

2015 DRAFTING REQUEST

Bill

Received: 9/28/2015 Received By: gmalaise
For: Director of State Courts 7-9733 Same as LRB:
May Contact: By/Representing: Nancy Rottier
Subject: Children - out-of-home placement Drafter: gmalaise
Children - TPR and adoption Addl. Drafters:
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Submit via email: YES
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Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Change-in-placement clarifications

Instructions:

See attached--draft companion to -0210/2

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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→ 10-28-2015
(1/1")

<END>

Requested by Rachel in Sen. Darling's Office
(Oked by Nancy Rottier)

Malaise, Gordon

From: Nancy Rottier <Nancy.Rottier@wicourts.gov>
Sent: Wednesday, September 23, 2015 10:51 AM
To: Malaise, Gordon
Subject: LRB 0210/1 re Change in Placement

Gordon,

We will be pursuing this draft, with Rep. Joan Ballweg and Sen. Alberta Darling as lead sponsors. Could you prepare LRB 0210/1 as a jacketed version for the Assembly and then prepare a companion, jacketed version for the Senate? Thanks for all your work on this. Please contact me with any questions.

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State of Wisconsin
2015 - 2016 LEGISLATURE

3344/1

LRB-~~0210/2~~
GMM:cjs&ae

IN 9/28
Today
(Companion)
2015 BILL

1 AN ACT *to renumber and amend* 48.185 (1), 48.357 (1) (am) 1., 48.357 (2),
2 48.357 (2m) (b), 938.357 (2) and 938.357 (2m) (b); *to amend* 46.10 (1), 46.10 (14)
3 (b), 46.10 (14) (e) 1., 46.10 (14) (g), 48.028 (2) (e), 48.028 (2) (f), 48.185 (2), 48.235
4 (1) (e), 48.299 (6) (e) 5., 48.315 (2m) (a), 48.32 (1) (b) 1. (intro.), 48.32 (1) (d) 1.,
5 48.355 (2e) (b), 48.355 (4) (a), 48.355 (4) (b) 1., 48.355 (4) (b) 2., 48.355 (4) (b) 3.,
6 48.355 (4) (b) 4., 48.355 (4) (c), 48.357 (title), 48.357 (1) (a), 48.357 (1) (am) 2.
7 (intro.), 48.357 (1) (am) 2m., 48.357 (1) (am) 3., 48.357 (1) (c) 1., 48.357 (1) (c)
8 2., 48.357 (1) (c) 2m., 48.357 (1) (c) 3., 48.357 (2m) (a), 48.357 (2m) (bm), 48.357
9 (2m) (br), 48.357 (2m) (c), 48.357 (2r), 48.357 (2v) (a) 1., 48.357 (2v) (a) 1m.,
10 48.357 (2v) (a) 2., 48.357 (2v) (a) 2m., 48.357 (2v) (d) 1., 48.357 (4d) (a), 48.357
11 (4d) (am), 48.357 (5m), 48.357 (6) (a) (intro.), 48.357 (6) (a) 1., 48.357 (6) (a) 2.,
12 48.357 (6) (a) 3., 48.357 (6) (a) 4., 48.357 (6) (b), 48.358 (2) (a), 48.36 (1) (a),
13 48.365 (5) (a), 48.365 (5) (b) 1., 48.365 (5) (b) 2., 48.365 (5) (b) 3., 48.365 (5) (b)
14 4., 48.38 (4m) (title), 48.75 (1g) (d), 49.345 (1), 49.345 (2), 49.345 (14) (b), 49.345

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1 (14) (e) 1., 49.345 (14) (g), 301.12 (1), 301.12 (2), 301.12 (14) (b), 301.12 (14) (e)
2 1., 301.12 (14) (g), 757.69 (1) (g) 6., 757.69 (1) (g) 8., 757.69 (1) (g) 9., 757.69 (1m)
3 (d), 767.001 (1) (i), 767.001 (1) (m), 767.59 (1), 767.59 (2) (c), 767.77 (1), 767.78
4 (1), 780.01 (5), 893.415 (2), 938.028 (2) (c), 938.185 (2), 938.235 (1) (e), 938.299
5 (6) (e) 5., 938.30 (6) (b), 938.31 (7) (b), 938.315 (2m) (a), 938.32 (1) (c) 1. (intro.),
6 938.32 (1) (e) 1., 938.355 (2e) (b), 938.357 (title), 938.357 (1) (title), 938.357 (1)
7 (a), 938.357 (1) (am) (title), 938.357 (1) (am) 1., 938.357 (1) (am) 2., 938.357 (1)
8 (am) 2m., 938.357 (1) (am) 3., 938.357 (1) (c) (title), 938.357 (1) (c) 1., 938.357
9 (1) (c) 2., 938.357 (1) (c) 3., 938.357 (2m) (a), 938.357 (2m) (am) (title), 938.357
10 (2m) (br), 938.357 (2m) (c), 938.357 (2r), 938.357 (2v) (a) 1., 938.357 (2v) (a) 2.,
11 938.357 (2v) (a) 2m., 938.357 (2v) (c) (title), 938.357 (4d) (am), 938.357 (5m) (a),
12 938.357 (6) (a) (intro.), 938.357 (6) (a) 2., 938.357 (6) (b), 938.358 (2) (a), 938.36
13 (1) (a), 938.363 (1) (c) and 938.38 (4m) (title); and *to create* 48.185 (4), 48.185
14 (5), 48.21 (5m), 48.213 (4m), 48.217, 48.255 (1) (cg), 48.32 (1) (am), 48.355 (4g),
15 48.357 (1) (title), 48.357 (1) (am) (title), 48.357 (1) (c) (title), 48.357 (2) (title),
16 48.357 (2) (b), 48.357 (2m) (title), 48.357 (2m) (am) (title), 48.357 (2m) (b) (title),
17 48.357 (2v) (title), 48.357 (2v) (a) (title), 48.357 (2v) (b) (title), 48.357 (2v) (c)
18 (title), 48.357 (2v) (d) (title), 48.357 (4d) (title), 48.357 (4d) (b) (title), 48.357 (5r)
19 (title), 48.357 (6) (title), 48.42 (1) (bm), 48.43 (8), 48.437, 757.69 (1) (g) 15.,
20 938.21 (5m), 938.217, 938.255 (1) (cg), 938.32 (1) (bm), 938.355 (4g), 938.357 (2)
21 (b), 938.357 (2v) (d) (title), 938.357 (4d) (a) (title) and 938.357 (4d) (b) (title) of
22 the statutes; **relating to:** procedures for changing the placement of a child who
23 is subject to a temporary physical custody order or termination of parental
24 rights order of the juvenile court, procedures for amending a consent decree of
25 the juvenile court, emergency change-in-placement procedures for a child who

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1 is placed in his or her own home under a dispositional order of the juvenile
2 court, venue in post-dispositional proceedings under the Children’s Code and
3 Juvenile Justice Code, procedures for requesting and objecting to a proposed
4 change in placement of a child and for changing the placement of a child when
5 no objection is filed, the appointment of a successor guardian for a child who is
6 subject to a termination of parental rights order of the juvenile court, case
7 closure orders with respect to a child whose dispositional order is terminated,
8 and the effective period of a temporary physical custody order of the juvenile
9 court.

Analysis by the Legislative Reference Bureau***Introduction***

Current law provides procedures for the change in placement of a child who is subject to a dispositional order of the court assigned to exercise jurisdiction under the Children’s Code (juvenile court), including procedures for making an emergency change in placement of such a child who is placed outside of the child’s home.

This bill: 1) creates similar procedures to permit a change in placement of a child alleged to be in need of protection or services who is being held in custody under a temporary physical custody (TPC) order; 2) creates similar procedures to permit a change in placement of a child who, following a termination of parental rights (TPR) and pending adoptive placement, is in the guardianship of the Department of Children and Families, a county department of human services or social services, or a licensed child welfare agency (collectively “agency”); 3) creates a procedure under which a consent decree of the juvenile court, which is an order of the juvenile court suspending a child in need of protection or services (CHIPS) proceeding and placing the child under supervision in the child’s home or present placement, may be amended; and 4) creates emergency change-in-placement procedures to permit a child who is placed in the child’s home under a dispositional order to be placed outside the home when emergency conditions necessitate an immediate change in placement. The bill also makes certain changes regarding the place of trial (venue) of a post-dispositional proceeding, certain changes regarding the appointment of a successor guardian for a child who is subject to a TPR order, and certain changes in the procedures for requesting and objecting to a proposed change in placement and for changing a child’s placement when no objection is filed. In addition, the bill permits the juvenile court to grant certain case closure orders when it terminates the dispositional order of a child. Finally, the bill specifies the effective period of a TPC order.

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Under current law, the person or agency primarily responsible for implementing the dispositional order, the district attorney, or the corporation counsel may request a change in placement of a child, other than a change in placement from a placement in the child's home to a placement outside the child's home, by causing notice of the proposed change in placement to be sent to the child, the parent, guardian, and legal custodian of the child, any foster parent or other physical custodian of the child, the child's court-appointed special advocate (CASA), and, if the child is an Indian child, the Indian child's Indian custodian and tribe. A person receiving that notice, other than a CASA, may obtain a hearing on the matter by filing an objection with the juvenile court within ten days after the notice is sent to the juvenile court.

For a change in placement that would change the placement of a child placed in the child's home to a placement outside the home, the person or agency primarily responsible for implementing the dispositional order, the district attorney, or the corporation counsel must submit a request for the change in placement to the juvenile court, and the juvenile court must hold a hearing prior to ordering the requested change in placement.

Current law also permits the child, the parent, guardian, legal custodian, or Indian custodian of the child, or any person or agency primarily bound by the dispositional order, other than the person or agency primarily responsible for implementing the dispositional order, to request a change in placement. Subject to certain exceptions, the juvenile court must hold a hearing prior to ordering the requested change in placement if the request states that new information is available that affects the advisability of the current placement.

In addition, current law permits the person or agency primarily responsible for implementing the dispositional order to remove a child placed outside the child's home to a new placement if emergency conditions necessitate an immediate change in placement. An emergency change in placement may be made without prior notice, but notice must be sent within 48 hours after the emergency change in placement and any party receiving notice may demand a hearing.

The bill

Venue. Under current law, venue for a change-in-placement proceeding is in the county where the child resides or is present and venue for a proceeding for the revision or extension of a dispositional order (revision or extension proceeding) is in the county where the dispositional order was issued, unless the child's county of residence has changed or the child's parent has resided in a different county for six months, in which case the juvenile court may transfer the case to the county of residence of the child or parent.

This bill provides that venue for a change-in-placement, revision, or extension proceeding is in the county where the dispositional order was issued, unless prior to the proceeding the juvenile court of that county determined that proper venue for the proceeding lies in another county and transferred the case to that other county.

Request and objection procedures. This bill eliminates the authority of a person or agency primarily bound by a dispositional order to request a change in

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placement. The bill also requires the person or agency responsible for implementing the dispositional order, the district attorney, or the corporation counsel to file a notice of a requested change in placement with the juvenile court on the same day that the notice is sent and permits a person receiving that notice to file an objection with the juvenile court within ten days after that notice is *sent*, not received. In addition, under the bill, if no objection is filed within those ten days, the juvenile court must enter an order changing the child's placement as proposed in the notice. Current law does not expressly require the juvenile court order to enter a change-in-placement order when no objection is filed.

Child subject to TPC order. The bill creates similar procedures under which: 1) the juvenile court intake worker (intake worker), the agency primarily responsible for providing services under a TPC order, the district attorney, or the corporation counsel may request a change in placement of the child who is subject to the TPC order; 2) the child, the child's counsel or guardian ad litem (GAL), or the parent, guardian, legal custodian, or Indian custodian of the child may request a change in placement of the child who is subject to the TPC order; and 3) the intake worker or the agency primarily responsible for providing services under a TPC order may make an emergency change in placement of a child placed outside the home under the TPC order.

The bill, however, does not permit a change in the placement of a child who is subject to a TPC order from a placement in the child's home to a placement outside the home. Such a change in placement may only be made as provided under current law, which permits a TPC order placing a child with a parent, guardian, legal custodian, or other responsible person to be amended, with notice, so as to place the child in another form of custody for failure to conform to the conditions imposed in the TPC order.

Child under agency guardianship post-TPR. In addition, the bill creates similar procedures under which: 1) the agency appointed as the guardian of a child under a TPR order, the district attorney, or the corporation counsel may request a change in placement of the child who is subject to the TPR order; 2) the child, the legal custodian, or Indian custodian of the child, or any agency responsible for securing the adoption of the child or for establishing the child in a permanent family setting, other than the agency appointed as the guardian of the child, may request a change in placement of the child who is subject to the TPR order; and 3) the agency appointed as the guardian of a child under a TPR order make make an emergency change in placement of the child.

The bill also permits any of those persons to petition the juvenile court for the appointment of a successor guardian of the child or the juvenile court, on its own motion, to propose such an appointment. The bill requires that petition or motion to be heard in the same manner and to be subject to the same requirements as provided under current law for the appointment of a successor guardian.

Under the bill, venue for those change-in-placement and successor guardianship proceedings is in the county where the TPR order was issued.

Child subject to consent decree. The bill also creates a procedure under which a child, if 12 years of age or over; the parent, guardian, or legal custodian of

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the child; and the person filing the CHIPS petition (generally the district attorney or corporation counsel) may agree to, and the juvenile court may enter, an amended consent decree. An amended consent decree may change the placement of the child who is the subject of the original consent decree or revise any other term or condition of the original consent decree. An amended consent decree may not extend the expiration date of the original consent decree.

Emergency change in placement; child placed in own home. The bill creates a procedure under which the person or agency primarily responsible for implementing a dispositional order placing a child in the child's home may change the placement of the child to a placement outside the home when emergency conditions necessitate an immediate change in placement. Under the bill, a hearing on the emergency change in placement must be held within 48 hours after the emergency change in placement is made, excluding Saturdays, Sundays, and legal holidays. By the time of the hearing, a request for a nonemergency placement under current law must be filed with the juvenile court, and the juvenile court must hold a hearing on that request as provided under current law, except that, if all parties consent, the juvenile court may proceed immediately with the hearing on the nonemergency change-in-placement request in lieu of the hearing on the emergency change in placement.

Case closure orders. The bill permits the juvenile court, on the request of a party or on its own motion and on a finding that granting the request or motion would be in the best interests of the child, to terminate a child's dispositional order before the child attains 18 years of age and to grant an order determining paternity of the child, legal custody of the child, periods of physical placement with the child, visitation rights with respect to the child, or the obligation of the child's parents to provide support for the child (child support) and the responsibility of the child's parents to provide coverage of the child's health care expenses (health care coverage) in the same manner as those determinations are made under the laws governing actions for divorce, paternity, or other actions affecting the family if any of the following apply:

1. The child's parents are parties to a pending action for divorce, annulment, or legal separation, a man determined to be the biological father of the child for purposes of a proceeding under the Children's Code or the Juvenile Justice Code is a party to a pending action to determine paternity of the child, or the child is the subject of a pending independent action to determine legal custody of the child or visitation rights with respect to the child.

2. The child is the subject of an order that has been granted in an action affecting the family determining legal custody, periods of physical placement, visitation, or child support and health care coverage.

The bill provides that an order of the juvenile court determining paternity, legal custody, periods of physical placement, visitation rights, or child support and health care coverage (case closure order) may modify a preexisting order of a court exercising jurisdiction over an action affecting the family (family court) and shall remain in effect until terminated or modified by a family court. The bill also provides

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that a person seeking enforcement or modification of a case closure order must seek that relief from the family court.

Effective period of TPC order. Finally, the bill specifies that a TPC order remains in effect until a dispositional order is granted or a consent decree is entered into, the CHIPS petition is withdrawn or dismissed, or the TPC order is modified or terminated by further order of the juvenile court. Current law does not specify the effective period of a TPC order.

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.** 46.10 (1) of the statutes is amended to read:

2 46.10 (1) Liability and the collection and enforcement of such liability for the
3 care, maintenance, services, and supplies specified in this section is governed
4 exclusively by this section, except in cases of child support ordered by a court under
5 s. 48.355 (2) (b) 4. or (4g) (a), 48.357 (5m) (a), or 48.363 (2) or ch. 767.

6 **SECTION 2.** 46.10 (14) (b) of the statutes is amended to read:

7 46.10 (14) (b) Except as provided in par. (c) and subject to par. (cm), liability
8 of a parent specified in sub. (2) or s. 46.03 (18) for the care and maintenance of the
9 parent's minor child who has been placed by a court order under s. 48.32, 48.355, or
10 48.357 in a residential, nonmedical facility such as a group home, foster home,
11 subsidized guardianship home, or residential care center for children and youth
12 shall be determined by the court by using the percentage standard established by the
13 department of children and families under s. 49.22 (9) and by applying the
14 percentage standard in the manner established by the department under par. (g).

15 **SECTION 3.** 46.10 (14) (e) 1. of the statutes, as affected by 2015 Wisconsin Act
16 55, is amended to read:

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1 46.10 (14) (e) 1. An order issued under s. 48.355 (2) (b) 4. or (4g) (a), 48.357 (5m)
2 (a), or 48.363 (2) for support determined under this subsection constitutes an
3 assignment of all commissions, earnings, salaries, wages, pension benefits, income
4 continuation insurance benefits under s. 40.62, duty disability benefits under s.
5 40.65, benefits under ch. 102 or 108, and other money due or to be due in the future
6 to the county department under s. 46.22 or 46.23 in the county where the order was
7 entered or to the department, depending upon the placement of the child as specified
8 by rules promulgated under subd. 5. The assignment shall be for an amount
9 sufficient to ensure payment under the order.

10 **SECTION 4.** 46.10 (14) (g) of the statutes is amended to read:

11 46.10 (14) (g) For purposes of determining child support under par. (b), the
12 department shall promulgate rules related to the application of the standard
13 established by the department of children and families under s. 49.22 (9) to a child
14 support obligation for the care and maintenance of a child who is placed by a court
15 order under s. 48.32, 48.355, or 48.357 in a residential, nonmedical facility. The rules
16 shall take into account the needs of any person, including dependent children other
17 than the child, whom either parent is legally obligated to support.

18 **SECTION 5.** 48.028 (2) (e) of the statutes is amended to read:

19 48.028 (2) (e) “Out-of-home care placement” means the removal of an Indian
20 child from the home of his or her parent or Indian custodian for temporary placement
21 in a foster home, group home, residential care center for children and youth, or
22 shelter care facility, in the home of a relative other than a parent, or in the home of
23 a guardian, from which placement the parent or Indian custodian cannot have the
24 child returned upon demand. “Out-of-home care placement” does not include an
25 adoptive placement, a preadoptive placement, a delegation of powers, as described

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1 in par. (d) 5., an emergency change in placement under s. 48.357 (2) (b), or holding
2 an Indian child in custody under ss. 48.19 to 48.21.

3 **SECTION 6.** 48.028 (2) (f) of the statutes is amended to read:

4 48.028 (2) (f) “Preadoptive placement” means the temporary placement of an
5 Indian child in a foster home, group home, or residential care center for children and
6 youth, in the home of a relative other than a parent, or in the home of a guardian after
7 a termination of parental rights but prior to or in lieu of an adoptive placement.
8 “Preadoptive placement does not include an emergency change in placement under
9 s. 48.437 (2).

10 **SECTION 7.** 48.185 (1) of the statutes is renumbered 48.185 (1) (intro.) and
11 amended to read:

12 48.185 (1) (intro.) PROCEEDINGS GENERALLY. Subject to ~~sub.~~ subs. (2) to (5), venue
13 for any proceeding under ~~ss. s.~~ s. 48.13, 48.133, 48.135 and, or 48.14 (1) to (9) may be
14 in any of the following: ~~the~~

15 (a) The county where the child or the expectant mother of the unborn child
16 resides ~~or the~~.

17 (b) The county where the child or expectant mother is present. ~~Venue for~~
18 ~~proceedings brought under subch. VIII is as provided in this subsection except where~~
19 ~~the child has been placed and is living outside the home of the child’s parent pursuant~~
20 ~~to a dispositional order, in which case venue is as provided in sub. (2).~~

21 (6) RESTRAINING ORDER AND INJUNCTION PROCEEDINGS. Venue for a proceeding
22 under s. 48.14 (10) is as provided in s. 801.50 (5s).

23 **SECTION 8.** 48.185 (2) of the statutes is amended to read:

24 48.185 (2) GUARDIANSHIP AND TERMINATION OF PARENTAL RIGHTS PROCEEDINGS. In
25 an action under s. 48.41, venue shall be in the county where the birth parent or child

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1 resides at the time that the petition is filed. ~~Venue~~ Subject to sub. (5), venue for any
2 proceeding under s. ~~48.363, 48.365 or 48.977~~, or any proceeding under subch. VIII
3 when the child has been placed outside the home pursuant to a dispositional order
4 under s. 48.345 or 48.347, shall be in the county where the dispositional order was
5 issued, unless the child's county of residence has changed, or the parent of the child
6 ~~or the expectant mother of the unborn child~~ has resided in a different county of this
7 state for 6 months. In either case, the court may, upon a motion and for good cause
8 shown, transfer the case, along with all appropriate records, to the county of
9 residence of the child, or parent ~~or expectant mother~~.

10 **SECTION 9.** 48.185 (4) of the statutes is created to read:

11 48.185 (4) CHILD OR UNBORN CHILD SUBJECT TO A DISPOSITIONAL ORDER. Venue for
12 any proceeding under s. 48.357, 48.363, or 48.365 shall be in the county where the
13 dispositional order was issued, unless prior to the proceeding the court of that county
14 determined that the proper venue for the proceeding lies in another county and
15 transferred the case, along with all appropriate records, to that other county.

16 **SECTION 10.** 48.185 (5) of the statutes is created to read:

17 48.185 (5) CHANGES IN PLACEMENT; SUCCESSOR GUARDIANS; POSTTERMINATION OF
18 PARENTAL RIGHTS. Venue for a proceeding under s. 48.43 (8) or 48.437 shall be in the
19 county where the termination of parental rights order was issued.

20 **SECTION 11.** 48.21 (5m) of the statutes is created to read:

21 48.21 (5m) EFFECTIVE PERIOD OF ORDER. An order to hold a child in custody
22 remains in effect until a dispositional order is granted or a consent decree is entered
23 into, the petition under s. 48.25 is withdrawn or dismissed, or the order is modified
24 or terminated by further order of the court.

25 **SECTION 12.** 48.213 (4m) of the statutes is created to read:

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1 48.213 (4m) EFFECTIVE PERIOD OF ORDER. An order to hold an adult expectant
2 mother in custody remains in effect until a dispositional order is granted or a consent
3 decree is entered into, the petition under s. 48.25 is withdrawn or dismissed, or the
4 order is modified or terminated by further order of the court.

5 **SECTION 13.** 48.217 of the statutes is created to read:

6 **48.217 Change in placement; child or expectant mother held in**
7 **custody. (1) REQUEST BY INTAKE WORKER, AGENCY RESPONSIBLE FOR CUSTODY ORDER, OR**
8 **PROSECUTOR. (a) *Applicable procedures.*** 1. Except as provided in subd. 2., the intake
9 worker, the agency primarily responsible for providing services under a temporary
10 physical custody order under s. 48.21 (4) or 48.213 (3), the district attorney, or the
11 corporation counsel may request a change in the placement of the child or expectant
12 mother who is the subject of the order as provided in this subsection, whether or not
13 the change requested is authorized in the order.

14 2. A change in the placement of a child from a placement in the home to a
15 placement outside the home may only be made as provided in s. 48.21 (6). A change
16 in the placement of an adult expectant mother from a placement in the home to a
17 placement outside the home may only be made as provided in s. 48.213 (5).

18 (b) *Notice; information required.* 1. a. The intake worker, the agency primarily
19 responsible for providing services under a temporary physical custody order, the
20 district attorney, or the corporation counsel may request a change in placement
21 under this subsection by causing written notice of the proposed change in placement
22 to be sent to the child, the child’s counsel or guardian ad litem, the parent, guardian,
23 and legal custodian or Indian custodian of the child, any foster parent or other
24 physical custodian described in s. 48.62 (2) of the child, and the child’s
25 court–appointed special advocate.

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1 b. If the child is the expectant mother of an unborn child under s. 48.133,
2 written notice of the proposed change in placement shall also be sent to the unborn
3 child's guardian ad litem. If the change in placement involves an adult expectant
4 mother of an unborn child under s. 48.133, written notice of the proposed change in
5 placement shall be sent to the adult expectant mother, the physical custodian of the
6 adult expectant mother, and the unborn child's guardian ad litem.

7 2. The notice shall contain the name and address of the new placement, the
8 reasons for the change in placement, and a statement describing why the new
9 placement is preferable to the present placement. The person sending the notice
10 shall file the notice with the court on the same day that the notice is sent.

11 (c) *Hearing; when required.* Any person receiving the notice under par. (b),
12 other than a court-appointed special advocate, may obtain a hearing on the matter
13 by filing an objection with the court within 10 days after the notice is sent to that
14 person and filed with the court. Except as provided in par. (d), if an objection is filed
15 within 10 days after that notice is sent and filed with the court, the court shall hold
16 a hearing prior to ordering any change in placement. At least 3 days before the
17 hearing, the court shall provide notice of the hearing to all persons who are required
18 to receive notice under par. (b). If all parties consent, the court may proceed
19 immediately with the hearing. Except as provided in par. (d), if no objection is filed
20 within 10 days after that notice is sent and filed with the court, the court shall enter
21 an order changing the child's placement as proposed in that notice. Except as
22 provided in par. (d), placements may not be changed until 10 days after that notice
23 is sent and filed with the court unless written waivers of objection are signed as
24 follows:

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1 1. By the parent, guardian, legal custodian, or Indian custodian of the child and
2 by the child, if 12 years of age or over.

3 2. By the child expectant mother, if 12 years of age or over, her parent, guardian,
4 legal custodian, or Indian custodian, and the unborn child's guardian ad litem.

5 3. By the adult expectant mother and the unborn child's guardian ad litem.

6 (d) *When hearing not required.* Changes in placement that were authorized in
7 the temporary physical custody order may be made immediately if notice is given as
8 required under par. (b). A hearing is not required for changes in placement
9 authorized in the temporary physical custody order except when an objection filed
10 by a person who received notice alleges that new information is available that affects
11 the advisability of the order.

12 (e) *Contents of order.* If the court changes a child's placement from a placement
13 outside the home to another placement outside the home, the change-in-placement
14 order shall contain the applicable order under sub. (2v) (a), the applicable statement
15 under sub. (2v) (b), and the finding under sub. (2v) (c).

16 **(2) EMERGENCY CHANGE IN PLACEMENT.** If emergency conditions necessitate an
17 immediate change in the placement of a child or expectant mother placed outside the
18 home under a temporary physical custody order under s. 48.21 (4) or 48.213 (3), the
19 intake worker or agency primarily responsible for providing services under the order
20 may remove the child or expectant mother to a new placement, whether or not
21 authorized by the existing order, without the prior notice under sub. (1) (b). Notice
22 of the emergency change in placement shall be sent to the persons specified in sub.
23 (1) (b) 1. within 48 hours after the emergency change in placement. Any party
24 receiving notice may demand a hearing under sub. (1) (c). In emergency situations,
25 a child may be placed in a licensed public or private shelter care facility as a

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1 transitional placement for not more than 20 days or in any other placement
2 authorized under s. 48.207, 48.208, or 48.209.

3 **(2m) REQUEST BY OTHERS.** (a) *Request; information required.* 1. Except as
4 provided in subd. 2., the child, the child’s counsel or guardian ad litem, the parent,
5 guardian, legal custodian, or Indian custodian of the child, the expectant mother, or
6 the unborn child’s guardian ad litem may request a change in the placement of the
7 child or expectant mother who is the subject of the order as provided in this
8 subsection. The request shall contain the name and address of the new placement
9 requested and shall state what new information is available that affects the
10 advisability of the current placement. The request shall be submitted to the court.
11 The court may also propose a change in placement on its own motion.

12 2. A change in the placement of a child from a placement in the home to a
13 placement outside the home may only be made as provided in s. 48.21 (6). A change
14 in the placement of an adult expectant mother from a placement in the home to a
15 placement outside the home may only be made as provided in s. 48.213 (5).

16 (b) *Hearing; when required.* 1. The court shall hold a hearing prior to ordering
17 any change in placement requested or proposed under par. (a) if the request or
18 proposal states that new information is available that affects the advisability of the
19 current placement. A hearing is not required if written waivers of objection to the
20 proposed change in placement are signed by all persons entitled to receive notice
21 under subd. 2., other than a court-appointed special advocate, and the court
22 approves.

23 2. If a hearing is scheduled, at least 3 days before the hearing the court shall
24 notify the child, the child’s counsel or guardian ad litem, the parent, guardian, and
25 legal custodian or Indian custodian of the child, the agency primarily responsible for

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1 providing services under the temporary physical custody order, the district attorney
2 or corporation counsel, any foster parent or other physical custodian described in s.
3 48.62 (2) of the child, and the child’s court–appointed special advocate. If the child
4 is the expectant mother of an unborn child under s. 48.133, the court shall also notify
5 the unborn child’s guardian ad litem. If the change in placement involves an adult
6 expectant mother of an unborn child under s. 48.133, at least 3 days before the
7 hearing the court shall notify the adult expectant mother, the unborn child’s
8 guardian ad litem, the agency primarily responsible for providing services under the
9 temporary physical custody order, and the district attorney or corporation counsel.
10 A copy of the request or proposal for the change in placement shall be attached to the
11 notice. If all parties consent, the court may proceed immediately with the hearing.

12 (c) *Contents of order.* If the court changes the child’s placement from a
13 placement outside the home to another placement outside the home, the
14 change–in–placement order shall contain the applicable order under sub. (2v) (a),
15 the applicable statement under sub. (2v) (b), and the finding under sub. (2v) (c).

16 **(2r) REMOVAL FROM FOSTER HOME OR OTHER PHYSICAL CUSTODIAN.** If a hearing is
17 held under sub. (1) (c) or (2m) (b) and the change in placement would remove a child
18 from a foster home or other placement with a physical custodian described in s. 48.62
19 (2), the court shall give the foster parent or other physical custodian a right to be
20 heard at the hearing by permitting the foster parent or other physical custodian to
21 make a written or oral statement during the hearing or to submit a written
22 statement prior to the hearing relating to the child and the requested change in
23 placement. A foster parent or other physical custodian described in s. 48.62 (2) who
24 receives notice of a hearing under sub. (1) (c) or (2m) (b) and a right to be heard under

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1 this subsection does not become a party to the proceeding on which the hearing is
2 held solely on the basis of receiving that notice and right to be heard.

3 (2v) CHANGE-IN-PLACEMENT ORDER. A change-in-placement order under sub.
4 (1) or (2m) shall contain all of the following:

5 (a) If the change-in-placement order changes the placement of a child who is
6 under the supervision of the county department or, in a county having a population
7 of 750,000 or more, the department to a placement outside the home, an order
8 ordering the child to be continued in the placement and care responsibility of the
9 county department or department as required under 42 USC 672 (a) (2) and
10 assigning the county department or department continued primary responsibility
11 for providing services to the child.

12 (b) If the change-in-placement order changes the placement of the child to a
13 placement outside the home recommended by the agency primarily responsible for
14 providing services under the temporary physical custody order, a statement that the
15 court approves the placement recommended by that agency or, if the
16 change-in-placement order changes the placement of the child to a placement
17 outside the home that is not a placement recommended by that agency, a statement
18 that the court has given bona fide consideration to the recommendations made by
19 that agency and all parties relating to the child's placement.

20 (c) If the change-in-placement order changes the placement of the child to a
21 placement outside the home and if the child has one or more siblings, as defined in
22 s. 48.38 (4) (br) 1., who have been placed outside the home or for whom a change in
23 placement to a placement outside the home is requested, a finding as to whether the
24 intake worker, the county department, the department in a county having a
25 population of 750,000 or more, or the agency primarily responsible for providing

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1 services under the temporary physical custody order has made reasonable efforts to
2 place the child in a placement that enables the sibling group to remain together,
3 unless the court determines that a joint placement would be contrary to the safety
4 or well-being of the child or any of those siblings, in which case the court shall order
5 the intake worker, county department, department, or agency to make reasonable
6 efforts to provide for frequent visitation or other ongoing interaction between the
7 child and the siblings, unless the court determines that such visitation or interaction
8 would be contrary to the safety or well-being of the child or any of those siblings.

9 (3) PROHIBITED PLACEMENTS BASED ON HOMICIDE OF PARENT. (a) *Prohibition.*
10 Except as provided in par. (c), the court may not change a child's placement to a
11 placement in the home of a person who has been convicted of the homicide of a parent
12 of the child under s. 940.01 or 940.05, if the conviction has not been reversed, set
13 aside, or vacated.

14 (b) *Change in placement required.* Except as provided in par. (c), if a parent in
15 whose home a child is placed is convicted of the homicide of the child's other parent
16 under s. 940.01 or 940.05, and the conviction has not been reversed, set aside, or
17 vacated, the court shall change the child's placement to a placement outside the home
18 of the parent on petition of the child, the child's counsel or guardian ad litem, the
19 guardian or legal custodian of the child, the agency primarily responsible for
20 providing services under the temporary physical custody order, or the district
21 attorney or corporation counsel of the county in which that order was entered, or on
22 the court's own motion, and on notice to the parent.

23 (c) *Exception.* Paragraphs (a) and (b) do not apply if the court determines by
24 clear and convincing evidence that the placement would be in the best interests of

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1 the child. The court shall consider the wishes of the child in making that
2 determination.

3 (4) EXPECTANT MOTHER; PLACEMENT OUTSIDE THE HOME. The court may not change
4 the placement of an expectant mother of an unborn child alleged to be in need of
5 protection or services from a placement in the expectant mother's home to a
6 placement outside of the expectant mother's home unless the court finds that the
7 expectant mother is refusing or has refused to accept any alcohol or other drug abuse
8 services offered to her or is not making or has not made a good faith effort to
9 participate in any alcohol or other drug abuse services offered to her.

10 (6) EFFECTIVE PERIOD OF ORDER. A change-in-placement order under this
11 section remains in effect until a dispositional order is granted or a consent decree is
12 entered into, the petition under s. 48.25 is withdrawn or dismissed, or the order is
13 modified or terminated by further order of the court.

14 **SECTION 14.** 48.235 (1) (e) of the statutes is amended to read:

15 48.235 (1) (e) The court shall appoint a guardian ad litem, or extend the
16 appointment of a guardian ad litem previously appointed under par. (a), for any child
17 alleged or found to be in need of protection or services, if the court has ordered, or if
18 a request or recommendation has been made that the court order, the child to be
19 placed out of his or her home under s. 48.32, 48.345, or 48.357. This paragraph does
20 not apply to a child who is subject to a dispositional order that terminates as provided
21 in s. 48.355 (4) (b) 4., 48.357 (6) (a) 4., or 48.365 (5) (b) 4.

22 **SECTION 15.** 48.255 (1) (cg) of the statutes is created to read:

23 48.255 (1) (cg) The information required under s. 822.29 (1).

24 **SECTION 16.** 48.299 (6) (e) 5. of the statutes is amended to read:

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1 48.299 (6) (e) 5. A determination by the court under subd. 4. is not a
2 determination of paternity under s. 48.355 (4g) (a), a judgment of paternity under
3 ch. 767, or an adjudication of paternity under subch. VIII.

4 **SECTION 17.** 48.315 (2m) (a) of the statutes is amended to read:

5 48.315 (2m) (a) The court making an initial finding under s. 48.21 (5) (b) 1. or
6 1m., 48.32 (1) (b) 1., 48.355 (2) (b) 6., or 48.357 (2v) (a) 1. that reasonable efforts have
7 been made to prevent the removal of the child from the home, while assuring that
8 the child's health and safety are the paramount concerns, or an initial finding under
9 s. 48.21 (5) (b) 3., 48.32 (1) (b) 2., 48.355 (2) (b) 6r., or 48.357 (2v) (a) 3. that those
10 efforts were not required to be made because a circumstance specified in s. 48.355
11 (2d) (b) 1. to 5. applies, more than 60 days after the date on which the child was
12 removed from the home.

13 **SECTION 18.** 48.32 (1) (am) of the statutes is created to read:

14 48.32 (1) (am) Using the procedures specified in par. (a) for the entry of an
15 original consent decree, the parties to a consent decree may agree to, and the judge
16 or circuit court commissioner may enter, an amended consent decree. An amended
17 consent decree may change the placement of the child or expectant mother who is the
18 subject of the original consent decree or revise any other term or condition of the
19 original consent decree. An amended consent decree that changes the placement of
20 a child from a placement in the child's home to a placement outside the child's home
21 shall include the findings, orders, and determinations specified in par. (b), as
22 applicable. An amended consent decree that changes the placement of an Indian
23 child from a placement in the Indian child's home to a placement outside the Indian
24 child's home shall include the findings specified in par. (d). An amended consent
25 decree may not extend the expiration date of the original consent decree.