

2001

Date (time) needed Soon

LRB b 3034, 1

BUDGET AMENDMENT DRAFT

GMM : Kg : \_\_\_\_\_

See form **AMENDMENTS — COMPONENTS & ITEMS.**

**SENATE AMENDMENT  
TO SENATE SUBSTITUTE AMENDMENT 1  
TO January 2002 SPECIAL SESSION ASSEMBLY BILL 1**

>>FOR CONFERENCE SUPERAMENDMENT — NOT FOR INTRODUCTION<<

At the locations indicated, amend the substitute amendment as follows:

✓ #. Page 3.4, line 13: delete lines 13 to 21 and substitute:

#. Page . . . . ., line . . . . .:

#. Page . . . . ., line . . . . .:

#. Page . . . . ., line . . . . .:

#. Page . . . . ., line . . . . .:

#. Page . . . . ., line . . . . .:



## 2001 ASSEMBLY BILL 809

February 12, 2002 - Introduced by Representative KESTELL, cosponsored by Senator ROBSON. Referred to Committee on Children and Families.

1     **AN ACT to renumber 48.32 (1); to renumber and amend 48.355 (2d) (c), 48.357**  
2     **(1), 48.357 (2m), 48.357 (2v), 48.365 (2m) (a), 48.38 (4) (a), 48.38 (5) (c) 6. am.,**  
3     **938.355 (2d) (c), 938.357 (1), 938.357 (2m), 938.357 (2v), 938.365 (2m) (a),**  
4     **938.38 (4) (a) and 938.38 (5) (c) 6. am.; to amend 48.21 (1) (a), 48.21 (3) (am),**  
5     **48.21 (3) (e), 48.255 (2), 48.27 (3) (a) 1m., 48.33 (4) (intro.), 48.355 (2) (b) 6.,**  
6     **48.355 (2b), 48.355 (2c) (b), 48.355 (2d) (b) (intro.), 48.355 (2d) (b) 1., 48.355 (2d)**  
7     **(b) 2., 48.355 (2d) (b) 3., 48.355 (2d) (b) 4., 48.355 (2d) (b) 5., 48.355 (4), 48.357**  
8     **(2), 48.357 (2r), 48.357 (6), 48.365 (1), 48.365 (2g) (b) 2., 48.365 (2g) (b) 3., 48.365**  
9     **(2m) (ag), 48.365 (5), 48.38 (2) (intro.), 48.38 (2) (c), 48.38 (2) (f), 48.38 (3), 48.38**  
10    **(4) (intro.), 48.38 (4) (bm), 48.38 (4) (e), 48.38 (4) (f) (intro.), 48.38 (4) (fm), 48.38**  
11    **(5) (a), 48.38 (5) (b), 48.38 (5) (c) 6. (intro.), 48.38 (5) (c) 6. d., 48.38 (5) (c) 7.,**  
12    **48.417 (1) (a), 48.417 (1) (b), 48.417 (1) (c), 48.417 (1) (d), 48.417 (2) (a), 48.417**  
13    **(2) (b), 48.42 (2g) (am), 48.427 (1m), 48.63 (1), 48.63 (4), 48.685 (5) (bm) 4., 48.78**  
14    **(2) (a), 48.977 (2) (f), 938.21 (1) (a), 938.21 (2) (am), 938.21 (2) (d), 938.21 (3)**

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1 (am), 938.21 (3) (e), 938.255 (2), 938.27 (3) (a) 1m., 938.33 (4) (intro.), 938.355  
2 (1), 938.355 (2) (b) 6., 938.355 (2b), 938.355 (2c) (b), 938.355 (2d) (b) (intro.),  
3 938.355 (2d) (b) 1., 938.355 (2d) (b) 2., 938.355 (2d) (b) 3., 938.355 (2d) (b) 4.,  
4 938.355 (4) (a), 938.355 (4) (b), 938.355 (6) (a), 938.357 (2), 938.357 (2r), 938.357  
5 (3), 938.357 (4) (b) 2., 938.357 (4) (c) 1., 938.357 (4) (c) 2., 938.357 (4) (d), 938.357  
6 (5) (a), 938.357 (6), 938.365 (1), 938.365 (2g) (b) 2., 938.365 (2g) (b) 3., 938.365  
7 (2m) (ag), 938.365 (5), 938.38 (2) (intro.), 938.38 (2) (c), 938.38 (2) (f), 938.38 (3)  
8 (intro.), 938.38 (4) (intro.), 938.38 (4) (bm), 938.38 (4) (e), 938.38 (4) (f) (intro.),  
9 938.38 (4) (fm), 938.38 (5) (a), 938.38 (5) (b), 938.38 (5) (c) 6. (intro.), 938.38 (5)  
10 (c) 6. d., 938.38 (5) (c) 7. and 938.78 (2) (a); *to repeal and recreate* 48.21 (5)  
11 (b) 1. and 938.21 (5) (b) 1.; and *to create* 48.21 (5) (b) 3., 48.21 (5) (c), 48.21 (5)  
12 (d), 48.255 (1) (f), 48.255 (1m) (f), 48.315 (2m), 48.32 (1) (b), 48.32 (1) (c), 48.33  
13 (4) (c), 48.335 (3g), 48.355 (2) (b) 6r., 48.355 (2d) (bm), 48.355 (2d) (c) 2. and 3.,  
14 48.357 (1) (b) 3., 48.357 (1) (c), 48.357 (2m) (c), 48.357 (2v) (a) (intro.), 48.357  
15 (2v) (a) 1., 48.357 (2v) (a) 3., 48.357 (2v) (b), 48.357 (2v) (c), 48.365 (2m) (a) 2.,  
16 48.365 (2m) (a) 3., 48.365 (2m) (ad), 48.38 (4) (ag), 48.38 (4) (am), 48.38 (4) (dg),  
17 48.38 (4) (dm), 48.38 (4) (dr), 48.38 (4) (fg), 48.38 (4) (h), 48.38 (5) (c) 6. cg., 48.38  
18 (5m), 48.417 (2) (d), 938.21 (5) (b) 3., 938.21 (5) (c), 938.21 (5) (d), 938.255 (1) (f),  
19 938.315 (2m), 938.32 (1) (c), 938.32 (1) (d), 938.33 (4) (c), 938.335 (3g), 938.355  
20 (2) (b) 6r., 938.355 (2d) (bm), 938.355 (2d) (c) 2. and 3., 938.355 (6m) (cm),  
21 938.357 (1) (b) 3., 938.357 (1) (c), 938.357 (2m) (c), 938.357 (2v) (a) (intro.),  
22 938.357 (2v) (a) 1., 938.357 (2v) (a) 3., 938.357 (2v) (b), 938.357 (2v) (c), 938.365  
23 (2m) (a) 2., 938.365 (2m) (a) 3., 938.365 (2m) (ad), 938.38 (4) (ag), 938.38 (4)  
24 (am), 938.38 (4) (dg), 938.38 (4) (dm), 938.38 (4) (dr), 938.38 (4) (fg), 938.38 (4)  
25 (h), 938.38 (5) (c) 6. cg. and 938.38 (5m) of the statutes; **relating to:**

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1 permanency planning for a child placed outside the home, required juvenile  
2 court findings when a child is placed outside the home, the expiration date of  
3 a juvenile court order placing or continuing the placement of a child outside the  
4 home, the requirement that a termination of parental rights petition be filed  
5 under certain circumstances, statements by foster parents at juvenile court  
6 hearings, and prohibiting a person who has committed an alcohol-related  
7 felony within the last 5 years from being licensed to operate a foster home or  
8 treatment foster home.

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

***Introduction***

Under Title IV-E of the federal Social Security Act (Title IV-E), states that meet certain conditions specified in Title IV-E and the regulations promulgated under Title IV-E are reimbursed for the cost of providing care for children placed in foster homes, treatment foster homes, group homes, child caring institutions, secure detention facilities, or shelter care facilities (out-of-home placements). Recently, the federal department of health and human services promulgated regulations implementing the Adoption and Safe Families Act of 1997 (ASFA), which amended Title IV-E. This bill conforms certain provisions of the Children's Code and the Juvenile Justice Code relating to children placed in out-of-home placements to conform those provisions to ASFA and its implementing regulations.

***Permanency planning***

Under current law, for each child living in an out-of-home placement, the county department of human services or social services, the licensed child welfare agency, the department of health and family services, in a county having a population of 500,000 or more, or the department of corrections, in the case of a child who has been adjudged delinquent, (collectively "agency") that placed the child or arranged the placement of the child or the agency assigned primary responsibility for providing services to the child must prepare a permanency plan for the child, which is a plan designed to ensure that the child is reunified with his or her family whenever appropriate or that the child quickly attains a placement or home providing long-term stability. A permanency plan must be prepared within 60 days after the date on which the child was first held in physical custody or placed outside the home under an order of the court assigned to exercise jurisdiction under the Children's Code and the Juvenile Justice Code (juvenile court) and must be prepared if the child is being held under a physical custody order of the juvenile court, is under the guardianship, legal custody, or supervision of an agency, is placed under a

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voluntary agreement between the child's parents and an agency, or meets the requirements for aid under the former aid to families with dependent children program. This bill requires a permanency plan to be prepared for a child living in the home of a relative, other than a parent, who meets any of those requirements. The bill also requires a permanency plan to be prepared within 60 days after a child was first removed from his or her home.

A permanency plan must describe, among other things, the services that were provided to prevent the placement of the child outside the home, the services that have been and will be provided to make it possible for the child to return safely to the home, and the conditions, if any, upon which the child will be returned to the home. This bill requires the permanency plan to include certain additional information including the goal or goals of the permanency plan, with those goals being return of the child to the home or placement of the child for adoption, with a guardian, in the home of a relative, or in some other alternative permanent placement, in that order of preference. If a goal of the permanency plan is any goal other than return of the child to the home, the permanency plan must include the rationale for deciding on that goal and, if the goal of the permanency plan is some other alternative permanent placement, the permanency plan must document a compelling reason for not pursuing return of the child to the home or placement of the child for adoption, with a guardian, or with a relative.

The bill also requires a permanency plan to include a description of the programs and services that are or will be provided to assist a child 15 years of age or over in preparing for the transition from out-of-home care to independent living. In addition, under the bill, if as a result of the child's placement the child has been or will be transferred from his or her school, the permanency plan must include documentation that the placement would be in the child's best interests or that a placement that would maintain the child in his or her school is unavailable or inappropriate. Finally, the bill requires the permanency plan to include the name, address, and telephone number of the child's parent, guardian, and legal custodian, the date on which the child was removed from his or her home and the date on which the child was placed in out-of-home care, and certain educational and medical information relating to the child.

Under current law, the juvenile court or a panel appointed by the juvenile court must review a child's permanency plan every six months to determine, among other things, the continuing necessity for and appropriateness of the placement, the progress being made toward eliminating the causes of the child's placement and returning the child to the home or obtaining a permanent placement for the child, and whether reasonable efforts are being made to make it possible for the child to return to his or her home. This bill requires the juvenile court or panel, in reviewing a child's permanency plan, to determine whether reasonable efforts are being made to achieve the goal of the child's permanency plan, whether the goal is return of the child to the home or placement of the child for adoption, with a guardian, in the home of a relative, or in some other alternative placement.

The bill also requires the juvenile court to hold a hearing to review a child's permanency plan not later than 12 months after the child is removed from the home

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and every 12 months after that hearing, which hearing may be held instead of or in addition to review required under current law.

***Contrary-to-welfare and reasonable-efforts findings***

Under current law, a dispositional order of the juvenile court placing a child outside the home must include a finding that continued placement of the child in the home would be contrary to the welfare of the child and a finding as to whether the agency primarily responsible for providing services under a juvenile court order has made reasonable efforts to prevent the removal of the child from the home or, if applicable, a finding as to whether the agency has made reasonable efforts to make it possible for the child to return safely to his or her home. The juvenile court, however, is not required to find that those reasonable efforts have been made with respect to a parent if the juvenile court finds that the parent has committed certain crimes of homicide against a child of the parent; has committed battery, sexual assault, or physical or sexual abuse resulting in great bodily harm or substantial bodily harm to the child or to another child of the parent; has had his or her parental rights terminated with respect to another child; or has subjected the child to aggravated circumstances, which are defined as including criminal abandonment, torture, chronic abuse, and sexual abuse. If the juvenile court finds that any of those circumstances applies to a parent, the juvenile court must hold a hearing within 30 days after the date of that finding to determine the permanency plan for the child.

This bill requires a dispositional order that places a child outside the home to include a finding that the agency has made reasonable efforts to achieve the goal of the child's permanency plan, unless return of the child to the home is the goal of the permanency plan and a circumstance applies to a parent under which reasonable efforts to return the child to the home are not required. If the juvenile court finds that such a circumstance applies to a parent, the dispositional order must include a determination that the agency is not required to make those reasonable efforts with respect to the parent.

In addition, the bill requires the juvenile court to make the same contrary-to-welfare and reasonable-efforts findings that the juvenile court is required to make in a dispositional order placing a child outside the home in a temporary physical custody order holding a child outside the home, a change in placement order changing the placement of a child from an in-home placement to an out-of-home placement, and a consent decree maintaining a child placed outside the home under a voluntary agreement or other living arrangement in that placement or other living arrangement. If the juvenile court finds in the custody order, change in placement order, or consent decree that a circumstance applies to a parent under which reasonable efforts to return the child to the home are not required, the custody order, change in placement order, or consent decree must include a determination that the agency is not required to make those reasonable efforts with respect to the parent and the juvenile court must hold a hearing within 30 days after the date of the finding to determine the permanency plan for the child.

Finally, the bill requires the juvenile court to make the contrary-to-welfare and reasonable-efforts findings on a case-by-case basis based on circumstances specific to the child and to document or reference the specific information on which

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those findings are based in the custody order, dispositional order, change in placement order, or consent decree and also in an order extending the dispositional order of a child placed outside the home, an order appointing a relative as the guardian of a child in need of protection or services, and a sanction order placing a child in a place of nonsecure custody. The bill further provides that such an order or consent decree that merely references the statutes without documenting or referencing that specific information in the order or consent decree or an amended order or consent decree that retroactively corrects an earlier order or consent decree that does not comply with those requirements is not sufficient to comply with those requirements.

***Termination of orders***

Under current law, dispositional orders and extension orders of the juvenile court terminate at the end of one year, unless the judge specifies a shorter period of time, except that the judge may make a dispositional order placing a juvenile who has been adjudged delinquent in a Type 2 child caring institution or a secured correctional facility apply for up to two years or until the juvenile's 18th birthday, whichever is earlier, and the judge must make a dispositional order placing a juvenile who has committed a Class B felony in the serious juvenile offender program (SJOP) apply for five years and must make a dispositional order placing a juvenile who has committed a Class A felony in the SJOP apply until the juvenile reaches 25 years of age. Under current law, a change in placement order may not extend the expiration date of the original dispositional order.

Under this bill, a dispositional order, extension order, or change in placement order that places or continues the placement of a child in an out-of-home placement terminates when the child reaches 18 years of age, at the end of one year after its entry, or, if the child is a full-time student at a secondary school or its vocational or technical equivalent and is reasonably expected to complete the program before reaching 19 years of age, when the child reaches 19 years of age, whichever is later, unless the judge specifies a shorter period of time or the judge terminates the order sooner. The bill does not affect the length of a dispositional order or extension order that places or continues the placement of a child in an in-home placement or a dispositional order placing a juvenile in a Type 2 child caring institution, a secured correctional facility, or the SJOP. The bill also requires, in the case of a change in placement from an out-of-home placement to an in-home placement of a child who is subject to an original order the expiration date of which is more than one year after the date of the change in placement order, the juvenile court to shorten the expiration date of the original order to the date that is one year after the date of the change in placement order or to an earlier date as specified by the court.

***Time limits***

Under current law, certain actions in a proceeding under the Children's Code or the Juvenile Justice Code must take place within certain time limits. If a time limit under the Children's Code is not met, the juvenile court loses competency to exercise its jurisdiction and, therefore, must dismiss the proceeding. Under the Juvenile Justice Code, however, failure to meet a time limit does not deprive the juvenile court of competency to exercise its jurisdiction. Instead, the juvenile court

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may grant a continuance for good cause shown, dismiss the petition with or without prejudice, release the child from custody, or grant any other relief that the juvenile court considers appropriate. Certain time periods, such as a period of delay resulting from a continuance or an extension granted by the juvenile court, however, are excluded in computing the time requirements under those codes.

This bill prohibits the juvenile court from granting a continuance or an extension of a time limit specified in the Children's Code or the Juvenile Justice Code and from excluding a period of delay in computing a time requirement under those codes if the continuance, extension, or exclusion would result in the juvenile court making an initial finding that reasonable efforts have been made to prevent the removal of a child from his or her home, or an initial finding that those efforts were not required to be made because a circumstance under which those efforts are not required applies, more than 60 days after the date on which the child was removed from the home. The bill also prohibits such a continuance, extension, or exclusion if the continuance, extension, or exclusion would result in the juvenile court making an initial finding that the agency primarily responsible for providing services to the child has made reasonable efforts to achieve the goals of the child's permanency plan more than 12 months after the date on which the child was removed from the home or making any subsequent findings as to those reasonable efforts more than 12 months after the date of a previous finding as to those reasonable efforts. In addition, the bill provides that a failure to meet one of those time limits under the Children's Code does not deprive the juvenile court of competency to exercise its jurisdiction. Instead, the juvenile court may dismiss the petition with or without prejudice, release the child from custody, or grant any other relief that the juvenile court considers appropriate.

***Termination of parental rights filing requirements***

Under current law, subject to certain exceptions, if a child has been placed in an out-of-home placement for 15 of the most recent 22 months, if a child was abandoned as an infant, or if a child's parent has committed certain crimes of homicide against another child of the parent or has committed battery, sexual assault, or physical or sexual abuse resulting in great bodily harm or substantial bodily harm to the child or to another child of the parent, an agency or the district attorney, corporation counsel, or other appropriate official designated by the county board to prosecute termination of parental rights (TPR) proceedings must file a TPR petition with respect to the child or, if a TPR petition with respect to the child has already been filed, must join in the petition. A person responsible for filing TPR petitions, however, is not required to file or join in a TPR petition with respect to such a child if the child is being cared for by a relative, if a TPR is not in the best interests of the child, or if the agency primarily responsible for providing services to the child and the family is required to make reasonable efforts to make it possible for the child to return safely home and has not provided the services necessary for that safe return.

This bill, for purposes of determining whether a child has been placed outside the home for 15 of the most recent 22 months, excludes any period during which the child was a runaway from the out-of-home placement or the child was returned to



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his or her home for a trial home visit of six months or less. If the child has been placed outside the home for 15 of the most recent 22 months, as calculated under the bill, the TPR petition must be filed or joined in by the last day of that 15th month. Similarly, if the child was abandoned as an infant, the TPR petition must be filed or joined in within 60 days after a court of competent jurisdiction finds that the child was so abandoned and, if the parent has committed certain crimes of homicide against another child of the parent or has committed battery, sexual assault, or physical or sexual abuse resulting in great bodily harm or substantial bodily harm to the child or to another child of the parent, the TPR petition must be filed or joined in within 60 days after the juvenile court determines, based on a finding that the parent has committed such a serious felony, that reasonable efforts to make it possible for the child to return safely home are not required. The bill provides, however, that the filing or joining of a TPR petition is not required if grounds for an involuntary TPR do not exist.

**Foster parent debarment**

Under current law, a person who has committed a crime against children that is a felony, felony spousal abuse, or certain felonies involving violence or who has committed, within the past five years, a felony battery or a drug-related felony may not be licensed to operate a foster home or treatment foster home, including a foster home or treatment foster home that is a placement for adoption of a child for whom adoption assistance will be provided after the adoption is finalized. This bill prohibits a person who has committed, within the past five years, certain alcohol-related felonies from being licensed to operate such a foster home or treatment foster home. Those felonies include homicide by intoxicated use of a firearm or vehicle, causing injury by intoxicated use of a vehicle, felony operation of a motor vehicle while intoxicated (fifth offense or with a minor under 16 years of age in the vehicle), causing injury or death by providing alcohol beverages to a minor, providing false proof of age to an underage person for money or other consideration, impersonating an employee of the department of revenue or the department of justice with intent to commit a crime, manufacturing intoxicating liquor without a permit, and using, selling, or otherwise disposing of alcohol redistilled from denatured alcohol.

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

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

*as amended by 2001 Wisconsin Act 61,*

**SECTION 1.** 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

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*101b*  
*proof w/ 2001 W.A. 61*  
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a circuit

(Plan)

Page 4/2001 WA 61

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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 ~~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~~ for good cause shown. (a/c)

SECTION 2. 48.21 (3) (am) of the statutes is amended to read:

48.21 (3) (am) The parent, guardian, or legal custodian may waive his or her right to participate in the hearing under this section. ~~Agreement in writing of the child is required if he or she is over 12.~~ After any waiver, a hearing rehearing shall be granted at the request of any the parent, guardian, legal custodian, or any other interested party for good cause shown.

SECTION 3. 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~~

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SECTION 3

a finding as to whether the person who took the child into custody and the intake worker have made reasonable efforts

take place as soon as possible 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. Any order to hold the child in custody shall be subject to rehearing for good cause, whether or not counsel was present.

the order shall in addition include

old

SECTION 4. 48.21 (5) (b) 1. of the statutes, as affected by 2001 Wisconsin Act 16,

is repealed and recreated to read:

Unless

Circuit

48.21 (5) (b) 1. A finding that continued placement of the child in his or her home would be contrary to the welfare of the child and, unless the judge or juvenile court commissioner finds that any of the circumstances specified in s. 48.355 (2d) (b)

1. to 5. applies, a finding as to whether 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 or, if for good

cause shown sufficient information is not available for the judge or juvenile court commissioner to make those findings, an order for the county department,

department, in a county having a population of 500,000 or more, or agency primarily responsible for providing services to the child under the custody order to file with the

court sufficient information for the judge or juvenile court commissioner to make those findings by no later than 5 days after the date of the order.

SECTION 5. 48.21 (5) (b) 3. of the statutes is created to read:

48.21 (5) (b) 3. If the judge or juvenile court commissioner finds that any of the circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent, a determination that the county department, department, in a county having a population of 500,000 or more, or agency primarily responsible for providing services

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

a finding as to whether those reasonable efforts were made to prevent the removal of the child from the home

Circuit

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1 under the custody order is not required to make reasonable efforts with respect to the  
2 parent to make it possible for the child to return safely to his or her home.

3 SECTION 6. 48.21 (5) (c) of the statutes is created to read:

4 48.21 (5) (c) The judge or ~~juvenile~~ <sup>Circuit</sup> court commissioner shall make the findings  
5 specified in par. (b) 1. and 3. on a case-by-case basis based on circumstances specific  
6 to the child and shall document or reference the specific information on which those  
7 findings are based in the custody order. A custody order that merely references par.  
8 (b) 1. or 3. without documenting or referencing that specific information in the  
9 custody order or an amended custody order that retroactively corrects an earlier  
10 custody order that does not comply with this paragraph is not sufficient to comply  
11 with this paragraph. <sup>101g</sup> <sup>Circuit</sup>

12 SECTION 7. 48.21 (5) (d) of the statutes is created to read:

13 48.21 (5) (d) 1. If the judge or ~~juvenile~~ <sup>Circuit</sup> court commissioner finds that any of the  
14 circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent,  
15 the judge or ~~juvenile~~ <sup>Circuit</sup> court commissioner shall hold a hearing within 30 days after  
16 the date of that finding to determine the permanency plan for the child. If a hearing  
17 is held under this subdivision, the agency responsible for preparing the permanency  
18 plan shall file the permanency plan with the court not less than 5 days before the date  
19 of the hearing.

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

## ASSEMBLY BILL 809

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           <sup>(10h)</sup> SECTION 8. 48.255 (1) (f) of the statutes is created to read:

13           48.255 (1) (f) If the child is being held in custody outside of his or her home,  
14 reliable and credible information showing that continued placement of the child in  
15 his or her home would be contrary to the welfare of the child and, unless any of the  
16 circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies, reliable and credible  
17 information showing that the person who took the child into custody and the intake  
18 worker have made reasonable efforts to prevent the removal of the child from the  
19 home, while assuring that the child's health and safety are the paramount concerns,  
20 and to make it possible for the child to return safely home.

21           <sup>(10i)</sup> SECTION 9. 48.255 (1m) (f) of the statutes is created to read:

22           48.255 (1m) (f) If the expectant mother is a child and the child expectant  
23 mother is being held in custody outside of her home, reliable and credible information  
24 showing that continued placement of the child expectant mother in her home would  
25 be contrary to the welfare of the child expectant mother and, unless any of the

## ASSEMBLY BILL 809

1 circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies, reliable and credible  
 2 information showing that the person who took the child expectant mother into  
 3 custody and the intake worker have made reasonable efforts to prevent the removal  
 4 of the child expectant mother from the home, while assuring that the child expectant  
 5 mother's health and safety are the paramount concerns, and to make it possible for  
 6 the child expectant mother to return safely home.

7 <sup>(101j)</sup> SECTION 10. 48.255 (2) of the statutes is amended to read:

8 48.255 (2) If any of the facts required under sub. (1) (a) to (cm) and (f) or (1m)  
 9 (a) to (d) and (f) are not known or cannot be ascertained by the petitioner, the petition  
 10 shall so state.

11 ~~SECTION 11. 48.27 (3) (a) 1m. of the statutes is amended to read:~~

12 ~~48.27 (3) (a) 1m. The court shall give a foster parent, treatment foster parent,  
 13 or other physical custodian described in s. 48.62 (2) who is notified of a hearing under  
 14 subd. 1. an opportunity to be heard at the hearing by permitting the foster parent,  
 15 treatment foster parent, or other physical custodian to make a written or oral  
 16 statement during the hearing, or to submit a written statement prior to the hearing,  
 17 relevant to the issues to be determined at the hearing. Any written or oral statement  
 18 made under this subdivision shall be made upon oath or affirmation. A foster parent,  
 19 treatment foster parent, or other physical custodian described in s. 48.62 (2) who  
 20 receives a notice of a hearing under subd. 1. and an opportunity to be heard under  
 21 this subdivision does not become a party to the proceeding on which the hearing is  
 22 held solely on the basis of receiving that notice and opportunity to be heard.~~

23 <sup>(101k)</sup> SECTION 12. 48.315 (2m) of the statutes is created to read:

24 48.315 (2m) (a) No continuance or extension of a time limit specified in this  
 25 chapter may be granted and no period of delay specified in sub. (1) may be excluded

1 in computing a time requirement under this chapter if the continuance, extension,  
2 or exclusion would result in any of the following:

3 1. The court making an initial finding under s. 48.21 (5) (b) 1., 48.355 (2) (b) 6.,  
4 or 48.357 (2v) (a) 1. that reasonable efforts have been made to prevent the removal  
5 of the child from the home, while assuring that the child's health and safety are the  
6 paramount concerns, or an initial finding under s. 48.21 (5) (b) 3., 48.355 (2) (b) 6r.,  
7 or 48.357 (2v) (a) 3. that those efforts were not required to be made because a  
8 circumstance specified in s. 48.355 (2d) (b) 1. to 5. applies, more than 60 days after  
9 the date on which the child was removed from the home.

10 2. The court making an initial finding under s. 48.38 (5m) that the agency  
11 primarily responsible for providing services to the child has made reasonable efforts  
12 to achieve the goals of the child's permanency plan more than 12 months after the  
13 date on which the child was removed from the home or making any subsequent  
14 findings under s. 48.38 (5m) as to those reasonable efforts more than 12 months after  
15 the date of a previous finding as to those reasonable efforts.

16 (b) Failure to comply with any time limit specified in par. (a) does not deprive  
17 the court of personal or subject matter jurisdiction or of competency to exercise that  
18 jurisdiction. If a party does not comply with a time limit specified in par. (a), the court  
19 may dismiss the proceeding with or without prejudice, release the child from custody,  
20 or grant any other relief that the court considers appropriate.

21 SECTION ~~48~~<sup>101b</sup> 48.32 (1) of the statutes <sup>is renumbered</sup> 48.32 (1) (a).

22 SECTION ~~48~~<sup>101m</sup> 48.32 (1) (b) of the statutes is created to read:

23 48.32 (1) (b) 1. If at the time the consent decree is entered into the child is placed  
24 outside the home under a voluntary agreement under s. 48.63 or is otherwise living  
25 outside the home without a court order and if the consent decree maintains the child

*), while assuring the safety of the child,*  
*was affected by 2001 Wisconsin Act 61,*

## ASSEMBLY BILL 809

1 in that placement or other living arrangement, the consent decree shall include a  
2 finding that placement of the child in his or her home would be contrary to the welfare  
3 of the child, a finding as to whether the county department, the department, in a  
4 county having a population of 500,000 or more, or the agency primarily responsible  
5 for providing services to the child has made reasonable efforts to prevent the removal  
6 of the child from the home, while assuring that the child's health and safety are the  
7 paramount concerns, unless the judge or ~~juvenile~~ <sup>Circuit</sup> court commissioner finds that any  
8 of the circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies, and a finding as  
9 to whether the county department, department, or agency has made reasonable  
10 efforts to achieve the goal of the child's permanency plan, unless return of the child  
11 to the home is the goal of the permanency plan and the judge or ~~juvenile~~ <sup>Circuit</sup> court  
12 commissioner finds that any of the circumstances specified in s. 48.355 (2d) (b) 1. to  
13 5. applies.

14 2. If the judge or ~~juvenile~~ <sup>Circuit</sup> court commissioner finds that any of the  
15 circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent,  
16 the consent decree shall include a determination that the county department,  
17 department, in a county having a population of 500,000 or more, or agency primarily  
18 responsible for providing services under the consent decree is not required to make  
19 reasonable efforts with respect to the parent to make it possible for the child to return  
20 safely to his or her home. <sup>Circuit</sup>

21 3. The judge or ~~juvenile~~ <sup>Circuit</sup> court commissioner shall make the findings specified  
22 in subds. 1. and 2. on a case-by-case basis based on circumstances specific to the  
23 child and shall document or reference the specific information on which those  
24 findings are based in the consent decree. A consent decree that merely references  
25 subd. 1. or 2. without documenting or referencing that specific information in the



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1 consent decree or an amended consent decree that retroactively corrects an earlier  
2 consent decree that does not comply with this subdivision is not sufficient to comply  
3 with this subdivision.

101n      Circuit

4 SECTION 15. 48.32 (1) (c) of the statutes is created to read:

5 48.32 (1) (c) 1. If the judge or juvenile court commissioner finds that any of the  
6 circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent,  
7 the judge or juvenile court commissioner shall hold a hearing within 30 days after  
8 the date of that finding to determine the permanency plan for the child. If a hearing  
9 is held under this subdivision, the agency responsible for preparing the permanency  
10 plan shall file the permanency plan with the court not less than 5 days before the date  
11 of the hearing.

