

State of Wisconsin
2011 - 2012 LEGISLATURE



LRBs0088/2 (3)
GMM:jld:rs

IV 418
Tues 4/12

ASSEMBLY SUBSTITUTE AMENDMENT,
TO 2011 ASSEMBLY BILL 30

NOTE

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Regen

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.

Analysis by the Legislative Reference Bureau

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

that ^{is} properly executed by all parents who have legal custody of the child

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.

This substitute amendment permits a parent who has legal custody of a child, by a ~~properly executed~~ power of attorney, to delegate to another person, 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.

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 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.

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 a person who is delegated care and custody of a child as provided in the substitute amendment from the requirement that the person 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

NO The juvenile court's exercising of that jurisdiction, however, does not preclude a delegation of powers for it is not in conflict with a juvenile court order granted in the exercise of that jurisdiction.

placements may be made only by means of a juvenile court order or a voluntary agreement or admission as provided under current law.

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 a person who is delegated care and custody of a child as provided in the substitute amendment from the requirement that he or she report any suspected or threatened abuse or neglect of the child. Instead, the substitute amendment permits such a person to report any suspected or threatened abuse or neglect of the child.

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:

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
9 license to operate a foster home to a relative who has no duty of support under s. 49.90
10 (1) (a) and who requests a license to operate a foster home for a specific child who is
11 either placed by court order or who is the subject of a voluntary placement agreement
12 under s. 48.63. The department, a county department, or a licensed child welfare
13 agency may, at the request of a guardian appointed under s. 48.977 or 48.978, ch. 54,
14 or ch. 880, 2003 stats., license the guardian's home as a foster home for the guardian's
15 minor ward who is living in the home and who is placed in the home by court order.

1 Relatives with no duty of support and guardians appointed under s. 48.977 or 48.978,
2 ch. 54, or ch. 880, 2003 stats., who are licensed to operate foster homes are subject
3 to the department's licensing rules.

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

5 48.625 (3) This section does not apply to a foster home licensed under s. 48.62
6 (1) or to a relative or guardian of a child or a person delegated care and custody of
7 a child under s. 48.979 who provides care and maintenance for the child.

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

9 48.63 (2) No person may place a child or offer or hold himself or herself out as
10 able to place a child, except as provided in this section. Enrollment of a child by a
11 parent or guardian in an educational institution ~~shall~~ and delegation of care and
12 custody of a child to an agent under s. 48.979 do not constitute a placement for the
13 purposes of this section.

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

15 48.685 (1) (ag) 1. am. A person to whom delegation of the care and custody of
16 a child under s. 48.979 has been, or is expected to be, facilitated by an entity.

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

18 48.685 (1) (am) "Client" means a child who receives direct care or treatment
19 services from an entity or from a caregiver specified in par. (ag) 1. am.

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

21 48.685 (1) (ar) "Contractor" means, with respect to an entity, a person, or that
22 person's agent, who provides services to the entity under an express or implied
23 contract or subcontract, including a person who has staff privileges at the entity and
24 a person to whom delegation of the care and custody of a child under s. 48.979 has
25 been facilitated by the entity.

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

2 48.685 (1) (b) “Entity” means a child welfare agency that is licensed under s.
3 48.60 to provide care and maintenance for children, to place children for adoption,
4 or to license foster homes; a foster home that is licensed under s. 48.62; a group home
5 that is licensed under s. 48.625; a shelter care facility that is licensed under s. 938.22;
6 a child care center that is licensed under s. 48.65 or established or contracted for
7 under s. 120.13 (14); a child care provider that is certified under s. 48.651; an
8 organization that facilitates delegations of the care and custody of children under s.
9 48.979; or a temporary employment agency that provides caregivers to another
10 entity.

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

12 48.685 (1) (bm) “Nonclient resident” means a person who resides, or is expected
13 to reside, at an entity or with a caregiver specified in par. (ag) 1. am., who is not a
14 client of the entity or caregiver, and who has, or is expected to have, regular, direct
15 contact with clients of the entity or caregiver.

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

17 48.685 (2) (am) 5. Information maintained by the department of health services
18 under this section and under ss. 48.651 (2m), 48.75 (1m), 48.979 (1) (b), and 120.13
19 (14) regarding any denial to the person of a license, continuation or renewal of a
20 license, certification, or a contract to operate an entity for a reason specified in sub.
21 (4m) (a) 1. to 5. and regarding any denial to the person of employment at, a contract
22 with, or permission to reside at an entity or of permission to reside with a caregiver
23 specified in sub. (1) (ag) 1. am. for a reason specified in sub. (4m) (b) 1. to 5. If the
24 information obtained under this subdivision indicates that the person has been
25 denied a license, continuation or renewal of a license, certification, a contract,

1 employment, or permission to reside as described in this subdivision, the
2 department, a county department, an agency contracted with under s. 48.651 (2), a
3 child welfare agency, or a school board need not obtain the information specified in
4 subds. 1. to 4.

