



2011 SENATE BILL 285

November 8, 2011 – Introduced by LAW REVISION COMMITTEE. Referred to Committee on Judiciary, Utilities, Commerce, and Government Operations.

1 **AN ACT relating to:** affecting various provisions of the statutes to correct errors
2 and reconcile conflicts (Correction Bill).

Analysis by the Legislative Reference Bureau

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

3 **SECTION 1.** The treatment of 15.08 (1m) (b) of the statutes by 2009 Wisconsin
4 Act 106 is not repealed by 2009 Wisconsin Act 149. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 15.08 (1m) (b) reads:

(b) The public members of the chiropractic examining board, the dentistry examining board, the hearing and speech examining board, the medical examining board, the physical therapy examining board, perfusionists examining council, respiratory care practitioners examining council and council on physician assistants, the board of nursing, the nursing home administrator examining board, the veterinary examining board, the optometry examining board, the pharmacy examining board, the marriage and family therapy, professional counseling, and social work examining board, the psychology examining board, and the radiography examining board shall not be engaged in any profession or occupation concerned with the delivery of physical or mental health care.

SENATE BILL 285**SECTION 2**

1 **SECTION 2.** The treatment of 15.085 (1m) (b) of the statutes by 2009 Wisconsin
2 Act 113 is not repealed by 2009 Wisconsin Act 149. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau s. 15.085 (1m) (b) reads:

(b) The public members of the podiatry affiliated credentialing board or occupational therapists affiliated credentialing board shall not be engaged in any profession or occupation concerned with the delivery of physical or mental health care.

3 **SECTION 3.** 20.437 (1) (jm) of the statutes, as affected by 2009 Wisconsin Act
4 76, section 1j, is amended to read:

5 20.437 (1) (jm) *Licensing activities.* All moneys received from licensing
6 activities under ss. 48.60, 48.62, 48.625, and 938.22 (7), from fees under ss. 48.615,
7 48.625, and 938.22 (7) (b) and (c), and from fees under s. 48.685 (8) charged to entities
8 other than day child care centers or day child care providers, for the costs of licensing
9 child welfare agencies under s. 48.60, foster homes under s. 48.62, group homes
10 under s. 48.625, and shelter care facilities under s. 938.22 (7) and for the purposes
11 specified in s. 48.685 (2) (am) and (b) 1., (3) (a) and (b), and (5) (a) with respect to those
12 entities.

13 **SECTION 4.** 20.437 (2) (jn) of the statutes, as affected by 2009 Wisconsin Acts
14 76 and 185, is amended to read:

15 20.437 (2) (jn) *Child care licensing and certification activities.* All moneys
16 received from licensing activities under s. 48.65, from certifying activities under s.
17 48.651, from fees under ss. 48.65 (3) and 48.651 (2), and from fees under s. 48.685 (8)
18 charged to day child care centers and day child care providers for the costs of
19 licensing child care centers under s. 48.65 and of certifying child care providers under
20 s. 48.651 and for the purposes specified in s. 48.685 (2) (am), (ar), and (b) 1. and 2.,
21 (3) (am) and (bm), and (5) (a) with respect to day child care centers and day child care
22 providers.

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1 **SECTION 5.** 23.24 (2) (a) 4. of the statutes is amended to read:

2 23.24 **(2)** (a) 4. Administer and establish by rule procedures and requirements
3 for the issuing of aquatic ~~plants~~ plant management permits required under sub. (3).

4 **SECTION 6.** 23.33 (5r) (e) of the statutes is amended to read:

5 23.33 **(5r)** (e) If a private landowner enters into an agreement with a county
6 to allow a public all-terrain vehicle corridor on the landowner's land for a period of
7 at least 5 years, the landowner shall receive a supplemental payment, in addition to
8 the payment as calculated under par. ~~(e)~~ (d), that equals 10 percent of the payment
9 calculated under par. ~~(e)~~ (d) for each full or partial fiscal year that is included in the
10 5-year period.

11 **SECTION 7.** 23.33 (5r) (g) of the statutes is amended to read:

12 23.33 **(5r)** (g) During fiscal year 2007–08, the department may expend up to
13 \$100,000 from the appropriation under s. 20.370 (5) ~~(eu)~~ (cv) for incentive payments
14 under this program.

15 **SECTION 8.** 26.39 (7) (a) of the statutes, as affected by 2009 Wisconsin Acts 28
16 and 181, is amended to read:

17 26.39 **(7)** (a) From the appropriation under s. 20.370 (5) (ax), the department
18 shall establish a scholarship grant program to assist individuals who are seeking
19 certification by the Great Lakes Timber Professionals Association as master loggers
20 or who are seeking logger safety training certified by the ~~Wisconsin Professional~~
21 ~~Loggers~~ Great Lakes Timber Professionals Association. A scholarship grant under
22 the program may not exceed 50 percent of the total cost of receiving the certification
23 or training. The department shall promulgate rules that establish criteria for the
24 program.

SENATE BILL 285**SECTION 9**

1 **SECTION 9.** 29.304 (3) (a) 1. of the statutes, as affected by 2009 Wisconsin Act
2 39, is amended to read:

3 29.304 **(3)** (a) 1. Is accompanied by his or her parent or guardian or by a person
4 at least 18 years of age who is designated by the parent or guardian; or

5 **SECTION 10.** 40.03 (2) (it) of the statutes is repealed.

6 **SECTION 11.** The treatment of 45.40 (3m) of the statutes by 2009 Wisconsin Act
7 37 is not repealed by 2009 Wisconsin Act 113. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 45.40 (3m) reads:

(3m) RULES. The department shall promulgate rules establishing eligibility criteria and household income limits for payments under subs. (1m), (2), and (2m). The department may not include in the rules establishing eligibility criteria and household income limits any consideration of the first \$50,000 of cash surrender value of any life insurance that is available to the veteran's household.

8 **SECTION 12.** 48.299 (9) of the statutes, as created by 2009 Wisconsin Act 94, is
9 amended to read:

10 48.299 **(9)** If at any point in the proceeding the court determines or has reason
11 to know that the child is an Indian child, the court shall provide notice of the
12 proceeding to the child's parent, Indian custodian, and tribe in the manner specified
13 in s. 48.028 (4) (a). The next hearing in the proceeding may not be held until at least
14 10 days after receipt of the notice by the parent, Indian custodian, and tribe or, if the
15 identity or location of the parent, Indian custodian, ~~expectant mother,~~ or tribe cannot
16 be determined, until at least 15 days after receipt of the notice by the U.S. secretary
17 of the interior. On request of the parent, Indian custodian, or tribe, the court shall
18 grant a continuance of up to 20 additional days to enable the requester to prepare
19 for that hearing.

20 **SECTION 13.** 48.32 (1) (b) 1. c. of the statutes, as affected by 2009 Wisconsin Acts
21 79 and 185, is amended to read:

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

5 **SECTION 14.** 48.33 (4) (c) of the statutes, as affected by 2009 Wisconsin Acts 79
6 and 185, is amended to read:

7 48.33 (4) (c) Specific information showing that continued placement of the child
8 in his or her home would be contrary to the welfare of the child, specific information
9 showing that the county department, the department, in a county having a
10 population of 500,000 or more, or the agency primarily responsible for providing
11 services to the child has made reasonable efforts to prevent the removal of the child
12 from the home, while assuring that the child's health and safety are the paramount
13 concerns, unless any of the circumstances specified in s. 48.355 (2d) (b) 1. to 5.
14 applies, and, if a permanency plan has previously been prepared for the child,
15 specific information showing that the county department, department, or agency has
16 made reasonable efforts to achieve the goal of the child's permanency plan, including,
17 if appropriate, through an out-of-state placement.

18 **SECTION 15.** 48.335 (3g) (c) of the statutes, as affected by 2009 Wisconsin Acts
19 79 and 185, is amended to read:

20 48.335 (3g) (c) That, if a permanency plan has previously been prepared for the
21 child, the county department, department, or agency has made reasonable efforts to
22 achieve the goal of the child's permanency plan, including, if appropriate, through
23 an out-of-state placement.

24 **SECTION 16.** 48.355 (2) (b) 6. of the statutes, as affected by 2009 Wisconsin Acts
25 79 and 185, is amended to read:

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1 48.355 (2) (b) 6. If the child is placed outside the home, a finding that continued
2 placement of the child in his or her home would be contrary to the welfare of the child,
3 a finding as to whether the county department, the department, in a county having
4 a population of 500,000 or more, or the agency primarily responsible for providing
5 services under a court order has made reasonable efforts to prevent the removal of
6 the child from the home, while assuring that the child's health and safety are the
7 paramount concerns, unless the court finds that any of the circumstances specified
8 in sub. (2d) (b) 1. to 5. applies, and, if a permanency plan has previously been
9 prepared for the child, a finding as to whether the county department, department,
10 or agency has made reasonable efforts to achieve the goal of the child's permanency
11 plan, including, if appropriate, through an out-of-state placement. The court shall
12 make the findings specified in this subdivision on a case-by-case basis based on
13 circumstances specific to the child and shall document or reference the specific
14 information on which those findings are based in the court order. A court order that
15 merely references this subdivision without documenting or referencing that specific
16 information in the court order or an amended court order that retroactively corrects
17 an earlier court order that does not comply with this subdivision is not sufficient to
18 comply with this subdivision.

19 **SECTION 17.** The treatment of 48.363 (1) (b) of the statutes by 2009 Wisconsin
20 Act 79, section 38, is not repealed by 2009 Wisconsin Act 94, section 100. Both
21 treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 48.363 (1) (b) reads:

(b) If a hearing is held, at least 3 days before prior to the the hearing the court shall notify the child, the child's parent, guardian, legal custodian, and Indian custodian, all parties bound by the dispositional order, the child's foster parent, treatment foster parent, or other physical custodian described in s. 48.62 (2), the child's court-appointed special advocate, the district attorney or corporation counsel in the county in which the

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dispositional order was entered, and, if the child is an Indian child who is placed outside the home of his or her parent or Indian custodian, the Indian child's tribe. If the child is the expectant mother of an unborn child under s. 48.133, the court shall also notify the unborn child by the unborn child's guardian ad litem. If the proceeding involves an adult expectant mother of an unborn child under s. 48.133, the court shall notify the adult expectant mother, the unborn child through the unborn child's guardian ad litem, all parties bound by the dispositional order, and the district attorney or corporation counsel in the county in which the dispositional order was entered. A copy of the request or proposal shall be attached to the notice. If all parties consent, the court may proceed immediately with the hearing. No revision may extend the effective period of the original order.

1 **SECTION 18.** 48.365 (2m) (a) 1. and 1m. of the statutes, as affected by 2009
2 Wisconsin Act 79, section 44, and 2009 Wisconsin Act 94, section 106, and 2009
3 Wisconsin Act 185, section 17, are amended to read:

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

15 1m. The judge shall make findings of fact and conclusions of law based on the
16 evidence. The findings of fact shall include a finding as to whether reasonable efforts
17 were made by the person or agency primarily responsible for providing services to
18 the child to achieve the goal of the child's permanency plan, including, if appropriate,
19 through an out-of-state placement, ~~under~~. If the child is an Indian child who is

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1 placed outside the home of his or her parent or Indian custodian, the findings of fact
2 shall also include a finding that active efforts under s. 48.028 (4) (d) 2. were made to
3 prevent the breakup of the Indian child's family and that those efforts have proved
4 unsuccessful. An order shall be issued under s. 48.355.

