

## 2011 DRAFTING REQUEST

### Senate Substitute Amendment (SSA-SB502)

Received: 03/03/2012

Received By: gmalaise

Wanted: Today

Companion to LRB:

For: Mary Lazich (608) 266-5400

By/Representing: Tricia Sieg

May Contact:

Drafter: gmalaise

Subject: Children - out-of-home placement

Addl. Drafters:

Extra Copies:

Submit via email: YES

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

Carbon copy (CC:) to:

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#### Pre Topic:

No specific pre topic given

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#### Topic:

Permanency planning for children in out-of-home placements; concurrent planning, trial reunifications, permanent living arrangements

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#### Instructions:

See attached

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#### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	gmalaise 03/07/2012	wjackson 03/07/2012		_____			
/1			rschluet 03/07/2012	_____	mbarman 03/07/2012	mbarman 03/07/2012	

FE Sent For:

<END>

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gmalaise

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FE Sent For:

<END>

**Malaise, Gordon**

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**From:** Morrell, Alison  
**Sent:** Monday, March 05, 2012 10:46 AM  
**To:** Malaise, Gordon  
**Subject:** FW: AB 599 Substitute Amendment Memo  
**Attachments:** 1- AB 599 Drafting Instructions Memo to NR FINAL (3.2.12).docx  
Gordon,

Here is the compromise that we all came up with for AB 599.

Let us know if you need anything! Thank you!

*Alison Morrell*

Office of State Representative Samantha Kerkman  
66th Assembly District of Wisconsin  
315 North, State Capitol  
608-266-2530

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**From:** Michelle Jensen-Goodwin [mailto:Michelle.Jensen-Goodwin@wicourts.gov]  
**Sent:** Friday, March 02, 2012 4:39 PM  
**To:** Nancy Rottier  
**Subject:** AB 599 Substitute Amendment Memo

Nancy,

Here is the substitute amendment memorandum. Judge Gaylord had a limited opportunity to review it, but has given the go ahead for us to send it to you. We want to make sure that Rep. Kerkman knows that even though we are making changes to the trial reunification process, there are still several concessions we are making in the memo. Specifically, we would like to see other parties be able to request a trial reunification and we have some reservations about allowing the agency to revoke the trial reunification in non-emergency situations prior to providing notice to the parties and allowing the parties an opportunity to object in advance. In an effort to move this forward, our proposed procedure goes back to the process discussed at the meeting on Tuesday evening and adopts some of DCF's positions.

Also, there are other issues we are not pursuing at this time, such as: (1) clarifying when the agency must obtain prior court approval to change the permanency goal or concurrent permanency goal and (2) requiring a panel or judicial determination on whether the agency made appropriate efforts toward achieving the concurrent permanency goal. During previous discussions, DCF expressed a willingness to address these issues in future legislation.

Let me know if there is anything else that you need from Bridget or me.

Michelle

# Memorandum

SUPREME COURT OF WISCONSIN  
OFFICE OF COURT OPERATIONS  
PHONE (608) 266-3121 FAX (608) 267-0911



*DATE:* March 2, 2012  
*TO:* Nancy Rottier  
*FROM:* Michelle Jensen Goodwin  
Bridget Bauman  
*SUBJECT:* 2011 AB 599 Substitute Amendment Instructions

**All references to changes in Ch. 48 would also apply to Ch. 938.**

## **Concurrent Planning**

1. Language is needed to clarify that the court's reasonable efforts finding need only be made for one goal. The DCF's recommendation is to create a distinction between the "permanency goal" of the permanency plan and the "concurrent permanency goal" of the permanency plan. The reasonable efforts finding will then only be required for the "permanency goal." For example, this would include the following changes:
  - a. Pg. 9, lines 1-17: Change to "achieve the permanency goal."
  - b. Pg. 10, ss. 14 and 15, lines 12-13 and 16-17: Change to "achieve the permanency goal."
  - c. Pg. 11, lines 11-14: Change to "achieve the permanency goal."
  - d. Pg. 13, ss. 22 and 23, lines 1 and 14-15: Change to "achieve the permanency goal."
  - e. Pg. 23, s. 35, line 1: Change to "achieve the permanency goal."
  - f. Pg. 24, ss. 37-39, lines 5, 16, and 24: Change to "achieve the permanency goal."
  - g. Pg. 29, s. 54, lines 1-2: Change to "achieve the permanency goal."
  - h. Pg. 29, lines 22-25: Change to "permanency and concurrent permanency goals of."
  - i. Pg. 30, lines 8-10: Change to "the permanency and concurrent permanency goals of."
  - j. Pg. 31, lines 6-8: Change to: "towards achieving a concurrent permanency goal under par. (fg) 1. to 4. as well as the permanency goal under par. (fg)5."
  - k. Pg. 35, lines 22: Change to "the appropriateness...of the permanency goal and concurrent permanency goals."
  - l. Pg. 36, lines, 1-3: Change to "achieve the permanency goal of."
  - m. Pg. 42, s. 91, lines 6-7: Change to "achieve the permanency goal."

2. Pg. 12, s. 20, lines 11-16: Create an exception that would exempt the agency from being required to engage in concurrent planning in situations where the court or panel determines that having a concurrent permanency goal is not appropriate under s. 48.38(5)(c)5m.
3. Pg. 12, s. 20, lines 14-16: Delete "...on and the court shall make a finding as to whether the county department..." (to the end of line 16).
4. Pg. 12, s. 20, line 18: Change "reasonable efforts" in the definition of concurrent planning to "appropriate efforts."

### **Trial Reunification**

1. Add language to ss. 48.358 or 48.38 that would make it clear that a trial reunification is an out-of-home placement for purposes of reviewing the permanency plan under s. 48.38 and the time that a child is in a trial reunification would count in the timeframe for conducting permanency plan reviews and hearings.
2. Trial Reunification definition
  - a. Add language that would define a trial reunification as 7 days or longer in the home of the parent/removal. This is to require the trial reunification procedures under s. 48.358 to be followed before a child can stay in that home 7 or more consecutive days. [The length of 7 days is taken from DCF's Trial Reunification Policy.]
  - b. Change "other home" throughout s. 48.358 to "home of a relative from which the child was removed."
  - c. Change the wording in this section and throughout s. 48.358 so that it is clear that a trial reunification can occur with either parent, regardless of whether the child was removed from that parent's home. Perhaps this can be achieved by changing the order of the wording so that "home of his or her parent" comes after "home of a relative from which the child was removed."
  - d. Pgs. 16-17, s. 33: Change s. 48.358(1) to, "In this section, "trial reunification" means when a child who was placed in an out-of-home placement under s. 48.355 or 48.357 is allowed by court order to reside in the home of a relative from which the child was removed or home of his or her parent for a specified and limited period for the purpose of determining the appropriateness of changing the placement of the child to that home."

3. Pgs. 17-18, s. 33: Trial Reunification Procedure (s. 48.358(2))

"(2) TRIAL REUNIFICATION; PROCEDURE. (a) Request for trial reunification ~~or proposal~~. The person or agency primarily responsible for implementing the dispositional order may request ~~, or the court on its own motion may propose,~~ a trial reunification. The request ~~or proposal~~ shall contain the name and address of the home that is the site of the requested or proposed trial reunification, a statement describing why the trial reunification is in the best interests of the child, and a statement describing how the trial reunification satisfies the objectives of the child's permanency case plan. A request for trial reunification may not be made~~No person may request or propose a trial reunification on the sole grounds that an emergency condition necessitates an immediate removal from the out-of-home placement return of the child to the home of his or her parent or other home from which the child was removed. If an emergency condition necessitates such an immediate removal return, the person or agency primarily responsible for implementing the dispositional order shall proceed as provided in s. 48.357 (2).~~

(b) Notice; information required. The person or agency requesting the trial reunification shall submit the request to the court. ~~That person or the court~~ and shall cause written notice of the requested ~~or proposed~~ trial reunification to be sent to the child, the parent, guardian, and legal custodian of the child, any foster parent or other physical custodian described in s. 48.62 (2) of the child, the child's court-appointed special advocate, all parties who are bound by the dispositional order, and, if the child is an Indian child who has been removed from the home of his or her parent or Indian custodian, the Indian child's Indian custodian and tribe. The notice shall contain the information that is required to be included in the request ~~or proposal~~ under par. (a).

