

## 1999 SENATE BILL 345

January 27, 2000 – Introduced by Senator ROBSON, cosponsored by Representative LADWIG. Referred to Committee on Judiciary and Consumer Affairs.

1     **AN ACT to repeal** 48.27 (3) (a) 1m., 48.42 (2g) (am) and 938.27 (3) (a) 1m.; **to**  
2     **renumber** 48.43 (5) (b); **to renumber and amend** 48.355 (2b) and 938.355  
3     (2b); **to amend** 20.435 (3) (pm), 48.27 (3) (a) 2., 48.27 (6), 48.355 (2d) (a) 1.,  
4     48.355 (2d) (a) 2., 48.355 (2d) (b) (intro.), 48.355 (2d) (b) 2., 48.355 (2d) (b) 3.,  
5     48.355 (2d) (b) 4., 48.38 (5) (b), 48.42 (2g) (b), 48.427 (1m), 938.27 (3) (a) 2.,  
6     938.27 (6), 938.355 (2d) (a) 1., 938.355 (2d) (a) 2., 938.355 (2d) (b) (intro.),  
7     938.355 (2d) (b) 2., 938.355 (2d) (b) 3., 938.355 (2d) (b) 4., 938.365 (1) and 938.38  
8     (5) (b); and **to create** 48.355 (2d) (a) 1d., 48.355 (2d) (a) 1j., 48.355 (2d) (a) 3.,  
9     48.355 (2d) (d), 48.38 (4) (am), 48.43 (5) (b) 2., 938.355 (2d) (a) 1d., 938.355 (2d)  
10    (a) 1j., 938.355 (2d) (a) 3., 938.355 (2d) (d) and 938.38 (4) (am) of the statutes;  
11    **relating to:** the efforts that are required to prevent the removal of a child or  
12    juvenile from the home or to make it possible for a child or juvenile to return  
13    safely to his or her home when a juvenile court order places the child or juvenile  
14    outside of the home and notice and an opportunity to be heard at certain

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1 proceedings under the children’s code and the juvenile justice code by a foster  
2 parent, treatment foster parent or other substitute care provider of a child or  
3 juvenile.

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***Analysis by the Legislative Reference Bureau***

Under current law, an order of the court assigned to exercise jurisdiction under the children’s code and the juvenile justice code (juvenile court) that places a child or juvenile in need of protection or services or a juvenile who has been adjudged delinquent outside of his or her home must include a finding as to whether the county department of human services or social services (county department), the department of health and family services (DHFS), in a county having a population of 500,000 or more, or the agency primarily responsible for providing services under a juvenile court order (collectively “agency”), has made reasonable efforts to prevent the removal of the child or juvenile from the home while assuring that the health and safety of the child or juvenile are the paramount concerns or, if applicable, has made reasonable efforts to make it possible for the child or juvenile to return safely to his or her home, except that a juvenile court is not required to find that those reasonable efforts have been made with respect to a parent if the juvenile court finds that the parent has committed certain crimes of homicide against a child of the parent; has committed battery, sexual assault or physical or sexual abuse resulting in great bodily harm or substantial bodily harm to the child or juvenile or to another child of the parent; has had his or her parental rights terminated with respect to another child; or has subjected the child or juvenile to aggravated circumstances, which are defined under current law as including criminal abandonment, torture, chronic abuse and sexual abuse. Current law, in turn, defines sexual abuse as a violation of certain sex crimes. Current law, however, does not, in turn, define abandonment, torture or chronic abuse.

This bill defines those terms for purposes of determining when a parent has subjected a child to aggravated circumstances. Specifically, the bill defines abandonment as a violation of the criminal law against abandonment or an action or inaction that results in a finding that a child is in need of protection or services on the grounds of abandonment. The bill defines chronic abuse as two or more violations of the criminal laws against battery or physical abuse of a child that result in bodily harm (as opposed to great bodily harm or substantial bodily harm). The bill defines torture as a violation of the criminal laws against mayhem or causing mental harm to a child.

