

2001 ASSEMBLY BILL 655

1 **AN ACT** *to repeal* 15.197 (11n) (a) 4., 15.197 (11n) (b), 15.197 (11n) (c), 15.197
2 (11n) (d) and 252.15 (2) (am) 2. b.; *to renumber* 15.197 (11n) (a) 1. to 3.; *to*
3 *renumber and amend* 15.197 (11n) (intro.) (except 15.197 (11n) (title)), 15.197
4 (11n) (a) (intro.), 48.02 (2c), 115.76 (4), 252.15 (2) (am) 2. a. and 938.02 (2c); *to*
5 *amend* 46.03 (22) (a), 46.10 (14) (b), 46.261 (1) (a), 46.261 (2) (a) 3., 46.261 (2)
6 (a) 4., 46.261 (2) (b), 48.33 (4) (intro.), 48.345 (3) (d), 48.371 (1), 48.371 (3)
7 (intro.), 48.371 (3) (a), 48.371 (3) (b), 48.371 (3) (c), 48.371 (3) (d), 48.38 (2)
8 (intro.), 48.48 (17) (c) 4., 48.57 (3) (a) 4., 48.60 (4) (b), 48.60 (5) (a) (intro.), 48.615
9 (1) (a), 48.68 (2), 48.68 (3), 48.68 (4), 48.745 (1), 48.745 (2), 48.745 (3), 48.981
10 (1) (am) 5., 48.981 (2), 48.988 (2) (b), 49.19 (1) (a) 2. b., 49.19 (10) (b), 49.19 (10)
11 (c), 49.19 (10) (d), 49.19 (10) (e), 70.11 (19), 115.762 (3) (g), 115.81 (1) (b), 115.81
12 (2), 115.81 (3) (a), 115.81 (3) (b) 2. b., 115.81 (4) (intro.), 115.81 (4) (a) 3., 115.81
13 (4) (a) 4., 115.81 (4) (a) 5., 115.81 (4) (b) 1., 115.81 (4) (b) 2., 115.81 (4) (b) 3.,
14 115.81 (4) (b) 4., 115.81 (4) (b) 5., 146.82 (2) (a) 18m., 252.15 (5) (a) 19., 301.08

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1 (1) (b) 3., 301.12 (14) (b), 301.26 (4) (d) 2., 301.26 (4) (d) 3., 767.29 (3) (b), 938.02
2 (15g), 938.02 (19r), 938.08 (3) (a) 1., 938.08 (3) (a) 2., 938.08 (3) (b), 938.33 (4)
3 (intro.), 938.34 (3) (d), 938.371 (1), 938.371 (3) (intro.), 938.371 (3) (a), 938.371
4 (3) (b), 938.371 (3) (c), 938.371 (3) (d), 938.38 (2) (intro.), 938.51 (1d) (intro.),
5 938.51 (4) (intro.), 938.538 (3) (a) 1p., 938.539 (5), 938.57 (3) (a) 4., 938.78 (3)
6 and 940.295 (2) (m); and **to create** 15.197 (11n) (am) (intro.), 15.197 (11n) (am)
7 2., 15.197 (11n) (am) 3., 15.197 (11n) (bm), 15.197 (11n) (cm), 51.437 (14r) (a) 7.
8 and 51.437 (14r) (c) of the statutes; **relating to:** testing of donors of human ova
9 for the presence of human immunodeficiency virus; membership of the council
10 on developmental disabilities; and changing the term used to describe a
11 residential facility operated by a child welfare agency for the care and
12 maintenance of children (suggested as remedial legislation by the department
13 of health and family services).

Analysis by the Legislative Reference Bureau

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the department of health and family services and introduced by the law revision committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the law revision committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

14 **SECTION 1.** 15.197 (11n) (intro.) (except 15.197 (11n) (title)) of the statutes is
15 renumbered 15.197 (11n) (ag) and amended to read:

16 15.197 (**11n**) (ag) There is created a council on developmental disabilities,
17 attached to the department of health and family services under s. 15.03. **Members**

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1 shall be state residents and shall be appointed in the following manner for staggered
2 4-year terms:

NOTE: Sections 1 to 12 change the requirements for membership to the state council on developmental disabilities to conform to the federal requirements for council membership. Currently, the membership of the council does not reflect the membership requirements specified under federal law.

3 **SECTION 2.** 15.197 (11n) (a) (intro.) of the statutes is renumbered 15.197 (11n)
4 (am) 1. (intro.) and amended to read:

5 15.197 **(11n)** (am) 1. (intro.) Agencies A representative of each of the relevant
6 agencies of the state ~~providing direct services to the developmentally disabled shall~~
7 ~~be represented by members of the council~~ that administer federal funds related to
8 individuals with disabilities, to be designated by:

9 **SECTION 3.** 15.197 (11n) (a) 1. to 3. of the statutes are renumbered 15.197 (11n)
10 (am) 1. a. to c.

11 **SECTION 4.** 15.197 (11n) (a) 4. of the statutes is repealed.

12 **SECTION 5.** 15.197 (11n) (am) (intro.) of the statutes is created to read:

13 15.197 **(11n)** (am) (intro.) Subject to par. (cm), the council shall consist of the
14 following state residents, appointed for staggered 4-year terms, who shall be
15 representative of all geographic areas of the state and reflect the state's diversity
16 with respect to race and ethnicity:

17 **SECTION 6.** 15.197 (11n) (am) 2. of the statutes is created to read:

18 15.197 **(11n)** (am) 2. Representatives of individuals with developmental
19 disabilities, who are any of the following:

20 a. Individuals with developmental disabilities.

21 b. Parents or guardians of children with developmental disabilities.

22 c. Immediate relatives or guardians of adults with mentally impairing
23 developmental disabilities who cannot advocate for themselves.

ASSEMBLY BILL 655**SECTION 7**

1 **SECTION 7.** 15.197 (11n) (am) 3. of the statutes is created to read:

2 15.197 **(11n)** (am) 3. A representative of each of the following who has sufficient
3 authority to engage in policy planning and implementation for the entity
4 represented:

5 a. The entity in this state that is designated by the federal department of health
6 and human services as a university center for excellence in developmental
7 disabilities education, research, and services.

8 b. The state protection and advocacy system under s. 51.62, designated by the
9 director of the state protection and advocacy agency under s. 51.62 (2).

10 c. Each of the local governmental agencies, nongovernmental agencies, and
11 private nonprofit groups that are concerned with services for individuals with
12 developmental disabilities.

13 **SECTION 8.** 15.197 (11n) (b) of the statutes is repealed.

14 **SECTION 9.** 15.197 (11n) (bm) of the statutes is created to read:

15 15.197 **(11n)** (bm) A member specified in par. (am) 1. or 3. shall recuse himself
16 or herself from any discussion by the council of grants or contracts for which the
17 member's department, agency, program, or group is a grantee, contractor, or
18 applicant and may not vote on a matter that would provide direct financial benefit
19 to the member or otherwise give the appearance of a conflict of interest.

20 **SECTION 10.** 15.197 (11n) (c) of the statutes is repealed.

21 **SECTION 11.** 15.197 (11n) (cm) of the statutes is created to read:

22 15.197 **(11n)** (cm) 1. At least 60% of the membership of the council shall be
23 individuals specified under par. (am) 2. who are not managing employees, as defined
24 under 42 USC 1320a-5 (b), of an entity, or employees of a state agency, that receives
25 federal funds for the developmentally disabled or uses the funds to provide services

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1 to persons with developmental disabilities. Of those individuals, one-third shall be
2 individuals specified under par. (am) 2. a., one-third shall be individuals specified
3 under par. (am) 2. b. or c., and one-third shall be individuals specified under par. (am)
4 2. a., b., or c.

