

Dosta
Sosa

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

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 outside of his or her home pursuant to an order of the juvenile court for one year or longer. 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. (U)

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 (X) guardian for a child in need of protection or services and who was the licensed foster (X) parent or treatment foster parent of the child before that appointment, to receive monthly subsidized guardianship payments in an amount established by DHFS

and who is a resident of Milwaukee County

to the guardian

Insert A

a child who is

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.

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:

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

who was licensed as the child's foster parent or treatment foster parent before the guardianship appointment

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1 funds allocated under s. 46.40 and not spent or encumbered by December 31 of each
2 year shall lapse to the general fund on the succeeding January 1 unless carried
3 forward to the next calendar year by the joint committee on finance.

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

5 20.435 (7) (kw) *Interagency community aids.* The amounts in the schedule for
6 human services under s. 46.40, for reimbursement to counties having a population
7 of less than 500,000 for the cost of court attached intake services under s. 48.06 (4),
8 for shelter care under ss. 48.58 and 938.22, for foster care and, treatment foster care,
9 and subsidized guardianship care under s. ss. 46.261 and 49.19 (10), and for mental
10 health services under s. 51.423 (1). All moneys transferred from the appropriation
11 account under s. 20.445 (3) (md) for those purposes shall be credited to this
12 appropriation account.

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

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

1 under s. 46.03 (18). Any liability of the patient not payable by any other person
2 terminates when the patient reaches age 18, unless the liable person has prevented
3 payment by any act or omission.

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

5 46.10 (14) (b) Except as provided in par. (c) and subject to par. (cm), liability
6 of a parent specified in sub. (2) or s. 46.03 (18) for the care and maintenance of the
7 parent's minor child who has been placed by a court order under s. 48.355 or 48.357
8 in a residential, nonmedical facility such as a group home, foster home, treatment
9 foster home, subsidized guardianship home, or child caring institution shall be
10 determined by the court by using the percentage standard established by the
11 department of workforce development under s. 49.22 (9) and by applying the
12 percentage standard in the manner established by the department under s. 46.247.

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

14 46.261 (1) (a) The child is living in a foster home or treatment foster home
15 licensed under s. 48.62 if a license is required under that section, in a foster home
16 or treatment foster home located within the boundaries of a federally recognized
17 American Indian reservation in this state and licensed by the tribal governing body
18 of the reservation, in a group home licensed under s. 48.625, in a subsidized
19 guardianship home described in s. 48.977 (3)(a) or in a child caring institution
20 licensed under s. 48.60, and has been placed in the foster home, treatment foster
21 home, group home, subsidized guardianship home, or institution by a county
22 department under s. 46.215, 46.22, or 46.23, by the department, or by a federally
23 recognized American Indian tribal governing body in this state under an agreement
24 with a county department under s. 46.215, 46.22, or 46.23.

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

under s. 48.62 (5)

48.62(5)

1 46.261 (2) (a) 1. A nonrelative who cares for the dependent child in a foster
2 home or treatment foster home having a license under s. 48.62, in a foster home or
3 treatment foster home located within the boundaries of a federally recognized
4 American Indian reservation in this state and licensed by the tribal governing body
5 of the reservation or in a group home licensed under s. 48.625, a subsidized guardian
6 under s. ~~48.977 (3r) (a)~~ who cares for the dependent child, or a minor custodial parent
7 who cares for the dependent child, regardless of the cause or prospective period of
8 dependency. The state shall reimburse counties pursuant to the procedure under s.
9 46.495 (2) and the percentage rate of participation set forth in s. 46.495 (1) (d) for aid
10 granted under this section except that if the child does not have legal settlement in
11 the granting county, state reimbursement shall be at 100%. The county department
12 under s. 46.215 or 46.22 or the department under s. 48.48 (17) shall determine the
13 legal settlement of the child. A child under one year of age shall be eligible for aid
14 under this subsection irrespective of any other residence requirement for eligibility
15 within this section.

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

17 46.261 (2) (a) 3. A county or, in a county having a population of 500,000 or more,
18 the department, when the child is placed in a licensed foster home, treatment foster
19 home, group home, or child caring institution or in a subsidized guardianship home
20 by a licensed child welfare agency or by a federally recognized American Indian tribal
21 governing body in this state or by its designee, if the child is in the legal custody of
22 the county department under s. 46.215, 46.22, or 46.23 or the department under s.
23 48.48 (17) or if the child was removed from the home of a relative, as defined under
24 s. 48.02 (15), as a result of a judicial determination that continuance in the home of

1 the relative would be contrary to the child's welfare for any reason and the placement
2 is made pursuant to an agreement with the county department or the department.

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

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

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

14 46.261 (2) (b) Notwithstanding par. (a), aid under this section may not be
15 granted for placement of a child in a foster home or treatment foster home licensed
16 by a federally recognized American Indian tribal governing body, for placement of a
17 child in a foster home, treatment foster home, group home, subsidized guardianship
18 home, or child caring institution by a tribal governing body or its designee, or for the
19 placement of a child who is a ward of a tribal court if the tribal governing body is
20 receiving or is eligible to receive funds from the federal government for that type of
21 placement ~~or for placement of a child in a group home licensed under s. 48.625.~~

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

23 46.481 (1) (a) The department shall distribute \$497,200 in each fiscal year to
24 counties for the purpose of supplementing payments for the care of an individual who
25 attains age 18 after 1986 and who resided in a foster home, as defined in s. 48.02 (6),

AGS

7
48.62(5)

1 or a treatment foster home, as defined in s. 48.02 (17q), or a subsidized guardianship
 2 home described in s. ~~48.977 (2r) (a)~~ for at least 2 years immediately prior to attaining
 3 age 18 and, for at least 2 years, received exceptional foster care ~~or~~ treatment foster
 4 care, or subsidized guardianship care payments in order to avoid
 5 institutionalization, as provided under rules promulgated by the department, so that
 6 the individual may live in a family home or other noninstitutional situation after
 7 attaining age 18. No county may use funds provided under this paragraph to replace
 8 funds previously used by the county for this purpose.

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

10 46.495 (1) (d) From the appropriations under s. 20.435 (3) (o) and (7) (b), (kw),
 11 and (o), the department shall distribute the funding for social services, including
 12 funding for foster care ~~or~~ treatment foster care, or subsidized guardianship care of
 13 a child on whose behalf aid is received under s. 46.261, to county departments under
 14 ss. 46.215, 46.22, and 46.23 as provided under s. 46.40. County matching funds are
 15 required for the distributions under s. 46.40 (2), (8), and (9) (b). Each county's
 16 required match for the distributions under s. 46.40 (2) and (8) for a year equals 9.89%
 17 of the total of the county's distributions under s. 46.40 (2) and (8) for that year for
 18 which matching funds are required plus the amount the county was required by s.
 19 46.26 (2) (c), 1985 stats., to spend for juvenile delinquency-related services from its
 20 distribution for 1987. Each county's required match for the distribution under s.
 21 46.40 (9) (b) for a year equals 9.89% of that county's amounts described in s. 46.40
 22 (9) (a) (intro.) for that year. Matching funds may be from county tax levies, federal
 23 and state revenue sharing funds, or private donations to the county that meet the
 24 requirements specified in s. 51.423 (5). Private donations may not exceed 25% of the
 25 total county match. If the county match is less than the amount required to generate

1 the full amount of state and federal funds distributed for this period, the decrease
2 in the amount of state and federal funds equals the difference between the required
3 and the actual amount of county matching funds.

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

5 46.51 (4) A county may use the funds distributed under this section to fund
6 additional foster parents ~~and~~, treatment foster parents, and subsidized guardians
7 to care for abused and neglected children and to fund additional staff positions to
8 provide services related to child abuse and neglect and to unborn child abuse.

9 **SECTION 13.** 48.33 (4) (intro.) of the statutes is amended to read:

10 48.33 (4) OTHER OUT-OF-HOME PLACEMENTS. (intro.) A report recommending
11 placement of an adult expectant mother outside of her home shall be in writing. A
12 report recommending placement of a child in a foster home, treatment foster home,
13 group home, or child caring institution or in the home of a guardian under s. 48.977
14 (2) shall be in writing and shall include all of the following:

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

16 48.345 (3) (c) A foster home or treatment foster home licensed under s. 48.62
17 ~~or~~, a group home licensed under s. 48.625, or in the home of a guardian under s.
18 48.977 (2).

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

20 ~~48.38 (2) PERMANENCY PLAN REQUIRED. (intro.) Except as provided in sub. (3),
21 for each child living in a foster home, treatment foster home, group home,
22 child-caring institution, secure detention facility, or shelter care facility or in the
23 home of a guardian under s. 48.977 (2), the agency that placed the child or arranged
24 the placement or the agency assigned primary responsibility for providing services~~

1 to the child under s. 48.355 shall prepare a written permanency plan, if one of the
2 following conditions exists:

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

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

9 **SECTION 17.** 48.38 (5) (b) of the statutes is amended to read:

10 48.38 (5) (b) The court or the agency shall notify the parents of the child, the
11 child if he or she is 12 years of age or older and the child's foster parent, the child's
12 treatment foster parent or, the operator of the facility in which the child is living, or
13 the guardian under s. 48.977 (2) with whom the child is living of the date, time, and
14 place of the review, of the issues to be determined as part of the review, and of the
15 fact that they may have an opportunity to be heard at the review by submitting
16 written comments not less than 10 working days before the review or by
17 participating at the review. The court or agency shall notify the person representing
18 the interests of the public, the child's counsel, the child's guardian ad litem, and the
19 child's court-appointed special advocate of the date of the review, of the issues to be
20 determined as part of the review, and of the fact that they may submit written
21 comments not less than 10 working days before the review. The notices under this
22 paragraph shall be provided in writing not less than 30 days before the review and
23 copies of the notices shall be filed in the child's case record.

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

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

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

9 48.427 (3m) (intro.) If the rights of both parents or of the only living parent are
10 terminated under sub. (3) and if a guardian has not been appointed under s. 48.977,
11 the court shall either do one of the following:

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

13 48.427 (3m) (c) Appoint a guardian under s. 48.977 and transfer guardianship
14 and custody of the child to the guardian.

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

16 48.427 (3p) If the rights of both parents or of the only living parent are
17 terminated under sub. (3) and if a guardian has been appointed under s. 48.977, the
18 court may enter one of the orders specified in sub. (3m) (a) or (b). If the court enters
19 an order under this subsection, the court shall terminate the guardianship under s.
20 48.977.

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

22 ~~48.43 (1) (c) If an agency or a guardian under s. 48.977 (2) receives custody of~~
23 ~~the child under par. (a), the child's permanency plan prepared under s. 48.38 by the~~
24 ~~agency responsible for preparing the permanency plan. If a permanency plan has~~
25 ~~not been prepared at the time the order is entered, or if the court enters an order that~~

1 is not consistent with the permanency plan, the agency shall prepare a permanency
2 plan that is consistent with the order or revise the permanency plan to conform to
3 the order and shall file the plan with the court within 60 days from the date of the
4 order.

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

6 48.43 (5) (a) If the custodian specified in sub. (1) (a) is an agency or a guardian
7 under s. 48.977 (2), the agency responsible for preparing the child's permanency plan
8 shall report to the court on the status of the child at least once each year until the
9 child is adopted or reaches 18 years of age, whichever is sooner. The agency shall file
10 an annual report no less than 30 days before the anniversary of the date of the order.
11 An agency may file an additional report at any time if it determines that more
12 frequent reporting is appropriate. A report shall summarize the child's permanency
13 plan and the recommendations of the review panel under s. 48.38 (5), if any, and shall
14 describe any progress that has been made in finding a permanent placement for the
15 child.

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

17 48.43 (5) (c) Following the hearing, the court shall make all of the
18 determinations specified under s. 48.38 (5) (c), except the determinations relating to
19 the child's parents. The court may amend the order under sub. (1) to transfer the
20 child's guardianship and custody to any agency specified under s. 48.427 (3m) (a) 1.
21 to 4. which or guardian under s. 48.977 (2) who consents to the transfer, if the court
22 determines that the transfer is in the child's best interest. If an order is amended,
23 the agency that prepared the permanency plan shall revise the plan to conform to the
24 order and shall file a copy of the revised plan with the court. Each plan filed under
25 this paragraph shall be made a part of the court order.

