

2001 DRAFTING REQUEST

Bill

Received: **09/20/2000**

Received By: **malaigm**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget 6-2288**

By/Representing: **Fossum**

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

Drafter: **malaigm**

May Contact:

Alt. Drafters:

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

Extra Copies:

Pre Topic:

DOA:.....Fossum -

Topic:

Appointment of relative as guardian of child

Instructions:

See Attached

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/6	malaigm 02/06/2001	jdyer 02/07/2001	martykr 02/07/2001	_____	gretskl 02/07/2001		S&L
/7	malaigm 02/10/2001	jdyer 02/12/2001	pgreensl 02/12/2001	_____	lrb_docadmin 02/12/2001		

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PGRS

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DHFS

Department of Health and Family Services
1999-2001 Biennial Budget Statutory Language Request
September 11, 2000

Title: Relative Guardianship

Current Language

Under current law, a relative can be made a guardian of a child under s. 48.977 under certain conditions, including that the child has been adjudicated CHIPS under s. 48.13 and been placed outside of his or her home for a cumulative period of one year or more.

Proposed Change

Revise s. 48.977(2)(a) to read: That the child ~~or youth~~ has been adjudged to be in need of protection or services under s. 48.13(1), (2), (3), (3m), (4), (5), (8), (9), (10), (10m), (11), or (11m) or 938.13(4) and been placed, or continued in a placement, or is being placed outside of (?) his or her home pursuant to one or more court orders under s. 48.345, 48.357, 48.363, 48.365, 938.345, 938.357, 938.363, or 938.365.

Effect of the Change

The change would allow the appointment of a relative as a guardian without having to wait for the child to be placed outside of his or her home for a minimum of one year.

Rationale for the Change

Relative guardianship provides a substantial level of permanence for a child that is not provided when the child is in foster care, in the home of a relative without guardianship, or in some other type of out-of-home care. The court should have the ability to place guardianship with a relative whenever the court deems it in the best interests of the child. To create an artificial timeline of one year when that may be adverse to the best interests of the child is contrary to the intent and purpose of both state and federal law.

Desired Effective Date: Upon passage
Agency: DHFS
Agency Contact: Andy Forsaith
Phone: 266-7684



9/27

State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0441/

GMM.....

King

DATE
SOON

DOA:.....Fossum – Appointment of relative as guardian of child

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

DON'T
GEN. CAT

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 (juvenile court) may appoint a relative of a child as the guardian of the child if the juvenile court makes certain findings, including a finding that the child has been adjudged to be in need of protection or services and has been placed, or continued in a placement, outside of his or her home pursuant to one or more orders of the juvenile court for one year or longer. This bill eliminates that one-year waiting period. ~~The bill also permits a petition for the appointment of a relative as the guardian of the child to be filed for a child who is not placed with a relative, but for whom placement with the relative is recommended.~~

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:

2 SECTION 1. 48.33 (3v) of the statutes is created to read:

1 48.33 (3v) RELATIVE PLACEMENT REPORTS. A report recommending placement of
2 the child with a relative, as defined in s. 48.977 (1), shall be in writing and, if the
3 conditions specified in s. 48.977 (2) (b) to (f) appear to be met, may recommend that
4 a petition be filed under s. 48.977 (4) (a) for the appointment of the relative as the
5 guardian of the person of the child. If the report recommends that a petition be filed
6 under s. 48.977 (4) (a), the petition may be filed at the same time that the report is
7 submitted.

8 SECTION 2. 48.357 (1) of the statutes is renumbered 48.357 (1) (a) and amended
9 to read:

10 48.357 (1) (a) The person or agency primarily responsible for implementing the
11 dispositional order, the district attorney, or the corporation counsel may request a
12 change in the placement of the child or expectant mother, whether or not the change
13 requested is authorized in the dispositional order, and shall cause written notice to
14 be sent to the child, the parent, guardian, and legal custodian of the child, any foster
15 parent, treatment foster parent, or other physical custodian described in s. 48.62 (2)
16 of the child, the child's court-appointed special advocate, and, if the child is the
17 expectant mother of an unborn child under s. 48.133, the unborn child by the unborn
18 child's guardian ad litem. If the expectant mother is an adult, written notice shall
19 be sent to the adult expectant mother and the unborn child by the unborn child's
20 guardian ad litem. The notice shall contain the name and address of the new
21 placement, the reasons for the change in placement, a statement describing why the
22 new placement is preferable to the present placement, and a statement of how the
23 new placement satisfies objectives of the treatment plan ordered by the court. If the
24 new placement is the home of a relative, as defined in s. 48.977 (1), and if the
25 conditions specified in s. 48.977 (2) (b) to (f) appear to be met, a petition under s.

1 48.977 (4) (a) for the appointment of the relative as the guardian of the person of the
2 child may be filed at the same time that the change in placement is requested.

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

History: 1977 c. 354; 1979 c. 309; 1987 a. 27; 1989 a. 31, 107; 1993 a. 16, 385, 395, 446, 481, 491; 1995 a. 27, 77, 275, 404; 1997 a. 3, 35, 80, 237, 292; 1999 a. 9, 103,
149.

18 **SECTION 3.** 48.357 (2) of the statutes is amended to read:

19 **48.357 (2)** If emergency conditions necessitate an immediate change in the
20 placement of a child or expectant mother placed outside the home, the person or
21 agency primarily responsible for implementing the dispositional order may remove
22 the child or expectant mother to a new placement, whether or not authorized by the
23 existing dispositional order, without the prior notice provided in sub. (1) (a). The
24 notice shall, however, be sent within 48 hours after the emergency change in

1 placement. Any party receiving notice may demand a hearing under sub. (1) (b). In
2 emergency situations, a child may be placed in a licensed public or private shelter
3 care facility as a transitional placement for not more than 20 days, as well as in any
4 placement authorized under s. 48.345 (3).

History: 1977 c. 354; 1979 c. 300; 1987 a. 27; 1989 a. 31, 107; 1993 a. 16, 385, 395, 446, 481, 491; 1995 a. 27, 77, 275, 404; 1997 a. 3, 35, 80, 237, 292; 1999 a. 9, 103,
149.

5 **SECTION 4.** 48.357 (2m) of the statutes is renumbered 48.357 (2m) (a) and
6 amended to read:

7 48.357 (2m) (a) The child, the parent, guardian, or legal custodian of the child,
8 the expectant mother, the unborn child by the unborn child's guardian at litem, or
9 any person or agency primarily bound by the dispositional order, other than the
10 person or agency responsible for implementing the order, may request a change in
11 placement under this subsection ~~paragraph~~. The request shall contain the name and
12 address of the place of the new placement requested and shall state what new
13 information is available ~~which~~ that affects the advisability of the current placement.
14 If the new placement is the home of a relative, as defined in s. 48.977 (1), and if the
15 conditions specified in s. 48.977 (2) (b) to (f) appear to be met, a petition under s.
16 48.977 (4) (a) for the appointment of the relative as the guardian of the person of the
17 child may be filed at the same time that the change in placement is requested. This
18 request shall be submitted to the court. In addition, the court may propose a change
19 in placement on its own motion.

20 (b) The court shall hold a hearing on the matter prior to ordering any change
21 in placement under this subsection ~~paragraph~~ if the request states that new
22 information is available ~~which~~ that affects the advisability of the current placement,
23 unless written waivers of objection to the proposed change in placement are signed
24 by all persons entitled to receive notice under sub. (1) (a), other than a

1 court-appointed special advocate, and the court approves. If a hearing is scheduled,
2 the court shall notify the child, the parent, guardian, and legal custodian of the child,
3 any foster parent, treatment foster parent, or other physical custodian described in
4 s. 48.62 (2) of the child, the child's court-appointed special advocate, all parties who
5 are bound by the dispositional order, and, if the child is the expectant mother of an
6 unborn child under s. 48.133, the unborn child by the unborn child's guardian ad
7 litem, or shall notify the adult expectant mother, the unborn child by the unborn
8 child's guardian ad litem, and all parties who are bound by the dispositional order,
9 at least 3 days prior to the hearing. A copy of the request or proposal for the change
10 in placement shall be attached to the notice. If all the parties consent, the court may
11 proceed immediately with the hearing.

History: 1977 c. 354; 1979 c. 300; 1987 a. 27; 1989 a. 31, 107; 1993 a. 16, 385, 395, 446, 481, 491; 1995 a. 27, 77, 275, 404; 1997 a. 3, 35, 80, 237, 292; 1999 a. 9, 103, 149.

12 **SECTION 5.** 48.357 (2r) of the statutes is amended to read:

13 48.357 (2r) If a hearing is held under sub. (1) (b) or (2m) (b) and the change in
14 placement would remove a child from a foster home, treatment foster home, or other
15 placement with a physical custodian described in s. 48.62 (2), the court shall give the
16 foster parent, treatment foster parent, or other physical custodian described in s.
17 48.62 (2) an opportunity to be heard at the hearing by permitting the foster parent,
18 treatment foster parent, or other physical custodian to make a written or oral
19 statement during the hearing or to submit a written statement prior to the hearing,
20 relating to the child and the requested change in placement. Any written or oral
21 statement made under this subsection shall be made under oath or affirmation. A
22 foster parent, treatment foster parent, or other physical custodian described in s.
23 48.62 (2) who receives notice of a hearing under sub. (1) (b) or (2m) (b) and an
24 opportunity to be heard under this subsection does not become a party to the

1 proceeding on which the hearing is held solely on the basis of receiving that notice
2 and opportunity to be heard.

History: 1977 c. 354; 1979 c. 300; 1987 a. 27; 1989 a. 31, 107; 1993 a. 16, 385, 395, 446, 481, 491; 1995 a. 27, 77, 275, 404; 1997 a. 3, 35, 80, 237, 292; 1999 a. 9, 103, 149.

3 SECTION 6. 48.977 (2) (a) of the statutes is amended to read:

4 48.977 (2) (a) That the child has been adjudged to be in need of protection or
5 services under s. 48.13 (1), (2), (3), (3m), (4), (5), (8), (9), (10), (10m), (11)[✓] or (11m) or
6 938.13 (4) and been placed, or continued in a placement, outside of his or her home
7 pursuant to one or more court orders under s. 48.345, 48.357, 48.363, 48.365,
8 938.345, 938.357, 938.363[✓], or 938.365 for a cumulative total period of one year or
9 longer [✓] or that the child has been so adjudged, but not so placed, and the report under
10 s. 48.36[✓] (1) or 938.33 (1) or a request for a change in placement under s. 48.357[✓] (1)
11 (a) or (2) (a) or 938.357 (1) (a) or (2m) (a) recommends placement of the child with a
12 relative pursuant to an order under s. 48.345, 48.357, 938.345, or 938.357.

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

13 SECTION 7. 48.977 (2) (b) of the statutes is amended to read:

14 48.977 (2) (b) That the person nominated as the guardian of the child is a
15 relative of the child with whom the child has been placed or in whose home placement
16 is recommended as described in par. (a) and that it is likely that the child will
17 continue to be placed with that relative for an extended period of time or until the
18 child attains the age of 18 years.

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

19 SECTION 8. 48.977 (2) (f) of the statutes is amended to read:

20 48.977 (2) (f) That the agency primarily responsible for providing services to
21 the child under a court order has made reasonable efforts to make it possible for the
22 child to return to his or her home, while assuring that the child's health and safety
23 are the paramount concerns, but that reunification of the child with the child's

1 parent or parents is unlikely or contrary to the best interests of the child and that
2 further reunification efforts are unlikely to be made or are contrary to the best
3 interests of the child or that the agency primarily responsible for providing services
4 to the child under a court order has made reasonable efforts to prevent the removal
5 of the child from his or her home, while assuring that the child's health and safety
6 are the paramount concerns, but that continued placement of the child in the home
7 would be contrary to the health, safety, and welfare of the child, except that the court
8 need not find that the agency has made those reasonable efforts with respect to a
9 parent of the child if any of the circumstances specified in s. 48.355 (2d) (b) 1., 2., 3.
10 or 4. apply to that parent.

