

1 SECTION 70. 48.38 (5) (c) 6. (intro.) of the statutes is amended to read:

2 48.38 (5) (c) 6. (intro.) If the child has been placed outside of his or her home,  
3 as described in s. 48.365 (1), for 15 of the most recent 22 months, not including any  
4 period during which the child was a runaway from the out-of-home placement or the  
5 child was returned to his or her home for a trial home visit of 6 months or less or, if  
6 authorized by the court, a trial home visit of more than 6 months, the  
7 appropriateness of the permanency plan and the circumstances which prevent the  
8 child from any of the following:

9 SECTION 71. 48.38 (5) (c) 6. am. of the statutes is renumbered 48.38 (5) (c) 6.  
10 cm. and amended to read:

11 48.38 (5) (c) 6. cm. Being placed in the home of a fit and willing relative of the  
12 child.

6.1

History: 1983 a. 399; 1985 a. 70 ss. 1, 10; 1985 a. 176; 1985 a. 292 s. 3; 1985 a. 332; 1987 a. 383; 1989 a. 31, 86, 107; 1993 a. 377, 385, 395, 446, 491;  
1995 a. 27 ss. 2474 to 2478, 9126 (19); 1995 a. 77, 143, 275; 1997 a. 27, 35, 104, 237; 1999 a. 149; 2001 a. 2.

13 SECTION 72. 48.38 (5) (c) <sup>6.1</sup>cg. of the statutes is created to read:

14 48.38 (5) (c) 6. cg. Being placed with a guardian.

15 SECTION 73. 48.38 (5) (c) 6. d. of the statutes is amended to read:

16 48.38 (5) (c) 6. d. Being placed in some other alternative permanent placement,  
17 including sustaining care, independent living, or long-term foster care.

History: 1983 a. 300; 1985 a. 70 ss. 1, 10; 1985 a. 176; 1985 a. 292 s. 3; 1985 a. 332; 1987 a. 383; 1989 a. 31, 86, 107; 1993 a. 377, 385, 395, 446/491;  
1995 a. 27 ss. 2474 to 2478, 9126 (19); 1995 a. 77, 143, 275; 1997 a. 27, 35, 104, 237; 1999 a. 149; 2001 a. 2.

18 SECTION 74. 48.38 (5) (c) 7. of the statutes is amended to read:

*as affected by 2001 Wisconsin Act 2,*

19 48.38 (5) (c) 7. Whether reasonable efforts were made by the agency to ~~make~~  
20 ~~it possible for the child to return safely to his or her home, except that the court or~~  
21 ~~panel need not determine whether those reasonable efforts were made with respect~~  
22 ~~to a parent of the child if any of the circumstances specified in s. 48.355 (2d) (b) 1.,~~  
23 ~~2., 3., 4., or 5. apply to that parent~~ achieve the goal of the permanency plan, unless

1 return of the child to the home is the goal of the permanency plan and any of the  
2 circumstances specified in s. 48.355 (2d) (b) 1. to 5. ✓ applies.

**History:** 1983 a. 399; 1985 a. 70 ss. 1, 10; 1985 a. 176; 1985/a. 292 s. 3; 1985 a. 332; 1987 a. 383; 1989 a. 31, 86, 107; 1993 a. 377, 385, 395, 446, 491; 1995 a. 27 ss. 2474 to 2478, 9126 (19); 1995 a. 77, 143, 275; 1997 a. 27, 35, 104, 237; 1999 a. 149; 2001 a. 2.

3 **SECTION 75.** 48.38 (5m) of the statutes is created to read:

4 <sup>later</sup> 48.38 (5m) PERMANENCY PLAN HEARING. (a) The court shall hold a hearing to  
5 review the permanency plan and to make the determinations specified in sub. (5) (c) ✓  
6 no ~~more~~ than 12 months after the date on which the child was first removed from the  
7 home and every 12 months after a previous hearing under this subsection for as long  
8 as the child is placed outside the home.

9 (b) Not less than 30 days before the date of the hearing, ✓ the court shall notify  
10 the child; the child's parent, guardian, and legal custodian; the child's foster parent  
11 or treatment foster parent, the operator of the facility in which the child is living, or  
12 the relative with whom the child is living; the child's court-appointed special  
13 advocate; the agency that prepared the permanency plan; and the person  
14 representing the interests of the public of the date, time, and place of the hearing.

15 (c) Any person who is provided notice of the hearing may have an opportunity  
16 to be heard at the hearing by submitting written comments relevant to the  
17 determinations specified in sub. (5) (c) not less than 10 working days before the date  
18 of the hearing or by participating at the hearing. Any written or oral comment made  
19 to the court under this paragraph by a foster parent, treatment foster parent,  
20 operator of a facility in which a child is living, or relative with whom a child is living  
21 shall be made under oath or affirmation. A foster parent, treatment foster parent,  
22 operator of a facility in which a child is living, or relative with whom a child is living  
23 who receives notice of a hearing under par. (b) and an opportunity to be heard under

1 this paragraph does not become a party to the proceeding on which the hearing is  
2 held solely on the basis of receiving that notice and opportunity to be heard.

3 (d) At least 5 days before the date of the hearing the agency that prepared the  
4 permanency plan shall provide a copy of the permanency plan and any written  
5 comments submitted under par. (c) to the court, to the child's parent, guardian, and  
6 legal custodian, to the person representing the interests of the public, to the child's  
7 counsel or guardian ad litem, and to the child's court-appointed special advocate.  
8 Notwithstanding s. 48.78 (2) (a), the person representing the interests of the public,  
9 the child's counsel or guardian ad litem, and the child's court-appointed special  
10 advocate may have access to any other records concerning the child for the purpose  
11 of participating in the review. A person permitted access to a child's records under  
12 this paragraph may not disclose any information from the records to any other  
13 person.

14 (e) After the hearing, the court shall make written findings of fact and  
15 conclusions of law relating to the determinations under sub. (5) (c) and shall provide  
16 a copy of those findings of fact and conclusions of law to the child; the child's parent,  
17 guardian, and legal custodian; the child's foster parent or treatment foster parent,  
18 the operator of the facility in which the child is living, or the relative with whom the  
19 child is living; the child's court-appointed special advocate; the agency that prepared  
20 the permanency plan; and the person representing the interests of the public. The  
21 court shall make the findings specified in sub. (5) (c) 7. on a case-by-case basis based  
22 on circumstances specific to the child and shall document the specific information on  
23 which those findings are based in the findings of fact and conclusions of law prepared  
24 under this paragraph. Findings of fact and conclusions of law that merely reference  
25 sub. (5) (c) 7. or that merely reference or incorporate the permanency plan or any

1 other document without documenting that specific information in the findings of fact  
2 and conclusions of law or amended findings of fact and conclusions of law that  
3 retroactively correct earlier findings of fact and conclusions of law that do not comply  
4 with this paragraph are not sufficient to comply with this paragraph.

5 (f) If the findings of fact and conclusions of law under par. (e) conflict with the  
6 child's dispositional order or provide for any additional services not specified in the  
7 dispositional order, the court shall revise the dispositional order under s. 48.363 or  
8 order a change in placement under s. 48.357, as appropriate.

9 **SECTION 76.** 48.417 (1) (a) of the statutes is amended to read:

10 48.417 (1) (a) The child has been placed outside of his or her home, as described  
11 in s. 48.365 (1), for 15 of the most recent 22 months, not including any period during  
12 which the child was a runaway from the out-of-home placement or the child was  
13 returned to his or her home for a trial home visit of 6 months or less or, if authorized  
14 by the court, a trial home visit of more than 6 months. If the circumstances specified  
15 in this paragraph apply, the petition shall be filed or joined in by the last day of the  
16 15th month, as described in this paragraph, for which the child was placed outside  
17 of his or her home.

