.) and 1. of the statutes are consolidated,
2 renumbered 48.433 (8) (a) and amended to read: ^{a document}

3 48.433 (8) (a) If a birth parent is known to be ~~dead~~ deceased and has ~~not~~ filed
4 an unrevoked affidavit under sub. (2) ~~or the documents~~ described in s. 48.95 (4) (b)
5 ~~or s. 48.95 (7)~~, the department, or agency contracted with under sub. (11), shall so
6 inform the requester. The department or agency may not provide the requester with
7 his or her original birth certificate or with the identity of that parent, but shall
8 provide the requester with any available information it has on file regarding the
9 identity and location of the other birth parent if ~~both of the following conditions exist:~~
10 1. ^{not} ~~The~~ the other birth parent has filed an unrevoked affidavit under sub. (2) or a
11 document described in s. 48.95 (4) (b) ~~or s. 48.95 (7)~~ or if the other birth parent is deceased
12 or has been declared incompetent, an adult descendant of the other birth parent has
13 ^{not} filed a document described in s. 48.95 (4) (b) ~~or s. 48.95 (7)~~

14 SECTION 40. 48.433 (8) (a) 2. of the statutes is repealed.

15 SECTION 41. 48.434 (2) of the statutes is amended to read:

16 48.434 (2) Any birth parent of a child may file with the agency that placed the
17 child for adoption under s. 48.833 ~~or that was appointed the guardian of the child~~
18 ~~under s. 48.837 (6) (d) 48.82 (3) a written authorization for the agency to release any~~
19 available information about the birth parent's identity and location to ~~one or both~~ ^{the}
20 adoptive parents of the child.

21 SECTION 42. 48.434 (3) of the statutes is ~~amended to read~~ ^{repealed.}

22 ~~48.434 (3) Any adoptive parent of a child may file with the agency that placed~~
23 ~~the child for adoption under s. 48.833 or that was appointed the guardian of the child~~
24 ~~under s. 48.837 (6) (d) 48.82 (6) a written authorization for the agency to release any~~

Fix component

document prohibiting

from releasing

the

repealed.

authorizing

available information about the adoptive parent's identity and location to one or both birth parents of the child.

1
Insert
30-2 2

document

unless

SECTION 43. 48.434 (5) of the statutes is amended to read:

48.434 (5) Upon the request of an adoptive parent of a child, the agency receiving the request shall provide to the adoptive parent any available information about the identity and location of a birth parent of the child if the agency has on file an unrevoked ~~written authorization~~ filed by that birth parent under sub. (2) or a document described in s. 48.95 (4) (b) 1. or 2. authorizing the release of that information to the adoptive parent.

repealed.

prohibiting

SECTION 44. 48.434 (6) of the statutes is amended to read:

~~48.434 (6) Upon the request of a birth parent of a child, the agency receiving the request shall provide to the birth parent any available information about the identity and location of an adoptive parent of the child if the agency has on file an unrevoked written authorization filed by that adoptive parent under sub. (3) or a document described in s. 48.95 (4) (c) 1. or 2. authorizing the release of that information to the birth parent.~~

fix component

SECTION 45. 48.434 (7) of the statutes is amended to read:

48.434 (7) This section does not apply if the adopted child is ~~21~~ 18 years of age or over.

SECTION 46. 48.46 (3) of the statutes is amended to read:

48.46 (3) An adoptive parent who has been granted adoption of a child under s. ~~48.91 (3)~~ 48.92 or 48.94 may not petition the court for a rehearing under sub. (1) or move the court under s. 806.07 for relief from the order granting adoption. A petition for termination of parental rights under s. 48.42 or 48.90 and an appeal to

1 the court of appeals shall be the exclusive remedies for an adoptive parent who
2 wishes to end his or her parental relationship with his or her adopted child.

3 **SECTION 47.** 48.48 (3m) (a) of the statutes is amended to read:

4 48.48 (3m) (a) The child does not have parents or a guardian or the parental
5 rights to the child have been terminated by a tribal court in accordance with
6 procedures that are substantially equivalent to the procedures specified in subch.
7 VIII or s. 48.90.

8 **SECTION 48.** 48.48 (17) (a) 5. of the statutes is amended to read:

9 **48.48 (17) (a) 5.** Place children in a county children's home in the county, to
10 accept guardianship of children when appointed by the court and to place children
11 ~~under its guardianship~~ for adoption under s. 48.82.

12 **SECTION 49.** 48.48 (17) (a) 9. of the statutes is amended to read:

13 48.48 (17) (a) 9. Use in the media a picture or description of a child ~~in its~~
14 ~~guardianship~~ whom the department is attempting to place for adoption under s.
15 48.82 for the purpose of finding adoptive parents for that child.

16 **SECTION 50.** 48.57 (1) (e) of the statutes is amended to read:

17 48.57 (1) (e) If a county department in a county with a population of 500,000
18 or more and if contracted to do so by the department, to place children in a county
19 children's home in the county under policies adopted by the county board of
20 supervisors, to accept guardianship of children when appointed by the court and to
21 place children ~~under its guardianship~~ for adoption under s. 48.82.

22 **SECTION 51.** 48.57 (1) (j) of the statutes is amended to read:

23 48.57 (1) (j) To use in the media a picture or description of a child ~~in its~~
24 ~~guardianship~~ whom the county denartment is attempting to nlace for adontion under
25 s. 48.82 for the purpose of finding adoptive parents for that child.

1 SECTION 52. 48.61 (5) of the statutes is amended to read:

2 48.61 (5) If licensed to do so, to accept guardianship of children when appointed
3 by the court, and to place children-for adoption under s. 48.82;

4 SECTION 53. 48.63 (3) of the statutes is amended to read:

5 48.63 (3) Subsection (1) does not apply to the placement of a child for adoption.
6 Adoptive placements may be made only as provided under ~~ss. 48.833, 48.835, 48.837~~
7 ~~and 48.839~~ s. 48.82.

8 SECTION 54. 48.64 (1m) of the statutes is amended to read:

9 48.64 (1m) FOSTERHOME, TRJZATMENTFOSTERHOMEANDGROUPHOMEAGREEMENTS.

10 If an agency places a child in a foster home, treatment foster home or group home
11 under a court order or voluntary agreement under s. 48.63, the agency shall enter
12 into a written agreement with the head of the home. The agreement shall provide
13 that the agency shall have access at all times to the child and the home, and that the
14 child will be released to the agency whenever, in the opinion of the agency placing
15 the child or the department, the best interests of the child require it. If a child has
16 been in a foster home, treatment foster home or group home for 6 months or more,
17 the agency shall give the head of the home written notice of intent to remove the
18 child, stating the reasons for the removal. The child may not be removed before
19 completion of the hearing under sub. (4) (a) or (c), if requested, or 30 days after the
20 receipt of the notice, whichever is later, unless the safety of the child requires it or,
21 in a case in which the reason for removal is to place the child for adoption under s.
22 ~~48.833~~ 48.82, unless all of the persons who have the right to request a hearing under
23 sub. (4) (a) or (c) sign written waivers of objection to the proposed removal. If the
24 safety of the child requires earlier removal, s. 48.19 shall apply. If an agency removes

1 a child from an adoptive placement, the head of the home shall have no claim against
2 the placing agency for the expense of care, clothing or medical treatment.

3 **SECTION 55.** 48.685 (1) (bg) of the statutes is amended to read:

4 **48.685** (1) (bg) "Foster home" includes a placement for adoption under s. ~~48.833~~
5 48.82 of a child for whom adoption assistance will be provided under s. 48.975 after
6 the adoption is finalized.

7 **SECTION 56.** 48.685 (1) (d) of the statutes is amended to read:

8 **48.685** (1) (d) "Treatment foster home" includes a placement for adoption under
9 s. ~~48.833~~ 48.82 of a child for whom adoption assistance will be provided under s.
10 48.975 after the adoption is finalized.

11 **SECTION 57.** 48.75 (lg) (a) 4. of the statutes is amended to read:

12 48.75 (**1g**) (a) 4. The county of the public licensing agency issuing the license
13 has a population of 500,000 or more and the placement is for adoption under s.
14 ~~48.833, 48.835 or 48.837~~ 48.82.

15 **SECTION 58.** 48.78 (2) (a) of the statutes is amended to read:

16 48.78 (2) (a) No agency may make available for inspection or disclose the
17 contents of any record kept or information received about an individual in its care
18 or legal custody, except as provided under s. 48.371, 48.38 (5) (b) or (d), 48.432,
19 48.433, A 48.95, 48.981 (7), 938.51 or 938.78 or by order of the court.