(c) Hearing; when required. Any person receiving the notice under par. (b), other than a court-appointed special advocate, may obtain a hearing on the matter by filing an objection with the court within 10 days after ~~receipt of the notice was filed~~. If a hearing is held scheduled, it shall be within 30 days of the filing of the request for trial reunification. ~~Not~~ Not less than 3 days before the hearing the person requesting the trial reunification or the court shall provide notice of the hearing to all persons who are entitled to receive notice under par. (b). A copy of the request ~~or proposal~~ for the trial reunification shall be attached to the notice. If all of the parties consent, the court may proceed immediately with the hearing.

(d) Order. If the court finds that the trial reunification is in the best interests of the child and that the trial reunification satisfies the objectives of the child's case plan, the court shall grant an order authorizing the trial reunification. A trial reunification shall terminate 90 days after the date of the order, unless the court specifies a shorter period in the order, extends the trial reunification under sub. (3), or revokes the trial reunification under sub. (4) (c) ~~or the person or agency primarily responsible for implementing the dispositional order makes an emergency change in placement as provided in sub. (4) (d)~~. No trial reunification order may extend the expiration date of the original dispositional order under s. 48.355 or any extension order under s. 48.365. A trial reunification under this section is not a change in

placement under s. 48.357. At the end of a trial reunification, if there has not been an extension, [Gordon-ADD LANGUAGE here that the agency has to take one of three actions: (1) Return the child to the previous out-of-home placement without further order of the court, but with notice to all persons that were entitled to notice above with the date of return and address specified, (2) request a change of placement under s. 48.357 to the trial reunification home, or (3) request a change of placement under s. 48.357 to another placement.]”

#### 4. Pgs. 18-19, s. 33: Extension of Trial Reunification

“(3) EXTENSION OF TRIAL REUNIFICATION. (a) Extension request ~~or proposal~~. The person or agency primarily responsible for implementing the dispositional order may request, ~~or the court on its own motion may propose,~~ an extension of the trial reunification. The request ~~or proposal~~ shall contain a statement describing how the trial reunification continues to be in the best interests of the child. ~~and continues to meet the objectives of the child’s case plan.~~ No later than 10 days prior to the expiration of the trial reunification, the person or agency who requests ~~or proposes~~ the extension shall submit the request ~~or proposal to the court that ordered the trial reunification~~ and shall cause notice of the request ~~or proposal~~ to be provided to all persons who are entitled to receive notice under sub. (2) (b).

(b) Extension hearing; when required. Any person who is entitled to receive notice of the extension request ~~or proposal~~ under par. (a), other than a court-appointed special advocate, may obtain a hearing on the matter by filing an objection with the court within 105 days after receipt of the notice was filed. If a hearing is scheduled, not less than 3 days before the hearing the person or agency requesting the extension or the court shall provide notice of the hearing to all persons who are entitled to receive notice of the extension request ~~or proposal~~ under par. (a). A copy of the request or proposal for the extension shall be attached to the notice. If all of the parties consent, the court may proceed immediately with the hearing. If a hearing is scheduled, but it cannot be held prior to the expiration of the trial reunification order, the court may grant an extension of the trial reunification up to 30 days without a hearing. [Gordon-You may want to wordsmith this sentence.]

(c) Extension order. If the court finds that the trial reunification continues to be in the best interests of the child ~~and continues to meet the objectives of the child’s case plan,~~ the court shall grant an order extending the trial reunification. ~~for a period specified by the court not to exceed 60 days.~~ Any number of extensions may be granted ~~under this paragraph,~~ but the total period for a trial reunification may not exceed 150 days.”

#### 5. Pgs. 19-20, s. 33: Extension of Trial Reunification

“(4) REVOCATION OF TRIAL REUNIFICATION. (a) Revocation request; information required. If the person or agency primarily responsible for implementing the dispositional order determines based on current circumstances that the trial reunification is no longer in the best interests of the child, the person or agency primarily responsible for implementing the dispositional order may remove the child from the trial reunification

home and place the child in the previous or another out-of-home placement without prior court order. The person or agency primarily responsible for implementing the disposition must file a request for revocation of the trial reunification or a request to change the child's placement under s. 48.357 within 3 days of the removal from the trial reunification home. dispositional order has reasonable cause to suspect that a child who has been returned to the home of his or her parent or other home from which the child was removed for a trial reunification has been abused or neglected, has reason to believe that such a child has been threatened with abuse or neglect and that abuse or neglect of the child is likely to occur, or otherwise has reason to believe that the trial reunification is longer in the best interests of the child, that person or agency may request the court to revoke the trial reunification. That person or agency shall submit the request for revocation to the court that ordered the trial reunification and shall cause notice of the request for revocation to be provided to all persons who are entitled to receive notice of the trial reunification under a sub. (2) (b). The request for revocation of the trial reunification shall contain the reasons for the proposed revocation, date of removal, and current address for the child. The change of placement request shall contain the date of removal, current address for the child, and all information required under s. 48.357. The relevant procedures set forth in s. 48.357 shall be applied to the change of placement request. The trial reunification order is terminated if the change in placement is granted.

(b) Revocation hearing; when required. Any person who is entitled to receive notice of the revocation request under par. (a), other than a court-appointed special advocate, may obtain a hearing on the matter by filing an objection with the court within 105 days after receipt of the notice is filed. If a hearing is scheduled, not less than 3 days prior to the hearing the person or agency requesting the revocation or the court shall provide notice of the hearing, together with a copy of the request for the revocation, to all persons who are entitled to receive notice under par. (a). If all parties consent, the court may proceed immediately with the hearing.

(c) Revocation order. If the court finds that the trial reunification is no longer in the best interests of the child, while returned to the home of his or her parent or other home from which the child was removed for a trial reunification, has been abused or neglected, or has been threatened with abuse or neglect and that abuse or neglect of the child is likely to occur, or finds that the trial reunification is no longer in the best interests of the child, the court shall grant an order revoking the trial reunification. and returning the child to an out-of-home placement.

(d) Emergency change in placements. If an emergency condition necessitates an immediate removal of the child from the home of his or her parent or other home from which the child was removed, the person or agency primarily responsible for implementing the dispositional order may proceed as provided in s. 48.357 (2)."



6. Remove “or the court on its own motion may propose,” “proposed,” and “proposal” throughout from s. 48.358, so that the person or agency primarily responsible for implementing the dispositional order is the only one that can “request” a trial reunification.
7. Remove section 5 of the bill, so that a guardian ad litem cannot request a trial reunification.

### **Case Planning (s. 48.38)**

1. The bill replaces “permanency plan” with “case plan” throughout Chapters 48 and 938. The substitute amendment should undo this change and leave the current language in law as “permanency plan.”
2. Where current law refers to “permanency plan hearing” or “permanency plan review,” remove the word “plan” from current statute so that the new references will be to a “permanency review” or “permanency hearing” throughout Chapters 48 and 938. For example: p. 27, line 6; p. 31, lines 11-14; pg. 33, line 20; pg. 39, line 25; pg. 47, line 3; pg. 50, line 8; and pg. 52, lines 15-16. In these places the terminology should be “permanency review” or “permanency hearing.”
3. Pg. 36, line 22: Per item 2 above, the title of the section should be “Permanency Hearing.”
4. Pg. 31, lines 19-20: Remove the words “plan” and “determination” from current statute so that the new title will be “Reasonable Efforts Not Required; Permanency Hearing.”
5. Pg. 31, lines 11-14: Per items 3 and 4 above, the references should now be to a “permanency hearing” or “permanency review” (not a “permanency plan determination hearing” nor a “permanency case plan determination hearing”).
6. Add a new section to the bill that would change the title of s. 48.38(5) from “Plan Review” to “Permanency Review.”
7. Pg. 7, s. 3, line 17; pg. 9, s. 12, line 23; pg. 13, s. 24, line 20; pg. 16, s. 32, line 20; pg. 25, s. 40, line 10; and pg. 31, s. 63, line 25: Add “the permanency goal and concurrent permanency goal, if applicable,” so it reads: “...to determine the permanency goal and concurrent permanency goal, if applicable, of the...”
8. Pg. 15, s. 30, line 24 and pg. 16, s. 31, lines 8-9: Keep old language.
9. Pg. 28, s. 51, line 7: Case Plan Required
  - a. Add “or guardian” as follows: “...for each child living in the home of a relative or guardian other than parent...”

