



## 2013 ASSEMBLY BILL 674

1     **AN ACT** *to renumber* 48.58 (1); *to renumber and amend* 48.63 (1); *to amend*  
2           48.028 (5) (a), 48.38 (2) (d), 48.38 (4) (d) 1., 48.57 (3n) (am) 6. c., 48.61 (3), 48.615  
3           (1) (b), 48.64 (1), 48.64 (1m), 48.64 (1r), 48.64 (2), 48.979 (1) (c), 48.979 (2),  
4           253.10 (3) (c) 2. c., 938.22 (2) (c) and 938.38 (2) (d); and *to create* 48.58 (5) and  
5           48.63 (1) (b) of the statutes; **relating to:** placement of a child in a shelter care  
6           facility under a voluntary agreement.

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*Analysis by the Legislative Reference Bureau*

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

7           **SECTION 1.** 48.028 (5) (a) of the statutes is amended to read:  
8           48.028 (5) (a) *Out-of-home care placement.* A voluntary consent by a parent  
9           or Indian custodian to an out-of-home care placement of an Indian child under s.  
10          48.63 (1) (a) or (b) or (5) (b) or a delegation of powers by a parent regarding the care

**ASSEMBLY BILL 674****SECTION 1**

1 and custody of an Indian child under s. 48.979 is not valid unless the consent or  
2 delegation is executed in writing, recorded before a judge, and accompanied by a  
3 written certification by the judge that the terms and consequences of the consent or  
4 delegation were fully explained in detail to and were fully understood by the parent  
5 or Indian custodian. The judge shall also certify that the parent or Indian custodian  
6 fully understood the explanation in English or that the explanation was interpreted  
7 into a language that the parent or Indian custodian understood. Any consent or  
8 delegation of powers given under this paragraph prior to or within 10 days after the  
9 birth of the Indian child is not valid. A parent or Indian custodian who has executed  
10 a consent or delegation of powers under this paragraph may withdraw the consent  
11 or delegation for any reason at any time, and the Indian child shall be returned to  
12 the parent or Indian custodian. A parent or Indian custodian who has executed a  
13 consent or delegation of powers under this paragraph may also move to invalidate  
14 the out-of-home care placement or delegation of powers under sub. (6).

15 **SECTION 2.** 48.38 (2) (d) of the statutes is amended to read:

16 48.38 (2) (d) The child was placed under a voluntary agreement between the  
17 agency and the child's parent under s. 48.63 (1) (a) or (5) (b).

18 **SECTION 3.** 48.38 (4) (d) 1. of the statutes is amended to read:

19 48.38 (4) (d) 1. That the placement is made pursuant to a voluntary agreement  
20 under s. 48.63 (1) (a).

21 **SECTION 4.** 48.57 (3n) (am) 6. c. of the statutes is amended to read:

22 48.57 (3n) (am) 6. c. The date on which the child is placed outside the long-term  
23 kinship care relative's home under a court order or under a voluntary agreement  
24 under s. 48.63 (1) (a) or (b) or (5) (b).

25 **SECTION 5.** 48.58 (1) of the statutes is renumbered 48.58.

**ASSEMBLY BILL 674**

1           **SECTION 6.** 48.58 (5) of the statutes is created to read:

2           48.58 (5) Provide temporary shelter care for children placed in the county  
3 children's home under a voluntary agreement under s. 48.63 (1) (b).

4           **SECTION 6t.** 48.61 (3) of the statutes is amended to read:

5           48.61 (3) To provide appropriate care and training for children in its legal or  
6 physical custody and, if licensed to do so, to place children in licensed foster homes  
7 and licensed group homes as permitted under s. 48.63 (1) (a), in shelter care facilities  
8 as permitted under s. 48.63 (1) (b), and in the homes of guardians as permitted under  
9 s. 48.977 (2).

10          **SECTION 7.** 48.615 (1) (b) of the statutes is amended to read:

11          48.615 (1) (b) Except as provided in par. (e), before the department may issue  
12 a license under s. 48.60 (1) to a child welfare agency that places children in licensed  
13 foster homes, licensed group homes, shelter care facilities approved under s. 938.22  
14 (2) (c), and in the homes of guardians under s. 48.977 (2), the child welfare agency  
15 must pay to the department a biennial fee of \$254.10.

16          **SECTION 8.** 48.63 (1) of the statutes is renumbered 48.63 (1) (a) and amended  
17 to read:

18          48.63 (1) (a) Acting under court order or voluntary agreement, the child's  
19 parent, guardian, or Indian custodian, or the department, the department of  
20 corrections, a county department under s. 46.215, 46.22, or 46.23, or a child welfare  
21 agency licensed to place children in foster homes or group homes may place a child  
22 or negotiate or act as intermediary for the placement of a child in a foster home or  
23 group home. Voluntary agreements under this ~~subsection~~ paragraph may not be  
24 used for placements in facilities other than foster homes or group homes and may not  
25 be extended. A foster home placement under a voluntary agreement may not exceed

**ASSEMBLY BILL 674****SECTION 8**

1 180 days from the date on which the child was removed from the home under the  
2 voluntary agreement. A group home placement under a voluntary agreement may  
3 not exceed 15 days from the date on which the child was removed from the home  
4 under the voluntary agreement, except as provided in sub. (5). These periods do not  
5 apply to placements made under s. 48.345, 938.183, 938.34, or 938.345.

6 (c) Voluntary agreements may be made only under ~~this subsection and~~ par. (a)  
7 or (b) or sub. (5) (b) ~~and~~, shall be in writing, and shall specifically state that the  
8 agreement may be terminated at any time by the parent, guardian, or Indian  
9 custodian or by the child if the child's consent to the agreement is required. In the  
10 case of an Indian child who is placed under ~~this subsection and~~ par. (a) or (b) by the  
11 voluntary agreement of the Indian child's parent or Indian custodian, the voluntary  
12 consent of the parent or Indian custodian to the placement shall be given as provided  
13 in s. 48.028 (5) (a). The child's consent to ~~the~~ an agreement under par. (a) or (b) is  
14 required whenever the child is 12 years of age or older.

15 (d) If a county department, the department, or the department of corrections  
16 places a child or negotiates or acts as intermediary for the placement of a child under  
17 ~~this subsection and~~ par. (a) or (b), the voluntary agreement shall also specifically  
18 state that the county department, department, or department of corrections has  
19 placement and care responsibility for the child as required under 42 USC 672 (a) (2)  
20 and has primary responsibility for providing services to the child.

21 **SECTION 9.** 48.63 (1) (b) of the statutes is created to read:

22 48.63 (1) (b) Acting under a voluntary agreement, a child's parent, guardian,  
23 or Indian custodian, the department, the department of corrections, a county  
24 department under s. 46.215, 46.22, or 46.23, or a child welfare agency licensed to  
25 place children in shelter care facilities, may place the child or negotiate or act as

**ASSEMBLY BILL 674**

1 intermediary for the placement of the child in a shelter care facility that the  
2 department has approved under s. 938.22 (2) (c) for use for placements under this  
3 paragraph. A voluntary agreement under this paragraph may not be used for  
4 placement in a facility other than an approved shelter care facility. A shelter care  
5 facility placement under a voluntary agreement may not exceed 20 days from the  
6 date on which the child was placed in the shelter care facility under the voluntary  
7 agreement and may not be extended.

8 **SECTION 10.** 48.64 (1) of the statutes is amended to read:

9 48.64 (1) DEFINITION. In this section, “agency” means the department, the  
10 department of corrections, a county department under s. 46.215, 46.22, or 46.23, or  
11 a licensed child welfare agency authorized to place children in foster homes ~~or~~ group  
12 homes, or shelter care facilities approved under s. 938.22 (2) (c) or in the homes of  
13 relatives other than a parent.

14 **SECTION 11.** 48.64 (1m) of the statutes is amended to read:

15 48.64 (1m) OUT-OF-HOME CARE AGREEMENTS. If an agency places a child in a  
16 foster home or group home or in the home of a relative other than a parent under a  
17 court order or places a child in a foster home ~~or~~ group home, or shelter care facility  
18 approved under s. 938.22 (2) (c) under a voluntary agreement under s. 48.63, the  
19 agency shall enter into a written agreement with the head of the home or facility.  
20 The agreement shall provide that the agency shall have access at all times to the  
21 child and the home or facility, and that the child will be released to the agency  
22 whenever, in the opinion of the agency placing the child or the department, the best  
23 interests of the child require release to the agency. If a child has been in a foster home  
24 or group home or in the home of a relative other than a parent for 6 months or more,  
25 the agency shall give the head of the home written notice of intent to remove the

**ASSEMBLY BILL 674****SECTION 11**

1 child, stating the reasons for the removal. The child may not be removed from a foster  
2 home, group home, or home of a relative other than a parent before completion of the  
3 hearing under sub. (4) (a) or (c), if requested, or 30 days after the receipt of the notice,  
4 whichever is later, unless the safety of the child requires it or, in a case in which the  
5 reason for removal is to place the child for adoption under s. 48.833, unless all of the  
6 persons who have the right to request a hearing under sub. (4) (a) or (c) sign written  
7 waivers of objection to the proposed removal. If the safety of the child requires earlier  
8 removal, s. 48.19 applies. If an agency removes a child from an adoptive placement,  
9 the head of the home shall have no claim against the placing agency for the expense  
10 of care, clothing, or medical treatment.

11 **SECTION 12.** 48.64 (1r) of the statutes is amended to read:

12 48.64 (1r) NOTIFICATION OF SCHOOL DISTRICT. When an agency places a  
13 school-age child in a foster home ~~or~~, group home, or shelter care facility approved  
14 under s. 938.22 (2) (c) or in the home of a relative other than a parent, the agency shall  
15 notify the clerk of the school district in which the foster home, group home, shelter  
16 care facility, or home of the relative is located that a school-age child has been placed  
17 in a foster home, group home, shelter care facility, or home of a relative in the school  
18 district.

19 **SECTION 13.** 48.64 (2) of the statutes is amended to read:

20 48.64 (2) SUPERVISION OF OUT-OF-HOME CARE PLACEMENTS. Every child who is  
21 placed in a foster home ~~or~~, group home, or shelter care facility approved under s.  
22 938.22 (2) (c) shall be under the supervision of an agency. Every child who is placed  
23 in the home of a relative other than a parent under a court order shall be under the  
24 supervision of an agency.

25 **SECTION 14.** 48.979 (1) (c) of the statutes is amended to read:

**ASSEMBLY BILL 674**

1           48.979 (1) (c) A parent who has legal custody of a child may not place the child  
2           in a foster home, group home, shelter care facility, or inpatient treatment facility by  
3           means of a delegation of powers under par. (a). Those placements may be made only  
4           by means of a court order or as provided in s. 48.63 or 51.13.

5           **SECTION 15.** 48.979 (2) of the statutes is amended to read:

6           48.979 (2) A power of attorney complies with sub. (1) (a) if the power of attorney  
7           substantially conforms to the following form:

8           **POWER OF ATTORNEY**

9           **DELEGATING PARENTAL POWER**

10          AUTHORIZED BY s. 48.979, Wis. Stats.

11          NAME(S) OF CHILD(REN)

12          This power of attorney is for the purpose of providing for the care and custody  
13          of:

14          Name, address, and date of birth of child ....

15          Name, address, and date of birth of child ....

16          Name, address, and date of birth of child ....

17          **DELEGATION OF POWER TO AGENT**

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

20          *A parent may not use this form to delegate parental powers regarding a child who is*  
21          *subject to the jurisdiction of the juvenile court under s. 48.13, 48.14, 938.12, 938.13,*  
22          *or 938.14, Wis. Stats.*

23          I delegate my parental power to:

24          Name of agent ....

25          Agent's address ....

**ASSEMBLY BILL 674****SECTION 15**

1 Agent's telephone number(s) ....

2 Agent's e-mail address ....

3 Relationship of agent to child(ren) ....

4 The parental power I am delegating is as follows:

5 FULL

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

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

10 PARTIAL

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

13 .... The power to consent to all health care; or

14 .... The power to consent to only the following health care:

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

17 .... Emergency blood transfusion

18 .... Dental care

19 .... Disclosure of health information about the child(ren)

20 .... The power to consent to educational and vocational services

21 .... The power to consent to the employment of the child(ren)

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

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



**ASSEMBLY BILL 674**

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

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

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

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

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

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

19           EFFECTIVE DATE AND TERM  
20 OF THIS DELEGATION

21           This Power of Attorney takes effect on .... and will remain in effect until .... If  
22 no termination date is given or if the termination date given is more than one year  
23 after the effective date of this Power of Attorney, this Power of Attorney will remain  
24 in effect for a period of one year after the effective date, but no longer. This Power  
25 of Attorney may be revoked in writing at any time by a parent who has legal custody

**ASSEMBLY BILL 674**

**SECTION 15**

1 of the child(ren) and such a revocation invalidates the delegation of parental powers  
2 made by this Power of Attorney, except with respect to acts already taken in reliance  
3 on this Power of Attorney.

4 SIGNATURE(S) OF PARENT(S)

5 Signature of parent .... Date ....

6 Parent’s name printed ....

7 Parent’s address ....

8 Parent’s telephone number ....

9 Parent’s e-mail address ....

10 Signature of parent .... Date ....

11 Parent’s name printed ....

12 Parent’s address ....

13 Parent’s telephone number ....

14 Parent’s e-mail address ....

15 WITNESSING OF SIGNATURE(S) (OPTIONAL)

16 State of ....

17 County of ....

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

19 Signature of notary ....

20 My commission expires: ....

21 STATEMENT OF AGENT

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

**ASSEMBLY BILL 674**

1 of .... (name(s) of child(ren)). I hereby declare that I have read this Power of Attorney,  
2 understand the powers delegated to me by this Power of Attorney, am fit, willing, and  
3 able to undertake those powers, and accept those powers.

4 Agent's signature .... Date ....

**APPENDIX**

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

8 .... I can be located at:

9 Address(es) ....

10 Telephone number(s) ....

11 E-mail address(es) ....

12 .... Or, by contacting:

13 Name ....

14 Address ....

15 Telephone number ....

16 E-mail address ....

17 .... Or, I cannot be located

18 **SECTION 16.** 253.10 (3) (c) 2. c. of the statutes is amended to read:

19 253.10 (3) (c) 2. c. That the woman has a legal right to continue her pregnancy  
20 and to keep the child; to place the child in a foster home for 6 months ~~or~~, in a group  
21 home for 15 days, or in a shelter care facility approved under s. 938.22 (2) (c) for 20  
22 days; to petition a court for placement of the child in a foster home or group home or  
23 with a relative; or to place the child for adoption under a process that involves court  
24 approval both of the voluntary termination of parental rights and of the adoption.

25 **SECTION 17.** 938.22 (2) (c) of the statutes is amended to read:

