



State of Wisconsin
2015 - 2016 LEGISLATURE



LRB-0311/P2
GMM:kjf:rs

P3
PWR

IN 1/23
DN OF E

DOA:.....Major, BB0080 - Out-of-home care extension

FOR 2015-2017 BUDGET - NOT READY FOR INTRODUCTION

1/24 or 1/25

Don't Gen

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau
HEALTH AND HUMAN SERVICES
CHILDREN

Under current law, monthly subsidized guardianship payments may be made to the guardian of a child who has been adjudged to be in need of protection or services if certain additional conditions have been met. In addition, current law permits DCF to provide payments to the adoptive or proposed adoptive parents of a child with special needs to assist in the cost of care of the child when DCF determines that those payments are necessary to assure the child's adoption (adoption assistance). Subject to certain exceptions, subsidized guardianship payments and adoption assistance end when the child attains 18 years of age.

This bill permits subsidized guardianship payments to be made or adoption assistance to be provided until a child attains 21 years of age if the child is a full-time student at a secondary school or its vocational or technical equivalent (full-time student), an individualized education program (IEP) is in effect for the child, and the subsidized guardianship agreement or adoption assistance agreement for the child became effective on or after the date on which the child attained 16 years of age. (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.)

Under current law, monthly kinship care payments may be made to a relative of a child (kinship care relative) who is providing care and maintenance for the child if certain additional conditions have been met. Kinship care payments generally end when the child attains 18 years of age, except under certain exceptions including an exception under which kinship care payments may be made until a child attains 21 years of age if the child is a full-time student and an IEP is in effect for the child.

This bill, in addition, requires, as a condition for eligibility for kinship care payments for a child under 21 years of age who is a full-time student and for whom an IEP is in effect, that the child be placed in the home of the kinship care relative under an order of the court assigned to exercise jurisdiction under the Children's Code and the Juvenile Justice Code (juvenile court) or under a voluntary transition-to-independent-living agreement, which is an agreement under which such a child may continue in out-of-home care and receive services to assist him or her in transitioning to independent living until the child attains 21 years of age, is granted a high school or high school equivalency diploma, or terminates the agreement, whichever occurs first.

Under current law, a permanency plan must be prepared for a child who is placed outside the home under a juvenile court order or under a voluntary agreement. (A permanency plan is a plan designed to ensure that a child who is placed outside the home is reunified with his or her family whenever appropriate or that the child quickly attains a placement providing long-term stability.)

~~This bill requires a permanency plan to be prepared for a child who is placed outside the home under a voluntary transition-to-independent-living agreement. The bill also, with respect to voluntary transition-to-independent-living agreements: 1) provides that if DCF or a county enters into such an agreement with a child, the agreement must specifically state that DCF or the county has placement and care responsibility for the child and has primary responsibility for providing services to the child; 2) creates an appeal procedure under which any person who is aggrieved by the failure of an agency to enter into such an agreement, to provide any services specified in such an agreement, or to perform any other action required of the agency has the right to a contested case hearing under the state administrative procedures laws or, if the agency is a county, under the municipal administrative procedures laws; and 3) requires DCF to promulgate rules governing the provision of subsidized guardianship payments, kinship care payments, and adoption assistance for a child who agrees to continue in out-of-home care under such an agreement.~~

Under current law, subject to certain exceptions, a facility where five or more adults who do not require care above intermediate level nursing care reside and receive care, treatment, or services that are above the level of room and board must be licensed as a community-based residential facility (CBRF). This bill provides that a facility licensed as a foster home, group home, or residential care center for children and youth (facility) that provides care and maintenance for any of the following is not required to also be licensed as a CBRF:

~~1. Persons under 19 years of age who are full-time students, who are reasonably expected to complete their program before attaining 19 years of age, and who are placed in the facility under a juvenile court order.~~

~~2. Persons under 19 years of age who are placed in the facility under an order of the juvenile court entered before attaining 18 years of age until a date that is one year or less after the date on which the order was entered.~~

~~3. Persons under 21 years of age who are full-time students and for whom an IEP is in effect, and who are placed in the facility under a juvenile court order or under a voluntary transition-to-independent-living agreement.~~

~~4. Persons under 21 years of age who are placed in the facility under the placement and care responsibility of another state.~~

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

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

1 SECTION 1. 48.366 (1) of the statutes is renumbered 48.366 (1) (intro.) and
2 amended to read:

3 48.366 (1) (intro.) APPLICABILITY. This section applies to a person who is a
4 full-time student of a secondary school or its vocational or technical equivalent, for
5 whom an individualized education program under s. 115.787 is in effect, and to whom
6 any of the following applies:

7 (a) The person is placed in a foster home, group home, or residential care center
8 for children and youth, in the home of a relative other than a parent, or in a
9 supervised independent living arrangement under an order under s. 48.355, 48.357,
10 or 48.365 that terminates as provided in s. 48.355 (4) (b) 1., 2., or 3., 48.357 (6) (a) 1.,
11 2., or 3., or 48.365 (5) (b) 1., 2., or 3. on or after the person attains 18 years of age or
12 who.

13 (b) The person is in the guardianship and custody of an agency specified in s.
14 48.427 (3m) (a) 1. to 4. or (am) under an order under s. 48.43, who is a full-time

that terminate on the date on which the person attains 18 years of age

1 student of a secondary school or its vocational or technical equivalent, and for whom
2 an individualized education program under s. 115.787 is in effect.

3 SECTION 2. 48.366 (1) (c) of the statutes is created to read:

4 48.366 (1) (c) The person is placed in a shelter care facility on the date on which
5 an order specified in par. (a) or (b) terminates.

6 SECTION 3. 48.366 (2) (a) of the statutes is amended to read:

7 48.366 (2) (a) Not less than 120 days before an order described in sub. (1) (a)
8 or (b) terminates, the agency primarily responsible for providing services under the
9 order shall request the person who is the subject of the order to indicate whether he
10 or she wishes to be discharged from out-of-home care on termination of the order or
11 wishes to continue in out-of-home care under a voluntary agreement under sub. (3).
12 If the person is subject to an order under s. 48.355, 48.357, or 48.365 described in sub.
13 (1) (a), the agency shall also request the person to indicate whether he or she wishes
14 to continue in out-of-home care until the date specified in s. 48.365 (5) (b) 4. under
15 an extension of the order. If the person indicates that he or she wishes to be
16 discharged from out-of-home care on termination of the order, the agency shall
17 request a transition-to-discharge hearing under par. (b). If the person indicates that
18 he or she wishes to continue in out-of-home care under an extension of an order
19 under s. 48.355, 48.357, or 48.365 described in sub. (1) (a), the agency shall request
20 an extension of the order under s. 48.365. If the person indicates that he or she
21 wishes to continue in out-of-home care under a voluntary agreement under sub. (3),
22 the agency and the person shall enter into such an agreement.

23 SECTION 4. 48.366 (2) (b) 1. of the statutes is amended to read:

24 48.366 (2) (b) 1. If the person who is the subject of an order described in sub.
25 (1) (a) or (b) indicates that he or she wishes to be discharged from out-of-home care

1 on termination of the order, the agency primarily responsible for providing services
2 to the person under the order shall request the court to hold a
3 transition-to-discharge hearing and shall cause notice of that request to be provided
4 to that person, the parent, guardian, and legal custodian of that person, any foster
5 parent or other physical custodian described in s. 48.62 (2) of that person, that
6 person's court-appointed special advocate, all parties who are bound by the
7 dispositional order, and, if that person is an Indian child who has been removed from
8 the home of his or her parent or Indian custodian, that person's Indian custodian and
9 tribe.

