



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

Appendix A ... segment I

LRB BILL HISTORY RESEARCH APPENDIX

The drafting file for 2009 LRB-0298/1 (For: Sen. Lazich)

has been transferred to the drafting file for

2011 LRB-0016 (For: Sen. Lazich)



RESEARCH APPENDIX -

PLEASE KEEP WITH THE DRAFTING FILE

Date Transfer Requested: 08/30/2010 (Per: GMM)

The attached 2009 draft was incorporated into the new 2009 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as a appendix, to the new 2009 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

2009 DRAFTING REQUEST

Bill

Received: **09/18/2008**

Received By: **gmalaise**

Wanted: **As time permits**

Identical to LRB:

For: **Mary Lazich (608) 266-5400**

By/Representing: **Tricia Sieg**

This file may be shown to any legislator: **NO**

Drafter: **gmalaise**

May Contact:

Addl. Drafters:

Subject: **Children - TPR and adoption**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Lazich@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Termination of parental rights for children under eight years of age

Instructions:

See attached--require TPR petition to be filed for child under eight when child has been placed out-of-home for six months

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	gmalaise 10/28/2008	nmatzke 11/07/2008		_____			S&L
/1			rschluet 11/07/2008	_____	mbarman 11/07/2008		

FE Sent For:

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2009 DRAFTING REQUEST

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gmalaise

11/13/08
11/13/08
JLD

11/24/08
PLI
<END>

FE Sent For:

Malaise, Gordon

From: Sieg, Tricia
Sent: Monday, September 15, 2008 1:51 PM
To: Malaise, Gordon
Subject: Minnesota State Statute and constituent's email

Attachments: 2007 Minnesota Statutes.doc

Let me know if there is anything else you need
Thanks again Gordon for all of your help



2007 Minnesota
Statutes.doc (4...

From: racinemakis@aol.com [<mailto:racinemakis@aol.com>]
Sent: Monday, July 14, 2008 12:56 AM
To: Sen.Lazich
Subject: Good Morning

Dear Senator Lazich,

I hope all is well with you. We are all doing well. I have so much to tell you about our experience with CSSW Milwaukee, but it would take a really long time to type it all. What I can tell you is that we were able to provide Denise Revels Robinson enough factual information to get her support, and after 6 months of slander, falsified information and attorney costs we have settled our situation. The children that were court ordered back in our home are still here, and our adoption of the baby placed with us for adoption by request of his mother has occurred. I surely hope the Social worker that runs CSSW Milwaukee has learned a valuable lesson about family and what happens when children in need bond with their foster families. I have said this before and I will say it again and again. The children in our foster care system are more than a file on a social workers desk, and instead of working against the families that reach out to care for the children placed in our homes, they should be looking for ways they could support us.

So now that I have that behind me I have been researching termination of parental rights laws in Minnesota as I was told they have moved forward on the AFSA laws and made some stricter laws that protect children 8 years and younger from long stays in foster care. Instead of letting children be in care for a total of 15 out of 22 months before filing termination of parental rights it lessens the time to a total of 6 months for children 8 and under. This is a gift to the children as it gives them an opportunity to get on with their lives sooner and leaves less time for multiple foster homes. When I first became a foster parent a 14 year veteran social worker plainly told me that if a parent is not on track to get their children back within 6 months he knows the case is heading towards termination of parental rights. After nearly 7 years as a foster parent I can say that this has been our exact experience. We have only seen one case go back home and it was in 5 months. I can also say that those children went back into care less than a year later and have been in care for 8 more months. With these kinds of statistics, it only seems fair to the children that we get them free for adoption sooner. They would be younger,

have fewer placements, and less traumatized. My current experience is interesting as the oldest child is 6 years old and he can actually express how he feels about visits with his parents. Younger children can only act out, but he can actually describe how he is feeling when he acts out. He becomes extremely agitated around his visits and is definitely displaying anxiety. He recently verbalized that he is nervous and angry when he goes to a visit. As an adult we know not to put ourselves in settings that make us feel this way, but a child in foster care is not so lucky. Kids in care are sent to visits with parents that have beat them, starved them, emotionally abused them, and severely neglected them. If we have an adult friend that was beaten by their spouse we put all our energy into telling them to stay away from the abuser. These kids not only have to visit them, but we keep these visits ongoing even when a parent isn't doing what they need to to have the children returned to them. If we let this continue for 15-24 months before it ends as a result of a termination of parental rights we are re-traumatizing these children all of that time. A friend of mine had a 14 month old that was burned with boiling water as a form of punishment from the mother. The case manager wanted the mother to visit the child so she could see what she did to her daughter. All I could think about was how horrible that the child should have to revisit the trauma by seeing the mother. The pain from the burns should have been enough. My oldest adopted child was severely beaten by her mother and as a result was placed into foster care. I was with her the first time she had to visit with her mother. She was three. She had lived with us for only a couple of weeks when the visit took place. I took her into the room where her parents were and when she saw them she began to cry and turned back to me and buried her face in my legs. She didn't even want to look at them. She was scared and overwhelmed. The case manager told me to leave the room and left her and her sister in the room with the parents. It was awful. These visits continued for nearly 2 years before it ended. This entire time she was traumatized over and over again, and it wasn't until the visits ended that she could truly begin to heal. I would like to see Wisconsin move forward and give our children the right to move on with their lives when their parents are not doing what they need to do within the first 6 months of out of home placement. There are many benefits for the children with a statute like this, and there would also be financial benefits for the state too. I would expect that court costs alone would be substantially less. I also would like to see older children included in this statute if they are being adopted with their younger siblings or have an adopted resource at the 6 month mark and want to be adopted. This would also lessen the numbers in foster care, and create some relief for the communities that never have enough foster homes, case managers, and resources. Ultimately the children would benefit.

I am hoping to listen to the background of these statutes in Minnesota online sometime this week. My sister-in-law is a MN attorney and told me I should be able to listen to this online. Let me know what you think.

Sincerely, Laura Maki

2007 Minnesota Statutes

260C.301 TERMINATION OF PARENTAL RIGHTS.