5 **SECTION 19.** The treatment of 48.365 (2m) (ag) of the statutes by 2009
6 Wisconsin Act 79, section 48, is not repealed by 2009 Wisconsin Act 94, section 110.
7 Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference
bureau, s. 48.365 (2m) (ag) reads:

(ag) The court shall give a foster parent, treatment foster parent, or other physical
custodian described in s. 48.62 (2) who is notified of a hearing under sub. (2) a right to be
heard at the hearing by permitting the foster parent, treatment foster parent, or other
physical custodian to make a written or oral statement during the hearing, or to submit
a written statement prior to the hearing, relevant to the issue of extension. A foster
parent, treatment foster parent, or other physical custodian who receives notice of a
hearing under sub. (2) and a right to be heard under this paragraph does not become a
party to the proceeding on which the hearing is held solely on the basis of receiving that
notice and having the right to be heard.

8 **SECTION 20.** 48.365 (2m) (ag) of the statutes, as affected by 2009 Wisconsin Act
9 Act 94, section 111, is amended to read:

10 48.365 (2m) (ag) The court shall give a foster parent or other physical custodian
11 described in s. 48.62 (2) who is notified of a hearing under sub. (2) ~~an opportunity a~~
12 right to be heard at the hearing by permitting the foster parent or other physical
13 custodian to make a written or oral statement during the hearing, or to submit a
14 written statement prior to the hearing, relevant to the issue of extension. A foster
15 parent or other physical custodian who receives notice of a hearing under sub. (2) and
16 ~~an opportunity a~~ right to be heard under this paragraph does not become a party to
17 the proceeding on which the hearing is held solely on the basis of receiving that notice
18 and having the ~~opportunity~~ right to be heard.

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1 **SECTION 21.** 48.38 (4m) of the statutes, as affected by 2009 Wisconsin Act 79,
2 sections 56 and 57, and 2009 Wisconsin Act 94, sections 113 and 114, is repealed and
3 recreated to read:

4 **48.38 (4m)** REASONABLE EFFORTS NOT REQUIRED; PERMANENCY PLAN
5 DETERMINATION HEARING. (a) If in a proceeding under s. 48.21, 48.32, 48.355, 48.357,
6 or 48.365 the court finds that any of the circumstances under s. 48.355 (2d) (b) 1. to
7 5. applies with respect to a parent, the court shall hold a hearing within 30 days after
8 the date of that finding to determine the permanency plan for the child. If a hearing
9 is held under this paragraph, the agency responsible for preparing the permanency
10 plan shall file the permanency plan with the court not less than 5 days before the date
11 of the hearing. At the hearing, the court shall consider placing the child in a
12 placement outside this state if the court determines that such a placement would be
13 in the best interests of the child and appropriate to achieving the goal of the child's
14 permanency plan.

15 (b) At least 10 days before the date of the hearing the court shall notify the child;
16 any parent, guardian, and legal custodian of the child; any foster parent, or other
17 physical custodian described in s. 48.62 (2) of the child, the operator of the facility
18 in which the child is living, or the relative with whom the child is living; and, if the
19 child is an Indian child, the Indian child's Indian custodian and tribe of the time,
20 place, and purpose of the hearing, of the issues to be determined at the hearing, and
21 of the fact that they shall have a right to be heard at the hearing.

22 (c) If the child's permanency plan includes a statement under sub. (4) (i)
23 indicating that the child's age and developmental level are sufficient for the court to
24 consult with the child regarding the child's permanency plan or if, notwithstanding
25 a decision under sub. (4) (i) that it would not be appropriate for the court to consult

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1 with the child, the court determines that consultation with the child would be in the
2 best interests of the child, the court shall consult with the child, in an
3 age-appropriate and developmentally appropriate manner, regarding the child's
4 permanency plan and any other matters the court finds appropriate. If none of those
5 circumstances apply, the court may permit the child's caseworker, the child's counsel,
6 or, subject to s. 48.235 (3) (a), the child's guardian ad litem to make a written or oral
7 statement during the hearing, or to submit a written statement prior to the hearing,
8 expressing the child's wishes, goals, and concerns regarding the permanency plan
9 and those matters. If the court permits such a written or oral statement to be made
10 or submitted, the court may nonetheless require the child to be physically present
11 at the hearing.

12 (d) The court shall give a foster parent, other physical custodian described in
13 s. 48.62 (2), operator of a facility, or relative who is notified of a hearing under par.
14 (b) a right to be heard at the hearing by permitting the foster parent, other physical
15 custodian, operator, or relative to make a written or oral statement during the
16 hearing, or to submit a written statement prior to the hearing, relevant to the issues
17 to be determined at the hearing. The foster parent, other physical custodian,
18 operator of a facility, or relative does not become a party to the proceeding on which
19 the hearing is held solely on the basis of receiving that notice and right to be heard.

20 **SECTION 22.** The treatment of 48.38 (5) (b) of the statutes by 2009 Wisconsin
21 Act 79, section 58, is not repealed by 2009 Wisconsin Act 94, section 115. Both
22 treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 48.38 (5) (b) reads:

(b) The court or the agency shall notify the child; the child's parent, guardian, and legal custodian; and the child's foster parent or treatment foster parent, the operator of the facility in which the child is living, or the relative with whom the child is living; and,

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if the child is an Indian child who is placed outside the home of his or her parent or Indian custodian, the Indian child's Indian custodian and tribe of the time, place, and purpose of the review, of the issues to be determined as part of the review, and of the fact that they shall have a right to be heard at the review as provided in par. (bm) 1. The court or agency shall notify the person representing the interests of the public, the child's counsel, the child's guardian ad litem, and the child's court-appointed special advocate of the time, place, and purpose of the review, of the issues to be determined as part of the review, and of the fact that they may have an opportunity to be heard at the review as provided in par. (bm) 1. The notices under this paragraph shall be provided in writing not less than 30 days before the review and copies of the notices shall be filed in the child's case record.

1 **SECTION 23.** 48.38 (5) (b) of the statutes, as affected by 2009 Wisconsin Act 94,
2 section 116, is amended to read:

3 48.38 (5) (b) The court or the agency shall notify the child, ~~if he or she is 12 years~~
4 ~~of age or older~~; the child's parent, guardian, and legal custodian; the child's foster
5 parent, the operator of the facility in which the child is living, or the relative with
6 whom the child is living; and, if the child is an Indian child who is placed outside the
7 home of his or her parent or Indian custodian, the Indian child's Indian custodian and
8 tribe of the ~~date, time, and place, and purpose~~ of the review, of the issues to be
9 determined as part of the review, and of the fact that they ~~may have an opportunity~~
10 shall have a right to be heard at the review ~~by submitting written comments not less~~
11 ~~than 10 working days before the review or by participating at the review~~ as provided
12 in par. (bm) 1. The court or agency shall notify the person representing the interests
13 of the public, the child's counsel, the child's guardian ad litem, and the child's
14 court-appointed special advocate of the ~~date~~ time, place, and purpose of the review,
15 of the issues to be determined as part of the review, and of the fact that they may
16 ~~submit written comments not less than 10 working days before the review~~ have an
17 opportunity to be heard at the review as provided in par. (bm) 1. The notices under
18 this paragraph shall be provided in writing not less than 30 days before the review
19 and copies of the notices shall be filed in the child's case record.

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1 **SECTION 24.** 48.38 (5) (bm) 1. of the statutes, as affected by 2009 Wisconsin Act
2 79, section 61, is amended to read:

3 48.38 (5) (bm) 1. A child, parent, guardian, legal custodian, foster parent,
4 operator of a facility, or relative who is provided notice of the review under par. (b)
5 shall have a right to be heard at the review by submitting written comments relevant
6 to the determinations specified in par. (c) not less than 10 working days before the
7 date of the review or by participating at the review. A person representing the
8 interests of the public, counsel, guardian ad litem, or court-appointed special
9 advocate who is provided notice of the review under par. (b) may have an opportunity
10 to be heard at the review by submitting written comments relevant to the
11 determinations specified in par. (c) not less than 10 working days before the date of
12 the review. A foster parent, operator of a facility, or relative who receives notice of
13 a ~~hearing~~ review under par. (b) and a right to be heard under this subdivision does
14 not become a party to the proceeding on which the review is held solely on the basis
15 of receiving that notice and right to be heard.

16 **SECTION 25.** 48.38 (5) (c) 7. of the statutes, as affected by 2009 Wisconsin Acts
17 79 and 185, is amended to read:

18 48.38 (5) (c) 7. Whether reasonable efforts were made by the agency to achieve
19 the goal of the permanency plan, including, if appropriate, through an out-of-state
20 placement,

21 **SECTION 26.** The treatment of 48.38 (5) (d) of the statutes by 2009 Wisconsin
22 Act 79 is not repealed by 2009 Wisconsin Act 94. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 48.38 (5) (d) reads:

(d) Notwithstanding s. 48.78 (2) (a), the agency that prepared the permanency plan shall, at least 5 days before a review by a review panel, provide to each person appointed to the review panel, the child's parent, guardian, and legal custodian, the person

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representing the interests of the public, the child's counsel, the child's guardian ad litem, the child's court-appointed special advocate, and, if the child is an Indian child who is placed outside the home of his or her parent or Indian custodian, the Indian child's Indian custodian and tribe a copy of the permanency plan and any written comments submitted under par. (bm) 1. Notwithstanding s. 48.78 (2) (a), a person appointed to a review panel, the person representing the interests of the public, the child's counsel, the child's guardian ad litem, the child's court-appointed special advocate, and, if the child is an Indian child who is placed outside the home of his or her parent or Indian custodian, the Indian child's Indian custodian and tribe may have access to any other records concerning the child for the purpose of participating in the review. A person permitted access to a child's records under this paragraph may not disclose any information from the records to any other person.

1 **SECTION 27.** The treatment of 48.38 (5) (e) of the statutes by 2009 Wisconsin
2 Act 79, section 67, is not repealed by 2009 Wisconsin Act 94, section 119. Both
3 treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 48.38 (5) (e) reads:

(e) Within 30 days, the agency shall prepare a written summary of the determinations under par. (c) and shall provide a copy to the court that entered the order; the child or the child's counsel or guardian ad litem; the person representing the interests of the public; the child's parent, guardian, and or legal custodian; the child's court-appointed special advocate; the child's foster parent or treatment foster parent, the operator of the facility where the child is living, or the relative with whom the child is living; and, if the child is an Indian child who is placed outside the home of his or her parent or Indian custodian, the Indian child's Indian custodian and tribe.

4 **SECTION 28.** 48.38 (5) (e) of the statutes, as affected by 2009 Wisconsin Act 94,
5 section 120, is amended to read:

6 48.38 (5) (e) Within 30 days, the agency shall prepare a written summary of
7 the determinations under par. (c) and shall provide a copy to the court that entered
8 the order; the child or the child's counsel or guardian ad litem; the person
9 representing the interests of the public; the child's parent, guardian, or legal
10 custodian; the child's court-appointed special advocate; the child's foster parent or
11 the operator of the facility where the child is living, or the relative with whom the
12 child is living; and, if the child is an Indian child who is placed outside the home of
13 his or her parent or Indian custodian, the Indian child's Indian custodian and tribe.

SENATE BILL 285**SECTION 29**

1 **SECTION 29.** The treatment of 48.38 (5m) (b) of the statutes by 2009 Wisconsin
2 Act 79, section 69, is not repealed by 2009 Wisconsin Act 94, section 121. Both
3 treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 48.38 (5m) (b) reads:

(b) Not less than 30 days before the date of the hearing, the court shall notify the child; the child's parent, guardian, and legal custodian; and the child's foster parent or treatment foster parent, the operator of the facility in which the child is living, or the relative with whom the child is living of the time, place, and purpose of the hearing, of the issues to be determined at the hearing, and of the fact that they shall have a right to be heard at the hearing as provided in par. (c) 1. and shall notify the child's counsel, the child's guardian ad litem, and the child's court-appointed special advocate; the agency that prepared the permanency plan; the person representing the interests of the public; and, if the child is an Indian child who is placed outside the home of his or her parent or Indian custodian, the Indian child's Indian custodian and tribe of the time, place, and purpose of the hearing, of the issues to be determined at the hearing, and of the fact that they may have an opportunity to be heard at the hearing as provided in par. (c) 1.