20 **SECTION 59.** Subchapter XIX (title) of chapter 48 [precedes 48.811 of the
21 statutes is repealed and recreated to read:

22 **CHAPTER 48**

23 SUBCHAPTER XIX

24 UNIFORM ADOPTION ACT

25 **SECTION 60.** 48.81 to 48.97 of the statutes are repealed and recreated to read:

1 **48.81 General provisions. (1) DEFINITIONS.** In this subchapter:

2 (a) “Adoptee” means an individual who is adopted or who is proposed to be
3 adopted.

4 (b) “Agency” means a public or private entity, including the department, a
5 county department under s. 48.57 (1) (e) or (hm) or a child welfare agency licensed
6 under s. 48.60, that is authorized to place an individual for adoption.

7 (c) “Child” means a minor or adult son or daughter, by birth or adoption.

8 (d) “Legal custody” means the right and duty to exercise continuing general
9 supervision of a minor as authorized by law, including the right and duty to protect,
10 educate, nurture and discipline the minor and to provide the minor with food,
11 clothing, shelter, medical care and a supportive environment.

12 (e) “Minor” means a person who has not attained 18 years of age.

13 (f) “Parent” has the meaning given in s. 48.02 (13), except that, in addition,
14 “parent” includes an individual whose consent to the adoption of a minor is required
15 under s. 48.85 (1) (a) 1.

16 (g) “Place for adoption” means to select a prospective adoptive parent for a
17 minor and to transfer physical custody of the minor to the prospective adoptive
18 parent.

19 (h) “Relative” means a grandparent, greatgrandparent, sibling, first cousin,
20 aunt, uncle, great-aunt, great-uncle, niece or nephew of an individual, whether
21 related to the individual by whole blood or half blood, marriage or adoption.
22 “Relative” does not include an individual’s stepparent.

23 (i) “Relinquishment” means the voluntary surrender to an agency by a minor’s
24 parent or guardian, for the purpose of the minor’s adoption, of the rights of the parent
25 or guardian with respect to the minor.

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

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

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

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

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

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

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

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

1 (8) RECOGNITION OF ADOPTION IN ANOTHER JURISDICTION. A decree or order of
2 adoption issued by a court of any other state that is entitled to full faith and credit
3 in this state, or a decree or order of adoption issued by a court or administrative entity
4 in another country acting under that country's law or under any convention or treaty
5 on intercountry adoption that the United States has ratified, has the same effect as
6 a decree or order of adoption issued by a court of this state. The rights and obligations
7 of any person who is subject to a decree or order of adoption issued by a court or
8 administrative entity of another jurisdiction described in this subsection as to
9 matters that are within the jurisdiction of this state shall be determined as though
10 the decree or order were issued by a court of this state.

11 **48.82 Placement of minor for adoption. (1)** WHO MAY PLACE MINOR FOR
12 ADOPTION. (a) The only persons who may place a minor for adoption are as follows:

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

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

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

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

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

24 (c) A parent having legal custody and physical custody of a minor may not place
25 the minor for adoption if the other parent also has legal custody of the minor or has

1 a right of visitation with the minor and that other parent's whereabouts are known,
2 unless that other parent agrees in writing to that placement or, before the placement,
3 the parent who intends to place the minor for adoption sends notice of the intended
4 placement to the other parent's last-known address.

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

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

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

19 (c) A prospective adoptive parent shall furnish a copy of the preplacement
20 evaluation to the parent or guardian and may provide any additional information
21 requested by the parent or guardian. The preplacement evaluation and any
22 additional information shall be edited to exclude any identifying information, except
23 that information identifying a prospective adoptive parent need not be edited if the
24 prospective adoptive parent agrees to the disclosure of that information. Subject to

1 s. 48.96, a prospective adoptive parent may be assisted by another person in locating
2 a minor who is available for adoption.

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

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

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

22 (b) An agency that places a minor for adoption shall authorize in writing the
23 prospective adoptive parent to provide support and medical and other care for the
24 minor pending entry of a decree of adoption. The prospective adoptive parent shall

1 acknowledge in writing that he or she accepts responsibility for the minor's support
2 and medical and other care.

3 (c) On request by a parent who has relinquished his or her child under s. 48.85,
4 the agency to which the parent has relinquished the child shall promptly inform the
5 parent as to whether the child has been placed for adoption, whether a petition for
6 adoption of the child has been granted, denied or withdrawn and, if the petition was
7 not granted, whether another placement has been made.

8 (4) **PREFERENCES FOR PLACEMENT WHEN AGENCY PLACES MINOR.** (a) 1. An agency
9 may place a minor for adoption only with an individual for whom a favorable
10 preplacement evaluation has been prepared under s. 48.83 (1) to (6).