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

6 48.685 (2) (b) 1. (intro.) Every entity shall obtain all of the following with
7 respect to a caregiver specified in sub. (1) (ag) 1. a. or am. of the entity and with
8 respect to a nonclient resident of a caregiver specified in sub. (1) (ag) 1. am. of the
9 entity:

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

11 48.685 (2) (b) 1. e. Information maintained by the department of health
12 services under this section and under ss. 48.651 (2m), 48.75 (1m), 48.979 (1) (b), and
13 120.13 (14) regarding any denial to the person of a license, continuation or renewal
14 of a license, certification, or a contract to operate an entity for a reason specified in
15 sub. (4m) (a) 1. to 5. and regarding any denial to the person of employment at, a
16 contract with, or permission to reside at an entity or of permission to reside with a
17 caregiver specified in sub. (1) (ag) 1. am. for a reason specified in sub. (4m) (b) 1. to
18 5. If the information obtained under this subd. 1. e. indicates that the person has
19 been denied a license, continuation or renewal of a license, certification, a contract,
20 employment, or permission to reside as described in this subd. 1. e., the entity need
21 not obtain the information specified in subd. 1. a. to d.

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

23 48.685 (2) (bd) Notwithstanding pars. (am) and (b) 1., the department, a county
24 department, an agency contracted with under s. 48.651 (2), a child welfare agency,
25 or a school board is not required to obtain the information specified in par. (am) 1.

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

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

16 48.685 (3) (b) Subject to par. (bm), every 4 years or at any time within that
17 period that an entity considers appropriate, the entity shall request the information
18 specified in sub. (2) (b) 1. a. to e. for all persons who are caregivers specified in sub.
19 (1) (ag) 1. a. or am. of the entity and for all nonclient residents of a caregiver specified
20 in sub. (1) (ag) 1. am. of the entity. ~~child child~~

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

22 48.685 (4m) (b) (intro.) Notwithstanding s. 111.335, and except as provided in
23 sub. (5), an entity may not employ or contract with a caregiver specified in sub. (1)
24 (ag) 1. a. or am. or permit a nonclient resident to reside at the entity or with a

1 caregiver specified in sub. (1) (ag) 1. am. of the entity if the entity knows or should
2 have known any of the following:

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

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

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

19 48.685 (5) (a) Subject to pars. (bm) and (br), the department may license to
20 operate an entity, the department in a county having a population of 500,000 or more,
21 a county department, or an agency contracted with under s. 48.651 (2) may certify
22 under s. 48.651, a county department or a child welfare agency may license under
23 s. 48.62, and a school board may contract with under s. 120.13 (14) a person who
24 otherwise may not be licensed, certified, or contracted with for a reason specified in
25 sub. (4m) (a) 1. to 5., and an entity may employ, contract with, or permit to reside at

1 the entity or permit to reside with a caregiver specified in sub. (1) (ag) 1. am. of the
2 entity a person who otherwise may not be employed, contracted with, or permitted
3 to reside at the entity or with that caregiver for a reason specified in sub. (4m) (b) 1.
4 to 5., if the person demonstrates to the department, the county department, the
5 contracted agency, the child welfare agency, or the school board or, in the case of an
6 entity that is located within the boundaries of a reservation, to the person or body
7 designated by the Indian tribe under sub. (5d) (a) 3., by clear and convincing evidence
8 and in accordance with procedures established by the department by rule or by the
9 tribe that he or she has been rehabilitated.

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

11 48.685 (5m) Notwithstanding s. 111.335, the department may refuse to license
12 a person to operate an entity, a county department or a child welfare agency may
13 refuse to license a foster home under s. 48.62, and an entity may refuse to employ or
14 contract with a caregiver or permit a nonclient resident to reside at the entity or with
15 a caregiver specified in sub. (1) (ag) 1. am. of the entity if the person has been
16 convicted of an offense that is not a serious crime, but that is, in the estimation of the
17 department, county department, child welfare agency, or entity, substantially
18 related to the care of a client. Notwithstanding s. 111.335, the department may
19 refuse to license a person to operate a child care center, the department in a county
20 having a population of 500,000 or more, a county department, or an agency
21 contracted with under s. 48.651 (2) may refuse to certify a child care provider under
22 s. 48.651, a school board may refuse to contract with a person under s. 120.13 (14),
23 and a child care center that is licensed under s. 48.65 or established or contracted for
24 under s. 120.13 (14) or a child care provider that is certified under s. 48.651 may
25 refuse to employ or contract with a caregiver or permit a nonclient resident to reside

1 at the child care center or child care provider if the person has been convicted of or
2 adjudicated delinquent on or after his or her 12th birthday for an offense that is not
3 a serious crime, but that is, in the estimation of the department, county department,
4 contracted agency, school board, child care center, or child care provider,
5 substantially related to the care of a client.

