

ASSEMBLY BILL 30 (LRB -1176)

An Act to amend 48.60 (2) (a), 48.62 (2), 48.625 (3) and 48.63 (2); and to create 48.979 of the statutes; relating to: delegation by a parent, guardian, or legal custodian of a child of powers regarding the care and custody of the child by a power of attorney.

(FE)

2011

02-23.	A.	Introduced by Representatives Kooyenga, Pridemore, Bernier, Farrow, Fields, Jorgensen, Kapenga, Kleefisch, Knodl, Kuglitsch, LeMahieu, Marklein, Mursau, A. Ott, Petrowski, Ripp, Rivard, Spanbauer, Staskunas, Turner and Wynn , by request of Lieutenant Governor Rebecca Kleefisch.	
02-23.	A.	Read first time and referred to committee on Children and Families	164
04-01.	A.	Fiscal estimate received.	
04-06.	A.	Public hearing held.	
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05-12.	A.	Assembly amendment 1 to Assembly substitute amendment 1 offered by committee on Children and Families (LRB a0935)	320
05-12.	A.	Report Assembly Amendment 1 to Assembly Substitute Amendment 1 adoption recommended by committee on Children and Families, Ayes 5, Noes 3	320
05-12.	A.	Report Assembly Substitute Amendment 1 adoption recommended by committee on Children and Families, Ayes 8, Noes 0	320
05-12.	A.	Report passage as amended recommended by committee on Children and Families, Ayes 7, Noes 1	320
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05-17.	A.	Read a second time	330
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JP

**2011
ENROLLED BILL**

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ADOPTED DOCUMENTS:

Orig

Engr

A SubAmdt 1

11s 0088/4

Amendments to above (if none, write "NONE"): AA1 - a0935/1

SA1 - a1289/2

Corrections - show date (if none, write "NONE"): None

Topic

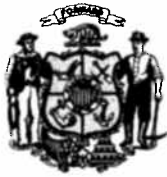
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10-26-11

Date

JRM

Enrolling Drafter



State of Wisconsin
2011 - 2012 LEGISLATURE



LRBs0088/4
GMM:jld:jf

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2011 ASSEMBLY BILL 30**

April 27, 2011 – Offered by Representative KOOYENGA.

1 AN ACT *to amend* 48.60 (2) (a), 48.62 (2), 48.625 (3), 48.63 (2), 48.685 (1) (am),
2 48.685 (1) (ar), 48.685 (1) (b), 48.685 (1) (bm), 48.685 (2) (am) 5., 48.685 (2) (b)
3 1. (intro.), 48.685 (2) (b) 1. e., 48.685 (2) (bd), 48.685 (3) (b), 48.685 (4m) (b)
4 (intro.), 48.685 (4m) (c), 48.685 (5) (a), 48.685 (5m), 48.685 (6) (am), 48.981 (2)
5 (a) (intro.), 48.981 (2) (b), 48.981 (2) (bm) 1. (intro.), 48.981 (2) (bm) 2. (intro.)
6 and 48.981 (2m) (title); and *to create* 48.685 (1) (ag) 1. am., 48.979 and 48.981
7 (2r) of the statutes; **relating to:** delegation by a parent who has legal custody
8 of a child of powers regarding the care and custody of the child by a power of
9 attorney and granting rule-making authority.

Analysis by the Legislative Reference Bureau

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

welfare. A guardian's authority includes the authority to consent to major medical, psychiatric, and surgical treatment for the child and the child obtaining a motor vehicle operator's license. A guardian also has the rights and responsibilities of legal custody, which include the right and duty to protect, train, and discipline the child and to provide food, shelter, legal services, education, and ordinary medical and dental care for the child.