18 History: 1997 a. 237.

18 **SECTION 77.** 48.417 (1) (b) of the statutes is amended to read:

19 48.417 (1) (b) A court of competent jurisdiction has found under s. 48.13 (2) or  
20 under a law of any other state or a federal law that is comparable to s. 48.13 (2) that  
21 the child was abandoned when he or she was under one year of age or has found that  
22 the parent abandoned the child when the child was under one year of age in violation  
23 of s. 948.20 or in violation of the law of any other state or federal law, if that violation  
24 would be a violation of s. 948.20 if committed in this state. If the circumstances

1 specified in this paragraph apply, the petition shall be filed or joined in within 60  
2 days after the date on which the court of competent jurisdiction found that the child  
3 was abandoned as described in this paragraph.

History: 1997 a. 237.

4 **SECTION 78.** 48.417 (1) (c) of the statutes is amended to read:

5 48.417 (1) (c) A court of competent jurisdiction has found that the parent has  
6 committed, has aided or abetted the commission of, or has solicited, conspired, or  
7 attempted to commit, a violation of s. 940.01, 940.02, 940.03, or 940.05 or a violation  
8 of the law of any other state or federal law, if that violation would be a violation of  
9 s. 940.01, 940.02, 940.03, or 940.05 if committed in this state, and that the victim of  
10 that violation is a child of the parent. If the circumstances specified in this paragraph  
11 apply, the petition shall be filed or joined in within 60 days after the date on which  
12 the court assigned to exercise jurisdiction under this chapter determines, based on  
13 a finding that a circumstance specified in this paragraph applies, that reasonable  
14 efforts to make it possible for the child to return safely to his or her home are not  
15 required.

History: 1997 a. 237.

16 **SECTION 79.** 48.417 (1) (d) of the statutes is amended to read:

17 48.417 (1) (d) A court of competent jurisdiction has found that the parent has  
18 committed a violation of s. 940.19 (2), (3), (4), or (5), 940.225 (1) or (2), 948.02 (1) or  
19 (2), 948.025, or 948.03 (2) (a) or (3) (a) or a violation of the law of any other state or  
20 federal law, if that violation would be a violation of s. 940.19 (2), (3), (4), or (5), 940.225  
21 (1) or (2), 948.02 (1) or (2), 948.025, or 948.03 (2) (a) or (3) (a) if committed in this state,  
22 and that the violation resulted in great bodily harm, as defined in s. 939.22 (14), or  
23 in substantial bodily harm, as defined in s. 939.22 (38), to the child or another child  
24 of the parent. If the circumstances specified in this paragraph apply, the petition

1 shall be filed or joined in within 60 days after the date on which the court assigned  
2 to exercise jurisdiction under this chapter determines, based on a finding that a  
3 circumstance specified in this paragraph applies, that reasonable efforts to make it  
4 possible for the child to return safely to his or her home are not required.

History: 1997 a. 237.

5 **SECTION 80.** 48.417 (2) (a) of the statutes is amended to read:

6 48.417 (2) (a) The child is being cared for by a fit and willing relative of the  
7 child.

History: 1997 a. 237.

8 **SECTION 81.** 48.417 (2) (b) of the statutes is amended to read:

9 48.417 (2) (b) The child's permanency plan indicates and provides  
10 documentation that termination of parental rights to the child is not in the best  
11 interests of the child.

History: 1997 a. 237.

12 **SECTION 82.** 48.417 (2) (d) of the statutes is created to read:

13 48.417 (2) (d) Grounds for an involuntary termination of parental rights under  
14 s. 48.415 do not exist.

15 **SECTION 83.** 48.42 (2g) (am) of the statutes is amended to read:

16 48.42 (2g) (am) The court shall give a foster parent, treatment foster parent,  
17 or other physical custodian described in s. 48.62 (2) who is notified of a hearing under  
18 par. (a) an opportunity to be heard at the hearing by permitting the foster parent,  
19 treatment foster parent, or other physical custodian to make a written or oral  
20 statement during the hearing, or to submit a written statement prior to the hearing,  
21 relevant to the issues to be determined at the hearing. Any written or oral statement  
22 made under this paragraph shall be made upon oath or affirmation. A foster parent,  
23 treatment foster parent, or other physical custodian described in s. 48.62 (2) who  
24 receives a notice of a hearing under par. (a) and an opportunity to be heard under this

1 paragraph does not become a party to the proceeding on which the hearing is held  
2 solely on the basis of receiving that notice and opportunity to be heard.

History: 1973 c. 263; 1977 c. 354; 1979 c. 330; 1981 c. 81 s. 33; 1981 c. 391; 1983 a. 447; 1985 a. 94; Sup. Ct. Order, 136 Wis. 2d xxv (1987); 1987 a. 383; 1989 a. 86; 1993 a. 395, 446; 1995 a. 108, 225, 275, 352; 1997 a. 35, 80, 191, 237; 1999 a. 9, 83.

3 **SECTION 84.** 48.427 (1m) of the statutes is amended to read:

4 48.427 (1m) In addition to any evidence presented under sub. (1), the court  
5 shall give the foster parent, treatment foster parent, or other physical custodian  
6 described in s. 48.62 (2) of the child an opportunity to be heard at the dispositional  
7 hearing by permitting the foster parent, treatment foster parent, or other physical  
8 custodian to make a written or oral statement during the dispositional hearing, or  
9 to submit a written statement prior to disposition, relevant to the issue of disposition.  
10 Any written or oral statement made under this subsection shall be made upon oath  
11 or affirmation. A foster parent, treatment foster parent, or other physical custodian  
12 described in s. 48.62 (2) who receives notice of a hearing under s. 48.42 (2g) (a) and  
13 an opportunity to be heard under this subsection does not become a party to the  
14 proceeding on which the hearing is held solely on the basis of receiving that notice  
15 and opportunity to be heard.

History: 1979 c. 330; 1981 c. 81, 359; 1985 a. 70, 176; 1995 a. 275, 289; 1997 a. 80, 104, 237.

16 **SECTION 85.** 48.63 (1) of the statutes is amended to read:

17 48.63 (1) Acting pursuant to under court order or voluntary agreement, the  
18 child's parent or guardian or the department of health and family services, the  
19 department of corrections, a county department, or a child welfare agency licensed  
20 to place children in foster homes ~~or~~, treatment foster homes, or group homes may  
21 place a child or negotiate or act as intermediary for the placement of a child in a foster  
22 home, treatment foster home, or group home. Voluntary agreements under this  
23 subsection may not be used for placements in facilities other than foster, treatment  
24 foster, or group homes and may not be extended. A foster home or treatment foster

1 home placement under a voluntary agreement may not exceed 6 months 180 days  
2 from the date on which the child was removed from the home under the voluntary  
3 agreement. A group home placement under a voluntary agreement may not exceed  
4 15 days from the date on which the child was removed from the home under the  
5 voluntary agreement. These time limitations do not apply to placements made under  
6 s. 48.345, 938.183, 938.34, or 938.345. Voluntary agreements may be made only  
7 under this subsection and shall be in writing and shall specifically state that the  
8 agreement may be terminated at any time by the parent or guardian or by the child  
9 if the child's consent to the agreement is required. The child's consent to the  
10 agreement is required whenever the child is 12 years of age or older.

History: 1977 c. 354, 449; 1979 c. 300; 1981 c. 81; 1983 a. 351, 399; 1985 a. 176; 1989 a. 31, 107; 1993 a. 446; 1995 a. 27 ss. 2594, 9126 (19); 1995 a. 77.

11 **SECTION 86.** 48.63 (4) of the statutes is amended to read:

12 48.63 (4) A permanency plan under s. 48.38 is required for each child placed  
13 in a foster home or treatment foster home under sub. (1). If the child is living in a  
14 foster home or treatment foster home under a voluntary agreement, the agency that  
15 negotiated or acted as intermediary for the placement shall prepare the permanency  
16 plan within 60 days after the placement date on which the child was removed from  
17 his or her home under the voluntary agreement. A copy of each plan shall be provided  
18 to the child if he or she is 12 years of age or over and to the child's parent or guardian.  
19 If the agency ~~which~~ that arranged the voluntary placement intends to seek a court  
20 order to place the child outside of his or her home at the expiration of the voluntary  
21 placement, the agency shall prepare a revised permanency plan and file that revised  
22 plan with the court prior to the date of the hearing on the proposed placement.