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

7 48.685 (6) (am) Except as provided in this paragraph, every 4 years an entity
8 shall require all of its caregivers and all nonclient residents of the entity or of a
9 caregiver specified in sub. (1) (ag) 1. am. of the entity to complete a background
10 information form that is provided to the entity by the department. Every year a day
11 child care center that is licensed under s. 48.65 or established or contracted for under
12 s. 120.13 (14) or a day child care provider that is certified under s. 48.651 shall
13 require all of its caregivers and nonclient residents to complete a background
14 information form that is provided to the day child care center or day child care
15 provider by the department. ✓

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

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

that is properly executed by all parents
who have legal custody of the child

1 (b) If a delegation of powers to an agent under par. (a) is facilitated by an entity,
2 as defined in s. 48.685 (1) (b), that entity shall obtain the information specified in s.
3 48.685 (2) (b) 1. with respect to the proposed agent and any nonclient resident, as
4 defined in s. 48.685 (1) (bm), of the proposed agent. Subject to s. 48.685 (5), if that
5 information indicates that the proposed agent may not be a contractor, as defined in
6 s. 48.685 (1) (ar), of the entity or that a nonclient resident of the proposed agent may
7 not be permitted to reside with the proposed agent for a reason specified in s. 48.685
8 (4m) (b) 1. to 5., the entity may not facilitate a delegation of powers to the proposed
9 agent under par. (a). The entity shall provide the department of health services with
10 information about each person who is denied a delegation of powers or permission
11 to reside under this paragraph for a reason specified in s. 48.685 (4m) (b) 1. to 5.

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

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

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

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

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

23 4. A court from exercising jurisdiction over the child under s. 48.13 or 938.13. (1)

24 (e) A parent who has delegated his or her powers regarding the care and
25 custody of a child under par. (a) may revoke that delegation at any time by executing

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

A written revocation shall be executed by all parents who have legal custody of the child.

1) a written revocation and notifying the agent in writing of the revocation. A written
2 revocation invalidates the delegation of powers except with respect to acts already
3 taken in reliance on the delegation of powers.

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

6 **POWER OF ATTORNEY**

7 **DELEGATING PARENTAL POWER**

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

9 NAME(S) OF CHILD(REN)

10 This power of attorney is for the purpose of providing for the care and custody
11 of:

12 Name, address, and date of birth of child

13 Name, address, and date of birth of child

14 Name, address, and date of birth of child

15 **DELEGATION OF POWER TO AGENT**

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

18 I delegate my parental power to:

19 Name of agent

20 Agent's address

21 Agent's telephone number(s)

22 Agent's e-mail address

23 Relationship of agent to child(ren)

24 The parental power I am delegating is as follows:

25 **FULL**

1 *you wish to delegate or any limits that you wish to place on the powers you are*
2 *delegating.)*

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

6 THIS DOCUMENT MAY NOT BE USED TO DELEGATE THE POWER TO
7 CONSENT TO THE MARRIAGE OR ADOPTION OF THE CHILD(REN), THE
8 PERFORMANCE OR INDUCEMENT OF AN ABORTION ON OR FOR THE
9 CHILD(REN), THE TERMINATION OF PARENTAL RIGHTS TO THE
10 CHILD(REN), THE ENLISTMENT OF THE CHILD(REN) IN THE U.S. ARMED
11 FORCES OR TO PLACE THE CHILD(REN) IN A FOSTER HOME, GROUP HOME,
12 OR INPATIENT TREATMENT FACILITY.

13 EFFECTIVE DATE AND TERM OF THIS DELEGATION

14 This Power of Attorney takes effect on and will remain in effect until If
15 no termination date is given or if the termination date given is more than one year
16 after the effective date of this Power of Attorney, this Power of Attorney will remain
17 in effect for a period of one year after the effective date. This Power of Attorney may
18 be revoked in writing at any time by a parent who has legal custody of the child(ren)
19 and such a revocation invalidates the delegation of parental powers made by this
20 Power of Attorney, except with respect to acts already taken in reliance on this Power
21 of Attorney.

22 SIGNATURE(S) OF PARENT(S)

23 Signature of parent Date

24 Parent's name printed

25 Parent's address

1 Parent's telephone number

2 Parent's e-mail address

3 Signature of parent Date

4 Parent's name printed

5 Parent's address

6 Parent's telephone number

7 Parent's e-mail address

8 WITNESSING OF SIGNATURE(S) (OPTIONAL)

9 State of

10 County of

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

12 Signature of notary

13 My commission expires:

14 STATEMENT OF AGENT

15 I, (name and address of agent), understand that (name(s) of parent(s)) has
16 (have) delegated to me the powers specified in this Power of Attorney regarding the
17 care and custody of (name(s) of child(ren)). I further understand that this Power
18 of Attorney may be revoked in writing at any time by a parent who has legal custody
19 of (name(s) of child(ren)). I hereby declare that I have read this Power of Attorney,
20 understand the powers delegated to me by this Power of Attorney, am fit, willing, and
21 able to undertake those powers, and accept those powers.