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

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

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

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

21 2. An individual with characteristics requested by the parent or guardian of the
22 minor, ~~if the agency agrees to comply with the request and~~ if the agency locates an
23 individual with those characteristics within a time agreed to by the parent or
24 guardian and agency.

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

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

6 5. Any other individual selected by the agency.

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

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

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

22 (5) **RECRUITMENT OF ADOPTIVE PARENTS BY AGENCY.** An agency receiving funds
23 under s. 20.435 (3) (dd) or 42 USC 670 to 675 shall make a diligent search for and
24 actively recruit prospective adoptive parents for minors under the agency's
25 guardianship or legal custody whose care may be funded from those sources and who

1 are difficult to place for adoption because of a special need. The department shall
2 promulgate rules prescribing the procedure for recruiting prospective adoptive
3 parents under this subsection.

4 (6) DISCLOSUREOFBACKGROUNDINFORMATION. (a) As early as practicable before
5 a prospective adoptive parent accepts physical custody of a minor, a person placing
6 the minor for adoption shall furnish to the prospective adoptive parent a written
7 report containing all of the following information that is reasonably available from
8 any person who has had legal custody or physical custody of the minor or who has
9 provided medical, psychological, educational or other similar services to the minor:

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

17 2. Relevant information concerning the medical and psychological history of
18 the minor's genetic parents and relatives, including any known disease or hereditary
19 predisposition to disease, any addiction to alcohol or any other drug, the health of the
20 minor's mother during her pregnancy and the health of each of the minor's parents
21 at the time of the minor's birth.

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

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

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

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

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

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

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

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

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

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

23 (d) A report furnished under this subsection shall indicate who prepared the
24 report and shall be edited to exclude any personally identifiable information about
25 any individual who furnished any information for the report and any individual

1 about whom any information is reported, unless that individual consents to the
2 disclosure of that personally identifiable information.

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

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

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

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

19 48.83 Preplacement **evaluation**. (1) PREPLACEMENT EVALUATION REQUIRED.

20 (a) Except as provided in ^(par.) ~~parts (b) and (c)~~, only an individual for whom a current,
21 favorable written preplacement evaluation has been prepared may accept physical
22 custody of a minor for the purpose of adoption. A preplacement evaluation is current
23 if it is prepared or revised within ~~18~~ months before the placement of a minor with the
24 individual for adoption. A preplacement evaluation is favorable if it contains a

1 finding that the individual is suited to be an adoptive parent, either in general or for
2 a particular minor.

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

6 (b) A preplacement evaluation is not required if a parent or guardian places a
7 minor directly with a relative of the minor for the purpose of adoption, but an
8 evaluation of the relative is required during the pendency of the proceeding for
9 adoption.

10 (2) PREPLACEMENT EVALUATOR. (a) A preplacement evaluation may be prepared
11 only by an individual certified by the department to make a preplacement
12 evaluation.

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

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

20 (b) A preplacement evaluation shall be completed within 45 days after it is
21 requested. An evaluator shall give priority to a preplacement evaluation requested
22 by an individual who has located a prospective minor adoptee.

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

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

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

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

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

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

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

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

12 4. Educational and employment history and any special skills.

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

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

18 7. Whether the individual has been charged with having committed domestic
19 abuse, as defined in s. 968.075 (1) (a), or a violation of ch. 948 and the disposition of
20 the charge, whether there are any substantiated reports of child abuse or neglect
21 against the individual as indicated by information maintained by the department
22 and whether the individual has been subject to a court order restricting the
23 individual's right to custody or visitation with a child or to a domestic abuse
24 restraining order and injunction under s. 813.12.

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

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

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

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

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

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

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

23 (c) If an evaluator determines that the information assessed under par. (a)
24 raises a specific concern as specified in par. (a), the evaluator, on the basis of the
25 original or any further investigation, shall find that the individual is or is not suited

1 to be an adoptive parent. The evaluator shall support the finding with a written
2 explanation.

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

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

17 (c) An evaluator shall retain for ³ ~~4~~ years the original of any completed or
18 incomplete preplacement evaluation prepared by the evaluator and a list of every
19 source for each item of information in the preplacement evaluation.

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

22 (6) **REVIEW OF EVALUATION.** (a) Within 90 days after an individual receives a
23 preplacement evaluation that contains a finding that the individual is not suited to
24 be an adoptive parent, the individual may petition the court for a review of the
25 preplacement evaluation.

