



## 2007 SENATE BILL 464

1     **AN ACT** *to renumber and amend* 48.63 (3) and 48.833; *to amend* 48.75 (1g) (a)  
2         4., 48.837 (1), 48.837 (1m), 48.837 (4) (d), 48.837 (6) (d), 48.837 (7), 48.84 (3),  
3         48.913 (1) (k), 48.988 (8) (a), 632.896 (1) (c) 1. and 632.896 (1) (c) 2.; and **to**  
4         **create** 48.422 (7) (br), 48.63 (3) (b), 48.833 (2), 48.837 (1r), 48.837 (4) (dm) and  
5         48.837 (6) (br) of the statutes; **relating to:** placement of a child for adoption  
6         with a nonrelative prior to termination of parental rights, payment for  
7         preadoption preparation when a child is placed for adoption by a child welfare  
8         agency, and the applicability of the Interstate Compact on the Placement of  
9         Children.

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*Analysis by the Legislative Reference Bureau*

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

10         **SECTION 1.** 48.422 (7) (br) of the statutes is created to read:

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1           48.422 (7) (br) Establish whether any person has coerced a birth parent or any  
2 alleged or presumed father of the child in violation of s. 48.63 (3) (b) 5. Upon a finding  
3 of coercion, the court shall dismiss the petition.

4           **SECTION 2.** 48.63 (3) of the statutes is renumbered 48.63 (3) (a) and amended  
5 to read:

6           48.63 (3) (a) Subsection (1) does not apply to the placement of a child for  
7 adoption. Adoptive placements may be made only as provided under par. (b) and ss.  
8 48.833, 48.835, 48.837 and 48.839.

9           **SECTION 3.** 48.63 (3) (b) of the statutes is created to read:

10          48.63 (3) (b) 1. At the request of a parent having custody of a child and the  
11 proposed adoptive parent or parents of the child, the department, a county  
12 department under s. 48.57 (1) (e) or (hm), or a child welfare agency licensed under  
13 s. 48.60 may place the child in the home of the proposed adoptive parent or parents  
14 prior to termination of parental rights to the child as provided in subd. 2. or 3.,  
15 whichever is applicable, and subd. 4.

16          2. The department, a county department under s. 48.57 (1) (e) or (hm), or a child  
17 welfare agency licensed under s. 48.60 may place a child under subd. 1. in the home  
18 of a proposed adoptive parent or parents who reside in this state if that home is  
19 licensed as a foster home or treatment foster home under s. 48.62.

20          3. The department, a county department under s. 48.57 (1) (e) or (hm), or a child  
21 welfare agency licensed under s. 48.60 may place a child under subd. 1. in the home  
22 of a proposed adoptive parent or parents who reside outside this state if the  
23 placement is made in compliance with s. 48.98 or 48.988, whichever is applicable, if  
24 the home meets the criteria established by the laws of the state where the proposed  
25 adoptive parent or parents reside for a preadoptive placement of a child in the home

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1 of a nonrelative, and if an appropriate agency in that state has completed an  
2 investigation of the home and filed a report and recommendation concerning the  
3 home with the department, county department, or licensed child welfare agency.

4 4. Before a child may be placed under subd. 1., the department, county  
5 department, or child welfare agency making the placement and the proposed  
6 adoptive parent or parents shall enter into a written agreement that specifies who  
7 is financially responsible for the cost of providing care for the child prior to the  
8 finalization of the adoption and for the cost of returning the child to the parent who  
9 has custody of the child if the adoption is not finalized. Under the agreement, the  
10 department, county department, or child welfare agency or the proposed adoptive  
11 parent or parents, but not the birth parent of the child or any alleged or presumed  
12 father of the child, shall be financially responsible for those costs.

13 5. Prior to termination of parental rights to the child, no person may coerce a  
14 birth parent of the child or any alleged or presumed father of the child into refraining  
15 from exercising his or her right to withdraw consent to the transfer or surrender of  
16 the child or to termination of his or her parental rights to the child, to have  
17 reasonable visitation or contact with the child, or to otherwise exercise his or her  
18 parental rights to the child.

19 **SECTION 4.** 48.75 (1g) (a) 4. of the statutes is amended to read:

20 48.75 (1g) (a) 4. The county of the public licensing agency issuing the license  
21 has a population of 500,000 or more and the placement is for adoption under s. 48.833  
22 (1), 48.835<sub>1</sub>, or 48.837.

23 **SECTION 5.** 48.833 of the statutes, as affected by 2005 Wisconsin Act 293, is  
24 renumbered 48.833 (1) and amended to read:

**SENATE BILL 464****SECTION 5**

1           48.833 (1) PLACEMENT BY DEPARTMENT OR COUNTY DEPARTMENT. The department,  
2 or a county department under s. 48.57 (1) (e) or (hm), or a child welfare agency  
3 licensed under s. 48.60 may place a child for adoption in a licensed foster home or a  
4 licensed treatment foster home without a court order under s. 48.63 (3) (b) or if the  
5 department, or county department, or child welfare agency is the guardian of the  
6 child or makes the placement at the request of another agency that is the guardian  
7 of the child and if the proposed adoptive parents have completed the preadoption  
8 preparation required under s. 48.84 (1) or the department, or county department, or  
9 child welfare agency determines that the proposed adoptive parents are not required  
10 to complete that preparation. ,, When a child is placed under this ~~section~~ subsection  
11 in a licensed foster home or a licensed treatment foster home for adoption, the  
12 department, or county department, or child welfare agency making the placement  
13 shall enter into a written agreement with the proposed adoptive parent, which shall  
14 state the date on which the child is placed in the licensed foster home or licensed  
15 treatment foster home for adoption by the proposed adoptive parent.

16           **SECTION 6.** 48.833 (2) of the statutes is created to read:

17           48.833 (2) PLACEMENT BY CHILD WELFARE AGENCY. A child welfare agency  
18 licensed under s. 48.60 may place a child for adoption in a licensed foster home or a  
19 licensed treatment foster home without a court order under s. 48.63 (3) (b) or if the  
20 child welfare agency is the guardian of the child or makes the placement at the  
21 request of another agency that is the guardian of the child and if the proposed  
22 adoptive parents have completed the preadoption preparation required under s.  
23 48.84 (1) or the child welfare agency determines that the proposed adoptive parents  
24 are not required to complete that preparation. When a child is placed under this  
25 subsection in a licensed foster home or a licensed treatment foster home for adoption,

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1 the child welfare agency making the placement shall enter into a written agreement  
2 with the proposed adoptive parent, which shall state the date on which the child is  
3 placed in the licensed foster home or licensed treatment foster home for adoption by  
4 the proposed adoptive parent.

5 **SECTION 7.** 48.837 (1) of the statutes is amended to read:

6 48.837 (1) IN-STATE ADOPTIVE PLACEMENT. When the proposed adoptive parent  
7 or parents of a child reside in this state and are not relatives of the child, a parent  
8 having custody of a child and the proposed adoptive parent or parents of the child  
9 may petition the court for placement of the child for adoption in the home of a person  
10 ~~who is not a relative of the child~~ the proposed adoptive parent or parents if the home  
11 is licensed as a foster home or treatment foster home under s. 48.62.

12 **SECTION 8.** 48.837 (1m) of the statutes is amended to read:

13 48.837 (1m) OUT-OF-STATE ADOPTIVE PLACEMENT. ~~Notwithstanding s.~~ Subject to  
14 ss. 48.98 and 48.988, when the proposed adoptive parent or parents of a child reside  
15 outside this state and are not relatives of the child, a parent having custody of a child  
16 and the proposed adoptive parent or parents of the child may petition the court for  
17 placement of the child for adoption in the home of the proposed adoptive parent or  
18 parents, if the home meets the criteria established by the laws of the other state for  
19 a preadoptive placement of a child in the home of a nonrelative.

