



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0440/W 2
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DOA:.....Fossum - Court-ordered placements

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

DO NOT GEN

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

CHILDREN

Under current law, the court assigned to exercise jurisdiction under the children's code and the juvenile justice code (juvenile court) may, in a dispositional order, designate an out-of-home placement as the placement for a child found to be in need of protection or services or a juvenile adjudged delinquent or found to be in need of protection or services (child). A juvenile court may also change the placement of a child who is subject to a dispositional order to an out-of-home placement. The state receives federal foster care and adoption assistance funding under Title IV-E of the federal Social Security Act (generally referred to as IV-E funds) in reimbursement of moneys expended to provide care for children placed in out-of-home placements. The federal government recently, however, changed its ~~rules~~ relating to eligibility for IV-E funds to provide that IV-E funds are not available when a court orders a child to be placed in a specific out-of-home placement. Accordingly, this bill prohibits a juvenile court from designating a ~~specific placement~~ for a child when granting a dispositional order or ordering a change in placement. Instead, the juvenile court must designate the type of placement in which the child shall be placed and order the agency primarily responsible for providing services to the child to place the child in a placement of the type designated.

regulations
Insert A

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:

1 **SECTION 1.** 48.33 (5) of the statutes is amended to read:

2 ~~48.33 (5) IDENTITY OF FOSTER PARENT OR TREATMENT FOSTER PARENT NAME AND~~
3 ~~ADDRESS OF OUT-OF-HOME PLACEMENT; CONFIDENTIALITY. If the report recommends~~
4 ~~placement in a foster home or a treatment foster home an out-of-home placement,~~
5 ~~and the name and address of the foster parent or treatment foster parent placement~~
6 ~~is not available at the time the report is filed, the agency shall provide the court and~~
7 ~~the child's parent or, guardian, and legal custodian with the name and address of the~~
8 ~~foster parent or treatment foster parent placement within 21 14 days after the~~
9 ~~dispositional order is entered, except that the court may order the information~~
10 ~~withheld from the child's parent or, guardian, or legal custodian if the court finds that~~
11 ~~disclosure would result in imminent danger to the child or to the foster parent or~~
12 ~~treatment foster parent any person with whom the child is placed. After notifying~~
13 ~~the child's parent or, guardian, and legal custodian, the court shall hold a hearing~~
14 ~~prior to ordering the information withheld.~~

15 **SECTION 2.** 48.345 (2m) of the statutes is amended to read:

16 ~~48.345 (2m) Place the child in the child's home of a parent of the child under~~
17 ~~the supervision of an agency or the department, if the department approves, and~~
18 ~~order the agency or department to provide specified services to the child and the~~
19 ~~child's family, which may include but are not limited to individual, family, or, group~~
20 ~~counseling, homemaker or parent aide services, respite care, housing assistance, day~~
21 ~~care, parent skills training, or prenatal development training or education, except~~

1 that the judge may not place the child in the home of a parent of the child if the parent
2 has been convicted under s. 940.01 of the first-degree intentional homicide, or under
3 s. 940.05 of the 2nd-degree intentional homicide, of the other parent of the child, and
4 the conviction has not been reversed, set aside, or vacated, unless the judge
5 determines by clear and convincing evidence that the placement would be in the best
6 interests of the child. The judge shall consider the wishes of the child in making that
7 determination.

8 **SECTION 3.** 48.345 (3) (intro.) of the statutes is amended to read:

9 48.345 (3) (intro.) Designate one of the following types of placements as the
10 placement for the child and order the agency primarily responsible for providing
11 services to the child to place the child in a placement of the type designated and to
12 notify the judge and the child's parent, guardian, and legal custodian of the name and
13 address of the placement within 14 days after the order is entered:

14 **SECTION 4.** 48.345 (3) (a) of the statutes is amended to read:

15 48.345 (3) (a) The home of a parent or other relative, other than a parent, of
16 the child, except that the judge may not designate the home of a parent or other
17 relative of the child as the child's placement if the parent or other relative has been
18 convicted under s. 940.01 of the first-degree intentional homicide, or under s. 940.05
19 of the 2nd-degree intentional homicide, of a parent of the child, and the conviction
20 has not been reversed, set aside, or vacated, unless the judge determines by clear and
21 convincing evidence that the placement would be in the best interests of the child.
22 The judge shall consider the wishes of the child in making that determination.

23 **SECTION 5.** 48.355 (2) (b) 2. of the statutes is amended to read:

24 48.355 (2) (b) 2. If the child is placed outside the home, the name of the place
25 or facility type of placement, including the types of transitional placements, where

1 the child shall be cared for or treated, ~~except that if the placement is a foster home~~
2 ~~or treatment foster home and the name and address of the foster parent or treatment~~
3 ~~foster parent is not available at the time of the order, the name and address of the~~
4 ~~foster parent or treatment foster parent shall be furnished and an order for the~~
5 ~~agency primarily responsible for providing services to the child to place the child in~~
6 ~~a placement of the type designated in the order and to furnish the name and address~~
7 ~~of the placement to the court and the parent, guardian, and legal custodian of the~~
8 ~~child within 21 14 days of the order. If, after a hearing on the issue with due notice~~
9 ~~to the parent or, guardian, and legal custodian of the child, the judge finds that~~
10 ~~disclosure of the identity of the foster parent or treatment foster parent name and~~
11 ~~address of the placement would result in imminent danger to the child, the foster~~
12 ~~parent or the treatment foster parent or to any person with whom the child is placed,~~
13 ~~the judge may order the name and address of the prospective foster parents or~~
14 ~~treatment foster parents placement to be withheld from the parent or, guardian, or~~
15 ~~legal custodian.~~

16 **SECTION 6.** 48.355 (2m) of the statutes is amended to read:

17 48.355 (2m) TRANSITIONAL PLACEMENTS. The court order may include the ~~name~~
18 ~~types of transitional placements in which a child may be placed under s. 48.345 (3)~~
19 ~~or the names of transitional placements in which an adult expectant mother may be~~
20 ~~placed under s. 48.347 (3), but may not designate a specific placement as a~~
21 ~~transitional placement for a child or a specific time when transitions are to take~~
22 ~~place. The procedures of ss. 48.357 and 48.363 shall govern when such transitions~~
23 ~~take place. However, the The court may, however, place specific time limitations on~~
24 ~~interim arrangements made for the care of the child or for the treatment of the~~
25 ~~expectant mother pending the availability of the dispositional placement.~~

1 **SECTION 7.** 48.357 (1) of the statutes is renumbered 48.357 (1) (b) and amended
2 to read:

3 48.357 (1) (b) ~~The~~ If a proposed change in placement of a child is to a placement
4 of a type that is not authorized in the dispositional order, the person or agency
5 primarily responsible for implementing the dispositional order, the district attorney,
6 or the corporation counsel ~~may request a change in the placement of the child or~~
7 ~~expectant mother, whether or not the change requested is authorized in the~~
8 ~~dispositional order shall request the court to approve the change in placement and~~
9 shall cause written notice to be sent to the child, the parent, guardian and legal
10 custodian of the child, any foster parent, treatment foster parent or other physical
11 custodian described in s. 48.62 (2) of the child, the child's court-appointed special
12 advocate and, if the child is the expectant mother of an unborn child under s. 48.133,
13 the unborn child by the unborn child's guardian ad litem. If the expectant mother
14 is an adult, written notice shall be sent to the adult expectant mother and the unborn
15 child by the unborn child's guardian ad litem. The notice shall contain the name and
16 address of the new placement, the reasons for the change in placement, a statement
17 describing why the new placement is preferable to the present placement and a
18 statement of how the new placement satisfies objectives of the treatment plan
19 ordered by the court as provided in par. (d). Any person receiving the notice under
20 this subsection or notice of a specific placement under s. 48.355 (2) (b) 2. paragraph,
21 other than a court-appointed special advocate, may obtain a hearing on the matter
22 by filing an objection with the court within 10 days after receipt of the notice.
23 Placements may not be changed until 10 days after that notice is sent to the court
24 unless the parent, guardian, or legal custodian and the child, if 12 years of age or
25 over, or the child expectant mother, if 12 years of age or over, her parent, guardian,

1 or legal custodian and the unborn child by the unborn child's guardian ad litem, or
2 the adult expectant mother and the unborn child by the unborn child's guardian ad
3 litem, sign written waivers of objection, except that placement changes which were
4 authorized in the dispositional order may be made immediately if notice is given as
5 required in this subsection. In addition, a hearing is not required for placement
6 changes authorized in the dispositional order except when an objection filed by a
7 person who received notice alleges that new information is available which affects
8 the advisability of the court's dispositional order.

9 **SECTION 8.** 48.357 (1) (a) of the statutes is created to read:

10 48.357 (1) (a) The person or agency primarily responsible for implementing the
11 dispositional order may change the placement of a child to another placement of the
12 type authorized in the dispositional order immediately on providing notice of the
13 change in placement as provided in par. (d). Any person receiving the notice under
14 this paragraph or notice of a specific placement under s. 48.355 (2) (b) 2., other than
15 a court-appointed special advocate, may obtain a hearing on the matter by filing an
16 objection with the court within 10 days after receipt of the notice and alleging in that
17 objection that new information is available that affects the advisability of the court's
18 dispositional order.

19 **SECTION 9.** 48.357 (1) (c) of the statutes is created to read:

20 48.357 (1) (c) If the proposed change in placement is of an adult expectant
21 mother, the person or agency primarily responsible for implementing the
22 dispositional order, the district attorney, or the corporation counsel shall request the
23 court to approve the change in placement and shall cause written notice to be sent
24 as provided in par. (d). Any person receiving the notice under this paragraph or
25 notice of a specific placement under s. 48.355 (2) (b) 2m. may obtain a hearing on the

1 matter by filing an objection with the court within 10 days after receipt of the notice.
2 Placements may not be changed until 10 days after that notice is sent to the court
3 unless the adult expectant mother and the unborn child by the unborn child's
4 guardian ad litem sign written waivers of objection, except that placement changes
5 that were authorized in the dispositional order may be made immediately if notice
6 is given as required in this paragraph. In addition, a hearing is not required for
7 placement changes authorized in the dispositional order except when an objection
8 filed by a person who received notice alleges that new information is available that
9 affects the advisability of the court's dispositional order.

10 **SECTION 10.** 48.357 (1) (d) of the statutes is created to read:

11 48.357 (1) (d) A notice under par (a), (b), or (c) shall contain the name, address,
12 and type of the new placement, the reasons for the change in placement, a statement
13 describing why the new placement is preferable to the present placement, and a
14 statement of how the new placement satisfies the objectives of the treatment plan
15 ordered by the court. A notice under par. (a) or (b) shall be sent to the child, the
16 parent, guardian, and legal custodian of the child, any foster parent, treatment foster
17 parent, or other physical custodian described in s. 48.62 (2) of the child, the child's
18 court-appointed special advocate, and, if the child is the expectant mother of an
19 unborn child under s. 48.133, the unborn child by the unborn child's guardian ad
20 litem. A notice under par. (c) shall be sent to the adult expectant mother, the person
21 with whom the adult expectant mother is placed under s. 48.347 (3), and the unborn
22 child by the unborn child's guardian ad litem.

23 **SECTION 11.** 48.357 (2) of the statutes is amended to read:

24 48.357 (2) If emergency conditions necessitate an immediate change in the
25 placement of a child or adult expectant mother placed outside the home, the person

1 or agency primarily responsible for implementing the dispositional order may
2 remove the child or adult expectant mother to a new placement, whether or not
3 authorized by the existing dispositional order, without the prior notice provided in
4 sub. (1) (a), (b), or (c). The notice shall, however, be sent within 48 hours after the
5 emergency change in placement. Any party receiving notice may demand a hearing
6 under sub. (1) (a), (b), or (c). In emergency situations, a child may be placed in a
7 licensed public or private shelter care facility as a transitional placement for not
8 more than 20 days, as well as in any placement authorized under s. 48.345 (3).

9 **SECTION 12.** 48.357 (2m) of the statutes is renumbered 48.357 (2m) (b) and
10 amended to read:

11 48.357 (2m) (b) ~~The~~ If the child, the parent, guardian, or legal custodian of the
12 child, the expectant mother, the unborn child of a child expectant mother by the
13 unborn child's guardian at ad litem, or any person or agency primarily bound by the
14 dispositional order, other than the person or agency responsible for implementing
15 the order, may request a proposes a change in placement of a child to a placement
16 of a type that is not authorized in the dispositional order, that person or unborn child
17 by the unborn child's guardian ad litem shall request the court to approve the change
18 in placement under this subsection. The request shall contain the name and address
19 of the place of the new placement requested and shall state what new information
20 is available which affects the advisability of the current placement. This request
21 shall be submitted to the court and shall cause notice to be sent as provided in par.
22 (d). In addition, the court may propose a change in placement on its own motion. The
23 court shall hold a hearing on the matter prior to ordering any change in placement
24 under this subsection paragraph if the request states that new information is
25 available which that affects the advisability of the current placement, unless written

1 waivers of objection to the proposed change in placement are signed by all persons
2 entitled to receive notice under sub. (1) par. (d), other than a court-appointed special
3 advocate, and the court approves. If a hearing is scheduled, the court shall notify
4 (d) A notice under par. (a), (b), or (c) shall contain the name, address, and type
5 of the new placement and shall state what new information is available that affects
6 the advisability of the current placement. A notice under par. (a) or (b) shall be sent
7 to the child, the parent, guardian, and legal custodian of the child, any foster parent,
8 treatment foster parent, or other physical custodian described in s. 48.62 (2) of the
9 child, the child's court-appointed special advocate, all parties who are bound by the
10 dispositional order, and, if the child is the expectant mother of an unborn child under
11 s. 48.133, the unborn child by the unborn child's guardian ad litem, or shall notify
12 the adult expectant mother, the unborn child by the unborn child's guardian ad litem,
13 and all parties who are bound by the dispositional order, at least 3 days prior to the
14 hearing. A notice under par. (c) shall be sent to the adult expectant mother, the
15 person with whom the adult expectant mother is placed under s. 48.347 (3), the
16 unborn child by the unborn child's guardian ad litem, and all parties who are bound
17 by the dispositional order at least 3 days prior to the hearing. A copy of the request
18 or proposal for the change in placement shall be attached to the notice. If all the
19 parties consent, the court may proceed immediately with the hearing.