Current law permits an agency, at the same time as the agency is making reasonable efforts to prevent the removal of a child or juvenile from the home or to make it possible for a child or juvenile to return to his or her home, to work with DHFS, or a county department or child welfare agency that is authorized to place children for adoption, in making reasonable efforts to place the child or juvenile for adoption, with a guardian or in some other alternative permanent placement

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(concurrent reasonable efforts). This bill permits an agency to work with *any* county department or child welfare agency, not just one that is authorized to place children for adoption, in making reasonable efforts to place the child with a guardian or in some alternative permanent placement. The bill also requires an agency to describe any concurrent reasonable efforts that were made in the permanency plan of the child or juvenile or, if no concurrent reasonable efforts were made, the basis for the decision not to make any concurrent reasonable efforts.

Under current law, a foster parent, treatment foster parent or other physical custodian (substitute care provider) of a child or juvenile who is the subject of a child or juvenile in need of protection or services proceeding or of a juvenile who is the subject of a delinquency proceeding is entitled to receive an opportunity to be heard at all hearings involving the child or juvenile, except hearings on motions for which notice need only be provided to the child or juvenile and his or her counsel. A substitute care provider is also entitled to receive an opportunity to be heard at all hearings on a terminating parental rights (TPR) proceeding and at all hearings on certain other matters over which the juvenile court has jurisdiction, such as the appointment and removal of a guardian of a child, the adoption of a child and proceedings under the Mental Health Act concerning a child or juvenile.

This bill eliminates the requirement that a substitute care provider receive an opportunity to be heard at *all* hearings involving a child or juvenile in need of protection or services or involving a juvenile who is the subject of a delinquency proceeding, such as a plea hearing, a fact-finding hearing or a dispositional hearing, but leaves intact the requirement that a substitute care provider receive an opportunity to be heard at a change in placement hearing or hearing on a revision or extension of a dispositional order. Similarly, the bill eliminates the requirement that a substitute care provider receive an opportunity to be heard at *all* TPR hearings, such as a plea hearing or a fact-finding hearing, but leaves intact the requirement that a substitute care provider receive an opportunity to be heard at a TPR dispositional hearing. In addition, the bill eliminates the requirement that a substitute care provider receive an opportunity to be heard at hearings on proceedings under the children's code or the juvenile justice code other than TPR, child or juvenile in need of protection or services proceedings and delinquency proceedings.

The bill, however, requires a substitute care provider to receive an opportunity to be heard at a hearing to determine the permanency plan for a child or juvenile when the juvenile court has determined that a parent has subjected the child or juvenile to aggravated circumstances; has committed certain crimes of homicide, battery, sexual assault or sexual or physical abuse against a child of the parent; or has had his or her parental rights terminated with respect to another child of the parent. In addition, the bill requires a substitute care provider to receive an opportunity to be heard at the annual permanency plan review for a child whose parents' parental rights have been terminated, but who has not been adopted.

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

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

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

2           20.435 (3) (pm) *Federal aid; adoption incentive payments.* All federal moneys  
3 received as adoption incentive payments under 42 USC 473A 673b, as authorized by  
4 the governor under s. 16.54, to be expended for the purposes for which received.

5           **SECTION 2.** 48.27 (3) (a) 1m. of the statutes is repealed.

6           **SECTION 3.** 48.27 (3) (a) 2. of the statutes is amended to read:

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

17           **SECTION 4.** 48.27 (6) of the statutes is amended to read:

18           48.27 (6) When a proceeding is initiated under s. 48.14, all interested parties  
19 shall receive notice and appropriate summons shall be issued in a manner specified  
20 by the court, consistent with applicable governing statutes. ~~In addition, if the child~~  
21 ~~who is the subject of the proceeding is in the care of a foster parent, treatment foster~~

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1 parent or other physical custodian described in s. 48.62 (2), the court shall give the  
2 foster parent, treatment foster parent or other physical custodian notice and an  
3 opportunity to be heard as provided in sub. (3) (a).

