

**2001 ASSEMBLY BILL 655**

December 3, 2001 – Introduced by LAW REVISION COMMITTEE. Referred to  
Committee on Health.

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).

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***Analysis by the Legislative Reference Bureau***

***Testing human ova donors for HIV***

Under current law, a health care provider who procures, processes, distributes, or uses human ova that are donated to an individual designated by the donor, a hospital, a physician, an organ procurement organization, an accredited medical or dental school, college, or university, is required to test the proposed donor for the human immunodeficiency virus (HIV), any antigen or nonantigenic products of HIV, or an antibody to HIV to assure medical acceptability of the gift, if the state epidemiologist finds that the use of donated human ova presents a significant risk of transmitting HIV to a donee and if the secretary of health and family services (secretary) issues an order that specifies the requirements for the testing.

This bill requires that donors of human ova be tested for HIV, any antigen or nonantigenic products of HIV, or an antibody to HIV regardless of whether the state epidemiologist finds that using the donated human ova presents a significant risk of transmitting HIV or the secretary issues an order specifying the requirements for the tests.

***Membership of the council on developmental disabilities***

Under current state law, for the council on developmentally disabilities, which is attached to the department of health and family services, the governor must

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appoint members who meet certain requirements. Certain members must be appointed to represent institutions of higher education and state agencies that administer funds to provide direct services to the developmentally disabled; currently, these members include the secretaries of health and family services and workforce development, the state superintendent of public instruction, and the president of the University of Wisconsin System. Other members must be representative of nongovernmental agencies and groups concerned with these services. Further, at least one-half of the membership must consist of persons with developmental disabilities or their parents or guardians or of immediate relatives or guardians of persons with mentally impairing developmental disabilities; these members may not manage, own, or have a controlling interest in an entity that receives federal developmental disabilities funds or provides services using those funds and may not be employees of any state agency that receives the funds or provides the services.

Under current federal law, the membership of a state council on developmental disabilities must be geographically representative of the state and reflect the state's diversity with respect to race and ethnicity. At least 60% of the membership of the council must consist of individuals with developmental disabilities; parents or guardians of children with developmental disabilities; or immediate relatives or guardians of adults with mentally impairing developmental disabilities who cannot advocate for themselves. These persons may not be employees of a state agency that receives federal developmental disabilities funds or provides services using those funds and may not be managing employees of an entity that receives the funds or provides the services using those funds. Further, of that 60% of the membership, one-third must be individuals with developmental disabilities; one-third must be parents or guardians or immediate relatives of individuals with developmental disabilities; and one-third must be individuals who meet either of these requirements. Membership also must include representatives of state entities that administer federal funds for the developmentally disabled, but is not required to include representatives of institutions of higher education; in addition, membership must include representatives of the entity that is designated as a university center for excellence in developmental disabilities education, research, and services, the state protection and advocacy system, and local and nongovernmental agencies and private nonprofit groups concerned with services for individuals with developmental disabilities. These members must recuse themselves from council discussion of grants or contracts for which the entity represented by the member is a grantee, contractor, or applicant and are precluded from voting on matters that constitute or give the appearance of a conflict of interest. Lastly, federal law requires that the council notify the governor regarding membership requirements of the council and if vacancies on the council remain unfilled for a significant period of time and, if requested by the governor, coordinate recommendations of the council and the public to the governor regarding council membership.

This bill changes the requirements for membership of the council on developmental disabilities to conform to the federal requirements for the council.

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Under the bill, these changed requirements first apply to appointments made on the date on which this bill becomes law.

***Term used for facility operated by child welfare agency***

Under current law, a “child caring institution” is defined as 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 four 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. This bill changes the term “child caring institution” to “residential care center for children and youth.”

For further information, see the NOTES provided by the law revision committee of the joint legislative council.

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:***

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.

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

3           15.197 **(11n)** (ag) There is created a council on developmental disabilities,  
4           attached to the department of health and family services under s. 15.03. ~~Members~~  
5           ~~shall be state residents and shall be appointed in the following manner for staggered~~  
6           ~~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.

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

9           15.197 **(11n)** (am) 1. (intro.) Agencies A representative of each of the relevant  
10           agencies of the state ~~providing direct services to the developmentally disabled shall~~

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1 ~~be represented by members of the council that administer federal funds related to~~  
2 individuals with disabilities, to be designated by:

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

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

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

7 15.197 **(11n)** (am) (intro.) Subject to par. (cm), the council shall consist of the  
8 following state residents, appointed for staggered 4-year terms, who shall be  
9 representative of all geographic areas of the state and reflect the state's diversity  
10 with respect to race and ethnicity:

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

12 15.197 **(11n)** (am) 2. Representatives of individuals with developmental  
13 disabilities, who are any of the following:

14 a. Individuals with developmental disabilities.

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

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

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

19 15.197 **(11n)** (am) 3. A representative of each of the following who has sufficient  
20 authority to engage in policy planning and implementation for the entity  
21 represented:

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

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

3           c. Each of the local governmental agencies, nongovernmental agencies, and  
4 private nonprofit groups that are concerned with services for individuals with  
5 developmental disabilities.

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

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

8           15.197 **(11n)** (bm) A member specified in par. (am) 1. or 3. shall recuse himself  
9 or herself from any discussion by the council of grants or contracts for which the  
10 member's department, agency, program, or group is a grantee, contractor, or  
11 applicant and may not vote on a matter that would provide direct financial benefit  
12 to the member or otherwise give the appearance of a conflict of interest.

