

1 **SECTION 49.** 48.978 (2) (f) 5. of the statutes is amended to read:

2 48.978 (2) (f) 5. That the person nominated as standby guardian is fit, willing,
3 and able to act as standby guardian or, if that person is not so fit, willing, and able,
4 that the person nominated as alternate standby guardian is fit, willing, and able to
5 act as standby guardian.

6 **SECTION 50.** 48.978 (3) (b) 2. of the statutes is amended to read:

7 48.978 (3) (b) 2. A written designation of a standby guardian complies with this
8 subsection if the written designation substantially conforms to the following form:

9 DESIGNATION OF STANDBY GUARDIAN

10 I, (name and address of parent), being of sound mind, do hereby designate
11 (name and address of standby guardian) as standby guardian of the person and
12 estate of my child(ren) (name(s), birth date(s) and address(es) of child(ren)).

13 (You may, if you wish, provide that the duty and authority of the standby
14 guardian shall extend only to the person, or only to the estate, of your child(ren), by
15 crossing out "person and" or "and estate", whichever is inapplicable, above.)

16 The duty and authority of the standby guardian shall begin on one of the
17 following events, whichever occurs first:

18 1. I die.

19 2. My doctor determines that I am mentally incapacitated, and thus unable to
20 care for my child(ren).

21 3. My doctor determines that I am physically debilitated, and thus unable to
22 care for my child(ren), and I consent in writing, before 2 witnesses, to the standby
23 guardian's duty and authority taking effect.

1 Address

2 **SECTION 51.** 48.978 (3) (e) 1. of the statutes is amended to read:

3 48.978 (3) (e) 1. The written designation under par. (a) signed or consented to
4 by each parent of the child or, if a parent cannot with reasonable diligence be located
5 or has ~~refused~~ failed to consent to the designation, the written designation under par.
6 (a) signed by one parent and a statement of the efforts made to find the other parent
7 or of the fact that the other parent has ~~refused~~ failed to consent to the designation.

8 **SECTION 52.** 48.978 (3) (e) 3. of the statutes is amended to read:

9 48.978 (3) (e) 3. If the petition is filed by a person who has been designated as
10 an alternate standby guardian, a statement that the person designated as standby
11 guardian is unfit, unwilling, or unable to act as standby guardian and the factual
12 basis for that statement.

13 **SECTION 53.** 48.978 (3) (g) 3. of the statutes is amended to read:

14 48.978 (3) (g) 3. That the child has no parent who is fit, willing, and able to
15 exercise the duty and authority of guardianship.

16 ~~**SECTION 54.** 48.978 (3) (g) 4. of the statutes is amended to read:~~

17 ~~48.978 (3) (g) 4. That, if a parent cannot be located, the petitioner has made~~
18 ~~diligent efforts to locate that parent or, if a parent has ~~refused~~ failed to consent to the~~
19 ~~designation of the standby guardian, the consent was ~~unreasonably withheld~~ that~~
20 ~~failure was unreasonable.~~

Inset
48-26

21 **SECTION 55.** 48.978 (3) (g) 5. of the statutes is amended to read:

22 48.978 (3) (g) 5. That, if the petitioner is a person designated as an alternate
23 standby guardian, the person designated as standby guardian is unfit, unwilling, or
24 unable to act as standby guardian.

25 **SECTION 56.** 48.978 (7) of the statutes is amended to read:

1 48.978 (7) ~~RELATIONSHIP TO CH. 54~~ OTHER GUARDIANSHIP PROCEDURES. (a) Except
2 when a different right, remedy, or procedure is provided under this section, the
3 rights, remedies, and procedures provided in s. 48.976 or ch. 54, whichever is
4 applicable, shall govern a standby guardianship created under this section.

5 (b) This section does not abridge the duties or authority of a guardian appointed
6 under s. 48.976, ch. 880, 2003 stats., or ch. 54.

7 (c) Nothing in this section prohibits an individual from petitioning a court for
8 the appointment of a guardian of the person under s. 48.976 or a guardian of the
9 estate under ch. 54.

10 ~~SECTION 57. 48.979 of the statutes is created to read:~~

11 **48.979 Delegation of power by parent. (1)** (a) A parent who has legal
12 custody of a child may, by a power of attorney that is properly executed by all parents
13 who have legal custody of the child, delegate to an agent, for a period not to exceed
14 one year, any of his or her powers regarding the care and custody of the child, except
15 the power to consent to the marriage or adoption of the child, the performance or
16 inducement of an abortion on or for the child, the termination of parental rights to
17 the child, or the enlistment of the child in the U.S. armed forces. A delegation of
18 powers under this paragraph does not deprive the parent of any of his or her powers
19 regarding the care and custody of the child.

20 (b) A parent who has legal custody of a child may not place the child in a foster
21 home, group home, or inpatient treatment facility by means of a delegation of powers
22 under par. (a). Those placements may be made only by means of a court order or as
23 provided in s. 48.63 or 51.13.

24 (c) A delegation of powers under par. (a) does not prevent or supersede any of
25 the following:

1 1. An agency, a sheriff, or a police department from receiving and investigating
2 a report of suspected or threatened abuse or neglect of the child under s. 48.981.

3 2. The child from being taken into and held in custody under ss. 48.19 to 48.21
4 or 938.19 to 938.21.

5 3. An intake worker from conducting an intake inquiry under s. 48.24 or 938.24.

6 4. A court from exercising jurisdiction over the child under s. 48.13 or 938.13.

7 (d) A parent who has delegated his or her powers regarding the care and
8 custody of a child under par. (a) may revoke that delegation at any time by executing
9 a written revocation and notifying the agent in writing of the revocation. A written
10 revocation invalidates the delegation of powers except with respect to acts already
11 taken in reliance on the delegation of powers.

