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1           **SECTION 255.** 938.20 (3) of the statutes is amended to read:

2           938.20 (3) NOTIFICATION TO PARENT, GUARDIAN, LEGAL CUSTODIAN, INDIAN  
3 CUSTODIAN OF RELEASE. If the juvenile is released under sub. (2) (b) to (d) or (g), the  
4 person who took the juvenile into custody shall immediately notify the juvenile's  
5 parent, guardian, ~~and~~ legal custodian, and Indian custodian of the time and  
6 circumstances of the release and the person, if any, to whom the juvenile was  
7 released. If the juvenile is not released under sub. (2), the person who took the  
8 juvenile into custody shall arrange in a manner determined by the court and law  
9 enforcement agencies for the juvenile to be interviewed by the intake worker under  
10 s. 938.067 (2). The person who took the juvenile into custody shall make a statement  
11 in writing with supporting facts of the reasons why the juvenile was taken into  
12 physical custody and shall give a copy of the statement to the intake worker and to  
13 any juvenile 10 years of age or older. If the intake interview is not done in person,  
14 the report may be read to the intake worker.

15           **SECTION 256.** 938.20 (7) (c) 1. of the statutes is amended to read:

16           938.20 (7) (c) 1. To a parent, guardian, ~~or~~ legal custodian, or Indian custodian,  
17 or to a responsible adult if the parent, guardian, ~~or~~ legal custodian, or Indian  
18 custodian is unavailable, unwilling, or unable to provide supervision for the juvenile,  
19 counseling or warning the juvenile as may be appropriate; or, if the juvenile is 15  
20 years of age or older, without immediate adult supervision, counseling or warning  
21 the juvenile as may be appropriate.

22           **SECTION 257.** 938.20 (7) (d) of the statutes is amended to read:

23           938.20 (7) (d) If the juvenile is released from custody, the intake worker shall  
24 immediately notify the juvenile's parent, guardian ~~and~~, legal custodian, and Indian

**BILL****SECTION 257**

1 custodian of the time and circumstances of the release and the person, if any, to whom  
2 the juvenile was released.

3 **SECTION 258.** 938.20 (8) (a) of the statutes is amended to read:

4 938.20 **(8)** (a) If a juvenile is held in custody, the intake worker shall notify the  
5 juvenile's parent, guardian, ~~and legal custodian,~~ and Indian custodian of the reasons  
6 for holding the juvenile in custody and of the juvenile's whereabouts unless there is  
7 reason to believe that notice would present imminent danger to the juvenile. The  
8 parent, guardian, ~~and legal custodian,~~ and Indian custodian shall also be notified of  
9 the time and place of the detention hearing required under s. 938.21, the nature and  
10 possible consequences of the hearing, ~~and the right to present and cross-examine~~  
11 witnesses at the hearing, ~~and, in the case of a parent or Indian custodian of an Indian~~  
12 juvenile, the right to counsel under s. 938.028 (4) (b). If the parent, guardian, ~~or legal~~  
13 custodian, or Indian custodian is not immediately available, the intake worker or  
14 another person designated by the court shall provide notice as soon as possible.

15 **SECTION 259.** 938.21 (2) (title) of the statutes is amended to read:

16 938.21 **(2)** (title) PROCEEDINGS CONCERNING RUNAWAY OR DELINQUENT JUVENILES.

17 **SECTION 260.** 938.21 (2) (ag) of the statutes is amended to read:

18 938.21 **(2)** (ag) Proceedings concerning a juvenile who comes within the  
19 jurisdiction of the court under s. 938.12 or 938.13 ~~(7) or (12) or (14)~~ shall be conducted  
20 according to this subsection.

21 **SECTION 261.** 938.21 (3) (ag) of the statutes is amended to read:

22 938.21 **(3)** (ag) Proceedings concerning a juvenile who comes within the  
23 jurisdiction of the court under s. 938.13 (4), (6), (6m), or ~~(14) (7)~~ shall be conducted  
24 according to this subsection.

25 **SECTION 262.** 938.21 (3) (am) of the statutes is amended to read:

**BILL**

1           938.21 (3) (am) The parent, guardian, ~~or~~ legal custodian, or Indian custodian  
2 may waive his or her right to participate in the hearing under this section. After any  
3 waiver, a rehearing shall be granted at the request of the parent, guardian, legal  
4 custodian, Indian custodian, or any other interested party for good cause shown.

5           **SECTION 263.** 938.21 (3) (b) of the statutes is amended to read:

6           938.21 (3) (b) If present at the hearing, a copy of the petition or request shall  
7 be given to the parent, guardian, ~~or~~ legal custodian, or Indian custodian, and to the  
8 juvenile if he or she is 12 years of age or older, before the hearing begins. Prior notice  
9 of the hearing shall be given to the juvenile's parent, guardian, ~~and~~ legal custodian,  
10 and Indian custodian and to the juvenile if he or she is 12 years of age or older under  
11 s. 938.20 (8).

12           **SECTION 264.** 938.21 (3) (d) of the statutes is amended to read:

13           938.21 (3) (d) Prior to the commencement of the hearing, the court shall inform  
14 the parent, guardian, ~~or~~ legal custodian, or Indian custodian of the allegations that  
15 have been made or may be made, the nature and possible consequences of this  
16 hearing as compared to possible future hearings, the right to present, confront, and  
17 ~~cross-examine witnesses, and the right to present witnesses~~ and, in the case of a  
18 parent or Indian custodian of an Indian juvenile, the right to counsel under s.  
19 938.028 (4) (b).

20           **SECTION 265.** 938.21 (3) (e) of the statutes is amended to read:

21           938.21 (3) (e) If the parent, guardian, ~~or~~ legal custodian, Indian custodian, or  
22 ~~the~~ juvenile is not represented by counsel at the hearing and if the juvenile is  
23 continued in custody as a result of the hearing, the parent, guardian, legal custodian,  
24 Indian custodian, or juvenile may request through counsel subsequently appointed  
25 or retained or through a guardian ad litem that the order to hold the juvenile in

**BILL**

1 custody be reheard. If the request is made, a rehearing shall take place as soon as  
2 possible. An order to hold the juvenile in custody shall be reheard for good cause,  
3 whether or not counsel was present.

4 **SECTION 266.** 938.21 (5) (d) 1. of the statutes is renumbered 938.21 (5) (d) and  
5 amended to read:

6 938.21 (5) (d) If the court finds that any of the circumstances specified in s.  
7 938.355 (2d) (b) 1. to 4. applies with respect to a parent, the court shall hold a hearing  
8 under s. 938.38 (4m) within 30 days after the date of that finding to determine the  
9 permanency plan for the juvenile. ~~If a hearing is held under this subdivision, the~~  
10 ~~agency responsible for preparing the permanency plan shall file the permanency~~  
11 ~~plan with the court not less than 5 days before the date of the hearing.~~

12 **SECTION 267.** 938.21 (5) (d) 2. of the statutes is repealed.

13 **SECTION 268.** 938.21 (5) (d) 3. of the statutes is repealed.

14 **SECTION 269.** 938.23 (2g) of the statutes is created to read:

15 938.23 (2g) RIGHT OF INDIAN JUVENILE'S PARENT OR INDIAN CUSTODIAN TO COUNSEL.  
16 Whenever an Indian juvenile is the subject of a proceeding under s. 938.13 (4), (6),  
17 (6m), or (7) involving the removal of the Indian juvenile from his or her home or the  
18 placement of the Indian juvenile in an out-of-home care placement, the Indian  
19 juvenile's parent or Indian custodian shall have the right to be represented by  
20 court-appointed counsel as provided in sub. (4).

21 **SECTION 270.** 938.23 (4) of the statutes is amended to read:

22 938.23 (4) PROVIDING COUNSEL. If a juvenile has a right to be represented by  
23 counsel or is provided counsel at the discretion of the court under this section and  
24 counsel is not knowingly and voluntarily waived, the court shall refer the juvenile  
25 to the state public defender and counsel shall be appointed by the state public

**BILL**

1 defender under s. 977.08 without a determination of indigency. In any situation  
2 under sub. (2g) in which a parent 18 years of age or over is entitled to representation  
3 by counsel; counsel is not knowingly and voluntarily waived; and it appears that the  
4 parent is unable to afford counsel in full, or the parent so indicates; the court shall  
5 refer the parent to the authority for indigency determinations specified under s.  
6 977.07 (1). In any other situation under this section in which a person has a right  
7 to be represented by counsel or is provided counsel at the discretion of the court,  
8 competent and independent counsel shall be provided and reimbursed in any  
9 manner suitable to the court regardless of the person's ability to pay, except that the  
10 court may not order a person who files a petition under s. 813.122 or 813.125 to  
11 reimburse counsel for the juvenile who is named as the respondent in that petition.

12 **SECTION 271.** 938.235 (4) (a) 7. of the statutes is amended to read:

13 938.235 **(4)** (a) 7. Petition for relief from a judgment terminating parental  
14 rights under s. 48.028 or 48.46.

15 **SECTION 272.** 938.24 (2r) (title) of the statutes is amended to read:

16 938.24 **(2r)** (title) ~~AMERICAN INDIAN JUVENILE; NOTIFICATION OF TRIBAL COURT.~~

17 **SECTION 273.** 938.24 (2r) (a) (intro.) of the statutes is amended to read:

18 938.24 **(2r)** (a) (intro.) If the intake worker determines as a result of the intake  
19 inquiry that the juvenile is an ~~American~~ Indian juvenile who has allegedly  
20 committed a delinquent act and that all of the following circumstances apply, the  
21 intake worker shall promptly notify the clerk of the tribal court under subd. 1., a  
22 person who serves as the tribal juvenile intake worker, or a tribal prosecuting  
23 attorney that the juvenile has allegedly committed a delinquent act under those  
24 circumstances:

25 **SECTION 274.** 938.24 (2r) (a) 1. of the statutes is amended to read:

**BILL**

1           938.24 (2r) (a) 1. At the time of the delinquent act the juvenile was under an  
2 order of a tribe's tribal court, other than a tribal court order relating to adoption,  
3 physical placement or visitation with the juvenile's parent, or permanent  
4 guardianship.