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

11 **SECTION 9.** 48.977 (4) (a) 4. of the statutes is amended to read:

12 48.977 (4) (a) 4. The relative with whom the child is placed or in whose home
13 placement is recommended as described in sub. (2). (a) if the relative is nominated
14 as the guardian of the child in the petition.

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

15 **SECTION 10.** 48.977 (4) (a) 6. of the statutes is amended to read:

16 48.977 (4) (a) 6. A county department under s. 46.22 or 46.23 or, if the child has
17 been placed pursuant to an order under ch. 938 or the child's placement with a
18 relative has been recommended pursuant to a court report or request for a change
19 in placement under ch. 938, a county department under s. 46.215, 46.22 or 46.23.

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

20 **SECTION 11.** 48.977 (4) (b) 3. of the statutes is amended to read:

21 48.977 (4) (b) 3. The date the child was adjudged in need of protection or
22 services under s. 48.13 (1), (2), (3), (3m), (4), (5), (8), (9), (10), (10m), (11) or (11m) or
23 938.13 (4) and the dates that the child has been placed, or continued in a placement,
24 outside of his or her home pursuant to one or more court orders under s. 48.345,

1 ~~48.357, 48.363, 48.365, 938.345, 938.357, 938.363 or 938.365 or, if the child has been~~
 2 ~~so adjudged, but not so placed, the date of the report under s. 48.33 (1) or 938.33 (1)~~
 3 ~~or request for a change in placement under s. 48.357 (1) (a) or (2) (a) or 938.357 (1)~~
 4 ~~(a) or (2m) (a) in which placement of the child in the home of a relative is~~
 5 ~~recommended or requested.~~

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

6 SECTION 12. 48.977 (4) (c) 1. g. of the statutes is amended to read:

7 48.977 (4) (c) 1. g. The relative with whom the child is placed or in whose home
 8 placement is recommended as described in sub. (2). (a) if the relative is nominated
 9 as the guardian of the child in the petition.

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

10 ~~SECTION 13. 48.977~~ (4) (e) of the statutes is amended to read:

11 48.977 (4) (e) *Court report.* The For a child who has been placed, or continued
 12 in a placement, outside of his or her home for 6 months or longer, the court shall order
 13 the person or agency primarily responsible for providing services to the child under
 14 a court order to file with the court a report containing the written summary under
 15 s. 48.38 (5) (e) and as much information relating to the appointment of a guardian
 16 as is reasonably ascertainable. For a child who has been placed, or continued in a
 17 placement, outside of his or her home for less than 6 months ~~or who has not been~~
 18 placed outside of his or her home, the court shall order the person or agency primarily
 19 responsible for providing services to the child under a court order to file with the
 20 court the report submitted under s. 48.33 (1) or 938.33 (1), the permanency plan
 21 prepared under s. 48.38 or 938.38, if one has been prepared, and as much information
 22 relating to the appointment of a guardian as is reasonably ascertainable. The agency

1 shall file the report at least 48 hours before the date of the dispositional hearing
2 under par. (fm).

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

3 ~~SECTION 14. 938.33 (3v) of the statutes is created to read:~~

4 ~~938.33 (3v) RELATIVE PLACEMENT REPORTS. A report recommending placement~~
5 ~~of the juvenile with a relative, as defined in s. 48.977 (1), shall be in writing and, if~~
6 ~~the conditions specified in s. 48.977 (2) (b) to (f) appear to be met, may recommend~~
7 ~~that a petition be filed under s. 48.977 (4) (a) for the appointment of the relative as~~
8 ~~the guardian of the person of the juvenile. If the report recommends that a petition~~
9 ~~be filed under s. 48.977 (4) (a), the petition may be filed at the same time that the~~
10 ~~report is submitted.~~

11 ~~SECTION 15. 938.357 (1) of the statutes is renumbered 938.357 (1) (a) and~~
12 ~~amended to read:~~

13 ~~938.357 (1) (a) The person or agency primarily responsible for implementing~~
14 ~~the dispositional order or the district attorney may request a change in the~~
15 ~~placement of the juvenile, whether or not the change requested is authorized in the~~
16 ~~dispositional order, and shall cause written notice to be sent to the juvenile or the~~
17 ~~juvenile's counsel or guardian ad litem, parent, foster parent, treatment foster~~
18 ~~parent, or other physical custodian described in s. 48.62 (2), guardian, and legal~~
19 ~~custodian. The notice shall contain the name and address of the new placement, the~~
20 ~~reasons for the change in placement, a statement describing why the new placement~~
21 ~~is preferable to the present placement, and a statement of how the new placement~~
22 ~~satisfies objectives of the treatment plan ordered by the court. If the new placement~~
23 ~~is the home of a relative, as defined in s. 48.977 (1), and if the conditions specified~~
24 ~~in s. 48.977 (2) (b) to (f) appear to be met, a petition under s. 48.977 (4) (a) for the~~

1 appointment of the relative as the guardian of the person of the juvenile may be filed
2 at the same time that the change in placement is requested.

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

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

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

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

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

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

3 **SECTION 17. 938.357 (2m)** of the statutes is renumbered 938.357 (2m) (b) and
4 amended to read:

5 938.357 (2m) (b) The juvenile, the parent, guardian, or legal custodian of the
6 juvenile, or any person or agency primarily bound by the dispositional order, other
7 than the person or agency responsible for implementing the order, may request a
8 change in placement under this subsection paragraph. The request shall contain the
9 name and address of the place of the new placement requested and shall state what
10 new information is available ~~which~~ that affects the advisability of the current
11 placement. If the new placement is the home of a relative, as defined in s. 48.977 (1)
12 and if the conditions specified in s. 48.977 (2) (b) to (f) appear to be met, a petition
13 under s. 48.977 (4) (a) for the appointment of the relative as the guardian of the
14 person of the juvenile may be filed at the same time that the change in placement is
15 requested. This request shall be submitted to the court. In addition, the court may
16 propose a change in placement on its own motion.

17 (b) The court shall hold a hearing on the matter prior to ordering any change
18 in placement under this subsection paragraph if the request states that new
19 information is available ~~which~~ that affects the advisability of the current placement,
20 unless written waivers of objection to the proposed change in placement are signed
21 by all parties entitled to receive notice under sub. (1) (a) and the court approves. If
22 a hearing is scheduled, the court shall notify the juvenile, the parent, guardian, and
23 legal custodian of the juvenile, any foster parent, treatment foster parent, or other
24 physical custodian described in s. 48.62 (2) of the juvenile, and all parties who are

1 bound by the dispositional order at least 3 days prior to the hearing. A copy of the
2 request or proposal for the change in placement shall be attached to the notice. If
3 all the parties consent, the court may proceed immediately with the hearing.

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

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

5 938.357 (2r) If a hearing is held under sub. (1) (b) or (2m) (b) and the change
6 in placement would remove a juvenile from a foster home, treatment foster home, or
7 other placement with a physical custodian described in s. 48.62 (2), the court shall
8 give the foster parent, treatment foster parent, or other physical custodian described
9 in s. 48.62 (2) an opportunity to be heard at the hearing by permitting the foster
10 parent, treatment foster parent, or other physical custodian to make a written or oral
11 statement during the hearing or to submit a written statement prior to the hearing
12 relating to the juvenile and the requested change in placement. Any written or oral
13 statement made under this subsection shall be made under oath or affirmation. A
14 foster parent, treatment foster parent, or other physical custodian described in s.
15 48.62 (2) who receives notice of a hearing under sub. (1) (b) or (2m) (b) and an
16 opportunity to be heard under this subsection does not become a party to the
17 proceeding on which the hearing is held solely on the basis of receiving that notice
18 and opportunity to be heard.

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

19 **SECTION 19.** 938.357 (3) of the statutes is amended to read:

20 938.357 (3) Subject to sub. (4) (b) and (c) and (5) (e), if the proposed change in
21 placement would involve placing a juvenile in a secured correctional facility, a
22 secured child caring institution, or a secured group home, notice shall be given as
23 provided in sub. (1) (a). A hearing shall be held, unless waived by the juvenile,
24 parent, guardian, and legal custodian, before the judge makes a decision on the

1 request. The juvenile shall be entitled to counsel at the hearing, and any party
2 opposing or favoring the proposed new placement may present relevant evidence and
3 cross-examine witnesses. The proposed new placement may be approved only if the
4 judge finds, on the record, that the conditions set forth in s. 938.34 (4m) have been
5 met.

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

6 **SECTION 20.** 938.357 (4) (b) 2. of the statutes is amended to read:

7 938.357 (4) (b) 2. If a juvenile whom the court has placed in a Type 2 child
8 caring institution under s. 938.34 (4d) violates a condition of his or her placement in
9 the Type 2 child caring institution, the child welfare agency operating the Type 2
10 child caring institution shall notify the county department that has supervision over
11 the juvenile and, if the county department agrees to a change in placement under this
12 subdivision, the child welfare agency shall notify the department and the
13 department, after consulting with the child welfare agency, may place the juvenile
14 in a Type 1 secured correctional facility under the supervision of the department,
15 without a hearing under sub. (1) (b), for not more than 10 days. If a juvenile is placed
16 in a Type 1 secured correctional facility under this subdivision, the county
17 department that has supervision over the juvenile shall reimburse the child welfare
18 agency operating the Type 2 child caring institution in which the juvenile was placed
19 at the rate established under s. 46.037, and that child welfare agency shall reimburse
20 the department at the rate specified in s. 301.26 (4) (d) 2., 3. or 4., whichever is
21 applicable, for the cost of the juvenile's care while placed in a Type 1 secured
22 correctional facility.

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

23 **SECTION 21.** 938.357 (4) (c) 1. of the statutes is amended to read:

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

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

9 **SECTION 22.** 938.357 (4) (c) 2. of the statutes is amended to read:

10 938.357 (4) (c) 2. If a juvenile is placed in a Type 2 child caring institution under
11 s. 938.34 (4d) and it appears that a less restrictive placement would be appropriate
12 for the juvenile, the child welfare agency operating the Type 2 child caring
13 institution shall notify the county department that has supervision over the juvenile
14 and, if the county department agrees to a change in placement under this
15 subdivision, the child welfare agency may place the juvenile in a less restrictive
16 placement. A child welfare agency may also, with the agreement of the county
17 department that has supervision over a juvenile who is placed in a less restrictive
18 placement under this subdivision, return the juvenile to the Type 2 child caring
19 institution without a hearing under sub. (1) (b). The child welfare agency shall
20 establish a rate for each type of placement in the manner provided in s. 46.037.

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

21 **SECTION 23.** 938.357 (4) (d) of the statutes is amended to read:

22 938.357 (4) (d) The department may transfer a juvenile who is placed in a Type
23 1 secured correctional facility to the Racine youthful offender correctional facility
24 named in s. 302.01 if the juvenile is 15 years of age or over and the office of juvenile

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

NOTE: NOTE: The provisions of par. (d) that subject a juvenile to placement in an adult (Type 1) prison were held to violate Article I, s. 7 of the Wisconsin Constitution and the 6th and 14th amendments of the U. S. Constitution and to be severed from the remainder of ch. 938 by the Supreme Court in *State of Wisconsin v. Hizzie R.* 219 Wis. 2d 849, 580 N.W.2d 660 (1998).NOTE:

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

16 **SECTION 24. 938.357 (5) (a)** of the statutes is amended to read:

17 938.357 (5) (a) The department or a county department, whichever has been
 18 designated as a juvenile's aftercare provider under s. 938.34 (4n), may revoke the
 19 aftercare status of that juvenile. Revocation of aftercare supervision shall not
 20 require prior notice under sub. (1) (a).