12 (2) A power of attorney complies with sub. (1) (a) if the power of attorney
13 substantially conforms to the following form:

14 **POWER OF ATTORNEY**

15 **DELEGATING PARENTAL POWER**

16 *AUTHORIZED BY S. 48.979, WIS. STATS.*

17 NAME(S) OF CHILD(REN)

18 This Power of Attorney is for the purpose of providing for the care and custody
19 of:

20 Name, address, and date of birth of child

21 Name, address, and date of birth of child

22 Name, address, and date of birth of child

23 **DELEGATION OF POWER TO AGENT**

24 I, (name and address of parent), state that I have legal custody of the
25 child(ren) named above. (Only a parent who has legal custody may use this form.)

1 I delegate my parental power to:

2 Name of agent

3 Agent's address

4 Agent's telephone number(s)

5 Agent's e-mail address

6 Relationship of agent to child(ren)

7 The parental power I am delegating is as follows:

8 FULL

9 *(Check if you want to delegate full parental power regarding the care and*
10 *custody of the child(ren) named above.)*

11 Full parental power regarding the care and custody of the child(ren) named
12 above

13 PARTIAL

14 *(Check each subject over which you want to delegate your parental power*
15 *regarding the child(ren) named above.)*

16 The power to consent to all health care, or

17 The power to consent to only the following health care:

18 Ordinary or routine health care, excluding major surgical procedures,
19 extraordinary procedures, and experimental treatment

20 Emergency blood transfusion

21 Dental care

22 Disclosure of health information about the child(ren)

23 The power to consent to educational and vocational services

24 The power to consent to the employment of the child(ren)

1 The power to consent to the disclosure of confidential information, other
2 than health information, about the child(ren)

3 The power to provide for the care and custody of the child(ren)

4 The power to consent to the child(ren) obtaining a motor vehicle operator's
5 license

6 The power to travel with the child(ren) outside the state of Wisconsin

7 The power to obtain substitute care, such as child care, for the child(ren)

8 Other specifically delegated powers or limits on delegated powers (*Fill in
9 the following space or attach a separate sheet describing any other specific powers that
10 you wish to delegate or any limits that you wish to place on the powers you are
11 delegating.*)

12 This delegation of parental powers does not deprive a custodial or noncustodial
13 parent of any of his or her powers regarding the care and custody of the child(ren),
14 whether granted by court order or force of law.

15 THIS DOCUMENT MAY NOT BE USED TO DELEGATE THE POWER TO
16 CONSENT TO THE MARRIAGE OR ADOPTION OF THE CHILD(REN), THE
17 PERFORMANCE OR INDUCEMENT OF AN ABORTION ON OR FOR THE
18 CHILD(REN), THE TERMINATION OF PARENTAL RIGHTS TO THE
19 CHILD(REN), OR THE ENLISTMENT OF THE CHILD(REN) IN THE U.S.
20 ARMED FORCES OR TO PLACE THE CHILD(REN) IN A FOSTER HOME,
21 GROUP HOME, OR INPATIENT TREATMENT FACILITY.

22 EFFECTIVE DATE AND TERM OF THIS DELEGATION

23 This Power of Attorney takes effect on and will remain in effect until If
24 no termination date is given or if the termination date given is more than one year
25 after the effective date of this Power of Attorney, this Power of Attorney will remain

1 in effect for one year after the effective date, but no longer. This Power of Attorney
2 may be revoked in writing at any time by a parent who has legal custody of the
3 child(ren) and such a revocation invalidates the delegation of parental powers made
4 by this Power of Attorney, except with respect to acts already taken in reliance on this
5 Power of Attorney.

6 **SIGNATURE(S) OF PARENT(S)**

7 Signature of parent Date

8 Parent's name printed

9 Parent's address

10 Parent's telephone number

11 Parent's e-mail address

12 Signature of parent Date

13 Parent's name printed

14 Parent's address

15 Parent's telephone number

16 Parent's e-mail address

17 **WITNESSING OF SIGNATURE(S) (OPTIONAL)**

18 State of

19 County of

20 This document was signed before me on (date) by (name(s) of parent(s)).

21 Signature of notary

22 My commission expires:

23 **STATEMENT OF AGENT**

24 I, (name and address of agent), understand that (name(s) of parent(s)) has
25 (have) delegated to me the powers specified in this Power of Attorney regarding the

1 care and custody of (name(s) of child(ren)). I further understand that this Power
 2 of Attorney may be revoked in writing at any time by a parent who has legal custody
 3 of (name(s) of child(ren)). I hereby declare that I have read this Power of Attorney,
 4 understand the powers delegated to me by this Power of Attorney, am fit, willing, and
 5 able to undertake those powers, and accept those powers.

6 Agent's signature

Date

7 **APPENDIX**

8 *(Here the parent(s) may indicate where they may be located during the term of*
 9 *the Power of Attorney if different from the address(es) set forth above.)*

10 I can be located at:

11 Address(es)

12 Telephone number(s)

13 E-mail address(es)

14 Or, by contacting:

15 Name

16 Address

17 Telephone number

18 E-mail address

19 Or, I cannot be located

20 **SECTION 58.** 48.981 (2) (a) (intro.) of the statutes is amended to read:

21 48.981 (2) (a) (intro.) Any of the following persons who has reasonable cause
 22 to suspect that a child seen by the person in the course of professional duties has been
 23 abused or neglected or who has reason to believe that a child seen by the person in
 24 the course of professional duties has been threatened with abuse or neglect and that

X

1 abuse or neglect of the child will occur shall, except as provided under ~~sub. subs. (2m)~~
2 ~~and (2r)~~, report as provided in sub. (3):

3 **SECTION 59.** 48.981 (2) (b) of the statutes is amended to read: *

4 48.981 (2) (b) A court-appointed special advocate who has reasonable cause to
5 suspect that a child seen in the course of activities under s. 48.236 (3) has been
6 abused or neglected or who has reason to believe that a child seen in the course of
7 those activities has been threatened with abuse and neglect and that abuse or neglect
8 of the child will occur shall, except as provided in ~~sub. subs. (2m) and (2r)~~, report as
9 provided in sub. (3).