Delegation of care and custody of child. This substitute amendment permits a parent who has legal custody of a child, by a power of attorney that is properly executed by all parents who have legal custody of the child, to delegate to another person (agent), for a period not to exceed one year, any of his or her powers regarding the care and custody of the child, except the power to consent to the marriage or adoption of the child, the performance or inducement of an abortion on or for the child, the termination of parental rights to the child, or the enlistment of the child in the U.S. armed forces. The substitute amendment provides that such a delegation of powers does not deprive the parent of any of his or her powers regarding the care and custody of the child and does not prevent or supersede: 1) an investigation of suspected or threatened abuse or neglect of the child under the child abuse and neglect reporting law; 2) the child from being taken into and held in custody under the Children's Code or the Juvenile Justice Code; 3) a juvenile court intake worker from conducting an intake inquiry to determine whether the available facts establish juvenile court jurisdiction over the child; or 4) the juvenile court from exercising its child or juvenile in need of protection or services jurisdiction over the child. The juvenile court's exercising of that jurisdiction, however, does not preclude a delegation of powers that is not in conflict with a juvenile court order granted in the exercise of that jurisdiction.

Background checks. Under current law, certain entities that provide care for children, such as foster homes and group homes, may not employ or contract with a caregiver or permit a nonclient resident to reside at the entity if the caregiver or nonclient resident has been convicted or adjudicated delinquent for committing a serious crime, as defined under current law, or has abused or neglected a child or person receiving care from the person (client), unless the person shows that he or she has been rehabilitated. This substitute amendment requires an organization that facilitates delegations of the care and custody of children to agents as provided in the substitute amendment (organization) to conduct a criminal history and child and client abuse record search with respect to a proposed agent and any nonclient resident of a proposed agent. If that search indicates that the proposed agent or any nonclient resident of the proposed agent has been so convicted or adjudicated or has abused a child or client, the organization may not facilitate a delegation of the care and custody of a child to the proposed agent.

Foster home license exemption. Under current law, a person who provides care and maintenance for four or fewer children must obtain a license to operate a foster home. Current law, however, permits a relative or guardian of a child to provide care and maintenance for a child without obtaining a license to operate a foster home. This substitute amendment exempts an agent from the requirement that the agent obtain a license to operate a foster home in order to provide care and

maintenance for the child. The substitute amendment, however, prohibits a parent from placing a child in a foster home, group home, or inpatient treatment facility by means of a delegation of powers as provided in the substitute amendment. Under the substitute amendment, those placements may be made only by means of a juvenile court order or a voluntary agreement or admission as provided under current law.

Permissive child abuse reporting. Under current law, certain persons who have reasonable cause to suspect that a child seen in the course of professional duties has been abused or neglected or who have reason to believe that such a child has been threatened with abuse or neglect and that abuse or neglect will occur must report that suspected or threatened abuse or neglect to the county department of human services or social services, the sheriff, or the local police department. Any other person may report suspected or threatened abuse or neglect of a child. This substitute amendment exempts an agent from the requirement that he or she report any suspected or threatened abuse or neglect of the child. Instead, the substitute amendment permits an agent to report any suspected or threatened abuse or neglect of the child.

Rules. Finally, the substitute amendment requires the Department of Children and Families to promulgate rules establishing certain requirements and expectations with respect to an organization and an agent to whom delegation of the care and custody of a child is facilitated by an organization. Those rules include training requirements for the staff of an organization and an agent, screening and assessment requirements for a proposed agent, the expectations of an agent with respect to the care and custody of the child, and certain monitoring and communication requirements for an organization.

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

1 SECTION 1. 48.60 (2) (a) of the statutes is amended to read: INSERT
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2 48.60 (2) (a) A relative ~~or~~, guardian, or person delegated care and custody of
3 a child under s. 48.979 who provides care and maintenance for such children.