4 **SECTION 30.** 48.38 (5m) (b) of the statutes, as affected by 2009 Wisconsin Act
5 94, section 122, is amended to read:

6 **48.38 (5m) (b)** Not less than 30 days before the date of the hearing, the court
7 shall notify the child; the child's parent, guardian, and legal custodian; and the
8 child's foster parent, the operator of the facility in which the child is living, or the
9 relative with whom the child is living; of the time, place, and purpose of the hearing,
10 of the issues to be determined at the hearing, and of the fact that they shall have a
11 right to be heard at the hearing as provided in par. (c) 1. and shall notify the child's
12 counsel, the child's guardian ad litem, and the child's court-appointed special
13 advocate; the agency that prepared the permanency plan; the person representing
14 the interests of the public; and, if the child is an Indian child who is placed outside
15 the home of his or her parent or Indian custodian, the Indian child's Indian custodian
16 and tribe of the ~~date, time, and place, and purpose~~ of the hearing, of the issues to be
17 determined at the hearing, and of the fact that they may have an opportunity to be
18 heard at the hearing as provided in par. (c) 1.

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1 **SECTION 31.** The treatment of 48.38 (5m) (d) of the statutes by 2009 Wisconsin
2 Act 79 is not repealed by 2009 Wisconsin Act 94. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 48.38 (5m) (d) reads:

(d) At least 5 days before the date of the hearing the agency that prepared the permanency plan shall provide a copy of the permanency plan and any written comments submitted under par. (c) 1. to the court, to the child's parent, guardian, and legal custodian, to the person representing the interests of the public, to the child's counsel or guardian ad litem, to the child's court-appointed special advocate, and, if the child is an Indian child who is placed outside the home of his or her parent or Indian custodian, to the Indian child's Indian custodian and tribe. Notwithstanding s. 48.78 (2) (a), the person representing the interests of the public, the child's counsel or guardian ad litem, the child's court-appointed special advocate, and, if the child is an Indian child who is placed outside of the home of his or her parent or Indian custodian, the Indian child's Indian custodian and tribe may have access to any other records concerning the child for the purpose of participating in the review. A person permitted access to a child's records under this paragraph may not disclose any information from the records to any other person.

3 **SECTION 32.** The treatment of 48.43 (5m) of the statutes by 2009 Wisconsin Act
4 79, section 90, is not repealed by 2009 Wisconsin Act 94, section 157. Both
5 treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 48.43 (5m) reads:

(5m) Either the court or the agency that prepared the permanency plan shall furnish a copy of the original plan and each revised plan to the child, if he or she is 12 years of age or over, to the child's foster parent or treatment foster parent, the operator of the facility in which the child is living, or the relative with whom the child is living, and, if the order under sub. (1) involuntarily terminated parental rights to an Indian child, to the Indian child's tribe.

6 **SECTION 33.** 48.43 (5m) of the statutes, as affected by 2009 Wisconsin Act 94,
7 section 158, is amended to read:

8 48.43 (5m) Either the court or the agency that prepared the permanency plan
9 shall furnish a copy of the original plan and each revised plan to the child, if he or
10 she is 12 years of age or over, to the child's foster parent ~~or~~ the operator of the facility
11 in which the child is living, or the relative with whom the child is living, and, if the
12 order under sub. (1) involuntarily terminated parental rights to an Indian child, to
13 the Indian child's tribe.

SENATE BILL 285**SECTION 34**

1 **SECTION 34.** The treatment of 48.48 (17) (c) 4. of the statutes by 2009 Wisconsin
2 Act 28, section 984, is not repealed by 2009 Wisconsin Act 180. Both treatments
3 stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 48.48 (17) (c) 4. reads:

4. Is living in a foster home, treatment foster home, group home, or residential care center for children and youth.

4 **SECTION 35.** 48.48 (17) (c) 4. of the statutes, as affected by 2009 Wisconsin Act
5 28, section 985, and 2009 Wisconsin Act 180, is amended to read:

6 48.48 (17) (c) 4. Is living in a foster home, group home, or residential care center
7 for children and youth.

8 **SECTION 36.** The treatment of 48.63 (5) (d) 4. of the statutes by 2009 Wisconsin
9 Act 79 is not repealed by 2009 Wisconsin Act 94. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 48.63 (5) (d) 4. reads:

4. Not less than 10 days before the review, the agency that placed the child or that arranged the placement of the child shall provide a copy of the revised permanency plan or plans and the request for review submitted under subd. 3. and notice of the time and place of the review to the child, the parent, guardian, Indian custodian, and legal custodian of the child, and the operator of the group home in which the child is placed, together with notice of the issues to be determined as part of the permanency plan review and notice of the fact that those persons shall have a right to be heard at the review by submitting written comments to that agency or the independent reviewing agency before the review or by participating at the review.

10 **SECTION 37.** 48.651 (3) of the statutes, as created by 2009 Wisconsin Act 76, is
11 amended to read:

12 48.651 (3) (a) If a ~~day~~ child care provider certified under sub. (1) is convicted
13 of a serious crime, as defined in s. 48.685 (1) (c) 3m., or if a caregiver specified in s.
14 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), of the ~~day~~
15 child care provider is convicted or adjudicated delinquent for committing a serious
16 crime on or after his or her 12th birthday, the department in a county having a
17 population of 500,000 or more, a county department, or an agency contracted with

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1 under sub. (2) shall revoke the certification of the day child care provider
2 immediately upon providing written notice of revocation and the grounds for
3 revocation and an explanation of the process for appealing the revocation.

4 (b) If a day child care provider certified under sub. (1) is the subject of a pending
5 criminal charge alleging that the person has committed a serious crime, as defined
6 in s. 48.685 (1) (c) 3m., or if a caregiver specified in s. 48.685 (1) (ag) 1. a. or a nonclient
7 resident, as defined in s. 48.685 (1) (bm), of the day child care provider is the subject
8 of a pending criminal charge or delinquency petition alleging that the person has
9 committed a serious crime on or after his or her 12th birthday, the department in a
10 county having a population of 500,000 or more, a county department, or an agency
11 contracted with under sub. (2) shall immediately suspend the certification of the day
12 child care provider until the department, county department, or agency obtains
13 information regarding the final disposition of the charge or delinquency petition
14 indicating that the person is not ineligible to be certified under sub. (1).

15 **SECTION 38.** 48.685 (1) (c) 3m. of the statutes, as created by 2009 Wisconsin Act
16 76, is amended to read:

17 48.685 (1) (c) 3m. For purposes of licensing a person to operate a day child care
18 center under s. 48.65, certifying a day child care provider under s. 48.651, or
19 contracting with a person under s. 120.13 (14) to operate a day child care center, or
20 of permitting a person to be a caregiver or nonclient resident of such a day child care
21 center or day child care provider, any violation listed in subds. 1. to 3. or sub. (5) (br)
22 1. to 7.

23 **SECTION 39.** The treatment of 48.685 (2) (am) (intro.) of the statutes by 2009
24 Wisconsin Act 76 is not repealed by 2009 Wisconsin Act 185. Both treatments stand.

SENATE BILL 285**SECTION 39**

NOTE: There is no conflict of substance. As merged by the legislative reference bureau s. 48.685 (2) (am) (intro.) reads:

(am) The department, a county department, an agency contracted with under s. 48.651 (2), a child welfare agency, or a school board shall obtain all of the following with respect to a caregiver specified in sub. (1) (ag) 1. b., a nonclient resident of an entity, and a person under 18 years of age, but not under 12 years of age, who is a caregiver of a child care center that is licensed under s. 48.65 or established or contracted for under s. 120.13 (14) or of a child care provider that is certified under s. 48.651:

1 **SECTION 40.** 48.685 (2) (ar) of the statutes, as created by 2009 Wisconsin Act
2 76, is amended to read:

3 48.685 (2) (ar) In addition to obtaining the information specified in par. (am)
4 with respect to a person who has, or is seeking, a license to operate a ~~day~~ child care
5 center under s. 48.65, certification as a ~~day~~ child care provider under s. 48.651, or a
6 contract under s. 120.13 (14) to operate a ~~day~~ child care center, a nonclient resident
7 of such an entity, or a person under 18 years of age, but not under 12 years of age,
8 who is a caregiver of such an entity, the department, a county department, an agency
9 contracted with under s. 48.651 (2), or a school board shall obtain information that
10 is contained in the sex offender registry under s. 301.45 regarding whether the
11 person has committed a sex offense that is a serious crime.

12 **SECTION 41.** 48.685 (2) (b) 2. of the statutes, as created by 2009 Wisconsin Act
13 76, is amended to read:

14 48.685 (2) (b) 2. In addition to obtaining the information specified in subd. 1.
15 with respect to a caregiver specified in sub. (1) (ag) 1. a. of a ~~day~~ child care center that
16 is licensed under s. 48.65 or established or contracted for under s. 120.13 (14) or of
17 a ~~day~~ child care provider that is certified under s. 48.651, the ~~day~~ child care center
18 or ~~day~~ child care provider shall obtain information that is contained in the sex
19 offender registry under s. 301.45 regarding whether the person has committed a sex
20 offense that is a serious crime.

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1 **SECTION 42.** The treatment of 48.685 (2) (b) 4. of the statutes by 2009 Wisconsin
2 Act 76 is not repealed by 2009 Wisconsin Act 185. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 48.685 (2) (b) 4. reads:

4. Subdivisions 1. and 2. do not apply with respect to a nonclient resident or person under 18 years of age, but not under 12 years of age, who is a caregiver of a child care center that is licensed under s. 48.65 or established or contracted for under s. 120.13 (14) or of a child care provider that is certified under s. 48.651 and with respect to whom the department, a county department, an agency contracted with under s. 48.651 (2), or a school board is required under par. (am) (intro.) to obtain the information specified in par. (am) 1. to 5.

3 **SECTION 43.** 48.685 (3) (am) 1. of the statutes, as created by 2009 Wisconsin Act
4 76, is amended to read:

5 48.685 (3) (am) 1. Every 3 months or at any time within that period that the
6 department, a county department, an agency contracted with under s. 48.651 (2), or
7 a school board considers appropriate, the department, county department,
8 contracted agency, or school board shall request the information specified in sub. (2)
9 (am) 1. to 5. and (ar) for all caregivers specified in sub. (1) (ag) 1. b. who are licensed
10 under s. 48.65 to operate a day child care center, certified as a day child care provider
11 under s. 48.651, or contracted under s. 120.13 (14) to operate a day child care center.
12 Beginning on January 1, 2011, and annually after that, the department shall submit
13 a report to the appropriate standing committees of the legislature under s. 13.172 (3)
14 describing the information collected under this subdivision, specifically any
15 information indicating that a caregiver specified in sub. (1) (ag) 1. b. is ineligible
16 under sub. (4m) (a) to be licensed under s. 48.65 to operate a day child care center,
17 certified under s. 48.651 as a child care provider, or contracted under s. 120.13 (14)
18 to operate a day child care center, and describing any action taken in response to the
19 receipt of information under this subdivision indicating that such a caregiver is so
20 ineligible.

