



State of Wisconsin


LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 09/08/2006 (Per: GMM)





 Appendix A ... Part 02 of 02

 The 2005 drafting file for LRB 05-3387

has been transferred to the drafting file for

2007 LRB 07-0167

 This cover sheet, the final request sheet, and the final version of the 2005 draft were copied on yellow paper, and returned to the original 2005 drafting file.

 The attached 2005 draft was incorporated into the new 2007 draft listed above. For research purposes, this cover sheet and the complete drafting file were transferred, as a separate appendix, to the 2007 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-3387/1

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2005 BILL

, the juvenile court must find that the child is in need of a guardian. If

1 AN ACT to amend 48.023 (intro.), 48.09 (5), 48.14 (2) (b), 48.185 (2), 48.235 (1)
2 (c), 48.299 (4) (a), 48.299 (4) (b), 48.831 (1) and 757.69 (1m) (e); and to create
3 48.979 and 808.075 (4) (a) 13. of the statutes; relating to the appointment of
4 a guardian for a child who has no custodial parent who is 18 years of age or over
5 and requiring the parent of such a child to complete a parenting class.

16

Regenerate

Analysis by the Legislative Reference Bureau

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Under current law, the court assigned to exercise jurisdiction under the Children's Code (juvenile court) may appoint a guardian for a child who, on appointment, has the duty and authority to make important decisions in matters having a permanent effect on the life and development of the child and the duty to be concerned about the general welfare of the child.

This bill requires the county department of human services or social services (county department) of the county of residence of a child who does not have a custodial parent over 18 years of age or a guardian or, if that county is Milwaukee County, the Department of Health and Family Services (DHFS) to file a petition for the appointment of a relative of the child or other fit and willing adult to serve as guardian of the child and to offer parenting classes to the custodial parents of the child. ~~The juvenile court may order the person to be appointed as the guardian or as the limited guardian of the child if: 1) the juvenile court finds that the child does not have a custodial parent over 18 years of age or a guardian; and 2) the appointment as guardian is in the best interests of the child,~~ after considering the

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suitability, willingness, and ability of the person to serve as guardian of the child. The guardianship continues until all custodial parents of the child attain the age of 18 years and complete a parenting class, unless the juvenile court earlier terminates the guardianship, including termination due to removal of the guardian for cause or resignation of the guardian.

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:

~~SECTION 1. 48.023 (intro.) of the statutes is amended to read:~~

~~48.023 **Guardianship.** (intro.) Except as limited by an order of the court under s. 48.977 (5) (b) or, 48.978 (6) (b) 2., or 48.979 (4) (b) 2., a person appointed by the court to be the guardian of a child under this chapter has the duty and authority to make important decisions in matters having a permanent effect on the life and development of the child and the duty to be concerned about the child's general welfare, including but not limited to:~~

SECTION 2. 48.09 (5) of the statutes is amended to read:

48.09 (5) By the district attorney or, if designated by the county board of supervisors, by the corporation counsel, in any matter arising under s. 48.13, 48.133 or, 48.977, or 48.979. If the county board transfers this authority to or from the district attorney on or after May 11, 1990, the board may do so only if the action is effective on September 1 of an odd-numbered year and the board notifies the department of administration of that change by January 1 of that odd-numbered year.

SECTION 3. 48.14 (2) (b) of the statutes is amended to read:

48.14 (2) (b) The appointment and removal of a guardian of the person for a child under ss. 48.427, 48.428, 48.43, 48.831, 48.832, 48.839 (4) (a), 48.977 and,

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1 48.978, and 48.979 and ch. 880 and for a child found to be in need of protection or
2 services under s. 48.13 because the child is without parent or guardian.

3 **SECTION 4.** 48.185 (2) of the statutes is amended to read:

4 48.185 (2) In an action under s. 48.41, 48.978, or 48.979, venue shall be in the
5 county where the birth parent or child resides at the time that the petition is filed.
6 Venue for any proceeding under s. 48.363, 48.365, or 48.977, or any proceeding under
7 subch. VIII when the child has been placed outside the home pursuant to a
8 dispositional order under s. 48.345 or 48.347, shall be in the county where the
9 dispositional order was issued, unless the child's county of residence has changed,
10 or the parent of the child or the expectant mother of the unborn child has resided in
11 a different county of this state for 6 months. In either case, the court may, upon a
12 motion and for good cause shown, transfer the case, along with all appropriate
13 records, to the county of residence of the child, parent or expectant mother.

14 **SECTION 5.** 48.235 (1) (c) of the statutes is amended to read:

15 48.235 (1) (c) The court shall appoint a guardian ad litem for any child who is
16 the subject of a proceeding to terminate parental rights, whether voluntary or
17 involuntary, for a child who is the subject of a contested adoption proceeding and for
18 a child who is the subject of a proceeding under s. 48.977 ~~or~~, 48.978, or 48.979.

19 **SECTION 6.** 48.299 (4) (a) of the statutes is amended to read:

20 48.299 (4) (a) Chapters 901 to 911 shall govern the presentation of evidence at
21 the fact-finding hearings under ss. 48.31, 48.42, 48.977 (4) (d) ~~and~~, 48.978 (2) (e) and
22 (3) (f) 2., and 48.979 (3) (e).

23 **SECTION 7.** 48.299 (4) (b) of the statutes is amended to read:

24 48.299 (4) (b) Except as provided in s. 901.05, neither common law nor
25 statutory rules of evidence are binding at a hearing for a child held in custody under

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a hearing on the termination of a guardianship order entered under s.

1 s. 48.21, a hearing for an adult expectant mother held in custody under s. 48.213, a
 2 runaway home hearing under s. 48.227 (4), a dispositional hearing, or a hearing
 3 ~~about changes on a change in placement, a revision of a dispositional orders, order,~~
 4 ~~or an extension of a dispositional orders, or order, or~~ a hearing on the revision or
 5 termination of a guardianship orders order entered under s. 48.977 (4) (h) 2. or (6)
 6 ^(pkw) ~~or 48.978 (2) (j) 2. or (3) (g), or 48.979 (3) (g) 2, ~~or (5)~~~~ At those hearings, the court
 7 shall admit all testimony having reasonable probative value, but shall exclude
 8 immaterial, irrelevant, or unduly repetitious testimony or evidence that is
 9 inadmissible under s. 901.05. Hearsay evidence may be admitted if it has
 10 demonstrable circumstantial guarantees of trustworthiness. The court shall give
 11 effect to the rules of privilege recognized by law. The court shall apply the basic
 12 principles of relevancy, materiality, and probative value to proof of all questions of
 13 fact. Objections to evidentiary offers and offers of proof of evidence not admitted may
 14 be made and shall be noted in the record.