20 **SECTION 13.** 48.357 (2m) (a) of the statutes is created to read:

21 48.357 (2m) (a) The child, the parent, guardian, or legal custodian of the child,
22 the unborn child of a child expectant mother by the unborn child's guardian ad litem,
23 or any person or agency primarily bound by the dispositional order, other than the
24 person or agency responsible for implementing the order, may request the person or
25 agency responsible for implementing the order to change the placement of the child

1 to another placement of the type authorized in the dispositional order. If that person
2 or agency agrees to the change in placement, the person or agency may, without a
3 hearing, change the placement of the child immediately on providing notice of the
4 change in placement to the court and the persons specified in par. (d). Any person
5 receiving the notice under this paragraph, other than a court-appointed special
6 advocate, may obtain a hearing on the matter by filing an objection with the court
7 within 10 days after receipt of the notice and alleging in that objection that new
8 information is available that affects the advisability of the court's dispositional order.

9 **SECTION 14.** 48.357 (2m) (c) of the statutes is created to read:

10 48.357 (2m) (c) If the adult expectant mother, the unborn child of the adult
11 expectant mother by the unborn child's guardian ad litem, or any person or agency
12 primarily bound by a dispositional order under s. 48.347, other than the person or
13 agency responsible for implementing the order, proposes a change in placement of
14 the adult expectant mother, that person or unborn child by the unborn child's
15 guardian ad litem shall request the court to approve the change in placement and
16 shall cause notice to be sent as provided in par. (d). In addition, the court may propose
17 a change in placement on its own motion. The court shall hold a hearing on the
18 matter prior to ordering any change in placement under this paragraph if the request
19 states that new information is available that affects the advisability of the current
20 placement, unless written waivers of objection to the proposed change in placement
21 are signed by all persons entitled to receive notice under par. (d) and the court
22 approves.

23 **SECTION 15.** 48.357 (2r) of the statutes is amended to read:

24 48.357 (2r) If a hearing is held under sub. (1) (a) or (b) or (2m) (a) or (b) and the
25 change in placement would remove a child from a foster home, treatment foster

1 home, or other placement with a physical custodian described in s. 48.62 (2), the court
2 shall give the foster parent, treatment foster parent, or other physical custodian
3 described in s. 48.62 (2) an opportunity to be heard at the hearing by permitting the
4 foster parent, treatment foster parent, or other physical custodian to make a written
5 or oral statement during the hearing or to submit a written statement prior to the
6 hearing, relating to the child and the requested change in placement. Any written
7 or oral statement made under this subsection shall be made under oath or
8 affirmation. A foster parent, treatment foster parent, or other physical custodian
9 described in s. 48.62 (2) who receives notice of a hearing under sub. (1) (a) or (b) or
10 (2m) (a) or (b) and an opportunity to be heard under this subsection does not become
11 a party to the proceeding on which the hearing is held solely on the basis of receiving
12 that notice and opportunity to be heard.

13 **SECTION 16.** 48.357 (2v) of the statutes is created to read:

14 48.357 (2v) If a hearing is held under sub. (1) (a) or (b) or (2m) (a) or (b) and
15 the change in placement would place a child in an out-of-home placement, the court
16 shall designate the type of placement in which the child shall be placed, but may not
17 designate a specific placement for the child, and shall order the person or agency
18 primarily responsible for implementing the dispositional order to place the child in
19 a placement of the type designated by the court and to notify the court, the parent,
20 guardian, and legal custodian of the child, the child's court-appointed special
21 advocate, all parties that are bound by the dispositional order, and, if the child is the
22 expectant mother of an unborn child, the unborn child by the unborn child's guardian
23 ad litem of the name and address of the placement within 14 days after the order is
24 entered.

25 **SECTION 17.** 938.33 (5) of the statutes is amended to read:

1 938.33 (5) ~~IDENTITY OF FOSTER PARENT OR TREATMENT FOSTER PARENT~~ NAME AND
2 ~~ADDRESS OF OUT-OF-HOME PLACEMENT;~~ CONFIDENTIALITY. If the report recommends
3 placement in a foster home or a treatment foster home an out-of-home placement,
4 and the name and address of the foster parent or treatment foster parent placement
5 is not available at the time the report is filed, the agency shall provide the court and
6 the juvenile's parent or, guardian, and legal custodian with the name and address
7 of the foster parent or treatment foster parent placement within ~~21~~ 14 days after the
8 dispositional order is entered, except that the court may order the information
9 withheld from the juvenile's parent or, guardian, or legal custodian if the court finds
10 that disclosure would result in imminent danger to the juvenile or to the foster
11 ~~parent or treatment foster parent~~ any person with whom the child is placed. After
12 notifying the juvenile's parent or, guardian, and legal custodian, the court shall hold
13 a hearing prior to ordering the information withheld.

14 **SECTION 18.** 938.34 (2) (b) of the statutes is amended to read:

15 938.34 (2) (b) ~~If~~ Place the juvenile ~~is placed~~ in the juvenile's home of a parent
16 of the juvenile under the supervision of an agency or the department, and order the
17 agency or department to provide specified services to the juvenile and the juvenile's
18 family, which may include but are not limited to individual, family, or group
19 counseling, homemaker or parent aide services, respite care, housing assistance, day
20 care, or parent skills training, except that the court may not place the juvenile in the
21 home of a parent of the juvenile if the parent has been convicted under s. 940.01 of
22 the first-degree intentional homicide, or under s. 940.05 of the 2nd-degree
23 intentional homicide, of the other parent of the juvenile, and the conviction has not
24 been reversed, set aside, or vacated, unless the court determines by clear and

1 convincing evidence that the placement would be in the best interests of the juvenile.
2 The court shall consider the wishes of the juvenile in making that determination.