Subdivision 1. **Voluntary and involuntary.** The juvenile court may upon petition, terminate all rights of a parent to a child:

- (a) with the written consent of a parent who for good cause desires to terminate parental rights; or
- (b) if it finds that one or more of the following conditions exist:
 - (1) that the parent has abandoned the child;
 - (2) that the parent has substantially, continuously, or repeatedly refused or neglected to comply with the duties imposed upon that parent by the parent and child relationship, including but not limited to providing the child with necessary food, clothing, shelter, education, and other care and control necessary for the child's physical, mental, or emotional health and development, if the parent is physically and financially able, and either reasonable efforts by the social services agency have failed to correct the conditions that formed the basis of the petition or reasonable efforts would be futile and therefore unreasonable;
 - (3) that a parent has been ordered to contribute to the support of the child or financially aid in the child's birth and has continuously failed to do so without good cause. This clause shall not be construed to state a grounds for termination of parental rights of a noncustodial parent if that parent has not been ordered to or cannot financially contribute to the support of the child or aid in the child's birth;
 - (4) that a parent is palpably unfit to be a party to the parent and child relationship because of a consistent pattern of specific conduct before the child or of specific conditions directly relating to the parent and child relationship either of which are determined by the court to be of a duration or nature that renders the parent unable, for the reasonably foreseeable future, to care appropriately for the ongoing physical, mental, or emotional needs of the child. It is presumed that a parent is palpably unfit to be a party to the parent and child relationship upon a showing that the parent's parental rights to one or more other children were involuntarily terminated or that the parent's custodial rights to another child have been involuntarily transferred to a relative under section 260C.201, subdivision 11, paragraph (e), clause (1), or a similar law of another jurisdiction;
 - (5) that following the child's placement out of the home, reasonable efforts, under the direction of the court, have failed to correct the conditions leading to the child's placement. It is presumed that reasonable efforts under this clause have failed upon a showing that:
 - (i) a child has resided out of the parental home under court order for a cumulative period of 12 months within the preceding 22 months. In the case of a child under age eight at the time the petition was filed alleging the child to be in need of protection or services, the presumption arises when the child has resided out of the parental home under court order for six months unless the parent has maintained regular contact with the child and the parent is complying with the out-of-home placement plan;
 - (ii) the court has approved the out-of-home placement plan required under section

260C.212 and filed with the court under section 260C.178;

(iii) conditions leading to the out-of-home placement have not been corrected. It is presumed that conditions leading to a child's out-of-home placement have not been corrected upon a showing that the parent or parents have not substantially complied with the court's orders and a reasonable case plan; and

(iv) reasonable efforts have been made by the social services agency to rehabilitate the parent and reunite the family.

This clause does not prohibit the termination of parental rights prior to one year, or in the case of a child under age eight, prior to six months after a child has been placed out of the home. It is also presumed that reasonable efforts have failed under this clause upon a showing that:

(A) the parent has been diagnosed as chemically dependent by a professional certified to make the diagnosis;

(B) the parent has been required by a case plan to participate in a chemical dependency treatment program;

(C) the treatment programs offered to the parent were culturally, linguistically, and clinically appropriate;

(D) the parent has either failed two or more times to successfully complete a treatment program or has refused at two or more separate meetings with a caseworker to participate in a treatment program; and

(E) the parent continues to abuse chemicals.

(6) that a child has experienced egregious harm in the parent's care which is of a nature, duration, or chronicity that indicates a lack of regard for the child's well-being, such that a reasonable person would believe it contrary to the best interest of the child or of any child to be in the parent's care;

(7) that in the case of a child born to a mother who was not married to the child's father when the child was conceived nor when the child was born the person is not entitled to notice of an adoption hearing under section 259.49 and the person has not registered with the fathers' adoption registry under section 259.52;

(8) that the child is neglected and in foster care; or

(9) that the parent has been convicted of a crime listed in section 260.012, paragraph (b),

clauses (1) to (3).

In an action involving an American Indian child, sections 260.751 to 260.835 and the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923, control to the extent that the provisions of this section are inconsistent with those laws.

Subd. 2. **Evidence of abandonment.** For purposes of subdivision 1, clause (b), item (1):

(a) Abandonment is presumed when:

(1) the parent has had no contact with the child on a regular basis and not demonstrated consistent interest in the child's well-being for six months and the social services agency has made reasonable efforts to facilitate contact, unless the parent establishes that an extreme financial or physical hardship or treatment for mental disability or chemical dependency or other good cause prevented the parent

from making contact with the child. This presumption does not apply to children whose custody has been determined under chapter 257 or 518; or

(2) the child is an infant under two years of age and has been deserted by the parent under circumstances that show an intent not to return to care for the child.

The court is not prohibited from finding abandonment in the absence of the presumptions in clauses (1) and (2).

(b) The following are prima facie evidence of abandonment where there has been a showing that the person was not entitled to notice of an adoption proceeding under section 259.49:

(1) failure to register with the fathers' adoption registry under section 259.52; or

(2) if the person registered with the fathers' adoption registry under section 259.52:

(i) filing a denial of paternity within 30 days of receipt of notice under section 259.52, subdivision 8 ;

(ii) failing to timely file an intent to claim parental rights with entry of appearance form within 30 days of receipt of notice under section 259.52, subdivision 10; or

(iii) timely filing an intent to claim parental rights with entry of appearance form within 30 days of receipt of notice under section 259.52, subdivision 10, but failing to initiate a paternity action within 30 days of receiving the fathers' adoption registry notice where there has been no showing of good cause for the delay.

Subd. 3. Required termination of parental rights. (a) The county attorney shall file a termination of parental rights petition within 30 days of the responsible social services agency determining that a child has been subjected to egregious harm as defined in section 260C.007, subdivision 14 , is determined to be the sibling of another child of the parent who was subjected to egregious harm, or is an abandoned infant as defined in subdivision 2, paragraph (a), clause (2), or the parent has lost parental rights to another child through an order involuntarily terminating the parent's rights, or another child of the parent is the subject of an order involuntarily transferring permanent legal and physical custody of the child to a relative under section 260C.201, subdivision 11 , paragraph (e), clause (1), or a similar law of another jurisdiction. The responsible social services agency shall concurrently identify, recruit, process, and approve an adoptive family for the child. If a termination of parental rights petition has been filed by another party, the responsible social services agency shall be joined as a party to the petition. If criminal charges have been filed against a parent arising out of the conduct alleged to constitute egregious harm, the county attorney shall determine which matter should proceed to trial first, consistent with the best interests of the child and subject to the defendant's right to a speedy trial.