SECTION 8. 48.831 (1) of the statutes is amended to read:

16 48.831 (1) TYPE OF GUARDIANSHIP. This section may be used for the appointment
 17 of a guardian of a child who does not have a living parent if a finding as to the
 18 adoptability of a child is sought. Except as provided in ss. 48.977 and, 48.978, and
 19 48.979, ch. 880 applies to the appointment of a guardian for a child who does not have
 20 a living parent for all other purposes. An appointment of a guardian of the estate of
 21 a child who does not have a living parent shall be conducted in accordance with the
 22 procedures specified in ch. 880.

SECTION 9. 48.979 of the statutes is created to read:

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1 **48.979 Appointment of guardian for child of child parent. (1)**

2 DEFINITION. In this section, “custodial parent” means a parent who resides with a
3 child who is subject to a proceeding under this section.

(16)

4 **(2) GUARDIANSHIP AND PARENTING CLASSES REQUIRED.** (a) *Notice to county*

5 *department or department.* Whenever a child is born to a person under ~~18~~¹⁶ years of
6 age at or on route to a hospital or maternity home, the hospital or maternity home
7 shall, within 7 days after the birth of the child, provide notice of that birth to the
8 county department of the county of residence of the child or, if that county is a county
9 having a population of 500,000 or more, the department. Whenever a child is born
10 to a person under ~~18~~¹⁶ years of age elsewhere than at or on route to a hospital or
11 maternity home, the physician, nurse–midwife, or birth attendant who attended the
12 birth of the child, shall, within 7 days after that birth, provide notice of that birth to
13 the county department of the county of residence of the child or, if that county is a
14 county having a population of 500,000 or more, the department.

15 (b) *Determination whether guardianship and parenting classes required.*
16 Within 30 days after receiving a notice under par. (a), the county department or
17 department receiving that notice shall determine whether the child has a custodial
18 parent who is ~~18~~¹⁶ years of age or over or a guardian, and, if the child does not have
19 a custodial parent who is ~~18~~¹⁶ years of age or over or a guardian, file a petition under
20 sub. (3) (a) for the appointment of a relative of the child or other fit and willing adult
21 to serve as guardian of the child and offer parenting classes to the custodial parent
22 of the child.

23 **(3) APPOINTMENT OF GUARDIAN.** (a) *Filing of petition.* If a county department
24 or the department determines under sub. (2) (b) that a child does not have a custodial
25 parent who is ~~18~~¹⁶ years of age or over or a guardian, the county department or

BILL

1 department shall file a petition for the appointment of a relative of the child or other
2 fit and willing adult to serve as guardian of the child.

3 (b) *Contents of petition.* A proceeding for the appointment of a guardian for a
4 child under this subsection shall be initiated by a petition that shall be entitled "In
5 the interest of (child's name), a person under the age of 18" and shall set forth with
6 specificity all of the following:

- 7 1. The name, birth date, and address of the child.
- 8 2. The name and address of the custodial parent or parents of the child.
- 9 3. The name and address of the person nominated as guardian of the child.
- 10 4. A statement that the child has no custodial parent who is 16 years of age or
11 over or guardian.

12 ~~5. The duties and authority that the petitioner wishes the guardian to exercise.~~

13 6. A statement of whether the proceedings are subject to the uniform child
14 custody jurisdiction act under ch. 822.

15 7. A statement of whether the child may be subject to the federal Indian Child
16 Welfare Act, 25 USC 1911 to 1963.

17 (c) *Service of petition and notice.* 1. The petitioner shall cause the petition and
18 notice of the time and place of the hearing under par. (d) to be served on all of the
19 following persons:

- 20 a. The child's guardian ad litem.
- 21 b. The custodial parent or parents.
- 22 c. The persons to whom notice is required to be given under s. 48.27 (3) (b) 1.,
23 if those persons can with reasonable diligence be located.
- 24 d. The person who is nominated as the guardian of the child in the petition.

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1 2. Service shall be made by certified mail at least 7 days before the hearing or
2 by personal service in the same manner as a summons is served under s. 801.11 (1)
3 at least 7 days before the hearing or, if with reasonable diligence a party specified in
4 subd. 1. cannot be served by mail or by personal or substituted service, service shall
5 be made by publication of a notice published as a class 1 notice under ch. 985. In
6 determining which newspaper is likely to give notice as required under s. 985.02 (1),
7 the petitioner shall consider the residence of the party, if known, or the residence of
8 the relatives of the party, if known, or the last-known location of the party.

9 (d) *Plea hearing.* 1. A hearing to determine whether any party wishes to
10 contest a petition filed under par. (a) shall take place on a date that allows reasonable
11 time for the parties to prepare but is no more than 30 days after the filing of the
12 petition. At the hearing, the nonpetitioning parties shall state whether they wish
13 to contest the petition.

14 2. If the petition is not contested, the court may immediately proceed to a
15 dispositional hearing under par. (f), unless an adjournment is requested under par.
16 (f).

17 3. If the petition is contested, the court shall set a date for a fact-finding
18 hearing under par. (e) that allows reasonable time for the parties to prepare but is
19 no more than 30 days after the plea hearing.

20 (e) *Fact-finding hearing.* The court shall hold a fact-finding hearing on the
21 petition on the date set by the court under par. (d) 3., at which any party may present
22 evidence relevant to the issue of whether the child has a custodial parent who is 18
23 years of age or over or a guardian. If the court, at the conclusion of the fact-finding
24 hearing, finds by clear and convincing evidence that the child has no custodial parent
25 who is 18 years of age or over or guardian, the court shall immediately proceed to a

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1 dispositional hearing unless an adjournment is requested. If a party requests an
2 adjournment, the court shall set a date for the dispositional hearing which allows
3 reasonable time for the parties to prepare but is no more than 30 days after the
4 fact-finding hearing.

5 (f) *Dispositional hearing.* The court shall hold a dispositional hearing on the
6 petition at the time specified under par. (d) 2. or (e), at which any party may present
7 evidence, including expert testimony, relevant to the disposition. If at the plea
8 hearing or the fact-finding hearing a party requests an adjournment of the
9 dispositional hearing, the court shall set a date for the dispositional hearing that
10 allows reasonable time for the parties to prepare but is no more than 30 days after
11 the plea hearing or fact-finding hearing.

12 (g) *Dispositional factors.* In determining the appropriate disposition under par.
13 (h), the best interests of the child shall be the prevailing factor to be considered by
14 the court. In making a decision about the appropriate disposition, the court shall
15 consider all of the following:

16 1. Whether the person nominated as guardian would be a suitable guardian of
17 the child.