3 **SECTION 19.** 938.34 (3) (intro.) of the statutes is amended to read:

4 938.34 (3) ~~PLACEMENT~~ OUT-OF-HOME PLACEMENT (intro.) Designate one of the
5 following types of placements as the placement for the juvenile and order the agency
6 primarily responsible for providing services to the juvenile to place the juvenile in
7 a placement of the type designated and to notify the court and the juvenile's parent,
8 guardian, and legal custodian of the name and address of the placement within 14
9 days after the order is entered:

10 **SECTION 20.** 938.34 (3) (a) of the statutes is amended to read:

11 938.34 (3) (a) The home of a ~~parent or other relative,~~ other than a parent, of
12 the juvenile, except that the court may not designate the home of a ~~parent or other~~
13 relative of the juvenile as the juvenile's placement if the ~~parent or other~~ relative has
14 been convicted under s. 940.01 of the first-degree intentional homicide, or under s.
15 940.05 of the 2nd-degree intentional homicide, of a parent of the juvenile, and the
16 conviction has not been reversed, set aside, or vacated, unless the court determines
17 by clear and convincing evidence that the placement would be in the best interests
18 of the juvenile. The court shall consider the wishes of the juvenile in making that
19 determination.

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

21 938.355 (2) (b) 2. If the juvenile is placed outside the home, ~~the name of the~~
22 ~~place or facility~~ type of placement, including the types of transitional placements,
23 where the juvenile shall be cared for or treated, ~~except that if the placement is a foster~~
24 ~~home or treatment foster home and the name and address of the foster parent or~~
25 ~~treatment foster parent is not available at the time of the order, the name and~~

1 ~~address of the foster parent or treatment foster parent shall be furnished and an~~
2 ~~order for the agency primarily responsible for providing services to the juvenile to~~
3 ~~place the juvenile in a placement of the type designated in the order and to furnish~~
4 ~~the name and address of the placement to the court and the parent, guardian, and~~
5 ~~legal custodian of the juvenile within 21 14 days of after the order. If, after a hearing~~
6 ~~on the issue with due notice to the parent or, guardian, and legal custodian of the~~
7 ~~juvenile, the court finds that disclosure of the identity of the foster parent or~~
8 ~~treatment foster parent name and address of the placement would result in~~
9 ~~imminent danger to the juvenile, the foster parent or the treatment foster parent or~~
10 ~~to any person with whom the juvenile is placed, the court may order the name and~~
11 ~~address of the prospective foster parents or treatment foster parents placement to~~
12 ~~be withheld from the parent or, guardian, or legal custodian.~~

13 **SECTION 22.** 938.355 (2m) of the statutes is amended to read:

14 938.355 (2m) TRANSITIONAL PLACEMENTS. The court order may include the name
15 types of transitional placements in which a juvenile may be placed, but may not
16 designate a specific placement as a transitional placement for a juvenile or a specific
17 time when transitions are to take place. The procedures of ss. 938.357 and 938.363
18 shall govern when such transitions take place. The court, however, may place
19 specific time limitations on interim arrangements made for the care of the juvenile
20 pending the availability of the dispositional placement.

21 **SECTION 23.** 938.357 (1) of the statutes is renumbered 938.357 (1) (b) and
22 amended to read:

23 938.357 (1) (b) ~~The~~ If a proposed change in placement of a child is to a
24 placement of a type that is not authorized in the dispositional order, the person or
25 agency primarily responsible for implementing the dispositional order or the district

1 attorney may request a change in the placement of the juvenile, whether or not the
2 change requested is authorized in the dispositional order shall request the court to
3 approve the change in placement and shall cause written notice to be sent to the
4 juvenile or the juvenile's counsel or guardian ad litem, parent, foster parent,
5 treatment foster parent or other physical custodian described in s. 48.62 (2),
6 guardian and legal custodian. The notice shall contain the name and address of the
7 new placement, the reasons for the change in placement, a statement describing why
8 the new placement is preferable to the present placement and a statement of how the
9 new placement satisfies objectives of the treatment plan ordered by the court as
10 provided in par. (c). Any person receiving the notice under this subsection or notice
11 of the specific foster or treatment foster placement under s. 938.355 (2) (b) 2.
12 paragraph may obtain a hearing on the matter by filing an objection with the court
13 within 10 days after receipt of the notice. Placements shall may not be changed until
14 10 days after such that notice is sent to the court unless the parent, guardian, or legal
15 custodian and the juvenile, if 12 or more years of age or over, sign written waivers
16 of objection, except that placement changes which were authorized in the
17 dispositional order may be made immediately if notice is given as required in this
18 subsection. In addition, a hearing is not required for placement changes authorized
19 in the dispositional order except where an objection filed by a person who received
20 notice alleges that new information is available which affects the advisability of the
21 court's dispositional order.

22 **SECTION 24.** 938.357 (1) (a) of the statutes is created to read:

23 938.357 (1) (a) The person or agency primarily responsible for implementing
24 the dispositional order may change the placement of a juvenile to another placement
25 of the type authorized in the dispositional order immediately on providing notice of

1 the change in placement as provided in par. (c). Any person receiving the notice
2 under this paragraph or notice of a specific placement under s. 938.355 (2) (b) 2. may
3 obtain a hearing on the matter by filing an objection with the court within 10 days
4 after receipt of the notice and alleging in that objection that new information is
5 available that affects the advisability of the court's dispositional order.

6 **SECTION 25.** 938.357 (1) (c) of the statutes is created to read:

7 938.357 (1) (c) A notice under par. (a) or (b) shall contain the name, address,
8 and type of the new placement, the reasons for the change in placement, a statement
9 describing why the new placement is preferable to the present placement, and a
10 statement of how the new placement satisfies objectives of the treatment plan
11 ordered by the court. A notice under par. (a) or (b) shall be sent to the juvenile, the
12 parent, guardian, and legal custodian of the juvenile, and any foster parent,
13 treatment foster parent, or other physical custodian described in s. 48.62 (2) of the
14 juvenile.

15 **SECTION 26.** 938.357 (2) of the statutes is amended to read:

16 938.357 (2) If emergency conditions necessitate an immediate change in the
17 placement of a juvenile placed outside the home, the person or agency primarily
18 responsible for implementing the dispositional order may remove the juvenile to a
19 new placement, whether or not authorized by the existing dispositional order,
20 without the prior notice provided in sub. (1) (a) or (b). The notice shall, however, be
21 sent within 48 hours after the emergency change in placement. Any party receiving
22 notice may demand a hearing under sub. (1) (a) or (b). In emergency situations, the
23 juvenile may be placed in a licensed public or private shelter care facility as a
24 transitional placement for not more than 20 days, as well as in any placement
25 authorized under s. 938.34 (3).