4 **SECTION 5.** 48.355 (2b) of the statutes is renumbered 48.355 (2b) (intro.) and  
5 amended to read:

6 **48.355 (2b) CONCURRENT REASONABLE EFFORTS PERMITTED.** (intro.) A county  
7 department, the department, in a county having a population of 500,000 or more, or  
8 the agency primarily responsible for providing services to a child under a court order  
9 may, at the same time as the county department, department or agency is making  
10 the reasonable efforts required under sub. (2) (b) 6., ~~work~~ do one or both of the  
11 following:

12 (a) Work with the department, a county department under s. 48.57 (1) (e) or  
13 (hm) or a child welfare agency licensed under s. 48.61 (5) in making reasonable  
14 efforts to place the child for adoption.

15 (b) Work with the department, a county department or a child welfare agency  
16 in making reasonable efforts to place the child with a guardian or in some other  
17 alternative permanent placement.

18 **SECTION 6.** 48.355 (2d) (a) 1. of the statutes is amended to read:

19 48.355 (2d) (a) 1. ~~“Aggravated circumstances” include abandonment in~~  
20 “Abandonment” means a violation of s. 948.20 or in a violation of the law of any other  
21 state or federal law if that violation would be a violation of s. 948.20 if committed in  
22 this state, torture, chronic abuse and sexual abuse as evidenced by a final judgment  
23 of conviction, or an action or inaction that results in a finding of abandonment under  
24 s. 48.13 (2) or under a law of any other state or a federal law that is comparable to  
25 s. 48.13 (2), as evidenced by a final order of a court of competent jurisdiction.

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1           **SECTION 7.** 48.355 (2d) (a) 1d. of the statutes is created to read:

2           48.355 **(2d)** (a) 1d. “Aggravated circumstances” include abandonment, chronic  
3 abuse, sexual abuse and torture.

4           **SECTION 8.** 48.355 (2d) (a) 1j. of the statutes is created to read:

5           48.355 **(2d)** (a) 1j. “Chronic abuse” means 2 or more violations of s. 940.19 (1)  
6 or (6) or 948.03 (2) (b) or (c) or (3) (b) or (c) or of a law of any other state or federal law,  
7 if that violation would be a violation of s. 940.19 (1) or (6) or 948.03 (2) (b) or (c) or  
8 (3) (b) or (c) if committed in this state, that result in bodily harm, as defined in s.  
9 939.22 (4), as evidenced by final judgments of conviction on 2 or more separate  
10 occasions.

11           **SECTION 9.** 48.355 (2d) (a) 2. of the statutes is amended to read:

12           48.355 **(2d)** (a) 2. “Sexual abuse” means a violation of s. 940.225, 944.30,  
13 948.02, 948.025, 948.05, 948.055, 948.06, 948.09 or 948.10 or a violation of the law  
14 of any other state or federal law if that violation would be a violation of s. 940.225,  
15 944.30, 948.02, 948.025, 948.05, 948.055, 948.06, 948.09 or 948.10 if committed in  
16 this state, as evidenced by a final judgment of conviction.

17           **SECTION 10.** 48.355 (2d) (a) 3. of the statutes is created to read:

18           48.355 **(2d)** (a) 3. “Torture” means a violation of s. 940.21 or 948.04 (1) or a  
19 violation of the law of any other state or federal law if that violation would be a  
20 violation of s. 940.21 or 948.04 (1) if committed in this state, as evidenced by a final  
21 judgment of conviction.