18 2. The willingness and ability of the person nominated as guardian to serve as
19 the guardian of the child.

20 (h) *Disposition.* After receiving any evidence relating to the disposition, the
21 court shall enter one of the following dispositions within 10 days after the
22 dispositional hearing:

23 1. A disposition dismissing the petition, *and ordering the petitioner to file a petition nominating*
24 *another person as the guardian of the child,* if the court determines that
25 appointment as guardian of the child of the person nominated as guardian of the
child is not in the best interests of the child.

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1 2. A disposition ordering that the person nominated as guardian be appointed
2 as the guardian of the child under sub. (4) (b) ~~1 or limited guardian under sub. (4)~~
3 ~~(b) 2~~, if the court determines that such an appointment is in the best interests of the
4 child.

5 (4) PARENTAL RIGHTS; DUTY AND AUTHORITY OF GUARDIAN. (a) *Parental rights.* The
6 beginning of the duty and authority of a guardian under sub. (3) does not, in itself,
7 divest a parent of any parental rights. (A)

8 (b) *Duties and authority of guardian.* ~~1. Unless limited under subd. 2., a~~
9 guardian appointed under sub. (3) shall have all of the duties and authority specified
10 in s. 48.023.

11 ~~2. The court may order that the duties and authority of a guardian appointed~~
12 ~~under sub. (3) be limited. The duties and authority of a limited guardian shall be as~~
13 ~~specified by the order of appointment under sub. (3) (h) 2. All provisions of the~~
14 ~~statutes concerning the duties and authority of a guardian shall apply to a limited~~
15 ~~guardian appointed under sub. (3) to the extent those provisions are relevant to the~~
16 ~~duties or authority of the limited guardian, except as limited by the order of~~
17 ~~appointment.~~

18 (5) REVISION OF GUARDIANSHIP ORDER. (a) The petitioner under sub. (3) (a) may
19 request a revision in a guardianship order entered under this subsection or sub. (3)
20 (h) 2., or the court may, on its own motion, propose such a revision. The request or
21 court proposal shall set forth in detail the nature of the proposed revision, shall allege
22 facts sufficient to show that there has been a substantial change in circumstances
23 since the last order affecting the guardianship was entered and that the proposed
24 revision would be in the best interests of the child, and shall allege any other
25 information that affects the advisability of the court's disposition.

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1 (b) The court shall hold a hearing on the matter prior to any revision of the
2 guardianship order if the request or court proposal indicates that new information
3 is available that affects the advisability of the court's guardianship order, unless
4 written waivers of objections to the revision are signed by all parties entitled to
5 receive notice under sub. (3) (c) and the court approves the waivers.

6 (c) If a hearing is to be held, the court shall notify the persons entitled to receive
7 notice under sub. (3) (c) at least 7 days prior to the hearing of the date, place, and
8 purpose of the hearing. A copy of the request or proposal shall be attached to the
9 notice. The court may order a revision if, at the hearing, the court finds that it has
10 been proved by clear and convincing evidence that there has been a substantial
11 change in circumstances and if the court determines that a revision would be in the
12 best interests of the child.

13 (5) (6) TERMINATION OF GUARDIANSHIP. (a) *Term of guardianship.* A guardianship
14 under this section shall continue until all custodial parents of the child attain the age
15 of 16 years and complete a parenting class or until terminated by the court,
16 whichever occurs earlier.

17 (b) *Removal for cause.* 1. The petitioner under sub. (3) (a) may request that
18 a guardian appointed under sub. (3) be removed for cause or the court may, on its own
19 motion, propose such a removal. The request or court proposal shall allege facts
20 sufficient to show that the guardian is or has been neglecting, is or has been refusing,
21 or is or has been unable to discharge the guardian's trust and may allege facts
22 relating to any other information that affects the advisability of the court's
23 disposition.

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1 2. The court shall hold a hearing on the matter unless written waivers of
2 objections to the removal are signed by all parties entitled to receive notice under
3 sub. (3) (c) and the court approves the waivers.

4 3. If a hearing is to be held, the court shall notify the persons entitled to receive
5 notice under sub. (3) (c) at least 7 days prior to the hearing of the date, place, and
6 purpose of the hearing. A copy of the request or court proposal shall be attached to
7 the notice. The court shall remove the guardian for cause if, at the hearing, the court
8 finds that it has been proved by clear and convincing evidence that the guardian is
9 or has been neglecting, is or has been refusing, or is or has been unable to discharge
10 the guardian's trust and if the court determines that removal of the guardian would
11 be in the best interests of the child.

12 (c) *Resignation of guardian.* A person who is appointed as a guardian under
13 sub. (3) (h) 2. may, at any time after his or her duty and authority as guardian begin,
14 resign that appointment by executing a written resignation, filing the resignation
15 with the court that issued the guardianship order, and notifying the petitioner in
16 writing of that resignation. On compliance with this paragraph, the court may
17 accept the resignation and rescind the guardianship order if the court determines
18 that the resignation and rescission are in the best interests of the child.

19 (d) *Termination of guardianship on termination of parental rights.* If a court
20 enters an order under s. 48.427 (3p) or 48.428 (2) (b), the court shall terminate the
21 guardianship under this section.

22 (6) RELATIONSHIP TO CH. 880. (a) Except when a different right, remedy, or
23 procedure is provided under this section, the rights, remedies, and procedures
24 provided in ch. 880 shall govern a guardianship created under this section.

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1 (b) This section does not abridge the duties or authority of a guardian appointed
2 under ch. 880.

3 (c) Nothing in this section prohibits an individual from petitioning a court for
4 the appointment of a guardian under ch. 880.

5 **SECTION 10.** 757.69 (1m) (e) of the statutes is amended to read:

6 757.69 (1m) (e) Conduct hearings, make findings, or issue orders in
7 proceedings under s. 48.977 ~~or~~, 48.978, or 48.979.

8 **SECTION 11.** 808.075 (4) (a) 13. of the statutes is created to read:

9 808.075 (4) (a) 13. ~~Revision of a guardianship order under s. 48.979 (5) or~~
10 ^{Termination} ~~termination~~ of a guardianship order under s. 48.979 (5) ^(S) including removal of a
11 guardian under s. 48.979 (6) ^(S) (b) or rescission of a guardianship order under s. 48.979
12 ^(S) (6) ^(S) (c).

13 (END)

NOTE

Date

GMM:kjf

Representative Wasserman:

Because the redraft instructions eliminate the discretion of a juvenile court to find that a parent under 16 years of age is a fit parent and, therefore, not in need of a guardian for his or her child, this draft also eliminates the discretion of a juvenile court to appoint a limited guardian, under which the limited guardian would exercise only certain powers and the parent other powers.

