

Kennedy, Debora

From: Letzing, Rachel
Sent: Friday, November 09, 2001 11:15 AM
To: Kennedy, Debora
Subject: Section Notes for LRB 3813/1—Department of Health and Family Services



Section

Notes.dhfs.doc

Hi Debora,

Here are the Section Notes for the DHFS remedial draft. There are only few as Gordon Malaise wrote the majority of the notes already, which was a nice surprise. A couple of the remedial bills introduced recently were missing the Section Notes, so hopefully all of the Notes (mine and Gordon's) will remain in this one. Thanks for all of your help!

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State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-3813/2
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2001 BILL

SOON - In edit 11/12

repeal act

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

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.

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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:

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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.

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SECTION 12. 15.197 (11n) (d) of the statutes is repealed.

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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

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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~~

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in s. 50.01 (1g); but does not include adult family homes, as defined in s. 50.01 (1),

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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.

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

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46.10 (14) (b) Except as provided in par. (c) and subject to par. (cm), liability

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of a parent specified in sub. (2) or s. 46.03 (18) for the care and maintenance of the

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parent's minor child who has been placed by a court order under s. 48.355 or 48.357

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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~~

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youth shall be determined by the court by using the percentage standard established

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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 69, 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, or 948.025,
3 prostitution in violation of s. 944.30, sexual exploitation of a child in violation of s.
4 948.05, 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, 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, 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

BILL**SECTION 41**

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 49.** 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.

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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.

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

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1 115.76 (14g) ~~“Child caring institution”~~ “Residential care center for children
2 and youth” means a facility operated by a child welfare agency licensed under s.
3 48.60 for the care and maintenance of children residing in that facility.

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

5 115.762 (3) (g) Monitoring and enforcing local educational agency and ~~child~~
6 ~~caring institution~~ residential care center for children and youth compliance with this
7 subchapter and applicable federal law, including 20 USC 1415 (k).

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

9 115.81 (1) (b) “Responsible local educational agency” means the local
10 educational agency that was responsible for providing a free, appropriate public
11 education to the child before the placement of the child in a ~~child caring institution~~
12 residential care center for children and youth except that if the child resided in an
13 institution or facility operated by the department of health and family services, a
14 Type 1 secured correctional facility, as defined in s. 938.02 (19), or a Type 1 prison,
15 as defined in s. 301.01 (5), before the placement of the child in a ~~child caring~~
16 ~~institution~~ residential care center for children and youth, “responsible local
17 educational agency” means the school district in which the ~~child caring institution~~
18 residential care center for children and youth is located.

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

20 115.81 (2) ESTABLISHMENT OF PROGRAM. Subject to the approval of the division,
21 a ~~child caring institution~~ residential care center for children and youth may establish
22 and maintain special education and related services for children with disabilities.

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

24 115.81 (3) (a) Whenever a county department recommends to a court that a
25 child be placed in a ~~child caring institution~~ residential care center for children and

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1 youth or whenever a state agency anticipates placing a child in a ~~child-caring~~
2 ~~institution residential care center for children and youth~~, the county department or
3 state agency shall notify the responsible local educational agency.

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

5 115.81 (3) (b) 2. b. If the responsible local educational agency has reasonable
6 cause to believe that the child is a child with a disability, appoint an individualized
7 education program team to conduct an evaluation of the child under s. 115.782. The
8 responsible local educational agency may include appropriately licensed staff of the
9 ~~child caring institution residential care center for children and youth~~ in the team if
10 that staff is available. The individualized education program team shall conduct the
11 evaluation. If the individualized education program team determines that the child
12 is a child with a disability, the individualized education program team, in
13 consultation with a county department or a state agency, as appropriate, shall
14 develop an individualized education program and an educational placement offer.

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

16 115.81 (4) RESPONSIBILITY FOR EDUCATIONAL PLACEMENT. (intro.) Whenever the
17 responsible local educational agency offers an educational placement in a ~~child~~
18 ~~caring institution residential care center for children and youth~~ under sub. (3) (b) 1.
19 or 2. b., all of the following apply:

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

21 115.81 (4) (a) 3. While the child resides at a ~~child caring institution residential~~
22 ~~care center for children and youth~~, appoint an individualized education program
23 team to conduct reevaluations of the child in the manner provided under s. 115.782
24 (4).

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

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1 115.81 (4) (a) 4. While the child resides at a ~~child caring institution~~ residential
2 care center for children and youth, after consulting with the ~~child caring institution~~
3 residential care center for children and youth and a county department or a state
4 agency, as appropriate, refer the child to another local educational agency if the
5 responsible local educational agency determines that the child's special education
6 needs may be appropriately served in a less restrictive setting in the other local
7 educational agency.

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

9 115.81 (4) (a) 5. If the child is leaving the ~~child caring institution~~ residential
10 care center for children and youth, assign staff or an individualized education
11 program team to develop a reintegration plan for the child in cooperation with a
12 county department and staff of the ~~child caring institution~~ residential care center for
13 children and youth.

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

15 115.81 (4) (b) 1. Consider the child's educational needs when selecting a ~~child~~
16 ~~caring institution~~ residential care center for children and youth for the child.

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

18 115.81 (4) (b) 2. In cooperation with the responsible local educational agency
19 and staff of the ~~child caring institution~~ residential care center for children and youth,
20 participate in the individualized education program team evaluation of the child and
21 the development of the individualized education program for the child.

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

23 115.81 (4) (b) 3. Notify the local educational agency that will be responsible for
24 providing a free, appropriate public education to the child whenever the county

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1 department or state agency anticipates removing the child from the ~~child caring~~
2 ~~institution residential care center for children and youth.~~

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

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

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

9 115.81 (4) (b) 5. Pay all of the ~~child caring institution residential care center~~
10 ~~for children and youth~~ related costs of educating the child while the child resides in
11 the ~~child caring institution residential care center for children and youth.~~

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

13 146.82 (2) (a) 18m. If the subject of the patient health care records is a child
14 or juvenile who has been placed in a foster home, treatment foster home, group home,
15 ~~child caring institution residential care center for children and youth,~~ or a secured
16 correctional facility, including a placement under s. 48.205, 48.21, 938.205, or 938.21
17 or for whom placement in a foster home, treatment foster home, group home, ~~child~~
18 ~~caring institution residential care center for children and youth,~~ or secured
19 correctional facility is recommended under s. 48.33 (4), 48.425 (1) (g), 48.837 (4) (c),
20 or 938.33 (3) or (4), to an agency directed by a court to prepare a court report under
21 s. 48.33 (1), 48.424 (4) (b), 48.425 (3), 48.831 (2), 48.837 (4) (c), or 938.33 (1), to an
22 agency responsible for preparing a court report under s. 48.365 (2g), 48.425 (1),
23 48.831 (2), 48.837 (4) (c), or 938.365 (2g), to an agency responsible for preparing a
24 permanency plan under s. 48.355 (2e), 48.38, 48.43 (1) (c) or (5) (c), 48.63 (4), 48.831
25 (4) (e), 938.355 (2e), or 938.38 regarding the child or juvenile, or to an agency that

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1 placed the child or juvenile or arranged for the placement of the child or juvenile in
2 any of those placements and, by any of those agencies, to any other of those agencies
3 and, by the agency that placed the child or juvenile or arranged for the placement of
4 the child or juvenile in any of those placements, to the foster parent or treatment
5 foster parent of the child or juvenile or the operator of the group home, ~~child caring~~
6 institution residential care center for children and youth, or secured correctional
7 facility in which the child or juvenile is placed, as provided in s. 48.371 or 938.371.

8 SECTION ~~8~~ 252.15 (2) (am) 2. a. of the statutes is renumbered 252.15 (2) (am)
9 2. and amended to read: *create auto ref "E"*

10 252.15 (2) (am) 2. A health care provider who procures, processes, distributes
11 or uses human ova donated as specified under s. 157.06 (6) (a) or (b) shall, prior to
12 the distribution or use and with informed consent under the requirements of par. (b),
13 test the proposed donor for the presence of HIV, antigen or nonantigenic products of
14 HIV or an antibody to HIV in order to assure medical acceptability of the gift for the
15 purpose intended, ~~only if the state epidemiologist finds that use of donated human~~
16 ~~ova provides a significant risk of transmitting HIV to a donee and if, notwithstanding~~
17 ~~ss. 227.01 (13) and 227.10 (1), the secretary of health and family services issues an~~
18 ~~order specifying the requirements for the testing.~~ *create auto ref "F"*

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19 SECTION ~~8~~ 252.15 (2) (am) 2. b. of the statutes is repealed.

20 SECTION ~~9~~ 252.15 (5) (a) 19. of the statutes is amended to read: *create auto ref "H"*

21 252.15 (5) (a) 19. If the test was administered to a child who has been placed
22 in a foster home, treatment foster home, group home, ~~child caring institution~~
23 residential care center for children and youth, or secured correctional facility, as
24 defined in s. 938.02 (15m), including a placement under s. 48.205, 48.21, 938.205, or
25 938.21 or for whom placement in a foster home, treatment foster home, group home,

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

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

16 301.08 (1) (b) 3. Contract with public, private, or voluntary agencies for the
17 supervision, maintenance, and operation of secured correctional facilities, ~~child~~
18 ~~caring institutions~~ residential care centers for children and youth, as defined in s.
19 938.02 (2e) (15d), and secured child caring institutions for the placement of juveniles
20 who have been convicted under s. 938.183 or adjudicated delinquent under s. 938.183
21 or 938.34 (4d), (4h), or (4m). The department may designate a secured correctional
22 facility, ~~child caring institution~~ residential care center for children and youth, or a
23 secured child caring institution contracted for under this subdivision as a Type 2
24 secured correctional facility, as defined in s. 938.02 (20), and may designate a ~~child~~
25 ~~caring institution~~ residential care center for children and youth or secured child

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1 caring institution contracted for under this subdivision as a Type 2 child caring
2 institution, as defined in s. 938.02 (19r).

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

4 301.12 (14) (b) Except as provided in par. (c) and subject to par. (cm), liability
5 of a parent specified in sub. (2) or s. 301.03 (18) for the care and maintenance of the
6 parent's minor child who has been placed by a court order under s. 938.183, 938.355,
7 or 938.357 in a residential, nonmedical facility such as a group home, foster home,
8 treatment foster home, ~~child caring institution~~ residential care center for children
9 and youth, or juvenile correctional institution shall be determined by the court by
10 using the percentage standard established by the department of workforce
11 development under s. 49.22 (9) and by applying the percentage standard in the
12 manner established by the department under par. (g).

13 **SECTION 72.** 301.26 (4) (d) 2. of the statutes, as affected by 2001 Wisconsin Act
14 16, is amended to read:

15 301.26 (4) (d) 2. Beginning on July 1, 2001, and ending on June 30, 2002, the
16 per person daily cost assessment to counties shall be \$167.57 for care in a Type 1
17 secured correctional facility, as defined in s. 938.02 (19), \$167.57 for care for juveniles
18 transferred from a juvenile correctional institution under s. 51.35 (3), \$213 for care
19 in a child caring institution, ~~including a secured child caring institution~~ residential
20 care center for children and youth, \$129 for care in a group home for children, \$41
21 for care in a foster home, \$81 for care in a treatment foster home, \$82.56 for
22 departmental corrective sanctions services, and \$21.96 for departmental aftercare
23 services.

24 **SECTION 73.** 301.26 (4) (d) 3. of the statutes, as affected by 2001 Wisconsin Act
25 16, is amended to read:

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

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

11 767.29 (3) (b) If a child who is the beneficiary of support under a judgment or
12 order is placed by court order in a ~~child caring institution~~ residential care center for
13 children and youth, juvenile correctional institution, or state mental institution, the
14 right of the child to support during the period of the child's confinement, including
15 any right to unpaid support accruing during that period, is assigned to the state. If
16 the judgment or order providing for the support of a child who is placed in a ~~child~~
17 ~~caring institution~~ residential care center for children and youth, juvenile
18 correctional institution, or state mental institution includes support for one or more
19 other children, the support that is assigned to the state shall be the proportionate
20 share of the child placed in the center or institution, except as otherwise ordered by
21 the court or family court commissioner on the motion of a party.

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

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1 938.02 (15d) ~~“Child caring institution”~~ “Residential care center for children
2 and youth” means a facility operated by a child welfare agency licensed under s.
3 48.60 for the care and maintenance of persons residing in that facility.

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

5 938.02 (15g) ~~“Secured child caring institution”~~ means a ~~child caring institution~~
6 residential care center for children and youth operated by a child welfare agency that
7 is licensed under s. 48.66 (1) (b) to hold in secure custody persons adjudged
8 delinquent.

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

10 938.02 (19r) ~~“Type 2 child caring institution”~~ means a ~~child caring institution~~
11 residential care center for children and youth that is designated by the department
12 to provide care and maintenance for juveniles who have been placed in the ~~child~~
13 ~~caring institution~~ residential care center for children and youth under the
14 supervision of a county department under s. 938.34 (4d).

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

16 938.08 (3) (a) 1. If they are in prompt pursuit of a juvenile who has run away
17 from a secured correctional facility, a ~~child caring institution~~ residential care center
18 for children and youth, or a secured group home.