1 (b) If the court determines that the petitioner has failed to prove by a
2 preponderance of the evidence that the petitioner is suited to be an adoptive parent,
3 the court shall order that the petitioner not be permitted to adopt a minor and shall
4 send a copy of the order to the department to be retained by the department with a
5 copy of the original preplacement evaluation. ~~If, at the time of the court's~~
6 ~~determination, the petitioner has physical custody of a minor for the purpose of~~
7 adoption, the court shall make **an appropriate order** for the care and physical custody
8 of the minor.

9 (c) If the court determines that the petitioner has proved by a preponderance
10 of the evidence that the petitioner is suited to be an adoptive parent, the court shall
11 find that the petitioner is suited to be an adoptive parent and shall order that the
12 petitioner be permitted to commence or continue a proceeding for the adoption of a
13 minor. The court shall send a copy of the order to the department to be retained by
14 the department with a copy of the original preplacement evaluation.

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

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

4 **(2) AUTHORIZATION TO TRANSFER PHYSICAL CUSTODY.** (a) A health care facility
5 shall release a minor for the purpose of adoption to an individual or agency that is
6 not otherwise legally entitled to the physical custody of the minor if the woman who
7 gave birth to the minor signs an authorization of the transfer of physical custody of
8 the minor.

9 (b) An authorization under par. (a) shall be signed in the presence of an employe
10 of the health care facility who is authorized by the health care facility to witness that
11 authorization. An authorized employe in whose presence an authorization under
12 par. (a) is signed shall attest to the signing in writing.

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

17 1. The name, address and telephone number of the individual who authorized
18 the release.

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

21 3. The date of the transfer.

22 (b) No later than 30 days after a health care facility releases a minor under sub.
23 (2), the person to whom physical custody of the minor was transferred shall report
24 to the department which, if any, of the following dispositions has occurred:

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

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

5 3. The minor has been returned to his or her parent or other person having legal
6 custody of the minor. If so, the person **shall report** the name and address of the parent
7 or other person having legal custody of the minor.

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

10 (4) **ACTION BY DEPARTMENT.** (a) If the department receives a report from a health
11 care facility under sub. (3) (a), but does not receive the report required under sub. (3)
12 (b) within 45 days after the release of a minor under sub. (2), the department shall
13 immediately investigate to determine the whereabouts of the minor.

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

19 (c) In addition to the actions required under pars. (a) and (b), the department
20 may also review and investigate the placement of the minor for compliance with s.
21 48.82 (1) to (6) and may petition the court for an order compelling that compliance.

22 **48.85 Consent to and relinquishment for adoption. (1) PERSONS WHOSE**
23 **CONSENT IS REQUIRED.** (a) Unless consent is not required or is dispensed with under
24 sub. (2), in a direct placement of a minor for adoption by a parent or guardian who
25 is authorized under s. 48.82 (1) to place the minor for adoption, the court may grant

1 a petition to adopt the minor only if consent to the adoption has been executed by one
2 of the following:

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

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

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

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

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

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

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

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

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

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

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

11 (2) PERSONSWHOSECONSENTISNOTREQUIRED. (a) Consenttotheadoption of a
12 minor is not required of any of the following persons:

13 1. An individual who has relinquished the minor to an agency for the purpose
14 of adoption.

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

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

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

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

23 6. A parent or other person who has not executed a consent or relinquishment
24 and who fails to file an answer or make an appearance in a proceeding for

1 termination of parental rights or adoption within 20 days after service of notice of
2 the proceeding.

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

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

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

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

13 **(4) TIME AND PREREQUISITES FOR EXECUTION OF CONSENT OR RELINQUISHMENT.** (a)
14 A parent whose consent to the adoption of a minor is required under sub. (1) may
15 execute a consent to the adoption of the minor or a relinquishment only after the
16 minor is born. A parent who executes a consent or relinquishment may revoke the
17 consent or relinquishment within **192** hours after the birth of the minor.

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

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

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

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all of the following: § The

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1 (e) Before executing a consent to an adoption or a relinquishment, a parent
 2 must have been informed of the meaning and consequences of adoption, the
 3 availability of counseling, the availability of legal counsel, the procedure for
 4 releasing information about the health and other characteristics of the parent that
 5 may affect the physical or psychological well-being of the adoptee and the procedure
 6 under ss. 48.433, 48.434 and 48.95 for the consensual ^{prohibiting the} release of the parent's identity
 7 to an adoptee, an adoptee's direct descendent or an adoptive parent. The parent must
 8 have had an opportunity to indicate in a signed document whether and under what
 9 circumstances the parent is or is not willing to release identifying information about
 10 the parent, and must have been informed of the procedure for changing the document
 11 at a later time.