## 10. Plan Review & Hearing

- a. Pg. 36: Add a new section to the bill that would create new subsection, s. 48.38(5)(c)5m. (between subdivisions 5. and 6.), that would require the court to order or the panel to establish the permanency goal, to determine if having a concurrent permanency goal is appropriate, and what the concurrent permanency goal will be, as part of the Permanency Review or Permanency Hearing. (However, it must be clear that the permanency goal or concurrent permanency goal is initially established and is in existence by the agency until the court orders or panel approves or changes it.)
- b. Pg. 35, s. 73, which creates 48.38(5)(c)6m. should be omitted. Reasoning: The court or panel will already be looking over the department's policies in the proposed plan in the newly created subsection above.
- c. Pg. 36: Add a new section to the bill that would modify s. 48.38(5)(f):

“If the summary prepared under par. (e) indicates that the review panel made recommendations that conflict with the ~~court~~ child's dispositional order or that provide for additional services not specified in the court order, the agency primarily responsible for providing services to the child shall request a revision of the court order.”

### **Other Planned Permanent Living Arrangements (OPPLA)**

1. Pg. 29, s. 56, line 20; pg. 30, s. 58, lines 14-15; pg. 35, s. 70, line 4; and pg. 35, s. 72, line 16: Add “appropriate” and replace “long-term” with “enduring” for the relationship with an adult: “an appropriate, enduring relationship with an adult”.
2. Pg. 29, line 20 and pg. 30, line 14: We are concerned the words “in which” will imply that the long-term relationship must be with the same adult with whom the child is living as part of the living arrangement. We would suggest changing the language to read something like “...some other planned permanent living arrangement which would include that the child is in an appropriate, enduring relationship with an adult.”
3. Pg. 30, s. 59, lines 19-25: There seems to be missing words/verbs in this section. Also, where did the contents of the current s. 48.38(4)(fm) go in the bill? It is not clear how proposed ss. 48.38(4)(fg) & (fm) and old s. 48.38(4)(fm) work together.
4. Pg. 30, s. 59, lines 19-22; pg. 31, s. 59, lines 1-3; and pg. 31, s. 60, lines 6-8: Lines 6-8 (requiring a concurrent plan of reunification, adoption, guardianship, or placement with fit and willing relative) appears to conflict with lines 1-3 (requiring a finding that it is **not** in the child's best interests to return home, placed for adoption, with a guardian, or fit and willing relative). Add words to the effect of “Notwithstanding the compelling reason determination,” in front of pg. 31, s. 60, lines 6-8.

5. Pg. 30, line 19, and Pg. 31, line 1: Add the word “currently” so that language reads: “The compelling reason why it *currently* would not be in the best interests...”
6. Pg. 31, lines 3-4: We believe the words “and the efforts made to achieve that goal, including, if appropriate, through an out-of-state placement” should be deleted.



State of Wisconsin  
2011 - 2012 LEGISLATURE



LRBs0380/2  
GMM:wlj:jf

5038V

SENATE

SENATE

Steps

~~ASSEMBLY~~ SUBSTITUTE AMENDMENT,  
TO 2011 ~~ASSEMBLY~~ BILL 599

502

TN 317  
Today  
(changes on p 51 only)

Regen

1 AN ACT ~~to renumber and amend~~ 48.355 (2b) and 938.355 (2b); *to amend* 48.21  
2 (5) (d), 48.299 (4) (b), 48.315 (2m) (b), 48.32 (1) (b) 1. c., 48.32 (1) (c), 48.33 (4)  
3 (c), 48.335 (3g) (c), 48.335 (4), 48.355 (2) (b) 6., 48.355 (2b) (title), 48.355 (2c) (b),  
4 48.355 (2d) (b) (intro.), 48.355 (2d) (c), 48.355 (2e) (b), 48.357 (2v) (c), 48.363 (1)  
5 (a), 48.365 (2g) (b) 2., 48.365 (2g) (b) 3., 48.365 (2m) (a) 1., 48.365 (2m) (a) 1m.,  
6 48.365 (2m) (a) 3., 48.365 (2m) (ad), 48.365 (7), 48.371 (5), 48.38 (2) (intro.),  
7 48.38 (4) (ar), 48.38 (4) (f) 3., 48.38 (4) (fg) (intro.), 48.38 (4) (fg) 5., 48.38 (4) (fm),  
8 48.38 (4) (i), 48.38 (4m) (title), 48.38 (5) (title), 48.38 (5) (a), 48.38 (5) (am), 48.38  
9 (5) (c) 5., 48.38 (5) (c) 6. (intro.), 48.38 (5) (c) 6. d., 48.38 (5) (c) 7., 48.38 (5) (f),  
10 48.38 (5m) (title), 48.38 (5m) (a), 48.38 (5m) (b), 48.38 (5m) (f), 48.38 (6) (a),  
11 48.417 (1) (a), 48.43 (1) (cm), 48.43 (5m), 48.63 (5) (d) 4., 48.977 (4) (i) (title),  
12 757.69 (1) (g) 14., 938.21 (5) (d), 938.315 (2m) (b), 938.32 (1) (c) 1. c., 938.32 (1)  
13 (d), 938.33 (4) (c), 938.335 (3g) (c), 938.335 (4), 938.355 (2) (b) 6., 938.355 (2c)

1 (b), 938.355 (2d) (b) (intro.), 938.355 (2d) (c), 938.355 (2e) (b), 938.357 (2v) (c),  
2 938.363 (1) (a), 938.365 (2g) (b) 2., 938.365 (2g) (b) 3., 938.365 (2m) (a) 1.,  
3 938.365 (2m) (a) 1m., 938.365 (2m) (a) 3., 938.365 (2m) (ad), 938.365 (7), 938.371  
4 (5), 938.38 (2) (intro.), 938.38 (4) (ar), 938.38 (4) (f) 3., 938.38 (4) (fg) (intro.),  
5 938.38 (4) (fg) 5., 938.38 (4) (fm), 938.38 (4) (i), 938.38 (4m) (title), 938.38 (5)  
6 (title), 938.38 (5) (a), 938.38 (5) (am), 938.38 (5) (c) 5., 938.38 (5) (c) 6. (intro.),  
7 938.38 (5) (c) 6. d., 938.38 (5) (c) 7., 938.38 (5) (f), 938.38 (5m) (title), 938.38 (5m)  
8 (a), 938.38 (5m) (b), 938.38 (5m) (f) and 938.38 (6) (a); and **to create** 48.355 (2b)  
9 (a), 48.358, 48.38 (5) (c) 5m., 938.355 (2b) (a), 938.358 and 938.38 (5) (c) 5m. of  
10 the statutes; **relating to:** permanency planning for a child placed in  
11 out-of-home care, including concurrent permanency goals, trial reunifications,  
12 and planned permanent living arrangements for such a child.

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### ***Analysis by the Legislative Reference Bureau***

#### ***Introduction***

Under current law, for each child living in an out-of-home placement, the county department of human services or social services, the licensed child welfare agency, or the Department of Children and Families (DCF) that placed the child or arranged the placement of the child or the agency assigned primary responsibility for providing services to the child (collectively “agency”) must prepare a permanency plan for the child. A permanency plan must describe, among other things, the goal or goals of the permanency plan, with those goals being either the safe return of the child to his or her home or placement of the child for adoption, with a guardian, with a fit and willing relative, or in some other alternative permanent placement, such as sustaining care, independent living, or long-term foster care.

This substitute amendment makes certain changes relating to permanency planning for a child placed in out-of-home care, including changes relating to: 1) concurrent planning; 2) trial reunifications; and 3) planned permanent living arrangements, for such a child.

#### ***Concurrent planning***

Under current law, an agency, at the same time as the agency is making reasonable efforts to prevent the removal of a child from his or her home or to make it possible for the child to return home, may work with an adoption agency in making appropriate efforts to place the child for adoption, with a guardian, with a fit and

willing relative, or in some other alternative permanent placement (concurrent reasonable efforts). If an agency is making concurrent reasonable efforts, the child's permanency plan must include the goals of the permanency plan.