5           **SECTION 275.** 938.24 (2r) (a) 2. of the statutes is amended to read:

6           938.24 (2r) (a) 2. At the time of the delinquent act the juvenile was physically  
7 outside the boundaries of ~~that tribe's~~ the reservation of the Indian tribe of the tribal  
8 court and any off-reservation trust land of either that Indian tribe or a member of  
9 that Indian tribe as a direct consequence of a tribal court order under subd. 1.,  
10 including a tribal court order placing the juvenile in the home of a relative of the  
11 juvenile who on or after the date of the tribal court order resides physically outside  
12 the boundaries of a reservation and off-reservation trust land.

13           **SECTION 276.** 938.24 (2r) (b) of the statutes is amended to read:

14           938.24 (2r) (b) If the intake worker is notified by an official of the Indian tribe  
15 that a petition relating to the delinquent act has been or may be filed in tribal court,  
16 the intake worker shall consult with tribal officials, unless the intake worker  
17 determines under sub. (4) that the case should be closed. After the consultation, the  
18 intake worker shall determine whether the best interests of the juvenile and of the  
19 public would be served by having the matter proceed solely in tribal court. If the  
20 intake worker determines that the best interests of the juvenile and of the public  
21 would be served by having the matter proceed solely in tribal court, the intake  
22 worker shall close the case. If the intake worker determines that the best interests  
23 of the juvenile and of the public would not be served by having the matter proceed  
24 solely in tribal court, the intake worker shall proceed under sub. (3) or (4).

25           **SECTION 277.** 938.243 (1) (e) of the statutes is amended to read:

**BILL**

1           938.243 (1) (e) The right of ~~the juvenile~~ to counsel under s. 938.23.

2           **SECTION 278.** 938.25 (2g) (title) of the statutes is amended to read:

3           938.25 (2g) (title) ~~AMERICAN INDIAN JUVENILE; CONSULTATION WITH TRIBAL COURT.~~

4           **SECTION 279.** 938.255 (1) (cm) of the statutes is amended to read:

5           938.255 (1) (cm) If the petition is initiating proceedings ~~other than proceedings~~  
6 ~~under s. 938.12, 938.125 or 938.13 (12)~~ under s. 938.13 (4), (6), (6m), or (7), whether  
7 the juvenile may be subject to the federal Indian Child Welfare Act, 25 USC 1901 to  
8 1963, and, if the juvenile may be subject to that act, the names and addresses of the  
9 juvenile's Indian custodian, if any, and Indian tribe, if known.

10          **SECTION 280.** 938.255 (1) (cr) 1. a. of the statutes is amended to read:

11          938.255 (1) (cr) 1. a. The juvenile is an ~~American Indian~~ juvenile.

12          **SECTION 281.** 938.255 (1) (cr) 1. b. of the statutes is amended to read:

13          938.255 (1) (cr) 1. b. At the time of the alleged delinquent act, the juvenile was  
14 under an order of a ~~tribe's~~ tribal court, other than a tribal court order relating to  
15 adoption, physical placement or visitation with the juvenile's parent, or permanent  
16 guardianship.

17          **SECTION 282.** 938.255 (1) (cr) 1. c. of the statutes is amended to read:

18          938.255 (1) (cr) 1. c. At the time of the delinquent act the juvenile was  
19 physically outside the boundaries of ~~that tribe's~~ the reservation of the Indian tribe  
20 of the tribal court and any off-reservation trust land of either that Indian tribe or a  
21 member of that Indian tribe as a direct consequence of a tribal court order under  
22 subd. 1. b., including a tribal court order placing the juvenile in the home of a relative  
23 of the juvenile who on or after the date of the tribal court order resides physically  
24 outside the boundaries of a reservation and off-reservation trust land.

25          **SECTION 283.** 938.255 (1) (cr) 2. of the statutes is amended to read:

**BILL**

1           938.255 (1) (cr) 2. If the statement under subd. 1. is included in the petition and  
2 if the intake worker, district attorney, or corporation counsel has been notified by an  
3 official of the Indian tribe that a petition relating to the delinquent act has been or  
4 may be filed in tribal court with respect to the alleged delinquent act, a statement  
5 to that effect.

6           **SECTION 284.** 938.255 (1) (g) of the statutes is created to read:

7           938.255 (1) (g) If the juvenile is or may be an Indian juvenile and is alleged to  
8 come within the provisions of s. 938.13 (4), (6), (6m), or (7), reliable and credible  
9 information showing that continued custody of the juvenile by the juvenile's parent  
10 or Indian custodian is likely to result in serious emotional or physical damage to the  
11 juvenile under s. 938.028 (4) (d) 1. and reliable and credible information showing that  
12 the person who took the juvenile into custody and the intake worker have made  
13 active efforts under s. 938.028 (4) (d) 2. to prevent the breakup of the Indian family  
14 and that those efforts have proved unsuccessful. If the juvenile is or may be an  
15 Indian juvenile, is alleged to come within the provisions of s. 938.13 (4), (6), (6m), or  
16 (7), and is being held in custody outside of his or her home, the petition shall set forth  
17 with specificity both the information required under this paragraph and the  
18 information required under par. (f).

19           **SECTION 285.** 938.255 (2) of the statutes is amended to read:

20           938.255 (2) If any of the facts in sub. (1) (a) to (cr) and, (f), and (g) are not known  
21 or cannot be ascertained by the petitioner, the petition shall so state.

22           **SECTION 286.** 938.255 (4) of the statutes is amended to read:

23           938.255 (4) **COPY TO JUVENILE, PARENTS, AND OTHERS.** A copy of the petition shall  
24 be given to the juvenile and to the parents, guardian, legal custodian and physical  
25 custodian. If the juvenile is an Indian juvenile who is alleged to come within the



**BILL**

1 provisions of s. 938.13 (4), (6), (6m), or (7), a copy of the petition shall also be given  
2 to the Indian juvenile's Indian custodian and tribe.

3 **SECTION 287.** 938.27 (3) (a) 1. of the statutes is amended to read:

4 938.27 (3) (a) 1. The court shall notify, under s. 938.273, the juvenile, any  
5 parent, guardian, and legal custodian of the juvenile, any foster parent, treatment  
6 foster parent, or other physical custodian described in s. 48.62 (2) of the juvenile, and  
7 any person specified in par. (b) or (d), if applicable, of all hearings involving the  
8 juvenile under this subchapter, except hearings on motions for which notice must be  
9 provided only to the juvenile and his or her counsel. If parents entitled to notice have  
10 the same place of residence, notice to one constitutes notice to the other. The first  
11 notice to any interested party, foster parent, treatment foster parent, or other  
12 physical custodian described in s. 48.62 (2) shall be in writing and may have a copy  
13 of the petition attached to it. Notices of subsequent hearings may be given by  
14 telephone at least 72 hours before the time of the hearing. The person giving  
15 telephone notice shall place in the case file a signed statement of the date and time  
16 notice was given and the person to whom he or she spoke.

17 **SECTION 288.** 938.27 (3) (d) of the statutes is created to read:

18 938.27 (3) (d) If the petition that was filed relates to facts concerning a situation  
19 under s. 938.13 (4), (6), (6m), or (7) involving an Indian juvenile, the court shall notify,  
20 under s. 938.273, the Indian juvenile's Indian custodian and tribe and that Indian  
21 custodian or tribe may intervene at any point in the proceeding.

22 **SECTION 289.** 938.27 (4) (b) of the statutes is amended to read:

23 938.27 (4) (b) Advise the juvenile and any other party, if applicable, of his or  
24 her right to legal counsel regardless of ability to pay.

25 **SECTION 290.** 938.273 (1) (a) of the statutes of the statutes is amended to read:

**BILL****SECTION 290**

1           938.273 (1) (a) ~~Service~~ Except as provided in pars. (ag), (ar), and (b), service of  
2 summons or notice required by s. 938.27 may be made by mailing a copy of the  
3 summons or notice to the ~~persons~~ person summoned or notified. If

4           ~~(ar) Except as provided in par. (b), if the persons~~ person, other than a person  
5 specified in s. 938.27 (4m), ~~fail~~ fails to appear at the hearing or otherwise to  
6 acknowledge service, a continuance shall be granted, ~~except as provided in par. (b),~~  
7 and service shall be made personally by delivering to the ~~persons~~ person a copy of the  
8 summons or notice; except that if the court determines that it is impracticable to  
9 serve the summons or notice personally, ~~it~~ the court may order service by certified  
10 mail addressed to the last-known ~~addresses~~ address of the ~~persons~~ person.

11           **SECTION 291.** 938.273 (1) (ag) of the statutes is created to read:

12           938.273 (1) (ag) In a proceeding under s. 938.13 (4), (6), (6m), or (7), service of  
13 summons or notice required by s. 938.27 to an Indian juvenile's parent, Indian  
14 custodian, or tribe shall be made as provided in s. 938.028 (4) (a).

15           **SECTION 292.** 938.273 (1) (b) of the statutes is amended to read:

16           938.273 (1) (b) The court may refuse to grant a continuance when the juvenile  
17 is being held in secure custody, but if the court so refuses, ~~it~~ the court shall order that  
18 service of notice of the next hearing be made personally or by certified mail to the  
19 last-known address of the person who failed to appear at the hearing.

20           **SECTION 293.** 938.273 (1) (c) of the statutes is renumbered 938.273 (1) (c)  
21 (intro.) and amended to read:

22           938.273 (1) (c) (intro.) Personal service shall be made at least 72 hours before  
23 the hearing. Mail shall be sent at least 7 days before the hearing, ~~except that when~~  
24 as follows:

**BILL**

1           1. When the petition is filed under s. 938.13 and the person to be notified lives  
2 outside the state, the mail shall be sent at least 14 days before the hearing.

3           **SECTION 294.** 938.273 (1) (c) 2. of the statutes is created to read:

4           938.273 **(1)** (c) 2. When a petition under s. 938.13 (4), (6), (6m), or (7) involves  
5 an Indian juvenile and the person to be notified is the Indian juvenile's parent,  
6 Indian custodian, or tribe, the mail shall be sent so that it is received by the person  
7 to be notified at least 10 days before the time of the hearing or by the U.S. secretary  
8 of the interior at least 25 days before the time of the hearing.