(b) This requirement does not apply if the county attorney determines and files with the court:

(1) a petition for transfer of permanent legal and physical custody to a relative under section 260C.201, subdivision 11, including a determination that the transfer is in the best interests of the child; or (2) a petition alleging the child, and where appropriate, the child's siblings, to be in need of protection or services accompanied by a case plan prepared by the responsible social services agency documenting a compelling reason why filing a termination of parental rights petition would not be in the best

interests of the child.

Subd. 4. **Current foster care children.** Except for cases where the child is in placement due solely to the child's developmental disability or emotional disturbance, where custody has not been transferred to the responsible social services agency, and where the court finds compelling reasons to continue placement, the county attorney shall file a termination of parental rights petition or a petition to transfer permanent legal and physical custody to a relative under section 260C.201, subdivision 11, for all children who have been in out-of-home care for 15 of the most recent 22 months. This requirement does not apply if there is a compelling reason approved by the court for determining that filing a termination of parental rights petition or other permanency petition would not be in the best interests of the child or if the responsible social services agency has not provided reasonable efforts necessary for the safe return of the child, if reasonable efforts are required.

Subd. 5. **Adoptive parent.** For purposes of subdivision 1, clause (a), an adoptive parent may not terminate parental rights to an adopted child for a reason that would not apply to a birth parent seeking termination of parental rights to a child under subdivision 1, clause (a).

Subd. 6. **When prior finding required.** For purposes of subdivision 1, clause (b), no prior judicial finding of need for protection or services, or neglected and in foster care is required, except as provided in subdivision 1, clause (b), item (5).

Subd. 7. **Best interests of child paramount.** In any proceeding under this section, the best interests of the child must be the paramount consideration, provided that the conditions in subdivision 1, clause (a), or at least one condition in subdivision 1, clause (b), are found by the court. In proceedings involving an American Indian child, as defined in section 260.755, subdivision 8, the best interests of the child must be determined consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901, et seq. Where the interests of parent and child conflict, the interests of the child are paramount.

Subd. 8. **Findings regarding reasonable efforts.** In any proceeding under this section, the court shall make specific findings:

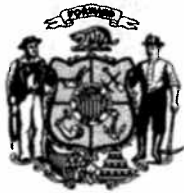
(1) that reasonable efforts to prevent the placement and to reunify the child and the parent were made including individualized and explicit findings regarding the nature and extent of efforts

made by the social services agency to rehabilitate the parent and reunite the family;
or

(2) that reasonable efforts at reunification are not required as provided under section 260.012.

History: 1999 c 139 art 3 s 29; art 4 s 2; 1999 c 245 art 8 s 59-64; 2001 c 178 art 1

s 33-36,44; 1Sp2001 c 9 art 11 s 5; 2002 c 379 art 1 s 113



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0298?

GMM.....

IN 10/28

nwn
jld

2009 BILL

SA ✓
X-REF ✓

✓

✓ Gen.

1 AN ACT ...; relating to: a requirement that termination of parental rights
 2 petitions be filed with respect to children under eight years of age, and certain
 3 children eight years of age or over, who have been placed outside the home for
 4 six months.

Analysis by the Legislative Reference Bureau

> Under current law, the parental rights of a parent to his or her child may be terminated involuntarily under various grounds, including the ground of continuing need of protection or services, which may be established by proving: 1) that the child has been adjudged to be in need of protection or services and placed outside of his or her home by the court assigned to exercise jurisdiction under the Children's Code (juvenile court); 2) that the agency responsible for the care of the child and the family has made a reasonable effort to provide the services ordered by the juvenile court; 3) that the child has been outside the home for a cumulative period of six months or longer pursuant to juvenile court orders; and 4) that the parent has failed to meet the conditions established for the safe return of the child to the home, and there is a substantial likelihood that the parent will not meet those conditions within the nine-month period following the termination of parental rights (TPR) fact-finding hearing.

> Current law, subject to certain exceptions, requires the filing of a TPR petition with respect to a child who has been placed in an out-of-home placement for 15 of the most recent 22 months, not including any period during which the child was a runaway from the out-of-home placement or the first six months of a trial home visit. A person responsible for filing TPR petitions, however, is not required to file a TPR petition with respect to such a child if the child is being cared for by a relative,

if a TPR is not in the best interests of the child, if the agency primarily responsible for providing services to the child and the family is required to make reasonable efforts to make it possible for the child to return safely home, and has not provided the services necessary for that safe return, or if grounds for TPR do not exist.

This bill, subject to the exceptions under current law, requires a TPR petition to be filed with respect to a child who has been placed outside of his or her home for a cumulative total period of 6 months, not including any period during which the child was a runaway from the out-of-home placement or any period during which the child was returned to his or her home for a trial home visit, if any of the following apply:

1. The child was under 8 years of age when he or she was placed outside of his or her home.

2. The child was 8 years of age or over when he or she was placed outside of his or her home and the goal of the child's permanency plan, which is a plan designed to ensure that a child is reunified with his or her family whenever appropriate or that the child quickly attains a placement providing long-term stability, is placement for adoption with an adoptive parent or proposed adoptive parent of a sibling who was under 8 years of age when the sibling was placed outside of his or her home.

3. The child was 8 years of age or over when he or she was placed outside of his or her home and the child's permanency plan indicates that a safe and appropriate placement with a proposed adoptive parent is available for the child and that the child has expressed the wish to be adopted.