History: 1977 c. 354, 449; 1979 c. 300; 1981 c. 81; 1983 a. 351, 399; 1985 a. 176; 1989 a. 31, 107; 1993 a. 446; 1995 a. 27 ss. 2594, 9126 (19); 1995 a. 77.

23 **SECTION 87.** 48.685 (5) (bm) 4. of the statutes is amended to read:



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1 48.685 (5) (bm) 4. A violation of s. 125.075 (1), 125.085 (3) (a) 2., 125.105 (2) (b),  
2 125.66 (3), 125.68 (12), 940.09, 940.19 (2), (3), (4), (5), or (6), 940.20, 940.203, 940.205  
3 or, 940.207, or 940.25, a violation of s. 346.63 (1), (2), (5), or (6) that is a felony under  
4 s. 346.65 (2) (e) or (f), (2j) (d), or (3m), or an offense under ch. 961 that is a felony, if  
5 committed not more than 5 years before the date of the investigation under sub. (2)  
6 (am).

History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 185, 186.

7 SECTION 88. 48.78 (2) (a) of the statutes is amended to read:

8 48.78 (2) (a) No agency may make available for inspection or disclose the  
9 contents of any record kept or information received about an individual in its care  
10 or legal custody, except as provided under s. 48.371, 48.38 (5) (b) or (d) or (5m) (d),  
11 48.432, 48.433, 48.93, 48.981 (7), 938.51, or 938.78 or by order of the court.

History: 1979 c. 34; 1981 c. 359; 1983 a. 471 s. 7; 1985 a. 29 s. 3202 (23); 1985 a. 176, 292, 332; 1987 a. 332; 1989 a. 31, 107, 336; 1991 a. 17, 33; 1993 a. 16, 92, 95, 218, 227, 377, 385, 395, 479, 491; 1995 a. 27 ss. 2610 to 2614p, 9126 (19); 1995 a. 77, 230, 352; 1997 a. 205, 207, 283, 292.

12 SECTION 89. 48.977 (2) (f) of the statutes is amended to read:

13 48.977 (2) (f) That the agency primarily responsible for providing services to  
14 the child under a court order has made reasonable efforts to make it possible for the  
15 child to return to his or her home, while assuring that the child's health and safety  
16 are the paramount concerns, but that reunification of the child with the child's  
17 parent or parents is unlikely or contrary to the best interests of the child and that  
18 further reunification efforts are unlikely to be made or are contrary to the best  
19 interests of the child, except that the court ~~need not~~ is not required to find that the  
20 agency has made those reasonable efforts with respect to a parent of the child if any  
21 of the circumstances specified in s. 48.355 (2d) (b) 1., 2., 3., 4., or 5. apply to 5. applies

22 to that parent. The court shall make the findings specified in this paragraph on a  
23 case-by-case basis based on circumstances specific to the child and shall document  
24 the specific information on which those findings are based in the guardianship order.

*as affected by 2001 Wisconsin Act 29*

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*plain*

1 A guardianship order that merely references this paragraph or that merely  
2 references or incorporates the court report under sub. (4) (e) or any other document  
3 without documenting that specific information in the order or an amended  
4 guardianship order that retroactively corrects an earlier guardianship order that  
5 does not comply with this paragraph is not sufficient to comply with this paragraph.

History: 1995 a. 275; 1997 a. 27, 35, 80, 237; 1999 a. 133; 2001 a. 2.

6 SECTION 90. 938.21 (2) (am) of the statutes is amended to read:

7 938.21 (2) (am) A juvenile held in a nonsecure place of custody may waive in  
8 writing his or her right to participate in the hearing under this section. After any  
9 waiver, a hearing rehearing shall be granted upon the request of the juvenile or any  
10 other interested party. Any juvenile transferred to a secure detention facility shall  
11 thereafter have a hearing rehearing under this section.

History: 1995 a. 77, 275; 1997 a. 35, 237, 296; 2001 a. 16.

12 SECTION 91. 938.21 (3) (am) of the statutes is amended to read:

13 938.21 (3) (am) The parent, guardian, or legal custodian may waive his or her  
14 right to participate in the hearing under this section. ~~Agreement in writing of the~~  
15 ~~juvenile is required if he or she is over 12.~~ After any waiver, a hearing rehearing shall  
16 be granted at the request of any the parent, guardian, legal custodian, or any other  
17 interested party.

History: 1995 a. 77, 275; 1997 a. 35, 237, 296; 2001 a. 16.

18 SECTION 92. 938.21 (5) (b) 1. of the statutes, as affected by 2001 Wisconsin Act  
19 16, is repealed and recreated to read:

20 938.21 (5) (b) 1. A finding that continued placement of the juvenile in his or her  
21 home would be contrary to the health, safety, and welfare of the juvenile and, unless  
22 the judge or juvenile court commissioner finds that any of the circumstances  
23 specified in s. 938.355 (2d) (b) 1. to 4. applies, a finding as to whether the person who  
24 took the juvenile into custody and the intake worker have made reasonable efforts

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1 to prevent the removal of the juvenile from the home, while assuring that the  
2 juvenile's health and safety are the paramount concerns, and to make it possible for  
3 the juvenile to return safely home or, if for good cause shown sufficient information  
4 is not available for the judge or juvenile court commissioner to make those findings,  
5 an order for the county department or agency primarily responsible for providing  
6 services to the juvenile under the custody order to file with the court sufficient  
7 information for the judge or juvenile court commissioner to make those findings by  
8 no later than 5 days after the date of the order.

9 **SECTION 93.** 938.21 (5) (b) 3. of the statutes is created to read:

10 938.21 (5) (b) 3. If the judge or juvenile court commissioner finds that any of  
11 the circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies with respect to a  
12 parent, a determination that the county department or agency primarily responsible  
13 for providing services under the custody order is not required to make reasonable  
14 efforts with respect to the parent to make it possible for the juvenile to return safely  
15 to his or her home.

16 **SECTION 94.** 938.21(5) (c) of the statutes is created to read:

17 938.21 (5) (c) The judge or juvenile court commissioner shall make the findings  
18 specified in par. (b) 1. and 3. on a case-by-case basis based on circumstances specific  
19 to the juvenile and shall document the specific information on which those findings  
20 are based in the custody order. A custody order that merely references par. (b) 1. or  
21 3. or that merely references or incorporates the petition under s. 938.25 or any other  
22 document without documenting that specific information in the custody order or an  
23 amended custody order that retroactively corrects an earlier custody order that does  
24 not comply with this paragraph is not sufficient to comply with this paragraph.

25 **SECTION 95.** 938.21 (5) (d) of the statutes is created to read:

1           938.21 (5) (d) 1. If the judge or juvenile court commissioner finds that any of  
 2 the circumstances specified in s. 938.355 (2d) (b) 1. to 4. ✓ applies with respect to a  
 3 parent, the judge or juvenile court commissioner shall hold a hearing within 30 days  
 4 after the date of that finding to determine the permanency plan for the juvenile. If  
 5 a hearing is held under this subdivision, the agency responsible for preparing the  
 6 permanency plan shall file the permanency plan with the court not less than 5 days  
 7 before the date of the hearing.

8           2. If a hearing is held under subd. 1, at least 10 days before the date of the  
 9 hearing the court shall notify the juvenile, any parent, guardian, and legal custodian ✓  
 10 of the juvenile, and any foster parent, treatment foster parent, or other physical  
 11 custodian described in s. 48.62 (2) of the juvenile of the time, place, and purpose of  
 12 the hearing.

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

24           **SECTION 96.** 938.27 (3) (a) 1m. of the statutes is amended to read:

1           938.27 (3) (a) 1m. The court shall give a foster parent, treatment foster parent,  
2 or other physical custodian described in s. 48.62 (2) who is notified of a hearing under  
3 subd. 1. an opportunity to be heard at the hearing by permitting the foster parent,  
4 treatment foster parent, or other physical custodian to make a written or oral  
5 statement during the hearing, or to submit a written statement prior to the hearing,  
6 relevant to the issues to be determined at the hearing. Any written or oral statement  
7 made under this subdivision shall be made upon oath or affirmation. A foster parent,  
8 treatment foster parent, or other physical custodian described in s. 48.62 (2) who  
9 receives a notice of a hearing under subd. 1. and an opportunity to be heard under  
10 this subdivision does not become a party to the proceeding on which the hearing is  
11 held solely on the basis of receiving that notice and opportunity to be heard.