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

21 **SECTION 9109. Nonstatutory provisions; circuit courts.**

22 (1) **RELATIVE GUARDIANSHIPS.** Notwithstanding section 48.977 (2) (a), 1999
 23 stats., a petition under section 48.977 (4) of the statutes, as affected by this act, may

1 be filed for the appointment of a relative as the guardian of the person of a child who
2 has been placed, or continued in a placement, outside of his or her home for less than one
3 year on the effective date of this subsection.

4

(END)

her

441 / 1

D-Note

GMM: King

Gretchen:

In accordance with your October 3, 2000, e-mail message forwarding ~~to~~ to me Andy Forsaith's revised drafting instructions, this draft merely eliminates the ~~one~~ one-year waiting period for relative guardianships. The draft does not permit a petition for a relative guardianship to be filed for a child who ~~is~~ is being placed in a relative's home.

GMM

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB01-0441/1dn
...CMM.....

Gretchen:

If the length and complexity of this draft is of concern to you, this draft can be reduced to two SECTIONS in length, specifically, the treatments of 48.977 (2) (a) and (4) (e), with just a small tweak in policy. Specifically, the main idea of the draft appears to be to eliminate the one-year waiting period before a relative may be appointed as the guardian of a child. That is accomplished in the treatments of the two SECTIONS mentioned above. The bulk of this draft, however, is made necessary by some additional language requested by DHFS, specifically, to permit a relative to be appointed as a child's guardian when the child is *being* placed outside of his or her home, that is, the child is not yet placed outside the home, but a placement outside the home is recommended, which would occur either in the court report on initial disposition or pursuant to a change in placement. Moreover, as we discussed at the DOA-LRB reception, a court might have qualms about granting permanent guardianship of a child to a relative with whom the child has not yet spent a single night because, without some track record, the court has no idea whether the placement, much less the guardianship, is going to work out.

Accordingly, you might want to consider eliminating from the draft the provisions about a child who has not yet been placed with a relative, but who is in the process of being so placed. Eliminating those provisions would still permit a relative to be appointed guardian of a child who has spent as little time as one day placed with the relative. Alternatively, if you want the child to have spent at least some period of time with the relative, you might consider shortening the current one-year waiting period to a shorter period of time such as six months or three months.

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0441/1dn
GMM:kmg:rs

October 5, 2000

Gretchen:

In accordance with your October 3, 2000, e-mail message forwarding to me Andy Forsaith's revised drafting instructions, this draft merely eliminates the one-year waiting period for relative guardianships. The draft does not permit a petition for a relative guardianship to be filed for a child who *is being* placed in a relative's home.

Gordon M. Malaise
Senior Legislative Attorney
Phone: (608) 266-9738
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**WISCONSIN DEPARTMENT OF
ADMINISTRATION**

TOMMY G. THOMPSON
GOVERNOR

GEORGE LIGHTBOURN
SECRETARY

Office of the Secretary
Post Office Box 7864
Madison, WI 53707-7864
Voice (608) 266-1741
Fax (608) 267-3842
TTY (608) 267-9629

GMM
2

Date: January 8, 2001

To: Gordon M. Malaise, Senior Legislative Attorney
Legislative Reference Bureau

From: Gretchen A. Fossum, Budget Analyst
State Budget Office *SAT*

Subject: LRB Draft 0441/1, Appointment of Relative as Guardian of Child

Please revise LRB 0441/1, appointment of relative a guardian as a child as follows:

1. Amend s. 48.977(2)(a) to read "been placed, or continued in a placement or is being placed". I have discussed this request with Therese Durkin and am now convinced that this amendment will give county departments flexibility on guardianship but it will be up to the discretion of the judge who will still have oversight over the guardianship.
2. Add a provision that would allow a guardian, either a relative or non relative, who has been a licensed foster parent, to a monthly foster care payment that is equivalent to the average GPR cost being currently expended foster care rate payments.

Under current law, the guardianship cannot receive the foster care payment. A relative guardian may be eligible for a kinship care payment which is less than the foster care rate. I am attaching materials put together by the department as backup for this request.

3. Add a provision that requires the Department of Health and Family Services to seek a federal waiver to its Title IV-E plan so that the state can get Title IV-E reimbursements for this "subsidized" guardianship.

If you have any questions on this request, please contact me at 266-2288.



Tommy G. Thompson
Governor

Joe Leman
Secretary

1 WEST WILSON STREET
P O BOX 8916
MADISON WI 53708-8916

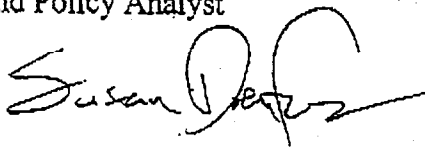
Telephone: 608-267-3905
FAX: 608-266-6836
www.dhfs.state.wi.us

State of Wisconsin
Department of Health and Family Services

MEMORANDUM

DATE: December 15, 2000

TO: Gretchen Fossum
Executive Budget and Policy Analyst

FROM: Susan N. Dreyfus
Administrator 

CC: Mark Campbell, BPP
Therese Durkin, OLC
Bill Fiss, AO
Jennifer Jones, AO
Denise Revels Robinson, BMCW

RE: Subsidized Guardianship

Relative placements have always served as a priority placement option with a substantial level of permanence for children in need of care. Under current law, in order for a relative to receive financial assistance for the care and upbringing of the child, the child must be placed by court order and the relative must become licensed as a foster parent or be provided with kinship care.

The court ordered placement, by law, requires a significant amount of services and permanency planning that may not be necessary for the relative caregiver. The level of oversight required for foster care placement with relatives is often not needed with family care as the court has already determined that the child's permanent placement will be with the relative.

The option of subsidized guardianship for permanent relative and non-relative care as ordered by the juvenile court, would allow payment to the guardian at a rate established by the Department of Health and Family Services based on the average GPR currently being expended on these types of cases without requiring the full level of child welfare services and case management. Medicaid should also be made available to the guardian based on eligibility and child care needs for the purposes of work.

Attached is draft statutory language changes for subsidized guardianship. Please feel free to contact me at 267-3905 if you have any questions.

Thank you.

Title: Subsidized Guardianship

Current Language: Under current law, a relative can be made a guardian of a child under s. 48.977 under certain conditions, including that the child has been adjudicated CHIPS under s. 48.13 and been placed outside of his or her home for a cumulative period of one year or more.

Proposed Change: Revise s. 48.977(2)(a) to read: That the child ~~has~~ has been adjudged to be in need of protection or services under s. 48.13(1), (2), (3), (3m), (4), (5), (8), (9), (10), (10m), (11) or (11m) or 938.13(4) and been placed, or continued in a placement, or is being placed outside of his or her home pursuant to one or more court orders under s. 48.345, 48.357, 48.363, 48.365, 938.345, 938.357, 938.363 or 938.365. Authority should also be provided to permit subsidized guardianship for non-relatives. This will cover those children over the age of twelve who have reached the Adoption and Safe Families Act time limits. Any child not meeting these conditions must have approval by the agency director. Additional statutory changes needed may include amendment to s.48.427(3m) relating to dispositions upon termination of parental rights; s.48.345 relating to CHIPS dispositions; s.48.43(5)(c) relating to parental rights termination orders; s.48.38(2) relating to permanency plans; s.48.48 and s.48.57 relating to authorities of a county or DHFS in Milwaukee County. Analogous changes should also be made to 938 as provided above.

15/22

Effect of the Change: To provide an additional permanency option for children by allowing the appointment of a subsidized guardian and payments through the age of 18 or 19 if the child is obtaining a high school diploma or equivalent, at a rate established by the Department of Health and Family Services based on the average GPR currently being expended on these types of cases without requiring full child welfare services and case management.

Rationale for the Change: Subsidized guardianship provides a substantial level of permanence for a child that is not provided when the child is in foster care, in the home of a relative or non-relative without guardianship, or in some other type of out-of-home care. The court should have the ability to place guardianship with a relative or non relative whenever the court deems it in the best interests of the child. The subsidized guardian should be allowed a payment without the full monitoring and services of the child welfare system.

Desired Effective Date: When the law is enacted
Agency: DHFS
Agency Contact: Mark Mitchell, Child Welfare Services Section, DCFS
Phone: 266-2860



State of Wisconsin
2001 - 2002 LEGISLATURE

Soon!

LRB-0441/p
GMM:kmg:rs

RM
not run
(forgot)

DOA:.....Fossum - Appointment of relative as guardian of child
FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau

Insert A

HEALTH AND HUMAN SERVICES

CHILDREN

Under current law, the court assigned to exercise jurisdiction under the Children's Code (juvenile court) may appoint a relative of a child as the guardian of the child if the juvenile court makes certain findings, including a finding that the child has been adjudged to be in need of protection or services and has been placed, ~~or continued in a placement,~~ outside of his or her home pursuant to ~~one or more~~ ^{an order} orders of the juvenile court for one year or longer. This bill eliminates that one-year waiting period.

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:

- 2 SECTION 1. 48.977 (2) (a) of the statutes is amended to read:
- 3 48.977 (2) (a) That the child has been adjudged to be in need of protection or
- 4 services under s. 48.13 (1), (2), (3), (3m), (4), (5), (8), (9), (10), (10m), (11), or (11m) or

Insert 2-4

Insert 2-5

Insert 2-18
9123

Insert 2-24

1 938.13 (4) and been placed, or continued in a placement, outside of his or her home
2 pursuant to one or more court orders under s. 48.345, 48.357, 48.363, 48.365,
3 938.345, 938.357, 938.363, or 938.365 for a cumulative total period of one year or
4 longer.

5 SECTION 2. 48.977 (4) (e) of the statutes is amended to read:

6 48.977 (4) (e) *Court report.* The For a child who has been placed, or continued
7 in a placement, outside of his or her home for 6 months or longer, the court shall order
8 the person or agency primarily responsible for providing services to the child under
9 a court order to file with the court a report containing the written summary under
10 s. 48.38 (5) (e) and as much information relating to the appointment of a guardian
11 as is reasonably ascertainable. For a child who has been placed, or continued in a
12 placement, outside of his or her home for less than 6 months, the court shall order
13 the person or agency primarily responsible for providing services to the child under
14 a court order to file with the court the report submitted under s. 48.33 (1) or 938.33
15 (1), the permanency plan prepared under s. 48.38 or 938.38, if one has been prepared,
16 and as much information relating to the appointment of a guardian as is reasonably
17 ascertainable. The agency shall file the report at least 48 hours before the date of
18 the dispositional hearing under par. (fm).

(B) health and family services

19 SECTION 9109. ~~Nonstatutory provisions; circuit courts.~~

20 (1) RELATIVE GUARDIANSHIPS. Notwithstanding section 48.977 (2) (a), 1999
21 stats., a petition under section 48.977 (4) of the statutes, as affected by this act, may
22 be filed for the appointment of a relative as the guardian of the person of a child who
23 has been placed, or continued in a placement, outside of his or her home for less than
24 one year on the effective date of this subsection.