10 **SECTION 60.** 48.981 (2) (bm) 1. (intro.) of the statutes is amended to read: *

11 48.981 (2) (bm) 1. (intro.) Except as provided in subd. 3. and ~~sub. subs. (2m) and~~
12 ~~(2r)~~, a member of the clergy shall report as provided in sub. (3) if the member of the
13 clergy has reasonable cause to suspect that a child seen by the member of the clergy
14 in the course of his or her professional duties:

15 **SECTION 61.** 48.981 (2) (bm) 2. (intro.) of the statutes is amended to read: *

16 48.981 (2) (bm) 2. (intro.) Except as provided in subd. 3. and ~~sub. subs. (2m) and~~
17 ~~(2r)~~, a member of the clergy shall report as provided in sub. (3) if the member of the
18 clergy has reasonable cause, based on observations made or information that he or
19 she receives, to suspect that a member of the clergy has done any of the following:

20 **SECTION 62.** 48.981 (2m) (title) of the statutes is amended to read: *

21 48.981 (2m) (title) EXCEPTION TO REPORTING REQUIREMENT; HEALTH CARE SERVICES.

22 **SECTION 63.** 48.981 (2r) of the statutes is created to read: *

23 48.981 (2r) EXCEPTION TO REPORTING REQUIREMENT; PERSON DELEGATED PARENTAL
24 POWERS. A person delegated care and custody of a child under s. 48.979 is not required
25 to report as provided in sub. (3) any suspected or threatened abuse or neglect of the

1 ~~child as required under sub. (2) (a), (b), or (bm) or (2m) (d) or (e). Such a person who~~
2 ~~has reason to suspect that the child has been abused or neglected or who has reason~~
3 ~~to believe that the child has been threatened with abuse or neglect and that abuse~~
4 ~~or neglect of the child will occur may report as provided in sub. (3).~~

5 **SECTION 64.** 48.981 (7) (a) 11v. of the statutes is created to read:

6 48.981 (7) (a) 11v. A guardian ad litem for a child who is the subject of a
7 guardianship proceeding under s. 48.976 to the extent necessary for the guardian ad
8 litem to make recommendations to the court concerning the best interests of the
9 child, to report to the court concerning the suitability of the proposed guardian to
10 serve as guardian of the child and on any other matter that the court requests, and
11 otherwise to fulfill the duties and responsibilities required of the guardian ad litem
12 in the proceeding.

13 **SECTION 65.** 49.32 (1) (am) of the statutes is amended to read:

14 49.32 (1) (am) Paragraph (a) does not prevent the department or a county
15 department under s. 46.22 or 46.23 from charging and collecting the cost of adoptive
16 placement investigations and child care as authorized under s. 48.837 (7) or the cost
17 of guardianship investigations as authorized under s. 48.976 (3) (d) 2.

18 **SECTION 66.** 51.30 (4) (b) 18. a. of the statutes is amended to read:

19 51.30 (4) (b) 18. a. In this subdivision, "abuse" has the meaning given in s. 51.62
20 (1) (ag); "neglect" has the meaning given in s. 51.62 (1) (br); and "parent" has the
21 meaning given in s. 48.02 (13), except that "parent" does not include the parent of a
22 minor whose custody is transferred to a legal custodian, as defined in s. 48.02 (11),
23 or for whom a guardian is appointed under, ~~or~~ s. 48.976 or 54.10 or s. 880.33, 2003
24 stats.

25 **SECTION 67.** 51.30 (4) (b) 18. c. of the statutes is amended to read:

1 51.30 (4) (b) 18. c. If the patient, regardless of age, has a guardian appointed
2 under s. 48.976 or 54.10 or s. 880.33, 2003 stats., or if the patient is a minor with
3 developmental disability who has a parent or has a guardian appointed under s.
4 48.831 and does not have a guardian appointed under s. 48.976 or 54.10 or s. 880.33,
5 2003 stats., information concerning the patient that is obtainable by staff members
6 of the agency or nonprofit corporation with which the agency has contracted is
7 limited, except as provided in subd. 18. e., to the nature of an alleged rights violation,
8 if any; the name, birth date and county of residence of the patient; information
9 regarding whether the patient was voluntarily admitted, involuntarily committed
10 or protectively placed and the date and place of admission, placement or
11 commitment; and the name, address and telephone number of the guardian of the
12 patient and the date and place of the guardian's appointment or, if the patient is a
13 minor with developmental disability who has a parent or has a guardian appointed
14 under s. 48.831 and does not have a guardian appointed under s. 48.976 or 54.10 or
15 s. 880.33, 2003 stats., the name, address and telephone number of the parent or
16 guardian appointed under s. 48.831 of the patient.

17 **SECTION 68.** 54.01 (10) of the statutes is amended to read:

18 54.01 (10) "Guardian" means a person appointed by a court under s. 54.10 to
19 manage the income and assets and provide for the essential requirements for health
20 and safety and the personal needs of ~~a minor~~, an individual found incompetent, or
21 a spendthrift or to manage the income and assets of a minor.