History: 1995 a. 77, 275; 1997 a. 80, 181, 237.

12           **SECTION 97.** 938.315 (2m) of the statutes is created to read:

13           938.315 (2m) No continuance or extension of a time limit specified in this  
14 chapter may be granted and no period of delay specified in sub. (1) may be excluded  
15 in computing a time requirement under this chapter if the continuance, extension,  
16 or exclusion would result in any of the following:

17           (a) The court making an initial finding under s. 938.21 (5) (b) 1., 938.355 (2) (b)  
18 6., or 938.357 (2v) (a) 1. that reasonable efforts have been made to prevent the  
19 removal of the juvenile from the home, while assuring that the juvenile's health and  
20 safety are the paramount concerns, or an initial finding <sup>under</sup> s. 938.21 (5) (b) 3., 938.355  
21 (2) (b) 6r., or 938.357 (2v) (a) 3. that those efforts were not required to be made  
22 because a circumstance specified in s. 938.355 (2d) (b) 1. to 4. applies, more than 60  
23 days after the date on which the juvenile was removed from the home.

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(b)  
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The court making an initial finding under s. 938.38 (5m) that the agency primarily responsible for providing services to the juvenile has made reasonable efforts to achieve the goals of the juvenile's permanency plan more than 12 months after the date on which the juvenile was removed from the home or making any subsequent findings under s. 938.38 (5m) as to those reasonable efforts more than 12 months after the date of a previous finding as to those reasonable efforts.

**SECTION 98.** 938.32 (1) (c) of the statutes is created to read:

938.32 (1) (b) 1. If at the time the consent decree is entered into the juvenile is placed outside the home under a voluntary agreement under s. 48.63 or is otherwise living outside the home without a court order and if the consent decree maintains the juvenile in that placement or other living arrangement, the consent decree shall include a finding that placement of the juvenile in his or her home would be contrary to the health, safety, and welfare of the juvenile, a finding as to whether the county department or the agency primarily responsible for providing services to the juvenile has made reasonable efforts to prevent the removal of the juvenile from the home, while assuring that the juvenile's health and safety are the paramount concerns, unless the judge or juvenile court commissioner finds that any of the circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies, and a finding as to whether the county department or agency has made reasonable efforts to achieve the goal of the juvenile's permanency plan, unless return of the juvenile to the home is the goal of the permanency plan and the judge or juvenile court commissioner finds that any of the circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies.

2. If the judge or juvenile court commissioner finds that any of the circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent, the consent decree shall include a determination that the county department or

1 agency primarily responsible for providing services under the consent decree is not  
2 required to make reasonable efforts with respect to the parent to make it possible for  
3 the juvenile to return safely to his or her home.

4 3. The judge or juvenile court commissioner shall make the findings specified  
5 in subd. <sup>s</sup>1. and 2. on a case-by-case basis based on circumstances specific to the  
6 juvenile and shall document the specific information on which those findings are  
7 based in the consent decree. A consent decree that merely references subd. 1. or 2.  
8 or that merely references or incorporates the permanency plan or any other  
9 document without documenting that specific information in the consent decree or an  
10 amended consent decree that retroactively corrects an earlier consent decree that  
11 does not comply with this subdivision is not sufficient to comply with this  
12 subdivision.

13 **SECTION 99.** 938.32 (1) (d) of the statutes is created to read:

14 938.32 (1) (d) 1. If the judge or juvenile court commissioner finds that any of  
15 the circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies with respect to a  
16 parent, the judge or juvenile court commissioner shall hold a hearing within 30 days  
17 after the date of that finding to determine the permanency plan for the juvenile. If  
18 a hearing is held under this subdivision, the agency responsible for preparing the  
19 permanency plan shall file the permanency plan with the court not less than 5 days  
20 before the date of the hearing.

21 2. If a hearing is held under subd. 1., at least 10 days before the date of the  
22 hearing the court shall notify the juvenile, any parent, guardian, and legal custodian  
23 of the juvenile, and any foster parent, treatment foster parent, or other physical  
24 custodian described in s. 48.62 (2) of the juvenile of the time, place, and purpose of  
25 the hearing.

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

12           **SECTION 100.** 938.33 (4) (intro.) of the statutes is amended to read:

13           938.33 (4) OTHER OUT-OF-HOME PLACEMENTS. (intro.) A report recommending  
14 placement in a foster home, treatment foster home, group home, or nonsecured child  
15 caring institution or in the home of a relative shall be in writing, except that the  
16 report may be presented orally at the dispositional hearing if all parties consent. A  
17 report that is presented orally shall be transcribed and made a part of the court  
18 record. The report shall include all of the following:

19 History: 1995 a. 77, 417; 1997 a. 27, 35, 237, 252; 1999 a. 9.

19           **SECTION 101.** 938.33 (4) (c) of the statutes is created to read:

20           938.33 (4) (c) Specific information showing that continued placement of the  
21 juvenile in his or her home would be contrary to the health, safety, and welfare of the  
22 juvenile, specific information showing that the county department or the agency  
23 primarily responsible for providing services to the juvenile has made reasonable  
24 efforts to prevent the removal of the juvenile from the home, while assuring that the



1 juvenile's health and safety are the paramount concerns, unless any of the  
2 circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies, and specific information  
3 showing that the county department or agency has made reasonable efforts to  
4 achieve the goal of the juvenile's permanency plan, unless return of the juvenile to  
5 the home is the goal of the permanency plan and any of the circumstances specified  
6 in s. 938.355 (2d) (b) 1. to 4. applies.

7 **SECTION 102.** 938.335 (3g) of the statutes is created to read:

8 938.335 (3g) At hearings under this section, if the agency, as defined in s.  
9 938.38 (1) (a), is recommending placement of the juvenile in a foster home, treatment  
10 foster home, group home, or child caring institution or in the home of a relative, the  
11 agency shall present as evidence specific information showing that continued  
12 placement of the juvenile in his or her home would be contrary to the health, safety,  
13 and welfare of the juvenile, specific information showing that the county department  
14 or the agency primarily responsible for providing services to the juvenile has made  
15 reasonable efforts to prevent the removal of the juvenile from the home, while  
16 assuring that the juvenile's health and safety are the paramount concerns, unless  
17 any of the circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies, and specific  
18 information showing that the county department or agency has made reasonable  
19 efforts to achieve the goal of the juvenile's permanency plan, unless return of the  
20 juvenile to the home is the goal of the permanency plan and any of the circumstances  
21 specified in s. 938.355 (2d) (b) 1. to 4. applies. *e*

22 **SECTION 103.** 938.355 (1) of the statutes is amended to read:

23 938.355 (1) INTENT. In any order under s. 938.34 or 938.345, the court shall  
24 decide on a placement and treatment finding based on evidence submitted to the  
25 court. The disposition shall employ those means necessary to promote the

1 objectives specified in s. 938.01. ~~If the disposition places a juvenile who has been~~  
 2 ~~adjudicated delinquent outside the home under s. 938.34 (3) (c) or (d), the order shall~~  
 3 ~~include a finding that the juvenile's current residence will not safeguard the welfare~~  
 4 ~~of the juvenile or the community due to the serious nature of the act for which the~~  
 5 ~~juvenile was adjudicated delinquent.~~ If the judge has determined that any of the  
 6 conditions specified in s. 938.34 (4m) (b) 1., 2., or 3. applies, that determination shall  
 7 be prima facie evidence that a less restrictive alternative than placement in a  
 8 secured correctional facility, a secured child caring institution, or a secured group  
 9 home is not appropriate. If information under s. 938.331 has been provided in a court  
 10 report under s. 938.33 (1), the court shall consider that information when deciding  
 11 on a placement and treatment finding.