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

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

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

8 48.48 (17) (a) 3. Provide appropriate protection and services for children and
9 the expectant mothers of unborn children in its care, including providing services for
10 those children and their families and for those expectant mothers in their own
11 homes, placing the children in licensed foster homes, treatment foster homes, or
12 group homes in this state or another state within a reasonable proximity to the
13 agency with legal custody, placing the children in the homes of guardians under s.
14 48.977 (2), or contracting for services for those children by licensed child welfare
15 agencies, except that the department may not purchase the educational component
16 of private day treatment programs unless the department, the school board, as
17 defined in s. 115.001 (7), and the state superintendent of public instruction all
18 determine that an appropriate public education program is not available. Disputes
19 between the department and the school district shall be resolved by the state
20 superintendent of public instruction.

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

22 48.48 (17) (c) 4. Is living in a foster home, treatment foster home, group home,
23 or child caring institution or in the home of a subsidized guardian under s. 48.977
24 (3r) (a).

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

1 48.57 (1) (c) To provide appropriate protection and services for children and the
2 expectant mothers of unborn children in its care, including providing services for
3 those children and their families and for those expectant mothers in their own
4 homes, placing those children in licensed foster homes, treatment foster homes, or
5 group homes in this state or another state within a reasonable proximity to the
6 agency with legal custody, placing those children in the homes of guardians under
7 s. 48.977 (2), or contracting for services for those children by licensed child welfare
8 agencies, except that the county department may not purchase the educational
9 component of private day treatment programs unless the county department, the
10 school board, as defined in s. 115.001 (7), and the state superintendent of public
11 instruction all determine that an appropriate public education program is not
12 available. Disputes between the county department and the school district shall be
13 resolved by the state superintendent of public instruction.

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

15 ~~48.57 (3) (a) 4. Is living in a foster home, treatment foster home, group home,~~
16 ~~or child caring institution or in the home of a subsidized guardian under s. 48.977~~
17 ~~(3r) (a).~~

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

19 48.57 (3m) (cm) A kinship care relative who receives a payment under par. (am)
20 for providing care and maintenance for a child is not eligible to receive a payment
21 under sub. (3n) or s. 48.62 (4) or (5) for that child.

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

23 48.57 (3n) (am) 1. The long-term kinship care relative applies to the county
24 department or department for payments under this subsection and provides proof
25 that he or she has been appointed as the guardian of the child under s. 48.977 (2) and

who was licensed as the child's foster parent or treatment foster parent before the guardianship appointment and

states that he or she meets the eligibility requirements specified in s. 48.977 (3r) (b) for payments under this subsection.

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.

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).

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

fee of \$254.10.

who is a resident of a county having a population of 500,000 or more

a county having a population of 500,000 or more

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

(19) 48.62 (5) (a) *(intra.)* Subject to par. (b), monthly subsidized guardianship payments *of a child under* 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 *Insert 14-23*

(20) (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

a child who is

who was licensed as the child's foster parent or treatment foster parent before the guardianship appointment

1 that would authorize the state to receive federal foster care and adoption assistance
 2 reimbursement under 42 USC 670 to 679a for the costs of providing care for children
 3 who are in the care of a guardian specified in s. 48.977 (3r) (a). If the waiver is
 4 approved, the rate established under par. (a) shall not apply, and monthly subsidized
 5 guardianship payments under par. (a) shall be provided according to the terms of the
 6 waiver.

to the guardian

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.

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:

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

48.977 (2) (a) That the child 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, 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 for a cumulative total period of one year or longer 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).

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

1 48.977 (2) (b) That the person nominated as the guardian of the child is a
2 relative of the child person with whom the child has been placed or in whose home
3 placement of the child is recommended or requested under par. (a) and that it is likely
4 that the child will continue to be placed with that relative person for an extended
5 period of time or until the child attains the age of 18 years.

6 **SECTION 41.** 48.977 (2) (c) of the statutes is amended to read:

7 48.977 (2) (c) That, if appointed, it is likely that the relative person would be
8 willing and able to serve as the child's guardian for an extended period of time or until
9 the child attains the age of 18 years.

10 **SECTION 42.** 48.977 (2) (f) of the statutes is amended to read:

11 48.977 (2) (f) That the agency primarily responsible for providing services to
12 the child under a court order has made reasonable efforts to make it possible for the
13 child to return to his or her home, while assuring that the child's health and safety
14 are the paramount concerns, but that reunification of the child with the child's
15 parent or parents is unlikely or contrary to the best interests of the child and that
16 further reunification efforts are unlikely to be made or are contrary to the best
17 interests of the child or that the agency primarily responsible for providing services
18 to the child under a court order has made reasonable efforts to prevent the removal
19 of the child from his or her home, while assuring that the child's health and safety
20 are the paramount concerns, but that continued placement of the child in the home
21 would be contrary to the health, safety, and welfare of the child, except that the court
22 need not find that the agency has made those reasonable efforts with respect to a
23 parent of the child if any of the circumstances specified in s. 48.355 (2d) (b) 1., 2., 3.,
24 or 4. apply to that parent.

25 ~~**SECTION 43.** 48.977 (3r) of the statutes is created to read:~~

①

~~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 44. 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.

SECTION 45. 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.

1 **SECTION 46.** 48.977 (4) (b) 3. of the statutes is amended to read:

2 48.977 (4) (b) 3. The date the child was adjudged in need of protection or
3 services under s. 48.13 (1), (2), (3), (3m), (4), (5), (8), (9), (10), (10m), (11) or (11m) or
4 938.13 (4) and the dates that the child has been placed, or continued in a placement,
5 outside of his or her home pursuant to one or more court orders under s. 48.345,
6 48.357, 48.363, 48.365, 938.345, 938.357, 938.363 or 938.365 or, if the child has been
7 so adjudged, but not so placed, the date of the report under s. 48.33 (1) or 938.33 (1)
8 or the request for a change in placement under s. 48.977 (1) or (2m) or 938.357 (1)
9 or (2m) in which placement of the child in the home of the person is recommended
10 or requested.

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

12 48.977 (4) (c) 1. g. The ^{plain space} relative person with whom the child is placed or in whose
13 home placement of the child is recommended or requested as described in sub. (2) (a),
14 if the relative is nominated as the guardian of the child in the petition.

15 **SECTION 48.** 48.977 (4) (e) of the statutes is amended to read:

16 48.977 (4) (e) *Court report.* The For a child who has been placed, or continued
17 in a placement, outside of his or her home for 6 months or longer, the court shall order
18 the person or agency primarily responsible for providing services to the child under
19 a court order to file with the court a report containing the written summary under
20 s. 48.38 (5) (e) and as much information relating to the appointment of a guardian
21 as is reasonably ascertainable. For a child who has been placed, or continued in a
22 placement, outside of his or her home for less than 6 months, the court shall order
23 the person or agency primarily responsible for providing services to the child under
24 a court order to file with the court the report submitted under s. 48.33 (1) or 938.33
25 (1), the permanency plan prepared under s. 48.38 or 938.38, if one has been prepared,

1 and as much information relating to the appointment of a guardian as is reasonably
2 ascertainable. The agency shall file the report at least 48 hours before the date of
3 the dispositional hearing under par. (fm).

4 **SECTION 49.** 48.977 (4) (g) 1. of the statutes is amended to read:

5 48.977 (4) (g) 1. Whether the ~~relative~~ person would be a suitable guardian of
6 the child.

7 **SECTION 50.** 48.977 (4) (g) 2. of the statutes is amended to read:

8 48.977 (4) (g) 2. The willingness and ability of the ~~relative~~ person to serve as
9 the child's guardian for an extended period of time or until the child attains the age
10 of 18 years.

11 **SECTION 51.** 49.46 (1) (a) 5. of the statutes is amended to read:

12 49.46 (1) (a) 5. Any child in an adoption assistance, foster care, kinship care,
13 long-term kinship care ~~or~~, treatment foster care, or subsidized guardianship
14 placement under ch. 48 or 938, as determined by the department.

15 **SECTION 52.** 767.078 (1) (a) 2. of the statutes is amended to read:

16 767.078 (1) (a) 2. The child's right to support is assigned to the state under s.
17 46.261, 48.57 (3m) (b) 2. or (3n) (b) 2., or 49.19 (4) (h) 1. b.

18 **SECTION 53.** 767.29 (1m) (c) of the statutes is amended to read:

19 767.29 (1m) (c) The party entitled to the support or maintenance money or a
20 minor child of the party has applied for or is receiving ~~aid to families with dependent~~
21 ~~children~~ aid under s. 46.261 or public assistance under ch. 49 and there is an
22 assignment to the state under s. 46.261 or 49.19 (4) (h) 1. b. of the party's right to the
23 support or maintenance money.

24 **SECTION 54.** 767.29 (2) of the statutes is amended to read:

Insert
19-10

1 767.29 (2) If any party entitled to maintenance payments or support money,
2 or both, is receiving public assistance under ch. 49, the party may assign the party's
3 right thereto to the county department under s. 46.215, 46.22, or 46.23 granting such
4 assistance. Such assignment shall be approved by order of the court granting the
5 maintenance payments or support money, and may be terminated in like manner;
6 except that it shall not be terminated in cases where there is any delinquency in the
7 amount of maintenance payments and support money previously ordered or
8 adjudged to be paid to the assignee without the written consent of the assignee or
9 upon notice to the assignee and hearing. When an assignment of maintenance
10 payments or support money, or both, has been approved by the order, the assignee
11 shall be deemed a real party in interest within s. 803.01 but solely for the purpose
12 of securing payment of unpaid maintenance payments or support money adjudged
13 or ordered to be paid, by participating in proceedings to secure the payment thereof.
14 Notwithstanding assignment under this subsection, and without further order of the
15 court, the department or its designee, upon receiving notice that a party or a minor
16 child of the parties is receiving aid under s. 46.261 or public assistance under ch. 49
17 or that a kinship care relative or long-term kinship care relative of the minor child
18 is receiving kinship care payments or long-term kinship care payments for the minor
19 child, shall forward all support assigned under s. 46.261, 48.57 (3m) (b) 2. or (3n) (b)
20 2., 49.19 (4) (h) 1., or 49.45 (19) to the assignee under s. 46.261, 48.57 (3m) (b) 2. or
21 (3n) (b) 2., 49.19 (4) (h) 1., or 49.45 (19).

22 **SECTION 55.** 767.29 (4) of the statutes is amended to read:

23 767.29 (4) If an order or judgment providing for the support of one or more
24 children not receiving aid under s. 46.261, 48.57 (3m) or (3n), or 49.19 includes
25 support for a minor who is the beneficiary of aid under s. 46.261, 48.57 (3m) or (3n),

1 or 49.19, any support payment made under the order or judgment is assigned to the
2 state under s. 46.261, 48.57 (3m) (b) 2. or (3n) (b) 2., or 49.19 (4) (h) 1. b. in the amount
3 that is the proportionate share of the minor receiving aid under s. 46.261, 48.57 (3m)
4 or (3n), or 49.19, except as otherwise ordered by the court on the motion of a party.