22 **SECTION 69.** 54.10 (1) of the statutes is amended to read:

23 54.10 (1) A court may appoint ~~a guardian of the person or~~ a guardian of the
24 estate, ~~or both~~, for an individual if the court determines that the individual is a
25 minor. Except as provided in ss. 48.831, 48.977, and 48.978, an appointment of a

1 guardian of the person of a minor shall be conducted under the procedures specified
2 in s. 48.976.

3 SECTION 70. 54.52 (1) of the statutes is amended to read:

4 54.52 (1) A person may at any time bring a petition for the appointment of a
5 standby guardian of the person or estate of an individual who is determined under
6 s. 54.10 to be incompetent, ~~a minor~~, or a spendthrift or for the appointment of a
7 standby guardian of the estate of a minor, except that, as specified in s. ~~48.97~~ 48.978,
8 a petition for the appointment of a standby guardian of the person or ~~property estate~~,
9 or both, of a minor to assume the duty and authority of guardianship on the
10 incapacity, death, or debilitation and consent, of the minor's parent ~~may~~ shall be
11 brought under s. 48.978.

12 SECTION 71. 54.56 of the statutes is renumbered 48.976 (11) and amended to
13 read:

14 48.976 (11) VISITATION BY A MINOR'S CHILD'S GRANDPARENTS AND STEPPARENTS. (a)
15 In this ~~section~~ subsection, "stepparent" means the surviving spouse of a deceased
16 parent of a ~~minor child~~, whether or not the surviving spouse has remarried.

17 (b) If one or both parents of a ~~minor child~~ are deceased and the ~~minor child~~ is
18 in the custody of the surviving parent or any other person, a grandparent or
19 stepparent of the ~~minor child~~ may petition for visitation privileges with respect to the
20 ~~minor child~~, whether or not the person with custody is married. The grandparent
21 or stepparent may file the petition in a guardianship or temporary guardianship
22 proceeding under this ~~chapter~~ section that affects the ~~minor child~~ or may file the
23 petition to commence an independent action under this ~~chapter~~ subsection. Except
24 as provided in ~~sub. (3m)~~ par. (cm), the court may grant reasonable visitation
25 privileges to the grandparent or stepparent if the surviving parent or other person

1 who has custody of the ~~minor~~ child has notice of the hearing and if the court
2 determines that visitation is in the best interest of the ~~minor~~ child.

3 (c) Whenever possible, in making a determination under ~~sub. (2)~~ par. (b), the
4 court shall consider the wishes of the ~~minor~~ child.

5 (cm) 1. Except as provided in ~~par. (b)~~ subd. 2., the court may not grant visitation
6 privileges to a grandparent or stepparent under this ~~section~~ subsection if the
7 grandparent or stepparent has been convicted under s. 940.01 of the first-degree
8 intentional homicide, or under s. 940.05 of the 2nd-degree intentional homicide, of
9 a parent of the ~~minor~~ child, and the conviction has not been reversed, set aside, or
10 vacated.

11 2. ~~Paragraph (a)~~ Subdivision 1. does not apply if the court determines by clear
12 and convincing evidence that the visitation would be in the best interests of the ~~minor~~
13 child. The court shall consider the wishes of the ~~minor~~ child in making the
14 determination.

15 (d) The court may issue any necessary order to enforce a visitation order that
16 is granted under this ~~section~~ subsection, and may from time to time modify the
17 visitation privileges or enforcement order for good cause shown.

18 (dm) 1. If a grandparent or stepparent granted visitation privileges with
19 respect to a ~~minor~~ child under this ~~section~~ subsection is convicted under s. 940.01 of
20 the first-degree intentional homicide, or under s. 940.05 of the 2nd-degree
21 intentional homicide, of a parent of the ~~minor~~ child, and the conviction has not been
22 reversed, set aside, or vacated, the court shall modify the visitation order by denying
23 visitation with the ~~minor~~ child upon petition, motion, or order to show cause by a
24 person having custody of the ~~minor~~ child, or upon the court's own motion, and upon
25 notice to the grandparent or stepparent granted visitation privileges.

1 2. ~~Paragraph (a)~~ Subdivision 1. does not apply if the court determines by clear
2 and convincing evidence that the visitation would be in the best interests of the ~~minor~~
3 child. The court shall consider the wishes of the ~~minor~~ child in making the
4 determination.

5 (e) This ~~section~~ subsection applies to every ~~minor~~ child in this state whose
6 parent or parents are deceased, regardless of the date of death of the parent or
7 parents.

8 **SECTION 72.** 54.57 of the statutes is renumbered 48.976 (12) and amended to
9 read:

10 48.976 (12) PROHIBITING VISITATION OR PHYSICAL PLACEMENT IF ~~A~~ PARENT KILLS
11 OTHER PARENT. (a) Except as provided in sub. (2), ~~in an action under this chapter that~~
12 ~~affects a minor par. (b)~~, a court may not grant to a parent of ~~the minor~~ a child who
13 is the subject of a proceeding under this section visitation or physical placement
14 rights with the ~~minor~~ child if the parent has been convicted under s. 940.01 of the
15 first-degree intentional homicide, or under s. 940.05 of the 2nd-degree intentional
16 homicide, of the ~~minor's~~ child's other parent, and the conviction has not been
17 reversed, set aside, or vacated.

18 (b) ~~Subsection (1)~~ Paragraph (a) does not apply if the court determines by clear
19 and convincing evidence that visitation or periods of physical placement would be in
20 the best interests of the ~~minor~~ child. The court shall consider the wishes of the ~~minor~~
21 child in making the determination.

22 **SECTION 73.** 55.03 (1) of the statutes is amended to read:

23 55.03 (1) AGENCY AS BOTH GUARDIAN AND PROVIDER PROHIBITED. No agency acting
24 as a guardian appointed under s. 48.976, ch. 880, 2003 stats., or ch. 54, 2009 stats.,

1 may be a provider of protective services or protective placement for its ward under
2 this chapter.