History: 1995 a. 77, 352; 1997 a. 27, 35, 205, 237, 239, 252; 1999 a. 9, 32, 103; 2001 a. 16.

12 SECTION 104. 938.355 (2) (b) 6. of the statutes is amended to read:

13 938.355 (2) (b) 6. If the juvenile is placed outside the home and if sub. (2d) does  
 14 ~~not apply, the court's, a finding that continued placement of the juvenile in his or~~ <sup>her</sup>  
 15 home would be contrary to the health, safety, and welfare of the juvenile or, if the  
 16 juvenile has been adjudicated delinquent and is placed outside the home under s.  
 17 938.34 (3) (a), (c), or (d), a finding that the juvenile's current residence will not  
 18 safeguard the welfare of the juvenile or the community due to the serious nature of  
 19 the act for which the ~~the~~ juvenile was adjudicated delinquent. The court order shall  
 20 also contain a finding as to whether a <sup>strike spaces</sup> ~~the~~ county department which provides social  
 21 services or the agency primarily responsible for providing services under a court  
 22 order has made reasonable efforts to prevent the removal of the juvenile from the  
 23 home, while assuring that the juvenile's health and safety are the paramount  
 24 concerns, ~~or, if applicable, the court's~~ unless the court finds that any of the

1 circumstances specified in sub. (2d) (b) 1. to 4. applies, and a finding as to whether  
2 the county department or agency primarily responsible for providing services under  
3 a court order has made reasonable efforts to make it possible for the juvenile to  
4 return safely to his or her home achieve the goal of the juvenile's permanency plan,  
5 unless return of the juvenile to the home is the goal of the permanency plan and the  
6 court finds that any of the circumstances specified in sub. (2d) (b) 1. to 4. applies. The  
7 court shall make the findings specified in this subdivision on a case-by-case basis  
8 based on circumstances specific to the juvenile and shall document the specific  
9 information on which those findings are based in the court order. A court order that  
10 merely references this subdivision or that merely references or incorporates the  
11 court report under s. 938.33 (1) or any other document without documenting that  
12 specific information in the court order or an amended court order that retroactively  
13 corrects an earlier court order that does not comply with this subdivision is not  
14 sufficient to comply with this subdivision.

History: 1995 a. 77, 352; 1997 a. 27, 35, 205, 237, 239, 252; 1999 a. 9, 32, 103; 2001 a. 16.

15 **SECTION 105.** 938.355 (2) (b) 6r. of the statutes is created to read:

16 938.355 (2) (b) 6r. If the court finds that any of the circumstances specified in  
17 sub. (2d) (b) 1. to 4. applies with respect to a parent, a determination that the county  
18 department or agency primarily responsible for providing services under the court  
19 order is not required to make reasonable efforts with respect to the parent to make  
20 it possible for the juvenile to return safely to his or her home.

21 **SECTION 106.** 938.355 (2b) of the statutes is amended to read:

22 938.355 (2b) CONCURRENT REASONABLE EFFORTS PERMITTED. A county  
23 department that provides social services or the agency primarily responsible for  
24 providing services to a juvenile under a court order may, at the same time as the

1 county department or agency is making the reasonable efforts required under sub.  
2 (2) (b) 6. to prevent the removal of the juvenile from the home or to make it possible  
3 for the juvenile to return safely to his or her home, work with the department of  
4 health and family services, a county department under s. 48.57 (1) (e) or (hm), or a  
5 child welfare agency licensed under s. 48.61 (5) in making reasonable efforts to place  
6 the juvenile for adoption, with a guardian, with a fit and willing relative, or in some  
7 other alternative permanent placement.

History: 1995 a. 77, 352; 1997 a. 27, 35, 205, 237, 239, 252; 1999 a. 9, 32, 103; 2001 a. 16.

8 **SECTION 107.** 938.355 (2c) (b) of the statutes is amended to read:

9 938.355 (2c) (b) When a court makes a finding under sub. (2) (b) 6. as to whether  
10 the county department or the agency primarily responsible for providing services to  
11 the juvenile under a court order has made reasonable efforts to ~~make it possible for~~  
12 ~~the juvenile to return safely to his or her home~~ achieve the goal of the permanency  
13 plan, the court's consideration of reasonable efforts shall include, ~~but not be limited~~  
14 ~~to~~, the considerations listed under par. (a) 1. to 5. and whether visitation schedules  
15 between the juvenile and his or her parents were implemented, unless visitation was  
16 denied or limited by the court.

History: 1995 a. 77, 352; 1997 a. 27, 35, 205, 237, 239, 252; 1999 a. 9, 32, 103; 2001 a. 16.

17 **SECTION 108.** 938.355 (2d) (b) (intro.) of the statutes is amended to read:

18 938.355 (2d) (b) (intro.) Notwithstanding sub. (2) (b) 6., the court need not is  
19 not required to include in a dispositional order a finding as to whether a the county  
20 department ~~which provides social services~~ or the agency primarily responsible for  
21 providing services under a court order has made reasonable efforts with respect to  
22 a parent of a juvenile to prevent the removal of the juvenile from the home, while  
23 assuring that the juvenile's health and safety are the paramount concerns, or, if  
24 applicable, a finding as to whether the county department or agency primarily

1 ~~responsible for providing services under a court order~~ has made reasonable efforts  
2 with respect to a parent of a juvenile to ~~make it possible for the juvenile to return~~  
3 achieve the permanency plan goal of returning the juvenile safely to his or her home,  
4 if the court finds, ~~as evidenced by a final judgment of conviction,~~ any of the following:

History: 1995 a. 77, 352; 1997 a. 27, 35, 205, 237, 239, 252; 1999 a. 9, 32, 103; 2001 a. 16.

5 **SECTION 109.** 938.355 (2d) (b) 1. of the statutes is amended to read:

6 938.355 (2d) (b) 1. That the parent has subjected the juvenile to aggravated  
7 circumstances, as evidenced by a final judgment of conviction.

History: 1995 a. 77, 352; 1997 a. 27, 35, 205, 237, 239, 252; 1999 a. 9, 32, 103; 2001 a. 16.

8 **SECTION 110.** 938.355 (2d) (b) 2. of the statutes is amended to read:

9 938.355 (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.

History: 1995 a. 77, 352; 1997 a. 27, 35, 205, 237, 239, 252; 1999 a. 9, 32, 103; 2001 a. 16.

15 **SECTION 111.** 938.355 (2d) (b) 3. of the statutes is amended to read:

16 938.355 (2d) (b) 3. That the parent has committed a violation of s. 940.19 (2),  
17 (3), (4), or (5), 940.225 (1) or (2), 948.02 (1) or (2), 948.025, or 948.03 (2) (a) or (3) (a)  
18 or a violation of the law of any other state or federal law, if that violation would be  
19 a violation of s. 940.19 (2), (3), (4), or (5), 940.225 (1) or (2), 948.02 (1) or (2), 948.025,  
20 or 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 juvenile  
23 or another child of the parent.

History: 1995 a. 77, 352; 1997 a. 27, 35, 205, 237, 239, 252; 1999 a. 9, 32, 103; 2001 a. 16.

1           **SECTION 112.** 938.355 (2d) (b) 4. of the statutes is amended to read:

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

History: 1995 a. 77, 352; 1997 a. 27, 35, 205, 237, 239, 252; 1999 a. 9, 32, 103; 2001 a. 16.

5           **SECTION 113.** 938.355 (2d) (bm) of the statutes is created to read:

6           938.355 (2d) (bm) The court shall make a finding specified in par. (b) 1. to 4. ✓  
7           on a case-by-case basis based on circumstances specific to the juvenile and shall  
8           document the specific information on which that finding is based in the dispositional  
9           order. A dispositional order that merely references par. (b) 1. to 4. or that merely  
10          references or incorporates a final judgment of conviction, a final order of a court of  
11          competent jurisdiction, or any other document without documenting that specific  
12          information in the dispositional order or an amended dispositional order that  
13          retroactively corrects an earlier dispositional order that does not comply with this  
14          paragraph is not sufficient to comply with this paragraph.