SENATE BILL 285**SECTION 44**

1 **SECTION 44.** 48.685 (3) (b) of the statutes, as affected by 2009 Wisconsin Acts
2 76 and 185, is amended to read:

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

7 **SECTION 45.** 48.685 (3) (bm) of the statutes, as created by 2009 Wisconsin Act
8 76, is amended to read:

9 48.685 (3) (bm) Every year or at any time within that period that a day child
10 care center that is licensed under s. 48.65 or established or contracted for under s.
11 120.13 (14) or a day child care provider that is certified under s. 48.651 considers
12 appropriate, the day child care center or day child care provider shall request the
13 information specified in sub. (2) (b) 1. a. to e. and 2. for all persons who are caregivers
14 specified in sub. (1) (ag) 1. a. of the day child care center or day child care provider
15 who are 18 years of age or over.

16 **SECTION 46.** The treatment of 48.685 (4m) (a) 1. of the statutes by 2009
17 Wisconsin Act 76 is not repealed by 2009 Wisconsin Act 185. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 48.685 (4m) (a) 1. reads:

1. That the person has been convicted of a serious crime or, if the person is an applicant for issuance or continuation of a license to operate a child care center or for initial certification under s. 48.651 or for renewal of that certification or if the person is proposing to contract with a school board under s. 120.13 (14) or to renew a contract under that subsection, that the person has been convicted of a serious crime or adjudicated delinquent on or after his or her 12th birthday for committing a serious crime or that the person is the subject of a pending criminal charge or delinquency petition alleging that the person has committed a serious crime on or after his or her 12th birthday.

18 **SECTION 47.** The treatment of 48.685 (4m) (ad) of the statutes by 2009
19 Wisconsin Act 76, section 20, is not repealed by 2009 Wisconsin Act 185, section 66.
20 Both treatments stand.

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NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 48.685 (4m) (ad) reads:

(ad) The department, a county department, or a child welfare agency may license a foster home or treatment foster home under s. 48.62; the department may license a day care center under s. 48.65; the department in a county having a population of 500,000 or more, a county department, or an agency contracted with under s. 48.651 (2) may certify a child care provider under s. 48.651; and a school board may contract with a person under s. 120.13 (14), conditioned on the receipt of the information specified in sub. (2) (am) and (ar) indicating that the person is not ineligible to be licensed, certified, or contracted with for a reason specified in par. (a) 1. to 5.

1 **SECTION 48.** The treatment of 48.685 (4m) (b) 1. of the statutes by 2009
2 Wisconsin Act 76 is not repealed by 2009 Wisconsin Act 185. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 48.685 (4m) (b) 1. reads:

1. That the person has been convicted of a serious crime or, if the person is a caregiver or nonclient resident of a child care center that is licensed under s. 48.65 or established or contracted for under s. 120.13 (14) or of a child care provider that is certified under s. 48.651, that the person has been convicted of a serious crime or adjudicated delinquent on or after his or her 12th birthday for committing a serious crime or that the person is the subject of a pending criminal charge or delinquency petition alleging that the person has committed a serious crime on or after his or her 12th birthday.

3 **SECTION 49.** 48.685 (5) (br) (intro.) and 3m. of the statutes, as created by 2009
4 Wisconsin Act 76, are amended to read:

5 48.685 (5) (br) (intro.) For purposes of licensing a person to operate a day child
6 care center under s. 48.65, certifying a day child care provider under s. 48.651, or
7 contracting with a person under s. 120.13 (14) to operate a day child care center or
8 of permitting a person to be a nonclient resident or caregiver specified in sub. (1) (ag)
9 1. a. of a day child care center or day child care provider, no person who has been
10 convicted or adjudicated delinquent on or after his or her 12th birthday for
11 committing any of the following offenses or who is the subject of a pending criminal
12 charge or delinquency petition alleging that the person has committed any of the
13 following offenses on or after his or her 12th birthday may be permitted to
14 demonstrate that he or she has been rehabilitated:

SENATE BILL 285**SECTION 49**

1 3m. Except for purposes of permitting a person to be a nonclient resident or
2 caregiver specified in sub. (1) (ag) 1. a. of a day child care center or day child care
3 provider, a violation of s. 943.201, 943.203, 943.32 (2), or 943.38 (1) or (2); a violation
4 of s. 943.34 (1), 943.395 (1), 943.41 (3) (e), (4) (a), (5), (6), or (6m), 943.45 (1), 943.455
5 (2), 943.46 (2), 943.47 (2), 943.50 (1m), or 943.70 (2) (a) or (am) or (3) (a) that is a
6 felony; or an offense under subch. IV of ch. 943 that is a felony.

7 **SECTION 50.** 48.685 (6) (am) of the statutes, as affected by 2009 Wisconsin Act
8 76, is amended to read:

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

17 **SECTION 51.** 48.715 (4g) of the statutes, as created by 2009 Wisconsin Act 76,
18 is amended to read:

19 48.715 **(4g)** (a) If a person who has been issued a license under s. 48.66 (1) (a)
20 or a probationary license under s. 48.69 to operate a day child care center is convicted
21 of a serious crime, as defined in s. 48.685 (1) (c) 3m., or if a caregiver specified in s.
22 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), of the day
23 child care center is convicted or adjudicated delinquent for committing a serious
24 crime on or after his or her 12th birthday, the department shall revoke the license
25 of the day child care center immediately upon providing written notice of revocation

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1 and the grounds for revocation and an explanation of the process for appealing the
2 revocation.

3 (b) If a person who has been issued a license under s. 48.66 (1) (a) or a
4 probationary license under s. 48.69 to operate a day child care center is the subject
5 of a pending criminal charge alleging that the person has committed a serious crime,
6 as defined in s. 48.685 (1) (c) 3m., or if a caregiver specified in s. 48.685 (1) (ag) 1. a.
7 or a nonclient resident, as defined in s. 48.685 (1) (bm), of the day child care center
8 is the subject of a pending criminal charge or delinquency petition alleging that the
9 person has committed a serious crime on or after his or her 12th birthday, the
10 department shall immediately suspend the license of the day child care center until
11 the department obtains information regarding the final disposition of the charge or
12 delinquency petition indicating that the person is not ineligible to be licensed to
13 operate a day child care center.

14 **SECTION 52.** 49.45 (5m) (ag) of the statutes is repealed.

15 **SECTION 53.** The treatment of 50.39 (3) of the statutes by 2009 Wisconsin Act
16 113 is not repealed by 2009 Wisconsin Act 149. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 50.39 (3) reads:

(3) Facilities governed by ss. 45.50, 48.62, 49.70, 49.72, 50.02, 51.09, and 252.10, juvenile correctional facilities as defined in s. 938.02 (10p), correctional institutions governed by the department of corrections under s. 301.02, and the offices and clinics of persons licensed to treat the sick under chs. 446, 447, and 448 are exempt from ss. 50.32 to 50.39. Sections 50.32 to 50.39 do not abridge the rights of the medical examining board, physical therapy examining board, podiatry affiliated credentialing board, dentistry examining board, pharmacy examining board, chiropractic examining board, and board of nursing in carrying out their statutory duties and responsibilities.

17 **SECTION 54.** 66.0602 (3) (e) 8. of the statutes, as created by 2009 Wisconsin Act
18 28, is amended to read:

19 66.0602 (3) (e) 8. The amount that a political subdivision levies in that year to
20 pay the unreimbursed expenses related to an emergency declared under s. ~~166.03(1)~~

SENATE BILL 285**SECTION 54**

1 ~~(b) 1.~~ 323.10, including any amounts levied in that year to replenish cash reserves
2 that were used to pay any unreimbursed expenses related to that emergency. A levy
3 under this subdivision that relates to a particular emergency initially shall be
4 imposed in the year in which the emergency is declared or in the following year.

5 **SECTION 55.** The treatment of 66.1103 (11) (a) of the statutes by 2009 Wisconsin
6 Act 112 is not repealed by 2009 Wisconsin Act 173. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 66.1103 (11) (a) reads:

(a) With respect to the enforcement of any construction lien or other lien under ch. 779 arising out of the construction of projects financed under this section, no deficiency judgment or judgment for costs may be entered against the municipality or county. Projects financed under this section are not public works, public improvements or public construction within the meaning of ss. 59.52 (29), 60.47, 61.54, 62.15, 779.14, 779.15 and 779.155 and contracts for the construction of the projects are not public contracts within the meaning of ss. 59.52 (29) and 66.0901 unless factors including municipal or county control over the costs, construction and operation of the project and the beneficial ownership of the project warrant the conclusion that they are public contracts.

7 **SECTION 56.** 79.05 (2) (c) of the statutes, as affected by 2009 Wisconsin Act 28,
8 is amended to read:

9 79.05 **(2)** (c) Its municipal budget; exclusive of principal and interest on
10 long-term debt and exclusive of revenue sharing payments under s. 66.0305,
11 recycling fee payments under s. 289.645, unreimbursed expenses related to an
12 emergency declared under s. ~~166.03 (1) (b) 1.~~ 323.10, and expenditures from moneys
13 received pursuant to P.L. 111-5; for the year of the statement under s. 79.015
14 increased over its municipal budget as adjusted under sub. (6); exclusive of principal
15 and interest on long-term debt and exclusive of revenue sharing payments under s.
16 66.0305, recycling fee payments under s. 289.645, unreimbursed expenses related to
17 an emergency declared under s. ~~166.03 (1) (b) 1.~~ 323.10, and expenditures from
18 moneys received pursuant to P.L. 111-5; for the year before that year by less than the
19 sum of the inflation factor and the valuation factor, rounded to the nearest 0.10%.

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1 **SECTION 57.** 91.40 (3) of the statutes, as affected by 2009 Wisconsin Act 28, is
2 amended to read:

3 91.40 **(3)** A statement, signed by the county planning director or the chief
4 elected official, certifying that the farmland preservation zoning ordinance or
5 amendment complies with s. 91.38 (1) (f) and (g) and ~~(h)~~.

6 **SECTION 58.** 100.187 (2) (a) 2. of the statutes, as created by 2009 Wisconsin Act
7 169, is amended to read:

8 100.187 **(2)** (a) 2. A summary of the results of the testing performed under subd.
9 1. ~~have~~ has been submitted to the department and approved by the department.

10 **SECTION 59.** 106.50 (5m) (dm) (intro.) of the statutes, as created by 2009
11 Wisconsin Act 95, is amended to read:

12 106.50 **(5m)** (dm) (intro.) It is not discrimination based on status as a victim
13 of domestic abuse, sexual ~~abuse~~ assault, or stalking for a landlord to bring an action
14 for eviction of a tenant based on a violation of the rental agreement or of a statute
15 that entitles the landlord to possession of the premises, unless subd. 1. or 2. applies.
16 A tenant has a defense to an action for eviction brought by a landlord if the tenant
17 proves by a preponderance of the evidence that the landlord knew or should have
18 known any of the following:

19 **SECTION 60.** 106.50 (5m) (dm) 1. of the statutes, as created by 2009 Wisconsin
20 Act 95, is amended to read:

21 106.50 **(5m)** (dm) 1. That the tenant is a victim of domestic abuse, sexual ~~abuse~~
22 assault, or stalking and that the basis for the action for eviction is conduct that
23 related to the commission of domestic abuse, sexual ~~abuse~~ assault, or stalking by a
24 person who was not the invited guest of the tenant.