22 Agent's signature Date

23 APPENDIX

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

1 I can be located at:

2 Address(es)

3 Telephone number(s)

4 E-mail address(es)

5 Or, by contacting:

6 Name

7 Address

8 Telephone number

9 E-mail address

10 Or, I cannot be located

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

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

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

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

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

NOTE

Representative Kooyenga

This redraft makes the following changes to LRB 50088/2

¶ 1. In s. 48.979 (1)(a), the redraft changes "by a properly executed power of attorney" to "by a power of attorney that is properly executed by all parents who have legal custody of the child."

¶ 2. In s. 48.979 (1)(2) 4., the redraft adds "(T)his subdivision does not preclude a delegation of powers under par. (a) that is not in conflict with a ^{court} court order granted in the exercise of that (CHIPS or JIPS) jurisdiction."

¶ 3. In s. 48.979 (1)(e), the redraft adds "(A) written revocation shall be executed by all parents who have legal custody of the child."

¶ IF you have any questions about these changes, please do not hesitate to contact me at the phone number or e-mail address

listed below

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBs0088/3dn
GMM:jld:rs

April 11, 2011

Representative Kooyenga:

This redraft makes the following changes to LRBs0088/2:

1. In s. 48.979 (1) (a), the redraft changes “by a properly executed power of attorney” to “by a power of attorney that is properly executed by all parents who have legal custody of the child.”
2. In s. 48.979 (1) (d) 4., the redraft adds “(T)his subdivision does not preclude a delegation of powers under par. (a) that is not in conflict with a court order granted in the exercise of that (CHIPS or JIPS) jurisdiction.”
3. In s. 48.979 (1) (e), the redraft adds “(A) written revocation shall be executed by all parents who have legal custody of the child.”

If you have any questions about those changes, please to not hesitate to contact me at the phone number or e-mail address listed below.

Gordon M. Malaise
Senior Legislative Attorney
Phone: (608) 266-9738
E-mail: gordon.malaise@legis.wisconsin.gov

Malaise, Gordon

From: Neville, William
Sent: Monday, April 18, 2011 10:50 AM
To: Malaise, Gordon
Subject: AB 30 - Safe Families

Attachments: AB30 child abuse prevention policy considerations.docx

Gordon,

I left you a voicemail with some explanation of the notes below...

Policy considerations for AB30

Below are suggested edits to AB30 to address child maltreatment *prevention*. These suggestions are based on feedback and input from medical leaders and front line staff who work with child welfare/foster care; child abuse and neglect prevention and treatment; and child victims of abuse, neglect and sexual assault.

The focus of these comments is to address the private agencies that, under this new law, would be given legal rights to place children in host homes and allow for POA. Our comments do not address the ability under the bill for parents to make direct temporary placement decisions.

We are pleased the proposed substitute amendment addresses many of the concerns regarding the legal system's reach should maltreatment occur.

Children's Hospital & Health System's position is to encourage the adoption of language that would at least minimally strengthen the prevention side of this new law.

Organizations shall:

- Require their staff to be trained in child abuse and neglect reporting (being a mandated reporter)
- Conduct background check (already in the legislation) and fingerprinting (*This is a requirement of Safe Families. Fingerprints can be submitted to the Wisconsin DOJ so that they are submitted to the national crime information database. In addition, organizations should have arrangements with DCF so that families are screened through DCF for child abuse and neglect allegations. Families with that history should not be allowed to be host families for children.*)
- Conduct brief screening based similar to the Resource Family Assessment recommended by DCF for foster family screening, and a home environment screening with volunteer/host families that would include an assessment of the stability of the home (is there any risk that the host family will be evicted/foreclosed on, etc); income is sufficient to support the addition of the children coming into the host family's care; what are the sleeping arrangements for the children coming into the home? Are children of multiple ages and different sexes sharing rooms? What home safety measures are in place? These provisions could be set in the legislation or direct DCF to establish in rule-making. Either way, some base level of safety up front should not be a burden given what is at risk.
- Based on information gathered in the screening and assessment, the parent giving up the child(ren) will be matched with available the host family that can best meet the needs of the children and not solely based on whether a host family is available or not.
- Provide the volunteer/host families with training on topics of: child abuse and neglect identification and

referral; co-parenting with the biological parent and volunteer/host family.

- Periodically monitor/check-in with both the host family and the biological parents.

Volunteer/host families will:

- Support the child emotionally, financially, and medically during the stay.
- Not abuse drugs, alcohol, children or animals.
- Be fit and mature enough to meet the needs of the child(ren). Be able to nurture and care for children in their care.
- Not have any convictions for crimes such as: anything related to child abuse and/or neglect; anything related to sexual assault, child trafficking, prostitution; any other violent crime or crime against another individual. This should be true for any person living in the host family's home, not just for the parents willing to host a child.
- Facilitate visitation with the birth parent(s) as instructed by coordinating organization.
- Agree to requirements of coordinating organization.