4 **SECTION 2.** 48.62 (2) of the statutes is amended to read:

5 48.62 (2) A relative ~~or~~, a guardian of a child, or a person delegated care and
6 custody of a child under s. 48.979 who provides care and maintenance for the child
7 is not required to obtain the license specified in this section. The department, county
8 department, or licensed child welfare agency as provided in s. 48.75 may issue a

1 license to operate a foster home to a relative who has no duty of support under s. 49.90
2 (1) (a) and who requests a license to operate a foster home for a specific child who is
3 either placed by court order or who is the subject of a voluntary placement agreement
4 under s. 48.63. The department, a county department, or a licensed child welfare
5 agency may, at the request of a guardian appointed under s. 48.977 or 48.978, ch. 54,
6 or ch. 880, 2003 stats., license the guardian's home as a foster home for the guardian's
7 minor ward who is living in the home and who is placed in the home by court order.
8 Relatives with no duty of support and guardians appointed under s. 48.977 or 48.978,
9 ch. 54, or ch. 880, 2003 stats., who are licensed to operate foster homes are subject
10 to the department's licensing rules.

11 **SECTION 3.** 48.625 (3) of the statutes is amended to read:

12 48.625 (3) This section does not apply to a foster home licensed under s. 48.62
13 (1) or to a relative or guardian of a child or a person delegated care and custody of
14 a child under s. 48.979 who provides care and maintenance for the child.

15 **SECTION 4.** 48.63 (2) of the statutes is amended to read:

16 48.63 (2) No person may place a child or offer or hold himself or herself out as
17 able to place a child, except as provided in this section. Enrollment of a child by a
18 parent or guardian in an educational institution ~~shall~~ and delegation of care and
19 custody of a child to an agent under s. 48.979 do not constitute a placement for the
20 purposes of this section.

21 **SECTION 5.** 48.685 (1) (ag) 1. am. of the statutes is created to read:

22 48.685 (1) (ag) 1. am. A person to whom delegation of the care and custody of
23 a child under s. 48.979 has been, or is expected to be, facilitated by an entity.

24 **SECTION 6.** 48.685 (1) (am) of the statutes is amended to read:

1 48.685 (1) (am) “Client” means a child who receives direct care or treatment
2 services from an entity or from a caregiver specified in par. (ag) 1. am.

3 **SECTION 7.** 48.685 (1) (ar) of the statutes is amended to read:

4 48.685 (1) (ar) “Contractor” means, with respect to an entity, a person, or that
5 person’s agent, who provides services to the entity under an express or implied
6 contract or subcontract, including a person who has staff privileges at the entity and
7 a person to whom delegation of the care and custody of a child under s. 48.979 has
8 been facilitated by the entity.

9 **SECTION 8.** 48.685 (1) (b) of the statutes is amended to read:

10 48.685 (1) (b) “Entity” means a child welfare agency that is licensed under s.
11 48.60 to provide care and maintenance for children, to place children for adoption,
12 or to license foster homes; a foster home that is licensed under s. 48.62; a group home
13 that is licensed under s. 48.625; a shelter care facility that is licensed under s. 938.22;
14 a child care center that is licensed under s. 48.65 or established or contracted for
15 under s. 120.13 (14); a child care provider that is certified under s. 48.651; an
16 organization that facilitates delegations of the care and custody of children under s.
17 48.979; or a temporary employment agency that provides caregivers to another
18 entity.

19 **SECTION 9.** 48.685 (1) (bm) of the statutes is amended to read:

20 48.685 (1) (bm) “Nonclient resident” means a person who resides, or is expected
21 to reside, at an entity or with a caregiver specified in par. (ag) 1. am., who is not a
22 client of the entity or caregiver, and who has, or is expected to have, regular, direct
23 contact with clients of the entity or caregiver.

24 **SECTION 10.** 48.685 (2) (am) 5. of the statutes is amended to read:

1 48.685 (2) (am) 5. Information maintained by the department of health services
2 under this section and under ss. 48.651 (2m), 48.75 (1m), 48.979 (1) (b), and 120.13
3 (14) regarding any denial to the person of a license, continuation or renewal of a
4 license, certification, or a contract to operate an entity for a reason specified in sub.
5 (4m) (a) 1. to 5. and regarding any denial to the person of employment at, a contract
6 with, or permission to reside at an entity or of permission to reside with a caregiver
7 specified in sub. (1) (ag) 1. am. for a reason specified in sub. (4m) (b) 1. to 5. If the
8 information obtained under this subdivision indicates that the person has been
9 denied a license, continuation or renewal of a license, certification, a contract,
10 employment, or permission to reside as described in this ~~subdivision~~, the
11 department, a county department, an agency contracted with under s. 48.651 (2), a
12 child welfare agency, or a school board need not obtain the information specified in
13 subds. 1. to 4.