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

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

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or residential care center for children and youth

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

as affected by 2001 Wisconsin Act 59

SECTION 16. 48.33 (4) (intro.) of the statutes is amended to read:

48.33 (4) OTHER OUT-OF-HOME PLACEMENTS. (intro.) A report recommending placement of an adult expectant mother outside of her home shall be in writing. A report recommending placement of a child in a foster home, treatment foster home, group home, or in the home of a relative other than a parent shall be in writing and shall include all of the following:

SECTION 17. 48.33 (4) (c) of the statutes is created to read:

48.33 (4) (c) Specific information showing that continued placement of the child in his or her home would be contrary to the welfare of the child, specific information showing that the county department, the department, in a county having a population of 500,000 or more, or the agency primarily responsible for providing services to the child has 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, unless any of the circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies, and specific information showing that the county department, department, or agency has made reasonable efforts to achieve the goal of the child's permanency plan, unless return of the child to the home is the goal of the permanency plan and any of the circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies.

SECTION 18. 48.335 (3g) of the statutes is created to read:

48.335 (3g) At hearings under this section, if the agency, as defined in s. 48.38 (1) (a), is recommending placement of the child in a foster home, treatment foster home, group home, or in the home of a relative other than a parent, the agency shall present as evidence specific information showing that

residential care center for children and youth

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## ASSEMBLY BILL 809

1 continued placement of the child in his or her home would be contrary to the welfare  
2 of the child, specific information showing that the county department, the  
3 department, in a county having a population of 500,000 or more, or the agency  
4 primarily responsible for providing services to the child has made reasonable efforts  
5 to prevent the removal of the child from the home, while assuring that the child's  
6 health and safety are the paramount concerns, unless any of the circumstances  
7 specified in s. 48.355 (2d) (b) 1. to 5. applies, and specific information showing that  
8 the county department, department, or agency has made reasonable efforts to  
9 achieve the goal of the child's permanency plan, unless return of the child to the home  
10 is the goal of the permanency plan and any of the circumstances specified in s. 48.355  
11 (2d) (b) 1. to 5. applies. (1015)

12 SECTION 10. 48.355 (2) (b) 6. of the statutes is amended to read:

13 48.355 (2) (b) 6. If the child is placed outside the home, a finding that continued  
14 placement of the child in his or her home would be contrary to the ~~health, safety and~~  
15 ~~welfare of the child and, if sub. (2d) does not apply,~~ a finding as to whether the county  
16 department, the department, in a county having a population of 500,000 or more, or  
17 the agency primarily responsible for providing services under a court order has made  
18 reasonable efforts to prevent the removal of the child from the home, while assuring  
19 that the child's health and safety are the paramount concerns, ~~or, if applicable,~~  
20 unless the court finds that any of the circumstances specified in sub. (2d) (b) 1. to 5.  
21 applies, and a finding as to whether the county department, department, or agency  
22 primarily responsible for providing services under a court order has made reasonable  
23 efforts to make it possible for the child to return safely to his or her home achieve the  
24 goal of the child's permanency plan, unless return of the child to the home is the goal  
25 of the permanency plan and the court finds that any of the circumstances specified

1 in sub. (2d) (b) 1. to 5. applies. The court shall make the findings specified in this  
2 subdivision on a case-by-case basis based on circumstances specific to the child and  
3 shall document or reference the specific information on which those findings are  
4 based in the court order. A court order that merely references this subdivision  
5 without documenting or referencing that specific information in the court order or  
6 an amended court order that retroactively corrects an earlier court order that does  
7 not comply with this subdivision is not sufficient to comply with this subdivision.

8 <sup>101+</sup> SECTION 20. 48.355 (2) (b) 6r. of the statutes is created to read:

9 48.355 (2) (b) 6r. If the court finds that any of the circumstances specified in  
10 sub. (2d) (b) 1. to 5. applies with respect to a parent, a determination that the county  
11 department, department, in a county having a population of 500,000 or more, or  
12 agency primarily responsible for providing services under the court order is not  
13 required to make reasonable efforts with respect to the parent to make it possible for  
14 the child to return safely to his or her home.

15 <sup>101u</sup> SECTION 21. 48.355 (2b) of the statutes is amended to read:

16 48.355 (2b) CONCURRENT REASONABLE EFFORTS PERMITTED. A county  
17 department, the department, in a county having a population of 500,000 or more, or  
18 the agency primarily responsible for providing services to a child under a court order  
19 may, at the same time as the county department, department, or agency is making  
20 the reasonable efforts required under sub. (2) (b) 6. to prevent the removal of the child  
21 from the home or to make it possible for the child to return safely to his or her home,  
22 work with the department, a county department under s. 48.57 (1) (e) or (hm), or a  
23 child welfare agency licensed under s. 48.61 (5) in making reasonable efforts to place  
24 the child for adoption, with a guardian, with a fit and willing relative, or in some  
25 other alternative permanent placement.

## ASSEMBLY BILL 809

101v  
1 SECTION 21. 48.355 (2c) (b) of the statutes is amended to read:

2 48.355 (2c) (b) When a court makes a finding under sub. (2) (b) 6. as to whether  
3 the county department, department, in a county having a population of 500,000 or  
4 more, or agency primarily responsible for providing services to the child under a  
5 court order has made reasonable efforts to ~~make it possible for the child to return~~  
6 safely to his or her home achieve the goal of the permanency plan, the court's  
7 consideration of reasonable efforts shall include, ~~but not be limited to~~, the  
8 considerations listed under par. (a) 1. to 5. and whether visitation schedules between  
9 the child and his or her parents were implemented, unless visitation was denied or  
10 limited by the court. 101w

11 SECTION 23. 48.355 (2d) (b) (intro.) of the statutes is amended to read:

12 48.355 (2d) (b) (intro.) Notwithstanding sub. (2) (b) 6., the court ~~need not~~ is not  
13 required to include in a dispositional order a finding as to whether the county  
14 department, the department, in a county having a population of 500,000 or more, or  
15 the agency primarily responsible for providing services under a court order has made  
16 reasonable efforts with respect to a parent of a child to prevent the removal of the  
17 child from the home, while assuring that the child's health and safety are the  
18 paramount concerns, or, if applicable, a finding as to whether the county department,  
19 department, or agency primarily responsible for providing services under a court  
20 order has made reasonable efforts with respect to a parent of a child to ~~make it~~  
21 ~~possible for the child to return~~ achieve the permanency plan goal of returning the  
22 child safely to his or her home, if the court finds, ~~as evidenced by a final judgment~~  
23 of conviction, any of the following:

24 SECTION 24. 48.355 (2d) (b) 1. of the statutes is amended to read:  
101x

ASSEMBLY BILL 809

1 48.355 (2d) (b) 1. That the parent has subjected the child to aggravated  
2 circumstances, as evidenced by a final judgment of conviction.

3 <sup>(10/1)</sup> SECTION 24. 48.355 (2d) (b) 2. of the statutes is amended to read:

4 48.355 (2d) (b) 2. That the parent has committed, has aided or abetted the  
5 commission of, or has solicited, conspired, or attempted to commit, a violation of s.  
6 940.01, 940.02, 940.03, or 940.05 or a violation of the law of any other state or federal  
7 law, if that violation would be a violation of s. 940.01, 940.02, 940.03, or 940.05 if  
8 committed in this state, as evidenced by a final judgment of conviction, and that the  
9 victim of that violation is a child of the parent.

10/12

10 <sup>(10/2)</sup> SECTION 25. 48.355 (2d) (b) 3. of the statutes is amended to read:

11 48.355 (2d) (b) 3. That the parent has committed a violation of s. 940.19 (2), (3),  
12 (4), or (5), 940.225 (1) or (2), 948.02 (1) or (2), 948.025, or 948.03 (2) (a) or (3) (a) or  
13 a violation of the law of any other state or federal law, if that violation would be a  
14 violation of s. 940.19 (2), (3), (4), or (5), 940.225 (1) or (2), 948.02 (1) or (2), 948.025,  
15 or 948.03 (2) (a) or (3) (a) if committed in this state, as evidenced by a final judgment  
16 of conviction, and that the violation resulted in great bodily harm, as defined in s.  
17 939.22 (14), or in substantial bodily harm, as defined in s. 939.22 (38), to the child  
18 or another child of the parent.

Insert 21-18

19 <sup>(1026)</sup> SECTION 27. 48.355 (2d) (b) 4. of the statutes is amended to read:

20 48.355 (2d) (b) 4. That the parental rights of the parent to another child have  
21 been involuntarily terminated, as evidenced by a final order of a court of competent  
22 jurisdiction terminating those parental rights.

23 <sup>(1026a)</sup> SECTION 28. 48.355 (2d) (b) 5. of the statutes, as created by 2001 Wisconsin Act  
24 2, is amended to read:

## ASSEMBLY BILL 809

1           48.355 (2d) (b) 5. That the parent has been found under s. 48.13 (2m) to have  
2 relinquished custody of the child under s. 48.195 (1) when the child was 72 hours old  
3 or younger, as evidenced by a final order of a court of competent jurisdiction making  
4 that finding. (102bm)

5           SECTION 29. 48.355 (2d) (bm) of the statutes is created to read:

6           48.355 (2d) (bm) The court shall make a finding specified in par. (b) 1. to 5. on  
7 a case-by-case basis based on circumstances specific to the child and shall document  
8 or reference the specific information on which that finding is based in the  
9 dispositional order. A dispositional order that merely references par. (b) 1. to 5.  
10 without documenting or referencing that specific information in the dispositional  
11 order or an amended dispositional order that retroactively corrects an earlier  
12 dispositional order that does not comply with this paragraph is not sufficient to  
13 comply with this paragraph. (102br)

14           SECTION 30. 48.355 (2d) (c) of the statutes, as affected by 2001 Wisconsin Act  
15 2, is renumbered 48.355 (2d) (c) 1. and amended to read:

16           48.355 (2d) (c) 1. If the court ~~makes a finding~~ finds that any of the  
17 circumstances specified in par. (b) 1., 2., 3., 4., or 5. to 5. applies with respect to a  
18 parent, the court shall hold a hearing within 30 days after the date of that finding  
19 to determine the permanency plan for the child. If a hearing is held under this  
20 paragraph subdivision, the agency responsible for preparing the permanency plan  
21 shall file the permanency plan with the court not less than 5 days before the date of  
22 the hearing. (102c)

23           SECTION 31. 48.355 (2d) (c) 2. and 3. of the statutes are created to read:

24           48.355 (2d) (c) 2. If a hearing is held under subd. 1., at least 10 days before the  
25 date of the hearing the court shall notify the child, any parent, guardian, and legal

## ASSEMBLY BILL 809

1 custodian of the child, and any foster parent, treatment foster parent, or other  
2 physical custodian described in s. 48.62 (2) of the child of the time, place, and purpose  
3 of the hearing.

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

15 SECTION <sup>102C9</sup> ~~32~~. 48.355 (4) of the statutes is amended to read:

16 48.355 (4) TERMINATION OF ORDERS. Except as provided under s. 48.368, all  
17 orders an order under this section shall terminate at the end of one year unless the  
18 judge specifies a shorter period of time. Except if s. 48.368 applies, extensions or  
19 revisions or s. 48.357 or 48.365 made before the child reaches 18 years of age that  
20 places or continues the placement of the child in his or her home shall terminate at  
21 the end of one year after its entry unless the judge specifies a shorter period of time.  
22 ~~Any order made before the child reaches the age of majority or~~ or the judge  
23 terminates the order sooner. Except as provided under s. 48.368, an order under this  
24 section or s. 48.357 or 48.365 made before the child reaches 18 years of age that places  
25 or continues the placement of the child in a foster home, treatment foster home,



ASSEMBLY BILL 809

SECTION 32

for children and youth

Care

1 group home, or residential treatment center or in the home of a relative other than  
 2 a parent shall terminate when the child reaches 18 years of age, at the end of one year  
 3 after its entry, or, if the child is a full-time student at a secondary school or its  
 4 vocational or technical equivalent and is reasonably expected to complete the  
 5 program before reaching 19 years of age, when the child reaches 19 years of age,  
 6 whichever is later, unless the judge specifies a shorter period of time or the judge  
 7 terminates the order sooner. An order under this section or s. 48.357 or 48.365  
 8 relating to an unborn child in need of protection or services that is made before the  
 9 unborn child is born shall be *Res. 166* minate at the end of one year  
 10 after its entry unless the j period of time or the judge  
 11 terminates the order sooner Ed by 2001 Wisconsin Act 103,

12 **SECTION 32.** 48.357 *Res. 166* **numbered 48.357 (1) (a) and**  
 13 amended to read:

14 48.357 (1) (a) The person or agency primarily responsible for implementing the  
 15 dispositional order, the district attorney, *(plain)* or the corporation counsel may request a  
 16 change in the placement of the child or expectant mother, whether or not the change  
 17 requested is authorized in the dispositional order, *(plain)* and, *(am)* as provided in par. ~~(b)~~ or (c),  
 18 whichever is applicable.

19 *(am)* 1. If the proposed change in placement involves any change in placement  
 20 other than a change in placement specified in par. (c), the person or agency primarily  
 21 responsible for implementing the dispositional order, the district attorney, or the  
 22 corporation counsel shall cause written notice of the proposed change in placement  
 23 to be sent to the child, the parent, guardian, *(plain)* and legal custodian of the child, any  
 24 foster parent, treatment foster parent, *(plain)* or other physical custodian described in s.  
 25 48.62 (2) of the child, the child's court-appointed special advocate, *(plain)* and, if the child

Prop w/ 2001 Act 103

ASSEMBLY BILL 809

SECTION 33

Section 102 et RA, 48.357 (1)(b), as affected by 2001 Wisconsin Act 103, 48.357 (1)(am) 2.

1 is the expectant mother of an unborn child under s. 48.133, the unborn child by the  
2 unborn child's guardian ad litem. If the expectant mother is an adult, written notice  
3 shall be sent to the adult expectant mother and the unborn child by the unborn child's  
4 guardian ad litem. The notice shall contain the name and address of the new  
5 placement, the reasons for the change in placement, a statement describing why the  
6 new placement is preferable to the present placement, and a statement of how the  
7 new placement satisfies objectives of the treatment plan ordered by the court.

8 Any person receiving the notice under ~~this subsection~~ <sup>par. (a)</sup> subd. 1. or notice of  
9 a specific placement under s. 48.355 (2) (b) 2., other than a court-appointed special  
10 advocate, may obtain a hearing on the matter by filing an objection with the court  
11 within 10 days after receipt of the notice. Placements may not be changed until 10  
12 days after that notice is sent to the court unless the parent, guardian, <sup>plan</sup> or legal  
13 custodian and the child, if 12 years of age or over, or the child expectant mother, if  
14 12 years of age or over, her parent, guardian, <sup>plan</sup> or legal custodian and the unborn child  
15 by the unborn child's guardian ad litem, or the adult expectant mother and the  
16 unborn child by the unborn child's guardian ad litem, sign written waivers of  
17 objection, except that placement changes <sup>plain</sup> which ~~changes~~ <sup>plan</sup> in placement that were  
18 authorized in the dispositional order may be made immediately if notice is given as  
19 required ~~in this subsection~~ <sup>plan (par. (a))</sup> (under subd. 1. In addition, a hearing is not required for  
20 placement changes authorized in the dispositional order except when an objection  
21 filed by a person who received notice alleges that new information is available <sup>plan</sup> which  
22 <sup>plan</sup> that affects the advisability of the court's dispositional order.