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, the juvenile court finds that appointment of the person to ~~serve~~

as guardian is in the best interests of the child, the juvenile court must order the person to be appointed as the guardian of the child.

If, after considering those factors, the juvenile court finds that

as guardian

nominated

appointment of the person to ~~serve as guardian~~ is not in the best

interests of the child, the juvenile court must dismiss the petitioner

petition and order the petitioner to file a petition nominating another person as guardian of the child

(ed/mark)

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

LRB-3387/2dn
GMM:kjf:rs

October 21, 2005

Representative Wasserman:

Because the redraft instructions eliminate the discretion of a juvenile court to find that a parent under 16 years of age is a fit parent and, therefore, not in need of a guardian for his or her child, this draft also eliminates the discretion of a juvenile court to appoint a limited guardian, under with the limited guardian would exercise only certain powers and the parent other powers.

Gordon M. Malaise
Senior Legislative Attorney
Phone: (608) 266-9738
E-mail: gordon.malaise@legis.state.wi.us

Malaise, Gordon

From: Hilton, Stephanie
Sent: Tuesday, October 25, 2005 3:48 PM
To: Malaise, Gordon
Cc: Hilton, Stephanie
Subject: LRB 3387/2, Rep. Wasserman

Gordon,

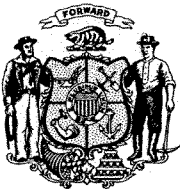
Thanks again for the last redraft. Rep. Wasserman reviewed it, and has one additional request.

One of Rep. Wasserman's intent with this bill is that any infant that has been put in the guardianship of an adult will have the guardianship transferred back to the birth parents when both birth parents turn 18 years old, regardless of whether they completed the parenting course successfully. He was unsure if the legislation allows for that as it is currently drafted, and would like an additional clause added if it would clarify that intent.

Thanks for your time!

Stephanie

Stephanie R. Hilton
Legislative Assistant
Office of Rep. Sheldon Wasserman
Room 214 North
Phone: (608) 266-7671 or (888) 534-0022
Fax: (608) 282-3622



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-3387/2

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2005 BILL

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1 AN ACT *to amend* 48.09 (5), 48.14 (2) (b), 48.185 (2), 48.235 (1) (c), 48.299 (4) (a),
2 48.299 (4) (b), 48.831 (1) and 757.69 (1m) (e); and *to create* 48.979 and 808.075
3 (4) (a) 13. of the statutes; **relating to:** the appointment of a guardian for a child
4 who has no custodial parent who is 16 years of age or over and requiring the
5 parent of such a child to complete a parenting class.

Analysis by the Legislative Reference Bureau

Under current law, the court assigned to exercise jurisdiction under the Children's Code (juvenile court) may appoint a guardian for a child who, on appointment, has the duty and authority to make important decisions in matters having a permanent effect on the life and development of the child and the duty to be concerned about the general welfare of the child.

This bill requires the county department of human services or social services (county department) of the county of residence of a child who does not have a custodial parent over 16 years of age or a guardian or, if that county is Milwaukee County, the Department of Health and Family Services (DHFS) to file a petition for the appointment of a relative of the child or other fit and willing adult to serve as guardian of the child and to offer parenting classes to the custodial parents of the child. If the juvenile court finds that the child does not have a custodial parent over 16 years of age or a guardian, the juvenile court must find that the child is in need of a guardian. If, after considering the suitability, willingness, and ability of the person nominated to serve as guardian of the child, the juvenile court finds that

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appointment as guardian of the person nominated is in the best interests of the child, the juvenile court must order the person to be appointed as the guardian of the child. If, after considering those factors, the juvenile court finds that appointment as guardian of the person nominated is not in the best interests of the child, the juvenile court must dismiss the petition and order the petitioner to file a petition nominating another person as guardian of the child. The guardianship continues until all custodial parents of the child attain the age of ~~16 years and complete a parenting class~~ ^{18 years} unless the juvenile court earlier terminates the guardianship, including termination due to removal of the guardian for cause or resignation of the guardian.

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.** 48.09 (5) of the statutes is amended to read:

2 48.09 (5) By the district attorney or, if designated by the county board of
3 supervisors, by the corporation counsel, in any matter arising under s. 48.13, 48.133
4 ~~or, 48.977, or 48.979.~~ If the county board transfers this authority to or from the
5 district attorney on or after May 11, 1990, the board may do so only if the action is
6 effective on September 1 of an odd-numbered year and the board notifies the
7 department of administration of that change by January 1 of that odd-numbered
8 year.

9 **SECTION 2.** 48.14 (2) (b) of the statutes is amended to read:

10 48.14 (2) (b) The appointment and removal of a guardian of the person for a
11 child under ss. 48.427, 48.428, 48.43, 48.831, 48.832, 48.839 (4) (a), 48.977 ~~and,~~
12 ~~48.978, and 48.979~~ and ch. 880 and for a child found to be in need of protection or
13 services under s. 48.13 because the child is without parent or guardian.

14 **SECTION 3.** 48.185 (2) of the statutes is amended to read:

15 48.185 (2) In an action under s. 48.41, ~~48.978, or 48.979,~~ venue shall be in the
16 county where the birth parent or child resides at the time that the petition is filed.

BILL

1 Venue for any proceeding under s. 48.363, 48.365, or 48.977, or any proceeding under
2 subch. VIII when the child has been placed outside the home pursuant to a
3 dispositional order under s. 48.345 or 48.347, shall be in the county where the
4 dispositional order was issued, unless the child's county of residence has changed,
5 or the parent of the child or the expectant mother of the unborn child has resided in
6 a different county of this state for 6 months. In either case, the court may, upon a
7 motion and for good cause shown, transfer the case, along with all appropriate
8 records, to the county of residence of the child, parent or expectant mother.

9 **SECTION 4.** 48.235 (1) (c) of the statutes is amended to read:

10 48.235 (1) (c) The court shall appoint a guardian ad litem for any child who is
11 the subject of a proceeding to terminate parental rights, whether voluntary or
12 involuntary, for a child who is the subject of a contested adoption proceeding and for
13 a child who is the subject of a proceeding under s. 48.977 ~~or~~, 48.978, or 48.979.

14 **SECTION 5.** 48.299 (4) (a) of the statutes is amended to read:

15 48.299 (4) (a) Chapters 901 to 911 shall govern the presentation of evidence at
16 the fact-finding hearings under ss. 48.31, 48.42, 48.977 (4) (d) ~~and~~, 48.978 (2) (e) and
17 (3) (f) 2., and 48.979 (3) (e).