SENATE BILL 285**SECTION 61**

1 **SECTION 61.** 106.50 (5m) (dm) 2. (intro.) of the statutes, as created by 2009
2 Wisconsin Act 95, is amended to read:

3 106.50 **(5m)** (dm) 2. (intro.) That the tenant is a victim of domestic abuse,
4 sexual abuse assault, or stalking, that the basis for the action for eviction is conduct
5 that related to the commission of domestic abuse, sexual abuse assault, or stalking
6 by a person who was the invited guest of the tenant, and that the tenant has done
7 one of the following:

8 **SECTION 62.** The treatment of 115.395 (2) of the statutes by 2009 Wisconsin Act
9 58 is not repealed by 2009 Wisconsin Act 180. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 119.245 (2), as renumbered from s. 115.395 (2) by 2009 Wis. Act 58, reads:

(2) Beginning in the 2008–09 school year, the board may apply to the department for an annual grant of up to \$10,000,000 to implement initiatives to improve pupil academic achievement in all grades, such as employing licensed teachers to tutor pupils who are struggling academically, or employing persons to coordinate the district's instructional programs and provide ongoing professional development for teachers. The board shall submit with its application a plan for the department's approval describing the initiatives for which the grant will be used, describing the research showing that the initiatives have a positive effect on pupil academic achievement, and including criteria for evaluating the effectiveness of the initiatives, such as high school graduation rates or the results of the statewide pupil assessments under s. 118.30.

10 **SECTION 63.** 118.51 (2) of the statutes, as affected by 2009 Wisconsin Act 185,
11 is amended to read:

12 118.51 **(2)** APPLICABILITY. A pupil may attend a public school, including a
13 charter school, prekindergarten, ~~or~~ 4-year-old kindergarten, or early childhood or
14 school-operated child care program, in a nonresident school district under this
15 section, except that a pupil may attend a prekindergarten, 4-year-old kindergarten,
16 or early childhood or school-operated child care program in a nonresident school
17 district only if the pupil's resident school district offers the same type of program that
18 the pupil wishes to attend and the pupil is eligible to attend that program in his or
19 her resident school district.

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1 **SECTION 64.** 120.13 (14) (b) of the statutes, as created by 2009 Wisconsin Act
2 76, is amended to read:

3 120.13 **(14)** (b) 1. If a person who has contracted under par. (a) to provide a day
4 child care program is convicted of a serious crime, as defined in s. 48.685 (1) (c) 3m.,
5 or if a caregiver specified in s. 48.685 (1) (ag) 1. a. or a nonclient resident, as defined
6 in s. 48.685 (1) (bm), of the day child care program is convicted or adjudicated
7 delinquent for committing a serious crime on or after his or her 12th birthday, the
8 school board shall rescind the contract of the contractor immediately upon providing
9 written notice of the rescission and the grounds for the rescission and an explanation
10 of the process for appealing the rescission.

11 2. If a person who has contracted under par. (a) to provide a day child care
12 program is the subject of a pending criminal charge alleging that the person has
13 committed a serious crime, as defined in s. 48.685 (1) (c) 3m., or if a caregiver
14 specified in s. 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1)
15 (bm), of the day child care program is the subject of a pending criminal charge or
16 delinquency petition alleging that the person has committed a serious crime on or
17 after his or her 12th birthday, the school board shall immediately suspend the
18 contract of the contractor until the school board obtains information regarding the
19 final disposition of the charge or delinquency petition indicating that the person is
20 not ineligible to provide a day child care program under this subsection.

21 **SECTION 65.** 146.62 (1) (b) of the statutes is amended to read:

22 146.62 **(1)** (b) “Rural” means outside a metropolitan statistical area, as
23 specified under 42 CFR 412.62 (f) (ii) (A).

24 **SECTION 66.** 157.06 (14m) (e) of the statutes is amended to read:

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1 157.06 **(14m)** (e) Ensure that the hospital works cooperatively with the
2 procurement organizations with which it has agreements with under par. (a) in
3 educating staff on donation issues, reviewing death records to improve identification
4 of potential donors, and maintaining potential donors while necessary testing and
5 placement of potential donated organs, tissues, and eyes takes place.

6 **SECTION 67.** 166.218 of the statutes, as created by 2009 Wisconsin Act 43, is
7 renumbered 323.72, and 323.72 (1), as renumbered, is amended to read:

8 323.72 **(1)** A regional structural collapse team shall assist in the emergency
9 response to a structural collapse incident in a region of this state designated by the
10 division. Whenever a regional structural collapse team assists in an emergency
11 response under this subsection, it shall determine under the rules promulgated
12 under sub. (5) whether an emergency requiring the team's response existed. If the
13 regional structural collapse team determines that such an emergency existed, it
14 shall make a good faith effort to identify the person who is required to reimburse the
15 division under sub. (3) and shall provide that information to the division. The
16 division shall contract with local agencies, as defined in s. ~~166.22~~ 323.70 (1) ~~(c)~~ (b),
17 to establish no more than 4 regional structural collapse teams. A member of a
18 regional structural collapse team shall meet the highest standards for a structural
19 collapse team under the National Fire Protection Association standards NFPA 1006
20 and 1670.

21 **SECTION 68.** 169.01 (12m) of the statutes is amended to read:

22 169.01 **(12m)** "Farm-raised game bird" means a bird of a wild nature that is
23 not native and that is held captive, but that is not possessed under the authority of
24 a license issued under s. 169.15, 169.19, 169.20, or 169.21.

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1 **SECTION 69.** The treatment of 185.09 of the statutes by 2009 Wisconsin Act 165
2 is not repealed by 2009 Wisconsin Act 177. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau s. 185.09 reads:

185.09 Promotion expense; limitation. No cooperative funds may be used, nor any stock issued, in payment of any promotion expenses in excess of 5 percent of the paid-up capital stock or membership fees. This section does not apply to a cooperative association organized under s. 185.981.

3 **SECTION 70.** 224.77 (1) (o) of the statutes, as affected by 2009 Wisconsin Act 95,
4 section 19, is amended to read:

5 224.77 (1) (o) In the course of practice as a mortgage banker, mortgage loan
6 originator, or mortgage broker, except in relation to housing designed to meet the
7 needs of elderly individuals, treat a person unequally solely because of sex, race,
8 color, handicap, sexual orientation, as defined in s. 111.32 (13m), religion, national
9 origin, age, or ancestry, the person's lawful source of income, or the sex, marital
10 status, or status as a victim of domestic abuse, sexual assault, or stalking, as defined
11 in s. 106.50 (~~4~~) (1m) (u), of the person maintaining a household.

12 **SECTION 71.** 231.35 (1) (d) of the statutes is amended to read:

13 231.35 (1) (d) "Rural" means outside a metropolitan statistical area specified
14 under 42 CFR 412.62 (~~f~~) (ii) (A) or in a city, village, or town with a population of not
15 more than 14,000.

16 **SECTION 72.** 287.17 (10) (j) of the statutes, as created by 2009 Wisconsin Act
17 50, is amended to read:

18 287.17 (10) (j) *Audits.* The department may perform or contract for the
19 performance of an audit of the activities of a registered collector or registered
20 recycler. If the department performs or contracts for the performance of an audit of
21 a collector or recycler during the first 3 years in which the collector or recycler is

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1 registered under sub. (7) or (8) (a), the collector or recycler shall pay 25 percent of the
2 cost of the audit. If the department performs or contracts for the performance of an
3 audit of a collector or recycler after the first 3 years in which the collector or recycler
4 is registered, the collector or recycler shall pay 50 percent of the cost of the audit.

5 **SECTION 73.** 287.95 (1) of the statutes, as affected by 2009 Wisconsin Acts 50
6 and 86, is amended to read:

7 287.95 (1) Any person who violates s. 287.07 (1m) or (4m), or (5) may be
8 required to forfeit \$50 for a first violation, may be required to forfeit \$200 for a 2nd
9 violation and may be required to forfeit not more than \$2,000 for a 3rd or subsequent
10 violation.

11 **SECTION 74.** 321.66 (1) (a) 2. of the statutes, as created by 2009 Wisconsin Act
12 56, is amended to read:

13 321.66 (1) (a) 2. An operation to provide disaster relief or humanitarian
14 services, when requested by the federal emergency management agency; the first air
15 force of the U.S. air force; the Civil Air Patrol national operations center; the
16 governor; the adjutant general; the governing body, chief or acting chief executive
17 officer, or head of emergency management services of any county, city, village, town,
18 or federally recognized American Indian tribe or band in this state; or, in the case of
19 a public health emergency, as defined in s. ~~166.02 (7)~~ 323.02 (16), the department of
20 health services, if that department is designated by the governor under s. ~~166.03 (1)~~
21 ~~(b) 1.~~ 323.10, or a local health department acting under s. 251.05 (3) (e).

22 **SECTION 75.** 343.23 (2) (b) of the statutes, as affected by 2009 Wisconsin Act
23 100, section 15, is amended to read:

24 343.23 (2) (b) The information specified in pars. (a) and (am) must be filed by
25 the department so that the complete operator's record is available for the use of the

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1 secretary in determining whether operating privileges of such person shall be
2 suspended, revoked, canceled, or withheld, or the person disqualified, in the interest
3 of public safety. The record of suspensions, revocations, and convictions that would
4 be counted under s. 343.307 (2) shall be maintained permanently. The record of
5 convictions for disqualifying offenses under s. 343.315 (2) (h) shall be maintained for
6 at least 10 years. The record of convictions for disqualifying offenses under s.
7 343.315 (2) (f), (j), and (L), and all records specified in par. (am), shall be maintained
8 for at least 3 years. The record of convictions for disqualifying offenses under s.
9 343.315 (2) (a) to (e) shall be maintained permanently, except that 5 years after a
10 licensee transfers residency to another state such record may be transferred to
11 another state of licensure of the licensee if that state accepts responsibility for
12 maintaining a permanent record of convictions for disqualifying offenses. Such
13 reports and records may be cumulative beyond the period for which a license is
14 granted, but the secretary, in exercising the power of suspension granted under s.
15 343.32 (2) may consider only those reports and records entered during the 4-year
16 period immediately preceding the exercise of such power of suspension.

17 **SECTION 76.** The treatment of 343.315 (3) (b) of the statutes by 2009 Wisconsin
18 Act 28 is not repealed by 2009 Wisconsin Act 103. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 343.315 (3) (b) reads:

(b) If a person's license or operating privilege is not otherwise revoked or suspended as the result of an offense committed after March 31, 1992, which results in disqualification under sub. (2) (a) to (f), (h) to (j), or (L), the department shall immediately disqualify the person from operating a commercial motor vehicle for the period required under sub. (2) (a) to (f), (h) to (j), or (L). Upon proper application by the person and payment of the fees specified in s. 343.21 (1) (L) and (n), the department may issue a separate license authorizing only the operation of vehicles other than commercial motor vehicles.

19 **SECTION 77.** The treatment of 343.38 (2) of the statutes by 2009 Wisconsin Act
20 100 is not repealed by 2009 Wisconsin Act 103. Both treatments stand.

SENATE BILL 285**SECTION 77**

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 343.38 (2) reads:

(2) REINSTATEMENT OF NONRESIDENT'S OPERATING PRIVILEGE. A nonresident's operating privilege revoked or suspended under the laws of this state is reinstated as a matter of law when the period of revocation or suspension has expired and the nonresident pays the fees specified in s. 343.21 (1) (j), (jr), if applicable, and (n).

1 **SECTION 78.** 343.44 (2) (am) of the statutes is repealed.