20 **SECTION 9.** 48.837 (1r) of the statutes is created to read:

21 48.837 (1r) PLACEMENT PRIOR TO PETITION. (a) At the request of a parent having  
22 custody of a child and the proposed adoptive parent or parents of the child, the  
23 department, a county department under s. 48.57 (1) (e) or (hm), or a child welfare  
24 agency licensed under s. 48.60 may place the child in the home of the proposed

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1 adoptive parent or parents prior to the filing of a petition under sub. (2) as provided  
2 in par. (b) or (c), whichever is applicable, and par. (d).

3 (b) The department, a county department under s. 48.57 (1) (e) or (hm), or a  
4 child welfare agency licensed under s. 48.60 may place a child under par. (a) in the  
5 home of a proposed adoptive parent or parents who reside in this state if that home  
6 is licensed as a foster home or treatment foster home under s. 48.62.

7 (c) The department, a county department under s. 48.57 (1) (e) or (hm), or a  
8 child welfare agency licensed under s. 48.60 may place a child under par. (a) in the  
9 home of a proposed adoptive parent or parents who reside outside this state if the  
10 placement is made in compliance with s. 48.98 or 48.988, whichever is applicable, if  
11 the home meets the criteria established by the laws of the state where the proposed  
12 adoptive parent or parents reside for a preadoptive placement of a child in the home  
13 of a nonrelative, and if an appropriate agency in that state has completed an  
14 investigation of the home and filed a report and recommendation concerning the  
15 home with the department, county department, or licensed child welfare agency.

16 (d) Before a child may be placed under par. (a), the department, county  
17 department, or child welfare agency making the placement and the proposed  
18 adoptive parent or parents shall enter into a written agreement that specifies who  
19 is financially responsible for the cost of providing care for the child prior to the  
20 finalization of the adoption and for the cost of returning the child to the parent who  
21 has custody of the child if the adoption is not finalized. Under the agreement, the  
22 department, county department, or child welfare agency or the proposed adoptive  
23 parent or parents, but not the birth parent of the child or any alleged or presumed  
24 father of the child, shall be financially responsible for those costs.

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1 (e) Prior to termination of parental rights to the child, no person may coerce a  
2 birth parent of the child or any alleged or presumed father of the child into refraining  
3 from exercising his or her right to withdraw consent to the transfer or surrender of  
4 the child or to termination of his or her parental rights to the child, to have  
5 reasonable visitation or contact with the child, or to otherwise exercise his or her  
6 parental rights to the child.

7 **SECTION 10.** 48.837 (4) (d) of the statutes is amended to read:

8 48.837 (4) (d) May, ~~at the request of a petitioning parent, or on its own motion~~  
9 ~~after ordering the child taken into custody under s. 48.19 (1) (c), in the case of a child~~  
10 who has not been placed under sub. (1r), order the department or a county  
11 department under s. 48.57 (1) (e) or (hm), at the request of a petitioning parent or on  
12 its own motion after ordering the child taken into custody under s. 48.19 (1) (c), to  
13 place the child, pending the hearing on the petition, in any home in this state that  
14 is licensed under s. 48.62 except the home of the proposed adoptive parents or a  
15 relative of the proposed adoptive parents or in any home outside this state if the  
16 conditions under sub. (1r) (c) are met.

17 **SECTION 11.** 48.837 (4) (dm) of the statutes is created to read:

18 48.837 (4) (dm) May, in the case of a child who has been placed under sub. (1r),  
19 order the child to be maintained in the placement pending the hearing on the petition  
20 or order the department or a county department under s. 48.57 (1) (e) or (hm), at the  
21 request of a petitioning parent or on its own motion after ordering the child taken  
22 into custody under s. 48.19 (1) (c), to place the child, pending the hearing on the  
23 petition, in any home licensed under s. 48.62 except the home of the proposed  
24 adoptive parents or a relative of the proposed adoptive parents.