5 2. At least one of the individuals described under subd. 1. shall be an individual
6 with a developmental disability who resides in or previously resided in an
7 institution, including a state center for the developmentally disabled, or the
8 immediate relative or guardian of such an individual. The requirement under this
9 subdivision does not apply if such an individual does not reside in this state.

10 **SECTION 12.** 15.197 (11n) (d) of the statutes is repealed.

11 **SECTION 13.** 46.03 (22) (a) of the statutes is amended to read:

12 46.03 **(22)** (a) “Community living arrangement” means any of the following
13 facilities licensed or operated, or permitted under the authority of the department:
14 residential care centers for children and youth, as defined in s. 48.02 (15d), operated
15 by child welfare agencies licensed under s. 48.60, group homes for children under, as
16 defined in s. 48.02 (7), and community-based residential facilities under, as defined
17 in s. 50.01 (1g); but does not include adult family homes, as defined in s. 50.01 (1),
18 day care centers, nursing homes, general hospitals, special hospitals, prisons, and
19 jails.

NOTE: This SECTION clarifies that it is a residential care center for children and youth *operated by* a child welfare agency, and not the agency operating the center, that is defined as a “community living arrangement” in s. 46.03 (22) (a), stats.

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

21 46.10 **(14)** (b) Except as provided in par. (c) and subject to par. (cm), liability
22 of a parent specified in sub. (2) or s. 46.03 (18) for the care and maintenance of the
23 parent’s minor child who has been placed by a court order under s. 48.355 or 48.357

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1 in a residential, nonmedical facility such as a group home, foster home, treatment
2 foster home ~~or child caring institution, or residential care center for children and~~
3 youth shall be determined by the court by using the percentage standard established
4 by the department of workforce development under s. 49.22 (9) and by applying the
5 percentage standard in the manner established by the department under s. 46.247.

NOTE: SECTIONS 14 to 20, 22 to 30, 40 to 47, 51 to 66, 69 to 81, and 83 to 95 change the term “child caring institution” to “residential care center for children and youth” to describe a facility operated by a licensed child welfare agency for the care and maintenance of children residing in that facility. Current law requires a person who provides care and maintenance for 75 days in any consecutive 12-month period for 4 or more children at any one time to obtain a license to operate a child welfare agency from the department of health and family services (DHFS). This change makes the term used in the statutes to describe those facilities consistent with the term used by other states, national organizations, professionals in the child welfare field, and DHFS to describe those facilities.

6 **SECTION 15.** 46.261 (1) (a) of the statutes is amended to read:

7 46.261 (1) (a) The child is living in a foster home or treatment foster home
8 licensed under s. 48.62 if a license is required under that section, in a foster home
9 or 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, in a group home licensed under s. 48.625, or in a ~~child caring~~
12 institution residential care center for children and youth licensed under s. 48.60, and
13 has been placed in the foster home, treatment foster home, group home ~~or institution,~~
14 or center by a county department under s. 46.215, 46.22 or 46.23, by the department,
15 or by a federally recognized American Indian tribal governing body in this state
16 under an agreement with a county department under s. 46.215, 46.22 or 46.23.

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

18 46.261 (2) (a) 3. A county or, in a county having a population of 500,000 or more,
19 the department, when the child is placed in a licensed foster home, treatment foster
20 home, group home ~~or child caring institution, or residential care center for children~~

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

9 **SECTION 17.** 46.261 (2) (a) 4. of the statutes is amended to read:

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

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

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

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

4 **SECTION 19.** 48.02 (2c) of the statutes is renumbered 48.02 (15d) and amended
5 to read:

6 **48.02 (15d)** ~~“Child-caring institution”~~ “Residential care center for children and
7 youth” means a facility operated by a child welfare agency licensed under s. 48.60 for
8 the care and maintenance of children residing in that facility.

9 **SECTION 20.** 48.33 (4) (intro.) of the statutes is amended to read:

10 **48.33 (4)** OTHER OUT-OF-HOME PLACEMENTS. (intro.) A report recommending
11 placement of an adult expectant mother outside of her home shall be in writing. A
12 report recommending placement of a child in a foster home, treatment foster home,
13 group home ~~or child-caring institution, or residential care center for children and~~
14 youth shall be in writing and shall include all of the following:

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

16 **48.345 (3)** (d) A residential treatment center operated by a child welfare agency
17 licensed under s. 48.60.

NOTE: This SECTION clarifies that it is the child welfare agency operating the
residential treatment center, and not the residential treatment center itself, that is
licensed under s. 48.60.

18 **SECTION 22.** 48.371 (1) of the statutes is amended to read:

19 **48.371 (1)** If a child is placed in a foster home, treatment foster home, group
20 home ~~or child-caring institution, or residential care center for children and youth,~~
21 including a placement under s. 48.205 or 48.21, the agency, as defined in s. 48.38 (1)
22 (a), that placed the child or arranged for the placement of the child shall provide the
23 following information to the foster parent, treatment foster parent, or operator of the

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1 group home or ~~child-caring institution~~ residential care center for children and youth
2 at the time of placement or, if the information has not been provided to the agency
3 by that time, as soon as possible after the date on which the agency receives that
4 information, but not more than 2 working days after that date:

5 (a) Results of a test or a series of tests of the child to determine the presence
6 of HIV, as defined in s. 968.38 (1) (b), antigen or nonantigenic products of HIV, or an
7 antibody to HIV, as provided under s. 252.15 (5) (a) 19., including results included
8 in a court report or permanency plan. At the time that the test results are provided,
9 the agency shall notify the foster parent, treatment foster parent, or operator of the
10 group home or ~~child-caring institution~~ residential care center for children and youth
11 of the confidentiality requirements under s. 252.15 (6).

12 (b) Results of any tests of the child to determine the presence of viral hepatitis,
13 type B, including results included in a court report or permanency plan. The foster
14 parent, treatment foster parent, or operator of a group home or ~~child-caring~~
15 ~~institution~~ residential care center for children and youth receiving information
16 under this paragraph shall keep the information confidential.

17 (c) Any other medical information concerning the child that is necessary for the
18 care of the child. The foster parent, treatment foster parent, or operator of a group
19 home or ~~child-caring institution~~ residential care center for children and youth
20 receiving information under this paragraph shall keep the information confidential.

21 **SECTION 23.** 48.371 (3) (intro.) of the statutes is amended to read:

22 48.371 (3) (intro.) At the time of placement of a child in a foster home, treatment
23 foster home, group home or ~~child-caring institution~~, or residential care center for
24 children and youth or, if the information is not available at that time, as soon as
25 possible after the date on which the court report or permanency plan has been

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1 submitted, but no later than 7 days after that date, the agency, as defined in s. 48.38
2 (1) (a), responsible for preparing the child's permanency plan shall provide to the
3 foster parent, treatment foster parent, or operator of the group home or ~~child-caring~~
4 ~~institution~~ residential care center for children and youth information contained in
5 the court report submitted under s. 48.33 (1), 48.365 (2g), 48.425 (1), 48.831 (2) or
6 48.837 (4) (c) or permanency plan submitted under s. 48.355 (2e), 48.38, 48.43 (1) (c)
7 or (5) (c), 48.63 (4) or 48.831 (4) (e) relating to findings or opinions of the court or
8 agency that prepared the court report or permanency plan relating to any of the
9 following:

10 **SECTION 24.** 48.371 (3) (a) of the statutes is amended to read:

11 48.371 (3) (a) Any mental, emotional, cognitive, developmental, or behavioral
12 disability of the child. The foster parent, treatment foster parent, or operator of a
13 group home or ~~child-caring institution~~ residential care center for children and youth
14 receiving information under this subsection shall keep the information confidential.