1 **SECTION 27.** 938.357 (2m) of the statutes is renumbered 938.357 (2m) (b) and
2 amended to read:

3 938.357 (2m) (b) ~~The~~ If the juvenile, the parent, guardian, or legal custodian
4 of the juvenile, or any person or agency primarily bound by the dispositional order,
5 other than the person or agency responsible for implementing the order, may request
6 a proposes a change in placement of a juvenile to a placement of a type that is not
7 authorized in the dispositional order, that person shall request the court to approve
8 the change in placement under this subsection. The request shall contain the name
9 and address of the place of the new placement requested and shall state what new
10 information is available which affects the advisability of the current placement. This
11 request shall be submitted to the court and shall cause notice to be sent as provided
12 in par. (c). In addition, the court may propose a change in placement on its own
13 motion. The court shall hold a hearing on the matter prior to ordering any change
14 in placement under this subsection paragraph if the request states that new
15 information is available ~~which~~ that affects the advisability of the current placement,
16 unless written waivers of objection to the proposed change in placement are signed
17 by all parties entitled to receive notice under sub. (1) par. (c) and the court approves.
18 ~~If a hearing is scheduled, the court shall notify~~

19 (c) A notice under par. (a) or (b) shall contain the name, address, and type of
20 the new placement and shall state what new information is available that affects the
21 advisability of the current placement. A notice under par. (a) or (b) shall be sent to
22 the juvenile, the parent, guardian, and legal custodian of the juvenile, any foster
23 parent, treatment foster parent, or other physical custodian described in s. 48.62 (2)
24 of the juvenile, and all parties who are bound by the dispositional order at least 3
25 days prior to the hearing. A copy of the request or proposal for the change in

1 placement shall be attached to the notice. If all the parties consent, the court may
2 proceed immediately with the hearing.

3 **SECTION 28.** 938.357 (2m) (a) of the statutes is created to read:

4 938.357 (2m) (a) The juvenile, the parent, guardian, or legal custodian of the
5 juvenile, or any person or agency primarily bound by the dispositional order, other
6 than the person or agency responsible for implementing the order, may request the
7 person or agency responsible for implementing the order to change the placement of
8 the juvenile to another placement of the type authorized in the dispositional order:
9 If that person or agency agrees to the change in placement, the person or agency may,
10 without a hearing, change the placement of the juvenile immediately on providing
11 notice of the change in placement to the court and the persons specified in par. (c).
12 Any person receiving the notice under this paragraph may obtain a hearing on the
13 matter by filing an objection with the court within 10 days after receipt of the notice
14 and alleging in that objection that new information is available that affects the
15 advisability of the court's dispositional order.

16 **SECTION 29.** 938.357 (2r) of the statutes is amended to read:

17 938.357 (2r) If a hearing is held under sub. (1) (a) or (b) or (2m) (a) or (b) and
18 the change in placement would remove a juvenile from a foster home, treatment
19 foster home, or other placement with a physical custodian described in s. 48.62 (2),
20 the court shall give the foster parent, treatment foster parent, or other physical
21 custodian described in s. 48.62 (2) an opportunity to be heard at the hearing by
22 permitting the foster parent, treatment foster parent, or other physical custodian to
23 make a written or oral statement during the hearing or to submit a written
24 statement prior to the hearing relating to the juvenile and the requested change in
25 placement. Any written or oral statement made under this subsection shall be made

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

6 **SECTION 30.** 938.357 (2v) of the statutes is created to read:

7 938.357 (2v) If a hearing is held under sub. (1) (a) or (b) or (2m) (a) or (b) and
8 the change in placement would place a juvenile in an out-of-home placement, the
9 court shall designate the type of placement in which the juvenile shall be placed, but
10 may not designate a specific placement for the juvenile, and shall order the person
11 or agency primarily responsible for implementing the dispositional order to place the
12 juvenile in a placement of the type designated by the court and to notify the court,
13 the parent, guardian, and legal custodian of the juvenile, and all parties that are
14 bound by the dispositional order of the name and address of the placement within
15 14 days after the order is entered.

16 **SECTION 31.** 938.357 (3) of the statutes is amended to read:

17 938.357 (3) Subject to sub. (4) (b) and (c) and (5) (e), if the proposed change in
18 placement would involve placing a juvenile in a secured correctional facility, a
19 secured child caring institution, or a secured group home, notice shall be given as
20 provided in sub. (1) (c). A hearing shall be held, unless waived by the juvenile,
21 parent, guardian, and legal custodian, before the judge makes a decision on the
22 request. The juvenile shall be entitled to counsel at the hearing, and any party
23 opposing or favoring the proposed new placement may present relevant evidence and
24 cross-examine witnesses. The proposed new placement may be approved only if the

1 judge finds, on the record, that the conditions set forth in s. 938.34 (4m) have been
2 met.

3 **SECTION 32.** 938.357 (4) (b) 1. of the statutes is amended to read:

4 938.357 (4) (b) 1. If a juvenile whom the department has placed in a Type 2
5 secured correctional facility operated by a child welfare agency violates a condition
6 of his or her placement in the Type 2 secured correctional facility, the child welfare
7 agency operating the Type 2 secured correctional facility shall notify the department
8 and the department, after consulting with the child welfare agency, may place the
9 juvenile in a Type 1 secured correctional facility under the supervision of the
10 department without a hearing under sub. (1).

11 **SECTION 33.** 938.357 (4) (b) 2. of the statutes is amended to read:

12 938.357 (4) (b) 2. If a juvenile whom the court has placed in a Type 2 child
13 caring institution under s. 938.34 (4d) violates a condition of his or her placement in
14 the Type 2 child caring institution, the child welfare agency operating the Type 2
15 child caring institution shall notify the county department that has supervision over
16 the juvenile and, if the county department agrees to a change in placement under this
17 subdivision, the child welfare agency shall notify the department and the
18 department, after consulting with the child welfare agency, may place the juvenile
19 in a Type 1 secured correctional facility under the supervision of the department,
20 without a hearing under sub. (1), for not more than 10 days. If a juvenile is placed
21 in a Type 1 secured correctional facility under this subdivision, the county
22 department that has supervision over the juvenile shall reimburse the child welfare
23 agency operating the Type 2 child caring institution in which the juvenile was placed
24 at the rate established under s. 46.037, and that child welfare agency shall reimburse
25 the department at the rate specified in s. 301.26 (4) (d) 2., 3., or 4., whichever is

1 applicable, for the cost of the juvenile's care while placed in a Type 1 secured
2 correctional facility.

3 **SECTION 34.** 938.357 (4) (c) 1. of the statutes is amended to read:

4 938.357 (4) (c) 1. If a juvenile is placed in a Type 2 secured correctional facility
5 operated by a child welfare agency under par. (a) and it appears that a less restrictive
6 placement would be appropriate for the juvenile, the department, after consulting
7 with the child welfare agency that is operating the Type 2 secured correctional
8 facility in which the juvenile is placed, may place the juvenile in a less restrictive
9 placement, and may return the juvenile to the Type 2 secured correctional facility
10 without a hearing under sub. (1). The child welfare agency shall establish a rate for
11 each type of placement in the manner provided in s. 46.037.