AB30 child abuse
prevention po...

Bill Neville
Legislative Assistant
Office of State Representative Dale Kooyenga
14th Assembly District
17 North, State Capitol
608-266-9180

Policy considerations for AB30

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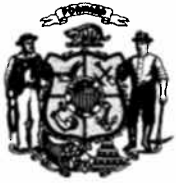
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- Conduct brief screening based similar to the Resource Family Assessment recommended by DCF for foster family screening, and a home environment screening with volunteer/host families that would include an assessment of the stability of the home (is there any risk that the host family will be evicted/foreclosed on, etc); income is sufficient to support the addition of the children coming into the host family's care; what are the sleeping arrangements for the children coming into the home? Are children of multiple ages and different sexes sharing rooms? What home safety measures are in place? These provisions could be set in the legislation or direct DCF to establish in rule-making. Either way, some base level of safety up front should not be a burden given what is at risk.
- Based on information gathered in the screening and assessment, the parent giving up the child(ren) will be matched with available the host family that can best meet the needs of the children and not solely based on whether a host family is available or not.
- Provide the volunteer/host families with training on topics of: child abuse and neglect identification and referral; co-parenting with the biological parent and volunteer/host family.
- Periodically monitor/check-in with both the host family and the biological parents.

Volunteer/host families will:

- Support the child emotionally, financially, and medically during the stay.
- Not abuse drugs, alcohol, children or animals.
- Be fit and mature enough to meet the needs of the child(ren). Be able to nurture and care for children in their care.
- Not have any convictions for crimes such as: anything related to child abuse and/or neglect; anything related to sexual assault, child trafficking, prostitution; any other violent crime or crime against another individual. This should be true for any person living in the host family's home, not just for the parents willing to host a child.
- Facilitate visitation with the birth parent(s) as instructed by coordinating organization.
- Agree to requirements of coordinating organization.



State of Wisconsin
2011 - 2012 LEGISLATURE



LRBs0088/8
GMM:jld:rs

Handwritten initials in a circle

In 4119
wanted 4/21

ASSEMBLY SUBSTITUTE AMENDMENT,
TO 2011 ASSEMBLY BILL 30

x

Regen

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
attorney and granting rule-making authority ✓

① ① Current law

Analysis by the Legislative Reference Bureau

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

A (B) (2) Delegation of care and custody of child ✓

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.

(agent) ✓

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, 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.

✓
A (B) (2) 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 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.

Organization

(B) (1) 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 a person who is delegated care and custody of a child as provided in the substitute amendment from the requirement that the person 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

an agent ✓

agent ✓

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.

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 ~~a person who is delegated care and custody of a child as provided in the substitute amendment~~ from the requirement that he or she report any suspected or threatened abuse or neglect of the child. Instead, the substitute amendment permits ~~such a person~~ to report any suspected or threatened abuse or neglect of the child.

BD
Permissive
child abuse
reporting

✓
Insert
A

an agent
an agent

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:
- 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
- 9 license to operate a foster home to a relative who has no duty of support under s. 49.90
- 10 (1) (a) and who requests a license to operate a foster home for a specific child who is
- 11 either placed by court order or who is the subject of a voluntary placement agreement
- 12 under s. 48.63. The department, a county department, or a licensed child welfare
- 13 agency may, at the request of a guardian appointed under s. 48.977 or 48.978, ch. 54,
- 14 or ch. 880, 2003 stats., license the guardian's home as a foster home for the guardian's

1 minor ward who is living in the home and who is placed in the home by court order.
2 Relatives with no duty of support and guardians appointed under s. 48.977 or 48.978,
3 ch. 54, or ch. 880, 2003 stats., who are licensed to operate foster homes are subject
4 to the department's licensing rules.

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

6 48.625 (3) This section does not apply to a foster home licensed under s. 48.62
7 (1) or to a relative or guardian of a child or a person delegated care and custody of
8 a child under s. 48.979 who provides care and maintenance for the child.

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

10 48.63 (2) No person may place a child or offer or hold himself or herself out as
11 able to place a child, except as provided in this section. Enrollment of a child by a
12 parent or guardian in an educational institution ~~shall~~ and delegation of care and
13 custody of a child to an agent under s. 48.979 do not constitute a placement for the
14 purposes of this section.

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

16 48.685 (1) (ag) 1. am. A person to whom delegation of the care and custody of
17 a child under s. 48.979 has been, or is expected to be, facilitated by an entity.

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

19 48.685 (1) (am) "Client" means a child who receives direct care or treatment
20 services from an entity or from a caregiver specified in par. (ag) 1. am.