3 **SECTION 74.** 55.08 (1) (b) of the statutes is amended to read:

4 55.08 (1) (b) The individual is a minor 14 years of age or over who is ~~not~~ alleged
5 to have a developmental disability ~~and on whose behalf a petition for guardianship~~
6 ~~has been submitted~~, or is an adult who has been determined to be incompetent by a
7 circuit court.

8 **SECTION 75.** 55.08 (2) (a) of the statutes is amended to read:

9 55.08 (2) (a) The individual has been determined to be incompetent by a circuit
10 court or is a minor 14 years of age or over who is alleged to have a developmental
11 disability ~~and on whose behalf a petition for a guardianship has been submitted~~.

12 **SECTION 76.** 55.10 (4) (intro.) of the statutes is amended to read:

13 55.10 (4) RIGHTS. (intro.) Sections 54.42, 54.44, and 54.46 and the following
14 provisions apply to all hearings under this chapter involving protective placement
15 or protective services for an adult, and the following provisions apply to all hearings
16 under this chapter involving protective placement or protective services for a minor,
17 except transfers of placement under s. 55.15 and summary hearings under ss. 55.18
18 (3) (d) and 55.19 (3) (d):

19 **SECTION 77.** 115.76 (12) (b) 2. of the statutes is amended to read:

20 115.76 (12) (b) 2. The state, a county, or a child welfare agency, if a child was
21 made a ward of the state, county, or child welfare agency under ch. 54, 2009 stats.,
22 or ch. 880, 2003 stats., or if a child has been placed in the legal custody or
23 guardianship of the state, county, or child welfare agency under ch. 48 or ~~ch.~~ 767.

24 **SECTION 78.** 118.125 (2) (L) of the statutes is amended to read:

1 118.125 (2) (L) A school board shall disclose the pupil records of a pupil in
2 compliance with a court order under s. 48.235 (3) (c) 5., 48.236 (4) (a), 48.345 (12) (b),
3 938.34 (7d) (b), 938.396 (1) (d), or 938.78 (2) (b) 2. after making a reasonable effort
4 to notify the pupil's parent or legal guardian.

5 **SECTION 79.** 146.82 (2) (a) 9. a. of the statutes is amended to read:

6 146.82 (2) (a) 9. a. In this subdivision, "abuse" has the meaning given in s. 51.62
7 (1) (ag); "neglect" has the meaning given in s. 51.62 (1) (br); and "parent" has the
8 meaning given in s. 48.02 (13), except that "parent" does not include the parent of a
9 minor whose custody is transferred to a legal custodian, as defined in s. 48.02 (11),
10 or for whom a guardian is appointed under s. 48.976 or 54.10 or s. 880.33, 2003 stats.

11 **SECTION 80.** 146.82 (2) (a) 9. c. of the statutes is amended to read:

12 146.82 (2) (a) 9. c. If the patient, regardless of age, has a guardian appointed
13 under s. 48.976 or 54.10 or s. 880.33, 2003 stats., or if the patient is a minor with
14 developmental disability, as defined in s. 51.01 (5) (a), who has a parent or has a
15 guardian appointed under s. 48.831 and does not have a guardian appointed under
16 s. 48.976 or 54.10 or s. 880.33, 2003 stats., information concerning the patient that
17 is obtainable by staff members of the agency or nonprofit corporation with which the
18 agency has contracted is limited, except as provided in subd. 9. e., to the nature of
19 an alleged rights violation, if any; the name, birth date and county of residence of the
20 patient; information regarding whether the patient was voluntarily admitted,
21 involuntarily committed or protectively placed and the date and place of admission,
22 placement or commitment; and the name, address and telephone number of the
23 guardian of the patient and the date and place of the guardian's appointment or, if
24 the patient is a minor with developmental disability who has a parent or has a
25 guardian appointed under s. 48.831 and does not have a guardian appointed under

1 s. 48.976 or 54.10 or s. 880.33, 2003 stats., the name, address and telephone number
2 of the parent or guardian appointed under s. 48.831 of the patient.

3 **SECTION 81.** 214.37 (4) (k) 1. of the statutes is amended to read:

4 214.37 (4) (k) 1. An affidavit stating that the person has standing under s.
5 867.01 (3) (ac) or 867.02 (2) (ac) to petition for summary settlement or assignment
6 of a decedent's estate or that the person is an heir of the decedent, or was guardian,
7 as defined in s. 54.01 (10) or s. 880.01 (3), 2003 stats., of the estate of the decedent
8 at the time of the decedent's death, and may obtain transfer of property of a decedent
9 under s. 867.03.

10 **SECTION 82.** 215.26 (8) (e) 1. of the statutes is amended to read:

11 215.26 (8) (e) 1. Submits an affidavit stating that the person has standing
12 under s. 867.01 (3) (ac) or 867.02 (2) (ac) to petition for summary settlement or
13 assignment of a decedent's estate or that the person is an heir of the decedent, or was
14 guardian, as defined in s. 54.01 (10) or s. 880.01 (3), 2003 stats., of the estate of the
15 decedent at the time of the decedent's death, and may obtain transfer of property of
16 a decedent under s. 867.03; and

17 **SECTION 83.** 757.69 (1m) (e) of the statutes is amended to read:

18 757.69 (1m) (e) Conduct hearings, make findings, or issue orders in
19 proceedings under s. 48.976, 48.977, or 48.978.

20 **SECTION 84.** 808.075 (4) (a) 9m. of the statutes is created to read:

21 808.075 (4) (a) 9m. Review of the conduct of a guardian under s. 48.976 (9).