(END)

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

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(INSERT 2-1)

SECTION 1. 20.435 (7) (b) of the statutes is amended to read:

20.435 (7) (b) *Community aids.* The amounts in the schedule for human services under s. 46.40, to fund services provided by resource centers under s. 46.283 (5), for services under the family care benefit under s. 46.284 (5), for reimbursement to counties having a population of less than 500,000 for the cost of court attached intake services under s. 48.06 (4), for shelter care under ss. 48.58 and 938.22, and for foster care and, treatment foster care, and subsidized guardianship care under s. ss. 46.261 and 49.19 (10). Social services disbursements under s. 46.03 (20) (b) may be made from this appropriation. Refunds received relating to payments made under s. 46.03 (20) (b) for the provision of services for which moneys are appropriated under this paragraph shall be returned to this appropriation. Notwithstanding ss. 20.001 (3) (a) and 20.002 (1), the department of health and family services may transfer funds between fiscal years under this paragraph. The department shall deposit into this appropriation funds it recovers under ss. 46.495 (2) (b) and 51.423 (15) from prior year audit adjustments including those resulting from audits of services under s. 46.26, 1993 stats., or s. 46.27. Except for amounts authorized to be carried forward under s. 46.45, all funds recovered under ss. 46.495 (2) (b) and 51.423 (15) and all funds allocated under s. 46.40 and not spent or encumbered by December 31 of each year shall lapse to the general fund on the succeeding January 1 unless carried forward to the next calendar year by the joint committee on finance.

History: 1971 c. 125 ss. 138 to 155, 522 (1); 1971 c. 211, 215, 302, 307, 322; 1973 c. 90, 198, 243; 1973 c. 284 s. 32; 1973 c. 308, 321, 322, 333, 336; 1975 c. 39 ss. 153 to 173, 732 (1), (2); 1975 c. 41 s. 52; 1975 c. 82, 224, 292; 1975 c. 413 s. 18; 1975 c. 422, 423; 1975 c. 430 ss. 1, 2, 80; 1977 c. 29 ss. 236 to 273, 1657 (18); 1977 c. 112; 1977 c. 203 s. 106; 1977 c. 213, 233, 327; 1977 c. 354 s. 101; 1977 c. 359; 1977 c. 418 ss. 129 to 137, 924 (18) (d), 929 (55); 1977 c. 428 s. 115; 1977 c. 447; 1979 c. 32 s. 92 (11); 1979 c. 34, 48; 1979 c. 102 s. 237; 1979 c. 111, 175, 177; 1979 c. 221 ss. 118g to 133, 2202 (20); 1979 c. 238, 300, 331, 361; 1981 c. 20 ss. 301 to 356b, 2202 (20) (b), (d), (g); 1981 c. 93 ss. 3 to 8, 186; 1981 c. 298, 314, 317, 359, 390; 1983 a. 27 ss. 318 to 410, 2202 (20); 1983 a. 192, 199, 245; 1983 a. 333 s. 6; 1983 a. 363, 398, 410, 427; 1983 a. 435 ss. 2, 3, 7; 1983 a. 538; 1985 a. 24, 29, 56, 73, 120, 154, 176, 255, 281, 285, 332; 1987 a. 27, 339, 368, 398, 399, 402; 1987 a. 403 ss. 25, 256; 1987 a. 413; 1989 a. 31, 53; 1989 a. 56 ss. 13, 259; 1989 a. 102; 1989 a. 107 ss. 11, 13, 17 to 37; 1989 a. 120, 122, 173, 199, 202, 318, 336, 359; 1991 a. 6, 39, 189, 269, 275, 290, 315, 322; 1993 a. 16, 27, 76, 98, 99, 168, 183, 377, 437, 445, 446, 450, 469, 479, 490, 491; 1995 a. 27 ss. 806 to 961r, 9126 (19); 1995 a. 77, 98; 1995 a. 216 ss. 26, 27; 1995 a. 266, 276, 289, 303, 404, 417, 440, 448, 464, 468; 1997 a. 27 ss. 211, 214, 216, 217, 527 to 609; 1997 a. 35, 105, 231, 237, 280, 293; 1999 a. 5, 9, 32, 52, 84, 103, 109, 113, 133, 185, 186.

SECTION 2. 20.435 (7) (kw) of the statutes is amended to read:

20.435 (7) (kw) *Interagency community aids*. The amounts in the schedule for human services under s. 46.40, for reimbursement to counties having a population of less than 500,000 for the cost of court attached intake services under s. 48.06 (4), for shelter care under ss. 48.58 and 938.22, for foster care and, treatment foster care, and subsidized guardianship care under s. ss. 46.261 and 49.19 (10), and for mental health services under s. 51.423 (1). All moneys transferred from the appropriation account under s. 20.445 (3) (md) for those purposes shall be credited to this appropriation account.

History: 1971 c. 125 ss. 138 to 155, 522 (1); 1971 c. 211, 215, 302, 307, 322; 1973 c. 90, 198, 243; 1973 c. 284 s. 32; 1973 c. 308, 321, 322, 333, 336; 1975 c. 39 ss. 153 to 173, 732 (1), (2); 1975 c. 41 s. 52; 1975 c. 82, 224, 292; 1975 c. 413 s. 18; 1975 c. 422, 423; 1975 c. 430 ss. 1, 2, 80; 1977 c. 29 ss. 236 to 273, 1657 (18); 1977 c. 112; 1977 c. 203 s. 106; 1977 c. 213, 233, 327; 1977 c. 354 s. 101; 1977 c. 359; 1977 c. 418 ss. 129 to 137, 924 (18) (d), 929 (55); 1977 c. 428 s. 115; 1977 c. 447; 1979 c. 32 s. 92 (11); 1979 c. 34, 48; 1979 c. 102 s. 237; 1979 c. 111, 175, 177; 1979 c. 221 ss. 118g to 133, 2202 (20); 1979 c. 238, 300, 331, 361; 1981 c. 20 ss. 301 to 356b, 2202 (20) (b), (d), (g); 1981 c. 93 ss. 3 to 8, 186; 1981 c. 298, 314, 317, 359, 390; 1983 a. 27 ss. 318 to 410, 2202 (20); 1983 a. 192, 199, 245; 1983 a. 333 s. 6; 1983 a. 363, 398, 410, 427; 1983 a. 435 ss. 2, 3, 7; 1983 a. 538; 1985 a. 24, 29, 56, 73, 120, 154, 176, 255, 281, 285, 332; 1987 a. 27, 339, 368, 398, 399, 402; 1987 a. 403 ss. 25, 256; 1987 a. 413; 1989 a. 31, 53; 1989 a. 56 ss. 13, 259; 1989 a. 102; 1989 a. 107 ss. 11, 13, 17 to 37; 1989 a. 120, 122, 173, 199, 202, 318, 336, 359; 1991 a. 6, 39, 189, 269, 275, 290, 315, 322; 1993 a. 16, 27, 76, 98, 99, 168, 183, 377, 437, 445, 446, 450, 469, 479, 490, 491; 1995 a. 27 ss. 806 to 961r, 9126 (19); 1995 a. 77, 98; 1995 a. 216 ss. 26, 27; 1995 a. 266, 276, 289, 303, 404, 417, 440, 448, 464, 468; 1997 a. 27 ss. 211, 214, 216, 217, 527 to 609; 1997 a. 35, 105, 231, 237, 280, 293; 1999 a. 5, 9, 32, 52, 84, 103, 109, 113, 133, 185, 186.

SECTION 3. 46.10 (14) (a) of the statutes is amended to read:

46.10 (14) (a) Except as provided in pars. (b) and (c), liability of a person specified in sub. (2) or s. 46.03 (18) for inpatient care and maintenance of persons under 18 years of age at community mental health centers, a county mental health complex under s. 51.08, the centers for the developmentally disabled, Mendota mental health institute, and Winnebago mental health institute or care and maintenance of persons under 18 years of age in residential, nonmedical facilities such as group homes, foster homes, treatment foster homes, subsidized guardianship homes, child caring institutions, and juvenile correctional institutions is determined in accordance with the cost-based fee established under s. 46.03 (18). The department shall bill the liable person up to any amount of liability not paid by an insurer under s. 632.89 (2) or (2m) or by other 3rd party benefits, subject to rules which include formulas governing ability to pay promulgated by the department under s. 46.03 (18). Any liability of the patient not payable by any other person

terminates when the patient reaches age 18, unless the liable person has prevented payment by any act or omission.

History: 1971 c. 125; 1971 c. 213 s. 5; 1973 c. 90 ss. 223, 223m, 560 (3); 1973 c. 198, 333; 1975 c. 39 ss. 347 to 350, 734; 1975 c. 41, 94; 1975 c. 189 s. 99 (2); 1975 c. 198, 199, 224; 1975 c. 413 s. 18; 1975 c. 428; 1975 c. 430 ss. 6, 80; 1977 c. 29, 203; 1977 c. 418 ss. 294 to 295, 924 (50), 929 (18); 1977 c. 428; 1977 c. 447 s. 206; 1977 c. 449 ss. 75, 497; 1979 c. 34; 1979 c. 102 ss. 236 (4), 237; 1979 c. 117, 221, 331; 1981 c. 20 ss. 755 to 758, 2202 (20) (i), (n); 1981 c. 81; 1983 a. 27 ss. 955m, 2202 (20); 1985 a. 29, 176, 281, 332; 1987 a. 307; 1989 a. 31, 56, 96, 212; 1991 a. 39, 221, 315, 316; 1993 a. 16, 27, 385, 437, 446, 479, 481; 1995 a. 27 ss. 2054, 2055, 9130 (4); 1995 a. 77, 224, 404; 1997 a. 3, 27, 35, 237, 308; 1999 a. 9, 103.

History: 1973 c. 90, 333; 1975 c. 39; 1975 c. 198 s. 65; 1977 c. 29, 418; 1981 c. 20; 1983 a. 27, 116, 192; 1985 a. 176; 1985 a. 332 s. 251 (3); 1987 a. 27; 1987 a. 161 s. 13m; 1989 a. 31, 122, 359; 1993 a. 375, 380, 446; 1995 a. 27, 1997 a. 27, 79, 237; 1999 a. 9, 103.

SECTION 4. 46.10 (14) (b) of the statutes is amended to read:

46.10 (14) (b) Except as provided in par. (c) and subject to par. (cm), liability of a parent specified in sub. (2) or s. 46.03 (18) for the care and maintenance of the parent's minor child who has been placed by a court order under s. 48.355 or 48.357 in a residential, nonmedical facility such as a group home, foster home, treatment foster home, subsidized guardianship home, or child caring institution shall be determined by the court by using the percentage standard established by the department of workforce development under s. 49.22 (9) and by applying the percentage standard in the manner established by the department under s. 46.247.

History: 1971 c. 125; 1971 c. 213 s. 5; 1973 c. 90 ss. 223, 223m, 560 (3); 1973 c. 198, 333; 1975 c. 39 ss. 347 to 350, 734; 1975 c. 41, 94; 1975 c. 189 s. 99 (2); 1975 c. 198, 199, 224; 1975 c. 413 s. 18; 1975 c. 428; 1975 c. 430 ss. 6, 80; 1977 c. 29, 203; 1977 c. 418 ss. 294 to 295, 924 (50), 929 (18); 1977 c. 428; 1977 c. 447 s. 206; 1977 c. 449 ss. 75, 497; 1979 c. 34; 1979 c. 102 ss. 236 (4), 237; 1979 c. 117, 221, 331; 1981 c. 20 ss. 755 to 758, 2202 (20) (i), (n); 1981 c. 81; 1983 a. 27 ss. 955m, 2202 (20); 1985 a. 29, 176, 281, 332; 1987 a. 307; 1989 a. 31, 56, 96, 212; 1991 a. 39, 221, 315, 316; 1993 a. 16, 27, 385, 437, 446, 479, 481; 1995 a. 27 ss. 2054, 2055, 9130 (4); 1995 a. 77, 224, 404; 1997 a. 3, 27, 35, 237, 308; 1999 a. 9, 103.