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

22 48.685 (1) (ar) "Contractor" means, with respect to an entity, a person, or that
23 person's agent, who provides services to the entity under an express or implied
24 contract or subcontract, including a person who has staff privileges at the entity and

1 a person to whom delegation of the care and custody of a child under s. 48.979 has
2 been facilitated by the entity.

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

4 48.685 (1) (b) "Entity" means a child welfare agency that is licensed under s.
5 48.60 to provide care and maintenance for children, to place children for adoption,
6 or to license foster homes; a foster home that is licensed under s. 48.62; a group home
7 that is licensed under s. 48.625; a shelter care facility that is licensed under s. 938.22;
8 a child care center that is licensed under s. 48.65 or established or contracted for
9 under s. 120.13 (14); a child care provider that is certified under s. 48.651; an
10 organization that facilitates delegations of the care and custody of children under s.
11 48.979; or a temporary employment agency that provides caregivers to another
12 entity.

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

14 48.685 (1) (bm) "Nonclient resident" means a person who resides, or is expected
15 to reside, at an entity or with a caregiver specified in par. (ag) 1. am., who is not a
16 client of the entity or caregiver, and who has, or is expected to have, regular, direct
17 contact with clients of the entity or caregiver.

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

19 48.685 (2) (am) 5. Information maintained by the department of health services
20 under this section and under ss. 48.651 (2m), 48.75 (1m), 48.979 (1) (b), and 120.13
21 (14) regarding any denial to the person of a license, continuation or renewal of a
22 license, certification, or a contract to operate an entity for a reason specified in sub.
23 (4m) (a) 1. to 5. and regarding any denial to the person of employment at, a contract
24 with, or permission to reside at an entity or of permission to reside with a caregiver
25 specified in sub. (1) (ag) 1. am. for a reason specified in sub. (4m) (b) 1. to 5. If the

1 information obtained under this subdivision indicates that the person has been
2 denied a license, continuation or renewal of a license, certification, a contract,
3 employment, or permission to reside as described in this subdivision, the
4 department, a county department, an agency contracted with under s. 48.651 (2), a
5 child welfare agency, or a school board need not obtain the information specified in
6 subds. 1. to 4.

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

8 48.685 (2) (b) 1. (intro.) Every entity shall obtain all of the following with
9 respect to a caregiver specified in sub. (1) (ag) 1. a. or am. of the entity and with
10 respect to a nonclient resident of a caregiver specified in sub. (1) (ag) 1. am. of the
11 entity:

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

13 48.685 (2) (b) 1. e. Information maintained by the department of health
14 services under this section and under ss. 48.651 (2m), 48.75 (1m), 48.979 (1) (b), and
15 120.13 (14) regarding any denial to the person of a license, continuation or renewal
16 of a license, certification, or a contract to operate an entity for a reason specified in
17 sub. (4m) (a) 1. to 5. and regarding any denial to the person of employment at, a
18 contract with, or permission to reside at an entity or of permission to reside with a
19 caregiver specified in sub. (1) (ag) 1. am. for a reason specified in sub. (4m) (b) 1. to
20 5. If the information obtained under this subd. 1. e. indicates that the person has
21 been denied a license, continuation or renewal of a license, certification, a contract,
22 employment, or permission to reside as described in this subd. 1. e., the entity need
23 not obtain the information specified in subd. 1. a. to d.

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

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

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

19 48.685 (3) (b) Subject to par. (bm), every 4 years or at any time within that
20 period that an entity considers appropriate, the entity shall request the information
21 specified in sub. (2) (b) 1. a. to e. for all persons who are caregivers specified in sub.
22 (1) (ag) 1. a. or am. of the entity and for all nonclient residents of a caregiver specified
23 in sub. (1) (ag) 1. am. of the entity. ~~child-child~~

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

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

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

7 48.685 (4m) (c) If the background information form completed by a person
8 under sub. (6) (am) indicates that the person is not ineligible to be employed or
9 contracted with for a reason specified in par. (b) 1. to 5., an entity may employ or
10 contract with the person for not more than 60 days pending the receipt of the
11 information sought under sub. (2) (am) ~~1. to 5.~~ or (b) 1. If the background information
12 form completed by a person under sub. (6) (am) indicates that the person is not
13 ineligible to be permitted to reside at an entity or with a caregiver specified in sub.
14 (1) (ag) 1. am. for a reason specified in par. (b) 1. to 5. and if an entity otherwise has
15 no reason to believe that the person is ineligible to be permitted to reside at an entity
16 or with that caregiver for any of those reasons, the entity may permit the person to
17 reside at the entity or with the caregiver for not more than 60 days pending receipt
18 of the information sought under sub. (2) (am) or (b) 1. An entity shall provide
19 supervision for a person who is employed, contracted with, or permitted to reside as
20 permitted under this paragraph.