14 **SECTION 11.** 48.685 (2) (b) 1. (intro.) of the statutes is amended to read:

15 48.685 (2) (b) 1. (intro.) Every entity shall obtain all of the following with
16 respect to a caregiver specified in sub. (1) (ag) 1. a. or am. of the entity and with
17 respect to a nonclient resident of a caregiver specified in sub. (1) (ag) 1. am. of the
18 entity:

19 **SECTION 12.** 48.685 (2) (b) 1. e. of the statutes is amended to read:

20 48.685 (2) (b) 1. e. Information maintained by the department of health
21 services under this section and under ss. 48.651 (2m), 48.75 (1m), 48.979 (1) (b), and
22 120.13 (14) regarding any denial to the person of a license, continuation or renewal
23 of a license, certification, or a contract to operate an entity for a reason specified in
24 sub. (4m) (a) 1. to 5. and regarding any denial to the person of employment at, a
25 contract with, or permission to reside at an entity or of permission to reside with a

1 caregiver specified in sub. (1) (ag) 1. am. for a reason specified in sub. (4m) (b) 1. to
2 5. If the information obtained under this subd. 1. e. indicates that the person has
3 been denied a license, continuation or renewal of a license, certification, a contract,
4 employment, or permission to reside as described in this subd. 1. e., the entity need
5 not obtain the information specified in subd. 1. a. to d.

6 **SECTION 13.** 48.685 (2) (bd) of the statutes is amended to read:

7 48.685 (2) (bd) Notwithstanding pars. (am) and (b) 1., the department, a county
8 department, an agency contracted with under s. 48.651 (2), a child welfare agency,
9 or a school board is not required to obtain the information specified in par. (am) 1.
10 to 5., and an entity is not required to obtain the information specified in par. (b) 1.
11 a. to e., with respect to a person under 18 years of age whose background information
12 form under sub. (6) (am) indicates that the person is not ineligible to be employed at,
13 contracted with, or permitted to reside at an entity or permitted to reside with a
14 caregiver specified under sub. (1) (ag) 1. am. of the entity for a reason specified in sub.
15 (4m) (b) 1. to 5. and with respect to whom the department, county department,
16 contracted agency, child welfare agency, school board, or entity otherwise has no
17 reason to believe that the person is ineligible to be employed, contracted with, or
18 permitted to reside at an entity for any of those reasons. This paragraph does not
19 preclude the department, a county department, an agency contracted with under s.
20 48.651 (2), a child welfare agency, or a school board from obtaining, at its discretion,
21 the information specified in par. (am) 1. to 5. with respect to a person described in
22 this paragraph who is a nonclient resident or a prospective nonclient resident of an
23 entity.

24 **SECTION 14.** 48.685 (3) (b) of the statutes is amended to read:

1 48.685 (3) (b) Subject to par. (bm), every 4 years or at any time within that
2 period that an entity considers appropriate, the entity shall request the information
3 specified in sub. (2) (b) 1. a. to e. for all persons who are caregivers specified in sub.
4 (1) (ag) 1. a. or am. of the entity and for all nonclient residents of a caregiver specified
5 in sub. (1) (ag) 1. am. of the entity. child-child

6 **SECTION 15.** 48.685 (4m) (b) (intro.) of the statutes is amended to read:

7 48.685 (4m) (b) (intro.) Notwithstanding s. 111.335, and except as provided in
8 sub. (5), an entity may not employ or contract with a caregiver specified in sub. (1)
9 (ag) 1. a. or am. or permit a nonclient resident to reside at the entity or with a
10 caregiver specified in sub. (1) (ag) 1. am. of the entity if the entity knows or should
11 have known any of the following:

12 **SECTION 16.** 48.685 (4m) (c) of the statutes is amended to read:

13 48.685 (4m) (c) If the background information form completed by a person
14 under sub. (6) (am) indicates that the person is not ineligible to be employed or
15 contracted with for a reason specified in par. (b) 1. to 5., an entity may employ or
16 contract with the person for not more than 60 days pending the receipt of the
17 information sought under sub. (2) (am) ~~1. to 5.~~ or (b) 1. If the background information
18 form completed by a person under sub. (6) (am) indicates that the person is not
19 ineligible to be permitted to reside at an entity or with a caregiver specified in sub.
20 (1) (ag) 1. am. for a reason specified in par. (b) 1. to 5. and if an entity otherwise has
21 no reason to believe that the person is ineligible to be permitted to reside at an entity
22 or with that caregiver for any of those reasons, the entity may permit the person to
23 reside at the entity or with the caregiver for not more than 60 days pending receipt
24 of the information sought under sub. (2) (am) or (b) 1. An entity shall provide

1 supervision for a person who is employed, contracted with, or permitted to reside as
2 permitted under this paragraph.

3 **SECTION 17.** 48.685 (5) (a) of the statutes is amended to read:

4 48.685 (5) (a) Subject to pars. (bm) and (br), the department may license to
5 operate an entity, the department in a county having a population of 500,000 or more,
6 a county department, or an agency contracted with under s. 48.651 (2) may certify
7 under s. 48.651, a county department or a child welfare agency may license under
8 s. 48.62, and a school board may contract with under s. 120.13 (14) a person who
9 otherwise may not be licensed, certified, or contracted with for a reason specified in
10 sub. (4m) (a) 1. to 5., and an entity may employ, contract with, or permit to reside at
11 the entity or permit to reside with a caregiver specified in sub. (1) (ag) 1. am. of the
12 entity a person who otherwise may not be employed, contracted with, or permitted
13 to reside at the entity or with that caregiver for a reason specified in sub. (4m) (b) 1.
14 to 5., if the person demonstrates to the department, the county department, the
15 contracted agency, the child welfare agency, or the school board or, in the case of an
16 entity that is located within the boundaries of a reservation, to the person or body
17 designated by the Indian tribe under sub. (5d) (a) 3., by clear and convincing evidence
18 and in accordance with procedures established by the department by rule or by the
19 tribe that he or she has been rehabilitated.

20 **SECTION 18.** 48.685 (5m) of the statutes is amended to read:

21 48.685 (5m) Notwithstanding s. 111.335, the department may refuse to license
22 a person to operate an entity, a county department or a child welfare agency may
23 refuse to license a foster home under s. 48.62, and an entity may refuse to employ or
24 contract with a caregiver or permit a nonclient resident to reside at the entity or with
25 a caregiver specified in sub. (1) (ag) 1. am. of the entity if the person has been

1 convicted of an offense that is not a serious crime, but that is, in the estimation of the
2 department, county department, child welfare agency, or entity, substantially
3 related to the care of a client. Notwithstanding s. 111.335, the department may
4 refuse to license a person to operate a child care center, the department in a county
5 having a population of 500,000 or more, a county department, or an agency
6 contracted with under s. 48.651 (2) may refuse to certify a child care provider under
7 s. 48.651, a school board may refuse to contract with a person under s. 120.13 (14),
8 and a child care center that is licensed under s. 48.65 or established or contracted for
9 under s. 120.13 (14) or a child care provider that is certified under s. 48.651 may
10 refuse to employ or contract with a caregiver or permit a nonclient resident to reside
11 at the child care center or child care provider if the person has been convicted of or
12 adjudicated delinquent on or after his or her 12th birthday for an offense that is not
13 a serious crime, but that is, in the estimation of the department, county department,
14 contracted agency, school board, child care center, or child care provider,
15 substantially related to the care of a client.