This substitute amendment eliminates the authority of an agency to make concurrent reasonable efforts and instead permits an agency to engage in concurrent planning, which the substitute amendment defines as appropriate efforts to work simultaneously towards achieving more than one permanency goal for a child. Under the substitute amendment, an agency must determine, in accordance with standards established by DCF (concurrent planning standards) whether to engage in concurrent planning. If, according to the concurrent planning standards, concurrent planning is required, the agency must engage in concurrent planning unless the court assigned to exercise jurisdiction under the Children's Code and the Juvenile Justice Code (juvenile court) or a permanency review panel appointed by the juvenile court determines that concurrent planning is inappropriate. If an agency determines to engage in concurrent planning for a child, the child's permanency plan must include the rationale for that determination and a description of the concurrent plan and the permanency and concurrent permanency goals of the concurrent plan. In addition, the juvenile court review panel, in reviewing a child's permanency plan, must determine the continuing appropriateness, according to the concurrent planning standards, of the permanency goal and any concurrent permanency goals for the child and, if the juvenile court or panel does not approve of any of those goals, or if the juvenile court or panel determines that a concurrent permanency goal is appropriate, that court or panel must determine the permanency goal and, if appropriate, any concurrent permanency goal for the child.

### ***Trial reunifications***

***Current law — changes in placement.*** Under current law, the juvenile court, on the request of the person or agency primarily responsible for implementing a dispositional order, of the juvenile court, may order a change in placement for a child placed outside of his or her home under a dispositional order of the juvenile court. The juvenile court may order the change in placement without a hearing, unless a party receiving the notice files an objection. Current law also permits the person or agency primarily responsible for implementing the dispositional order to make an emergency change in placement if emergency conditions necessitate an immediate change in placement.

***The substitute amendment — trial reunifications.*** This substitute amendment provides a similar procedure under which the juvenile court may order a trial reunification, which the substitute amendment defines as authorization for a child who is placed in an out-of-home placement to reside in the home of the relative of the child from which the child was removed or in the home of either of the child's parents for a specified and limited period of seven consecutive days or longer for the purpose of determining the appropriateness of changing the placement of the child to that home. The substitute amendment, however, does not permit an emergency trial reunification. Under the substitute amendment, if an emergency condition necessitates an immediate removal of the child from his or her

out-of-home placement, the person or agency primarily responsible for implementing the dispositional order must make an emergency change in placement as provided under current law.

Under the substitute amendment, the juvenile court may order a trial reunification on the request of the person or agency primarily responsible for implementing the dispositional order. Notice of the proposed trial reunification must 1) be provided to the child, the parent, guardian, and legal custodian of the child, any foster parent or other physical custodian of the child, the child's court-appointed special advocate, all parties who are bound by the dispositional order, and, in the case of an Indian child, the Indian child's Indian custodian and tribe; and 2) contain a statement describing why the trial reunification is in the best interests of the child and a statement describing how the trial reunification satisfies the objectives of the child's permanency plan. The juvenile court may order the trial reunification without a hearing, unless a party receiving the notice files an objection.

If the juvenile court finds that the trial reunification is in the best interests of the child and that the trial reunification satisfies the objectives of the child's permanency plan, the juvenile court must grant an order authorizing the trial reunification. A trial reunification terminates 90 days after the date of the order, unless the juvenile court specifies a shorter period in the order, extends the trial reunification, or revokes the trial reunification. At the end of a trial reunification, the person or agency primarily responsible for implementing the dispositional order must return the child to his or her previous out-of-home placement, request a change in placement of the child to a new out-of-home placement, or request a change-in-placement of the child to the trial reunification home.

The substitute amendment also permits the person or agency primarily responsible for implementing the dispositional order to request an extension of a trial reunification. The request must contain a statement describing how the trial reunification continues to be in the best interests of the child, and the same notice and hearing requirements that apply to an original request for a trial reunification also apply to a request for an extension of a trial reunification. If the juvenile court finds that the trial reunification continues to be in the best interests of the child, the juvenile court must grant an order extending the trial reunification for a period specified by the juvenile court. Any number of extensions may be granted, but the total period for a trial reunification may not exceed 150 days.

In addition, the substitute amendment permits the person or agency primarily responsible for implementing the dispositional order to remove the child from the trial reunification home and place the child in the child's previous out-of-home placement or in a new out-of-home placement, without prior juvenile court order, if that person or agency determines, based on current circumstances, that the trial reunification is no longer in the best interests of the child.

If the person or agency removes the child from the trial reunification home and places the child in the child's previous out-of-home placement, within three days after that removal, that person or agency must submit a request for revocation of the trial reunification to the juvenile court that ordered the trial reunification and must cause notice of the request to be provided to all persons who are entitled to receive

notice of the original trial reunification, and the same notice and hearing requirements that apply to an original request for a trial reunification also apply to a request for a revocation of a trial reunification. If the juvenile court finds that the trial reunification is no longer in the best interests of the child, the juvenile court must grant an order revoking the trial reunification and approving that placement.

If the person or agency removes the child from the trial reunification home and places the child in a new out-of-home placement, within three days after that removal, that person or agency must request a change in placement as provided under current law, and the change-in-placement procedures provided under current law apply. If the juvenile court grants a change-in-placement order, the trial reunification is revoked.

***Other planned permanent living arrangement***

Under current law, if a goal of a child's permanency plan is an alternative permanent placement, the permanency plan must document a compelling reason why it would not be in the best interests of the child to pursue the safe return of the child to his or her home or placement of the child for adoption, with a guardian, or with a fit and willing relative.

This substitute amendment changes the term "alternative permanent placement" to "other planned permanent living arrangement," requires the arrangement to include an appropriate enduring, relationship between the child and an adult, and eliminates independent living as a planned permanent living arrangement option. The substitute amendment also permits a child's permanency plan to include the permanency goal of placement of the child in a planned permanent living arrangement only if the agency determines that there is a compelling reason why it currently would not be in the best interests of the child to pursue the safe return of the child to his or her home or placement of the child for adoption, with a guardian, or with a fit and willing relative as the permanency goal for the child. If an agency makes that determination, the child's permanency plan must include a statement of that compelling reason and, notwithstanding that compelling reason, a concurrent plan towards achieving the concurrent permanency goal of safely returning the child to his or her home or placing the child for adoption, with a guardian, or with a fit and willing relative in addition to the permanency goal of placing the child in some other planned permanent living arrangement.

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

- 1           **SECTION 1.** 48.21 (5) (d) of the statutes is amended to read:
- 2           48.21 (5) (d) If the judge or circuit court commissioner finds that any of the
- 3           circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent,
- 4           the judge or circuit court commissioner shall hold a hearing under s. 48.38 (4m)



1 within 30 days after the date of that finding to determine the permanency plan goal  
2 and, if applicable, any concurrent permanency goals for the child.

3 **SECTION 2.** 48.299 (4) (b) of the statutes is amended to read:

4 48.299 (4) (b) Except as provided in s. 901.05, neither common law nor  
5 statutory rules of evidence are binding at a hearing for a child held in custody under  
6 s. 48.21, a hearing for an adult expectant mother held in custody under s. 48.213, a  
7 runaway home hearing under s. 48.227 (4), a dispositional hearing, or a hearing  
8 about changes in placement, trial reunifications, revision of dispositional orders,  
9 extension of dispositional orders, or termination of guardianship orders entered  
10 under s. 48.977 (4) (h) 2. or (6) or 48.978 (2) (j) 2. or (3) (g). At those hearings, the court  
11 shall admit all testimony having reasonable probative value, but shall exclude  
12 immaterial, irrelevant, or unduly repetitious testimony or evidence that is  
13 inadmissible under s. 901.05. Hearsay evidence may be admitted if it has  
14 demonstrable circumstantial guarantees of trustworthiness. The court shall give  
15 effect to the rules of privilege recognized by law. The court shall apply the basic  
16 principles of relevancy, materiality, and probative value to proof of all questions of  
17 fact. Objections to evidentiary offers and offers of proof of evidence not admitted may  
18 be made and shall be noted in the record.