22           **SECTION 11.** 48.355 (2d) (b) (intro.) of the statutes is amended to read:

23           48.355 **(2d)** (b) (intro.) Notwithstanding sub. (2) (b) 6., the court need not  
24 include in a dispositional order a finding as to whether the county department, the  
25 department, in a county having a population of 500,000 or more, or the agency

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1 primarily responsible for providing services under a court order has made reasonable  
2 efforts with respect to a parent of a child to prevent the removal of the child from the  
3 home, while assuring that the child's health and safety are the paramount concerns,  
4 or, if applicable, a finding as to whether the agency primarily responsible for  
5 providing services under a court order has made reasonable efforts with respect to  
6 a parent of a child to make it possible for the child to return safely to his or her home,  
7 if the court finds, ~~as evidenced by a final judgment of conviction,~~ any of the following:

8 **SECTION 12.** 48.355 (2d) (b) 2. of the statutes is amended to read:

9 48.355 **(2d)** (b) 2. That the parent has committed, has aided or abetted the  
10 commission of, or has solicited, conspired or attempted to commit, a violation of s.  
11 940.01, 940.02, 940.03 or 940.05 or a violation of the law of any other state or federal  
12 law, if that violation would be a violation of s. 940.01, 940.02, 940.03 or 940.05 if  
13 committed in this state, as evidenced by a final judgment of conviction, and that the  
14 victim of that violation is a child of the parent.

15 **SECTION 13.** 48.355 (2d) (b) 3. of the statutes is amended to read:

16 48.355 **(2d)** (b) 3. That the parent has committed a violation of s. 940.19 (2), (3),  
17 (4) or (5), 940.225 (1) or (2), 948.02 (1) or (2), 948.025 or 948.03 (2) (a) or (3) (a) or a  
18 violation of the law of any other state or federal law, if that violation would be a  
19 violation of s. 940.19 (2), (3), (4) or (5), 940.225 (1) or (2), 948.02 (1) or (2), 948.025 or  
20 948.03 (2) (a) or (3) (a) if committed in this state, as evidenced by a final judgment  
21 of conviction, and that the violation resulted in great bodily harm, as defined in s.  
22 939.22 (14), or in substantial bodily harm, as defined in s. 939.22 (38), to the child  
23 or another child of the parent.

24 **SECTION 14.** 48.355 (2d) (b) 4. of the statutes is amended to read:



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1           48.355 (2d) (b) 4. That the parental rights of the parent to another child have  
2           been involuntarily terminated, as evidenced by a final order of a court of competent  
3           jurisdiction terminating those parental rights.

4           **SECTION 15.** 48.355 (2d) (d) of the statutes is created to read:

5           48.355 (2d) (d) 1. If a hearing is held under par. (c), at least 10 days before the  
6           date of the hearing the court shall notify the child, if 12 years of age or over, any  
7           parent, guardian and legal custodian of the child and any foster parent, treatment  
8           foster parent or other physical custodian described in s. 48.62 (2) of the child of the  
9           time, place and purpose of the hearing.

10          2. The court shall give a foster parent, treatment foster parent or other physical  
11          custodian described in s. 48.62 (2) who is notified of a hearing under subd. 1. an  
12          opportunity to be heard at the hearing by permitting the foster parent, treatment  
13          foster parent or other physical custodian to make a written or oral statement during  
14          the hearing, or to submit a written statement prior to the hearing, relevant to the  
15          issues to be determined at the hearing. Any written or oral statement made under  
16          this subdivision shall be made upon oath or affirmation. A foster parent, treatment  
17          foster parent or other physical custodian described in s. 48.62 (2) who receives a  
18          notice of a hearing under subd. 1. and an opportunity to be heard under this  
19          subdivision does not become a party to the proceeding on which the hearing is held  
20          solely on the basis of receiving that notice and opportunity to be heard.

21          **SECTION 16.** 48.38 (4) (am) of the statutes is created to read:

22          48.38 (4) (am) Any efforts to place the child for adoption, with a guardian or  
23          in some other alternative permanent placement that were made under s. 48.355 (2b)  
24          at the same time as the services described in par. (a) were offered or provided or, if  
25          those efforts were not made, the basis for the decision not to make those efforts.