16 **SECTION 19.** 48.685 (6) (am) of the statutes is amended to read:

17 48.685 (6) (am) Except as provided in this paragraph, every 4 years an entity
18 shall require all of its caregivers and all nonclient residents of the entity or of a
19 caregiver specified in sub. (1) (ag) 1. am. of the entity to complete a background
20 information form that is provided to the entity by the department. Every year a ~~day~~
21 child care center that is licensed under s. 48.65 or established or contracted for under
22 s. 120.13 (14) or a ~~day~~ child care provider that is certified under s. 48.651 shall
23 require all of its caregivers and nonclient residents to complete a background
24 information form that is provided to the ~~day~~ child care center or ~~day~~ child care
25 provider by the department.

1 **SECTION 20.** 48.979 of the statutes is created to read:

2 **48.979 Delegation of power by parent.** (1) (a) A parent who has legal
3 custody of a child, by a power of attorney that is properly executed by all parents who
4 have legal custody of the child, may delegate to an agent, for a period not to exceed
5 one year, any of his or her powers regarding the care and custody of the child, except
6 the power to consent to the marriage or adoption of the child, the performance or
7 inducement of an abortion on or for the child, the termination of parental rights to
8 the child, or the enlistment of the child in the U.S. armed forces. A delegation of
9 powers under this paragraph does not deprive the parent of any of his or her powers
10 regarding the care and custody of the child.

11 (b) If a delegation of powers to an agent under par. (a) is facilitated by an entity,
12 as defined in s. 48.685 (1) (b), that entity shall obtain the information specified in s.
13 48.685 (2) (b) 1. with respect to the proposed agent and any nonclient resident, as
14 defined in s. 48.685 (1) (bm), of the proposed agent. Subject to s. 48.685 (5), if that
15 information indicates that the proposed agent may not be a contractor, as defined in
16 s. 48.685 (1) (ar), of the entity or that a nonclient resident of the proposed agent may
17 not be permitted to reside with the proposed agent for a reason specified in s. 48.685
18 (4m) (b) 1. to 5., the entity may not facilitate a delegation of powers to the proposed
19 agent under par. (a). The entity shall provide the department of health services with
20 information about each person who is denied a delegation of powers or permission
21 to reside under this paragraph for a reason specified in s. 48.685 (4m) (b) 1. to 5.

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

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1 (d) A delegation of powers under par. (a) does not prevent or supersede any of
2 the following:

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

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

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

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

9 ~~This subdivision does not preclude a delegation of powers under par. (a) that is not
10 in conflict with a court order granted in the exercise of that jurisdiction.~~

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

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

18 **POWER OF ATTORNEY**

19 **DELEGATING PARENTAL POWER**

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

21 NAME(S) OF CHILD(REN)

22 This power of attorney is for the purpose of providing for the care and custody
23 of:

24 Name, address, and date of birth of child

25 Name, address, and date of birth of child

1 Name, address, and date of birth of child

2 DELEGATION OF POWER TO AGENT

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

5 I delegate my parental power to:

6 Name of agent

7 Agent's address

8 Agent's telephone number(s)

9 Agent's e-mail address

10 Relationship of agent to child(ren)

11 The parental power I am delegating is as follows:

12 FULL

13 (*Check if you want to delegate full parental power regarding the care and
14 custody of the child(ren) names above.*)

15 Full parental power regarding the care and custody of the child(ren) named
16 above

17 PARTIAL

18 (*Check each subject over which you want to delegate your parental power
19 regarding the child(ren) names above.*)

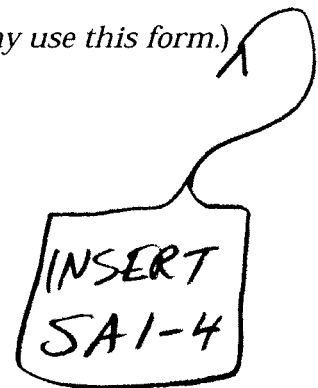
20 The power to consent to all health care; or

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

22 Ordinary or routine health care, excluding major surgical procedures,
23 extraordinary procedures, and experimental treatment