22 **SECTION 85.** 808.075 (4) (a) 11. of the statutes is amended to read:

23 808.075 (4) (a) 11. Termination of guardianship under s. 48.976 (10) or 48.977
24 (7), including removal of a guardian.

25 **SECTION 86.** 808.075 (4) (a) 13. of the statutes is created to read:

1 808.075 (4) (a) 13. Appointment of a successor guardian under s. 48.976 (7).

2 **SECTION 87.** 808.075 (4) (f) 3. of the statutes is renumbered 808.075 (4) (a) 14.
3 and amended to read:

4 808.075 (4) (a) 14. Order for visitation under s. ~~54.56~~ 48.976 (11).

5 **SECTION 88.** 814.66 (1) (m) of the statutes is amended to read:

6 814.66 (1) (m) For filing a petition under s. ~~54.56~~ 48.976 (11), whether in a
7 guardianship or temporary guardianship proceeding or to commence an
8 independent action, \$60.

9 **SECTION 89.** 938.02 (8) of the statutes is amended to read:

10 938.02 (8) "Guardian" means the person named by the court having the duty
11 and authority of guardianship guardian of the person of a juvenile.

12 **SECTION 90.** 938.255 (1) (cm) of the statutes is amended to read:

13 938.255 (1) (cm) If the petition is initiating proceedings under s. 938.13 (4), (6),
14 (6m), or (7), whether the juvenile may be subject to s. 938.028 or the federal Indian
15 Child Welfare Act, 25 USC 1901 to 1963, and, if the juvenile may be subject to s.
16 938.028 or that act, the names and addresses of the juvenile's Indian custodian, if
17 any, and Indian tribe, if known.

18 **SECTION 91.** 938.34 (3) (a) of the statutes is amended to read:

19 938.34 (3) (a) The home of a parent ~~or~~, other relative, or guardian of the
20 juvenile, except that the court may not designate the home of a parent ~~or~~, other
21 relative, or guardian of the juvenile as the juvenile's placement if the parent ~~or~~, other
22 relative, or guardian has been convicted of the homicide of a parent of the juvenile
23 under s. 940.01 or 940.05, and the conviction has not been reversed, set aside, or
24 vacated, unless the court determines by clear and convincing evidence that the

1 placement would be in the best interests of the juvenile. The court shall consider the
2 wishes of the juvenile in making that determination.

3 **SECTION 92.** 938.34 (3) (c) of the statutes is amended to read:

4 938.34 (3) (c) A foster home licensed under s. 48.62 ~~or~~, a group home licensed
5 under s. 48.625, or the home of a guardian under s. 48.977 (2).

6 **SECTION 93.** 938.345 (1) (e) of the statutes is amended to read:

7 938.345 (1) (e) Place any juvenile not found under ch. 880, 2003 stats., or ch.
8 46, 48, 49, 51, 54, or 115 to have a developmental disability or a mental illness or to
9 be a child with a disability, as defined in s. 115.76 (5), in a facility that exclusively
10 treats one or more of those categories of juveniles.

11 **SECTION 94.** 938.345 (4) of the statutes is repealed.

12 **SECTION 95.** 938.355 (6) (an) 1. of the statutes is amended to read:

13 938.355 (6) (an) 1. If a juvenile who has violated a municipal ordinance, other
14 than an ordinance enacted under s. 118.163 (1m) or (2), violates a condition of a
15 dispositional order imposed by the municipal court, the municipal court may petition
16 the court assigned to exercise jurisdiction under this chapter and ch. 48 to impose
17 on the juvenile the sanction under par. (d) 1. or the sanction under par. (d) 3., with
18 monitoring by an electronic monitoring system. A sanction may be imposed under
19 this subdivision only if, at the time of the judgment, the municipal court explained
20 the conditions to the juvenile and informed the juvenile of those possible sanctions
21 for a violation or if before the violation the juvenile has acknowledged in writing that
22 he or she has read, or has had read to him or her, those conditions and possible
23 sanctions and that he or she understands those conditions and possible sanctions.
24 The petition shall contain a statement of whether the juvenile may be subject to s.
25 938.028 or the federal Indian Child Welfare Act, 25 USC 1901 to 1963, and, if the

1 juvenile may be subject to s. 938.028 or that act, the names and addresses of the
2 juvenile's Indian custodian, if any, and tribe, if known.

3 **SECTION 96.** 938.355 (6) (b) of the statutes is amended to read:

4 938.355 (6) (b) *Motion to impose sanction.* A motion for imposition of a sanction
5 may be brought by the person or agency primarily responsible for the provision of
6 dispositional services, the district attorney or corporation counsel, or the court that
7 entered the dispositional order. If the court initiates the motion, that court is
8 disqualified from holding a hearing on the motion. Notice of the motion shall be given
9 to the juvenile, guardian ad litem, counsel, parent, guardian, legal custodian, and all
10 parties present at the original dispositional hearing. The motion shall contain a
11 statement of whether the juvenile may be subject to s. 938.028 or the federal Indian
12 Child Welfare Act, 25 USC 1901 to 1963 and, if the juvenile may be subject to s.
13 938.028 or that act, the names and addresses of the juvenile's Indian custodian, if
14 any, and tribe, if known.

15 **SECTION 97.** 938.355 (6m) (am) 1. of the statutes is amended to read:

16 938.355 (6m) (am) 1. If a juvenile who has violated a municipal ordinance
17 enacted under s. 118.163 (2) violates a condition of a dispositional order imposed by
18 the municipal court, the municipal court may petition the court assigned to exercise
19 jurisdiction under this chapter and ch. 48 to impose on the juvenile the sanction
20 specified in par. (a) 1g. A sanction may be imposed under this subdivision only if, at
21 the time of the judgment the municipal court explained the conditions to the juvenile
22 and informed the juvenile of that possible sanction or if before the violation the
23 juvenile has acknowledged in writing that he or she has read, or has had read to him
24 or her, those conditions and that possible sanction and that he or she understands
25 those conditions and that possible sanction. The petition shall contain a statement

1 of whether the juvenile may be subject to s. 938.028 or the federal Indian Child
2 Welfare Act, 25 USC 1901 to 1963, and, if the juvenile may be subject to s. 938.028
3 or that act, the names and addresses of the juvenile's Indian custodian, if any, and
4 tribe, if known.

5 **SECTION 98. Nonstatutory provisions.**

6 (1) TRANSITION. Notwithstanding the treatment of sections 54.01 (10) and 54.10
7 (1) of the statutes by this act, all guardianships of the person of a minor under section
8 54.10, 2009 stats., or chapter 880, 2003 stats., in effect immediately before the
9 effective date of this subsection remain in effect and shall be considered
10 guardianships under section 48.976 of the statutes, as created by this act, until
11 terminated by court order under section 48.976 (10) of the statutes, as created by this
12 act, all matters commenced under ch. 54, 2009 stats., with respect to a guardianship
13 of the person of a minor that are pending on the effective date of this subsection shall
14 be completed under ch. 54, 2009 stats., and all orders appointing a guardian of the
15 person of a minor under ch. 54, 2009 stats., entered beginning on the effective date
16 of this subsection shall be considered guardianships under section 48.976 of the
17 statutes, as created by this act.

18 **SECTION 99. Initial applicability.**

19 (1) PETITIONS FOR GUARDIANSHIP. Except as provided in subsection (2), this act
20 first applies to a petition for full, limited, temporary, emergency, or successor
21 guardianship filed on the effective date of this subsection. *lo and*

22 (2) DUTIES AND AUTHORITY OF GUARDIAN OF THE PERSON. The treatment of sections
23 48.023 (intro.), (3), and (4) and 48.976 (2) (c), *5.* of the statutes first applies to a
24 guardianship of the person of a minor in effect on the effective date of this subsection.

25 **SECTION 100. Effective date.**

SAV ✓

2011-2012 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1762/P2ins
GMM.....

(INSERT 30-15)

WA

1 Dismissal of a petition under this subdivision does not preclude the court from
2 referring the child to the intake worker for an intake inquiry under s. 48.24. ✓

(END OF INSERT)

(INSERT 31-4)

3 (g) *Adjournment; proposed guardian unfit or not in best interests.* If at the
4 conclusion of the hearing under par. (d) the court finds that the petitioner has proved
5 the allegations in the petition, other than the allegation specified in par. (a) 8., by
6 clear and convincing evidence, but that the proposed guardian is not fit, willing, and
7 able to serve as the guardian of the child, or if the court finds that the petitioner has
8 so proved all of the allegations in the petition, but that appointment of the proposed
9 guardian as the child's guardian is not in the best interests of the child, the court may,
10 in lieu of granting a disposition dismissing the petition under par. (g) 1., adjourn the
11 hearing for not more than 30 days, request the petitioner or any other party to
12 nominate a new proposed guardian, and order the guardian ad litem to report to the
13 court concerning the suitability of the new proposed guardian to serve as the
14 guardian of the child.

F

(END OF INSERT)

(INSERT 41-5)

15 SECTION 1. 48.977 (4) (b) 5. of the statutes is amended to read:

1 48.977 (4) (b) 5. ~~A statement of whether the proceedings are subject to the~~
2 ~~Uniform Child Custody Jurisdiction and Enforcement Act~~ The information required
3 under ~~ch. 822 s. 822.29 (1).~~

History: 1995 a. 275; 1997 a. 27, 35, 80, 237; 1999 a. 133; 2001 a. 2, 109; 2005 a. 25, 130, 387; 2007 a. 77; 2009 a. 94; 2011 a. 32.
(END OF INSERT)

(INSERT 42-7)

4 **SECTION 2.** 48.977 (6) (c) of the statutes is amended to read:

5 48.977 (6) (c) If a hearing is to be held, the ~~court~~ person requesting or proposing
6 the revision shall notify the persons entitled to receive notice under sub. (4) (c) at
7 least 7 days prior to the hearing of the date, place and purpose of the hearing. A copy
8 of the request or proposal shall be attached to the notice. The court may order a
9 revision if, at the hearing, the court finds that it has been proved by clear and
10 convincing evidence that there has been a substantial change in circumstances and
11 if the court determines that a revision would be in the best interests of the child.

History: 1995 a. 275; 1997 a. 27, 35, 80, 237; 1999 a. 133; 2001 a. 2, 109; 2005 a. 25, 130, 387; 2007 a. 77; 2009 a. 94; 2011 a. 32.

12 **SECTION 3.** 48.977 (7) (b) 3. of the statutes is amended to read:

13 48.977 (7) (b) 3. If a hearing is to be held, the ~~court~~ person requesting or
14 proposing the removal shall notify the persons entitled to receive notice under sub.
15 (4) (c) at least 7 days prior to the hearing of the date, place and purpose of the hearing.
16 A copy of the request or court proposal shall be attached to the notice. The court shall
17 remove the guardian for cause if, at the hearing, the court finds that it has been
18 proved by clear and convincing evidence that the guardian is or has been neglecting,
19 is or has been refusing or is or has been unable to discharge the guardian's trust and
20 if the court determines that removal of the guardian would be in the best interests
21 of the child.