5 **SECTION 56.** 938.33 (4) (intro.) of the statutes is amended to read: (2)

6 938.33 (4) OTHER OUT-OF-HOME PLACEMENTS. (intro.) A report recommending
7 placement in a foster home, treatment foster home, group home, or nonsecured child
8 caring institution or in the home of a guardian under s. 48.977 shall be in writing,
9 except that the report may be presented orally at the dispositional hearing if all
10 parties consent. A report that is presented orally shall be transcribed and made a
11 part of the court record. The report shall include all of the following:

12 **SECTION 57.** 938.345 (4) of the statutes is created to read:

13 938.345 (4) If the court finds that a juvenile is in need of protection or services
14 under s. 938.13 (4), the court, instead of or in addition to any other disposition
15 imposed under sub. (1), may place the juvenile in the home of a guardian under s.
16 48.977. (2)

17 **SECTION 58.** 938.38 (2) (intro.) of the statutes is amended to read:

18 938.38 (2) PERMANENCY PLAN REQUIRED. (intro.) Except as provided in sub. (3),
19 for each juvenile living in a foster home, treatment foster home, group home, child
20 caring institution, secure detention facility, or shelter care facility or in the home of
21 a guardian under s. 48.977, the agency that placed the juvenile or arranged the
22 placement or the agency assigned primary responsibility for providing services to the
23 juvenile under s. 938.355 shall prepare a written permanency plan, if any of the
24 following conditions exists:

25 **SECTION 59.** 938.38 (4) (f) (intro.) of the statutes is amended to read:

1 ~~938.38 (4) (f) (intro.) The services that will be provided to the juvenile, the~~
2 ~~juvenile's family and the juvenile's foster parent, the juvenile's treatment foster~~
3 ~~parent or, the operator of the facility where the juvenile is living, or the guardian~~
4 ~~under s. 48.977 with whom the juvenile is living to carry out the dispositional order,~~
5 ~~including services planned to accomplish all of the following:~~

6 **SECTION 60.** ~~938.38 (5) (b) of the statutes is amended to read:~~

7 ~~938.38 (5) (b) The court or the agency shall notify the parents of the juvenile,~~
8 ~~the juvenile if he or she is 10 years of age or older, and the juvenile's foster parent,~~
9 ~~the juvenile's treatment foster parent or, the operator of the facility in which the~~
10 ~~juvenile is living, or the guardian under s. 48.977 with whom the juvenile is living~~
11 ~~of the date, time, and place of the review, of the issues to be determined as part of the~~
12 ~~review, and of the fact that they may have an opportunity to be heard at the review~~
13 ~~by submitting written comments not less than 10 working days before the review or~~
14 ~~by participating at the review. The court or agency shall notify the person~~
15 ~~representing the interests of the public, the juvenile's counsel, and the juvenile's~~
16 ~~guardian ad litem of the date of the review, of the issues to be determined as part of~~
17 ~~the review, and of the fact that they may submit written comments not less than 10~~
18 ~~working days before the review. The notices under this paragraph shall be provided~~
19 ~~in writing not less than 30 days before the review and copies of the notices shall be~~
20 ~~filed in the juvenile's case record.~~

21 **SECTION 61.** 938.57 (1) (c) of the statutes is amended to read:

22 938.57 (1) (c) Provide appropriate protection and services for juveniles in its
23 care, including providing services for juveniles and their families in their own homes,
24 placing the juveniles in licensed foster homes, licensed treatment foster homes, or
25 licensed group homes in this state or another state within a reasonable proximity to

(2)

1 the agency with legal custody, placing the juveniles in the homes of guardians under
 2 s. 48.977, or contracting for services for them by licensed child welfare agencies or
 3 replacing them in secured correctional facilities, secured child caring institutions, or
 4 secured group homes in accordance with rules promulgated under ch. 227, except
 5 that the county department may not purchase the educational component of private
 6 day treatment programs unless the county department, the school board, as defined
 7 in s. 115.001 (7), and the state superintendent of public instruction all determine that
 8 an appropriate public education program is not available. Disputes between the
 9 county department and the school district shall be resolved by the state
 10 superintendent of public instruction.

11 SECTION 62. 938.57 (3) (a) 4. of the statutes is amended to read:

12 938.57 (3) (a) 4. Is living in a foster home, treatment foster home, group home,
 13 or child caring institution or in the home of a subsidized guardian under s. 48.977

14 ~~(3)(a)~~ 48.62 (5)

15 SECTION 9123. Nonstatutory provisions; health and family services.

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

21 ~~(2) PERMANENCY PLANS FOR CHILDREN IN NEED OF PROTECTION OR SERVICES UNDER~~
 22 ~~GUARDIANSHIP. Notwithstanding sections 48.38 (3) and 938.38 (3) of the statutes, for~~
 23 ~~children or juveniles who are living in the home of a guardian under section 48.977~~
 24 ~~of the statutes on the day before the effective date of this subsection, the agency~~
 25 ~~primarily responsible for providing services to those children or juveniles under an~~

1 ~~order of the court assigned to exercise jurisdiction under chapters 48 and 938 of the~~
2 ~~statutes, as affected by this act, shall file a permanency plan with that court with~~
3 ~~respect to not less than 33% of those children or juveniles by November 1, 2001, with~~
4 ~~respect to not less than 67% of those children or juveniles by January 1, 2002, and~~
5 ~~with respect to all of those children or juveniles by March 1, 2002, giving priority to~~
6 ~~those children or juveniles who have been living in the home of a guardian for the~~
7 ~~longest period of time. Notwithstanding section 48.38 (5) (a) of the statutes, as~~
8 ~~affected by this act, and section 938.38 (5) (a) of the statutes, as affected by this act,~~
9 ~~a permanency plan filed under this subsection shall be reviewed within 6 months~~
10 ~~after the date on which the permanency plan is filed.~~

11 ~~**SECTION 9323. Initial applicability, health and family services.**~~

12 (1) ~~COURT-ORDERED KINSHIP CARE PERMANENCY PLANS. The treatment of sections~~
13 ~~48.38 (2) (intro.), (4) (f) (intro.), and (5) (b) and 938.38 (2) (intro.), (4) (f) (intro.), and~~
14 ~~(5) (b) of the statutes first applies to a child or juvenile who is placed in the home of~~
15 ~~a guardian under section 48.977 of the statutes, as affected by this act, by order of~~
16 ~~the court assigned to exercise jurisdiction under chapters 48 and 938 of the statutes,~~
17 ~~as affected by this act, on the effective date of this subsection.~~

18 (END)

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

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(INSERT 14-23)

(No A)

if the child meets any of the following conditions:

1. The child is 12 years of age or over and has been placed outside of his or her home, as described in s. 48.365 (1), for 15 of the most recent 22 months, the parental rights of both of the child's parents or of the child's only living parent have been terminated, or the court has found under s. 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 any of the circumstances specified in s. 48.355 (2d) (b) 1., 2., 3., or 4. apply.

2. The child does not meet the conditions specified in subd. 1, but the department has determined that providing monthly subsidized guardianship payments to the guardian is in the best interests of the child.

(END OF INSERT

(INSERT 19-10)

SECTION 1. 49.155 (1m) (bm) of the statutes is amended to read:

49.155 (1m) (bm) If the individual is providing care for a child under a court order and is receiving payments on behalf of the child under s. 48.57 (3m) or (3n) or 48.62 (5), or if the individual is a foster parent or treatment foster parent, and child

care is needed for that child, the individual meets the requirement under s. 49.145

(2) (c) ~~6~~ *st*

History: 1995 a. 289; 1997 a. 27, s. 1766 to 1775, 1838 to 1857; 1997 a. 41, 105, 237, 252; 1999 a. 9.

(END OF INSERT)

(INSERT A)

if the child is 12 years of age or over and has been placed outside of his or her home for 15 of the most recent 22 months, the parental rights of the child's parents have been terminated, or the juvenile court has found that reunification of the child with the child's 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 if the child does not meet any of those conditions, but DHFS has determined that providing subsidized guardianship payments to the guardian is in the best interests of the child.

(END OF INSERT)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0441/3dn
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Date

Gretchen:

For a child who does not meet the conditions for subsidized guardianship payments, this draft does not merely require DHFS to approve those payments. Rather, the draft attempts to provide a standard for that approval by requiring DHFS to determine that those payments are in the child's best interests. If DHFS has a more specific standard that they plan to employ and if that standard can be boiled down to just a few words suitable for incorporation in the statutes, please pass that language along and I will incorporate it into the final draft.

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

Also, in response to Susan Dreffus' question about s. 48.38 (2)(f), no amendment is necessary to exclude subsidized guardianships from the permanency planning requirements ^{under s. 48.38} because ~~when s. 48.38 (2)(f) is read together with s. 48.38 (2)(intro.), which lists the types of placements for which a permanency plan is required, does not include a subsidized guardianship placement.~~

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0441/3dn
GMM.lmlr.pg

January 23, 2001

Gretchen:

For a child who does not meet the conditions for subsidized guardianship payments, this draft does not merely require DHFS to approve those payments. Rather, the draft attempts to provide a standard for that approval by requiring DHFS to determine that those payments are in the child's best interests. If DHFS has a more specific standard that they plan to employ and if that standard can be boiled down to just a few words suitable for incorporation in the statutes, please pass that language along and I will incorporate it into the final draft.

Also, in response to Susan Dreyfus' question about s. 48.38 (2) (f), no amendment is necessary to exclude subsidized guardianships from the permanency planning requirements under s. 48.38 because s. 48.38 (2) (intro.), which lists the types of placements for which a permanency plan is required, does not include a subsidized guardianship placement.

Gordon M. Malaise
Senior Legislative Attorney
Phone: (608) 266-9738
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Malaise, Gordon

From: Fossum, Gretchen
Sent: Wednesday, January 31, 2001 10:08 AM
To: Malaise, Gordon
Subject: LRB Draft 0441/3

Please make the following changes to LRB 0441/3:

1. Delete section 10 from the draft. S. 46.481(1)(a) distributes funding for supplemental payments for individuals who had received exceptional payments prior to turning 18 years of age. The subsidized guardianship payments will not be made for individuals as defined under s. 46.481(1)(a).
2. Section 23, page 11, line 11: check the reference to s. 48.977(3r)(b). I could not find this section in the draft or in current law.
3. Section 27, page 13, line 2: after the word "determined" insert "and confirmed by the court".
4. Section 21, page 10, line 20, section 25, page 11, lines 20 and 21 and section 50, page 19, line 17: DHFS would like the phrase "in the homes of guardians" changed to "in the home of the children's guardian". The department wants to make sure that the change is not interpreted to allow counties to place any child into the home of any s. 49.977 guardian.

If you have any questions on these changes, please contact me at 266-2288.

Gretchen A. Fossum
State Budget Office
January 31, 2001



State of Wisconsin
2001 - 2002 LEGISLATURE

D-note
soon

LRB-0441/8
GMM:kmg&hnh:pg
stays

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

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ^{do not gen.} ...; 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 outside of his or her home pursuant to an order of the juvenile court for one year or longer. 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 service, who was the licensed foster parent or treatment foster parent of the child before that appointment, and who is a resident of Milwaukee County to receive monthly subsidized guardianship

and the juvenile court has confirmed
that ~~the~~ determination

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 if the child is 12 years of age or over and has been placed outside of his or her home for 15 of the most recent 22 months, the parental rights of the child's parents have been terminated, or the juvenile court has found that reunification of the child with the child's 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 if the child does not meet any of those conditions, but DHFS has determined that providing subsidized guardianship payments to the guardian is in the best interests of the child. 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 a child who is in the care of a guardian who was licensed as the child's foster parent or treatment foster parent before the guardianship appointment and, if the waiver is approved, to provide monthly subsidized guardianship payments to the guardian according to the terms of the waiver.

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

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

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

2 20.435 (7) (b) *Community aids.* The amounts in the schedule for human
3 services under s. 46.40, to fund services provided by resource centers under s. 46.283
4 (5), for services under the family care benefit under s. 46.284 (5), for reimbursement
5 to counties having a population of less than 500,000 for the cost of court attached
6 intake services under s. 48.06 (4), for shelter care under ss. 48.58 and 938.22, and for
7 foster care and, treatment foster care, and subsidized guardianship care under s. ss.
8 46.261 and 49.19 (10). Social services disbursements under s. 46.03 (20) (b) may be
9 made from this appropriation. Refunds received relating to payments made under
10 s. 46.03 (20) (b) for the provision of services for which moneys are appropriated under
11 this paragraph shall be returned to this appropriation. Notwithstanding ss. 20.001

1 (3) (a) and 20.002 (1), the department of health and family services may transfer
2 funds between fiscal years under this paragraph. The department shall deposit into
3 this appropriation funds it recovers under ss. 46.495 (2) (b) and 51.423 (15) from prior
4 year audit adjustments including those resulting from audits of services under s.
5 46.26, 1993 stats., or s. 46.27. Except for amounts authorized to be carried forward
6 under s. 46.45, all funds recovered under ss. 46.495 (2) (b) and 51.423 (15) and all
7 funds allocated under s. 46.40 and not spent or encumbered by December 31 of each
8 year shall lapse to the general fund on the succeeding January 1 unless carried
9 forward to the next calendar year by the joint committee on finance.