9           **SECTION 295.** 938.299 (6) (d) of the statutes is amended to read:

10           938.299 **(6)** (d) The court may stay the proceedings under this chapter pending  
11 the outcome of the paternity proceedings under subch. IX of ch. 767 if the court  
12 determines that the paternity proceedings will not unduly delay the proceedings  
13 under this chapter and the determination of paternity is necessary to the court's  
14 disposition of the juvenile if the juvenile is found to be in need of protection or services  
15 or if the court determines that the paternity proceedings may result in a finding that  
16 the juvenile is an Indian juvenile and in a petition by the juvenile's parent, Indian  
17 custodian, or tribe for transfer of the proceeding to the jurisdiction of the tribe.

18           **SECTION 296.** 938.299 (9) (title) of the statutes is amended to read:

19           938.299 **(9)** (title) AMERICAN INDIAN JUVENILE; TRIBAL COURT INVOLVEMENT.

20           **SECTION 297.** 938.299 (9) (a) of the statutes is amended to read:

21           938.299 **(9)** (a) If a petition under s. 938.12 or 938.13 (12) includes the  
22 statement in s. 938.255 (1) (cr) 2. or if the court is informed during a proceeding under  
23 s. 938.12 or 938.13 (12) that a petition relating to the delinquent act has been filed  
24 in a tribe's tribal court with respect to a juvenile to whom the circumstances specified  
25 in s. 938.255 (1) (cr) 1. apply, the court shall stay the proceeding and communicate

**BILL**

1 with the tribal court in which the other proceeding is or may be pending to discuss  
2 which court is the more appropriate forum.

3 **SECTION 298.** 938.299 (10) of the statutes is created to read:

4 938.299 (10) If at any point in a proceeding under s. 938.13 (4), (6), (6m), or (7)  
5 the court determines that the juvenile is or may be an Indian juvenile, the court shall  
6 provide notice of the proceeding to the juvenile's parent, Indian custodian, and tribe  
7 in the manner specified in s. 938.028 (4) (a). The next hearing in the proceeding may  
8 not be held until at least 10 days after receipt of the notice by the parent, Indian  
9 custodian, and tribe or until at least 25 days after receipt of the notice by the U.S.  
10 secretary of the interior. On request of the parent, Indian custodian, or tribe, the  
11 court shall grant a continuance of up to 20 additional days to enable the requester  
12 to prepare for that hearing.

13 **SECTION 299.** 938.30 (1) of the statutes is amended to read:

14 938.30 (1) TIME OF HEARING. Except as provided in this subsection and s.  
15 938.299 (10), the hearing to determine the juvenile's plea to a citation or a petition  
16 under s. 938.12, 938.125, or 938.13 (12) or (14), or to determine whether any party  
17 wishes to contest an allegation that the juvenile is in need of protection or services  
18 under s. 938.13 (4), (6), (6m), or (7) or (14) shall take place on a date which allows  
19 reasonable time for the parties to prepare but is within 30 days after the filing of a  
20 petition or issuance of a citation for a juvenile who is not being held in secure custody  
21 or within 10 days after the filing of a petition or issuance of a citation for a juvenile  
22 who is being held in secure custody. In a municipal court operated jointly by 2 or more  
23 cities, towns or villages under s. 755.01 (4), the hearing to determine the juvenile's  
24 plea shall take place within 45 days after the filing of a petition or issuance of a  
25 citation for a juvenile who is not being held in secure custody.

**BILL**

1           **SECTION 300.** 938.30 (2) of the statutes is amended to read:

2           **938.30 (2)** INFORMATION TO JUVENILE AND PARENTS; BASIC RIGHTS; SUBSTITUTION.

3           At or before the commencement of the hearing under this section the juvenile and  
4           the parent, guardian, ~~or~~ legal custodian, or Indian custodian shall be advised of their  
5           rights as specified in s. 938.243 and shall be informed that the hearing shall be to the  
6           court and that a request for a substitution of judge under s. 938.29 must be made  
7           before the end of the plea hearing or is waived. Nonpetitioning parties, including the  
8           juvenile, shall be granted a continuance of the plea hearing if they wish to consult  
9           with an attorney on the request for a substitution of a judge.

10          **SECTION 301.** 938.30 (6) (a) of the statutes is amended to read:

11          **938.30 (6) (a)** If a petition is not contested, the court, subject to s. 938.299 (10),  
12          shall set a date for the dispositional hearing which allows reasonable time for the  
13          parties to prepare but is no more than 10 days from the plea hearing for a juvenile  
14          who is held in secure custody and no more than 30 days from the plea hearing for a  
15          juvenile who is not held in secure custody. If all parties consent the court may  
16          proceed immediately with the dispositional hearing. If a citation is not contested, the  
17          court may proceed immediately to enter a dispositional order.

18          **SECTION 302.** 938.30 (7) of the statutes is amended to read:

19          **938.30 (7)** CONTESTED PETITIONS OR CITATIONS; DATE FOR FACT-FINDING HEARING.

20          If the petition or citation is contested, the court, subject to s. 938.299 (10), shall set  
21          a date for the fact-finding hearing that allows a reasonable time for the parties to  
22          prepare but is no more than 20 days ~~from~~ after the plea hearing for a juvenile who  
23          is held in secure custody and no more than 30 days ~~from~~ after the plea hearing for  
24          a juvenile who is not held in secure custody.

25          **SECTION 303.** 938.305 of the statutes is amended to read:

**BILL****938.305 Hearing upon the involuntary removal of a juvenile.**

Notwithstanding other time periods for hearings under this chapter, if a juvenile is removed from the physical custody of the juvenile's parent or guardian under s. 938.19 (1) (c) or (d) 5. without the consent of the parent or guardian, the court, subject to s. 938.299 (10), shall schedule a plea hearing and fact-finding hearing within 30 days after a request from the parent or guardian from whom custody was removed. The plea hearing and fact-finding hearing may be combined. This time period may be extended only with the consent of the requesting parent or guardian.

**SECTION 304.** 938.31 (7) (a) of the statutes is amended to read:

938.31 (7) (a) At the close of the fact-finding hearing, the court, subject to s. 938.299 (10), shall set a date for the dispositional hearing that allows a reasonable time for the parties to prepare but is no more than 10 days after the fact-finding hearing for a juvenile in secure custody and no more than 30 days after the fact-finding hearing for a juvenile not held in secure custody. If all parties consent, the court may immediately proceed with a dispositional hearing.

**SECTION 305.** 938.315 (1) (a) 11. of the statutes is created to read:

938.315 (1) (a) 11. A continuance, not to exceed 20 days, granted at the request of the parent, Indian custodian, or tribe of a juvenile who is or may be an Indian juvenile to enable the requester to prepare for a proceeding under s. 938.13 (4), (6), (6m), or (7) involving the juvenile.

**SECTION 306.** 938.315 (2) of the statutes is amended to read:

938.315 (2) CONTINUANCE FOR GOOD CAUSE. A continuance may be granted by the court only upon a showing of good cause in open court or during a telephone conference under s. 807.13 on the record and only for so long as is necessary, taking into account the request or consent of the representative of the public under s. 938.09

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1 or the parties, the request of a person specified in sub. (1) (a) 11., the interests of the  
2 victims, and the interest of the public in the prompt disposition of cases.

3 **SECTION 307.** 938.32 (1) (d) 1. of the statutes is renumbered 938.32 (1) (d) and  
4 amended to read:

5 938.32 (1) (d) If the court finds that any of the circumstances specified in s.  
6 938.355 (2d) (b) 1. to 4. applies with respect to a parent, the court shall hold a hearing  
7 under s. 938.38 (4m) within 30 days after the date of that finding to determine the  
8 permanency plan for the juvenile. ~~The agency responsible for preparing the~~  
9 ~~permanency plan shall file the permanency plan with the court not less than 5 days~~  
10 ~~before the date of the hearing.~~

11 **SECTION 308.** 938.32 (1) (d) 2. of the statutes is repealed.

12 **SECTION 309.** 938.32 (1) (d) 3. of the statutes is repealed.

13 **SECTION 310.** 938.33 (4) (d) of the statutes is created to read:

14 938.33 (4) (d) In the case of a proceeding under s. 938.13 (4), (6), (6m), or (7),  
15 if the agency knows or has reason to know that the juvenile is an Indian juvenile, a  
16 description of any efforts undertaken to determine whether the juvenile is an Indian  
17 juvenile; specific information showing that continued custody of the juvenile by the  
18 parent or Indian custodian is likely to result in serious emotional or physical damage  
19 to the juvenile, under s. 938.028 (4) (d) 1.; specific information showing that the  
20 county department or agency primarily responsible for providing services to the  
21 juvenile has made active efforts under s. 938.028 (4) (d) 2. to prevent the breakup of  
22 the Indian family and that those efforts have proved unsuccessful; a statement as to  
23 whether the out-of-home care placement recommended is in compliance with the  
24 order of placement preference under s. 938.028 (6) (a) or, if applicable, s. 938.028 (6)  
25 (b); and, if the recommended placement is not in compliance with that order, specific

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1 information showing good cause, as described in s. 938.028 (6) (d), for departing from  
2 that order.

3 **SECTION 311.** 938.335 (3j) of the statutes is created to read:

4 938.335 **(3j)** INDIAN JUVENILE; ACTIVE EFFORTS FINDING. At hearings under this  
5 section involving an Indian juvenile who is the subject of a proceeding under s. 938.13  
6 (4), (6), (6m), or (7), if the agency, as defined in s. 938.38 (1) (a), is recommending  
7 placement of the Indian juvenile in a foster home, treatment foster home, group  
8 home, or residential care center for children and youth or in the home of a relative  
9 other than a parent, the agency shall present as evidence specific information  
10 showing all of the following:

11 (a) That continued custody of the Indian juvenile by the parent or Indian  
12 custodian is likely to result in serious emotional or physical damage to the Indian  
13 juvenile under s. 938.028 (4) (d) 1.