15 **SECTION 25.** 48.371 (3) (b) of the statutes is amended to read:

16 48.371 (3) (b) Any involvement of the child in any criminal gang, as defined in
17 s. 939.22 (9), or in any other group in which any child was traumatized as a result
18 of his or her association with that group. The foster parent, treatment foster parent,
19 or operator of a group home or ~~child-caring institution~~ residential care center for
20 children and youth receiving information under this paragraph shall keep the
21 information confidential.

22 **SECTION 26.** 48.371 (3) (c) of the statutes is amended to read:

23 48.371 (3) (c) Any involvement of the child in any activities that are harmful
24 to the child's physical, mental, or moral well-being. The foster parent, treatment
25 foster parent, or operator of a group home or ~~child-caring institution~~ residential care

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1 center for children and youth receiving information under this paragraph shall keep
2 the information confidential.

3 **SECTION 27.** 48.371 (3) (d) of the statutes is amended to read:

4 48.371 (3) (d) Any involvement of the child, whether as victim or perpetrator,
5 in sexual intercourse or sexual contact in violation of s. 940.225, 948.02₁ or 948.025,
6 prostitution in violation of s. 944.30, sexual exploitation of a child in violation of s.
7 948.05₁ or causing a child to view or listen to sexual activity in violation of s. 948.055,
8 if the information is necessary for the care of the child or for the protection of any
9 person living in the foster home, treatment foster home, group home ~~or child caring~~
10 institution, or residential care center for children and youth. The foster parent,
11 treatment foster parent₁, or operator of a group home or ~~child caring institution~~
12 residential care center for children and youth receiving information under this
13 paragraph shall keep the information confidential.

14 **SECTION 28.** 48.38 (2) (intro.) of the statutes is amended to read:

15 48.38 (2) PERMANENCY PLAN REQUIRED. (intro.) Except as provided in sub. (3),
16 for each child living in a foster home, treatment foster home, group home,
17 ~~child-caring institution~~ residential care center for children and youth, secure
18 detention facility₁, or shelter care facility, the agency that placed the child or arranged
19 the placement or the agency assigned primary responsibility for providing services
20 to the child under s. 48.355 shall prepare a written permanency plan, if one of the
21 following conditions exists:

22 **SECTION 29.** 48.48 (17) (c) 4. of the statutes is amended to read:

23 48.48 (17) (c) 4. Is living in a foster home, treatment foster home, group home
24 ~~or child caring institution, or residential care center for children and youth~~.

25 **SECTION 30.** 48.57 (3) (a) 4. of the statutes is amended to read:

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1 48.57 (3) (a) 4. Is living in a foster home, treatment foster home, group home
2 ~~or child caring institution, or residential care center for children and youth.~~

3 **SECTION 31.** 48.60 (4) (b) of the statutes is amended to read:

4 48.60 (4) (b) Notwithstanding ss. 121.78 (3) (a) and 121.79 (1) (a), a child
5 welfare agency shall pay for the costs incurred by a school district in providing
6 special education and related services to a child with a disability who ~~is a resident~~
7 ~~of has been placed with the child welfare agency, if the child was placed in the child~~
8 ~~welfare agency pursuant to under the interstate compact on the placement of~~
9 children under s. 48.988.

NOTE: This SECTION deletes surplus language to clarify that a child welfare agency is liable for the costs incurred by a school district in providing special education for a child with a disability who has been placed with the child welfare agency under the Interstate Compact on the Placement of Children.

10 **SECTION 32.** 48.60 (5) (a) (intro.) of the statutes is amended to read:

11 48.60 (5) (a) (intro.) No later than 24 hours after the death of a child who
12 resided in a ~~building~~ residential care center for children and youth operated by a
13 child welfare agency, the child welfare agency shall report the death to the
14 department if one of the following applies:

NOTE: This SECTION and SECTION 33 eliminate vague references to a “building” operated by a child welfare agency and replaces those vague references with specific references to a “residential care center for children and youth” operated by a child welfare agency, which is the legally defined and professionally accepted term for a facility operated by a child welfare agency for the care and maintenance of children.

15 **SECTION 33.** 48.615 (1) (a) of the statutes is amended to read:

16 48.615 (1) (a) Before the department may issue a license under s. 48.60 (1) to
17 a child welfare agency that regularly provides care and maintenance for children
18 within the confines of its ~~building~~ a residential care center for children and youth
19 operated by the child welfare agency, the child welfare agency must pay to the

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1 department a biennial fee of \$121, plus a biennial fee of \$18.15 per child, based on
2 the number of children that the child welfare agency is licensed to serve.

3 **SECTION 34.** 48.68 (2) of the statutes is amended to read:

4 48.68 (2) Before continuing the license of any child welfare agency ~~or to operate~~
5 a residential care center for children and youth or of any group home, the department
6 shall consider all formal complaints filed under s. 48.745 (2) and the disposition of
7 each during the previous 2-year period.

NOTE: This SECTION and SECTIONS 35 to 39 amend provisions relating to licensure of, and formal complaints regarding, child welfare agencies to clarify that those provisions apply to a residential care center for children and youth operated by a child welfare agency. It is obvious from the context of those provisions that they refer to a child welfare agency in its capacity as an operator of such a center and not in its capacity as a child-placing agency.

8 **SECTION 35.** 48.68 (3) of the statutes is amended to read:

9 48.68 (3) Within 10 working days after receipt of an application for initial
10 licensure of a child welfare agency ~~or to operate a residential care center for children~~
11 and youth or of a group home, the department shall notify the city, town, or village
12 planning commission, or other appropriate city, town, or village agency if there is no
13 planning commission, of receipt of the application. The department shall request
14 that the planning commission or agency send to the department, within 30 days, a
15 description of any specific hazards which ~~that~~ may affect the health and safety of the
16 residents of the ~~child welfare agency~~ residential care center for children and youth
17 or group home. No license may be issued to a child welfare agency ~~or to operate a~~
18 residential care center for children and youth or to a group home until the 30-day
19 period has expired or until the department receives the response of the planning
20 commission or agency, whichever is sooner. In issuing a license the department shall
21 give full consideration to such hazards determined by the planning commission or
22 agency.

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1 **SECTION 36.** 48.68 (4) of the statutes is amended to read:

2 48.68 **(4)** Prior to initial licensure of a residential facility care center for
3 children and youth operated by a child welfare agency or of a group home, the
4 applicant for licensure shall make a good faith effort to establish a community
5 advisory committee consisting of representatives from the child welfare agency or
6 proposed group home, the neighborhood in which the proposed residential facility
7 care center for children and youth or group home will be located and a local unit of
8 government. The community advisory committee shall provide a forum for
9 communication for those persons interested in the proposed residential facility care
10 center for children and youth or group home. Any committee established under this
11 subsection shall continue in existence after licensure to make recommendations to
12 the licensee regarding the impact of the residential facility care center for children
13 and youth or group home on the neighborhood. The department shall determine
14 compliance with this subsection both prior to and after initial licensure.

15 **SECTION 37.** 48.745 (1) of the statutes is amended to read:

16 48.745 **(1)** If a complaint is received by a child welfare agency ~~or~~ operating a
17 residential care center for children and youth or by a group home, the licensee shall
18 attempt to resolve the complaint informally. Failing such resolution, the licensee
19 shall inform the complaining party of the procedure for filing a formal complaint
20 under this section.

21 **SECTION 38.** 48.745 (2) of the statutes is amended to read:

22 48.745 **(2)** Any individual may file a formal complaint under this section
23 regarding the general operation of a ~~child welfare agency~~ residential care center for
24 children and youth or group home and shall not be subject to reprisals for doing so.
25 All formal complaints regarding ~~child welfare agencies~~ residential care centers for

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1 children and youth and group homes shall be filed with the county department on
2 forms supplied by the county department unless the county department designates
3 the department to receive formal complaints. The county department shall
4 investigate or cause to be investigated each formal complaint. Records of the results
5 of each investigation and the disposition of each formal complaint shall be kept by
6 the county department and filed with the subunit of the department ~~which~~ that
7 ~~licenses child welfare agencies~~ residential care centers for children and youth and
8 group homes.