SECTION 5. 46.261 (1) (a) of the statutes is amended to read:

46.261 (1) (a) The child is living in a foster home or treatment foster home licensed under s. 48.62 if a license is required under that section, in a foster home or treatment foster home located within the boundaries of a federally recognized American Indian reservation in this state and licensed by the tribal governing body of the reservation, in a group home licensed under s. 48.625, in a subsidized guardianship home ^{described in} ~~under~~ s. 48.977 (3r) (a), or in a child caring institution licensed under s. 48.60, and has been placed in the foster home, treatment foster home, group home, subsidized guardianship home, or institution by a county department under s. 46.215, 46.22, or 46.23, by the department, or by a federally recognized American

(X)

Indian tribal governing body in this state under an agreement with a county department under s. 46.215, 46.22, or 46.23.

History: 1995 a. 289; 1997 a. 27.

SECTION 6. 46.261 (2) (a) 1. of the statutes is amended to read:

46.261 (2) (a) 1. A nonrelative who cares for the dependent child in a foster home or treatment foster home having a license under s. 48.62, in a foster home or treatment foster home located within the boundaries of a federally recognized American Indian reservation in this state and licensed by the tribal governing body of the reservation or in a group home licensed under s. 48.625, a subsidized guardian under s. 48.977 (3r) (a) who cares for the dependent child, or a minor custodial parent who cares for the dependent child, regardless of the cause or prospective period of dependency. The state shall reimburse counties pursuant to the procedure under s. 46.495 (2) and the percentage rate of participation set forth in s. 46.495 (1) (d) for aid granted under this section except that if the child does not have legal settlement in the granting county, state reimbursement shall be at 100%. The county department under s. 46.215 or 46.22 or the department under s. 48.48 (17) shall determine the legal settlement of the child. A child under one year of age shall be eligible for aid under this subsection irrespective of any other residence requirement for eligibility within this section.

History: 1995 a. 289; 1997 a. 27.

SECTION 7. 46.261 (2) (a) 3. of the statutes is amended to read:

46.261 (2) (a) 3. A county or, in a county having a population of 500,000 or more, the department, when the child is placed in a licensed foster home, treatment foster home, group home, ^{plain} ~~or~~ child caring institution, or ~~in a~~ ^{STET} ~~subsidized~~ guardianship home by a licensed child welfare agency or by a federally recognized American Indian tribal governing body in this state or by its designee, if the child is in the legal custody of

the county department under s. 46.215, 46.22, or 46.23 or the department under s. 48.48 (17) or if the child was removed from the home of a relative, as defined under s. 48.02 (15), as a result of a judicial determination that continuance in the home of the relative would be contrary to the child's welfare for any reason and the placement is made pursuant to an agreement with the county department or the department.

History: 1995 a. 289; 1997 a. 27.

SECTION 8. 46.261 (2) (a) ~~4.~~ of the statutes is amended to read:

46.261 (2) (a) 4. A licensed foster home, treatment foster home, group home, or child caring institution or a subsidized guardianship home when the child is in the custody or guardianship of the state, when the child is a ward of an American Indian tribal court in this state and the placement is made under an agreement between the department and the tribal governing body, or when the child was part of the state's direct service case load and was removed from the home of a relative, as defined under s. 48.02 (15), as a result of a judicial determination that continuance in the home of a relative would be contrary to the child's welfare for any reason and the child is placed by the department.

History: 1995 a. 289; 1997 a. 27.

SECTION 9. 46.261 (2) (b) of the statutes is amended to read:

46.261 (2) (b) Notwithstanding par. (a), aid under this section may not be granted for placement of a child in a foster home or treatment foster home licensed by a federally recognized American Indian tribal governing body, for placement of a child in a foster home, treatment foster home, group home, subsidized guardianship home, or child caring institution by a tribal governing body or its designee, or for the placement of a child who is a ward of a tribal court if the tribal governing body is

receiving or is eligible to receive funds from the federal government for that type of placement ~~or for placement of a child in a group home licensed under s. 48.625.~~

History: 1995 a. 289; 1997 a. 27.

~~X~~
SECTION 10. 46.481 (1) (a) of the statutes is amended to read:

46.481 (1) (a) The department shall distribute \$497,200 in each fiscal year to counties for the purpose of supplementing payments for the care of an individual who attains age 18 after 1986 and who resided in a foster home, as defined in s. 48.02 (6), ~~or a treatment foster home, as defined in s. 48.02 (17q), or a subsidized guardianship home under s. 48.977 (3r) (a)~~ ^{described in} home under s. 48.977 (3r) (a) for at least 2 years immediately prior to attaining age 18 and, for at least 2 years, received exceptional foster care ~~or, treatment foster care, or subsidized guardianship care~~ payments in order to avoid institutionalization, as provided under rules promulgated by the department, so that the individual may live in a family home or other noninstitutional situation after attaining age 18. No county may use funds provided under this paragraph to replace funds previously used by the county for this purpose.

(X)

History: 1999 a. 9, 149.

~~X~~
SECTION 11. 46.495 (1) (d) of the statutes is amended to read:

46.495 (1) (d) From the appropriations under s. 20.435 (3) (o) and (7) (b), (kw), and (o), the department shall distribute the funding for social services, including funding for foster care ~~or, treatment foster care, or subsidized guardianship care~~ of a child on whose behalf aid is received under s. 46.261, to county departments under ss. 46.215, 46.22, and 46.23 as provided under s. 46.40. County matching funds are required for the distributions under s. 46.40 (2), (8), and (9) (b). Each county's required match for the distributions under s. 46.40 (2) and (8) for a year equals 9.89% of the total of the county's distributions under s. 46.40 (2) and (8) for that year for which matching funds are required plus the amount the county was required by s.

46.26 (2) (c), 1985 stats., to spend for juvenile delinquency-related services from its distribution for 1987. Each county's required match for the distribution under s. 46.40 (9) (b) for a year equals 9.89% of that county's amounts described in s. 46.40 (9) (a) (intro.) for that year. Matching funds may be from county tax levies, federal and state revenue sharing funds, or private donations to the county that meet the requirements specified in s. 51.423 (5). Private donations may not exceed 25% of the total county match. If the county match is less than the amount required to generate the full amount of state and federal funds distributed for this period, the decrease in the amount of state and federal funds equals the difference between the required and the actual amount of county matching funds.

History: 1995 a. 27 ss. 3129, 3132, 3135 to 3139; 1995 a. 289, 404; 1997 a. 3, 27, 252; 1999 a. 9.

SECTION 12. 46.51 (4) of the statutes is amended to read:

46.51 (4) A county may use the funds distributed under this section to fund additional foster parents ~~and~~, treatment foster parents, and subsidized guardians to care for abused and neglected children and to fund additional staff positions to provide services related to child abuse and neglect and to unborn child abuse.

History: 1993 a. 16 ss. 982 to 986; 1993 a. 446; 1995 a. 27; 1997 a. 292.

SECTION 13. 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 child caring institution or in the home of a guardian under s. 48.977 (2) shall be in writing and shall include all of the following:

History: 1977 c. 354; 1979 c. 300; 1983 a. 399; 1987 a. 21, 339; 1989 a. 31, 41, 107; 1993 a. 377, 385, 446, 481; 1995 a. 27, 77, 201; 1997 a. 27, 292.

SECTION 14. 48.345 (3) (c) of the statutes is amended to read:

48.345 (3) (c) A foster home or treatment foster home licensed under s. 48.62 or, a group home licensed under s. 48.625, or in the home of a guardian under s. 48.977 (2).

History: 1971 c. 125; 1977 c. 354; 1979 c. 300; 1987 a. 285; 1989 a. 31, 107; 1993 a. 363, 377, 385, 491; 1995 a. 27; 1995 a. 77 ss. 235 to 237, 239, 241, 249, 250, 257 to 263; 1995 a. 225, 448; 1997 a. 27, 80, 164, 292; 1999 a. 9, 149.

SECTION 15. 48.38 (2) (intro.) of the statutes is amended to read:

48.38 (2) PERMANENCY PLAN REQUIRED. (intro.) Except as provided in sub. (3), for each child living in a foster home, treatment foster home, group home, child-caring institution, secure detention facility, or shelter care facility or in the home of a guardian under s. 48.977 (2), the agency that placed the child or arranged the placement or the agency assigned primary responsibility for providing services to the child under s. 48.355 shall prepare a written permanency plan, if one of the following conditions exists:

History: 1983 a. 399; 1985 a. 70 ss. 1, 10; 1985 a. 176; 1985 a. 292 s. 3; 1985 a. 332; 1987 a. 383; 1989 a. 31, 86, 107; 1993 a. 377, 385, 395, 446, 491; 1995 a. 27 ss. 2474 to 2478, 9126 (19); 1995 a. 77, 143, 275; 1997 a. 27, 35, 104, 247; 1999 a. 149.

SECTION 16. 48.38 (4) (f) (intro.) of the statutes is amended to read:

48.38 (4) (f) (intro.) The services that will be provided to the child, the child's family and the child's foster parent, the child's treatment foster parent or, the operator of the facility where the child is living, or the guardian under s. 48.977 (2) with whom the child is living to carry out the dispositional order, including services planned to accomplish all of the following:

History: 1983 a. 399; 1985 a. 70 ss. 1, 10; 1985 a. 176; 1985 a. 292 s. 3; 1985 a. 332; 1987 a. 383; 1989 a. 31, 86, 107; 1993 a. 377, 385, 395, 446, 491; 1995 a. 27 ss. 2474 to 2478, 9126 (19); 1995 a. 77, 143, 275; 1997 a. 27, 35, 104, 247; 1999 a. 149.

SECTION 17. 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 guardian under s. 48.977 (2) 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 than 10 working days before the review or by participating at the review. The court or agency shall notify the person representing the interests of the public, the child's counsel, the child's guardian ad litem, and the child's court-appointed special advocate of the date of the review, of the issues to be determined as part of the review, and of the fact that they may submit written comments not less than 10 working days before the review. The notices under this paragraph shall be provided in writing not less than 30 days before the review and copies of the notices shall be filed in the child's case record.

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

SECTION 18. 48.425 (1) (g) of the statutes is amended to read:

48.425 (1) (g) If an agency designated under s. 48.427 (3m) (a) 1. to 4. determines that it is unlikely that the child will be adopted, or if adoption would not be in the best interests of the child, the report shall include a plan for placing the child in a permanent family setting. The plan shall include a recommendation as to the agency to be named guardian of the child or a recommendation that the person appointed as the guardian of the child under s. 48.977 (2) continue to be the guardian of the child or that a guardian be appointed for the child under s. 48.977 (2).

History: 1979 c. 330; 1981 c. 81 s. 33; 1981 c. 359; 1983 a. 471; 1985 a. 176; 1995 a. 275; 1997 a. 237.

SECTION 19. 48.427 (3m) (intro.) of the statutes is amended to read:

48.427 (3m) (intro.) If the rights of both parents or of the only living parent are terminated under sub. (3) and if a guardian has not been appointed under s. 48.977, the court shall ~~either~~ do one of the following:

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

SECTION 20. 48.427 (3m) (c) of the statutes is created to read:

48.427 (3m) (c) Appoint a guardian under s. 48.977 and transfer guardianship and custody of the child to the guardian.

SECTION 21. 48.427 (3p) of the statutes is amended to read:

48.427 (3p) If the rights of both parents or of the only living parent are terminated under sub. (3) and if a guardian has been appointed under s. 48.977, the court may enter one of the orders specified in sub. (3m) (a) or (b). If the court enters an order under this subsection, the court shall terminate the guardianship under s. 48.977.

History: 1979 c. 330; 1981 c. 81, 359; 1985 a. 70, 176; 1995 a. 273, 289; 1997 a. 80, 104, 237.

SECTION 22. 48.43 (1) (c) of the statutes is amended to read:

48.43 (1) (c) If an agency or a guardian under s. 48.977 (2) receives custody of the child under par. (a), the child's permanency plan prepared under s. 48.38 by the agency responsible for preparing the permanency plan. If a permanency plan has not been prepared at the time the order is entered, or if the court enters an order that is not consistent with the permanency plan, the agency shall prepare a permanency plan that is consistent with the order or revise the permanency plan to conform to the order and shall file the plan with the court within 60 days from the date of the order.

SECTION 23. 48.43 (5) (a) of the statutes is amended to read:

48.43 (5) (a) If the custodian specified in sub. (1) (a) is an agency or a guardian under s. 48.977 (2), the agency responsible for preparing the child's permanency plan shall report to the court on the status of the child at least once each year until the child is adopted or reaches 18 years of age, whichever is sooner. The agency shall file an annual report no less than 30 days before the anniversary of the date of the order. An agency may file an additional report at any time if it determines that more

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frequent reporting is appropriate. A report shall summarize the child's permanency plan and the recommendations of the review panel under s. 48.38 (5), if any, and shall describe any progress that has been made in finding a permanent placement for the child.

History: 1979 c. 330; 1983 a. 27, 219, 286; 1985 a. 70, 176, 332; Sup. Ct. Order, 136 Wis. 2d xxv (1987); 1987 a. 383; 1993 a. 395, 446; 1995 a. 275; 1997 a. 237.
History: 1979 c. 330; 1983 a. 27, 219, 286; 1985 a. 70, 176, 332; Sup. Ct. Order, 136 Wis. 2d xxv (1987); 1987 a. 383; 1993 a. 395, 446; 1995 a. 275; 1997 a. 237.

SECTION 24. 48.43 (5) (c) of the statutes is amended to read:

48.43 (5) (c) Following the hearing, the court shall make all of the determinations specified under s. 48.38 (5) (c), except the determinations relating to the child's parents. The court may amend the order under sub. (1) to transfer the child's guardianship and custody to any agency specified under s. 48.427 (3m) (a) 1. to 4. ~~which~~ or guardian under s. 48.977 (2) who consents to the transfer, if the court determines that the transfer is in the child's best interest. If an order is amended, the agency that prepared the permanency plan shall revise the plan to conform to the order and shall file a copy of the revised plan with the court. Each plan filed under this paragraph shall be made a part of the court order.

History: 1979 c. 330, 1983 a. 27, 219, 286; 1985 a. 70, 176, 332; Sup. Ct. Order, 136 Wis. 2d xxv (1987); 1987 a. 383; 1993 a. 395, 446; 1995 a. 275; 1997 a. 237.

SECTION 25. 48.43 (5m) of the statutes is amended to read:

48.43 (5m) Either the court or the agency that prepared the permanency plan shall furnish a copy of the original plan and each revised plan to the child, if he or she is 12 years of age or over, and to 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 guardian under s. 48.977 (2) in whose home the child is living.

History: 1979 c. 330; 1983 a. 27, 219, 286; 1985 a. 70, 176, 332; Sup. Ct. Order, 136 Wis. 2d xxv (1987); 1987 a. 383; 1993 a. 395, 446; 1995 a. 275; 1997 a. 237.

SECTION 26. 48.48 (17) (a) 3. of the statutes is amended to read:

48.48 (17) (a) 3. Provide appropriate protection and services for children and the expectant mothers of unborn children in its care, including providing services for

those children and their families and for those expectant mothers in their own homes, placing the children in licensed foster homes, treatment foster homes, or group homes in this state or another state within a reasonable proximity to the agency with legal custody, placing the children in the homes of guardians under s. 48.977 (2), or contracting for services for those children by licensed child welfare agencies, except that the department may not purchase the educational component of private day treatment programs unless the department, the school board, as defined in s. 115.001 (7), and the state superintendent of public instruction all determine that an appropriate public education program is not available. Disputes between the department and the school district shall be resolved by the state superintendent of public instruction.

History: 1973 c. 90, 333; 1977 c. 29; 1977 c. 83 s. 26; 1977 c. 354, 418, 447, 449; 1979 c. 34 ss. 833m, 834, 2102 (20) (a); 1979 c. 221, 300; 1983 a. 27 s. 2202 (20); 1983 a. 189 s. 329 (17); 1983 a. 447; 1985 a. 135, 176; 1985 a. 332 s. 251 (3); 1987 a. 339; 1989 a. 31, 107, 359; 1991 a. 316; 1993 a. 16, 375, 385, 446, 491; 1995 a. 27 ss. 2526 to 2534m, 9126 (19), 9145 (1); 1995 a. 77; 1997 a. 27, 35, 80, 105, 292; 1999 a. 9.

SECTION 27. 48.48 (17) (c) 4. of the statutes is amended to read:

48.48 (17) (c) 4. Is living in a foster home, treatment foster home, group home, or child caring institution or in the home of a subsidized guardian under s. 48.977 (3r) (a).

History: 1973 c. 90, 333; 1977 c. 29; 1977 c. 83 s. 26; 1977 c. 354, 418, 447, 449; 1979 c. 34 ss. 833m, 834, 2102 (20) (a); 1979 c. 221, 300; 1983 a. 27 s. 2202 (20); 1983 a. 189 s. 329 (17); 1983 a. 447; 1985 a. 135, 176; 1985 a. 232 s. 251 (3); 1987 a. 339; 1989 a. 31, 107, 359; 1991 a. 316; 1993 a. 16, 375, 385, 446, 491; 1995 a. 27 ss. 2526 to 2534m, 9126 (19), 9145 (1); 1995 a. 77; 1997 a. 27, 35, 80, 105, 292; 1999 a. 9.

SECTION 28. 48.57 (1) (c) of the statutes is amended to read:

48.57 (1) (c) To provide appropriate protection and services for children and the expectant mothers of unborn children in its care, including providing services for those children and their families and for those expectant mothers in their own homes, placing those children in licensed foster homes, treatment foster homes, or group homes in this state or another state within a reasonable proximity to the agency with legal custody, placing those children in the homes of guardians under s. 48.977 (2), or contracting for services for those children by licensed child welfare

agencies, except that the county department may not purchase the educational component of private day treatment programs unless the county department, the school board, as defined in s. 115.001 (7), and the state superintendent of public instruction all determine that an appropriate public education program is not available. Disputes between the county department and the school district shall be resolved by the state superintendent of public instruction.

History: 1977 c. 29; 1977 c. 83 s. 26; 1977 c. 271, 354, 418, 447, 449; 1979 c. 34, 221; 1981 c. 329; 1983 a. 189 s. 329 (17); 1983 a. 447; 1985 a. 176; 1987 a. 339; 1993 a. 385, 395, 446, 491; 1995 a. 27 ss. 2575 to 2579m, 9126 (19); 1995 a. 77, 289, 443; 1997 a. 3, 27, 35, 36, 41, 105, 237, 252, 292; 1999 a. 9, 103, 133, 162; s. 13.93 (2) (c).

SECTION 29. 48.57 (3) (a) 4. of the statutes is amended to read:

48.57 (3) (a) 4. Is living in a foster home, treatment foster home, group home, or child caring institution or in the home of a subsidized guardian under s. 48.977 (3r) (a).

History: 1977 c. 29; 1977 c. 83 s. 26; 1977 c. 271, 354, 418, 447, 449; 1979 c. 34, 221; 1981 c. 329; 1983 a. 189 s. 329 (17); 1983 a. 447; 1985 a. 176; 1987 a. 339; 1993 a. 385, 395, 446, 491; 1995 a. 27 ss. 2575 to 2579m, 9126 (19); 1995 a. 77, 289, 443; 1997 a. 3, 27, 35, 36, 41, 105, 237, 252, 292; 1999 a. 9, 103, 133, 162; s. 13.93 (2) (c).

SECTION 30. 48.57 (3m) (cm) of the statutes is amended to read:

48.57 (3m) (cm) A kinship care relative who receives a payment under par. (am) for providing care and maintenance for a child is not eligible to receive a payment under sub. (3n) or s. 48.62 (4) or (5) for that child.

History: 1977 c. 29; 1977 c. 83 s. 26; 1977 c. 271, 354, 418, 447, 449; 1979 c. 34, 221; 1981 c. 329; 1983 a. 189 s. 329 (17); 1983 a. 447; 1985 a. 176; 1987 a. 339; 1993 a. 385, 395, 446, 491; 1995 a. 27 ss. 2575 to 2579m, 9126 (19); 1995 a. 77, 289, 443; 1997 a. 3, 27, 35, 36, 41, 105, 237, 252, 292; 1999 a. 9, 103, 133, 162; s. 13.93 (2) (c).

SECTION 31. 48.57 (3n) (am) 1. of the statutes is amended to read:

48.57 (3n) (am) 1. The long-term kinship care relative applies to the county department or department for payments under this subsection and provides proof that he or she has been appointed as the guardian of the child under s. 48.977 (2) and states that he or she meets the eligibility requirements specified in s. 48.977 (3r) (b) for payments under this subsection.

History: 1977 c. 29; 1977 c. 83 s. 26; 1977 c. 271, 354, 418, 447, 449; 1979 c. 34, 221; 1981 c. 329; 1983 a. 189 s. 329 (17); 1983 a. 447; 1985 a. 176; 1987 a. 339; 1993 a. 385, 395, 446, 491; 1995 a. 27 ss. 2575 to 2579m, 9126 (19); 1995 a. 77, 289, 443; 1997 a. 3, 27, 35, 36, 41, 105, 237, 252, 292; 1999 a. 9, 103, 133, 162; s. 13.93 (2) (c).

SECTION 32. 48.57 (3n) (cm) of the statutes is amended to read:

48.57 (3n) (cm) A long-term kinship care relative who receives a payment under par. (am) for providing care and maintenance for a child is not eligible to receive a payment under sub. (3m) or s. 48.62 (4) or (5) for that child.

History: 1977 c. 29; 1977 c. 83 s. 26; 1977 c. 271, 354, 418, 447, 449; 1979 c. 34, 221; 1981 c. 329; 1983 a. 189 s. 329 (17); 1983 a. 447; 1985 a. 176; 1987 a. 339; 1993 a. 385, 395, 446, 491; 1995 a. 27 ss. 2575 to 2579m, 9128 (19); 1995 a. 77, 289, 443; 1997 a. 3, 27, 35, 36, 41, 105, 237, 252, 292; 1999 a. 9, 103, 133, 162; s. 13.93 (2) (c).

SECTION 33. 48.61 (3) of the statutes is amended to read:

48.61 (3) To provide appropriate care and training for children in its legal or physical custody and, if licensed to do so, to place children in licensed foster homes, licensed treatment foster homes, and licensed group homes and in the homes of guardians under s. 48.977 (2).

History: 1977 c. 354 s. 101; 1977 c. 418, 449; 1979 c. 300; 1991 a. 316; 1993 a. 446; 1999 a. 83.

SECTION 34. 48.615 (1) (b) of the statutes is amended to read:

48.615 (1) (b) Before the department may issue a license under s. 48.60 (1) to a child welfare agency that places children in licensed foster homes, licensed treatment foster homes, and licensed group homes and in the homes of guardians under s. 48.977 (2), the child welfare agency must pay to the department a biennial

(x) fee of \$254.10.

History: 1991 a. 39; 1993 a. 446; 1995 a. 27; 1997 a. 2.

SECTION 35. 48.62 (5) of the statutes is created to read:

48.62 (5) (a) Subject to par. (b), monthly subsidized guardianship payments shall be provided to a guardian specified in s. 48.977 (3r) (a) according to a rate established by the department based on the average amount of general purpose revenues expended for foster care per child in foster care in this state in fiscal year 2000-01.

(b) The department shall request from the secretary of the federal department of health and human services a waiver of the requirements under 42 USC 670 to 679a that would authorize the state to receive federal foster care and adoption assistance

reimbursement under 42 USC 670 to 679a for the costs of providing care for children
(X) who are in the care of a guardian specified in s. 48.977 (3r) (a). If the waiver is
approved, the rate established under par. (a) shall not apply, and monthly subsidized
guardianship payments under par. (a) shall be provided according to the terms of the
waiver.

SECTION 36. 48.977 (title) of the statutes is amended to read:

48.977 (title) **Appointment of relatives as guardians for certain
children in need of protection or services.**

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

SECTION 37. 48.977 (1) of the statutes is repealed.

SECTION 38. 48.977 (2) (intro.) of the statutes is amended to read:

48.977 (2) TYPE OF GUARDIANSHIP. (intro.) This section may be used for the
appointment of a ~~relative of a child as a~~ guardian of the person for the a child if the
court finds all of the following:

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

(END OF INSERT)

(INSERT 2-4)

or that the child has been so adjudged and placement of the child in the home
of a guardian under this section has been recommended under s. 48.33 (1) or 938.33
(1) or requested under s. 48.357 (1) or (2m) or 938.357 (1) or (2m)

(END OF INSERT)

(INSERT 2-5)

SECTION 39. 48.977 (2) (b) of the statutes is amended to read:

48.977 (2) (b) That the person nominated as the guardian of the child is a
~~relative of the child~~ person with whom the child has been placed or in whose home

placement of the child is recommended or requested under par. (a) and that it is likely
 (X) that the child will continue to be placed with that relative ^{person} for an extended period of
 time or until the child attains the age of 18 years.

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

SECTION 40. 48.977 (2) (c) of the statutes is amended to read:

48.977 (2) (c) That, if appointed, it is likely that the relative person would be willing and able to serve as the child's guardian for an extended period of time or until the child attains the age of 18 years.

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

SECTION 41. 48.977 (2) (f) of the statutes is amended to read:

48.977 (2) (f) That the agency primarily responsible for providing services to the child under a court order has made reasonable efforts to make it possible for the child to return to his or her home, while assuring that the child's health and safety are the paramount concerns, but that reunification of the child with the child's parent or parents is unlikely or contrary to the best interests of the child and that further reunification efforts are unlikely to be made or are contrary to the best interests of the child or that the agency primarily responsible for providing services to the child under a court order has made reasonable efforts to prevent the removal of the child from his or her home, while assuring that the child's health and safety are the paramount concerns, but that continued placement of the child in the home would be contrary to the health, safety, and welfare of the child, except that the court need not find that the agency has made those reasonable efforts with respect to a
 (X) parent of the child if any of the circumstances specified in s. 48.355 (2d) (b) 1., 2., 3. or 4. apply to that parent.

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

SECTION 42. 48.977 (3r) of the statutes is created to read:

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48.977 (3r) SUBSIDIZED GUARDIANSHIP OR LONG-TERM KINSHIP CARE ELIGIBILITY. (a) *Subsidized guardianship eligibility.* If a guardian appointed under sub. (2) was licensed as the child's foster parent or treatment foster parent before that appointment, the guardian may apply for subsidized guardianship payments under s. 48.62 (5).

(b) *Long-term kinship care eligibility.* If a guardian appointed under sub. (2) is a kinship care relative, as defined in s. 48.57 (3n) (a) 2., and if the guardian was not licensed as the child's foster parent or treatment foster parent before that appointment, the guardian may apply for long-term kinship care payments under s. 48.57 (3n).

(c) *Information to guardian.* At the time a person is nominated as the guardian of the child, the agency primarily responsible for providing services to the child under a court order shall provide the person with information relating to the subsidized guardianship payments payable under s. 48.62 (5) or the long-term kinship care payments payable under s. 48.57 (3n), whichever is applicable, and the procedure for applying for those payments.

SECTION 43. 48.977 (4) (a) 4. of the statutes is amended to read:

48.977 (4) (a) 4. The relative person with whom the child is placed or in whose home placement of the child is recommended or requested as described in sub. (2) (a), if the relative person is nominated as the guardian of the child in the petition.

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

SECTION 44. 48.977 (4) (a) 6. of the statutes is amended to read:

48.977 (4) (a) 6. A county department under s. 46.22 or 46.23 or, if the child has been placed pursuant to an order under ch. 938 or the child's placement with the

guardian is recommended or requested under ch. 938, a county department under s. 46.215, 46.22, or 46.23.

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

SECTION 45. 48.977 (4) (b) 3. of the statutes is amended to read:

48.977 (4) (b) 3. The date the child was adjudged in need of protection or services under s. 48.13 (1), (2), (3), (3m), (4), (5), (8), (9), (10), (10m), (11) or (11m) or 938.13 (4) and the dates that the child has been placed, or continued in a placement, outside of his or her home pursuant to one or more court orders under s. 48.345, 48.357, 48.363, 48.365, 938.345, 938.357, 938.363 or 938.365 or, if the child has been so adjudged, but not so placed, the date of the report under s. 48.33 (1) or 938.33 (1) or the request for a change in placement under s. 48.977 (1) or (2m) or 938.357 (1) or (2m) in which placement of the child in the home of the person is recommended or requested.

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

SECTION 46. 48.977 (4) (c) 1. g. of the statutes is amended to read:

⑦ 48.977 (4) (c) 1. g. The relative person with whom the child is placed or in whose home placement of the child is recommended or requested as described in sub. (2) (a), if the relative is nominated as the guardian of the child in the petition.

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

(END OF INSERT)

(INSERT 2-18)

SECTION 47. 48.977 (4) (g) 1. of the statutes is amended to read:

48.977 (4) (g) 1. Whether the relative person would be a suitable guardian of the child.

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

SECTION 48. 48.977 (4) (g) 2. of the statutes is amended to read:

48.977 (4) (g) 2. The willingness and ability of the relative person to serve as the child's guardian for an extended period of time or until the child attains the age of 18 years.

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

SECTION 49. 49.46 (1) (a) 5. of the statutes is amended to read:

49.46 (1) (a) 5. Any child in an adoption assistance, foster care, kinship care, long-term kinship care ~~or~~, treatment foster care, or subsidized guardianship placement under ch. 48 or 938, as determined by the department.

History: 1971 c. 125, 211, 215; 1973 c. 90, 147; 1975 c. 39; 1977 c. 29 ss. 592m, 1656 (18); 1977 c. 389, 418; 1979 c. 34, 221; 1981 c. 20, 93, 317; 1983 a. 27; 1983 a. 189 s. 329 (5); 1983 a. 245 ss. 10, 15; 1983 a. 538; 1985 a. 29, 120, 176, 253; 1987 a. 27, 307, 339, 399, 413; 1989 a. 9; 1989 a. 31 ss. 1454d to 1460 and 2909g, 2909i; 1989 a. 122, 173, 333, 336, 351; 1991 a. 89, 178, 269, 316; 1993 a. 16, 99, 269, 277, 446, 450, 491; 1995 a. 27, 77, 164, 289, 303, 457; 1997 a. 27, 35, 105, 237; 1999 a. 9.

SECTION 50. 767.078 (1) (a) 2. of the statutes is amended to read:

767.078 (1) (a) 2. The child's right to support is assigned to the state under s.

⊕ 46.261, 48.57 (3m) (b) 2. or (3n) (b) 2., or 49.19 (4) (h) 1. b.

History: 1987 a. 27; 1991 a. 39; 1993 a. 16; 1995 a. 27 ss. 7098, 7098e, 9130 (4); 1995 a. 289, 404; 1997 a. 105, 191; 1999 a. 9.

SECTION 51. 767.29 (1m) (c) of the statutes is amended to read:

767.29 (1m) (c) The party entitled to the support or maintenance money or a minor child of the party has applied for or is receiving aid to families with dependent children aid under s. 46.261 or public assistance under ch. 49 and there is an assignment to the state under s. ~~46.261~~ or 49.19 (4) (h) 1. b. of the party's right to the support or maintenance money.

History: 1971 c. 41 s. 13; Sup. Ct. Order, 67 Wis. 2d 585, 775 (1975); 1975 c. 82, 200; 1975 c. 401 s. 4; 1977 c. 105 s. 39; 1977 c. 271, 418, 447; 1979 c. 32 ss. 30, 92 (4); 1979 c. 257 s. 17; Stats. 1979 s. 767.29; 1981 c. 20 s. 2202 (20) (m); 1983 a. 27, 302; 1985 a. 29, 176; 1991 a. 39; 1993 a. 481; 1995 a. 27 ss. 7104tm, 9126 (19), 9130 (4); 1995 a. 77, 279, 289, 404; 1997 a. 27, 35, 105, 191, 252; 1999 a. 9.

SECTION 52. 767.29 (2) of the statutes is amended to read:

767.29 (2) If any party entitled to maintenance payments or support money, or both, is receiving public assistance under ch. 49, the party may assign the party's right thereto to the county department under s. 46.215, 46.22, or 46.23 granting such assistance. Such assignment shall be approved by order of the court granting the maintenance payments or support money, and may be terminated in like manner;

except that it shall not be terminated in cases where there is any delinquency in the amount of maintenance payments and support money previously ordered or adjudged to be paid to the assignee without the written consent of the assignee or upon notice to the assignee and hearing. When an assignment of maintenance payments or support money, or both, has been approved by the order, the assignee shall be deemed a real party in interest within s. 803.01 but solely for the purpose of securing payment of unpaid maintenance payments or support money adjudged or ordered to be paid, by participating in proceedings to secure the payment thereof. Notwithstanding assignment under this subsection, and without further order of the court, the department or its designee, upon receiving notice that a party or a minor child of the parties is receiving aid under s. 46.261 or public assistance under ch. 49 or that a kinship care relative or long-term kinship care relative of the minor child is receiving kinship care payments or long-term kinship care payments for the minor child, shall forward all support assigned under s. 46.261, 48.57 (3m) (b) 2. or (3n) (b)

- (X) 2., 49.19 (4) (h) 1. or 49.45 (19) to the assignee under s. 46.261, 48.57 (3m) (b) 2. or
- (Y) (3n) (b) 2., 49.19 (4) (h) 1. or 49.45 (19).

History: 1971 c. 41 s. 12; Sup. Ct. Order, 67 Wis. 2d 585, 775 (1975); 1975 c. 82, 200; 1975 c. 401 s. 4; 1977 c. 105 s. 59; 1977 c. 271, 418, 447; 1979 c. 32 ss. 50, 92 (4); 1979 c. 257 s. 17; Stats. 1979 s. 767.29; 1981 c. 20 s. 2202 (20) (m); 1983 a. 27, 302; 1985 a. 29, 176; 1991 a. 39; 1993 a. 481; 1995 a. 27 ss. 7104tm, 9126 (19), 9130 (4); 1995 a. 77, 279, 289, 404; 1997 a. 27, 35, 105, 191, 252; 1999 a. 9.

SECTION 53. 767.29 (4) of the statutes is amended to read:

767.29 (4) If an order or judgment providing for the support of one or more children not receiving aid under s. 46.261, 48.57 (3m) or (3n), or 49.19 includes support for a minor who is the beneficiary of aid under s. 46.261, 48.57 (3m) or (3n), or 49.19, any support payment made under the order or judgment is assigned to the state under s. 46.261, 48.57 (3m) (b) 2. or (3n) (b) 2., or 49.19 (4) (h) 1. b. in the amount

that is the proportionate share of the minor receiving aid under s. 46.261, 48.57 (3m) or (3n), or 49.19, except as otherwise ordered by the court on the motion of a party.