19 **SECTION 3.** 48.315 (2m) (b) of the statutes is amended to read:

20 48.315 (2m) (b) The court making an initial finding under s. 48.38 (5m) that  
21 the agency primarily responsible for providing services to the child has made  
22 reasonable efforts to achieve the goals permanency goal of the child's permanency  
23 plan more than 12 months after the date on which the child was removed from the  
24 home or making any subsequent findings under s. 48.38 (5m) as to those reasonable

1 efforts more than 12 months after the date of a previous finding as to those  
2 reasonable efforts.

3 **SECTION 4.** 48.32 (1) (b) 1. c. of the statutes is amended to read:

4 48.32 (1) (b) 1. c. If a permanency plan has previously been prepared for the  
5 child, a finding as to whether the county department, department, or agency has  
6 made reasonable efforts to achieve the permanency goal of the child's permanency  
7 plan, including, if appropriate, through an out-of-state placement.

8 **SECTION 5.** 48.32 (1) (c) of the statutes is amended to read:

9 48.32 (1) (c) If the judge or circuit court commissioner finds that any of the  
10 circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent,  
11 the judge or circuit court commissioner shall hold a hearing under s. 48.38 (4m)  
12 within 30 days after the date of that finding to determine the permanency plan goal  
13 and, if applicable, any concurrent permanency goals for the child.

14 **SECTION 6.** 48.33 (4) (c) of the statutes is amended to read:

15 48.33 (4) (c) Specific information showing that continued placement of the child  
16 in his or her home would be contrary to the welfare of the child, specific information  
17 showing that the county department, the department, in a county having a  
18 population of 500,000 or more, or the agency primarily responsible for providing  
19 services to the child has made reasonable efforts to prevent the removal of the child  
20 from the home, while assuring that the child's health and safety are the paramount  
21 concerns, unless any of the circumstances specified in s. 48.355 (2d) (b) 1. to 5.  
22 applies, and, if a permanency plan has previously been prepared for the child,  
23 specific information showing that the county department, department, or agency has  
24 made reasonable efforts to achieve the permanency goal of the child's permanency  
25 plan, including, if appropriate, through an out-of-state placement.

1           **SECTION 7.** 48.335 (3g) (c) of the statutes is amended to read:

2           48.335 **(3g)** (c) That, if a permanency plan has previously been prepared for the  
3 child, the county department, department, or agency has made reasonable efforts to  
4 achieve the permanency goal of the child's permanency plan, including, if  
5 appropriate, through an out-of-state placement.

6           **SECTION 8.** 48.335 (4) of the statutes is amended to read:

7           48.335 **(4)** At hearings under this section, s. 48.357, 48.358, 48.363, or 48.365,  
8 on the request of any party, unless good cause to the contrary is shown, the court may  
9 admit testimony on the record by telephone or live audiovisual means, if available,  
10 under s. 807.13 (2). The request and the showing of good cause may be made by  
11 telephone.

12           **SECTION 9.** 48.355 (2) (b) 6. of the statutes is amended to read:

13           48.355 **(2)** (b) 6. If the child is placed outside the home, a finding that continued  
14 placement of the child in his or her home would be contrary to the welfare of the child,  
15 a finding as to whether the county department, the department, in a county having  
16 a population of 500,000 or more, or the agency primarily responsible for providing  
17 services under a court order has made reasonable efforts to prevent the removal of  
18 the child from the home, while assuring that the child's health and safety are the  
19 paramount concerns, unless the court finds that any of the circumstances specified  
20 in sub. (2d) (b) 1. to 5. applies, and, if a permanency plan has previously been  
21 prepared for the child, a finding as to whether the county department, department,  
22 or agency has made reasonable efforts to achieve the permanency goal of the child's  
23 permanency plan, including, if appropriate, through an out-of-state placement. The  
24 court shall make the findings specified in this subdivision on a case-by-case basis  
25 based on circumstances specific to the child and shall document or reference the

1 specific information on which those findings are based in the court order;. A court  
2 order that merely references this subdivision without documenting or referencing  
3 that specific information in the court order or an amended court order that  
4 retroactively corrects an earlier court order that does not comply with this  
5 subdivision is not sufficient to comply with this subdivision.

6 **SECTION 10.** 48.355 (2b) (title) of the statutes is amended to read:

7 48.355 **(2b)** (title) ~~CONCURRENT REASONABLE EFFORTS PERMITTED~~ PLANNING.

8 **SECTION 11.** 48.355 (2b) of the statutes is renumbered 48.355 (2b) (b) and  
9 amended to read:

10 48.355 **(2b)** (b) A county department, the department, in a county having a  
11 population of 500,000 or more, or the agency primarily responsible for providing  
12 services to a child under a court order ~~may, at the same time as the county~~  
13 ~~department, department, or agency is making the reasonable efforts required under~~  
14 ~~sub. (2) (b) 6. to prevent the removal of the child from the home or to make it possible~~  
15 ~~for the child to return safely to his or her home, work with the department, a county~~  
16 ~~department under s. 48.57 (1) (e) or (hm), or a child welfare agency licensed under~~  
17 ~~s. 48.61 (5) in making reasonable efforts to place the child for adoption, with a~~  
18 ~~guardian, with a fit and willing relative, or in some other alternative permanent~~  
19 ~~placement, including reasonable efforts to identify an appropriate out-of-state~~  
20 ~~placement shall determine, in accordance with standards established by the~~  
21 ~~department, whether to engage in concurrent planning. If, according to those~~  
22 ~~standards, concurrent planning is required, the county department, department, or~~  
23 ~~agency shall engage in concurrent planning unless the court or permanency review~~  
24 ~~panel determines under s. 48.38 (5) (c) 5m. that concurrent planning is~~  
25 inappropriate.

1           **SECTION 12.** 48.355 (2b) (a) of the statutes is created to read:

2           48.355 **(2b)** (a) In this subsection, “concurrent planning” means appropriate  
3 efforts to work simultaneously towards achieving more than one of the permanency  
4 goals listed in s. 48.38 (4) (fg) 1. to 5. for a child who is placed in out-of-home care  
5 and for whom a permanency plan is required under s. 48.38 (2).

6           **SECTION 13.** 48.355 (2c) (b) of the statutes is amended to read:

7           48.355 **(2c)** (b) When a court makes a finding under sub. (2) (b) 6. as to whether  
8 the county department, department, in a county having a population of 500,000 or  
9 more, or agency primarily responsible for providing services to the child under a  
10 court order has made reasonable efforts to achieve the permanency goal of the  
11 permanency plan, the court’s consideration of reasonable efforts shall include the  
12 considerations listed under par. (a) 1. to 5. and whether visitation schedules between  
13 the child and his or her parents were implemented, unless visitation was denied or  
14 limited by the court.

15           **SECTION 14.** 48.355 (2d) (b) (intro.) of the statutes is amended to read:

16           48.355 **(2d)** (b) (intro.) Notwithstanding sub. (2) (b) 6., the court is not required  
17 to include in a dispositional order a finding as to whether the county department, the  
18 department, in a county having a population of 500,000 or more, or the agency  
19 primarily responsible for providing services under a court order has made reasonable  
20 efforts with respect to a parent of a child to prevent the removal of the child from the  
21 home, while assuring that the child’s health and safety are the paramount concerns,  
22 or a finding as to whether the county department, department, or agency has made  
23 reasonable efforts with respect to a parent of a child to achieve the permanency ~~plan~~  
24 goal of returning the child safely to his or her home, if the court finds any of the  
25 following:

1           **SECTION 15.** 48.355 (2d) (c) of the statutes is amended to read:

2           48.355 **(2d)** (c) If the court finds that any of the circumstances specified in par.  
3 (b) 1. to 5. applies with respect to a parent, the court shall hold a hearing under s.  
4 48.38 (4m) within 30 days after the date of that finding to determine the permanency  
5 ~~plan goal and, if applicable, any concurrent permanency goals~~ for the child.

6           **SECTION 16.** 48.355 (2e) (b) of the statutes is amended to read:

7           48.355 **(2e)** (b) Each time a child's placement is changed under s. 48.357, a trial  
8 reunification is ordered under s. 48.358, or a dispositional order is revised under s.  
9 48.363 or extended under s. 48.365, the agency that prepared the permanency plan  
10 shall revise the plan to conform to the order and shall file a copy of the revised plan  
11 with the court. Each plan filed under this paragraph shall be made a part of the court  
12 order.