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

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

1 SECTION 1. 48.365 (2g) (b) 3. of the statutes is renumbered 48.365 (2g) (b) 3.

2 (intro.) and amended to read:

3 48.365 (2g) (b) 3. (intro.) If the child has been placed outside of his or her home
4 for 15 of the most recent 22 months, not including any period during which the child
5 was a runaway from the out-of-home placement or the first 6 months of any period

6 during which the child was returned to his or her home for a trial home visit, a

7 statement of whether or not a recommendation has been made to terminate the

8 parental rights of the parents of the child. if any of the following apply:

six
applies

use 2x
eight

8

6

8

applies

1 4. If the statement under subd. 3. indicates that a recommendation for a
2 termination of parental rights has been made, ~~the statement shall indicate a~~
3 statement indicating the date on which the recommendation was made, any previous
4 progress made to accomplish the termination of parental rights, any barriers to the
5 termination of parental rights, specific steps to overcome the barriers and when the
6 steps will be completed, reasons why adoption would be in the best interest of the
7 child, and whether or not the child should be registered with the adoption
8 information exchange. If the statement under subd. 3. indicates that a
9 recommendation for termination of parental rights has not been made, ~~the~~
10 ~~statement shall include an explanation of a statement explaining~~ the reasons why
11 a recommendation for termination of parental rights has not been made. If the lack
12 of appropriate adoptive resources is the primary reason for not recommending a
13 termination of parental rights, the agency shall recommend that the child be
14 registered with the adoption information exchange or report the reason why
15 registering the child is contrary to the best interest of the child.

History: 1977 c. 354; 1979 c. 300; 1983 a. 351, 399, 538; 1985 a. 172; 1987 a. 383; 1989 a. 31, 86, 107, 359; 1993 a. 16, 98, 377, 446; 1995 a. 27, 77, 275; 1997 a. 27, 80, 237, 292; 1999 a. 32, 149; 2001 a. 109; 2007 a. 199.

16 **SECTION 2.** 48.365 (2g) (b) 3. a. to d. of the statutes are created to read:

17 48.365 (2g) (b) 3. a. Subject to subd. 3. b. to d., the child has been placed outside
18 of his or her home for 15 of the most recent 22 months, not including any period
19 during which the child was a runaway from the out-of-home placement or the first
20 6 months of any period during which the child was returned to his or her home for
21 a trial home visit.

22 b. The child has been placed outside of his or her home for a cumulative total
23 period of 6 months, not including any period during which the child was a runaway
24 from the out-of-home placement or any period during which the child was returned

1 to his or her home for a trial home visit, and was under 8[✓] years of age when he or she
2 was placed outside of his or her home.✓

3 c.✓ The child has been placed outside of his or her home for a cumulative total
4 period of 6[✓] months, not including any period during which the child was a runaway
5 from the out-of-home[✓] placement or any period during which the child was returned
6 to his or her home for a trial home visit, the child was 8[✓] years of age or over when he
7 or she was placed outside of his or her home, and the goal of the child's permanency
8 plan is placement for adoption with an adoptive parent or⁸ proposed adoptive parent
9 of a sibling, as defined in s. 48.38 (4)[✓](br), who was under 8[✓] years of age when the
10 sibling was placed outside of his or her home.✓

11 d. The child has been placed outside of his or her home for a cumulative total
12 period of 6[✓] months, not including any period during which the child was a runaway
13 from the[✓] out-of-home placement or any period during which the child was returned
14 to his or her home for a trial home visit, the child was 8[✓] years of age or over when he
15 or she was placed outside of his or her home, and the child's permanency plan
16 indicates that a safe and appropriate placement with a proposed adoptive parent is
17 available for the child and[✓] that the child has expressed the wish to be adopted.✓

18 **SECTION 3.** 48.38 (5) (c) 6. (intro.) of the statutes is amended to read:

19 48.38 (5) (c) 6. (intro.)[✓] If Subject to subd. 6m.[✓], if the child has been placed
20 outside of his or her home, as described in s. 48.365 (1), for 15 of the most recent 22
21 months, not including any period during which the child was a runaway from the
22 out-of-home placement or the first 6[✓] months of any period during which the child
23 was returned to his or her home for a trial home visit, the appropriateness of the

1 permanency plan and the circumstances which prevent the child from any of the
2 following:

History: 1983 a. 399; 1985 a. 70 ss. 1, 10; 1986 a. 176; 1985 a. 292 s. 3; 1985 a. 332; 1987 a. 383; 1989 a. 31, 86, 107; 1993 a. 377, 385, 395, 446, 491; 1995 a. 27 ss. 2474 to 2478, 9126 (19); 1995 a. 77, 143, 275; 1997 a. 35, 104, 237; 1999 a. 49; 2001 a. 2, 59, 69, 109; 2005 a. 344, 448; 2007 a. 20.

3 **SECTION 4. 48.38 (5) (c) 6m.** of the statutes is created to read:

4 48.38 (5) (c) 6m. The appropriateness of the permanency plan and the
5 circumstances ~~which~~ ^{e that} prevent the child from being placed for adoption or having a
6 petition for the involuntary termination of parental rights filed on behalf of the child
7 if the child has been placed outside of his or her home, as described in s. 48.365 (1),
8 for a cumulative total period of 6[✓] months, not including any period during which the
9 child was a runaway from the out-of-home[✓] placement or any period during which
10 the child was returned to his or her home for a trial home visit, and[✓] if any of the
11 following ~~apply:~~ ^{o applies}

12 a. The child was under 8[✓] years of age when he or she was placed outside of his
13 or her home.[✓]

14 b. The child was 8[✓] years of age or over when he or she was placed outside of his
15 or her home and the goal of the child's permanency plan is placement for adoption
16 with an adoptive parent ^a or proposed adoptive parent of a sibling, as defined in s.
17 48.38 (4) (br), who was under 8[✓] years of age when the sibling was placed outside of
18 his or her home.[✓]

19 c. The child was 8[✓] years of age or over when he or she was placed outside of his
20 or her home and the child's permanency plan indicates that[✓] a safe and appropriate
21 placement with a proposed adoptive parent is available for the child and[✓] that the
22 child has expressed the wish to be adopted.[✓]

23 **SECTION 5. 48.417 (1) (a)** of the statutes is amended to read:

1 48.417 (1) (a) The Subject to par. (am), the child has been placed outside of his
 2 or her home, as described in s. 48.365 (1) or 938.365 (1), for 15 of the most recent 22
 3 months, not including any period during which the child was a runaway from the
 4 out-of-home placement or the first 6 months of any period during which the child
 5 was returned to his or her home for a trial home visit. If the circumstances specified
 6 in this paragraph apply, the petition shall be filed or joined in by the last day of the
 7 15th month, as described in this paragraph, for which the child was placed outside
 8 of his or her home.