24 Emergency blood transfusion

25 Dental care



- 1 Disclosure of health information about the child(ren)
- 2 The power to consent to educational and vocational services
- 3 The power to consent to the employment of the child(ren)
- 4 The power to consent to the disclosure of confidential information, other
- 5 than health information, about the child(ren)
- 6 The power to provide for the care and custody of the child(ren)
- 7 The power to consent to the child(ren) obtaining a motor vehicle operator’s
- 8 license
- 9 The power to travel with the child(ren) outside the state of Wisconsin
- 10 The power to obtain substitute care, such as child care, for the child(ren)
- 11 Other specifically delegated powers or limits on delegated powers (*Fill in the*
- 12 *following space or attach a separate sheet describing any other specific powers that*
- 13 *you wish to delegate or any limits that you wish to place on the powers you are*
- 14 *delegating.)*

15 This delegation of parental powers does not deprive a custodial or noncustodial
 16 parent of any of his or her powers regarding the care and custody of the child,
 17 whether granted by court order or force of law.

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

25 EFFECTIVE DATE AND TERM OF THIS DELEGATION

1 STATEMENT OF AGENT

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

9 Agent's signature

Date

10 APPENDIX

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

13 I can be located at:

14 Address(es)

15 Telephone number(s)

16 E-mail address(es)

17 Or, by contacting:

18 Name

19 Address

20 Telephone number

21 E-mail address

22 Or, I cannot be located

23 **(3)** (a) In this subsection:

24 1. "Agent" means a person to whom delegation of the care and custody of a child
25 under this section is facilitated by an organization.

1 2. "Organization" means an organization that facilitates delegations of the care
2 and custody of children under this section.

3 **(b) The department shall promulgate rules to implement this section. Those**
4 rules shall include rules establishing all of the following:

5 1. Training requirements for the staff of an organization, including training in
6 identifying children who have been abused or neglected and the laws and procedures
7 under s. 48.981 governing the reporting of suspected or threatened child abuse or
8 neglect.

9 2. Screening and assessment requirements for a proposed agent, including a
10 screening of the personal characteristics, health, and finances of the proposed agent
11 and of the physical environment and safety of the proposed agent's home and, based
12 on that screening, an assessment of the proposed agent's fitness to provide for the
13 care and custody of the child and ability to meet the child's needs. The rules
14 promulgated under this subdivision shall prohibit an organization from facilitating
15 a delegation of the care and custody of a child to a proposed agent unless the proposed
16 agent is fit to provide for the care and custody of the child and able to meet the child's
17 needs.

18 3. Training requirements for an agent, including the training described in
19 subd. 1. and training in the expectations of an agent specified in subd. 4.

20 4. The expectations of an agent with respect to the care and custody of the child,
21 including expectations relating to the care, nurturing, protection, training,
22 guidance, and discipline of the child; the provision of food, shelter, education, and
23 health care for the child; cooperation with the child's parents in coparenting the
24 child; and cooperation with the organization in facilitating visitation and other

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1 communications with the child's parents and in otherwise complying with the
2 expectations of the organization.

3 5. A requirement that an organization regularly monitor an agent and the child
4 whose care and custody is delegated to the agent and maintain communications with
5 the child's parents.

6 **SECTION 21.** 48.981 (2) (a) (intro.) of the statutes is amended to read:

7 48.981 (2) (a) (intro.) Any of the following persons who has reasonable cause
8 to suspect that a child seen by the person in the course of professional duties has been
9 abused or neglected or who has reason to believe that a child seen by the person in
10 the course of professional duties has been threatened with abuse or neglect and that
11 abuse or neglect of the child will occur shall, except as provided under ~~sub.~~ subs. (2m)
12 and (2r), report as provided in sub. (3):

13 **SECTION 22.** 48.981 (2) (b) of the statutes is amended to read:

14 48.981 (2) (b) A court-appointed special advocate who has reasonable cause to
15 suspect that a child seen in the course of activities under s. 48.236 (3) has been
16 abused or neglected or who has reason to believe that a child seen in the course of
17 those activities has been threatened with abuse and neglect and that abuse or neglect
18 of the child will occur shall, except as provided in ~~sub.~~ subs. (2m) and (2r), report as
19 provided in sub. (3).