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

22 48.685 (5) (a) Subject to pars. (bm) and (br), the department may license to
23 operate an entity, the department in a county having a population of 500,000 or more,
24 a county department, or an agency contracted with under s. 48.651 (2) may certify
25 under s. 48.651, a county department or a child welfare agency may license under

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

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

14 48.685 (5m) Notwithstanding s. 111.335, the department may refuse to license
15 a person to operate an entity, a county department or a child welfare agency may
16 refuse to license a foster home under s. 48.62, and an entity may refuse to employ or
17 contract with a caregiver or permit a nonclient resident to reside at the entity or with
18 a caregiver specified in sub. (1) (ag) 1. am. of the entity if the person has been
19 convicted of an offense that is not a serious crime, but that is, in the estimation of the
20 department, county department, child welfare agency, or entity, substantially
21 related to the care of a client. Notwithstanding s. 111.335, the department may
22 refuse to license a person to operate a child care center, the department in a county
23 having a population of 500,000 or more, a county department, or an agency
24 contracted with under s. 48.651 (2) may refuse to certify a child care provider under
25 s. 48.651, a school board may refuse to contract with a person under s. 120.13 (14),

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

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

10 48.685 (6) (am) Except as provided in this paragraph, every 4 years an entity
11 shall require all of its caregivers and all nonclient residents of the entity or of a
12 caregiver specified in sub. (1) (ag) 1. am. of the entity to complete a background
13 information form that is provided to the entity by the department. Every year a day
14 child care center that is licensed under s. 48.65 or established or contracted for under
15 s. 120.13 (14) or a day child care provider that is certified under s. 48.651 shall
16 require all of its caregivers and nonclient residents to complete a background
17 information form that is provided to the day child care center or day child care
18 provider by the department.

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

20 **48.979 Delegation of power by parent.** (1) (a) A parent who has legal
21 custody of a child, by a power of attorney that is properly executed by all parents who
22 have legal custody of the child, may delegate to an agent, for a period not to exceed
23 one year, any of his or her powers regarding the care and custody of the child, except
24 the power to consent to the marriage or adoption of the child, the performance or
25 inducement of an abortion on or for the child, the termination of parental rights to

1 the child, or the enlistment of the child in the U.S. armed forces. A delegation of
2 powers under this paragraph does not deprive the parent of any of his or her powers
3 regarding the care and custody of the child.

4 (b) If a delegation of powers to an agent under par. (a) is facilitated by an entity,
5 as defined in s. 48.685 (1) (b), that entity shall obtain the information specified in s.
6 48.685 (2) (b) 1. with respect to the proposed agent and any nonclient resident, as
7 defined in s. 48.685 (1) (bm), of the proposed agent. Subject to s. 48.685 (5), if that
8 information indicates that the proposed agent may not be a contractor, as defined in
9 s. 48.685 (1) (ar), of the entity or that a nonclient resident of the proposed agent may
10 not be permitted to reside with the proposed agent for a reason specified in s. 48.685
11 (4m) (b) 1. to 5., the entity may not facilitate a delegation of powers to the proposed
12 agent under par. (a). The entity shall provide the department of health services with
13 information about each person who is denied a delegation of powers or permission
14 to reside under this paragraph for a reason specified in s. 48.685 (4m) (b) 1. to 5.

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

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

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

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

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

1 Agent's address

2 Agent's telephone number(s)

3 Agent's e-mail address

4 Relationship of agent to child(ren)

5 The parental power I am delegating is as follows:

6 **FULL**

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

9 Full parental power regarding the care and custody of the child(ren) named
10 above

11 **PARTIAL**

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

14 The power to consent to all health care; or

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

16 Ordinary or routine health care, excluding major surgical procedures,
17 extraordinary procedures, and experimental treatment

18 Emergency blood transfusion

19 Dental care

20 Disclosure of health information about the child(ren)

21 The power to consent to educational and vocational services

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

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

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

1 ... The power to consent to the child(ren) obtaining a motor vehicle operator's
2 license

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

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

5 ... Other specifically delegated powers or limits on delegated powers ^l (Fill in
6 *the following space or attach a separate sheet describing any other specific powers that*
7 *you wish to delegate or any limits that you wish to place on the powers you are*
8 *delegating.)* , , , ,
 ↑↑↑↑

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

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

19 EFFECTIVE DATE AND TERM OF THIS DELEGATION

20 This Power of Attorney takes effect on and will remain in effect until If
21 no termination date is given or if the termination date given is more than one year
22 after the effective date of this Power of Attorney, this Power of Attorney will remain
23 in effect for a period of one year after the effective date. ^{but no longer ✓} This Power of Attorney may
24 be revoked in writing at any time by a parent who has legal custody of the child(ren)
25 and such a revocation invalidates the delegation of parental powers made by this