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12 (5) PROCEDUREFOREXECUTIONOFCONSENTORRELINQUISHMENT. (a) Aparentor
 13 guardian executing a consent to an adoption or a relinquishment shall sign or
 14 confirm the consent or relinquishment in the presence of one of the following persons:
 15 1. A judge of a court of record.
 16 2. An individual whom a judge of a court of record has designated to take
 17 consents or relinquishments.
 18 3. An employe, other than an employe of an agency to which a minor is
 19 relinquished, whom an agency has designated to take consents or relinquishments.
 20 4. An attorney, other than an attorney who is representing an adoptive parent
 21 or the agency to which a minor is relinquished.
 22 5. A commissioned officer on active duty in the military service of the United
 23 States, if the person executing the consent or relinquishment is in military service.

1 6. An officer of the foreign service, or a consular officer, of the United States in
2 another country, if the person executing the consent or relinquishment is in that
3 country.

4 (b) A minor adoptee executing a consent shall sign or confirm the consent in the
5 presence of the court presiding over the proceeding for adoption or in a manner that
6 the court directs.

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

11 (d) An individual before whom a consent or relinquishment is signed or
12 confirmed under par. (a) shall certify in writing that he or she orally explained the
13 contents and consequences of the consent or relinquishment and that, to the best of
14 his or her knowledge or belief, the individual executing the consent or
15 relinquishment has done, or has had done for him or her, all of the following:

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

17 2. Signed the consent or relinquishment voluntarily and received or was offered
18 a copy of the consent or relinquishment, together with the information described in
19 sub. (4) (e). ^{1, 10 5} ✓

20 3. Was given an opportunity to sign the document described in sub. (4) (e). ⁵ 5

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

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

1 to have an attorney who is not representing an adoptive parent or the agency to
2 which the minor is being relinquished.

3 6. Been advised of the obligation to provide the information required under s.
4 48.82 (6).

5 (e) A prospective adoptive parent named or described in a consent to the
6 adoption of a minor shall sign a statement indicating that he or she intends to adppt
7 the minor, acknowledging that he or she is obligated to return legal custody and
8 physical custody of the minor to the minor's parent if the parent revokes the consent
9 within the time specified in sub. (4) (a) and acknowledging that he or she is
10 responsible for the minor's support and medical and other care if the consent is not
11 revoked.

12 (f) If an agency accepts a relinquishment, an employe of the agency shall sign
13 a statement accepting the relinquishment, acknowledging that the agency is
14 obligated to return legal custody and physical custody of the minor to the minor's
15 parent if the parent revokes the relinquishment within the time indicated in sub. (4)
16 (a) and acknowledging that the agency is responsible for the minor's support and
17 medical and other care if the relinquishment is not revoked.

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

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

1 (i) A consent or relinquishment executed or confirmed in another state or
2 country is valid if executed or confirmed in accordance with this section or with the
3 law and procedure of the state or country where executed.

4 **(6) CONTENT OF CONSENT OR RELINQUISHMENT.** (a) A consent to the adoption of
5 a minor or relinquishment required from a parent or guardian shall be in writing and
6 shall contain in plain English or, if the native language of the parent or guardian is
7 a language other than English, in the native language of the parent or guardian all
8 of the following information:

- 9 1. The date, place and time of the execution of the consent or relinquishment.
- 10 2. The name, date of birth and current mailing address of the individual
11 executing the consent or relinquishment.
- 12 3. The date of birth and the name or pseudonym of the minor.
- 13 4. If a consent, the name, address, telephone number and telecopier number
14 of the attorney representing the prospective adoptive parent with whom the
15 individual executing the consent has placed or intends to place the minor for
16 adoption.
- 17 5. If a relinquishment, the name, address, telephone number and telecopier
18 number of the agency to which the minor is being relinquished.
- 19 6. Specific instructions on how to revoke the consent or relinquishment and
20 how to commence an action to set aside the consent or relinquishment.

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

1 (c) A relinquishment shall state that the parent or guardian executing the
2 relinquishment is voluntarily and unequivocally consenting to the transfer of legal
3 custody and physical custody of the minor to the agency to which the minor is being
4 relinquished for the purpose of adoption.