9 History: 1997 a. 237; 2001 a. 109; 2005 a. 277; 2007 a. 20, 116. [∇] [∧]

SECTION 6. 48.417 (1) (am) of the statutes is created to read:

10 48.417 (1) (am) 1. The child has been placed outside of his or her home, as
 11 described in s. 48.365 (1) or 938.365 (1), for a cumulative total period of 6 months,
 12 not including any period during which the child was a runaway from the
 13 out-of-home placement or any period during which the child was returned to his or
 14 her home for a trial home visit, and any of the following apply: *applies*

15 a. The child was under 8 years of age when he or she was placed outside of his
 16 or her home.

17 b. The child was 8 years of age or over when he or she was placed outside of his
 18 or her home and the goal of the child's permanency plan is placement for adoption
 19 with an adoptive parent or ^(a) proposed adoptive parent of a sibling, as defined in s.
 20 48.38 (4) (br), who was under 8 years of age when the sibling was placed outside of
 21 his or her home.

22 c. The child was 8 years of age or over when he or she was placed outside of his
 23 or her home and the child's permanency plan indicates that a safe and appropriate

1 placement with a proposed adoptive parent is available for the child and[✓] that the
2 child has expressed the wish to be adopted.[✓]

3 2. If the circumstances specified in subd. 1. apply,[✓] the petition shall be filed or
4 joined in by the last day of the 6th[✓] month, as described in[✓] subd. 1., for which the child
5 was placed outside of his or her home.[✓]

6 [✓]SECTION 7. 48.417 (2) (intro.) of the statutes is amended to read:

7 48.417 (2) FILING OR JOINING IN PETITION; WHEN NOT REQUIRED. (intro.)
8 Notwithstanding that any of the circumstances specified in sub. (1) (a),[✓] (am), (b), (c),
9 or (d) may apply, an agency or the district attorney, corporation counsel, or other
10 appropriate official designated under s. 48.09 need not file a petition under s. 48.42
11 (1) to terminate the parental rights of a parent or the parents of a child, or, if a
12 petition under s. 48.42 (1) to terminate those parental rights has already been filed,
13 the agency, district attorney, corporation counsel, or other appropriate official need
14 not join in the petition, if any of the following circumstances apply: ^{STET}

History: 1997 a. 237; 2001 a. 109; 2005 a. 277; 2007 a. 20, 116. [✓]

15 **SECTION 8.** 938.365 (2g) (b) 3. of the statutes is renumbered 938.365 (2g) (b) 3.
16 (intro.)[✓] and amended to read:

17 938.365 (2g) (b) 3. (intro.) If the juvenile has been placed outside of his or her
18 home for 15 of the most recent 22 months, not including any period during which the
19 juvenile was a runaway from the out-of-home placement or the first 6 months of any
20 period during which the juvenile was returned to his or her home for a trial home
21 visit, [↓] and a statement of whether or not a recommendation has been made to terminate
22 the parental rights of the parents of the juvenile, [✓] if any of the following apply: ^{applies}

23 4. If the statement under subd. 3. indicates that a recommendation for a
24 termination of parental rights has been made, ~~the statement shall indicate a~~

1 statement indicating the date on which the recommendation was made, any previous
2 progress made to accomplish the termination of parental rights, any barriers to the
3 termination of parental rights, specific steps to overcome the barriers and when the
4 steps will be completed, reasons why adoption would be in the best interest of the
5 juvenile and whether or not the juvenile should be registered with the adoption
6 information exchange. If the statement under subd. 3. indicates that a
7 recommendation for termination of parental rights has not been made, ~~the~~
8 ~~statement shall include an explanation of a statement explaining~~ the reasons why
9 a recommendation for termination of parental rights has not been made. If the lack
10 of appropriate adoptive resources is the primary reason for not recommending a
11 termination of parental rights, the agency shall recommend that the juvenile be
12 registered with the adoption information exchange or report the reason why
13 registering the juvenile is contrary to the best interest of the juvenile.

History: 1995 a. 77, 275, 352; 1997 a. 27, 35, ~~87, 257~~; 2001 a. 109; 2005 a. 344; 2007 a. ~~37~~.

14 **SECTION 9.** 938.365 (2g) (b) 3. a. to d. of the statutes are created to read:

15 938.365 (2g) (b) 3. a. Subject to subd. 3. b. to d., the juvenile has been placed
16 outside of his or her home for 15 of the most recent 22 months, not including any
17 period during which the juvenile was a runaway from the out-of-home placement
18 or the first 6 months of any period during which the juvenile was returned to his or
19 her home for a trial home visit.

20 b. The juvenile has been placed outside of his or her home for a cumulative total
21 period of 6 months, not including any period during which the juvenile was a
22 runaway from the out-of-home placement or any period during which the juvenile
23 was returned to his or her home for a trial home visit, and was under 8 years of age
24 when he or she was placed outside of his or her home.

1 c. The juvenile[✓] has been placed outside of his or her home for a cumulative total
2 period of 6 months, not including any period during which the juvenile was a
3 runaway from the out-of-home[✓] placement or any period during which the juvenile
4 was returned to his or her home for a trial home visit, the juvenile was 8[✓] years of age
5 or over when he or she was placed outside of his or her home, and the goal of the
6 juvenile's permanency plan is placement for adoption with an adoptive parent or
7 ^a proposed adoptive parent of a sibling, as defined in s. 938.38[✓](4) (br), who was under
8 8[✓] years of age when the sibling was placed outside of his or her home.

9 d. The juvenile has been placed outside of his or her home for a cumulative total
10 period of 6[✓] months, not including any period during which the juvenile was a
11 runaway from the out-of-home placement or any period during which the juvenile
12 was returned to his or her home for a trial home visit, the juvenile was 8[✓] years of age
13 or over when he or she was placed outside of his or her home, and the juvenile's
14 permanency plan indicates that a safe and appropriate placement with a proposed
15 adoptive parent is available for the juvenile and that[✓] the juvenile has expressed the
16 wish to be adopted[✓].