23 SECTION 34. 48.357 (1) <sup>(am)</sup> 3. of the statutes is created to read:

102c

Handwritten note: 103

## ASSEMBLY BILL 809

(am)

1 48.357 (1) ~~(a)~~ 3. If the court changes the child's placement from a placement  
2 outside the home to another placement outside the home, the change in placement  
3 order shall contain one of the statements specified in sub. (2v) (a) 2.

4 SECTION ~~36~~ <sup>1a2da</sup> 48.357 (1) (c) of the statutes is created to read:

5 48.357 (1) (c) 1. If the proposed change in placement would change the  
6 placement of a child placed in the home to a placement outside the home, the person  
7 or agency primarily responsible for implementing the dispositional order, the district  
8 attorney, or the corporation counsel shall submit a request for the change in  
9 placement to the court. The request shall contain the name and address of the new  
10 placement, the reasons for the change in placement, a statement describing why the  
11 new placement is preferable to the present placement, and a statement of how the  
12 new placement satisfies objectives of the treatment plan ordered by the court. The  
13 request shall also contain specific information showing that continued placement of  
14 the child in his or her home would be contrary to the welfare of the child and, unless  
15 any of the circumstances specified in s. 48.355 (2d) (b) 1. to 5. 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 child  
18 from the home, while assuring that the child's health and safety are the paramount  
19 concerns.

20 2. The court shall hold a hearing prior to ordering any change in placement  
21 requested under subd. 1. Not less than 3 days prior to the hearing, the court shall  
22 provide notice of the hearing, together with a copy of the request for the change in  
23 placement, to the child, the parent, guardian, and legal custodian of the child, the  
24 child's court-appointed special advocate, and all parties that are bound by the

ASSEMBLY BILL 809

1 dispositional order. If all parties consent, the court may proceed immediately with  
2 the hearing.

3 3. If the court changes the child's placement from a placement in the child's  
4 home to a placement outside the child's home, the change in placement order shall  
5 contain the findings specified in sub. (2v) (a) 1., one of the statements specified in sub.  
6 (2v) (a) 2., and, if in addition the court finds that any of the circumstances specified  
7 in s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent, the determination  
8 specified in sub. (2v) (a) 3. *102dr* *as affected by 2001 Wisconsin Act 103*

9 SECTION 36. 48.357 (2) of the statutes *is* amended to read:

10 48.357 (2) If emergency conditions necessitate an immediate change in the  
11 placement of a child or expectant mother placed outside the home, the person or  
12 agency primarily responsible for implementing the dispositional order may remove  
13 the child or expectant mother to a new placement, whether or not authorized by the

14 existing dispositional order, without the prior notice provided in sub. (1) ~~1~~ *(a) (am)* ✓  
15 notice shall, however, be sent within 48 hours after the emergency change in  
16 placement. Any party receiving notice may demand a hearing under sub. (1) ~~1~~ *(b) (am)* ✓

17 In emergency situations, a child may be placed in a licensed public or private shelter  
18 care facility as a transitional placement for not more than 20 days, as well as in any  
19 placement authorized under s. 48.345 (3). *as affected by 2001 Wisconsin Act 103*

20 SECTION 37. 48.357 (2m) *(a)* of the statutes *is* renumbered ~~48.357 (2m)~~ (a) and  
21 amended to read:

22 48.357 (2m) (a) The child, the parent, guardian, *plan* or legal custodian of the child, *ad*  
23 the expectant mother, the unborn child by the unborn child's guardian *plan* ~~lit~~em, or  
24 any person or agency primarily bound by the dispositional order, other than the  
25 person or agency responsible for implementing the order, may request a change in

*Prng / w / 2001 / WA 103*

SECTION 102 ec. AM 48,357 (2m)(b)  
2001 - 2002 Legislature  
ASSEMBLY BILL 809

as affected by 2001 Wisconsin Act 103

LRB-4375/2  
GMM:kg:jf  
SECTION 37

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placement under this ~~subsection~~ <sup>(plan)</sup> paragraph. The request shall contain the name and address of the ~~place~~ of the new placement requested and shall state what new information is available ~~which~~ <sup>(plan)</sup> that affects the advisability of the current placement. If the proposed change in placement would change the placement of a child placed in the home to a placement outside the home, the request shall also contain specific information showing that continued placement of the child in the 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 5. applies, specific information showing that the agency primarily responsible for implementing the dispositional order has 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. ~~This~~ <sup>(he) (plan)</sup> request shall be submitted to the court. In addition, the court may propose a change in placement on its own motion.

<sup>(plan)</sup> (b) The court shall hold a hearing on the matter prior to ordering any change in placement ~~under this subsection~~ <sup>(plan)</sup> requested or proposed <sup>(plan)</sup> under par. (a) if the request states that new information is available ~~which~~ <sup>(plan)</sup> that affects the advisability of the current placement, unless the requested or proposed change in placement involves any change in placement other than a change in placement of a child placed in the home to a placement outside the home and written waivers of objection to the proposed change in placement are signed by all persons entitled to receive notice under sub. (1) ~~1.~~ <sup>(ca) (am)</sup> other than a court-appointed special advocate, and the court approves. If a hearing is scheduled, the court shall notify the child, the parent, <sup>(plan)</sup> guardian, and legal custodian of the child, any foster parent, treatment foster parent, <sup>(plan)</sup> or other physical custodian described in s. 48.62 (2) of the child, the child's court-appointed special advocate, all parties who are bound by the dispositional

Plan 48,357 (2m)(b)  
 (ca) (am)



ASSEMBLY BILL 809

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order and, if the child is the expectant mother of an unborn child under s. 48.133, the unborn child by the unborn child's guardian ad litem, or shall notify the adult expectant mother, the unborn child by the unborn child's guardian ad litem and all parties who are bound by the dispositional order, at least 3 days prior to the hearing. A copy of the request or proposal for the change in placement shall be attached to the notice. If all the parties consent, the court may proceed immediately with the hearing.

SECTION 38. 48.357 (2m) (c) of the statutes is created to read:

48.357 (2m) (c) If the court changes the child's placement from a placement in the child's home to a placement outside the child's home, the change in placement order shall contain the findings specified in sub. (2v) (a) 1., one of the statements specified in sub. (2v) (a) 2., and, if in addition the court finds that any of the circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent, the determination specified in sub. (2v) (a) 3.

SECTION 39. 48.357 (2r) of the statutes is amended to read:

48.357 (2r) If a hearing is held under sub. (1) ~~(a)~~ 2. or (2m) (b) and the change in placement would remove a child from a foster home, treatment foster home or other placement with a physical custodian described in s. 48.62 (2), the court shall give the foster parent, treatment foster parent, or other physical custodian described in s. 48.62 (2) an opportunity to be heard at the hearing by permitting the foster parent, treatment foster parent, or other physical custodian to make a written or oral statement during the hearing or to submit a written statement prior to the hearing relating to the child and the requested change in placement. ~~Any written or oral statement made under this subsection shall be made under oath or affirmation.~~ A foster parent, treatment foster parent, or other physical custodian described in s.

(2) (plan)

(1) plan

102 eq

was affected by 2001 Wisconsin Act 133

102 em

(b) (am)

(plan)

(plan)

(plan)

(plan)

(plan)

Amended 2001 AB 103

ASSEMBLY BILL 809

(b) (4m) ✓

Plan ✓  
(b)

1 48.62 (2) who receives notice of a hearing under sub. (1) ~~(1)~~ 1. or (2m) ~~(b)~~ and an  
2 opportunity to be heard under this subsection does not become a party to the  
3 proceeding on which the hearing is held solely on the basis of receiving that notice  
4 and opportunity to be heard. 102er

5 SECTION 40. 48.357 (2v) of the statutes, as ~~was~~ affected §  
6 is renumbered 48.357 (2v) (a) 2. and amended to read: 103

7 48.357 (2v) (a) 2. If ~~a hearing is held under sub. (1) or (2m)~~ (b) ✓ (b) ✓  
8 placement would place the child outside the home in a placement order would change  
9 the placement of the child to a placement outside the home recommended by the  
10 person or agency primarily responsible for implementing the dispositional order, the  
11 change in placement order shall include whether from a placement in the home or  
12 from another placement outside the home, a statement that the court approves the  
13 placement recommended by that person or agency or, if the child is ~~placed outside the~~  
14 home in a placement other than change in placement order would change the  
15 placement of the child to a placement outside the home that is not a placement  
16 recommended by that person or agency, whether from a placement in the home or  
17 from another placement outside the home, a statement that the court has given bona  
18 fide consideration to the recommendations made by that person or agency and all  
19 parties relating to the child's placement.

20 SECTION 41. 48.357 (2v) (a) (intro.) of the statutes is created to read:  
21 48.357 (2v) (a) (intro.) A change in placement order under sub. (1) or (2m) shall  
22 contain all of the following: 102fg

23 SECTION 42. 48.357 (2v) (a) 1. of the statutes is created to read:  
24 48.357 (2v) (a) 1. If the change in placement order changes the child's  
25 placement from a placement in the child's home to a placement outside the child's

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## ASSEMBLY BILL 809

1 home, a finding that continued placement of the child in his or her home would be  
2 contrary to the welfare of the child and, unless a circumstance specified in s. 48.355  
3 (2d) (b) 1. to 5. applies, a finding that the agency primarily responsible for  
4 implementing the dispositional order has made reasonable efforts to prevent the  
5 removal of the child from the home, while assuring that the child's health and safety  
6 are the paramount concerns. 102 frn

7 SECTION 48. 48.357 (2v) (a) 3. of the statutes is created to read:

8 48.357 (2v) (a) 3. If the court finds that any of the circumstances specified in  
9 s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent, a determination that the  
10 agency primarily responsible for providing services under the change in placement  
11 order is not required to make reasonable efforts with respect to the parent to make  
12 it possible for the child to return safely to his or her home.

13 SECTION 49. 48.357 (2v) (b) of the statutes is created to read:

14 48.357 (2v) (b) The court shall make the findings specified in par. (a) 1. and 3.  
15 on a case-by-case basis based on circumstances specific to the child and shall  
16 document or reference the specific information on which those findings are based in  
17 the change in placement order. A change in placement order that merely references  
18 par. (a) 1. or 3. without documenting or referencing that specific information in the  
19 change in placement order or an amended change in placement order that  
20 retroactively corrects an earlier change in placement order that does not comply with  
21 this paragraph is not sufficient to comply with this paragraph.

22 SECTION 50. 48.357 (2v) (c) of the statutes is created to read:

23 48.357 (2v) (c) 1. If the court finds under par. (a) 3. that any of the  
24 circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent,  
25 the court shall hold a hearing within 30 days after the date of that finding to



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1 determine the permanency plan for the child. If a hearing is held under this  
2 subdivision, the agency responsible for preparing the permanency plan shall file the  
3 permanency plan with the court not less than 5 days before the date of the hearing.

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

9 3. The court shall give a foster parent, treatment foster parent, or other  
10 physical custodian described in s. 48.62 (2) who is notified of a hearing under subd.

11 2. an opportunity to be heard at the hearing by permitting the foster parent,  
12 treatment foster parent, or other physical custodian to make a written or oral  
13 statement during the hearing, or to submit a written statement prior to the hearing,

14 relevant to the issues to be determined at the hearing. ~~Any written or oral statement~~

15 ~~made under this subdivision shall be made upon oath or affirmation.~~ A foster parent,  
16 treatment foster parent, or other physical custodian who receives a notice of a  
17 hearing under subd. 2. and an opportunity to be heard under this subdivision does  
18 not become a party to the proceeding on which the hearing is held solely on the basis  
19 of receiving that notice and opportunity to be heard.

20 SECTION <sup>102 gaa → gb</sup> 48.357 (6) of the statutes is amended to read:

21 48.357 (6) No change in placement may extend the expiration date of the  
22 original order, except that if the change in placement is from a placement in the  
23 child's home to a placement outside the home the court may extend the expiration  
24 date of the original order to the date on which the child reaches 18 years of age, to  
25 the date that is one year after the date of the change in placement order, or, if the child

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1 is a full-time student at a secondary school or its vocational or technical equivalent  
 2 and is reasonably expected to complete the program before reaching 19 years of age,  
 3 to the date on which the child reaches 19 years of age, whichever is later, or for a  
 4 shorter period of time as specified by the court. If the change in placement is from  
 5 a placement outside the home to a placement in the child's home and if the expiration  
 6 date of the original order is more than one year after the date of the change in  
 7 placement order, the court shall shorten the expiration date of the original order to  
 8 the date that is one year after the date of the change in placement order or to an  
 9 earlier date as specified by the court.

Insert  
33-9

10 SECTION 4~~7~~<sup>102</sup> 48.365 (1) of the statutes is amended to read:

11 48.365 (1) In this section, a child is considered to have been placed outside of  
 12 his or her home on the date on which ~~the court first found that the child has been~~  
 13 ~~subjected to abuse or neglect or on the date that is 60 days after the date on which~~  
 14 ~~the child was first removed from his or her home, whichever is earlier.~~

15 SECTION 4~~8~~<sup>102</sup> 48.365 (2g) (b) 2. of the statutes is amended to read:

16 48.365 (2g) (b) 2. An evaluation of the child's adjustment to the placement and  
 17 of any progress the child has made, suggestions for amendment of the permanency  
 18 plan, ~~a description of efforts to return the child safely to his or her home and specific~~  
 19 information showing the efforts that have been made to achieve the goal of the  
 20 permanency plan, including, if applicable, the efforts of the parents to remedy the  
 21 factors which that contributed to the child's placement and, if continued placement  
 22 outside of the child's home is recommended, an explanation of why returning the  
 23 child to his or her home is not safe or feasible, unless return of the child to the home  
 24 is the goal of the permanency plan and any of the circumstances specified in s. 48.355  
 25 (2d) (b) 1. to 5. applies.

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the first 6 months of any period  
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SECTION 49. 48.365 (2g) (b) 3. of the statutes is amended to read:  
48.365 (2g) (b) 3. If the child has been placed outside of his or her home for 15 of the most recent 22 months, not including any period during which the child was a runaway from the out-of-home placement or the child was returned to his or her home for a trial home visit of 6 months or less, a statement of whether or not a recommendation has been made to terminate the parental rights of the parents of the child. If a recommendation for a termination of parental rights has been made, the statement shall indicate the date on which the recommendation was made, any previous progress made to accomplish the termination of parental rights, any barriers to the termination of parental rights, specific steps to overcome the barriers and when the steps will be completed, reasons why adoption would be in the best interest of the child, and whether or not the child should be registered with the adoption information exchange. If a recommendation for termination of parental rights has not been made, the statement shall include an explanation of the reasons why a recommendation for termination of parental rights has not been made. If the lack of appropriate adoptive resources is the primary reason for not recommending a termination of parental rights, the agency shall recommend that the child be registered with the adoption information exchange or report the reason why registering the child is contrary to the best interest of the child.