15          **SECTION 114.** 938.355 (2d) (c) of the statutes is renumbered 938.355 (2d) (c) 1.  
16          and amended to read:

17          938.355 (2d) (c) 1. If the court ~~makes a finding~~ finds that any of the  
18          circumstances specified in par. (b) 1., 2., 3., or 4. to 4. applies with respect to a parent,  
19          the court shall hold a hearing within 30 days after the date of that finding to  
20          determine the permanency plan for the juvenile. If a hearing is held under this  
21          paragraph subdivision, the agency responsible for preparing the permanency plan  
22          shall file the permanency plan with the court not less than 5 days before the date of  
23          the hearing.

History: 1995 a. 77, 352; 1997 a. 27, 35, 205, 237, 239, 252; 1999 a. 9, 32, 103; 2001 a. 16.

24          **SECTION 115.** 938.355 (2d) (c) 2. and 3. of the statutes are created to read:

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

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

17           **SECTION 116.** 938.355 (4) (a) of the statutes is amended to read:

18           938.355 (4) (a) Except as provided under par. (b) or s. 938.368, ~~all orders an~~  
19 ~~order~~ under this section shall terminate at the end of one year unless the court  
20 specifies a shorter period of time. Except if s. 938.368 applies, extensions or  
21 revisions, under s. 938.357, or under 938.365 made before the juvenile reaches 18  
22 years of age that places or continues the placement of the juvenile in his or her home  
23 shall terminate at the end of one year after its entry unless the court specifies a  
24 shorter period of time. <sup>plan</sup> ~~No extension under s. 938.365 of an original dispositional~~  
25 ~~order may be granted for a juvenile who is subject to an order under s. 938.34 (4d),~~

1 (~~4h~~), (~~4m~~) or (~~4n~~) if the juvenile is 17 years of age or older when the original  
 2 dispositional order terminates. Any order made before the juvenile reaches the age  
 3 of majority shall be effective for a time up to one year after its entry unless the court  
 4 specifies a shorter period of time or the court terminates the order sooner. Except  
 5 as provided in par. (b) or s. 938.368, an order under this section, under s. 938.357,  
 6 or under s. 938.365 made before the juvenile reaches 18 years of age that places or  
 7 continues the placement of the juvenile in a foster home, treatment foster home,  
 8 group home, or child caring institution or in the home of a relative shall terminate  
 9 when the juvenile reaches 18 years of age or at the end of one year after its entry,  
 10 whichever is later, unless the court specified a shorter period of time or the court  
 11 terminates the order sooner. *score 5*

History: 1995 a. 77, 352; 1997 a. 27, 35, 205, 237, 239, 252; 1999 a. 9, 32, 103; 2001 a. 16.

**SECTION 117.** 938.355 (4) (b) of the statutes is amended to read:

13 938.355 (4) (b) ~~An order under s. 938.34 (4d), (4h) or (4m) for which a juvenile~~  
 14 ~~has been adjudicated delinquent is subject to par. (a), except that the judge may make~~  
 15 Except as provided in s. 938.368, an order under s. 938.34 (4d) or (4m) made before  
 16 the juvenile reaches 18 years of age may apply for up to 2 years after its entry or until  
 17 the juvenile's 18th birthdate, whichever is earlier ~~and the judge shall make, unless~~  
 18 ~~the court specifies a shorter period of time or the court terminates the order sooner.~~  
 19 Except as provided in s. 938.368, an order under s. 938.34 (4h) made before the  
 20 juvenile reaches 18 years of age shall apply for 5 years after its entry, if the juvenile  
 21 is adjudicated delinquent for committing an act that would be punishable as a  
 22 Class B felony if committed by an adult, or until the juvenile reaches 25 years of age,  
 23 if the juvenile is adjudicated delinquent for committing an act that would be  
 24 punishable as a Class A felony if committed by an adult. Except as provided in s.



1 938.368, an extension of an order under s. 938.34 (4d), (4h), (4m), or (4n) made before  
2 the juvenile reaches 17 years of age shall terminate at the end of one year after its  
3 entry unless the court specifies a shorter period of time or the court terminates the  
4 order sooner. No extension under s. 938.365 of an original dispositional order under  
5 s. 938.34 (4d), (4h), (4m), or (4n) may be granted for a juvenile who is 17 years of age  
6 or older when the original dispositional order terminates.

7 **History:** 1995 a. 77, 352; 1997 a. 27, 35, 205, 237, 239, 252; 1999 a. 9, 32, 103; 2001 a. 16.

7 **SECTION 118.** 938.355 (6) (a) of the statutes is amended to read:

8 938.355 (6) (a) If a juvenile who has been adjudged delinquent or to have  
9 violated a civil law or ordinance, other than an ordinance enacted under s. 118.163  
10 (1m) or (2), violates a condition specified in sub. (2) (b) 7., the court may impose on  
11 the juvenile any of the sanctions specified in par. (d) if, at the dispositional hearing  
12 under s. 938.335, the court explained the conditions to the juvenile and informed the  
13 juvenile of those possible sanctions or if before the violation the juvenile has  
14 acknowledged in writing that he or she has read, or has had read to him or her, those  
15 conditions and possible sanctions and that he or she understands those conditions  
16 and possible sanctions. If a juvenile who has been found to be in need of protection  
17 or services under s. 938.13 (4), (6m), (7), (12), or (14) violates a condition specified in  
18 sub. (2) (b) 7., the court may impose on the juvenile any of the sanctions specified in  
19 par. (d), other than placement in a secure detention facility or juvenile portion of a  
20 county jail, if, at the dispositional hearing under s. 938.335, the court explained the  
21 conditions to the juvenile and informed the juvenile of those possible sanctions or if  
22 before the violation the juvenile has acknowledged in writing that he or she has read,  
23 or has had read to him or her, those conditions and possible sanctions and that he or  
24 she understands those conditions and possible sanctions.

1 ✓ (cm) The court may not order the sanction of placement in a place of nonsecure  
2 custody specified in par. (d) 1. unless the court finds that the agency primarily  
3 responsible for providing services for the juvenile has made reasonable efforts to  
4 prevent the removal of the juvenile from his or her home and that continued  
5 placement of the juvenile in his or her home is contrary to the welfare of the juvenile.  
6 The court shall make the findings specified in this paragraph on a case-by-case basis  
7 based on circumstances specific to the juvenile and shall document the specific  
8 information on which that finding is based in the sanction order. A sanction order  
9 that merely references this paragraph or that merely references or incorporates the  
10 motion for imposition of sanctions or any other document without documenting that  
11 specific information in the sanction order or an amended sanction order that  
12 retroactively corrects an earlier sanction order that does not comply with this  
13 paragraph is not sufficient to comply with this paragraph.

14 ✓ History: 1995 a. 77, 352; 1997 a. 27, 35, 205, 237, 239, 252; 1999 a. 9, 32, 103; 2001 a. 16.

**SECTION 119. 938.355 (6m) (cm)** of the statutes is created to read:

15 938.355 (6m) (cm) The court may not order the sanction of placement in a place  
16 of nonsecure custody specified in par. (a) 1g. unless the court finds that the agency  
17 primarily responsible for providing services for the juvenile has made reasonable  
18 efforts to prevent the removal of the juvenile from his or her home and that continued  
19 placement of the juvenile in his or her home is contrary to the welfare of the juvenile.  
20 The court shall make the findings specified in this paragraph on a case-by-case basis  
21 based on circumstances specific to the juvenile and shall document the specific  
22 information on which that finding is based in the sanction order. A sanction order  
23 that merely references this paragraph or that merely references or incorporates the  
24 motion for imposition of sanctions or any other document without documenting that

1 specific information in the sanction order or an amended sanction order that  
2 retroactively corrects an earlier sanction order that does not comply with this  
3 paragraph is not sufficient to comply with this paragraph.

History: 1995 a. 77, 352; 1997 a. 27, 35, 205, 237, 239, 252; 1999 a. 9, 32, 103; 2001 a. 16.