9 **SECTION 39.** 48.745 (3) of the statutes is amended to read:

10 48.745 (3) Upon receipt of a formal complaint, the county department may
11 investigate the premises and records and question the licensee, staff, and residents
12 of the ~~child welfare agency~~ residential care center for children and youth or group
13 home involved. The county department shall attempt to resolve the situation
14 through negotiation and other appropriate means.

15 **SECTION 40.** 48.981 (1) (am) 5. of the statutes is amended to read:

16 48.981 (1) (am) 5. An employee of a residential facility or ~~child-caring~~
17 ~~institution~~ residential care center for children and youth in which the child was or
18 is placed.

19 **SECTION 41.** 48.981 (2) of the statutes is amended to read:

20 48.981 (2) PERSONS REQUIRED TO REPORT. A physician, coroner, medical
21 examiner, nurse, dentist, chiropractor, optometrist, acupuncturist, other medical or
22 mental health professional, social worker, marriage and family therapist,
23 professional counselor, public assistance worker, including a financial and
24 employment planner, as defined in s. 49.141 (1) (d), school teacher, administrator, or
25 counselor, mediator under s. 767.11, child care worker in a day care center ~~or child~~

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1 ~~earing institution or residential care center for children and youth~~, day care provider,
2 alcohol or other drug abuse counselor, member of the treatment staff employed by or
3 working under contract with a county department under s. 46.23, 51.42, or 51.437
4 ~~or a residential care center for children and youth~~, physical therapist, occupational
5 therapist, dietitian, speech–language pathologist, audiologist, emergency medical
6 technician, first responder, or police or law enforcement officer having reasonable
7 cause to suspect that a child seen in the course of professional duties has been abused
8 or neglected or having reason to believe that a child seen in the course of professional
9 duties has been threatened with abuse or neglect and that abuse or neglect of the
10 child will occur shall, except as provided under sub. (2m), report as provided in sub.
11 (3). A court–appointed special advocate having reasonable cause to suspect that a
12 child seen in the course of the court–appointed special advocate’s activities under s.
13 48.236 (3) has been abused or neglected or having reason to believe that a child seen
14 in the course of those activities has been threatened with abuse and neglect and that
15 abuse or neglect of the child will occur shall, except as provided in sub. (2m), report
16 as provided in sub. (3). Any other person, including an attorney, having reason to
17 suspect that a child has been abused or neglected or reason to believe that a child has
18 been threatened with abuse or neglect and that abuse or neglect of the child will occur
19 may make such a report. Any person, including an attorney, having reason to suspect
20 that an unborn child has been abused or reason to believe that an unborn child is at
21 substantial risk of abuse may report as provided in sub. (3). No person making a
22 report under this subsection may be discharged from employment for so doing.

23 **SECTION 42.** 48.988 (2) (b) of the statutes is amended to read:

24 48.988 (2) (b) “Placement” means the arrangement for the care of a child in a
25 family free or boarding home ~~or~~, in a child–caring agency ~~or institution, or in a~~

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1 residential care center for children and youth, but does not include any institution
2 caring for the mentally ill, mentally defective, or epileptic or, any institution
3 primarily educational in character, ~~and~~ or any hospital or other medical facility.

4 **SECTION 43.** 49.19 (1) (a) 2. b. of the statutes is amended to read:

5 49.19 (1) (a) 2. b. Is living in a foster home or treatment foster home licensed
6 under s. 48.62 if a license is required under that section, in a foster home or treatment
7 foster home located within the boundaries of a federally recognized American Indian
8 reservation in this state and licensed by the tribal governing body of the reservation,
9 in a group home licensed under s. 48.625 ~~or in a child-caring institution, or in a~~
10 residential care center for children and youth licensed under s. 48.60, and has been
11 placed in the foster home, treatment foster home, group home ~~or institution, or center~~
12 by a county department under s. 46.215, 46.22 or 46.23, by the department of health
13 and family services, by the department of corrections, or by a federally recognized
14 American Indian tribal governing body in this state under an agreement with a
15 county department.

16 **SECTION 44.** 49.19 (10) (b) of the statutes is amended to read:

17 49.19 (10) (b) Aid under this section may also be granted on behalf of a child
18 in the legal custody of a county department under s. 46.215, 46.22 or 46.23 or on
19 behalf of a child who was removed from the home of a relative specified in sub. (1)
20 (a) as a result of a judicial determination that continuance in the home of a relative
21 would be contrary to the child's welfare for any reason when such child is placed in
22 a licensed ~~child-caring institution~~ residential care center for children and youth by
23 the county department. Reimbursement shall be made by the state pursuant to par.
24 (a).

25 **SECTION 45.** 49.19 (10) (c) of the statutes is amended to read:

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1 49.19 (10) (c) Reimbursement under par. (a) may also be paid to the county
2 when the child is placed in a licensed foster home, treatment foster home, group
3 home ~~or child-caring institution, or residential care center for children and youth~~ by
4 a licensed child welfare agency or by a federally recognized American Indian tribal
5 governing body in this state or by its designee, if the child is in the legal custody of
6 the county department under s. 46.215, 46.22 or 46.23 or if the child was removed
7 from the home of a relative specified in sub. (1) (a) as a result of a judicial
8 determination that continuance in the home of the relative would be contrary to the
9 child's welfare for any reason and the placement is made pursuant to an agreement
10 with the county department.

11 **SECTION 46.** 49.19 (10) (d) of the statutes is amended to read:

12 49.19 (10) (d) Aid may also be paid under this section to a licensed foster home,
13 treatment foster home, group home ~~or child-caring institution, or residential care~~
14 center for children and youth by the state when the child is in the custody or
15 guardianship of the state, when the child is a ward of an American Indian tribal court
16 in this state and the placement is made under an agreement between the department
17 and the tribal governing body, or when the child was part of the state's direct service
18 case load and was removed from the home of a relative specified in sub. (1) (a) as a
19 result of a judicial determination that continuance in the home of a relative would
20 be contrary to the child's welfare for any reason and the child is placed by the
21 department of health and family services or the department of corrections.

22 **SECTION 47.** 49.19 (10) (e) of the statutes is amended to read:

23 49.19 (10) (e) Notwithstanding pars. (a), (c) and (d), aid under this section may
24 not be granted for placement of a child in a foster home or treatment foster home
25 licensed by a federally recognized American Indian tribal governing body, for

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1 placement of a child in a foster home, treatment foster home ~~or child-caring~~
2 institution, or residential care center for children and youth by a tribal governing
3 body or its designee, for the placement of a child who is a ward of a tribal court if the
4 tribal governing body is receiving or is eligible to receive funds from the federal
5 government for that type of placement, or for placement of a child in a group home
6 licensed under s. 48.625.

7 **SECTION 48.** 51.437 (14r) (a) 7. of the statutes is created to read:

8 51.437 **(14r)** (a) 7. Notify the governor regarding membership requirements of
9 the council and if vacancies on the council remain unfilled for a significant period of
10 time.

NOTE: Sections 48 and 49 create additional duties for the state council on developmental disabilities to conform to the federal requirements for the council.

11 **SECTION 49.** 51.437 (14r) (c) of the statutes is created to read:

12 51.437 **(14r)** (c) The council on developmental disabilities may or, if requested
13 by the governor, shall coordinate recommendations of the council and the public to
14 the governor regarding council membership.