13           **SECTION 17.** 48.357 (2v) (c) of the statutes is amended to read:

14           48.357 **(2v)** (c) If the court finds under par. (a) 3. that any of the circumstances  
15 specified in s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent, the court shall  
16 hold a hearing under s. 48.38 (4m) within 30 days after the date of that finding to  
17 determine the permanency ~~plan goal and, if applicable, any concurrent permanency~~  
18 goals for the child.

19           **SECTION 18.** 48.358 of the statutes is created to read:

20           **48.358 Trial reunification. (1) DEFINITION.** In this section:

21           (a) "Trial reunification" means authorization for a child who is placed in an  
22 out-of-home placement under s. 48.355 or 48.357 to reside in the home of a relative  
23 of the child from which the child was removed or in the home of either of the child's  
24 parents for a specified and limited period of 7 consecutive days or longer for the

1 purpose of determining the appropriateness of changing the placement of the child  
2 to that home.

3 (b) "Trial reunification home" means the home in which in which a child resides  
4 during a trial reunification.

5 (2) TRIAL REUNIFICATION; PROCEDURE. (a) *Request or proposal.* The person or  
6 agency primarily responsible for implementing the dispositional order may request  
7 a trial reunification. The request shall contain the name and address of the  
8 requested trial reunification home, a statement describing why the trial  
9 reunification is in the best interests of the child, and a statement describing how the  
10 trial reunification satisfies the objectives of the child's permanency plan. No person  
11 may request a trial reunification on the sole grounds that an emergency condition  
12 necessitates an immediate removal of the child from his or her out-of-home  
13 placement. If an emergency condition necessitates such an immediate removal, the  
14 person or agency primarily responsible for implementing the dispositional order  
15 shall proceed as provided in s. 48.357 (2).

16 (b) *Notice; information required.* The person or agency requesting the trial  
17 reunification shall submit the request to the court and shall cause written notice of  
18 the requested trial reunification to be sent to the child, the parent, guardian, and  
19 legal custodian of the child, any foster parent or other physical custodian described  
20 in s. 48.62 (2) of the child, the child's court-appointed special advocate, all parties  
21 who are bound by the dispositional order, and, if the child is an Indian child who has  
22 been removed from the home of his or her parent or Indian custodian, the Indian  
23 child's Indian custodian and tribe. The notice shall contain the information that is  
24 required to be included in the request under par. (a).

1           (c) *Hearing; when required.* Any person who is entitled to receive notice of a  
2 requested trial reunification under par. (b), other than a court-appointed special  
3 advocate, may obtain a hearing on the matter by filing an objection with the court  
4 within 10 days after the request was filed with the court. If an objection is filed, a  
5 hearing shall be held within 30 days after the request was filed with the court. Not  
6 less than 3 days before the hearing the person requesting the trial reunification or  
7 the court shall provide notice of the hearing to all person who are entitled to receive  
8 notice under par. (b). A copy of the request for the trial reunification shall be attached  
9 to the notice. If all of the parties consent, the court may proceed immediately with  
10 the hearing.

11           (d) *Order.* If the court finds that the trial reunification is in the best interests  
12 of the child and that the trial reunification satisfies the objectives of the child's  
13 permanency plan, the court shall order the trial reunification. A trial reunification  
14 shall terminate 90 days after the date of the order, unless the court specifies a shorter  
15 period in the order, the court extends the trial reunification under sub. (3), or the  
16 court revokes the trial reunification under sub. (4) (c) or (6) (b). No trial reunification  
17 order may extend the expiration date of the original dispositional order under s.  
18 48.355 or any extension order under s. 48.365. A trial reunification under this  
19 section is not a change in placement under s. 48.357. At the end of a trial  
20 reunification, the person or agency primarily responsible for implementing the  
21 dispositional order shall do one of the following:

22           1. Return the child to his or her previous out-of-home placement. The person  
23 or agency may do so without further order of the court, but shall provide notice of the  
24 date of the return and the address of that placement to all persons who are entitled  
25 to receive notice under par. (b).



1           2. Request a change in placement under s. 48.357 to place the child in a new  
2 out-of-home placement.

3           3. Request a change in placement under s. 48.357 to place the child in the trial  
4 reunification home.

5           **(3) EXTENSION OF TRIAL REUNIFICATION.** (a) *Extension request.* The person or  
6 agency primarily responsible for implementing the dispositional order may request  
7 an extension of a trial reunification. The request shall contain a statement  
8 describing how the trial reunification continues to be in the best interests of the child.  
9 No later than 10 days prior to the expiration of the trial reunification, the person or  
10 agency that requests the extension shall submit the request to the court that ordered  
11 the trial reunification and shall cause notice of the request to be provided to all  
12 persons who are entitled to receive notice under sub. (2) (b).

13           (b) *Extension hearing; when required.* Any person who is entitled to receive  
14 notice of the extension request under par. (a), other than a court-appointed special  
15 advocate, may obtain a hearing on the matter by filing an objection with the court  
16 within 10 days after the request was filed with the court. If an objection is filed, the  
17 court shall schedule a hearing on the matter. If the court is unable to conduct a  
18 hearing on the matter before the trial reunification expires, the court may extend the  
19 trial reunification for not more than 30 days without a hearing. If a hearing is  
20 scheduled, not less than 3 days before the hearing the person or agency requesting  
21 the extension or the court shall provide notice of the hearing to all persons who are  
22 entitled to receive notice of the extension request under par. (a). A copy of the request  
23 for the extension shall be attached to the notice. If all of the parties consent, the court  
24 may proceed immediately with the hearing.

1           (c) *Extension order.* If the court finds that the trial reunification continues to  
2 be in the best interests of the child, the court shall grant an order extending the trial  
3 reunification for a period specified by the court. Any number of extensions may be  
4 granted, but the total period for a trial reunification may not exceed 150 days.

5           **(4) REVOCATION OF TRIAL REUNIFICATION.** (a) *Revocation request; information*  
6 *required.* 1. If the person or agency primarily responsible for implementing the  
7 dispositional order determines based on current circumstances that a trial  
8 reunification is no longer in the best interests of the child, that person or agency may,  
9 without prior court order, remove the child from the trial reunification home and  
10 place the child in the child's previous out-of-home placement as provided in subd.  
11 2. or place the child in a new out-of-home placement as provided in subd. 3.

12           2. If the person or agency primarily responsible for implementing the  
13 dispositional order places the child in the child's previous out-of-home placement,  
14 within 3 days after removing the child from the trial reunification home, that person  
15 or agency shall submit a request for revocation of the trial reunification to the court  
16 that ordered the trial reunification and shall cause notice of the request to be  
17 provided to all persons who are entitled to receive notice of the trial reunification  
18 under a sub. (2) (b). The request shall contain the date on which the child was  
19 removed from the trial reunification home, the address of the child's current  
20 placement, and the reasons for the proposed revocation. Paragraphs (b) and (c) apply  
21 to a request for revocation submitted under this subdivision.

22           3. If the person or agency primarily responsible for implementing the  
23 dispositional order places the child in a new out-of-home placement, within 3 days  
24 after removing the child from the trial reunification home, that person or agency  
25 shall request a change in placement under s. 48.357 (1) (am). The procedures

1 specified in s. 48.357 relating to a change in placement under s. 48.357 (1) (am) apply  
2 to a change in placement requested under this subdivision, except that the request  
3 shall include the date on which the child was removed from the trial reunification  
4 home in addition to the information required under s. 48.357 (1) (am) 1., and the trial  
5 reunification is revoked when the change in placement order is granted.

6 (b) *Revocation hearing; when required.* Any person who is entitled to receive  
7 notice of a revocation request under par. (a) 2., other than a court-appointed special  
8 advocate, may obtain a hearing on the matter by filing an objection with the court  
9 within 10 days after the request is filed with the court. If a hearing is scheduled, not  
10 less than 3 days prior to the hearing the court shall provide notice of the hearing,  
11 together with a copy of the request for the revocation, to all persons who are entitled  
12 to receive notice under par. (a) 2. If all parties consent, the court may proceed  
13 immediately with the hearing.