18 **SECTION 6.** 48.299 (4) (b) of the statutes is amended to read:

19 48.299 (4) (b) Except as provided in s. 901.05, neither common law nor
20 statutory rules of evidence are binding at a hearing for a child held in custody under
21 s. 48.21, a hearing for an adult expectant mother held in custody under s. 48.213, a
22 runaway home hearing under s. 48.227 (4), a dispositional hearing, ~~or~~ a hearing
23 about changes on a change in placement, a revision of a dispositional orders, order,
24 or an extension of a dispositional orders, or order, a hearing on the revision or
25 termination of a guardianship orders order entered under s. 48.977 (4) (h) 2. or (6)

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1 or 48.978 (2) (j) 2. or (3) (g), or a hearing on the termination of a guardianship order
2 entered under s. 48.979 (3) (g) 2. At those hearings, the court shall admit all
3 testimony having reasonable probative value, but shall exclude immaterial,
4 irrelevant, or unduly repetitious testimony or evidence that is inadmissible under s.
5 901.05. Hearsay evidence may be admitted if it has demonstrable circumstantial
6 guarantees of trustworthiness. The court shall give effect to the rules of privilege
7 recognized by law. The court shall apply the basic principles of relevancy,
8 materiality, and probative value to proof of all questions of fact. Objections to
9 evidentiary offers and offers of proof of evidence not admitted may be made and shall
10 be noted in the record.

11 **SECTION 7.** 48.831 (1) of the statutes is amended to read:

12 48.831 (1) TYPE OF GUARDIANSHIP. This section may be used for the appointment
13 of a guardian of a child who does not have a living parent if a finding as to the
14 adoptability of a child is sought. Except as provided in ss. 48.977 and, 48.978, and
15 48.979, ch. 880 applies to the appointment of a guardian for a child who does not have
16 a living parent for all other purposes. An appointment of a guardian of the estate of
17 a child who does not have a living parent shall be conducted in accordance with the
18 procedures specified in ch. 880.

19 **SECTION 8.** 48.979 of the statutes is created to read:

20 **48.979 Appointment of guardian for child of child parent. (1)**

21 DEFINITION. In this section, “custodial parent” means a parent who resides with a
22 child who is subject to a proceeding under this section.

23 **(2) GUARDIANSHIP AND PARENTING CLASSES REQUIRED.** (a) *Notice to county*
24 *department or department.* Whenever a child is born to a person under 16 years of
25 age at or on route to a hospital or maternity home, the hospital or maternity home

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1 shall, within 7 days after the birth of the child, provide notice of that birth to the
2 county department of the county of residence of the child or, if that county is a county
3 having a population of 500,000 or more, the department. Whenever a child is born
4 to a person under 16 years of age elsewhere than at or on route to a hospital or
5 maternity home, the physician, nurse–midwife, or birth attendant who attended the
6 birth of the child, shall, within 7 days after that birth, provide notice of that birth to
7 the county department of the county of residence of the child or, if that county is a
8 county having a population of 500,000 or more, the department.

9 (b) *Determination whether guardianship and parenting classes required.*

10 Within 30 days after receiving a notice under par. (a), the county department or
11 department receiving that notice shall determine whether the child has a custodial
12 parent who is 16 years of age or over or a guardian, and, if the child does not have
13 a custodial parent who is 16 years of age or over or a guardian, file a petition under
14 sub. (3) (a) for the appointment of a relative of the child or other fit and willing adult
15 to serve as guardian of the child and offer parenting classes to the custodial parent
16 of the child.

17 (3) APPOINTMENT OF GUARDIAN. (a) *Filing of petition.* If a county department
18 or the department determines under sub. (2) (b) that a child does not have a custodial
19 parent who is 16 years of age or over or a guardian, the county department or
20 department shall file a petition for the appointment of a relative of the child or other
21 fit and willing adult to serve as guardian of the child.

22 (b) *Contents of petition.* A proceeding for the appointment of a guardian for a
23 child under this subsection shall be initiated by a petition that shall be entitled “In
24 the interest of (child’s name), a person under the age of 18” and shall set forth with
25 specificity all of the following:

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1 1. The name, birth date, and address of the child.

2 2. The name and address of the custodial parent or parents of the child.

3 3. The name and address of the person nominated as guardian of the child.

4 4. A statement that the child has no custodial parent who is 16 years of age or
5 over or guardian.

6 5. A statement of whether the proceedings are subject to the uniform child
7 custody jurisdiction act under ch. 822.

8 6. A statement of whether the child may be subject to the federal Indian Child
9 Welfare Act, 25 USC 1911 to 1963.

10 (c) *Service of petition and notice.* 1. The petitioner shall cause the petition and
11 notice of the time and place of the hearing under par. (d) to be served on all of the
12 following persons:

13 a. The child's guardian ad litem.

14 b. The custodial parent or parents.

15 c. The persons to whom notice is required to be given under s. 48.27 (3) (b) 1.,
16 if those persons can with reasonable diligence be located.

17 d. The person who is nominated as the guardian of the child in the petition.

18 2. Service shall be made by certified mail at least 7 days before the hearing or
19 by personal service in the same manner as a summons is served under s. 801.11 (1)
20 at least 7 days before the hearing or, if with reasonable diligence a party specified in
21 subd. 1. cannot be served by mail or by personal or substituted service, service shall
22 be made by publication of a notice published as a class 1 notice under ch. 985. In
23 determining which newspaper is likely to give notice as required under s. 985.02 (1),
24 the petitioner shall consider the residence of the party, if known, or the residence of
25 the relatives of the party, if known, or the last-known location of the party.

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1 (d) *Plea hearing.* 1. A hearing to determine whether any party wishes to
2 contest a petition filed under par. (a) shall take place on a date that allows reasonable
3 time for the parties to prepare but is no more than 30 days after the filing of the
4 petition. At the hearing, the nonpetitioning parties shall state whether they wish
5 to contest the petition.

6 2. If the petition is not contested, the court may immediately proceed to a
7 dispositional hearing under par. (f), unless an adjournment is requested under par.
8 (f).

9 3. If the petition is contested, the court shall set a date for a fact-finding
10 hearing under par. (e) that allows reasonable time for the parties to prepare but is
11 no more than 30 days after the plea hearing.

12 (e) *Fact-finding hearing.* The court shall hold a fact-finding hearing on the
13 petition on the date set by the court under par. (d) 3., at which any party may present
14 evidence relevant to the issue of whether the child has a custodial parent who is 16
15 years of age or over or a guardian. If the court, at the conclusion of the fact-finding
16 hearing, finds by clear and convincing evidence that the child has no custodial parent
17 who is 16 years of age or over or guardian, the court shall find that the child is in need
18 of a guardian and immediately proceed to a dispositional hearing unless an
19 adjournment is requested. If a party requests an adjournment, the court shall set
20 a date for the dispositional hearing which allows reasonable time for the parties to
21 prepare but is no more than 30 days after the fact-finding hearing.