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1           **SECTION 17.** 48.38 (5) (b) of the statutes is amended to read:

2           48.38 (5) (b) The court or the agency shall notify the parents of the child, the  
3 child if he or she is 12 years of age or older and the child's foster parent, the child's  
4 treatment foster parent or the operator of the facility in which the child is living of  
5 the date, time and place of the review, of the issues to be determined as part of the  
6 review, of the fact that they may have an opportunity to be heard at the review by  
7 submitting written comments not less than 10 working days before the review or by  
8 participating at the review. The court or agency shall notify the person representing  
9 the interests of the public, the child's counsel and the child's guardian ad litem of the  
10 date of the review, of the issues to be determined as part of the review and of the fact  
11 that they may submit written comments not less than 10 working days before the  
12 review. Any written or oral statement made to the court under this paragraph by a  
13 foster parent, treatment foster parent or operator of a facility in which a child is  
14 living shall be made under oath or affirmation. The notices under this paragraph  
15 shall be provided in writing not less than 30 days before the review and copies of the  
16 notices shall be filed in the child's case record.

17           **SECTION 18.** 48.42 (2g) (am) of the statutes is repealed.

18           **SECTION 19.** 48.42 (2g) (b) of the statutes is amended to read:

19           48.42 (2g) (b) Failure to give notice under par. (a) to a foster parent, treatment  
20 foster parent or other physical custodian described in s. 48.62 (2) does not deprive the  
21 court of jurisdiction in the proceeding. If a foster parent, treatment foster parent or  
22 other physical custodian described in s. 48.62 (2) is not given notice of a hearing  
23 under par. (a) and if the court is required under s. 48.427 (1m) to permit that person  
24 to make a written or oral statement during the hearing or to submit a written  
25 statement prior to the hearing and that person does not make or submit such a

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1 statement, that person may request a rehearing on the matter at any time prior to  
2 the entry of an order under s. 48.427 (2) or (3). If the request is made, the court shall  
3 order a rehearing.

4 **SECTION 20.** 48.427 (1m) of the statutes is amended to read:

5 48.427 **(1m)** In addition to any evidence presented under sub. (1), the court  
6 shall give the foster parent, treatment foster parent or other physical custodian  
7 described in s. 48.62 (2) of the child an opportunity to be heard at the dispositional  
8 hearing by permitting the foster parent, treatment foster parent or other physical  
9 custodian to make a written or oral statement during the dispositional hearing, or  
10 to submit a written statement prior to disposition, relevant to the issue of disposition.  
11 Any written or oral statement made under this subsection shall be made under oath  
12 or affirmation. A foster parent, treatment foster parent or other physical custodian  
13 described in s. 48.62 (2) who receives notice of a hearing under s. 48.42 (2g) (a) and  
14 an opportunity to be heard under this subsection does not become a party to the  
15 proceeding on which the hearing is held solely on the basis of receiving that notice  
16 and opportunity to be heard.

17 **SECTION 21.** 48.43 (5) (b) of the statutes is renumbered 48.43 (5) (b) 1.

18 **SECTION 22.** 48.43 (5) (b) 2. of the statutes is created to read:

19 48.43 **(5)** (b) 2. The court shall give a foster parent, treatment foster parent or  
20 other physical custodian described in s. 48.62 (2) who is notified of a hearing under  
21 subd. 1. an opportunity to be heard at the hearing by permitting the foster parent,  
22 treatment foster parent or other physical custodian to make a written or oral  
23 statement during the hearing, or to submit a written statement prior to the hearing,  
24 relevant to the issues to be determined at the hearing. Any written or oral statement  
25 made under this subdivision shall be made upon oath or affirmation. A foster parent,

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1 treatment foster parent or other physical custodian described in s. 48.62 (2) who  
2 receives a notice of a hearing under subd. 1. and an opportunity to be heard under  
3 this subdivision does not become a party to the proceeding on which the hearing is  
4 held solely on the basis of receiving that notice and opportunity to be heard.