10 **SECTION 5.** 48.366 (2) (b) 3. of the statutes is amended to read:

11 48.366 (2) (b) 3. At the hearing the court shall review with the person who is
12 the subject of an order described in sub. (1) (a) or (b) the options specified in par. (a)
13 and. If the person is subject to an order under s. 48.355, 48.357, or 48.365 described
14 in sub. (1) (a), the court shall also advise the person that he or she may continue in
15 out-of-home care as provided in par. (a) under an extension of an order under s.
16 48.355, 48.357, or 48.365 described in sub. (1) (a) or under a voluntary agreement
17 under sub. (3).

18 **SECTION 6.** 48.366 (2) (b) 4. of the statutes is amended to read:

19 48.366 (2) (b) 4. If the court determines that the person who is the subject of
20 an order described in sub. (1) (a) or (b) understands that he or she may continue in
21 out-of-home care, but wishes to be discharged from that care on termination of the
22 order, the court shall advise the person that he or she may enter into a voluntary
23 agreement under sub. (3) at any time before he or she is granted a high school or high
24 school equivalency diploma or reaches 21 years of age, whichever occurs first, so long
25 as he or she is a full-time student at a secondary school or its vocational or technical

1 equivalent and an individualized education program under s. 115.787 is in effect for
 2 him or her. If the court determines that the person wishes to continue in
 3 out-of-home care under an extension of an order under s. 48.355, 48.357, or 48.365
 4 described in sub. (1) (a), the court shall schedule an extension hearing under s.
 5 48.365. If the court determines that the person wishes to continue in out-of-home
 6 care under a voluntary agreement under sub. (3), the court shall order the agency
 7 primarily responsible for providing services to the person under the order to provide
 8 transition-to-independent-living services for the person under a voluntary
 9 agreement under sub. (3).

10 **SECTION 7.** 48.366 (3) (a) of the statutes is amended to read:

11 48.366 (3) (a) On termination of an order described in sub. (1) (a) or (b), the
 12 person who is the subject of the order, or the person's guardian on behalf of the
 13 person, and the agency primarily responsible for providing services to the person
 14 under the order may enter into a transition-to-independent-living agreement
 15 under which the person continues in out-of-home care and continues to be a
 16 full-time student at a secondary school or its vocational or technical equivalent
 17 under an individualized education program under s. 115.787 until the date on which
 18 the person reaches 21 years of age, is granted a high school or high school equivalency
 19 diploma, or terminates the agreement as provided in par. (b), whichever occurs first,
 20 and the agency provides services to the person to assist him or her in transitioning
 21 to independent living.

22 **SECTION 8.** 48.366 (3) (d) of the statutes is created to read:

23 48.366 (3) (d) If the agency that enters into a voluntary agreement under this
 24 subsection is the department or a county department, the voluntary agreement shall
 25 also specifically state that the department or ^{the} county department has placement and

1 care responsibility for the person who is the subject of the agreement as required
2 under 42 USC 672 (a) (2) and has primary responsibility for providing services to the
3 person.

or by an agency's termination of such an agreement

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4 SECTION 9. 48.366 (3g) of the statutes is created to read:

5 48.366 (3g) APPEAL PROCEDURES. (a) ~~Except as provided in par. (b), any person~~
6 who is aggrieved by the failure of an agency to enter into a
7 transition-to-independent-living agreement under sub. (3), ~~to provide any services~~
8 ~~specified in such an agreement, or to perform any other action required of the agency~~
9 ~~under this section~~ has the right to a contested case hearing under ch. 227.

10 (b) ~~If the agency specified in par. (a) is a county department, a person who is~~
11 ~~aggrieved as provided in par. (a) may obtain a review of the county department's~~
12 ~~action or inaction under ch. 68.~~

13 SECTION 10. 48.366 (4) (a) of the statutes is amended to read:

14 48.366 (4) (a) Rules permitting a foster home, group home, or residential care
15 center for children and youth to provide care for persons who agree to continue in
16 out-of-home care under an extension of an order described in sub. (1) (a) or a
17 voluntary agreement under sub. (3).

18 SECTION 11. 48.366 (4) (c) of the statutes is created to read:

19 48.366 (4) (c) Rules governing the provision of kinship care payments or
20 long-term kinship care payments under s. 48.57 (3m) or (3n), subsidized
21 guardianship payments under s. 48.623, and adoption assistance under s. 48.975 for
22 the care of a person who agrees to continue in out-of-home care under an extension
23 of an order described in sub. (1) or a voluntary agreement under sub. (3).

24 SECTION 12. 48.38 (1) (ad) of the statutes is created to read:

1 48.38 (1) (ad) "Child" includes a person 18 years of age or over for whom a
2 permanency plan is required under sub. (2).

3 SECTION 13. 48.38 (2) (d) of the statutes is amended to read:

4 48.38 (2) (d) The child was placed under a voluntary agreement between the
5 agency and the child's parent under s. 48.63 (1) (a) or (5) (b) or under a voluntary
6 transition-to-independent-living agreement under s. 48.366 (3).

7 SECTION 14. 48.38 (5) (c) 9. of the statutes is amended to read:

8 48.38 (5) (c) 9. If the child is the subject of an order that terminates as provided
9 in s. 48.355 (4) (b) 4., 48.357 (6) (a) 4. or 48.365 (5) (b) 4. or of a voluntary
10 transition-to-independent-living agreement under s. 48.366 (3), the
11 appropriateness of the transition-to-independent-living plan developed under s.
12 48.385; the extent of compliance with that plan by the child, the child's guardian, if
13 any, the agency primarily responsible for providing services under that plan, and any
14 other service providers; and the progress of the child toward making the transition
15 to independent living.

16 SECTION 15. 48.385 of the statutes is amended to read:

17 **48.385 Plan for transition to independent living.** During the 90 days
18 immediately before a child who is placed in a foster home, group home, or residential
19 care center for children and youth, in the home of a relative other than a parent, or
20 in a supervised independent living arrangement attains 18 years of age or, if the child
21 is placed in such a placement under an order under s. 48.355, 48.357, or 48.365 that
22 terminates under s. 48.355 (4) (b) after the child attains 18 years of age or under a
23 voluntary transition-to-independent-living agreement under s. 48.366 (3) that
24 terminates under s. 48.366 (3) (a) after the child attains 18 years of age, during the
25 90 days immediately before the termination of the order or agreement, the agency

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1 primarily responsible for providing services to the child under the order or
2 agreement shall provide the child with assistance and support in developing a plan
3 for making the transition from out-of-home care to independent living. The
4 transition plan shall be personalized at the direction of the child, shall be as detailed
5 as the child directs, and shall include specific options for obtaining housing, health
6 care, education, mentoring and continuing support services, and workforce support
7 and employment services.