4 **SECTION 120.** 938.357 (1) of the statutes is renumbered 938.357 (1) (a) and  
5 amended to read:

6 938.357 (1) (a) The person or agency primarily responsible for implementing  
7 the dispositional order or the district attorney may request a change in the  
8 placement of the juvenile, whether or not the change requested is authorized in the  
9 dispositional order ~~and, as provided in par. (b) or (c), whichever is applicable.~~

10 (b) 1. If the proposed change in placement involves any change in placement  
11 other than a change in placement specified in par. (c), the person or agency primarily  
12 responsible for implementing the dispositional order or the district attorney shall  
13 cause written notice of the proposed change in placement to be sent to the juvenile  
14 or the juvenile's counsel or guardian ad litem, the parent, guardian, and legal  
15 custodian of the juvenile, and any foster parent, treatment foster parent, or other  
16 physical custodian described in s. 48.62 (2), guardian and legal custodian of the  
17 juvenile. The notice shall contain the name and address of the new placement, the  
18 reasons for the change in placement, a statement describing why the new placement  
19 is preferable to the present placement, and a statement of how the new placement  
20 satisfies objectives of the treatment plan ordered by the court.

21 2. Any person receiving the notice under ~~this subsection~~ subd. 1 or notice of  
22 the specific foster or treatment foster placement under s. 938.355 (2) (b) 2. may obtain  
23 a hearing on the matter by filing an objection with the court within 10 days after  
24 receipt of the notice. Placements ~~shall~~ may not be changed until 10 days after such

1 notice is sent to the court unless the parent, guardian, or legal custodian and the  
 2 juvenile, if 12 or more years of age, sign written waivers of objection, except that  
 3 ~~placement changes which~~ changes in placement that were authorized in the  
 4 dispositional order may be made immediately if notice is given as required ~~in this~~  
 5 ~~subsection~~ under subd. 1. In addition, a hearing is not required for placement  
 6 changes authorized in the dispositional order except ~~where~~ when an objection filed  
 7 by a person who received notice alleges that new information is available ~~which~~ that  
 8 affects the advisability of the court's dispositional order.

History: 1995 a. 27 s. 9126 (19); 1995 a. 77, 275, 352; 1997 a. 27, 35, 80, 205, 237; 1999 a. 9, 103; 2001 a. 16.

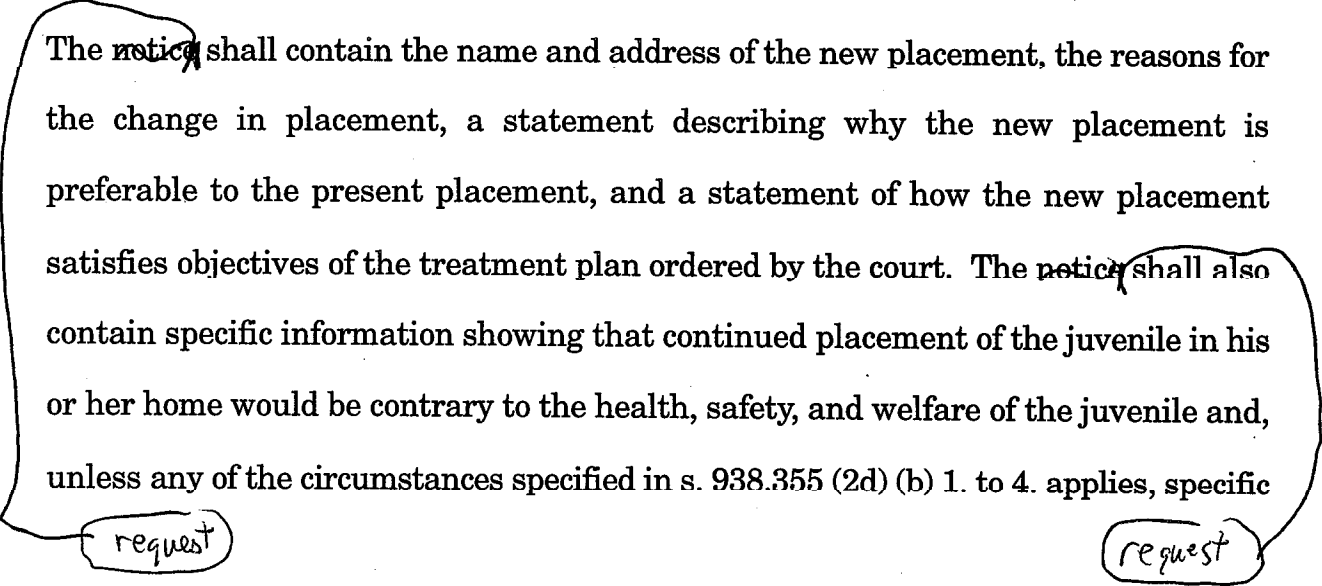
9 **SECTION 121.** 938.357 (1) (b) 3. of the statutes is created to read:

10 938.357 (1) (b) 3. If the court changes the juvenile's placement from a  
 11 placement outside the home to another placement outside the home, the change in  
 12 placement order shall contain one of the statements specified in sub. (2v) (a) 2. ✓

13 **SECTION 122.** 938.357 (1) (c) of the statutes is created to read:

14 938.357 (1) (c) 1. If the proposed change in placement would change the  
 15 placement of a juvenile placed in the home to a placement outside the home, the  
 16 person or agency primarily responsible for implementing the dispositional order or  
 17 the district attorney shall submit a request for the change in placement to the court.

18 The ~~notice~~ shall contain the name and address of the new placement, the reasons for  
 19 the change in placement, a statement describing why the new placement is  
 20 preferable to the present placement, and a statement of how the new placement  
 21 satisfies objectives of the treatment plan ordered by the court. The ~~notice~~ shall also  
 22 contain specific information showing that continued placement of the juvenile in his  
 23 or her home would be contrary to the health, safety, and welfare of the juvenile and,  
 24 unless any of the circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies, specific



request

request

1 information showing that the agency primarily responsible for implementing the  
2 dispositional order has made reasonable efforts to prevent the removal of the  
3 juvenile from the home, while assuring that the juvenile's health and safety are the  
4 paramount concerns.

5 2. The court shall hold a hearing prior to ordering any change in placement  
6 requested under subd. 1. Not less than 3 days prior to the hearing, the court shall  
7 provide notice of the hearing, together with a copy of the request for the change in  
8 placement, to the juvenile, the parent, guardian, and legal custodian of the juvenile,  
9 and all parties that are bound by the dispositional order. If all parties consent, the  
10 court may proceed immediately with the hearing.

11 3. If the court changes the juvenile's placement from a placement in the  
12 juvenile's home to a placement outside the juvenile's home, the change in placement  
13 order shall contain the findings specified in sub. (2v) (a) 1., one of the statements  
14 specified in sub. (2v) (a) 2., and, if in addition the court finds that any of the  
15 circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent,  
16 the determination specified in sub. (2v) (a) 3.

17 **SECTION 123.** 938.357 (2) of the statutes is amended to read:

18 938.357 (2) If emergency conditions necessitate an immediate change in the  
19 placement of a juvenile placed outside the home, the person or agency primarily  
20 responsible for implementing the dispositional order may remove the juvenile to a  
21 new placement, whether or not authorized by the existing dispositional order,  
22 without the prior notice provided in sub. (1) (b) 1. The notice shall, however, be sent  
23 within 48 hours after the emergency change in placement. Any party receiving  
24 notice may demand a hearing under sub. (1) (b) 2. In emergency situations, the  
25 juvenile may be placed in a licensed public or private shelter care facility as a

1 transitional placement for not more than 20 days, as well as in any placement  
2 authorized under s. 938.34 (3).

3 **History:** 1995 a. 27 s. 9126 (19); 1995 a. 77, 275, 352; 1997 a. 27, 35, 80, 205, 237; 1999 a. 9, 103; 2001 a. 16.

3 **SECTION 124.** 938.357 (2m) of the statutes is renumbered 938.357 (2m) (a) and  
4 amended to read:

5 938.357 (2m) (a) The juvenile, the parent, guardian, or legal custodian of the  
6 juvenile, or any person or agency primarily bound by the dispositional order, other  
7 than the person or agency responsible for implementing the order, may request a  
8 change in placement under this ~~subsection~~ paragraph. The request shall contain the  
9 name and address <sup>Strike</sup> ~~of the place of~~ <sup>plain</sup> the new placement requested and shall state what  
10 new information is available ~~which~~ that affects the advisability of the current  
11 placement. If the proposed change in placement would change the placement of a  
12 juvenile placed in the home to a placement outside the home, the request shall also  
13 contain specific information showing that continued placement of the juvenile in the  
14 home would be contrary to the health, safety, and welfare of the juvenile and, unless  
15 any of the circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies, specific  
16 information showing that the agency primarily responsible for implementing the  
17 dispositional order has made reasonable efforts to prevent the removal of the  
18 juvenile from the home, while assuring that the juvenile's health and safety are the  
19 paramount concerns. This request shall be submitted to the court. In addition, the  
20 court may propose a change in placement on its own motion.

21 (b) The court shall hold a hearing on the matter prior to ordering any change  
22 in placement ~~under this subsection~~ requested or proposed under par. (a) if the  
23 request states that new information is available ~~which~~ that affects the advisability  
24 of the current placement, unless the requested or proposed change in placement

juvenile

1 involves any change in placement other than a change in placement of a child placed  
2 in the home to a placement outside the home and written waivers of objection to the  
3 proposed change in placement are signed by all parties entitled to receive notice  
4 under sub. (1) (b) 1. and the court approves. If a hearing is scheduled, the court shall  
5 notify the juvenile, the parent, guardian, and legal custodian of the juvenile, any  
6 foster parent, treatment foster parent, or other physical custodian described in s.  
7 48.62 (2) of the juvenile, and all parties who are bound by the dispositional order at  
8 least 3 days prior to the hearing. A copy of the request or proposal for the change in  
9 placement shall be attached to the notice. If all the parties consent, the court may  
10 proceed immediately with the hearing.

History: 1995 a. 27 s. 9126 (19); 1995 a. 77, 275, 352; 1997 a. 27, 35, 80, 205, 237; 1999 a. 9, 103; 2001 a. 16.

11 **SECTION 125.** 938.357 (2m) (c) of the statutes is created to read:

12 938.357 (2m) (c) If the court changes the juvenile's placement from a placement  
13 in the juvenile's home to a placement outside the juvenile's home, the change in  
14 placement order shall contain the findings specified in sub. (2v) (a) 1., one of the  
15 statements specified in sub. (2v) (a) 2., and, if in addition the court finds that any of  
16 the circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies with respect to a  
17 parent, the determination specified in sub. (2v) (a) 3.

18 **SECTION 126.** 938.357 (2r) of the statutes is amended to read:

19 938.357 (2r) If a hearing is held under sub. (1) (b) 2. or (2m) (b) and the change  
20 in placement would remove a juvenile from a foster home, treatment foster home, or  
21 other placement with a physical custodian described in s. 48.62 (2), the court shall  
22 give the foster parent, treatment foster parent, or other physical custodian described  
23 in s. 48.62 (2) an opportunity to be heard at the hearing by permitting the foster  
24 parent, treatment foster parent, or other physical custodian to make a written or oral

1 statement during the hearing or to submit a written statement prior to the hearing  
 2 relating to the juvenile and the requested change in placement. Any written or oral  
 3 statement made under this subsection shall be made under oath or affirmation. A  
 4 foster parent, treatment foster parent, or other physical custodian described in s.  
 5 48.62 (2) who receives notice of a hearing under sub. (1) (b) 1<sup>✓</sup> or (2m) (b) <sup>✓</sup> and an  
 6 opportunity to be heard under this subsection does not become a party to the  
 7 proceeding on which the hearing is held solely on the basis of receiving that notice  
 8 and opportunity to be heard.

History: 1995 a. 27 s. 9126 (19); 1995 a. 77, 275, 352; 1997 a. 27, 35, 80, 205, 237; 1999 a. 9, 103; 2001 a. 16. ✓

9 **SECTION 127.** 938.357 (2v) of the statutes, as created by 2001 Wisconsin Act 16,

10 is renumbered 938.357 (2v) (a) 2. and amended to read:

11 938.357 (2v) (a) 2. If a <sup>strike space</sup> hearing is held under sub. (1) or (2m) and the change  
 12 in placement would place the juvenile outside the home in a placement order would  
 13 change the placement of the juvenile to a placement outside the home recommended  
 14 by the person or agency primarily responsible for implementing the dispositional  
 15 order, the change in placement order shall include whether from a placement in the  
 16 home or from another placement outside the home, a statement that the court  
 17 approves the placement recommended by the person or agency or, if the juvenile is  
 18 placed outside the home in a placement other than change in placement order would  
 19 change the placement of the juvenile to a placement outside the home that is not a  
 20 placement recommended by that person or agency, whether from a placement in the  
 21 home or from another placement outside the home, a statement that the court has  
 22 given bona fide consideration to the recommendations made by that person or agency  
 23 and all parties relating to the juvenile's placement.

History: 1995 a. 27 s. 9126 (19); 1995 a. 77, 275, 352; 1997 a. 27, 35, 80, 205, 237; 1999 a. 9, 103; 2001 a. 16.

24 **SECTION 128.** 938.357 (2v) (a) (intro.) of the statutes is created to read:



1           938.357 (2v) (a) (intro.) A change in placement order under sub. (1) or (2m)  
2 shall contain all of the following:

3           **SECTION 129.** 938.357 (2v) (a) 1. of the statutes is created to read:

4           938.357 (2v) (a) 1. If the court changes the juvenile's placement from a  
5 placement in the juvenile's home to a placement outside the juvenile's home, a  
6 finding that continued placement of the juvenile in his or her home would be contrary  
7 to the health, safety, and welfare of the juvenile and, unless a circumstance specified  
8 in s. 938.355 (2d) (b) 1. to 4. applies, a finding that the agency primarily responsible  
9 for implementing the dispositional order has made reasonable efforts to prevent the  
10 removal of the juvenile from the home, while assuring that the juvenile's health and  
11 safety are the paramount concerns.

12           **SECTION 130.** 938.357 (2v) (a) 3. of the statutes is created to read:

13           938.357 (2v) (a) 3. If the court finds that any of the circumstances specified in  
14 s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent, a determination that the  
15 agency primarily responsible for providing services under the change in placement  
16 order is not required to make reasonable efforts with respect to the parent to make  
17 it possible for the juvenile to return safely to his or her home.

18           **SECTION 131.** 938.357 (2v) (b) of the statutes is created to read:

19           938.357 (2v) (b) The court shall make the findings specified in par. (a) 1. and  
20 3. on a case-by-case basis based on circumstances specific to the juvenile and shall  
21 document the specific information on which those findings are based in the change  
22 in placement order. A change in placement order that merely references par. (a) 1.  
23 or 3. or that merely references or incorporates the request for a change in placement  
24 or any other document without documenting that specific information in the change  
25 in placement order or an amended change in placement order that retroactively

1.

1 corrects an earlier change in placement order that does not comply with this  
2 paragraph is not sufficient to comply with this paragraph.

3 SECTION 132. 938.357 (2v) (c) of the statutes is created to read:

Subdivision

4 938.357 (2v) (c) If the court finds under par. (a) 3. that any of the circumstances  
5 specified in s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent, the court shall  
6 hold a hearing within 30 days after the date of that finding to determine the  
7 permanency plan for the juvenile. If a hearing is held under this paragraph, the  
8 agency responsible for preparing the permanency plan shall file the permanency  
9 plan with the court not less than 5 days before the date of the hearing.

10 2. If a hearing is held under subd. 1, at least 10 days before the date of the  
11 hearing the court shall notify the juvenile, any parent, guardian, and legal custodian  
12 of the juvenile, and any foster parent, treatment foster parent, or other physical  
13 custodian described in s. 48.62 (2) of the juvenile of the time, place, and purpose of  
14 the hearing.

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