2 **SECTION 79.** 343.44 (2) (b) (intro.) of the statutes is amended to read:

3 343.44 **(2)** (b) (intro.) Except as provided in ~~pars. (am) and par.~~ (as), any person
4 who violates sub. (1) (b) or (d) shall be fined not more than \$2,500 or imprisoned for
5 not more than one year in the county jail or both. In imposing a sentence under this
6 paragraph, or a local ordinance in conformity with this paragraph, the court shall
7 review the record and consider the following:

8 **SECTION 80.** 345.47 (1) (c) of the statutes, as affected by 2009 Wisconsin Acts
9 100 and 103, is amended to read:

10 345.47 **(1)** (c) If a court suspends an operating privilege under this section, the
11 court may take possession of the suspended license. If the court takes possession of
12 a license, it shall destroy the license. The court shall forward to the department the
13 notice of suspension, which shall clearly state that the suspension was for failure to
14 pay a forfeiture, plus costs, fees, and surcharges imposed under ch. 814 or for failure
15 to comply with an installment payment plan ordered by the court. The notice of
16 suspension shall be forwarded to the department within 48 hours after the order of
17 suspension. If the forfeiture, plus costs, fees, and surcharges imposed under ch. 814,
18 are paid during a period of suspension, or if the court orders an installment payment
19 plan under sub. (4), the court shall immediately notify the department., ~~(jr), if~~
20 applicable,

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1 **SECTION 81.** The treatment of 346.65 (2c) of the statutes by 2009 Wisconsin Act
2 100 is not repealed by 2009 Wisconsin Act 180. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 346.65 (2c) reads:

(2c) In sub. (2) (am) 2., 3., 4., 4m., 5., 6., and 7., the time period shall be measured from the dates of the refusals or violations that resulted in the revocation or convictions. If a person has a suspension, revocation, or conviction for any offense under a local ordinance or a state statute of another state that would be counted under s. 343.307 (1), that suspension, revocation, or conviction shall count as a prior suspension, revocation, or conviction under sub. (2) (am) 2., 3., 4., 4m., 5., 6., and 7.

3 **SECTION 82.** The treatment of 440.08 (2) (a) (intro.) of the statutes by 2009
4 Wisconsin Act 130 is not repealed by 2009 Wisconsin Act 174. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 440.08 (2) (a) (intro.) reads:

(a) Except as provided in par. (b) and in ss. 440.51, 442.04, 444.03, 444.11, 447.04 (2) (c) 2., 448.065, 449.17 (1m) (d), and 449.18 (2) (d), the renewal dates for credentials are as follows:

5 **SECTION 83.** 444.11 of the statutes, as affected by 2009 Wisconsin Act 111, is
6 amended to read:

7 **444.11 Licenses to matchmakers, referees, contestants, etc.** The
8 department may grant licenses upon application and the payment of the prescribed
9 fees to matchmakers, managers, referees, boxers, mixed martial arts fighters,
10 seconds, and trainers in professional contests and amateur mixed martial arts
11 fighting contests. The fees to be paid per year shall be: Matchmakers and managers,
12 \$10; referees and judges, \$15; examining physicians, \$10; boxers, ~~\$40~~ and mixed
13 martial arts fighters, \$40; seconds, \$40; and timekeepers, \$10. The department may
14 limit, suspend, or revoke any license granted under this section or reprimand the
15 licensee upon such cause as it deems sufficient.

16 **SECTION 84.** The treatment of 447.03 (1) (intro.) of the statutes by 2009
17 Wisconsin Act 10 is not repealed by 2009 Wisconsin Act 42. Both treatments stand.

SENATE BILL 285**SECTION 84**

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 447.03 (1) (intro.) reads:

(1) DENTISTS. Except as provided under sub. (3) and ss. 257.03 and 447.02 (3), no person may do any of the following unless he or she is licensed to practice dentistry under this chapter:

1 **SECTION 85.** The treatment of 655.45 (1) of the statutes by 2009 Wisconsin Act
2 113 is not repealed by 2009 Wisconsin Act 149. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 655.45 (1) reads:

(1) For the quarter beginning on July 1, 1986, and for each quarter thereafter, the director of state courts shall file reports complying with sub. (2) with the medical examining board, the physical therapy examining board, the podiatry affiliated credentialing board, the board of nursing and the department, respectively, regarding health care providers licensed by the respective bodies.

3 **SECTION 86.** The treatment of 757.05 (1) (a) of the statutes by 2009 Wisconsin
4 Act 12 is not repealed by 2009 Wisconsin Acts 28 and 100. All treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau s. 757.05 (1) (a) reads:

(a) Whenever a court imposes a fine or forfeiture for a violation of state law or for a violation of a municipal or county ordinance except for a violation of s. 101.123 (2) or (2m), for a financial responsibility violation under s. 344.62 (2), or for a violation of state laws or municipal or county ordinances involving nonmoving traffic violations, violations under s. 343.51 (1m) (b), or safety belt use violations under s. 347.48 (2m), there shall be imposed in addition a penalty surcharge under ch. 814 in an amount of 26 percent of the fine or forfeiture imposed. If multiple offenses are involved, the penalty surcharge shall be based upon the total fine or forfeiture for all offenses. When a fine or forfeiture is suspended in whole or in part, the penalty surcharge shall be reduced in proportion to the suspension.

5 **SECTION 87.** 767.127 (1) of the statutes is amended to read:

6 767.127 (1) REQUIRED DISCLOSURE. In an action affecting the family, except an
7 action to affirm marriage under s. 767.001 (1) (a), the court shall require each party
8 to furnish, on standard forms required by the court, full disclosure of all assets owned
9 in full or in part by either party separately or by the parties jointly. Disclosure may
10 be made by each party individually or by the parties jointly. Assets required to be
11 disclosed include, but are not be limited to, real estate, savings accounts, stocks and
12 bonds, mortgages and notes, life insurance, retirement interests, interest in a

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1 partnership, limited liability company, or corporation, tangible personal property,
2 future interests whether vested or nonvested, and any other financial interest or
3 source. The court shall also require each party to furnish, on the same standard form,
4 information pertaining to all debts and liabilities of the parties. The form used shall
5 contain a statement in conspicuous print that complete disclosure of assets and debts
6 is required by law and deliberate failure to provide complete disclosure constitutes
7 perjury. The court shall require each party to attach to the disclosure form a
8 statement reflecting income earned to date for the current year and the most recent
9 statement under s. 71.65 (1) (a) that the party has received. The court may on its own
10 initiative and shall at the request of either party require the parties to furnish copies
11 of all state and federal income tax returns filed by them for the past 2 years, and may
12 require copies of those returns for prior years.

13 **SECTION 88.** 814.63 (2) of the statutes, as affected by 2009 Wisconsin Acts 28
14 and 100, is amended to read:

15 814.63 (2) Upon the disposition of a forfeiture action in circuit court for
16 violation of a county, town, city, village, town sanitary district, or public inland lake
17 protection and rehabilitation district ordinance, except for an action for a financial
18 responsibility violation under s. 344.62 (2), or for a violation under s. 343.51 (1m) (b)
19 or a safety belt use violation under s. 347.48 (2m), the county, town, city, village, town
20 sanitary district, or public inland lake protection and rehabilitation district shall pay
21 a nonrefundable fee of \$5 to the clerk of circuit court.

22 **SECTION 89.** 815.18 (2) (i) of the statutes is amended to read:

23 815.18 (2) (i) “Farm products” has the meaning given under s. 409.102 (1) ~~(im)~~
24 (ig).

SENATE BILL 285**SECTION 90**

1 **SECTION 90.** 895.483 (4) of the statutes, as created by 2009 Wisconsin Act 43,
2 is amended to read:

3 895.483 **(4)** A regional structural collapse team, a member of such a team, and
4 a local agency, as defined in s. ~~166.22~~ 323.70 (1) ~~(e)~~ (b), that contracts with the division
5 of emergency management in the department of military affairs for the provision of
6 a regional structural collapse team, are immune from civil liability for acts or
7 omissions related to carrying out responsibilities under a contract under s. ~~166.218~~
8 323.72 (1).

9 **SECTION 91.** 938.02 (8p) of the statutes, as created by 2009 Wisconsin Act 94,
10 is renumbered 938.02 (8e) and amended to read:

11 938.02 **(8e)** “Indian custodian” means an Indian person who has legal custody
12 under tribal law or custom or under state law of an Indian juvenile who is the subject
13 of an Indian juvenile custody proceeding, as defined in s. 938.028 (2) (b), or of an
14 Indian juvenile in need of protection or services under s. 938.13 (4), (6), (6m), or (7)
15 who is the subject of a temporary physical custody proceeding under ss. ~~939.19~~
16 938.19 to 938.21 or to whom temporary physical care, custody, and control has been
17 transferred by the parent of that juvenile.

18 **SECTION 92.** The treatment of 938.32 (1) (c) 1. c. of the statutes by 2009
19 Wisconsin Act 79 is not repealed by 2009 Wisconsin Act 185. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference
bureau, s. 938.32 (1) (c) 1. c. reads:

c. If a permanency plan has previously been prepared for the juvenile, a finding
as to whether the county department or agency has made reasonable efforts to achieve
the goal of the juvenile’s permanency plan, including, if appropriate, through an
out-of-state placement.

20 **SECTION 93.** 938.32 (1) (c) 1m. of the statutes, as created by 2009 Wisconsin Act
21 79, is amended to read:

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1 938.32 (1) (c) 1m. If the juvenile has one or more siblings, as defined in s. 938.38
2 (4) (br) 1., who have also been removed from the home, the consent decree shall
3 include a finding as to whether the county department or agency primarily
4 responsible for providing services to the juvenile has made reasonable efforts to place
5 the juvenile in a placement that enables the sibling group to remain together, unless
6 the court determines that a joint placement would be contrary to the safety or
7 well-being of the juvenile or any of those siblings, in which case the court shall order
8 the county department or agency to make reasonable efforts to provide for frequent
9 visitation or other ongoing interaction between the ~~child~~ juvenile and the siblings,
10 unless the court determines that such visitation or interaction would be contrary to
11 the safety or well-being of the juvenile or any of those siblings.

12 **SECTION 94.** 938.33 (4) (c) of the statutes, as affected by 2009 Wisconsin Acts
13 79 and 185, is amended to read:

14 938.33 (4) (c) Specific information showing that continued placement of the
15 juvenile in his or her home would be contrary to the welfare of the juvenile, specific
16 information showing that the county department or the agency primarily
17 responsible for providing services to the juvenile has made reasonable efforts to
18 prevent the removal of the juvenile from the home, while assuring that the juvenile's
19 health and safety are the paramount concerns, unless any of the circumstances
20 specified in s. 938.355 (2d) (b) 1. to 4. applies, and, if a permanency plan has
21 previously been prepared for the juvenile, specific information showing that the
22 county department or agency has made reasonable efforts to achieve the goal of the
23 juvenile's permanency plan, including, if appropriate, through an out-of-state
24 placement,.

SENATE BILL 285**SECTION 95**

1 **SECTION 95.** 938.335 (3g) (c) of the statutes, as affected by 2009 Wisconsin Acts
2 79 and 185, is amended to read:

3 938.335 **(3g)** (c) That, if a permanency plan has previously been prepared for
4 the juvenile, the county department or agency has made reasonable efforts to achieve
5 the goal of the juvenile's permanency plan, including, if appropriate, through an
6 out-of-state placement,

7 **SECTION 96.** The treatment of 938.34 (14r) (a) of the statutes by 2009 Wisconsin
8 Act 8 is not repealed by 2009 Wisconsin Act 103. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 938.34 (14r) (a) reads:

(a) In addition to any other dispositions imposed under this section, if the juvenile is found to have violated ch. 961, the court may suspend the juvenile's operating privilege, as defined in s. 340.01 (40), for not less than 6 months nor more than 5 years. If a court suspends a person's operating privilege under this paragraph, the court may take possession of any suspended license. If the court takes possession of a license, it shall destroy the license. The court shall forward to the department of transportation the notice of suspension stating that the suspension or revocation is for a violation of ch. 961.