14 (b) That the county department or agency primarily responsible for providing  
15 services to the Indian juvenile has made active efforts under s. 938.028 (4) (d) 2. to  
16 prevent the breakup of the Indian family and that those efforts have proved  
17 unsuccessful.

18 (c) That the placement recommended is in compliance with the order of  
19 placement preference under s. 938.028 (6) (a) or, if applicable, s. 938.028 (6) (b) or,  
20 if that placement is not in compliance with that order, good cause, as described in s.  
21 938.028 (6) (d), for departing from that order.

22 **SECTION 312.** 938.345 (1m) of the statutes is created to read:

23 938.345 **(1m)** INDIAN JUVENILE; PLACEMENT PREFERENCES. (a) Subject to s.  
24 938.028 (6) (b), if the juvenile is an Indian juvenile who is in need of protection or  
25 services under s. 938.13 (4), (6), (6m), or (7) and who is being placed in an



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1 out-of-home care placement, as defined in s. 938.028 (2) (c), the court shall designate  
2 one of the placements specified in s. 938.028 (6) (a) 1. to 4. as the placement for the  
3 Indian juvenile, in the order of preference listed, unless the court finds good cause,  
4 as described in s. 938.028 (6) (d), for departing from that order.

5 **SECTION 313.** 938.355 (2) (b) 6v. of the statutes is created to read:

6 938.355 (2) (b) 6v. If the juvenile is an Indian juvenile who is in need of  
7 protection or services under s. 983.13 (4), (6), (6m), or (7) and who is placed outside  
8 the home, a finding supported by clear and convincing evidence, including the  
9 testimony of one or more qualified expert witnesses, that continued custody of the  
10 Indian juvenile by the parent or Indian custodian is likely to result in serious  
11 emotional or physical damage to the juvenile under s. 938.028 (4) (d) 1. and a finding  
12 supported by clear and convincing evidence as to whether the county department or  
13 agency primarily responsible for providing services under a court order has made  
14 active efforts under s. 938.028 (4) (d) 2. to prevent the breakup of the Indian family  
15 and that those efforts have proved unsuccessful. The findings under this subsection  
16 shall be in addition to the findings under subd. 6., except that for the sole purpose  
17 of determining whether the cost of providing care for an Indian juvenile is eligible  
18 for reimbursement under 42 USC 670 to 679b, the findings under this subdivision  
19 and the findings under subd. 6. shall be considered to be the same findings.

20 **SECTION 314.** 938.355 (2) (d) of the statutes is amended to read:

21 938.355 (2) (d) The court shall provide a copy of the dispositional order to the  
22 juvenile's parent, guardian, legal custodian, or trustee and, if the juvenile is an  
23 Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m),  
24 or (7), to the Indian juvenile's Indian custodian and tribe.

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1           **SECTION 315.** 938.355 (2d) (c) 1. of the statutes is renumbered 938.355 (2d) (c)  
2 and amended to read:

3           938.355 **(2d)** (c) If the court finds that any of the circumstances under par. (b)  
4 1. to 4. applies with respect to a parent, the court shall hold a hearing under s. 938.38  
5 (4m) within 30 days after the date of that finding to determine the permanency plan  
6 for the juvenile. ~~If a hearing is held under this subdivision, the agency responsible~~  
7 ~~for preparing the permanency plan shall file the permanency plan with the court not~~  
8 ~~less than 5 days before the date of the hearing.~~

9           **SECTION 316.** 938.355 (2d) (c) 2. of the statutes is repealed.

10          **SECTION 317.** 938.355 (2d) (c) 3. of the statutes is repealed.

11          **SECTION 318.** 938.355 (2d) (d) of the statutes is created to read:

12          938.355 **(2d)** (d) This subsection does not affect the requirement under sub. (2)  
13 (b) 6v. that the court include in a dispositional order placing an Indian juvenile who  
14 is in need of protection or services under s. 938.13 (4), (6), (6m), or (7) outside the  
15 home a finding as to whether the county department or agency primarily responsible  
16 for providing services under a court order has made active efforts under s. 938.028  
17 (4) (d) 2. to prevent the breakup of the Indian family and that those efforts have  
18 proved unsuccessful.

19          **SECTION 319.** 938.355 (6) (an) 1. of the statutes is amended to read:

20          938.355 **(6)** (an) 1. If a juvenile who has violated a municipal ordinance, other  
21 than an ordinance enacted under s. 118.163 (1m) or (2), violates a condition of a  
22 dispositional order imposed by the municipal court, the municipal court may petition  
23 the court assigned to exercise jurisdiction under this chapter and ch. 48 to impose  
24 on the juvenile the sanction under par. (d) 1. or the sanction under par. (d) 3., with  
25 monitoring by an electronic monitoring system. A sanction may be imposed under

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1 this subdivision only if, at the time of the judgment, the municipal court explained  
2 the conditions to the juvenile and informed the juvenile of those possible sanctions  
3 for a violation or if before the violation the juvenile has acknowledged in writing that  
4 he or she has read, or has had read to him or her, those conditions and possible  
5 sanctions and that he or she understands those conditions and possible sanctions.  
6 The petition shall contain a statement of whether the juvenile may be subject to the  
7 federal Indian Child Welfare Act, 25 USC 1911 to 1963, and, if the juvenile may be  
8 subject to that act, the names and addresses of the juvenile's Indian custodian, if any,  
9 and tribe, if known.

10 **SECTION 320.** 938.355 (6) (b) of the statutes is amended to read:

11 938.355 (6) (b) *Motion to impose sanction.* A motion for imposition of a sanction  
12 may be brought by the person or agency primarily responsible for the provision of  
13 dispositional services, the district attorney or corporation counsel, or the court that  
14 entered the dispositional order. If the court initiates the motion, that court is  
15 disqualified from holding a hearing on the motion. Notice of the motion shall be given  
16 to the juvenile, guardian ad litem, counsel, parent, guardian, legal custodian, and all  
17 parties present at the original dispositional hearing. The motion shall contain a  
18 statement of whether the juvenile may be subject to the federal Indian Child Welfare  
19 Act, 25 USC 1911 to 1963 and, if the juvenile may be subject to that act, the names  
20 and addresses of the juvenile's Indian custodian, if any, and tribe, if known.

21 **SECTION 321.** 938.355 (6) (bm) of the statutes is created to read:

22 938.355 (6) (bm) *Indian juvenile; notice.* If the person initiating the motion  
23 knows or has reason to know that the juvenile is an Indian juvenile who has been  
24 found to be in need of protection or services under s. 938.13 (4), (6), (6m), or (7) or who  
25 has been adjudged to have violated a civil law or ordinance, notice under par. (b) to

**BILL****SECTION 321**

1 the Indian juvenile's parent shall be provided in the manner specified in s. 938.028  
2 (4) (a). In like manner, the court shall also notify the Indian juvenile's Indian  
3 custodian and tribe. No hearing may be held under par. (c) until at least 10 days after  
4 receipt of the notice by the Indian juvenile's parent, Indian custodian, and tribe or  
5 until at least 25 days after receipt of the notice by the U.S. secretary of the interior.  
6 On request of the Indian juvenile's parent, Indian custodian, or tribe, the court shall  
7 grant a continuance of up to 20 additional days to enable the requester to prepare  
8 for the hearing.

9 **SECTION 322.** 938.355 (6) (cr) of the statutes is created to read:

10 938.355 (6) (cr) *Indian juvenile; findings.* The court may not order the sanction  
11 of placement in a place of nonsecure custody specified in par. (d) 1. for an Indian  
12 juvenile who has been found to be in need of protection or services under s. 983.13  
13 (4), (6), (6m), or (7) or who has been adjudged to have violated a civil law or ordinance  
14 unless the court finds by clear and convincing evidence, including the testimony of  
15 one or more qualified expert witnesses, that continued custody of the Indian juvenile  
16 by the parent or Indian custodian is likely to result in serious emotional or physical  
17 damage to the juvenile under s. 938.028 (4) (d) 1. and that the agency primarily  
18 responsible for providing services for the Indian juvenile has made active efforts  
19 under s. 938.028 (4) (d) 2. to prevent the breakup of the Indian family and that those  
20 efforts have proved unsuccessful. These findings are not required if they were made  
21 in the dispositional order under which the juvenile is being sanctioned. The findings  
22 under this paragraph shall be in addition to the findings under par. (cm), except that  
23 for the sole purpose of determining whether the cost of providing care for an Indian  
24 juvenile is eligible for reimbursement under 42 USC 670 to 679b, the findings under

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1 this paragraph and the findings under par. (cm) shall be considered to be the same  
2 findings.

3 **SECTION 323.** 938.355 (6m) (am) 1. of the statutes is amended to read:

4 938.355 **(6m)** (am) 1. If a juvenile who has violated a municipal ordinance  
5 enacted under s. 118.163 (2) violates a condition of a dispositional order imposed by  
6 the municipal court, the municipal court may petition the court assigned to exercise  
7 jurisdiction under this chapter and ch. 48 to impose on the juvenile the sanction  
8 specified in par. (a) 1g. A sanction may be imposed under this subdivision only if, at  
9 the time of the judgment the municipal court explained the conditions to the juvenile  
10 and informed the juvenile of that possible sanction or if before the violation the  
11 juvenile has acknowledged in writing that he or she has read, or has had read to him  
12 or her, those conditions and that possible sanction and that he or she understands  
13 those conditions and that possible sanction. The petition shall contain a statement  
14 of whether the juvenile may be subject to the federal Indian Child Welfare Act, 25  
15 USC 1911 to 1963, and, if the juvenile may be subject to that act, the names and  
16 addresses of the juvenile's Indian custodian, if any, and tribe, if known.

17 **SECTION 324.** 938.355 (6m) (bm) of the statutes is created to read:

18 938.355 **(6m)** (bm) *Indian juvenile; notice.* If the person initiating the motion  
19 knows or has reason to know that the juvenile is an Indian juvenile, notice under par.  
20 (b) to the Indian juvenile's parent shall be provided in the manner specified in s.  
21 938.028 (4) (a). In like manner, the court shall also notify the Indian juvenile's Indian  
22 custodian and tribe. No hearing may be held under par. (c) until at least 10 days after  
23 receipt of the notice by the Indian juvenile's parent, Indian custodian, and tribe or  
24 until at least 25 days after receipt of the notice by the U.S. secretary of the interior.  
25 On request of the Indian juvenile's parent, Indian custodian, or tribe, the court shall

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1 grant a continuance of up to 20 additional days to enable the requester to prepare  
2 for the hearing.