1 Power of Attorney, except with respect to acts already taken in reliance on this Power
2 of Attorney.

3 SIGNATURE(S) OF PARENT(S)

4 Signature of parent Date

5 Parent's name printed

6 Parent's address

7 Parent's telephone number

8 Parent's e-mail address

9 Signature of parent Date

10 Parent's name printed

11 Parent's address

12 Parent's telephone number

13 Parent's e-mail address

14 WITNESSING OF SIGNATURE(S) (OPTIONAL)

15 State of

16 County of

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

18 Signature of notary

19 My commission expires:

20 STATEMENT OF AGENT

21 I, (name and address of agent), understand that (name(s) of parent(s)) has
22 (have) delegated to me the powers specified in this Power of Attorney regarding the
23 care and custody of (name(s) of child(ren)). I further understand that this Power
24 of Attorney may be revoked in writing at any time by a parent who has legal custody
25 of (name(s) of child(ren)). I hereby declare that I have read this Power of Attorney,

1 understand the powers delegated to me by this Power of Attorney, am fit, willing, and
2 able to undertake those powers, and accept those powers.

3 Agent's signature Date

4 APPENDIX

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

7 I can be located at:

8 Address(es)

9 Telephone number(s)

10 E-mail address(es)

11 Or, by contacting:

12 Name

13 Address

14 Telephone number

15 E-mail address

16 Or, I cannot be located

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

18 48.981 (2) (a) (intro.) Any of the following persons who has reasonable cause
19 to suspect that a child seen by the person in the course of professional duties has been
20 abused or neglected or who has reason to believe that a child seen by the person in
21 the course of professional duties has been threatened with abuse or neglect and that
22 abuse or neglect of the child will occur shall, except as provided under ~~sub.~~ subs. (2m)
23 and (2r), report as provided in sub. (3):

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

15 ✓
Insert
16
16-6 →

1 48.981 (2) (b) A court-appointed special advocate who has reasonable cause to
2 suspect that a child seen in the course of activities under s. 48.236 (3) has been
3 abused or neglected or who has reason to believe that a child seen in the course of
4 those activities has been threatened with abuse and neglect and that abuse or neglect
5 of the child will occur shall, except as provided in ~~sub. subs. (2m) and (2r)~~, report as
6 provided in sub. (3).

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

8 48.981 (2) (bm) 1. (intro.) Except as provided in subd. 3. and ~~sub. subs. (2m) and~~
9 (2r), a member of the clergy shall report as provided in sub. (3) if the member of the
10 clergy has reasonable cause to suspect that a child seen by the member of the clergy
11 in the course of his or her professional duties:

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

13 48.981 (2) (bm) 2. (intro.) Except as provided in subd. 3. and ~~sub. subs. (2m) and~~
14 (2r), a member of the clergy shall report as provided in sub. (3) if the member of the
15 clergy has reasonable cause, based on observations made or information that he or
16 she receives, to suspect that a member of the clergy has done any of the following:

17 **SECTION 25.** 48.981 (2m) (title) of the statutes is amended to read:

18 48.981 (2m) (title) EXCEPTION TO REPORTING REQUIREMENT; HEALTH CARE SERVICES.

19 **SECTION 26.** 48.981 (2r) of the statutes is created to read:

20 48.981 (2r) EXCEPTION TO REPORTING REQUIREMENT; PERSON DELEGATED PARENTAL
21 POWERS. A person delegated care and custody of a child under s. 48.979 is not required
22 to report as provided in sub. (3) any suspected or threatened abuse or neglect of the
23 child as required under sub. (2) (a), (b), or (bm) or (2m) (d) or (e). Such a person who
24 has reason to suspect that the child has been abused or neglected or who has reason

- 1 to believe that the child has been threatened with abuse or neglect and that abuse
- 2 or neglect of the child will occur may report as provided in sub. (3).

3

(END)

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18-2 ✓

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(INSERT 16-6)

1 (3) (a) In this subsection: ✓

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

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

6 (b) The department shall promulgate rules to implement this section. ✓ Those
7 rules shall include rules establishing all of the following: ✓

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

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

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



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CONT

1 4. The expectations of an agent with respect to the care and custody of the child,
2 including expectations relating to the care, nurturing, protection, training,
3 guidance, and discipline of the child; the provision of food, shelter, education, and
4 health care for the child; cooperation with the child's parents in coparenting the
5 child; and cooperation with the organization in facilitating visitation and other
6 communications with the child's parents and in otherwise complying with the
7 expectations of the organization.

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

(END OF INSERT)

(INSERT 18-2)

11 **SECTION 1. Nonstatutory provisions.**

12 (1) DELEGATION OF POWER BY PARENT; RULES. The department of children and
13 families shall submit in proposed form the rules required under section 48.979 (3)
14 of the statutes, as created by this act, to the legislative council staff under section
15 227.15 (1) of the statutes no later than the 1st day of the 6th month beginning after
16 the effective date of this subsection.

(END OF INSERT)

(INSERT A)

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



INSERT A
CONT

respect to the care and custody of the child, and certain monitoring and communication requirements for an organization.

(END OF INSERT)