5 **SECTION 23.** 938.27 (3) (a) 1m. of the statutes is repealed.

6 **SECTION 24.** 938.27 (3) (a) 2. of the statutes is amended to read:

7 938.27 **(3)** (a) 2. Failure to give notice under subd. 1. to a foster parent,  
8 treatment foster parent or other physical custodian described in s. 48.62 (2) does not  
9 deprive the court of jurisdiction in the action or proceeding. If a foster parent,  
10 treatment foster parent or other physical custodian described in s. 48.62 (2) is not  
11 given notice of a hearing under subd. 1. and if the court is required under this chapter  
12 to permit that person to make a written or oral statement during the hearing or to  
13 submit a written statement prior to the hearing and that person does not make or  
14 submit such a statement, that person may request a rehearing on the matter during  
15 the pendency of an order resulting from the hearing. If the request is made, the court  
16 shall order a rehearing.

17 **SECTION 25.** 938.27 (6) of the statutes is amended to read:

18 938.27 **(6)** When a proceeding is initiated under s. 938.14, all interested parties  
19 shall receive notice and appropriate summons shall be issued in a manner specified  
20 by the court, consistent with applicable governing statutes. ~~In addition, if the~~  
21 ~~juvenile who is the subject of the proceeding is in the care of a foster parent,~~  
22 ~~treatment foster parent or other physical custodian described in s. 48.62 (2), the court~~  
23 ~~shall give the foster parent, treatment foster parent or other physical custodian~~  
24 ~~notice and an opportunity to be heard as provided in sub. (3) (a).~~

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1           **SECTION 26.** 938.355 (2b) of the statutes is renumbered 938.355 (2b) (intro.) and  
2 amended to read:

3           **938.355 (2b)** CONCURRENT REASONABLE EFFORTS PERMITTED. (intro.) A county  
4 department that provides social services or the agency primarily responsible for  
5 providing services to a juvenile under a court order may, at the same time as the  
6 county department or agency is making the reasonable efforts required under sub.  
7 (2) (b) 6., ~~work~~ do one or both of the following:

8           (a) Work with the department of health and family services, a county  
9 department under s. 48.57 (1) (e) or (hm) or a child welfare agency licensed under s.  
10 48.61 (5) in making reasonable efforts to place the juvenile for adoption<sub>7</sub>.

11           (b) Work with the department of health and family services, a county  
12 department or a child welfare agency in making reasonable efforts to place the child  
13 with a guardian or in some other alternative permanent placement.

14           **SECTION 27.** 938.355 (2d) (a) 1. of the statutes is amended to read:

15           **938.355 (2d)** (a) 1. ~~“Aggravated circumstances” include abandonment in~~  
16 “Abandonment” means a violation of s. 948.20 or in a violation of the law of any other  
17 state or federal law if that violation would be a violation of s. 948.20 if committed in  
18 this state, torture, chronic abuse and sexual abuse as evidenced by a final judgment  
19 of conviction, or an action or inaction that results in a finding of abandonment under  
20 s. 48.13 (2) or under a law of any other state or a federal law that is comparable to  
21 s. 48.13 (2), as evidenced by a final order of a court of competent jurisdiction.

22           **SECTION 28.** 938.355 (2d) (a) 1d. of the statutes is created to read:

23           **938.355 (2d)** (a) 1d. “Aggravated circumstances” include abandonment,  
24 chronic abuse, sexual abuse and torture.