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

11 20.435 (7) (kw) *Interagency community aids.* The amounts in the schedule for
12 human services under s. 46.40, for reimbursement to counties having a population
13 of less than 500,000 for the cost of court attached intake services under s. 48.06 (4),
14 for shelter care under ss. 48.58 and 938.22, for foster care and, treatment foster care,
15 and subsidized guardianship care under s. ss. 46.261 and 49.19 (10), and for mental
16 health services under s. 51.423 (1). All moneys transferred from the appropriation
17 account under s. 20.445 (3) (md) for those purposes shall be credited to this
18 appropriation account.

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

20 46.10 (14) (a) Except as provided in pars. (b) and (c), liability of a person
21 specified in sub. (2) or s. 46.03 (18) for inpatient care and maintenance of persons
22 under 18 years of age at community mental health centers, a county mental health
23 complex under s. 51.08, the centers for the developmentally disabled, Mendota
24 mental health institute, and Winnebago mental health institute or care and
25 maintenance of persons under 18 years of age in residential, nonmedical facilities

1 such as group homes, foster homes, treatment foster homes, subsidized
2 guardianship homes, child caring institutions, and juvenile correctional institutions
3 is determined in accordance with the cost-based fee established under s. 46.03 (18).
4 The department shall bill the liable person up to any amount of liability not paid by
5 an insurer under s. 632.89 (2) or (2m) or by other 3rd party benefits, subject to rules
6 which include formulas governing ability to pay promulgated by the department
7 under s. 46.03 (18). Any liability of the patient not payable by any other person
8 terminates when the patient reaches age 18, unless the liable person has prevented
9 payment by any act or omission.

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

11 46.10 (14) (b) Except as provided in par. (c) and subject to par. (cm), liability
12 of a parent specified in sub. (2) or s. 46.03 (18) for the care and maintenance of the
13 parent's minor child who has been placed by a court order under s. 48.355 or 48.357
14 in a residential, nonmedical facility such as a group home, foster home, treatment
15 foster home, subsidized guardianship home, or child caring institution shall be
16 determined by the court by using the percentage standard established by the
17 department of workforce development under s. 49.22 (9) and by applying the
18 percentage standard in the manner established by the department under s. 46.247.

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

20 46.261 (1) (a) The child is living in a foster home or treatment foster home
21 licensed under s. 48.62 if a license is required under that section, in a foster home
22 or treatment foster home located within the boundaries of a federally recognized
23 American Indian reservation in this state and licensed by the tribal governing body
24 of the reservation, in a group home licensed under s. 48.625, in a subsidized
25 guardianship home under s. 48.62 (5), or in a child caring institution licensed under

1 s. 48.60, and has been placed in the foster home, treatment foster home, group home,
2 subsidized guardianship home, or institution by a county department under s.
3 46.215, 46.22, or 46.23, by the department, or by a federally recognized American
4 Indian tribal governing body in this state under an agreement with a county
5 department under s. 46.215, 46.22, or 46.23.

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

7 46.261 (2) (a) 1. A nonrelative who cares for the dependent child in a foster
8 home or treatment foster home having a license under s. 48.62, in a foster home or
9 treatment foster home located within the boundaries of a federally recognized
10 American Indian reservation in this state and licensed by the tribal governing body
11 of the reservation or in a group home licensed under s. 48.625, a subsidized guardian
12 under s. 48.62 (5) who cares for the dependent child, or a minor custodial parent who
13 cares for the dependent child, regardless of the cause or prospective period of
14 dependency. The state shall reimburse counties pursuant to the procedure under s.
15 46.495 (2) and the percentage rate of participation set forth in s. 46.495 (1) (d) for aid
16 granted under this section except that if the child does not have legal settlement in
17 the granting county, state reimbursement shall be at 100%. The county department
18 under s. 46.215 or 46.22 or the department under s. 48.48 (17) shall determine the
19 legal settlement of the child. A child under one year of age shall be eligible for aid
20 under this subsection irrespective of any other residence requirement for eligibility
21 within this section.

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

23 46.261 (2) (a) 3. A county or, in a county having a population of 500,000 or more,
24 the department, when the child is placed in a licensed foster home, treatment foster
25 home, group home, or child caring institution or in a subsidized guardianship home

1 by a licensed child welfare agency or by a federally recognized American Indian tribal
2 governing body in this state or by its designee, if the child is in the legal custody of
3 the county department under s. 46.215, 46.22, or 46.23 or the department under s.
4 48.48 (17) or if the child was removed from the home of a relative, as defined under
5 s. 48.02 (15), as a result of a judicial determination that continuance in the home of
6 the relative would be contrary to the child's welfare for any reason and the placement
7 is made pursuant to an agreement with the county department or the department.

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

9 46.261 (2) (a) 4. A licensed foster home, treatment foster home, group home,
10 or child caring institution or a subsidized guardianship home when the child is in the
11 custody or guardianship of the state, when the child is a ward of an American Indian
12 tribal court in this state and the placement is made under an agreement between the
13 department and the tribal governing body, or when the child was part of the state's
14 direct service case load and was removed from the home of a relative, as defined
15 under s. 48.02 (15), as a result of a judicial determination that continuance in the
16 home of a relative would be contrary to the child's welfare for any reason and the child
17 is placed by the department.

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

19 46.261 (2) (b) Notwithstanding par. (a), aid under this section may not be
20 granted for placement of a child in a foster home or treatment foster home licensed
21 by a federally recognized American Indian tribal governing body, for placement of a
22 child in a foster home, treatment foster home, group home, subsidized guardianship
23 home, or child caring institution by a tribal governing body or its designee, or for the
24 placement of a child who is a ward of a tribal court if the tribal governing body is

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

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

4 ~~46.481 (1) (a) The department shall distribute \$497,200 in each fiscal year to~~
5 ~~counties for the purpose of supplementing payments for the care of an individual who~~
6 ~~attains age 18 after 1986 and who resided in a foster home, as defined in s. 48.02 (6),~~
7 ~~or a treatment foster home, as defined in s. 48.02 (17c), or a subsidized guardianship~~
8 ~~home, as described in s. 48.62 (5), for at least 2 years immediately prior to attaining~~
9 ~~age 18 and, for at least 2 years, received exceptional foster care or, treatment foster~~
10 ~~care, or subsidized guardianship care payments in order to avoid~~
11 ~~institutionalization, as provided under rules promulgated by the department, so that~~
12 ~~the individual may live in a family home or other noninstitutional situation after~~
13 ~~attaining age 18. No county may use funds provided under this paragraph to replace~~
14 ~~funds previously used by the county for this purpose.~~

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

16 46.495 (1) (d) From the appropriations under s. 20.435 (3) (o) and (7) (b), (kw),
17 and (o), the department shall distribute the funding for social services, including
18 funding for foster care or, treatment foster care, or subsidized guardianship care of
19 a child on whose behalf aid is received under s. 46.261, to county departments under
20 ss. 46.215, 46.22, and 46.23 as provided under s. 46.40. County matching funds are
21 required for the distributions under s. 46.40 (2), (8), and (9) (b). Each county's
22 required match for the distributions under s. 46.40 (2) and (8) for a year equals 9.89%
23 of the total of the county's distributions under s. 46.40 (2) and (8) for that year for
24 which matching funds are required plus the amount the county was required by s.
25 46.26 (2) (c), 1985 stats., to spend for juvenile delinquency-related services from its

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

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

11 46.51 (4) A county may use the funds distributed under this section to fund
12 additional foster parents and, treatment foster parents, and subsidized guardians
13 to care for abused and neglected children and to fund additional staff positions to
14 provide services related to child abuse and neglect and to unborn child abuse.

15 **SECTION 13.** 48.33 (4) (intro.) of the statutes is amended to read: the child's

16 48.33 (4) OTHER OUT-OF-HOME PLACEMENTS. (intro.) A report recommending
17 placement of an adult expectant mother outside of her home shall be in writing. A
18 report recommending placement of a child in a foster home, treatment foster home,
19 group home, or child caring institution or in the home of a guardian under s. 48.977
20 (2) shall be in writing and shall include all of the following:

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

22 48.345 (3) (c) A foster home or treatment foster home licensed under s. 48.62
23 or, a group home licensed under s. 48.625, or in the home of a guardian under s.
24 48.977 (2).

25 **SECTION 15.** 48.425 (1) (g) of the statutes is amended to read:

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

8 **SECTION 16.** 48.427 (3m) (intro.) of the statutes is amended to read:

9 48.427 (3m) (intro.) If the rights of both parents or of the only living parent are
10 terminated under sub. (3) and if a guardian has not been appointed under s. 48.977,
11 the court shall ~~either~~ do one of the following:

12 **SECTION 17.** 48.427 (3m) (c) of the statutes is created to read:

13 48.427 (3m) (c) Appoint a guardian under s. 48.977 and transfer guardianship
14 and custody of the child to the guardian.

15 **SECTION 18.** 48.427 (3p) of the statutes is amended to read:

16 48.427 (3p) If the rights of both parents or of the only living parent are
17 terminated under sub. (3) and if a guardian has been appointed under s. 48.977, the
18 court may enter one of the orders specified in sub. (3m) (a) or (b). If the court enters
19 an order under this subsection, the court shall terminate the guardianship under s.
20 48.977.

21 **SECTION 19.** 48.48 (17) (a) 3. of the statutes is amended to read:

22 48.48 (17) (a) 3. Provide appropriate protection and services for children and
23 the expectant mothers of unborn children in its care, including providing services for
24 those children and their families and for those expectant mothers in their own
25 homes, placing the children in licensed foster homes, treatment foster homes, or

the children's

1 group homes in this state or another state within a reasonable proximity to the
 2 agency with legal custody, placing the children in the homes of guardians under s.
 3 48.977 (2), or contracting for services for those children by licensed child welfare
 4 agencies, except that the department may not purchase the educational component
 5 of private day treatment programs unless the department, the school board, as
 6 defined in s. 115.001 (7), and the state superintendent of public instruction all
 7 determine that an appropriate public education program is not available. Disputes
 8 between the department and the school district shall be resolved by the state
 9 superintendent of public instruction.

10 **SECTION 20.** 48.48 (17) (c) 4. of the statutes is amended to read:

11 48.48 (17) (c) 4. Is living in a foster home, treatment foster home, group home,
 12 or child caring institution or in the home of a subsidized guardian under s. ~~48.977~~

~~48.977~~ 48.62 (5)

the children's

14 **SECTION 21.** 48.57 (1) (c) of the statutes is amended to read:

15 48.57 (1) (c) To provide appropriate protection and services for children and the
 16 expectant mothers of unborn children in its care, including providing services for
 17 those children and their families and for those expectant mothers in their own
 18 homes, placing those children in licensed foster homes, treatment foster homes, or
 19 group homes in this state or another state within a reasonable proximity to the
 20 agency with legal custody, placing those children in the homes of guardians under
 21 s. 48.977 (2), or contracting for services for those children by licensed child welfare
 22 agencies, except that the county department may not purchase the educational
 23 component of private day treatment programs unless the county department, the
 24 school board, as defined in s. 115.001 (7), and the state superintendent of public
 25 instruction all determine that an appropriate public education program is not

was not licensed as the child's foster parent

or treatment foster parent before the guardianship appointment

1 available. Disputes between the county department and the school district shall be
2 resolved by the state superintendent of public instruction.

3 SECTION 22. 48.57 (3m) (cm) of the statutes is amended to read:

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

7 SECTION 23. 48.57 (3n) (am) 1. of the statutes is amended to read:

8 48.57 (3n) (am) 1. The long-term kinship care relative applies to the county
9 department or department for payments under this subsection and provides proof
10 that he or she has been appointed as the guardian of the child under s. 48.977 (2) and
11 states that he or she meets the eligibility requirements specified in s. 48.977 (3r) (b)
12 for payments under this subsection.