3 **SECTION 325.** 938.355 (6m) (c) of the statutes is amended to read:

4 938.355 **(6m)** (c) *Sanction hearing.* Before imposing a sanction under par. (a)  
5 or (ag), the court shall hold a hearing at which the juvenile is entitled to be  
6 represented by legal counsel and to present evidence. ~~The Except as provided in par.~~  
7 ~~(bm), the~~ hearing shall be held within 15 days after the filing of a motion under par.  
8 (b).

9 **SECTION 326.** 938.355 (6m) (cr) of the statutes is created to read:

10 938.355 **(6m)** (cr) *Indian juvenile; findings.* The court may not order the  
11 sanction of placement in a place of nonsecure custody specified in par. (a) 1g. for an  
12 Indian juvenile unless the court finds by clear and convincing evidence, including the  
13 testimony of one or more qualified expert witnesses, that continued custody of the  
14 Indian juvenile by the parent or Indian custodian is likely to result in serious  
15 emotional or physical damage to the juvenile under s. 938.028 (4) (d) 1. and that the  
16 agency primarily responsible for providing services for the Indian juvenile has made  
17 active efforts under s. 938.028 (4) (d) 2. to prevent the breakup of the Indian family  
18 and that those efforts have proved unsuccessful. These findings are not required if  
19 they were made in the dispositional order under which the juvenile is being  
20 sanctioned. The findings under this paragraph shall be in addition to the findings  
21 under par. (cm), except that for the sole purpose of determining whether the cost of  
22 providing care for an Indian juvenile is eligible for reimbursement under 42 USC 670  
23 to 679b, the findings under this paragraph and the findings under par. (cm) shall be  
24 considered to be the same findings.

25 **SECTION 327.** 938.357 (1) (am) 1. of the statutes is amended to read:

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1           938.357 (1) (am) 1. If the proposed change in placement involves any change  
2 in placement other than a change in placement under par. (c), the person or agency  
3 primarily responsible for implementing the dispositional order or the district  
4 attorney shall cause written notice of the proposed change in placement to be sent  
5 to the juvenile, the parent, guardian, and legal custodian of the juvenile, and any  
6 foster parent, treatment foster parent, or other physical custodian described in s.  
7 48.62 (2) of the juvenile. If the juvenile is an Indian juvenile who is in need of  
8 protection or services under s. 938.13 (4), (6), (6m), or (7), written notice shall also  
9 be sent to the Indian juvenile's Indian custodian and tribe. The notice shall contain  
10 the name and address of the new placement, the reasons for the change in placement,  
11 a statement describing why the new placement is preferable to the present  
12 placement, and a statement of how the new placement satisfies objectives of the  
13 treatment plan ordered by the court.

14           **SECTION 328.** 938.357 (1) (am) 1g. of the statutes is created to read:

15           938.357 (1) (am) 1g. If the juvenile is an Indian juvenile who is in need of  
16 protection or services under s. 938.13 (4), (6), (6m), or (7) and if the proposed change  
17 in placement would change the Indian juvenile's placement from a placement outside  
18 the home to another placement outside the home, a notice under subd. 1. shall also  
19 contain a statement as to whether the new placement is in compliance with the order  
20 of placement preference under s. 938.028 (6) (a) or, if applicable, s. 938.028 (6) (b) and,  
21 if the new placement is not in compliance with that order, specific information  
22 showing good cause, as described in s. 938.028 (6) (d), for departing from that order.

23           **SECTION 329.** 938.357 (1) (am) 1m. of the statutes is created to read:

24           938.357 (1) (am) 1m. In a proceeding involving an Indian juvenile who is in  
25 need of protection or services under s. 938.13 (4), (6), (6m), or (7), notice under subd.

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1 1. to the Indian juvenile's parent, Indian custodian, and tribe shall be provided in the  
2 manner specified in s. 938.028 (4) (a). No hearing on the request may be held until  
3 at least 10 days after receipt of the notice by the Indian juvenile's parent, Indian  
4 custodian, and tribe or until at least 25 days after receipt of the notice by the U.S.  
5 secretary of the interior. On request of the Indian juvenile's parent, Indian  
6 custodian, or tribe, the court shall grant a continuance of up to 20 additional days  
7 to enable the requester to prepare for the hearing.

8 **SECTION 330.** 938.357 (1) (am) 2. of the statutes is amended to read:

9 938.357 (1) (am) 2. Any person receiving the notice under subd. 1. or notice of  
10 a specific foster or treatment foster placement under s. 938.355 (2) (b) 2. may obtain  
11 a hearing on the matter by filing an objection with the court within 10 days after  
12 receipt of the notice. Placements may not be changed until 10 days after that notice  
13 is sent to the court unless the parent, guardian, or legal custodian and, or Indian  
14 custodian, the juvenile, if 12 or more years of age, and the juvenile's tribe, if the  
15 juvenile is an Indian juvenile who is in need of protection or services under s. 938.13  
16 (4), (6), (6m), or (7), sign written waivers of objection, except that changes in  
17 placement that were authorized in the dispositional order may be made immediately  
18 if notice is given as required under subd. 1. In addition, a hearing is not required for  
19 placement changes authorized in the dispositional order except when an objection  
20 filed by a person who received notice alleges that new information is available that  
21 affects the advisability of the court's dispositional order.

22 **SECTION 331.** 938.357 (1) (am) 3. of the statutes, as affected by 2007 Wisconsin  
23 Act 20, is amended to read:

24 938.357 (1) (am) 3. If the court changes the juvenile's placement from a  
25 placement outside the home to another placement outside the home, the change in



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1 placement order shall contain the applicable order under sub. (2v) (a) 1m. and the  
2 applicable statement under sub. (2v) (a) 2. If the court changes the placement of an  
3 Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m),  
4 or (7) from a placement outside the home to another placement outside the home, the  
5 change in placement order shall, in addition, comply with the order of placement  
6 preference under s. 938.028 (6) (a) or, if applicable, s. 938.028 (6) (b), unless the court  
7 finds good cause, as described in s. 938.028 (6) (d), for departing from that order.

8 **SECTION 332.** 938.357 (1) (c) 1m. of the statutes is created to read:

9 938.357 (1) (c) 1m. If the juvenile is an Indian juvenile who is in need of  
10 protection or services under s. 938.13 (4), (6), (6m), or (7), a request under subd. 1.  
11 shall also contain specific information showing that continued custody of the Indian  
12 juvenile by the parent or Indian custodian is likely to result in serious emotional or  
13 physical damage to the juvenile under s. 938.028 (4) (d) 1., specific information  
14 showing that the agency primarily responsible for implementing the dispositional  
15 order has made active efforts under s. 938.028 (4) (d) 2. to prevent the breakup of the  
16 Indian family and that those efforts have proved unsuccessful, a statement as to  
17 whether the new placement is in compliance with the order of placement preference  
18 under s. 938.028 (6) (a) or, if applicable, s. 938.028 (6) (b) and, if the new placement  
19 is not in compliance with that order, specific information showing good cause, as  
20 described in s. 938.028 (6) (d), for departing from that order.

21 **SECTION 333.** 938.357 (1) (c) 2. of the statutes is amended to read:

22 938.357 (1) (c) 2. The court shall hold a hearing prior to ordering a change in  
23 placement requested under subd. 1. At least 3 days prior to the hearing, the court  
24 shall provide notice of the hearing, together with a copy of the request for the change  
25 in placement, to the juvenile, the parent, guardian, and legal custodian of the

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1 juvenile, ~~and~~ all parties that are bound by the dispositional order, and, if the juvenile  
2 is an Indian juvenile who is in need of protection or services under s. 938.13 (4), (6),  
3 (6m), or (7), the Indian juvenile's Indian custodian and tribe. If all parties consent,  
4 the court may proceed immediately with the hearing.

5 **SECTION 334.** 938.357 (1) (c) 2m. of the statutes is created to read:

6 938.357 (1) (c) 2m. In a proceeding involving an Indian juvenile who is in need  
7 of protection or services under s. 938.13 (4), (6), (6m), or (7), notice under subd. 2. to  
8 the Indian juvenile's parent, Indian custodian, and tribe shall be provided in the  
9 manner specified in s. 938.028 (4) (a). No hearing on the request may be held until  
10 at least 10 days after receipt of the notice by the Indian juvenile's parent, Indian  
11 custodian, and tribe or until at least 25 days after receipt of the notice by the U.S.  
12 secretary of the interior. On request of the Indian juvenile's parent, Indian  
13 custodian, or tribe, the court shall grant a continuance of up to 20 additional days  
14 to enable the requester to prepare for the hearing.

15 **SECTION 335.** 938.357 (1) (c) 3. of the statutes, as affected by 2007 Wisconsin  
16 Act 20, is amended to read:

17 938.357 (1) (c) 3. If the court changes the juvenile's placement from a placement  
18 in the juvenile's home to a placement outside the juvenile's home, the change in  
19 placement order shall contain the findings under sub. (2v) (a) 1., the applicable order  
20 under sub. (2v) (a) 1m., the applicable statement under sub. (2v) (a) 2., and, if in  
21 addition the court finds that any of the circumstances under s. 938.355 (2d) (b) 1. to  
22 4. applies with respect to a parent, the determination under sub. (2v) (a) 3. If the  
23 court changes the placement of an Indian juvenile who is in need of protection or  
24 services under s. 938.13 (4), (6), (6m), or (7) from a placement in the Indian juvenile's  
25 home to a placement outside the Indian juvenile's home, the change in placement

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1 order shall contain the findings under sub. (2v) (a) 4, and comply with the order of  
2 placement preference under s. 938.028 (6) (a) or, if applicable, s. 938.028 (6) (b),  
3 unless the court finds good cause, as described in s. 938.028 (6) (d), for departing from  
4 that order.