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

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

13 2. That the parent or guardian understands that the adoption will terminate
14 all parental rights and obligations of the parent or guardian with respect to the
15 minor, except for arrearages of child support, and that the adoption will remain valid
16 whether or not any agreement for visitation or communication with the minor is later
17 performed.

18 3. That the parent or guardian has received or been offered a copy of the consent
19 or relinquishment, together with the information described in sub. (4) (e); has
20 received or been offered counseling services and information about adoption that
21 explains the meaning and consequences of an adoption; has been, advised, if the
22 parent is a minor, by an attorney who is not representing an adoptive parent or the
23 agency to which the minor adoptee is being relinquished or has been informed, if the
24 parent or guardian is an adult, that he or she has the right to have an attorney who
25 is not representing an adoptive parent or the agency to which the minor is being

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1 relinquished; has been given an opportunity to sign the document described in sub.
2 (4) (e); and has been advised of the obligation to provide the information required
3 under s. 48.82 (6).

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

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

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

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

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

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

19 1. Another consent or relinquishment is not executed within a specified period
20 of time.

21 2. A court decides not to terminate the parental rights to the minor of another
22 individual.

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

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

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

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

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

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

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

21 2. Empowers the agency to which the minor is relinquished to place the minor
22 for adoption, consent to the adoption of the minor and delegate to a prospective
23 adoptive parent the responsibility to support and provide medical and other care for
24 the minor.

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

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

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

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

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

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

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

20 2. By a preponderance of the evidence, before a decree of adoption is issued,
21 that, without good cause, a petition for adoption was not filed within 30 days after
22 the date on which the minor was placed for adoption.

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

1 (c) If the consent of a parent or guardian who had legal custody and physical
2 custody of a minor when the minor was placed for adoption or when the consent was
3 executed is revoked, the prospective adoptive parent shall immediately return the
4 minor to the legal custody and physical custody of the parent or guardian and move
5 to dismiss any proceeding pending for the adoption of the minor or for termination
6 of parental rights to the minor. If the minor is not returned immediately, the parent
7 or guardian who revoked the consent may petition the court for appropriate relief
8 and the court shall hear the petition expeditiously.

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

14 (e) If the consent of a parent or guardian who had legal custody and physical
15 custody of a minor when the minor was placed for adoption or when the consent was
16 executed is set aside under par. (b) 2. or 3. and no ground exists under s. 48.90 for
17 termination of the parental rights of the parent to the minor or no grounds exist for
18 terminating the guardianship, the court shall dismiss any proceeding pending for
19 the adoption of the minor and order the prospective adoptive parent to return the
20 minor to the legal custody and physical custody of the parent or guardian, unless the
21 court finds that returning the minor will be detrimental to the minor.

22 (f) If the consent of a parent or guardian who did not have physical custody of
23 a minor when the minor was placed for adoption or when the consent was executed
24 is revoked or set aside and no ground exists under s. 48.90 for termination of the
25 parental rights of the parent to the minor or no grounds exist for terminating the

1 guardianship, the court shall dismiss any proceeding pending for the adoption of the
2 minor and issue an order providing for the care and custody of the minor according
3 to the best interest of the minor.

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

6 1. Within 192 hours after the birth of the minor, a parent who executed the
7 relinquishment gives written notice to the agency that accepted the relinquishment
8 that the parent revokes the relinquishment, or the parent complies with any other
9 instructions for revocation specified **in** the relinquishment.

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

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

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

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

18 (c) If a relinquishment by a parent or guardian who had legal custody and
19 physical custody of a minor when the relinquishment was executed is revoked, the
20 agency that accepted the relinquishment shall immediately return the minor to the
21 legal custody and physical custody of the parent or guardian and move to dismiss any
22 proceeding pending for the adoption of the minor. If the minor is not returned
23 immediately, the parent or guardian who revoked the relinquishment may petition
24 the court for appropriate relief and the court shall hear the petition expeditiously,

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

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

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

21 **48.86 General procedure for adoption of minors; jurisdiction and**
22 **venue. (1) JURISDICTION.** (a) Except as otherwise provided in pars. (b) and (c), a
23 court of this state has jurisdiction over a proceeding for the adoption of a minor
24 commenced under s. 48.88 or 48.94 if any of the following conditions is met:

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

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

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

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

20 5. It appears that no other state would have jurisdiction under prerequisites
21 substantially in accordance with subd. 1., 2., 3. or 4., or another state has declined
22 to exercise jurisdiction on the ground that this state is the more appropriate forum
23 to hear a petition for adoption of the minor, and it is in the best interest of the minor
24 that a court of this state assume jurisdiction.