SECTION 50. ~~48.365 (2g)~~ <sup>102 g 2</sup> ~~21~~ <sup>3m</sup> 48.365 (2m) (a) of the statutes is renumbered 48.365 (2m) (a) 1. and amended to read:  
48.365 (2m) (a) 1. Any party may present evidence relevant to the issue of extension. If the child is placed outside of his or her home, the person or agency primarily responsible for providing services to the child shall present as evidence specific information showing that the agency has made reasonable efforts to achieve

## ASSEMBLY BILL 809

1 the goal of the child's permanency plan, unless return of the child to the home is the  
 2 goal of the permanency plan and any of the circumstances specified in s. 48.355 (2d)  
 3 (b) 1. to 5. applies. The judge shall make findings of fact and conclusions of law based  
 4 on the evidence. ~~Subject to s. 48.355 (2d), the~~ The findings of fact shall include a  
 5 finding as to whether reasonable efforts were made by the agency primarily  
 6 responsible for providing services to the child ~~or expectant mother to make it possible~~  
 7 ~~for the child to return safely to his or her home or for the expectant mother to return~~  
 8 ~~to her home to achieve the goal of the child's permanency plan, unless return of the~~  
 9 child to the home is the goal of the permanency plan and the judge finds that any of  
 10 the circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies. An order shall be  
 11 issued under s. 48.355.

12 SECTION ~~51~~<sup>102gr</sup> 48.365 (2m) (a) 2. of the statutes is created to read:

13 48.365 (2m) (a) 2. If the judge finds that any of the circumstances specified in  
 14 s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent, the order shall include a  
 15 determination that the person or agency primarily responsible for providing services  
 16 to the child is not required to make reasonable efforts with respect to the parent to  
 17 make it possible for the child to return safely to his or her home.

18 SECTION ~~52~~<sup>102gr</sup> 48.365 (2m) (a) 3. of the statutes is created to read:

19 48.365 (2m) (a) 3. The judge shall make the findings specified in subd. 1.  
 20 relating to reasonable efforts to achieve the goal of the child's permanency plan and  
 21 the findings specified in subd. 2. on a case-by-case basis based on circumstances  
 22 specific to the child and shall document or reference the specific information on  
 23 which those findings are based in the order issued under s. 48.355. An order that  
 24 merely references subd. 1. or 2. without documenting or referencing that specific  
 25 information in the order or an amended order that retroactively corrects an earlier

## ASSEMBLY BILL 809

1 order that does not comply with this subdivision is not sufficient to comply with this  
2 subdivision.

3 SECTION 53. 48.365 (2m) (ad) of the statutes is created to read:

4 48.365 (2m) (ad) 1. If the judge finds that any of the circumstances specified  
5 in s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent, the judge shall hold a  
6 hearing within 30 days after the date of that finding to determine the permanency  
7 plan for the child. If a hearing is held under this subdivision, the agency responsible  
8 for preparing the permanency plan shall file the permanency plan with the court not  
9 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 child, any parent, guardian, and legal custodian  
12 of the child, and any foster parent, treatment foster parent, or other physical  
13 custodian described in s. 48.62 (2) of the child of the time, place, and purpose of the  
14 hearing.

15 SECTION 54. 48.365 (2m) (ag) of the statutes is amended to read:

16 48.365 (2m) (ag) ~~In addition to any evidence presented under par. (a), the~~ The  
17 court shall give a foster parent, treatment foster parent, or other physical custodian  
18 described in s. 48.62 (2) ~~of the child who is notified of a hearing under par. (ad) 2. or~~  
19 sub. (2) an opportunity to be heard at the hearing by permitting the foster parent,  
20 treatment foster parent, or other physical custodian to make a written or oral  
21 statement during the hearing, or to submit a written statement prior to the hearing,  
22 relevant to the issue of extension. ~~Any written or oral statement made under this~~  
23 ~~paragraph shall be made under oath or affirmation.~~ A foster parent, treatment foster  
24 parent, or other physical custodian described in s. 48.62 (2) who receives notice of a  
25 hearing under par. (ad) 2. or sub. (2) and an opportunity to be heard under this

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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.

3 SECTION <sup>102hr</sup> 55. 48.365 (5) of the statutes is amended to read:

4 48.365 (5) Except as provided in s. 48.368, ~~all orders~~ an order under this section  
5 that continues the placement of a child in his or her home or that relates to an unborn  
6 child of an adult expectant mother shall be for a specified length of time not to exceed  
7 one year after its date of entry. Except as provided in s. 48.368, an order under this  
8 section that continues the placement of a child in an out-of-home placement shall  
9 be for a specified length of time not to exceed the date on which the child reaches 18  
10 years of age, one year after the date of entry of the order, or, if the child is a full-time  
11 student at a secondary school or its vocational or technical equivalent and is  
12 reasonably expected to complete the program before reaching 19 years of age, the  
13 date on which the child reaches 19 years of age, whichever is later.

14 SECTION ~~56~~ 48.38 (2) (intro.) of the statutes is amended to read:

15 48.38 (2) PERMANENCY PLAN REQUIRED. (intro.) Except as provided in sub. (3),  
16 for each child living in a foster home, treatment foster home, group home,  
17 child-caring institution, secure detention facility, or shelter care facility or in the  
18 home of a relative other than a parent, the agency that placed the child or arranged  
19 the placement or the agency assigned primary responsibility for providing services  
20 to the child under s. 48.355 shall prepare a written permanency plan, if one any of  
21 the following conditions exists:

22 SECTION <sup>102jg</sup> ~~57~~ 48.38 (2) (c) of the statutes is amended to read:

23 48.38 (2) (c) The child is under the supervision of an agency under s. 48.64 (2)  
24 or pursuant to, under a consent decree under s. 48.32 (1) (b), or under a court order  
25 under s. 48.355.

Insert  
37-21

ASSEMBLY BILL 809

102jm

1 SECTION 58. 48.38 (2) (f) of the statutes is amended to read:

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Insert  
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48.38 (2) (f) The child's care ~~is paid~~ would be paid for under s. 49.19 but for s. 49.19 (20).

102k

4 SECTION 59. 48.38 (3) of the statutes is amended to read:

5 48.38 (3) TIME. Subject to s. 48.355 (2d) (c) 1, the agency shall file the  
6 permanency plan with the court within 60 days after the date on which the child was  
7 first held in physical custody or placed outside of his or her home under a court order  
8 removed from his or her home, except that if the child is held for less than 60 days  
9 in a secure detention facility, juvenile portion of a county jail, or a shelter care facility,  
10 no permanency plan is required if the child is returned to his or her home within that  
11 period.

102kg

12 SECTION 60. 48.38 (4) (intro.) of the statutes is amended to read:

13 48.38 (4) CONTENTS OF PLAN. (intro.) The permanency plan shall include ~~a~~  
14 ~~description of all of the following:~~

102km

15 SECTION 61. 48.38 (4) (a) of the statutes, as affected by 2001 Wisconsin Act 2,  
16 is renumbered 48.38 (4) (ar) and amended to read:

17 48.38 (4) (ar) The A description of the services offered and any service services  
18 provided in an effort to prevent holding or placing the child outside of the removal  
19 of the child from his or her home, while assuring that the health and safety of the  
20 child are the paramount concerns, and to make it possible for the child to return  
21 safely home achieve the goal of the permanency plan, except that the permanency  
22 plan need not is not required to include a description of these the services offered or  
23 provided with respect to a parent of the child to prevent the removal of the child from  
24 the home or to achieve the permanency plan goal of returning the child safely to his

## ASSEMBLY BILL 809

1 or her home if any of the circumstances specified in s. 48.355 (2d) (b) 1., 2., 3., 4., or  
2 to 5. apply applies to that parent.

3 <sup>(102kr)</sup> SECTION ~~62~~ 48.38 (4) (ag) of the statutes is created to read:

4 48.38 (4) (ag) The name, address, and telephone number of the child's parent,  
5 guardian, and legal custodian.

6 <sup>(102m)</sup> SECTION ~~63~~ 48.38 (4) (am) of the statutes is created to read:

7 48.38 (4) (am) The date on which the child was removed from his or her home  
8 and the date on which the child was placed in out-of-home care.

9 <sup>(102mg)</sup> SECTION ~~64~~ 48.38 (4) (bm) of the statutes is amended to read:

10 48.38 (4) (bm) The A statement as to the availability of a safe and appropriate  
11 placement with a fit and willing relative of the child and, if a decision is made not  
12 to place the child with an available relative, a statement as to why placement with  
13 the relative is not safe or appropriate.

14 <sup>(102mm)</sup> SECTION ~~65~~ 48.38 (4) (dg) of the statutes is created to read:

15 48.38 (4) (dg) Information about the child's education, including all of the  
16 following:

17 1. The name and address of the school in which the child is or was most recently  
18 enrolled.

19 2. Any special education programs in which the child is or was previously  
20 enrolled.

21 3. The grade level in which the child is or was most recently enrolled and all  
22 information that is available concerning the child's grade level performance.

23 4. A summary of all available education records relating to the child that are  
24 relevant to any education goals included in the education services plan prepared  
25 under s. 48.33 (1) (e).



## ASSEMBLY BILL 809

102MY  
1 SECTION 65. 48.38 (4) (dm) of the statutes is created to read:

2 48.38 (4) (dm) If as a result of the placement the child has been or will be  
3 transferred from the school in which the child is or most recently was enrolled,  
4 documentation that a placement that would maintain the child in that school is  
5 either unavailable or inappropriate or that a placement that would result in the  
6 child's transfer to another school would be in the child's best interests.

102A  
7 SECTION 67. 48.38 (4) (dr) of the statutes is created to read:

8 48.38 (4) (dr) Medical information relating to the child, including all of the  
9 following:

10 1. The names and addresses of the child's physician, dentist, and any other  
11 health care provider that is or was previously providing health care services to the  
12 child.

13 2. The child's immunization record, including the name and date of each  
14 immunization administered to the child.

15 3. Any known medical condition for which the child is receiving medical care  
16 or treatment and any known serious medical condition for which the child has  
17 previously received medical care or treatment.

18 4. The name, purpose, and dosage of any medication that is being administered  
19 to the child and the name of any medication that causes the child to suffer an allergic  
20 or other negative reaction.

10219  
21 SECTION 68. 48.38 (4) (e) of the statutes is amended to read:

22 48.38 (4) (e) The A plan for ensuring the safety and appropriateness of the  
23 placement and a description of the services provided to meet the needs of the child  
24 and family, including a discussion of services that have been investigated and  
25 considered and are not available or likely to become available within a reasonable

## ASSEMBLY BILL 809

1 time to meet the needs of the child or, if available, why such services are not safe or  
2 appropriate.

3 SECTION 68. 48.38 (4) (f) (intro.) of the statutes is amended to read:

4 48.38 (4) (f) (intro.) The A description of the services that will be provided to  
5 the child, the child's family, and the child's foster parent, the child's treatment foster  
6 parent or, the operator of the facility where the child is living, or the relative with  
7 whom the child is living to carry out the dispositional order, including services  
8 planned to accomplish all of the following:

9 SECTION 70. 48.38 (4) (fg) of the statutes is created to read:

10 48.38 (4) (fg) The goal of the permanency plan or, if the agency is making  
11 concurrent reasonable efforts under s. 48.355 (2b), the goals of the permanency plan,  
12 ~~in the order of preference specified in subds. 1 to 5.~~ If a goal of the permanency plan  
13 is any goal other than return of the child to his or her home, the permanency plan  
14 shall include the rationale for deciding on that goal. If a goal of the permanency plan  
15 is an alternative permanent placement under subd. 5., the permanency plan shall  
16 document a compelling reason why it would not be in the best interest of the child  
17 to pursue a goal specified in subds. 1. to 4. The agency shall determine the goal or

18 goals of a child's permanency plan ~~in the following order of preference:~~

- 19 1. Return of the child to the child's home.
- 20 2. Placement of the child for adoption.
- 21 3. Placement of the child with a guardian.
- 22 4. Permanent placement of the child with a fit and willing relative.
- 23 5. Some other alternative permanent placement, including sustaining care,
- 24 independent living, or long-term foster care.

25 SECTION 71. 48.38 (4) (fm) of the statutes is amended to read:

one or more of the following goals to be the goal or

## ASSEMBLY BILL 809

## SECTION 71

1           48.38 (4) (fm) If the goal of the permanency plan calls for placing is to place the  
2 child for adoption, with a guardian, with a fit and willing relative, or in some other  
3 alternative permanent placement, the efforts made to place the child for adoption,  
4 with a guardian or in some other alternative permanent placement achieve that goal.

5           <sup>102pp</sup> SECTION 71. 48.38 (4) (h) of the statutes is created to read:

6           48.38 (4) (h) If the child is 15 years of age or over, a description of the programs  
7 and services that are or will be provided to assist the child in preparing for the  
8 transition from out-of-home care to independent living. The description shall  
9 include all of the following:

10           1. The anticipated age at which the child will be discharged from out-of-home  
11 care.

12           2. The anticipated amount of time available in which to prepare the child for  
13 the transition from out-of-home care to independent living.

14           3. The anticipated location and living situation of the child on discharge from  
15 out-of-home care.

16           4. A description of the assessment processes, tools, and methods that have been  
17 or will be used to determine the programs and services that are or will be provided  
18 to assist the child in preparing for the transition from out-of-home care to  
19 independent living.

20           5. The rationale for each program or service that is or will be provided to assist  
21 the child in preparing for the transition from out-of-home care to independent  
22 living, the time frames for delivering those programs or services, and the intended  
23 outcome of those programs or services.

24           <sup>102pp</sup> SECTION 71. 48.38 (5) (a) of the statutes <sup>was affected by 2001 Wisconsin Act 69,</sup> is amended to read:

ASSEMBLY BILL 809

Except as provided in s. 48.63 (5)(c), the

(Plan)

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48.38 (5) (a) ~~the~~ court or a panel appointed under ~~this paragraph~~ par. (ag) shall review the permanency plan every in the manner provided in this subsection not later than 6 months from after the date on which the child was first held in physical custody or placed outside of removed from his or her home and every 6 months after a previous review under this subsection for as long as the child is placed outside the home, except that for the review that is required to be conducted not later than 12 months after the child was first removed from his or her home and the reviews that are required to be conducted every 12 months after that review the court shall hold a hearing under sub. (5m) to review the permanency plan, which hearing may be instead of or in addition to the review under this subsection.

(ag) If the court elects not to review the permanency plan, the court shall appoint a panel to review the permanency plan. The panel shall consist of 3 persons who are either designated by an independent agency that has been approved by the chief judge of the judicial administrative district or designated by the agency that prepared the permanency plan. A voting majority of persons on each panel shall be persons who are not employed by the agency that prepared the permanency plan and who are not responsible for providing services to the child or the parents of the child whose permanency plan is the subject of the review.

SECTION <sup>132 pr</sup> ~~73~~ 48.38 (5) (b) of the statutes is amended to read:

48.38 (5) (b) The court or the agency shall notify the parents of the child, the child, if he or she is 12 years of age or older, and the child's foster parent, the child's treatment foster parent ~~or~~, the operator of the facility in which the child is living, or the relative with whom the child is living of the date, time, and place of the review, of the issues to be determined as part of the review, and of the fact that they may have an opportunity to be heard at the review by submitting written comments not less

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1 than 10 working days before the review or by participating at the review. The court  
2 or agency shall notify the person representing the interests of the public, the child's  
3 counsel, the child's guardian ad litem, and the child's court-appointed special  
4 advocate of the date of the review, of the issues to be determined as part of the review,  
5 and of the fact that they may submit written comments not less than 10 working days

6 before the review. ~~Any written or oral statement made to the court under this  
7 paragraph by a foster parent, treatment foster parent, operator of a facility in which  
8 a child is living, or relative with whom a child is living shall be made under oath or  
9 affirmation.~~ The notices under this paragraph shall be provided in writing not less

10 than 30 days before the review and copies of the notices shall be filed in the child's  
11 case record.