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

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

15           15.197 **(11n)** (cm) 1. At least 60% of the membership of the council shall be  
16 individuals specified under par. (am) 2. who are not managing employees, as defined  
17 under 42 USC 1320a-5 (b), of an entity, or employees of a state agency, that receives  
18 federal funds for the developmentally disabled or uses the funds to provide services  
19 to persons with developmental disabilities. Of those individuals, one-third shall be  
20 individuals specified under par. (am) 2. a., one-third shall be individuals specified  
21 under par. (am) 2. b. or c., and one-third shall be individuals specified under par. (am)  
22 2. a., b., or c.

23           2. At least one of the individuals described under subd. 1. shall be an individual  
24 with a developmental disability who resides in or previously resided in an  
25 institution, including a state center for the developmentally disabled, or the

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1 immediate relative or guardian of such an individual. The requirement under this  
2 subdivision does not apply if such an individual does not reside in this state.

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

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

5 46.03 **(22)** (a) “Community living arrangement” means any of the following  
6 facilities licensed or operated, or permitted under the authority of the department:  
7 residential care centers for children and youth, as defined in s. 48.02 (15d), operated  
8 by child welfare agencies licensed under s. 48.60, group homes for children under, as  
9 defined in s. 48.02 (7), and community-based residential facilities under, as defined  
10 in s. 50.01 (1g); but does not include adult family homes, as defined in s. 50.01 (1),  
11 day care centers, nursing homes, general hospitals, special hospitals, prisons, and  
12 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.

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

14 46.10 **(14)** (b) Except as provided in par. (c) and subject to par. (cm), liability  
15 of a parent specified in sub. (2) or s. 46.03 (18) for the care and maintenance of the  
16 parent’s minor child who has been placed by a court order under s. 48.355 or 48.357  
17 in a residential, nonmedical facility such as a group home, foster home, treatment  
18 foster home ~~or child caring institution, or residential care center for children and~~  
19 youth shall be determined by the court by using the percentage standard established  
20 by the department of workforce development under s. 49.22 (9) and by applying the  
21 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

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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.

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

2           46.261 (1) (a) The child is living in a foster home or treatment foster home  
3 licensed under s. 48.62 if a license is required under that section, in a foster home  
4 or treatment foster home located within the boundaries of a federally recognized  
5 American Indian reservation in this state and licensed by the tribal governing body  
6 of the reservation, in a group home licensed under s. 48.625, or in a ~~child-caring~~  
7 ~~institution~~ residential care center for children and youth licensed under s. 48.60, and  
8 has been placed in the foster home, treatment foster home, group home ~~or institution,~~  
9 or center by a county department under s. 46.215, 46.22 or 46.23, by the department,  
10 or by a federally recognized American Indian tribal governing body in this state  
11 under an agreement with a county department under s. 46.215, 46.22 or 46.23.

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

13           46.261 (2) (a) 3. A county or, in a county having a population of 500,000 or more,  
14 the department, when the child is placed in a licensed foster home, treatment foster  
15 home, group home ~~or child-caring institution,~~ or residential care center for children  
16 and youth by a licensed child welfare agency or by a federally recognized American  
17 Indian tribal governing body in this state or by its designee, if the child is in the legal  
18 custody of the county department under s. 46.215, 46.22 or 46.23 or the department  
19 under s. 48.48 (17) or if the child was removed from the home of a relative, as defined  
20 under s. 48.02 (15), as a result of a judicial determination that continuance in the  
21 home of the relative would be contrary to the child's welfare for any reason and the



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1 placement is made pursuant to an agreement with the county department or the  
2 department.

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

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

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

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

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

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1           48.02 (15d) ~~“Child-caring institution”~~ “Residential care center for children and  
2 youth” means a facility operated by a child welfare agency licensed under s. 48.60 for  
3 the care and maintenance of children residing in that facility.

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

5           48.33 (4) OTHER OUT-OF-HOME PLACEMENTS. (intro.) A report recommending  
6 placement of an adult expectant mother outside of her home shall be in writing. A  
7 report recommending placement of a child in a foster home, treatment foster home,  
8 group home ~~or child-caring institution,~~ or residential care center for children and  
9 youth shall be in writing and shall include all of the following:

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

11           48.345 (3) (d) A residential treatment center operated by a child welfare agency  
12 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.

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

14           48.371 (1) If a child is placed in a foster home, treatment foster home, group  
15 home ~~or child-caring institution,~~ or residential care center for children and youth,  
16 including a placement under s. 48.205 or 48.21, the agency, as defined in s. 48.38 (1)  
17 (a), that placed the child or arranged for the placement of the child shall provide the  
18 following information to the foster parent, treatment foster parent, or operator of the  
19 group home ~~or child-caring institution~~ residential care center for children and youth  
20 at the time of placement or, if the information has not been provided to the agency  
21 by that time, as soon as possible after the date on which the agency receives that  
22 information, but not more than 2 working days after that date:

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

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

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

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

18 48.371 (3) (intro.) At the time of placement of a child in a foster home, treatment  
19 foster home, group home or ~~child-caring institution~~, or residential care center for  
20 children and youth or, if the information is not available at that time, as soon as  
21 possible after the date on which the court report or permanency plan has been  
22 submitted, but no later than 7 days after that date, the agency, as defined in s. 48.38  
23 (1) (a), responsible for preparing the child's permanency plan shall provide to the  
24 foster parent, treatment foster parent, or operator of the group home or ~~child-caring~~  
25 ~~institution~~ residential care center for children and youth information contained in

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1 the court report submitted under s. 48.33 (1), 48.365 (2g), 48.425 (1), 48.831 (2) or  
2 48.837 (4) (c) or permanency plan submitted under s. 48.355 (2e), 48.38, 48.43 (1) (c)  
3 or (5) (c), 48.63 (4) or 48.831 (4) (e) relating to findings or opinions of the court or  
4 agency that prepared the court report or permanency plan relating to any of the  
5 following:

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

7 48.371 (3) (a) Any mental, emotional, cognitive, developmental, or behavioral  
8 disability of the child. The foster parent, treatment foster parent, or operator of a  
9 group home or ~~child-caring institution~~ residential care center for children and youth  
10 receiving information under this subsection shall keep the information confidential.

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

12 48.371 (3) (b) Any involvement of the child in any criminal gang, as defined in  
13 s. 939.22 (9), or in any other group in which any child was traumatized as a result  
14 of his or her association with that group. The foster parent, treatment foster parent,  
15 or operator of a group home or ~~child-caring institution~~ residential care center for  
16 children and youth receiving information under this paragraph shall keep the  
17 information confidential.

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

19 48.371 (3) (c) Any involvement of the child in any activities that are harmful  
20 to the child's physical, mental, or moral well-being. The foster parent, treatment  
21 foster parent, or operator of a group home or ~~child-caring institution~~ residential care  
22 center for children and youth receiving information under this paragraph shall keep  
23 the information confidential.

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

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1           48.371 (3) (d) Any involvement of the child, whether as victim or perpetrator,  
2           in sexual intercourse or sexual contact in violation of s. 940.225, 948.02<sub>1</sub>, or 948.025,  
3           prostitution in violation of s. 944.30, sexual exploitation of a child in violation of s.  
4           948.05<sub>1</sub>, or causing a child to view or listen to sexual activity in violation of s. 948.055,  
5           if the information is necessary for the care of the child or for the protection of any  
6           person living in the foster home, treatment foster home, group home ~~or child-caring~~  
7           ~~institution,~~ or residential care center for children and youth. The foster parent,  
8           treatment foster parent<sub>1</sub>, or operator of a group home or ~~child-caring institution~~  
9           residential care center for children and youth receiving information under this  
10          paragraph shall keep the information confidential.

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

12           48.38 (2) PERMANENCY PLAN REQUIRED. (intro.) Except as provided in sub. (3),  
13           for each child living in a foster home, treatment foster home, group home,  
14           ~~child-caring institution~~ residential care center for children and youth, secure  
15           detention facility<sub>1</sub>, or shelter care facility, the agency that placed the child or arranged  
16           the placement or the agency assigned primary responsibility for providing services  
17           to the child under s. 48.355 shall prepare a written permanency plan, if one of the  
18           following conditions exists:

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

20           48.48 (17) (c) 4. Is living in a foster home, treatment foster home, group home  
21           ~~or child-caring institution,~~ or residential care center for children and youth.

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

23           48.57 (3) (a) 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 31.** 48.60 (4) (b) of the statutes is amended to read:

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

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

8           48.60 (5) (a) (intro.) No later than 24 hours after the death of a child who  
9 resided in a ~~building~~ residential care center for children and youth operated by a  
10 child welfare agency, the child welfare agency shall report the death to the  
11 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.

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

13           48.615 (1) (a) Before the department may issue a license under s. 48.60 (1) to  
14 a child welfare agency that regularly provides care and maintenance for children  
15 within the confines of ~~its building~~ a residential care center for children and youth  
16 operated by the child welfare agency, the child welfare agency must pay to the  
17 department a biennial fee of \$121, plus a biennial fee of \$18.15 per child, based on  
18 the number of children that the child welfare agency is licensed to serve.

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

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1           48.68 (2) Before continuing the license of any child welfare agency ~~or to operate~~  
2           a residential care center for children and youth or of any group home, the department  
3           shall consider all formal complaints filed under s. 48.745 (2) and the disposition of  
4           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.

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

6           48.68 (3) Within 10 working days after receipt of an application for initial  
7           licensure of a child welfare agency ~~or to operate a residential care center for children~~  
8           and youth or of a group home, the department shall notify the city, town, or village  
9           planning commission, or other appropriate city, town, or village agency if there is no  
10          planning commission, of receipt of the application. The department shall request  
11          that the planning commission or agency send to the department, within 30 days, a  
12          description of any specific hazards ~~which~~ that may affect the health and safety of the  
13          residents of the ~~child welfare agency~~ residential care center for children and youth  
14          or group home. No license may be issued to a child welfare agency ~~or to operate a~~  
15          residential care center for children and youth or to a group home until the 30-day  
16          period has expired or until the department receives the response of the planning  
17          commission or agency, whichever is sooner. In issuing a license the department shall  
18          give full consideration to such hazards determined by the planning commission or  
19          agency.

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

21          48.68 (4) Prior to initial licensure of a residential facility care center for  
22          children and youth operated by a child welfare agency or of a group home, the

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

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

13 48.745 (1) If a complaint is received by a child welfare agency ~~or~~ operating a  
14 residential care center for children and youth or by a group home, the licensee shall  
15 attempt to resolve the complaint informally. Failing such resolution, the licensee  
16 shall inform the complaining party of the procedure for filing a formal complaint  
17 under this section.

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

19 48.745 (2) Any individual may file a formal complaint under this section  
20 regarding the general operation of a ~~child welfare agency~~ residential care center for  
21 children and youth or group home and shall not be subject to reprisals for doing so.  
22 All formal complaints regarding ~~child welfare agencies~~ residential care centers for  
23 children and youth and group homes shall be filed with the county department on  
24 forms supplied by the county department unless the county department designates  
25 the department to receive formal complaints. The county department shall



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

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

7 48.745 (3) Upon receipt of a formal complaint, the county department may  
8 investigate the premises and records and question the licensee, staff, and residents  
9 of the ~~child welfare agency~~ residential care center for children and youth or group  
10 home involved. The county department shall attempt to resolve the situation  
11 through negotiation and other appropriate means.

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

13 48.981 (1) (am) 5. An employee of a residential facility or ~~child caring~~  
14 ~~institution~~ residential care center for children and youth in which the child was or  
15 is placed.

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

17 48.981 (2) PERSONS REQUIRED TO REPORT. A physician, coroner, medical  
18 examiner, nurse, dentist, chiropractor, optometrist, acupuncturist, other medical or  
19 mental health professional, social worker, marriage and family therapist,  
20 professional counselor, public assistance worker, including a financial and  
21 employment planner, as defined in s. 49.141 (1) (d), school teacher, administrator, or  
22 counselor, mediator under s. 767.11, child care worker in a day care center ~~or child~~  
23 ~~caring institution~~ or residential care center for children and youth, day care provider,  
24 alcohol or other drug abuse counselor, member of the treatment staff employed by or  
25 working under contract with a county department under s. 46.23, 51.42, or 51.437

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

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

21 48.988 (2) (b) “Placement” means the arrangement for the care of a child in a  
22 family free or boarding home ~~or~~, in a child–caring agency ~~or institution~~, or in a  
23 residential care center for children and youth, but does not include any institution  
24 caring for the mentally ill, mentally defective, or epileptic ~~or~~, any institution  
25 primarily educational in character, ~~and~~ or any hospital or other medical facility.

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

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

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

14          49.19 (10) (b) Aid under this section may also be granted on behalf of a child  
15          in the legal custody of a county department under s. 46.215, 46.22 or 46.23 or on  
16          behalf of a child who was removed from the home of a relative specified in sub. (1)  
17          (a) as a result of a judicial determination that continuance in the home of a relative  
18          would be contrary to the child's welfare for any reason when such child is placed in  
19          a licensed ~~child-caring institution~~ residential care center for children and youth by  
20          the county department. Reimbursement shall be made by the state pursuant to par.  
21          (a).

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

23          49.19 (10) (c) Reimbursement under par. (a) may also be paid to the county  
24          when the child is placed in a licensed foster home, treatment foster home, group  
25          home ~~or child-caring institution, or residential care center for children and youth~~ by

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1 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 if the child was removed  
4 from the home of a relative specified in sub. (1) (a) as a result of a judicial  
5 determination that continuance in the home of the relative would be contrary to the  
6 child's welfare for any reason and the placement is made pursuant to an agreement  
7 with the county department.

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

9 49.19 (10) (d) Aid may also be paid under this section to a licensed foster home,  
10 treatment foster home, group home ~~or child-caring institution, or residential care~~  
11 center for children and youth by the state when the child is in the custody or  
12 guardianship of the state, when the child is a ward of an American Indian tribal court  
13 in this state and the placement is made under an agreement between the department  
14 and the tribal governing body, or when the child was part of the state's direct service  
15 case load and was removed from the home of a relative specified in sub. (1) (a) as a  
16 result of a judicial determination that continuance in the home of a relative would  
17 be contrary to the child's welfare for any reason and the child is placed by the  
18 department of health and family services or the department of corrections.

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

20 49.19 (10) (e) Notwithstanding pars. (a), (c) and (d), aid under this section may  
21 not be granted for placement of a child in a foster home or treatment foster home  
22 licensed by a federally recognized American Indian tribal governing body, for  
23 placement of a child in a foster home, treatment foster home ~~or child-caring~~  
24 institution, or residential care center for children and youth by a tribal governing  
25 body or its designee, for the placement of a child who is a ward of a tribal court if the

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

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

5 51.437 (14r) (a) 7. Notify the governor regarding membership requirements of  
6 the council and if vacancies on the council remain unfilled for a significant period of  
7 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.

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

9 51.437 (14r) (c) The council on developmental disabilities may or, if requested  
10 by the governor, shall coordinate recommendations of the council and the public to  
11 the governor regarding council membership.

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

13 70.11 (19) INSTITUTIONS AND CENTERS FOR DEPENDENT CHILDREN AND PERSONS WHO  
14 HAVE DEVELOPMENTAL DISABILITIES. The property of any ~~institution~~ residential care  
15 center for children and youth that is licensed under s. 48.60 for the care of dependent  
16 or neglected children or delinquent juveniles if that property is used for that purpose  
17 and the property of any nonprofit institution that is subject to examination under s.  
18 46.03 (5) and that has a full-time population of at least 150 individuals who have  
19 developmental disabilities, as defined in s. 51.01 (5), if that property is used for that  
20 purpose.

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.

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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:

22          115.81 **(2)** ESTABLISHMENT OF PROGRAM. Subject to the approval of the division,  
23 a ~~child caring institution~~ residential care center for children and youth may establish  
24 and maintain special education and related services for children with disabilities.

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

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1           115.81 (3) (a) Whenever a county department recommends to a court that a  
2 child be placed in a ~~child-caring institution~~ residential care center for children and  
3 youth or whenever a state agency anticipates placing a child in a ~~child-caring~~  
4 ~~institution~~ residential care center for children and youth, the county department or  
5 state agency shall notify the responsible local educational agency.

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

7           115.81 (3) (b) 2. b. If the responsible local educational agency has reasonable  
8 cause to believe that the child is a child with a disability, appoint an individualized  
9 education program team to conduct an evaluation of the child under s. 115.782. The  
10 responsible local educational agency may include appropriately licensed staff of the  
11 ~~child-caring institution~~ residential care center for children and youth in the team if  
12 that staff is available. The individualized education program team shall conduct the  
13 evaluation. If the individualized education program team determines that the child  
14 is a child with a disability, the individualized education program team, in  
15 consultation with a county department or a state agency, as appropriate, shall  
16 develop an individualized education program and an educational placement offer.

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

18           115.81 (4) **RESPONSIBILITY FOR EDUCATIONAL PLACEMENT.** (intro.) Whenever the  
19 responsible local educational agency offers an educational placement in a ~~child~~  
20 ~~caring institution~~ residential care center for children and youth under sub. (3) (b) 1.  
21 or 2. b., all of the following apply:

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

23           115.81 (4) (a) 3. While the child resides at a ~~child-caring institution~~ residential  
24 care center for children and youth, appoint an individualized education program

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1 team to conduct reevaluations of the child in the manner provided under s. 115.782  
2 (4).

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

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

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

12 115.81 (4) (a) 5. If the child is leaving the ~~child caring institution~~ residential  
13 care center for children and youth, assign staff or an individualized education  
14 program team to develop a reintegration plan for the child in cooperation with a  
15 county department and staff of the ~~child caring institution~~ residential care center for  
16 children and youth.

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

18 115.81 (4) (b) 1. Consider the child's educational needs when selecting a ~~child~~  
19 ~~caring institution~~ residential care center for children and youth for the child.

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

21 115.81 (4) (b) 2. In cooperation with the responsible local educational agency  
22 and staff of the ~~child caring institution~~ residential care center for children and youth,  
23 participate in the individualized education program team evaluation of the child and  
24 the development of the individualized education program for the child.

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



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1           115.81 (4) (b) 3. Notify the local educational agency that will be responsible for  
2 providing a free, appropriate public education to the child whenever the county  
3 department or state agency anticipates removing the child from the ~~child-caring~~  
4 institution residential care center for children and youth.

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

6           115.81 (4) (b) 4. In cooperation with the responsible local educational agency  
7 and staff of the ~~child-caring institution residential care center for children and youth~~,  
8 develop a reintegration plan for the child if the child is leaving the ~~child-caring~~  
9 institution residential care center for children and youth.

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

11          115.81 (4) (b) 5. Pay all of the ~~child-caring institution residential care center~~  
12 for children and youth related costs of educating the child while the child resides in  
13 the ~~child-caring institution residential care center for children and youth~~.

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

15          146.82 (2) (a) 18m. If the subject of the patient health care records is a child  
16 or juvenile who has been placed in a foster home, treatment foster home, group home,  
17 ~~child-caring institution residential care center for children and youth~~, or a secured  
18 correctional facility, including a placement under s. 48.205, 48.21, 938.205, or 938.21  
19 or for whom placement in a foster home, treatment foster home, group home, ~~child~~  
20 caring institution residential care center for children and youth, or secured  
21 correctional facility is recommended under s. 48.33 (4), 48.425 (1) (g), 48.837 (4) (c),  
22 or 938.33 (3) or (4), to an agency directed by a court to prepare a court report under  
23 s. 48.33 (1), 48.424 (4) (b), 48.425 (3), 48.831 (2), 48.837 (4) (c), or 938.33 (1), to an  
24 agency responsible for preparing a court report under s. 48.365 (2g), 48.425 (1),  
25 48.831 (2), 48.837 (4) (c), or 938.365 (2g), to an agency responsible for preparing a

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1 permanency plan under s. 48.355 (2e), 48.38, 48.43 (1) (c) or (5) (c), 48.63 (4), 48.831  
2 (4) (e), 938.355 (2e), or 938.38 regarding the child or juvenile, or to an agency that  
3 placed the child or juvenile or arranged for the placement of the child or juvenile in  
4 any of those placements and, by any of those agencies, to any other of those agencies  
5 and, by the agency that placed the child or juvenile or arranged for the placement of  
6 the child or juvenile in any of those placements, to the foster parent or treatment  
7 foster parent of the child or juvenile or the operator of the group home, ~~child caring~~  
8 ~~institution~~ residential care center for children and youth, or secured correctional  
9 facility in which the child or juvenile is placed, as provided in s. 48.371 or 938.371.

10 **SECTION 67.** 252.15 (2) (am) 2. a. of the statutes is renumbered 252.15 (2) (am)

11 2. and amended to read:

12 252.15 (2) (am) 2. A health care provider who procures, processes, distributes  
13 or uses human ova donated as specified under s. 157.06 (6) (a) or (b) shall, prior to  
14 the distribution or use and with informed consent under the requirements of par. (b),  
15 test the proposed donor for the presence of HIV, antigen or nonantigenic products of  
16 HIV or an antibody to HIV in order to assure medical acceptability of the gift for the  
17 purpose intended, ~~only if the state epidemiologist finds that use of donated human~~  
18 ~~ova provides a significant risk of transmitting HIV to a donee and if, notwithstanding~~  
19 ~~ss. 227.01 (13) and 227.10 (1), the secretary of health and family services issues an~~  
20 ~~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 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.

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

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

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

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

22           301.08 **(1)** (b) 3. Contract with public, private, or voluntary agencies for the  
23 supervision, maintenance, and operation of secured correctional facilities, ~~child~~  
24 ~~caring institutions~~ residential care centers for children and youth, as defined in s.  
25 938.02 ~~(2e)~~ (15d), and secured child caring institutions for the placement of juveniles

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1 who have been convicted under s. 938.183 or adjudicated delinquent under s. 938.183  
2 or 938.34 (4d), (4h), or (4m). The department may designate a secured correctional  
3 facility, ~~child caring institution~~ residential care center for children and youth, or a  
4 secured child caring institution contracted for under this subdivision as a Type 2  
5 secured correctional facility, as defined in s. 938.02 (20), and may designate a ~~child~~  
6 ~~caring institution~~ residential care center for children and youth or secured child  
7 caring institution contracted for under this subdivision as a Type 2 child caring  
8 institution, as defined in s. 938.02 (19r).

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

10 301.12 (14) (b) Except as provided in par. (c) and subject to par. (cm), liability  
11 of a parent specified in sub. (2) or s. 301.03 (18) for the care and maintenance of the  
12 parent's minor child who has been placed by a court order under s. 938.183, 938.355,  
13 or 938.357 in a residential, nonmedical facility such as a group home, foster home,  
14 treatment foster home, ~~child caring institution~~ residential care center for children  
15 and youth, or juvenile correctional institution shall be determined by the court by  
16 using the percentage standard established by the department of workforce  
17 development under s. 49.22 (9) and by applying the percentage standard in the  
18 manner established by the department under par. (g).

19 **SECTION 72.** 301.26 (4) (d) 2. of the statutes, as affected by 2001 Wisconsin Act  
20 16, is amended to read:

21 301.26 (4) (d) 2. Beginning on July 1, 2001, and ending on June 30, 2002, the  
22 per person daily cost assessment to counties shall be \$167.57 for care in a Type 1  
23 secured correctional facility, as defined in s. 938.02 (19), \$167.57 for care for juveniles  
24 transferred from a juvenile correctional institution under s. 51.35 (3), \$213 for care  
25 in a ~~child caring institution, including a secured child caring institution~~ residential

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1 care center for children and youth, \$129 for care in a group home for children, \$41  
2 for care in a foster home, \$81 for care in a treatment foster home, \$82.56 for  
3 departmental corrective sanctions services, and \$21.96 for departmental aftercare  
4 services.

5 **SECTION 73.** 301.26 (4) (d) 3. of the statutes, as affected by 2001 Wisconsin Act  
6 16, is amended to read:

7 301.26 (4) (d) 3. Beginning on July 1, 2002, and ending on June 30, 2003, the  
8 per person daily cost assessment to counties shall be \$172.51 for care in a Type 1  
9 secured correctional facility, as defined in s. 938.02 (19), \$172.51 for care for juveniles  
10 transferred from a juvenile correctional institution under s. 51.35 (3), \$226 for care  
11 in a ~~child caring institution, including a secured child caring institution~~ residential  
12 care center for children and youth, \$135 for care in a group home for children, \$43  
13 for care in a foster home, \$85 for care in a treatment foster home, \$84.50 for  
14 departmental corrective sanctions services and \$22.66 for departmental aftercare  
15 services.

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

17 767.29 (3) (b) If a child who is the beneficiary of support under a judgment or  
18 order is placed by court order in a ~~child caring institution~~ residential care center for  
19 children and youth, juvenile correctional institution, or state mental institution, the  
20 right of the child to support during the period of the child's confinement, including  
21 any right to unpaid support accruing during that period, is assigned to the state. If  
22 the judgment or order providing for the support of a child who is placed in a ~~child~~  
23 ~~caring institution~~ residential care center for children and youth, juvenile  
24 correctional institution, or state mental institution includes support for one or more  
25 other children, the support that is assigned to the state shall be the proportionate

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1 share of the child placed in the center or institution, except as otherwise ordered by  
2 the court or family court commissioner on the motion of a party.

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

5 938.02 **(15d)** “~~Child caring institution~~” “Residential care center for children  
6 and youth” means a facility operated by a child welfare agency licensed under s.  
7 48.60 for the care and maintenance of persons residing in that facility.

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

9 938.02 **(15g)** “Secured child caring institution” means a ~~child caring institution~~  
10 residential care center for children and youth operated by a child welfare agency that  
11 is licensed under s. 48.66 (1) (b) to hold in secure custody persons adjudged  
12 delinquent.

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

14 938.02 **(19r)** “Type 2 child caring institution” means a ~~child caring institution~~  
15 residential care center for children and youth that is designated by the department  
16 to provide care and maintenance for juveniles who have been placed in the ~~child~~  
17 ~~caring institution~~ residential care center for children and youth under the  
18 supervision of a county department under s. 938.34 (4d).

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

20 938.08 **(3)** (a) 1. If they are in prompt pursuit of a juvenile who has run away  
21 from a secured correctional facility, a ~~child caring institution~~ residential care center  
22 for children and youth, or a secured group home.

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

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1           938.08 (3) (a) 2. If the juvenile has failed to return to a secured correctional  
2 facility, a ~~child caring institution~~ residential care center for children and youth, or  
3 a secured group home after any authorized absence.

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

5           938.08 (3) (b) A juvenile who is taken into custody under par. (a) may be  
6 returned directly to the secured correctional facility, ~~child caring institution~~  
7 residential care center for children and youth, or secured group home and shall have  
8 a hearing regarding placement in a disciplinary cottage or in disciplinary status in  
9 accordance with ch. 227.

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

11          938.33 (4) OTHER OUT-OF-HOME PLACEMENTS. (intro.) A report recommending  
12 placement in a foster home, treatment foster home, group home, or nonsecured ~~child~~  
13 ~~caring institution~~ residential care center for children and youth shall be in writing,  
14 except that the report may be presented orally at the dispositional hearing if all  
15 parties consent. A report that is presented orally shall be transcribed and made a  
16 part of the court record. The report shall include all of the following:

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

18          938.34 (3) (d) A ~~child caring institution~~ residential treatment center operated  
19 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 residential treatment center, and not the residential treatment center itself, that is licensed under s. 48.60.

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

21          938.371 (1) If a juvenile is placed in a foster home, treatment foster home,  
22 group home, ~~child caring institution~~ residential care center for children and youth,  
23 or secured correctional facility, including a placement under s. 938.205 or 938.21, the

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

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

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

22 (c) Any other medical information concerning the juvenile that is necessary for  
23 the care of the juvenile. The foster parent, treatment foster parent, or operator of a  
24 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 paragraph shall  
2 keep the information confidential.

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

4 938.371 (3) (intro.) At the time of placement of a juvenile in a foster home,  
5 treatment foster home, group home, ~~child caring institution~~ residential care center  
6 for children and youth, or secured correctional facility or, if the information is not  
7 available at that time, as soon as possible after the date on which the court report  
8 or permanency plan has been submitted, but no later than 7 days after that date, the  
9 agency, as defined in s. 938.38 (1) (a), responsible for preparing the juvenile's  
10 permanency plan shall provide to the foster parent, treatment foster parent, or  
11 operator of the group home, ~~child caring institution~~ residential care center for  
12 children and youth, or secured correctional facility information contained in the  
13 court report submitted under s. 938.33 (1) or 938.365 (2g) or permanency plan  
14 submitted under s. 938.355 (2e) or 938.38 relating to findings or opinions of the court  
15 or agency that prepared the court report or permanency plan relating to any of the  
16 following:

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

18 938.371 (3) (a) Any mental, emotional, cognitive, developmental, or behavioral  
19 disability of the juvenile. The foster parent, treatment foster parent, or operator of  
20 a group home, ~~child caring institution~~ residential care center for children and youth,  
21 or secured correctional facility receiving information under this subsection shall  
22 keep the information confidential.

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

24 938.371 (3) (b) Any involvement of the juvenile in any criminal gang, as defined  
25 in s. 939.22 (9), or in any other group in which any child was traumatized as a result

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1 of his or her association with that group. The foster parent, treatment foster parent,  
2 or operator of a group home, ~~child-caring institution~~ residential care center for  
3 children and youth, or secured correctional facility receiving information under this  
4 paragraph shall keep the information confidential.

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

6 938.371 (3) (c) Any involvement of the juvenile in any activities that are  
7 harmful to the juvenile's physical, mental, or moral well-being. The foster parent,  
8 treatment foster parent, or operator of a group home, ~~child-caring institution~~  
9 residential care center for children and youth, or secured correctional facility  
10 receiving information under this paragraph shall keep the information confidential.

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

12 938.371 (3) (d) Any involvement of the juvenile, whether as victim or  
13 perpetrator, in sexual intercourse or sexual contact in violation of s. 940.225, 948.02,  
14 or 948.025, prostitution in violation of s. 944.30, sexual exploitation of a child in  
15 violation of s. 948.05, or causing a child to view or listen to sexual activity in violation  
16 of s. 948.055, if the information is necessary for the care of the juvenile or for the  
17 protection of any person living in the foster home, treatment foster home, group  
18 home, ~~child-caring institution~~ residential care center for children and youth, or  
19 secured correctional facility. The foster parent, treatment foster parent, or operator  
20 of a group home, ~~child-caring institution~~ residential care center for children and  
21 youth, or secured correctional facility receiving information under this paragraph  
22 shall keep the information confidential.

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

24 938.38 (2) PERMANENCY PLAN REQUIRED. (intro.) Except as provided in sub. (3),  
25 for each juvenile living in a foster home, treatment foster home, group home, ~~child~~

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1 ~~child caring institution~~ residential care center for children and youth, secure detention  
2 facility, or shelter care facility, the agency that placed the juvenile or arranged the  
3 placement or the agency assigned primary responsibility for providing services to the  
4 juvenile under s. 938.355 shall prepare a written permanency plan, if any of the  
5 following conditions exists:

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

7 938.51 **(1d)** (intro.) At least 15 days prior to the release from a nonsecured ~~child~~  
8 ~~child caring institution~~ residential care center for children and youth of a juvenile who has  
9 either been adjudicated delinquent under s. 48.12, 1993 stats., or s. 938.12 or been  
10 found to be in need of protection or services under s. 48.13 (12), 1993 stats., or s.  
11 938.13 (12) and who has been found to have committed a violation of ch. 940 or of s.  
12 948.02, 948.025, or 948.03, and at least 15 days prior to the release from a nonsecured  
13 ~~child caring institution~~ residential care center for children and youth of a juvenile  
14 who has been found to be in need of protection or services under s. 48.13 (14), 1993  
15 stats., or s. 938.13 (14), the department or county department having supervision  
16 over the juvenile shall notify all of the following persons of the juvenile's release:

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

18 938.51 **(4)** (intro.) If a juvenile described in sub. (1), (1d), or (1g) escapes from  
19 a secured correctional facility, ~~child caring institution~~ residential care center for  
20 children and youth, secured group home, inpatient facility, secure detention facility,  
21 or juvenile portion of a county jail, or from the custody of a peace officer or a guard  
22 of such a facility, ~~institution center~~, home, or jail, or has been allowed to leave a  
23 secured correctional facility, ~~child caring institution~~ residential care center for  
24 children and youth, secured group home, inpatient facility, secure detention facility,  
25 or juvenile portion of a county jail for a specified period of time and is absent from

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1 the facility, ~~institution~~ center, home, or jail for more than 12 hours after the  
2 expiration of the specified period, as soon as possible after the department or county  
3 department having supervision over the juvenile discovers that escape or absence,  
4 that department or county department shall make a reasonable attempt to notify by  
5 telephone all of the following persons:

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

7 938.538 (3) (a) 1p. Alternate care, including placement in a foster home,  
8 treatment foster home, group home, ~~child caring institution~~ residential care center  
9 for children and youth, or secured child caring institution.

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

11 938.539 (5) With respect to a juvenile who is placed in a ~~child caring institution~~  
12 residential care center for children and youth or a secured child caring institution  
13 under s. 938.34 (4d) or 938.357 (4) (a) or in a less restrictive placement under s.  
14 938.357 (4) (c), the child welfare agency operating the ~~child caring institution~~  
15 residential care center for children and youth or secured child caring institution in  
16 which the juvenile is placed, and the person operating any less restrictive placement  
17 in which the juvenile is placed, shall operate that ~~child caring institution~~ residential  
18 care center for children and youth, secured child caring institution, or less restrictive  
19 placement as a Type 2 child caring institution or a Type 2 secured correctional  
20 facility. This subsection does not preclude a child welfare agency or other person  
21 from placing in a ~~child caring institution~~ residential care center for children and  
22 youth, secured child caring institution, or less restrictive placement in which a  
23 juvenile is placed under s. 938.34 (4d) or 938.357 (4) (a) or (c) a juvenile who is not  
24 placed under s. 938.34 (4d) or 938.357 (4) (a) or (c).

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

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1           938.57 (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 95.** 938.78 (3) of the statutes is amended to read:

4           938.78 (3) If a juvenile adjudged delinquent under s. 48.12, 1993 stats., or s.  
5 938.12 or found to be in need of protection or services under s. 48.13 (12), 1993 stats.,  
6 or s. 48.13 (14), 1993 stats., or s. 938.13 (12) or (14) on the basis of a violation of s.  
7 941.10, 941.11, 941.20, 941.21, 941.23, 941.235, 941.237, 941.24, 941.26, 941.28,  
8 941.295, 941.298, 941.30, 941.31, 941.32, 941.325, 943.02, 943.03, 943.04, 943.10 (2)  
9 (a), 943.23 (1g), (1m), or (1r), 943.32 (2), 948.02, 948.025, 948.03, 948.05, 948.055,  
10 948.60, 948.605, or 948.61 or any crime specified in ch. 940 has escaped from a  
11 secured correctional facility, ~~child-caring institution~~ residential care center for  
12 children and youth, secured group home, inpatient facility, as defined in s. 51.01 (10),  
13 secure detention facility, or juvenile portion of a county jail, or from the custody of  
14 a peace officer or a guard of such a facility, ~~institution center~~, or jail, or has been  
15 allowed to leave a secured correctional facility, ~~child-caring institution~~ residential  
16 care center for children and youth, secured group home, inpatient facility, secure  
17 detention facility, or juvenile portion of a county jail for a specified time period and  
18 is absent from the facility, ~~institution center~~, home, or jail for more than 12 hours  
19 after the expiration of the specified period, the department or county department  
20 having supervision over the juvenile may release the juvenile's name and any  
21 information about the juvenile that is necessary for the protection of the public or to  
22 secure the juvenile's return to the facility, ~~institution center~~, home, or jail. The  
23 department of corrections shall promulgate rules establishing guidelines for the  
24 release of the juvenile's name or information about the juvenile to the public.

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