17 **SECTION 10.** 938.38^x (5) (c) 6. (intro.) of the statutes is amended to read:

18 938.38 (5) (c) 6. (intro.) If Subject to subd. 6m.[✓], if the juvenile has been placed
19 outside of his or her home, as described in s. 938.365 (1), for 15 of the most recent 22
20 months, not including any period during which the juvenile was a runaway from the
21 out-of-home placement or the first 6 months of any period during which the juvenile
22 was returned to his or her home for a trial home visit, the appropriateness of the
23 permanency plan and the circumstances which prevent the juvenile from any of the
24 following:

1 ^{XA}
SECTION 11. 938.38 (5) (c) 6m. of the statutes is created to read:

2 938.38 (5) (c) 6m. The appropriateness of the permanency plan and the
3 circumstances ^{e that} which prevent the juvenile from being placed for adoption or having
4 a petition for the involuntary termination of parental rights filed on behalf of the
5 juvenile if the juvenile [✓] has been placed outside of his or her home, as described in s.
6 938.365 (1), [✓] for a cumulative total period of 6 [✓] months, not including any period
7 during which the juvenile was a runaway from the out-of-home [✓] placement or any
8 period during which the juvenile was returned to his or her home for a trial home
9 visit, and if any of the following ^{e applies} apply:

10 a. The juvenile [✓] was under 8 [✓] years of age when he or she was placed outside of
11 his or her home.

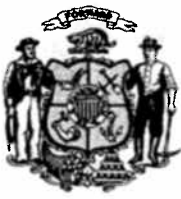
12 b. The juvenile [✓] was 8 [✓] years of age or over when he or she was placed outside
13 of his or her home and the goal of the juvenile's [✓] permanency plan is placement for
14 adoption with an adoptive parent or proposed adoptive parent of a sibling, as defined
15 in s. 938.38 (4) (br), [✓] who was under 8 years of age when the sibling was placed outside
16 of his or her home.

17 c. The juvenile [✓] was 8 years of age or over when he or she was placed outside
18 of his or her home and the juvenile's [✓] permanency plan indicates that a safe and
19 appropriate placement with a proposed adoptive parent is available for the [✓] juvenile
20 and that [✓] the juvenile has expressed the wish to be adopted. [✓]

21 **SECTION 12. Initial applicability.**

22 (1) TERMINATION OF PARENTAL RIGHTS PETITION REQUIREMENT. [✓] This act first
23 applies to a child or juvenile [✓] who is placed outside of his or her home on the effective
24 date of this subsection. [✓]

25 (END)



2009 BILL

1 **AN ACT** *to renumber and amend* 48.365 (2g) (b) 3. and 938.365 (2g) (b) 3.; *to*
2 *amend* 48.38 (5) (c) 6. (intro.), 48.417 (1) (a), 48.417 (2) (intro.) and 938.38 (5)
3 (c) 6. (intro.); and *to create* 48.365 (2g) (b) 3. a. to d., 48.38 (5) (c) 6m., 48.417
4 (1) (am), 938.365 (2g) (b) 3. a. to d. and 938.38 (5) (c) 6m. of the statutes;
5 **relating to:** a requirement that termination of parental rights petitions be
6 filed with respect to children under eight years of age, and certain children
7 eight years of age or over, who have been placed outside the home for six
8 months.

Analysis by the Legislative Reference Bureau

Under current law, the parental rights of a parent to his or her child may be terminated involuntarily under various grounds, including the ground of continuing need of protection or services, which may be established by proving: 1) that the child has been adjudged to be in need of protection or services and placed outside of his or her home by the court assigned to exercise jurisdiction under the Children's Code (juvenile court); 2) that the agency responsible for the care of the child and the family has made a reasonable effort to provide the services ordered by the juvenile court; 3) that the child has been outside the home for a cumulative period of six months or longer pursuant to juvenile court orders; and 4) that the parent has failed to meet

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the conditions established for the safe return of the child to the home, and there is a substantial likelihood that the parent will not meet those conditions within the nine-month period following the termination of parental rights (TPR) fact-finding hearing.

Current law, subject to certain exceptions, requires the filing of a TPR petition with respect to a child who has been placed in an out-of-home placement for 15 of the most recent 22 months, not including any period during which the child was a runaway from the out-of-home placement or the first six months of a trial home visit. A person responsible for filing TPR petitions, however, is not required to file a TPR petition with respect to such a child if the child is being cared for by a relative, if a TPR is not in the best interests of the child, if the agency primarily responsible for providing services to the child and the family is required to make reasonable efforts to make it possible for the child to return safely home and has not provided the services necessary for that safe return, or if grounds for TPR do not exist.

This bill, subject to the exceptions under current law, requires a TPR petition to be filed with respect to a child who has been placed outside of his or her home for a cumulative total period of six months, not including any period during which the child was a runaway from the out-of-home placement or any period during which the child was returned to his or her home for a trial home visit, if any of the following applies:

1. The child was under eight years of age when he or she was placed outside of his or her home.

2. The child was eight years of age or over when he or she was placed outside of his or her home and the goal of the child's permanency plan, which is a plan designed to ensure that a child is reunified with his or her family whenever appropriate or that the child quickly attains a placement providing long-term stability, is placement for adoption with an adoptive parent or a proposed adoptive parent of a sibling who was under eight years of age when the sibling was placed outside of his or her home.

3. The child was eight years of age or over when he or she was placed outside of his or her home, and the child's permanency plan indicates that a safe and appropriate placement with a proposed adoptive parent is available for the child and that the child has expressed the wish to be adopted.