25 **SECTION 12.** 48.837 (6) (br) of the statutes is created to read:

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1           48.837 (6) (br) At the hearing on the petition under sub. (2), the court shall  
2 determine whether any person has coerced a birth parent or any alleged or presumed  
3 father of the child in violation of sub. (1r) (e). Upon a finding of coercion, the court  
4 shall dismiss the petitions under subs. (2) and (3).

5           **SECTION 13.** 48.837 (6) (d) of the statutes is amended to read:

6           48.837 (6) (d) If the proposed placement is approved, the court shall proceed  
7 immediately to a hearing on the petition required under sub. (3). If the parental  
8 rights of the parent are terminated, the court shall ~~order the child placed with the~~  
9 ~~proposed adoptive parent or parents and appoint as guardian of the child the~~  
10 department, a county department under s. 48.57 (1) (e) or (hm), or a child welfare  
11 agency licensed to accept guardianship under s. 48.61 (5). If the child has not been  
12 placed with the proposed adoptive parent or parents under sub. (1r) or (4) (d), the  
13 court shall order the child to be placed with the proposed adoptive parent or parents.  
14 If the child has been placed with the proposed adoptive parent or parents under sub.  
15 (1r) or (4) (d), the court shall order the child to be maintained in that placement.

16           **SECTION 14.** 48.837 (7) of the statutes is amended to read:

17           48.837 (7) INVESTIGATION AND CARE COSTS. The proposed adoptive parents shall  
18 pay the cost of any investigation ordered under sub. (4) (c), according to a fee schedule  
19 established by the department based on ability to pay, and shall also, if the adoption  
20 is completed, pay the cost of any care provided for the child under sub. (4) (d) or (dm).

21           **SECTION 15.** 48.84 (3) of the statutes, as created by 2005 Wisconsin Act 293, is  
22 amended to read:

23           48.84 (3) A proposed adoptive parent who petitions to adopt a child under s.  
24 48.837 or 48.839 or with whom a child is placed under s. 48.833 (2) shall pay the costs  
25 of the preadoption preparation required under sub. (1). The department shall pay



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1 the costs of the preadoption preparation required under sub. (1) for a proposed  
2 adoptive parent with whom a child is placed under s. 48.833 (1).

3 **SECTION 16.** 48.913 (1) (k) of the statutes is amended to read:

4 48.913 **(1)** (k) If the adoption is completed, the cost of any care provided for the  
5 child under s. 48.837 (4) (d) or (dm).

6 **SECTION 17.** 48.988 (8) (a) of the statutes is amended to read:

7 48.988 **(8)** (a) The sending or bringing of a child into a receiving state by the  
8 child's parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt,  
9 or guardian and leaving the child with any such relative or non-agency guardian in  
10 the receiving state if the person who sends, brings, or causes a child to be sent or  
11 brought into a receiving state is a person whose full legal right to plan for the child  
12 has been established by law at a time prior to initiation of the placement  
13 arrangement and has not been voluntarily terminated or diminished or severed by  
14 the action or order of any court.

15 **SECTION 18.** 632.896 (1) (c) 1. of the statutes is amended to read:

16 632.896 **(1)** (c) 1. The department, a county department under s. 48.57 (1) (e)  
17 or (hm), or a child welfare agency licensed under s. 48.60 places a child in the  
18 insured's home for adoption and enters into an agreement under s. 48.63 (3) (b) 4. or  
19 48.833 (1) or (2) with the insured.

20 **SECTION 19.** 632.896 (1) (c) 2. of the statutes is amended to read:

21 632.896 **(1)** (c) 2. ~~A~~ The department, a county department under s. 48.57 (1)  
22 (e) or (hm), or a child welfare agency under s. 48.837 (1r) places, or a court under s.  
23 48.837 (4) (d) or (6) (b) orders, a child placed in the insured's home for adoption.

24 **SECTION 20. Initial applicability.**