History: 1971 c. 41 s. 12; Sup. Ct. Order, 67 Wis. 2d 585, 775 (1975); 1975 c. 82, 200; 1975 c. 401 s. 4; 1977 c. 105 s. 59; 1977 c. 271, 418, 447; 1979 c. 32 ss. 50, 92 (4); 1979 c. 257 s. 17; Stats. 1979 s. 767.29; 1981 c. 20 s. ~~202~~ (20) (m); 1983 a. 27, 302; 1985 a. 29, 176; 1991 a. 39; 1993 a. 481; 1995 a. 27 ss. 7104tm, 9126 (19), 9130 (4); 1995 a. 77, 279, 289, 404; 1997 a. 27, 35, 105, 191, 252; 1999 a. 9.

SECTION 54. 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 guardian under s. 48.977 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:

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

SECTION 55. 938.345 (4) of the statutes is created to read:

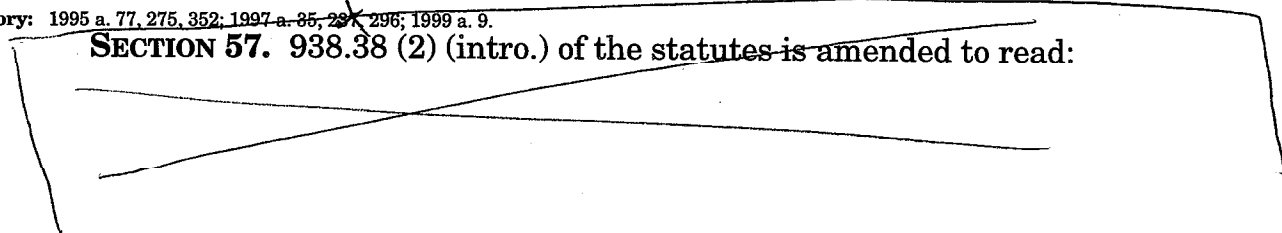
938.345 (4) If the court finds that a juvenile is in need of protection or services under s. 938.13 (4), the court, instead of or in addition to any other disposition imposed under sub. (1), may place the juvenile in the home of a guardian under s. 48.977.

SECTION 56. 938.38 (2) (intro.) of the statutes is amended to read:

938.38 (2) PERMANENCY PLAN REQUIRED. (intro.) Except as provided in sub. (3), for each juvenile living in a foster home, treatment foster home, group home, child caring institution, secure detention facility, or shelter care facility or in the home of a guardian under s. 48.977, the agency that placed the juvenile or arranged the placement or the agency assigned primary responsibility for providing services to the juvenile under s. 938.355 shall prepare a written permanency plan, if any of the following conditions exists:

History: 1995 a. 77, 275, 352; 1997 a. ~~35, 29~~ 296; 1999 a. 9.

SECTION 57. 938.38 (2) (intro.) of the statutes is amended to read:



~~938.38 (2) PERMANENCY PLAN REQUIRED. (intro.) Except as provided in sub. (3), for each juvenile living in a foster home, treatment foster home, group home, child caring institution, secure detention facility, or shelter care facility or in the home of a guardian under s. 48.977, the agency that placed the juvenile or arranged the placement or the agency assigned primary responsibility for providing services to the juvenile under s. 938.355 shall prepare a written permanency plan, if any of the following conditions exists:~~

History: 1995 a. 77, 275, 352; 1997 a. 35, 237, 296; 1999 a. 9.

SECTION 58. 938.38 (4) (f) (intro.) of the statutes is amended to read:

938.38 (4) (f) (intro.) The services that will be provided to the juvenile, the juvenile's family and the juvenile's foster parent, the juvenile's treatment foster parent ~~or~~, the operator of the facility where the juvenile is living, or the guardian under s. 48.977 with whom the juvenile is living to carry out the dispositional order, including services planned to accomplish all of the following:

History: 1995 a. 77, 275, 352; 1997 a. 35, 237, 296; 1999 a. 9.

SECTION 59. 938.38 (5) (b) of the statutes is amended to read:

938.38 (5) (b) The court or the agency shall notify the parents of the juvenile, the juvenile if he or she is 10 years of age or older, and the juvenile's foster parent, the juvenile's treatment foster parent ~~or~~, the operator of the facility in which the juvenile is living, or the guardian under s. 48.977 with whom the juvenile 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 than 10 working days before the review or by participating at the review. The court or agency shall notify the person representing the interests of the public, the juvenile's counsel, and the juvenile's guardian ad litem of the date of the review, of the issues to be determined as part of

the review, and of the fact that they may submit written comments not less than 10 working days before the review. The notices under this paragraph shall be provided in writing not less than 30 days before the review and copies of the notices shall be filed in the juvenile's case record.

History: 1995 a. 77, 275, 352; 1997 a. 35, 237, 296; 1999 a. 9.

SECTION 60. 938.57 (1) (c) of the statutes is amended to read:

938.57 (1) (c) Provide appropriate protection and services for juveniles in its care, including providing services for juveniles and their families in their own homes, placing the juveniles in licensed foster homes, licensed treatment foster homes, or licensed group homes in this state or another state within a reasonable proximity to the agency with legal custody, placing the juveniles in the homes of guardians under s. 48.977, or contracting for services for them by licensed child welfare agencies or replacing them in secured correctional facilities, secured child caring institutions, or secured group homes in accordance with rules promulgated under ch. 227, except that the county department may not purchase the educational component of private day treatment programs unless the county department, the school board, as defined in s. 115.001 (7), and the state superintendent of public instruction all determine that an appropriate public education program is not available. Disputes between the county department and the school district shall be resolved by the state superintendent of public instruction.

History: 1995 a. 77; 1997 a. 27, 35; 1999 a. 9.

SECTION 61. 938.57 (3) (a) 4. of the statutes is amended to read:

938.57 (3) (a) 4. Is living in a foster home, treatment foster home, group home, or child caring institution or in the home of a subsidized guardian under s. 48.977 (3r) (a).

History: 1995 a. 77; 1997 a. 27, 35; 1999 a. 9.

(END OF INSERT)

(INSERT 2-24)

(2) PERMANENCY PLANS FOR CHILDREN IN NEED OF PROTECTION OR SERVICES UNDER GUARDIANSHIP. Notwithstanding sections 48.38 (3) and 938.38 (3) of the statutes, for children or juveniles who are living in the home of a guardian under section 48.977 of the statutes on the day before the effective date of this subsection, the agency primarily responsible for providing services to those children or juveniles under an order of the court assigned to exercise jurisdiction under chapters 48 and 938 of the statutes, as affected by this act, shall file a permanency plan with that court with respect to not less than 33% of those children or juveniles by November 1, 2001, with respect to not less than 67% of those children or juveniles by January 1, 2002, and with respect to all of those children or juveniles by March 1, 2002, giving priority to those children or juveniles who have been living in the home of a guardian for the longest period of time. Notwithstanding section 48.38 (5) (a) of the statutes, as affected by this act, and section 938.38 (5) (a) of the statutes, as affected by this act, a permanency plan filed under this subsection shall be reviewed within 6 months after the date on which the permanency plan is filed.

SECTION 9323. Initial applicability; health and family services.

(1) COURT-ORDERED KINSHIP CARE PERMANENCY PLANS. The treatment of sections 48.38 (2) (intro.), (4) (f) (intro.), and (5) (b) and 938.38 (2) (intro.), (4) (f) (intro.), and (5) (b) of the statutes first applies to a child or juvenile who is placed in the home of

a guardian under section 48.977 of the statutes, as affected by this act, by order of the court assigned to exercise jurisdiction under chapters 48 and 938 of the statutes, as affected by this act, on the effective date of this subsection.

(END OF INSERT)

(INSERT A)

no

This bill permits any person, not just a relative, to be appointed as the guardian of a child who has been adjudged to be in need of protection or services. The bill also eliminates that one-year waiting period and permits a child who has been adjudged to be in need of protection or services or whose parents' parental rights to the child have been terminated to be placed directly in the home of a guardian without first having been placed in another out-of-home placement.

Currently, a relative who is appointed as the guardian of a child in need of protection or services and who meets certain other requirements is eligible to receive long-term kinship care payments in the amount of \$215 per month for providing care and maintenance for the child. This bill permits a person who is appointed as the guardian for a child in need of protection or services and who was the licensed foster parent or treatment foster parent of the child before that appointment to receive monthly subsidized guardianship payments in an amount established by DHFS based on the average amount of general purpose revenues expended per child in foster care in this state in state fiscal year 2000-01. The bill also requires DHFS to request from the secretary of the federal department of health and human services a waiver of the requirement under Title IV-E of the federal Social Security Act that would authorize the state to receive federal foster care and adoption assistance reimbursement for the costs of providing care for children who are in the care of a subsidized guardian and, if the waiver is approved, to provide the monthly subsidized guardianship payments according to the terms of the waiver.

Malaise, Gordon

From: Fossum, Gretchen
Sent: Friday, January 19, 2001 3:42 PM
To: Malaise, Gordon
Subject: LRB Draft 0441/2

Gordon:

Attached are the changes to be made to LRB 0441/2. If you have any questions on the changes, please contact me at 266-2288 or 635-7547 this weekend.

Gretchen A. Fossum
State Budget Office
January 19, 2000



memogret.doc



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Governor

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State of Wisconsin
Department of Health and Family Services

MEMORANDUM

DATE: January 19, 2001

TO: Gretchen Fossum
Executive Budget and Policy Analyst

FROM: Susan N. Dreyfus
Administrator

CC: Mark Campbell, BPP
Therese Durkin, OLC
Bill Fiss, AO
Andrew Forsaith, OSF
Jennifer Jones, AO
Denise Revels Robinson, BMCW

RE: LRB-0441/2

-
- ✓ We would like to add the following additional conditions for a child to be eligible for subsidized guardianship: 1) the child is twelve years or older AND either a) has been in court ordered out of home placement greater than 15 of the last 22 months, or b) the parental rights have been terminated, or c) all other options for reunification have been exhausted as documented by the court; OR 2) the child is under the age of twelve or does not meet the above conditions but receives approval from the Department of Health and Family Services.
 - ✓ We would like to specify that subsidized guardianship is a pilot program in those counties over 500,000 to gain experience for the federal waiver.
 - ✓ The rate established for subsidized guardianship must specify that it can be no more than the average cost of care in Milwaukee County.
 - ✓ Again, we would like to emphasize the goal of subsidized guardianship is to close the CHIPS case and facilitate connections to Medicaid and Child Care where appropriate.

We realize that the greatest impact of this legislation will be for those licensed relatives with no additional non-related foster children in their home. We anticipate that licensed non-relative homes will be more difficult to move to this option so long as the foster care rate is so much greater than the guardianship rate.

✓
We would like to remove the permanency planning requirements for subsidized guardianships consistent with the goal of removing these types of cases from child welfare. As a result, the draft sections 15, 22, and 23 as written, should be deleted. This will mean that permanency planning is not required for subsidized guardianships, and that an annual report will not be made to the court on the case.

Please note that s. 48.38(2)(f) currently provides that if a child's care is paid under s. 49.19, a permanency plan is required. We are unsure if care for subsidized guardianships is to be paid under s. 49.19. If so, then a permanency plan will be required unless this subsection is amended to create an exception to permanency planning for care paid under s. 49.19 for subsidized guardianships.

We are not ready to conclude whether or not we support provisions in the draft that change current law with regard to non-subsidized guardianships. We will continue to review as a Department and will provide you with our final decision with our comments on the next draft.

If you have any questions, please feel free to contact me at 267-3905. Thank you.

Gretchen 1/22/01
No further changes