25           **SECTION 29.** 938.355 (2d) (a) 1j. of the statutes is created to read:

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1           938.355 (2d) (a) 1j. “Chronic abuse” means 2 or more violations of s. 940.19 (1)  
2           or (6) or 948.03 (2) (b) or (c) or (3) (b) or (c) or of a law of any other state or federal law,  
3           if that violation would be a violation of s. 940.19 (1) or (6) or 948.03 (2) (b) or (c) or  
4           (3) (b) or (c) if committed in this state, that result in bodily harm, as defined in s.  
5           939.22 (4), as evidenced by final judgments of conviction on 2 or more separate  
6           occasions.

7           **SECTION 30.** 938.355 (2d) (a) 2. of the statutes is amended to read:

8           938.355 (2d) (a) 2. “Sexual abuse” means a violation of s. 940.225, 944.30,  
9           948.02, 948.025, 948.05, 948.055, 948.06, 948.09 or 948.10 or a violation of the law  
10          of any other state or federal law if that violation would be a violation of s. 940.225,  
11          944.30, 948.02, 948.025, 948.05, 948.055, 948.06, 948.09 or 948.10 if committed in  
12          this state, as evidenced by a final judgment of conviction.

13          **SECTION 31.** 938.355 (2d) (a) 3. of the statutes is created to read:

14          938.355 (2d) (a) 3. “Torture” means a violation of s. 940.21 or 948.04 (1) or a  
15          violation of the law of any other state or federal law if that violation would be a  
16          violation of s. 940.21 or 948.04 (1) if committed in this state, as evidenced by a final  
17          judgment of conviction.

18          **SECTION 32.** 938.355 (2d) (b) (intro.) of the statutes is amended to read:

19          938.355 (2d) (b) (intro.) Notwithstanding sub. (2) (b) 6., the court need not  
20          include in a dispositional order a finding as to whether a county department which  
21          provides social services or the agency primarily responsible for providing services  
22          under a court order has made reasonable efforts with respect to a parent of a juvenile  
23          to prevent the removal of the juvenile from the home, while assuring that the  
24          juvenile’s health and safety are the paramount concerns, or, if applicable, a finding  
25          as to whether the agency primarily responsible for providing services under a court

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1 order has made reasonable efforts with respect to a parent of a juvenile to make it  
2 possible for the juvenile to return safely to his or her home, if the court finds, as  
3 evidenced by a final judgment of conviction, any of the following:

4 **SECTION 33.** 938.355 (2d) (b) 2. of the statutes is amended to read:

5 938.355 **(2d)** (b) 2. That the parent has committed, has aided or abetted the  
6 commission of, or has solicited, conspired or attempted to commit, a violation of s.  
7 940.01, 940.02, 940.03 or 940.05 or a violation of the law of any other state or federal  
8 law, if that violation would be a violation of s. 940.01, 940.02, 940.03 or 940.05 if  
9 committed in this state, as evidenced by a final judgment of conviction, and that the  
10 victim of that violation is a child of the parent.

11 **SECTION 34.** 938.355 (2d) (b) 3. of the statutes is amended to read:

12 938.355 **(2d)** (b) 3. That the parent has committed a violation of s. 940.19 (2),  
13 (3), (4) or (5), 940.225 (1) or (2), 948.02 (1) or (2), 948.025 or 948.03 (2) (a) or (3) (a)  
14 or a violation of the law of any other state or federal law, if that violation would be  
15 a violation of s. 940.19 (2), (3), (4) or (5), 940.225 (1) or (2), 948.02 (1) or (2), 948.025  
16 or 948.03 (2) (a) or (3) (a) if committed in this state, as evidenced by a final judgment  
17 of conviction, and that the violation resulted in great bodily harm, as defined in s.  
18 ~~938.22~~ 939.22 (14), or in substantial bodily harm, as defined in s. ~~938.22~~ 939.22 (38),  
19 to the juvenile or another child of the parent.

20 **SECTION 35.** 938.355 (2d) (b) 4. of the statutes is amended to read:

21 938.355 **(2d)** (b) 4. That the parental rights of the parent to another child have  
22 been involuntarily terminated, as evidenced by a final order of a court of competent  
23 jurisdiction terminating those parental rights.