9 **SECTION 97.** 938.355 (2) (b) 6. of the statutes, as affected by 2009 Wisconsin Acts
10 79 and 185, is amended to read:

11 938.355 **(2)** (b) 6. If the juvenile is placed outside the home, a finding that
12 continued placement of the juvenile in his or her home would be contrary to the
13 welfare of the juvenile or, if the juvenile has been adjudicated delinquent and is
14 placed outside the home under s. 938.34 (3) (a), (c), (cm), or (d) or (4d), a finding that
15 the juvenile's current residence will not safeguard the welfare of the juvenile or the
16 community due to the serious nature of the act for which the juvenile was adjudicated
17 delinquent. The court order shall also contain a finding as to whether the county
18 department or the agency primarily responsible for providing services under a court
19 order has made reasonable efforts to prevent the removal of the juvenile from the
20 home, while assuring that the juvenile's health and safety are the paramount

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1 concerns, unless the court finds that any of the circumstances under sub. (2d) (b) 1.
2 to 4. applies, and, if a permanency plan has previously been prepared for the juvenile,
3 a finding as to whether the county department or agency has made reasonable efforts
4 to achieve the goal of the juvenile's permanency plan, including, if appropriate,
5 through an out-of-state placement. The court shall make the findings specified in
6 this subdivision on a case-by-case basis based on circumstances specific to the
7 juvenile and shall document or reference the specific information on which those
8 findings are based in the court order. A court order that merely references this
9 subdivision without documenting or referencing that specific information in the
10 court order or an amended court order that retroactively corrects an earlier court
11 order that does not comply with this subdivision is not sufficient to comply with this
12 subdivision.

13 **SECTION 98.** 938.357 (2m) (am) 1. of the statutes, as created by 2009 Wisconsin
14 Act 94, is amended to read:

15 938.357 **(2m)** (am) 1. If the proposed change of placement would change the
16 placement of an Indian juvenile placed in the home of his or her parent or Indian
17 custodian under s. ~~938.357~~ 938.13 (4), (6), (6m), or (7) to a placement outside that
18 home, a request under par. (a) shall also contain specific information showing that
19 continued custody of the Indian juvenile by the parent or Indian custodian is likely
20 to result in serious emotional or physical damage to the juvenile under s. 938.028 (4)
21 (d) 1., specific information showing that active efforts under s. 938.028 (4) (d) 2. have
22 been made to prevent the breakup of the Indian juvenile's family and that those
23 efforts have proved unsuccessful, a statement as to whether the new placement is in
24 compliance with the order of placement preference under s. 938.028 (6) (a) or, if
25 applicable, s. 938.028 (6) (b) and, if the new placement is not in compliance with that

SENATE BILL 285**SECTION 98**

1 order, specific information showing good cause, as described in s. 938.028 (6) (d), for
2 departing from that order.

3 **SECTION 99.** 938.365 (2) of the statutes, as affected by 2009 Wisconsin Act 94,
4 section 371, is amended to read:

5 938.365 (2) NOTICE. No order may be extended without a hearing. The court
6 shall provide notice of the time and place of the hearing to the juvenile ~~or the~~
7 ~~juvenile's guardian ad litem or counsel,~~ the juvenile's parent, guardian, and legal
8 custodian, all ~~of the~~ parties present at the original hearing, the juvenile's foster
9 parent or other physical custodian described in s. 48.62 (2), and the district attorney
10 or corporation counsel in the county in which the dispositional order was entered.
11 If the juvenile is an Indian juvenile who is in need of protection or services under s.
12 938.13 (4), (6), (6m), or (7), the court shall also notify the Indian juvenile's Indian
13 custodian and, if that juvenile is placed outside the home of his or her parent or
14 Indian custodian, the Indian juvenile's tribe.

15 **SECTION 100.** 938.365 (2m) (a) 1. and 1m. of the statutes, as affected by 2009
16 Wisconsin Act 79, section 146, 2009 Wisconsin Act 94, section 373, and 2009
17 Wisconsin Act 185, section 179, are amended to read:

18 938.365 (2m) (a) 1. Any party may present evidence relevant to the issue of
19 extension. If the juvenile is placed outside of his or her home, the person or agency
20 primarily responsible for providing services to the juvenile shall present as evidence
21 specific information showing that the person or agency has made reasonable efforts
22 to achieve the goal of the juvenile's permanency plan, including, if appropriate,
23 through an out-of-state placement,. If an Indian juvenile is placed outside the home
24 of his or her parent or Indian custodian under s. 938.13 (4), (6), (6m), or (7), the person
25 or agency primarily responsible for providing services to the Indian juvenile shall

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1 also present as evidence specific information showing that active efforts under s.
2 938.028 (4) (d) 2. have been made to prevent the breakup of the Indian juvenile's
3 family and that those efforts have proved unsuccessful.

4 1m. The court shall make findings of fact and conclusions of law based on the
5 evidence. The findings of fact shall include a finding as to whether reasonable efforts
6 were made by the person or agency primarily responsible for providing services to
7 the juvenile to achieve the goal of the juvenile's permanency plan, including, if
8 appropriate, through an out-of-state placement. If the juvenile is an Indian
9 juvenile who is placed outside the home of his or her parent or Indian custodian
10 under s. 938.13 (4), (6), (6m), or (7), the findings of fact shall also include a finding
11 that active efforts under s. 938.028 (4) (d) 2. were made to prevent the breakup of the
12 Indian juvenile's family and that those efforts have proved unsuccessful. An order
13 shall be issued under s. 938.355.

14 **SECTION 101.** 938.365 (2m) (ag) of the statutes, as affected by 2009 Wisconsin
15 Act 94, section 378, is amended to read:

16 938.365 **(2m)** (ag) The court shall give a foster parent or other physical
17 custodian described in s. 48.62 (2) who is notified of a hearing under sub. (2) an
18 ~~opportunity~~ a right to be heard at the hearing by permitting the foster parent or other
19 physical custodian to make a written or oral statement during the hearing, or to
20 submit a written statement prior to the hearing, relevant to the issue of extension.
21 A foster parent or other physical custodian who receives notice of a hearing under
22 sub. (2) and ~~an opportunity~~ a right to be heard under this paragraph does not become
23 a party to the proceeding on which the hearing is held solely on the basis of receiving
24 that notice and having the ~~opportunity~~ right to be heard.

SENATE BILL 285**SECTION 102**

1 **SECTION 102.** The treatment of 938.38 (3) (intro.) of the statutes by 2009
2 Wisconsin Act 79 is not repealed by 2009 Wisconsin Act 94. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 938.38 (3) (intro.) reads:

(3) TIME. Subject to sub. (4m) (a), the agency shall file the permanency plan with the court within 60 days after the date on which the juvenile was first removed from his or her home, except under either of the following conditions:

3 **SECTION 103.** 938.38 (4m) of the statutes, as affected by 2009 Wisconsin Act 79,
4 sections 158 and 159, and 2009 Wisconsin Act 94, sections 381 and 382, is repealed
5 and recreated to read:

6 **938.38 (4m)** REASONABLE EFFORTS NOT REQUIRED; PERMANENCY PLAN
7 DETERMINATION HEARING. (a) If in a proceeding under s. 938.21, 938.32, 938.355,
8 938.357, or 938.365 the court finds that any of the circumstances in s. 938.355 (2d)
9 (b) 1. to 4. applies with respect to a parent, the court shall hold a hearing within 30
10 days after the date of that finding to determine the permanency plan for the juvenile.
11 If a hearing is held under this paragraph, the agency responsible for preparing the
12 permanency plan shall file the permanency plan with the court not less than 5 days
13 before the date of the hearing. At the hearing, the court shall consider placing the
14 juvenile in a placement outside this state if the court determines that such a
15 placement would be in the best interests of the juvenile and appropriate to achieving
16 the goal of the juvenile's permanency plan.

17 (b) At least 10 days before the date of the hearing the court shall notify the
18 juvenile; any parent, guardian, and legal custodian of the juvenile; any foster parent,
19 or other physical custodian described in s. 48.62 (2) of the juvenile, the operator of
20 the facility in which the juvenile is living, or the relative with whom the juvenile is
21 living; and, if the juvenile is an Indian juvenile who is or is alleged to be in need of
22 protection or services under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian

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1 custodian and tribe of the time, place, and purpose of the hearing, of the issues to be
2 determined at the hearing, and of the fact that they shall have a right to be heard
3 at the hearing.

4 (c) If the juvenile's permanency plan includes a statement under sub. (4) (i)
5 indicating that the juvenile's age and developmental level are sufficient for the court
6 to consult with the juvenile regarding the juvenile's permanency plan or if,
7 notwithstanding a decision under sub. (4) (i) that it would not be appropriate for the
8 court to consult with the juvenile, the court determines that consultation with the
9 juvenile would be in the best interests of the juvenile, the court shall consult with the
10 juvenile, in an age-appropriate and developmentally appropriate manner, regarding
11 the juvenile's permanency plan and any other matters the court finds appropriate.
12 If none of those circumstances apply, the court may permit the juvenile's caseworker,
13 the juvenile's counsel, or, subject to s. 938.235 (3) (a), the juvenile's guardian ad litem
14 to make a written or oral statement during the hearing, or to submit a written
15 statement prior to the hearing, expressing the juvenile's wishes, goals, and concerns
16 regarding the permanency plan and those matters. If the court permits such a
17 written or oral statement to be made or submitted, the court may nonetheless require
18 the juvenile to be physically present at the hearing.

19 (d) The court shall give a foster parent, other physical custodian described in
20 s. 48.62 (2), operator of a facility, or relative who is notified of a hearing under par.
21 (b) a right to be heard at the hearing by permitting the foster parent, other physical
22 custodian, operator, or relative to make a written or oral statement during the
23 hearing, or to submit a written statement prior to the hearing, relevant to the issues
24 to be determined at the hearing. The foster parent, other physical custodian,

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1 operator of a facility, or relative does not become a party to the proceeding on which
2 the hearing is held solely on the basis of receiving that notice and right to be heard.

3 **SECTION 104.** The treatment of 938.38 (5) (b) of the statutes by 2009 Wisconsin
4 Act 79, section 160, is not repealed by 2009 Wisconsin Act 94, section 383. Both
5 treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 938.38 (5) (b) reads:

(b) The court or the agency shall notify the juvenile; the juvenile's parent, guardian, and legal custodian; and the juvenile's foster parent or treatment foster parent, the operator of the facility in which the juvenile is living, or the relative with whom the juvenile is living; and, if the juvenile is an Indian juvenile who is placed outside the home of his or her parent or Indian custodian under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian and tribe of the time, place, and purpose of the review, of the issues to be determined as part of the review, and of the fact that they shall have right to be heard at the review as provided in par. (bm) 1. The court or agency shall notify the person representing the interests of the public, the juvenile's counsel, and the juvenile's guardian ad litem of the time, place, and purpose of the review, of the issues to be determined as part of the review, and of the fact that they may have an opportunity to be heard at the review as provided in par. (bm) 1. The notices under this paragraph shall be provided in writing not less than 30 days before the review and copies of the notices shall be filed in the juvenile's case record.

6 **SECTION 105.** 938.38 (5) (b) of the statutes, as affected by 2009 Wisconsin Act
7 94, section 384, is amended to read:

8 938.38 (5) (b) The court or the agency shall notify the juvenile, ~~if he or she is~~
9 ~~10 years of age or older;~~ the juvenile's parent, guardian, and legal custodian; the
10 juvenile's foster parent, the operator of the facility in which the juvenile is living, or
11 the relative with whom the juvenile is living; and, if the juvenile is an Indian juvenile
12 who is placed outside the home of his or her parent or Indian custodian under s.
13 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian and tribe of the
14 ~~date, time, and place, and purpose~~ of the review, of the issues to be determined as part
15 of the review, and of the fact that they ~~may have an opportunity~~ shall have a right
16 to be heard at the review ~~by submitting written comments not less than 10 working~~
17 ~~days before the review or by participating at the review~~ as provided in par. (bm) 1.