20 **SECTION 23.** 48.981 (2) (bm) 1. (intro.) of the statutes is amended to read:

21 48.981 (2) (bm) 1. (intro.) Except as provided in subd. 3. and ~~sub.~~ subs. (2m) and
22 (2r), a member of the clergy shall report as provided in sub. (3) if the member of the
23 clergy has reasonable cause to suspect that a child seen by the member of the clergy
24 in the course of his or her professional duties:

25 **SECTION 24.** 48.981 (2) (bm) 2. (intro.) of the statutes is amended to read:



State of Wisconsin
2011 - 2012 LEGISLATURE



LRBa0935/1
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ASSEMBLY AMENDMENT 1,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2011 ASSEMBLY BILL 30

May 12, 2011 - Offered by COMMITTEE ON CHILDREN AND FAMILIES.

AA1-1

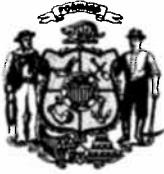
1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 17, line 3: delete that line and substitute:

3 (b) The department may promulgate rules to implement this section. If the
4 department promulgates those rules, those?

5 2. Page 19, line 15: delete lines 15 to 20.

6 (END)



SENATE AMENDMENT 1,
TO 2011 ASSEMBLY BILL 30

June 15, 2011 - Offered by Senator MOULTON.

SA 1-1

1 At the locations indicated, amend the bill, as shown by assembly substitute
2 amendment 1, as follows:

3 1. Page 3, line 1: delete that line and substitute:

4 "SECTION 1d. 48.028 (5) (a) of the statutes is amended to read:

5 48.028 (5) (a) *Out-of-home care placement.* A voluntary consent by a parent
6 or Indian custodian to an out-of-home care placement of an Indian child under s.
7 48.63 (1) or (5) (b) or a delegation of powers by a parent regarding the care and
8 custody of an Indian child under s. 48.979 is not valid unless the consent or
9 delegation is executed in writing, recorded before a judge, and accompanied by a
10 written certification by the judge that the terms and consequences of the consent or
11 delegation were fully explained in detail to and were fully understood by the parent
12 or Indian custodian. The judge shall also certify that the parent or Indian custodian
13 fully understood the explanation in English or that the explanation was interpreted

1 into a language that the parent or Indian custodian understood. Any consent or
2 delegation of powers given under this paragraph prior to or within 10 days after the
3 birth of the Indian child is not valid. A parent or Indian custodian who has executed
4 a consent or delegation of powers under this paragraph may withdraw the consent
5 or delegation for any reason at any time, and the Indian child shall be returned to
6 the parent or Indian custodian. A parent or Indian custodian who has executed a
7 consent or delegation of powers under this paragraph may also move to invalidate
8 the out-of-home care placement or delegation of powers under sub. (6).

9 SECTION 1g. 48.028 (6) of the statutes is amended to read:

10 48.028 (6) INVALIDATION OF ACTION. Any Indian child who is the subject of an
11 out-of-home care placement, of a delegation of powers under s. 48.979, or of a
12 termination of parental rights proceeding, any parent or Indian custodian from
13 whose custody that Indian child was removed, or the Indian child's tribe may move
14 the court to invalidate that out-of-home care placement, delegation of powers, or
15 termination of parental rights on the grounds that the out-of-home care placement
16 or delegation of powers was made or the termination of parental rights was ordered
17 in violation of 25 USC 1911, 1912, or 1913. If the court finds that those grounds exist,
18 the court shall invalidate the out-of-home care placement, delegation of powers, or
19 termination of parental rights.

20 SECTION 1m. 48.60 (2) (a) of the statutes is amended to read:

21 2. Page 11, line 21: after that line insert:

22 "(bm) A parent may not delegate under par. (a) his or her powers regarding the
23 care and custody of a child who is subject to the jurisdiction of the court under s.
24 48.13, 48.14, 938.12, 938.13, or 938.14 unless the court approves the delegation."

SAI-2