13 SECTION 24. 48.57 (3n) (cm) of the statutes is amended to read:

14 48.57 (3n) (cm) A long-term kinship care relative who receives a payment
15 under par. (am) for providing care and maintenance for a child is not eligible to
16 receive a payment under sub. (3m) or s. 48.62 (4) or (5) for that child.

17 SECTION 25. 48.61 (3) of the statutes is amended to read:

18 48.61 (3) To provide appropriate care and training for children in its legal or
19 physical custody and, if licensed to do so, to place children in licensed foster homes,
20 licensed treatment foster homes, and licensed group homes and in the homes of
21 guardians under s. 48.977 (2).

22 SECTION 26. 48.615 (1) (b) of the statutes is amended to read:

23 48.615 (1) (b) Before the department may issue a license under s. 48.60 (1) to
24 a child welfare agency that places children in licensed foster homes, licensed
25 treatment foster homes, and licensed group homes and in the homes of guardians

the children's

1 under s. 48.977 (2), the child welfare agency must pay to the department a biennial
2 fee of \$254.10. (2) who was licensed as the child's foster parent or treatment foster
3 parent before the guardianship appointment, and who is a resident of a county
4 having a population of 500,000 or more.

5 **SECTION 27.** 48.62 (5) of the statutes is created to read:

6 48.62 (5) (a) (intro.) Subject to par. (b), monthly subsidized guardianship
7 payments shall be provided to a guardian of a child under s. 48.977 (2) who was
8 licensed as the child's foster parent or treatment foster parent before the
9 guardianship appointment, and who is a resident of a county having a population of
10 500,000 or more according to a rate established by the department based on the
11 average amount of general purpose revenues expended for foster care per child in
12 foster care in a county having a population of 500,000 or more in fiscal year 2000–01
13 if the child meets any of the following conditions:

14 1. The child is 12 years of age or over and has been placed outside of his or her
15 home, as described in s. 48.365 (1), for 15 of the most recent 22 months, the parental
16 rights of both of the child's parents or of the child's only living parent have been
17 terminated, or the court has found under s. 48.977 (2) (f) that the agency primarily
18 responsible for providing services to the child under a court order has made
19 reasonable efforts to make it possible for the child to return to his or her home, while
20 assuring that the child's health and safety are the paramount concerns, but that
21 reunification of the child with the child's parent or parents is unlikely or contrary to
22 the best interests of the child and that further reunification efforts are unlikely to
23 be made or are contrary to the best interests of the child, or that any of the
24 circumstances specified in s. 48.355 (2d) (b) 1., 2., 3., or 4. apply.

and the court has confirmed under
s. 48.977 (3f),

1 2. The child does not meet the conditions specified in subd. 1., but the
2 department has determined that providing monthly subsidized guardianship
3 payments to the guardian is in the best interests of the child.

4 (b) The department shall request from the secretary of the federal department
5 of health and human services a waiver of the requirements under 42 USC 670 to 679a
6 that would authorize the state to receive federal foster care and adoption assistance
7 reimbursement under 42 USC 670 to 679a for the costs of providing care for a child
8 who is in the care of a guardian who was licensed as the child's foster parent or
9 treatment foster parent before the guardianship appointment. If the waiver is
10 approved, the rate established under par. (a) shall not apply, and monthly subsidized
11 guardianship payments under par. (a) shall be provided to the guardian according
12 to the terms of the waiver.

13 **SECTION 28.** 48.977 (title) of the statutes is amended to read:

14 **48.977 (title) Appointment of relatives as guardians for certain**
15 **children in need of protection or services.**

16 **SECTION 29.** 48.977 (1) of the statutes is repealed.

17 **SECTION 30.** 48.977 (2) (intro.) of the statutes is amended to read:

18 **48.977 (2) TYPE OF GUARDIANSHIP.** (intro.) This section may be used for the
19 appointment of a ~~relative of a child as a~~ guardian of the person for ~~the~~ a child if the
20 court finds all of the following:

21 **SECTION 31.** 48.977 (2) (a) of the statutes is amended to read:

22 **48.977 (2) (a)** That the child has been adjudged to be in need of protection or
23 services under s. 48.13 (1), (2), (3), (3m), (4), (5), (8), (9), (10), (10m), (11), or (11m) or
24 938.13 (4) and been placed, or continued in a placement, outside of his or her home
25 pursuant to one or more court orders under s. 48.345, 48.357, 48.363, 48.365,

1 938.345, 938.357, 938.363, or 938.365 for a cumulative total period of one year or
2 longer or that the child has been so adjudged and placement of the child in the home
3 of a guardian under this section has been recommended under s. 48.33 (1) or 938.33
4 (1) or requested under s. 48.357 (1) or (2m) or 938.357 (1) or (2m).

5 **SECTION 32.** 48.977 (2) (b) of the statutes is amended to read:

6 48.977 (2) (b) That the person nominated as the guardian of the child is a
7 relative of the child person with whom the child has been placed or in whose home
8 placement of the child is recommended or requested under par. (a) and that it is likely
9 that the child will continue to be placed with that relative person for an extended
10 period of time or until the child attains the age of 18 years.

11 **SECTION 33.** 48.977 (2) (c) of the statutes is amended to read:

12 48.977 (2) (c) That, if appointed, it is likely that the relative person would be
13 willing and able to serve as the child's guardian for an extended period of time or until
14 the child attains the age of 18 years.

15 **SECTION 34.** 48.977 (2) (f) of the statutes is amended to read:

16 48.977 (2) (f) That the agency primarily responsible for providing services to
17 the child under a court order has made reasonable efforts to make it possible for the
18 child to return to his or her home, while assuring that the child's health and safety
19 are the paramount concerns, but that reunification of the child with the child's
20 parent or parents is unlikely or contrary to the best interests of the child and that
21 further reunification efforts are unlikely to be made or are contrary to the best
22 interests of the child or that the agency primarily responsible for providing services
23 to the child under a court order has made reasonable efforts to prevent the removal
24 of the child from his or her home, while assuring that the child's health and safety
25 are the paramount concerns, but that continued placement of the child in the home

1 would be contrary to the health, safety, and welfare of the child, except that the court
2 need not find that the agency has made those reasonable efforts with respect to a
3 parent of the child if any of the circumstances specified in s. 48.355 (2d) (b) 1., 2., 3.,
4 or 4. apply to that parent.

5 **SECTION 35.** 48.977 (4) (a) 4. of the statutes is amended to read:

6 48.977 (4) (a) 4. The relative person with whom the child is placed or in whose
7 home placement of the child is recommended or requested as described in sub. (2) (a),
8 if the relative person is nominated as the guardian of the child in the petition.

9 **SECTION 36.** 48.977 (4) (a) 6. of the statutes is amended to read:

10 48.977 (4) (a) 6. A county department under s. 46.22 or 46.23 or, if the child has
11 been placed pursuant to an order under ch. 938 or the child's placement with the
12 guardian is recommended or requested under ch. 938, a county department under
13 s. 46.215, 46.22, or 46.23.

14 **SECTION 37.** 48.977 (4) (b) 3. of the statutes is amended to read:

15 48.977 (4) (b) 3. The date the child was adjudged in need of protection or
16 services under s. 48.13 (1), (2), (3), (3m), (4), (5), (8), (9), (10), (10m), (11) or (11m) or
17 938.13 (4) and the dates that the child has been placed, or continued in a placement,
18 outside of his or her home pursuant to one or more court orders under s. 48.345,
19 48.357, 48.363, 48.365, 938.345, 938.357, 938.363 or 938.365 or, if the child has been
20 so adjudged, but not so placed, the date of the report under s. 48.33 (1) or 938.33 (1)
21 or the request for a change in placement under s. 48.977 (1) or (2m) or 938.357 (1)
22 or (2m) in which placement of the child in the home of the person is recommended
23 or requested.

24 **SECTION 38.** 48.977 (4) (c) 1. g. of the statutes is amended to read:

Insert
15-4

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

4 **SECTION 39.** 48.977 (4) (e) of the statutes is amended to read:

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

18 **SECTION 40.** 48.977 (4) (g) 1. of the statutes is amended to read:

19 48.977 (4) (g) 1. Whether the relative person would be a suitable guardian of
20 the child.

21 **SECTION 41.** 48.977 (4) (g) 2. of the statutes is amended to read:

22 48.977 (4) (g) 2. The willingness and ability of the relative person to serve as
23 the child's guardian for an extended period of time or until the child attains the age
24 of 18 years.

25 **SECTION 42.** 49.155 (1m) (bm) of the statutes is amended to read:

1 49.155 (1m) (bm) If the individual is providing care for a child under a court
2 order and is receiving payments on behalf of the child under s. 48.57 (3m) or (3n) or
3 48.62 (5), or if the individual is a foster parent or treatment foster parent, and child
4 care is needed for that child, the individual meets the requirement under s. 49.145
5 (2) (c).

6 **SECTION 43.** 49.46 (1) (a) 5. of the statutes is amended to read:

7 49.46 (1) (a) 5. Any child in an adoption assistance, foster care, kinship care,
8 long-term kinship care ~~or~~, treatment foster care, or subsidized guardianship
9 placement under ch. 48 or 938, as determined by the department.

10 **SECTION 44.** 767.078 (1) (a) 2. of the statutes is amended to read:

11 767.078 (1) (a) 2. The child's right to support is assigned to the state under s.
12 46.261, 48.57 (3m) (b) 2. or (3n) (b) 2., or 49.19 (4) (h) 1. b.

13 **SECTION 45.** 767.29 (1m) (c) of the statutes is amended to read:

14 767.29 (1m) (c) The party entitled to the support or maintenance money or a
15 minor child of the party has applied for or is receiving ~~aid to families with dependent~~
16 ~~children~~ aid under s. 46.261 or public assistance under ch. 49 and there is an
17 assignment to the state under s. 46.261 or 49.19 (4) (h) 1. b. of the party's right to the
18 support or maintenance money.

19 **SECTION 46.** 767.29 (2) of the statutes is amended to read:

20 767.29 (2) If any party entitled to maintenance payments or support money,
21 or both, is receiving public assistance under ch. 49, the party may assign the party's
22 right thereto to the county department under s. 46.215, 46.22, or 46.23 granting such
23 assistance. Such assignment shall be approved by order of the court granting the
24 maintenance payments or support money, and may be terminated in like manner;
25 except that it shall not be terminated in cases where there is any delinquency in the

1 amount of maintenance payments and support money previously ordered or
2 adjudged to be paid to the assignee without the written consent of the assignee or
3 upon notice to the assignee and hearing. When an assignment of maintenance
4 payments or support money, or both, has been approved by the order, the assignee
5 shall be deemed a real party in interest within s. 803.01 but solely for the purpose
6 of securing payment of unpaid maintenance payments or support money adjudged
7 or ordered to be paid, by participating in proceedings to secure the payment thereof.
8 Notwithstanding assignment under this subsection, and without further order of the
9 court, the department or its designee, upon receiving notice that a party or a minor
10 child of the parties is receiving aid under s. 46.261 or public assistance under ch. 49
11 or that a kinship care relative or long-term kinship care relative of the minor child
12 is receiving kinship care payments or long-term kinship care payments for the minor
13 child, shall forward all support assigned under s. 46.261, 48.57 (3m) (b) 2. or (3n) (b)
14 2., 49.19 (4) (h) 1., or 49.45 (19) to the assignee under s. 46.261, 48.57 (3m) (b) 2. or
15 (3n) (b) 2., 49.19 (4) (h) 1., or 49.45 (19).

16 **SECTION 47.** 767.29 (4) of the statutes is amended to read:

17 767.29 (4) If an order or judgment providing for the support of one or more
18 children not receiving aid under s. 46.261, 48.57 (3m) or (3n), or 49.19 includes
19 support for a minor who is the beneficiary of aid under s. 46.261, 48.57 (3m) or (3n),
20 or 49.19, any support payment made under the order or judgment is assigned to the
21 state under s. 46.261, 48.57 (3m) (b) 2. or (3n) (b) 2., or 49.19 (4) (h) 1. b. in the amount
22 that is the proportionate share of the minor receiving aid under s. 46.261, 48.57 (3m)
23 or (3n), or 49.19, except as otherwise ordered by the court on the motion of a party.

24 **SECTION 48.** 938.33 (4) (intro.) of the statutes is amended to read:

the child's → the juvenile's

1 938.33 (4) OTHER OUT-OF-HOME PLACEMENTS. (intro.) A report recommending
2 placement in a foster home, treatment foster home, group home, or nonsecured child
3 caring institution or in the home of a guardian under s. 48.977 (2) shall be in writing,
4 except that the report may be presented orally at the dispositional hearing if all
5 parties consent. A report that is presented orally shall be transcribed and made a
6 part of the court record. The report shall include all of the following:

7 **SECTION 49.** 938.345 (4) of the statutes is created to read:

the juvenile's

8 938.345 (4) If the court finds that a juvenile is in need of protection or services
9 under s. 938.13 (4), the court, instead of or in addition to any other disposition
10 imposed under sub. (1), may place the juvenile in the home of a guardian under s.
11 48.977 (2).

the juveniles'

12 **SECTION 50.** 938.57 (1) (c) of the statutes is amended to read:

13 938.57 (1) (c) Provide appropriate protection and services for juveniles in its
14 care, including providing services for juveniles and their families in their own homes,
15 placing the juveniles in licensed foster homes, licensed treatment foster homes, or
16 licensed group homes in this state or another state within a reasonable proximity to
17 the agency with legal custody, placing the juveniles in the homes of guardians under
18 s. 48.977 (2), or contracting for services for them by licensed child welfare agencies
19 or replacing them in secured correctional facilities, secured child caring institutions,
20 or secured group homes in accordance with rules promulgated under ch. 227, except
21 that the county department may not purchase the educational component of private
22 day treatment programs unless the county department, the school board, as defined
23 in s. 115.001 (7), and the state superintendent of public instruction all determine that
24 an appropriate public education program is not available. Disputes between the

1 county department and the school district shall be resolved by the state
2 superintendent of public instruction.

3 **SECTION 51.** 938.57 (3) (a) 4. of the statutes is amended to read:

4 938.57 (3) (a) 4. Is living in a foster home, treatment foster home, group home,
5 or child caring institution or in the home of a subsidized guardian under s. 48.62 (5).

6 **SECTION 9123. Nonstatutory provisions; health and family services.**

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

12 (END)

**2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0441/4ins
GMM.....

(INSERT 15-4)

✕
SECTION 1. 48.977 (3r) of the statutes is created to read:

48.977 (3r) **SUBSIDIZED GUARDIANSHIP.** If the department has determined that providing monthly subsidized guardianship payments to the guardian of a child who does not meet the conditions specified under s. 48.62 (5) (a) 1. is in the best interests of the child, the petitioner under sub. (4) (a) shall include in the petition under sub. (4) (b) a statement of that determination and a request for the court to include in the court's findings under sub. (4) (d) a finding confirming that determination. If the court confirms that determination and appoints a guardian for the child under sub. (2) and if the guardian was licensed as the child's foster parent or treatment foster parent before the guardianship appointment and is a resident of a county having a population of 500,000 or more, the department shall provide monthly subsidized guardianship payments to the guardian under s. 48.62 (5).

(END OF INSERT)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0441/4dn

GMM: *hmb*

Date

Gretchen:

This redraft addresses your redrafting instructions as follows:

1. The redraft removes from the draft the treatment of s. 46.481 (1) (a).
2. The redraft removes the reference to s. 48.977 (3r) not only from the treatment of s. 48.57 (3n)(am) 1. as requested, but also from the treatment of s. 48.48 (17) (c) 4. Those references were inadvertently not removed when the creation of s. 48.977 (3r) in a previous draft was eliminated in a subsequent redraft.
3. The redraft inserts the court confirmation requirement in s. 48.62 (5) (a) 2. as requested. Because that requirement standing alone appears to come out of nowhere, however, the redraft also lays a foundation for that requirement in s. 48.977 (3r).
4. The redraft inserts "the child's," "the children's," or "the juvenile's" before "guardian" not only in ss. 48.57 (1) (c), 48.61 (3), and 938.57 (1) (c) as requested, but also in ss. 48.33 (4) (intro), 48.345 (3)(c), 48.48 (17) (a) 3., 48.615 (1) (b), 938.33 (4) (intro.), and 938.345 (4).

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

Gordon M. Malaise
Senior Legislative Attorney
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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0441/4dn
GMM:hmh:rs

February 1, 2001

Gretchen:

This redraft addresses your redrafting instructions as follows:

1. The redraft removes from the draft the treatment of s. 46.481 (1) (a).
2. The redraft removes the reference to s. 48.977 (3r) not only from the treatment of s. 48.57 (3n) (am) 1. as requested, but also from the treatment of s. 48.48 (17) (c) 4. Those references were inadvertently not removed when the creation of s. 48.977 (3r) in a previous draft was eliminated in a subsequent redraft.
3. The redraft inserts the court confirmation requirement in s. 48.62 (5) (a) 2. as requested. Because that requirement standing alone appears to come out of nowhere, however, the redraft also lays a foundation for that requirement in s. 48.977 (3r).
4. The redraft inserts "the child's," "the children's," or "the juvenile's" before "guardian" not only in ss. 48.57 (1) (c), 48.61 (3), and 938.57 (1) (c) as requested, but also in ss. 48.33 (4) (intro), 48.345 (3) (c), 48.48 (17) (a) 3., 48.615 (1) (b), 938.33 (4) (intro.), and 938.345 (4).

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

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State of Wisconsin
2001 - 2002 LEGISLATURE

Dust

LRB-0441/4
GMM: [unclear] hmbhrs
Y
RMR
Kmg

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

1 AN ACT ^{DON'T} ^{GEN. CAT.} 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 outside of his or her home pursuant to an order of the juvenile court for one year or longer. 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 service, who was the licensed foster parent or treatment foster parent of the child before that appointment, and who is a resident of Milwaukee County to receive monthly subsidized guardianship



Milwaukee
County

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 if the child is 12 years of age or over and has been placed outside of his or her home for 15 of the most recent 22 months, the parental rights of the child's parents have been terminated, or the juvenile court has found that reunification of the child with the child's 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 if the child does not meet any of those conditions, but DHFS has determined that providing subsidized guardianship payments to the guardian is in the best interests of the child and the juvenile court has confirmed that determination. 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 a child who is in the care of a guardian who was licensed as the child's foster parent or treatment foster parent before the guardianship appointment and, if the waiver is approved, to provide monthly subsidized guardianship payments to the guardian according to the terms of the waiver.

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

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

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

2 20.435 (7) (b) *Community aids.* The amounts in the schedule for human
3 services under s. 46.40, to fund services provided by resource centers under s. 46.283
4 (5), for services under the family care benefit under s. 46.284 (5), for reimbursement
5 to counties having a population of less than 500,000 for the cost of court attached
6 intake services under s. 48.06 (4), for shelter care under ss. 48.58 and 938.22, and for
7 foster care and, treatment foster care, and subsidized guardianship care under s. ss.
8 46.261 and 49.19 (10). Social services disbursements under s. 46.03 (20) (b) may be
9 made from this appropriation. Refunds received relating to payments made under
10 s. 46.03 (20) (b) for the provision of services for which moneys are appropriated under
11 this paragraph shall be returned to this appropriation. Notwithstanding ss. 20.001

1 (3) (a) and 20.002 (1), the department of health and family services may transfer
2 funds between fiscal years under this paragraph. The department shall deposit into
3 this appropriation funds it recovers under ss. 46.495 (2) (b) and 51.423 (15) from prior
4 year audit adjustments including those resulting from audits of services under s.
5 46.26, 1993 stats., or s. 46.27. Except for amounts authorized to be carried forward
6 under s. 46.45, all funds recovered under ss. 46.495 (2) (b) and 51.423 (15) and all
7 funds allocated under s. 46.40 and not spent or encumbered by December 31 of each
8 year shall lapse to the general fund on the succeeding January 1 unless carried
9 forward to the next calendar year by the joint committee on finance.

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

11 20.435 (7) (kw) *Interagency community aids.* The amounts in the schedule for
12 human services under s. 46.40, for reimbursement to counties having a population
13 of less than 500,000 for the cost of court attached intake services under s. 48.06 (4),
14 for shelter care under ss. 48.58 and 938.22, for foster care and, treatment foster care,
15 and subsidized guardianship care under s. ss. 46.261 and 49.19 (10), and for mental
16 health services under s. 51.423 (1). All moncyys transferred from the appropriation
17 account under s. 20.445 (3) (md) for those purposes shall be credited to this
18 appropriation account.

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

20 46.10 (14) (a) Except as provided in pars. (b) and (c), liability of a person
21 specified in sub. (2) or s. 46.03 (18) for inpatient care and maintenance of persons
22 under 18 years of age at community mental health centers, a county mental health
23 complex under s. 51.08, the centers for the developmentally disabled, Mendota
24 mental health institute, and Winnebago mental health institute or care and
25 maintenance of persons under 18 years of age in residential, nonmedical facilities

1 such as group homes, foster homes, treatment foster homes, subsidized
2 guardianship homes, child caring institutions, and juvenile correctional institutions
3 is determined in accordance with the cost-based fee established under s. 46.03 (18).
4 The department shall bill the liable person up to any amount of liability not paid by
5 an insurer under s. 632.89 (2) or (2m) or by other 3rd party benefits, subject to rules
6 which include formulas governing ability to pay promulgated by the department
7 under s. 46.03 (18). Any liability of the patient not payable by any other person
8 terminates when the patient reaches age 18, unless the liable person has prevented
9 payment by any act or omission.

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

11 46.10 (14) (b) Except as provided in par. (c) and subject to par. (cm), liability
12 of a parent specified in sub. (2) or s. 46.03 (18) for the care and maintenance of the
13 parent's minor child who has been placed by a court order under s. 48.355 or 48.357
14 in a residential, nonmedical facility such as a group home, foster home, treatment
15 foster home, subsidized guardianship home, or child caring institution shall be
16 determined by the court by using the percentage standard established by the
17 department of workforce development under s. 49.22 (9) and by applying the
18 percentage standard in the manner established by the department under s. 46.247.

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

20 46.261 (1) (a) The child is living in a foster home or treatment foster home
21 licensed under s. 48.62 if a license is required under that section, in a foster home
22 or treatment foster home located within the boundaries of a federally recognized
23 American Indian reservation in this state and licensed by the tribal governing body
24 of the reservation, in a group home licensed under s. 48.625, in a subsidized
25 guardianship home under s. 48.62 (5), or in a child caring institution licensed under

1 s. 48.60, and has been placed in the foster home, treatment foster home, group home,
2 subsidized guardianship home, or institution by a county department under s.
3 46.215, 46.22, or 46.23, by the department, or by a federally recognized American
4 Indian tribal governing body in this state under an agreement with a county
5 department under s. 46.215, 46.22, or 46.23.

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

7 46.261 (2) (a) 1. A nonrelative who cares for the dependent child in a foster
8 home or treatment foster home having a license under s. 48.62, in a foster home or
9 treatment foster home located within the boundaries of a federally recognized
10 American Indian reservation in this state and licensed by the tribal governing body
11 of the reservation or in a group home licensed under s. 48.625, a subsidized guardian
12 under s. 48.62 (5) who cares for the dependent child, or a minor custodial parent who
13 cares for the dependent child, regardless of the cause or prospective period of
14 dependency. The state shall reimburse counties pursuant to the procedure under s.
15 46.495 (2) and the percentage rate of participation set forth in s. 46.495 (1) (d) for aid
16 granted under this section except that if the child does not have legal settlement in
17 the granting county, state reimbursement shall be at 100%. The county department
18 under s. 46.215 or 46.22 or the department under s. 48.48 (17) shall determine the
19 legal settlement of the child. A child under one year of age shall be eligible for aid
20 under this subsection irrespective of any other residence requirement for eligibility
21 within this section.