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

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

1 **SECTION 1.** 48.365 (2g) (b) 3. of the statutes is renumbered 48.365 (2g) (b) 3.
2 (intro.) and amended to read:

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1 48.365 (2g) (b) 3. (intro.) ~~If the child has been placed outside of his or her home~~
2 ~~for 15 of the most recent 22 months, not including any period during which the child~~
3 ~~was a runaway from the out-of-home placement or the first 6 months of any period~~
4 ~~during which the child was returned to his or her home for a trial home visit, a~~ A
5 statement of whether or not a recommendation has been made to terminate the
6 parental rights of the parents of the child: if any of the following applies:

7 4. If the statement under subd. 3. indicates that a recommendation for a
8 termination of parental rights has been made, ~~the statement shall indicate a~~
9 statement indicating the date on which the recommendation was made, any previous
10 progress made to accomplish the termination of parental rights, any barriers to the
11 termination of parental rights, specific steps to overcome the barriers and when the
12 steps will be completed, reasons why adoption would be in the best interest of the
13 child, and whether or not the child should be registered with the adoption
14 information exchange. If the statement under subd. 3. indicates that a
15 recommendation for termination of parental rights has not been made, ~~the~~
16 ~~statement shall include an explanation of a statement explaining~~ the reasons why
17 a recommendation for termination of parental rights has not been made. If the lack
18 of appropriate adoptive resources is the primary reason for not recommending a
19 termination of parental rights, the agency shall recommend that the child be
20 registered with the adoption information exchange or report the reason why
21 registering the child is contrary to the best interest of the child.

22 **SECTION 2.** 48.365 (2g) (b) 3. a. to d. of the statutes are created to read:

23 48.365 (2g) (b) 3. a. Subject to subd. 3. b. to d., the child has been placed outside
24 of his or her home for 15 of the most recent 22 months, not including any period
25 during which the child was a runaway from the out-of-home placement or the first

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1 6 months of any period during which the child was returned to his or her home for
2 a trial home visit.

3 b. The child has been placed outside of his or her home for a cumulative total
4 period of 6 months, not including any period during which the child was a runaway
5 from the out-of-home placement or any period during which the child was returned
6 to his or her home for a trial home visit, and was under 8 years of age when he or she
7 was placed outside of his or her home.

8 c. The child has been placed outside of his or her home for a cumulative total
9 period of 6 months, not including any period during which the child was a runaway
10 from the out-of-home placement or any period during which the child was returned
11 to his or her home for a trial home visit, the child was 8 years of age or over when he
12 or she was placed outside of his or her home, and the goal of the child's permanency
13 plan is placement for adoption with an adoptive parent or a proposed adoptive parent
14 of a sibling, as defined in s. 48.38 (4) (br), who was under 8 years of age when the
15 sibling was placed outside of his or her home.

16 d. The child has been placed outside of his or her home for a cumulative total
17 period of 6 months, not including any period during which the child was a runaway
18 from the out-of-home placement or any period during which the child was returned
19 to his or her home for a trial home visit, the child was 8 years of age or over when he
20 or she was placed outside of his or her home, and the child's permanency plan
21 indicates that a safe and appropriate placement with a proposed adoptive parent is
22 available for the child and that the child has expressed the wish to be adopted.

23 **SECTION 3.** 48.38 (5) (c) 6. (intro.) of the statutes is amended to read:

24 48.38 (5) (c) 6. (intro.) If Subject to subd. 6m., if the child has been placed
25 outside of his or her home, as described in s. 48.365 (1), for 15 of the most recent 22

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1 months, not including any period during which the child was a runaway from the
2 out-of-home placement or the first 6 months of any period during which the child
3 was returned to his or her home for a trial home visit, the appropriateness of the
4 permanency plan and the circumstances which prevent the child from any of the
5 following:

6 **SECTION 4.** 48.38 (5) (c) 6m. of the statutes is created to read:

7 48.38 (5) (c) 6m. The appropriateness of the permanency plan and the
8 circumstances that prevent the child from being placed for adoption or having a
9 petition for the involuntary termination of parental rights filed on behalf of the child
10 if the child has been placed outside of his or her home, as described in s. 48.365 (1),
11 for a cumulative total period of 6 months, not including any period during which the
12 child was a runaway from the out-of-home placement or any period during which
13 the child was returned to his or her home for a trial home visit, and if any of the
14 following applies:

15 a. The child was under 8 years of age when he or she was placed outside of his
16 or her home.

17 b. The child was 8 years of age or over when he or she was placed outside of his
18 or her home and the goal of the child's permanency plan is placement for adoption
19 with an adoptive parent or a proposed adoptive parent of a sibling, as defined in s.
20 48.38 (4) (br), who was under 8 years of age when the sibling was placed outside of
21 his or her home.

22 c. The child was 8 years of age or over when he or she was placed outside of his
23 or her home and the child's permanency plan indicates that a safe and appropriate
24 placement with a proposed adoptive parent is available for the child and that the
25 child has expressed the wish to be adopted.

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1 **SECTION 5.** 48.417 (1) (a) of the statutes is amended to read:

2 48.417 (1) (a) The Subject to par. (am), the child has been placed outside of his
3 or her home, as described in s. 48.365 (1) or 938.365 (1), for 15 of the most recent 22
4 months, not including any period during which the child was a runaway from the
5 out-of-home placement or the first 6 months of any period during which the child
6 was returned to his or her home for a trial home visit. If the circumstances specified
7 in this paragraph apply, the petition shall be filed or joined in by the last day of the
8 15th month, as described in this paragraph, for which the child was placed outside
9 of his or her home.

10 **SECTION 6.** 48.417 (1) (am) of the statutes is created to read:

11 48.417 (1) (am) 1. The child has been placed outside of his or her home, as
12 described in s. 48.365 (1) or 938.365 (1), for a cumulative total period of 6 months,
13 not including any period during which the child was a runaway from the
14 out-of-home placement or any period during which the child was returned to his or
15 her home for a trial home visit, and any of the following applies:

16 a. The child was under 8 years of age when he or she was placed outside of his
17 or her home.

18 b. The child was 8 years of age or over when he or she was placed outside of his
19 or her home and the goal of the child's permanency plan is placement for adoption
20 with an adoptive parent or a proposed adoptive parent of a sibling, as defined in s.
21 48.38 (4) (br), who was under 8 years of age when the sibling was placed outside of
22 his or her home.

23 c. The child was 8 years of age or over when he or she was placed outside of his
24 or her home and the child's permanency plan indicates that a safe and appropriate

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1 placement with a proposed adoptive parent is available for the child and that the
2 child has expressed the wish to be adopted.

3 2. If the circumstances specified in subd. 1. apply, the petition shall be filed or
4 joined in by the last day of the 6th month, as described in subd. 1., for which the child
5 was placed outside of his or her home.

