2015 SENATE BILL 309

October 9, 2015 - Introduced by Senators PETROWSKI, MOULTON and OLSEN, cosponsored by Representatives LOUDENBECK, KLEEFISCH, KITCHENS, KULP, MURPHY, A. OTT, SINICKI and SKOWRONSKI. Referred to Committee on Health and Human Services.

AN ACT to repeal 48.427 (4), 48.428, 48.627 (1), 115.76 (12) (a) 8. and 895.485 (1)
(a); to renumber and amend 48.385 and 938.385; to amend 20.437 (1) (cf)
(title), 48.14 (2) (b), 48.366 (2) (b) 4., 48.38 (4) (f) 3., 48.38 (4) (fg) 5., 48.38 (4)
(fm), 48.38 (4) (h) (intro.), 48.38 (4) (h) 2., 48.38 (4) (h) 4., 48.38 (4) (h) 5., 48.38
(5) (c) 1., 48.38 (5) (c) 6. d., 48.38 (5) (c) 9., 48.427 (1), 48.427 (5), 48.43 (4), 48.481
(2), 48.627 (title), 48.627 (2) (a), 48.627 (2c), 48.627 (2m), 48.627 (2s) (a), 48.627
(2s) (b), 48.627 (3) (b), 48.627 (3) (d), 48.627 (3) (e), 48.627 (3) (f), 48.627 (3) (h),
48.627 (4), 48.647 (3) (d), 48.647 (4), 48.977 (7) (e), 49.34 (4) (a), 49.34 (4) (c),
167.10 (7), 809.107 (2) (bm) (intro.), 895.485 (title), 895.485 (2), 895.485 (3),
895.485 (4) (intro.), 895.485 (4) (a), 938.366 (2) (b) 4., 938.38 (4) (f) 3., 938.38 (4)
(fg) 5., 938.38 (4) (fm), 938.38 (4) (h) (intro.), 938.38 (4) (h) 2., 938.38 (4) (h) 4.,
938.38 (4) (h) 5., 938.38 (5) (c) 1., 938.38 (5) (c) 6. d. and 938.38 (5) (c) 9.; and to
create 48.02 (1dm), 48.02 (12r), 48.02 (14r), 48.38 (2m), 48.38 (4) (h) 6., 48.38
(4) (h) 7., 48.38 (5) (bm) 3., 48.38 (5) (c) 7m., 48.38 (5m) (c) 3., 48.383, 48.385 (2),
SENATE BILL 309

48.43 (5) (b) 2m., 48.627 (2s) (am), 48.67 (4) (a) 1m., 48.67 (5), 895.485 (1) (title),
895.485 (1) (ag), 895.485 (1) (c), 895.485 (1) (d), 895.485 (5) and (6), 938.02 (1g),
938.02 (12r), 938.02 (14r), 938.38 (2m), 938.38 (4) (h) 6., 938.38 (4) (h) 7., 938.38
(5) (bm) 3., 938.38 (5) (c) 7m., 938.38 (5m) (c) 3., 938.383 and 938.385 (2) of the
statutes; relating to: use of the reasonable and prudent parent standard for
making decisions concerning the participation of a child placed in out-of-home
care in age or developmentally appropriate activities, permanency planning for
a child 14 years of age or over, providing an exemption from emergency rule
procedures, and granting rule-making authority.

Analysis by the Legislative Reference Bureau

Introduction
Recently, Congress enacted the Preventing Sex Trafficking and Strengthening
Families Act, which makes certain changes to Title IV-E of the Social Security Act
regarding: 1) use of the reasonable and prudent parent standard for making
decisions concerning the participation of a child placed in out-of-home care in age
or developmentally appropriate activities; and 2) permanency planning for children
14 years of age or over placed in out-of-home care. 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 or
home providing long-term stability. This bill incorporates those changes into the

Reasonable and prudent parent standard
The bill incorporates the reasonable and prudent parent standard into the
Children’s Code and the Juvenile Justice Code by doing all of the following:
1. Requiring a foster parent, guardian, relative other than a parent, or
nonrelative in whose home a child is placed; the operator of a group home, residential
care center for children and youth, or shelter care facility in which a child is placed;
and, in the case of a child placed in a group home, residential care center for children
and youth, or shelter care facility, a staff member employed on the site of that home,
center, or facility who has been designated by the operator of that home, center, or
facility as an out-of-home care provider for purposes of making decisions concerning
the child’s participation in age or developmentally appropriate activities
(out-of-home care provider) to use the reasonable and prudent parent standard in
making decisions concerning a child’s participation in age or developmentally
appropriate extracurricular, enrichment, cultural, and social activities. The bill
defines “reasonable and prudent parent standard” as a standard for an out-of-home
SENATE BILL 309

care provider to use in making decisions concerning a child's participation in those activities that is characterized by careful and sensible parental decisions that maintain the health, safety, best interests, and cultural, religious, and tribal values of the child while at the same time encouraging the emotional and developmental growth of the child.

2. Requiring the agency that places, or that arranges the placement of, a child with an out-of-home care provider or the agency assigned primary responsibility for providing services to the child, at the time of placement, to: a) provide to the out-of-home care provider information that is specific to the child for the out-of-home care provider to consider in making reasonable and prudent parenting decisions concerning the child's participation in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities; and b) explain to the out-of-home care provider the parameters of those considerations. The bill requires that information to be prepared in consultation with the child and, if reasonably possible to do so, the child's parent and requires that consultation to also occur and those parameters to also be explained at the time the permanency plan is prepared and each time the permanency plan is revised.

3. Requiring the Department of Children and Families (DCF) to promulgate rules: a) requiring all foster parents to receive training in the use of the reasonable and prudent parent standard in making decisions concerning a child's participation in age or developmentally appropriate activities; b) requiring all residential care centers for children and youth, group homes, and shelter care facilities to employ on the site of that center, home, or facility at all times a staff member designated as an out-of-home care provider for purposes of making those decisions (designated out-of-home care provider) and requiring those designated out-of-home care providers to receive that training; and c) requiring foster parents and designated out-of-home care providers who have received that training to make those decisions in accordance with the reasonable and prudent parent standard.

4. Providing that an out-of-home care provider who grants permission for a child to participate in an age or developmentally appropriate activity is immune from civil liability for any act or omission in granting that permission if in granting that permission the out-of-home care provider applied the reasonable and prudent parent standard in accordance with the requirements of the bill and any rules promulgated by DCF under the bill.

5. Requiring the permanency plan for a child whose permanency goal is not to be returned to his or her home or to be placed for adoption, with a guardian, or with a fit and willing relative, but rather to be placed in some other planned permanent living arrangement, to include a plan to ensure that the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities determined in accordance with the reasonable and prudent parent standard.

6. Requiring the court assigned to exercise jurisdiction under the Children's Code and the Juvenile Justice Code (juvenile court) or a permanency plan review panel (panel), in reviewing the permanency plan of a child placed in a planned permanent living arrangement, to determine the steps taken by the agency to ascertain whether the child has regular, ongoing opportunities to engage in age or
SENATE BILL 309

developmentally appropriate activities and to ensure that the child’s caregiver is applying the reasonable and prudent parent standard to decisions concerning the child’s participation in those activities.

Permanency planning

This bill incorporates the changes that the federal Preventing Sex Trafficking and Strengthening Families Act made with respect to permanency planning into the Children’s Code and the Juvenile Justice Code by doing all of the following:

1. Permitting the permanency goal of placement of a child in a planned permanent living arrangement, other than the child’s own home or the home of an adoptive parent, guardian, or fit and willing relative, only in the case of a child 16 years of age or over. Current law does not specify an age limit for that permanency goal.

2. Requiring the agency that prepared the permanency plan for a child placed in a planned permanent living arrangement to present to the juvenile court or panel, on review of the permanency plan, information showing that intensive and ongoing efforts were made by the agency, including searching social media, to return the child to the child’s home or to place the child for adoption, with a guardian, or with a fit and willing relative and that those efforts have proved unsuccessful.

3. Requiring the juvenile court or panel, in determining the continuing necessity for and the safety and appropriateness of a placement in a planned permanent living arrangement, to include in that determination an explanation of why the planned permanent living arrangement is the best permanency goal for the child and why it continues not to be in the best interests of the child to be returned to his or her home or to be placed for adoption, with a guardian, or with a fit and willing relative.

4. Requiring the agency primarily responsible for providing services for a child who has been placed in out-of-home care for six months or more to ensure that the child is in possession of a certified copy of the child’s birth certificate, a social security card, information on maintaining health care coverage, a copy of the child’s health care records, and either a driver’s license or a state-issued identification card (identification documents and other important information) during the 90 days before the child attains 18 years of age or the child’s juvenile court order terminates, whichever is later.

5. Requiring the agency responsible for preparing the permanency plan for a child 14 years of age or over to prepare the plan in consultation with the child, requiring the permanency plan for such a child to include a plan to prepare the child for the transition from out-of-home care to a successful adulthood (transition plan), and requiring a child’s transition plan to include a document that describes the rights of the child with respect to education, health, visitation, and participation in juvenile court proceedings, the right of the child to receive identification documents and other important information as required under the bill, the right of the child to receive a copy of his or her credit report, and the right of the child to stay safe and to avoid exploitation. Current law requires a transition plan only for a child 15 years of age or over.
6. Eliminating placement in sustaining care as a permanency goal for a child following a termination of parental rights. The bill, however, permits: a) a child 16 years of age or over who is in sustaining care under a sustaining care contract entered into before the effective date of the bill to remain in sustaining care until the termination date of the contract; and b) a child under 16 years of age who is in sustaining care under a sustaining care contract entered into before the effective date of the bill to remain in sustaining care until the next permanency plan review or hearing for the child, at which time the child’s permanency plan must be amended to provide for a permanency goal other than placement in sustaining care.

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:

SECTION 1. 20.437 (1) (cf) (title) of the statutes is amended to read:

20.437 (1) (cf) (title) Foster and family-operated group home parent insurance and liability.

SECTION 2. 48.02 (1dm) of the statutes is created to read:

48.02 (1dm) “Age or developmentally appropriate activities” means activities that are generally accepted as suitable for children of a given chronological age or level of maturity or that are determined to be developmentally appropriate for a child based on the cognitive, emotional, physical, and behavioral capacities that are typical for children of a given age or age group or, in the case of a specific child, activities that are suitable for the child based on the cognitive, emotional, physical, and behavioral capacities of that child.

SECTION 3. 48.02 (12r) of the statutes is created to read:

48.02 (12r) “Out-of-home care provider” means a foster parent, guardian, relative other than a parent, or nonrelative in whose home a child is placed, or the operator of a group home, residential care center for children and youth, or shelter
care facility in which a child is placed, under the placement and care responsibility of the department or a county department. “Out-of-home care provider” also includes, in the case of a child placed in a group home, residential care center for children and youth, or shelter care facility, a staff member employed on the site of that home, center, or facility who has been designated by the operator of that home, center, or facility as an out-of-home care provider for purposes of making decisions concerning the child’s participation in age or developmentally appropriate activities.

**SECTION 4.** 48.02 (14r) of the statutes is created to read:

48.02 (14r) “Reasonable and prudent parent standard” means a standard for an out-of-home care provider to use in making decisions concerning a child’s participation in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities that is characterized by careful and sensible parental decisions that maintain the health, safety, best interests, and cultural, religious, and tribal values of the child while at the same time encouraging the emotional and developmental growth of the child.

**SECTION 5.** 48.14 (2) (b) of the statutes is amended to read:

48.14 (2) (b) The appointment and removal of a guardian of the person for a child under ss. 48.427, 48.428, 48.43, 48.831, 48.832, 48.839 (4) (a), 48.977, and 48.978 and ch. 54 and for a child found to be in need of protection or services under s. 48.13 because the child is without parent or guardian.

**SECTION 6.** 48.366 (2) (b) 4. of the statutes, as affected by 2015 Wisconsin Act 55, is amended to read:

48.366 (2) (b) 4. If the court determines that the person who is the subject of an order described in sub. (1) (a) or (b) understands that he or she may continue in out-of-home care, but wishes to be discharged from that care on termination of the
order, the court shall advise the person that he or she may enter into a voluntary agreement under sub. (3) at any time before he or she is granted a high school or high school equivalency diploma or reaches 21 years of age, whichever occurs first, so long as he or she is a full-time student at a secondary school or its vocational or technical equivalent and an individualized education program under s. 115.787 is in effect for him or her. If the court determines that the person wishes to continue in out-of-home care under an extension of an order under s. 48.355, 48.357, or 48.365 described in sub. (1) (a), the court shall schedule an extension hearing under s. 48.365. If the court determines that the person wishes to continue in out-of-home care under a voluntary agreement under sub. (3), the court shall order the agency primarily responsible for providing services to the person under the order to provide transition-to-independent-living services for the person under a voluntary agreement under sub. (3).

**SECTION 7.** 48.38 (2m) of the statutes is created to read:

48.38 (2m) **Consultation with child 14 or over.** The agency responsible for preparing the permanency plan for a child 14 years of age or over shall prepare the plan and any revisions of the plan in consultation with the child and, at the option of the child, with not more than 2 persons selected by the child who are members of any child and family team convened for the child, except that the child may not select his or her caregiver or caseworker to consult in the preparation or revision of the permanency plan and the agency may reject a person selected by the child if the agency has good cause to believe that the person would not act in the best interests of the child. The agency may designate one of the persons selected by the child to be the child’s adviser and, as necessary, the child’s advocate, with respect to application
of the reasonable and prudent parent standard to decisions concerning the child's participation in age or developmentally appropriate activities.

**SECTION 8.** 48.38 (4) (f) 3. of the statutes is amended to read:

48.38 (4) (f) 3. Improve the conditions of the parents' home to facilitate the safe return of the child to his or her home, or, if appropriate, obtain for the child a placement for adoption, with a guardian, or with a fit and willing relative, or, in the case of a child 16 years of age or over, obtain for the child, if appropriate, a placement in some other planned permanent living arrangement that includes an appropriate, enduring relationship with an adult.

**SECTION 9.** 48.38 (4) (fg) 5. of the statutes, as affected by 2015 Wisconsin Act 55, is amended to read:

48.38 (4) (fg) 5. As provided in par. (fm), placement in In the case of a child 16 years of age or over, placement of the child in some other planned permanent living arrangement that includes an appropriate, enduring relationship with an adult, including sustaining care, or the goal of transitioning the child to independence.

**SECTION 10.** 48.38 (4) (fm) of the statutes, as affected by 2015 Wisconsin Act 55, is amended to read:

48.38 (4) (fm) If the agency determines that there is a compelling reason why it currently would not be in the best interests of the a child 16 years of age or over to return the child to his or her home or to place the child for adoption, with a guardian, or with a fit and willing relative as the permanency goal for the child, the permanency goal of placing the child in some other planned permanent living arrangement or of transitioning the child to independence as described in par. (fg) 5. If the agency makes that determination, the plan shall include the efforts made to achieve that permanency goal, including, if appropriate, through an out−of−state
placement, a statement of that compelling reason, and, notwithstanding that compelling reason, a concurrent plan under s. 48.355 (2b) towards achieving a goal under par. (fg) 1. to 4. as a concurrent permanency goal in addition to the permanency goal under par. (fg) 5. The plan shall also include a plan to ensure that the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities determined in accordance with the reasonable and prudent parent standard.

**SECTION 11.** 48.38 (4) (h) (intro.) of the statutes is amended to read:

48.38 (4) (h) (intro.) If the child is 15 years of age or over, an independent living a plan describing the programs and services that are or will be provided to assist the child in preparing for the transition from out-of-home care to independent living a successful adulthood. The plan shall include all of the following:

**SECTION 12.** 48.38 (4) (h) 2. of the statutes is amended to read:

48.38 (4) (h) 2. The anticipated amount of time available in which to prepare the child for the transition from out-of-home care to independent living a successful adulthood.

**SECTION 13.** 48.38 (4) (h) 4. of the statutes is amended to read:

48.38 (4) (h) 4. A description of the assessment processes, tools, and methods that have been or will be used to determine the programs and services that are or will be provided to assist the child in preparing for the transition from out-of-home care to independent living a successful adulthood.

**SECTION 14.** 48.38 (4) (h) 5. of the statutes is amended to read:

48.38 (4) (h) 5. The rationale for each program or service that is or will be provided to assist the child in preparing for the transition from out-of-home care to
independent living a successful adulthood, the time frames for delivering those
programs or services, and the intended outcome of those programs or services.

**SECTION 15.** 48.38 (4) (h) 6. of the statutes is created to read:

48.38 (4) (h) 6. Documentation that the plan was prepared in consultation with
the child and any persons selected by the child as required under sub. (2m).

**SECTION 16.** 48.38 (4) (h) 7. of the statutes is created to read:

48.38 (4) (h) 7. A document that describes the rights of the child with respect
to education, health, visitation, and participation in court proceedings, the right of
the child to receive the documents and information specified in s. 48.385 (2), the right
of the child to receive a copy of the child’s consumer report, as defined in 15 USC
1681a (d), and the right of the child to stay safe and to avoid exploitation, together
with a signed acknowledgement by the child that he or she has been provided with
a copy of that document and that the rights described in that document have been
explained to him or her in an age-appropriate and developmentally appropriate way.

**SECTION 17.** 48.38 (5) (bm) 3. of the statutes is created to read:

48.38 (5) (bm) 3. If the permanency goal of the child’s permanency plan is
placement of the child in a planned permanent living arrangement described in sub.
(4) (fg) 5., the agency that prepared the permanency plan shall present to the court
or panel specific information showing that intensive and ongoing efforts were made
by the agency, including searching social media, to return the child to the child’s
home or to place the child for adoption, with a guardian, or with a fit and willing
relative and that those efforts have proved unsuccessful and specific information
showing the steps taken by the agency, including consultation with the child, to
ascertain whether the child has regular, ongoing opportunities to engage in age or
developmentally appropriate activities and to ensure that the child’s caregiver is
applying the reasonable and prudent parent standard to decisions concerning the child’s participation in those activities. In addition, at the review the court or panel shall consult with the child about the permanency outcome desired by the child.

SECTION 18. 48.38 (5) (c) 1. of the statutes is amended to read:

48.38 (5) (c) 1. The continuing necessity for and the safety and appropriateness of the placement. If the permanency goal of the child’s permanency plan is placement of the child in a planned permanent living arrangement described in sub. (4) (fg) 5., the determination under this subdivision shall include an explanation of why the planned permanent living arrangement is the best permanency goal for the child and why, supported by compelling reasons, it continues not to be in the best interests of the child to be returned to his or her home or to be placed for adoption, with a guardian, or with a fit and willing relative.

SECTION 19. 48.38 (5) (c) 6. d. of the statutes, as affected by 2015 Wisconsin Act 55, is amended to read:

48.38 (5) (c) 6. d. Being placed in some other planned permanent living arrangement that includes an appropriate, enduring relationship with an adult, including sustaining care, or transitioning to independence.

SECTION 20. 48.38 (5) (c) 7m. of the statutes is created to read:

48.38 (5) (c) 7m. If the permanency goal of the child’s permanency plan is placement of the child in a planned permanent living arrangement described in sub. (4) (fg) 5., the steps taken by the agency, including consultation with the child, to ascertain whether the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities and to ensure that the child’s caregiver is applying the reasonable and prudent parent standard to decisions concerning the child’s participation in those activities.
SECTION 21. 48.38 (5) (c) 9. of the statutes, as affected by 2015 Wisconsin Act 55, is amended to read:

48.38 (5) (c) 9. If the child is the subject of an order that terminates as provided in s. 48.355 (4) (b) 4., 48.357 (6) (a) 4. or 48.365 (5) (b) 4. or of a voluntary transition-to-independent-living agreement under s. 48.366 (3), the appropriateness of the transition-to-independent-living plan developed under s. 48.385 (1); the extent of compliance with that plan by the child, the child's guardian, if any, the agency primarily responsible for providing services under that plan, and any other service providers; and the progress of the child toward making the transition to independent living a successful adulthood.

SECTION 22. 48.38 (5m) (c) 3. of the statutes is created to read:

48.38 (5m) (c) 3. If the permanency goal of the child's permanency plan is placement of the child in a planned permanent living arrangement described in sub. (4) (fg) 5., the agency that prepared the permanency plan shall present to the court specific information showing that intensive and ongoing efforts were made by the agency, including searching social media, to return the child to the child's home or to place the child for adoption, with a guardian, or with a fit and willing relative and that those efforts have proved unsuccessful and specific information showing the steps taken by the agency, including consultation with the child, to ascertain whether the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities and to ensure that the child's caregiver is applying the reasonable and prudent parent standard to decisions concerning the child's participation in those activities. In addition, at the hearing the court shall consult with the child about the permanency outcome desired by the child.

SECTION 23. 48.383 of the statutes is created to read:
48.383 Reasonable and prudent parent standard. (1) Use of standard by out-of-home care providers. An out-of-home care provider shall use the reasonable and prudent parent standard in making decisions concerning a child’s participation in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities. In making decisions using the reasonable and prudent parent standard, an out-of-home care provider shall consider the restrictiveness of the child’s placement and whether the child has the necessary training and safety equipment to safely participate in the activity under consideration and may not make any decision that is in violation of any court order or any state or federal law, rule, or regulation.

(2) Child-specific considerations required. (a) At the time of placement of a child with an out-of-home care provider, the agency that places, or that arranges the placement of, the child or the agency assigned primary responsibility for providing services to the child under s. 48.355 (2) (b) 6g. shall provide to the out-of-home care provider the information that is required to be provided to an out-of-home care provider under the rules promulgated under s. 895.485 (4) (a) and information that is specific to the child for the out-of-home care provider to consider in making reasonable and prudent parenting decisions concerning the child’s participation in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities. In preparing that information or any revisions of that information, the agency shall do all of the following:

1. If reasonably possible to do so, consult with the child’s parent concerning the child’s participation in extracurricular, enrichment, cultural, and social activities and the child’s cultural, religious, and tribal values and advise the parent that those
values will be considered, but will not necessarily be the determining factor, in
making decisions concerning the child's participation in those activities.

2. Consult with the child in an age-appropriate manner about the
opportunities of the child to participate in age or developmentally appropriate
activities.

(b) At the time of placement of a child with an out-of-home care provider, the
agency providing the information under par. (a) shall explain to the out-of-home
care provider the parameters of the considerations that the out-of-home care
provider is required to take into account when making decisions concerning the
child’s participation in age or developmentally appropriate extracurricular,
enrichment, cultural, and social activities. In explaining those parameters, the
agency shall explain the considerations and prohibitions specified in sub. (1) and
shall advise the out-of-home care provider that in case of any disagreement over the
application of the reasonable and prudent parent standard, the agency having
placement and care responsibility for the child is ultimately responsible for decisions
concerning the care of the child.

(c) In preparing or revising the permanency plan for a child, the agency
responsible for preparing or revising the permanency plan shall consult with the
child and the child's parent as provided in par. (a) 1. and 2. At the time the
permanency plan is prepared and each time the permanency plan is revised, that
agency shall explain to the out-of-home care provider the parameters of the
considerations that the out-of-home care provider is required to take into account
when making decisions concerning the child's participation in age or
developmentally appropriate extracurricular, enrichment, cultural, and social
activities as provided in par. (b).
(3) Rules. The department shall promulgate rules to implement this section.

SECTION 24. 48.385 of the statutes, as affected by 2015 Wisconsin Act 55, is renumbered 48.385 (intro.) and amended to read:

48.385 Plan for transition to independent living. (intro.) During the 90 days immediately before a child who is placed in a foster home, group home, or residential care center for children and youth, in the home of a relative other than a parent, or in a supervised independent living arrangement attains 18 years of age or, if the child is placed in such a placement under an order under s. 48.355, 48.357, or 48.365 that terminates under s. 48.355 (4) (b) after the child attains 18 years of age or under a voluntary transition-to-independent-living agreement under s. 48.366 (3) that terminates under s. 48.366 (3) (a) after the child attains 18 years of age, during the 90 days immediately before the termination of the order or agreement, the agency primarily responsible for providing services to the child under the order or agreement shall provide do all of the following:

(1) Transition Plan. Provide the child with assistance and support in developing a plan for making the transition from out-of-home care to independent living. The transition plan shall be personalized at the direction of the child, shall be as detailed as the child directs, and shall include specific options for obtaining housing, health care, education, mentoring and continuing support services, and workforce support and employment services.

SECTION 25. 48.385 (2) of the statutes is created to read:

48.385 (2) Identification documents and other information. Except as provided in this subsection, ensure that the child is in possession of a certified copy of the child’s birth certificate, a social security card issued by the federal social security administration, information on maintaining health care coverage, a copy of
the child’s health care records, and either an operator’s license issued under ch. 343 or an identification card issued under s. 343.50. If the child is not in possession of any of those documents or that information, the agency shall assist the child in obtaining any missing document or information. This subsection does not apply to a child who has been placed in out-of-home care for less than 6 months.

SECTION 26. 48.427 (1) of the statutes is amended to read:

48.427 (1) Any party may present evidence relevant to the issue of disposition, including expert testimony, and may make alternative dispositional recommendations to the court. After receiving any evidence related to the disposition, the court shall enter one of the dispositions specified under subs. (2) to (4) (3p) within 10 days.

SECTION 27. 48.427 (4) of the statutes is repealed.

SECTION 28. 48.427 (5) of the statutes is amended to read:

48.427 (5) In placing an Indian child in a preadoptive placement following a transfer of guardianship and custody under sub. (3m) or (3p) or in placing an Indian child in sustaining care under sub. (4), the court or an agency specified in sub. (3m) (a) 1. to 4. or (am) shall comply with the order of placement preference under s. 48.028 (7) (b) or, if applicable, s. 48.028 (7) (c), unless the court or agency finds good cause, as described in s. 48.028 (7) (e), for departing from that order.

SECTION 29. 48.428 of the statutes is repealed.

SECTION 30. 48.43 (4) of the statutes is amended to read:

48.43 (4) A certified copy of the order terminating parental rights shall be furnished by the court to the agency given guardianship for placement for adoption of the child or to the person or agency given custodianship or guardianship for placement of the child in sustaining care and to the person appointed as the guardian
of the child under s. 48.977 (2). The court shall, upon request, furnish a certified copy
of the child's birth certificate and a transcript of the testimony in the termination of
parental rights hearing to the same person or agency.

SECTION 31. 48.43 (5) (b) 2m. of the statutes is created to read:

48.43 (5) (b) 2m. If the permanency goal of the child's permanency plan is
placement of the child in a planned permanent living arrangement described in ss.
48.38 (4) (fg) 5., the agency that prepared the report shall present to the court specific
information showing that intensive and ongoing efforts were made by the agency,
including searching social media, to return the child to the child's home or to place
the child for adoption, with a guardian, or with a fit and willing relative and that
those efforts have proved unsuccessful and specific information showing the steps
taken by the agency, including consultation with the child, to ascertain whether the
child has regular, ongoing opportunities to engage in age or developmentally
appropriate activities and to ensure that the child's caregiver is applying the
reasonable and prudent parent standard to decisions concerning the child's
participation in those activities. In addition, at the hearing the court shall consult
with the child about the permanency outcome desired by the child.

SECTION 32. 48.481 (2) of the statutes is amended to read:

48.481 (2) Transition to Independent Living a Successful Adulthood. The
department shall distribute at least $231,700 in each fiscal year for the purpose of
assisting individuals who attain the age of 18 while residing in a foster home, group
home, or residential care center for children and youth, in the home of a relative other
than a parent, or in a supervised independent living arrangement to make the
transition from out-of-home care to Independent Living a successful adulthood. No
SECTION 32. Senate Bill 309

County may use funds provided under this subsection to replace funds previously used by the county for this purpose.

SECTION 33. 48.627 (title) of the statutes is amended to read:

48.627 (title) **Foster and family-operated group home parent insurance and liability.**

SECTION 34. 48.627 (1) of the statutes is repealed.

SECTION 35. 48.627 (2) (a) of the statutes is amended to read:

48.627 (2) (a) Before the department, a county department, or a licensed child welfare agency may issue, renew, or continue a foster home or family-operated group home license, the licensing agency shall require the applicant to furnish proof satisfactory to the licensing agency that he or she has homeowner’s or renter’s liability insurance that provides coverage for negligent acts or omissions by children placed in a foster home or family-operated group home that result in bodily injury or property damage to 3rd parties.

SECTION 36. 48.627 (2c) of the statutes is amended to read:

48.627 (2c) The department shall determine the cost-effectiveness of purchasing private insurance that would provide coverage to foster and family-operated group home parents for acts or omissions by or affecting a child who is placed in a foster home or a family-operated group home. If this private insurance is cost-effective and available, the department shall purchase the insurance from the appropriations under s. 20.437 (1) (cf) and (pd). If the insurance is unavailable, payment of claims for acts or omissions by or affecting a child who is placed in a foster home or a family-operated group home shall be in accordance with subs. (2m) to (3).

SECTION 37. 48.627 (2m) of the statutes is amended to read:
48.627 (2m) Within the limits of the appropriations under s. 20.437 (1) (cf) and
(pd), the department shall pay claims to the extent not covered by any other
insurance and subject to the limitations specified in sub. (3), for bodily injury or
property damage sustained by a licensed foster or family-operated group home
parent or a member of the foster or family-operated group home parent’s family as
a result of the act of a child in the foster or family-operated group home parent’s care
or as a result of an act or omission of the foster parent in granting permission for a
child in the foster parent’s care to participate in an age or developmentally
appropriate activity.

Section 38. 48.627 (2s) (a) of the statutes is amended to read:

48.627 (2s) (a) Acts or omissions of the foster or family-operated group home
parent that result in bodily injury to the child who is placed in the foster home or
family-operated group home or that form the basis for a civil action for damages by
the foster child’s parent against the foster or family-operated group home parent.

Section 39. 48.627 (2s) (am) of the statutes is created to read:

48.627 (2s) (am) Acts or omission of the foster parent in granting permission
for a child who is placed in the foster home to participate in an age or developmentally
appropriate activity.

Section 40. 48.627 (2s) (b) of the statutes is amended to read:

48.627 (2s) (b) Bodily injury or property damage caused by an act or omission
of a child who is placed in the foster or family-operated group home parent’s care for
which the foster or family-operated group home parent becomes legally liable.

Section 41. 48.627 (3) (b) of the statutes is amended to read:

48.627 (3) (b) A claim under sub. (2m) shall be submitted to the department
within 90 days after the bodily injury or property damage occurs. A claim under sub.
shall be submitted to the department within 90 days after a foster or family-operated group home parent learns that a legal action has been commenced against that parent. No claim may be paid under this subsection unless it is submitted within the time limits specified in this paragraph.

**SECTION 42.** 48.627 (3) (d) of the statutes is amended to read:

48.627 (3) (d) No claim may be approved in an amount exceeding the total amount available for paying claims under this subsection in the fiscal year during which the claim is submitted. No claim for property damage sustained by a foster or family-operated group home parent or a member of a foster or family-operated group home parent’s family may be approved in an amount exceeding $250,000.

**SECTION 43.** 48.627 (3) (e) of the statutes is amended to read:

48.627 (3) (e) The department may not approve a claim unless the foster or family-operated group home parent submits with the claim evidence that is satisfactory to the department of the cause and value of the claim and evidence that insurance coverage is unavailable or inadequate to cover the claim. If insurance is available but inadequate, the department may approve a claim only for the amount of the value of the claim that it the department determines is in excess of the amount covered by insurance.

**SECTION 44.** 48.627 (3) (f) of the statutes is amended to read:

48.627 (3) (f) If the total amount of the claims approved during any calendar quarter exceeds 25% 25 percent of the total funds available during the fiscal year for purposes of this subsection plus any unencumbered funds remaining from the previous quarter, the department shall prorate the available funds among the claimants with approved claims. The department shall also prorate any unencumbered funds remaining in the appropriation under s. 20.437 (1) (cf) at the
end of each fiscal year among the claimants whose claims were prorated during the fiscal year. Payment of a prorated amount from unencumbered funds remaining at the end of the fiscal year constitutes a complete payment of the claim for purposes of this program, but does not prohibit a foster parent or family-operated group home parent from submitting a claim under s. 16.007 for the unpaid portion.

SECTION 45. 48.627 (3) (h) of the statutes is amended to read:

48.627 (3) (h) If a claim by a foster or family-operated group home parent or a member of the foster or family-operated group home parent’s family is approved, the department shall deduct from the amount approved $100 less any amount deducted by an insurance company from a payment for the same claim, except that a foster or family-operated group home parent and his or her family are subject to only one deductible for all claims filed in a fiscal year.

SECTION 46. 48.627 (4) of the statutes is amended to read:

48.627 (4) Except as provided in s. 895.485, the department is not liable for any act or omission by or affecting a child who is placed in a foster home or family-operated group home, but shall, as provided in this section, pay claims described under sub. (2m) and may pay claims described under sub. (2s) or may purchase insurance to cover such claims as provided for under sub. (2c), within the limits of the appropriations under s. 20.437 (1) (cf) and (pd).

SECTION 47. 48.647 (3) (d) of the statutes is amended to read:

48.647 (3) (d) Ensure that an eligible person receiving services from the private agency’s program is provided with intake, assessment, case planning, and case management services; skills development training in the areas of economic self-sufficiency, parenting, independent successful adult living, and life choice decision making; prenatal and other health care services, including, if necessary,
mental health and alcohol and other drug abuse services; child care; and
transportation.

SECTION 48. 48.647 (4) of the statutes is amended to read:

48.647 (4) EVALUATION. From the appropriation under s. 20.437 (1) (f), the
department shall conduct or shall select an evaluator to conduct an evaluation of the
grant program under this section and, by June 1 of the 3rd calendar year beginning
after the year in which the first grant under this section is awarded, shall submit a
report on that evaluation to the governor and to the appropriate standing committees
under s. 13.172 (3). The evaluation shall measure the economic self-sufficiency,
parenting skills, independent successful adult living skills, and life choice
decision-making skills of the eligible persons who received services under the
program and any other criteria that the department determines to be appropriate for
evaluation.

SECTION 49. 48.67 (4) (a) 1m. of the statutes is created to read:

48.67 (4) (a) 1m. Knowledge and skills relating to the use of the reasonable and
prudent parent standard in making decisions concerning a child’s participation in
age or developmentally appropriate activities including knowledge and skills
relating to the stages in the development of cognitive, emotional, physical, and
behavioral capacities of children and knowledge and skills relating to applying that
standard in making decisions regarding a child’s participation in extracurricular,
enrichment, cultural, or social activities, such as sports, field trips, overnight, and
other recreational activities, in making decisions involving the signing of permission
slips and the arrangement of transportation to and from those activities, and in
making decisions regarding the child’s choices with respect to transportation,
employment, peer relationships, and personal expression. Those rules shall require
a foster parent who has received that training to make reasonable and prudent parenting decisions in accordance with the reasonable and prudent parent standard.

SECTION 50. 48.67 (5) of the statutes is created to read:

48.67 (5) That all child welfare agencies that operate a residential care center for children and youth, all group homes, and all shelter care facilities employ on the site of the center, group home, or shelter care facility at all times a staff member designated as an out-of-home care provider for purposes of making decisions concerning the participation of a child placed in the center, group home, or shelter care facility in age or developmentally appropriate activities. Those rules shall also require an out-of-home care provider so designated to receive training in knowledge and skills relating to the use of the reasonable and prudent parent standard in making decisions concerning a child’s participation in age or developmentally appropriate activities. In addition, those rules shall require an out-of-home care provider so trained to make reasonable and prudent parenting decisions in accordance with the reasonable and prudent parent standard.

SECTION 51. 48.977 (7) (e) of the statutes is amended to read:

48.977 (7) (e) Termination on termination of parental rights. If a court enters an order under s. 48.427 (3p) or 48.428 (2) (b), the court shall terminate the guardianship under this section.

SECTION 52. 49.34 (4) (a) of the statutes is amended to read:

49.34 (4) (a) Except as provided in this subsection, maintain a uniform double entry accounting system and a management information system which are compatible with cost accounting and control systems prescribed by the department. The department shall establish a simplified double-entry bookkeeping system for use by family-operated group homes. Each purchaser shall determine whether a
family-operated group home from which it purchases services shall use the
double-entry accounting system or the simplified system and shall include this
determination in the purchase of service contract. In this paragraph,
“family-operated group home” means a group home licensed under s. 48.66 (1) (a) for
which the licensee is one or more individuals who operate not more than one group
home.

SECTION 53. 49.34 (4) (c) of the statutes is amended to read:

49.34 (4) (c) Unless waived by the department, biennially, or annually if
required under federal law, provide the purchaser with a certified financial and
compliance audit report if the care and services purchased exceed $25,000. The audit
shall follow standards that the department prescribes. A purchaser may waive the
requirements of this paragraph for any family-operated group home, as defined in
par. (a), from which it purchases services.

SECTION 54. 115.76 (12) (a) 8. of the statutes is repealed.

SECTION 55. 167.10 (7) of the statutes is amended to read:

167.10 (7) PARENTAL LIABILITY. A parent, foster parent, family-operated group
home parent, or legal guardian, or other out-of-home care provider, as defined in s.
48.02 (12r), of a minor who consents to the use of fireworks by the minor is liable for
damages caused by the minor’s use of the fireworks.

SECTION 56. 809.107 (2) (bm) (intro.) of the statutes is amended to read:

809.107 (2) (bm) Notice of intent to pursue postdisposition or appellate relief.
(intro.) A person shall initiate an appeal under this section by filing, within 30 days
after the date of entry of the judgment or order appealed from, as specified in s.
808.04 (7m), a notice of intent to pursue postdisposition or appellate relief with the
clerk of the circuit court in which the judgment or order appealed from was entered.
Also within that time period, the appellant shall serve a copy of the notice of intent on the person representing the interests of the public, opposing counsel, the guardian ad litem appointed under s. 48.235 (1) (c) for the child who is the subject of the proceeding, the child's parent and any guardian and any custodian appointed under s. 48.427 (3) or 48.428 (2). If the record discloses that final adjudication occurred after the notice of intent was filed, the notice shall be treated as filed after entry of the judgment or order appealed from on the day of the entry of the final judgment or order. The notice of intent shall include all of the following:

**SECTION 57.** 895.485 (title) of the statutes is amended to read:

895.485 (title) Civil liability exemption; out-of-home care providers and child-placing agencies, foster parents and family-operated group home parents.

**SECTION 58.** 895.485 (1) (title) of the statutes is created to read:

895.485 (1) (title) DEFINITIONS.

**SECTION 59.** 895.485 (1) (a) of the statutes is repealed.

**SECTION 60.** 895.485 (1) (ag) of the statutes is created to read:

895.485 (1) (ag) “Age or developmentally appropriate activities” has the meaning given in s. 48.02 (1dm).

**SECTION 61.** 895.485 (1) (c) of the statutes is created to read:

895.485 (1) (c) “Out-of-home care provider” has the meaning given in s. 48.02 (12r).

**SECTION 62.** 895.485 (1) (d) of the statutes is created to read:

895.485 (1) (d) “Reasonable and prudent parent standard” has the meaning given in s. 48.02 (14r).

**SECTION 63.** 895.485 (2) of the statutes is amended to read:
895.485 (2) FOSTER PARENTS; LIABILITY EXEMPTION. Except as provided in ss. 167.10 (7) and 343.15 (2), any foster or family-operated group home parent licensed under s. 48.62 or 48.625 is immune from civil liability for any of the following:

(a) An act or omission of the foster or family-operated group home parent while that parent is acting in his or her capacity as a foster or family-operated group home parent.

(b) An act or omission of a child who is placed in a foster home or family-operated group home while the child is in the foster or family-operated group home parent’s care.

Section 64. 895.485 (3) of the statutes is amended to read:

895.485 (3) FOSTER PARENTS; EXCEPTIONS TO LIABILITY EXEMPTION. The immunity specified in sub. (2) does not apply if the act or omission of a foster or family-operated group home parent was not done in good faith or was not in compliance with any written instructions received from the agency that placed the child regarding specific care and supervision of the child. The good faith of a foster or family-operated group home parent and the compliance of the foster or family-operated group home parent with any written instructions received from the agency that placed the child are presumed in a civil action. Any person who asserts that a foster or family-operated group home parent did not act in good faith, or did not comply with written instructions received from the agency that placed the child, has the burden of proving that assertion.

Section 65. 895.485 (4) (intro.) of the statutes is amended to read:

895.485 (4) CHILD-PLACING AGENCIES; LIABILITY EXEMPTION; EXCEPTIONS. (intro.) Any agency that acts in good faith in placing a child with a foster or family-operated group home parent is immune from civil liability for any act or omission of the agency,
the foster or family-operated group home parent, or the child unless all of the following occur:

**SECTION 66.** 895.485 (4) (a) of the statutes is amended to read:

895.485 (4) (a) The agency has failed to provide the foster or family-operated group home parent with any information relating to a medical, physical, mental, or emotional condition of the child that it is required to disclose under this paragraph. The department of children and families shall promulgate rules specifying the kind of information that an agency shall disclose to a foster or family-operated group home parent that relates to a medical, physical, mental, or emotional condition of the child.

**SECTION 67.** 895.485 (5) and (6) of the statutes are created to read:

895.485 (5) **OUT-OF-HOME CARE PROVIDERS; LIABILITY EXEMPTION.** Except as provided in ss. 167.10 (7) and 343.15 (2), an out-of-home care provider who grants permission for a child in the care of the out-of-home care provider to participate in an age or developmentally appropriate activity is immune from civil liability for any act or omission of the out-of-home care provider in granting that permission if in granting that permission the out-of-home care provider applied the reasonable and prudent parent standard in accordance with the requirements of ss. 48.383 (1) and 938.383 (1) and the rules promulgated under ss. 48.383 (3) and 938.383 (3). The immunity provided under this subsection applies only to the decision granting that permission itself and does not extend to any other act or omission of the out-of-home care provider, including any act or omission relating to the out-of-home care provider’s duty to comply with any provision of licensure under s. 48.70, rule promulgated under s. 48.67, or any other statute, rule, or regulation that is applicable to the out-of-home care provider’s duty to protect the health, safety, and
welfare of the child. The immunity provided under this subsection does not affect any
immunity from, limitation on, or defense to liability that is available under any other
statute or the common law.

(6) Out-of-home care providers; liability exemption; presumptions. An
out-of-home care provider who grants permission for a child in the care of the
out-of-home care provider to participate in an age or developmentally appropriate
activity is presumed to have applied the reasonable and prudent parent standard in
granting that permission. Any person who asserts that an out-of-home care
provider did not apply the reasonable and prudent parent standard in granting that
permission has the burden of proving that assertion.

SECTION 68. 938.02 (1g) of the statutes is created to read:

938.02 (1g) “Age or developmentally appropriate activities” means activities
that are generally accepted as suitable for juveniles of a given chronological age or
level of maturity or that are determined to be developmentally appropriate for a
juvenile based on the cognitive, emotional, physical, and behavioral capacities that
are typical for juveniles of a given age or age group or, in the case of a specific juvenile,
activities that are suitable for the juvenile based on the cognitive, emotional,
physical, and behavioral capacities of that juvenile.

SECTION 69. 938.02 (12r) of the statutes is created to read:

938.02 (12r) “Out-of-home care provider” means a foster parent, guardian,
relative other than a parent, or nonrelative in whose home a juvenile is placed, or the
operator of a group home, residential care center for children and youth, or shelter
care facility in which a juvenile is placed, under the placement and care
responsibility of the department of children and families, the department of
corrections, or a county department. “Out-of-home care provider” also includes, in
the case of a juvenile placed in a group home, residential care center for children and youth, or shelter care facility, a staff member employed on the site of that home, center, or facility who has been designated by the operator of that home, center, or facility as an out-of-home care provider for purposes of making decisions concerning the juvenile’s participation in age or developmentally appropriate activities.

**SECTION 70.** 938.02 (14r) of the statutes is created to read:

938.02 (14r) “Reasonable and prudent parent standard” means a standard for an out-of-home care provider to use in making decisions concerning a juvenile’s participation in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities that is characterized by careful and sensible parental decisions that maintain the health, safety, best interests, and cultural, religious, and tribal values of the juvenile while at the same time encouraging the emotional and developmental growth of the juvenile.

**SECTION 71.** 938.366 (2) (b) 4. of the statutes, as affected by 2015 Wisconsin Act 55, is amended to read:

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

SECTION 72. 938.38 (2m) of the statutes is created to read:

938.38 (2m) CONSULTATION WITH JUVENILE 14 OR OVER. The agency responsible
for preparing the permanency plan for a juvenile 14 years of age or over shall prepare
the plan and any revisions of the plan in consultation with the juvenile and, at the
option of the juvenile, with not more than 2 persons selected by the juvenile who are
members of any child and family team convened for the juvenile, except that the
juvenile may not select his or her caregiver or caseworker to consult in the
preparation or revision of the permanency plan and the agency may reject a person
selected by the juvenile if the agency has good cause to believe that the person would
not act in the best interests of the juvenile. The agency may designate one of the
persons selected by the juvenile to be the juvenile’s adviser and, as necessary, the
juvenile’s advocate, with respect to application of the reasonable and prudent parent
standard to decisions concerning the juvenile’s participation in age or
developmentally appropriate activities.

SECTION 73. 938.38 (4) (f) 3. of the statutes is amended to read:

938.38 (4) (f) 3. Improve the conditions of the parents’ home to facilitate the safe
return of the juvenile to his or her home, or, if appropriate, obtain for the juvenile a
placement for adoption, with a guardian, or with a fit and willing relative, or, in the
case of a juvenile 16 years of age or over, obtain for the juvenile, if appropriate, a
placement in some other planned permanent living arrangement that includes an
appropriate, enduring relationship with an adult.

SECTION 74. 938.38 (4) (fg) 5. of the statutes, as affected by 2015 Wisconsin Act
55, is amended to read:

938.38 (4) (fg) 5. As provided in par. (fm), placement in In the case of a juvenile
16 years of age or over, placement of the juvenile in some other planned permanent
living arrangement that includes an appropriate, enduring relationship with an
adult, including sustaining care, or the goal of transitioning the juvenile to
independence.

SECTION 75. 938.38 (4) (fm) of the statutes, as affected by 2015 Wisconsin Act
55, is amended to read:

938.38 (4) (fm) If the agency determines that there is a compelling reason why
it currently would not be in the best interests of the a juvenile 16 years of age or over
to return the juvenile to his or her home or to place the juvenile for adoption, with
a guardian, or with a fit and willing relative as the permanency goal for the juvenile,
the permanency goal of placing the juvenile in some other planned permanent living
arrangement or of transitioning the juvenile to independence as described in par. (fg)
5. If the agency makes that determination, the plan shall include the efforts made
to achieve that permanency goal, including, if appropriate, through an out-of-state
placement, a statement of that compelling reason, and, notwithstanding that
compelling reason, a concurrent plan under s. 938.355 (2b) towards achieving a goal
under par. (fg) 1. to 4. as a concurrent permanency goal in addition to the permanency
goal under par. (fg) 5. The plan shall also include a plan to ensure that the juvenile
has regular, ongoing opportunities to engage in age or developmentally appropriate
activities determined in accordance with the reasonable and prudent parent
standard.

Section 76. 938.38 (4) (h) (intro.) of the statutes is amended to read:

938.38 (4) (h) (intro.) If the juvenile is 15 14 years of age or older, an
independent living a plan describing the programs and services that are or will be
provided to assist the juvenile in preparing for the transition from out-of-home care
to independent living a successful adulthood. The plan shall include all of the
following:

Section 77. 938.38 (4) (h) 2. of the statutes is amended to read:

938.38 (4) (h) 2. The anticipated amount of time available in which to prepare
the juvenile for the transition from out-of-home care to independent living a
successful adulthood.

Section 78. 938.38 (4) (h) 4. of the statutes is amended to read:

938.38 (4) (h) 4. A description of the assessment processes, tools, and methods
that have been or will be used to determine the programs and services that are or will
be provided to assist the juvenile in preparing for the transition from out-of-home
care to independent living a successful adulthood.

Section 79. 938.38 (4) (h) 5. of the statutes is amended to read:

938.38 (4) (h) 5. The rationale for each program or service that is or will be
provided to assist the juvenile in preparing for the transition from out-of-home care
to independent living a successful adulthood, the time frames for delivering those
programs or services, and the intended outcome of those programs or services.

Section 80. 938.38 (4) (h) 6. of the statutes is created to read:
938.38 (4) (h) 6. Documentation that the plan was prepared in consultation with the juvenile and any persons selected by the juvenile as required under sub. (2m).

SECTION 81. 938.38 (4) (h) 7. of the statutes is created to read:

938.38 (4) (h) 7. A document that describes the rights of the juvenile with respect to education, health, visitation, and participation in court proceedings, the right of the juvenile to receive the documents and information specified in s. 938.385 (2), the right of the juvenile to receive a copy of the juvenile's consumer report, as defined in 15 USCa (d), and the right of the juvenile to stay safe and to avoid exploitation, together with a signed acknowledgement by the juvenile that he or she has been provided with a copy of that document and that the rights described in that document have been explained to him or her in an age-appropriate and developmentally appropriate way.

SECTION 82. 938.38 (5) (bm) 3. of the statutes is created to read:

938.38 (5) (bm) 3. If the permanency goal of the juvenile’s permanency plan is placement of the juvenile in a planned permanent living arrangement described in sub. (4) (fg) 5., the agency that prepared the permanency plan shall present to the court or panel specific information showing that intensive and ongoing efforts were made by the agency, including searching social media, to return the juvenile to the juvenile’s home or to place the juvenile for adoption, with a guardian, or with a fit and willing relative and that those efforts have proved unsuccessful and specific information showing the steps taken by the agency, including consultation with the juvenile, to ascertain whether the juvenile has regular, ongoing opportunities to engage in age or developmentally appropriate activities and to ensure that the juvenile’s caregiver is applying the reasonable and prudent parent standard to
Section 82

Section 83. 938.38 (5) (c) 1. of the statutes is amended to read:

938.38 (5) (c) 1. The continuing necessity for and the safety and appropriateness of the placement. If the permanency goal of the juvenile’s permanency plan is placement of the juvenile in a planned permanent living arrangement described in sub. (4) (fg) 5., the determination under this subdivision shall include an explanation of why the planned permanent living arrangement is the best permanency goal for the juvenile and why, supported by compelling reasons, it continues not to be in the best interests of the juvenile to be returned to his or her home or to be placed for adoption, with a guardian, or with a fit and willing relative.

Section 84. 938.38 (5) (c) 6. d. of the statutes, as affected by 2015 Wisconsin Act 55, is amended to read:

938.38 (5) (c) 6. d. Being placed in some other planned permanent living arrangement that includes an appropriate, enduring relationship with an adult, including sustaining care, or transitioning to independence.

Section 85. 938.38 (5) (c) 7m. of the statutes is created to read:

938.38 (5) (c) 7m. If the permanency goal of the juvenile’s permanency plan is placement of the juvenile in a planned permanent living arrangement described in sub. (4) (fg) 5., the steps taken by the agency, including consultation with the juvenile, to ascertain whether the juvenile has regular, ongoing opportunities to engage in age or developmentally appropriate activities and to ensure that the juvenile’s caregiver is applying the reasonable and prudent parent standard to decisions concerning the juvenile’s participation in those activities.
SECTION 86. 938.38 (5) (c) 9. of the statutes, as affected by 2015 Wisconsin Act 55, is amended to read:

938.38 (5) (c) 9. If the juvenile is the subject of an order that terminates as provided in s. 938.355 (4) (am) 4., 938.357 (6) (a) 4., or 938.365 (5) (b) 4. or of a voluntary transition-to-independent-living agreement under s. 938.366 (3), the appropriateness of the transition-to-independent-living plan developed under s. 938.385 (1); 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 plan, and any other service providers; and the progress of the juvenile toward making the transition to independent living a successful adulthood.

SECTION 87. 938.38 (5m) (c) 3. of the statutes is created to read:

938.38 (5m) (c) 3. If the permanency goal of the juvenile’s permanency plan is placement of the juvenile in a planned permanent living arrangement described in sub. (4) (fg) 5., the agency that prepared the permanency plan shall present to the court specific information showing that intensive and ongoing efforts were made by the agency, including searching social media, to return the juvenile to the juvenile’s home or to place the juvenile for adoption, with a guardian, or with a fit and willing relative and that those efforts have proved unsuccessful and specific information showing the steps taken by the agency, including consultation with the juvenile, to ascertain whether the juvenile has regular, ongoing opportunities to engage in age or developmentally appropriate activities and to ensure that the juvenile’s caregiver is applying the reasonable and prudent parent standard to decisions concerning the juvenile’s participation in those activities. In addition, at the hearing the court shall consult with the juvenile about the permanency outcome desired by the juvenile.

SECTION 88. 938.383 of the statutes is created to read:
938.383 Reasonable and prudent parent standard. (1) Use of standard by out-of-home care providers. An out-of-home care provider shall use the reasonable and prudent parent standard in making decisions concerning a juvenile’s participation in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities. In making decisions using the reasonable and prudent parent standard, an out-of-home care provider shall consider the restrictiveness of the juvenile’s placement and whether the juvenile has the necessary training and safety equipment to safely participate in the activity under consideration and may not make any decision that is in violation of any court order or any state or federal law, rule, or regulation.

(2) Juvenile-specific considerations required. (a) At the time of placement of a juvenile with an out-of-home care provider, the agency that places, or that arranges the placement of, the juvenile or the agency assigned primary responsibility for providing services to the juvenile under s. 938.355 (2) (b) 6g. provide to the out-of-home care provider the information that is required to be provided to an out-of-home care provider under the rules promulgated under s. 895.485 (4) (a) and information that is specific to the juvenile for the out-of-home care provider to consider in making reasonable and prudent parenting decisions concerning the juvenile’s participation in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities. In preparing that information or any revisions of that information, the agency shall do all of the following:

1. If reasonably possible to do so, consult with the juvenile’s parent and other members of the juvenile’s family concerning the juvenile’s participation in extracurricular, enrichment, cultural, and social activities and the juvenile’s
1 cultural, religious, and tribal values and advise the parent that those values will be
2 considered, but will not necessarily be the determining factor, in making decisions
3 concerning the juvenile’s participation in those activities.
4
5 2. Consult with the juvenile in an age-appropriate manner about the
6 opportunities of the juvenile to participate in age or developmentally appropriate
7 activities.
8
9   (b) At the time of placement of a juvenile with an out-of-home care provider,
10 the agency providing the information under par. (a) shall explain to the out-of-home care
11 provider the parameters of the considerations that the out-of-home care
12 provider is required to take into account when making decisions concerning the
13 juvenile’s participation in age or developmentally appropriate extracurricular,
14 enrichment, cultural, and social activities. In explaining those parameters, the
15 agency shall explain the considerations and prohibitions specified in sub. (1) and
16 shall advise the out-of-home care provider that in case of any disagreement over the
17 application of the reasonable and prudent parent standard, the agency having
18 placement and care responsibility for the juvenile is ultimately responsible for
19 decisions concerning the care of the juvenile.
20
21   (c) In preparing or revising the permanency plan for a juvenile, the agency
22 responsible for preparing or revising the permanency plan shall consult with the
23 juvenile and the juvenile’s parent as provided in par. (a) 1. and 2. At the time the
24 permanency plan is prepared and each time the permanency plan is revised, that
25 agency shall explain to the out-of-home care provider the parameters of the
26 considerations that the out-of-home care provider is required to take into account
27 when making decisions concerning the juvenile’s participation in age or
SECTION 88

SENATE BILL 309

developmentally appropriate extracurricular, enrichment, cultural, and social activities as provided in par. (b).

(3) RULES. The department of children and families shall promulgate rules to implement this section.

SECTION 89. 938.385 of the statutes, as affected by 2015 Wisconsin Act 55, is renumbered 938.385 (intro.) and amended to read:

938.385 Plan for transition to independent living. (intro.) During the 90 days immediately before a juvenile who is placed in a foster home, group home, or residential care center for children and youth, in the home of a relative other than a parent, or in a supervised independent living arrangement attains 18 years of age or, if the juvenile is placed in such a placement under an order under s. 938.355, 938.357, or 938.365 that terminates under s. 938.355 (4) (am) after the juvenile attains 18 years of age or under a voluntary transition-to-independent-living agreement under s. 938.366 (3) that terminates under s. 938.366 (3) (a) after the juvenile attains 18 years of age, during the 90 days immediately before the termination of the order or agreement, the agency primarily responsible for providing services to the juvenile under the order or agreement shall provide all of the following:

(1) Transition Plan. Provide the juvenile with assistance and support in developing a plan for making the transition from out-of-home care to independent living. The transition plan shall be personalized at the direction of the juvenile, shall be as detailed as the juvenile directs, and shall include specific options for obtaining housing, health care, education, mentoring and continuing support services, and workforce support and employment services.

SECTION 90. 938.385 (2) of the statutes is created to read:
938.385 (2) IDENTIFICATION DOCUMENTS AND OTHER INFORMATION. Except as provided in this subsection, ensure that the juvenile is in possession of a certified copy of the juvenile’s birth certificate, a social security card issued by the federal social security administration, information on maintaining health care coverage, a copy of the juvenile’s health care records, and either an operator’s license issued under ch. 343 or an identification card issued under s. 343.50. If the juvenile is not in possession of any of those documents or that information, the agency shall assist the juvenile in obtaining any missing document or information. This subsection does not apply to a juvenile who has been placed in out-of-home care for less than 6 months.

SECTION 91. Nonstatutory provisions.

(1) REASONABLE AND PRUDENT PARENT STANDARD; EMERGENCY RULES. Using the procedure under section 227.24 of the statutes, the department of children and families may promulgate the rules required under sections 48.383 (3), 48.67 (4) (a) 1m. and (5), and 938.383 (3) of the statutes, as created by this act, for the period before the effective date of the permanent rules promulgated under those sections, but not to exceed the period authorized under section 227.24 (1) (c) of the statutes, subject to extension under section 227.24 (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the department is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

(2) ELIMINATION OF SUSTAINING CARE; TRANSITIONAL PROVISIONS.
(a) Temporary continuation in sustaining care. Notwithstanding the repeal of section 48.428 of the statutes by this act, all of the following apply:

1. A child 16 years of age or over who is in sustaining care under a sustaining care contract entered into before the effective date of this subdivision may remain in sustaining care until the termination date of the contract.

2. A child under 16 years of age who is in sustaining care under a sustaining care contract entered into before the effective date of this subdivision may remain in sustaining care until the next permanency plan review or hearing for the child, at which time the child's permanency plan shall be amended to provide for a permanency goal other than placement in sustaining care.

(b) Continued application of laws. Notwithstanding the repeal of sections 48.428 and 115.76 (12) (a) 8. of the statutes and the amendment of section 809.107 (2) (bm) (intro.) of the statutes by this act, those provisions shall continue to apply to a child described in paragraph (a) 1, 2. or until the child is no longer placed in sustaining care.

SECTION 92. Initial applicability.

(1) Permanency plan preparation and contents.

(a) Generally. Except as provided in paragraph (b), the treatment of sections 48.38 (2m) and (4) (f) 3., (fg) 5., (fm), and (h) (intro.), 2., 4., 5., 6., and 7. and 938.38 (2m) and (4) (f) 3., (fg) 5., (fm), and (h) (intro.), 2., 4., 5., 6., and 7. of the statutes first applies to a permanency plan filed on the effective date of this subsection.

(b) Children under tribal responsibility. The treatment of sections 48.38 (4) (f) 3., (fg) 5., and (fm) and 938.38 (4) (f) 3., (fg) 5., and (fm) of the statutes first applies to a permanency plan for a child who is in out-of-home care under the responsibility
(2) PERMANENCY PLAN REVIEWS AND HEARINGS.

(a) Generally. Except as provided in paragraph (b), the treatment of sections 48.38 (5) (bm) 3. and (c) 1., 7m., and 9. and (5m) (c) 3., 48.43 (5) (b) 2m., and 938.38 (5) (bm) 3. and (c) 1., 7m., and 9. and (5m) (c) 3. of the statutes first applies to a permanency plan review or hearing for which notice is provided on the effective date of this subsection.

(b) Children under tribal responsibility. The treatment of sections 48.38 (5) (bm) 3. and (c) 1. and 7m. and (5m) (c) 3., 48.43 (5) (b) 2m., and 938.38 (5) (bm) 3. and (c) 1. and 7m. and (5m) (c) 3. of the statutes first applies to a review or hearing for a permanency plan for a child who is in out-of-home care under the responsibility of an Indian tribe, tribal organization, or tribal consortium for which notice is provided on September 29, 2017.

(3) TRANSITION TO INDEPENDENT LIVING. The renumbering and amendment of sections 48.385 and 938.385 of the statutes and the creation of sections 48.385 (2) and 938.385 (2) of the statutes first apply to a child who attains 18 years of age or whose order under section 48.355 (4) (b) or 938.355 (4) (am) of the statutes terminates, whichever is later, 90 days after the effective date of this subsection.

(4) PARTICIPATION OF CHILD IN AGE OR DEVELOPMENTALLY APPROPRIATE ACTIVITIES. The treatment of sections 48.02 (1dm), (12r), and (14r), 48.383, 48.627 (2s) (am), 167.10 (7), 895.485 (title), (1) (a), (ag), (c), and (d), (2), (3), (4) (intro.) and (a), (5), and (6), 938.02 (1g), (12r), and (14r), and 938.383 of the statutes first applies to permission for a child to engage in an age or developmentally appropriate activity granted on the effective date of this subsection.
SECTION 93. Effective date.

(1) PERMANENCY PLANNING FOR CHILDREN 14 YEARS OF AGE OR OVER AND USE OF REASONABLE AND PRUDENT PARENT STANDARD. This act takes effect on November 1, 2015, or on the day after publication, whichever is later.

(END)