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

23 46.261 (2) (a) 3. A county or, in a county having a population of 500,000 or more,
24 the department, when the child is placed in a licensed foster home, treatment foster
25 home, group home, or child caring institution or in a subsidized guardianship home

1 by a licensed child welfare agency or by a federally recognized American Indian tribal
2 governing body in this state or by its designee, if the child is in the legal custody of
3 the county department under s. 46.215, 46.22, or 46.23 or the department under s.
4 48.48 (17) or if the child was removed from the home of a relative, as defined under
5 s. 48.02 (15), as a result of a judicial determination that continuance in the home of
6 the relative would be contrary to the child's welfare for any reason and the placement
7 is made pursuant to an agreement with the county department or the department.

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

9 46.261 (2) (a) 4. A licensed foster home, treatment foster home, group home,
10 or child caring institution or a subsidized guardianship home when the child is in the
11 custody or guardianship of the state, when the child is a ward of an American Indian
12 tribal court in this state and the placement is made under an agreement between the
13 department and the tribal governing body, or when the child was part of the state's
14 direct service case load and was removed from the home of a relative, as defined
15 under s. 48.02 (15), as a result of a judicial determination that continuance in the
16 home of a relative would be contrary to the child's welfare for any reason and the child
17 is placed by the department.

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

19 46.261 (2) (b) Notwithstanding par. (a), aid under this section may not be
20 granted for placement of a child in a foster home or treatment foster home licensed
21 by a federally recognized American Indian tribal governing body, for placement of a
22 child in a foster home, treatment foster home, group home, subsidized guardianship
23 home, or child caring institution by a tribal governing body or its designee, or for the
24 placement of a child who is a ward of a tribal court if the tribal governing body is

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

3 **SECTION 10.** 46.495 (1) (d) of the statutes is amended to read:

4 46.495 (1) (d) From the appropriations under s. 20.435 (3) (o) and (7) (b), (kw),
5 and (o), the department shall distribute the funding for social services, including
6 funding for foster care ~~or, treatment foster care, or subsidized guardianship care~~ of
7 a child on whose behalf aid is received under s. 46.261, to county departments under
8 ss. 46.215, 46.22, and 46.23 as provided under s. 46.40. County matching funds are
9 required for the distributions under s. 46.40 (2), (8), and (9) (b). Each county's
10 required match for the distributions under s. 46.40 (2) and (8) for a year equals 9.89%
11 of the total of the county's distributions under s. 46.40 (2) and (8) for that year for
12 which matching funds are required plus the amount the county was required by s.
13 46.26 (2) (c), 1985 stats., to spend for juvenile delinquency-related services from its
14 distribution for 1987. Each county's required match for the distribution under s.
15 46.40 (9) (b) for a year equals 9.89% of that county's amounts described in s. 46.40
16 (9) (a) (intro.) for that year. Matching funds may be from county tax levies, federal
17 and state revenue sharing funds, or private donations to the county that meet the
18 requirements specified in s. 51.423 (5). Private donations may not exceed 25% of the
19 total county match. If the county match is less than the amount required to generate
20 the full amount of state and federal funds distributed for this period, the decrease
21 in the amount of state and federal funds equals the difference between the required
22 and the actual amount of county matching funds.

23 **SECTION 11.** 46.51 (4) of the statutes is amended to read:

24 46.51 (4) A county may use the funds distributed under this section to fund
25 additional foster parents ~~and, treatment foster parents, and subsidized guardians~~

1 to care for abused and neglected children and to fund additional staff positions to
2 provide services related to child abuse and neglect and to unborn child abuse.

3 **SECTION 12.** 48.33 (4) (intro.) of the statutes is amended to read:

4 48.33 (4) OTHER OUT-OF-HOME PLACEMENTS. (intro.) A report recommending
5 placement of an adult expectant mother outside of her home shall be in writing. A
6 report recommending placement of a child in a foster home, treatment foster home,
7 group home, or child caring institution or in the home of the child's guardian under
8 s. 48.977 (2) shall be in writing and shall include all of the following:

9 **SECTION 13.** 48.345 (3) (c) of the statutes is amended to read:

10 48.345 (3) (c) A foster home or treatment foster home licensed under s. 48.62
11 ~~or~~, a group home licensed under s. 48.625, or in the home of the child's guardian under
12 s. 48.977 (2).

13 **SECTION 14.** 48.425 (1) (g) of the statutes is amended to read:

14 48.425 (1) (g) If an agency designated under s. 48.427 (3m) (a) 1. to 4.
15 determines that it is unlikely that the child will be adopted, or if adoption would not
16 be in the best interests of the child, the report shall include a plan for placing the child
17 in a permanent family setting. The plan shall include a recommendation as to the
18 agency to be named guardian of the child or a recommendation that the person
19 appointed as the guardian of the child under s. 48.977 (2) continue to be the guardian
20 of the child or that a guardian be appointed for the child under s. 48.977 (2).

21 **SECTION 15.** 48.427 (3m) (intro.) of the statutes is amended to read:

22 48.427 (3m) (intro.) If the rights of both parents or of the only living parent are
23 terminated under sub. (3) and if a guardian has not been appointed under s. 48.977,
24 the court shall ~~either~~ do one of the following:

25 **SECTION 16.** 48.427 (3m) (c) of the statutes is created to read:

1 48.427 (3m) (c) Appoint a guardian under s. 48.977 and transfer guardianship
2 and custody of the child to the guardian.

3 **SECTION 17.** 48.427 (3p) of the statutes is amended to read:

4 48.427 (3p) If the rights of both parents or of the only living parent are
5 terminated under sub. (3) and if a guardian has been appointed under s. 48.977, the
6 court may enter one of the orders specified in sub. (3m) (a) or (b). If the court enters
7 an order under this subsection, the court shall terminate the guardianship under s.
8 48.977.

9 **SECTION 18.** 48.48 (17) (a) 3. of the statutes is amended to read:

10 48.48 (17) (a) 3. Provide appropriate protection and services for children and
11 the expectant mothers of unborn children in its care, including providing services for
12 those children and their families and for those expectant mothers in their own
13 homes, placing the children in licensed foster homes, treatment foster homes, or
14 group homes in this state or another state within a reasonable proximity to the
15 agency with legal custody, placing the children in the homes of the children's
16 guardians under s. 48.977 (2), or contracting for services for those children by
17 licensed child welfare agencies, except that the department may not purchase the
18 educational component of private day treatment programs unless the department,
19 the school board, as defined in s. 115.001 (7), and the state superintendent of public
20 instruction all determine that an appropriate public education program is not
21 available. Disputes between the department and the school district shall be resolved
22 by the state superintendent of public instruction.

23 **SECTION 19.** 48.48 (17) (c) 4. of the statutes is amended to read:

24 48.48 (17) (c) 4. Is living in a foster home, treatment foster home, group home,
25 or child caring institution or in the home of a subsidized guardian under s. 48.62 (5).

1 **SECTION 20.** 48.57 (1) (c) of the statutes is amended to read:

2 48.57 (1) (c) To provide appropriate protection and services for children and the
3 expectant mothers of unborn children in its care, including providing services for
4 those children and their families and for those expectant mothers in their own
5 homes, placing those children in licensed foster homes, treatment foster homes, or
6 group homes in this state or another state within a reasonable proximity to the
7 agency with legal custody, placing those children in the homes of the children's
8 guardians under s. 48.977 (2), or contracting for services for those children by
9 licensed child welfare agencies, except that the county department may not purchase
10 the educational component of private day treatment programs unless the county
11 department, the school board, as defined in s. 115.001 (7), and the state
12 superintendent of public instruction all determine that an appropriate public
13 education program is not available. Disputes between the county department and
14 the school district shall be resolved by the state superintendent of public instruction.

15 **SECTION 21.** 48.57 (3m) (cm) of the statutes is amended to read:

16 48.57 (3m) (cm) A kinship care relative who receives a payment under par. (am)
17 for providing care and maintenance for a child is not eligible to receive a payment
18 under sub. (3n) or s. 48.62 (4) or (5) for that child.

19 **SECTION 22.** 48.57 (3n) (am) 1. of the statutes is amended to read:

20 48.57 (3n) (am) 1. The long-term kinship care relative applies to the county
21 department or department for payments under this subsection and provides proof
22 that he or she has been appointed as the guardian of the child under s. 48.977 (2) and
23 states that he or she was not licensed as the child's foster parent or treatment foster
24 parent before the guardianship appointment.

25 **SECTION 23.** 48.57 (3n) (cm) of the statutes is amended to read:

1 48.57 (3n) (cm) A long-term kinship care relative who receives a payment
2 under par. (am) for providing care and maintenance for a child is not eligible to
3 receive a payment under sub. (3m) or s. 48.62 (4) or (5) for that child.

4 **SECTION 24.** 48.61 (3) of the statutes is amended to read:

5 48.61 (3) To provide appropriate care and training for children in its legal or
6 physical custody and, if licensed to do so, to place children in licensed foster homes,
7 licensed treatment foster homes, and licensed group homes and in the homes of the
8 children's guardians under s. 48.977 (2).

9 **SECTION 25.** 48.615 (1) (b) of the statutes is amended to read:

10 48.615 (1) (b) Before the department may issue a license under s. 48.60 (1) to
11 a child welfare agency that places children in licensed foster homes, licensed
12 treatment foster homes, and licensed group homes and in the homes of the children's
13 guardians under s. 48.977 (2), the child welfare agency must pay to the department
14 a biennial fee of \$254.10, (2) who was licensed as the child's foster parent or
15 treatment foster parent before the guardianship appointment, and who is a resident
16 of a county having a population of 500,000 or more.

17 **SECTION 26.** 48.62 (5) of the statutes is created to read:

18 48.62 (5) (a) (intro.) Subject to par. (b), monthly subsidized guardianship
19 payments shall be provided to a guardian of a child under s. 48.977 (2) who was
20 licensed as the child's foster parent or treatment foster parent before the
21 guardianship appointment, and who is a resident of a county having a population of
22 500,000 or more according to a rate established by the department based on the
23 average amount of general purpose revenues expended for foster care per child in
24 foster care in a county having a population of 500,000 or more in fiscal year 2000-01
25 if the child meets any of the following conditions:

1 1. The child is 12 years of age or over and has been placed outside of his or her
2 home, as described in s. 48.365 (1), for 15 of the most recent 22 months, the parental
3 rights of both of the child's parents or of the child's only living parent have been
4 terminated, or the court has found under s. 48.977 (2) (f) that the agency primarily
5 responsible for providing services to the child under a court order has made
6 reasonable efforts to make it possible for the child to return to his or her home, while
7 assuring that the child's health and safety are the paramount concerns, but that
8 reunification of the child with the child's parent or parents is unlikely or contrary to
9 the best interests of the child and that further reunification efforts are unlikely to
10 be made or are contrary to the best interests of the child, or that any of the
11 circumstances specified in s. 48.355 (2d) (b) 1., 2., 3., or 4. apply.

12 2. The child does not meet the conditions specified in subd. 1., but the
13 department has determined, and the court has confirmed under s. 48.977 (3r), that
14 providing monthly subsidized guardianship payments to the guardian is in the best
15 interests of the child.

16 (b) The department shall request from the secretary of the federal department
17 of health and human services a waiver of the requirements under 42 USC 670 to 679a
18 that would authorize the state to receive federal foster care and adoption assistance
19 reimbursement under 42 USC 670 to 679a for the costs of providing care for a child
20 who is in the care of a guardian who was licensed as the child's foster parent or
21 treatment foster parent before the guardianship appointment. If the waiver is
22 approved, the rate established under par. (a) shall not apply, and monthly subsidized
23 guardianship payments under par. (a) shall be provided to the guardian according
24 to the terms of the waiver.