15 **SECTION 50.** 70.11 (19) of the statutes is amended to read:

16 70.11 **(19)** INSTITUTIONS AND CENTERS FOR DEPENDENT CHILDREN AND PERSONS WHO
17 HAVE DEVELOPMENTAL DISABILITIES. The property of any ~~institution~~ residential care
18 center for children and youth that is licensed under s. 48.60 for the care of dependent
19 or neglected children or delinquent juveniles if that property is used for that purpose
20 and the property of any nonprofit institution that is subject to examination under s.
21 46.03 (5) and that has a full-time population of at least 150 individuals who have
22 developmental disabilities, as defined in s. 51.01 (5), if that property is used for that
23 purpose.

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NOTE: This SECTION eliminates a vague reference to an “institution” licensed under s. 48.60, stats., and replaces that vague reference with a specific reference to a “residential care center for children and youth” licensed under s. 48.60, stats., which is the legally defined and professionally accepted term for a facility operated by a child welfare agency for the care and maintenance of children.

1 **SECTION 51.** 115.76 (4) of the statutes is renumbered 115.76 (14g) and amended
2 to read:

3 115.76 **(14g)** ~~“Child caring institution”~~ “Residential care center for children
4 and youth” means a facility operated by a child welfare agency licensed under s.
5 48.60 for the care and maintenance of children residing in that facility.

6 **SECTION 52.** 115.762 (3) (g) of the statutes is amended to read:

7 115.762 **(3)** (g) Monitoring and enforcing local educational agency and child
8 ~~caring institution~~ residential care center for children and youth compliance with this
9 subchapter and applicable federal law, including 20 USC 1415 (k).

10 **SECTION 53.** 115.81 (1) (b) of the statutes is amended to read:

11 115.81 **(1)** (b) “Responsible local educational agency” means the local
12 educational agency that was responsible for providing a free, appropriate public
13 education to the child before the placement of the child in a ~~child caring institution~~
14 residential care center for children and youth except that if the child resided in an
15 institution or facility operated by the department of health and family services, a
16 Type 1 secured correctional facility, as defined in s. 938.02 (19), or a Type 1 prison,
17 as defined in s. 301.01 (5), before the placement of the child in a ~~child caring~~
18 ~~institution~~ residential care center for children and youth, “responsible local
19 educational agency” means the school district in which the ~~child caring institution~~
20 residential care center for children and youth is located.

21 **SECTION 54.** 115.81 (2) of the statutes is amended to read:

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1 115.81 (2) ESTABLISHMENT OF PROGRAM. Subject to the approval of the division,
2 a ~~child-caring institution~~ residential care center for children and youth may establish
3 and maintain special education and related services for children with disabilities.

4 **SECTION 55.** 115.81 (3) (a) of the statutes is amended to read:

5 115.81 (3) (a) Whenever a county department recommends to a court that a
6 child be placed in a ~~child-caring institution~~ residential care center for children and
7 youth or whenever a state agency anticipates placing a child in a ~~child-caring~~
8 ~~institution~~ residential care center for children and youth, the county department or
9 state agency shall notify the responsible local educational agency.

10 **SECTION 56.** 115.81 (3) (b) 2. b. of the statutes is amended to read:

11 115.81 (3) (b) 2. b. If the responsible local educational agency has reasonable
12 cause to believe that the child is a child with a disability, appoint an individualized
13 education program team to conduct an evaluation of the child under s. 115.782. The
14 responsible local educational agency may include appropriately licensed staff of the
15 ~~child-caring institution~~ residential care center for children and youth in the team if
16 that staff is available. The individualized education program team shall conduct the
17 evaluation. If the individualized education program team determines that the child
18 is a child with a disability, the individualized education program team, in
19 consultation with a county department or a state agency, as appropriate, shall
20 develop an individualized education program and an educational placement offer.

21 **SECTION 57.** 115.81 (4) (intro.) of the statutes is amended to read:

22 115.81 (4) RESPONSIBILITY FOR EDUCATIONAL PLACEMENT. (intro.) Whenever the
23 responsible local educational agency offers an educational placement in a ~~child~~
24 ~~caring institution~~ residential care center for children and youth under sub. (3) (b) 1.
25 or 2. b., all of the following apply:

ASSEMBLY BILL 655**SECTION 58**

1 **SECTION 58.** 115.81 (4) (a) 3. of the statutes is amended to read:

2 115.81 **(4)** (a) 3. While the child resides at a ~~child caring institution~~ residential
3 care center for children and youth, appoint an individualized education program
4 team to conduct reevaluations of the child in the manner provided under s. 115.782
5 (4).

6 **SECTION 59.** 115.81 (4) (a) 4. of the statutes is amended to read:

7 115.81 **(4)** (a) 4. While the child resides at a ~~child caring institution~~ residential
8 care center for children and youth, after consulting with the ~~child caring institution~~
9 residential care center for children and youth and a county department or a state
10 agency, as appropriate, refer the child to another local educational agency if the
11 responsible local educational agency determines that the child's special education
12 needs may be appropriately served in a less restrictive setting in the other local
13 educational agency.

14 **SECTION 60.** 115.81 (4) (a) 5. of the statutes is amended to read:

15 115.81 **(4)** (a) 5. If the child is leaving the ~~child caring institution~~ residential
16 care center for children and youth, assign staff or an individualized education
17 program team to develop a reintegration plan for the child in cooperation with a
18 county department and staff of the ~~child caring institution~~ residential care center for
19 children and youth.

20 **SECTION 61.** 115.81 (4) (b) 1. of the statutes is amended to read:

21 115.81 **(4)** (b) 1. Consider the child's educational needs when selecting a ~~child~~
22 ~~caring institution~~ residential care center for children and youth for the child.

23 **SECTION 62.** 115.81 (4) (b) 2. of the statutes is amended to read:

24 115.81 **(4)** (b) 2. In cooperation with the responsible local educational agency
25 and staff of the ~~child caring institution~~ residential care center for children and youth,

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1 participate in the individualized education program team evaluation of the child and
2 the development of the individualized education program for the child.

3 **SECTION 63.** 115.81 (4) (b) 3. of the statutes is amended to read:

4 115.81 (4) (b) 3. Notify the local educational agency that will be responsible for
5 providing a free, appropriate public education to the child whenever the county
6 department or state agency anticipates removing the child from the ~~child-caring~~
7 institution residential care center for children and youth.

8 **SECTION 64.** 115.81 (4) (b) 4. of the statutes is amended to read:

9 115.81 (4) (b) 4. In cooperation with the responsible local educational agency
10 and staff of the ~~child-caring institution~~ residential care center for children and youth,
11 develop a reintegration plan for the child if the child is leaving the ~~child-caring~~
12 institution residential care center for children and youth.

13 **SECTION 65.** 115.81 (4) (b) 5. of the statutes is amended to read:

14 115.81 (4) (b) 5. Pay all of the ~~child-caring institution~~ residential care center
15 for children and youth related costs of educating the child while the child resides in
16 the ~~child-caring institution~~ residential care center for children and youth.

17 **SECTION 66.** 146.82 (2) (a) 18m. of the statutes is amended to read:

18 146.82 (2) (a) 18m. If the subject of the patient health care records is a child
19 or juvenile who has been placed in a foster home, treatment foster home, group home,
20 ~~child-caring institution~~ residential care center for children and youth, or a secured
21 correctional facility, including a placement under s. 48.205, 48.21, 938.205, or 938.21
22 or for whom placement in a foster home, treatment foster home, group home, ~~child~~
23 ~~caring institution~~ residential care center for children and youth, or secured
24 correctional facility is recommended under s. 48.33 (4), 48.425 (1) (g), 48.837 (4) (c),
25 or 938.33 (3) or (4), to an agency directed by a court to prepare a court report under

ASSEMBLY BILL 655**SECTION 66**

1 s. 48.33 (1), 48.424 (4) (b), 48.425 (3), 48.831 (2), 48.837 (4) (c), or 938.33 (1), to an
2 agency responsible for preparing a court report under s. 48.365 (2g), 48.425 (1),
3 48.831 (2), 48.837 (4) (c), or 938.365 (2g), to an agency responsible for preparing a
4 permanency plan under s. 48.355 (2e), 48.38, 48.43 (1) (c) or (5) (c), 48.63 (4), 48.831
5 (4) (e), 938.355 (2e), or 938.38 regarding the child or juvenile, or to an agency that
6 placed the child or juvenile or arranged for the placement of the child or juvenile in
7 any of those placements and, by any of those agencies, to any other of those agencies
8 and, by the agency that placed the child or juvenile or arranged for the placement of
9 the child or juvenile in any of those placements, to the foster parent or treatment
10 foster parent of the child or juvenile or the operator of the group home, ~~child-caring~~
11 ~~institution~~ residential care center for children and youth, or secured correctional
12 facility in which the child or juvenile is placed, as provided in s. 48.371 or 938.371.