*The first 6 months of any period during which*

12 SECTION 75. 48.38 (5) (c) 6. (intro.) of the statutes is amended to read:

13 48.38 (5) (c) 6. (intro.) If the child has been placed outside of his or her home,  
14 as described in s. 48.365 (1), for 15 of the most recent 22 months, not including any  
15 period during which the child was a runaway from the out-of-home placement or the  
16 child was returned to his or her home for a trial home visit of 6 months or less, the  
17 appropriateness of the permanency plan and the circumstances which prevent the  
18 child from any of the following:

19 SECTION 76. 48.38 (5) (c) 6. am. of the statutes is renumbered 48.38 (5) (c) 6.  
20 cm. and amended to read:

21 48.38 (5) (c) 6. cm. Being placed in the home of a fit and willing relative of the  
22 child.

23 SECTION 77. 48.38 (5) (c) 6. cg. of the statutes is created to read:

24 48.38 (5) (c) 6. cg. Being placed with a guardian.

25 SECTION 78. 48.38 (5) (c) 6. d. of the statutes is amended to read:

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1 48.38 (5) (c) 6. d. Being placed in some other alternative permanent placement,  
2 including sustaining care, independent living, or long-term foster care.

3 <sup>102r</sup> SECTION ~~79~~ 48.38 (5) (c) 7. of the statutes, as affected by 2001 Wisconsin Act ✓  
4 2, is amended to read:

5 48.38 (5) (c) 7. Whether reasonable efforts were made by the agency to make  
6 ~~it possible for the child to return safely to his or her home, except that the court or~~  
7 ~~panel need not determine whether those reasonable efforts were made with respect~~  
8 ~~to a parent of the child if any of the circumstances specified in s. 48.355 (2d) (b) 1.,~~  
9 ~~2., 3., 4., or 5. apply to that parent~~ achieve the goal of the permanency plan, unless  
10 return of the child to the home is the goal of the permanency plan and any of the  
11 circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies.

12 <sup>102rm</sup> SECTION ~~80~~ 48.38 (5m) of the statutes is created to read:

13 48.38 (5m) PERMANENCY PLAN HEARING. (a) The court shall hold a hearing to  
14 review the permanency plan and to make the determinations specified in sub. (5) (c)  
15 no later than 12 months after the date on which the child was first removed from the  
16 home and every 12 months after a previous hearing under this subsection for as long  
17 as the child is placed outside the home.

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

24 (c) Any person who is provided notice of the hearing may have an opportunity  
25 to be heard at the hearing by submitting written comments relevant to the

## ASSEMBLY BILL 809

1 determinations specified in sub. (5) (c) not less than 10 working days before the date  
2 of the hearing or by participating at the hearing. ~~Any written or oral comment made~~  
3 ~~to the court under this paragraph by a foster parent, treatment foster parent,~~  
4 ~~operator of a facility in which a child is living, or relative with whom a child is living~~  
5 ~~shall be made under oath or affirmation.~~ A foster parent, treatment foster parent,  
6 operator of a facility in which a child is living, or relative with whom a child is living  
7 who receives notice of a hearing under par. (b) and an opportunity to be heard under  
8 this paragraph does not become a party to the proceeding on which the hearing is  
9 held solely on the basis of receiving that notice and opportunity to be heard.

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

21 (e) After the hearing, the court shall make written findings of fact and  
22 conclusions of law relating to the determinations under sub. (5) (c) and shall provide  
23 a copy of those findings of fact and conclusions of law to the child; the child's parent,  
24 guardian, and legal custodian; the child's foster parent or treatment foster parent,  
25 the operator of the facility in which the child is living, or the relative with whom the

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1 child is living; the child's court-appointed special advocate; the agency that prepared  
 2 the permanency plan; and the person representing the interests of the public. The  
 3 court shall make the findings specified in sub. (5) (c) 7. on a case-by-case basis based  
 4 on circumstances specific to the child and shall document or reference the specific  
 5 information on which those findings are based in the findings of fact and conclusions  
 6 of law prepared under this paragraph. Findings of fact and conclusions of law that  
 7 merely reference sub. (5) (c) 7. without documenting or referencing that specific  
 8 information in the findings of fact and conclusions of law or amended findings of fact  
 9 and conclusions of law that retroactively correct earlier findings of fact and  
 10 conclusions of law that do not comply with this paragraph are not sufficient to comply  
 11 with this paragraph.

The first 6 months of any period during which

12 (f) If the findings of fact and conclusions of law under par. (e) conflict with the  
 13 child's dispositional order or provide for any additional services not specified in the  
 14 dispositional order, the court shall revise the dispositional order under s. 48.363 or  
 15 order a change in placement under s. 48.357, as appropriate. or 48.365 (1)

16 <sup>(103m)</sup> SECTION ~~81~~ 48.417 (1) (a) of the statutes is amended to read:

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

24 <sup>(103p)</sup> SECTION ~~82~~ 48.417 (1) (b) of the statutes is amended to read:

Handwritten notes on the left margin:  
 H. Page 35, line 4!  
 after that line insert  
 delete lines 4 to 12 and substitute!



## ASSEMBLY BILL 809

## SECTION 82

1           48.417 (1) (b) A court of competent jurisdiction has found under s. 48.13 (2) or  
2 under a law of any other state or a federal law that is comparable to s. 48.13 (2) that  
3 the child was abandoned when he or she was under one year of age or has found that  
4 the parent abandoned the child when the child was under one year of age in violation  
5 of s. 948.20 or in violation of the law of any other state or federal law, if that violation  
6 would be a violation of s. 948.20 if committed in this state. If the circumstances  
7 specified in this paragraph apply, the petition shall be filed or joined in within 60  
8 days after the date on which the court of competent jurisdiction found that the child  
9 was abandoned as described in this paragraph.

10           <sup>103P</sup> SECTION ~~82~~ 48.417 (1) (c) of the statutes is amended to read:

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

22           <sup>103+</sup> SECTION ~~84~~ 48.417 (1) (d) of the statutes is amended to read:

23           48.417 (1) (d) A court of competent jurisdiction has found that the parent has  
24 committed a violation of s. 940.19 (2), (3), (4), or (5), 940.225 (1) or (2), 948.02 (1) or  
25 (2), 948.025, or 948.03 (2) (a) or (3) (a) or a violation of the law of any other state or

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1 federal law, if that violation would be a violation of s. 940.19 (2), (3), (4), or (5), 940.225  
 2 (1) or (2), 948.02 (1) or (2), 948.025, or 948.03 (2) (a) or (3) (a) if committed in this state,  
 3 and that the violation resulted in great bodily harm, as defined in s. 939.22 (14), or  
 4 in substantial bodily harm, as defined in s. 939.22 (38), to the child or another child  
 5 of the parent. If the circumstances specified in this paragraph apply, the petition  
 6 shall be filed or joined in within 60 days after the date on which the court assigned  
 7 to exercise jurisdiction under this chapter determines, based on a finding that a  
 8 circumstance specified in this paragraph applies, that reasonable efforts to make it  
 9 possible for the child to return safely to his or her home are not required.

Insert  
49-9

10 ~~SECTION 85.~~ <sup>(104d)</sup> 48.417 (2) (a) of the statutes is amended to read:

11 48.417 (2) (a) The child is being cared for by a fit and willing relative of the  
 12 child.

13 ~~SECTION 86.~~ <sup>(104e)</sup> 48.417 (2) (b) of the statutes is amended to read:

14 48.417 (2) (b) The child's permanency plan indicates and provides  
 15 documentation that termination of parental rights to the child is not in the best  
 16 interests of the child.

17 ~~SECTION 87.~~ <sup>(104f)</sup> 48.417 (2) (d) of the statutes is created to read:

18 48.417 (2) (d) Grounds for an involuntary termination of parental rights under  
 19 s. 48.415 do not exist. " , ✓

20 ~~SECTION 88.~~ ~~48.42 (2g) (am)~~ of the statutes is amended to read:

21 ~~48.42 (2g) (am) The court shall give a foster parent, treatment foster parent,~~  
 22 ~~or other physical custodian described in s. 48.62 (2) who is notified of a hearing under~~  
 23 ~~par. (a) an opportunity to be heard at the hearing by permitting the foster parent,~~  
 24 ~~treatment foster parent, or other physical custodian to make a written or oral~~  
 25 ~~statement during the hearing, or to submit a written statement prior to the hearing,~~

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✓ #. Page 35, line 18; after that line insert:

1 relevant to the issues to be determined at the hearing. Any written or oral statement  
2 made under this paragraph shall be made upon oath or affirmation. A foster parent,  
3 treatment foster parent, or other physical custodian described in s. 48.62 (2) who  
4 receives a notice of a hearing under par. (a) and an opportunity to be heard under this  
5 paragraph does not become a party to the proceeding on which the hearing is held  
6 solely on the basis of receiving that notice and opportunity to be heard.

7 SECTION 89. 48.427 (1m) of the statutes is amended to read:

8 48.427 (1m) In addition to any evidence presented under sub. (1), the court  
9 shall give the foster parent, treatment foster parent, or other physical custodian  
10 described in s. 48.62 (2) of the child an opportunity to be heard at the dispositional  
11 hearing by permitting the foster parent, treatment foster parent, or other physical  
12 custodian to make a written or oral statement during the dispositional hearing, or  
13 to submit a written statement prior to disposition, relevant to the issue of disposition.

14 Any written or oral statement made under this subsection shall be made upon oath  
15 or affirmation. A foster parent, treatment foster parent, or other physical custodian  
16 described in s. 48.62 (2) who receives notice of a hearing under s. 48.42 (2g) (a) and  
17 an opportunity to be heard under this subsection does not become a party to the  
18 proceeding on which the hearing is held solely on the basis of receiving that notice  
19 and opportunity to be heard.

as affected by 2001 Wisconsin Act 69

20 SECTION 90. 48.63 (1) of the statutes is amended to read:

21 48.63 (1) Acting pursuant to under court order or voluntary agreement, the  
22 child's parent or guardian or the department of health and family services, the  
23 department of corrections, a county department, or a child welfare agency licensed (plan)  
24 to place children in foster homes <sup>plan-comma</sup> ~~of~~ treatment foster homes, or group homes may  
25 place a child or negotiate or act as intermediary for the placement of a child in a foster

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(Plan)

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, except as provided in sub. (5)

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home, treatment foster home, or group home. Voluntary agreements under this subsection may not be used for placements in facilities other than foster, treatment foster, or group homes and may not be extended. A foster home or treatment foster home placement under a voluntary agreement may not exceed 6 months 180 days from the date on which the child was removed from the home under the voluntary agreement. A group home placement under a voluntary agreement may not exceed 15 days from the date on which the child was removed from the home under the voluntary agreement. These time limitations do not apply to placements made under s. 48.345, 938.183, ~~938.34~~, or ~~938.345~~. Voluntary agreements may be made only under this subsection and sub. (5) (b) <sup>(plan)</sup> and shall be in writing and shall specifically state that the agreement may be terminated at any time by the parent or guardian <sup>(plan)</sup> or by the child if the child's consent to the agreement is required. The child's consent to the agreement is required whenever the child is 12 years of age or older.

<sup>(110p)</sup> SECTION 91. 48.63 (4) of the statutes is amended to read:

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

Insert  
51-25

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✓ #. Page 36, line 12: ~~delete lines 12 to 16 and substitute:~~ delete lines 12 to 16 and

10 SECTION 92. 48.685 (5) (bm) 4. of the statutes is amended to read:

2 48.685 (5) (bm) 4. A violation of s. 125.075 (1), 125.085 (3) (a) 2., 125.105 (2) (b),  
3 125.66 (3), 125.68 (12), 940.09, 940.19 (2), (3), (4), (5), or (6), 940.20, 940.203, 940.205  
4 or, 940.207, or 940.25, a violation of s. 346.63 (1), (2), (5), or (6) that is a felony under  
5 s. 346.65 (2) (e) or (f), (2j) (d), or (3m), or an offense under ch. 961 that is a felony, if  
6 committed not more than 5 years before the date of the investigation under sub. (2)  
(am). 114g 114g

Insert  
52-7 6  
7

8 SECTION 93. 48.78 (2) (a) of the statutes is amended to read:

9 48.78 (2) (a) No agency may make available for inspection or disclose the  
10 contents of any record kept or information received about an individual in its care  
11 or legal custody, except as provided under s. 48.371, 48.38 (5) (b) or (d) or (5m) (d),  
12 48.432, 48.433, 48.93, 48.981 (7), 938.51, or 938.78 or by order of the court.

13 SECTION 94 48.977 (2) (f) of the statutes, as affected by 2001 Wisconsin Act 2, ✓  
14 is amended to read:

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

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1 or reference the specific information on which those findings are based in the  
 2 guardianship order. A guardianship order that merely references this paragraph  
 3 without documenting or referencing that specific information in the order or an  
 4 amended guardianship order that retroactively corrects an earlier guardianship  
 5 order that does not comply with this paragraph is not sufficient to comply with this  
 6 paragraph. "

*as affected by 2001 Wisconsin Act 61,*  
 529b

7 "SECTION 94. 938.21 (1) (a) of the statutes *(is)* amended to read:

8 938.21 (1) (a) If a juvenile who has been taken into custody is not released  
 9 under s. 938.20, a hearing to determine whether the juvenile shall continue to be held  
 10 in custody under the criteria of ss. 938.205 to 938.209 (1) shall be conducted by the  
 11 judge or *a circuit* juvenile court commissioner within 24 hours after the end of the day that  
 12 the decision to hold the juvenile was made, excluding Saturdays, Sundays, and legal  
 13 holidays. By the time of the hearing a petition under s. 938.25 shall be filed, except  
 14 that no petition need be filed where a juvenile is taken into custody under s. 938.19  
 15 (1) (b) or (d) 2., 6, or 7. or where the juvenile is a runaway from another state, in which  
 16 case a written statement of the reasons for holding a juvenile in custody shall be  
 17 substituted if the petition is not filed. If no hearing has been held within 24 hours  
 18 or if no petition or statement has been filed at the time of the hearing, the juvenile  
 19 shall be released except as provided in par. (b). A parent not present at the hearing  
 20 shall be granted a rehearing upon request ~~unless the parent has waived his or her~~  
 21 ~~right to participate in the hearing, in which case the parent shall be granted a~~  
 22 ~~rehearing upon request~~ for good cause shown.

23 529c SECTION 94. 938.21 (2) (am) of the statutes is amended to read:

24 938.21 (2) (am) A juvenile held in a nonsecure place of custody may waive in  
 25 writing his or her right to participate in the hearing under this section. After any

Handwritten notes on the left margin:  
 - "H. Page 225, line 22: after that line insert?" with an arrow pointing to line 6.  
 - "PWF" written vertically next to lines 11-22.  
 - Circled numbers 6, 7, 11, 20, 21, 22, 23.

## ASSEMBLY BILL 809

1 waiver, a ~~hearing~~ rehearing shall be granted upon the request of the juvenile or any  
2 other interested party for good cause shown. Any juvenile transferred to a secure  
3 detention facility shall thereafter have a ~~hearing~~ rehearing under this section.