12 **SECTION 35.** 938.357 (4) (c) 2. of the statutes is amended to read:

13 938.357 (4) (c) 2. If a juvenile is placed in a Type 2 child caring institution under
14 s. 938.34 (4d) and it appears that a less restrictive placement would be appropriate
15 for the juvenile, the child welfare agency operating the Type 2 child caring
16 institution shall notify the county department that has supervision over the juvenile
17 and, if the county department agrees to a change in placement under this
18 subdivision, the child welfare agency may place the juvenile in a less restrictive
19 placement. A child welfare agency may also, with the agreement of the county
20 department that has supervision over a juvenile who is placed in a less restrictive
21 placement under this subdivision, return the juvenile to the Type 2 child caring
22 institution without a hearing under sub. (1). The child welfare agency shall establish
23 a rate for each type of placement in the manner provided in s. 46.037.

24 **SECTION 36.** 938.357 (4) (d) of the statutes is amended to read:

SECTION 36

1 938.357 (4) (d) The department may transfer a juvenile who is placed in a Type
 2 1 secured correctional facility to the Racine youthful offender correctional facility
 3 named in s. 302.01 if the juvenile is 15 years of age or over and the office of juvenile
 4 offender review in the department has determined that the conduct of the juvenile
 5 in the Type 1 secured correctional facility presents a serious problem to the juvenile
 6 or others. The factors that the office of juvenile offender review may consider in
 7 making that determination shall include, but are not limited to, whether and to what
 8 extent the juvenile's conduct in the Type 1 secured correctional facility is violent and
 9 disruptive, the security needs of the Type 1 secured correctional facility, and whether
 10 and to what extent the juvenile is refusing to cooperate or participate in the
 11 treatment programs provided for the juvenile in the Type 1 secured correctional
 12 facility. ~~Notwithstanding sub. (1), a juvenile is not entitled to a hearing regarding~~
 13 ~~the department's exercise of authority under this paragraph unless the department~~
 14 ~~provides for a hearing by rule. A juvenile may seek review of a decision of the~~
 15 ~~department under this paragraph only by the common law writ of certiorari. If the~~
 16 ~~department transfers a juvenile under this paragraph, the department shall send~~
 17 ~~written notice of the transfer to the parent, guardian, legal custodian, and~~
 18 ~~committing court.~~

SECTION 37. 938.357 (5) (a) of the statutes is amended to read:

20 938.357 (5) (a) The department or a county department, whichever has been
 21 designated as a juvenile's aftercare provider under s. 938.34 (4n), may revoke the
 aftercare status of that juvenile. Revocation of aftercare supervision shall not
 require prior notice under sub. (1) (a).

22
 Insert
 22-23
 3

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0440/2ins
GMM.....

(INSERT 22-23)

SECTION 1. 48.355 (2) (b) 6m. [✓] of the statutes is created to read:

48.355 (2) (b) 6m. If the child is placed outside the home in a placement recommended by the agency designated under s. 48.33 (1), [✓] a statement that the court approves the placement or, if the child is placed in an out-of-home placement other than a placement recommended by that agency, a statement that the court has considered the evidence presented and recommendations made by all parties, including that agency, relating to the child's placement and has worked with those parties in determining the most appropriate placement for the child.

SECTION 2. 48.357 (2v) [✓] of the statutes is created to read:

48.357 (2v) If a hearing is held under sub. (1) or (2m) [✓] and the change in placement would place the child outside the home in a placement recommended by the person or agency primarily responsible for implementing the dispositional order, the change in placement order shall include a statement that the court approves the placement or, if the child is placed in an out-of-home placement other than a placement recommended by that person or agency, a statement that the court has considered the evidence presented and recommendations made by all parties, including that person or agency, relating to the child's placement and has worked with those parties in determining the most appropriate placement for the child.

SECTION 3. 938.355 (2) (b) 6m. [✓] of the statutes is created to read:

938.355 (2) (b) 6m. If the juvenile is placed outside the home in a placement recommended by the agency designated under s. 938.33 (1), [✓] a statement that the court approves the placement or, if the juvenile is placed in an out-of-home placement other than a placement recommended by that agency, a statement that

↓

the court has considered the evidence presented and recommendations made by all parties, including that agency, relating to the juvenile's placement and has worked with those parties in determining the most appropriate placement for the juvenile.

SECTION 4. 938.357 (2v)^X of the statutes is created to read:

938.357 (2v) If a hearing is held under sub. (1) or (2m)[✓] and the change in placement would place the juvenile outside the home in a placement recommended by the person or agency primarily responsible for implementing the dispositional order, the change in placement order shall include a statement that the court approves the placement or, if the juvenile is placed in an out-of-home placement other than a placement recommended by that person or agency, a statement that the court has considered the evidence presented and recommendations made by all parties, including that person or agency, relating to the juvenile's placement and has worked with those parties in determining the most appropriate placement for the juvenile.

Other than a placement

(END OF INSERT)

(INSERT A)

^{NO} ~~Φ~~, except that those funds are available when a court orders a child to be placed in a specific out-of-home placement recommended by the agency primarily responsible for providing services for the child (agency)[✓] or when a court, after considering the evidence presented by all parties, including the agency, relating to a child's placement and working with those parties to determine the most appropriate placement for the child, orders the child to be placed in a specific out-of-home placement recommended by the agency. Accordingly, this bill requires an order of the juvenile court placing a child outside the home in a placement recommended by the agency to include a statement that the juvenile court approves the placement and an order of the juvenile court placing a child in an out-of-home placement other than a placement recommended by the agency to include a statement that the juvenile court has considered the evidence presented and recommendations made by all parties, including the agency, relating to the child's

placement and has worked with those parties in determining the most appropriate placement for the child.

(END OF INSERT)

Malaise, Gordon

From: Fossum, Gretchen
Sent: Thursday, January 11, 2001 2:37 PM
To: Malaise, Gordon
Subject: LRB Draft 0440/2, Court Ordered Placements

Gordon:

Please make the following changes to LRB 0440/2 as requested by DHFS (Therese Durkin):

I have discussed this proposed statutory language with Michelle Jensen (Court Improvement Attorney coordinating the development of ASFA compliant judicial orders) for consistency with model court orders. We suggest that words to the following effect be used in the amendment:

...if the child is placed outside the home in a placement recommended by the agency, a statement that the court approves the placement recommended by the agency, or

...if the child is placed outside the home other than a placement recommended by the agency, a statement that the court has given bona fide consideration to the recommendations of the agency and all parties.