History: 1995 a. 275; 1997 a. 27, 35, 80, 237; 1999 a. 133; 2001 a. 2, 109; 2005 a. 25, 130, 387; 2007 a. 77; 2009 a. 94; 2011 a. 32.

1 **SECTION 4.** 48.977 (7) (d) 3. of the statutes is amended to read:

2 48.977 (7) (d) 3. If a hearing is to be held, the ~~court~~ parent requesting the
3 termination shall notify the persons entitled to receive notice under sub. (4) (c) at
4 least 7 days prior to the hearing of the date, place and purpose of the hearing. A copy
5 of the request shall be attached to the notice. The court shall terminate the
6 guardianship if, at the hearing, the court finds that it has been proved by clear and
7 convincing evidence that there has been a substantial change in circumstances since
8 the last order affecting the guardianship was entered and the parent is willing and
9 able to carry out the duties of a guardian and if the court determines that termination
10 of the guardianship would be in the best interests of the child.

History: 1995 a. 275; 1997 a. 27, 35, 80, 237; 1999 a. 133; 2001 a. 2, 109; 2005 a. 25, 130, 387; 2007 a. 77; 2009 a. 94; 2011 a. 32.

(END OF INSERT)

(INSERT 43-13)

11 **SECTION 5.** 48.978 (2) (b) 6. of the statutes is amended to read:

12 48.978 (2) (b) 6. A statement that the petitioner has a physical or mental
13 impairment or a physical illness, disease, or injury and that there is a significant
14 risk that the petitioner will become incapacitated or debilitated or die, as applicable,
15 within 2 years after the date on which the petition is filed as a result of that
16 impairment, illness, disease, or injury and the factual basis for that statement.

History: 1997 a. 334; 2005 a. 130, 387; 2007 a. 96; 2009 a. 94.

(END OF INSERT)

(INSERT 44-4)

17 **SECTION 6.** 48.978 (2) (b) 10. of the statutes is amended to read:

1 48.978 (2) (b) 10. ~~A statement of whether the proceedings are subject to the~~
2 ~~Uniform Child Custody Jurisdiction and Enforcement Act~~ The information required
3 under ~~ch. 822 s. 822.29 (1).~~

History: 1997 a. 334; 2005 a. 130, 387; 2007 a. 96; 2009 a. 94.

(END OF INSERT)

(INSERT 44-13)

4 **SECTION 7.** 48.978 (2) (e) 1. of the statutes is amended to read:
5 48.978 (2) (e) 1. Whether the petitioner has a physical or mental impairment
6 or a physical illness, disease, or injury and there is a significant risk that the
7 petitioner will become incapacitated or debilitated or die ~~within 2 years after the date~~
8 ~~on which the petition was filed~~ as a result of that impairment, illness, disease, or
9 injury.

History: 1997 a. 334; 2005 a. 130, 387; 2007 a. 96; 2009 a. 94.

(END OF INSERT)

(INSERT 44-19)

10 **SECTION 8.** 48.978 (2) (f) 1. of the statutes is amended to read:
11 48.978 (2) (f) 1. That the petitioner has a physical or mental impairment or a
12 physical illness, disease, or injury and there is a significant risk that the petitioner
13 will become incapacitated or debilitated or die ~~within 2 years after the date on which~~
14 ~~the petition was filed~~ as a result of that impairment, illness, disease, or injury.

History: 1997 a. 334; 2005 a. 130, 387; 2007 a. 96; 2009 a. 94.

(END OF INSERT)

(INSERT 48-20)

15 **SECTION 9.** 48.978 (3) (g) 4. of the statutes is amended to read:

1 48.978 (3) (g) 4. That, if a parent cannot be located, the petitioner has made
2 diligent efforts to locate that parent ~~or, if a parent has refused to consent to the~~
3 ~~designation of the standby guardian, the consent was unreasonably withheld.~~

History: 1997 a. 334; 2005 a. 130, 387; 2007 a. 96; 2009 a. 94.

(END OF INSERT)

(INSERT A-1)

Adjournment; proposed guardian unfit or not in best interests. If at the conclusion of the fact-finding and dispositional hearing the juvenile court finds that the petitioner has proved the allegations in the petition by clear and convincing evidence, but that the proposed guardian is not fit, willing, and able to serve as the guardian of the child or that appointment of the proposed guardian as the child's guardian is not in the best interests of the child, the juvenile court may, in lieu of granting a disposition dismissing the petition, adjourn the hearing for not more than 30 days, request the petitioner or any other party to nominate a new proposed guardian, and order the GAL to report to the juvenile court concerning the suitability of the new proposed guardian to serve as the guardian of the child.

(END OF INSERT)

(INSERT A-2)

no ff finding: 1) that there is a significant risk that the petitioner will become incapacitated or debilitated or die within two years after the petition was filed; 2) that, if a parent has refused to join in the petition, the refusal was unreasonable; and 3) that the person nominated as guardian is willing and able to act as standby guardian.

This bill changes the findings that the juvenile court must make before the juvenile court may appoint a standby guardian by: 1) eliminating the two-year window for significant risk of incapacitation, debilitation, or death and instead requiring the juvenile court to find that that the petitioner has a physical or mental impairment or a physical illness, disease, or injury and that there is a significant risk that the petitioner will become incapacitated or debilitated or die as a result of that impairment, illness, disease, or injury; 2) eliminating altogether the finding that a parent's refusal to join in the petition was unreasonable; and 3) requiring

(END OF INSERT)

Basford, Sarah

From: Tuschen, Terry
Sent: Friday, March 09, 2012 12:18 PM
To: LRB.Legal
Subject: Draft Review: LRB 11-1762/1 Topic: Guardianships of children

Please Jacket LRB 11-1762/1 for the SENATE.