



State of Wisconsin
2001 - 2002 LEGISLATURE

Do not

LRB-0441/1

GMM:hmh&kmg:kjf

Do not

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

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

Do not gen

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

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

CHILDREN

Under current law, the court assigned to exercise jurisdiction under the Children's Code (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

payments in an amount established by DHFS based on the average amount of general purpose revenues expended per child in foster care in Milwaukee County 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 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.** 46.495 (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:

*** NOTE: This is reconciled to 49.155 (1m) (bm), This section has been affected by drafts with the following LRB #s: LRB-0441/5 and LRB-1302/7.

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)

D-Note

Gretchen Fossum and Robert Blaine:

*This draft reconciles LRB-0441/5 and LRB-1302/7.
Both ~~LRB-0441~~ and ~~LRB-1302~~ should continue to
appear in the compiled bill.*

GMM

*of these
drafts*

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0441/6dn
GMM:hmh&kmg:cmh

February 7, 2001

Gretchen Fossum and Robert Blaine:

This draft reconciles LRB-0441/5 and LRB-1302/7. Both of these drafts should continue to appear in the compiled bill.

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State of Wisconsin
2001 - 2002 LEGISLATURE

D. J. J.

LRB-0441/6 ①

GMM:hmh&mm:cmh RAR

JLD

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

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

Do not gen

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

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

CHILDREN

Under current law, the court assigned to exercise jurisdiction under the Children's Code (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

requirements ✓

payments in an amount established by DHFS based on the average amount of general purpose revenues expended per child in foster care in Milwaukee County 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 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

SECTION 3

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

SECTION 7

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).

SECTION 20

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

48.357 ✓

SECTION 38

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).

 ***NOTE: This is reconciled s. 49.155 (1m). This SECTION has been affected by
drafts with the following LRB numbers: LRB-0441/5 and LRB-1302/7.

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

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

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

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

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

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

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

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

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

14 938.57 (1) (c) Provide appropriate protection and services for juveniles in its
15 care, including providing services for juveniles and their families in their own homes,
16 placing the juveniles in licensed foster homes, licensed treatment foster homes, or
17 licensed group homes in this state or another state within a reasonable proximity to
18 the agency with legal custody, placing the juveniles in the homes of the juveniles'
19 guardians under s. 48.977 (2), or contracting for services for them by licensed child
20 welfare agencies or replacing them in secured correctional facilities, secured child
21 caring institutions, or secured group homes in accordance with rules promulgated
22 under ch. 227, 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

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.**

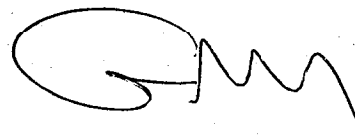
7 (1) **RELATIVE GUARDIANSHIPS.** Notwithstanding section 48.977 (2) (a), 1999
8 stats., a petition under section 48.977 (4) of the statutes, as affected by this act, may
9 be filed for the appointment of a relative as the guardian of the person of a child who
10 has been placed, or continued in a placement,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

12 (END)

DN-6

Gretchen:

This redraft merely corrects an incorrect
cross-reference at page 15, line 22, of the
draft.



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

LRB-0441/7dn
GMM:lmh&jld:pg

February 12, 2001

Gretchen:

This redraft merely corrects an incorrect cross-reference at page 15, line 22, of the draft.

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

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

CHILDREN

Under current law, the court assigned to exercise jurisdiction under the Children's Code (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

payments in an amount established by DHFS based on the average amount of general purpose revenues expended per child in foster care in Milwaukee County 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 requirements 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.** 46.495 (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) Subject to par. (b), monthly subsidized guardianship payments
19 shall be provided to a guardian of a child under s. 48.977 (2) who was licensed as the
20 child's foster parent or treatment foster parent before the guardianship
21 appointment, and who is a resident of a county having a population of 500,000 or
22 more according to a rate established by the department based on the average amount
23 of general purpose revenues expended for foster care per child in foster care in a
24 county having a population of 500,000 or more in fiscal year 2000-01 if the child
25 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. 48.357 (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).

 ****NOTE: This is reconciled s. 49.155 (1m). This SECTION has been affected by
drafts with the following LRB numbers: LRB-0441/5 and LRB-1302/7.

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

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

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

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

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

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

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

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

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

14 938.57 (1) (c) Provide appropriate protection and services for juveniles in its
15 care, including providing services for juveniles and their families in their own homes,
16 placing the juveniles in licensed foster homes, licensed treatment foster homes, or
17 licensed group homes in this state or another state within a reasonable proximity to
18 the agency with legal custody, placing the juveniles in the homes of the juveniles'
19 guardians under s. 48.977 (2), or contracting for services for them by licensed child
20 welfare agencies or replacing them in secured correctional facilities, secured child
21 caring institutions, or secured group homes in accordance with rules promulgated
22 under ch. 227, 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

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)