13 **SECTION 67.** 252.15 (2) (am) 2. a. of the statutes is renumbered 252.15 (2) (am)
14 2. and amended to read:

15 252.15 (2) (am) 2. A health care provider who procures, processes, distributes
16 or uses human ova donated as specified under s. 157.06 (6) (a) or (b) shall, prior to
17 the distribution or use and with informed consent under the requirements of par. (b),
18 test the proposed donor for the presence of HIV, antigen or nonantigenic products of
19 HIV or an antibody to HIV in order to assure medical acceptability of the gift for the
20 purpose intended, ~~only if the state epidemiologist finds that use of donated human~~
21 ~~ova provides a significant risk of transmitting HIV to a donee and if, notwithstanding~~
22 ~~ss. 227.01 (13) and 227.10 (1), the secretary of health and family services issues an~~
23 ~~order specifying the requirements for the testing.~~

NOTE: Sections 67 and 68 require that donors of human ova be tested for HIV, antigen or non-antigenic products of HIV or an antibody to HIV regardless of whether the state epidemiologist finds that use of donated human ova presents a significant risk

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of transmitting HIV or the secretary of health and family services issues an order specifying the requirements for the tests. According to the department of health and family services, both the Centers for Disease Control and Prevention and the U.S. Food and Drug Administration recommend HIV testing of donors of all human tissue intended for transplantation.

1 **SECTION 68.** 252.15 (2) (am) 2. b. of the statutes is repealed.

2 **SECTION 69.** 252.15 (5) (a) 19. of the statutes is amended to read:

3 252.15 (5) (a) 19. If the test was administered to a child who has been placed
4 in a foster home, treatment foster home, group home, ~~child-caring institution~~
5 residential care center for children and youth, or secured correctional facility, as
6 defined in s. 938.02 (15m), including a placement under s. 48.205, 48.21, 938.205, or
7 938.21 or for whom placement in a foster home, treatment foster home, group home,
8 ~~child-caring institution~~ residential care center for children and youth, or secured
9 correctional facility is recommended under s. 48.33 (4), 48.425 (1) (g), 48.837 (4) (c),
10 or 938.33 (3) or (4), to an agency directed by a court to prepare a court report under
11 s. 48.33 (1), 48.424 (4) (b), 48.425 (3), 48.831 (2), 48.837 (4) (c), or 938.33 (1), to an
12 agency responsible for preparing a court report under s. 48.365 (2g), 48.425 (1),
13 48.831 (2), 48.837 (4) (c), or 938.365 (2g), to an agency responsible for preparing a
14 permanency plan under s. 48.355 (2e), 48.38, 48.43 (1) (c) or (5) (c), 48.63 (4), 48.831
15 (4) (e), 938.355 (2e), or 938.38 regarding the child, or to an agency that placed the
16 child or arranged for the placement of the child in any of those placements and, by
17 any of those agencies, to any other of those agencies and, by the agency that placed
18 the child or arranged for the placement of the child in any of those placements, to the
19 child's foster parent or treatment foster parent or the operator of the group home,
20 ~~child-caring institution~~ residential care center for children and youth, or secured
21 correctional facility in which the child is placed, as provided in s. 48.371 or 938.371.

22 **SECTION 70.** 301.08 (1) (b) 3. of the statutes is amended to read:

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1 301.08 (1) (b) 3. Contract with public, private, or voluntary agencies for the
2 supervision, maintenance, and operation of secured correctional facilities, child
3 ~~caring institutions~~ residential care centers for children and youth, as defined in s.
4 938.02 (2e) (15d), and secured child caring institutions for the placement of juveniles
5 who have been convicted under s. 938.183 or adjudicated delinquent under s. 938.183
6 or 938.34 (4d), (4h), or (4m). The department may designate a secured correctional
7 facility, ~~child caring institution~~ residential care center for children and youth, or a
8 secured child caring institution contracted for under this subdivision as a Type 2
9 secured correctional facility, as defined in s. 938.02 (20), and may designate a ~~child~~
10 ~~caring institution~~ residential care center for children and youth or secured child
11 caring institution contracted for under this subdivision as a Type 2 child caring
12 institution, as defined in s. 938.02 (19r).

13 **SECTION 71.** 301.12 (14) (b) of the statutes is amended to read:

14 301.12 (14) (b) Except as provided in par. (c) and subject to par. (cm), liability
15 of a parent specified in sub. (2) or s. 301.03 (18) for the care and maintenance of the
16 parent's minor child who has been placed by a court order under s. 938.183, 938.355,
17 or 938.357 in a residential, nonmedical facility such as a group home, foster home,
18 treatment foster home, ~~child caring institution~~ residential care center for children
19 and youth, or juvenile correctional institution shall be determined by the court by
20 using the percentage standard established by the department of workforce
21 development under s. 49.22 (9) and by applying the percentage standard in the
22 manner established by the department under par. (g).

23 **SECTION 72.** 301.26 (4) (d) 2. of the statutes, as affected by 2001 Wisconsin Act
24 16, is amended to read:

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1 301.26 (4) (d) 2. Beginning on July 1, 2001, and ending on June 30, 2002, the
2 per person daily cost assessment to counties shall be \$167.57 for care in a Type 1
3 secured correctional facility, as defined in s. 938.02 (19), \$167.57 for care for juveniles
4 transferred from a juvenile correctional institution under s. 51.35 (3), \$213 for care
5 in a ~~child caring institution, including a secured child caring institution~~ residential
6 care center for children and youth, \$129 for care in a group home for children, \$41
7 for care in a foster home, \$81 for care in a treatment foster home, \$82.56 for
8 departmental corrective sanctions services, and \$21.96 for departmental aftercare
9 services.

10 **SECTION 73.** 301.26 (4) (d) 3. of the statutes, as affected by 2001 Wisconsin Act
11 16, is amended to read:

12 301.26 (4) (d) 3. Beginning on July 1, 2002, and ending on June 30, 2003, the
13 per person daily cost assessment to counties shall be \$172.51 for care in a Type 1
14 secured correctional facility, as defined in s. 938.02 (19), \$172.51 for care for juveniles
15 transferred from a juvenile correctional institution under s. 51.35 (3), \$226 for care
16 in a ~~child caring institution, including a secured child caring institution~~ residential
17 care center for children and youth, \$135 for care in a group home for children, \$43
18 for care in a foster home, \$85 for care in a treatment foster home, \$84.50 for
19 departmental corrective sanctions services and \$22.66 for departmental aftercare
20 services.