This language should also be inserted in other statutory provisions besides s. 48.355 (dispositional orders) and s. 48.357 (change in placement) that allow the court to place the child outside the home, including s. 48.21 (hearing for a child held in temporary custody), s. 48.363 (revision of dispositional orders), s. 48.365 (extension of dispositional orders), and their ch. 938 counterparts, including ss. 938.21, 938.355, 938.357, 938.363, and 938.365.

Gretchen A. Fossum
State Budget Office
January 11, 2001

no no
48.21 (5) (b)
938-21 (5) (b)



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0440/4
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3

PMR

DNote
Soon

DOA:.....Fossum - Court-ordered placements

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

1 Do not gen
AN ACT ...; relating to: the budget.

temporary custody order, a

for a change-in-
placement order

Analysis by the Legislative Reference Bureau
HEALTH AND HUMAN SERVICES

who is not within
the jurisdiction
of the juvenile
court

CHILDREN

Under current law, the court assigned to exercise jurisdiction under the Children's code and the Juvenile Justice code (juvenile court) may, in a dispositional order, designate an out-of-home placement as the placement for a child found to be in need of protection or services or a juvenile adjudged delinquent or found to be in need of protection or services (child). A juvenile court may also change the placement of a child who is subject to a dispositional order to an out-of-home placement. The state receives federal foster care and adoption assistance funding under Title IV-E of the federal Social Security Act (generally referred to as IV-E funds) in reimbursement of moneys expended to provide care for children placed in out-of-home placements. The federal government recently, however, changed its regulations relating to eligibility for IV-E funds to provide that IV-E funds are not available when a court orders a child to be placed in a specific out-of-home placement, except that those funds are available when a court orders a child to be placed in a specific out-of-home placement recommended by the agency primarily responsible for providing services for the child (agency) or when a court, after considering the evidence presented by all parties, including the agency, relating to a child's placement and working with those parties to determine the most appropriate placement for the child, orders the child to be placed in a specific

the agency and

gives bona fide consideration to the

recommended by the agency

the agency and

outside the home in a placement

out-of-home placement other than a placement recommended by the agency. Accordingly, this bill requires an order of the juvenile court placing a child outside the home in a placement recommended by the agency to include a statement that the juvenile court approves the placement and an order of the juvenile court placing a child in an out-of-home placement other than a placement recommended by the agency to include a statement that the juvenile court has considered the evidence presented and recommendations made by all parties, including the agency, relating to the child's placement and has worked with those parties in determining the most appropriate placement for the child.

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

Insert 2-1

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

recommended by the agency

outside the home in a placement

1 SECTION 1. 48.355 (2) (b) 6m. of the statutes is created to read:
2 48.355 (2) (b) 6m. If the child is placed outside the home in a placement
3 recommended by the agency designated under s. 48.33 (1), a statement that the court
4 approves the placement, or, if the child is placed in an out-of-home placement other
5 than a placement recommended by that agency, a statement that the court has
6 considered the evidence presented and recommendations made by all parties,
7 including that agency, relating to the child's placement and has worked with those
8 parties in determining the most appropriate placement for the child.

9 SECTION 2. 48.357 (2v) of the statutes is created to read:

outside the home in a placement

10 48.357 (2v) If a hearing is held under sub. (1) or (2m) and the change in
11 placement would place the child outside the home in a placement recommended by
12 the person or agency primarily responsible for implementing the dispositional order,
13 the change in placement order shall include a statement that the court approves the
14 placement, or, if the child is placed in an out-of-home placement other than a
15 placement recommended by that person or agency, a statement that the court has
16 considered the evidence presented and recommendations made by all parties.

that person or agency and

recommended by that person or agency

given bona fide consideration to the

recommended by the agency

Insert
3-2

1 including that person or agency, relating to the child's placement and has worked
2 with those parties in determining the most appropriate placement for the child.

3 SECTION 3. 938.355 (2) (b) 6m. of the statutes is created to read:

4 938.355 (2) (b) 6m. If the juvenile is placed outside the home in a placement
5 recommended by the agency designated under s. 938.33 (1), a statement that the

6 court approves the placement or, if the juvenile is placed in an out-of-home

7 placement other than a placement recommended by that agency, a statement that

8 the court has considered the evidence presented and recommendations made by all

9 parties, including that agency, relating to the juvenile's placement and has worked

10 with those parties in determining the most appropriate placement for the juvenile.

11 SECTION 4. 938.357 (2v) of the statutes is created to read:

12 938.357 (2v) If a hearing is held under sub. (1) or (2m) and the change in
13 placement would place the juvenile outside the home in a placement recommended

14 by the person or agency primarily responsible for implementing the dispositional
15 order, the change in placement order shall include a statement that the court

16 approves the placement or, if the juvenile is placed in an out-of-home placement

17 other than a placement recommended by that person or agency, a statement that the

18 court has considered the evidence presented and recommendations made by all

19 parties, including that person or agency, relating to the juvenile's placement and has

20 worked with those parties in determining the most appropriate placement for the

21 juvenile.

22

(END)

recommended by the
person or agency

given bona fide consideration
to the

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that person or agency and

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outside the home in a placement

Insert 2-1

Section #. 48.21 (5) (b) of the statutes is renumbered 48.21 (5) (b) (intro.) and amended to read:

include all of the following: P 1. A description of

48.21 (5) (b) (intro.) An order relating to a child held in custody outside of his or her home shall also describe any efforts that were made to permit the child to remain safely at home and the services that are needed to ensure the child's well-being, to enable the child to return safely to his or her home, and to involve the parents in planning for the child.

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

[Handwritten signature]



Insert 2-1

SEC. CR; 48.21 (5)(b) 2. ⁴

48.21 ⁽³⁾(5)(b) 2. ~~At~~ If the child is held in custody outside the home in a placement recommended by the intake worker, a statement that the court approves the placement recommended by the intake worker or, if the child is placed outside the home in a placement other than a placement recommended by the intake worker, a statement that the court has given bona fide [✓] consideration to the recommendations made by the intake worker and all parties relating to the placement of the child.

(end of insert)

2-1

Insert 3-2

Section #. 938.21 (5) (b) ^X of the statutes is renumbered 938.21 (5) (b) (intro.) and amended to read:

include all of the following: ¶ 1. A description of
plain 938.21 (5) (b) (intro.) An order relating to a juvenile held in custody outside of his or her home shall ~~also describe~~ any efforts that were made to permit the juvenile to remain at home and the services that are needed to ensure the juvenile's well-being, to enable the juvenile to return safely to his or her home ² and to involve the parents in planning for the juvenile.