14 (c) *Revocation order.* If the court finds that the trial reunification is no longer  
15 in the best interests of a child who has been placed in his or her previous out-of-home  
16 placement under par. (a) 1., the court shall grant an order revoking the trial  
17 reunification and approving that placement.

18 (5) REMOVAL FROM FOSTER HOME OR OTHER PHYSICAL CUSTODIAN. If a hearing is  
19 held under sub. (2) (c) and the trial reunification would remove a child from a foster  
20 home or other placement with a physical custodian described in s. 48.62 (2), the court  
21 shall give the foster parent or other physical custodian a right to be heard at the  
22 hearing by permitting the foster parent or other physical custodian to make a written  
23 or oral statement during the hearing or to submit a written statement prior to the  
24 hearing relating to the child and the requested trial reunification. A foster parent  
25 or other physical custodian described in s. 48.62 (2) who receives notice of a hearing

1 under sub. (2) (c) and a right to be heard under this subsection does not become a  
2 party to the proceeding on which the hearing is held solely on the basis of receiving  
3 that notice and right to be heard.

4 **(6) PROHIBITED TRIAL REUNIFICATIONS BASED ON HOMICIDE OF PARENT.** (a)  
5 *Prohibition.* Except as provided in par. (c), the court may not order a trial  
6 reunification in the home of a person who has been convicted under s. 940.01 of the  
7 first-degree intentional homicide, or under s. 940.05 of the 2nd-degree intentional  
8 homicide, of a parent of the child, if the conviction has not been reversed, set aside,  
9 or vacated.

10 (b) *Revocation.* Except as provided in par. (c), if a parent in whose home a child  
11 is placed for a trial reunification is convicted under s. 940.01 of the first-degree  
12 intentional homicide, or under s. 940.05 of the 2nd-degree intentional homicide, of  
13 the child's other parent, and the conviction has not been reversed, set aside, or  
14 vacated, the court shall revoke the trial reunification.

15 (c) *Exception.* Paragraphs (a) and (b) do not apply if the court determines by  
16 clear and convincing evidence that the placement would be in the best interests of  
17 the child. The court shall consider the wishes of the child in making that  
18 determination.

19 **SECTION 19.** 48.363 (1) (a) of the statutes is amended to read:

20 48.363 **(1)** (a) A child, the child's parent, guardian, legal custodian, or Indian  
21 custodian, an expectant mother, an unborn child by the unborn child's guardian ad  
22 litem, any person or agency bound by a dispositional order, or the district attorney  
23 or corporation counsel in the county in which the dispositional order was entered  
24 may request a revision in the order that does not involve a change in placement or  
25 a trial reunification, including a revision with respect to the amount of child support

1 to be paid by a parent. The court may also propose a revision. The request or court  
2 proposal shall set forth in detail the nature of the proposed revision and what new  
3 information is available that affects the advisability of the court's disposition. The  
4 request or court proposal shall be submitted to the court. The court shall hold a  
5 hearing on the matter prior to any revision of the dispositional order if the request  
6 or court proposal indicates that new information is available which affects the  
7 advisability of the court's dispositional order, unless written waivers of objections to  
8 the revision are signed by all parties entitled to receive notice and the court approves.

9 **SECTION 20.** 48.365 (2g) (b) 2. of the statutes is amended to read:

10 48.365 **(2g)** (b) 2. An evaluation of the child's adjustment to the placement and  
11 of any progress the child has made, suggestions for amendment of the permanency  
12 plan, and specific information showing the efforts that have been made to achieve the  
13 permanency goal of the permanency plan, including, if applicable, the efforts of the  
14 parents to remedy the factors that contributed to the child's placement.

15 **SECTION 21.** 48.365 (2g) (b) 3. of the statutes, as affected by 2009 Wisconsin Act  
16 79, is amended to read:

17 48.365 **(2g)** (b) 3. If the child has been placed outside of his or her home in a  
18 foster home, group home, residential care center for children and youth, or shelter  
19 care facility for 15 of the most recent 22 months, not including any period during  
20 which the child was a runaway from the out-of-home placement or ~~the first 6 months~~  
21 ~~of any period during which the child~~ was returned to his or her home for a trial ~~home~~  
22 visit reunification, a statement of whether or not a recommendation has been made  
23 to terminate the parental rights of the parents of the child. If a recommendation for  
24 a termination of parental rights has been made, the statement shall indicate the date  
25 on which the recommendation was made, any previous progress made to accomplish

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

11 **SECTION 22.** 48.365 (2m) (a) 1. of the statutes is amended to read:

12 48.365 (2m) (a) 1. Any party may present evidence relevant to the issue of  
13 extension. If the child is placed outside of his or her home, the person or agency  
14 primarily responsible for providing services to the child shall present as evidence  
15 specific information showing that the person or agency has made reasonable efforts  
16 to achieve the permanency goal of the child's permanency plan, including, if  
17 appropriate, through an out-of-state placement, ~~under~~. If an Indian child is placed  
18 outside the home of his or her parent or Indian custodian, the person or agency  
19 primarily responsible for providing services to the Indian child shall also present as  
20 evidence specific information showing that active efforts under s. 48.028 (4) (d) 2.  
21 have been made to prevent the breakup of the Indian child's family and that those  
22 efforts have proved unsuccessful.

23 **SECTION 23.** 48.365 (2m) (a) 1m. of the statutes is amended to read:

24 48.365 (2m) (a) 1m. The judge shall make findings of fact and conclusions of  
25 law based on the evidence. The findings of fact shall include a finding as to whether

1 reasonable efforts were made by the person or agency primarily responsible for  
2 providing services to the child to achieve the permanency goal of the child's  
3 permanency plan, including, if appropriate, through an out-of-state placement,  
4 ~~under~~. If the child is an Indian child who is placed outside the home of his or her  
5 parent or Indian custodian, the findings of fact shall also include a finding that active  
6 efforts under s. 48.028 (4) (d) 2. were made to prevent the breakup of the Indian  
7 child's family and that those efforts have proved unsuccessful. An order shall be  
8 issued under s. 48.355.

9 **SECTION 24.** 48.365 (2m) (a) 3. of the statutes is amended to read:

10 48.365 (2m) (a) 3. The judge shall make the findings under subd. 1m. relating  
11 to reasonable efforts to achieve the permanency goal of the child's permanency plan  
12 and the findings under subd. 2. on a case-by-case basis based on circumstances  
13 specific to the child and shall document or reference the specific information on  
14 which those findings are based in the order issued under s. 48.355. An order that  
15 merely references subd. 1m. or 2. without documenting or referencing that specific  
16 information in the order or an amended order that retroactively corrects an earlier  
17 order that does not comply with this subdivision is not sufficient to comply with this  
18 subdivision.

19 **SECTION 25.** 48.365 (2m) (ad) of the statutes is amended to read:

20 48.365 (2m) (ad) If the judge finds that any of the circumstances under s.  
21 48.355 (2d) (b) 1. to 5. applies with respect to a parent, the judge shall hold a hearing  
22 under s. 48.38 (4m) within 30 days after the date of that finding to determine the  
23 permanency plan goal and, if applicable any concurrent permanency goals for the  
24 child.

25 **SECTION 26.** 48.365 (7) of the statutes is amended to read:

1           48.365 (7) Nothing in this section may be construed to allow any changes in  
2 placement or trial reunifications. Changes in placement may take place only under  
3 s. 48.357, and trial reunifications may take place only under s. 48.358.

4           **SECTION 27.** 48.371 (5) of the statutes is amended to read:

5           48.371 (5) Except as permitted under s. 252.15 (6), a foster parent, relative, or  
6 operator of a group home or residential care center for children and youth that  
7 receives any information under sub. (1) or (3), other than the information described  
8 in sub. (3) (e), shall keep the information confidential and may disclose that  
9 information only for the purposes of providing care for the child or participating in  
10 a court hearing or permanency ~~plan~~ review concerning the child.