6 **SECTION 7.** 48.417 (2) (intro.) of the statutes is amended to read:

7 48.417 (2) FILING OR JOINING IN PETITION; WHEN NOT REQUIRED. (intro.)
8 Notwithstanding that any of the circumstances specified in sub. (1) (a), (am), (b), (c),
9 or (d) may apply, an agency or the district attorney, corporation counsel, or other
10 appropriate official designated under s. 48.09 need not file a petition under s. 48.42
11 (1) to terminate the parental rights of a parent or the parents of a child, or, if a
12 petition under s. 48.42 (1) to terminate those parental rights has already been filed,
13 the agency, district attorney, corporation counsel, or other appropriate official need
14 not join in the petition, if any of the following circumstances apply:

15 **SECTION 8.** 938.365 (2g) (b) 3. of the statutes is renumbered 938.365 (2g) (b) 3.
16 (intro.) and amended to read:

17 938.365 (2g) (b) 3. (intro.) ~~If the juvenile has been placed outside of his or her~~
18 ~~home for 15 of the most recent 22 months, not including any period during which the~~
19 ~~juvenile was a runaway from the out-of-home placement or the first 6 months of any~~
20 ~~period during which the juvenile was returned to his or her home for a trial home~~
21 ~~visit, a A statement of whether or not a recommendation has been made to terminate~~
22 ~~the parental rights of the parents of the juvenile. if any of the following applies:~~

23 4. If the statement under subd. 3. indicates that a recommendation for a
24 termination of parental rights has been made, the statement shall indicate a
25 statement indicating the date on which the recommendation was made, any previous

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1 progress made to accomplish the termination of parental rights, any barriers to the
2 termination of parental rights, specific steps to overcome the barriers and when the
3 steps will be completed, reasons why adoption would be in the best interest of the
4 juvenile and whether or not the juvenile should be registered with the adoption
5 information exchange. If the statement under subd. 3. indicates that a
6 recommendation for termination of parental rights has not been made, the
7 statement shall include an explanation of a statement explaining the reasons why
8 a recommendation for termination of parental rights has not been made. If the lack
9 of appropriate adoptive resources is the primary reason for not recommending a
10 termination of parental rights, the agency shall recommend that the juvenile be
11 registered with the adoption information exchange or report the reason why
12 registering the juvenile is contrary to the best interest of the juvenile.

13 **SECTION 9.** 938.365 (2g) (b) 3. a. to d. of the statutes are created to read:

14 938.365 (2g) (b) 3. a. Subject to subd. 3. b. to d., the juvenile has been placed
15 outside of his or her home for 15 of the most recent 22 months, not including any
16 period during which the juvenile was a runaway from the out-of-home placement
17 or the first 6 months of any period during which the juvenile was returned to his or
18 her home for a trial home visit.

19 b. The juvenile has been placed outside of his or her home for a cumulative total
20 period of 6 months, not including any period during which the juvenile was a
21 runaway from the out-of-home placement or any period during which the juvenile
22 was returned to his or her home for a trial home visit, and was under 8 years of age
23 when he or she was placed outside of his or her home.

24 c. The juvenile has been placed outside of his or her home for a cumulative total
25 period of 6 months, not including any period during which the juvenile was a

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1 runaway from the out-of-home placement or any period during which the juvenile
2 was returned to his or her home for a trial home visit, the juvenile was 8 years of age
3 or over when he or she was placed outside of his or her home, and the goal of the
4 juvenile's permanency plan is placement for adoption with an adoptive parent or a
5 proposed adoptive parent of a sibling, as defined in s. 938.38 (4) (br), who was under
6 8 years of age when the sibling was placed outside of his or her home.

7 d. The juvenile has been placed outside of his or her home for a cumulative total
8 period of 6 months, not including any period during which the juvenile was a
9 runaway from the out-of-home placement or any period during which the juvenile
10 was returned to his or her home for a trial home visit, the juvenile was 8 years of age
11 or over when he or she was placed outside of his or her home, and the juvenile's
12 permanency plan indicates that a safe and appropriate placement with a proposed
13 adoptive parent is available for the juvenile and that the juvenile has expressed the
14 wish to be adopted.

15 **SECTION 10.** 938.38 (5) (c) 6. (intro.) of the statutes is amended to read:

16 938.38 (5) (c) 6. (intro.) If Subject to subd. 6m., if the juvenile has been placed
17 outside of his or her home, as described in s. 938.365 (1), for 15 of the most recent 22
18 months, not including any period during which the juvenile was a runaway from the
19 out-of-home placement or the first 6 months of any period during which the juvenile
20 was returned to his or her home for a trial home visit, the appropriateness of the
21 permanency plan and the circumstances which prevent the juvenile from any of the
22 following:

23 **SECTION 11.** 938.38 (5) (c) 6m. of the statutes is created to read:

24 938.38 (5) (c) 6m. The appropriateness of the permanency plan and the
25 circumstances that prevent the juvenile from being placed for adoption or having a

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1 petition for the involuntary termination of parental rights filed on behalf of the
2 juvenile if the juvenile has been placed outside of his or her home, as described in s.
3 938.365 (1), for a cumulative total period of 6 months, not including any period
4 during which the juvenile was a runaway from the out-of-home placement or any
5 period during which the juvenile was returned to his or her home for a trial home
6 visit, and if any of the following applies:

7 a. The juvenile was under 8 years of age when he or she was placed outside of
8 his or her home.

9 b. The juvenile was 8 years of age or over when he or she was placed outside
10 of his or her home and the goal of the juvenile's permanency plan is placement for
11 adoption with an adoptive parent or a proposed adoptive parent of a sibling, as
12 defined in s. 938.38 (4) (br), who was under 8 years of age when the sibling was placed
13 outside of his or her home.

14 c. The juvenile was 8 years of age or over when he or she was placed outside
15 of his or her home and the juvenile's permanency plan indicates that a safe and
16 appropriate placement with a proposed adoptive parent is available for the juvenile
17 and that the juvenile has expressed the wish to be adopted.

18 **SECTION 12. Initial applicability.**

19 (1) **TERMINATION OF PARENTAL RIGHTS PETITION REQUIREMENT.** This act first
20 applies to a child or juvenile who is placed outside of his or her home on the effective
21 date of this subsection.

22

(END)