

2013 DRAFTING REQUEST

Bill

Received: 12/5/2013 Received By: gmalaise
Wanted: 12/6/2013 4:00:00 PM Same as LRB:
For: Children and Families 6-1212 By/Representing: Kimber Liedl
May Contact: Drafter: gmalaise
Subject: Children - out-of-home placement Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email: kimberly.liedl@wisconsin.gov
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Extended out-of-home care to age 21 for children with individualized educational programs

Instructions:

See attached--draft companion to -2915/1

Drafting History:

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|--------------|-----------------------|-----------------------|----------------------|----------------|----------------------|----------------------|-----------------|
| /? | gmalaise 12/6/2013 | csicilia 12/6/2013 | jmurphy 12/6/2013 | _____ | | | |
| /1 | | | | _____ | lparisi 12/6/2013 | lparisi 12/6/2013 | State S&L |

FE Sent For:

at intro

<END>

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| /? | gmalaise 12/6/2013 | csicilia 12/6/2013 | jmurphy 12/6/2013 | _____ | | | |
| /1 | | | | _____ | lparisi 12/6/2013 | | State S&L |

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|--------------|----------------|---------------------|--------------|----------------|------------------|-----------------|-----------------|
| /? | gmalaise | 1 cjs 12/6 13 | Jm 12/6 | self | | | |

FE Sent For:

<END>

Malaise, Gordon

From: Liedl, Kimberly - DCF <Kimberly.Liedl@wisconsin.gov>
Sent: Thursday, December 05, 2013 8:39 AM
To: Malaise, Gordon
Cc: Buschman, Sara - DCF
Subject: FC to 21 draft - final change

Gordon, my profuse apologies, but we have one more small change to the foster care to 21 draft. Please strike out the language in p. 26, lines 17-18, "an agency that is primarily responsible for providing supervision of a person placed in a supervised independent living arrangement". We are concerned that this language would make DCF employees fall under the background check provision, which is unnecessary since people providing this type of supervision would be covered in other provisions.

This should be the last edit from DCF on this draft. As you make this change, could you please also draft a companion bill? We are in the process of lining up legislators so that we can hopefully have the bill heard later this month.

Thanks again for all of your help with this lengthy draft. We very much appreciate it!
Kimber



TODAY
 State of Wisconsin
 2013 - 2014 LEGISLATURE



LRB-2013-01
 GMM:cjs:rs

3776/1

LN 1246
 Today
 (Companion)
2013 BILL
no changes

Stays

Cor Law

1 AN ACT to repeal 48.44 (2), 48.78 (2) (d) 3., 301.26 (4) (cm) 2., 302.11 (10), 302.17
 2 (3), 302.255, 304.15, 938.992 (3) and 946.42 (3) (d); to renumber and amend
 3 48.355 (4), 48.357 (6), 48.365 (5), 48.38 (4) (ar), 48.44 (1), 48.619, 938.357 (6),
 4 938.365 (5) and 938.38 (4) (ar); to amend 20.410 (3) (cg), 48.235 (1) (e), 48.33
 5 (4) (intro.), 48.335 (3g) (intro.), 48.357 (1) (am) 2. (intro.), 48.357 (2), 48.357 (2m)
 6 (a), 48.357 (2m) (b), 48.357 (2v) (a) 3., 48.38 (2) (intro.), 48.38 (2) (g), 48.385,
 7 48.48 (17) (c) 4., 48.481 (2), 48.57 (3) (a) 4., 48.57 (3m) (a) 1., 48.57 (3n) (a) 1.,
 8 48.57 (3n) (am) 6. a., 48.64 (4) (a), 48.64 (4) (c), 48.645 (1) (intro.), 48.645 (1) (a),
 9 48.645 (2) (a) 3., 48.645 (2) (b), 48.685 (1) (am), 146.82 (2) (a) 18m., 227.03 (4),
 10 252.15 (3m) (d) 15., 301.03 (9), 301.12 (2), 301.26 (4) (a), 301.26 (4) (b), 301.26
 11 (4) (c), 301.26 (4) (d) 1m., 302.11 (1), 302.17 (2), 302.31 (7), 767.405 (8) (b) 1.,
 12 767.405 (10) (e) 1., 767.41 (2) (b) 2. c., 767.41 (5) (am) 12., 905.045 (1) (a), 938.235
 13 (1) (e), 938.33 (4) (intro.), 938.335 (3g) (intro.), 938.355 (4) (a), 938.355 (6) (a) 1.,
 14 938.355 (6) (a) 2., 938.355 (6d) (a) 1., 938.355 (6d) (a) 2., 938.355 (6d) (b) 1.,

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1 938.355 (6d) (b) 2., 938.355 (6d) (c) 1., 938.355 (6d) (c) 2., 938.355 (6m) (a)
2 (intro.), 938.357 (1) (am) 2. (intro.), 938.357 (2), 938.357 (2m) (a), 938.357 (2m)
3 (b), 938.357 (2v) (a) 3., 938.357 (4g) (b), 938.38 (2) (intro.), 938.44, 938.53,
4 938.57 (3) (a) 4., 938.595, 938.78 (2) (d) 3., 946.42 (1) (a) 1. f., 946.44 (2) (d),
5 946.45 (2) (d) and 976.08; **to repeal and recreate** 48.366; and **to create** 48.355
6 (4) (b) 4., 48.357 (1) (am) 2r., 48.357 (2m) (bv), 48.357 (6) (a) 4., 48.365 (5) (b) 4.,
7 48.38 (4) (ar) 2., 48.38 (4) (fg) 6., 48.38 (5) (c) 9., 48.619 (2), 48.64 (4) (d), 938.355
8 (4) (am) 4., 938.355 (6) (a) 3., 938.355 (6d) (a) 2g., 938.355 (6d) (a) 2r., 938.355
9 (6d) (b) 2g., 938.355 (6d) (b) 2r., 938.355 (6d) (c) 2g., 938.355 (6d) (c) 2r., 938.357
10 (1) (am) 2r., 938.357 (2m) (bv), 938.357 (6) (a) 4., 938.365 (5) (b) 4., 938.366,
11 938.38 (4) (ar) 2., 938.38 (4) (fg) 6., 938.38 (5) (c) 9. and 938.385 of the statutes;
12 **relating to:** extended out-of-home care to 21 years of age for children with
13 individualized education programs, providing an exemption from emergency
14 rule procedures, providing an exemption from rule-making procedures, and
15 granting rule-making authority.

Analysis by the Legislative Reference Bureau

Under current law, an order of the court assigned to exercise jurisdiction under the Children's Code and the Juvenile Justice Code (juvenile court) that places or continues the placement of a child in out-of-home care terminates when the child reaches 18 years of age, one year after entry of the order, or, if the child is a full-time student at a secondary school or its vocational or technical equivalent and is reasonably expected to complete the program before reaching 19 years of age, when the child reaches 19 years of age, whichever is later, unless the juvenile court specified a shorter period of time or terminates the order sooner.

This bill permits a child placed in out-of-home care who is a full-time student at a secondary school or its vocational or technical equivalent and for whom an individualized education program (IEP) is in effect (child with an IEP) to continue in out-of-home care until the child is granted a high school or high school equivalency diploma or reaches 21 years of age, whichever occurs first, under either an extended dispositional order of the juvenile court or a voluntary transition-to-independent-living agreement between the child, or the child's

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guardian on behalf of the child, and the agency primarily responsible for providing services to the child under the dispositional order (agency). (An IEP is a written statement for a child with a disability developed by an IEP team appointed by the child's local educational agency that includes, among other things, the child's level of academic achievement and functional performance, measurable goals for the child, the special education and related services to be provided to the child, and how the child's progress toward attaining those goals will be measured.)

Specifically, the bill requires an agency, not less than 120 days before the termination date of a dispositional order of a child with an IEP who has attained 18 years of age or the termination date of a termination of parental rights order transferring a child with an IEP to the guardianship of an agency (TPR agency guardianship order), to request the child to indicate whether he or she wishes to be discharged from out-of-home care on termination of the dispositional or TPR agency guardianship order, wishes to continue in out-of-home care under an extension of the dispositional order, or wishes to continue in out-of-home care under a voluntary transition-to-independent-living agreement.

If the child with an IEP indicates that he or she wishes to be discharged from out-of-home care on termination of the dispositional or TPR agency guardianship order, the agency must request the juvenile court to hold a transition-to-discharge hearing, and the juvenile court must hold the hearing within 30 days after receipt of the request. At the hearing the juvenile court must review with the child the options of being discharged from out-of-home care on termination of the dispositional or TPR agency guardianship order, continuing in out-of-home care under an extension of the dispositional order, or continuing in out-of-home care under a voluntary agreement.

If the juvenile court determines that the child with an IEP understands that he or she may continue in out-of-home care, but wishes to be discharged from that care on termination of the dispositional or TPR agency guardianship order, the juvenile court must advise the child that he or she may enter into a voluntary transition-to-independent-living agreement at any time before he or she is granted a high school or high school equivalency diploma or reaches 21 years of age, whichever occurs first, so long as he or she is a full-time student at a secondary school or its vocational or technical equivalent and the IEP remains in effect. If the juvenile court determines that the child with an IEP wishes to continue in out-of-home care under a dispositional order, the juvenile court must schedule a hearing for the extension of the dispositional order. If the juvenile court determines that the child with an IEP wishes to continue in out-of-home care under a voluntary transition-to-independent-living agreement, the juvenile court must order the agency to provide transition-to-independent-living services for the child under such an agreement.

The bill permits a child with an IEP, or the child's guardian on behalf of the child, on termination of a dispositional or TPR agency guardianship order, to enter into a transition-to-independent-living agreement with the agency under which the child continues in out-of-home care and continues to be a full-time student at a secondary school or its vocational or technical equivalent under the IEP until the

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child reaches 21 years of age, is granted a high school or high school equivalency diploma, or terminates the agreement, whichever occurs first, and the agency provides services to the child to assist him or her in transitioning to independent living. The bill also permits a child or his or her guardian to terminate the agreement at any time by notifying the agency in writing that the child wishes to terminate the agreement. In addition, the bill permits a child who terminates a voluntary transition-to-independent-living agreement to enter into a new agreement at any time before he or she is granted a high school or high school equivalency diploma or reaches 21 years of age, whichever occurs first, so long as he or she is a full-time student at a secondary school or its vocational or technical equivalent and the IEP remains in effect.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 20.410 (3) (cg) of the statutes is amended to read:

2 20.410 (3) (cg) *Serious juvenile offenders.* Biennially, the amounts in the
3 schedule for juvenile correctional institution, corrective sanctions, alternate care,
4 aftercare, and other juvenile program services specified in s. 938.538 (3) provided for
5 the persons specified in s. 301.26 (4) (cm), and for juvenile correctional institution
6 services for persons placed in juvenile correctional institutions under s. 973.013 (3m)
7 ~~and for juvenile correctional services for persons under 18 years of age placed with~~
8 ~~the department under s. 48.366 (8).~~

9 **SECTION 2.** 48.235 (1) (e) of the statutes is amended to read:

10 48.235 (1) (e) The court shall appoint a guardian ad litem, or extend the
11 appointment of a guardian ad litem previously appointed under par. (a), for any child
12 alleged or found to be in need of protection or services, if the court has ordered, or if
13 a request or recommendation has been made that the court order, the child to be
14 placed out of his or her home under s. 48.345 or 48.357. This paragraph does not

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1 apply to a child who is subject to a dispositional order that terminates as provided
2 in s. 48.355 (4) (b) 4., 48.357 (6) (a) 4., or 48.365 (5) (b) 4.

3 **SECTION 3.** 48.33 (4) (intro.) of the statutes is amended to read:

4 48.33 (4) OTHER OUT-OF-HOME PLACEMENTS. (intro.) A report recommending
5 placement of an adult expectant mother outside of her home shall be in writing. A
6 report recommending placement of a child in a foster home, group home, or
7 residential care center for children and youth, in the home of a relative other than
8 a parent, ~~or~~ in the home of a guardian under s. 48.977 (2), or in a supervised
9 independent living arrangement shall be in writing and shall include all of the
10 following:

11 **SECTION 4.** 48.335 (3g) (intro.) of the statutes is amended to read:

12 48.335 (3g) (intro.) At hearings under this section, if the agency, as defined in
13 s. 48.38 (1) (a), is recommending placement of the child in a foster home, group home,
14 or residential care center for children and youth ~~or~~, in the home of a relative other
15 than a parent, in the home of a guardian under s. 48.977 (2), or in a supervised
16 independent living arrangement, the agency shall present as evidence specific
17 information showing all of the following:

18 **SECTION 5.** 48.355 (4) of the statutes is renumbered 48.355 (4) (a) and amended
19 to read:

20 48.355 (4) (a) Except as provided under s. 48.368, an order under this section
21 or s. 48.357 or 48.365 made before the child reaches 18 years of age that places or
22 continues the placement of the child in his or her home shall terminate ~~at the end~~
23 of one year after its entry the date on which the order is entered unless the judge
24 specifies a shorter period of time or the judge terminates the order sooner.

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1 (b) Except as provided under s. 48.368, an order under this section or s. 48.357
2 or 48.365 made before the child reaches 18 years of age that places or continues the
3 placement of the child in a foster home, group home, or residential care center for
4 children and youth ~~or, in the home of a relative other than a parent, or in a supervised~~
5 independent living arrangement shall terminate ~~when on the latest of the following~~
6 dates, unless the judge specifies a shorter period or the judge terminates the order
7 sooner:

8 1. The date on which the child reaches 18 years of age, ~~at the end of,~~

9 2. The date that is one year after its entry, or, if the date on which the order is
10 entered.

11 3. The date on which the child is granted a high school or high school
12 equivalency diploma or the date on which the child reaches 19 years of age,
13 whichever occurs first, if the child is a full-time student at a secondary school or its
14 vocational or technical equivalent and is reasonably expected to complete the
15 program before reaching 19 years of age, when the child reaches 19 years of age,
16 whichever is later, unless the judge specifies a shorter period of time or the judge
17 terminates the order sooner.

18 (c) An order under this section or s. 48.357 or 48.365 relating to an unborn child
19 in need of protection or services that is made before the unborn child is born shall
20 terminate ~~at the end of one year after its entry~~ the date on which the order is entered
21 unless the judge specifies a shorter period of time or the judge terminates the order
22 sooner.

23 **SECTION 6.** 48.355 (4) (b) 4. of the statutes is created to read:

24 48.355 (4) (b) 4. The date on which the child is granted a high school or high
25 school equivalency diploma or the date on which the child reaches 21 years of age,

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1 whichever occurs first, if the child is a full-time student at a secondary school or its
2 vocational or technical equivalent and if an individualized education program under
3 s. 115.787 is in effect for the child. The court may not enter an order that terminates
4 as provided in this subdivision unless the child is 17 years of age or older when the
5 order is entered and the child, or the child's guardian on behalf of the child, agrees
6 to the order. At any time after the child reaches 18 years of age, the child, or the
7 child's guardian on behalf of the child, may request the court in writing to terminate
8 the order and, on receipt of such a request, the court, without a hearing, shall
9 terminate the order.

10 **SECTION 7.** 48.357 (1) (am) 2. (intro.) of the statutes is amended to read:

11 48.357 (1) (am) 2. (intro.) Any Except as provided in subd. 2r., any person
12 receiving the notice under subd. 1. or notice of a specific placement under s. 48.355
13 (2) (b) 2., other than a court-appointed special advocate, may obtain a hearing on the
14 matter by filing an objection with the court within 10 days after receipt of the notice.
15 Except as provided in ~~subd. subds. 2m. and 2r.~~, placements may not be changed until
16 10 days after that notice is sent to the court unless written waivers of objection are
17 signed as follows:

18 **SECTION 8.** 48.357 (1) (am) 2r. of the statutes is created to read:

19 48.357 (1) (am) 2r. If the proposed change in placement involves a child who
20 is subject to a dispositional order that terminates as provided in sub. (6) (a) 4. or s.
21 48.355 (4) (b) 4. or 48.365 (5) (b) 4., the person or agency primarily responsible for
22 implementing the dispositional order, the district attorney, or the corporation
23 counsel may request a change in placement under this paragraph only if the child
24 or the child's guardian on behalf of the child consents to the change in placement.
25 That person or agency, the district attorney, or the corporation counsel shall cause

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1 written notice of the proposed change in placement to be sent to the child, the
2 guardian of the child, and any foster parent or other physical custodian described in
3 s. 48.62 (2) of the child. No hearing is required for a change in placement described
4 in this subdivision, and the child's placement may be changed at any time after notice
5 of the proposed change in placement is sent to the court.

6 **SECTION 9.** 48.357 (2) of the statutes is amended to read:

7 48.357 (2) If emergency conditions necessitate an immediate change in the
8 placement of a child or expectant mother placed outside the home, the person or
9 agency primarily responsible for implementing the dispositional order may remove
10 the child or expectant mother to a new placement, whether or not authorized by the
11 existing dispositional order, without the prior notice provided in sub. (1) (am) 1. or
12 the consent required under sub. (1) (am) 2r. The notice shall, however, be sent within
13 48 hours after the emergency change in placement. Any party receiving notice may
14 demand a hearing under sub. (1) (am) 2. In emergency situations, a child may be
15 placed in a licensed public or private shelter care facility as a transitional placement
16 for not more than 20 days, as well as in any placement authorized under s. 48.345
17 (3).

18 **SECTION 10.** 48.357 (2m) (a) of the statutes is amended to read:

19 48.357 (2m) (a) The Except as provided in par. (bv), the child, the parent,
20 guardian, legal custodian, or Indian custodian of the child, the expectant mother, the
21 unborn child by the unborn child's guardian ad litem, or any person or agency
22 primarily bound by the dispositional order, other than the person or agency
23 responsible for implementing the order, may request a change in placement under
24 this paragraph. The request shall contain the name and address of the new
25 placement requested and shall state what new information is available that affects

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1 the advisability of the current placement. If the proposed change in placement would
2 change the placement of a child placed in the child's home to a placement outside the
3 child's home, the request shall also contain specific information showing that
4 continued placement of the child in the home would be contrary to the welfare of the
5 child and, unless any of the circumstances under s. 48.355 (2d) (b) 1. to 5. applies,
6 specific information showing that the agency primarily responsible for
7 implementing the dispositional order has made reasonable efforts to prevent the
8 removal of the child from the home, while assuring that the child's health and safety
9 are the paramount concerns. The request shall be submitted to the court. The court
10 may also propose a change in placement on its own motion.

11 **SECTION 11.** 48.357 (2m) (b) of the statutes is amended to read:

12 48.357 (2m) (b) The court shall hold a hearing prior to ordering any change in
13 placement requested or proposed under par. (a) if the request states that new
14 information is available that affects the advisability of the current placement. ~~A~~
15 Except as provided in par. (bv), a hearing is not required if the requested or proposed
16 change in placement does not involve a change in placement of a child placed in the
17 child's home to a placement outside the child's home, written waivers of objection to
18 the proposed change in placement are signed by all persons entitled to receive notice
19 under this paragraph, other than a court-appointed special advocate, and the court
20 approves. If a hearing is scheduled, not less than 3 days before the hearing the court
21 shall notify the child, the parent, guardian, and legal custodian of the child, any
22 foster parent or other physical custodian described in s. 48.62 (2) of the child, the
23 child's court-appointed special advocate, all parties who are bound by the
24 dispositional order, and, if the child is an Indian child, the Indian child's Indian
25 custodian and tribe. If the child is the expectant mother of an unborn child under

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1 s. 48.133, the court shall also notify the unborn child by the unborn child's guardian
2 ad litem. If the change in placement involves an adult expectant mother of an unborn
3 child under s. 48.133, the court shall notify the adult expectant mother, the unborn
4 child by the unborn child's guardian ad litem, and all parties who are bound by the
5 dispositional order, at least 3 days prior to the hearing. A copy of the request or
6 proposal for the change in placement shall be attached to the notice. Subject to par.
7 (br), if all of the parties consent, the court may proceed immediately with the hearing.

8 **SECTION 12.** 48.357 (2m) (bv) of the statutes is created to read:

9 48.357 (2m) (bv) If the proposed change in placement involves a child who is
10 subject to a dispositional order that terminates as provided in sub. (6) (a) 4. or s.
11 48.355 (4) (b) 4. or 48.365 (5) (b) 4., only the child or the child's guardian on behalf
12 of the child or a person or agency primarily bound by the dispositional order may
13 request a change in placement under par. (a). No hearing is required for a change
14 in placement described in this paragraph if written waivers of objection to the
15 proposed change in placement are signed by the child, the guardian of the child, and
16 all parties that are bound by the dispositional order. If a hearing is scheduled, the
17 court may proceed immediately with the hearing on the consent of the person who
18 requested the change in placement, the child, the guardian of the child, and all
19 parties who are bound by the dispositional order.

20 **SECTION 13.** 48.357 (2v) (a) 3. of the statutes is amended to read:

21 48.357 (2v) (a) 3. If the court finds that any of the circumstances specified in
22 s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent, a determination that the
23 agency primarily responsible for providing services under the change in placement
24 order is not required to make reasonable efforts with respect to the parent to make
25 it possible for the child to return safely to his or her home. This subdivision does not

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1 apply to a child who is subject to a dispositional order that terminates as provided
2 in s. 48.355 (4) (b) 4., 48.357 (6) (a) 4., or 48.365 (5) (b) 4.

3 **SECTION 14.** 48.357 (6) of the statutes is renumbered 48.357 (6) (a) (intro.) and
4 amended to read:

5 48.357 **(6)** (a) (intro.) No change in placement may extend the expiration date
6 of the original order, except that if the change in placement is from a placement in
7 the child's home to a placement outside the home the court may extend the expiration
8 date of the original order to the latest of the following dates, unless the court specifies
9 a shorter period:

10 1. The date on which the child reaches 18 years of age, to the,

11 2. The date that is one year after the date of on which the change in placement
12 order, or, if is entered.

13 3. The date on which the child is granted a high school or high school
14 equivalency diploma or the date on which the child reaches 19 years of age,
15 whichever occurs first, if the child is a full-time student at a secondary school or its
16 vocational or technical equivalent and is reasonably expected to complete the
17 program before reaching 19 years of age, to the date on which the child reaches 19
18 years of age, whichever is later, or for a shorter period of time as specified by the
19 court.

20 (b) If the change in placement is from a placement outside the home to a
21 placement in the child's home and if the expiration date of the original order is more
22 than one year after the date of on which the change in placement order is entered,
23 the court shall shorten the expiration date of the original order to the date that is one
24 year after the date of on which the change in placement order is entered or to an
25 earlier date as specified by the court.

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1 **SECTION 15.** 48.357 (6) (a) 4. of the statutes is created to read:

2 48.357 (6) (a) 4. The date on which the child is granted a high school or high
3 school equivalency diploma or the date on which the child reaches 21 years of age,
4 whichever occurs first, if the child is a full-time student at a secondary school or its
5 vocational or technical equivalent and if an individualized education program under
6 s. 115.787 is in effect for the child. The court may not enter an order that terminates
7 as provided in this subdivision unless the child is 17 years of age or older when the
8 order is entered and the child, or the child's guardian on behalf of the child, agrees
9 to the order. At any time after the child reaches 18 years of age, the child, or the
10 child's guardian on behalf of the child, may request the court in writing to terminate
11 the order and, on receipt of such a request, the court, without a hearing, shall
12 terminate the order.

13 **SECTION 16.** 48.365 (5) of the statutes is renumbered 48.365 (5) (a) and
14 amended to read:

15 48.365 (5) (a) Except as provided in s. 48.368, an order under this section that
16 continues the placement of a child in his or her home or that relates to an unborn
17 child of an adult expectant mother shall be for a specified length of time not to exceed
18 one year after its the date of entry on which the order is entered.

19 **(b)** Except as provided in s. 48.368, an order under this section that continues
20 the placement of a child in an out-of-home placement shall be for a specified length
21 of time not to exceed the latest of the following dates:

22 1. The date on which the child reaches 18 years of age,

23 2. The date that is one year after the date of entry of on which the order,~~or, if~~
24 is entered.

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1 3. The date on which the child is granted a high school or high school
2 equivalency diploma or the date on which the child reaches 19 years of age,
3 whichever occurs first, if the child is a full-time student at a secondary school or its
4 vocational or technical equivalent and is reasonably expected to complete the
5 program before reaching 19 years of age, ~~the date on which the child reaches 19 years~~
6 ~~of age, whichever is later.~~

7 **SECTION 17.** 48.365 (5) (b) 4. of the statutes is created to read:

8 48.365 (5) (b) 4. The date on which the child is granted a high school or high
9 school equivalency diploma or the date on which the child reaches 21 years of age,
10 whichever occurs first, if the child is a full-time student at a secondary school or its
11 vocational or technical equivalent and if an individualized education program under
12 s. 115.787 is in effect for the child. The court may not enter an order that terminates
13 as provided in this subdivision unless the child is 17 years of age or older when the
14 order is entered and the child, or the child's guardian on behalf of the child, agrees
15 to the order. At any time after the child reaches 18 years of age, the child, or the
16 child's guardian on behalf of the child, may request the court in writing to terminate
17 the order and, on receipt of such a request, the court, without a hearing, shall
18 terminate the order.

19 **SECTION 18.** 48.366 of the statutes is repealed and recreated to read:

20 **48.366 Extended out-of-home care. (1) APPLICABILITY.** This section applies
21 to a person who is placed in a foster home, group home, or residential care center for
22 children and youth, in the home of a relative other than a parent, or in a supervised
23 independent living arrangement under an order under s. 48.355, 48.357, or 48.365
24 that terminates as provided in s. 48.355 (4) (b) 1., 2., or 3., 48.357 (6) (a) 1., 2., or 3.,
25 or 48.365 (5) (b) 1., 2., or 3. on or after the person attains 18 years of age or who is

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1 in the guardianship and custody of an agency specified in s. 48.427 (3m) (a) 1. to 4.
2 or (am) under an order under s. 48.43, who is a full-time student of a secondary
3 school or its vocational or technical equivalent, and for whom an individualized
4 education program under s. 115.787 is in effect.

5 (2) TRANSITION-TO-DISCHARGE HEARING. (a) Not less than 120 days before an
6 order described in sub. (1) terminates, the agency primarily responsible for providing
7 services under the order shall request the person who is the subject of the order to
8 indicate whether he or she wishes to be discharged from out-of-home care on
9 termination of the order or wishes to continue in out-of-home care under a voluntary
10 agreement under sub. (3). If the person is subject to an order under s. 48.355, 48.357,
11 or 48.365 described in sub. (1), the agency shall also request the person to indicate
12 whether he or she wishes to continue in out-of-home care until the date specified in
13 s. 48.365 (5) (b) 4. under an extension of the order. If the person indicates that he or
14 she wishes to be discharged from out-of-home care on termination of the order, the
15 agency shall request a transition-to-discharge hearing under par. (b). If the person
16 indicates that he or she wishes to continue in out-of-home care under an extension
17 of an order under s. 48.355, 48.357, or 48.365 described in sub. (1), the agency shall
18 request an extension of the order under s. 48.365. If the person indicates that he or
19 she wishes to continue in out-of-home care under a voluntary agreement under sub.
20 (3), the agency and the person shall enter into such an agreement.

21 (b) 1. If the person who is the subject of an order described in sub. (1) indicates
22 that he or she wishes to be discharged from out-of-home care on termination of the
23 order, the agency primarily responsible for providing services to the person under the
24 order shall request the court to hold a transition-to-discharge hearing and shall
25 cause notice of that request to be provided to that person, the parent, guardian, and

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1 legal custodian of that person, any foster parent or other physical custodian
2 described in s. 48.62 (2) of that person, that person's court-appointed special
3 advocate, all parties who are bound by the dispositional order, and, if that person is
4 an Indian child who has been removed from the home of his or her parent or Indian
5 custodian, that person's Indian custodian and tribe.

6 2. The court shall hold a hearing requested under subd. 1. within 30 days after
7 receipt of the request. Not less than 3 days before the hearing, the agency requesting
8 the hearing shall provide notice of the hearing to all persons who are entitled to
9 receive notice of the request under subd. 1. A copy of the request shall be attached
10 to the notice. If all persons who are entitled to receive the notice consent, the court
11 may proceed immediately with the hearing.

12 3. At the hearing the court shall review with the person who is the subject of
13 an order described in sub. (1) the options specified in par. (a) and shall advise the
14 person that he or she may continue in out-of-home care as provided in par. (a) under
15 an extension of an order under s. 48.355, 48.357, or 48.365 described in sub. (1) or
16 under a voluntary agreement under sub. (3).

17 4. If the court determines that the person who is the subject of an order
18 described in sub. (1) understands that he or she may continue in out-of-home care,
19 but wishes to be discharged from that care on termination of the order, the court shall
20 advise the person that he or she may enter into a voluntary agreement under sub.
21 (3) at any time before he or she is granted a high school or high school equivalency
22 diploma or reaches 21 years of age, whichever occurs first, so long as he or she is a
23 full-time student at a secondary school or its vocational or technical equivalent and
24 an individualized education program under s. 115.787 is in effect for him or her. If
25 the court determines that the person wishes to continue in out-of-home care under

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1 an extension of an order under s. 48.355, 48.357, or 48.365 described in sub. (1), the
2 court shall schedule an extension hearing under s. 48.365. If the court determines
3 that the person wishes to continue in out-of-home care under a voluntary agreement
4 under sub. (3), the court shall order the agency primarily responsible for providing
5 services to the person under the order to provide transition-to-independent-living
6 services for the person under a voluntary agreement under sub. (3).

7 **(3) VOLUNTARY TRANSITION-TO-INDEPENDENT-LIVING AGREEMENT.** (a) On
8 termination of an order described in sub. (1), the person who is the subject of the
9 order, or the person's guardian on behalf of the person, and the agency primarily
10 responsible for providing services to the person under the order may enter into a
11 transition-to-independent-living agreement under which the person continues in
12 out-of-home care and continues to be a full-time student at a secondary school or
13 its vocational or technical equivalent under an individualized education program
14 under s. 115.787 until the date on which the person reaches 21 years of age, is granted
15 a high school or high school equivalency diploma, or terminates the agreement as
16 provided in par. (b), whichever occurs first, and the agency provides services to the
17 person to assist him or her in transitioning to independent living.

18 (b) The person who is the subject of an agreement under par. (a) or his or her
19 guardian may terminate the agreement at any time during the term of the
20 agreement by notifying the agency primarily responsible for providing services
21 under the agreement in writing that the person wishes to terminate the agreement.

22 (c) A person who terminates a voluntary agreement under this subsection, or
23 the person's guardian on the person's behalf, may request the agency primarily
24 responsible for providing services to the person under the agreement to enter into a
25 new voluntary agreement under this subsection at any time before the person is

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1 granted a high school or high school equivalency diploma or reaches 21 years of age,
2 whichever occurs first, so long as the person is a full-time student at a secondary
3 school or its vocational or technical equivalent and an individualized education
4 program under s. 115.787 is in effect for him or her. If the request meets the
5 conditions set forth in the rules promulgated under sub. (4) (b), the agency shall enter
6 into a new voluntary agreement with that person.

7 (4) RULES. The department shall promulgate rules to implement this section.
8 Those rules shall include all of the following:

9 (a) Rules permitting a foster home, group home, or residential care center for
10 children and youth to provide care for persons who agree to continue in out-of-home
11 care under an extension of an order described in sub. (1) or a voluntary agreement
12 under sub. (3).

13 (b) Rules setting forth the conditions under which a person who has terminated
14 a voluntary agreement under sub. (3) and the agency primarily responsible for
15 providing services under the agreement may enter into a new voluntary agreement
16 under sub. (3) (c).

17 **SECTION 19.** 48.38 (2) (intro.) of the statutes is amended to read:

18 48.38 (2) PERMANENCY PLAN REQUIRED. (intro.) Except as provided in sub. (3),
19 for each child living in a foster home, group home, residential care center for children
20 and youth, juvenile detention facility, ~~or~~ shelter care facility, or supervised
21 independent living arrangement, the agency that placed the child or arranged the
22 placement or the agency assigned primary responsibility for providing services to the
23 child under s. 48.355 (2) (b) 6g. shall prepare a written permanency plan, if any of
24 the following conditions exists, and, for each child living in the home of a guardian

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1 or a relative other than a parent, that agency shall prepare a written permanency
2 plan, if any of the conditions specified in pars. (a) to (e) exists:

3 **SECTION 20.** 48.38 (2) (g) of the statutes is amended to read:

4 48.38 (2) (g) The child's parent is placed in a foster home, group home,
5 residential care center for children and youth, juvenile detention facility, ~~or~~ shelter
6 care facility, or supervised independent living arrangement and the child is residing
7 with that parent.

8 **SECTION 21.** 48.38 (4) (ar) of the statutes is renumbered 48.38 (4) (ar) (intro.)
9 and amended to read:

10 48.38 (4) (ar) (intro.) A description of the services offered and any services
11 provided in an effort to prevent the removal of the child from his or her home, while
12 assuring that the health and safety of the child are the paramount concerns, and to
13 achieve the goal of the permanency plan, except that the permanency plan is not
14 required to include a description of the services offered or provided with respect to
15 a parent of the child to prevent the removal of the child from the home or to achieve
16 the permanency goal of returning the child safely to his or her home if any of the
17 following applies:

18 1. Any of the circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies to that
19 parent.

20 **SECTION 22.** 48.38 (4) (ar) 2. of the statutes is created to read:

21 48.38 (4) (ar) 2. The child has attained 18 years of age.

22 **SECTION 23.** 48.38 (4) (fg) 6. of the statutes is created to read:

23 48.38 (4) (fg) 6. If the child has attained 18 years of age, transition to
24 independent living.

25 **SECTION 24.** 48.38 (5) (c) 9. of the statutes is created to read:

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1 48.38 (5) (c) 9. If the child is the subject of an order that terminates as provided
2 in s. 48.355 (4) (b) 4., 48.357 (6) (a) 4. or 48.365 (5) (b) 4., the appropriateness of the
3 transition-to-independent-living plan developed under s. 48.385; the extent of
4 compliance with that plan by the child, the child’s guardian, if any, the agency
5 primarily responsible for providing services under that plan, and any other service
6 providers; and the progress of the child toward making the transition to independent
7 living.

8 **SECTION 25.** 48.385 of the statutes is amended to read:

9 **48.385 Plan for transition to independent living.** During the 90 days
10 immediately before a child who is placed in a foster home, group home, or residential
11 care center for children and youth ~~or~~, in the home of a relative other than a parent,
12 or in a supervised independent living arrangement attains 18 years of age or, if the
13 child is placed in such a placement under an order under s. 48.355, 48.357, or 48.365,
14 ~~938.355, 938.357, or 938.365~~ that terminates under s. 48.355 (4) ~~or 938.355 (4) (b)~~
15 after the child attains 18 years of age, during the 90 days immediately before the
16 termination of the order, the agency primarily responsible for providing services to
17 the child under the order shall provide the child with assistance and support in
18 developing a plan for making the transition from out-of-home care to independent
19 living. The transition plan shall be personalized at the direction of the child, shall
20 be as detailed as the child directs, and shall include specific options for obtaining
21 housing, health care, education, mentoring and continuing support services, and
22 workforce support and employment services.

23 **SECTION 26.** 48.44 (1) of the statutes is renumbered 48.44 and amended to read:

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1 **48.44 Jurisdiction over persons 17 or older.** The court has jurisdiction
2 over persons 17 years of age or older as provided under ss. 48.133, 48.355 (4), 48.357
3 (6), 48.365 (5), and 48.45 and as otherwise specifically provided in this chapter.

4 **SECTION 27.** 48.44 (2) of the statutes is repealed.

5 **SECTION 28.** 48.48 (17) (c) 4. of the statutes is amended to read:

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

8 **SECTION 29.** 48.481 (2) of the statutes, as created by 2013 Wisconsin Act 20, is
9 amended to read:

10 48.481 (2) TRANSITION TO INDEPENDENT LIVING. The department shall distribute
11 at least \$231,700 in each fiscal year ~~to counties~~ for the purpose of assisting
12 individuals who attain the age of 18 while residing in a foster home, group home, or
13 residential care center for children and youth ~~or~~, in the home of a relative other than
14 a parent, or in a supervised independent living arrangement to make the transition
15 from out-of-home care to independent living. No county may use funds provided
16 under this subsection to replace funds previously used by the county for this purpose.

17 **SECTION 30.** 48.57 (3) (a) 4. of the statutes is amended to read:

18 48.57 (3) (a) 4. Is living in a foster home, group home, residential care center
19 for children and youth, or subsidized guardianship home or in a supervised
20 independent living arrangement.

21 **SECTION 31.** 48.57 (3m) (a) 1. of the statutes is amended to read:

22 48.57 (3m) (a) 1. “Child” means a person under 18 years of age ~~or~~; a person 18
23 years of age or over, but under 19 years of age, who is a full-time student in good
24 academic standing at a secondary school or its vocational or technical equivalent and
25 who is reasonably expected to complete his or her program of study and be granted

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1 a high school or high school equivalency diploma; or a person 18 years of age or over,
2 but under 21 years of age, who is a full-time student in good academic standing at
3 a secondary school or its vocational or technical equivalent if an individualized
4 education program under s. 115.787 is in effect for the person.

5 **SECTION 32.** 48.57 (3n) (a) 1. of the statutes is amended to read:

6 48.57 (3n) (a) 1. “Child” means a person under 18 years of age or; a person 18
7 years of age or over, but under 19 years of age, who is a full-time student in good
8 academic standing at a secondary school or its vocational or technical equivalent and
9 who is reasonably expected to complete his or her program of study and be granted
10 a high school or high school equivalency diploma; or a person 18 years of age or over,
11 but under 21 years of age, who is a full-time student in good academic standing at
12 a secondary school or its vocational or technical equivalent if an individualized
13 education program under s. 115.787 is in effect for the person.

14 **SECTION 33.** 48.57 (3n) (am) 6. a. of the statutes is amended to read:

15 48.57 (3n) (am) 6. a. The date on which the child attains the age of 18 years;
16 or, if on that date the child is a full-time student in good academic standing at a
17 secondary school or its vocational or technical equivalent and is reasonably expected
18 to complete his or her program of study and be granted a high school or high school
19 equivalency diploma, the date on which the child is granted a high school or high
20 school equivalency diploma or the date on which the child attains the age of 19 years,
21 whichever occurs first; or, if on that date the child is a full-time student in good
22 academic standing at a secondary school or its vocational or technical equivalent and
23 an individualized education program under s. 115.787 is in effect for the child, the
24 date on which the child is granted a high school or high school equivalency diploma
25 or the date on which the child attains the age of 21 years, whichever occurs first.

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1 **SECTION 34.** 48.619 of the statutes is renumbered 48.619 (intro.) and amended
2 to read:

3 **48.619 Definition.** (intro.) In this subchapter, “child” means a person under
4 18 years of age ~~and also includes, for.~~ For purposes of counting the number of
5 children for whom a foster home or group home may provide care and maintenance,
6 “child” also includes a person 18 years of age or over, but who resides in the foster
7 home or group home, if any of the following applies:

8 (1) The person is under 19 years of age, ~~who~~ is a full-time student at a
9 secondary school or its vocational or technical equivalent, ~~who~~ and is reasonably
10 expected to complete the program before reaching 19 years of age, ~~who was residing~~
11 ~~in the foster home or group home immediately prior to his or her 18th birthday, and~~
12 ~~who continues to reside in that foster home or group home.~~

13 **SECTION 35.** 48.619 (2) of the statutes is created to read:

14 48.619 (2) The person is under 21 years of age, is a full-time student at a
15 secondary school or its vocational or technical equivalent, and an individualized
16 education program under s. 115.787 is in effect for the person.

17 **SECTION 36.** 48.64 (4) (a) of the statutes is amended to read:

18 48.64 (4) (a) Any Except as provided in par. (d), any decision or order issued by
19 an agency that affects the head of a foster home or group home, the head of the home
20 of a relative other than a parent in which a child is placed, or the child involved may
21 be appealed to the department under fair hearing procedures established under
22 rules promulgated by the department. Upon receipt of an appeal, the department
23 shall give the head of the home reasonable notice and an opportunity for a fair
24 hearing. The department may make any additional investigation that the
25 department considers necessary. The department shall give notice of the hearing to

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1 the head of the home and to the departmental subunit, county department, or child
2 welfare agency that issued the decision or order. Each person receiving notice is
3 entitled to be represented at the hearing. At all hearings conducted under this
4 paragraph, the head of the home, or a representative of the head of the home, shall
5 have an adequate opportunity, notwithstanding s. 48.78 (2) (a), to examine all
6 documents and records to be used at the hearing at a reasonable time before the date
7 of the hearing as well as during the hearing, to bring witnesses, to establish all
8 pertinent facts and circumstances, and to question or refute any testimony or
9 evidence, including an opportunity to confront and cross-examine adverse
10 witnesses. The department shall grant a continuance for a reasonable period of time
11 when an issue is raised for the first time during a hearing. This requirement may
12 be waived with the consent of the parties. The decision of the department shall be
13 based exclusively on evidence introduced at the hearing. A transcript of testimony
14 and exhibits, or an official report containing the substance of what transpired at the
15 hearing, together with all papers and requests filed in the proceeding, and the
16 findings of the hearing examiner shall constitute the exclusive record for decision by
17 the department. The department shall make the record available at any reasonable
18 time and at an accessible place to the head of the home or his or her representative.
19 Decisions by the department shall specify the reasons for the decision and identify
20 the supporting evidence. No person participating in an agency action being appealed
21 may participate in the final administrative decision on that action. The department
22 shall render its decision as soon as possible after the hearing and shall send a
23 certified copy of its decision to the head of the home and to the departmental subunit,
24 county department, or child welfare agency that issued the decision or order. The
25 decision shall be binding on all parties concerned.

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1 **SECTION 37.** 48.64 (4) (c) of the statutes is amended to read:

2 48.64 (4) (c) The Except as provided in par. (d), the circuit court for the county
3 where the dispositional order placing a child in a foster home or group home or in the
4 home of a relative other than a parent was entered or the voluntary agreement under
5 s. 48.63 placing a child in a foster home or group home was made has jurisdiction
6 upon petition of any interested party over the child who is placed in the foster home,
7 group home, or home of the relative. The circuit court may call a hearing, at which
8 the head of the home and the supervising agency under sub. (2) shall be present, for
9 the purpose of reviewing any decision or order of that agency involving the placement
10 and care of the child. If the child has been placed in a foster home or in the home of
11 a relative other than a parent, the foster parent or relative may present relevant
12 evidence at the hearing. The petitioner has the burden of proving by clear and
13 convincing evidence that the decision or order issued by the agency is not in the best
14 interests of the child.

15 **SECTION 38.** 48.64 (4) (d) of the statutes is created to read:

16 48.64 (4) (d) No decision or order to change the placement of a child who is in
17 out-of-home care under a voluntary transition-to-independent-living agreement
18 under s. 48.366 (3) or 938.366 (3) may be appealed to the department under par. (a)
19 or reviewed by the circuit court under par. (c).

20 **SECTION 39.** 48.645 (1) (intro.) of the statutes is amended to read:

21 48.645 (1) **DEFINITION.** (intro.) In this section, “dependent child” means a child
22 under the age of 18 or, if the child is a full-time student at a secondary school or its
23 vocational or technical equivalent and is reasonably expected to complete the
24 program before reaching 19 years of age, is under the age of 19, or, if the child is a
25 full-time student at a secondary school or its vocational or technical equivalent for

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1 whom an individualized educational program under s. 115.787 is in effect, is under
2 21 years of age, who meets all of the following conditions:

3 **SECTION 40.** 48.645 (1) (a) of the statutes is amended to read:

4 48.645 (1) (a) The child is living in a foster home licensed under s. 48.62 if a
5 license is required under that section, in a foster home located within the boundaries
6 of a reservation in this state and licensed by the tribal governing body of the
7 reservation, in a group home licensed under s. 48.625, in a subsidized guardianship
8 home under s. 48.623, ~~or~~ in a residential care center for children and youth licensed
9 under s. 48.60, or in a supervised independent living arrangement and has been
10 placed in the foster home, group home, subsidized guardianship that home, ~~or~~ center,
11 or arrangement by a county department under s. 46.215, 46.22, or 46.23, by the
12 department, or by a governing body of an Indian tribe in this state under an
13 agreement with a county department under s. 46.215, 46.22, or 46.23.

14 **SECTION 41.** 48.645 (2) (a) 3. of the statutes, as affected by 2013 Wisconsin Act
15 20, is amended to read:

16 48.645 (2) (a) 3. A county or, in a county having a population of 750,000 or more,
17 the department, when the child is placed in a licensed foster home, group home, or
18 residential care center for children and youth ~~or~~, in a subsidized guardianship home,
19 or in a supervised independent living arrangement by a licensed child welfare agency
20 or by a governing body of an Indian tribe in this state or by its designee, if the child
21 is in the legal custody of the county department under s. 46.215, 46.22, or 46.23 or
22 the department under s. 48.48 (17) or if the child was removed from the home of a
23 relative as a result of a judicial determination that continuance in the home of the
24 relative would be contrary to the child's welfare for any reason and the placement is
25 made under an agreement with the county department or the department.