8 **SECTION 16.** 48.57 (3m) (a) 1. of the statutes is renumbered 48.57 (3m) (a) 1.
9 (intro.) and amended to read:

10 48.57 (3m) (a) 1. (intro.) “Child” means a person under 18 years of age; “Child”
11 also includes a person 18 years of age or over, but if any of the following applies:

12 a. The person is under 19 years of age, who is a full-time student in good
13 academic standing at a secondary school or its vocational or technical equivalent,
14 and who is reasonably expected to complete his or her program of study and be
15 granted a high school or high school equivalency diploma; ~~or a person 18 years of age~~
16 ~~or over, but,~~

17 b. The person is under 21 years of age, who is a full-time student in good
18 academic standing at a secondary school or its vocational or technical equivalent if,
19 an individualized education program under s. 115.787 is in effect for the person, and
20 the person is placed in the home of the kinship care relative under an order under
21 s. 48.355, 48.357, 48.365, 938.355, 938.357, or 938.365 that terminates under s.
22 48.355 (4) (b) or 938.355 (4) (am) after the person attains 18 years of age or under a
23 voluntary transition-to-independent-living agreement under s. 48.366 (3) or
24 938.366 (3).

25 **SECTION 17.** 48.57 (3m) (b) 1. of the statutes is amended to read:

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child

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1 48.57 (3m) (b) 1. The county department or, in a county having a population
 2 of 500,000 or more, the department shall refer to the attorney responsible for support
 3 enforcement under s. 59.53 (6) (a) the name of the parent or parents of a child for
 4 whom a payment is made under par. (am). This subdivision does not apply to a
 5 person 18 years of age or over for whom a payment is made under par. (am).

6 SECTION 18. 48.57 (3n) (a) 1. of the statutes is renumbered 48.57 (3n) (a) 1.
 7 (intro.) and amended to read:

8 48.57 (3n) (a) 1. (intro.) "Child" means a person under 18 years of age; "Child"
 9 also includes a person 18 years of age or over, but if any of the following applies:

10 a. The person is under 19 years of age, who is a full-time student in good
 11 academic standing at a secondary school or its vocational or technical equivalent,
 12 and who is reasonably expected to complete his or her program of study and be
 13 granted a high school or high school equivalency diploma; ~~or a person 18 years of age~~
 14 ~~or over, but,~~

15 b. The person is under 21 years of age, who is a full-time student in good
 16 academic standing at a secondary school or its vocational or technical equivalent if,
 17 an individualized education program under s. 115.787 is in effect for the person, and
 18 the person is placed in the home of the long-term kinship care relative under an
 19 order under s. 48.355, 48.357, 48.365, 938.355, 938.357, or 938.365 that terminates
 20 under s. 48.355 (4) (b) or 938.355 (4) (am) after the person attains 18 years of age or
 21 under a voluntary transition-to-independent-living agreement under s. 48.366 (3)
 22 or 938.366 (3).

23 SECTION 19. 48.57 (3n) (b) 1. of the statutes is amended to read:

24 48.57 (3n) (b) 1. The county department or, in a county having a population of
 25 500,000 or more, the department shall refer to the attorney responsible for support

child

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enforcement under s. 59.53 (6) (a) the name of the parent or parents of a child for whom a payment is made under par. (am). This subdivision does not apply to a person 18 years of age or over for whom a payment is made under par. (am).

SECTION 20. 48.599 (1) of the statutes is renumbered 48.599 (1r).

SECTION 21. 48.599 (1g) of the statutes is created to read:

, but under 21 years of age, who is placed

48.599 (1g) "Child" means a person under 18 years of age. For purposes of the authority to provide care and maintenance for a child placed in a residential care center for children and youth operated by a child welfare agency and of counting the number of children for whom a child welfare agency may provide such care and maintenance, "child" also includes a person 18 years of age or over who resides in a residential care center for children and youth operated by a child welfare agency, if

any of the following applies:

~~(a) The person is under 19 years of age, is a full-time student at a secondary school or its vocational or technical equivalent, is reasonably expected to complete the program before attaining 19 years of age, and is placed in the residential care center for children and youth under an order under s. 48.355, 48.357, 48.365, 938.355, 938.357, or 938.365 that terminates under s. 48.355 (4) (b) or 938.355 (4) (am) after the person attains 18 years of age,~~

~~(b) The person is under 19 years of age and an order under s. 48.355, 48.357, 48.365, 938.355, 938.357, or 938.365 entered before the person attained 18 years of age places or continues the placement of the person in a residential care center for children and youth until a date that is one year or less after the date on which the order was entered.~~

~~(c) The person is under 21 years of age, is a full-time student at a secondary school or its vocational or technical equivalent, an individualized education program~~

1, or

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~~under s. 115.787 is in effect for the person, and the person is placed in the residential care center for children and youth under an order under s. 48.355, 48.357, 48.365, 938.355, 938.357, or 938.365 that terminates under s. 48.355 (4) (b) or 938.355 (4) (am) after the person attains 18 years of age or under a voluntary transition-to-independent-living agreement under s. 48.366 (3) or 938.366 (3),~~

~~(d) The person is under 21 years of age and is placed in a residential care center for children and youth under the placement and care responsibility of another state under 42 USC 675 (8) (B) (iv).~~

renumbered 48.619 and amended

SECTION 22. 48.619 (intro.) of the statutes is amended to read:

48.619 Definition. (intro.) In this subchapter, "child" means a person under 18 years of age. For purposes of the authority to provide care and maintenance for a child and of counting the number of children for whom a foster home or group home may provide care and maintenance, "child" also includes a person 18 years of age or but under 21 years of age, ~~over~~ who resides in the foster home or group home, if any of the following applies:

~~SECTION 23. 48.619 (1) of the statutes is amended to read:~~

~~48.619 (1) The person is under 19 years of age, 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 attaining 19 years of age, and is placed in the foster home or group home under an order under s. 48.355, 48.357, 48.365, 938.355, 938.357, or 938.365 that terminates under s. 48.355 (4) (b) or 938.355 (4) (am) after the person attains 18 years of age.~~

SECTION 24. 48.619 (1m) of the statutes is created to read:

48.619 (1m) The person is under 19 years of age and an order under s. 48.355, 48.357, 48.365, 938.355, 938.357, or 938.365 entered before the person attained 18 years of age places or continues the placement of the person in a foster home or group

change component

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1 home until a date that is one year or less after the date on which the order was
2 entered.

3 **SECTION 25.** 48.619 (2) of the statutes is amended to read:

4 48.619 (2) The person is under 21 years of age, is a full-time student at a
5 secondary school or its vocational or technical equivalent, and an individualized
6 education program under s. 115.787 is in effect for the person, and the person is
7 placed in the foster home or group home under an order under s. 48.355, 48.357,
8 48.365, 938.355, 938.357, or 938.365 that terminates under s. 48.355 (4) (b) or
9 938.355 (4) (am) after the person attains 18 years of age or under a voluntary
10 transition-to-independent-living agreement under s. 48.366 (3) or 938.366 (3).

11 **SECTION 26.** 48.619 (3) of the statutes is created to read:

12 48.619 (3) The person is under 21 years of age and is placed in a foster home
13 or group home under the placement and care responsibility of another state under
14 ~~42-USC 675 (8) (B) (iv).~~

15 **SECTION 27.** 48.623 (1m) of the statutes is created to read:

16 48.623 (1m) DURATION OF ELIGIBILITY. Subsidized guardianship payments
17 under sub. (1) or (6) may be continued after the child attains 18 years of age if any
18 of the following applies:

19 (a) The child is under 19 years of age, is a full-time student at a secondary
20 school or its vocational or technical equivalent, and is reasonably expected to
21 complete the program before reaching 19 years of age.