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

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

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

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

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

20 **48.87 General procedure for adoptions of minors; general procedural**
21 **provisions. (1) APPOINTMENT OF ATTORNEY OR GUARDIAN AD LITEM.** (a) In a proceeding
22 under this subchapter that may result in the termination of parental rights to a
23 minor, the court shall appoint an attorney for any indigent, minor or incompetent
24 person who appears in the proceeding and whose parental rights to the minor may
25 be terminated, unless the court finds that the incompetent person has sufficient

1 financial means to hire an attorney, or the indigent person declines to be represented
2 by an attorney.

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

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

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

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

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

21 **48.88 General procedure for adoption of minors; petition for adoption**
22 **of minor. (1) STANDING TO PETITION TO ADOPT.** (a) Except as otherwise provided in
23 par. (c), the following individuals are the only individuals who have standing to
24 petition to adopt a minor under this section:

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

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

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

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

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

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

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

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

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

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

7 ✓ (12) 4. A statement that a **preplacement** evaluation containing a finding that the
8 petitioner is suited to be an adoptive parent has been prepared or revised within the
9 18 months preceding the placement or that ~~the absence of a preplacement evaluation~~
10 ~~has been excused by a court for good cause shown is~~ not required under s. 48.83
11 (1) (b) ~~of the Act~~.

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

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

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

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

24 9. A statement that the minor has been placed in compliance with any
25 applicable law governing interstate or intercountry placements of minors or, if the

1 minor has not been placed from another state or another country, a statement that
2 the laws governing interstate or intercountry placements of minors are not
3 applicable.

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

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

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

16 (b) The petitioner shall request in the petition that the court do all of the
17 following:

18 1. Permit the petitioner to adopt the minor as the petitioner's child.

19 2. Approve the full name by which the minor is to be known if the petition is
20 granted.

21 3. Grant any other reliefsought by the petitioner.

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

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

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


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

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

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

13 6. A copy of the **preplacement** evaluation and of the evaluation made during the
14 pendency of the proceeding for adoption.

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

16 8. A document signed under s. 48.85 (4) (e) ⁵ 

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

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

23 11. If an agency placed the minor for adoption, a verified document from the
24 agency stating the circumstances under which the agency obtained legal custody of
25 the minor for the purpose of adoption; that the agency complied with any applicable

1 law governing an interstate or intercountry placement of the minor; the name or
2 relationship to the minor of any individual whose consent to the adoption of the
3 minor is required, but who has not executed a consent or a relinquishment or who
4 has not had his or her parental rights terminated, and any fact or circumstance that
5 may excuse the lack of consent, relinquishment or termination of parental rights;
6 whether the agency has executed its consent to the proposed adoption; and whether
7 the agency waives notice of the proceeding for adoption.

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

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

12 **48.89 General procedure for adoption of minors; notice of pendency of**
13 **proceeding. (1) SERVICE OF NOTICE.** (a) Unless notice has been waived, notice of
14 a proceeding for the adoption of a minor shall be served, within 20 days after the date
15 on which the petition for adoption is filed, on all of the following persons:

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

19 2. An agency whose consent to the adoption is required under s. 48.85 (1) (b)
20 1.

21 3. An individual whom the petitioner knows is claiming to be, or who is named
22 as, the father or a possible father of the minor and whose paternity of the minor has
23 not been judicially determined, except that notice need not be served on an individual
24 who has executed a verified statement, as described in s. 48.85 (2) (a) 4., denying
25 paternity or disclaiming any interest in the minor.

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

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

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

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

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

13 2. An individual who has revoked a consent to the adoption of the minor or a
14 relinquishment under s. 48.85 (8) (a) or (9) (a) or who is attempting to have a consent
15 to the adoption or a relinquishment set aside under s. 48.85 (8) (b) or (9) (b).

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

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

22 (a) The caption of the petition.

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

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

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

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

5 (f) Any other information required under s. 801.09.

6 (3) MANNER AND EFFECT OF SERVICE. (a) Personal service of the notice required
7 under sub. (1) shall be made in the manner prescribed for service of a summons under
8 ss. 801.10 and 801.11, unless the court otherwise directs.

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

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

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

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

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

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

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

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

11 5. Whether any individual has formally or informally acknowledged or claimed
12 paternity of the minor in a jurisdiction in which the woman who gave birth to the
13 minor resided during or since her pregnancy or in the jurisdiction in which the minor
14 has resided or resides at the time of the inquiry.

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

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