5 **SECTION 336.** 938.357 (2m) (a) of the statutes is amended to read:

6 938.357 **(2m)** (a) *Request; information required.* The juvenile, the parent,  
7 guardian, or legal custodian of the juvenile, or any person or agency primarily bound  
8 by the dispositional order, other than the person or agency responsible for  
9 implementing the order, or, if the juvenile is an Indian juvenile who is in need of  
10 protection or services under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian  
11 custodian may request a change in placement under this paragraph. The request  
12 shall contain the name and address of the new placement requested and shall state  
13 what new information is available that affects the advisability of the current  
14 placement. If the proposed change in placement would change the placement of a  
15 juvenile placed in the juvenile's home to a placement outside the home, the request  
16 shall also contain specific information showing that continued placement of the  
17 juvenile in the juvenile's home would be contrary to the welfare of the juvenile and,  
18 unless any of the circumstances under s. 938.355 (2d) (b) 1. to 4. applies, specific  
19 information showing that the agency primarily responsible for implementing the  
20 dispositional order has made reasonable efforts to prevent the removal of the  
21 juvenile from the home, while assuring that the juvenile's health and safety are the  
22 paramount concerns. The request shall be submitted to the court. The court may  
23 also propose a change in placement on its own motion.

24 **SECTION 337.** 938.357 (2m) (am) of the statutes is created to read:

**BILL**

1           938.357 (2m) (am) *Indian juvenile; information required.* 1. If the proposed  
2 change of placement would change the placement of an Indian juvenile placed in the  
3 Indian juvenile's home under s. 938.357 (4), (6), (6m), or (7) to a placement outside  
4 the Indian juvenile's home, a request under par. (a) shall also contain specific  
5 information showing that continued custody of the Indian juvenile by the parent or  
6 Indian custodian is likely to result in serious emotional or physical damage to the  
7 juvenile under s. 938.028 (4) (d) 1., specific information showing that the agency  
8 primarily responsible for implementing the dispositional order has made active  
9 efforts under s. 938.028 (4) (d) 2. to prevent the breakup of the Indian family and that  
10 those efforts have proved unsuccessful, a statement as to whether the new placement  
11 is in compliance with the order of placement preference under s. 938.028 (6) (a) or,  
12 if applicable, s. 938.028 (6) (b) and, if the new placement is not in compliance with  
13 that order, specific information showing good cause, as described in s. 938.028 (6) (d),  
14 for departing from that order.

15           2. If the proposed change in placement would change the placement of an  
16 Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m),  
17 or (7) from a placement outside the home to another placement outside the home, a  
18 request under par. (a) shall also contain a statement as to whether the new  
19 placement is in compliance with the order of placement preference under s. 938.028  
20 (6) (a) or if applicable, s. 938.028 (6) (b) and, if the new placement is not in compliance  
21 with that order, specific information showing good cause, as described in s. 938.028  
22 (6) (d), for departing from that order.

23           **SECTION 338.** 938.357 (2m) (b) of the statutes is amended to read:

24           938.357 (2m) (b) *Hearing; when required.* The court shall hold a hearing prior  
25 to ordering any change in placement requested or proposed under par. (a) if the

**BILL**

1 request states that new information is available that affects the advisability of the  
2 current placement. A hearing is not required if the requested or proposed change in  
3 placement does not involve a change in placement of a juvenile placed in the  
4 juvenile's home to a placement outside the juvenile's home, written waivers of  
5 objection to the proposed change in placement are signed by all parties entitled to  
6 receive notice under ~~sub. (1) (am) 1. this paragraph~~, and the court approves. If a  
7 hearing is scheduled, not less than 3 days before the hearing the court shall notify  
8 the juvenile, the parent, guardian, and legal custodian of the juvenile, any foster  
9 parent, treatment foster parent, or other physical custodian described in s. 48.62 (2)  
10 of the juvenile, and all parties who are bound by the dispositional order at least 3  
11 days prior to the hearing, and, if the juvenile is an Indian juvenile who is in need of  
12 protection or services under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian  
13 custodian and tribe. A copy of the request or proposal for the change in placement  
14 shall be attached to the notice. If all of the parties consent, the court may proceed  
15 immediately with the hearing.

16 **SECTION 339.** 938.357 (2m) (bm) of the statutes is created to read:

17 938.357 (2m) (bm) *Indian juvenile; notice.* If the juvenile is an Indian juvenile  
18 who is in need of protection or services under s. 938.13 (4), (6), (6m), or (7), notice  
19 under par. (b) to the Indian juvenile's parent, Indian custodian, and tribe shall be  
20 provided in the manner specified in s. 938.028 (4) (a). No hearing on the request or  
21 proposal may be held until at least 10 days after receipt of the notice by the Indian  
22 juvenile's parent, Indian custodian, and tribe or until at least 25 days after receipt  
23 of the notice by the U.S. secretary of the interior. On request of the Indian juvenile's  
24 parent, Indian custodian, or tribe, the court shall grant a continuance of up to 20  
25 additional days to enable the requester to prepare for the hearing.

**BILL**

1           **SECTION 340.** 938.357 (2m) (c) of the statutes, as affected by 2007 Wisconsin  
2 Act 20, is renumbered 938.357 (2m) (c) 1. and amended to read:

3           938.357 **(2m)** (c) *Findings required.* 1. If the court changes the juvenile's  
4 placement from a placement in the juvenile's home to a placement outside the  
5 juvenile's home, the change in placement order shall contain the findings under sub.  
6 (2v) (a) 1., the applicable order under sub. (2v) (a) 1m., the applicable statement  
7 under sub. (2v) (a) 2., and, if in addition the court finds that any of the circumstances  
8 under s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent, the determination  
9 under sub. (2v) (a) 3. If the court changes the placement of an Indian juvenile who  
10 is in need of protection or services under s. 938.13 (4), (6), (6m), or (7) from a  
11 placement in the Indian juvenile's home to a placement outside the Indian juvenile's  
12 home, the change in placement order shall, in addition, contain the findings under  
13 sub. (2v) (a) 4. and comply with the order of placement preference under s. 938.028  
14 (6) (a) or, if applicable, s. 938.028 (6) (b), unless the court finds good cause, as  
15 described in s. 928.028 (6) (d), for departing from that order.

16           2. If the court changes the juvenile's placement from a placement outside the  
17 home to another placement outside the home, the change in placement order shall  
18 contain the applicable order under sub. (2v) (a) 1m. and the applicable statement  
19 under sub. (2v) (a) 2. If the court changes the placement of an Indian juvenile who  
20 is in need of protection or services under s. 938.13 (4), (6), (6m), or (7) from a  
21 placement outside the Indian juvenile's home to another placement outside the  
22 Indian juvenile's home, the change in placement order shall, in addition, comply with  
23 the order of placement preference under s. 938.028 (6) (a) or, if applicable, s. 938.028  
24 (6) (b), unless the court finds good cause, as described in s. 938.028 (6) (d), for  
25 departing from the order.

**BILL**

1           **SECTION 341.** 938.357 (2v) (a) 4. of the statutes is created to read:

2           938.357 (2v) (a) 4. If the change in placement order changes the placement of  
3           an Indian juvenile who is in need of protection or services under s. 938.13 (4), (6),  
4           (6m), or (7) from a placement in the Indian juvenile's home to a placement outside  
5           the Indian juvenile's home, a finding supported by clear and convincing evidence,  
6           including the testimony of one or more qualified expert witnesses, that continued  
7           custody of the Indian juvenile by the parent or Indian custodian is likely to result in  
8           serious emotional or physical damage to the juvenile under s. 938.028 (4) (d) 1. and  
9           a finding supported by clear and convincing evidence that the agency primarily  
10          responsible for implementing the dispositional order has made active efforts under  
11          s. 938.028 (4) (d) 2. to prevent the breakup of the Indian family and that those efforts  
12          have proved unsuccessful. The findings under this subdivision shall be in addition  
13          to the findings under subd. 1., except that for the sole purpose of determining  
14          whether the cost of providing care for an Indian juvenile is eligible for  
15          reimbursement under 42 USC 670 to 679b, the findings under this subdivision and  
16          the findings under subd. 1. shall be considered to be the same findings.

17          **SECTION 342.** 938.357 (2v) (c) 1. of the statutes is renumbered 938.357 (2v) (c)  
18          and amended to read:

19          938.357 (2v) (c) If the court finds under par. (a) 3. that any of the circumstances  
20          under s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent, the court shall hold  
21          a hearing under s. 938.38 (4m) within 30 days after the date of that finding to  
22          determine the permanency plan for the juvenile. ~~If a hearing is held under this~~  
23          ~~paragraph, the agency responsible for preparing the permanency plan shall file the~~  
24          ~~permanency plan with the court at least 5 days before the date of the hearing.~~

25          **SECTION 343.** 938.357 (2v) (c) 2. of the statutes is repealed.

**BILL****SECTION 344**

1           **SECTION 344.** 938.357 (2v) (c) 3. of the statutes is repealed.

2           **SECTION 345.** 938.363 (1) (a) of the statutes is amended to read:

3           938.363 (1) (a) A juvenile, the juvenile's parent, guardian, or legal custodian,  
4 any person or agency bound by a dispositional order, ~~or~~ the district attorney or  
5 corporation counsel in the county in which the dispositional order was entered or, if  
6 the juvenile is an Indian juvenile who is in need of protection or services under s.  
7 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian may request a  
8 revision in the order that does not involve a change in placement, including a revision  
9 with respect to the amount of child support to be paid by a parent. The court may  
10 also propose a revision. The request or court proposal shall set forth in detail the  
11 nature of the proposed revision and what new information is available that affects  
12 the advisability of the court's disposition. The request or court proposal shall be  
13 submitted to the court. The court shall hold a hearing on the matter prior to any  
14 revision of the dispositional order if the request or court proposal indicates that new  
15 information is available that affects the advisability of the court's dispositional order,  
16 unless written waivers of objections to the revision are signed by all parties entitled  
17 to receive notice and the court approves.