24 **SECTION 36.** 938.355 (2d) (d) of the statutes is created to read:

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1           938.355 **(2d)** (d) 1. If a hearing is held under par. (c), at least 10 days before the  
2           date of the hearing the court shall notify the juvenile, if 12 years of age or over, any  
3           parent, guardian and legal custodian of the juvenile and any foster parent, treatment  
4           foster parent or other physical custodian described in s. 48.62 (2) of the juvenile of  
5           the time, place and purpose of the hearing.

6           2. The court shall give a foster parent, treatment foster parent or other physical  
7           custodian described in s. 48.62 (2) who is notified of a hearing under subd. 1. an  
8           opportunity to be heard at the hearing by permitting the foster parent, treatment  
9           foster parent or other physical custodian to make a written or oral statement during  
10          the hearing, or to submit a written statement prior to the hearing, relevant to the  
11          issues to be determined at the hearing. Any written or oral statement made under  
12          this subdivision shall be made upon oath or affirmation. A foster parent, treatment  
13          foster parent or other physical custodian described in s. 48.62 (2) who receives a  
14          notice of a hearing under subd. 1. and an opportunity to be heard under this  
15          subdivision does not become a party to the proceeding on which the hearing is held  
16          solely on the basis of receiving that notice and opportunity to be heard.

17          **SECTION 37.** 938.365 (1) of the statutes is amended to read:

18          938.365 **(1)** In this section, a juvenile is considered to have been placed outside  
19          of his or her home on the date on which the juvenile was first placed outside of his  
20          or her home pursuant to an order under ~~this section or~~ s. 938.345, or 938.357 ~~or~~  
21          938.363 or on the date that is 60 days after the date on which the juvenile was  
22          removed from his or her home, whichever is earlier.

23          **SECTION 38.** 938.38 (4) (am) of the statutes is created to read:

24          938.38 **(4)** (am) Any efforts to place the juvenile for adoption, with a guardian  
25          or in some other alternative permanent placement that were made under s. 938.355



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1 (2b) at the same time as the services described in par. (a) were offered or provided  
2 or, if those efforts were not made, the basis for the decision not to make those efforts.

3 **SECTION 39.** 938.38 (5) (b) of the statutes is amended to read:

4 938.38 (5) (b) The court or the agency shall notify the parents of the juvenile,  
5 the juvenile if he or she is 10 years of age or older and the juvenile's foster parent,  
6 the juvenile's treatment foster parent or the operator of the facility in which the  
7 juvenile is living of the date, time and place of the review, of the issues to be  
8 determined as part of the review, of the fact that they may have an opportunity to  
9 be heard at the review by submitting written comments not less than 10 working  
10 days before the review or by participating at the review. The court or agency shall  
11 notify the person representing the interests of the public, the juvenile's counsel and  
12 the juvenile's guardian ad litem of the date of the review, of the issues to be  
13 determined as part of the review and of the fact that they may submit written  
14 comments not less than 10 working days before the review. Any written or oral  
15 statement made to the court under this paragraph by a foster parent, treatment  
16 foster parent or operator of a facility in which a juvenile is living shall be made under  
17 oath or affirmation. The notices under this paragraph shall be provided in writing  
18 not less than 30 days before the review and copies of the notices shall be filed in the  
19 juvenile's case record.

20 **SECTION 40. Initial applicability.**

21 (1) JUVENILE COURT ORDERS. The treatment of sections 48.355 (2d) (a) 1., 1d., 1j.,  
22 2. and 3. and (b) (intro.), 2., 3. and 4. and 938.355 (2d) (a) 1., 1d., 1j., 2. and 3. and (b)  
23 (intro.), 2., 3. and 4. of the statutes first applies to juvenile court orders entered on  
24 the effective date of this subsection.

