



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-0084/1

GMM:wlj:tr

today!
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DL072

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RMR

DOA:.....Blaine - Subsidized Guardianship Program

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

DO NOT GEN

1 AN ACT ~~...~~; relating to: the appointment of a guardian for certain children in need
2 of protection or services, the payment of subsidized guardianship payments to
3 a guardian of a child who meets certain requirements, and making an
4 appropriation.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

CHILDREN

Under current law, the court assigned to exercise jurisdiction under the Children's Code (juvenile court) may appoint a relative of a child as the guardian of the child if the juvenile court makes certain findings, including a finding that the child has been adjudged to be in need of protection or services and has been placed outside of his or her home pursuant to an order of the juvenile court for one year or longer.

This bill permits any person, not just a relative, to be appointed as the guardian of a child who has been adjudged to be in need of protection or services. The bill also eliminates that one-year waiting period and permits a child who has been adjudged to be in need of protection or services or whose parents' parental rights to the child have been terminated to be placed directly in the home of a guardian without first having been placed in another out-of-home placement. In addition, the bill permits

has passed a home inspection and criminal background investigation

(Note) The bill also permits a county department or DHFS to provide monthly subsidized guardianship payments for a period of up to 12 months to an interim caretaker who has passed a home inspection and criminal background investigation on the death incapacity resignation or removal of the subsidized guardian.

the parental rights of a parent of a child in need of protection or services for whom a guardian has been appointed to be terminated on the grounds of abandonment if, when the juvenile court appointed the guardian, the juvenile court provided the parent with notice of any ground for termination of parental rights that may be applicable and of the conditions necessary for the child to be returned home and the parent has failed to visit or communicate with the child for a period of three months or longer.

Currently, a relative who is appointed as the guardian of a child in need of protection or services and who meets certain other requirements is eligible to receive long-term kinship care payments in the amount of \$215 per month for providing care and maintenance for the child. This bill permits a county department of human services or social services (county department) or, in Milwaukee County, DHFS to provide monthly subsidized guardianship payments to a person who is appointed as the guardian for a child in need of protection of services; was the licensed foster parent or treatment foster parent of the child before that appointment; and has entered into a subsidized guardianship agreement with the county department or DHFS. A county department or DHFS may provide the monthly subsidized guardianship payments to the person if the child has been placed outside the home for a cumulative total period of one year or longer; the juvenile court has found that reunification of the child with the child's parents is unlikely or contrary to the best interests of the child and that further reunification efforts are unlikely to be made or are contrary to the best interests of the child; and the juvenile court has found that appointment of a guardian is in the best interests of the child. A county department or DHFS may also provide monthly subsidized guardianship payments if the child does not meet any of those conditions, but DHFS has determined that appointing a guardian for the child and providing subsidized guardianship payments to the guardian are in the best interests of the child and the juvenile court has confirmed that determination.

Under the bill, the amount of a monthly subsidized guardianship payment is equal to the amount of the monthly foster care or treatment foster care payment received by the guardian immediately before the guardianship order was granted. In addition, a subsidized guardian is eligible for a child care subsidy under the Wisconsin Works Program in the same manner as a foster parent is so eligible, and a child who is in the care of a subsidized guardian is eligible for Medical Assistance in the same manner as a child in foster care is so eligible.

The bill also requires DHFS to request from the secretary of the federal Department of Health and Human Services a waiver of the requirements under Title IV-E of the federal Social Security Act that would authorize the state to receive federal foster care and adoption assistance reimbursement for the costs of providing care for a child who is in the care of a guardian who was licensed as the child's foster parent or treatment foster parent before the guardianship appointment, and who has entered into a subsidized guardianship agreement. If the waiver is approved for Milwaukee County, the bill requires DHFS to provide the monthly subsidized guardianship payments. If the waiver is approved for any other county, the bill requires DHFS to determine which counties are authorized to provide subsidized

and a subsidized guardian who adopts the child is eligible for adoption assistance in the same manner as a foster parent who adopts the child is so eligible. Also

guardianship payments and requires those authorized counties to provide those payments.

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

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

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

2 20.435 (7) (b) *Community aids and Medical Assistance payments.* The
3 amounts in the schedule for human services under s. 46.40, to fund services provided
4 by resource centers under s. 46.283 (5), for services under the family care benefit
5 under s. 46.284 (5), for reimbursement to counties having a population of less than
6 500,000 for the cost of court attached intake services under s. 48.06 (4), for shelter
7 care under ss. 48.58 and 938.22, for foster care ~~and~~, treatment foster care, and
8 subsidized guardianship care under s. ss. 46.261 and 49.19 (10), for Medical
9 Assistance payment adjustments under s. 49.45 (52), for Medical Assistance
10 payments under s. 49.45 (53), and for payments under SECTION 25 (3). Social services
11 disbursements under s. 46.03 (20) (b) may be made from this appropriation. Refunds
12 received relating to payments made under s. 46.03 (20) (b) for the provision of
13 services for which moneys are appropriated under this paragraph shall be returned
14 to this appropriation. Notwithstanding ss. 20.001 (3) (a) and 20.002 (1), the
15 department of health and family services may transfer funds between fiscal years
16 under this paragraph. The department shall deposit into this appropriation funds
17 it recovers under ss. 46.495 (2) (b) and 51.423 (15) from prior year audit adjustments
18 including those resulting from audits of services under s. 46.26, 1993 stats., or s.
19 46.27. Except for amounts authorized to be carried forward under s. 46.45, all funds
20 recovered under ss. 46.495 (2) (b) and 51.423 (15) and all funds allocated under s.

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

4 **SECTION 2.** 20.435 (7) (b) of the statutes, as affected by 2003 Wisconsin Act 318,
5 section 6, and 2005 Wisconsin Act ... (this act), is repealed and recreated to read:

6 20.435 (7) (b) *Community aids.* The amounts in the schedule for human
7 services under s. 46.40, to fund services provided by resource centers under s. 46.283
8 (5), for services under the family care benefit under s. 46.284 (5), for reimbursement
9 to counties having a population of less than 500,000 for the cost of court attached
10 intake services under s. 48.06 (4), for shelter care under ss. 48.58 and 938.22, and for
11 foster care, treatment foster care, and subsidized guardianship care under ss. 46.261
12 and 49.19 (10). Social services disbursements under s. 46.03 (20) (b) may be made
13 from this appropriation. Refunds received relating to payments made under s. 46.03
14 (20) (b) for the provision of services for which moneys are appropriated under this
15 paragraph shall be returned to this appropriation. Notwithstanding ss. 20.001 (3)
16 (a) and 20.002 (1), the department of health and family services may transfer funds
17 between fiscal years under this paragraph. The department shall deposit into this
18 appropriation funds it recovers under ss. 46.495 (2) (b) and 51.423 (15) from prior
19 year audit adjustments including those resulting from audits of services under s.
20 46.26, 1993 stats., or s. 46.27. Except for amounts authorized to be carried forward
21 under s. 46.45, all funds recovered under ss. 46.495 (2) (b) and 51.423 (15) and all
22 funds allocated under s. 46.40 and not spent or encumbered by December 31 of each
23 year shall lapse to the general fund on the succeeding January 1 unless carried
24 forward to the next calendar year by the joint committee on finance.

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

1 46.10 (14) (a) Except as provided in pars. (b) and (c), liability of a person
2 specified in sub. (2) or s. 46.03 (18) for inpatient care and maintenance of persons
3 under 18 years of age at community mental health centers, a county mental health
4 complex under s. 51.08, the centers for the developmentally disabled, the Mendota
5 Mental Health Institute, and the Winnebago Mental Health Institute or care and
6 maintenance of persons under 18 years of age in residential, nonmedical facilities
7 such as group homes, foster homes, treatment foster homes, ~~child caring institutions,~~
8 subsidized guardianship homes, residential care centers for children and youth, and
9 juvenile correctional institutions is determined in accordance with the cost-based
10 fee established under s. 46.03 (18). The department shall bill the liable person up
11 to any amount of liability not paid by an insurer under s. 632.89 (2) or (2m) or by other
12 3rd-party benefits, subject to rules that include formulas governing ability to pay
13 promulgated by the department under s. 46.03 (18). Any liability of the patient not
14 payable by any other person terminates when the patient reaches age 18, unless the
15 liable person has prevented payment by any act or omission.

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

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

1 **SECTION 5.** 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, in a subsidized
7 guardianship home under s. 48.62 (5), or in a residential care center for children and
8 youth licensed under s. 48.60, and has been placed in the foster home, treatment
9 foster home, group home, subsidized guardianship home, or center by a county
10 department under s. 46.215, 46.22, or 46.23, by the department, or by a federally
11 recognized American Indian tribal governing body in this state under an agreement
12 with a county department under s. 46.215, 46.22, or 46.23. or interim caretaker

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

14 46.261 (2) (a) 1. A nonrelative who cares for the dependent child in a foster
15 home or treatment foster home having a license under s. 48.62, in a foster home or
16 treatment foster home located within the boundaries of a federally recognized
17 American Indian reservation in this state and licensed by the tribal governing body
18 of the reservation or in a group home licensed under s. 48.625, a subsidized guardian
19 under s. 48.62 (5) who cares for the dependent child, or a minor custodial parent who
20 cares for the dependent child, regardless of the cause or prospective period of
21 dependency. The state shall reimburse counties pursuant to the procedure under s.
22 46.495 (2) and the percentage rate of participation set forth in s. 46.495 (1) (d) for aid
23 granted under this section except that if the child does not have legal settlement in
24 the granting county, state reimbursement shall be at 100%. The county department
25 under s. 46.215 or 46.22 or the department under s. 48.48 (17) shall determine the

1 legal settlement of the child. A child under one year of age shall be eligible for aid
2 under this subsection irrespective of any other residence requirement for eligibility
3 within this section.

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

5 46.261 (2) (a) 3. A county or, in a county having a population of 500,000 or more,
6 the department, when the child is placed in a licensed foster home, treatment foster
7 home, group home, or residential care center for children and youth or in a subsidized
8 guardianship home by a licensed child welfare agency or by a federally recognized
9 American Indian tribal governing body in this state or by its designee, if the child is
10 in the legal custody of the county department under s. 46.215, 46.22, or 46.23 or the
11 department under s. 48.48 (17) or if the child was removed from the home of a
12 relative, as defined under s. 48.02 (15), as a result of a judicial determination that
13 continuance in the home of the relative would be contrary to the child's welfare for
14 any reason and the placement is made pursuant to an agreement with the county
15 department or the department.

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

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

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

2 46.261 (2) (b) Notwithstanding par. (a), aid under this section may not be
3 granted for placement of a child in a foster home or treatment foster home licensed
4 by a federally recognized American Indian tribal governing body, for placement of a
5 child in a foster home, treatment foster home, group home, subsidized guardianship
6 home, or residential care center for children and youth by a tribal governing body or
7 its designee, or for the placement of a child who is a ward of a tribal court if the tribal
8 governing body is receiving or is eligible to receive funds from the federal government
9 for that type of placement ~~or for placement of a child in a group home licensed under~~
10 ~~s. 48.625.~~

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

12 46.495 (1) (d) From the appropriations under s. 20.435 (3) (o) and (7) (b) and
13 (o), the department shall distribute the funding for social services, including funding
14 for foster care ~~or~~, treatment foster care, or subsidized guardianship care of a child on
15 whose behalf aid is received under s. 46.261, to county departments under ss. 46.215,
16 46.22, and 46.23 as provided under s. 46.40. County matching funds are required for
17 the distributions under s. 46.40 (2), (8), and (9) (b). Each county's required match for
18 the distribution under s. 46.40 (2) shall be specified in a schedule established
19 annually by the department of health and family services. Each county's required
20 match for the distribution under s. 46.40 (8) for a year equals 9.89% of the total of
21 the county's distributions under s. 46.40 (8) for that year for which matching funds
22 are required plus the amount the county was required by s. 46.26 (2) (c), 1985 stats.,
23 to spend for juvenile delinquency-related services from its distribution for 1987.
24 Each county's required match for the distribution under s. 46.40 (9) (b) for a year
25 equals 9.89% of that county's amounts described in s. 46.40 (9) (a) (intro.) for that

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

8 **SECTION 11.** 46.495 (1) (d) of the statutes, as affected by 2003 Wisconsin Act
9 318, section 13, and 2005 Wisconsin Act ... (this act), is repealed and recreated to
10 read:

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

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

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

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

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

11 48.33 (4) OTHER OUT-OF-HOME PLACEMENTS. (intro.) A report recommending
12 placement of an adult expectant mother outside of her home shall be in writing. A
13 report recommending placement of a child in a foster home, treatment foster home,
14 group home, or residential care center for children and youth ~~or,~~ in the home of a
15 relative other than a parent, or in the home of a guardian under s. 48.977 (2) shall
16 be in writing and shall include all of the following:

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

18 48.345 (3) (c) A foster home or treatment foster home licensed under s. 48.62
19 ~~or,~~ a group home licensed under s. 48.625, or in the home of a guardian under s.
20 48.977 (2).

21 **SECTION 15.** 48.356 (1) of the statutes is amended to read:

22 48.356 (1) Whenever the court orders a child to be placed outside his or her
23 home, orders an expectant mother of an unborn child to be placed outside of her
24 home, or denies a parent visitation because the child or unborn child has been
25 adjudged to be in need of protection or services under s. 48.345, 48.347, 48.357,

1 48.363, or 48.365 or whenever the court appoints a guardian for a child under s.
2 48.977 (2), the court shall orally inform the parent or parents who appear in court
3 or the expectant mother who appears in court of any grounds for termination of
4 parental rights under s. 48.415 ~~which~~ that may be applicable and of the conditions
5 necessary for the child or expectant mother to be returned to the home or for the
6 parent to be granted visitation.

7 **SECTION 16.** 48.425 (1) (g) of the statutes is amended to read:

8 48.425 (1) (g) If an agency designated under s. 48.427 (3m) (a) 1. to 4.
9 determines that it is unlikely that the child will be adopted, or if adoption would not
10 be in the best interests of the child, the report shall include a plan for placing the child
11 in a permanent family setting. The plan shall include a recommendation as to the
12 agency to be named guardian of the child ~~or~~, a recommendation that the person
13 appointed as the guardian of the child under s. 48.977 (2) continue to be the guardian
14 of the child, or a recommendation that a guardian be appointed for the child under
15 s. 48.977 (2).

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

17 48.427 (3m) (intro.) If the rights of both parents or of the only living parent are
18 terminated under sub. (3) and if a guardian has not been appointed under s. 48.977,
19 the court shall ~~either~~ do one of the following:

20 **SECTION 18.** 48.427 (3m) (c) of the statutes is created to read:

21 48.427 (3m) (c) Appoint a guardian under s. 48.977 and transfer guardianship
22 and custody of the child to the guardian.

23 **SECTION 19.** 48.427 (3p) of the statutes is amended to read:

24 48.427 (3p) If the rights of both parents or of the only living parent are
25 terminated under sub. (3) and if a guardian has been appointed under s. 48.977, the

1 court may enter one of the orders specified in sub. (3m) (a) or (b). If the court enters
2 an order under this subsection, the court shall terminate the guardianship under s.
3 48.977.

4 **SECTION 20.** 48.48 (17) (a) 3. of the statutes is amended to read:

5 48.48 (17) (a) 3. Provide appropriate protection and services for children and
6 the expectant mothers of unborn children in its care, including providing services for
7 those children and their families and for those expectant mothers in their own
8 homes, placing the children in licensed foster homes, treatment foster homes, or
9 group homes in this state or another state within a reasonable proximity to the
10 agency with legal custody, placing the children in the homes of guardians under s.
11 48.977 (2), or contracting for services for those children by licensed child welfare
12 agencies, except that the department may not purchase the educational component
13 of private day treatment programs unless the department, the school board, as
14 defined in s. 115.001 (7), and the state superintendent of public instruction all
15 determine that an appropriate public education program is not available. Disputes
16 between the department and the school district shall be resolved by the state
17 superintendent of public instruction. guardianship home

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

19 48.48 (17) (c) 4. Is living in a foster home, treatment foster home, group home,
20 ~~or residential care center for children and youth~~ or in the home of a subsidized
21 guardian under s. 48.62 (5).

22 **SECTION 22.** 48.57 (1) (c) of the statutes is amended to read:

23 48.57 (1) (c) To provide appropriate protection and services for children and the
24 expectant mothers of unborn children in its care, including providing services for
25 those children and their families and for those expectant mothers in their own

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

11 **SECTION 23.** 48.57 (3) (a) 4. of the statutes is amended to read:

12 48.57 (3) (a) 4. Is living in a foster home, treatment foster home, group home,
 13 ~~or~~ residential care center for children and youth ~~or is living in the home of a~~
 14 ~~subsidized guardian~~ under s. 48.62 (5).

15 **SECTION 24.** 48.57 (3m) (cm) of the statutes is amended to read:

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

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

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

23 **SECTION 26.** 48.61 (3) of the statutes is amended to read:

24 48.61 (3) To provide appropriate care and training for children in its legal or
 25 physical custody and, if licensed to do so, to place children in licensed foster homes,

13-22

1 licensed treatment foster homes, and licensed group homes and in the homes of
2 guardians under s. 48.977 (2). *Guardian meets the conditions specified in*
par (c) 6 and 20 and 16 the

3 **SECTION 27.** 48.615 (1) (b) of the statutes is amended to read:

4 48.615 (1) (b) Before the department may issue a license under s. 48.60 (1) to
5 a child welfare agency that places children in licensed foster homes, licensed
6 treatment foster homes, and licensed group homes and in the homes of guardians
7 under s. 48.977 (2), the child welfare agency must pay to the department a biennial
8 fee of \$254.10. *or under a substantially similar tribal law*
or law of another state

9 **SECTION 28.** 48.62 (5) of the statutes is created to read:

10 48.62 (5) (a) Subject to par. ^(d) ~~an~~ a county department or, in a county having a
11 population of 500,000 or more, the department shall provide monthly subsidized
12 guardianship payments in the amount specified in par. ^(e) ~~an~~ to a guardian of a child
13 under s. 48.977 (2) who was licensed as the child's foster parent or treatment foster
14 parent before the guardianship appointment and who has entered into a subsidized
15 guardianship agreement with the county department or department if the child
16 meets any of the following conditions:

- 17 1. The child has been placed outside of his or her home, as described in s. 48.365
18 (1), for a cumulative total period of one year or longer, the court has found ~~under s.~~
19 ~~48.977 (2) (d)~~ that the agency primarily responsible for providing services to the child
20 under a court order has made reasonable efforts to make it possible for the child to
21 return to his or her home, while assuring that the child's health and safety are the
22 paramount concerns, but that reunification of the child with the child's parent or
23 parents is unlikely or contrary to the best interests of the child and that further
24 reunification efforts are unlikely to be made or are contrary to the best interests of
25 the child, or that any of the circumstances specified in s. 48.355 (2d) (b) 1. to 5. apply,

or under a substantially similar tribal law
or law of another state

1 and the court has found ~~under s. 48.977 (4) (h) 2.~~ that appointment of a guardian for
2 the child is in the best interests of the child.

3 2. The child does not meet the conditions specified in subd. 1., but the county
4 department or department has determined, and ^(a) ~~the~~ court has confirmed under s.
5 48.977 (3r) that appointing a guardian for the child ~~under s. 48.977 (2)~~ and providing
6 monthly subsidized guardianship payments to the guardian are in the best interests
7 of the child.

Insert
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8 ^(d) ~~(b)~~ The department shall request from the secretary of the federal department
9 of health and human services a waiver of the requirements under 42 USC 670 to 679a
10 that would authorize the state to receive federal foster care and adoption assistance
11 reimbursement under 42 USC 670 to 679a for the costs of providing care for a child
12 who is in the care of a guardian who was licensed as the child's foster parent or
13 treatment foster parent before the guardianship appointment and who has entered
14 into a subsidized guardianship agreement with the county department or
15 department. If the waiver is approved for a county having a population of 500,000
16 or more, the department shall provide the monthly payments under par. (a) from the
17 appropriations under s. 20.435 (3) (cx), (gx), (kw), and (mx). If the waiver is approved
18 for any other county, the department shall determine which counties are authorized
19 to provide monthly payments under par. (a) ^{or (b)} and the county departments of those
20 counties shall provide those payments from moneys received under s. 46.495 (1) (d).

21 ^(e) ~~(a)~~ The amount of a monthly payment under par. (a) ^{or (b)} for the care of a child shall
22 equal the amount received under sub. (4) by the guardian of the child for the month
23 immediately preceding the month in which the guardianship order was granted. ^A
24 ^{an} ^{or interim caretaker} guardian who receives a monthly payment under par. (a) ^{or (b)} is not eligible to receive a
25 payment under sub. (4) or s. 48.57 (3m) or (3n).

Insert
15-25

The amount of a monthly payment under par. (b) for the care of a child shall equal the amount received under par. (a) by the guardian of the child for the month immediately preceding the month in which payments under par. (b) were approved.

1 **SECTION 29.** 48.977 (title) of the statutes is amended to read:

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

4 **SECTION 30.** 48.977 (1) of the statutes is repealed.

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

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

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

10 **48.977 (2) (a)** That the child has been adjudged to be in need of protection or
11 services under s. 48.13 (1), (2), (3), (3m), (4), (5), (8), (9), (10), (10m), (11), or (11m) or
12 938.13 (4) and been placed, or continued in a placement, outside of his or her home
13 pursuant to one or more court orders under s. 48.345, 48.357, 48.363, 48.365,
14 938.345, 938.357, 938.363, or 938.365 ~~for a cumulative total period of one year or~~
15 longer or that the child has been so adjudged and placement of the child in the home
16 of a guardian under this section has been recommended under s. 48.33 (1) or 938.33
17 (1).

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

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

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

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

4 **SECTION 35.** 48.977 (2) (f) of the statutes is amended to read:

5 48.977 (2) (f) That the agency primarily responsible for providing services to
6 the child under a court order has made reasonable efforts to make it possible for the
7 child to return to his or her home, while assuring that the child’s health and safety
8 are the paramount concerns, but that reunification of the child with the child’s
9 parent or parents is unlikely or contrary to the best interests of the child and that
10 further reunification efforts are unlikely to be made or are contrary to the best
11 interests of the child or that the agency primarily responsible for providing services
12 to the child under a court order has made reasonable efforts to prevent the removal
13 of the child from his or her home, while assuring the child’s health and safety, but that
14 continued placement of the child in the home would be contrary to the welfare of the
15 child, except that the court is not required to find that the agency has made those
16 reasonable efforts with respect to a parent of the child if any of the circumstances
17 specified in s. 48.355 (2d) (b) 1. to 5. applies to that parent. The court shall make the
18 findings specified in this paragraph on a case-by-case basis based on circumstances
19 specific to the child and shall document or reference the specific information on
20 which those findings are based in the guardianship order. A guardianship order that
21 merely references this paragraph without documenting or referencing that specific
22 information in the order or an amended guardianship order that retroactively
23 corrects an earlier guardianship order that does not comply with this paragraph is
24 not sufficient to comply with this paragraph.

25 **SECTION 36.** 48.977 (3r) of the statutes is created to read:

1 48.977 (3r) SUBSIDIZED GUARDIANSHIP. Subject to s. 48.62 (5) ^(d)~~(m)~~, if a county
2 department or, in a county having a population of 500,000 or more, the department
3 has determined under s. 48.62 (5) (a) 2. that appointing a guardian under sub. (2) for
4 a child who does not meet the conditions specified under s. 48.62 (5) (a) 1. and
5 providing monthly subsidized guardianship payments to the guardian are in the best
6 interests of the child, the petitioner under sub. (4) (a) shall include in the petition
7 under sub. (4) (b) a statement of that determination and a request for the court to
8 include in the court's findings under sub. (4) (d) a finding confirming that
9 determination. If the court confirms that determination and appoints a guardian for
10 the child under sub. (2), the county department or department shall provide monthly
11 subsidized guardianship payments to the guardian under s. 48.62 (5).

12 **SECTION 37.** 48.977 (4) (a) 4. of the statutes is amended to read:

13 48.977 (4) (a) 4. The relative person with whom the child is placed or in whose
14 home placement of the child is recommended as described in sub. (2) (a), if the
15 relative person is nominated as the guardian of the child in the petition.

16 **SECTION 38.** 48.977 (4) (a) 6. of the statutes is amended to read:

17 48.977 (4) (a) 6. A county department under s. 46.22 or 46.23 or, if the child has
18 been placed pursuant to an order under ch. 938 or the child's placement with the
19 guardian is recommended under ch. 938, a county department under s. 46.215, 46.22,
20 or 46.23.

21 **SECTION 39.** 48.977 (4) (b) 3. of the statutes is amended to read:

22 48.977 (4) (b) 3. The date on which the child was adjudged in need of protection
23 or services under s. 48.13 (1), (2), (3), (3m), (4), (5), (8), (9), (10), (10m), (11), or (11m)
24 or 938.13 (4) and the dates that on which the child has been placed, or continued in
25 a placement, outside of his or her home pursuant to one or more court orders under

1 s. 48.345, 48.357, 48.363, 48.365, 938.345, 938.357, 938.363, or 938.365 or, if the child
2 has been so adjudged, but not so placed, the date of the report under s. 48.33 (1) or
3 938.33 (1) in which placement of the child in the home of the person is recommended.

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

5 48.977 (4) (c) 1. g. The relative person with whom the child is placed or in whose
6 home placement of the child is recommended as described in sub. (2) (a), if the
7 relative person is nominated as the guardian of the child in the petition.

8 **SECTION 41.** 48.977 (4) (e) of the statutes is amended to read:

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

22 **SECTION 42.** 48.977 (4) (g) 1. of the statutes is amended to read:

23 48.977 (4) (g) 1. Whether the relative person would be a suitable guardian of
24 the child.

25 **SECTION 43.** 48.977 (4) (g) 2. of the statutes is amended to read:

1 48.977 (4) (g) 2. The willingness and ability of the relative person to serve as
2 the child's guardian for an extended period of time or until the child attains the age
3 of 18 years.

4 **SECTION 44.** 48.977 (4) (h) 1. of the statutes is amended to read:

5 48.977 (4) (h) 1. A disposition dismissing the petition if the court determines
6 that appointment of the relative person as the child's guardian is not in the best
7 interests of the child.

8 **SECTION 45.** 48.977 (4) (h) 2. of the statutes is amended to read:

9 48.977 (4) (h) 2. A disposition ordering that the relative person with whom the
10 child has been placed or in whose home placement of the child is recommended as
11 described in sub. (2) (a) be appointed as the child's guardian under sub. (5) (a) or
12 limited guardian under sub. (5) (b), if the court determines that such an appointment
13 is in the best interests of the child.

14 **SECTION 46.** 49.155 (1m) (a) 1m. b. of the statutes is amended to read:

15 49.155 (1m) (a) 1m. b. The individual has not yet attained the age of 18 years
16 and the individual resides with his or her custodial parent or with a kinship care
17 relative under s. 48.57 (3m) or with a long-term kinship care relative under s. 48.57
18 (3n) or is in a foster home or treatment foster home licensed under s. 48.62, a
19 subsidized guardianship home under s. 48.62 (5), a group home, or an independent
20 living arrangement supervised by an adult.

21 **SECTION 47.** 49.155 (1m) (bm) of the statutes is amended to read:

22 49.155 (1m) (bm) If the individual is providing care for a child under a court
23 order and is receiving payments on behalf of the child under s. 48.57 (3m) or (3n) or
24 48.62 (5), or if the individual is a foster parent or treatment foster parent, and child

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

2 (2) (c).

or interim caretaker

3 SECTION 48. 49.155 (1m) (c) 1g. of the statutes is amended to read:

4 49.155 (1m) (c) 1g. If the individual is a foster parent of the child or a subsidized
5 guardian of the child under s. 48.62 (5), the child's biological or adoptive family has
6 a gross income that is at or below 200% of the poverty line. In calculating the gross
7 income of the child's biological or adoptive family, the Wisconsin works agency shall
8 include income described under s. 49.145 (3) (b) 1. and 3.

9 SECTION 49. 49.46 (1) (a) 5. of the statutes is amended to read:

10 49.46 (1) (a) 5. Any child in an adoption assistance, foster care, kinship care,
11 long-term kinship care ~~or~~, treatment foster care, or subsidized guardianship
12 placement under ch. 48 or 938, as determined by the department.

13 SECTION 50. 767.078 (1) (a) 2. of the statutes is amended to read:

14 767.078 (1) (a) 2. The child's right to support is assigned to the state under s.
15 46.261 (3), 48.57 (3m) (b) 2. or (3n) (b) 2., or 49.19 (4) (h) 1. b.

16 SECTION 51. 767.29 (1m) (c) of the statutes is amended to read:

17 767.29 (1m) (c) The party entitled to the support or maintenance money or a
18 minor child of the party has applied for or is receiving ~~aid to families with dependent~~
19 ~~children~~ aid under s. 46.261 or public assistance under ch. 49 and there is an
20 assignment to the state under s. 46.261 (3) or 49.19 (4) (h) 1. b. of the party's right
21 to the support or maintenance money.

22 SECTION 52. 767.29 (2) of the statutes is amended to read:

23 767.29 (2) If any party entitled to maintenance payments or support money,
24 or both, is receiving public assistance under ch. 49, the party may assign the party's
25 right thereto to the county department under s. 46.215, 46.22, or 46.23 granting such

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

19 **SECTION 53.** 767.29 (4) of the statutes is amended to read:

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

1 48.57 (3m) or (3n), or 49.19, except as otherwise ordered by the court on the motion
2 of a party.

3 **SECTION 54.** 938.33 (4) (intro.) of the statutes is amended to read:

4 938.33 (4) OTHER OUT-OF-HOME PLACEMENTS. (intro.) A report recommending
5 placement in a foster home, treatment foster home, group home, or nonsecured
6 residential care center for children and youth ~~or~~ in the home of a relative other than
7 a parent, or in the home of a guardian under s. 48.977 (2) shall be in writing, except
8 that the report may be presented orally at the dispositional hearing if all parties
9 consent. A report that is presented orally shall be transcribed and made a part of the
10 court record. The report shall include all of the following:

11 **SECTION 55.** 938.345 (4) of the statutes is created to read:

12 938.345 (4) If the court finds that a juvenile is in need of protection or services
13 under s. 938.13 (4), the court, instead of or in addition to any other disposition
14 imposed under sub. (1), may place the juvenile in the home of a guardian under s.
15 48.977 (2).

16 **SECTION 56.** 938.57 (1) (c) of the statutes is amended to read:

17 938.57 (1) (c) Provide appropriate protection and services for juveniles in its
18 care, including providing services for juveniles and their families in their own homes,
19 placing the juveniles in licensed foster homes, licensed treatment foster homes, or
20 licensed group homes in this state or another state within a reasonable proximity to
21 the agency with legal custody, placing the juveniles in the homes of guardians under
22 s. 48.977 (2), or contracting for services for them by licensed child welfare agencies
23 or replacing them in secured correctional facilities, secured child caring institutions,
24 or secured group homes in accordance with rules promulgated under ch. 227, except
25 that the county department may not purchase the educational component of private

1 day treatment programs unless the county department, the school board, as defined
2 in s. 115.001 (7), and the state superintendent of public instruction all determine that
3 an appropriate public education program is not available. Disputes between the
4 county department and the school district shall be resolved by the state
5 superintendent of public instruction.

Guardianship home

6 **SECTION 57.** 938.57 (3) (a) 4. of the statutes is amended to read:

7 ² 938.57 (3) (a) 4. Is living in a foster home, treatment foster home, group home,
8 ~~or residential care center for children and youth~~ ^{STET} ~~or in the home of a~~ subsidized
9 ~~guardian~~ under s. 48.62 (5).

10 **SECTION 9121. Nonstatutory provisions; health and family services.**

11 (1) RELATIVE GUARDIANSHIPS. Notwithstanding section 48.977 (2) (a), 2003
12 stats., a petition under section 48.977 (4) of the statutes, as affected by this act, may
13 be filed for the appointment of a relative as the guardian of the person of a child who
14 has been placed, or continued in a placement, outside of his or her home for less than
15 one year on the effective date of this subsection.

16 **SECTION 9421. Effective dates; health and family services.**

17 (1) SUBSIDIZED GUARDIANSHIPS. The repeal and recreation of sections 20.435 (7)
18 (b) and 46.495 (1) (d) of the statutes takes effect on January 1, 2006.

19 (END)

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SECTION ~~13~~ 48.57 (3p) (a) of the statutes is amended to read:

48.57 (3p) (a) In this subsection, "adult resident" means a person 18 years of age or over who lives at the home of a person who has applied for or is receiving payments under sub. (3m) or (3n) or s. 48.62 (5) (a) or (b) with the intent of making that home his or her home or who lives for more than 30 days cumulative in any 6-month period at the home of a person who has applied for or is receiving payments under sub. (3m) or (3n) or s. 48.62 (5) (a) or (b).

History: 1977 c. 29; 1977 c. 83 s. 26; 1977 c. 271, 354, 418, 447, 449; 1979 c. 34, 221; 1981 c. 329; 1983 a. 189 s. 329 (17); 1983 a. 447; 1985 a. 176; 1987 a. 339; 1993 a. 385, 395, 446, 491; 1995 a. 27 ss. 2575 to 2579m, 9126 (19); 1995 a. 77, 289, 443; 1997 a. 3, 27, 35, 36, 41, 105, 237, 252, 292; 1999 a. 9, 103, 133, 162; 2001 a. 16 ss. 1629, 4036-4038, 4040, 4042, 4043; 2001 a. 38, 59, 69, 109.

SECTION ~~2~~ 48.57 (3p) (b) 1. of the statutes is amended to read:

48.57 (3p) (b) 1. After receipt of an application for payments under sub. (3m) or (3n) or s. 48.62 (5) (a) or (b), the county department or, in a county having a population of 500,000 or more, the department of health and family services, with the assistance of the department of justice, shall conduct a background investigation of the applicant.

History: 1977 c. 29; 1977 c. 83 s. 26; 1977 c. 271, 354, 418, 447, 449; 1979 c. 34, 221; 1981 c. 329; 1983 a. 189 s. 329 (17); 1983 a. 447; 1985 a. 176; 1987 a. 339; 1993 a. 385, 395, 446, 491; 1995 a. 27 ss. 2575 to 2579m, 9126 (19); 1995 a. 77, 289, 443; 1997 a. 3, 27, 35, 36, 41, 105, 237, 252, 292; 1999 a. 9, 103, 133, 162; 2001 a. 16 ss. 1629, 4036-4038, 4040, 4042, 4043; 2001 a. 38, 59, 69, 109.

SECTION ~~3~~ 48.57 (3p) (b) 3. of the statutes is amended to read:

48.57 (3p) (b) 3. The county department or, in a county having a population of 500,000 or more, the department of health and family services, with the assistance of the department of justice, may conduct a background investigation of any person who is receiving payments under sub. (3n) or s. 48.62 (5) (a) or (b) at any time that the county department or department of health and family services considers to be appropriate.

History: 1977 c. 29; 1977 c. 83 s. 26; 1977 c. 271, 354, 418, 447, 449; 1979 c. 34, 221; 1981 c. 329; 1983 a. 189 s. 329 (17); 1983 a. 447; 1985 a. 176; 1987 a. 339; 1993 a. 385, 395, 446, 491; 1995 a. 27 ss. 2575 to 2579m, 9126 (19); 1995 a. 77, 289, 443; 1997 a. 3, 27, 35, 36, 41, 105, 237, 252, 292; 1999 a. 9, 103, 133, 162; 2001 a. 16 ss. 1629, 4036-4038, 4040, 4042, 4043; 2001 a. 38, 59, 69, 109.

SECTION ~~4~~ 48.57 (3p) (c) 1. of the statutes is amended to read:

48.57 (3p) (c) 1. After receipt of an application for payments under sub. (3m) or (3n) or s. 48.62 (5) (a) or (b), the county department or, in a county having a population of 500,000 or more, the department of health and family services, with the assistance of the department of justice, shall, in addition to the investigation under par. (b) 1., conduct a background investigation of all employees and prospective employees of the applicant who have or would have regular contact with the child for whom those payments are being made and of each adult resident.

History: 1977 c. 29; 1977 c. 83 s. 26; 1977 c. 271, 354, 418, 447, 449; 1979 c. 34, 221; 1981 c. 329; 1983 a. 189 s. 329 (17); 1983 a. 447; 1985 a. 176; 1987 a. 339; 1993 a. 385, 395, 446, 491; 1995 a. 27 ss. 2575 to 2579m, 9126 (19); 1995 a. 77, 289, 443; 1997 a. 3, 27, 35, 36, 41, 105, 237, 252, 292; 1999 a. 9, 103, 133, 162; 2001 a. 16 ss. 1629, 4036-4038, 4040, 4042, 4043; 2001 a. 38, 59, 69, 109.

SECTION ~~5~~ 48.57 (3p) (c) 2m. of the statutes is amended to read:

48.57 (3p) (c) 2m. The county department or, in a county having a population of 500,000 or more, the department of health and family services, with the assistance of the department of justice, may conduct a background investigation of any of the employees or prospective employees of any person who is receiving payments under sub. (3n) or s. 48.62 (5) (a) or (b) who have or would have regular contact with the child for whom payments are being made and of each adult resident at any time that the county department or department of health and family services considers to be appropriate.

History: 1977 c. 29; 1977 c. 83 s. 26; 1977 c. 271, 354, 418, 447, 449; 1979 c. 34, 221; 1981 c. 329; 1983 a. 189 s. 329 (17); 1983 a. 447; 1985 a. 176; 1987 a. 339; 1993 a. 385, 395, 446, 491; 1995 a. 27 ss. 2575 to 2579m, 9126 (19); 1995 a. 77, 289, 443; 1997 a. 3, 27, 35, 36, 41, 105, 237, 252, 292; 1999 a. 9, 103, 133, 162; 2001 a. 16 ss. 1629, 4036-4038, 4040, 4042, 4043; 2001 a. 38, 59, 69, 109.

SECTION ~~6~~ 48.57 (3p) (c) 3. of the statutes is amended to read:

48.57 (3p) (c) 3. Before a person who is receiving payments under sub. (3m) or (3n) or s. 48.62 (5) (a) or (b) may employ any person in a position in which that person would have regular contact with the child for whom those payments are being made or permit any person to be an adult resident, the county department or, in a county having a population of 500,000 or more, the department of health and family

services, with the assistance of the department of justice, shall conduct a background investigation of the prospective employee or prospective adult resident unless that person has already been investigated under subd. 1., 2. or 2m.

History: 1977 c. 29; 1977 c. 83 s. 26; 1977 c. 271, 354, 418, 447, 449; 1979 c. 34, 221; 1981 c. 329; 1983 a. 189 s. 329 (17); 1983 a. 447; 1985 a. 176; 1987 a. 339; 1993 a. 385, 395, 446, 491; 1995 a. 27 ss. 2575 to 2579m, 9126 (19); 1995 a. 77, 289, 443; 1997 a. 3, 27, 35, 36, 41, 105, 237, 252, 292; 1999 a. 9, 103, 133, 162; 2001 a. 16 ss. 1629, 4036-4038, 4040, 4042, 4043; 2001 a. 38, 59, 69, 109.

SECTION 48.57 (3p) (fm) 1m. of the statutes is amended to read:

48.57 (3p) (fm) 1m. The county department or, in a county having a population of 500,000 or more, the department of health and family services may not enter into the agreement under sub. (3n) (am) 6. or make payments under s. 48.62 (5) (a) or (b) unless the county department or department of health and family services receives information from the department of justice relating to the conviction record of the applicant under the law of this state and that record indicates either that the applicant has not been arrested or convicted or that the applicant has been arrested or convicted but the director of the county department or, in a county having a population of 500,000 or more, the person designated by the secretary of health and family services to review conviction records under this subdivision determines that the conviction record is satisfactory because it does not include any arrest or conviction that the director or person designated by the secretary determines is ^{Plain Space} likely to adversely affect the child or the ~~long-term kinship care~~ relative's applicant's ability to care for the child. The county department or, in a county having a population of 500,000 or more, the department of health and family services may make payments under sub. (3n) or s. 48.62 (5) (a) or (b) conditioned on the receipt of information from the federal bureau of investigation indicating that the person's conviction record under the law of any other state or under federal law is satisfactory because the conviction record does not include any arrest or conviction that the director of the county department or, in a county having a population of 500,000 or

more, the person designated by the secretary of health and family services to review conviction records under this subdivision determines is likely to adversely affect the child or the long-term kinship care relative's applicant's ability to care for the child.

History: 1977 c. 29; 1977 c. 83 s. 26; 1977 c. 271, 354, 418, 447, 449; 1979 c. 34, 221; 1981 c. 329; 1983 a. 189 s. 329 (17); 1983 a. 447; 1985 a. 176; 1987 a. 339; 1993 a. 385, 395, 446, 491; 1995 a. 27 ss. 2575 to 2579m, 9126 (19); 1995 a. 77, 289, 443; 1997 a. 3, 27, 35, 36, 41, 105, 237, 252, 292; 1999 a. 9, 103, 133, 162; 2001 a. 16 ss. 1629, 4036-4038, 4040, 4042, 4043; 2001 a. 38, 59, 69, 109.

SECTION 48.57 (3p) (fm) 2m. of the statutes is amended to read:

48.57 (3p) (fm) 2m. A person receiving payments under sub. (3n) or s. 48.62 (5) (a) or (b) may provisionally employ a person in a position in which that person would have regular contact with the child for whom those payments are being made or provisionally permit a person to be an adult resident if the person receiving those payments states to the county department or, in a county having a population of 500,000 or more, the department of health and family services that, to the best of his or her knowledge, the employee or adult resident does not have any arrests or convictions that could adversely affect the child or the ability of the person receiving payments to care for the child. A person receiving payment under sub. (3n) or s. 48.62 (5) (a) or (b) may not finally employ a person in a position in which that person would have regular contact with the child for whom those payments are being made or finally permit a person to be an adult resident until the county department or, in a county having a population of 500,000 or more, the department of health and family services receives information from the department of justice relating to the person's conviction record under the law of this state and that record indicates either that the person has not been arrested or convicted or that the person has been arrested or convicted but the director of the county department or, in a county having a population of 500,000 or more, the person designated by the secretary of health and family services to review conviction records under this subdivision determines that the conviction record is satisfactory because it does not include any arrest or

conviction that is likely to adversely affect the child or the long-term kinship care relative's ability of the person receiving payments to care for the child and the county department or department of health and family services so advises the person receiving payments under sub. (3n) or s. 48.62 (5) (a) or (b). A person receiving payments under sub. (3n) or s. 48.62 (5) (a) or (b) may finally employ a person in a position in which that person would have regular contact with the child for whom those payments are being made or finally permit a person to be an adult resident conditioned on the receipt of information from the county department or, in a county having a population of 500,000 or more, the department of health and family services that the federal bureau of investigation indicates that the person's conviction record under the law of any other state or under federal law is satisfactory because the conviction record does not include any arrest or conviction that the director of the county department or, in a county having a population of 500,000 or more, the person designated by the secretary of health and family services to review conviction records under this subdivision determines is likely to adversely affect the child or the long-term kinship care relative's ability of the person receiving payments to care for the child.

History: 1977 c. 29; 1977 c. 83 s. 26; 1977 c. 271, 354, 418, 447, 449; 1979 c. 34, 221; 1981 c. 329; 1983 a. 189 s. 329 (17); 1983 a. 447; 1985 a. 176; 1987 a. 339; 1993 a. 385, 395, 446, 491; 1995 a. 27 ss. 2575 to 2579m, 9126 (19); 1995 a. 77, 289, 443; 1997 a. 3, 27, 35, 36, 41, 105, 237, 252, 292; 1999 a. 9, 103, 133, 162; 2001 a. 16 ss. 1629, 4036-4038, 4040, 4042, 4043; 2001 a. 38, 59, 69, 109.

SECTION 48.57 (3p) (hm) of the statutes is amended to read:

48.57 (3p) (hm) A county department or, in a county having a population of 500,000 or more, the department may not make payments to a person under sub. (3n) or s. 48.62 (5) (a) or (b) and a person receiving payments under sub. (3n) or s. 48.62 (5) (a) or (b) may not employ a person in a position in which that person would have regular contact with the child for whom payments are being made or permit a person to be an adult resident if the director of the county department or, in a county having

a population of 500,000 or more, the person designated by the secretary to review conviction records under this paragraph determines that the person has any arrest or conviction that is likely to adversely affect the child or the ~~long-term kinship care~~ relative's person's ability to care for the child.

History: 1977 c. 29; 1977 c. 83 s. 26; 1977 c. 271, 354, 418, 447, 449; 1979 c. 34, 221; 1981 c. 329; 1983 a. 189 s. 329 (17); 1983 a. 447; 1985 a. 176; 1987 a. 339; 1993 a. 385, 395, 446, 491; 1995 a. 27 ss. 2575 to 2579m, 9126 (19); 1995 a. 77, 289, 443; 1997 a. 3, 27, 35, 36, 41, 105, 237, 252, 292; 1999 a. 9, 103, 133, 162; 2001 a. 16 ss. 1629, 4036-4038, 4040, 4042, 4043; 2001 a. 38, 59, 69, 109.

(END OF INSERT)

(INSERT 15-7)

(b) Subject to par. (d),[√] on the death, incapacity, resignation, or removal of a guardian receiving payments under par. (a),[√] a county department or, in a county having a population of 500,000 or more, the department shall provide monthly subsidized guardianship payments in the amount specified in par. (e)[√] for a period of up to 12 months to an interim caretaker who meets all of the conditions specified in par. (c).[√]

(c) A county department or, in a county having a population of 500,000 or more, the department may not provide monthly subsidized guardianship payments under par. (a) or (b)[√] unless all of the following conditions are met:

1. The county department or department inspects the home of the guardian or interim caretaker, interviews the guardian or interim caretaker, and determines that placement of the child with the guardian or interim caretaker is in the best interests of the child.

2. The county department or department conducts a background investigation under s. 48.57 (3p)[√] of the guardian or interim caretaker, the employees and prospective employees of the guardian or interim caretaker who have or would have regular contact with the child for whom the payments would be made, and any other

adult resident, as defined in s. 48.57 (3p) (a)[✓], of the home of the guardian or interim caretaker and determines that those individuals do not have any arrests or convictions that are likely to adversely[✓] affect the child or the ability of the guardian or interim caretaker to care for the child.

3. In the case of an interim caretaker, the interim caretaker cooperates with the county department or department in finding a permanent placement for the child.

(END OF INSERT)

(INSERT 15-25)

(END OF INSERT)

~~SECTION 10~~ 48.975 (3) (a) 1.[✓] of the statutes is amended to read:

48.975 (3) (a) 1. Except as provided in subd. 3., for support of a child who was in foster care ~~or, treatment foster care,~~ or subsidized guardianship care immediately prior to placement for adoption, the initial amount of adoption assistance for maintenance shall be equivalent to the amount of that child's foster care ~~or, treatment foster care,~~ or subsidized guardianship care payment at the time that the agreement under sub. (4) (a) is signed or a lesser amount if agreed to by the proposed adoptive parents and specified in that agreement.

History: 1977 c. 418; 1985 a. 308; 1989 a. 31; 1993 a. 16, 446; 1997 a. 308[✓].

~~SECTION 11~~ 48.975 (3) (a) 2.[✓] of the statutes is amended to read:

48.975 (3) (a) 2. Except as provided in subd. 3., for support of a child not in foster care ~~or, treatment foster care,~~ or subsidized guardianship care immediately prior to placement for adoption, the initial amount of adoption assistance for maintenance shall be equivalent to the uniform foster care rate in effect at the time that the

agreement under sub. (4) (a) is signed or a lesser amount if agreed to by the proposed adoptive parents and specified in that agreement.

History: 1977 c. 418; 1985 a. 308; 1989 a. 31; 1993 a. 16, 446; 1997 a. 308.

~~SECTION 48.975~~ SECTION 48.975 (4) (a) of the statutes is amended to read:

48.975 (4) (a) Except in extenuating circumstances, as defined by the department by rule promulgated under sub. (5) (a), a written agreement to provide adoption assistance shall be made prior to adoption. An agreement to provide adoption assistance may be made only for a child who, at the time of placement for adoption, is in the guardianship of the department or other agency authorized to place children for adoption or, in the guardianship of an American Indian tribal agency in this state, or in a subsidized guardianship under s. 48.62 (5). ✓

History: 1977 c. 418; 1985 a. 308; 1989 a. 31; 1993 a. 16, 446; 1997 a. 308.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0084/2dn

GMM.....

Wlj

Dennis:

In reviewing this draft, please note the following:

1. The changes relating to recognizing guardianship orders of tribal courts and courts of other states are found in s. 48.62 (5) (a) (intro.) and 2.
2. With respect to background checks, the previous draft did not include background checks for subsidized guardians, therefore this draft includes background checks for both original subsidized guardians and interim caretakers.

Also, because long-term kinship care is more analogous to subsidized guardianships than is kinship care (see s. 48.57 (3n) (am) 1.), the draft amends the provisions of s. 48.57 (3p) that reference long-term kinship care rather than kinship care to insert references to subsidized guardians under s. 48.62 (5).

Time is getting to be of the essence. Accordingly, please share this draft with DHFS and get back to me with any comments or changes at your earliest possible convenience.

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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0084/2dn
GMM:wlj:rs

January 19, 2005

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