25 **SECTION 27.** 48.977 (title) of the statutes is amended to read:

1 **48.977 (title) Appointment of relatives as guardians for certain**
2 **children in need of protection or services.**

3 **SECTION 28.** 48.977 (1) of the statutes is repealed.

4 **SECTION 29.** 48.977 (2) (intro.) of the statutes is amended to read:

5 48.977 (2) TYPE OF GUARDIANSHIP. (intro.) This section may be used for the
6 appointment of a ~~relative of a child as a~~ guardian of the person for ~~the~~ a child if the
7 court finds all of the following:

8 **SECTION 30.** 48.977 (2) (a) of the statutes is amended to read:

9 48.977 (2) (a) That the child has been adjudged to be in need of protection or
10 services under s. 48.13 (1), (2), (3), (3m), (4), (5), (8), (9), (10), (10m), (11), or (11m) or
11 938.13 (4) and been placed, or continued in a placement, outside of his or her home
12 pursuant to one or more court orders under s. 48.345, 48.357, 48.363, 48.365,
13 938.345, 938.357, 938.363, or 938.365 ~~for a cumulative total period of one year or~~
14 longer or that the child has been so adjudged and placement of the child in the home
15 of a guardian under this section has been recommended under s. 48.33 (1) or 938.33
16 (1) or requested under s. 48.357 (1) or (2m) or 938.357 (1) or (2m).

17 **SECTION 31.** 48.977 (2) (b) of the statutes is amended to read:

18 48.977 (2) (b) That the person nominated as the guardian of the child is a
19 ~~relative of the child~~ person with whom the child has been placed or in whose home
20 placement of the child is recommended or requested under par. (a) and that it is likely
21 that the child will continue to be placed with that ~~relative~~ person for an extended
22 period of time or until the child attains the age of 18 years.

23 **SECTION 32.** 48.977 (2) (c) of the statutes is amended to read:

1 48.977 (2) (c) That, if appointed, it is likely that the relative person would be
2 willing and able to serve as the child's guardian for an extended period of time or until
3 the child attains the age of 18 years.

4 **SECTION 33.** 48.977 (2) (f) of the statutes is amended to read:

5 48.977 (2) (f) That the agency primarily responsible for providing services to
6 the child under a court order has made reasonable efforts to make it possible for the
7 child to return to his or her home, while assuring that the child's health and safety
8 are the paramount concerns, but that reunification of the child with the child's
9 parent or parents is unlikely or contrary to the best interests of the child and that
10 further reunification efforts are unlikely to be made or are contrary to the best
11 interests of the child or that the agency primarily responsible for providing services
12 to the child under a court order has made reasonable efforts to prevent the removal
13 of the child from his or her home, while assuring that the child's health and safety
14 are the paramount concerns, but that continued placement of the child in the home
15 would be contrary to the health, safety, and welfare of the child, except that the court
16 need not find that the agency has made those reasonable efforts with respect to a
17 parent of the child if any of the circumstances specified in s. 48.355 (2d) (b) 1., 2., 3.,
18 or 4. apply to that parent.

19 **SECTION 34.** 48.977 (3r) of the statutes is created to read:

20 48.977 (3r) **SUBSIDIZED GUARDIANSHIP.** If the department has determined that
21 providing monthly subsidized guardianship payments to the guardian of a child who
22 does not meet the conditions specified under s. 48.62 (5) (a) 1. is in the best interests
23 of the child, the petitioner under sub. (4) (a) shall include in the petition under sub.
24 (4) (b) a statement of that determination and a request for the court to include in the
25 court's findings under sub. (4) (d) a finding confirming that determination. If the

1 court confirms that determination and appoints a guardian for the child under sub.
2 (2) and if the guardian was licensed as the child's foster parent or treatment foster
3 parent before the guardianship appointment and is a resident of a county having a
4 population of 500,000 or more, the department shall provide monthly subsidized
5 guardianship payments to the guardian under s. 48.62 (5).

6 **SECTION 35.** 48.977 (4) (a) 4. of the statutes is amended to read:

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

10 **SECTION 36.** 48.977 (4) (a) 6. of the statutes is amended to read:

11 48.977 (4) (a) 6. A county department under s. 46.22 or 46.23 or, if the child has
12 been placed pursuant to an order under ch. 938 or the child's placement with the
13 guardian is recommended or requested under ch. 938, a county department under
14 s. 46.215, 46.22, or 46.23.

15 **SECTION 37.** 48.977 (4) (b) 3. of the statutes is amended to read:

16 48.977 (4) (b) 3. The date the child was adjudged in need of protection or
17 services under s. 48.13 (1), (2), (3), (3m), (4), (5), (8), (9), (10), (10m), (11) or (11m) or
18 938.13 (4) and the dates that the child has been placed, or continued in a placement,
19 outside of his or her home pursuant to one or more court orders under s. 48.345,
20 48.357, 48.363, 48.365, 938.345, 938.357, 938.363 or 938.365 or, if the child has been
21 so adjudged, but not so placed, the date of the report under s. 48.33 (1) or 938.33 (1)
22 or the request for a change in placement under s. 48.977 (1) or (2m) or 938.357 (1)
23 or (2m) in which placement of the child in the home of the person is recommended
24 or requested.

25 **SECTION 38.** 48.977 (4) (c) 1. g. of the statutes is amended to read:

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

4 **SECTION 39.** 48.977 (4) (e) of the statutes is amended to read:

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

18 **SECTION 40.** 48.977 (4) (g) 1. of the statutes is amended to read:

19 48.977 (4) (g) 1. Whether the relative person would be a suitable guardian of
20 the child.

21 **SECTION 41.** 48.977 (4) (g) 2. of the statutes is amended to read:

22 48.977 (4) (g) 2. The willingness and ability of the relative person to serve as
23 the child's guardian for an extended period of time or until the child attains the age
24 of 18 years.

25 **SECTION 42.** 49.155 (1m) (bm) of the statutes is amended to read:

1 49.155 (1m) (bm) If the individual is providing care for a child under a court
2 order and is receiving payments on behalf of the child under s. 48.57 (3m) or (3n) or
3 48.62 (5), or if the individual is a foster parent or treatment foster parent, and child
4 care is needed for that child, the individual meets the requirement under s. 49.145
5 (2) (c).

6 **SECTION 43.** 49.46 (1) (a) 5. of the statutes is amended to read:

7 49.46 (1) (a) 5. Any child in an adoption assistance, foster care, kinship care,
8 long-term kinship care ~~or~~, treatment foster care, or subsidized guardianship
9 placement under ch. 48 or 938, as determined by the department.

10 **SECTION 44.** 767.078 (1) (a) 2. of the statutes is amended to read:

11 767.078 (1) (a) 2. The child's right to support is assigned to the state under s.
12 46.261, 48.57 (3m) (b) 2. or (3n) (b) 2., or 49.19 (4) (h) 1. b.

13 **SECTION 45.** 767.29 (1m) (c) of the statutes is amended to read:

14 767.29 (1m) (c) The party entitled to the support or maintenance money or a
15 minor child of the party has applied for or is receiving ~~aid to families with dependent~~
16 ~~children aid~~ under s. 46.261 or public assistance under ch. 49 and there is an
17 assignment to the state under s. 46.261 or 49.19 (4) (h) 1. b. of the party's right to the
18 support or maintenance money.

19 **SECTION 46.** 767.29 (2) of the statutes is amended to read:

20 767.29 (2) If any party entitled to maintenance payments or support money,
21 or both, is receiving public assistance under ch. 49, the party may assign the party's
22 right thereto to the county department under s. 46.215, 46.22, or 46.23 granting such
23 assistance. Such assignment shall be approved by order of the court granting the
24 maintenance payments or support money, and may be terminated in like manner;
25 except that it shall not be terminated in cases where there is any delinquency in the

1 amount of maintenance payments and support money previously ordered or
2 adjudged to be paid to the assignee without the written consent of the assignee or
3 upon notice to the assignee and hearing. When an assignment of maintenance
4 payments or support money, or both, has been approved by the order, the assignee
5 shall be deemed a real party in interest within s. 803.01 but solely for the purpose
6 of securing payment of unpaid maintenance payments or support money adjudged
7 or ordered to be paid, by participating in proceedings to secure the payment thereof.
8 Notwithstanding assignment under this subsection, and without further order of the
9 court, the department or its designee, upon receiving notice that a party or a minor
10 child of the parties is receiving aid under s. 46.261 or public assistance under ch. 49
11 or that a kinship care relative or long-term kinship care relative of the minor child
12 is receiving kinship care payments or long-term kinship care payments for the minor
13 child, shall forward all support assigned under s. 46.261, 48.57 (3m) (b) 2. or (3n) (b)
14 2., 49.19 (4) (h) 1., or 49.45 (19) to the assignee under s. 46.261, 48.57 (3m) (b) 2. or
15 (3n) (b) 2., 49.19 (4) (h) 1., or 49.45 (19).

16 **SECTION 47.** 767.29 (4) of the statutes is amended to read:

17 767.29 (4) If an order or judgment providing for the support of one or more
18 children not receiving aid under s. 46.261, 48.57 (3m) or (3n), or 49.19 includes
19 support for a minor who is the beneficiary of aid under s. 46.261, 48.57 (3m) or (3n),
20 or 49.19, any support payment made under the order or judgment is assigned to the
21 state under s. 46.261, 48.57 (3m) (b) 2. or (3n) (b) 2., or 49.19 (4) (h) 1. b. in the amount
22 that is the proportionate share of the minor receiving aid under s. 46.261, 48.57 (3m)
23 or (3n), or 49.19, except as otherwise ordered by the court on the motion of a party.

24 **SECTION 48.** 938.33 (4) (intro.) of the statutes is amended to read:

1 938.33 (4) OTHER OUT-OF-HOME PLACEMENTS. (intro.) A report recommending
2 placement in a foster home, treatment foster home, group home, or nonsecured child
3 caring institution or in the home of the juvenile's guardian under s. 48.977 (2) shall
4 be in writing, except that the report may be presented orally at the dispositional
5 hearing if all parties consent. A report that is presented orally shall be transcribed
6 and made a part of the court record. The report shall include all of the following:

7 **SECTION 49.** 938.345 (4) of the statutes is created to read:

8 938.345 (4) If the court finds that a juvenile is in need of protection or services
9 under s. 938.13 (4), the court, instead of or in addition to any other disposition
10 imposed under sub. (1), may place the juvenile in the home of the juvenile's guardian
11 under s. 48.977 (2).

12 **SECTION 50.** 938.57 (1) (c) of the statutes is amended to read:

13 938.57 (1) (c) Provide appropriate protection and services for juveniles in its
14 care, including providing services for juveniles and their families in their own homes,
15 placing the juveniles in licensed foster homes, licensed treatment foster homes, or
16 licensed group homes in this state or another state within a reasonable proximity to
17 the agency with legal custody, placing the juveniles in the homes of the juveniles'
18 guardians under s. 48.977 (2), or contracting for services for them by licensed child
19 welfare agencies or replacing them in secured correctional facilities, secured child
20 caring institutions, or secured group homes in accordance with rules promulgated
21 under ch. 227, except that the county department may not purchase the educational
22 component of private day treatment programs unless the county department, the
23 school board, as defined in s. 115.001 (7), and the state superintendent of public
24 instruction all determine that an appropriate public education program is not

1 available. Disputes between the county department and the school district shall be
2 resolved by the state superintendent of public instruction.

3 **SECTION 51.** 938.57 (3) (a) 4. of the statutes is amended to read:

4 938.57 (3) (a) 4. Is living in a foster home, treatment foster home, group home,
5 or child caring institution or in the home of a subsidized guardian under s. 48.62 (5).

6 **SECTION 9123. Nonstatutory provisions; health and family services.**

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

12 (END)

DN = 76

Gretchen:

This redraft merely corrects the analysis
to reflect that the subsidized guardianship
payments will be based on the average
amount expended per child in Milwaukee County
and not statewide.

GMM

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0441/5dn
GMM:kmg:kjf

February 3, 2001

Gretchen:

This redraft merely corrects the analysis to reflect that the subsidized guardianship payments will be based on the average amount expended per child in Milwaukee County and not statewide.

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