4 ~~SECTION 97. 938.21 (2) (d) of the statutes is amended to read:~~

5 ~~938.21 (2) (d) If the juvenile is not represented by counsel at the hearing and~~  
6 ~~the juvenile is continued in custody as a result of the hearing, the juvenile may~~  
7 ~~request through counsel subsequently appointed or retained or through a guardian~~  
8 ~~ad litem that the order to hold in custody be reheard. If the request is made, a~~  
9 ~~rehearing shall take place as soon as possible unless the request is made by a juvenile~~  
10 ~~who has waived his or her right to participate in the hearing, in which case a~~  
11 ~~rehearing shall take place only upon a showing of good cause. Whether or not counsel~~  
12 ~~was present, any order to hold the juvenile in custody shall be subject to rehearing~~  
13 ~~for good cause.~~ (529d)

14 ~~SECTION 98. 938.21 (3) (am) of the statutes is amended to read:~~

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

20 ~~SECTION 99. 938.21 (3) (e) of the statutes is amended to read:~~

21 ~~938.21 (3) (e) If the parent, guardian, or legal custodian or the juvenile is not~~  
22 ~~represented by counsel at the hearing and the juvenile is continued in custody as a~~  
23 ~~result of the hearing, the parent, guardian, legal custodian, or juvenile may request~~  
24 ~~through counsel subsequently appointed or retained or through a guardian ad litem~~  
25 ~~that the order to hold the juvenile in custody be reheard. If the request is made, a~~

a finding as to whether the person who took the juvenile into custody and the intake worker have made reasonable efforts

rehearing shall take place as soon as possible 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. Any order to hold the juvenile in custody shall be subject to rehearing for good cause, whether or not counsel was present.

529e

SECTION 101. 938.21 (5) (b) 1. of the statutes, as affected by 2001 Wisconsin Act 16, is repealed and recreated to read:

the order shall in addition include

unless

938.21 (5) (b) 1. A finding that continued placement of the juvenile in his or her home would be contrary to the welfare of the juvenile and, unless the judge or juvenile court commissioner finds that any of the circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies, a finding as to whether the person who took the juvenile into custody and the intake worker have 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, and to make it possible for the juvenile to return safely home or, if for good cause shown sufficient information is not available for the judge or juvenile court commissioner to make those findings, an order for the county department or agency primarily responsible for providing services to the juvenile under the custody order to file with the court sufficient information for the judge or juvenile court commissioner to make those findings by no later than 5 days after the date of the order.

Circuit

keep comma

Circuit

Circuit

529f

possible for the juvenile to return safely home and

SECTION 101. 938.21 (5) (b) 3. of the statutes is created to read:

938.21 (5) (b) 3. 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, a determination that the county department or agency primarily responsible for providing services under the custody order is not required to make reasonable

Circuit

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

a finding as to whether those reasonable efforts were made to prevent the removal of the juvenile from the home



ASSEMBLY BILL 809

1 efforts with respect to the parent to make it possible for the juvenile to return safely  
2 to his or her home. <sup>529g</sup> <sup>circuit</sup>

3 SECTION 102. 938.21 (5) (c) of the statutes is created to read:

4 938.21 (5) (c) The judge or juvenile court commissioner shall make the findings  
5 specified in par. (b) 1. and 3. on a case-by-case basis based on circumstances specific  
6 to the juvenile and shall document or reference the specific information on which  
7 those findings are based in the custody order. A custody order that merely references  
8 par. (b) 1. or 3. without documenting or referencing that specific information in the  
9 custody order or an amended custody order that retroactively corrects an earlier  
10 custody order that does not comply with this paragraph is not sufficient to comply  
11 with this paragraph. <sup>529h</sup> <sup>circuit</sup>

12 SECTION 103. 938.21 (5) (d) of the statutes is created to read:

13 938.21 (5) (d) 1. If the judge or juvenile court commissioner finds that any of  
14 the circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies with respect to a  
15 parent, the judge or <sup>circuit</sup> juvenile court commissioner shall hold a hearing within 30 days  
16 after the date of that finding to determine the permanency plan for the juvenile. If  
17 a hearing is held under this subdivision, the agency responsible for preparing the  
18 permanency plan shall file the permanency plan with the court not less than 5 days  
19 before the date of the hearing.

20 2. If a hearing is held under subd. 1, at least 10 days before the date of the  
21 hearing the court shall notify the juvenile, any parent, guardian, and legal custodian  
22 of the juvenile, and any foster parent, treatment foster parent, or other physical  
23 custodian described in s. 48.62 (2) of the juvenile of the time, place, and purpose of  
24 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           <sup>(529j)</sup>  
SECTION 104. 938.255 (1) (f) of the statutes is created to read:

13           938.255 (1) (f) If the juvenile is being held in custody outside of his or her home,  
14 reliable and credible information showing that continued placement of the juvenile  
15 in his or her home would be contrary to the welfare of the juvenile and, unless any  
16 of the circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies, reliable and  
17 credible information showing that the person who took the juvenile into custody and  
18 the intake worker have made reasonable efforts to prevent the removal of the  
19 juvenile from the home, while assuring that the juvenile's health and safety are the  
20 paramount concerns, and to make it possible for the juvenile to return safely home.

21           <sup>(529k)</sup>  
SECTION 105. 938.255 (2) of the statutes is amended to read:

22           938.255 (2) If any of the facts in sub. (1) (a) to (cm) and (f) are not known or  
23 cannot be ascertained by the petitioner, the petition shall so state.

24           ~~SECTION 106. 938.27 (3) (a) 1m. of the statutes is amended to read.~~

## ASSEMBLY BILL 809

## SECTION 106

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.~~

12 SECTION 107. <sup>529m</sup> 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 under s. 938.21 (5) (b) 3.,  
21 938.355 (2) (b) 6r., or 938.357 (2v) (a) 3. that those efforts were not required to be  
22 made because a circumstance specified in s. 938.355 (2d) (b) 1. to 4. applies, more  
23 than 60 days after the date on which the juvenile was removed from the home.

24 (b) The court making an initial finding under s. 938.38 (5m) that the agency  
25 primarily responsible for providing services to the juvenile has made reasonable

ASSEMBLY BILL 809

Insert 59-4 ✓

1 efforts to achieve the goals of the juvenile's permanency plan more than 12 months  
2 after the date on which the juvenile was removed from the home or making any  
3 subsequent findings under s. 938.38 (5m) as to those reasonable efforts more than  
4 12 months after the date of a previous finding as to those reasonable efforts.

5 SECTION <sup>529p</sup>~~106~~. 938.32 (1) (c) of the statutes is created to read:

6 938.32 (1) (c) 1. If at the time the consent decree is entered into the juvenile  
7 is placed outside the home under a voluntary agreement under s. 48.63 or is  
8 otherwise living outside the home without a court order and if the consent decree  
9 maintains the juvenile in that placement or other living arrangement, the consent  
10 decree shall include a finding that placement of the juvenile in his or her home would  
11 be contrary to the welfare of the juvenile, a finding as to whether the county  
12 department or the agency primarily responsible for providing services to the juvenile  
13 has made reasonable efforts to prevent the removal of the juvenile from the home,  
14 while assuring that the juvenile's health and safety are the paramount concerns,  
15 unless the judge or <sup>Circuit</sup>juvenile court commissioner finds that any of the circumstances  
16 specified in s. 938.355 (2d) (b) 1. to 4. applies, and a finding as to whether the county  
17 department or agency has made reasonable efforts to achieve the goal of the  
18 juvenile's permanency plan, unless return of the juvenile to the home is the goal of  
19 the permanency plan and the judge or <sup>Circuit</sup>juvenile court commissioner finds that any of  
20 the circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies.

21 2. If the judge or <sup>Circuit</sup>juvenile court commissioner finds that any of the  
22 circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent,  
23 the consent decree shall include a determination that the county department or  
24 agency primarily responsible for providing services under the consent decree is not

ASSEMBLY BILL 809

SECTION 108

Circuit

1 required to make reasonable efforts with respect to the parent to make it possible for  
2 the juvenile to return safely to his or her home.

3 3. The judge or ~~juvenile~~ court commissioner shall make the findings specified  
4 in subds. 1. and 2. on a case-by-case basis based on circumstances specific to the  
5 juvenile and shall document or reference the specific information on which those  
6 findings are based in the consent decree. A consent decree that merely references  
7 subd. 1. or 2. without documenting or referencing that specific information in the  
8 consent decree or an amended consent decree that retroactively corrects an earlier  
9 consent decree that does not comply with this subdivision is not sufficient to comply  
10 with this subdivision. 529g

Circuit

11 SECTION 109. 938.32 (1) (d) of the statutes is created to read:

12 938.32 (1) (d) 1. If the judge or ~~juvenile~~ court commissioner finds that any of  
13 the circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies with respect to a  
14 parent, the judge or ~~juvenile~~ <sup>Circuit</sup> court commissioner shall hold a hearing within 30 days  
15 after the date of that finding to determine the permanency plan for the juvenile. If  
16 a hearing is held under this subdivision, the agency responsible for preparing the  
17 permanency plan shall file the permanency plan with the court not less than 5 days  
18 before the date of the hearing.

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

24 3. The court shall give a foster parent, treatment foster parent, or other  
25 physical custodian described in s. 48.62 (2) who is notified of a hearing under subd.

ASSEMBLY BILL 809

SECTION 109

as affected by 2001 Wisconsin Act 59

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2. an opportunity to be heard at the hearing by permitting the foster parent, treatment foster parent, or other physical custodian to make a written or oral statement during the hearing, or to submit a written statement prior to the hearing, relevant to the issues to be determined at the hearing. ~~Any written or oral statement made under this subdivision shall be made upon oath or affirmation.~~ A foster parent, treatment foster parent, or other physical custodian who receives a notice of a hearing under subd. 2. and an opportunity to be heard under this subdivision does not become a party to the proceeding on which the hearing is held solely on the basis of receiving that notice and opportunity to be heard.

residential care center for children and youth

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

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

SECTION 938.33 (4) (c) of the statutes is created to read:

938.33 (4) (c) Specific information showing that continued placement of the juvenile in his or her home would be contrary to the welfare of the juvenile, specific information showing that 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 any of the circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies, and specific information showing that the county department or agency has made reasonable efforts to achieve the goal of

PLW

ASSEMBLY BILL 809

SECTION 111

*delete line*

*# Page 226, line 11: delete lines 11 to 25.  
and substitute:*

1 the juvenile's permanency plan, unless return of the juvenile to the home is the goal  
2 of the permanency plan and any of the circumstances specified in s. 938.355 (2d) (b)  
3 1. to 4. applies. *(S29v)*

*residential care center for children and youth*

4 SECTION 112. 938.335 (3g) of the statutes is created to read:

5 938.335 (3g) At hearings under this section, if the agency, as defined in s.  
6 938.38 (1) (a), is recommending placement of the juvenile in a foster home, treatment  
7 foster home, group home, or ~~child caring institution~~ or in the home of a relative other  
8 than a parent, the agency shall present as evidence specific information showing that  
9 continued placement of the juvenile in his or her home would be contrary to the  
10 welfare of the juvenile, specific information showing that the county department or  
11 the agency primarily responsible for providing services to the juvenile has made  
12 reasonable efforts to prevent the removal of the juvenile from the home, while  
13 assuring that the juvenile's health and safety are the paramount concerns, unless  
14 any of the circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies, and specific  
15 information showing that the county department or agency has made reasonable  
16 efforts to achieve the goal of the juvenile's permanency plan, unless return of the  
17 juvenile to the home is the goal of the permanency plan and any of the circumstances  
18 specified in s. 938.355 (2d) (b) 1. to 4. applies.

*as affected by 2001 Wisconsin Act 69*

19 SECTION 113. 938.355 (1) of the statutes is amended to read:

*(69)*

20 938.355 (1) INTENT. In any order under s. 938.34 or 938.345, the court shall  
21 decide on a placement and treatment finding based on evidence submitted to the  
22 *le* court. The disposition shall employ those means necessary to promote the  
23 objectives specified in s. 938.01. If the disposition places a juvenile who has been  
24 adjudicated delinquent outside the home under s. 938.34 (3) (c) or (d), the order shall  
25 include a finding that the juvenile's current residence will not safeguard the welfare

*PUF*

*#. Page 226, line 11: delete lines 11 to 25.  
#. Page 227, line 11: delete line 1 to 4  
and substitute:*

*(cont)*

ASSEMBLY BILL 809

PwF

1 of the juvenile or the community due to the serious nature of the act for which the  
 2 juvenile was adjudicated delinquent. If the judge has determined that any of the  
 3 conditions specified in s. 938.34 (4m) (b) 1., 2., or 3. applies, that determination shall  
 4 be prima facie evidence that a less restrictive alternative than placement in a  
 5 secured correctional facility, a secured child caring institution, or a secured group  
 6 home is not appropriate. If information under s. 938.331 has been provided in a court  
 7 report under s. 938.33 (1), the court shall consider that information when deciding  
 8 on a placement and treatment finding.

or (4d)

9 SECTION 113. 938.355 (2) (b) 6. of the statutes is amended to read:

(cm)

10 938.355 (2) (b) 6. If the juvenile is placed outside the home and if sub. (2d) does  
 11 not apply, the court's, a finding that continued placement of the juvenile in his or her  
 12 home would be contrary to the welfare of the juvenile or, if the juvenile has been  
 13 adjudicated delinquent and is placed outside the home under s. 938.34 (3) (a), (c), or  
 14 (d), a finding that the juvenile's current residence will not safeguard the welfare of  
 15 the juvenile or the community due to the serious nature of the act for which the  
 16 juvenile was adjudicated delinquent. The court order shall also contain a finding as  
 17 to whether -a- the county department which provides social services or the agency  
 18 primarily responsible for providing services under a court order has made reasonable  
 19 efforts to prevent the removal of the juvenile from the home, while assuring that the  
 20 juvenile's health and safety are the paramount concerns, or, if applicable, the court's  
 21 unless the court finds that any of the circumstances specified in sub. (2d) (b) 1. to 4.  
 22 applies, and a finding as to whether the county department or agency primarily  
 23 responsible for providing services under a court order has made reasonable efforts  
 24 to make it possible for the juvenile to return safely to his or her home achieve the goal  
 25 of the juvenile's permanency plan, unless return of the juvenile to the home is the

LPS: keep "or"



## ASSEMBLY BILL 809

## SECTION 114

1 goal of the permanency plan and the court finds that any of the circumstances  
2 specified in sub. (2d) (b) 1. to 4. applies. The court shall make the findings specified  
3 in this subdivision on a case-by-case basis based on circumstances specific to the  
4 juvenile and shall document or reference the specific information on which those  
5 findings are based in the court order. A court order that merely references this  
6 subdivision without documenting or referencing that specific information in the  
7 court order or an amended court order that retroactively corrects an earlier court  
8 order that does not comply with this subdivision is not sufficient to comply with this  
9 subdivision. (531h)

(10) SECTION 115. 938.355 (2) (b) 6r. of the statutes is created to read:

11 938.355 (2) (b) 6r. If the court finds that any of the circumstances specified in  
12 sub. (2d) (b) 1. to 4. applies with respect to a parent, a determination that the county  
13 department or agency primarily responsible for providing services under the court  
14 order is not required to make reasonable efforts with respect to the parent to make  
15 it possible for the juvenile to return safely to his or her home.