21 **SECTION 74.** 767.29 (3) (b) of the statutes is amended to read:

22 767.29 (3) (b) If a child who is the beneficiary of support under a judgment or
23 order is placed by court order in a ~~child caring institution~~ residential care center for
24 children and youth, juvenile correctional institution, or state mental institution, the
25 right of the child to support during the period of the child's confinement, including

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1 any right to unpaid support accruing during that period, is assigned to the state. If
2 the judgment or order providing for the support of a child who is placed in a child
3 ~~caring institution~~ residential care center for children and youth, juvenile
4 correctional institution, or state mental institution includes support for one or more
5 other children, the support that is assigned to the state shall be the proportionate
6 share of the child placed in the center or institution, except as otherwise ordered by
7 the court or family court commissioner on the motion of a party.

8 **SECTION 75.** 938.02 (2c) of the statutes is renumbered 938.02 (15d) and
9 amended to read:

10 **938.02 (15d)** “~~Child caring institution~~” “Residential care center for children
11 and youth” means a facility operated by a child welfare agency licensed under s.
12 48.60 for the care and maintenance of persons residing in that facility.

13 **SECTION 76.** 938.02 (15g) of the statutes is amended to read:

14 **938.02 (15g)** “Secured child caring institution” means a ~~child caring institution~~
15 residential care center for children and youth operated by a child welfare agency that
16 is licensed under s. 48.66 (1) (b) to hold in secure custody persons adjudged
17 delinquent.

18 **SECTION 77.** 938.02 (19r) of the statutes is amended to read:

19 **938.02 (19r)** “Type 2 child caring institution” means a ~~child caring institution~~
20 residential care center for children and youth that is designated by the department
21 to provide care and maintenance for juveniles who have been placed in the ~~child~~
22 ~~caring institution~~ residential care center for children and youth under the
23 supervision of a county department under s. 938.34 (4d).

24 **SECTION 78.** 938.08 (3) (a) 1. of the statutes is amended to read:

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1 938.08 (3) (a) 1. If they are in prompt pursuit of a juvenile who has run away
2 from a secured correctional facility, a ~~child-caring institution~~ residential care center
3 for children and youth, or a secured group home.

4 **SECTION 79.** 938.08 (3) (a) 2. of the statutes is amended to read:

5 938.08 (3) (a) 2. If the juvenile has failed to return to a secured correctional
6 facility, a ~~child-caring institution~~ residential care center for children and youth, or
7 a secured group home after any authorized absence.

8 **SECTION 80.** 938.08 (3) (b) of the statutes is amended to read:

9 938.08 (3) (b) A juvenile who is taken into custody under par. (a) may be
10 returned directly to the secured correctional facility, ~~child-caring institution~~
11 residential care center for children and youth, or secured group home and shall have
12 a hearing regarding placement in a disciplinary cottage or in disciplinary status in
13 accordance with ch. 227.

14 **SECTION 81.** 938.33 (4) (intro.) of the statutes is amended to read:

15 938.33 (4) OTHER OUT-OF-HOME PLACEMENTS. (intro.) A report recommending
16 placement in a foster home, treatment foster home, group home, or nonsecured ~~child~~
17 ~~caring institution~~ residential care center for children and youth shall be in writing,
18 except that the report may be presented orally at the dispositional hearing if all
19 parties consent. A report that is presented orally shall be transcribed and made a
20 part of the court record. The report shall include all of the following:

21 **SECTION 82.** 938.34 (3) (d) of the statutes is amended to read:

22 938.34 (3) (d) A ~~child-caring institution~~ residential treatment center operated
23 by a child welfare agency licensed under s. 48.60.

NOTE: This SECTION changes the term “child caring institution” to “residential treatment center” and clarifies that it is the child welfare agency operating the

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residential treatment center, and not the residential treatment center itself, that is licensed under s. 48.60.

1 **SECTION 83.** 938.371 (1) of the statutes is amended to read:

2 938.371 (1) If a juvenile is placed in a foster home, treatment foster home,
3 group home, ~~child caring institution~~ residential care center for children and youth,
4 or secured correctional facility, including a placement under s. 938.205 or 938.21, the
5 agency, as defined in s. 938.38 (1) (a), that placed the juvenile or arranged for the
6 placement of the juvenile shall provide the following information to the foster parent,
7 treatment foster parent, or operator of the group home, ~~child caring institution~~
8 residential care center for children and youth, or secured correctional facility at the
9 time of placement or, if the information has not been provided to the agency by that
10 time, as soon as possible after the date on which the agency receives that
11 information, but not more than 2 working days after that date:

12 (a) Results of a test or a series of tests of the juvenile to determine the presence
13 of HIV, as defined in s. 968.38 (1) (b), antigen or nonantigenic products of HIV, or an
14 antibody to HIV, as provided under s. 252.15 (5) (a) 19., including results included
15 in a court report or permanency plan. At the time that the test results are provided,
16 the agency shall notify the foster parent, treatment foster parent, or operator of the
17 group home, ~~child caring institution~~ residential care center for children and youth,
18 or secured correctional facility of the confidentiality requirements under s. 252.15
19 (6).

20 (b) Results of any tests of the juvenile to determine the presence of viral
21 hepatitis, type B, including results included in a court report or permanency plan.
22 The foster parent, treatment foster parent, or operator of a group home, ~~child caring~~
23 ~~institution~~ residential care center for children and youth, or secured correctional

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1 facility receiving information under this paragraph shall keep the information
2 confidential.

3 (c) Any other medical information concerning the juvenile that is necessary for
4 the care of the juvenile. The foster parent, treatment foster parent, or operator of a
5 group home, ~~child caring institution~~ residential care center for children and youth,
6 or secured correctional facility receiving information under this paragraph shall
7 keep the information confidential.

8 **SECTION 84.** 938.371 (3) (intro.) of the statutes is amended to read:

9 938.371 (3) (intro.) At the time of placement of a juvenile in a foster home,
10 treatment foster home, group home, ~~child caring institution~~ residential care center
11 for children and youth, or secured correctional facility or, if the information is not
12 available at that time, as soon as possible after the date on which the court report
13 or permanency plan has been submitted, but no later than 7 days after that date, the
14 agency, as defined in s. 938.38 (1) (a), responsible for preparing the juvenile's
15 permanency plan shall provide to the foster parent, treatment foster parent, or
16 operator of the group home, ~~child caring institution~~ residential care center for
17 children and youth, or secured correctional facility information contained in the
18 court report submitted under s. 938.33 (1) or 938.365 (2g) or permanency plan
19 submitted under s. 938.355 (2e) or 938.38 relating to findings or opinions of the court
20 or agency that prepared the court report or permanency plan relating to any of the
21 following:

22 **SECTION 85.** 938.371 (3) (a) of the statutes is amended to read:

23 938.371 (3) (a) Any mental, emotional, cognitive, developmental, or behavioral
24 disability of the juvenile. The foster parent, treatment foster parent, or operator of
25 a group home, ~~child caring institution~~ residential care center for children and youth,

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1 or secured correctional facility receiving information under this subsection shall
2 keep the information confidential.

3 **SECTION 86.** 938.371 (3) (b) of the statutes is amended to read:

4 938.371 (3) (b) Any involvement of the juvenile in any criminal gang, as defined
5 in s. 939.22 (9), or in any other group in which any child was traumatized as a result
6 of his or her association with that group. The foster parent, treatment foster parent,
7 or operator of a group home, ~~child-caring institution~~ residential care center for
8 children and youth, or secured correctional facility receiving information under this
9 paragraph shall keep the information confidential.

10 **SECTION 87.** 938.371 (3) (c) of the statutes is amended to read:

11 938.371 (3) (c) Any involvement of the juvenile in any activities that are
12 harmful to the juvenile's physical, mental, or moral well-being. The foster parent,
13 treatment foster parent, or operator of a group home, ~~child-caring institution~~
14 residential care center for children and youth, or secured correctional facility
15 receiving information under this paragraph shall keep the information confidential.