22 (b) The child is under 21 years of age, is a full-time student at a secondary
23 school or its vocational or technical equivalent, has a physical, emotional, or
24 behavioral need that warrants the continuation of those payments as determined by
25 the county department or, in a county having a population of 750,000 or more, the

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based on disability

1 department, and is not eligible for social security disability insurance under 42 USC
2 401 to 433 or supplemental security income under 42 USC 1381 to 1385.

3 (c) The child is under 21 years of age, is a full-time student at a secondary
4 school or its vocational or technical equivalent, an individualized education program
5 under s. 115.787 is in effect for the child, and the subsidized guardianship agreement
6 for the child became effective on or after the date on which the child attained 16 years
7 of age.

social security disability insurance under 42 USC 401 to 433 or
supplemental security income under 42 USC 1381 to 1385 based on
disability

8 SECTION 28. 48.975 (3m) of the statutes is renumbered 48.975 (3m) (intro.) and
9 amended to read:

10 48.975 (3m) DURATION. (intro.) The adoption assistance may be continued after
11 the adoptee reaches the age of 18 if that adoptee is a full-time high school student.
12 attains 18 years of age if any of the following applies:

13 SECTION 29. 48.975 (3m) (a), (b) and (c) of the statutes are created to read:

14 48.975 (3m) (a) The adoptee is under 19 years of age, is a full-time student at
15 a secondary school or its vocational or technical equivalent, and is reasonably
16 expected to complete the program before reaching 19 years of age.

17 (b) The adoptee is under 21 years of age, is a full-time student at a secondary
18 school or its vocational or technical equivalent, has a mental or physical disability
19 that warrants the continuation of adoption assistance as determined by the
20 department, is not eligible for other benefits, and otherwise lacks adequate resources
21 to continue in secondary school or its vocational or technical equivalent.

22 (c) The adoptee is under 21 years of age, is a full-time student at a secondary
23 school or its vocational or technical equivalent, an individualized education program
24 under s. 115.787 is in effect for the adoptee, and the adoption assistance agreement

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1 for the adoptee became effective on or after the date on which the adoptee attained
2 16 years of age.

3 **SECTION 30.** 50.01 (1g) (i) of the statutes is created to read:

4 50.01 (1g) (i) A facility licensed as a foster home, group home, or residential
5 care center for children and youth that provides care and maintenance for persons
6 specified in s. 48.599 (1g) (a) to (d) or 48.619 (1) to (3).

7 **SECTION 31.** 938.366 (1) of the statutes is renumbered 938.366 (1) (intro.) and
8 amended to read:

9 938.366 (1) (intro.) **APPLICABILITY.** This section applies to a person who is a
10 full-time student of a secondary school or its vocational or technical equivalent, for
11 whom an individualized education program under s. 115.787 is in effect, and to whom
12 any of the following applies:

13 (a) The person is placed in a foster home, group home, or residential care center
14 for children and youth, in the home of a relative other than a parent, or in a
15 supervised independent living arrangement under an order under s. 938.355,
16 938.357, or 938.365 that terminates as provided in s. 938.355 (4) (am) 1., 2., or 3.,
17 938.357 (6) (a) 1., 2., or 3., or 938.365 (5) (b) 1., 2., or 3. on or after the person attains
18 18 years of age, who is a full-time student of a secondary school or its vocational or
19 technical equivalent, and for whom an individualized education program under s.
20 115.787 is in effect.

21 **SECTION 32.** 938.366 (1) (b) of the statutes is created to read:

22 938.366 (1) (b) The person is placed in a shelter care facility on the date on
23 which an order specified in par. (a) terminates.

24 **SECTION 33.** 938.366 (2) (a) of the statutes is amended to read:

Insert
15-2

1 938.366 (2) (a) Not less than 120 days before an order described in sub. (1) (a)
2 terminates, the agency primarily responsible for providing services under the order
3 shall request the person who is the subject of the order to indicate whether he or she
4 wishes to be discharged from out-of-home care on termination of the order, wishes
5 to continue in out-of-home care until the date specified in s. 938.365 (5) (b) 4. under
6 an extension of the order, or wishes to continue in out-of-home care under a
7 voluntary agreement under sub. (3). If the person indicates that he or she wishes to
8 be discharged from out-of-home care on termination of the order, the agency shall
9 request a transition-to-discharge hearing under par. (b). If the person indicates that
10 he or she wishes to continue in out-of-home care under an extension of the order, the
11 agency shall request an extension of the order under s. 938.365. If the person
12 indicates that he or she wishes to continue in out-of-home care under a voluntary
13 agreement under sub. (3), the agency and the person shall enter into such an
14 agreement.

15 **SECTION 34.** 938.366 (2) (b) 1. of the statutes is amended to read:

16 938.366 (2) (b) 1. If the person who is the subject of an order described in sub.
17 (1) (a) indicates that he or she wishes to be discharged from out-of-home care on
18 termination of the order, the agency primarily responsible for providing services to
19 the person under the order shall request the court to hold a transition-to-discharge
20 hearing and shall cause notice of that request to be provided to that person, the
21 parent, guardian, and legal custodian of that person, any foster parent or other
22 physical custodian described in s. 48.62 (2) of that person, all parties who are bound
23 by the dispositional order, and, if that person is an Indian juvenile who has been
24 removed from the home of his or her parent or Indian custodian, that person's Indian
25 custodian and tribe.

1 **SECTION 35.** 938.366 (2) (b) 3. of the statutes is amended to read:

2 938.366 (2) (b) 3. At the hearing the court shall review with the person who is
3 the subject of an order described in sub. (1) (a) the options specified in par. (a) and
4 shall advise the person that he or she may continue in out-of-home care as provided
5 in par. (a) under an extension of the order or under a voluntary agreement under sub.
6 (3).

7 **SECTION 36.** 938.366 (2) (b) 4. of the statutes is amended to read:

8 938.366 (2) (b) 4. If the court determines that the person who is the subject of
9 an order described in sub. (1) (a) understands that he or she may continue in
10 out-of-home care, but wishes to be discharged from that care on termination of the
11 order, the court shall advise the person that he or she may enter into a voluntary
12 agreement under sub. (3) at any time before he or she is granted a high school or high
13 school equivalency diploma or reaches 21 years of age, whichever occurs first, so long
14 as he or she is a full-time student at a secondary school or its vocational or technical
15 equivalent and an individualized education program under s. 115.787 is in effect for
16 him or her. If the court determines that the person wishes to continue in
17 out-of-home care under an extension of the order described in sub. (1) (a), the court
18 shall schedule an extension hearing under s. 938.365. If the court determines that
19 the person wishes to continue in out-of-home care under a voluntary agreement
20 under sub. (3), the court shall order the agency primarily responsible for providing
21 services to the person under the order to provide transition-to-independent-living
22 services for the person under a voluntary agreement under sub. (3).

23 **SECTION 37.** 938.366 (3) (a) of the statutes is amended to read:

24 938.366 (3) (a) On termination of an order described in sub. (1) (a), the person
25 who is the subject of the order, or the person's guardian on behalf of the person, and

1 the agency primarily responsible for providing services to the person under the order
 2 may enter into a transition-to-independent-living agreement under which the
 3 person continues in out-of-home care and continues to be a full-time student at a
 4 secondary school or its vocational or technical equivalent under an individualized
 5 education program under s. 115.787 until the date on which the person reaches 21
 6 years of age, is granted a high school or high school equivalency diploma, or
 7 terminates the agreement as provided in par. (b), whichever occurs first, and the
 8 agency provides services to the person to assist him or her in transitioning to
 9 independent living.

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the department or

10 SECTION 38. 938.366 (3) (d) of the statutes is created to read:

11 938.366 (3) (d) If the agency that enters into a voluntary agreement under this
 12 subsection is a county department, the voluntary agreement shall also specifically
 13 state that the county department has placement and care responsibility for the
 14 person who is the subject of the agreement as required under 42 USC 672 (a) (2) and
 15 has primary responsibility for providing services to the person.

16 SECTION 39. 938.366 (3g) of the statutes is created to read:

17 938.366 (3g) APPEAL PROCEDURES. (a) Except as provided in par. (b), any person
 18 who is aggrieved by the failure of an agency to enter into a
 19 transition-to-independent-living agreement under sub. (3), to provide any services
 20 specified in such an agreement, or to perform any other action required of the agency
 21 under this section has the right to a contested case hearing under ch. 227.

Any

22 (b) If the agency specified in par. (a) is a county department, a person who is
 23 aggrieved as provided in par. (a) may obtain a review of the county department's
 24 action or inaction under ch. 68.

25 SECTION 40. 938.366 (4) (a) of the statutes is amended to read:

or by an agency's termination of such an agreement

1 938.366 (4) (a) Rules permitting a foster home, group home, or residential care
2 center for children and youth to provide care for persons who agree to continue in
3 out-of-home care under an extension of an order described in sub. (1) (a) or a
4 voluntary agreement under sub. (3).

5 **SECTION 41.** 938.366 (4) (c) of the statutes is created to read:

6 938.366 (4) (c) Rules governing the provision of kinship care payments or
7 long-term kinship care payments under s. 48.57 (3m) or (3n), subsidized
8 guardianship payments under s. 48.623, and adoption assistance under s. 48.975 for
9 the care of a person who agrees to continue in out-of-home care under an extension
10 of an order described in sub. (1) or a voluntary agreement under sub. (3).

11 **SECTION 42.** 938.38 (1) (ap) of the statutes is created to read:

12 938.38 (1) (ap) “Juvenile” includes a person 17 years of age or over for whom
13 a permanency plan is required under sub. (2).

14 **SECTION 43.** 938.38 (2) (d) of the statutes is amended to read:

15 938.38 (2) (d) The juvenile was placed under a voluntary agreement between
16 the agency and the juvenile’s parent under s. 48.63 (1) (a) or (5) (b) or under a
17 voluntary transition-to-independent-living agreement under s. 938.366 (3).
18

19 **SECTION 44.** 938.38 (5) (c) 9. of the statutes is amended to read:

20 938.38 (5) (c) 9. If the juvenile is the subject of an order that terminates as
21 provided in s. 938.355 (4) (am) 4., 938.357 (6) (a) 4., or 938.365 (5) (b) 4. or of a
22 voluntary transition-to-independent-living agreement under s. 938.366 (3), the
23 appropriateness of the transition-to-independent-living plan developed under s.
24 938.385; the extent of compliance with that plan by the juvenile, the juvenile’s
guardian, if any, the agency primarily responsible for providing services under that

15
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1 plan, and any other service providers; and the progress of the juvenile toward
2 making the transition to independent living.

3 SECTION 45. 938.385 of the statutes is amended to read:

4 **938.385 Plan for transition to independent living.** During the 90 days
5 immediately before a juvenile who is placed in a foster home, group home, or
6 residential care center for children and youth, in the home of a relative other than
7 a parent, or in a supervised independent living arrangement attains 18 years of age
8 or, if the juvenile is placed in such a placement under an order under s. 938.355,
9 938.357, or 938.365 that terminates under s. 938.355 (4) (am) after the juvenile
10 attains 18 years of age or under a voluntary transition-to-independent-living
11 agreement under s. 938.366 (3) that terminates under s. 938.366 (3) (a) after the
12 juvenile attains 18 years of age, during the 90 days immediately before the
13 termination of the order or agreement, the agency primarily responsible for
14 providing services to the juvenile under the order or agreement shall provide the
15 juvenile with assistance and support in developing a plan for making the transition
16 from out-of-home care to independent living. The transition plan shall be
17 personalized at the direction of the juvenile, shall be as detailed as the juvenile
18 directs, and shall include specific options for obtaining housing, health care,
19 education, mentoring and continuing support services, and workforce support and
20 employment services.

21 (END)

**2015-2016 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0311/P3ins
GMM.....

(INSERT 6-21)

1 **SECTION 1.** 48.366 (3) (am) of the statutes is created to read:

2 48.366 **(3)** (am) 1. The agency primarily responsible for providing services
3 under the agreement shall petition the court for a determination that the person's
4 placement in out-of-home care under the agreement is in the best interests of the
5 person. The request shall contain the name and address of the placement and a
6 statement describing why the placement is in the best interests of the person and
7 shall have a copy of the agreement attached to it. The agency shall cause written
8 notice of the petition to be sent to the person who is the subject of the agreement and
9 the person's guardian.

10 2. On receipt of a petition under subd. 1., the court shall schedule a hearing on
11 the petition. Not less than 3 days before the hearing the agency primarily
12 responsible for providing services under the agreement or the court shall provide
13 notice of the hearing to all persons who are entitled to receive notice under subd. 1.
14 A copy of the petition shall be attached to the notice.

15 3. If the court finds that the person's placement in out-of-home care under the
16 agreement is in the best interests of the person, the court shall grant an order
17 determining that the placement is in the best interests of the person and the person
18 may remain in the placement under the agreement. If the court finds that the
19 person's placement in out-of-home care under the agreement is not in the best
20 interests of the person, the court shall grant an order determining that the
21 placement is not in the best interests of the person and the person may not remain
22 in the placement under the agreement, but the person or his or her guardian may

1 request the agency primarily responsible for providing services under the agreement
2 to enter into a new agreement under this section.

(END OF INSERT)

(INSERT 8-6)

3 SECTION 2. 48.38 (4) (fg) 5. of the statutes is amended to read:

4 48.38 (4) (fg) 5. As provided in par. (fm), placement in some other planned
5 permanent living arrangement that includes an appropriate, enduring relationship
6 with an adult, including sustaining care or long-term foster care, but not including
7 independent living, or the goal of transitioning the child to independence.

History: 1983 a. 399; 1985 a. 70 ss. 1, 10; 1985 a. 176; 1985 a. 292 s. 3; 1985 a. 332; 1987 a. 383; 1989 a. 31, 86, 107; 1993 a. 377, 385, 395, 446, 491; 1995 a. 27 ss. 2474 to 2478, 9126 (19); 1995 a. 77, 143, 275; 1997 a. 27, 35, 104, 237; 1999 a. 149; 2001 a. 2, 59, 69, 109; 2005 a. 344, 448; 2007 a. 20; 2009 a. 28, 79, 94, 185; 2011 a. 32, 181, 258; 2011 a. 260 ss. 80, 81; 2013 a. 165; 2013 a. 168 s. 21; 2013 a. 334, 335.

8 SECTION 3. 48.38 (4) (fg) 6. of the statutes is repealed.

9 SECTION 4. 48.38 (4) (fm) of the statutes is amended to read:

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

History: 1983 a. 399; 1985 a. 70 ss. 1, 10; 1985 a. 176; 1985 a. 292 s. 3; 1985 a. 332; 1987 a. 383; 1989 a. 31, 86, 107; 1993 a. 377, 385, 395, 446, 491; 1995 a. 27 ss. 2474 to 2478, 9126 (19); 1995 a. 77, 143, 275; 1997 a. 27, 35, 104, 237; 1999 a. 149; 2001 a. 2, 59, 69, 109; 2005 a. 344, 448; 2007 a. 20; 2009 a. 28, 79, 94, 185; 2011 a. 32, 181, 258; 2011 a. 260 ss. 80, 81; 2013 a. 165; 2013 a. 168 s. 21; 2013 a. 334, 335.

1 **SECTION 5.** 48.38 (5) (c) 6. d. of the statutes is amended to read:

2 48.38 (5) (c) 6. d. Being placed in some other planned permanent living
3 arrangement that includes an appropriate, enduring relationship with an adult,
4 including sustaining care ~~or long-term foster care, but not including independent~~
5 living, or transitioning to independence.

History: 1983 a. 399; 1985 a. 70 ss. 1, 10; 1985 a. 176; 1985 a. 292 s. 3; 1985 a. 332; 1987 a. 383; 1989 a. 31, 86, 107; 1993 a. 377, 385, 395, 446, 491; 1995 a. 27 ss. 2474 to 2478, 9126 (19); 1995 a. 77, 143, 275; 1997 a. 27, 35, 104, 237; 1999 a. 149; 2001 a. 2, 59, 69, 109; 2005 a. 344, 448; 2007 a. 20; 2009 a. 28, 79, 94, 185; 2011 a. 32, 181, 258; 2011 a. 260 ss. 80, 81; 2013 a. 165; 2013 a. 168 s. 21; 2013 a. 334, 335.

(END OF INSERT)

(INSERT 9-24)

X

6 **SECTION 6.** 48.57 (3m) (ar) of the statutes is renumbered 48.57 (3m) (i) 1. and
7 amended to read:

8 48.57 (3m) (i) 1. ~~The department shall promulgate rules~~ Rules to provide
9 assessment criteria for determining whether a kinship care relative who is providing
10 care and maintenance for a child is eligible to receive payments under par. (am). The
11 rules shall also provide that any criteria established under the rules shall first apply
12 to applications for payments under par. (am) received, and to reviews under par. (d)
13 conducted, on the effective date of those rules.

14 Cross-reference: Cross-reference: Cross-reference: See also ch. DCF-58; Wis. adm. code. Cross-reference:
History: 1977 c. 29; 1977 c. 83 s. 26; 1977 c. 271, 354, 418, 447, 449; 1979 c. 34, 221; 1981 c. 329; 1983 a. 189 s. 329 (17); 1983 a. 447; 1985 a. 176; 1987 a. 339; 1993 a. 385, 395, 446, 491; 1995 a. 27 ss. 2575 to 2579m, 9126 (19); 1995 a. 77, 289, 443; 1997 a. 3, 27, 35, 36, 41, 105, 237, 252, 292; 1999 a. 9, 103, 133, 162; 2001 a. 16 ss. 1629, 4036-4038, 4040, 4042, 4043; 2001 a. 38, 59, 69, 109; 2005 a. 25, 232, 293; 2007 a. 20; 2009 a. 28, 71, 94, 180; 2011 a. 32; 2013 a. 20, 334, 335, 362.

(END OF INSERT)

(INSERT 10-5)

15 **SECTION 7.** 48.57 (3m) (i) of the statutes is created to read:

16 48.57 (3m) (i) The department shall promulgate rules to implement this
17 subsection. Those rules shall include all of the following:

1 2. Rules governing the provision of kinship care payments for the care and
2 maintenance of a child after the child attains 18 years of age.

(END OF INSERT)

(INSERT 11-3)

3 **SECTION 8.** 48.57 (3n) (i) of the statutes is created to read:

4 48.57 (3n) (i) The department shall promulgate rules to implement this
5 subsection. Those rules shall include rules governing the provision of long-term
6 kinship care payments for the care and maintenance of a child after the child attains
7 18 years of age.

(END OF INSERT)

(INSERT 13-14)

8 not under an order under s. 48.355, 48.357, 48.365, 938.355, 938.357, or 938.365
9 that terminates after the person attains 18 years of age, under a voluntary
10 transition-to-independent-living agreement under s. 48.366 (3) or 938.366 (3), or
11 under the placement and care responsibility of another state under 42 USC 675 (8)

12 (B) (iv) o

13 **SECTION 9.** 48.619 (1) of the statutes is repealed.

14 **SECTION 10.** 48.619 (2) of the statutes is repealed.

(END OF INSERT)

(INSERT 14-7)

15 **SECTION 11.** 48.623 (7) (d) of the statutes is created to read:

1 48.623 (7) (d) Rules governing the provision of subsidized guardianship
2 payments for the care of a child after the child attains 18 years of age.

(END OF INSERT)

(INSERT 15-2)

3 **SECTION 12.** 48.975 (5) (f) of the statutes is created to read:

4 48.975 (5) (f) Rules governing the provision of adoption assistance for the care
5 of a child after the child attains 18 years of age.

(END OF INSERT)

(INSERT 18-19)

6 **SECTION 13.** 938.366 (3) (am) of the statutes is created to read:

7 938.366 (3) (am) 1. The agency primarily responsible for providing services
8 under the agreement shall petition the court for a determination that the person's
9 placement in out-of-home care under the agreement is in the best interests of the
10 person. The request shall contain the name and address of the placement and a
11 statement describing why the placement is in the best interests of the person and
12 shall have a copy of the agreement attached to it. The agency shall cause written
13 notice of the petition to be sent to the person who is the subject of the agreement and
14 the person's guardian. ✓

15 2. On receipt of a petition under subd. 1., the court shall schedule a hearing on
16 the petition. Not less than 3 days before the hearing the agency primarily
17 responsible for providing services under the agreement or the court shall provide
18 notice of the hearing to all persons who are entitled to receive notice under subd. 1. ✓
19 A copy of the petition shall be attached to the notice.

1 3. If the court finds that the person’s placement in out-of-home care under the
 2 agreement is in the best interests of the person, the court shall grant an order
 3 determining that the placement is in the best interests of the person and the person
 4 may remain in the placement under the agreement. If the court finds that the
 5 person’s placement in out-of-home care under the agreement is not in the best
 6 interests of the person, the court shall grant an order determining that the
 7 placement is not in the best interests of the person and the person may not remain
 8 in the placement under the agreement, but the person or his or her guardian may
 9 request the agency primarily responsible for providing services under the agreement
 10 to enter into a new agreement under this section.

(END OF INSERT)

(INSERT 19-17)

11 **SECTION 14.** 938.38 (4) (fg) 5. of the statutes is amended to read:

12 938.38 (4) (fg) 5. As provided in par. (fm), placement in some other planned
 13 permanent living arrangement that includes an appropriate, enduring relationship
 14 with an adult, including sustaining care ~~or long-term foster care, but not including~~
 15 independent living, or the goal of transitioning the juvenile to independence.

History: 1995 a. 77, 275, 352; 1997 a. 35, 237, 296; 1999 a. 9; 2001 a. 59, 69, 109; 2003 a. 321; 2005 a. 156, 344, 448; 2007 a. 20, 97; 2009 a. 28, 79, 94, 185; 2011 a. 32, 181, 258; 2011 a. 260 s. 80; 2013 a. 165, 334, 335.