11           **SECTION 28.** 48.38 (2) (intro.) of the statutes is amended to read:

12           48.38 (2) PERMANENCY PLAN REQUIRED. (intro.) Except as provided in sub. (3),  
13 for each child living in a foster home, group home, residential care center for children  
14 and youth, juvenile detention facility, or shelter care facility, the agency that placed  
15 the child or arranged the placement or the agency assigned primary responsibility  
16 for providing services to the child under s. 48.355 (2) (b) 6g. shall prepare a written  
17 permanency plan, if any of the following conditions exists, and, for each child living  
18 in the home of guardian or a relative other than a parent, that agency shall prepare  
19 a written permanency plan, if any of the conditions specified in pars. (a) to (e) exists:

20           **SECTION 29.** 48.38 (4) (ar) of the statutes is amended to read:

21           48.38 (4) (ar) A description of the services offered and any services provided in  
22 an effort to prevent the removal of the child from his or her home, while assuring that  
23 the health and safety of the child are the paramount concerns, and to achieve the goal  
24 of the permanency plan, except that the permanency plan is not required to include  
25 a description of the services offered or provided with respect to a parent of the child



1 to prevent the removal of the child from the home or to achieve the permanency plan  
2 goal of returning the child safely to his or her home if any of the circumstances  
3 specified in s. 48.355 (2d) (b) 1. to 5. applies to that parent.

4 **SECTION 30.** 48.38 (4) (f) 3. of the statutes is amended to read:

5 48.38 (4) (f) 3. Improve the conditions of the parents' home to facilitate the safe  
6 return of the child to his or her home, or, if appropriate, obtain ~~an alternative~~  
7 ~~permanent placement~~ for the child a placement for adoption, with a guardian, with  
8 a fit and willing relative, or in some other planned permanent living arrangement  
9 that includes an appropriate, enduring relationship with an adult.

10 **SECTION 31.** 48.38 (4) (fg) (intro.) of the statutes is amended to read:

11 48.38 (4) (fg) (intro.) The goal of the permanency plan or, if the agency is making  
12 ~~concurrent reasonable efforts under~~ engaging in concurrent planning, as defined in  
13 s. 48.355 (2b) (a), the permanency and concurrent permanency goals of the  
14 permanency plan. If a goal of the permanency plan is ~~any goal other than return of~~  
15 ~~the child to his or her home to place the child for adoption, with a guardian, or with~~  
16 a fit and willing relative, the permanency plan shall include the rationale for  
17 deciding on that goal. ~~If a goal of the permanency plan is an alternative permanent~~  
18 ~~placement under subd. 5., the permanency plan shall document a compelling reason~~  
19 ~~why it would not be in the best interest of the child to pursue a goal specified in subds.~~  
20 ~~1. to 4. and the efforts made to achieve that goal, including, if appropriate, through~~  
21 an out-of-state placement. If the agency determines under s. 48.355 (2b) (b) to  
22 engage in concurrent planning, the permanency plan shall include the rationale for  
23 that determination and a description of the concurrent plan and the permanency and  
24 concurrent permanency goals of the concurrent plan. The agency shall determine one  
25 or more of the following goals to be the goal or goals of a child's permanency plan:

1           **SECTION 32.** 48.38 (4) (fg) 5. of the statutes is amended to read:

2           48.38 (4) (fg) 5. ~~Some~~ As provided in par. (fm), some other alternative planned  
3 permanent placement living arrangement that includes an appropriate, enduring  
4 relationship with an adult, including sustaining care, independent living, or  
5 long-term foster care, but not including independent living.

6           **SECTION 33.** 48.38 (4) (fm) of the statutes is amended to read:

7           48.38 (4) (fm) ~~If the goal of the permanency plan is to~~ agency determines that  
8 there is a compelling reason why it currently would not be in the best interests of the  
9 child to return the child to his or her home or to place the child for adoption, with a  
10 guardian, or with a fit and willing relative, or as the permanency goal for the child,  
11 the permanency goal of placing the child in some other alternative planned  
12 permanent placement, living arrangement described in par. (fg) 5. and the efforts  
13 made to achieve that goal, including, if appropriate, through an out-of-state  
14 placement. If the agency makes that determination, the plan shall include a  
15 statement of that compelling reason and, notwithstanding that compelling reason,  
16 a concurrent plan under s. 48.355 (2b) towards achieving a goal under par. (fg) 1. to  
17 4. as a concurrent permanency goal in addition to the permanency goal under par.  
18 (fg) 5.

19           **SECTION 34.** 48.38 (4) (i) of the statutes is amended to read:

20           48.38 (4) (i) A statement as to whether the child's age and developmental level  
21 are sufficient for the court to consult with the child at the permanency ~~plan~~  
22 ~~determination~~ hearing under sub. (4m) (c) or ~~at the permanency plan hearing under~~  
23 ~~sub. (5m) (c) 2. or s. 48.43 (5) (b) 2. or for the court or panel to consult with the child~~  
24 ~~at the permanency plan review under sub. (5) (bm) 2. and, if a decision is made that~~  
25 ~~it would not be age appropriate or developmentally appropriate for the court or panel~~

1 to consult with the child, a statement as to why consultation with the child would not  
2 be appropriate.

3 **SECTION 35.** 48.38 (4m) (title) of the statutes is amended to read:

4 48.38 (4m) (title) REASONABLE EFFORTS NOT REQUIRED; ~~PERMANENCY~~ PERMANENCY  
5 ~~PLAN DETERMINATION HEARING.~~

6 **SECTION 36.** 48.38 (5) (title) of the statutes is amended to read:

7 48.38 (5) (title) ~~PLAN~~ PERMANENCY REVIEW.

8 **SECTION 37.** 48.38 (5) (a) of the statutes is amended to read:

9 48.38 (5) (a) Except as provided in s. 48.63 (5) (d), the court or a panel appointed  
10 under par. (ag) shall review the permanency plan in the manner provided in this  
11 subsection not later than 6 months after the date on which the child was first  
12 removed from his or her home and every 6 months after a previous review under this  
13 subsection for as long as the child is placed outside the home, except that for the  
14 review that is required to be conducted not later than 12 months after the child was  
15 first removed from his or her home and the reviews that are required to be conducted  
16 every 12 months after that review the court shall hold a hearing under sub. (5m) to  
17 review the permanency plan, which hearing may be instead of or in addition to the  
18 review under this subsection. The 6-month and 12-month periods referred to in this  
19 paragraph include any period during which the child resides in a trial reunification  
20 home under s. 48.358.

21 **SECTION 38.** 48.38 (5) (am) of the statutes is amended to read:

22 48.38 (5) (am) The court may appoint an independent agency to designate a  
23 panel to conduct a permanency ~~plan~~ review under par. (a). If the court in a county  
24 having a population of less than 500,000 appoints an independent agency under this  
25 paragraph, the county department of the county of the court shall authorize and

1 contract for the purchase of services from the independent agency. If the court in a  
2 county having a population of 500,000 or more appoints an independent agency  
3 under this paragraph, the department shall authorize and contract for the purchase  
4 of services from the independent agency.

5 **SECTION 39.** 48.38 (5) (c) 5. of the statutes is amended to read:

6 48.38 (5) (c) 5. The date by which it is likely that the child will be returned to  
7 his or her home or placed for adoption, with a guardian, with a fit and willing relative,  
8 or in some other alternative planned permanent placement living arrangement that  
9 includes an appropriate, enduring relationship with an adult.

10 **SECTION 40.** 48.38 (5) (c) 5m. of the statutes is created to read:

11 48.38 (5) (c) 5m. The continuing appropriateness, according to standards  
12 established by the department, of the permanency goal and any concurrent  
13 permanency goals for the child. If the court or panel does not approve of any of those  
14 goals or if the court or panel determines that a concurrent permanency goal is  
15 appropriate, the court or panel shall determine the permanency goal and, if  
16 appropriate, any concurrent permanency goals for the child.

17 **SECTION 41.** 48.38 (5) (c) 6. (intro.) of the statutes is amended to read:

18 48.38 (5) (c) 6. (intro.) If the child has been placed outside of his or her home,  
19 as described in s. 48.365 (1), in a foster home, group home, residential care center for  
20 children and youth, or shelter care facility for 15 of the most recent 22 months, not  
21 including any period during which the child was a runaway from the out-of-home  
22 placement or ~~the first 6 months of any period during which the child was returned~~  
23 to his or her home for a trial home visit reunification, the appropriateness of the  
24 permanency plan and the circumstances which prevent the child from any of the  
25 following: