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**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

Revisor's Bill  
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affecting various provisions of the statutes to correct errors and reconcile conflicts (Correction Bill).

1 AN ACT... relating to: ???

INSA

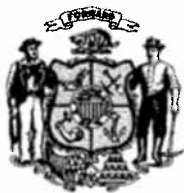
*Analysis by the Legislative Reference Bureau*

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

2

(END)

INS BILL



## 2009 ASSEMBLY BILL 720

February 11, 2010 - Introduced by LAW REVISION COMMITTEE. Referred to  
Committee on Rules.

1 AN ACT relating to: repealing, consolidating, renumbering, amending, and  
 2 revising various provisions of the statutes for the purpose of correcting errors,  
 3 supplying omissions, correcting and clarifying references, eliminating defects,  
 4 anachronisms, conflicts, ambiguities, and obsolete provisions, reconciling  
 5 conflicts, and repelling unintended repeals (Correction Bill).

*Analysis by the Legislative Reference Bureau*

INS A

This correction bill was prepared by the Legislative Reference Bureau under s. 13.92 (1) (bm) 1. and 2. and (2) (i) and (L), stats. Specific changes are explained in the NOTES in the body of the bill.

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

6 SECTION 1. 15.145 (5) (intro.) of the statutes, as created by 2009 Wisconsin Act  
 7 28, is amended to read:  
 8 15.145 (5) COUNCIL ON OFFENDER REENTRY. (intro.) There is created a council on  
 9 offender reentry which is attached to the department of corrections under s. 15.03,

SA 2/26/10  
3/10/10 ✓

INS BILL

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

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

NOTE: The underscored "or" was deleted by 2009 Wis. Act 39 without being shown as stricken. No change was intended. Corrective legislation is pending.

SECTION 2. 40.03 (2) (it) of the statutes is repealed.

Section 40.03 (2) (it) provided for the promulgation of rules "required for the administration of the private employer health care coverage program established under subch. X." Subchapter X of Chapter 40 was repealed 1-1-10 by 1999 Wis. Act 9.

SECTION 3. 48.299 (9) of the statutes, as created by 2009 Wisconsin Act 94, is amended to read:

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

NOTE: Provides for parallel construction within the affected sentence, which contains no antecedent for "expectant mother." Removal of the term makes the provision consistent with the notice provisions of s. 48.028 (4) (a) and makes the affected sentence identical to those contained in ss. 48.42 (2g) (ag), 48.357 (2m) (m), and 48.357 (1) (c) (m), as affected by 2009 Wis. Act 94. Drafting records for Act 94 show that references to

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"expectant mothers" were included in drafts of Act 94 but removed prior to the final version.

1           **SECTION 4.** 48.33 (4) (d) of the statutes, as created by 2009 Wisconsin Act 94,  
2 is renumbered 48.33 (4) (dm).

NOTE: Confirms renumbering by the legislative reference bureau under s. 13.92  
(1) (bm) 2. 2009 Wis. Act 79 also created a provision numbered s. 48.33 (4) (d). ✓

3           **SECTION 5.** 48.357 (1) (c) 2. of the statutes, as affected by 2009 Wisconsin Act  
4 94, is amended to read:

5           48.357 (1) (c) 2. The court shall hold a hearing prior to ordering any change in  
6 placement requested under subd. 1. Not less than 3 days prior to the hearing, the  
7 court shall provide notice of the hearing, together with a copy of the request for the  
8 change in placement, to the child, the parent, guardian, and legal custodian of the  
9 child, the child's court-appointed special advocate, all parties that are bound by the  
10 dispositional order, and, if the child is an Indian child, the Indian child's Indian  
11 custodian and tribe. Subject to subd. ~~2m.~~ 2r., if all parties consent, the court may  
12 proceed immediately with the hearing.

NOTE: Inserts correct cross-reference. Section 48.357 (1) (c) 2m., as created by  
2009 Wis. Act 94, is renumbered s. 48.357 (1) (c) 2r. by this bill. ✓

13           **SECTION 6.** 48.357 (1) (c) ~~2m.~~ 2r. of the statutes, as created by 2009 Wisconsin Act  
14 94, is renumbered 48.357 (1) (c) 2r.

NOTE: Confirms renumbering by the legislative reference bureau under s. 13.92  
(1) (bm) 2. 2009 Wis. Act 79 also created a provision numbered s. 48.357 (1) (c) 2m. ✓

15           **SECTION 7.** 48.357 (2m) (b) of the statutes, as affected by 2009 Wisconsin Act  
16 94, section 91, is amended to read:

17           48.357 (2m) (b) The court shall hold a hearing prior to ordering any change in  
18 placement requested or proposed under par. (a) if the request states that new  
19 information is available that affects the advisability of the current placement. A  
20 hearing is not required if the requested or proposed change in placement does not

2009 Wisconsin Act 79, section 28, and

1 involve a change in placement of a child placed in the child's home to a placement  
 2 outside the child's home, written waivers of objection to the proposed change in  
 3 placement are signed by all persons entitled to receive notice under this paragraph,  
 4 other than a court-appointed special advocate, and the court approves. If a hearing  
 5 is scheduled, not less than 3 days before the hearing the court shall notify the child,  
 6 the parent, guardian, and legal custodian of the child, any foster parent, treatment  
 7 foster parent, or other physical custodian described in s. 48.62 (2) of the child, the  
 8 child's court-appointed special advocate, all parties who are bound by the  
 9 dispositional order, and, if the child is an Indian child, the Indian child's Indian  
 10 custodian and tribe. If the child is the expectant mother of an unborn child under  
 11 s. 48.133, the court shall also notify the unborn child by the unborn child's guardian  
 12 ad litem. If the change in placement involves an adult expectant mother of an unborn  
 13 child under s. 48.133, the court shall notify the adult expectant mother, the unborn  
 14 child by the unborn child's guardian ad litem, and all parties who are bound by the  
 15 dispositional order, at least 3 days prior to the hearing. A copy of the request or  
 16 proposal for the change in placement shall be attached to the notice. Subject to par.  
 17 ~~(bm)~~ <sup>✓</sup> (br), if all of the parties consent, the court may proceed immediately with the  
 18 hearing.

NOTE: Inserts correct cross-reference. Section 48.357 (2m) (bm), as created by  
 2009 Wis. Act 94, is renumbered s. 48.357 (2m) (br) by this bill.

19 **SECTION 8.** 48.357 (2m) (b) of the statutes, as affected by 2009 Wisconsin Act  
 20 94, section 92, is amended to read:

21 48.357 (2m) (b) The court shall hold a hearing prior to ordering any change in  
 22 placement requested or proposed under par. (a) if the request states that new  
 23 information is available that affects the advisability of the current placement. A

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1 hearing is not required if the requested or proposed change in placement does not  
 2 involve a change in placement of a child placed in the child's home to a placement  
 3 outside the child's home, written waivers of objection to the proposed change in  
 4 placement are signed by all persons entitled to receive notice under this paragraph,  
 5 other than a court-appointed special advocate, and the court approves. If a hearing  
 6 is scheduled, not less than 3 days before the hearing the court shall notify the child,  
 7 the parent, guardian, and legal custodian of the child, any foster parent or other  
 8 physical custodian described in s. 48.62 (2) of the child, the child's court-appointed  
 9 special advocate, all parties who are bound by the dispositional order, and, if the child  
 10 is an Indian child, the Indian child's Indian custodian and tribe. If the child is the  
 11 expectant mother of an unborn child under s. 48.133, the court shall also notify the  
 12 unborn child by the unborn child's guardian ad litem. If the change in placement  
 13 involves an adult expectant mother of an unborn child under s. 48.133, the court shall  
 14 notify the adult expectant mother, the unborn child by the unborn child's guardian  
 15 ad litem, and all parties who are bound by the dispositional order, at least 3 days prior  
 16 to the hearing. A copy of the request or proposal for the change in placement shall  
 17 be attached to the notice. Subject to par. (bm) (br), if all of the parties consent, the  
 18 court may proceed immediately with the hearing.

NOTE: Inserts correct cross-reference. Section 48.357 (2m) (bm), as created by  
 2009 Wis. Act 94, is renumbered s. 48.357 (2m) (br) by this bill.

19 **SECTION 9.** 48.357 (2m) (bm) of the statutes, as created by 2009 Wisconsin Act  
 20 94, is renumbered 48.357 (2m) (br).

NOTE: Confirms renumbering by the legislative reference bureau under s. 13.92  
 (1) (bm) 2. 2009 Wis. Act 79 also created a provision numbered s. 48.357 (2m) (bm).

21 **SECTION 10.** 48.363 (1) (b) of the statutes, as affected by 2009 Wisconsin Act 79,  
 22 section 38, and 2009 Wisconsin Act 94, section 100, is amended to read:

1 48.363 (1) (b) If a hearing is held, at least 3 days before ~~prior to the~~ the hearing  
 2 the court shall notify the child, the child's parent, guardian, legal custodian, and  
 3 Indian custodian, all parties bound by the dispositional order, the child's foster  
 4 parent, treatment foster parent, or other physical custodian described in s. 48.62 (2),  
 5 the child's court-appointed special advocate, the district attorney or corporation  
 6 counsel in the county in which the dispositional order was entered, and, if the child  
 7 is an Indian child who is placed outside the home of his or her parent or Indian  
 8 custodian, the Indian child's tribe. If the child is the expectant mother of an unborn  
 9 child under s. 48.133, the court shall also notify the unborn child by the unborn  
 10 child's guardian ad litem. If the proceeding involves an adult expectant mother of  
 11 an unborn child under s. 48.133, the court shall notify the adult expectant mother,  
 12 the unborn child through the unborn child's guardian ad litem, all parties bound by  
 13 the dispositional order, and the district attorney or corporation counsel in the county  
 14 in which the dispositional order was entered, at least 3 days prior to the hearing. A  
 15 copy of the request or proposal shall be attached to the notice. If all parties consent,  
 16 the court may proceed immediately with the hearing. No revision may extend the  
 17 effective period of the original order.

NOTE: The stricken text was inserted by 2009 Act 79, ~~§~~ 38, but made unnecessary  
 by the amendment by 2009 Wis. Act 94, ~~§~~ 100. The underscored text was deleted by Act  
 79, ~~§~~ 38, but was not deleted from this provision by the amendment by Act 94, ~~§~~ 100. The  
 resulting sentence structure after the merger of the Act 79 and Act 94 treatments  
 requires the reinsertion of the underscored language in order to give effect to the Act 94  
 treatment.

Section

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**SECTION 11.** The treatment of 48.365 (2m) (a) 1. of the statutes by 2009  
 Wisconsin Act 79, section 44, is not repealed by 2009 Wisconsin Act 94, section 106.  
 Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference  
 bureau, s. 48.365 (2m) (a) 1., together with s. 48.365 (2m) (a) 1m. that resulted from the  
 division of s. 48.365 (2m) (a) 1. by 2009 Wis. Act 94, s. 106, read:

1. Any party may present evidence relevant to the issue of extension. If the child is placed outside of his or her home, the person or agency primarily responsible for providing services to the child shall present as evidence specific information showing that the person or agency has made reasonable efforts to achieve the goal of the child's permanency plan, including, if appropriate, through an out-of-state placement, unless return of the child to the home is the goal of the permanency plan and any of the circumstances under s. 48.355 (2d) (b) 1. to 5. applies. If an Indian child is placed outside the home of his or her parent or Indian custodian, the person or agency primarily responsible for providing services to the Indian child shall also present as evidence specific information showing that active efforts under s. 48.028 (4) (d) 2. have been made to prevent the breakup of the Indian child's family and that those efforts have proved unsuccessful.

1m. The judge shall make findings of fact and conclusions of law based on the evidence. The findings of fact shall include a finding as to whether reasonable efforts were made by the agency primarily responsible for providing services to the child to achieve the goal of the child's permanency plan, including, if appropriate, through an out-of-state placement, unless return of the child to the home is the goal of the permanency plan and the judge finds that any of the circumstances under s. 48.355 (2d) (b) 1. to 5. applies. If the child is an Indian child who is placed outside the home of his or her parent or Indian custodian, the findings of fact shall also include a finding that active efforts under s. 48.028 (4) (d) 2. were made to prevent the breakup of the Indian child's family and that those efforts have proved unsuccessful. An order shall be issued under s. 48.355.

1 **SECTION 12.** 48.365 (2m) (a) 1m. of the statutes, as created by 2009 Wisconsin  
2 Act 79, is renumbered 48.365 (2m) (a) 1r.

NOTE: Confirms renumbering by the legislative reference bureau under s. 13.92 (1) (bm) 2. The treatment of s. 48.365 (2m) (a) 1. by 2009 Wis. Act 94 resulted in another provision being numbered s. 48.365 (2m) (a) 1m.

3 **SECTION 13.** The treatment of 48.365 (2m) (ag) of the statutes by 2009  
4 Wisconsin Act 79, section 48, is not repealed by 2009 Wisconsin Act 94, section 110.  
5 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.

6 **SECTION 14.** 48.365 (2m) (ag) of the statutes, as affected by 2009 Wisconsin Act  
7 Act 94, section 111, is amended to read:

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1           48.365 (2m) (ag) The court shall give a foster parent or other physical custodian  
 2 described in s. 48.62 (2) who is notified of a hearing under sub. (2) ~~an opportunity a~~  
 3 right to be heard at the hearing by permitting the foster parent or other physical  
 4 custodian to make a written or oral statement during the hearing, or to submit a  
 5 written statement prior to the hearing, relevant to the issue of extension. A foster  
 6 parent or other physical custodian who receives notice of a hearing under sub. (2) and  
 7 ~~an opportunity a right~~ to be heard under this paragraph does not become a party to  
 8 the proceeding on which the hearing is held solely on the basis of receiving that notice  
 9 and having the ~~opportunity right~~ right to be heard.

NOTE: 2009 Wis. Act 94, § 111, repealed and recreated s. 48.365 (2m) (ag) without  
 taking cognizance of the repeal and recreation of the provision by 2009 Wis. Act 79, § 49. ✓  
 There is no mutual inconsistency between the treatments made by the Acts and the  
 substantive changes made by Act 79 are made here in order to give effect to both ✓  
 treatments. ✓

Section

10           **SECTION 15.** 48.38 (4) (i) of the statutes, as created by 2009 Wisconsin Act 94,  
 11 is renumbered 48.38 (4) (im). two

NOTE: Confirms renumbering by the legislative reference bureau under s. 13.92  
 (1) (bm) 2. 2009 Wis. Act 79 also created a provision numbered s. 48.38 (4) (i).

12           **SECTION 16.** 48.38 (4m) of the statutes, as affected by 2009 Wisconsin Act 79,  
 13 sections 56 and 57, and 2009 Wisconsin Act 94, sections 113 and 114, is repealed and  
 14 recreated to read:

15           48.38 (4m) (title) REASONABLE EFFORTS NOT REQUIRED; PERMANENCY PLAN  
 16 DETERMINATION HEARING. (a) If in a proceeding under s. 48.21, 48.32, 48.355, 48.357,  
 17 or 48.365 the court finds that any of the circumstances under s. 48.355 (2d) (b) 1. to  
 18 5. applies with respect to a parent, the court shall hold a hearing within 30 days after  
 19 the date of that finding to determine the permanency plan for the child. If a hearing  
 20 is held under this paragraph, the agency responsible for preparing the permanency  
 21 plan shall file the permanency plan with the court not less than 5 days before the date

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1 of the hearing. At the hearing, the court shall consider placing the child in a  
2 placement outside this state if the court determines that such a placement would be  
3 in the best interests of the child and appropriate to achieving the goal of the child's  
4 permanency plan.

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

12 (c) If the child's permanency plan includes a statement under sub. (4) (i)  
13 indicating that the child's age and developmental level are sufficient for the court to  
14 consult with the child regarding the child's permanency plan or if, notwithstanding  
15 a decision under sub. (4) (i) that it would not be appropriate for the court to consult  
16 with the child, the court determines that consultation with the child would be in the  
17 best interests of the child, the court shall consult with the child, in an  
18 age-appropriate and developmentally appropriate manner, regarding the child's  
19 permanency plan and any other matters the court finds appropriate. If none of those  
20 circumstances apply, the court may permit the child's caseworker, the child's counsel,  
21 or, subject to s. 48.235 (3) (a), the child's guardian ad litem to make a written or oral  
22 statement during the hearing, or to submit a written statement prior to the hearing,  
23 expressing the child's wishes, goals, and concerns regarding the permanency plan  
24 and those matters. If the court permits such a written or oral statement to be made

1 or submitted, the court may nonetheless require the child to be physically present  
2 at the hearing.

3 (d) The court shall give a foster parent, treatment foster parent, other physical  
4 custodian described in s. 48.62 (2), operator of a facility, or relative who is notified  
5 of a hearing under par. (b) a right to be heard at the hearing by permitting the foster  
6 parent, treatment foster parent, other physical custodian, operator, or relative to  
7 make a written or oral statement during the hearing, or to submit a written  
8 statement prior to the hearing, relevant to the issues to be determined at the hearing.  
9 The foster parent, treatment foster parent, other physical custodian, operator of a  
10 facility, or relative does not become a party to the proceeding on which the hearing  
11 is held solely on the basis of receiving that notice and right to be heard.

Section  
NOTE: 2009 Wisconsin Act 79, § 56, and 2009 Wisconsin Act 94, § 113, create very similar, but not identical, provisions that are numbered s. 48.38 (4m). This treatment gives effect to both Acts by merging the text of the provisions and eliminating minor differences in punctuation and sentence structure. The provision created as s. 48.38 (4m) (c) in Act 94 is created as s. 48.38 (4m) (d) in Act 79, and a provision with no counterpart in Act 94 is created as s. 48.38 (4m) (c) in Act 79. The provision created as 48.38 (4m) (c) in Act 79 is recreated here as s. 48.38 (4m) (c), and the provision created as s. 48.38 (4m) (c) in Act 94 and as s. 48.38 (4m) (d) in Act 79 is recreated here as s. 48.38 (4m) (d). Act 79, § 57, and Act 94, § 114, each eliminate the phrase "treatment foster care" in s. 48.38 (4m), as created by the respective acts, at a subsequent date. The next sections of this bill gives effect to that subsequent change by Act 79, § 57 and Act 94, § 114.

12 SECTION 7. 48.38 (4m) (b) and (d) of the statutes, as affected by 2009 Wisconsin

13 Act (this act) are amended to read: △....△

14 48.38 (4m) (b) At least 10 days before the date of the hearing the court shall  
15 notify the child; any parent, guardian, and legal custodian of the child; any foster  
16 parent, treatment foster parent, or other physical custodian described in s. 48.62 (2)  
17 of the child, the operator of the facility in which the child is living, or the relative with  
18 whom the child is living; and, if the child is an Indian child, the Indian child's Indian  
19 custodian and tribe of the time, place, and purpose of the hearing, of the issues to be

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1 determined at the hearing, and of the fact that they shall have a right to be heard  
2 at the hearing.

3 (d) The court shall give a foster parent, ~~other physical custodian~~ described in  
4 s. 48.62 (2), operator of a facility, or relative who is notified of a hearing under par.

5 (b) a right to be heard at the hearing by permitting the foster parent, ~~treatment foster~~  
6 ~~parent~~, other physical custodian, operator, or relative to make a written or oral  
7 statement during the hearing, or to submit a written statement prior to the hearing,  
8 relevant to the issues to be determined at the hearing. The foster parent, ~~treatment~~  
9 ~~foster parent~~, other physical custodian, operator of a facility, or relative does not  
10 become a party to the proceeding on which the hearing is held solely on the basis of  
11 receiving that notice and right to be heard.

~~treatment foster parent~~

struc  
text

NOTE: Gives effect to 2009 ~~Wisconsin~~ Act 79, section 57, and 2009 ~~Wisconsin~~ Act  
94, section 114, by eliminating the references to "treatment foster parent" in s. 48.38 (4m)  
(b) and (d), as affected by the previous section of this bill.

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12 **SECTION 18.** 48.38 (5) (b) of the statutes, as affected by 2009 Wisconsin Act 79,  
13 section 58, and 2009 Wisconsin Act 94, section 115, is amended to read:

14 48.38 (5) (b) The court or the agency shall notify the child; the child's parent,  
15 guardian, and legal custodian; and the child's foster parent or treatment foster  
16 parent, the operator of the facility in which the child is living, or the relative with  
17 whom the child is living; and, if the child is an Indian child who is placed outside the  
18 home of his or her parent or Indian custodian, the Indian child's Indian custodian and  
19 tribe of the time, place, and purpose of the review, of the issues to be determined as  
20 part of the review, and of the fact that they shall have a right to be heard at the review  
21 as provided in par. (bm) 1. The court or agency shall notify the person representing  
22 the interests of the public, the child's counsel, the child's guardian ad litem, and the  
23 child's court-appointed special advocate of the time, place, and purpose of the review,

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1 of the issues to be determined as part of the review, and of the fact that they may have  
2 an opportunity to be heard at the review as provided in par. (bm) 1. The notices under  
3 this paragraph shall be provided in writing not less than 30 days before the review  
4 and copies of the notices shall be filed in the child's case record.

NOTE: Deletes unnecessary "and."

5 **SECTION 19.** 48.38 (5) (b) of the statutes, as affected by 2009 Wisconsin Act 94,  
6 section 116, is amended to read:

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

NOTE: 2009 Wis. Act 94, § 116, repealed and recreated s. 48.38 (5) (b) without  
taking cognizance of the repeal and recreation of the provision by 2009 Wis. Act 79, § 59.

section

*no 9* The proceeding under s. 48.38(5)(b) is referred to as a "review" throughout the provision.

There is no mutual inconsistency between the treatments made by the Acts, and the substantive changes made by Act 79 are made here in order to give effect to both acts.

*e two*

1           **SECTION 20.** 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.

NOTE: 2009 Wis. Act 79 deleted "review" without showing it as stricken and inserted "hearing" without showing it as scored. No change was intended. "Review" replaced "hearing" throughout Act 79.

16           **SECTION 21.** ~~48.38 (5) (e) 8~~ of the statutes, as created by 2009 Wisconsin Act  
17 94, is renumbered 48.38 (5) (c) 8m.

NOTE: Confirms renumbering by the legislative reference bureau under s. 13.92 (1) (bm) 2. 2009 Wis. Act 79 also created a provision numbered s. 48.38 (5) (c) 8.

18           **SECTION 22.** The treatment of 48.38 (5) (d) of the statutes by 2009 Wisconsin  
19 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. 48.780(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 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 23.** 48.38 (5) (e) of the statutes, as affected by 2009 Wisconsin Act 79,  
2 section 67, and 2009 Wisconsin Act 94, section 119, is amended to read:

3           48.38 (5) (e) Within 30 days, the agency shall prepare a written summary of  
4 the determinations under par. (c) and shall provide a copy to the court that entered  
5 the order; the child or the child's counsel or guardian ad litem; the person  
6 representing the interests of the public; the child's parent, guardian, and or legal  
7 custodian; the child's court-appointed special advocate; the child's foster parent or  
8 treatment foster parent, the operator of the facility where the child is living, or the  
9 relative with whom the child is living; and, if the child is an Indian child who is placed  
10 outside the home of his or her parent or Indian custodian, the Indian child's Indian  
11 custodian and tribe.

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NOTE: Deletes punctuation and "and" inserted by 2009 Wis. Act 79 but made unnecessary by 2009 Wis. Act 94.

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for use on p. 51

12           **SECTION 24.** 48.38 (5) (e) of the statutes, as affected by 2009 Wisconsin Act 94,  
13 section 120, is amended to read:

14           48.38 (5) (e) Within 30 days, the agency shall prepare a written summary of  
15 the determinations under par. (c) and shall provide a copy to the court that entered  
16 the order; the child or the child's counsel or guardian ad litem; the person  
17 representing the interests of the public; the child's parent, guardian, or legal

section

1 custodian; the child's court-appointed special advocate; the child's foster parent or,  
2 the operator of the facility where the child is living, or the relative with whom the  
3 child is living; and, if the child is an Indian child who is placed outside the home of  
4 his or her parent or Indian custodian, the Indian child's Indian custodian and tribe.

NOTE: 2009 Wis. Act 94, (s) 120, repealed and recreated s. 48.38 (5) (b) without taking cognizance of the repeal and recreation of the provision by 2009 Wis. Act 79, (s) 68. There is no mutual inconsistency between the treatments made by the Acts and the substantive changes made by Act 79 are made here in order to give effect to both acts.

5 **SECTION 25.** The treatment of 48.38 (5m) (b) of the statutes by 2009 Wisconsin  
6 Act 79, section 69, is not repealed by 2009 Wisconsin Act 94, section 121. Both  
7 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.

STET:  
no changes  
here

8 **SECTION 26.** 48.38 (5m) (b) of the statutes, as affected by 2009 Wisconsin Act  
94, section 122, is amended to read:

10 48.38 (5m) (b) Not less than 30 days before the date of the hearing, the court  
11 shall notify the child; the child's parent, guardian, and legal custodian; and the  
12 child's foster parent, the operator of the facility in which the child is living, or the  
13 relative with whom the child is living; of the time, place, and purpose of the hearing,  
14 of the issues to be determined at the hearing, and of the fact that they shall have a  
15 right to be heard at the hearing as provided in par. (c) 1. and shall notify the child's  
16 counsel, the child's guardian ad litem, and the child's court-appointed special



1 advocate; the agency that prepared the permanency plan; the person representing  
 2 the interests of the public; and, if the child is an Indian child who is placed outside  
 3 the home of his or her parent or Indian custodian, the Indian child's Indian custodian  
 4 and tribe of the date, time, and place, and purpose of the hearing, of the issues to be  
 5 determined at the hearing, and of the fact that they may have an opportunity to be  
 6 heard at the hearing as provided in par. (c) 1. ✓

NOTE: 2009 Wis. Act 94, ~~§~~ 122, repealed and recreated s. 48.38 (5m) (b) without  
 taking cognizance of the repeal and recreation of the provision by 2009 Wis. Act 79, ~~§~~ 70.  
 There is no mutual inconsistency between the treatments made by the ~~Acts~~ and the  
 substantive changes made by Act 79 are made here in order to give effect to both acts.

two section

7 **SECTION 27.** The treatment of 48.38 (5m) (d) of the statutes by 2009 Wisconsin  
 8 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. ✓

9 **SECTION 28.** The treatment of 48.43 (5m) of the statutes by 2009 Wisconsin Act  
 10 79, section 90, is not repealed by 2009 Wisconsin Act 94, section 157. Both  
 11 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. ✓

*[Handwritten scribbles and signatures]*

1 SECTION 29. 48.43 (5m) of the statutes, as affected by 2009 Wisconsin Act 94,  
2 section 158, is amended to read:

3 48.43 (5m) Either the court or the agency that prepared the permanency plan  
4 shall furnish a copy of the original plan and each revised plan to the child, if he or  
5 she is 12 years of age or over, to the child's foster parent or, the operator of the facility  
6 in which the child is living, or the relative with whom the child is living, and, if the  
7 order under sub. (1) involuntarily terminated parental rights to an Indian child, to  
8 the Indian child's tribe.

NOTE: 2009 Wis. Act 94, § 158, repealed and recreated s. 48.43(5m) without  
taking cognizance of the repeal and recreation of the provision by 2009 Wis. Act 79, § 91.  
There is no mutual inconsistency between the treatments made by the Acts, and the  
substantive changes made by Act 79 are made here in order to give effect to both acts.

*section*

9 SECTION 30. The treatment of 48.63 (5) (d) 4. of the statutes by 2009 Wisconsin  
10 Act 79 is not repealed by 2009 Wisconsin Act 94. Both treatments stand.

*two*

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.

11 SECTION 31. The treatment of 48.685 (5) (a) of the statutes by 2009 Wisconsin  
12 Act 76 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. 48.685 (5) (a) reads:

(a) Subject to pars. (bm) and (br), the department may license to operate an entity,  
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 under s. 48.651, a county  
department or a child welfare agency may license under s. 48.62, and a school board may  
contract with under s. 120.13 (14) a person who otherwise may not be licensed, certified,  
or contracted with for a reason specified in sub. (4m) (a) 1. to 5., and an entity may employ,  
contract with, or permit to reside at the entity a person who otherwise may not be  
employed, contracted with, or permitted to reside at the entity for a reason specified in  
sub. (4m) (b) 1. to 5., if the person demonstrates to the department, the county

department, the contracted agency, the child welfare agency, or the school board or, in the case of an entity that is located within the boundaries of a reservation, to the person or body designated by the Indian tribe under sub. (5d) (a) 3., by clear and convincing evidence and in accordance with procedures established by the department by rule or by the tribe that he or she has been rehabilitated.

**SECTION 32.** 49.895 (4) (a) 2., 3., (b), (c) and (d) of the statutes, as created by 2009 Wisconsin Act 76, are renumbered 49.845 (4) (a) 2. and 3., (b), (c) and (d).

NOTE: Confirms renumbering by the legislative reference bureau under s. 13.92 (1) (bm) 2. There is no s. 49.895. 2009 Wis. Act 76 renumbered s. 49.845 (4) to s. 49.845 (4) (a) 1. and ~~added a~~ provision to ~~it requiring~~ the reporting of fraud. The provisions renumbered by this section refer back to reports of fraud under subd. 1. and par. (a) ~~and~~ require

**SECTION 33.** 50.36 (6) of the statutes, as created by 2009 Wisconsin Act 42, is renumbered 50.36 (6m).

NOTE: Confirms renumbering by the legislative reference bureau under s. 13.92 (1) (bm) 2. 2009 Wis. Act 28 also created a provision numbered s. 50.36 (6).

**SECTION 34.** 66.0602 (3) (e) 8. of the statutes, as created by 2009 Wisconsin Act 28, is amended to read:

66.0602 (3) (e) 8. The amount that a political subdivision levies in that year to pay the unreimbursed expenses related to an emergency declared under s. 166.03 (1) (b) 1. 323.10, including any amounts levied in that year to replenish cash reserves that were used to pay any unreimbursed expenses related to that emergency. A levy under this subdivision that relates to a particular emergency initially shall be imposed in the year in which the emergency is declared or in the following year.

NOTE: Corrects cross-reference. Section 166.03 (1) (b) 1. was consolidated with s. 166.03 (1) (b) (intro.) and renumbered to s. 323.10 by 2009 Wis. Act 42.

**SECTION 35.** 79.05 (2) (c) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:

79.05 (2) (c) Its municipal budget; exclusive of principal and interest on long-term debt and exclusive of revenue sharing payments under s. 66.0305, recycling fee payments under s. 289.645, unreimbursed expenses related to an emergency declared under s. 166.03 (1) (b) 1. 323.10, and expenditures from moneys

1 received pursuant to P.L. 111-5; for the year of the statement under s. 79.015  
2 increased over its municipal budget as adjusted under sub. (6); exclusive of principal  
3 and interest on long-term debt and exclusive of revenue sharing payments under s.  
4 66.0305, recycling fee payments under s. 289.645, unreimbursed expenses related to  
5 an emergency declared under s. ~~166.03 (1) (b) 1.~~ 323.10, and expenditures from  
6 moneys received pursuant to P.L. 111-5; for the year before that year by less than the  
7 sum of the inflation factor and the valuation factor, rounded to the nearest 0.10%.

NOTE: Corrects cross-reference. Section 166.03 (1) (b) 1. was consolidated with s.  
166.03 (1) (b) (intro.) and renumbered to s. 323.10 by 2009 Wis. Act 42. ✓

8 **SECTION 36.** 91.40 (3) of the statutes, as affected by 2009 Wisconsin Act 28, ✓  
9 amended to read:

10 91.40 (3) A statement, signed by the county planning director or the chief  
11 elected official, certifying that the farmland preservation zoning ordinance or  
12 amendment complies with s. 91.38 (1) (f) and (g) and (h). had been

NOTE: Corrects cross-reference. Drafting records indicate that s. 91.38 (1) (f) and  
(g) ~~as created~~ by 2009 Wis. Act 28 ~~were~~ numbered s. 91.38 (1) (g) and (h) in a draft of that  
act ~~which~~ also contained a cross-reference to s. 91.38 (1) (g) and (h) in s. 91.40 (3). The  
numbering of s. 91.38 (1) (g) and (h) was ~~subsequently~~ changed to s. 91.38 (1) (f) and (g),  
but the corresponding cross-reference in s. 91.40 (3) was not.

↑ which were  
created as  
part of the  
13 repeal  
and recreation  
of ch. 91

~~SECTION 37. 111.70 (1) (a) of the statutes, as affected by 2009 Wisconsin Act~~  
~~and 60, is amended to read.~~ that STET: leave as typed

15 111.70 (1) (a) "Collective bargaining" means the performance of the mutual  
16 obligation of a municipal employer, through its officers and agents, and the  
17 representative of its municipal employees in a collective bargaining unit, to meet and  
18 confer at reasonable times, in good faith, with the intention of reaching an  
19 agreement, or to resolve questions arising under such an agreement, with respect to  
20 wages, hours, and conditions of employment, and with respect to a requirement of  
21 the municipal employer for a municipal employee to perform law enforcement and

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1 fire fighting services under s. 61.66, and for a school district with respect to any  
 2 matter under ~~sub. (4) (o)~~ <sup>sub. (4) (n)</sup> and for a school district with respect to any matter under  
 3 ~~sub. (4) (n)~~ <sup>sub. (4) (n)</sup> except as provided in subs. (3m), (3p), and (4) (m) and (mc) and s. 40.81  
 4 and (o)  
 5 (3) and except that a municipal employer shall not meet and confer with respect to  
 6 any proposal to diminish or abridge the rights guaranteed to municipal employees  
 7 under ch. 164. The duty to bargain, however, does not compel either party to agree  
 8 to a proposal or require the making of a concession. Collective bargaining includes  
 9 the reduction of any agreement reached to a written and signed document. The  
 10 municipal employer shall not be required to bargain on subjects reserved to  
 11 management and direction of the governmental unit except insofar as the manner  
 12 of exercise of such functions affects the wages, hours, and conditions of employment  
 13 of the municipal employees in a collective bargaining unit. In creating this  
 14 subchapter the legislature recognizes that the municipal employer must exercise its  
 15 powers and responsibilities to act for the government and good order of the  
 16 jurisdiction which it serves, its commercial benefit and the health, safety and welfare  
 17 of the public to assure orderly operations and functions within its jurisdiction,  
 18 subject to those rights secured to municipal employees by the constitutions of this  
 state and of the United States and by this subchapter.

NOTE: Adds necessary ~~comma~~ <sup>comma and</sup> and eliminates redundant material.

19 SECTION 38. 111.70 (4) (n) (title) of the statutes, as created by 2009 Wisconsin  
 20 Act 34, is amended to read:

21 111.70 (4) (n) (title) *Mandatory subjects of bargaining preparation time.*

NOTE: Adds a reference to the specific subject matter of the provision to the title. Section 111.70 (4) (n) and (o) were created with identical titles. See the next section of this bill.

⬆  
⬇  
⬇

1           **SECTION 39.** 111.70 (4) (o) (title) of the statutes, as created by 2009 Wisconsin  
 2 Act 60, is amended to read:

3           . 111.70 (4) (o) (title) *Mandatory subjects of bargaining teacher evaluation*  
 4 *plans.*

NOTE: Adds a reference to the specific subject matter of the provision to the title. Section 111.70 (4) (n) and (o) were created with identical titles. See the previous section of this bill.

5 ✓           **SECTION 40.** 118.07 (4) of the statutes, as created by 2009 Wisconsin Act 44, is  
 6 renumbered 118.07 (4m).

NOTE: Confirms renumbering by the legislative reference bureau under s. 13.92 (1) (bm) 2. 2009 Wis. Act 28 also created a provision numbered s. 118.07 (4).

7 ✓           **SECTION 41.** 118.33 (6) (c) of the statutes, as created by 2009 Wisconsin Act 41,  
 8 is renumbered 118.33 (6) (cm).

NOTE: Confirms renumbering by the legislative reference bureau under s. 13.92 (1) (bm) 2. 2009 Wis. Act 28 also created a provision numbered s. 118.33 (6) (c).

9           **SECTION 42.** The treatment of 119.04 (1) of the statutes by 2009 Wisconsin Act  
 10 60 is not repealed by 2009 Wisconsin Act 96. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 119.04 (1) reads:

(1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.0235 (3) (c), 66.0603 (1m) to (3), 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343, 115.345, 115.361, 115.365 (3), 115.38 (2), 115.445, 115.45, 118.001 to 118.04, 118.045, 118.06, 118.07, 118.075, 118.10, 118.12, 118.125 to 118.14, 118.145 (4), 118.15, 118.153, 118.16, 118.162, 118.163, 118.164, 118.18, 118.19, 118.20, 118.225, 118.24 (1), (2) (c) to (f), (6) and (8), 118.255, 118.258, 118.291, 118.30 to 118.43, 118.51, 118.52, 118.55, 120.12 (5) and (15) to (25), 120.125, 120.13 (1), (2) (b) to (g), (3), (14), (17) to (19), (26), (34), (35), (37), (37m), and (38), 120.14, 120.21 (3), and 120.25 are applicable to a 1st class city school district and board.

11           **SECTION 43.** 119.23 (2) (a) 1. of the statutes is amended to read:  
 12           119.23 (2) (a) 1. The pupil is a member of a family that has a total family income  
 13 that does not exceed an amount equal to 1.75 times the poverty level determined in  
 14 accordance with criteria established by the director of the federal office of  
 15 management and budget. A pupil attending a private school under this section

1 whose family income increases may continue to attend a private school under this  
 2 section if the pupil is a member of a family that has a total family income that does  
 3 not exceed an amount equal to 2.2 times the poverty level determined in accordance  
 4 with criteria established by the director of the federal office of management and  
 5 budget the poverty guidelines updated periodically in the Federal Register by the  
 6 U.S. Department of Health and Human Services under the authority of 42 U.S.C.  
 7 9902(2). For purposes of admission to a private school under this section, siblings  
 8 of pupils attending a private school under this section are subject to the higher  
 9 income limit. If a pupil attending a private school under this section ceases to attend  
 10 a private school under this section, the lower income limit applies unless the pupil  
 11 is a sibling of a pupil attending a private school under this section.

NOTE: Terminology corrected pursuant to the Annual Update of the HHS Poverty Guidelines Notice published by the U.S. Dept. of Health and Human Services, Office of the Secretary in Federal Register Vol. 74, No. 14 / Friday, January 23, 2009 / Notices which states:

Due to confusing legislative language dating back to 1972, the poverty guidelines have sometimes been mistakenly referred to as the "OMB" (Office of Management and Budget) poverty guidelines or poverty line. In fact, OMB has never issued the guidelines; the guidelines are issued each year by the Department of Health and Human Services. The poverty guidelines may be formally referenced as "the poverty guidelines updated periodically in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. 9902(2)."

12 SECTION 44. 146.62 (1) (b) of the statutes is amended to read:

13 146.62 (1) (b) "Rural" means outside a metropolitan statistical area, as  
 14 specified under 42 CFR 412.62 (f) (ii) (A).

A NOTE: Corrects cross-reference. There is no 42 CFR 412.62 (ii) (b). 42 CFR 412.62 (f) (ii) (a) provides: "(A) A Metropolitan Statistical Area (MSA) or New England County Metropolitan Area (NECMA), as defined by the Executive Office of Management and Budget; or" ←

15 SECTION 45. The treatment of 165.755 (1) (b) of the statutes by 2009 Wisconsin  
 16 Act 28 is not repealed by 2009 Wisconsin Act 100. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, eff. 7-1-10, s. 165.755 (1) (b) reads:

(b) A court may not impose the crime laboratories and drug law enforcement surcharge under par. (a) for a violation of s. 101.123 (2) (a), (am) 1., (ar), (bm), (br), or (bv) or (5) (b), for a financial responsibility violation under s. 344.62 (2), or for a violation of a state law or municipal or county ordinance involving a nonmoving traffic violation, a violation under s. 343.51 (1m) (b), or a safety belt use violation under s. 347.48 (2m).

**SECTION 46.** The treatment of 165.755 (1) (b) of the statutes by 2009 Wisconsin 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, eff. 7-5-10, s. 165.755 (1) (b) reads:

(b) A court may not impose the crime laboratories and drug law enforcement surcharge under par. (a) 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 a state law or municipal or county ordinance involving a nonmoving traffic violation, a violation under s. 343.51 (1m) (b), or a safety belt use violation under s. 347.48 (2m).

**SECTION 47.** 196.642 (1) (b) of the statutes is amended to read:

196.642 (1) (b) The customer's quarterly household income exceeds 250% of the income poverty PLAIN guidelines for the nonfarm population of the United States as prescribed by the federal office of management and budget PLAIN under poverty guidelines updated periodically in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 USC 9902 (2) during a calendar year quarter in which any portion of the outstanding balance incurred after October 31 and before April 16 is billed.

*U.S. Department of Health and Human Services*

NOTE: Terminology corrected pursuant to the Annual Update of the HHS Poverty Guidelines Notice published by the U.S. Dept. of Health and Human Services, Office of the Secretary in Federal Register Vol. 74, No. 14 / Friday, January 23, 2009 / Notices, which states:

Due to confusing legislative language dating back to 1972, the poverty guidelines have sometimes been mistakenly referred to as the "OMB" (Office of Management and Budget) poverty guidelines or poverty line. In fact, OMB has never issued the guidelines; the guidelines are issued each year by the Department of Health and Human Services. The poverty guidelines may be formally referenced as "the poverty guidelines updated periodically in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. 9902(2)."

**SECTION 48.** 166.218 of the statutes, as created by 2009 Wisconsin Act 43, is renumbered 323.72 and 320.72 (1), as renumbered, is amended to read:

3



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

NOTE: Confirms renumbering by the legislative reference bureau under s. 13.92  
 (1) (bm) 2. 2009 Wis. Act 42 renumbered all of chapter 166 to be chapter 323. Section  
 166.22 (1) (c) was renumbered s. 323.70 (1) ~~(c)~~ <sup>(b)</sup> by 2009 Wis. Act 42.

14            **SECTION 49.** 224.77 (1) (o) of the statutes, as ~~created~~ <sup>affected</sup> by 2009 Wisconsin Act 95,  
 15 is amended to read: section 19A

16            224.77 (1) (o) In the course of practice as a mortgage banker, mortgage loan  
 17 originator, or mortgage broker, except in relation to housing designed to meet the  
 18 needs of elderly individuals, treat a person unequally solely because of sex, race,  
 19 color, handicap, sexual orientation, as defined in s. 111.32 (13m), religion, national  
 20 origin, age, or ancestry, the person's lawful source of income, or the sex, marital  
 21 status, or status as a victim of domestic abuse, sexual assault, or stalking, as defined  
 22 in s. 106.50 ~~(1)~~ <sup>✓</sup> (1m) (u), of the person maintaining a household.

NOTE: Corrects cross-reference. "Status as a victim of domestic abuse, sexual  
 assault, or stalking" is defined at s. 106.50 (1m) (u). There is no s. 106.50 (1) (u). ✓

1 SECTION 50. 231.35 (1) (d) of the statutes is amended to read:

2 231.35 (1) (d) "Rural" means outside a metropolitan statistical area specified  
3 under 42 CFR 412.62 (f) (ii) (A) or in a city, village, or town with a population of not  
4 more than 14,000. e A

NOTE: Corrects cross-reference. There is no 42 CFR 412.62 (ii) (d). 42 CFR 412.62 (f) (ii) (A) provides: "(A) A Metropolitan Statistical Area (MSA) or New England County Metropolitan Area (NECMA), as defined by the Executive Office of Management and Budget; or" ←

5 SECTION 51. 252.15 (2) (am) 1. of the statutes is amended to read:

6 252.15 (2) (am) 1. A health care provider who procures, processes, distributes  
7 or uses human sperm that is the subject of an anatomical gift under s. 157.06 shall,  
8 prior to the distribution or use and with informed consent under the requirements  
9 of par. (b), test the proposed donor for the presence of HIV, antigen or nonantigenic  
10 products of HIV or an antibody to HIV in order to assure medical acceptability of the  
11 gift for the purpose intended. The health care provider shall use as a test for the  
12 presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV a test  
13 or series of tests that the state epidemiologist finds medically significant and  
14 sufficiently reliable under s. 252.13 (1r) to detect the presence of HIV, antigen or  
15 nonantigenic products of HIV or an antibody to HIV. The health care provider shall  
16 test the donor initially and, if the initial test result is negative, shall perform a 2nd  
17 test on a date that is not less than 180 days from the date of the procurement of the  
18 sperm. No person may use the donated sperm until the health care provider has  
19 obtained the results of the 2nd test. If any validated test result of the donor for the  
20 presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV is  
21 positive, the sperm donated for use may not be used and, if donated, shall be  
22 destroyed.

NOTE: Corrects citation.

Form of

1 **SECTION 52.** 287.17 (10) (j) of the statutes, as created by 2009 Wisconsin Act  
2 50, is amended to read: (B)

3 287.17 (10) (j) *Audits.* The department may perform or contract for the  
4 performance of an audit of the activities of a registered collector or registered  
5 recycler. If the department performs or contracts for the performance of an audit of  
6 a collector or recycler during the first 3 years in which the collector or recycler is  
7 registered under sub. (7) or (8) (a), the collector or recycler shall pay 25 percent of the  
8 cost of the audit. If the department performs or contracts for the performance of an  
9 audit of a collector or recycler after the first 3 years in which the collector or recycler  
10 is registered, the collector or recycler shall pay 50 percent of the cost of the audit.

NOTE: Inserts missing word. ✓

11 **SECTION 53.** 287.95 (1) of the statutes, as affected by 2009 Wisconsin Acts 50  
12 and 86, is amended to read: ✓ ✓

13 287.95 (1) Any person who violates s. 287.07 (1m) or, (4m), or (5) may be  
14 required to forfeit \$50 for a first violation, may be required to forfeit \$200 for a 2nd  
15 violation and may be required to forfeit not more than \$2,000 for a 3rd or subsequent  
16 violation.

NOTE: Corrects punctuation required by the merger of the treatments by Acts 50  
and 86.

17 **SECTION 54.** The treatment of 302.46 (1) (a) of the statutes by 2009 Wisconsin  
18 Act 28 is not repealed by 2009 Wisconsin Act 100. Both treatments stand. Q

NOTE: There is no conflict of substance. As merged by the legislative reference  
bureau, eff. 7-1-10, s. 302.46 (1) (a) reads: ✓

(a) If 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) (a), (am) 1., (ar),  
(bm), (br), or (bv) or (5), for a financial responsibility violation under s. 344.62 (2), or for  
a first violation of s. 23.38 (4c) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b) 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), the  
court, in addition, shall impose a jail surcharge under ch. 814 in an amount of 1 percent  
of the fine or forfeiture imposed or \$10, whichever is greater. If multiple offenses are

involved, the court shall determine the jail surcharge on the basis of each fine or forfeiture. If a fine or forfeiture is suspended in whole or in part, the court shall reduce the jail surcharge in proportion to the suspension.

1           **SECTION 55.** The treatments of 302.46 (1) (a) of the statutes by 2009 Wisconsin  
2 Act 12 is not repealed by 2009 Wisconsin Acts 28 and 100. ~~Both~~ treatments stand.

*am*  
~~NOTE:~~ There is no conflict of substance. As merged by the legislative reference bureau eff. 7-5-10, s. 302.46 (1) (a) reads:

(a) If 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), the court, in addition, shall impose a jail surcharge under ch. 814 in an amount of 1 percent of the fine or forfeiture imposed or \$10, whichever is greater. If multiple offenses are involved, the court shall determine the jail surcharge on the basis of each fine or forfeiture. If a fine or forfeiture is suspended in whole or in part, the court shall reduce the jail surcharge in proportion to the suspension.

3           **SECTION 56.** 304.06 (1) (bk) 1. of the statutes, as created by 2009 Wisconsin Act  
4 28, is amended to read:

5           304.06 (1) (bk) 1. When an inmate is within 90 days of release to extended  
6 supervision under par. (bg), the earned release review ~~committee~~ commission shall  
7 notify the sentencing court that it intends to modify the inmate's sentence and  
8 release the inmate to extended supervision under par. (bg), and the court may hold  
9 a review hearing. If the court does not schedule a review hearing within 30 days after  
10 notification under this subsection, the earned release review ~~committee~~ commission  
11 may proceed under par. (bg). *review*

NOTE: Inserts correct term consistent with the remainder of s. 304.06. There is no earned release committee.

12           **SECTION 57.** 304.06 (1) (bk) 2. b. of the statutes, as created by 2009 Wisconsin  
13 Act 28, is amended to read:

14           304.06 (1) (bk) 2. b. At the hearing, the court may consider the inmate's conduct  
15 in prison, his or her level of risk of reoffending, based on a verified, objective  
16 instrument, and the nature of the offense committed by the inmate. The court may

1 accept the earned release review ~~committee's~~ commission's determination that the  
2 inmate has earned positive adjustment time under par. (bg), reject the earned release  
3 review ~~committee's~~ commission's determination that the inmate has earned positive  
4 adjustment time under par. (bg), or order the inmate to remain in prison for a period  
5 that does not exceed the time remaining on the inmate's term of confinement.

NOTE: Inserts correct term consistent with the remainder of s. 304.06. There is no  
earned release ~~committee~~.  
*review*

6 ✓ **SECTION 58.** 321.66 (1) (a) 2. of the statutes, as created by 2009 Wisconsin Act  
7 56, is amended to read:

8 321.66 (1) (a) 2. An operation to provide disaster relief or humanitarian  
9 services, when requested by the federal emergency management agency; the first air  
10 force of the U.S. air force; the Civil Air Patrol national operations center; the  
11 governor; the adjutant general; the governing body, chief or acting chief executive  
12 officer, or head of emergency management services of any county, city, village, town,  
13 or federally recognized American Indian tribe or band in this state; or, in the case of  
14 a public health emergency, as defined in s. 166.02 (7) 323.02 (16), the department of  
15 health services, if that department is designated by the governor under s. ~~166.03 (1)~~  
16 ~~(b) 1.~~ 323.10, or a local health department acting under s. 251.05 (3) (e).

NOTE: Corrects cross-references. Section 166.02 (7) was renumbered to s. 323.02  
(16) by 2009 Wis. Act 42. Section 166.03 (1) (b) 1. was consolidated with s. 166.03 (1) (b)  
(intro.) and renumbered to s. 323.10 by 2009 Wis Act 42.

17 **SECTION 59.** 323.19 (1) of the statutes, as created by 2009 Wisconsin Act 42, is  
18 amended to read:

19 323.19 (1) The secretary of health services may grant a hospital a variance to  
20 a statute or rule affecting hospitals in response to a disaster as provided in s. 50.36  
21 ~~(6)~~ (6m).

NOTE: Section 50.36 (6), as created by 2009 Wis. Act 42, is renumbered s. 50.36 (6m) by this bill. ✓

1 SECTION 60. 341.09 (1) (c) of the statutes is amended to read:

2 341.09 (1) (c) Notwithstanding ~~sub.~~ sub. (2m) (a) 1. b., a dealer may collect a  
3 special handling fee of not more than \$5 if the dealer provides special assistance to  
4 a person who is applying for a temporary operation plate under sub. (2m) (a) 1. b.

NOTE: Corrects citation.

form of

5 SECTION 61. 343.23 (2) (b) of the statutes, as affected by 2009 Wisconsin Act 100,  
6 section 15, is amended to read: (B)

7 343.23 (2) (b) The information specified in pars. (a) and (am) must be filed by  
8 the department so that the complete operator's record is available for the use of the  
9 secretary in determining whether operating privileges of such person shall be  
10 suspended, revoked, canceled, or withheld, or the person disqualified, in the interest  
11 of public safety. The record of suspensions, revocations, and convictions that would  
12 be counted under s. 343.307 (2) shall be maintained permanently. The record of  
13 convictions for disqualifying offenses under s. 343.315 (2) (h) shall be maintained for  
14 at least 10 years. The record of convictions for disqualifying offenses under s.  
15 343.315 (2) (f), (j), and (L), and all records specified in par. (am), shall be maintained ✓  
16 for at least 3 years. The record of convictions for disqualifying offenses under s.  
17 343.315 (2) (a) to (e) shall be maintained permanently, except that 5 years after a  
18 licensee transfers residency to another state such record may be transferred to  
19 another state of licensure of the licensee if that state accepts responsibility for  
20 maintaining a permanent record of convictions for disqualifying offenses. Such  
21 reports and records may be cumulative beyond the period for which a license is  
22 granted, but the secretary, in exercising the power of suspension granted under s.

1 343.32 (2) may consider only those reports and records entered during the 4-year  
2 period immediately preceding the exercise of such power of suspension.

NOTE: The underscored comma was deleted by 2009 Wis. Act 100 without being shown as stricken. No change was intended.

3 SECTION 62. The treatment of 447.03 (1) (intro.) of the statutes by 2009  
4 Wisconsin Act 10 is not repealed by 2009 Wisconsin Act 42. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau under s. 13.92 (2) (1) s. 447.03 (1) (intro.) reads:

447.03 (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:

5 SECTION 63. The treatment of 757.05 (1) (a) of the statutes by 2009 Wisconsin  
6 Act 28 is not repealed by 2009 Wisconsin Act 100. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, eff. 7-1-10, 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) (a), (am) 1., (ar), (bm), (br), or (bv) or (5), 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.

7 SECTION 64. The treatment of 757.05 (1) (a) of the statutes by 2009 Wisconsin  
8 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 eff. 7-5-10, 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.

9 SECTION 65. 767.127 (1) of the statutes is amended to read:

1            767.127 (1) REQUIRED DISCLOSURE. In an action affecting the family, except an  
 2 action to affirm marriage under s. 767.001 (1) (a), the court shall require each party  
 3 to furnish, on standard forms required by the court, full disclosure of all assets owned  
 4 in full or in part by either party separately or by the parties jointly. Disclosure may  
 5 be made by each party individually or by the parties jointly. Assets required to be  
 6 disclosed include, but are not be limited to, real estate, savings accounts, stocks and ✓  
 7 bonds, mortgages and notes, life insurance, retirement interests, interest in a  
 8 partnership, limited liability company, or corporation, tangible personal property,  
 9 future interests whether vested or nonvested, and any other financial interest or  
 10 source. The court shall also require each party to furnish, on the same standard form,  
 11 information pertaining to all debts and liabilities of the parties. The form used shall  
 12 contain a statement in conspicuous print that complete disclosure of assets and debts  
 13 is required by law and deliberate failure to provide complete disclosure constitutes  
 14 perjury. The court shall require each party to attach to the disclosure form a  
 15 statement reflecting income earned to date for the current year and the most recent  
 16 statement under s. 71.65 (1) (a) that the party has received. The court may on its own  
 17 initiative and shall at the request of either party require the parties to furnish copies  
 18 of all state and federal income tax returns filed by them for the past 2 years, and may  
 19 require copies of those returns for prior years.

NOTE: Deletes word made unnecessary by 2005 Wis. Act 443. ✓

20            **SECTION 66.** The treatment of 814.63 (1) (c) of the statutes by 2009 Wisconsin  
 21 Act 28 is not repealed by 2009 Wisconsin Act 100. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference  
 bureau, eff. 7-1-10, s. 814.63 (1) (c) reads:

(c) This subsection does not apply to an action for a violation of s. 101.123 (2) (a),  
 (am) 1., (ar), (bm), (br), or (by) or (5), for a financial responsibility violation under s. 344.62



(2), for a violation under s. 343.51 (1m) (b), or a safety belt use violation under s. 347.48 (2m).

**SECTION 67.** The treatment of 814.63 (1) (c) of the statutes by 2009 Wisconsin

Act 12 <sup>and 28</sup> is not repealed by 2009 Wisconsin Act 28 and 100. All treatments stand. *pk to make cmt change*

*ave* NOTE: There is no conflict of substance. As merged by the legislative reference bureau eff. 7-5-10 s. 814.63 (1) (c) reads: *more to RB 10*

(c) This subsection does not apply to an action for a violation of s. 101.123 (2) or (2m), for a financial responsibility violation under s. 344.62 (2), for a violation under s. 343.51 (1m) (b), or a safety belt use violation under s. 347.48 (2m). *S*

**SECTION 68.** 814.63 (2) of the statutes, as affected by 2009 Wisconsin Act 28 and 100, is amended to read:

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

NOTE: The underscored "or" was removed by 2009 Wis. Act 100, but its reinsertion is necessary as a result of the treatment by Act 28. *STET: leave as typed*

**SECTION 69.** 815.18 (2) (i) of the statutes is amended to read:

815.18 (2) (i) "Farm products" has the meaning given under s. 409.102 (1) (im) (ig). *STET: leave as typed*

NOTE: Corrects cross-reference. "Farm products" is defined at s. 409.102 (1) (ig). "Farming operation" is defined at s. 409.102 (1) (im). *word*

**SECTION 70.** 895.483 (4) of the statutes, as created by 2009 Wisconsin Act 43, is amended to read:

895.483 (4) A regional structural collapse team, a member of such a team, and a local agency, as defined in s. ~~166.22~~ 323.70 (1) ~~(c)~~, that contracts with the division *(b)*

The underscored "or" was removed by 2009 Wis. Act 100, but its reinsertion is necessary as a result of the treatment by 2009 Wis. Act 28. The stricken comma was inserted by Act 28 but is unnecessary as a result of the treatment by Act 100.

strike comma

STET: leave as typed

STET: leave as typed

STET: leave as typed

(b)

1 of emergency management in the department of military affairs for the provision of  
2 a regional structural collapse team, are immune from civil liability for acts or  
3 omissions related to carrying out responsibilities under a contract under s. ~~166.218~~  
4 323.72 (1).

NOTE: Section 166.22 (1) (c) was renumbered s. 323.70 (1) ~~(c)~~ by 2009 Wis. Act 42.  
Section 166.218 is renumbered s. 323.72 by this bill. ✓

5 → SECTION 71. 938.02 (8p) of the statutes, as created by 2009 Wisconsin Act 94,  
6 is amended to read: renumbered 938.02 (8e) and  
7 938.02 ~~(8p)~~ (8e) "Indian custodian" means an Indian person who has legal custody  
8 under tribal law or custom or under state law of an Indian juvenile who is the subject  
9 of an Indian juvenile custody proceeding, as defined in s. 938.028 (2) (b), or of an  
10 Indian juvenile in need of protection or services under s. 938.13 (4), (6), (6m), or (7)  
11 who is the subject of a temporary physical custody proceeding under ss. ~~939.19~~  
12 938.19 to 938.21 or to whom temporary physical care, custody, and control has been  
13 transferred by the parent of that juvenile.

NOTE: Corrects cross-reference. There is no s. 939.19. Sections 938.19 to 938.21  
relate to custody proceedings.

14 ~~SECTION 72. 938.02 (8p) of the statutes, as created by 2009 Wisconsin Act 94,~~  
15 ~~is renumbered 938.02 (8e).~~

NOTE: Places definition in alphabetical order consistent with current style.

16 SECTION 73. 938.07 (3) of the statutes is amended to read:  
17 938.07 (3) COUNTY DEPARTMENT IN POPULOUS COUNTIES. In counties having a  
18 population of 500,000 or more, the court may order the director of the county  
19 department to provide emergency shelter care services to any juvenile whose need  
20 for the services, either by reason of need of protection and services or delinquency,  
21 is determined by the intake worker under s. 938.205. The court may authorize the  
22 director to appoint members of the county department to furnish emergency shelter

Fix component

(b)

8e

moved to table

1 care services for the juvenile. The emergency shelter care may be provided under s.  
2 938.207.

STET: leave as typed

NOTE: Delete the letter "t" that was left unstricken when the remainder of  
"therefor" was ~~stricken~~ by 2005 Wis. Act 344.

3 SECTION 74. 938.32 (1) (c) 1m. of the statutes, as created by 2009 Wisconsin Act  
4 79, is amended to read:

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

Inserts  
= correct word.

NOTE: ~~provides for parallel construction in~~ the affected sentence ~~which~~ contains  
no antecedent for "child." The original subject of the sentence is "the juvenile." Chapter  
938 relates to juveniles, Chapter 48 relates to children. Replacement of the term makes  
the provision consistent with multiple provisions in chapter 938 as created by 2009 Wis.  
Act 79, that contain otherwise identical language.

16 SECTION 75. 938.33 (4) (d) of the statutes, as created by 2009 Wisconsin Act 94,  
17 is renumbered 938.33 (4) (dm).

NOTE: Confirms renumbering by the legislative reference bureau under s. 13.92  
(1) (bm) 2. 2009 Wis. Act 79 also created a provision numbered s. 938.33 (4) (d).

18 SECTION 76. 938.357 (1) (c) 2. of the statutes, as affected by 2009 Wisconsin Act  
19 94, is amended to read:

2

1            938.357 (1) (c) 2. The court shall hold a hearing prior to ordering a change in  
 2 placement requested under subd. 1. At least 3 days prior to the hearing, the court  
 3 shall provide notice of the hearing, together with a copy of the request for the change  
 4 in placement, to the juvenile, the parent, guardian, and legal custodian of the  
 5 juvenile, all parties that are bound by the dispositional order, and, if the juvenile is  
 6 an Indian juvenile who is in need of protection or services under s. 938.13 (4), (6),  
 7 (6m), or (7), the Indian juvenile's Indian custodian and tribe. Subject to subd. ~~2m.~~  
 8 2r., if all parties consent, the court may proceed immediately with the hearing.

NOTE: Inserts correct cross-reference. Section 938.357 (1) (c) 2m., as created by  
 2009 Wis. Act 94, is renumbered s. 938.357 (1) (c) 2r. by this bill.

9            **SECTION 77.** 938.357 (1) (c) 2m. of the statutes, as created by 2009 Wisconsin  
 10 Act 94, is renumbered 938.357 (1) (c) 2r.

NOTE: Confirms renumbering by the legislative reference bureau under s. 13.92  
 (1) (bm) 2. 2009 Wis. Act 79 also created a provision numbered s. 938.357 (1) (c) 2m.

11            ~~**SECTION 78.** 938.357 (2m) (am) 1. of the statutes, as created by 2009 Wisconsin~~  
 12 Act 94, is amended to read:

13            938.357 (2m) (am) 1. If the proposed change of placement would change the  
 14 placement of an Indian juvenile placed in the home of his or her parent or Indian  
 15 custodian under s. ~~938.357~~ 938.13 (4), (6), (6m), or (7) to a placement outside that  
 16 home, a request under par. (a) shall also contain specific information showing that  
 17 continued custody of the Indian juvenile by the parent or Indian custodian is likely  
 18 to result in serious emotional or physical damage to the juvenile under s. 938.028 (4)  
 19 (d) 1., specific information showing that active efforts under s. 938.028 (4) (d) 2. have  
 20 been made to prevent the breakup of the Indian juvenile's family and that those  
 21 efforts have proved unsuccessful, a statement as to whether the new placement is in  
 22 compliance with the order of placement preference under s. 938.028 (6) (a) or, if

1 applicable, s. 938.028 (6) (b) and, if the new placement is not in compliance with that  
2 order, specific information showing good cause, as described in s. 938.028 (6) (d), for  
3 departing from that order.

(am) 2

NOTE: Corrects cross-reference consistent with s. 938.357 (2m) (a). There is no s. 938.357 (6m) or (7). Section 938.13 (4), (6), (6m), or (7) relate to conditions that provide jurisdiction to a court when a juvenile is alleged to be in need of protective services.

protection or

4 **SECTION 79.** 938.357 (2m) (b) of the statutes, as affected by 2009 Wisconsin Act  
5 94, section 358, is amended to read:

6 938.357 (2m) (b) *Hearing; when required.* The court shall hold a hearing prior to  
7 ordering any change in placement requested or proposed under par. (a) if the request  
8 states that new information is available that affects the advisability of the current  
9 placement. A hearing is not required if the requested or proposed change in  
10 placement does not involve a change in placement of a juvenile placed in the  
11 juvenile's home to a placement outside the juvenile's home, written waivers of  
12 objection to the proposed change in placement are signed by all parties entitled to  
13 receive notice under this paragraph, and the court approves. If a hearing is  
14 scheduled, not less than 3 days before the hearing the court shall notify the juvenile,  
15 the parent, guardian, and legal custodian of the juvenile, any foster parent,  
16 treatment foster parent, or other physical custodian described in s. 48.62 (2) of the  
17 juvenile, all parties who are bound by the dispositional order, and, if the juvenile is  
18 an Indian juvenile who is in need of protection or services under s. 938.13 (4), (6),  
19 (6m), or (7), the Indian juvenile's Indian custodian and tribe. A copy of the request  
20 or proposal for the change in placement shall be attached to the notice. Subject to par.  
21 ~~(6m)~~ (br), if all of the parties consent, the court may proceed immediately with the  
22 hearing.

NOTE: Inserts correct cross-reference. Section 938.357 (2m) (bm), as created by 2009 Wis. Act 94, is renumbered s. 938.357 (2m) (br) by this bill.

*checked  
a.g. D  
for use on page 51*

1 **SECTION 80.** 938.357 (2m) (b) of the statutes, as affected by 2009 Wisconsin Act  
2 94, section 359, is amended to read:

3 938.357 (2m) (b) *Hearing; when required.* The court shall hold a hearing prior to  
4 ordering any change in placement requested or proposed under par. (a) if the request  
5 states that new information is available that affects the advisability of the current  
6 placement. A hearing is not required if the requested or proposed change in  
7 placement does not involve a change in placement of a juvenile placed in the  
8 juvenile's home to a placement outside the juvenile's home, written waivers of  
9 objection to the proposed change in placement are signed by all parties entitled to  
10 receive notice under this paragraph, and the court approves. If a hearing is  
11 scheduled, not less than 3 days before the hearing the court shall notify the juvenile,  
12 the parent, guardian, and legal custodian of the juvenile, any foster parent or other  
13 physical custodian described in s. 48.62 (2) of the juvenile, all parties who are bound  
14 by the dispositional order, and, if the juvenile is an Indian juvenile who is in need of  
15 protection or services under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian  
16 custodian and tribe. A copy of the request or proposal for the change in placement  
17 shall be attached to the notice. Subject to par. (bm) (br), if all of the parties consent,  
18 the court may proceed immediately with the hearing.

NOTE: Inserts correct cross-reference. Section 938.357 (2m) (bm), as created by  
2009 Wis. Act 94, is renumbered s. 938.357 (2m) (br) by this bill.

19 **SECTION 81.** 938.357 (2m) (bm) of the statutes, as created by 2009 Wisconsin  
20 Act 94, is renumbered 938.357 (2m) (br).

NOTE: Confirms renumbering by the legislative reference bureau under s. 13.92  
(1) (bm) 2. 2009 Wis. Act 79 also created a provision numbered s. 938.357 (2m) (bm).

21 **SECTION 82.** 938.363 (1) (b) of the statutes, as affected by 2009 Wisconsin Act  
22 79, section 138, and 2009 Wisconsin Act 94, section 367, is amended to read:

1           938.363 (1) (b) If a hearing is held, at least 3 days ~~prior to~~ before the hearing  
2 the court shall notify the juvenile, the juvenile's parent, guardian, and legal  
3 custodian, all parties bound by the dispositional order, the juvenile's foster parent,  
4 treatment foster parent, or other physical custodian described in s. 48.62 (2), and the  
5 district attorney or corporation counsel in the county in which the dispositional order  
6 was entered. If the juvenile is an Indian juvenile who is in need of protection or  
7 services under s. 938.13 (4), (6), (6m), or (7), the court shall also notify the Indian  
8 juvenile's Indian custodian and, if that juvenile is placed outside the home of his or  
9 her parent or Indian custodian, the Indian juvenile's tribe. A copy of the request or  
10 proposal shall be attached to the notice. If all parties consent, the court may proceed  
11 immediately with the hearing. No revision may extend the effective period of the  
12 original order, or revise an original order under s. 938.34 (3) (f) or (6) (am) to impose  
13 more than a total of 30 days of detention, nonsecure custody, or inpatient treatment  
14 on a juvenile.

NOTE: "Prior to" was inserted by 2009 Wis. Act 79, but made unnecessary by the  
treatment by 2009 Wis. Act 94.

15           **SECTION 83.** The treatment of 938.365 (2) of the statutes by 2009 Wisconsin Act  
16 79, section 142, is not repealed by 2009 Wisconsin Act 94, section 370. Both  
17 treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference  
bureau, s. 938.365 (2) reads:

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

1           **SECTION 84.** 938.365 (2) of the statutes, as affected by 2009 Wisconsin Act 94,  
2 section 371, is amended to read:

3           938.365 (2) **NOTICE.** No order may be extended without a hearing. The court  
4 shall provide notice of the time and place of the hearing to the juvenile ~~or the~~  
5 ~~juvenile's guardian ad litem or counsel,~~ the juvenile's parent, guardian, and legal  
6 custodian, all of the parties present at the original hearing, the juvenile's foster  
7 parent or other physical custodian described in s. 48.62 (2), and the district attorney  
8 or corporation counsel in the county in which the dispositional order was entered.  
9 If the juvenile is an Indian juvenile who is in need of protection or services under s.  
10 938.13 (4), (6), (6m), or (7), the court shall also notify the Indian juvenile's Indian  
11 custodian and, if that juvenile is placed outside the home of his or her parent or  
12 Indian custodian, the Indian juvenile's tribe.

NOTE: 2009 Wis. Act 94, ~~s~~ 371, repealed and recreated s. 98.365 (2) without taking cognizance of the repeal and recreation of the provision by 2009 Wis. Act 79, ~~s~~ 143. There is no mutual inconsistency between the treatments made by the ~~2~~ Acts and the substantive changes made by Act 79 are made here in order to give effect to both acts.

section

5

two

13           **SECTION 85.** The treatment of 938.365 (2m) (a) 1. of the statutes by 2009  
14 Wisconsin Act 79, section 146, is not repealed by 2009 Wisconsin Act 94, section 373.  
15 Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 938.365 (2m) (a) 1., together with s. 938.365 (2m) (a) 1m. that resulted from the division of s. 938.365 (2m) (a) 1. by 2009 Wis. Act 94, s. 373, read:

1. Any party may present evidence relevant to the issue of extension. If the juvenile is placed outside of his or her home, the person or agency primarily responsible for providing services to the juvenile shall present as evidence specific information showing that the person 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, unless return of the juvenile to the home is the goal of the permanency plan and any of the circumstances under s. 938.355 (2d) (b) 1. to 4. applies. If an Indian juvenile is placed outside the home of his or her parent or Indian custodian under s. 938.13 (4), (6), (6m), or (7), the person or agency primarily responsible for providing services to the Indian juvenile shall also present as evidence specific information showing that active efforts under s. 938.028 (4) (d) 2. have been made to prevent the breakup of the Indian juvenile's family and that those efforts have proved unsuccessful.

in RB9



1m. The court shall make findings of fact and conclusions of law based on the evidence. The findings of fact shall include a finding as to whether reasonable efforts were made by the agency primarily responsible for providing services to the juvenile to achieve the goal of the juvenile's permanency plan, including, if appropriate, through an out-of-state placement, unless return of the juvenile to the home is the goal of the permanency plan and the court finds that any of the circumstances under s. 938.355 (2d) (b) 1. to 4. applies. 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 findings of fact shall also include a finding that active efforts under s. 938.028 (4) (d) 2. were made to prevent the breakup of the Indian juvenile's family and that those efforts have proved unsuccessful. An order shall be issued under s. 938.355.

1 **SECTION 86.** 938.365 (2m) (a) 1m. of the statutes, as created by 2009 Wisconsin  
 2 Act 79, is renumbered 938.365 (2m) (a) 1r.

NOTE: Confirms renumbering by the legislative reference bureau under s. 13.92 (1) (bm) 2. The treatment of s. 938.365 (2m) (a) 1. by 2009 Wis. Act 94 resulted in another provision being numbered s. 938.365 (2m) (a) 1m.

3 **SECTION 87.** The treatment of 938.365 (2m) (ag) of the statutes by 2009  
 4 Wisconsin Act 79, section 150, is not repealed by 2009 Wisconsin Act 94, section 377.  
 5 Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 938.365 (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.

938.365  
(2m)  
(B)

6 **SECTION 88.** 938.365 (2m) (ag) of the statutes, as affected by 2009 Wisconsin  
 7 Act 94, section 378, is amended to read:

8 (ag) The court shall give a foster parent or other physical custodian described  
 9 in s. 48.62 (2) who is notified of a hearing under sub. (2) an opportunity a right to be  
 10 heard at the hearing by permitting the foster parent or other physical custodian to  
 11 make a written or oral statement during the hearing, or to submit a written  
 12 statement prior to the hearing, relevant to the issue of extension. A foster parent or

1 other physical custodian who receives notice of a hearing under sub. (2) and an  
2 opportunity a right to be heard under this paragraph does not become a party to the  
3 proceeding on which the hearing is held solely on the basis of receiving that notice  
4 and having the opportunity right to be heard. section 938

NOTE: 2009 Wis. Act 94, s. 378, repealed and recreated s. 938.365 (2m) (ag) without  
taking cognizance of the repeal and recreation of the provision by 2009 Wis. Act 79, s. 151.  
There is no mutual inconsistency between the treatments made by the Acts and the  
substantive changes made by Act 79 are made here in order to give effect to both acts.

5 SECTION 89. The treatment of 938.38 (3) (intro.) of the statutes by 2009  
6 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:

7 SECTION 90. 938.38 (4) (i) of the statutes, as created by 2009 Wisconsin Act 94,  
8 is renumbered 938.38 (4) (im).

NOTE: Confirms renumbering by the legislative reference bureau under s. 13.92  
(1) (bm) 2. 2009 Wis. Act 79 also created a provision numbered s. 938.38 (4) (i).

9 SECTION 91. 938.38 (4m) of the statutes, as affected by 2009 Wisconsin Act 79,  
10 sections 158 and 159, and 2009 Wisconsin Act 94, sections 381 and 382, is repealed  
11 and recreated to read:

12 938.38 (4m) (title) REASONABLE EFFORTS NOT REQUIRED; PERMANENCY PLAN  
13 DETERMINATION HEARING. (a) If in a proceeding under s. 938.21, 938.32, 938.355,  
14 938.357, or 938.365 the court finds that any of the circumstances in s. 938.355 (2d)  
15 (b) 1. to 4. applies with respect to a parent, the court shall hold a hearing within 30  
16 days after the date of that finding to determine the permanency plan for the juvenile.  
17 If a hearing is held under this paragraph, the agency responsible for preparing the  
18 permanency plan shall file the permanency plan with the court not less than 5 days  
19 before the date of the hearing. At the hearing, the court shall consider placing the

1 juvenile in a placement outside this state if the court determines that such a  
2 placement would be in the best interests of the juvenile and appropriate to achieving  
3 the goal of the juvenile's permanency plan.

4 (b) At least 10 days before the date of the hearing the court shall notify the  
5 juvenile; any parent, guardian, and legal custodian of the juvenile; any foster parent,  
6 treatment foster parent, or other physical custodian described in s. 48.62 (2) of the  
7 juvenile, the operator of the facility in which the juvenile is living, or the relative with  
8 whom the juvenile is living; and, if the juvenile is an Indian juvenile who is or is  
9 alleged to be in need of protection or services under s. 938.13 (4), (6), (6m), or (7), the  
10 Indian juvenile's Indian custodian and tribe of the time, place, and purpose of the  
11 hearing, of the issues to be determined at the hearing, and of the fact that they shall  
12 have a right to be heard at the hearing.

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

1 written or oral statement to be made or submitted, the court may nonetheless require  
2 the juvenile to be physically present at the hearing.

3 (d) The court shall give a foster parent, treatment foster parent, other physical  
4 custodian described in s. 48.62 (2), operator of a facility, or relative who is notified  
5 of a hearing under par. (b) a right to be heard at the hearing by permitting the foster  
6 parent, treatment foster parent, other physical custodian, operator, or relative to  
7 make a written or oral statement during the hearing, or to submit a written  
8 statement prior to the hearing, relevant to the issues to be determined at the hearing.  
9 The foster parent, treatment foster parent, other physical custodian, operator of a  
10 facility, or relative does not become a party to the proceeding on which the hearing  
11 is held solely on the basis of receiving that notice and right to be heard.

NOTE: 2009 <sup>Wis.</sup> Wisconsin Act 79, section 158, and 2009 <sup>Wis.</sup> Wisconsin Act 94, section 381, create very similar, but not identical, provisions that are numbered s. 938.38 (4m). This treatment gives effect to both acts by merging the text of each provision and eliminating minor differences in punctuation and sentence structure. The provision created as s. 938.38 (4m) (c) in Act 94 is created as s. 938.38 (4m) (d) in Act 79 and a provision with no counterpart in Act 94 is created as s. 938.38 (4m) (c) in Act 79. The provision created as 938.38 (4m) (c) in Act 79 is recreated here as s. 938.38 (4m) (c), and the provision created as s. 938.38 (4m) (c) in Act 94 and as s. 938.38 (4m) (d) in Act 79 is recreated here as s. 938.38 (4m) (d). Act 79, <sup>§</sup> 159, and Act 94, <sup>§</sup> 382, each eliminate the phrase "treatment foster care" in s. 48.38 (4m), as created by the respective acts, at a subsequent date. The next section of this bill gives effect to that subsequent change by Act 79, <sup>§</sup> 159 and Act 94, <sup>§</sup> 382.

12 SECTION 92. 938.38 (4m) (b) and (d) of the statutes, as affected 2009 Wisconsin  
13 Act (this act), are amended to read:

14 938.38 (4m) (b) At least 10 days before the date of the hearing the court shall  
15 notify the juvenile; any parent, guardian, and legal custodian of the juvenile; any  
16 foster parent, ~~treatment foster parent~~, or other physical custodian described in s.  
17 48.62 (2) of the juvenile, the operator of the facility in which the juvenile is living, or  
18 the relative with whom the juvenile is living; and, if the juvenile is an Indian juvenile  
19 who is or is alleged to be in need of protection or services under s. 938.13 (4), (6), (6m),

1 or (7), the Indian juvenile's Indian custodian and tribe of the time, place, and purpose  
2 of the hearing, of the issues to be determined at the hearing, and of the fact that they  
3 shall have a right to be heard at the hearing.

~~treatment foster parent~~

4 (d) The court shall give a foster parent, other physical custodian described in  
5 s. 48.62 (2), operator of a facility, or relative who is notified of a hearing under par.  
6 (b) a right to be heard at the hearing by permitting the foster parent, ~~treatment foster~~  
7 ~~parent~~, other physical custodian, operator, or relative to make a written or oral  
8 statement during the hearing, or to submit a written statement prior to the hearing,  
9 relevant to the issues to be determined at the hearing. The foster parent, ~~treatment~~  
10 ~~foster parent~~, other physical custodian, operator of a facility, or relative does not  
11 become a party to the proceeding on which the hearing is held solely on the basis of  
12 receiving that notice and right to be heard.

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NOTE: Gives effect to 2009 ~~Wisconsin~~ Act 79, section 159, and 2009 ~~Wisconsin~~ Act 94, section 382, by eliminating the references to "treatment foster parent," in s. 938.38 (4m) (b) and (d), as affected by the previous section of this bill.

13 **SECTION 93.** 938.38 (5) (b) of the statutes, as affected by 2009 Wisconsin Act 79,  
14 section 160, and 2009 Wisconsin Act 94, section 383, is amended to read:

15 938.38 (5) (b) The court or the agency shall notify the juvenile; the juvenile's  
16 parent, guardian, and legal custodian; and the juvenile's foster parent or treatment  
17 foster parent, the operator of the facility in which the juvenile is living, or the relative  
18 with whom the juvenile is living; and, if the juvenile is an Indian juvenile who is  
19 placed outside the home of his or her parent or Indian custodian under s. 938.13 (4),  
20 (6), (6m), or (7), the Indian juvenile's Indian custodian and tribe of the time, place,  
21 and purpose of the review, of the issues to be determined as part of the review, and  
22 of the fact that they shall have right to be heard at the review as provided in par. (bm)  
23 1. The court or agency shall notify the person representing the interests of the public,

1 the juvenile's counsel, and the juvenile's guardian ad litem of the time, place, and  
 2 purpose of the review, of the issues to be determined as part of the review, and of the  
 3 fact that they may have an opportunity to be heard at the review as provided in par.  
 4 (bm) 1. The notices under this paragraph shall be provided in writing not less than  
 5 30 days before the review and copies of the notices shall be filed in the juvenile's case  
 6 record.

NOTE: Deletes unnecessary "and."

*create a.r.  
"E" for use  
on p. 51* ✓

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

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

no 9) The proceeding under s. 938.38 (5)(b) is referred to as a "review" throughout the provisions.

1 30 days before the review and copies of the notices shall be filed in the juvenile's case  
2 record.

Section

NOTE: 2009 Wis. Act 94, ~~s. 384~~, repealed and recreated s. 938.38 (5) (b) without taking cognizance of the repeal and recreation of the provision by 2009 Wis. Act 79, ~~s. 161~~. There is no mutual inconsistency between the treatments made by the ~~2~~ acts, and the substantive changes made by Act 79 are made here in order to give effect to both acts.

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two

3 **SECTION 95.** 938.38 (5) (bm) 1. of the statutes, as affected by 2009 Wisconsin  
4 Act 79, section 163, is amended to read:

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

NOTE: 2009 Wis. Act 79 deleted "review" without showing it as stricken and inserted "hearing" without showing it as scored. No change was intended. Review replaced "hearing" throughout Act 79. ~~to be heard at the review~~

17 **SECTION 96.** 938.38 (5) (c) 8. of the statutes, as created by 2009 Wisconsin Act  
18 94, is renumbered 938.38 (5) (c) 8m.

NOTE: Confirms renumbering by the legislative reference bureau under s. 13.92 (1) (bm) 2. 2009 Wis. Act 79 also created a provision numbered 938.38 (5) (c) 8.

19 **SECTION 97.** The treatment of 938.38 (5) (d) of the statutes by 2009 Wisconsin  
20 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.

1           **SECTION 98.** 938.38 (5) (e) of the statutes, as affected by 2009 Wisconsin Act 79,  
2 section 169, and 94, section 387, is amended to read:

2009 Wisconsin Act

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

NOTE: Deletes comma and "and" inserted by 2009 Wis. Act 79 but made unnecessary surplusage by 2009 Wis. Act 94. create a.r. "F" for use on p. 51

12           **SECTION 99.** 938.38 (5) (e) of the statutes, as affected by 2009 Wisconsin Act 94,  
13 section 388, is amended to read:

14           938.38 (5) (e) Within 30 days, the agency shall prepare a written summary of  
15 the determinations under par. (c) and shall provide a copy to the court that entered



1 the order; the juvenile or the juvenile's counsel or guardian ad litem; the person  
2 representing the interests of the public; the juvenile's parent, guardian, or legal  
3 custodian; the juvenile's foster parent or, the operator of the facility where the  
4 juvenile is living, or the relative with whom the juvenile is living; and, if the juvenile  
5 is an Indian juvenile who is placed outside the home of his or her parent or Indian  
6 custodian under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian  
7 and tribe.

NOTE: 2009 Wis. Act 94, ~~§~~ 388, repealed and recreated s. 938.38 (5) (e) without  
taking cognizance of the repeal and recreation of the provision by 2009 Wis. Act 79, ~~§~~ 170.  
There is no mutual inconsistency between the treatments made by the ~~2~~ Acts and the  
substantive changes made by Act 79 are made here in order to give effect to both acts.

Section

5

two

8 **SECTION 100.** The treatment of 938.38 (5m) (b) of the statutes by 2009  
9 Wisconsin Act 79, section 171, is not repealed by 2009 Wisconsin Act 94, section 389.  
10 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.

11 **SECTION 101.** 938.38 (5m) (b) of the statutes, as affected by 2009 Wisconsin Act  
12 94, section 390, is amended to read:

938.38 (5m)

13 (b) Not less than 30 days before the date of the hearing, the court shall notify  
14 the juvenile; the juvenile's parent, guardian, and legal custodian; and the juvenile's  
15 foster parent, the operator of the facility in which the juvenile is living, or the relative

B

1 with whom the juvenile is living; of the time, place, and purpose of the hearing, of the  
 2 issues to be determined at the hearing, and of the fact that they shall have a right  
 3 to be heard at the hearing as provided in par. (c) 1. and shall notify the juvenile's  
 4 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.

NOTE: 2009 Wis. Act 94, ~~§~~390, repealed and recreated s. 48.38 (5m) (b) without taking cognizance of the repeal and recreation of the provision by 2009 Wis. Act 79, ~~§~~172. There is no mutual inconsistency between the treatments made by the ~~2~~ Acts, and the substantive changes made by Act 79 are made here in order to give effect to both acts.

section

5

two

11 **SECTION 102.** 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 103.** 941.29 (1) (f) of the statutes is amended to read:  
 14 941.29 (1) (f) Enjoined under an injunction issued under s. 813.12 or 813.122  
 15 or under a tribal injunction, as defined in s. 813.12 (1) (e), issued by a court

1 established by any federally recognized Wisconsin Indian tribe or band, except the  
 2 Menominee Indian tribe of Wisconsin, that includes notice to the respondent that he  
 3 or she is subject to the requirements and penalties under ~~s. 941.29~~ this section and  
 4 that has been filed under s. 806.247 (3).

NOTE: Corrects citation form.

5 **SECTION 104.** 946.15 (4) of the statutes, as affected by 2009 Wisconsin Act 28,  
 6 is amended to read:

7 946.15 (4) Any person employed on a project on which a prevailing wage rate  
 8 determination has been issued by the department of workforce development under  
 9 s. 66.0903 (3), 66.0904 (4), 103.49 (3), 103.50 (3), or 229.8275 (3) or by a local  
 10 governmental unit, as defined in s. 66.0903 (1) (d), under s. 66.0903 (6) or 66.0904  
 11 (6) who permits any part of the wages to which that person is entitled under the  
 12 prevailing wage rate determination issued by the department or local governmental  
 13 unit to be deducted from his or her pay is guilty of a Class C misdemeanor, unless the  
 14 deduction would be permitted under 29 CFR 3.5 or 3.6 from a person who is working  
 15 on a project that is subject to 40 USC 3142.

NOTE: The underscored text was deleted by 2009 Wis. Act 28 without being shown  
 as stricken. No change was intended.

16 **SECTION 105.** 971.17 (1g) (title) of the statutes is created to read:

17 971.17 (1g) (title) NOTICE OF RESTRICTION ON FIREARM POSSESSION.

NOTE: The other subsections in s. 971.17 have titles.

18 **SECTION 106.** 973.195 (1r) (e) of the statutes is amended to read:

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

“(br)” was deleted without being shown as stricken. The change was intended.

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).

NOTE: Corrects cross-reference. Section 302.113 (9g) (g) 3. was renumbered to s. 302.1135 (7) (c) by 2009 Wis. Act 28. ✓

3 SECTION 107. 2009 Wisconsin Act 42, section 168 is amended by replacing  
4 “166.21 (2) (b) (r) 323.61 (2) (br)” with “166.21 (2) (br) 323.61 (2) (br)”.

NOTE: The stricken text did not correctly reflect the statute number.

5 SECTION 108. 2009 Wisconsin Act 42, section 99 is amended by replacing “Each  
6 such may appropriate” with “Each such governing body may appropriate”.

NOTE: “Governing body” was deleted without being shown as stricken. The change was intended. ✓

7 SECTION 109. 2009 Wisconsin Act 42, section 104 is amended by replacing  
8 “whichever is applicable,” with “whichever is applicable.”

NOTE: A comma was inserted without being shown as underscored. The change was intended.

9 SECTION 110. 2009 Wisconsin Act 42, section 124 is amended by replacing “USE  
10 OF A TEMPORARY LOCATION” with “USE OF EMERGENCY A TEMPORARY LOCATION”.

NOTE: “Emergency” was deleted without being shown as stricken. The change was intended. ✓

11 SECTION 111. 2009 Wisconsin Act 42, section 212 is amended by replacing  
12 “23.60 (3) and the” with “23.60 (3) and the”.

NOTE: A blank space was stricken and scored. No change was intended.

13 SECTION 112. 2009 Wisconsin Act 42, section 245 is amended by replacing “An  
14 individual who at any time” with “An individual who, at any time”.

NOTE: A comma was deleted without being shown as stricken. The change was intended. ✓

15 SECTION 113. 2009 Wisconsin Act 76, section 145 is amended by replacing “s.  
16 120.13 (14)” with “s. 120.13 (4)”.

NOTE: The stricken text did not match the statute.

“(4)” was deleted without being stricken. The change was intended but the characters “(14)” which were not a part of the statute text were shown as stricken instead.

but the characters “(b)(r)” which were not a part of the statute text were shown as stricken instead.

sep  
treatmt  
/ 323.61  
(1)  
(14)  
in  
RB

323

323

- 51 -

use a.r. "C"  
from page 13

LRB-4491/Plins  
BJH:.....

use a.r. "B"  
from page 11

(by Section \*)  
(CS)

(CS)  
(by Section \*)

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**SECTION 114.** 2009 Wisconsin Act 2, section 69, is amended by replacing "under under s. 20.435 (4) (jw)" with "under s. 20.435 (4) (jw)".  
NOTE: Deletes repeated word in s. 50.38 (6) (a) 1. under s. 35.17.

**SECTION 115. Effective dates.** This act takes effect on the day after publication, except as follows:

(1) The treatment of section 118.07 (4) of the statutes take effect on October 1, 2010.

(2) The amendment of sections 48.357 (2m) (b), by section \_\_\_\_ (as affected by Act 94, section 92), 48.365 (2m) (ag), 48.38 (4m) (b) and (d), (5) (b) by section \_\_\_\_ (as affected by Act 94, section 116), (bm) 1., and (e) by section \_\_\_\_ (as affected by Act 94, section 120), and (5m) (b), by section \_\_\_\_ (as affected by Act 94, section 122), 48.43 (5m), 938.357 (2m) (b), by section \_\_\_\_ (as affected by Act 94, section 359), 938.365 (2) and (2m) (ag), and 938.38 (4m) (b) and (d), (5) (b) by section \_\_\_\_ (as affected by Act 94, section 384), (bm) 1., and (e) by section \_\_\_\_ (as affected by Act 94, section 388), and (5m) (b), by section \_\_\_\_ (as affected by Act 94, section 390) of

the statutes take effect on the date state<sup>s</sup> in the notice provided by the secretary of children and families and published in the Wisconsin Administrative Register under section 48.62 (9) of the statutes, or on the day after publication, whichever is later.

(3) The amendment of 302.46 (1) (a) of the statutes takes effect on July 5, 2010.

(4) The amendment of 343.31 (4) and 814.63 (2) of the statutes takes effect on July 1, 2010.

(by Section \*)  
(CS)

use a.r. "E"  
from page 44

(by Section \*)  
(CS)

use a.r. "F"  
from page 46

Insert 1812

Section #. 106.50 (5m) (dm) (intro.) of the statutes, as created by 2009 Wisconsin Act 95, is amended to read:

Assault

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

History: 1971 c. 185 s. 1; 1971 c. 228 s. 42; 1971 c. 230; 1971 c. 307 s. 51; Stats. 1971 s. 101.22; 1975 c. 94, 275, 421, 422; 1977 c. 29; 1977 c. 418 s. 929 (55); 1979 c. 110; 1979 c. 177 s. 85; 1979 c. 188, 221, 355; 1981 c. 112, 180; 1981 c. 391 s. 210; 1983 a. 27, 189; 1985 a. 238, 319; 1987 a. 262; 1989 a. 47 ss. 2 to 5, 8 to 11; 1989 a. 94, 106, 139, 359; 1991 a. 295, 315; 1993 a. 27; 1995 a. 27 s. 3687; Stats. 1995 s. 106.04; 1995 a. 225; 1995 a. 448 ss. 66, 68; 1997 a. 112, 237, 312; 1999 a. 82 ss. 38 to 74; Stats. 1999 s. 106.50; 1999 a. 150 s. 672; 1999 a. 162; 2001 a. 30 s. 108; 2001 a. 109; 2005 a. 25; 2007 a. 11; 2009 a. 95.

Makes terminology consistent with the defined term and with usage throughout the statutes.

NOTE: The term defined in s. 106.50 (1m) (u) as created by 2009 Wisconsin Act 95, is status as a victim of domestic abuse, sexual abuse, or stalking.

as created by 2009 Wisconsin Act 95, is status as a victim of domestic abuse, sexual abuse, or stalking. assault, or assault.

LPS: use note:std

~~MP don't do this~~

Insert 18-12

Section #. 106.50 (5m) (dm) 1. of the statutes, as created by 2009 Wisconsin Act 95, is amended to read:

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

History: 1971 c. 185 s. 1; 1971 c. 228 s. 42; 1971 c. 230; 1971 c. 307 s. 51; Stats. 1971 s. 101.22; 1975 c. 94, 275, 421, 422; 1977 c. 29; 1977 c. 418 s. 929 (55); 1979 c. 110; 1979 c. 177 s. 85; 1979 c. 188, 221, 355; 1981 c. 112, 180; 1981 c. 391 s. 210; 1983 a. 27, 189; 1985 a. 238, 319; 1987 a. 262; 1989 a. 47 ss. 2 to 5, 8 to 11; 1989 a. 94, 106, 139, 359; 1991 a. 295, 315; 1993 a. 27; 1995 a. 27 s. 3687; Stats. 1995 s. 106.04; 1995 a. 225; 1995 a. 448 ss. 66, 68; 1997 a. 112, 237, 312; 1999 a. 82 ss. 38 to 74; Stats. 1999 s. 106.50; 1999 a. 150 s. 672; 1999 a. 162; 2001 a. 30 s. 108; 2001 a. 109; 2005 a. 25; 2007 a. 11; 2009 a. 95.

NOTE: See the ~~previous~~ section of this bill.

LPS: use note:std

Insert 18-12

(intro.)

Section #. 106.50 (5m) (dm) 2. of the statutes, as created by 2009 Wisconsin Act 95, is amended to read:

assault

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

- a. Sought an injunction under s. 813.12, 813.122, 813.123, or 813.125 enjoining the person from appearing on the premises.
- b. Upon receiving notice under s. ~~704.17~~, provided a written statement to the landlord indicating that the person will no longer be an invited guest of the tenant and has not subsequently invited the person to be a guest of the tenant.

History: 1971 c. 185 s. 1; 1971 c. 228 s. 42; 1971 c. 230; 1971 c. 307 s. 51; Stats. 1971 s. 101.22; 1975 c. 94, 275, 421, 422; 1977 c. 29; 1977 c. 418 s. 929 (55); 1979 c. 110; 1979 c. 177 s. 85; 1979 c. 188, 221, 355; 1981 c. 112, 180; 1981 c. 391 s. 210; 1983 a. 27, 189; 1985 a. 238, 319; 1987 a. 262; 1989 a. 47 ss. 2 to 5, 8 to 11; 1989 a. 94, 106, 139, 359; 1991 a. 295, 315; 1993 a. 27; 1995 a. 27 s. 3687; Stats. 1995 s. 106.04; 1995 a. 225; 1995 a. 448 ss. 66, 68; 1997 a. 112, 237, 312; 1999 a. 82 ss. 38 to 74; Stats. 1999 s. 106.50; 1999 a. 150 s. 672; 1999 a. 162; 2001 a. 30 s. 108; 2001 a. 109; 2005 a. 25; 2007 a. 11; 2009 a. 95.

NOTE: See previous sections

See the previous two sections of this bill

LPS: use note: std