16 **SECTION 15.** 938.38 (4) (fg) 6. of the statutes is repealed.

17 **SECTION 16.** 938.38 (4) (fm) of the statutes is amended to read:

18 938.38 (4) (fm) If the agency determines that there is a compelling reason why
 19 it currently would not be in the best interests of the juvenile to return the juvenile
 20 to his or her home or to place the juvenile for adoption, with a guardian, or with a fit
 21 and willing relative as the permanency goal for the juvenile, the permanency goal
 22 of placing the juvenile in some other planned permanent living arrangement or of

1 transitioning the juvenile to independence as described in par. (fg) 5. If the agency
 2 makes that determination, the plan shall include the efforts made to achieve that
 3 permanency goal, including, if appropriate, through an out-of-state placement, a
 4 statement of that compelling reason, and, notwithstanding that compelling reason,
 5 a concurrent plan under s. 938.355 (2b) towards achieving a goal under par. (fg) 1.
 6 to 4. as a concurrent permanency goal in addition to the permanency goal under par.
 7 (fg) 5.

History: 1995 a. 77, 275, 352; 1997 a. 35, 237, 296; 1999 a. 9; 2001 a. 59, 69, 109; 2003 a. 321; 2005 a. 156, 344, 448; 2007 a. 20, 97; 2009 a. 28, 79, 94, 185; 2011 a. 32, 181, 258; 2011 a. 260 s. 80; 2013 a. 165, 334, 335.

8 **SECTION 17.** 938.38 (5) (c) 6. d. of the statutes is amended to read:

9 938.38 (5) (c) 6. d. Being placed in some other planned permanent living
 10 arrangement that includes an appropriate, enduring relationship with an adult,
 11 including sustaining care ~~or long-term foster care, but not including independent~~
 12 living, or transitioning to independence.

History: 1995 a. 77, 275, 352; 1997 a. 35, 237, 296; 1999 a. 9; 2001 a. 59, 69, 109; 2003 a. 321; 2005 a. 156, 344, 448; 2007 a. 20, 97; 2009 a. 28, 79, 94, 185; 2011 a. 32, 181, 258; 2011 a. 260 s. 80; 2013 a. 165, 334, 335.

(END OF INSERT)

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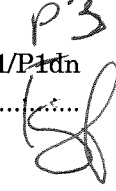
This bill requires a permanency plan to be prepared for a child who is placed outside the home under a voluntary transition-to-independent-living agreement. The bill also, with respect to voluntary transition-to-independent-living agreements: 1) requires the juvenile court, by no later than 180 days after the date of the agreement, to determine whether the child's placement under the agreement is in the best interests of the child; 2) provides that if DCF, DOC, or a county enters into such an agreement with a child, the agreement must specifically state that DCF, DOC, or the county has placement and care responsibility for the child and has primary responsibility for providing services to the child; 3) creates an appeal procedure under which any person who is aggrieved by the failure of an agency to enter into such an agreement or by an agency's termination of such an agreement has the right to a contested case hearing under the state administrative procedures laws; and 4) requires DCF to promulgate rules governing the provision of subsidized guardianship payments, kinship care payments, and adoption assistance for a child who agrees to continue in out-of-home care under such an agreement. The bill also requires DCF to promulgate such rules for any child 18 years of age or over for whom such payments or assistance is provided.

Under current law, subject to certain exceptions, a facility where five or more adults who do not require care above intermediate level nursing care reside and receive care, treatment, or services that are above the level of room and board must be licensed as a community-based residential facility (CBRF). This bill provides that a facility licensed as a foster home, group home, or residential care center for children and youth (facility) that provides care and maintenance for a person 18 years of age or over, but under 21 years of age, who is placed in the facility under an order of the juvenile court that terminates after the person attains 18 years of age, under a voluntary transition-to-independent-living agreement, or under the placement and care responsibility of another state is not required to also be licensed as a CBRF.

(END OF INSERT)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

P3
LRB-0311/P1dn

GMM.....


Date

Katie:

In reviewing this draft, please note all of the following:

1. Items 2. a. and c. of DCF's comments are really the same drafting request. Those items are addressed by the creation of ss. 48.366 (3) (am) and 938.366 (3) (am) in the draft.
2. Item 2. b. of DCF's comments is already addressed under current law. By plugging voluntary transition-to-independent-living agreements into ss. 48.38 (2) (d) and 938.38 (2) (d), the rest of the permanency planning process, including review, automatically applies.
3. Item 5 of DCF's comments requests that a reference to DOC be inserted into s. 48.366 (3) (d). This draft does not insert that reference because DOC is covered in the parallel provision in s. 938.366 (3) (d).
4. Item 8 of DCF's comments: see item 2 of this drafter's note.
5. Item 11 of the DCF comments asks why s. 48.599 (1g), as created by the draft, is needed. That provision is needed so that youths 18 years of age and over can stay in a residential care center for children and youth.
6. Item 14 of the DCF comments states that rule-making authority should not be granted to DOC. Section 938.366 (4) (intro.) under current law does not grant that authority to DOC; it grants that authority to DCF.

If you or the people at DCF have any questions about this draft, please do not hesitate to contact me at the phone number or e-mail address captioned below.

Gordon M. Malaise
Senior Legislative Attorney
(608) 266-9738
gordon.malaise@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0311/P3dn
GMM:kjf:rs

January 23, 2015

Katie:

In reviewing this draft, please note all of the following:

1. Items 2. a. and c. of DCF's comments are really the same drafting request. Those items are addressed by the creation of ss. 48.366 (3) (am) and 938.366 (3) (am) in the draft.
2. Item 2. b. of DCF's comments is already addressed under current law. By plugging voluntary transition-to-independent-living agreements into ss. 48.38 (2) (d) and 938.38 (2) (d), the rest of the permanency planning process, including review, automatically applies.
3. Item 5 of DCF's comments requests that a reference to DOC be inserted into s. 48.366 (3) (d). This draft does not insert that reference because DOC is covered in the parallel provision in s. 938.366 (3) (d).
4. Item 8 of DCF's comments: see item 2 of this drafter's note.
5. Item 11 of the DCF comments asks why s. 48.599 (1g), as created by the draft, is needed. That provision is needed so that youths 18 years of age and over can stay in a residential care center for children and youth.
6. Item 14 of the DCF comments states that rule-making authority should not be granted to DOC. Section 938.366 (4) (intro.) under current law does not grant that authority to DOC; it grants that authority to DCF.

If you or the people at DCF have any questions about this draft, please do not hesitate to contact me at the phone number or e-mail address captioned below.

Gordon M. Malaise
Senior Legislative Attorney
(608) 266-9738
gordon.malaise@legis.wisconsin.gov

Malaise, Gordon

From: Major, Katrina L - DOA <Katrina.Major@wisconsin.gov>
Sent: Monday, January 26, 2015 4:11 PM
To: Malaise, Gordon
Cc: Kraus, Jennifer - DOA; Swissdorf, Kim M - DCF
Subject: FW: ohc extension

Hi Gordon, I sent the changes and the drafter note on OOH care (0311/3) to dcf...here's their response. It's fine with us if you want to discuss it with Jonelle directly to figure out a solution. Thanks, k

From: Swissdorf, Kim M - DCF
Sent: Monday, January 26, 2015 4:07 PM
To: Major, Katrina L - DOA
Subject: ohc extension

Here's the comment I got back on this draft from **Jonelle Brom**. **She left her phone number below if you need to get any clarification from her.**

In regards to the drafters comment #2 & 4 in the memo dated 1/23/15:

2. Item 2. b. of DCF's comments is already addressed under current law. By plugging voluntary transition-to-independent-living agreements into ss. 48.38 (2) (d) and 938.38 (2) (d), the rest of the permanency planning process, including review, automatically applies.
4. Item 8 of DCF's comments: see item 2 of this drafter's note.

Our original interpretation when the law was created was that it was covered, however the interpretation from CCIP with the State Courts Office is that courts no longer have jurisdiction in these cases, therefore absent statutory change/clarification there is no case for them to review. This has already come up as an issue in a jurisdiction.

Federal law requires this review process to be the same as if the child was in out-of-home care under a court order. Under other federal laws for Voluntary Placement Agreements they are limited in duration, as they are in state law, to be a period before such a review would be required, in turn we do not run into this issue with those agreements. We are seeking clarification that not only is the permanency plan required, but that the subsequent review/hearing by the Administrative panel and annual Judicial reviews are in fact required for those placed under the Voluntarily Transition to Independent Living Agreements.

Please let me know if you have any questions. My work cell is 608-216-5756 if you have any questions.

Kim Swissdorf
Budget and Policy Manager
Department of Children and Families

201 East Washington Avenue
Madison, WI 53703

T: (608) 261-0616
E: KimM.Swissdorf@wisconsin.gov

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Malaise, Gordon

From: Major, Katrina L - DOA <Katrina.Major@wisconsin.gov>
Sent: Tuesday, January 27, 2015 8:34 AM
To: Malaise, Gordon
Cc: Kraus, Jennifer - DOA; Swissdorf, Kim M - DCF
Subject: FW: ooh care

Hi Gordon, here are a few more requests from DCF program staff on the OOH care draft. Thanks

From: Swissdorf, Kim M - DCF
Sent: Tuesday, January 27, 2015 7:07 AM
To: Major, Katrina L - DOA
Subject: Fwd: ooh care

More last minute comments if not too late.

Sent from my U.S. Cellular® Smartphone

----- Original message -----

From: "Durkin, Therese A - DCF"
Date: 01/26/2015 10:53 PM (GMT-06:00)
To: "Brom, Jonelle Q - DCF"
Cc: "Swissdorf, Kim M - DCF", "Bove, Fredi-Ellen E - DCF", "Henderson, Wendy P - DCF", "Hermes, Ron - DCF", "Cornelius, Tania A - DCF"
Subject: Re: ooh care

I was out today and have comments on the draft received today even though I understand Kim said they needed to be in by cob of today.

¶.P. 3 48.366(1)(b) - terminate should be terminates I think.

¶.p.7 48.366(3)(am) The court should only make a finding that an "out of home placement" is in the person's best interest not that a particular placement is in a person's best interest. Change "why the placement is in the best interest to why placement in OHC is in the child's best interest". The court does not need to approve the specific placement for purposes of IVE funding it only needs to find it is in the person's best interest to be in OHC.

Most importantly the court should not make a finding that a particular placement or even that placement in OHC is not in the person's best interest, etc. The court is not supposed to be exercising any authority over the OHC placement under the VITLA. We're only seeking the court finding of best interests to get IVE funding if possible - if the court makes that finding. Remove language saying that the person can't stay in the placement or that the person may enter another agreement. Make similar changes to the parallel ch 938 provisions.

¶.P. 14 lines20-24 to p.15 lines1-2 48.623 lines The language for paying SG to 21 based on disability is wrong. It should also say eligibility requires that the person would otherwise lack adequate resources to continue in HS etc just like it says in the corresponding provision for AA to 21.

4.P.21 938.366 The rulemaking authority should not include authority to for youth getting SG or AA under an extended order or VITLA - youth don't get AA or SG under extended OHC orders or agreements. They get it b/c they started receiving AA or SG on or after 16.

Sent from my iPad

On Jan 26, 2015, at 4:02 PM, Brom, Jonelle Q - DCF <Jonelle.Brom@wisconsin.gov> wrote:

Everyone,

In regards to the drafters comment #2 & 4 in the memo dated 1/23/15:

2. Item 2. b. of DCF's comments is already addressed under current law. By plugging voluntary transition-to-independent-living agreements into ss. 48.38 (2) (d) and 938.38 (2) (d), the rest of the permanency planning process, including review, automatically applies.

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Please let me know if you have any questions. My work cell is 608-216-5756 if you have any questions.

Regards,

Jonelle Brom

Out-of-Home Care Section Chief
Department of Children and Families

201 East Washington Avenue
Madison, WI 53703
T: 608.264.6933
E: jonelle.brom@wisconsin.gov

From: Swissdorf, Kim M - DCF

Sent: Monday, January 26, 2015 3:53 PM

To: Bove, Fredi-Ellen E - DCF; Henderson, Wendy P - DCF; Brom, Jonelle Q - DCF; Durkin, Therese A -

DCF

Cc: Hermes, Ron - DCF; Cornelius, Tania A - DCF

Subject: RE: ooh care

Great. Thank you!

Kim Swissdorf

Budget and Policy Manager

Department of Children and Families

201 East Washington Avenue
Madison, WI 53703

T: (608) 261-0616

E: KimM.Swissdorf@wisconsin.gov

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From: Bove, Fredi-Ellen E - DCF

Sent: Monday, January 26, 2015 3:52 PM

To: Swissdorf, Kim M - DCF; Henderson, Wendy P - DCF; Brom, Jonelle Q - DCF; Durkin, Therese A - DCF

Cc: Hermes, Ron - DCF; Cornelius, Tania A - DCF

Subject: RE: ooh care

Importance: High

Kim—

I just talked with Jonelle. We concluded we have one comment on the OOH draft; Jonelle will be emailing it shortly.

From: Swissdorf, Kim M - DCF

Sent: Monday, January 26, 2015 8:52 AM

To: Henderson, Wendy P - DCF; Brom, Jonelle Q - DCF; Bove, Fredi-Ellen E - DCF; Durkin, Therese A - DCF

Subject: FW: ooh care

My bad. Need comments today—tomorrow is too late. Let me know what you can do. Thanks!

Kim Swissdorf

Budget and Policy Manager

Department of Children and Families

201 East Washington Avenue
Madison, WI 53703

T: (608) 261-0616

E: KimM.Swissdorf@wisconsin.gov

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From: Swissdorf, Kim M - DCF
Sent: Monday, January 26, 2015 8:49 AM
To: Henderson, Wendy P - DCF; Brom, Jonelle Q - DCF; Bove, Fredi-Ellen E - DCF; Durkin, Therese A - DCF
Subject: FW: ooh care

Can you take a look and let me know what you think. At this point, we don't have much time. Comments by tomorrow would be appreciated.

Kim Swissdorf
Budget and Policy Manager
Department of Children and Families

201 East Washington Avenue
Madison, WI 53703

T: (608) 261-0616
E: KimM.Swissdorf@wisconsin.gov

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From: Major, Katrina L - DOA
Sent: Monday, January 26, 2015 8:27 AM
To: Swissdorf, Kim M - DCF
Cc: Kraus, Jennifer - DOA
Subject: ooh care

Hi Kim, here's the drafter's note, and the new draft...the drafter's note talks specifically about the dcf requests. Let me know if you spot anything. Thanks