22 (f) *Dispositional hearing.* The court shall hold a dispositional hearing on the
23 petition at the time specified under par. (d) 2. or (e), at which any party may present
24 evidence, including expert testimony, relevant to the disposition. If at the plea
25 hearing or the fact-finding hearing a party requests an adjournment of the

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1 dispositional hearing, the court shall set a date for the dispositional hearing that
2 allows reasonable time for the parties to prepare but is no more than 30 days after
3 the plea hearing or fact-finding hearing.

4 (g) *Dispositional factors.* In determining the appropriate disposition under par.
5 (h), the best interests of the child shall be the prevailing factor to be considered by
6 the court. In making a decision about the appropriate disposition, the court shall
7 consider all of the following:

8 1. Whether the person nominated as guardian would be a suitable guardian of
9 the child.

10 2. The willingness and ability of the person nominated as guardian to serve as
11 the guardian of the child.

12 (h) *Disposition.* After receiving any evidence relating to the disposition, the
13 court shall enter one of the following dispositions within 10 days after the
14 dispositional hearing:

15 1. A disposition dismissing the petition and ordering the petitioner to file a
16 petition nominating another person as the guardian of the child, if the court
17 determines that appointment as guardian of the child of the person nominated as
18 guardian of the child is not in the best interests of the child.

19 2. A disposition ordering that the person nominated as guardian be appointed
20 as the guardian of the child under sub. (4) (b), if the court determines that such an
21 appointment is in the best interests of the child.

22 (4) PARENTAL RIGHTS; DUTY AND AUTHORITY OF GUARDIAN. (a) *Parental rights.* The
23 beginning of the duty and authority of a guardian under sub. (3) does not, in itself,
24 divest a parent of any parental rights.

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of 18 years

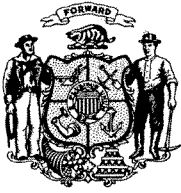
1 (b) *Duties and authority of guardian.* A guardian appointed under sub. (3) shall
2 have all of the duties and authority specified in s. 48.023.

3 (5) TERMINATION OF GUARDIANSHIP. (a) *Term of guardianship.* A guardianship
4 under this section shall continue until all custodial parents of the child attain the age
5 of 16 years and complete a parenting class, or until terminated by the court,
6 whichever occurs earlier.

7 (b) *Removal for cause.* 1. The petitioner under sub. (3) (a) may request that
8 a guardian appointed under sub. (3) be removed for cause or the court may, on its own
9 motion, propose such a removal. The request or court proposal shall allege facts
10 sufficient to show that the guardian is or has been neglecting, is or has been refusing,
11 or is or has been unable to discharge the guardian's trust and may allege facts
12 relating to any other information that affects the advisability of the court's
13 disposition.

14 2. The court shall hold a hearing on the matter unless written waivers of
15 objections to the removal are signed by all parties entitled to receive notice under
16 sub. (3) (c) and the court approves the waivers.

17 3. If a hearing is to be held, the court shall notify the persons entitled to receive
18 notice under sub. (3) (c) at least 7 days prior to the hearing of the date, place, and
19 purpose of the hearing. A copy of the request or court proposal shall be attached to
20 the notice. The court shall remove the guardian for cause if, at the hearing, the court
21 finds that it has been proved by clear and convincing evidence that the guardian is
22 or has been neglecting, is or has been refusing, or is or has been unable to discharge
23 the guardian's trust and if the court determines that removal of the guardian would
24 be in the best interests of the child.



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-3387/3

GMM:kjfrs

2005 BILL

1 AN ACT *to amend* 48.09 (5), 48.14 (2) (b), 48.185 (2), 48.235 (1) (c), 48.299 (4) (a),
2 48.299 (4) (b), 48.831 (1) and 757.69 (1m) (e); and *to create* 48.979 and 808.075
3 (4) (a) 13. of the statutes; **relating to:** the appointment of a guardian for a child
4 who has no custodial parent who is 16 years of age or over and requiring the
5 parent of such a child to complete a parenting class.

Analysis by the Legislative Reference Bureau

Under current law, the court assigned to exercise jurisdiction under the Children's Code (juvenile court) may appoint a guardian for a child who, on appointment, has the duty and authority to make important decisions in matters having a permanent effect on the life and development of the child and the duty to be concerned about the general welfare of the child.

This bill requires the county department of human services or social services (county department) of the county of residence of a child who does not have a custodial parent over 16 years of age or a guardian or, if that county is Milwaukee County, the Department of Health and Family Services (DHFS) to file a petition for the appointment of a relative of the child or other fit and willing adult to serve as guardian of the child and to offer parenting classes to the custodial parents of the child. If the juvenile court finds that the child does not have a custodial parent over 16 years of age or a guardian, the juvenile court must find that the child is in need of a guardian. If, after considering the suitability, willingness, and ability of the person nominated to serve as guardian of the child, the juvenile court finds that

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appointment as guardian of the person nominated is in the best interests of the child, the juvenile court must order the person to be appointed as the guardian of the child. If, after considering those factors, the juvenile court finds that appointment as guardian of the person nominated is not in the best interests of the child, the juvenile court must dismiss the petition and order the petitioner to file a petition nominating another person as guardian of the child. The guardianship continues until all custodial parents of the child attain the age of 18 years, unless the juvenile court earlier terminates the guardianship, including termination due to removal of the guardian for cause or resignation of the guardian.

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.** 48.09 (5) of the statutes is amended to read:

2 48.09 (5) By the district attorney or, if designated by the county board of
3 supervisors, by the corporation counsel, in any matter arising under s. 48.13, 48.133
4 ~~or~~, 48.977, or 48.979. If the county board transfers this authority to or from the
5 district attorney on or after May 11, 1990, the board may do so only if the action is
6 effective on September 1 of an odd-numbered year and the board notifies the
7 department of administration of that change by January 1 of that odd-numbered
8 year.

9 **SECTION 2.** 48.14 (2) (b) of the statutes is amended to read:

10 48.14 (2) (b) The appointment and removal of a guardian of the person for a
11 child under ss. 48.427, 48.428, 48.43, 48.831, 48.832, 48.839 (4) (a), 48.977 and,
12 48.978, and 48.979 and ch. 880 and for a child found to be in need of protection or
13 services under s. 48.13 because the child is without parent or guardian.

14 **SECTION 3.** 48.185 (2) of the statutes is amended to read:

15 48.185 (2) In an action under s. 48.41, 48.978, or 48.979, venue shall be in the
16 county where the birth parent or child resides at the time that the petition is filed.

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1 Venue for any proceeding under s. 48.363, 48.365, or 48.977, or any proceeding under
2 subch. VIII when the child has been placed outside the home pursuant to a
3 dispositional order under s. 48.345 or 48.347, shall be in the county where the
4 dispositional order was issued, unless the child's county of residence has changed,
5 or the parent of the child or the expectant mother of the unborn child has resided in
6 a different county of this state for 6 months. In either case, the court may, upon a
7 motion and for good cause shown, transfer the case, along with all appropriate
8 records, to the county of residence of the child, parent or expectant mother.

9 **SECTION 4.** 48.235 (1) (c) of the statutes is amended to read:

10 48.235 (1) (c) The court shall appoint a guardian ad litem for any child who is
11 the subject of a proceeding to terminate parental rights, whether voluntary or
12 involuntary, for a child who is the subject of a contested adoption proceeding and for
13 a child who is the subject of a proceeding under s. 48.977 ~~or~~, 48.978, or 48.979.

14 **SECTION 5.** 48.299 (4) (a) of the statutes is amended to read:

15 48.299 (4) (a) Chapters 901 to 911 shall govern the presentation of evidence at
16 the fact-finding hearings under ss. 48.31, 48.42, 48.977 (4) (d) ~~and~~, 48.978 (2) (e) and
17 (3) (f) 2., and 48.979 (3) (e).

18 **SECTION 6.** 48.299 (4) (b) of the statutes is amended to read:

19 48.299 (4) (b) Except as provided in s. 901.05, neither common law nor
20 statutory rules of evidence are binding at a hearing for a child held in custody under
21 s. 48.21, a hearing for an adult expectant mother held in custody under s. 48.213, a
22 runaway home hearing under s. 48.227 (4), a dispositional hearing, ~~or~~ a hearing
23 ~~about changes on a change~~ in placement, a revision of a dispositional orders, order,
24 or an extension of a dispositional orders, or order, a hearing on the revision or
25 termination of a guardianship orders order entered under s. 48.977 (4) (h) 2. or (6)

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1 or 48.978 (2) (j) 2. or (3) (g), or a hearing on the termination of a guardianship order
2 entered under s. 48.979 (3) (g) 2. At those hearings, the court shall admit all
3 testimony having reasonable probative value, but shall exclude immaterial,
4 irrelevant, or unduly repetitious testimony or evidence that is inadmissible under s.
5 901.05. Hearsay evidence may be admitted if it has demonstrable circumstantial
6 guarantees of trustworthiness. The court shall give effect to the rules of privilege
7 recognized by law. The court shall apply the basic principles of relevancy,
8 materiality, and probative value to proof of all questions of fact. Objections to
9 evidentiary offers and offers of proof of evidence not admitted may be made and shall
10 be noted in the record.

11 **SECTION 7.** 48.831 (1) of the statutes is amended to read:

12 48.831 (1) TYPE OF GUARDIANSHIP. This section may be used for the appointment
13 of a guardian of a child who does not have a living parent if a finding as to the
14 adoptability of a child is sought. Except as provided in ss. 48.977 ~~and~~, 48.978, and
15 48.979, ch. 880 applies to the appointment of a guardian for a child who does not have
16 a living parent for all other purposes. An appointment of a guardian of the estate of
17 a child who does not have a living parent shall be conducted in accordance with the
18 procedures specified in ch. 880.

19 **SECTION 8.** 48.979 of the statutes is created to read:

20 **48.979 Appointment of guardian for child of child parent. (1)**

21 DEFINITION. In this section, “custodial parent” means a parent who resides with a
22 child who is subject to a proceeding under this section.

23 **(2) GUARDIANSHIP AND PARENTING CLASSES REQUIRED.** (a) *Notice to county*
24 *department or department.* Whenever a child is born to a person under 16 years of
25 age at or on route to a hospital or maternity home, the hospital or maternity home

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1 shall, within 7 days after the birth of the child, provide notice of that birth to the
2 county department of the county of residence of the child or, if that county is a county
3 having a population of 500,000 or more, the department. Whenever a child is born
4 to a person under 16 years of age elsewhere than at or on route to a hospital or
5 maternity home, the physician, nurse–midwife, or birth attendant who attended the
6 birth of the child, shall, within 7 days after that birth, provide notice of that birth to
7 the county department of the county of residence of the child or, if that county is a
8 county having a population of 500,000 or more, the department.

9 (b) *Determination whether guardianship and parenting classes required.*

10 Within 30 days after receiving a notice under par. (a), the county department or
11 department receiving that notice shall determine whether the child has a custodial
12 parent who is 16 years of age or over or a guardian, and, if the child does not have
13 a custodial parent who is 16 years of age or over or a guardian, file a petition under
14 sub. (3) (a) for the appointment of a relative of the child or other fit and willing adult
15 to serve as guardian of the child and offer parenting classes to the custodial parent
16 of the child.

17 (3) APPOINTMENT OF GUARDIAN. (a) *Filing of petition.* If a county department
18 or the department determines under sub. (2) (b) that a child does not have a custodial
19 parent who is 16 years of age or over or a guardian, the county department or
20 department shall file a petition for the appointment of a relative of the child or other
21 fit and willing adult to serve as guardian of the child.

22 (b) *Contents of petition.* A proceeding for the appointment of a guardian for a
23 child under this subsection shall be initiated by a petition that shall be entitled “In
24 the interest of (child’s name), a person under the age of 18” and shall set forth with
25 specificity all of the following:

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1 1. The name, birth date, and address of the child.

2 2. The name and address of the custodial parent or parents of the child.

3 3. The name and address of the person nominated as guardian of the child.

4 4. A statement that the child has no custodial parent who is 16 years of age or
5 over or guardian.

6 5. A statement of whether the proceedings are subject to the uniform child
7 custody jurisdiction act under ch. 822.

8 6. A statement of whether the child may be subject to the federal Indian Child
9 Welfare Act, 25 USC 1911 to 1963.

10 (c) *Service of petition and notice.* 1. The petitioner shall cause the petition and
11 notice of the time and place of the hearing under par. (d) to be served on all of the
12 following persons:

13 a. The child's guardian ad litem.

14 b. The custodial parent or parents.

15 c. The persons to whom notice is required to be given under s. 48.27 (3) (b) 1.,
16 if those persons can with reasonable diligence be located.

17 d. The person who is nominated as the guardian of the child in the petition.