18           **SECTION 346.** 938.363 (1) (b) of the statutes is amended to read:

19           938.363 (1) (b) If a hearing is held, at least 3 days before the hearing the court  
20 shall notify the juvenile, the juvenile's parent, guardian, and legal custodian, all  
21 parties bound by the dispositional order, the juvenile's foster parent, treatment  
22 foster parent, or other physical custodian described in s. 48.62 (2), ~~and~~ the district  
23 attorney or corporation counsel in the county in which the dispositional order was  
24 entered ~~at least 3 days prior to the hearing~~ and, if the juvenile is an Indian juvenile  
25 who is in need of protection or services under s. 938.13 (4), (6), (6m), or (7), the Indian



**BILL**

1 juvenile's Indian custodian and tribe. A copy of the request or proposal shall be  
2 attached to the notice. If all parties consent, the court may proceed immediately with  
3 the hearing. No revision may extend the effective period of the original order, or  
4 revise an original order under s. 938.34 (3) (f) or (6) (am) to impose more than a total  
5 of 30 days of detention, nonsecure custody, or inpatient treatment on a juvenile.

6 **SECTION 347.** 938.365 (1m) of the statutes is amended to read:

7 938.365 **(1m)** REQUEST FOR EXTENSION. The parent, juvenile, guardian, legal  
8 custodian, any person or agency bound by the dispositional order, the district  
9 attorney or corporation counsel in the county in which the dispositional order was  
10 entered, ~~or~~ the court on its own motion, or, if the juvenile is an Indian juvenile who  
11 is in need of protection or services under s. 938.13 (4), (6), (6m), or (7), the Indian  
12 juvenile's Indian custodian may request an extension of an order under s. 938.355.  
13 The request shall be submitted to the court ~~which~~ that entered the order. An order  
14 under s. 938.355 for placement of a juvenile in detention, nonsecure custody, or  
15 inpatient treatment under s. 938.34 (3) (f) or (6) (am) may not be extended. Other  
16 orders or portions of orders under s. 938.355 may be extended only as provided in this  
17 section.

18 **SECTION 348.** 938.365 (2) of the statutes is amended to read:

19 938.365 **(2)** NOTICE. No order may be extended without a hearing. The court  
20 shall ~~notify~~ provide notice of the time and place of the hearing to the juvenile or the  
21 juvenile's guardian ad litem or counsel, the juvenile's parent, guardian, and legal  
22 custodian, all of the parties present at the original hearing, the juvenile's foster  
23 parent, treatment foster parent or other physical custodian described in s. 48.62 (2),  
24 and the district attorney or corporation counsel in the county in which the  
25 dispositional order was entered ~~of the time and place of the hearing, and, if the~~

## BILL

1 juvenile is an Indian juvenile who is in need of protection or services under s. 938.13  
2 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian.

3 **SECTION 349.** 938.365 (2g) (b) 4. of the statutes is created to read:

4 938.365 **(2g)** (b) 4. If the juvenile is an Indian juvenile who is placed outside  
5 the home under s. 938.13 (4), (6), (6m), or (7), specific information showing that active  
6 efforts under s. 938.028 (4) (d) 2. have been made to prevent the breakup of the Indian  
7 family and that those efforts have proved unsuccessful.

8 **SECTION 350.** 938.365 (2m) (a) 1. of the statutes is amended to read:

9 938.365 **(2m)** (a) 1. Any party may present evidence relevant to the issue of  
10 extension. If the juvenile is placed outside of his or her home, the person or agency  
11 primarily responsible for providing services to the juvenile shall present as evidence  
12 specific information showing that the person or agency has made reasonable efforts  
13 to achieve the goal of the juvenile's permanency plan, unless return of the juvenile  
14 to the home is the goal of the permanency plan and any of the circumstances under  
15 s. 938.355 (2d) (b) 1. to 4. applies. If an Indian juvenile is placed outside the home  
16 under s. 938.13 (4), (6), (6m), or (7), the person or agency primarily responsible for  
17 providing services to the Indian juvenile shall also present as evidence specific  
18 information showing that the person or agency has made active efforts under s.  
19 938.028 (4) (d) 2. to prevent the breakup of the Indian family and that those efforts  
20 have proved unsuccessful.

21 1m. The court shall make findings of fact and conclusions of law based on the  
22 evidence. The findings of fact shall include a finding as to whether reasonable efforts  
23 were made by the agency primarily responsible for providing services to the juvenile  
24 to achieve the goal of the juvenile's permanency plan, unless return of the juvenile  
25 to the home is the goal of the permanency plan and the court finds that any of the

**BILL**

1 circumstances under s. 938.355 (2d) (b) 1. to 4. applies. If the juvenile is an Indian  
2 juvenile who is placed outside the home under s. 938.13 (4), (6), (6m), or (7), the  
3 findings of fact shall also include a finding as to whether active efforts under s.  
4 938.028 (4) (d) 2. were made to prevent the breakup of the Indian family and as to  
5 whether those efforts have proved unsuccessful. An order shall be issued under s.  
6 938.355.

7 **SECTION 351.** 938.365 (2m) (a) 3. of the statutes is amended to read:

8 938.365 **(2m)** (a) 3. The court shall make the findings under subd. 1. 1m.  
9 relating to reasonable efforts to achieve the goal of the juvenile's permanency plan  
10 and the findings under subd. 2. on a case-by-case basis based on circumstances  
11 specific to the juvenile and shall document or reference the specific information on  
12 which those findings are based in the order issued under s. 938.355. An order that  
13 merely references subd. 1. 1m. or 2. without documenting or referencing that specific  
14 information in the order or an amended order that retroactively corrects an earlier  
15 order that does not comply with this subdivision is not sufficient to comply with this  
16 subdivision.

17 **SECTION 352.** 938.365 (2m) (ad) 1. of the statutes is renumbered 938.365 (2m)  
18 (ad) and amended to read:

19 938.365 **(2m)** (ad) If the court finds that any of the circumstances under s.  
20 938.355 (2d) (b) 1. to 4. applies with respect to a parent, the court shall hold a hearing  
21 under s. 938.38 (4m) within 30 days after the date of that finding to determine the  
22 permanency plan for the juvenile. ~~If a hearing is held under this subdivision, the~~  
23 ~~agency responsible for preparing the permanency plan shall file the permanency~~  
24 ~~plan with the court not less than 5 days before the date of the hearing.~~

25 **SECTION 353.** 938.365 (2m) (ad) 2. of the statutes is repealed.

**BILL**

1           **SECTION 354.** 938.365 (2m) (ag) of the statutes is amended to read:

2           938.365 **(2m)** (ag) The court shall give a foster parent, treatment foster parent,  
3 or other physical custodian described in s. 48.62 (2) who is notified of a hearing under  
4 ~~par. (ad) 2. or~~ sub. (2) an opportunity to be heard at the hearing by permitting the  
5 foster parent, treatment foster parent, or other physical custodian to make a written  
6 or oral statement during the hearing, or to submit a written statement prior to the  
7 hearing, relevant to the issue of extension. A foster parent, treatment foster parent,  
8 or other physical custodian who receives notice of a hearing under ~~par. (ad) 2. or~~ sub.  
9 (2) and an opportunity to be heard under this paragraph does not become a party to  
10 the proceeding on which the hearing is held solely on the basis of receiving that notice  
11 and having the opportunity to be heard.

12           **SECTION 355.** 938.38 (3) (intro.) of the statutes is amended to read:

13           938.38 **(3)** TIME. (intro.) Subject to s. 938.355 (2d) (c) ~~1.~~, the agency shall file  
14 the permanency plan with the court within 60 days after the date on which the  
15 juvenile was first removed from his or her home, except under either of the following  
16 conditions:

17           **SECTION 356.** 938.38 (4) (i) of the statutes is created to read:

18           938.38 **(4)** (i) If the juvenile is an Indian juvenile who is in need of protection  
19 or services under s. 938.13 (4), (6), (6m), or (7), all of the following:

20           1. The name, address, and telephone number of the Indian juvenile's Indian  
21 custodian and tribe.

22           2. A description of the remedial services and rehabilitation programs offered  
23 under s. 938.028 (4) (d) 2. in an effort to prevent the breakup of the Indian family.

24           3. A statement as to whether the Indian juvenile's placement is in compliance  
25 with the order of placement preference under s. 938.028 (6) (a) or, if applicable, s.

**BILL**

1 938.028 (6) (b) and, if the placement is not in compliance with that order, a statement  
2 as to whether there is good cause, as described in s. 938.028 (6) (d), for departing from  
3 that order.

4 **SECTION 357.** 938.38 (4m) of the statutes is created to read:

5 938.38 (4m) PERMANENCY PLAN DETERMINATION HEARING. (a) If in a proceeding  
6 under s. 938.21, 938.32, 938.355, 938.357, or 938.365 the court finds that any of the  
7 circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent,  
8 the court shall hold a hearing within 30 days after the date of that finding to  
9 determine the permanency plan for the juvenile. If a hearing is held under this  
10 paragraph, the agency responsible for preparing the permanency plan shall file the  
11 permanency plan with the court not less than 5 days before the hearing.

12 (b) At least 10 days before the hearing the court shall notify the juvenile, any  
13 parent, guardian, and legal custodian of the juvenile, any foster parent, treatment  
14 foster parent, or other physical custodian described in s. 48.62 (2) of the juvenile and,  
15 if the juvenile is an Indian juvenile who is or is alleged to be in need of protection or  
16 services under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian  
17 and tribe of the time, place, and purpose of the hearing.

18 (c) If the court knows or has reason to know that the juvenile is an Indian  
19 juvenile who is or is alleged to be in need of protection or services under s. 938.13 (4),  
20 (6), (6m), or (7), notice under par. (b) to the Indian juvenile's parent, Indian custodian,  
21 and tribe shall be provided in the manner specified in s. 938.028 (4) (a). No hearing  
22 may be held under par. (a) until at least 10 days after receipt of the notice by the  
23 Indian juvenile's parent, Indian custodian, and tribe or until at least 25 days after  
24 receipt of the notice by the U.S. secretary of the interior. On request of the Indian

**BILL**

1 juvenile's parent, Indian custodian, or tribe, the court shall grant a continuance of  
2 up to 20 additional days to enable the requester to prepare for the hearing.

3 (d) The court shall give a foster parent, treatment foster parent, or other  
4 physical custodian described in s. 48.62 (2) who is notified of a hearing under par. (b)  
5 an opportunity to be heard at the hearing by permitting the foster parent, treatment  
6 foster parent, or other physical custodian to make a written or oral statement during  
7 the hearing, or to submit a written statement prior to the hearing, relevant to the  
8 issues to be determined at the hearing. The foster parent, treatment foster parent,  
9 or other physical custodian does not become a party to the proceeding on which the  
10 hearing is held solely on the basis of receiving that notice and having the opportunity  
11 to be heard.

12 **SECTION 358.** 938.38 (5) (b) of the statutes is amended to read:

13 938.38 (5) (b) The court or the agency shall notify ~~the parents of the juvenile,~~  
14 ~~the juvenile, if he or she is 10 years of age or older, and; the juvenile's parent,~~  
15 ~~guardian, and legal custodian;~~ the juvenile's foster parent, the juvenile's treatment  
16 foster parent, the operator of the facility in which the juvenile is living, or the relative  
17 with whom the juvenile is living; and, if the juvenile is an Indian juvenile who is in  
18 need of protection or services under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's  
19 Indian custodian and tribe of the date, time, and place of the review, of the issues to  
20 be determined as part of the review, and of the fact that they may have an opportunity  
21 to be heard at the review by submitting written comments not less than 10 working  
22 days before the review or by participating at the review. The court or agency shall  
23 notify the person representing the interests of the public, the juvenile's counsel, and  
24 the juvenile's guardian ad litem of the date of the review, of the issues to be  
25 determined as part of the review, and of the fact that they may submit written

**BILL**

1 comments not less than 10 working days before the review. The notices under this  
2 paragraph shall be provided in writing not less than 30 days before the review and  
3 copies of the notices shall be filed in the juvenile's case record.

4 **SECTION 359.** 938.38 (5) (bm) of the statutes is created to read:

5 938.38 (5) (bm) If the juvenile is an Indian juvenile who is in need of protection  
6 or services under s. 938.13 (4), (6), (6m), or (7), notice under par. (b) to the Indian  
7 juvenile's parent, Indian custodian, and tribe shall be provided in the manner  
8 specified in s. 938.028 (4) (a). No review may be held until at least 10 days after  
9 receipt of the notice by the Indian juvenile's parent, Indian custodian, and tribe or  
10 until at least 25 days after receipt of the notice by the U.S. secretary of the interior.  
11 On request of the Indian juvenile's parent, Indian custodian, or tribe, the court shall  
12 grant a continuance of up to 20 additional days to enable the requester to prepare  
13 for the review.

14 **SECTION 360.** 938.38 (5) (c) 8. of the statutes is created to read:

15 938.38 (5) (c) 8. If the juvenile is an Indian juvenile who is in need of protection  
16 or services under s. 938.13 (4), (6), (6m), or (7), whether active efforts under s. 938.028  
17 (4) (d) 2. were made by the agency to prevent the breakup of the Indian family,  
18 whether those efforts have proved unsuccessful, whether the Indian child's  
19 placement is in compliance with the order of placement preference under s. 938.028  
20 (6) (a) or, if applicable, s. 938.028 (6) (b), and, if the placement is not in compliance  
21 with that order, whether there is good cause, as described in s. 938.028 (6) (d), for  
22 departing from that order.

23 **SECTION 361.** 938.38 (5) (d) of the statutes is amended to read:

24 938.38 (5) (d) Notwithstanding s. 938.78 (2) (a), the agency that prepared the  
25 permanency plan shall, at least 5 days before a review by a review panel, provide to

**BILL****SECTION 361**

1 each person appointed to the review panel, the juvenile's parent, guardian, and legal  
2 custodian, the person representing the interests of the public, the juvenile's counsel  
3 and, the juvenile's guardian ad litem, and, if the juvenile is an Indian juvenile who  
4 is in need of protection or services under s. 938.13 (4), (6), (6m), or (7), the Indian  
5 juvenile's Indian custodian and tribe a copy of the permanency plan and any written  
6 comments submitted under par. (b). Notwithstanding s. 938.78 (2) (a), a person  
7 appointed to a review panel, the person representing the interests of the public, the  
8 juvenile's counsel and, the juvenile's guardian ad litem, and, if the juvenile is an  
9 Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m),  
10 or (7), the Indian juvenile's Indian custodian and tribe may have access to any other  
11 records concerning the juvenile for the purpose of participating in the review. A  
12 person permitted access to a juvenile's records under this paragraph may not disclose  
13 any information from the records to any other person.

14 **SECTION 362.** 938.38 (5) (e) of the statutes is amended to read:

15 938.38 (5) (e) Within 30 days, the agency shall prepare a written summary of  
16 the determinations under par. (c) and shall provide a copy to the court that entered  
17 the order; the juvenile or the juvenile's counsel or guardian ad litem; the person  
18 representing the interests of the public; the juvenile's parent or guardian and, or  
19 legal custodian; the juvenile's foster parent, the juvenile's treatment foster parent,  
20 or the operator of the facility where the juvenile is living; and, if the juvenile is an  
21 Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m),  
22 or (7), the Indian juvenile's Indian custodian and tribe.

23 **SECTION 363.** 938.38 (5m) (b) of the statutes is amended to read:

24 938.38 (5m) (b) Not less than 30 days before the date of the hearing, the court  
25 shall notify the juvenile; the juvenile's parent, guardian, and legal custodian; the



**BILL**

1 juvenile's foster parent or treatment foster parent, the operator of the facility in  
2 which the juvenile is living, or the relative with whom the juvenile is living; the  
3 juvenile's counsel, and the juvenile's guardian ad litem; the agency that prepared the  
4 permanency plan; and the person representing the interests of the public; and, if the  
5 juvenile is an Indian juvenile who is in need of protection or services under s. 938.13  
6 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian and tribe of the date, time,  
7 and place of the hearing.

8 **SECTION 364.** 938.38 (5m) (bm) of the statutes is created to read:

9 938.38 **(5m)** (bm) If the juvenile is an Indian juvenile who is in need of  
10 protection or services under s. 938.13 (4), (6), (6m), or (7), notice under par. (b) to the  
11 Indian juvenile's parent, Indian custodian, and tribe shall be provided in the manner  
12 specified in s. 938.028 (4) (a). No hearing under par. (a) may be held until at least  
13 10 days after receipt of the notice by the Indian juvenile's parent, Indian custodian,  
14 and tribe or until at least 25 days after receipt of the notice by the U.S. secretary of  
15 the interior. On request of the Indian juvenile's parent, Indian custodian, or tribe,  
16 the court shall grant a continuance of up to 20 additional days to enable the requester  
17 to prepare for the hearing.

18 **SECTION 365.** 938.38 (5m) (d) of the statutes is amended to read:

19 938.38 **(5m)** (d) At least 5 days before the date of the hearing the agency that  
20 prepared the permanency plan shall provide a copy of the permanency plan and any  
21 written comments submitted under par. (c) to the court, to the juvenile's parent,  
22 guardian, and legal custodian, to the person representing the interests of the public,  
23 and to the juvenile's counsel or guardian ad litem, and, if the juvenile is an Indian  
24 juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m), or (7),  
25 to the Indian juvenile's Indian custodian and tribe. Notwithstanding s. 938.78 (2)

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1 (a), the person representing the interests of the public and, the juvenile's counsel or  
2 guardian ad litem, and, if the juvenile is an Indian juvenile who is in need of  
3 protection or services under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian  
4 custodian and tribe may have access to any other records concerning the juvenile for  
5 the purpose of participating in the review. A person permitted access to a juvenile's  
6 records under this paragraph may not disclose any information from the records to  
7 any other person.

8 **SECTION 366.** 938.38 (5m) (e) of the statutes is amended to read:

9 938.38 (5m) (e) After the hearing, the court shall make written findings of fact  
10 and conclusions of law relating to the determinations under sub. (5) (c) and shall  
11 provide a copy of those findings of fact and conclusions of law to the juvenile; the  
12 juvenile's parent, guardian, and legal custodian; the juvenile's foster parent or  
13 treatment foster parent, the operator of the facility in which the juvenile is living,  
14 or the relative with whom the juvenile is living; the agency that prepared the  
15 permanency plan; and the person representing the interests of the public; and, if the  
16 juvenile is an Indian juvenile who is in need of protection or services under s. 938.13  
17 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian and tribe. The court shall  
18 make the findings specified in sub. (5) (c) 7. on a case-by-case basis based on  
19 circumstances specific to the juvenile and shall document or reference the specific  
20 information on which those findings are based in the findings of fact and conclusions  
21 of law prepared under this paragraph. Findings of fact and conclusions of law that  
22 merely reference sub. (5) (c) 7. without documenting or referencing that specific  
23 information in the findings of fact and conclusions of law or amended findings of fact  
24 and conclusions of law that retroactively correct earlier findings of fact and

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1 conclusions of law that do not comply with this paragraph are not sufficient to comply  
2 with this paragraph.

3 **SECTION 367.** 938.538 (6m) (a) 1. of the statutes is repealed.

4 **SECTION 368.** 938.538 (6m) (a) 4. of the statutes is amended to read:

5 938.538 **(6m)** (a) 4. “Minority group member” means a Black, a Hispanic, or an  
6 American Indian person.

7 **SECTION 369. Initial applicability.**

8 (1) INVOLUNTARY TERMINATION OF PARENTAL RIGHTS. The treatment of sections  
9 48.415 (intro.) and (2) (a) 2., 48.42 (1) (e), and 48.424 (1) (b) and (3) of the statutes  
10 first applies to a termination of parental rights petition filed on the effective date of  
11 this subsection.

12 **SECTION 370. Effective date.**

13 (1) This act takes effect on July 1, 2008.

14 (END)

**Duerst, Christina**

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**From:** Kahn, Carrie  
**Sent:** Thursday, March 06, 2008 11:21 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 07-0174/4 Topic: Indian Child Welfare Act

Please Jacket LRB 07-0174/4 for the SENATE.

07-4244/1 - companion to -0174.