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1 **SECTION 157.** 938.38 (4) (bm) of the statutes is amended to read:

2 938.38 (4) (bm) ~~The A statement as to the availability of a safe and appropriate~~
3 placement with a fit and willing relative of the juvenile and, if a decision is made not
4 to place the juvenile with an available relative, a statement as to why placement with
5 the relative is not safe or appropriate.

6 **SECTION 158.** 938.38 (4) (dg) of the statutes is created to read:

7 938.38 (4) (dg) Information about the juvenile's education, including all of the
8 following:

9 1. The name and address of the school in which the juvenile is or was most
10 recently enrolled.

11 2. Any special education programs in which the juvenile is or was previously
12 enrolled.

13 3. The grade level in which the juvenile is or was most recently enrolled and
14 all information that is available concerning the juvenile's grade level performance.

15 4. A summary of all available education records relating to the juvenile that are
16 relevant to any education goals included in the education services plan prepared
17 under s. 938.33 (1) (e).

18 **SECTION 159.** 938.38 (4) (dm) of the statutes is created to read:

19 938.38 (4) (dm) If as a result of the placement the juvenile has been or will be
20 transferred from the school in which the juvenile is or most recently was enrolled,
21 documentation that a placement that would maintain the juvenile in that school is
22 either unavailable or inappropriate or that a placement that would result in the
23 juvenile's transfer to another school would be in the juvenile's best interests.

24 **SECTION 160.** 938.38 (4) (dr) of the statutes is created to read:

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1 938.38 (4) (dr) Medical information relating to the juvenile, including all of the
2 following:

3 1. The names and addresses of the juvenile's physician, dentist, and any other
4 health care provider that is or was previously providing health care services to the
5 juvenile.

6 2. The juvenile's immunization record, including the name and date of each
7 immunization administered to the juvenile.

8 3. Any known medical condition for which the juvenile is receiving medical care
9 or treatment and any known serious medical condition for which the juvenile has
10 previously received medical care or treatment.

11 4. The name, purpose, and dosage of any medication that is being administered
12 to the juvenile and the name of any medication that causes the juvenile to suffer an
13 allergic or other negative reaction.

14 **SECTION 161.** 938.38 (4) (e) of the statutes is amended to read:

15 938.38 (4) (e) The A plan for ensuring the safety and appropriateness of the
16 placement and a description of the services provided to meet the needs of the juvenile
17 and family, including a discussion of services that have been investigated and
18 considered and are not available or likely to become available within a reasonable
19 time to meet the needs of the juvenile or, if available, why such services are not safe
20 or appropriate.

21 **SECTION 162.** 938.38 (4) (f) (intro.) of the statutes is amended to read:

22 938.38 (4) (f) (intro.) The A description of the services that will be provided to
23 the juvenile, the juvenile's family, and the juvenile's foster parent, the juvenile's
24 treatment foster parent or, the operator of the facility where the juvenile is living,

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1 or the relative with whom the juvenile is living to carry out the dispositional order,
2 including services planned to accomplish all of the following:

3 **SECTION 163.** 938.38 (4) (fg) of the statutes is created to read:

4 938.38 (4) (fg) The goal of the permanency plan or, if the agency is making
5 concurrent reasonable efforts under s. 938.355 (2b), the goals of the permanency
6 plan, in the order of preference specified in subds. 1. to 5. If a goal of the permanency
7 plan is any goal other than return of the juvenile to his or her home, the permanency
8 plan shall include the rationale for deciding on that goal. If a goal of the permanency
9 plan is an alternative permanent placement under subd. 5., the permanency plan
10 shall document a compelling reason why it would not be in the best interest of the
11 juvenile to pursue a goal specified in subds. 1. to 4. The agency shall determine the
12 goal or goals of a juvenile's permanency plan in the following order of preference:

- 13 1. Return of the juvenile to the juvenile's home.
- 14 2. Placement of the juvenile for adoption.
- 15 3. Placement of the juvenile with a guardian.
- 16 4. Permanent placement of the juvenile with a fit and willing relative.
- 17 5. Some other alternative permanent placement, including sustaining care,
18 independent living, or long-term foster care.

19 **SECTION 164.** 938.38 (4) (fm) of the statutes is amended to read:

20 938.38 (4) (fm) If the goal of the permanency plan calls for placing is to place
21 the juvenile for adoption, with a guardian, with a fit and willing relative, or in some
22 other alternative permanent placement, the efforts made to ~~place the juvenile for~~
23 ~~adoption, with a guardian or in some other alternative permanent placement~~ achieve
24 that goal.

25 **SECTION 165.** 938.38 (4) (h) of the statutes is created to read:

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1 938.38 (4) (h) If the juvenile is 15 years of age or over, a description of the
 2 programs and services that are or will be provided to assist the juvenile in preparing
 3 for the transition from out-of-home care to independent living. The description
 4 shall include all of the following:

5 1. The anticipated age at which the juvenile will be discharged from
 6 out-of-home care.

7 2. The anticipated amount of time available in which to prepare the juvenile
 8 for the transition from out-of-home care to independent living.

9 3. The anticipated location and living situation of the juvenile on discharge
 10 from out-of-home care.

11 4. A description of the assessment processes, tools, and methods that have been
 12 or will be used to determine the programs and services that are or will be provided
 13 to assist the juvenile in preparing for the transition from out-of-home care to
 14 independent living.

15 5. The rationale for each program or service that is or will be provided to assist
 16 the juvenile in preparing for the transition from out-of-home care to independent
 17 living, the time frames for delivering those programs or services, and the intended
 18 outcome of those programs or services.

in the manner provided in this subsection

19 **SECTION 166.** 938.38 (5) (a) of the statutes is amended to read:

20 938.38 (5) (a) The court or, ~~subject to this paragraph,~~ a panel appointed under
 21 ~~this paragraph,~~ shall review the permanency plan every not later than 6 months from
 22 after the date on which the juvenile was first held in physical custody or placed
 23 outside of removed from his or her home and every 12 months after a previous review
 24 under this subsection for as long as the juvenile is placed outside the home. The
 25 ~~review that is conducted not later than 6 months after the juvenile was first removed~~

par. (a)

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except that for the

required to be

(use twice)

1 ~~from his or her home and the reviews that are conducted every 12 months after that~~
 2 ~~review shall be conducted by the court or panel as provided in this subsection. The~~
 3 ~~review that is conducted not later than 12 months after the juvenile was first~~
 4 ~~removed from his or her home and the reviews that are conducted every 12 months~~
 5 ~~after that review shall be conducted by the court as provided in sub. (5m).~~ If the court
 6 elects not to review the permanency plan, the court shall appoint a panel to review
 7 the permanency plan. The panel shall consist of 3 persons who are either designated
 8 by an independent agency that has been approved by the chief judge of the judicial
 9 administrative district or designated by the agency that prepared the permanency
 10 plan. A voting majority of persons on each panel shall be persons who are not
 11 employed by the agency that prepared the permanency plan and who are not
 12 responsible for providing services to the juvenile or the parents of the juvenile whose
 13 permanency plan is the subject of the review.

SECTION 167. 938.38 (5) (b) of the statutes is amended to read:

15 938.38 (5) (b) The court or the agency shall notify the parents of the juvenile,
 16 the juvenile, if he or she is 10 years of age or older, and the juvenile's foster parent,
 17 the juvenile's treatment foster parent or, the operator of the facility in which the
 18 juvenile is living, or the relative with whom the juvenile is living of the date, time,
 19 and place of the review, of the issues to be determined as part of the review, and of
 20 the fact that they may have an opportunity to be heard at the review by submitting
 21 written comments not less than 10 working days before the review or by
 22 participating at the review. The court or agency shall notify the person representing
 23 the interests of the public, the juvenile's counsel, and the juvenile's guardian ad litem
 24 of the date of the review, of the issues to be determined as part of the review, and of
 25 the fact that they may submit written comments not less than 10 working days before

The court shall hold a hearing under sub. (5m) to review the
permanency plan, which hearing may be instead of or (plan)
in addition to the review under this subsection. (ag) (ag)

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1 the review. Any written or oral statement made to the court under this paragraph
2 by a foster parent, treatment foster parent, operator of a facility in which a juvenile
3 is living, or relative with whom a juvenile is living shall be made under oath or
4 affirmation. The notices under this paragraph shall be provided in writing not less
5 than 30 days before the review and copies of the notices shall be filed in the juvenile's
6 case record.

7 **SECTION 168.** 938.38 (5) (c) 6. (intro.) of the statutes is amended to read:

8 938.38 (5) (c) 6. (intro.) If the juvenile has been placed outside of his or her
9 home, as described in s. 938.365 (1), for 15 of the most recent 22 months, not including
10 any period during which the juvenile was a runaway from the out-of-home
11 placement or the juvenile was returned to his or her home for a trial home visit of 6
12 months or less or, if authorized by the court, a trial home visit of more than 6 months.
13 the appropriateness of the permanency plan and the circumstances which prevent
14 the juvenile from any of the following:

15 **SECTION 169.** 938.38 (5) (c) 6. am. of the statutes is renumbered 938.38 (5) (c)
16 6. cm. and amended to read:

17 938.38 (5) (c) 6. cm. Being placed in the home of a fit and willing relative of the
18 juvenile.

19 **SECTION 170.** 938.38 (5) (c) 6. cg. of the statutes is created to read:

20 938.38 (5) (c) 6. cg. Being placed with a guardian.

21 **SECTION 171.** 938.38 (5) (c) 6. d. of the statutes is amended to read:

22 938.38 (5) (c) 6. d. Being placed in some other alternative permanent
23 placement, including sustaining care, independent living, or long-term foster care.

24 **SECTION 172.** 938.38 (5) (c) 7. of the statutes is amended to read:

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1 938.38 (5) (c) 7. Whether reasonable efforts were made by the agency to make
2 ~~it possible for the juvenile to return safely to his or her home, except that the court~~
3 ~~or panel need not determine whether those reasonable efforts were made with~~
4 ~~respect to a parent of the juvenile if any of the circumstances specified in s. 938.355~~
5 ~~(2d) (b) 1., 2., 3. or 4. apply to that parent~~ achieve the goal of the permanency plan,
6 unless return of the juvenile to the home is the goal of the permanency plan and any
7 of the circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies.

8 **SECTION 173.** 938.38 (5m) of the statutes is created to read:

9 938.38 (5m) PERMANENCY PLAN HEARING. (a) The court shall hold a hearing to
10 review the permanency plan and to make the determinations specified in sub. (5) (c)
11 no later than 12 months after the date on which the juvenile was first removed from
12 the home and every 12 months after a previous hearing under this subsection for as
13 long as the juvenile is placed outside the home.

14 (b) Not less than 30 days before the date of the hearing, the court shall notify
15 the juvenile; the juvenile's parent, guardian, and legal custodian; the juvenile's foster
16 parent or treatment foster parent, the operator of the facility in which the juvenile
17 is living, or the relative with whom the juvenile is living; the agency that prepared
18 the permanency plan; and the person representing the interests of the public of the
19 date, time, and place of the hearing.

20 (c) Any person who is provided notice of the hearing may have an opportunity
21 to be heard at the hearing by submitting written comments relevant to the
22 determinations specified in sub. (5) (c) not less than 10 working days before the date
23 of the hearing or by participating at the hearing. Any written or oral comment made
24 to the court under this paragraph by a foster parent, treatment foster parent,
25 operator of a facility in which a juvenile is living, or relative with whom a juvenile

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1 is living shall be made under oath or affirmation. A foster parent, treatment foster
2 parent, operator of a facility in which a juvenile is living, or relative with whom a
3 juvenile is living who receives notice of a hearing under par. (b) and an opportunity
4 to be heard under this paragraph does not become a party to the proceeding on which
5 the hearing is held solely on the basis of receiving that notice and opportunity to be
6 heard.

7 (d) At least 5 days before the date of the hearing the agency that prepared the
8 permanency plan shall provide a copy of the permanency plan and any written
9 comments submitted under par. (c) to the court, to the juvenile's parent, guardian,
10 and legal custodian, to the person representing the interests of the public, and to the
11 juvenile's counsel or guardian ad litem. Notwithstanding s. 938.78 (2) (a), the person
12 representing the interests of the public and the juvenile's counsel or guardian ad
13 litem may have access to any other records concerning the juvenile for the purpose
14 of participating in the review. A person permitted access to a juvenile's records under
15 this paragraph may not disclose any information from the records to any other
16 person.

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

or reference

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or referencing

1 based in the findings of fact and conclusions of law prepared under this paragraph.
2 Findings of fact and conclusions of law that merely reference sub. (5) (c) 7. ~~or that~~
3 ~~merely reference or incorporate the permanency plan or any other document without~~
4 documenting that specific information in the findings of fact and conclusions of law
5 or amended findings of fact and conclusions of law that retroactively correct earlier
6 findings of fact and conclusions of law that do not comply with this paragraph are not
7 sufficient to comply with this paragraph.

8 (f) If the findings of fact and conclusions of law under par. (e) conflict with the
9 juvenile's dispositional order or provide for any additional services not specified in
10 the dispositional order, the court shall revise the dispositional order under s. 938.363
11 or order a change in placement under s. 938.357, as appropriate.

12 **SECTION 174.** 938.78 (2) (a) of the statutes is amended to read:

13 938.78 (2) (a) No agency may make available for inspection or disclose the
14 contents of any record kept or information received about an individual in its care
15 or legal custody, except as provided under sub. (3) or s. 938.371, 938.38 (5) (b) or (d)
16 or (5m) (d), or 938.51 or by order of the court.

17 **SECTION 175. Nonstatutory provisions.**

18 (1) **RELATIVE PLACEMENT PERMANENCY PLANS.**

19 (a) Notwithstanding sections 48.38 (3) and 938.38 (3) of the statutes, for
20 children or juveniles who are living in the home of a relative, as defined in section
21 48.02 (15) or 938.02 (15) of the statutes, under the supervision of an agency under
22 section 48.64 (2) of the statutes, under a consent decree under section 48.32 or 938.32
23 of the statutes, or under an order under section 48.355 or 938.355 of the statutes on
24 the day before the effective date of this paragraph, the agency assigned primary
25 responsibility for providing services to those children or juveniles shall file a

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1 permanency plan with that court with respect to not less than 33% of those children
2 or juveniles by July 1, 2002, with respect to not less than 67% of those children or
3 juveniles by September 1, 2002, and with respect to all of those children or juveniles
4 by November 1, 2002, giving priority to those children or juveniles who have been
5 living in the home of a relative for the longest period of time.

6 (b) The agency shall request the court assigned to exercise jurisdiction under
7 chapters 48 and 938 of the statutes, as affected by this act, to make a finding under
8 section 48.363 or 938.363 of the statutes that reasonable efforts have been made to
9 prevent the removal of the child or juvenile from the home or that those efforts are
10 not required to be made because a circumstance specified in section 48.355 (2d) (b)
11 1. to 5. of the statutes, as affected by this act, or section 938.355 (2d) (b) 1. to 4. of the
12 statutes, as affected by this act, applies, not more than 60 days after the date on
13 which the permanency plan is filed.

14 (c) Notwithstanding section 48.38 (5) (a) of the statutes, as affected by this act,
15 section 48.38 (5m) of the statutes, as created by this act, section 938.38 (5) (a) of the
16 statutes, as affected by this act, and section 938.38 (5m) of the statutes, as created
17 by this act, a permanency plan filed under this subsection shall be reviewed within
18 6 months after the date on which the permanency plan is filed and a permanency
19 plan hearing shall be had to review a permanency plan filed under this subsection
20 within 12 months after the date on which the permanency plan is filed.

SECTION 176. Initial applicability.

21 (1) JUVENILE COURT ORDERS. The treatment of sections 48.21 (5) (b) 1. and 3., (c),
22 and (d), 48.355 (2) (b) 6. and 6r., (2c) (b), (2d) (b) (intro.), 1., 2., 3., 4., and 5. and (bm),
23 and (4), 48.357 (6), 48.365 (2m) (ag) and (5), 48.977 (2) (f), 938.21 (5) (b) 1. and 3., (c),
24 and (d), 938.32 (1) (c) and (d), 938.355 (2) (b) 6. and 6r., (2c) (b), (2d) (b) (intro.), 1.,
25

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1 2., 3., 4., and 5. and (bm), (4) (a) and (b), (6) (a), and (6m) (cm), 938.357 (6), and
 2 938.365 (2m) (ag) and (5) of the statutes, the renumbering and amendment of
 3 sections 48.32 (1), 48.355 (2d) (c), 48.365 (2m) (a), 938.355 (2d) (c), and 938.365 (2m)
 4 (a) of the statutes, and the creation of sections 48.32 (1) (b) and (c), 48.355 (2d) (c) 2.
 5 and 3., 48.365 (2m) (a) 2. and 3. and (ad), 938.355 (2d) (c) 2. and 3., and 938.365 (2m)
 6 (a) 2. and 3. and (ad) of the statutes first apply to a physical custody order, consent
 7 decree, dispositional order, change in placement order, extension order, sanction
 8 order, or guardianship order entered on the effective date of this subsection.

9 (2) JUVENILE COURT REPORTS. The treatment of sections 48.33 (4) (intro.) and (c),
 10 48.365 (1) and (2g) (b) 2. and 3., 938.33 (4) (intro.) and (c), and 938.365 (1) and (2g)
 11 (b) 2. and 3. of the statutes first applies to reports filed with the court assigned to
 12 exercise jurisdiction under chapters 48 and 938 of the statutes on the effective of this
 13 subsection.

14 (3) JUVENILE COURT HEARINGS. The treatment of sections 48.21 (1) (a), 48.27
 15 (3) (a) 1m., 48.335 (3g), 48.42 (2g) (am), 48.427 (1m), 938.21 (2) (am) and (3) (am),
 16 938.27 (3) (a) 1m., and 938.335 (3g) of the statutes first applies to hearings held by
 17 the court assigned to exercise jurisdiction under chapters 48 and 938 of the statutes
 18 on the effective of this subsection.

19 (4) PERMANENCY PLAN CONTENTS. The treatment of sections 48.38 (4) (intro.), (a),
 20 (ag), (am), (bm), (dg), (dm), (dr), (e), (f) (intro.), (fg), (fm), and (h) and 938.38 (4)
 21 (intro.), (a), (ag), (am), (bm), (dg), (dm), (dr), (e), (f) (intro.), (fg), (fm), and (h) of the
 22 statutes first applies to permanency plans filed on the effective date of this
 23 subsection.

24 (5) PERMANENCY PLAN REVIEWS AND HEARINGS. The treatment of sections 48.38
 25 (5) (a), (b), and (c) 6. (intro.), am., cg., and d. and 7. and (5m) and 938.38 (5) (a), (b),

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1 and (c) 6. (intro.), am., cg., and d. and 7. and (5m) of the statutes first applies to
2 permanency plan reviews and hearings for which notice is provided on the effective
3 date of this subsection.

4 (6) CHANGES IN PLACEMENT. The treatment of sections 48.357 (2) and (2r) and
5 938.357 (2), (2r), (3), (4) (b) 2., (c) 1. and 2., and (d), and (5) (a) of the statutes, the
6 renumbering and amendment of sections 48.357 (1), (2m), and (2v) and 938.357 (1),
7 (2m), and (2v) of the statutes, and the creation of sections 48.357 (1) (b) 3., and (c),
8 (2m) (c), and (2v) (a) (intro.), 1., and 3., (b), and (c) and 938.357 (1) (b) 3. and (c), (2m)
9 (c), and (2v) (a) (intro.), 1., and 3., (b), and (c) of the statutes first apply to changes
10 in placement requested or proposed on the effective date of this subsection.

11 (7) TIME LIMITS. The treatment of sections 48.315 (2m) and 938.315 (2m) of the
12 statutes first applies to continuances and extensions granted, and periods of delay
13 that begin, on the effective date of this subsection.

(END)

14

(8) JUVENILE COURT PETITIONS. The treatment of
 sections 48.255 (1) (f), (1m) (f), and (2) and 938.255
 (1) (f) and (2) of the statutes first apply to petitions filed with the
 court assigned to exercise jurisdiction under chapters 48 and
 938 of the statutes on the effective date of this subsection.

init. app.

applies

Insert 8-1

Section #. 48.21 (1) (a) ✓ of the statutes is amended to read:

48.21 (1) (a) If a child who has been taken into custody is not released under s. 48.20, a hearing to determine whether the child shall continue to be held in custody under the criteria of ss. 48.205 to 48.209 shall be conducted by the judge or juvenile court commissioner within 48 hours of the time the decision to hold the child was made, excluding Saturdays, Sundays, ✓ and legal holidays. By the time of the hearing a petition under s. 48.25 shall be filed, except that no petition need be filed where a child is taken into custody under s. 48.19 (1) (b) or (d) 2. or 7. or where the child is a runaway from another state, in which case a written statement of the reasons for holding a child in custody shall be substituted if the petition is not filed. If no hearing has been held within 48 hours, excluding Saturdays, Sundays, ✓ and legal holidays, or if no petition or statement has been filed at the time of the hearing, the child shall be released except as provided in par. (b). A parent not present at the hearing shall be granted a rehearing upon request.

History: 1977 c. 354, 447; 1979 c. 300; 1983 a. 399; 1985 a. 311; 1993 a. 98; 1995 a. 27, 77, 275; 1997 a. 35, 237, 292; 2001 a. 16.

has
unless the parent waived his or her right to
participate in the hearing, in which case
the parent shall be granted a ~~re~~ rehearing
upon request for good cause shown

(ced draft)

Insert 9-3

Section #. 48.21 (3) (e) of the statutes is amended to read:

48.21 (3) (e) If the parent, guardian, or legal custodian or the child is not represented by counsel at the hearing and the child is continued in custody as a result of the hearing, the parent, guardian, legal custodian, or child may request through counsel subsequently appointed or retained or through a guardian ad litem that the order to hold the child in custody be reheard. If the request is made, a rehearing shall take place as soon as possible. Any order to hold the child in custody shall be subject to rehearing for good cause, whether or not counsel was present.

History: 1977 c. 354, 447; 1979 c. 300; 1983 a. 399; 1985 a. 311; 1993 a. 98; 1995 a. 27, 77, 275; 1997 a. 35, 237, 292; 2001 a. 16.

~~except~~
unless the request is made by a parent,
guardian, or legal custodian who has
waived his or her right to participate
in the hearing, in which case a rehearing
shall take place only upon a showing
of good cause

(end of insert)

Insert 11-111

SEC. CR; 48.255 (1) (F)

48.255 (1)(F) If the child ~~has been removed~~
is being held in custody outside of his or her
~~from the~~ home, reliable and credible information
showing that continued placement of the child in
his or her home would be contrary to the welfare
of the child and, unless any of the circumstances
specified in s. 48.355 (2d) (b) 1. to ^{s.} 5. applies,
reliable and credible information showing that the
person who took the child into custody and the
intake worker have made reasonable efforts to
prevent the removal of the child from the home,
while assuring that the child's health and safety
are the paramount concerns, and to make it possible
for the child to return safely home.

Insert 11-11

(1m)

SEC. CR; 48.255 (F) ✓

mother

expectant mother is a child and the child ^{exp} _{expectant}

48.255 (1m)(F) If the ~~child~~ ~~has been removed~~

is being held in custody outside of ~~her~~ her

~~from the~~ home, reliable and credible information

expectant mother

showing that continued placement of the child in

~~her~~ her home would be contrary to the welfare

expectant mother

of the child and, unless any of the circumstances

specified in so 48.355 (2)(b) 1. to 5. applies,

reliable and credible information showing that the

expectant mother

person who took the child into custody and the

intake worker have made reasonable efforts to

expectant mother

prevent the removal of the child from the home,

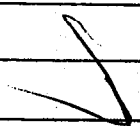
expectant mother's

while assuring that the child's health and safety

are the paramount concerns, and to make it possible

expectant mother

for the child to return safely home.



Insert 11-11

Section #. 48.255 (2) of the statutes is amended to read:

and (f) (use force)

48.255 (2) If any of the facts required under sub. (1) (a) to (cm) or (1m) (a) to (d) are not known or cannot be ascertained by the petitioner, the petition shall so state.

History: 1977 c. 354; 1991 a. 263; 1995 a. 27, 77, 352; 1997 a. 292.

(red of insert)

Insgt ~~827~~ 51-6

Section #. 938.21 (1) (a) of the statutes is amended to read:

938.21 (1) (a) If a juvenile who has been taken into custody is not released under s. 938.20, a hearing to determine whether the juvenile shall continue to be held in custody under the criteria of ss. 938.205 to 938.209 (1) shall be conducted by the judge or juvenile court commissioner within 24 hours after the end of the day that the decision to hold the juvenile was made, excluding Saturdays, Sundays, and legal holidays. By the time of the hearing a petition under s. 938.25 shall be filed, except that no petition need be filed where a juvenile is taken into custody under s. 938.19 (1) (b) or (d) 2., 6. or 7. or where the juvenile is a runaway from another state, in which case a written statement of the reasons for holding a juvenile in custody shall be substituted if the petition is not filed. If no hearing has been held within 24 hours or if no petition or statement has been filed at the time of the hearing, the juvenile shall be released except as provided in par. (b). A parent not present at the hearing shall be granted a rehearing upon request.

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

has
unless the parent waived his or her right to
participate in the hearing, in which case
the parent shall be granted a rehearing
upon request for good cause shown

~~Cediment~~ Cediment

Insert 51-12 ✓

Section #. 938.21 (2) (d) of the statutes is amended to read:

938.21 (2) (d) If the juvenile is not represented by counsel at the hearing and the juvenile is continued in custody as a result of the hearing, the juvenile may request through counsel subsequently appointed or retained or through a guardian ad litem that the order to hold in custody be reheard. If the request is made, a rehearing shall take place as soon as possible. Whether or not counsel was present, any order to hold the juvenile in custody shall be subject to rehearing for good cause.

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

unless the request is made by a juvenile
who has waived his or her right to
participate in the hearing, in which case
a rehearing shall take place ^{only}
upon a showing of good cause

Cut of insert

Inst 51-18

Section #. 938.21 (3) (e) of the statutes is amended to read:

938.21 (3) (e) If the parent, guardian or legal custodian or the juvenile is not represented by counsel at the hearing and the juvenile is continued in custody as a result of the hearing, the parent, guardian, legal custodian or juvenile may request through counsel subsequently appointed or retained or through a guardian ad litem that the order to hold the juvenile in custody be reheard. If the request is made, a rehearing shall take place as soon as possible. Any order to hold the juvenile in custody shall be subject to rehearing for good cause, whether or not counsel was present.

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

unless the request is made by a parent,
guardian, or legal custodian who has
waived his or her right to participate
in the hearing, in which case a
rehearing shall take place only upon
a showing of good cause

(e) (3) (e)

Insert 53-23

SEC. CR; ³99.255 (1) (F)

93

Juvenile

99.255 (1)(F) If the child ~~has been removed~~
is being held in custody outside of his or her
home, reliable and credible information

Juvenile

showing that continued placement of the ~~child~~ in
his or her home would be contrary to the welfare

Juvenile

of the ~~child~~ and unless any of the circumstances

93

4.

specified in s. ~~99.355~~ (22) (b) 1. to ~~it~~ applies,
reliable and credible information showing that the

Juvenile

person who took the ~~child~~ into custody and the
intake worker have made reasonable efforts to

Juvenile

prevent the removal of the ~~child~~ from the home,
while assuring that the ~~child's~~ health and safety

Juvenile's

are the paramount concerns, and to make it possible
for the ~~child~~ to return safely home.

Juvenile

Insert 53-23)

Section #. 938.255 (2) of the statutes is amended to read:

and (f)

938.255 (2) If any of the facts in sub. (1) (a) to (cm) are not known or cannot be ascertained by the petitioner, the petition shall so state.

History: 1995 a. 77, 352.

(end of insert)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4375/2dn

GMM...:/:...
kg

Representative Kestell:

As a result of my meeting on Thursday afternoon with Therese Durkin and Michelle Jensen of DHFS, this redraft makes the following changes to the draft:

1. The redraft permits the juvenile court to reference another document when making the contrary-to-welfare and reasonable-efforts findings rather than having to recite the information on which those findings are based in the court order.

2. The redraft requires the juvenile court merely to find that continued placement in the home would be contrary to the *welfare* of the child rather than contrary to the *health, safety, and welfare* of the child.

3. The redraft permits a parent who has waived his or her right to participate in a custody hearing to obtain a rehearing only *on good cause shown*. The previous draft did not include that good cause requirement, thereby permitting such a parent to obtain a rehearing merely on request.

4. The redraft requires a petition requesting the juvenile court to assert its jurisdiction over a child who has been removed from the home to specify reliable and credible information showing that continued placement in the home would be contrary to the welfare of the child and, unless an aggravated circumstance applies, that the person who took the child into custody and the intake worker have made reasonable efforts to prevent the removal of the child from the home and to return the child to the home.

5. The redraft specifies that a juvenile court order placing outside the home a child who is a full-time student and who is reasonably expected to complete his or her educational program before reaching 19 years of age terminates when the child reaches 19 years of age unless, of course, the child completes the program sooner in which case the child is no longer a full-time student and this exception would no longer apply.

6. The redraft clarifies that when speaking of an out-of-home placement in the home of a relative, the term "relative" does not include a parent.

7. The redraft deletes references to trial home visits of more than six months authorized by the juvenile court. Although the federal regulations permit trial home visits of more than six months, DHFS has chosen to be more restrictive and not let trial home visits drag on that long.

8. In ss. 48.38 (5) (a) and 938.38 (5) (a), the redraft attempts to distinguish more clearly between permanency plan *reviews* conducted by the juvenile court or a panel appointed by the juvenile court and permanency plan *hearings*, which must be conducted by the juvenile court.

At our meeting we also discussed replacing a cross-reference to the now-defunct AFDC program, s. 49.19, with a cross-reference to s. 46.261, which is still in operation. This redraft does not make that change because s. 46.261 itself cross-references s. 49.19. As such, the cross-reference to s. 46.261 would merely result in a roundabout cross-reference to 49.19 in any event.

If you have any questions about this draft, please do not hesitate to contact me directly at the phone number or e-mail address listed below.

Gordon M. Malaise
Senior Legislative Attorney
Phone: (608) 266-9738
E-mail: gordon.malaise@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4375/2dn
GMM:kg:jf

February 12, 2002

Representative Kestell:

As a result of my meeting on Thursday afternoon with Therese Durkin and Michelle Jensen of DHFS, this redraft makes the following changes to the draft:

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5. The redraft specifies that a juvenile court order placing outside the home a child who is a full-time student and who is reasonably expected to complete his or her educational program before reaching 19 years of age terminates when the child reaches 19 years of age unless, of course, the child completes the program sooner, in which case the child is no longer a full-time student and this exception would no longer apply.
6. The redraft clarifies that, when speaking of an out-of-home placement in the home of a relative, the term "relative" does not include a parent.
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If you have any questions about this draft, please do not hesitate to contact me directly at the phone number or e-mail address listed below.

Gordon M. Malaise
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Emery, Lynn

From: Emery, Lynn
Sent: Tuesday, February 12, 2002 1:33 PM
To: Rep.Kestell
Subject: LRB-4375/2 & 2dn (attached as requested)

Lynn Emery

Program Asst. (PH. 608-266-3561)
(E-Mail: lynn.emery@legis.state.wi.us)

Legislative Reference Bureau - Legal Section - Front Office
100 N. Hamilton Street - 5th Floor
Madison, WI 53703

2/12/2002

Fiscal Estimate - 2001 Session

Original Updated Corrected Supplemental

LRB Number **01-4375/1** Introduction Number

Subject
Conformity with federal Adoption and Safe Families Act

Fiscal Effect

State:

- No State Fiscal Effect
- Indeterminate
 - Increase Existing Appropriations Increase Existing Revenues Increase Costs - May be possible to absorb within agency's budget
 - Yes No
 - Decrease Existing Appropriations Decrease Existing Revenues
 - Create New Appropriations Decrease Costs

Local:

- No Local Government Costs
- Indeterminate
 - 1. Increase Costs 3. Increase Revenue **5. Types of Local Government Units Affected**
 - Towns Village Cities
 - Counties Others
 - School Districts WTCS Districts
 - Permissive Mandatory Permissive Mandatory
 - 2. Decrease Costs 4. Decrease Revenue
 - Permissive Mandatory Permissive Mandatory

Fund Sources Affected **Affected Ch. 20 Appropriations**

GPR FED PRO PRS SEG SEGS

Agency/Prepared By DHFS/ Jason Witt (608) 266-9364	Authorized Signature Fred Ellen Bove (608) 266-2907	Date 02/13/2002
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Copy Sent To Rep. Kestell 02-14-2002
FE is for old version ("1")
("2") Introduced AS AB-809

Fiscal Estimate Narratives

DHFS 02/14/2002

LRB Number	01-4375/1	Introduction Number	Estimate Type	Original
Subject				
Conformity with federal Adoption and Safe Families Act				

Assumptions Used in Arriving at Fiscal Estimate

This bill modifies several provisions of the Children's Code and the Juvenile Justice Code relating to children placed in out-of-home care in order to bring those provisions into conformity with the federal Adoption and Safe Families Act of 1997 (ASFA) and its supporting regulations. Those provisions relate to: (1) permanency planning; (2) judicial findings of "contrary-to-welfare" and "reasonable efforts"; (3) termination of dispositional orders; (4) time limits for judicial proceedings; (5) filing requirements for termination of parental rights; and (6) debarment of foster parents.

The precise fiscal impact for the Department and county human service agencies cannot be determined, although the bill will likely increase staff costs for the Department and county human services agencies due to the increased workload necessary to meet the federal requirements. Counties would fund the increased costs with existing allocations of state and federal funding they receive through the Community Aids program or with local tax levy. The costs of meeting the federal requirements, however, are much likely less than the amount of federal funding Wisconsin could lose if its laws remain in non-compliance. The Department estimates the potential loss of federal IV-E funding at \$10 million. A federal review of Wisconsin's compliance with Title IV-E mandates is scheduled for March 2002.

Long-Range Fiscal Implications