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

[Handwritten signature] ↓

Insert ³⁻² ~~MM~~

938.21

SEC. CR; ~~938.21~~ (5)(b) 2. *

938.21

~~938.21~~

juvenile is

~~938.21~~ (5)(b) 2. A ~~stat~~ If the ~~child~~ held in

custody outside the home in a placement recommended by

the intake worker, a statement that the court

approves the placement recommended by the intake worker

juvenile

or, if the ~~child~~ is placed outside the home in a

placement other than a placement recommended by the

intake worker, a statement that the court has

given bona fide consideration to the recommendations^s

made by the intake worker and all parties

relating to the placement of the ~~child~~ juvenile.

(ed st, nst)
3-2

D-Note

Gretchen:

This draft does not include the language requested by DHS in ~~§~~ 48.363 or 938.363[✓] relating to revisions of dispositional orders or in ~~§~~ 48.365 or 938.365[✓] relating to extensions of dispositional orders. That language is inapplicable in those sections because those sections expressly prohibit changes in placement under a revision or extension order. See ~~§~~ 48.363 (1)(a), 48.365 (7), 938.363 (1)(a), and 938.365 (7).[✓]

GMM

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0440/3dn
GMM:hmh&jld:pg

January 12, 2001

Gretchen:

This draft does not include the language requested by DHFS in s. 48.363 or 938.363 relating to revisions of dispositional orders or in s. 48.365 or 938.365 relating to extensions of dispositional orders. That language is inapplicable in those sections because those sections expressly prohibit changes in placement under a revision or extension order. See ss. 48.363 (1) (a), 48.365 (7), 938.363 (1) (a), and 938.365 (7).

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



DOA:.....Fossum - Court-ordered placements

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

CHILDREN

Under current law, the court assigned to exercise jurisdiction under the Children's Code and the Juvenile Justice Code (juvenile court) may, in a temporary custody order, a dispositional order, or a change-in-placement order, designate an out-of-home placement as the placement for a child who is within the jurisdiction of the juvenile court. The state receives federal foster care and adoption assistance funding under Title IV-E of the federal Social Security Act (generally referred to as IV-E funds) in reimbursement of moneys expended to provide care for children placed in out-of-home placements. The federal government recently, however, changed its regulations relating to eligibility for IV-E funds to provide that IV-E funds are not available when a court orders a child to be placed in a specific out-of-home placement, except that those funds are available when a court orders a child to be placed in a specific out-of-home placement recommended by the agency primarily responsible for providing services for the child (agency) or when a court, after considering the evidence presented by the agency and all parties relating to a child's placement, orders the child to be placed in a specific out-of-home placement other than a placement recommended by the agency. Accordingly, this bill requires an order of the juvenile court placing a child outside the home in a placement recommended by the agency to include a statement that the juvenile court approves

the placement recommended by the agency and an order of the juvenile court placing a child outside the home in a placement other than a placement recommended by the agency to include a statement that the juvenile court has given bona fide consideration to the recommendations made by the agency and all parties relating to the child's placement.

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:

1 **SECTION 1.** 48.21 (5) (b) of the statutes is renumbered 48.21 (5) (b) (intro.) and
2 amended to read:

3 48.21 (5) (b) (intro.) An order relating to a child held in custody outside of his
4 or her home shall also ~~describe~~ include all of the following:

5 1. A description of any efforts that were made to permit the child to remain
6 safely at home and the services that are needed to ensure the child's well-being, to
7 enable the child to return safely to his or her home, and to involve the parents in
8 planning for the child.

9 **SECTION 2.** 48.21 (5) (b) 2. of the statutes is created to read:

10 48.21 (5) (b) 2. If the child is held in custody outside the home in a placement
11 recommended by the intake worker, a statement that the court approves the
12 placement recommended by the intake worker or, if the child is placed outside the
13 home in a placement other than a placement recommended by the intake worker, a
14 statement that the court has given bona fide consideration to the recommendations
15 made by the intake worker and all parties relating to the placement of the child.

16 **SECTION 3.** 48.355 (2) (b) 6m. of the statutes is created to read:

17 48.355 (2) (b) 6m. If the child is placed outside the home in a placement
18 recommended by the agency designated under s. 48.33 (1), a statement that the court

1 approves the placement recommended by the agency or, if the child is placed outside
2 the home in a placement other than a placement recommended by that agency, a
3 statement that the court has given bona fide consideration to the recommendations
4 made by the agency and all parties relating to the child's placement.

5 **SECTION 4.** 48.357 (2v) of the statutes is created to read:

6 48.357 (2v) If a hearing is held under sub. (1) or (2m) and the change in
7 placement would place the child outside the home in a placement recommended by
8 the person or agency primarily responsible for implementing the dispositional order,
9 the change in placement order shall include a statement that the court approves the
10 placement recommended by that person or agency or, if the child is placed outside the
11 home in a placement other than a placement recommended by that person or agency,
12 a statement that the court has given bona fide consideration to the recommendations
13 made by that person or agency and all parties relating to the child's placement.

14 **SECTION 5.** 938.21 (5) (b) of the statutes is renumbered 938.21 (5) (b) (intro.)
15 and amended to read:

16 938.21 (5) (b) (intro.) An order relating to a juvenile held in custody outside of
17 his or her home shall also ~~describe~~ include all of the following:

18 1. A description of any efforts that were made to permit the juvenile to remain
19 at home and the services that are needed to ensure the juvenile's well-being, to
20 enable the juvenile to return safely to his or her home, and to involve the parents in
21 planning for the juvenile.

22 **SECTION 6.** 938.21 (5) (b) 2. of the statutes is created to read:

23 938.21 (5) (b) 2. If the juvenile is held in custody outside the home in a
24 placement recommended by the intake worker, a statement that the court approves
25 the placement recommended by the intake worker or, if the juvenile is placed outside

1 the home in a placement other than a placement recommended by the intake worker,
2 a statement that the court has given bona fide consideration to the recommendations
3 made by the intake worker and all parties relating to the placement of the juvenile.

4 **SECTION 7.** 938.355 (2) (b) 6m. of the statutes is created to read:

5 938.355 (2) (b) 6m. If the juvenile is placed outside the home in a placement
6 recommended by the agency designated under s. 938.33 (1), a statement that the
7 court approves the placement recommended by the agency or, if the juvenile is placed
8 outside the home in a placement other than a placement recommended by that
9 agency, a statement that the court has given bona fide consideration to the
10 recommendations made by the agency and all parties relating to the juvenile's
11 placement.

12 **SECTION 8.** 938.357 (2v) of the statutes is created to read:

13 938.357 (2v) If a hearing is held under sub. (1) or (2m) and the change in
14 placement would place the juvenile outside the home in a placement recommended
15 by the person or agency primarily responsible for implementing the dispositional
16 order, the change in placement order shall include a statement that the court
17 approves the placement recommended by the person or agency or, if the juvenile is
18 placed outside the home in a placement other than a placement recommended by that
19 person or agency, a statement that the court has given bona fide consideration to the
20 recommendations made by that person or agency and all parties relating to the
21 juvenile's placement.

22 (END)