18 2. Service shall be made by certified mail at least 7 days before the hearing or
19 by personal service in the same manner as a summons is served under s. 801.11 (1)
20 at least 7 days before the hearing or, if with reasonable diligence a party specified in
21 subd. 1. cannot be served by mail or by personal or substituted service, service shall
22 be made by publication of a notice published as a class 1 notice under ch. 985. In
23 determining which newspaper is likely to give notice as required under s. 985.02 (1),
24 the petitioner shall consider the residence of the party, if known, or the residence of
25 the relatives of the party, if known, or the last-known location of the party.

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1 (d) *Plea hearing.* 1. A hearing to determine whether any party wishes to
2 contest a petition filed under par. (a) shall take place on a date that allows reasonable
3 time for the parties to prepare but is no more than 30 days after the filing of the
4 petition. At the hearing, the nonpetitioning parties shall state whether they wish
5 to contest the petition.

6 2. If the petition is not contested, the court may immediately proceed to a
7 dispositional hearing under par. (f), unless an adjournment is requested under par.
8 (f).

9 3. If the petition is contested, the court shall set a date for a fact-finding
10 hearing under par. (e) that allows reasonable time for the parties to prepare but is
11 no more than 30 days after the plea hearing.

12 (e) *Fact-finding hearing.* The court shall hold a fact-finding hearing on the
13 petition on the date set by the court under par. (d) 3., at which any party may present
14 evidence relevant to the issue of whether the child has a custodial parent who is 16
15 years of age or over or a guardian. If the court, at the conclusion of the fact-finding
16 hearing, finds by clear and convincing evidence that the child has no custodial parent
17 who is 16 years of age or over or guardian, the court shall find that the child is in need
18 of a guardian and immediately proceed to a dispositional hearing unless an
19 adjournment is requested. If a party requests an adjournment, the court shall set
20 a date for the dispositional hearing which allows reasonable time for the parties to
21 prepare but is no more than 30 days after the fact-finding hearing.

22 (f) *Dispositional hearing.* The court shall hold a dispositional hearing on the
23 petition at the time specified under par. (d) 2. or (e), at which any party may present
24 evidence, including expert testimony, relevant to the disposition. If at the plea
25 hearing or the fact-finding hearing a party requests an adjournment of the

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1 dispositional hearing, the court shall set a date for the dispositional hearing that
2 allows reasonable time for the parties to prepare but is no more than 30 days after
3 the plea hearing or fact-finding hearing.

4 (g) *Dispositional factors.* In determining the appropriate disposition under par.
5 (h), the best interests of the child shall be the prevailing factor to be considered by
6 the court. In making a decision about the appropriate disposition, the court shall
7 consider all of the following:

8 1. Whether the person nominated as guardian would be a suitable guardian of
9 the child.

10 2. The willingness and ability of the person nominated as guardian to serve as
11 the guardian of the child.

12 (h) *Disposition.* After receiving any evidence relating to the disposition, the
13 court shall enter one of the following dispositions within 10 days after the
14 dispositional hearing:

15 1. A disposition dismissing the petition and ordering the petitioner to file a
16 petition nominating another person as the guardian of the child, if the court
17 determines that appointment as guardian of the child of the person nominated as
18 guardian of the child is not in the best interests of the child.

19 2. A disposition ordering that the person nominated as guardian be appointed
20 as the guardian of the child under sub. (4) (b), if the court determines that such an
21 appointment is in the best interests of the child.

22 (4) PARENTAL RIGHTS; DUTY AND AUTHORITY OF GUARDIAN. (a) *Parental rights.* The
23 beginning of the duty and authority of a guardian under sub. (3) does not, in itself,
24 divest a parent of any parental rights.

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1 (b) *Duties and authority of guardian.* A guardian appointed under sub. (3) shall
2 have all of the duties and authority specified in s. 48.023.

3 **(5) TERMINATION OF GUARDIANSHIP.** (a) *Term of guardianship.* A guardianship
4 under this section shall continue until all custodial parents of the child attain the age
5 of 18 years or until terminated by the court, whichever occurs earlier.

6 (b) *Removal for cause.* 1. The petitioner under sub. (3) (a) may request that
7 a guardian appointed under sub. (3) be removed for cause or the court may, on its own
8 motion, propose such a removal. The request or court proposal shall allege facts
9 sufficient to show that the guardian is or has been neglecting, is or has been refusing,
10 or is or has been unable to discharge the guardian's trust and may allege facts
11 relating to any other information that affects the advisability of the court's
12 disposition.

13 2. The court shall hold a hearing on the matter unless written waivers of
14 objections to the removal are signed by all parties entitled to receive notice under
15 sub. (3) (c) and the court approves the waivers.

16 3. If a hearing is to be held, the court shall notify the persons entitled to receive
17 notice under sub. (3) (c) at least 7 days prior to the hearing of the date, place, and
18 purpose of the hearing. A copy of the request or court proposal shall be attached to
19 the notice. The court shall remove the guardian for cause if, at the hearing, the court
20 finds that it has been proved by clear and convincing evidence that the guardian is
21 or has been neglecting, is or has been refusing, or is or has been unable to discharge
22 the guardian's trust and if the court determines that removal of the guardian would
23 be in the best interests of the child.

24 (c) *Resignation of guardian.* A person who is appointed as a guardian under
25 sub. (3) (h) 2. may, at any time after his or her duty and authority as guardian begin,

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1 resign that appointment by executing a written resignation, filing the resignation
2 with the court that issued the guardianship order, and notifying the petitioner in
3 writing of that resignation. On compliance with this paragraph, the court may
4 accept the resignation and rescind the guardianship order if the court determines
5 that the resignation and rescission are in the best interests of the child.

6 (d) *Termination of guardianship on termination of parental rights.* If a court
7 enters an order under s. 48.427 (3p) or 48.428 (2) (b), the court shall terminate the
8 guardianship under this section.

9 (6) RELATIONSHIP TO CH. 880. (a) Except when a different right, remedy, or
10 procedure is provided under this section, the rights, remedies, and procedures
11 provided in ch. 880 shall govern a guardianship created under this section.

12 (b) This section does not abridge the duties or authority of a guardian appointed
13 under ch. 880.

14 (c) Nothing in this section prohibits an individual from petitioning a court for
15 the appointment of a guardian under ch. 880.

16 **SECTION 9.** 757.69 (1m) (e) of the statutes is amended to read:

17 757.69 (1m) (e) Conduct hearings, make findings, or issue orders in
18 proceedings under s. 48.977 ~~or~~, 48.978, or 48.979.

19 **SECTION 10.** 808.075 (4) (a) 13. of the statutes is created to read:

20 808.075 (4) (a) 13. Termination of a guardianship order under s. 48.979 (5),
21 including removal of a guardian under s. 48.979 (5) (b) or rescission of a guardianship
22 order under s. 48.979 (5) (c).

23 (END)