

**2001 DRAFTING REQUEST**

**Assembly Amendment (AA-AB809)**

Received: **02/18/2002**

Received By: **malaigm**

Wanted: **02/19/2002**

Identical to LRB:

For: **Steve Kestell (608) 266-8530**

By/Representing: **Mark Mitchell, DHFS**

This file may be shown to any legislator: **NO**

Drafter: **malaigm**

May Contact:

Addl. Drafters:

Subject: **Children - out-of-home placement**

Extra Copies:

Submit via email: **NO**

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Conformity with federal Adoption and Safe Families Act; technical amendments

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**Instructions:**

See Attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	malaigm 02/18/2002	gilfokm 02/18/2002		_____			
/1			jfrantze 02/19/2002	_____	lrb_docadmin 02/19/2002	lrb_docadmin 02/19/2002	
/2	malaigm 02/19/2002	gilfokm 02/19/2002	kfollet 02/19/2002	_____	lrb_docadmin 02/19/2002		
/3	malaigm 02/19/2002	gilfokm 02/19/2002	haugeca 02/19/2002	_____	lrb_docadmin 02/19/2002	lrb_docadmin 02/19/2002	

FE Sent For:

**<END>**

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/?	malaigm 02/18/2002	gilfokm 02/18/2002					
/1		1/2 - 2/19 KMG	jfrantze 02/19/2002		lrb_docadmin 02/19/2002	lrb_docadmin 02/19/2002	
FE Sent For:		1/3 - 2/19-02 KMG	2/19 CH 2-19-02	2/19 CH 2-19-02			

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1?	malaigm	1-2/18 KMG	2/19	2/19			

FE Sent For:

<END>

Mark Mitchell

2/18/22

① 48.21 (1)(a) Prehearing on request - require  
938.21 (1)(a)  
good cause in all cases

48.21 (3)(e) } no change to current law  
938.21 (2)(2)& (3)(e) }

② 48.21 (5)(b)1. Order to file information -  
938.21 (5)(b)1.  
clarify that refers only to reasonable  
efforts findings & not to contrary to welfare findings

③ 48.315 (2m)(b) } require judge to consider  
938.315 (3) } health & safety of child in

fastening remedy for missed time limit

④ Out of home 15/22 months - exclude first 6 mo.  
& trial home visit (even if visit is for  
longer than 6 months)

⑤ 48.38 (4)(f) Delete order of preference for  
938.38 (4)(f) perm. plan goals

2001

Date (time) needed Tues 8/19

LRBa 1288, 1

AMENDMENT

10 AM

GMM: KMG

See form AMENDMENTS — COMPONENTS & ITEMS.

S/ (A) AMENDMENT

~~TO S A AMENDMENT (LRBa 1, 1),~~  
~~TO S A SUBSTITUTE AMENDMENT (LRBs 1, 1),~~  
 TO 2001 ~~SB SJR SR~~ (AB) ~~AJR AR~~ 809 (LRB- 1, 1)

At the locations indicated, amend the bill as follows:  
 (fill ONLY if "engrossed ...." or "as shown by .....")

✓ #. Page 9..., line 11...: delete lines 11 to 11 and substitute  
(NO A) " be granted a rehearing upon request

#. Page 9..., line 11...: for good cause shown ↑

~~49 27  
 (3)(e) ✓~~

✓ #. Page 9..., line 20...: delete lines 20 to 25.

✓ #. Page 10..., line 1...: delete lines 1 to 5.

✓ #. Page 10..., line 9...: delete " and, unless " and  
 substitute " unless "

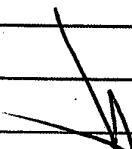
- ✓ # Page 10, line 11: after "applies," insert "the order shall in addition include".
- ✓ # Page 14, line 18: after "court" insert "write", consistent with the health and safety of the child."
- ✓ # Page 34, line 4: after "placement or" insert ~~the~~ "the first 6 months of any period during which".
- ✓ # Page 34, line 5: delete "of 6 months or less".
- ✓ # Page 41, line 11: delete "plan," and substitute "plan".
- ✓ # Page 41, line 12: delete "in the order of preference specified in subss. 1. to 5. "
- ✓ # Page 41, line 17: delete "agency shall determine ~~the~~ the "
- ✓ # Page 41, line 18: delete "in the following order of preference:" and substitute "may include any of the following:".

- ✓ # Page 42, line 15: after "placement <sup>or</sup>" insert "the first 6 months of any period during which".
- ✓ # Page 44, line 16: delete "of 6 months or less".
- ✓ # Page 47, line 19: after "placement <sup>or</sup>" insert "the first 6 months of any period during which".
- ✓ # Page 47, line 20: delete "of 6 months or less".
- ✓ # Page 53, line 20: delete lines 20 to 22 and substitute "shall be granted a rehearing upon request ~~for~~ for good cause shown".
- ✓ # Page 54, line 4: delete lines 4 to 13.
- ✓ # Page 54, line 20: delete lines 20 to 25.
- ✓ # Page 55, line 1: delete lines 1 to 5.
- ✓ # Page 55, line 9: delete "and, unless" and substitute "Unless".



✓ # Page 55, line 11: after "apphes," insert "the  
order shall in addition include".

✓ # Page 59, line 4: after that line insert:



107m

Section #. 938.315 (3) of the statutes is amended to read:

938.315 (3) Failure to comply with any time limit specified in this chapter does not deprive the court of personal or subject matter jurisdiction or of competency to exercise that jurisdiction. Failure to object to a period of delay or a continuance waives the time limit that is the subject of the period of delay or continuance. If a party does not comply with a time limit specified in this chapter, the court may grant a continuance under sub. (2), dismiss the petition with or without prejudice, release the juvenile from secure or nonsecure custody or from the terms of a custody order or grant any other relief that the court considers appropriate.

History: 1995 a. 77, 352; 1997 a. 181; 2001 a. 16.

, consistent with the health and safety  
of the juvenile,

(No P)

✓ # Page 83, line 21: alter "placement or" insert

"the first 6 months of any period during which"

✓

# Page ~~87~~ 83, line 22: delete "of 6 months or less"

✓

# Page 91, line 6: delete "that line and substitute

(No P)

"plan. If a goal of the permanency".

✓

# Page 91, line 11: delete "agency shall determine the".

✓

# Page 91, line 12: delete "in the following order of

preference." and substitute "may include any  
of the following:"

✓

# Page 94, line 10: delete that line and substitute

(No P)

"placement or the first 6 months of any  
period during which the juvenile was returned to  
his or her home for a trial home visit,"

✓

# Page 94, line 11: delete "months or less".

12

✓ # Page 99, line 12: delete "and (e)".

✓ # Page 99, line 13: delete "and (d)", and (3) (am) and (e)" and substitute "and (3) (am)".

✓ # Page 100, line 8: after "(2m)" insert "and (3)".

438.315A

(END)



State of Wisconsin  
 Department of Health and Family Services

Scott McCallum, Governor  
 Phyllis J. Dubé, Secretary

**DATE:** February 19, 2002  
**TO:** Representative Kestell  
**FROM:** Gary Radloff *Gary Radloff*  
**RE:** Amendments to AB809

The following changes reflect our discussion with Gordon Malaise, based on conversations that we have had with the Chief Judges of the Judicial Administrative Districts, the Children and Law Section of the Wisconsin State Bar Association and the Wisconsin Council on Children and Families. Please note that these same changes need to be made to Chapter 938, Stats.

- 1. Page 9, lines 11-13, take out the new language "unless the parent has waived his or her right to participate in the hearing, in which case the parent shall be granted a rehearing upon request." Leave "for good cause shown."
- 2. Page 10, lines 1-3, take out all of the new language.
- 3. Page 10, line 16, take out "those findings," and replace with "the reasonable efforts to prevent removal finding..."
- 4. Page 10, line 20, take out "those findings," and replace with "that reasonable efforts to prevent removal finding..."
- 5. Page 14, line 20, remove the period after "appropriate" and replace with a comma and add "while assuring the safety of the child."
- 6. Page 34, lines 4 - 5, remove "child was returned to his or her home for a trial home visit of 6 months or less," and replace with "first 6 months of any trial home visit."
- 7. Page 41, line 11 - 12, put a period after "plan," and remove "in the order of preference specified in subds. 1 to 5."
- 8. Page 41, lines 17 - 18 remove "the goal or goals of a child's permanency plan in the following order of preference," and replace with "one or more of the following goals for a child's permanency plan."
- 9. Page 44, line 16 remove "child was returned to his or her home for a trial home visit of 6 months or less," and replace with "first 6 months of any trial home visit."
- 10. Page 45, line 19, after "the child;" add "child's legal counsel or guardian ad litem;"
- 11. Page 47, lines 19 - 20 remove "child was returned to his or her home for a trial home visit of 6 months or less," and replace with "first 6 months of any trial home visit."

In addition, after further review of the federal rule, we feel there needs to be language included in Chapter 48 and 938, that states for a delinquent and JIPS juvenile who is first placed in secure detention or a juvenile correctional institution and then moved to out-of-home care more than 60 days later, that the time period for the mandatory termination petition deadline runs from the date the child is placed in a Title IV-E reimbursable placement.



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRBa1288/1 (2)  
GMM:kmg:jf (RMR)

Tues 2/19 AM 11  
==

ASSEMBLY AMENDMENT,  
TO 2001 ASSEMBLY BILL 809

✓ H. Page 10, line ~~to delete~~ 14: after "and" insert " a finding as to whether the person who took the child into custody and the intake worker have made reasonable efforts".

✓ H. Page 10, line 16: delete "those findings," and substitute " a finding as to whether those reasonable efforts were made to prevent the removal of the child from the home, a finding as to whether those reasonable efforts were made to make it possible for the child to return safely home and".

1 At the locations indicated, amend the bill as follows:

2 1. Page 9, line 11: delete lines 11 to 13 and substitute "be granted a rehearing  
3 upon request for good cause shown".

4 2. Page 9, line 20: delete lines 20 to 25.

5 3. Page 10, line 1: delete lines 1 to 5.

6 4. Page 10, line 9: delete "and, unless" and substitute ". Unless".

7 ✓ 5. Page 10, line 11: after "applies," insert "the order shall in addition include".

8 6. Page 14, line 18: after "court" insert ~~"consistent with the health and safety~~  
9 of the child,". ", while assuring the

10 7. Page 34, line 4: after "placement or" insert "the first 6 months of any period  
11 during which".

12 8. Page 34, line 5: delete "of 6 months or less".

✓ H. Page 10, line 20: delete "those findings" and substitute " a finding as to whether those reasonable efforts were made to prevent the removal of the child from the home".

one or more of the following goals to be the goal or goals of a child's permanency plan:"

- 1 9. Page 41, line 11: delete "plan," and substitute "plan."
- 2 10. Page 41, line 12: delete "in the order of preference specified in subs. 1.
- 3 to 5."
- 4 11. Page 41, line 17: delete "agency shall determine the". goal or
- 5 12. Page 41, line 18: delete "in the following order of preference." and that line
- 6 substitute "may include any of the following."

- 7 13. Page 44, line 15: after "placement or" insert "the first 6 months of any
- 8 period during which". It, Page 45, line 21: after "living;" insert "the child's counsel, the child's guardian ad litem, and "
- 9 14. Page 44, line 16: delete "of 6 months or less".

- 10 15. Page 47, line 19: after "placement or" insert "the first 6 months of any
- 11 period during which". It, Page 47, line 18: after "48.365 (1)" insert "or 938.365 (1)".
- 12 16. Page 47, line 20: delete "of 6 months or less".

- 13 17. Page 53, line 20: delete lines 20 to 22 and substitute "shall be granted a
- 14 rehearing upon request for good cause shown."
- 15 18. Page 54, line 4: delete lines 4 to 13.
- 16 19. Page 54, line 20: delete lines 20 to 25.
- 17 20. Page 55, line 1: delete lines 1 to 5.
- 18 21. Page 55, line 9: delete "and, unless" and substitute ". Unless".
- 19 22. Page 55, line 11: after "applies," insert "the order shall in addition

- 20 include".
- 21 23. Page 59, line 4: after that line insert:

SECTION 107m. 938.315 (3) of the statutes is amended to read:

Insert  
2-20

), while assuring the

1 938.315 (3) Failure to comply with any time limit specified in this chapter does  
2 not deprive the court of personal or subject matter jurisdiction or of competency to  
3 exercise that jurisdiction. Failure to object to a period of delay or a continuance  
4 waives the time limit that is the subject of the period of delay or continuance. If a  
5 party does not comply with a time limit specified in this chapter, the court, ~~consistent~~  
6 ~~with the health and safety of the juvenile,~~ may grant a continuance under sub. (2),  
7 dismiss the petition with or without prejudice, release the juvenile from secure or  
8 nonsecure custody or from the terms of a custody order, or grant any other relief that  
9 the court considers appropriate.”

Insert  
3-9

✓ Mr. Page 93, line 14: after "living," insert "the juvenile's  
counsel and the juvenile's guardian ad litem;" -

10 **24.** Page 83, line 21: after "placement or" insert "the first 6 months of any  
11 period during which".

12 **25.** Page 83, line 22: delete "of 6 months or less".

13 **26.** Page 91, line 6: delete that line and substitute "plan. If a goal of the  
14 permanency".

and substitute "determine"

15 ✓ **27.** Page 91, line 11: delete "~~agency shall~~ determine the".

that line

16 ✓ **28.** Page 91, line 12: delete "~~in the following order of preference~~" and  
17 substitute "~~may include any of the following~~".

18 **29.** Page 94, line 10: delete that line and substitute "placement or the first 6  
19 months of any period during which the juvenile was returned to his or her home for  
20 a trial home visit.".

21 **30.** Page 94, line 11: delete "months or less.".

22 **31.** Page 99, line 12: delete "and (e)".

"one or more of the following goals to be the goal or  
goals of a juvenile's permanency plan:"





Insert 2-201

concerns,

✓ # Page 55, line 14: after "and" insert "a finding <sup>as</sup> to whether the person who took the juvenile into custody and the intake worker have made reasonable efforts",

✓ # Page 55, line 16: delete "those findings," and substitute "a finding as to whether those reasonable efforts were made to prevent the removal of the juvenile from the home, a finding as to whether those reasonable efforts were made to make it possible for the juvenile to return safely home and".

✓ # Page 55, line 19: delete "those findings" and substitute "a finding as to whether those reasonable efforts were made to prevent the removal of the juvenile from the home",

(Encl. met)

Insert 3-9

And then moved to ~~another~~ a nonsecured out-of-home placement;

✓ # Page 83, line 6: after "further" insert "except  
that in the case of a juvenile who <sup>on</sup> removal from  
his or her home was first placed in a secure detention  
facility, a secured correctional facility, a secured child  
caring institution, or a secured group home, ~~the~~  
for ~~more than~~ 60 days, or more, the juvenile  
is considered to have been placed outside of his or  
her home on the date on which the juvenile was  
moved to the nonsecured out-of-home placement".

Out of mt)

## Malaise, Gordon

---

**From:** Jones, Jennifer  
**Sent:** Tuesday, February 19, 2002 12:30 PM  
**To:** Malaise, Gordon  
**Subject:** Fwd: FW: AB 809

Gordon,  
We recently had a conversation with the Department of Corrections and they had one small technical change to add to our amendments for AB809. Attached is their email. Please let me know if you have any questions or concerns. Thanks much,  
Jennifer

Jennifer A. Jones  
Assistant to the Administrator  
Division of Children and Family Services  
Department of Health and Family Services  
P.O. Box 8916  
Madison, WI 53708  
608-267-2887/608-266-6836

-----Original Message-----

Date: 02/19/2002 10:53 am -0600 (Tuesday)  
From: Margolies, Robert S. DOC  
To: Jensen, Michelle, Radloff, Gary  
CC: O'Donnell, Cindy L. DOC, Jackson, Silvia R. DOC, Eitland, Pamela J. DOC, Hagan, Shelley M. DOC  
Subject: FW: AB 809

Michelle/Gary (DHFS):

Could you please request this technical change to AB 809 as outlined in the below e-mail. Thank you for your help.

Bob

Robert Margolies  
Legislative Liaison  
Office of the Secretary  
(608) 240-5056

-----Original Message-----

From: Eitland, Pamela J. DOC  
Sent: Tuesday, February 19, 2002 10:44 AM  
To: Margolies, Robert S. DOC  
Cc: Jackson, Silvia R. DOC; Hagan, Shelley M. DOC  
Subject: AB 809

Bob,  
I just spoke with Silvia on the phone and explained to her the apparent oversight of the Type 2 statutory reference in AB 809. DJC believes that this is a purely technical change and that policy will not be affected by it. Silvia said, "it is important to add it to the bill" and "tell Bob to please add it."

I am requesting that you contact DHFS (specifically Michelle Jensen) and/or your legislative counterpart to request this addition to the bill prior to the "exec" tomorrow at 8:30a.m. Specifically the addition should be on page 63, section 114, line 14, add placement in Type 2

under 938.34(4d).

Thanks for your assistance, Bob!  
Pamela J. Eitland  
DOC-Juvenile Corrections  
240-5914



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRBa1288/2  
GMM:kmg:kjf

3  
RMR RMR  
~~not used~~

new!!  
(core small change) (24)

ASSEMBLY AMENDMENT,  
TO 2001 ASSEMBLY BILL 809

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 9, line 11: delete lines 11 to 13 and substitute "be granted a rehearing  
3 upon request for good cause shown."

4 **2.** Page 9, line 20: delete lines 20 to 25.

5 **3.** Page 10, line 1: delete lines 1 to 5.

6 **4.** Page 10, line 9: delete "and, unless" and substitute ". Unless".

7 **5.** Page 10, line 11: after "applies," insert "the order shall in addition include".

8 **6.** Page 10, line 14: after "and" insert "a finding as to whether the person who  
9 took the child into custody and the intake worker have made reasonable efforts".

10 **7.** Page 10, line 16: delete "those findings," and substitute "a finding as to  
11 whether those reasonable efforts were made to prevent the removal of the child from

1 the home, a finding as to whether those reasonable efforts were made to make it  
2 possible for the child to return safely home and”.

3 **8.** Page 10, line 20: delete “those findings” and substitute “a finding as to  
4 whether those reasonable efforts were made to prevent the removal of the child from  
5 the home”.

6 **9.** Page 14, line 18: after “court” insert “, while assuring the safety of the  
7 child.”.

8 **10.** Page 34, line 4: after “placement or” insert “the first 6 months of any period  
9 during which”.

10 **11.** Page 34, line 5: delete “of 6 months or less”.

11 **12.** Page 41, line 11: delete “plan,” and substitute “plan.”.

12 **13.** Page 41, line 12: delete “in the order of preference specified in subs. 1.  
13 to 5.”.

14 **14.** Page 41, line 17: delete “the goal or”.

15 **15.** Page 41, line 18: delete that line and substitute “one or more of the  
16 following goals to be the goal or goals of a child’s permanency plan.”.

17 **16.** Page 44, line 15: after “placement or” insert “the first 6 months of any  
18 period during which”.

19 **17.** Page 44, line 16: delete “of 6 months or less”.

20 **18.** Page 45, line 21: after “living;” insert “the child’s counsel, the child’s  
21 guardian ad litem, and”.

22 **19.** Page 47, line 18: after “48.365 (1)” insert “or 938.365 (1)”.

1           **20.** Page 47, line 19: after “placement or” insert “the first 6 months of any  
2 period during which”.

3           **21.** Page 47, line 20: delete “of 6 months or less”.

4           **22.** Page 53, line 20: delete lines 20 to 22 and substitute “shall be granted a  
5 rehearing upon request for good cause shown.”.

6           **23.** Page 54, line 4: delete lines 4 to 13.

7           **24.** Page 54, line 20: delete lines 20 to 25.

8           **25.** Page 55, line 1: delete lines 1 to 5.

9           **26.** Page 55, line 9: delete “and, unless” and substitute “. Unless”.

10          **27.** Page 55, line 11: after “applies,” insert “the order shall in addition  
11 include”.

12          **28.** Page 55, line 14: after “concerns, and” insert “a finding as to whether the  
13 person who took the juvenile into custody and the intake worker have made  
14 reasonable efforts”.

15          **29.** Page 55, line 16: delete “those findings,” and substitute “a finding as to  
16 whether those reasonable efforts were made to prevent the removal of the juvenile  
17 from the home, a finding as to whether those reasonable efforts were made to make  
18 it possible for the juvenile to return safely home and”.

19          **30.** Page 55, line 19: delete “those findings” and substitute “a finding as to  
20 whether those reasonable efforts were made to prevent the removal of the juvenile  
21 from the home”.

22          **31.** Page 59, line 4: after that line insert:

23          “**SECTION 107m.** 938.315 (3) of the statutes is amended to read:



✓ Page 63, line 14: after "(d)" insert  
"or (42)".

1 938.315 (3) Failure to comply with any time limit specified in this chapter does  
2 not deprive the court of personal or subject matter jurisdiction or of competency to  
3 exercise that jurisdiction. Failure to object to a period of delay or a continuance  
4 waives the time limit that is the subject of the period of delay or continuance. If a  
5 party does not comply with a time limit specified in this chapter, the court, while  
6 assuring the safety of the juvenile, may grant a continuance under sub. (2), dismiss  
7 the petition with or without prejudice, release the juvenile from secure or nonsecure  
8 custody or from the terms of a custody order, or grant any other relief that the court  
9 considers appropriate."

10 **32.** Page 83, line 6: after "earlier" insert "except that in the case of a juvenile  
11 who on removal from his or her home was first placed in a secure detention facility,  
12 a secured correctional facility, a secured child caring institution, or a secured group  
13 home for 60 days or more and then moved to a nonsecured out-of-home placement,  
14 the juvenile is considered to have been placed outside of his or her home on the date  
15 on which the juvenile was moved to the nonsecured out-of-home placement".

16 **33.** Page 83, line 21: after "placement or" insert "the first 6 months of any  
17 period during which".

18 **34.** Page 83, line 22: delete "of 6 months or less".

19 **35.** Page 91, line 6: delete that line and substitute "plan. If a goal of the  
20 permanency".

21 **36.** Page 91, line 11: delete "determine the" and substitute "determine".

22 **37.** Page 91, line 12: delete that line and substitute "one or more of the  
23 following goals to be the goal or goals of a juvenile's permanency plan:".



## Emery, Lynn

---

**From:** Emery, Lynn  
**Sent:** Tuesday, February 19, 2002 1:36 PM  
**To:** Rep.Kestell  
**Subject:** LRBa1288/3 (attached as requested)

Lynn Emery

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

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

2/19/2002