16 **SECTION 88.** 938.371 (3) (d) of the statutes is amended to read:

17 938.371 (3) (d) Any involvement of the juvenile, whether as victim or
18 perpetrator, in sexual intercourse or sexual contact in violation of s. 940.225, 948.02,
19 or 948.025, prostitution in violation of s. 944.30, sexual exploitation of a child in
20 violation of s. 948.05, or causing a child to view or listen to sexual activity in violation
21 of s. 948.055, if the information is necessary for the care of the juvenile or for the
22 protection of any person living in the foster home, treatment foster home, group
23 home, ~~child-caring institution~~ residential care center for children and youth, or
24 secured correctional facility. The foster parent, treatment foster parent, or operator
25 of a group home, ~~child-caring institution~~ residential care center for children and

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1 youth, or secured correctional facility receiving information under this paragraph
2 shall keep the information confidential.

3 **SECTION 89.** 938.38 (2) (intro.) of the statutes is amended to read:

4 938.38 (2) PERMANENCY PLAN REQUIRED. (intro.) Except as provided in sub. (3),
5 for each juvenile living in a foster home, treatment foster home, group home, ~~child~~
6 ~~caring institution~~ residential care center for children and youth, secure detention
7 facility, or shelter care facility, the agency that placed the juvenile or arranged the
8 placement or the agency assigned primary responsibility for providing services to the
9 juvenile under s. 938.355 shall prepare a written permanency plan, if any of the
10 following conditions exists:

11 **SECTION 90.** 938.51 (1d) (intro.) of the statutes is amended to read:

12 938.51 (1d) (intro.) At least 15 days prior to the release from a nonsecured ~~child~~
13 ~~caring institution~~ residential care center for children and youth of a juvenile who has
14 either been adjudicated delinquent under s. 48.12, 1993 stats., or s. 938.12 or been
15 found to be in need of protection or services under s. 48.13 (12), 1993 stats., or s.
16 938.13 (12) and who has been found to have committed a violation of ch. 940 or of s.
17 948.02, 948.025, or 948.03, and at least 15 days prior to the release from a nonsecured
18 ~~child-caring institution~~ residential care center for children and youth of a juvenile
19 who has been found to be in need of protection or services under s. 48.13 (14), 1993
20 stats., or s. 938.13 (14), the department or county department having supervision
21 over the juvenile shall notify all of the following persons of the juvenile's release:

22 **SECTION 91.** 938.51 (4) (intro.) of the statutes is amended to read:

23 938.51 (4) (intro.) If a juvenile described in sub. (1), (1d), or (1g) escapes from
24 a secured correctional facility, ~~child-caring institution~~ residential care center for
25 children and youth, secured group home, inpatient facility, secure detention facility,

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1 or juvenile portion of a county jail, or from the custody of a peace officer or a guard
2 of such a facility, ~~institution center~~, home, or jail, or has been allowed to leave a
3 secured correctional facility, ~~child caring institution~~ residential care center for
4 children and youth, secured group home, inpatient facility, secure detention facility,
5 or juvenile portion of a county jail for a specified period of time and is absent from
6 the facility, ~~institution center~~, home, or jail for more than 12 hours after the
7 expiration of the specified period, as soon as possible after the department or county
8 department having supervision over the juvenile discovers that escape or absence,
9 that department or county department shall make a reasonable attempt to notify by
10 telephone all of the following persons:

11 **SECTION 92.** 938.538 (3) (a) 1p. of the statutes is amended to read:

12 938.538 (3) (a) 1p. Alternate care, including placement in a foster home,
13 treatment foster home, group home, ~~child caring institution~~ residential care center
14 for children and youth, or secured child caring institution.

15 **SECTION 93.** 938.539 (5) of the statutes is amended to read:

16 938.539 (5) With respect to a juvenile who is placed in a ~~child caring institution~~
17 residential care center for children and youth or a secured child caring institution
18 under s. 938.34 (4d) or 938.357 (4) (a) or in a less restrictive placement under s.
19 938.357 (4) (c), the child welfare agency operating the ~~child caring institution~~
20 residential care center for children and youth or secured child caring institution in
21 which the juvenile is placed, and the person operating any less restrictive placement
22 in which the juvenile is placed, shall operate that ~~child caring institution~~ residential
23 care center for children and youth, secured child caring institution, or less restrictive
24 placement as a Type 2 child caring institution or a Type 2 secured correctional
25 facility. This subsection does not preclude a child welfare agency or other person

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1 from placing in a ~~child caring institution~~ residential care center for children and
2 youth, secured child caring institution, or less restrictive placement in which a
3 juvenile is placed under s. 938.34 (4d) or 938.357 (4) (a) or (c) a juvenile who is not
4 placed under s. 938.34 (4d) or 938.357 (4) (a) or (c).

5 **SECTION 94.** 938.57 (3) (a) 4. of the statutes is amended to read:

6 938.57 (3) (a) 4. Is living in a foster home, treatment foster home, group home
7 ~~or child caring institution~~, or residential care center for children and youth.

8 **SECTION 95.** 938.78 (3) of the statutes is amended to read:

9 938.78 (3) If a juvenile adjudged delinquent under s. 48.12, 1993 stats., or s.
10 938.12 or found to be in need of protection or services under s. 48.13 (12), 1993 stats.,
11 or s. 48.13 (14), 1993 stats., or s. 938.13 (12) or (14) on the basis of a violation of s.
12 941.10, 941.11, 941.20, 941.21, 941.23, 941.235, 941.237, 941.24, 941.26, 941.28,
13 941.295, 941.298, 941.30, 941.31, 941.32, 941.325, 943.02, 943.03, 943.04, 943.10 (2)
14 (a), 943.23 (1g), (1m), or (1r), 943.32 (2), 948.02, 948.025, 948.03, 948.05, 948.055,
15 948.60, 948.605, or 948.61 or any crime specified in ch. 940 has escaped from a
16 secured correctional facility, ~~child caring institution~~ residential care center for
17 children and youth, secured group home, inpatient facility, as defined in s. 51.01 (10),
18 secure detention facility, or juvenile portion of a county jail, or from the custody of
19 a peace officer or a guard of such a facility, ~~institution center~~, or jail, or has been
20 allowed to leave a secured correctional facility, ~~child caring institution~~ residential
21 care center for children and youth, secured group home, inpatient facility, secure
22 detention facility, or juvenile portion of a county jail for a specified time period and
23 is absent from the facility, ~~institution center~~, home, or jail for more than 12 hours
24 after the expiration of the specified period, the department or county department
25 having supervision over the juvenile may release the juvenile's name and any

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1 information about the juvenile that is necessary for the protection of the public or to
2 secure the juvenile's return to the facility, ~~institution center~~, home, or jail. The
3 department of corrections shall promulgate rules establishing guidelines for the
4 release of the juvenile's name or information about the juvenile to the public.

5 **SECTION 96.** 940.295 (2) (m) of the statutes is amended to read:

6 940.295 (2) (m) ~~An institution~~ A residential care center for children and youth
7 operated by a child welfare agency licensed under s. 48.60 or an institution operated
8 by a public agency for the care of neglected, dependent, or delinquent children.

NOTE: This SECTION eliminates a vague reference to an "institution" operated by
a child welfare agency and replaces that vague reference with a specific reference to a
"residential care center for children and youth" operated by a child welfare agency, which
is the legally defined and professionally accepted term for a facility operated by a child
welfare agency for the care and maintenance of children.

9 **SECTION 97. Initial applicability.**

10 (1) COUNCIL ON DEVELOPMENTAL DISABILITIES. The treatment of sections 15.197
11 (11n) (intro.), (a) (intro.), 1. to 3., and 4., (am) (intro.), 2., and 3., (b), (bm), (c), (cm),
12 and (d) and 51.437 (14r) (a) 7. and (c) of the statutes first applies to appointments or
13 reappointments of members of the council on developmental disabilities made on the
14 effective date of this subsection.

15 (END)