(16) SECTION 116. 938.355 (2b) of the statutes is amended to read:

17 938.355 (2b) CONCURRENT REASONABLE EFFORTS PERMITTED. A county  
18 department ~~that provides social services~~ or the agency primarily responsible for  
19 providing services to a juvenile under a court order may, at the same time as the  
20 county department or agency is making the reasonable efforts required under sub.  
21 (2) (b) 6. to prevent the removal of the juvenile from the home or to make it possible  
22 for the juvenile to return safely to his or her home, work with the department of  
23 health and family services, a county department under s. 48.57 (1) (e) or (hm), or a  
24 child welfare agency licensed under s. 48.61 (5) in making reasonable efforts to place

## ASSEMBLY BILL 809

1 the juvenile for adoption, with a guardian, with a fit and willing relative, or in some  
2 other alternative permanent placement.

3 <sup>531m</sup> SECTION 117. 938.355 (2c) (b) of the statutes is amended to read:

4 938.355 (2c) (b) When a court makes a finding under sub. (2) (b) 6. as to whether  
5 the county department or the agency primarily responsible for providing services to  
6 the juvenile under a court order has made reasonable efforts to ~~make it possible for~~  
7 ~~the juvenile to return safely to his or her home~~ achieve the goal of the permanency  
8 plan, the court's consideration of reasonable efforts shall include, ~~but not be limited~~  
9 ~~to~~, the considerations listed under par. (a) 1. to 5. and whether visitation schedules  
10 between the juvenile and his or her parents were implemented, unless visitation was  
11 denied or limited by the court.

12 <sup>531p</sup> SECTION 118. 938.355 (2d) (b) (intro.) of the statutes is amended to read:

13 938.355 (2d) (b) (intro.) Notwithstanding sub. (2) (b) 6., the court ~~need not is~~  
14 not required to include in a dispositional order a finding as to whether ~~a~~ the county  
15 ~~department which provides social services~~ or the agency primarily responsible for  
16 providing services under a court order has made reasonable efforts with respect to  
17 a parent of a juvenile to prevent the removal of the juvenile from the home, while  
18 assuring that the juvenile's health and safety are the paramount concerns, or, if  
19 applicable, a finding as to whether the county department or agency primarily  
20 ~~responsible for providing services under a court order~~ has made reasonable efforts  
21 with respect to a parent of a juvenile to ~~make it possible for the juvenile to return~~  
22 achieve the permanency plan goal of returning the juvenile safely to his or her home,  
23 if the court finds, ~~as evidenced by a final judgment of conviction~~, any of the following:

24 SECTION 119. <sup>531q</sup> 938.355 (2d) (b) 1. of the statutes is amended to read:

ASSEMBLY BILL 809

531r

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

3 SECTION 120. 938.355 (2d) (b) 2. of the statutes is amended to read:

4 938.355 (2d) (b) 2. That the parent has committed, has aided or abetted the  
5 commission of, or has solicited, conspired, or attempted to commit, a violation of s.  
6 940.01, 940.02, 940.03, or 940.05 or a violation of the law of any other state or federal  
7 law, if that violation would be a violation of s. 940.01, 940.02, 940.03, or 940.05 if  
8 committed in this state, as evidenced by a final judgment of conviction, and that the  
9 victim of that violation is a child of the parent.

531+

10 SECTION 121. 938.355 (2d) (b) 3. of the statutes is amended to read:

11 938.355 (2d) (b) 3. That the parent has committed a violation of s. 940.19 (2),  
12 (3), (4), or (5), 940.225 (1) or (2), 948.02 (1) or (2), 948.025, or 948.03 (2) (a) or (3) (a)  
13 or a violation of the law of any other state or federal law, if that violation would be  
14 a violation of s. 940.19 (2), (3), (4), or (5), 940.225 (1) or (2), 948.02 (1) or (2), 948.025,  
15 or 948.03 (2) (a) or (3) (a) if committed in this state, as evidenced by a final judgment  
16 of conviction, and that the violation resulted in great bodily harm, as defined in s.  
17 939.22 (14), or in substantial bodily harm, as defined in s. 939.22 (38), to the juvenile  
18 or another child of the parent.

Insert  
66-18

532d

19 SECTION 122. 938.355 (2d) (b) 4. of the statutes is amended to read:

20 938.355 (2d) (b) 4. That the parental rights of the parent to another child have  
21 been involuntarily terminated, as evidenced by a final order of a court of competent  
22 jurisdiction terminating those parental rights.

532g

23 SECTION 123. 938.355 (2d) (bm) of the statutes is created to read:

24 938.355 (2d) (bm) The court shall make a finding specified in par. (b) 1. to 4.  
25 on a case-by-case basis based on circumstances specific to the juvenile and shall

## ASSEMBLY BILL 809

1 document or reference the specific information on which that finding is based in the  
2 dispositional order. A dispositional order that merely references par. (b) 1. to 4.  
3 without documenting or referencing that specific information in the dispositional  
4 order or an amended dispositional order that retroactively corrects an earlier  
5 dispositional order that does not comply with this paragraph is not sufficient to  
6 comply with this paragraph.

7 <sup>(532j)</sup>  
SECTION 124. 938.355 (2d) (c) of the statutes is renumbered 938.355 (2d) (c) 1.  
8 and amended to read:

9 938.355 (2d) (c) 1. If the court ~~makes a finding~~ finds that any of the  
10 circumstances specified in par. (b) 1., ~~2., 3., or 4.~~ to 4. applies with respect to a parent,  
11 the court shall hold a hearing within 30 days after the date of that finding to  
12 determine the permanency plan for the juvenile. If a hearing is held under this  
13 paragraph subdivision, the agency responsible for preparing the permanency plan  
14 shall file the permanency plan with the court not less than 5 days before the date of  
15 the hearing.

16 <sup>(532k)</sup>  
SECTION 125. 938.355 (2d) (c) 2. and 3. of the statutes are created to read:

17 938.355 (2d) (c) 2. If a hearing is held under subd. 1, at least 10 days before the  
18 date of the hearing the court shall notify the juvenile, any parent, guardian, and legal  
19 custodian of the juvenile, and any foster parent, treatment foster parent, or other  
20 physical custodian described in s. 48.62 (2) of the juvenile of the time, place, and  
21 purpose of the hearing.

22 3. The court shall give a foster parent, treatment foster parent, or other  
23 physical custodian described in s. 48.62 (2) who is notified of a hearing under subd.  
24 2. an opportunity to be heard at the hearing by permitting the foster parent,  
25 treatment foster parent, or other physical custodian to make a written or oral

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1 statement during the hearing, or to submit a written statement prior to the hearing,  
2 relevant to the issues to be determined at the hearing. ~~Any written or oral statement~~  
3 ~~made under this subdivision shall be made upon oath or affirmation.~~ A foster parent,  
4 treatment foster parent, or other physical custodian who receives a notice of a  
5 hearing under subd. 2. and an opportunity to be heard under this subdivision does  
6 not become a party to the proceeding on which the hearing is held solely on the basis  
7 of receiving that notice and opportunity to be heard.

8 <sup>532+</sup> SECTION 125. 938.355 (4) (a) of the statutes is amended to read:

9 938.355 (4) (a) Except as provided under par. (b) or s. 938.368, all orders an  
10 order under this section shall terminate at the end of one year unless the court  
11 specifies a shorter period of time. Except if s. 938.368 applies, extensions or revisions  
12 or s. 938.357 or 938.365 made before the juvenile reaches 18 years of age that places  
13 or continues the placement of the juvenile in his or her home shall terminate at the  
14 end of one year after its entry unless the court specifies a shorter period of time. No  
15 extension under s. 938.365 of an original dispositional order may be granted for a  
16 juvenile who is subject to an order under s. 938.34 (4d), (4h), (4m) or (4n) if the  
17 juvenile is 17 years of age or older when the original dispositional order terminates.  
18 Any order made before the juvenile reaches the age of majority shall be effective for  
19 a time up to one year after its entry unless the court specifies a shorter period of time  
20 or the court terminates the order sooner. Except as provided in par. (b) or s. 938.368,  
21 an order under this section or s. 938.357 or 938.365 made before the juvenile reaches  
22 18 years of age that places or continues the placement of the juvenile in a foster home,  
23 treatment foster home, group home, or child caring institution or in the home of a  
24 relative other than a parent shall terminate when the juvenile reaches 18 years of  
25 age, at the end of one year after its entry, or, if the juvenile is a full-time student at

residential care center for children and youth

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1 a secondary school or its vocational or technical equivalent and is reasonably  
2 expected to complete the program before reaching 19 years of age, when the juvenile  
3 reaches 19 years of age, whichever is later, unless the court specifies a shorter period  
4 of time or the court terminates the order sooner.

birth day ✓

5 SECTION <sup>532v</sup> ~~127~~. 938.355 (4) (b) of the statutes is amended to read:

6 938.355 (4) (b) ~~An order under s. 938.34 (4d), (4h) or (4m) for which a juvenile~~  
7 ~~has been adjudicated delinquent is subject to par. (a), except that the judge may make~~  
8 Except as provided in s. 938.368, an order under s. 938.34 (4d) or (4m) made before  
9 the juvenile reaches 18 years of age may apply for up to 2 years after its entry or until  
10 the juvenile's 18th birthday, ✓ ~~whichever is earlier and the judge shall make, unless~~  
11 the court specifies a shorter period of time or the court terminates the order sooner.

12 Except as provided in s. 938.368, an order under s. 938.34 (4h) made before the  
13 juvenile reaches 18 years of age shall apply for 5 years after its entry, if the juvenile  
14 is adjudicated delinquent for committing an act that would be punishable as a  
15 Class B felony if committed by an adult, or until the juvenile reaches 25 years of age,  
16 if the juvenile is adjudicated delinquent for committing an act that would be  
17 punishable as a Class A felony if committed by an adult. Except as provided in s.  
18 938.368, an extension of an order under s. 938.34 (4d), (4h), (4m), or (4n) made before  
19 the juvenile reaches 17 years of age shall terminate at the end of one year after its  
20 entry unless the court specifies a shorter period of time or the court terminates the  
21 order sooner. No extension under s. 938.365 of an original dispositional order under  
22 s. 938.34 (4d), (4h), (4m), or (4n) may be granted for a juvenile who is 17 years of age  
23 or older when the original dispositional order terminates.

24 SECTION ~~128~~. 938.355 (6) (a) of the statutes is amended to read:

533bb

Insert  
69-23 ✓

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## SECTION 128

1           938.355 (6) (a) If a juvenile who has been adjudged delinquent or to have  
2 violated a civil law or ordinance, other than an ordinance enacted under s. 118.163  
3 (1m) or (2), violates a condition specified in sub. (2) (b) 7., the court may impose on  
4 the juvenile any of the sanctions specified in par. (d) if, at the dispositional hearing  
5 under s. 938.335, the court explained the conditions to the juvenile and informed the  
6 juvenile of those possible sanctions or if before the violation the juvenile has  
7 acknowledged in writing that he or she has read, or has had read to him or her, those  
8 conditions and possible sanctions and that he or she understands those conditions  
9 and possible sanctions. If a juvenile who has been found to be in need of protection  
10 or services under s. 938.13 (4), (6m), (7), (12), or (14) violates a condition specified in  
11 sub. (2) (b) 7., the court may impose on the juvenile any of the sanctions specified in  
12 par. (d), other than placement in a secure detention facility or juvenile portion of a  
13 county jail, if, at the dispositional hearing under s. 938.335, the court explained the  
14 conditions to the juvenile and informed the juvenile of those possible sanctions or if  
15 before the violation the juvenile has acknowledged in writing that he or she has read,  
16 or has had read to him or her, those conditions and possible sanctions and that he or  
17 she understands those conditions and possible sanctions.

18           (cm) The court may not order the sanction of placement in a place of nonsecure  
19 custody specified in par. (d) 1. unless the court finds that the agency primarily  
20 responsible for providing services for the juvenile has made reasonable efforts to  
21 prevent the removal of the juvenile from his or her home and that continued  
22 placement of the juvenile in his or her home is contrary to the welfare of the juvenile.  
23 The court shall make the findings specified in this paragraph on a case-by-case basis  
24 based on circumstances specific to the juvenile and shall document or reference the  
25 specific information on which that finding is based in the sanction order. A sanction

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1 order that merely references this paragraph without documenting or referencing  
2 that specific information in the sanction order or an amended sanction order that  
3 retroactively corrects an earlier sanction order that does not comply with this  
4 paragraph is not sufficient to comply with this paragraph.

5 SECTION ~~938~~<sup>533bd</sup>. 938.355 (6m) (cm) of the statutes is created to read:

6 938.355 (6m) (cm) The court may not order the sanction of placement in a place  
7 of nonsecure custody specified in par. (a) 1g. unless the court finds that the agency  
8 primarily responsible for providing services for the juvenile has made reasonable  
9 efforts to prevent the removal of the juvenile from his or her home and that continued  
10 placement of the juvenile in his or her home is contrary to the welfare of the juvenile.  
11 The court shall make the findings specified in this paragraph on a case-by-case basis  
12 based on circumstances specific to the juvenile and shall document or reference the  
13 specific information on which that finding is based in the sanction order. A sanction  
14 order that merely references this paragraph without documenting or referencing  
15 that specific information in the sanction order or an amended sanction order that  
16 retroactively corrects an earlier sanction order that does not comply with this  
17 paragraph is not sufficient to comply with this paragraph.

as affected by 2001 Wisconsin Act 103

18 SECTION ~~938~~<sup>533bf (a)</sup>. 938.357 (1) of the statutes ~~is renumbered 938.357 (1) (a) and~~  
19 amended to read:

20 938.357 (1) (a) The person or agency primarily responsible for implementing  
21 the dispositional order or the district attorney may request a change in the  
22 placement of the juvenile, whether or not the change requested is authorized in the  
23 dispositional order <sup>(2) plan</sup> and, <sup>(am) ✓</sup> as provided in par. ~~(b)~~ or (c), whichever is applicable.

24 <sup>(am)</sup> ~~1.~~ 1. If the proposed change in placement involves any change in placement  
25 other than a change in placement specified in par. (c), the person or agency primarily

Prof. 2001 WA 103



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SECTION 130

Section 533b, RA, 938.357 (1)(b) as affected by 2001 Wisconsin Act 103, 938.357 (1)(am) 2.

Handwritten notes on the left margin: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25. Includes 'Plan' and 'am' annotations.

responsible for implementing the dispositional order or the district attorney shall cause written notice of the proposed change in placement to be sent to the juvenile or the juvenile's counsel or guardian ad litem, the parent, guardian, and legal custodian of the juvenile, and any foster parent, treatment foster parent, or other physical custodian described in s. 48.62 (2) guardian and legal custodian of the juvenile. The notice shall contain the name and address of the new placement, the reasons for the change in placement, a statement describing why the new placement is preferable to the present placement, and a statement of how the new placement satisfies objectives of the treatment plan ordered by the court.

Any person receiving the notice under this subsection subd. 1. or notice of specific foster or treatment foster placement under s. 938.355 (2) (b) 2. may obtain a hearing on the matter by filing an objection with the court within 10 days after receipt of the notice. Placements shall not be changed until 10 days after such notice is sent to the court unless the parent, guardian or legal custodian and the juvenile, if 12 or more years of age, sign written waivers of objection, except that placement changes which changes in placement that were authorized in the dispositional order may be made immediately if notice is given as required in this subsection under subd. 1. In addition, a hearing is not required for placement changes authorized in the dispositional order except where when an objection filed by a person who received notice alleges that new information is available which that affects the advisability of the court's dispositional order.

SECTION 938.357 (1) 3. of the statutes is created to read: 938.357 (1) 3. If the court changes the juvenile's placement from a placement outside the home to another placement outside the home, the change in placement order shall contain one of the statements specified in sub. (2v) (a) 2.