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

20 938.08 (3) (a) 2. If the juvenile has failed to return to a secured correctional
21 facility, a ~~child caring institution~~ residential care center for children and youth, or
22 a secured group home after any authorized absence.

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

24 938.08 (3) (b) A juvenile who is taken into custody under par. (a) may be
25 returned directly to the secured correctional facility, ~~child caring institution~~

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1 residential care center for children and youth, or secured group home and shall have
2 a hearing regarding placement in a disciplinary cottage or in disciplinary status in
3 accordance with ch. 227.

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

5 938.33 (4) **OTHER OUT-OF-HOME PLACEMENTS.** (intro.) A report recommending
6 placement in a foster home, treatment foster home, group home, or nonsecured child
7 ~~earing institution~~ residential care center for children and youth shall be in writing,
8 except that the report may be presented orally at the dispositional hearing if all
9 parties consent. A report that is presented orally shall be transcribed and made a
10 part of the court record. The report shall include all of the following:

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

12 938.34 (3) (d) A ~~child caring institution~~ residential treatment center operated
13 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.

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

15 938.371 (1) If a juvenile is placed in a foster home, treatment foster home,
16 group home, ~~child caring institution~~ residential care center for children and youth,
17 or secured correctional facility, including a placement under s. 938.205 or 938.21, the
18 agency, as defined in s. 938.38 (1) (a), that placed the juvenile or arranged for the
19 placement of the juvenile shall provide the following information to the foster parent,
20 treatment foster parent, or operator of the group home, ~~child caring institution~~
21 residential care center for children and youth, or secured correctional facility at the
22 time of placement or, if the information has not been provided to the agency by that

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1 time, as soon as possible after the date on which the agency receives that
2 information, but not more than 2 working days after that date:

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

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

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

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

23 938.371 (3) (intro.) At the time of placement of a juvenile in a foster home,
24 treatment foster home, group home, ~~child caring institution~~ residential care center
25 for children and youth, or secured correctional facility or, if the information is not

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1 available at that time, as soon as possible after the date on which the court report
2 or permanency plan has been submitted, but no later than 7 days after that date, the
3 agency, as defined in s. 938.38 (1) (a), responsible for preparing the juvenile's
4 permanency plan shall provide to the foster parent, treatment foster parent, or
5 operator of the group home, ~~child caring institution~~ residential care center for
6 children and youth, or secured correctional facility information contained in the
7 court report submitted under s. 938.33 (1) or 938.365 (2g) or permanency plan
8 submitted under s. 938.355 (2e) or 938.38 relating to findings or opinions of the court
9 or agency that prepared the court report or permanency plan relating to any of the
10 following:

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

12 938.371 (3) (a) Any mental, emotional, cognitive, developmental, or behavioral
13 disability of the juvenile. The foster parent, treatment foster parent, or operator of
14 a group home, ~~child caring institution~~ residential care center for children and youth,
15 or secured correctional facility receiving information under this subsection shall
16 keep the information confidential.

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

18 938.371 (3) (b) Any involvement of the juvenile in any criminal gang, as defined
19 in s. 939.22 (9), or in any other group in which any child was traumatized as a result
20 of his or her association with that group. The foster parent, treatment foster parent,
21 or operator of a group home, ~~child caring institution~~ residential care center for
22 children and youth, or secured correctional facility receiving information under this
23 paragraph shall keep the information confidential.

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

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1 938.371 (3) (c) Any involvement of the juvenile in any activities that are
2 harmful to the juvenile's physical, mental, or moral well-being. The foster parent,
3 treatment foster parent, or operator of a group home, ~~child caring institution~~
4 residential care center for children and youth, or secured correctional facility
5 receiving information under this paragraph shall keep the information confidential.

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

7 938.371 (3) (d) Any involvement of the juvenile, whether as victim or
8 perpetrator, in sexual intercourse or sexual contact in violation of s. 940.225, 948.02,
9 or 948.025, prostitution in violation of s. 944.30, sexual exploitation of a child in
10 violation of s. 948.05, or causing a child to view or listen to sexual activity in violation
11 of s. 948.055, if the information is necessary for the care of the juvenile or for the
12 protection of any person living in the foster home, treatment foster home, group
13 home, ~~child caring institution~~ residential care center for children and youth, or
14 secured correctional facility. The foster parent, treatment foster parent, or operator
15 of a group home, ~~child caring institution~~ residential care center for children and
16 youth, or secured correctional facility receiving information under this paragraph
17 shall keep the information confidential.

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

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

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

2 938.51 (1d) (intro.) At least 15 days prior to the release from a nonsecured ~~child~~
3 ~~earing institution~~ residential care center for children and youth of a juvenile who has
4 either been adjudicated delinquent under s. 48.12, 1993 stats., or s. 938.12 or been
5 found to be in need of protection or services under s. 48.13 (12), 1993 stats., or s.
6 938.13 (12) and who has been found to have committed a violation of ch. 940 or of s.
7 948.02, 948.025, or 948.03, and at least 15 days prior to the release from a nonsecured
8 ~~child caring institution~~ residential care center for children and youth of a juvenile
9 who has been found to be in need of protection or services under s. 48.13 (14), 1993
10 stats., or s. 938.13 (14), the department or county department having supervision
11 over the juvenile shall notify all of the following persons of the juvenile's release:

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

13 938.51 (4) (intro.) If a juvenile described in sub. (1), (1d), or (1g) escapes from
14 a secured correctional facility, ~~child caring institution~~ residential care center for
15 children and youth, secured group home, inpatient facility, secure detention facility,
16 or juvenile portion of a county jail, or from the custody of a peace officer or a guard
17 of such a facility, ~~institution center~~, home, or jail, or has been allowed to leave a
18 secured correctional facility, ~~child caring institution~~ residential care center for
19 children and youth, secured group home, inpatient facility, secure detention facility,
20 or juvenile portion of a county jail for a specified period of time and is absent from
21 the facility, ~~institution center~~, home, or jail for more than 12 hours after the
22 expiration of the specified period, as soon as possible after the department or county
23 department having supervision over the juvenile discovers that escape or absence,
24 that department or county department shall make a reasonable attempt to notify by
25 telephone all of the following persons:

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

2 938.538 (3) (a) 1p. Alternate care, including placement in a foster home,
3 treatment foster home, group home, ~~child caring institution~~ residential care center
4 for children and youth, or secured child caring institution.

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

6 938.539 (5) With respect to a juvenile who is placed in a ~~child caring institution~~
7 residential care center for children and youth or a secured child caring institution
8 under s. 938.34 (4d) or 938.357 (4) (a) or in a less restrictive placement under s.
9 938.357 (4) (c), the child welfare agency operating the ~~child caring institution~~
10 residential care center for children and youth or secured child caring institution in
11 which the juvenile is placed, and the person operating any less restrictive placement
12 in which the juvenile is placed, shall operate that ~~child caring institution~~ residential
13 care center for children and youth, secured child caring institution, or less restrictive
14 placement as a Type 2 child caring institution or a Type 2 secured correctional
15 facility. This subsection does not preclude a child welfare agency or other person
16 from placing in a ~~child caring institution~~ residential care center for children and
17 youth, secured child caring institution, or less restrictive placement in which a
18 juvenile is placed under s. 938.34 (4d) or 938.357 (4) (a) or (c) a juvenile who is not
19 placed under s. 938.34 (4d) or 938.357 (4) (a) or (c).

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

21 938.57 (3) (a) 4. Is living in a foster home, treatment foster home, group home
22 ~~or child caring institution~~, or residential care center for children and youth.

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

24 938.78 (3) If a juvenile adjudged delinquent under s. 48.12, 1993 stats., or s.
25 938.12 or found to be in need of protection or services under s. 48.13 (12), 1993 stats.,

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

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

21 940.295 (2) (m) ~~An institution~~ A residential care center for children and youth
22 operated by a child welfare agency licensed under s. 48.60 or an institution operated
23 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

Section Notes for LRB 3813/1—Department of Health and Family Services

INSERT
4-6

1. ~~Insert after Section 17.~~ 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.

NOTE:
CS

use auto reb "A"
use auto reb "B"

note: std

INSERT
21-7

2. ~~Insert after Section 48.~~ Sections 48 and 49 create additional duties for the state council on developmental disabilities to conform to the federal requirements for the council.

NOTE:
CS

use auto reb "C"
use auto reb "D"

note: std

INSERT
26-18

3. ~~Insert after Section 67.~~ 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.

NOTE:
CS

use auto reb "E"
use auto reb "F"

note: std



State of Wisconsin

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November 21, 2001

MEMORANDUM

To: Legislative Council - LRC

From: Debora A. Kennedy, Managing Attorney

Re: LRB-3813/2 Council on developmental disabilities membership; testing human ova donors for HIV; changing "child caring institution" to "residential care center for children and youth"

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-0137 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.