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1 The court or agency shall notify the person representing the interests of the public,
2 the juvenile's counsel, and the juvenile's guardian ad litem of the date time, place,
3 and purpose of the review, of the issues to be determined as part of the review, and
4 of the fact that they may ~~submit written comments not less than 10 working days~~
5 ~~before the review~~ have an opportunity to be heard at the review as provided in par.
6 (bm) 1. The notices under this paragraph shall be provided in writing not less than
7 30 days before the review and copies of the notices shall be filed in the juvenile's case
8 record.

9 **SECTION 106.** 938.38 (5) (bm) 1. of the statutes, as affected by 2009 Wisconsin
10 Act 79, section 163, is amended to read:

11 938.38 (5) (bm) 1. A juvenile, parent, guardian, legal custodian, foster parent,
12 operator of a facility, or relative who is provided notice of the review under par. (b)
13 shall have a right to be heard at the review by submitting written comments relevant
14 to the determinations specified in par. (c) not less than 10 working days before the
15 date of the review or by participating at the review. A person representing the
16 interests of the public, counsel, or guardian ad litem who is provided notice of the
17 review under par. (b) may have an opportunity to be heard at the review by
18 submitting written comments relevant to the determinations specified in par. (c) not
19 less than 10 working days before the date of the review. A foster parent, operator of
20 a facility, or relative who receives notice of a ~~hearing~~ review under par. (b) and a right
21 to be heard under this subdivision does not become a party to the proceeding on which
22 the review is held solely on the basis of receiving that notice and right to be heard.

23 **SECTION 107.** 938.38 (5) (c) 7. of the statutes, as affected by 2009 Wisconsin Acts
24 79 and 185, is amended to read:

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1 938.38 (5) (c) 7. Whether reasonable efforts were made by the agency to achieve
2 the goal of the permanency plan, including, if appropriate, through an out-of-state
3 placement.

4 **SECTION 108.** The treatment of 938.38 (5) (d) of the statutes by 2009 Wisconsin
5 Act 79 is not repealed by 2009 Wisconsin Act 94. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 938.38 (5) (d) reads:

(d) Notwithstanding s. 938.78 (2) (a), the agency that prepared the permanency plan shall, at least 5 days before a review by a review panel, provide to each person appointed to the review panel, the juvenile's parent, guardian, and legal custodian, the person representing the interests of the public, the juvenile's counsel, the juvenile's guardian ad litem, and, if the juvenile is an Indian juvenile who is placed outside the home of his or her parent or Indian custodian under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian and tribe a copy of the permanency plan and any written comments submitted under par. (bm) 1. Notwithstanding s. 938.78 (2) (a), a person appointed to a review panel, the person representing the interests of the public, the juvenile's counsel, the juvenile's guardian ad litem, and, if the juvenile is an Indian juvenile who is placed outside the home of his or her parent or Indian custodian under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian and tribe may have access to any other records concerning the juvenile for the purpose of participating in the review. A person permitted access to a juvenile's records under this paragraph may not disclose any information from the records to any other person.

6 **SECTION 109.** The treatment of 938.38 (5) (e) of the statutes by 2009 Wisconsin
7 Act 79, section 169, is not repealed by 2009 Wisconsin Act 94, section 387. Both
8 treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 938.38 (5) (e) reads:

(e) Within 30 days, the agency shall prepare a written summary of the determinations under par. (c) and shall provide a copy to the court that entered the order; the juvenile or the juvenile's counsel or guardian ad litem; the person representing the interests of the public; the juvenile's parent, guardian, and or legal custodian; the juvenile's foster parent or treatment foster parent, the operator of the facility where the juvenile is living, or the relative with whom the juvenile is living; and, if the juvenile is an Indian juvenile who is placed outside the home of his or her parent or Indian custodian under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian and tribe.

9 **SECTION 110.** 938.38 (5) (e) of the statutes, as affected by 2009 Wisconsin Act
10 94, section 388, is amended to read:

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1 938.38 (5) (e) Within 30 days, the agency shall prepare a written summary of
2 the determinations under par. (c) and shall provide a copy to the court that entered
3 the order; the juvenile or the juvenile’s counsel or guardian ad litem; the person
4 representing the interests of the public; the juvenile’s parent, guardian, or legal
5 custodian; the juvenile’s foster parent or the operator of the facility where the
6 juvenile is living, or the relative with whom the juvenile is living; and, if the juvenile
7 is an Indian juvenile who is placed outside the home of his or her parent or Indian
8 custodian under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile’s Indian custodian
9 and tribe.

10 **SECTION 111.** The treatment of 938.38 (5m) (b) of the statutes by 2009
11 Wisconsin Act 79, section 171, is not repealed by 2009 Wisconsin Act 94, section 389.
12 Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 938.38 (5m) (b) reads:

(b) Not less than 30 days before the date of the hearing, the court shall notify the juvenile; the juvenile’s parent, guardian, and legal custodian; and the juvenile’s foster parent or treatment foster parent, the operator of the facility in which the juvenile is living, or the relative with whom the juvenile is living of the time, place, and purpose of the hearing, of the issues to be determined at the hearing, and of the fact that they shall have a right to be heard at the hearing as provided in par. (c) 1. and shall notify the juvenile’s counsel and the juvenile’s guardian ad litem; the agency that prepared the permanency plan; the person representing the interests of the public; and, if the juvenile is an Indian juvenile who is placed outside the home of his or her parent or Indian custodian under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile’s Indian custodian and tribe of the time, place, and purpose of the hearing, of the issues to be determined at the hearing, and of the fact that they may have an opportunity to be heard at the hearing as provided in par. (c) 1.

13 **SECTION 112.** 938.38 (5m) (b) of the statutes, as affected by 2009 Wisconsin Act
14 94, section 390, is amended to read:

15 938.38 (5m) (b) Not less than 30 days before the date of the hearing, the court
16 shall notify the juvenile; the juvenile’s parent, guardian, and legal custodian; and the
17 juvenile’s foster parent, the operator of the facility in which the juvenile is living, or

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1 the relative with whom the juvenile is living; of the time, place, and purpose of the
2 hearing, of the issues to be determined at the hearing, and of the fact that they shall
3 have a right to be heard at the hearing as provided in par. (c) 1. and shall notify the
4 juvenile's counsel and the juvenile's guardian ad litem; the agency that prepared the
5 permanency plan; the person representing the interests of the public; and, if the
6 juvenile is an Indian juvenile who is placed outside the home of his or her parent or
7 Indian custodian under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian
8 custodian and tribe of the date, time, and place, and purpose of the hearing, of the
9 issues to be determined at the hearing, and of the fact that they may have an
10 opportunity to be heard at the hearing as provided in par. (c) 1.

11 **SECTION 113.** The treatment of 938.38 (5m) (d) of the statutes by 2009
12 Wisconsin Act 79 is not repealed by 2009 Wisconsin Act 94. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 938.38 (5m) (d) reads:

(d) At least 5 days before the date of the hearing the agency that prepared the permanency plan shall provide a copy of the permanency plan and any written comments submitted under par. (c) 1. to the court, to the juvenile's parent, guardian, and legal custodian, to the person representing the interests of the public, to the juvenile's counsel or guardian ad litem, and, if the juvenile is an Indian juvenile who is placed outside the home of his or her parent or Indian custodian under s. 938.13 (4), (6), (6m), or (7), to the Indian juvenile's Indian custodian and tribe. Notwithstanding s. 938.78 (2) (a), the person representing the interests of the public, the juvenile's counsel or guardian ad litem, and, if the juvenile is an Indian juvenile who is placed outside the home of his or her parent or Indian custodian under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian and tribe may have access to any other records concerning the juvenile for the purpose of participating in the review. A person permitted access to a juvenile's records under this paragraph may not disclose any information from the records to any other person.

13 **SECTION 114.** 938.48 (8p) of the statutes, as affected by 2009 Wisconsin Act 233,
14 is amended to read:

15 **938.48 (8p) INDIAN JUVENILE PLACEMENTS.** Reimburse Indian tribes and county
16 departments, from the appropriation under s. 20.410 (1) (3) (kp), for unexpected or
17 unusually high-cost out-of-home care placements of Indian juveniles who have

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1 been adjudicated delinquent by tribal courts. In this subsection, “unusually
2 high-cost out-of-home care placements” means the amount by which the cost to an
3 Indian tribe or to a county department of out-of-home care placements of Indian
4 juveniles who have been adjudicated delinquent by tribal courts exceeds \$50,000 in
5 a fiscal year.

6 **SECTION 115.** 941.29 (1) (f) of the statutes is amended to read:

7 941.29 (1) (f) Enjoined under an injunction issued under s. 813.12 or 813.122
8 or under a tribal injunction, as defined in s. 813.12 (1) (e), issued by a court
9 established by any federally recognized Wisconsin Indian tribe or band, except the
10 Menominee Indian tribe of Wisconsin, that includes notice to the respondent that he
11 or she is subject to the requirements and penalties under s. ~~941.29~~ this section and
12 that has been filed under s. 806.247 (3).

13 **SECTION 116.** The treatment of 961.50 (1) (intro.) of the statutes by 2009
14 Wisconsin Act 8 is not repealed by 2009 Wisconsin Act 103. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference
bureau, s. 961.50 (1) (intro.) reads:

(1) If a person is convicted of any violation of this chapter, the court may, in
addition to any other penalties that may apply to the crime, suspend the person's
operating privilege, as defined in s. 340.01 (40), for not less than 6 months nor more than
5 years. If a court suspends a person's operating privilege under this subsection, the court
may take possession of any suspended license. If the court takes possession of a license,
it shall destroy the license. The court shall forward to the department of transportation
the record of conviction and notice of the suspension. The person is eligible for an
occupational license under s. 343.10 as follows:

15 **SECTION 117.** 971.17 (1g) (title) of the statutes is created to read:

16 971.17 (1g) (title) NOTICE OF RESTRICTION ON FIREARM POSSESSION.

17 **SECTION 118.** 973.195 (1r) (e) of the statutes is amended to read:

18 973.195 (1r) (e) Notwithstanding the confidentiality of victim address
19 information obtained under s. ~~302.113 (9g) (g) 3.~~ 302.1135 (7) (c), a district attorney
20 who is required to send notice to a victim under par. (d) may obtain from the clerk

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1 of the circuit court victim address information that the victim provided to the clerk
2 under s. ~~302.113 (9g) (g)~~ 3. 302.1135 (7) (c).

3 **SECTION 119.** 2009 Wisconsin Act 42, section 16 is amended by replacing
4 “~~166.21 (2) (b) (r)~~” with “~~166.21 (2) (br)~~”.

5 **SECTION 120.** 2009 Wisconsin Act 42, section 99 is amended by replacing “Each
6 such may appropriate” with “Each such governing body may appropriate”.

7 **SECTION 121.** 2009 Wisconsin Act 42, section 104 is amended by replacing
8 “whichever is applicable,” with “whichever is applicable.”.

9 **SECTION 122.** 2009 Wisconsin Act 42, section 212 is amended by replacing
10 “323.60 (3) and the” with “323.60 (3) and the”.

11 **SECTION 123.** 2009 Wisconsin Act 42, section 245 is amended by replacing “An
12 individual who at any time” with “An individual who, at any time”.

13 **SECTION 124.** 2009 Wisconsin Act 76, section 14 is amended by replacing “s.
14 ~~120.13 (14)~~” with “s. ~~120.13 (4)~~”.

15 **SECTION 125.** 2009 Wisconsin Act 112, section 4e is amended by replacing
16 “village, town, or county” with “village ~~or~~, town, or county”.

17 (END)