

**2019 DRAFTING REQUEST**

**Bill**

For: **Administration-Budget 6-2288** Drafter: **ewheeler**  
 By: **Bork** Secondary Drafters:  
 Date: **10/31/2018** May Contact:

Same as LRB:

Submit via email: **YES**  
 Requester's email:  
 Carbon copy (CC) to: **doasbostatlanguage@wisconsin.gov**  
**Elizabeth.Wheeler@legis.wisconsin.gov**  
**elisabeth.shea@legis.wisconsin.gov**

**Pre Topic:**

DOA:.....Bork, BB0059 -

**Topic:**

Family first prevention services

**Instructions:**

See attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	ewheeler 1/10/2019	kfollett 1/11/2019			
/P1	ewheeler 1/29/2019	kfollett 1/29/2019	dwalker 1/11/2019		State
/P2		ccarmich 2/20/2019	lparisi 1/29/2019		State
/P3			dwalker 2/20/2019		State

FE Sent For:

**<END>**



State of Wisconsin  
2019 - 2020 LEGISLATURE

LRB-0691/P2 P3  
EAW:kjf

Now

DOA:.....Bork, BB0059 - Family first prevention services

**FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION**

Sub: sub # Family first prevention services

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

*Analysis by the Legislative Reference Bureau*

**HEALTH AND HUMAN SERVICES**

**CHILDREN**

This bill makes certain changes to child welfare laws to allow foster care payments to be made on behalf of a child who is placed with his or her parent in a licensed family-based residential alcohol or drug abuse treatment facility using federal funding under Title IV-E of the federal Social Security Act. Under current law, the court assigned to exercise jurisdiction under the Children's Code ("children's court") has jurisdiction over a child alleged to be in need of protection or services ("CHIPS"). Current law establishes the grounds for alleging CHIPS. This bill adds that the children's court has jurisdiction over a child whose parent is residing in a residential family-based alcohol or drug abuse treatment program, if the parent needs assistance to have his or her child reside at the program. The bill requires DCF to prepare a permanency plan for such a child, and allows DCF to place the child with the parent at the treatment program under a voluntary agreement or by an order of the children's court if the parent consents and if such a placement is recommended by the permanency plan. If a child is placed with his or her parent under such a voluntary agreement or an order of the children's court, the bill authorizes DCF to provide federal foster care funding for the placement.

no order to claim

requests jurisdiction in order

e

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

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

1           **SECTION 1.** 48.02 (14m) of the statutes is created to read:

2           **48.02 (14m)** "Qualifying residential family-based treatment facility" means a  
3 certified residential family-based alcohol or drug abuse treatment facility that  
4 meets all of the following criteria:

5           (a) The treatment facility provides, as part of the treatment for substance  
6 abuse, parenting skills training, parent education, and individual and family  
7 counseling.

8           (b) The substance abuse treatment, parenting skills training, parent  
9 education, and individual and family counseling is provided under an organizational  
10 structure and treatment framework that involves understanding, recognizing, and  
11 responding to the effects of all types of trauma and in accordance with recognized  
12 principles of a trauma-informed approach and trauma-specific interventions to  
13 address the consequences of trauma and facilitate healing.

14           **SECTION 2.** 48.13 of the statutes is amended to read:

15           **48.13 Jurisdiction over children alleged to be in need of protection or**  
16 **services.** Except as provided in s. 48.028 (3), the court has exclusive original  
17 jurisdiction over a child alleged to be in need of protection or services which can be  
18 ordered by the court, and if one of the following applies:

19           (1) ~~Who~~ The child is without a parent or guardian;.

20           (2) ~~Who~~ The child has been abandoned;.

1           **(2m)** ~~Whose~~ The child's parent has relinquished custody of the child under s.  
2 48.195 (1);.

3           **(3)** ~~Who~~ The child has been the victim of abuse, as defined in s. 48.02 (1) (a) or  
4 (b) to (g), including injury that is self-inflicted or inflicted by another;.

5           **(3m)** ~~Who~~ The child is at substantial risk of becoming the victim of abuse, as  
6 defined in s. 48.02 (1) (a) or (b) to (g), including injury that is self-inflicted or inflicted  
7 by another, based on reliable and credible information that another child in the home  
8 has been the victim of such abuse;.

9           **(4)** ~~Whose~~ The child's parent or guardian signs the petition requesting  
10 jurisdiction under this subsection and is unable or needs assistance to care for or  
11 provide necessary special treatment or care for the child;.

12           **(4m)** ~~Whose~~ The child's guardian is unable or needs assistance to care for or  
13 provide necessary special treatment or care for the child, but is unwilling or unable  
14 to sign the petition requesting jurisdiction under this subsection;.

15           **(5)** ~~Who~~ The child has been placed for care or adoption in violation of law;.

16           **(8)** ~~Who~~ The child is receiving inadequate care during the period of time a  
17 parent is missing, incarcerated, hospitalized or institutionalized;.

18           **(9)** ~~Who~~ The child is at least age 12, signs the petition requesting jurisdiction  
19 under this subsection and is in need of special treatment or care which the parent,  
20 guardian or legal custodian is unwilling, neglecting, unable or needs assistance to  
21 provide;.

22           **(10)** ~~Whose~~ The child's parent, guardian or legal custodian neglects, refuses or  
23 is unable for reasons other than poverty to provide necessary care, food, clothing,  
24 medical or dental care or shelter so as to seriously endanger the physical health of  
25 the child;.

1           (10m) Whose The child's parent, guardian or legal custodian is at substantial  
2 risk of neglecting, refusing or being unable for reasons other than poverty to provide  
3 necessary care, food, clothing, medical or dental care or shelter so as to endanger  
4 seriously the physical health of the child, based on reliable and credible information  
5 that the child's parent, guardian or legal custodian has neglected, refused or been  
6 unable for reasons other than poverty to provide necessary care, food, clothing,  
7 medical or dental care or shelter so as to endanger seriously the physical health of  
8 another child in the home;.

9           (11) Whø The child is suffering emotional damage for which the parent,  
10 guardian or legal custodian has neglected, refused or been unable and is neglecting,  
11 refusing or unable, for reasons other than poverty, to obtain necessary treatment or  
12 to take necessary steps to ameliorate the symptoms;.

13           (11m) Whø The child is suffering from an alcohol and other drug abuse  
14 impairment, exhibited to a severe degree, for which the parent, guardian or legal  
15 custodian is neglecting, refusing or unable to provide treatment; or.

16           (13) Whø The child has not been immunized as required by s. 252.04 and not  
17 exempted under s. 252.04 (3).

18           SECTION 3. 48.13 (14) of the statutes is created to read:

19           48.13 (14) The child's parent is residing in a qualifying residential  
20 family-based treatment facility, signs the petition requesting jurisdiction under this  
21 subsection, and needs assistance for the child <sup>to</sup> reside with him or her at the  
22 qualifying residential family-based treatment facility.

23           SECTION 4. 48.207 (1) (L) of the statutes is created to read:

With the department's consent, requests that

*before the placement is made*

1 48.207 (1) (L) With a parent in a qualifying residential family-based treatment  
2 facility if the child's permanency plan includes a recommendation for such a  
3 placement under s. 48.38 (4) (em) and the parent consents to the placement.

4 SECTION 5. 48.345 (3) (c) of the statutes is amended to read:

5 48.345 (3) (c) A foster home licensed under s. 48.62, a group home licensed  
6 under s. 48.625, a foster home or group home regulated in another state, or in the  
7 home of a guardian under s. 48.977 (2). *or similar facility*

8 SECTION 6. 48.345 (3) (cm) of the statutes is amended to read:

9 48.345 (3) (cm) A group home described in s. 48.625 (1m) or such a facility  
10 regulated in another state, if the child is at least 12 years of age, is a custodial parent,  
11 as defined in s. 49.141 (1) (b), or an expectant mother, is receiving inadequate care,  
12 and is in need of a safe and structured living arrangement. *similar*

13 SECTION 7. 48.345 (3) (d) of the statutes is amended to read:

14 48.345 (3) (d) A residential ~~treatment~~ care center for children and youth  
15 operated by a child welfare agency licensed under s. 48.60, or such a facility regulated  
16 in another state. *similar*

17 SECTION 8. 48.345 (3) (e) of the statutes is created to read:

18 48.345 (3) (e) With a parent in a qualifying residential family-based treatment  
19 facility, or such a facility regulated in another state, if the child's permanency plan  
20 includes a recommendation for such a placement under s. 48.38 (4) (em). *similar*

21 SECTION 9. 48.38 (2) (intro.) of the statutes is amended to read:

22 48.38 (2) PERMANENCY PLAN REQUIRED. (intro.) Except as provided in sub. (3),  
23 for each child living in a foster home, group home, residential care center for children  
24 and youth, juvenile detention facility, shelter care facility, qualifying residential  
25 family-based treatment facility with a parent, or supervised independent living *before the placement is made*

1 arrangement, the agency that placed the child or arranged the placement or the  
2 agency assigned primary responsibility for providing services to the child under s.  
3 48.355 (2) (b) 6g. shall prepare a written permanency plan, if any of the following  
4 conditions exists, and, for each child living in the home of a guardian or a relative  
5 other than a parent, that agency shall prepare a written permanency plan, if any of  
6 the conditions specified in pars. (a) to (e) exists:

7 SECTION 10. 48.38 (2) (d) of the statutes is amended to read:

8 48.38 (2) (d) The child was placed under a voluntary agreement between the  
9 agency and the child's parent under s. 48.63 (1) (a) or (bm) or (5) (b) or under a  
10 voluntary transition-to-independent-living agreement under s. 48.366 (3).

11 SECTION 11. 48.38 (4) (em) of the statutes is created to read:

12 48.38 (4) (em) A recommendation <sup>(for)</sup> placement with a parent in a qualifying  
13 residential family-based treatment facility. regarding

14 SECTION 12. 48.48 (17) (a) 3. of the statutes is amended to read:

15 48.48 (17) (a) 3. Provide appropriate protection and services for children and  
16 the expectant mothers of unborn children in its care, including providing services for  
17 those children and their families and for those expectant mothers in their own  
18 homes, placing ~~the~~ those children in licensed foster homes or group homes in this  
19 state or a similar facility regulated in another state within a reasonable proximity to the agency with legal custody,  
20 placing ~~the~~ those children in the homes of guardians under s. 48.977 (2), placing  
21 those children in a qualifying residential family-based treatment facility with a  
22 parent or in a <sup>regulated</sup> facility in another state, or contracting for services for those  
23 children by similar licensed child welfare agencies in this state or a regulated child welfare  
24 agency in another state, except that the department may not purchase the  
25 educational component of private day treatment programs unless the department,



1 the school board, as defined in s. 115.001 (7), and the state superintendent of public  
2 instruction all determine that an appropriate public education program is not  
3 available. Disputes between the department and the school district shall be resolved  
4 by the state superintendent of public instruction.

5 **SECTION 13.** 48.48 (17) (c) 4. of the statutes is amended to read:

6 48.48 (17) (c) 4. Is living in a foster home, group home, or residential care center  
7 for children and youth, qualifying residential family-based treatment facility, or  
8 such a facility regulated in another state or in a supervised independent living  
9 arrangement. *similar*

10 **SECTION 14.** 48.57 (1) (c) of the statutes is amended to read:

11 48.57 (1) (c) To provide appropriate protection and services for children and the  
12 expectant mothers of unborn children in its care, including providing services for  
13 those children and their families and for those expectant mothers in their own  
14 homes, ~~placing those children in licensed foster homes or group homes in this state~~  
15 ~~or another state within a reasonable proximity to the agency with legal custody,~~ *similar facilities regulated in*  
16 placing those children in the homes of guardians under s. 48.977 (2), placing those  
17 children in a qualifying residential family-based treatment facility, or in a regulated *similar*  
18 facility in another state, *regulated* or contracting for services for those children by licensed  
19 child welfare agencies in this state or a regulated child welfare agency in another  
20 state, except that the county department may not purchase the educational  
21 component of private day treatment programs unless the county department, the  
22 school board, as defined in s. 115.001 (7), and the state superintendent of public  
23 instruction all determine that an appropriate public education program is not  
24 available. Disputes between the county department and the school district shall be  
25 resolved by the state superintendent of public instruction.

1           **SECTION 15.** 48.57 (3) (a) 4. of the statutes is amended to read:

2           48.57 (3) (a) 4. Is living in a foster home, group home, residential care center  
3 for children and youth, ~~or~~ subsidized guardianship home, qualifying residential  
4 family-based treatment facility, or such a facility regulated in another state or in a  
5 supervised independent living arrangement. *similar*

6           **SECTION 16.** 48.63 (1) (bm) of the statutes is created to read:

7           48.63 (1) (bm) Acting under a voluntary agreement, a child's parent, the  
8 department, or a county department may place the child in a qualifying residential  
9 family-based treatment facility with a parent, if such a placement is recommended  
10 in the child's permanency plan under s. 48.38. A placement under this paragraph  
11 may not exceed 180 days from the date on which the child was removed from the  
12 home under the voluntary agreement.

13           **SECTION 17.** 48.63 (1) (c) of the statutes is amended to read:

14           48.63 (1) (c) Voluntary agreements may be made only under par. (a) ~~or~~, (b), or  
15 (bm) or sub. (5) (b), shall be in writing, shall state whether the child has been adopted,  
16 and shall specifically state that the agreement may be terminated at any time by the  
17 parent, guardian, or Indian custodian or by the child if the child's consent to the  
18 agreement is required. In the case of an Indian child who is placed under par. (a) ~~or~~,  
19 (b), or (bm) by the voluntary agreement of the Indian child's parent or Indian  
20 custodian, the voluntary consent of the parent or Indian custodian to the placement  
21 shall be given as provided in s. 48.028 (5) (a). The child's consent to an agreement  
22 under par. (a) ~~or~~, (b), or (bm) is required whenever the child is 12 years of age or older.

23           **SECTION 18.** 48.63 (1) (d) of the statutes is amended to read:

24           48.63 (1) (d) If a county department, the department, or the department of  
25 corrections places a child or negotiates or acts as intermediary for the placement of

1 a child under par. (a) ~~or~~, (b), or (bm), the voluntary agreement shall also specifically  
2 state that the county department, department, or department of corrections has  
3 placement and care responsibility for the child as required under 42 USC 672 (a) (2)  
4 and has primary responsibility for providing services to the child.

5 **SECTION 19.** 48.645 (1) (a) of the statutes is amended to read:

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

16 **SECTION 20.** 48.645 (2) (a) 5. of the statutes is created to read:

17 48.645 (2) (a) 5. A qualifying residential family-based treatment facility when  
18 the child is residing there with a parent under a voluntary agreement under s. 48.63  
19 (1) (bm) or when the child is placed there with a parent by an order of the court.

20 (END)

**Shea, Elisabeth**

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**From:** Hanaman, Cathlene  
**Sent:** Wednesday, October 31, 2018 9:01 AM  
**To:** Shea, Elisabeth; Wheeler, Elizabeth  
**Subject:** FW: Statutory Language Drafting Request - 2019-21  
**Attachments:** DCF FFPSA Stat Language.docx

*EAW*

**From:** Bork, Matthew - DOA  
**Sent:** Tuesday, October 30, 2018 4:39 PM  
**To:** Hanaman, Cathlene <Cathlene.Hanaman@legis.wisconsin.gov>  
**Cc:** Kraus, Jennifer - DOA <Jennifer.Kraus@wisconsin.gov>; Bork, Matthew - DOA <Matthew.Bork@wisconsin.gov>  
**Subject:** Statutory Language Drafting Request - 2019-21

Biennial Budget: 2019-21

Topic: Family First Prevention Services Act related changes

Tracking Code: BB0059

SBO Team: GGCF

SBO Analyst: Bork, Matthew  
Phone: 266-2288  
E-mail: [Matthew.Bork@wisconsin.gov](mailto:Matthew.Bork@wisconsin.gov)

Agency Acronym: 437

Agency Number: 437

Priority: High

Intent:

Two provisions of the Family First Prevention Services Act have an immediate effective date. The first change is to require the department to allow children to stay with a parent in a residential AODA treatment program. The second would require the department to conduct criminal fingerprint background checks on all workers in licensed child welfare congregate care facilities. Please see attachment.

Attachments: True

Please send completed drafts to [SBOSatlanguage@spmail.enterprise.wistate.us](mailto:SBOSatlanguage@spmail.enterprise.wistate.us)

## Changes Related to the Family First Prevention Services Act

As a condition of receiving federal Title IV-B and Title IV-E child welfare funding, states are required to enact any needed state statutory changes to come into compliance in the earliest possible legislative session. The two provisions that require Wisconsin state statutory changes are:

- allowing children who stay with a parent in a residential AODA treatment program to be funded by foster care payments, including federal Title IV-E funding; and
- requiring criminal fingerprint background checks on all workers in licensed child welfare congregate care facilities.

Potential changes related to background checks include:

- s. 48.685(2)(am) and (b), Wis. Stats., to include fingerprint-based checks to the requirements for workers in licensed child welfare facilities. ✓
- s. 48.685(1)(am), Wis. Stats., to include any person working in a licensed child welfare facility, not just those with regular, direct contact with clients. ✓
- amend s. 48.685 or s. 48.981(7), Wis. Stats., as necessary to clarify limitations on further disclosure of CPS background checks. -?
- amend s. 48.981 as necessary to authorize release of child protective services (CPS) information for CPS background checks for adults working in licensed child welfare facilities in other states ✓
- amend s. 20.437(1)(jm) as necessary to allow for increased program revenue associated with fingerprint check fees. - *no change needed*

Potential statutory changes related to claiming title IV-E for children in family-based residential AODA facilities include:

- s. 48.13, Wis. Stats., to create a CHIPS (child in need of protection or services) ground with parental consent for these placements beyond 6 months; ✓ - ?
- s. 48.207, Wis. Stats., to authorize placements into these facilities; ✓
- s. 48.38, Wis. Stats., to recommend the placement in this type of facility in child's permanency plan; ✓
- s. 48.345, Wis. Stats., to allow a CHIPS dispositional order to place a child into a family based residential AODA treatment facility, and ✓
- s. 48.63, Wis. Stats., to authorize a VPA (voluntary placement agreement) for a placement in these facilities. ✓

48.361

## **Wheeler, Elizabeth**

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**From:** Wheeler, Elizabeth  
**Sent:** Wednesday, December 12, 2018 9:59 AM  
**To:** Bork, Matthew - DOA  
**Subject:** RE: Statutory Language Drafting Request - 2019-21

OK, that sounds good. I will try to put something together that will flag as many questions as I am able to before Monday. Thanks for your help with this!

**Elizabeth Wheeler**  
Legislative Attorney  
Wisconsin Legislative Reference Bureau  
P.O. Box 2037  
Madison, WI 53701-2037  
Direct: 608-504-5880  
[Elizabeth.wheeler@legis.wisconsin.gov](mailto:Elizabeth.wheeler@legis.wisconsin.gov)

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**From:** Bork, Matthew - DOA <[Matthew.Bork@wisconsin.gov](mailto:Matthew.Bork@wisconsin.gov)>  
**Sent:** Wednesday, December 12, 2018 9:16 AM  
**To:** Wheeler, Elizabeth <[Elizabeth.Wheeler@legis.wisconsin.gov](mailto:Elizabeth.Wheeler@legis.wisconsin.gov)>  
**Subject:** RE: Statutory Language Drafting Request - 2019-21

Good morning Elizabeth,

I just wanted to let you know that I did contact DCF yesterday to let them know you were interested in meeting, but I have not heard back. I will be calling DCF today to discuss a couple unrelated things, and I will ask about a meeting then.

Kind regards,  
Matt

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**From:** Wheeler, Elizabeth A - LEGIS <[Elizabeth.Wheeler@legis.wisconsin.gov](mailto:Elizabeth.Wheeler@legis.wisconsin.gov)>  
**Sent:** Monday, December 10, 2018 2:55 PM  
**To:** Bork, Matthew - DOA <[Matthew.Bork@wisconsin.gov](mailto:Matthew.Bork@wisconsin.gov)>  
**Subject:** RE: Statutory Language Drafting Request - 2019-21

Hi Matthew,

I am looking for clarification on what DCF is looking for regarding "new grounds under s. 48.13 to allow parent to consent for their child's placement into a substance abuse facility." I am not clear on how this is a "grounds" for CHIPS under that section – are they looking to add a provision that grants the Children's Court jurisdiction over a child whose parents are participating in a residential family-based treatment facility? Or is this related to something else? How does parental consent relate to jurisdiction?

Any clarification you can add would be appreciated. I will likely have other questions regarding this request – perhaps a face to face meeting would be easier?

Thanks,

**Elizabeth Wheeler**

Legislative Attorney  
Wisconsin Legislative Reference Bureau  
P.O. Box 2037  
Madison, WI 53701-2037  
Direct: 608-504-5880  
[Elizabeth.wheeler@legis.wisconsin.gov](mailto:Elizabeth.wheeler@legis.wisconsin.gov)

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**From:** Bork, Matthew - DOA <[Matthew.Bork@wisconsin.gov](mailto:Matthew.Bork@wisconsin.gov)>  
**Sent:** Wednesday, November 28, 2018 4:46 PM  
**To:** Wheeler, Elizabeth <[Elizabeth.Wheeler@legis.wisconsin.gov](mailto:Elizabeth.Wheeler@legis.wisconsin.gov)>  
**Subject:** RE: Statutory Language Drafting Request - 2019-21

Hi Elizabeth,

DCF just sent me more information for this request. I have attached their two documents here.

Kind regards,  
Matthew

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**From:** Wheeler, Elizabeth A - LEGIS <[Elizabeth.Wheeler@legis.wisconsin.gov](mailto:Elizabeth.Wheeler@legis.wisconsin.gov)>  
**Sent:** Friday, November 09, 2018 12:51 PM  
**To:** Bork, Matthew - DOA <[Matthew.Bork@wisconsin.gov](mailto:Matthew.Bork@wisconsin.gov)>  
**Subject:** FW: Statutory Language Drafting Request - 2019-21

Hi Matthew,

I am working on this request and I was wondering if you have any more information on the following instructions:

- Amend s. 48.685 or s. 48.981 (7) as necessary to clarify limitations on further disclosure of CPS background checks.

Also, do you have a citation for the federal regulations that form the basis of this request? That may help.

Thank you,

**Elizabeth Wheeler**  
Legislative Attorney  
Wisconsin Legislative Reference Bureau  
P.O. Box 2037  
Madison, WI 53701-2037  
Direct: 608-504-5880  
[Elizabeth.wheeler@legis.wisconsin.gov](mailto:Elizabeth.wheeler@legis.wisconsin.gov)

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**From:** Hanaman, Cathlene  
**Sent:** Wednesday, October 31, 2018 9:01 AM  
**To:** Shea, Elisabeth <[Elisabeth.Shea@legis.wisconsin.gov](mailto:Elisabeth.Shea@legis.wisconsin.gov)>; Wheeler, Elizabeth <[Elizabeth.Wheeler@legis.wisconsin.gov](mailto:Elizabeth.Wheeler@legis.wisconsin.gov)>  
**Subject:** FW: Statutory Language Drafting Request - 2019-21

**From:** Bork, Matthew - DOA

**Sent:** Tuesday, October 30, 2018 4:39 PM

**To:** Hanaman, Cathlene <[Cathlene.Hanaman@legis.wisconsin.gov](mailto:Cathlene.Hanaman@legis.wisconsin.gov)>

**Cc:** Kraus, Jennifer - DOA <[Jennifer.Kraus@wisconsin.gov](mailto:Jennifer.Kraus@wisconsin.gov)>; Bork, Matthew - DOA <[Matthew.Bork@wisconsin.gov](mailto:Matthew.Bork@wisconsin.gov)>

**Subject:** Statutory Language Drafting Request - 2019-21

Biennial Budget: 2019-21

Topic: Family First Prevention Services Act related changes

Tracking Code: BB0059

SBO Team: GGCF

SBO Analyst: Bork, Matthew

Phone: 266-2288

E-mail: [Matthew.Bork@wisconsin.gov](mailto:Matthew.Bork@wisconsin.gov)

Agency Acronym: 437

Agency Number: 437

Priority: High

Intent:

Two provisions of the Family First Prevention Services Act have an immediate effective date. The first change is to require the department to allow children to stay with a parent in a residential AODA treatment program. The second would require the department to conduct criminal fingerprint background checks on all workers in licensed child welfare congregate care facilities. Please see attachment.

Attachments: True

Please send completed drafts to [SBOSatlanguage@spmail.enterprise.wistate.us](mailto:SBOSatlanguage@spmail.enterprise.wistate.us)



non- 48.685

Child Payment for Placement with a Parent in Substance Abuse Programs

Passed on February 9, 2018, H.R. 1892, contains the Family First Prevention Services Act which includes provisions to allow Title IV-E claiming for children with parents living in a licensed residential family-based treatment facility for substance abuse if all applicable Title IV-E requirements are met. Sec. 50712 (<https://www.congress.gov/115/bills/hr1892/BILLS-115hr1892enr.pdf>) sets forth the requirements. Wisconsin Children's Code needs modifications in order to enact this provision in Wisconsin.

The purpose of this subtitle is to enable States to use Federal funds available under parts B and E of title IV of the Social Security Act to provide enhanced support to children and families and prevent foster care placements through the provision of mental health and substance abuse prevention and treatment services, in-home parent skill-based programs, and kinship navigator services.

The proposed statutory framework would be to add new provisions throughout ch. 48 Children's Code that is applicable to placements with parents in a licensed residential family-based treatment facilities for substance abuse. The following must be included in any modifications to state statute to allow for Title IV-E claiming:

- the recommendation for the placement is specified in the child's permanency plan before the placement;
- the treatment facility provides, as part of the treatment for substance abuse, parenting skills training, parent education, and individual and family counseling; and
- the substance abuse treatment, parenting skills training, parent education, and individual and family counseling is provided under an organizational structure and treatment framework that involves understanding, recognizing, and responding to the effects of all types of trauma and in accordance with recognized principles of a trauma-informed approach and trauma-specific interventions to address the consequences of trauma and facilitate healing.

Minimum areas for statutory modifications include but may not be limited to:

1. New grounds to be created under s. 48.13 to allow parent to consent for their child's placement into a substance abuse facility.
2. s. 48.207 must authorize placements into these facilities if the child's permanency plan recommends placement in this type of facility before placement.
3. s. 48.21 must authorize placement into these facilities if the child's permanency plan recommends placement in this type of facility before placement.
4. s. 48. 217 shall allow for change of placements into/from these facilities if the child's permanency plan recommends placement in this type of facility before placement.
5. s. 48.345 shall allow dispositional order provisions for these children if the child's permanency plan recommends placement in this type of facility before placement.
6. s. 48.357 shall allow change of placements into/from these facilities if the child's permanency plan recommends placement in this type of facility before placement.
7. s. 48.38 shall require permanency planning for these children, and shall require the court consider whether the permanency plan should recommend placement in this type of facilities.
8. 48.48(17) shall allow the Department to make payments for a child under this provision.
8. s. 48.57(3) shall allow for payments to be made for the child under this provision.
- s. 48.63 shall allow for a parent to voluntarily place their child in this type of facility.

Change in Placement

48.63  
4.

10. The facility must provide as part of the its treatment for substance abuse, parenting skills training, parenting education, individual and family counseling is provided under an organizational treatment framework that is trauma informed.

Rule Changes:

There may be rule changes to DHS and DOC facilities that provide substance abuse treatment to allow for the placement of children into these facilities and the payments for the child portion to be claimed by child welfare.

*do not include at this point*

## Wheeler, Elizabeth

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**From:** Bork, Matthew - DOA  
**Sent:** Monday, January 07, 2019 5:16 PM  
**To:** Wheeler, Elizabeth  
**Subject:** Family First drafting instructions

Good afternoon Elizabeth,

Below are answers from DCF to questions you had regarding FFPSA drafting.

1. Would a contractor include a person delegated parental authority under s. 48.979?  
A contractor is not intended to include a person with delegated parental authorities merely on the basis of that 48.979 delegation. Of course, if that person works in one of the congregate care facilities, then the fingerprint background check requirement applies. *OK*
2. Should there be a shorter grandfathering-in clause for existing adult employees who already have DOJ background checks as caregivers?  
Not at this time. The 6 month time frame suggested is pending further consideration of the time needed to implement the fingerprint background checks for existing employees. *OK*
3. Does "any adult working" in a group home, shelter care facility, or residential care center include any person who is contracted by such a facility? If it includes contractors, do we need to change the definition of "contractor" under s. 48.685 (1)(ar)?  
DCF interprets "any adult working" to include a contractor, however neither the federal legislation nor the federal guidance to this point has expressly said. DCF recommends using the language from the federal law – "any adult working"—however, given the complexity and overlap of terms within s. 48.685, precise terminology will require LRB drafting expertise.
4. How should the fingerprint-based background checks be worded? Are they state-based like under s. 48.686 (2) (am) 1., FBI based like under 48.686(2)(am)7m or similar to what's required under 48.685 (2) (c) (national crime information databases)? Or something else?  
These are the "fingerprint-based criminal records checks" that are being done under 48.685(2)(am)(c). Specifically, "fingerprint-based records criminal records checks of national crime information databases (as defined in section 534(f)(3)(a) of title 28, United States Code). The criminal records checks under 48.686(2) are based on different federal laws for child care background checks, and don't apply to these checks.
5. Do the fingerprint based checks need to be included for caregivers and non-client residents under (2) (am) and (b)?  
No. They only need the checks if they coincidentally fall into the category of "any adult working" in one of these facilities (or if they are coincidentally being approved for foster care or adoption of a child in the care as already provided in s. 48.685).
6. Who is conducting background checks on congregate care workers? Is it the department, county department, or child welfare agency like under 48.685 (2) (am) or is it the entity (in this case the group home, shelter care facility, or residential care center) like under 48.685 (2) (b)?  
DCF has not determined who will conduct these background checks. In general, currently, the child welfare agency reviews results as provided in 48.685(2)(a) or the entity reviews under 48.685(2)(b). DCF suggests a modification of the language used in 48.685(2)(b) to say the entity shall "require" (rather than "obtain") a

“fingerprint-based criminal records checks of national crime information databases (as defined in section 534(f)(3)(a) of title 28, United States Code).” DCF may have more information on how this can be implemented in the future, if so, I will pass this information on to you.

7. Why do you need consent for the CHIPS ground? Can you explain in what instance the state would be making payments for a child who is residing at one of these facilities who is not otherwise involved in CHIPS?

Other than a CHIPS ground to allow a parent to voluntarily seek a CHIPS for a child’s placement with the parent in a treatment facility, DCF does not interpret that any other CHIPS ground is needed. This is somewhat similar to the existing CHIPS ground for when a parent or guardian signs the CHIPS petition and is unable or needs assistance to care for or provide necessary special treatment or care for the child. You may want to use similar language for this ground for the consent element – the parent signs the petition and says they need assistance to care for the child in the parent’s treatment facility.

The circumstances where this may be used are merely when the parent is getting in-patient treatment and wants the child placed with the parent in the facility (and of course that the placement is in the child’s best interest as determined by the judge when the judge makes the placement decision). DCF is suggesting that the placement should not otherwise require that the child be subject to a CHIPS ground. In other words, this would create a specific provision for a CHIPS ground that allows DCF to receive federal funding for a child who is placed with a parent in an in-patient treatment facility under a CHIPS order without requiring the child to be found to be abused, neglected or receiving inadequate care first or any other CHIPS ground.

In general, under the IV-E federal funding requirements, DCF can receive federal funding for a placement the parent voluntarily consents to for up to 6 months, but after 6 months the federal funding law requires that the placement be court ordered in order to receive continued federal funding. So, this could be written such that it is a CHIPS ground based on the parent’s consent to placement in a treatment facility without having other CHIPS grounds. That way, the court can issue a CHIPS order once the 6 month period expires to allow a continued placement without the child being maltreated first. This will be especially important in cases where a mother is receiving treatment in a facility with her child and the 6 months ends – the child presumably will be receiving proper care, but we will need a CHIPS court order to continue to receive federal funding for the care. For example, currently parents receive treatment with their children placed with them at META house in Milwaukee, and DOC currently places some parents in facilities with their children in treatment facilities, but payment for the child’s placement is not covered by any federal funding. This will allow DCF to utilize federal money for these placements the first 6 months through a voluntary agreement and then through a CHIPS order with the parent’s agreement.

The drafting instructions requested that this apply when the permanency plan recommends the placement, and also requested any other changes needed to the permanency planning statutes for these children. Please let me know if you still have other questions or concerns on the permanency planning provisions.

8. What provisions should be amended under 48.48(17) and 48.57(1) for county authority?

DCF suggests that you may need to amend the following provisions, but you may find there are others that need to be amended to assure necessary authority to place and pay for children in these treatment facilities.

- a. (17)(c), in the event there is some reason for these payments to continue for a child age 18 or over as provided in (c) for a child who is placed in a treatment facility with a parent. DCF thinks this unlikely, but also wants to provide for it just in case it would help a child in some situation.
- b. (17)(a) 2. and 3. regarding children placed under DMCP’s supervision and care in order to provide special treatment and care and appropriate protection and services.

- c. A more general provision for (17) authorizing DMCPs and counties under s. 48.57 to make placements into a non-ch. 48 facility, something to the effect of: "(Intro provision -The department shall also have authority to do all of the following): place children in facilities with a parent in a licensed family-based treatment facility, and place children in facilities in other states that are licensed or regulated by other states."
- d. Also note the provisions in s. 48.52(1) for consideration.
- e. To allow payments for these placements it may also be necessary to amend 48.619 and 48.645 regarding foster care aid.

9. Question regarding drafting instructions that may be needed for DHS or DOC rule changes for facilities that provide substance abuse treatment to allow for the placement of children into these facilities and the payments for the child portion to be claimed by child welfare.

DSP is still checking with DOC regarding any need for changes in their rules.

Let me know if you have further questions, or if you'd like to have another meeting to work the draft out.

Kind regards,  
Matt



State of Wisconsin  
2019 - 2020 LEGISLATURE

LRB-06912  
EAW:...

Pue 1/11

DOA:.....Bork, BB0059 - Family first prevention services

**FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION**

1 AN ACT ...; relating to: the budget and providing an exemption from emergency  
2 rule procedures

Heading  
Health and Human Services  
Sub: children

**Analysis by the Legislative Reference Bureau**

This bill makes certain changes to child welfare to allow foster care payments to be made on behalf of children who are placed with their parent in a licensed family-based residential alcohol or drug abuse treatment facility using federal funding under Title IV - E of the social security act. Under current law, the court assigned to exercise jurisdiction under the Children's Code ("children's court") has jurisdiction over a child alleged to be in need of protection or services ("CHIPS"). Current law establishes the grounds for alleging CHIPS. This bill adds that the court has jurisdiction over a child whose parent is residing in a residential family-based alcohol or drug abuse treatment program, if the parent needs assistance to have his or her child reside at the program. The bill requires DCF to prepare a permanency plan for such a child, and allows DCF to place the child with the parent at the treatment program under a voluntary agreement or by court order if the parent consents and if such a placement is recommended by the permanency plan. If a child is placed with his or her parent under such a voluntary agreement or court order, the bill authorizes DCF to provide federal foster care funding for the placement.

An order of the Children's Court

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

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

1           **SECTION 1.** 48.02 (14m) of the statutes is created to read:

2           **48.02 (14m)** “Qualifying residential family-based treatment facility” means a  
3 certified residential family-based alcohol or drug abuse treatment facility that  
4 meets all of the following criteria:

5           (a) The treatment facility provides, as part of the treatment for substance  
6 abuse, parenting skills training, parent education, and individual and family  
7 counseling.

8           (b) The substance abuse treatment, parenting skills training, parent  
9 education, and individual and family counseling is provided under an organizational  
10 structure and treatment framework that involves understanding, recognizing, and  
11 responding to the effects of all types of trauma and in accordance with recognized  
12 principles of a trauma-informed approach and trauma-specific interventions to  
13 address the consequences of trauma and facilitate healing.

\*\*\*\*NOTE: I used the term “certified” because that is what DHS provides for alcohol or drug abuse treatment facilities. If you are aware of other licensing requirements under the federal law please let me know. Also, are there any further requirements or specifications you would like to include in this definition?

14           **SECTION 2.** 48.13 of the statutes is amended to read:

15           **48.13 Jurisdiction over children alleged to be in need of protection or**  
16 **services.** Except as provided in s. 48.028 (3), the court has exclusive original  
17 jurisdiction over a child alleged to be in need of protection or services which can be  
18 ordered by the court, and if one of the following applies:

19           (1) Who The child is without a parent or guardian;

- 1           (2) ~~Who~~ The child has been abandoned;.
- 2           (2m) ~~Whose~~ The child's parent has relinquished custody of the child under s.  
3 48.195 (1);.
- 4           (3) ~~Who~~ The child has been the victim of abuse, as defined in s. 48.02 (1) (a) or  
5 (b) to (g), including injury that is self-inflicted or inflicted by another;.
- 6           (3m) ~~Who~~ The child is at substantial risk of becoming the victim of abuse, as  
7 defined in s. 48.02 (1) (a) or (b) to (g), including injury that is self-inflicted or inflicted  
8 by another, based on reliable and credible information that another child in the home  
9 has been the victim of such abuse;.
- 10          (4) ~~Whose~~ The child's parent or guardian signs the petition requesting  
11 jurisdiction under this subsection and is unable or needs assistance to care for or  
12 provide necessary special treatment or care for the child;.
- 13          (4m) ~~Whose~~ The child's guardian is unable or needs assistance to care for or  
14 provide necessary special treatment or care for the child, but is unwilling or unable  
15 to sign the petition requesting jurisdiction under this subsection;.
- 16          (5) ~~Who~~ The child has been placed for care or adoption in violation of law;.
- 17          (8) ~~Who~~ The child is receiving inadequate care during the period of time a  
18 parent is missing, incarcerated, hospitalized or institutionalized;.
- 19          (9) ~~Who~~ The child is at least age 12, signs the petition requesting jurisdiction  
20 under this subsection and is in need of special treatment or care which the parent,  
21 guardian or legal custodian is unwilling, neglecting, unable or needs assistance to  
22 provide;.
- 23          (10) ~~Whose~~ The child's parent, guardian or legal custodian neglects, refuses or  
24 is unable for reasons other than poverty to provide necessary care, food, clothing,



1 medical or dental care or shelter so as to seriously endanger the physical health of  
2 the child;

3 (10m) ~~Whose~~ The child's parent, guardian or legal custodian is at substantial  
4 risk of neglecting, refusing or being unable for reasons other than poverty to provide  
5 necessary care, food, clothing, medical or dental care or shelter so as to endanger  
6 seriously the physical health of the child, based on reliable and credible information  
7 that the child's parent, guardian or legal custodian has neglected, refused or been  
8 unable for reasons other than poverty to provide necessary care, food, clothing,  
9 medical or dental care or shelter so as to endanger seriously the physical health of  
10 another child in the home;

11 (11) ~~Who~~ The child is suffering emotional damage for which the parent,  
12 guardian or legal custodian has neglected, refused or been unable and is neglecting,  
13 refusing or unable, for reasons other than poverty, to obtain necessary treatment or  
14 to take necessary steps to ameliorate the symptoms;

15 (11m) ~~Who~~ The child is suffering from an alcohol and other drug abuse  
16 impairment, exhibited to a severe degree, for which the parent, guardian or legal  
17 custodian is neglecting, refusing or unable to provide treatment; ~~or~~.

18 (13) ~~Who~~ The child has not been immunized as required by s. 252.04 and not  
19 exempted under s. 252.04 (3).

History: 1977 c. 29, 354; 1979 c. 298, 300, 334; 1985 a. 321; 1987 a. 285, 339, 403; 1993 a. 27, 363, 395, 474; 1995 a. 77, 275; 1997 a. 80; 2001 a. 2; 2005 a. 113; 2007 a. 77; 2009 a. 94; 2017 a. 59.

NOTE: 1993 Wis. Act 395, which created subs. (3m) and (10m), contains extensive explanatory notes.

\*\*\*\*NOTE: I have updated this list to reflect current drafting conventions. An update to subs. (11m) and (13) would have been necessary to maintain the existing list format anyway. Please let me know if you have concerns about this.

20 **SECTION 3.** 48.13 (14) of the statutes is created to read:

21 48.13 (14) The child's parent is residing in a qualifying residential  
22 family-based treatment facility and signs the petition requesting jurisdiction under

1 this subsection because he or she needs assistance <sup>(to)</sup> for the child to reside with him  
2 or her at the qualifying residential family-based treatment facility.

\*\*\*\*NOTE: Do you want this to be the child's parent, or the child's parent, guardian,  
or legal custodian? If you want to include guardian or legal custodian, I will update  
throughout the draft.

3 **SECTION 4.** 48.207 (1) (L) of the statutes is created to read:

4 48.207 (1) (L) With a parent in a qualifying family-based residential treatment  
5 facility if the child's permanency plan includes a recommendation for such a  
6 placement under s. 48.38 (4) (em) and the parent consents to the placement.

7 **SECTION 5.** 48.345 (5) of the statutes is created to read:

8 48.345 (5) Place the child with a parent in a qualifying family-based  
9 residential treatment facility if the child's permanency plan includes a  
10 recommendation for such a placement under s. 48.38 (4) (em) and the parent  
11 consents to the placement.

12 **SECTION 6.** 48.38 (2) (intro.) of the statutes is amended to read:

13 48.38 (2) PERMANENCY PLAN REQUIRED. (intro.) Except as provided in sub. (3),  
14 for each child living in a foster home, group home, residential care center for children  
15 and youth, juvenile detention facility, shelter care facility, qualifying residential  
16 family-based treatment facility, or supervised independent living arrangement, the  
17 agency that placed the child or arranged the placement or the agency assigned  
18 primary responsibility for providing services to the child under s. 48.355 (2) (b) 6g.  
19 shall prepare a written permanency plan, if any of the following conditions exists,  
20 and, for each child living in the home of a guardian or a relative other than a parent,  
21 that agency shall prepare a written permanency plan, if any of the conditions  
22 specified in pars. (a) to (e) exists:

NOTE: 1993 Wis. Act 395, which affects subs. (5) and (5m), contains extensive explanatory notes.

1           **SECTION 7.** 48.38 (2) (d) of the statutes is amended to read:

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

**History:** 1983 a. 399; 1985 a. 70 ss. 1, 10; 1985 a. 176; 1985 a. 292 s. 3; 1985 a. 332; 1987 a. 383; 1989 a. 31, 86, 107; 1993 a. 377, 385, 395, 446, 491; 1995 a. 27 ss. 2474 to 2478, 9126 (19); 1995 a. 77, 143, 275; 1997 a. 27, 35, 104, 237; 1999 a. 149; 2001 a. 2, 59, 69, 109; 2005 a. 344, 448; 2007 a. 20; 2009 a. 28, 79, 94, 185; 2011 a. 32, 181, 258; 2011 a. 260 ss. 80, 81; 2013 a. 165; 2013 a. 168 s. 21; 2013 a. 334, 335; 2015 a. 55, 128, 172, 373; 2017 a. 251.

NOTE: ~~1993 Wis. Act 395, which affects subs. (5) and (5m), contains extensive explanatory notes.~~

5           **SECTION 8.** 48.38 (2) (h) of the statutes is created to read:

6           48.38 (2) (h) The child's parent is residing in a qualifying residential  
7           family-based treatment facility and the child is residing with the parent.

8           **SECTION 9.** 48.38 (4) (em) of the statutes is created to read:

9           48.38 (4) (em) A recommendation for placement with a parent in a qualifying  
10          family-based treatment facility, if the parent consents to the placement.

11          **SECTION 10.** 48.48 (17) (a) 12. of the statutes is created to read:

12          48.48 (17) (a) 12. Place children with a parent in a qualifying residential  
13          family-based treatment facility, and place children in facilities in other states that  
14          are licensed or regulated by other states.

\*\*\*\*NOTE: This is the language requested, but the second half is very broad. Do you mean to place children in residential family-based treatment facilities in other states, or do you intend for it to be this broad? If not, should I add facilities in other states to the definition of "qualifying residential family-based treatment centers"? ?

15          **SECTION 11.** 48.48 (17) (c) 4. of the statutes is amended to read:

16          48.48 (17) (c) 4. Is living in a foster home, group home, or residential care center  
17          for children and youth, or qualifying family-based treatment facility or in a  
18          supervised independent living arrangement.

**History:** 1973 c. 90, 333; 1977 c. 29; 1977 c. 83 s. 26; 1977 c. 354, 418, 447, 449; 1979 c. 34 ss. 833m, 834, 2102 (20) (a); 1979 c. 221, 300; 1983 a. 27 s. 2202 (20); 1983 a. 189 s. 329 (17); 1983 a. 447; 1985 a. 135, 176; 1985 a. 332 s. 251 (3); 1987 a. 339; 1989 a. 31, 107, 359; 1991 a. 316; 1993 a. 16, 375, 385, 446, 491; 1995 a. 27 ss. 2526 to 2534m, 9126 (19), 9145 (1); 1995 a. 77; 1997 a. 27, 35, 80, 105, 292; 1999 a. 9; 2001 a. 38, 59, 69; 2005 a. 25, 293; 2007 a. 20; 2009 a. 28, 71, 94, 180, 185; 2011 a. 258; 2013 a. 20; 2013 a. 165 s. 115; 2013 a. 334; 2015 a. 55.

Cross-reference: See also ch. DCF 51, Wis. adm. code.

19          **SECTION 12.** 48.57 (3) (a) 4. of the statutes is amended to read:

1 48.57 (3) (a) 4. Is living in a foster home, group home, residential care center  
2 for children and youth, ~~or~~ subsidized guardianship home, or qualifying family-based  
3 treatment facility or in a supervised independent living arrangement.

History: 1977 c. 29; 1977 c. 83 s. 26; 1977 c. 271, 354, 418, 447, 449; 1979 c. 34, 221; 1981 c. 329; 1983 a. 189 s. 329 (17); 1983 a. 447; 1985 a. 176; 1987 a. 339; 1993 a. 385, 395, 446, 491; 1995 a. 27 ss. 2575 to 2579m, 9126 (19); 1995 a. 77, 289, 443; 1997 a. 3, 27, 35, 36, 41, 105, 237, 252, 292; 1999 a. 9, 103, 133, 162; 2001 a. 16 ss. 1629, 4036-4038, 4040, 4042, 4043; 2001 a. 38, 59, 69, 109; 2005 a. 25, 232, 293; 2007 a. 20; 2009 a. 28, 71, 94, 180; 2011 a. 32; 2013 a. 20, 334, 335, 362; 2015 a. 55, 166, 172; 2017 a. 59, 145, 365, 366.

4 SECTION 13. 48.63 (1) (bm) of the statutes is created to read:

5 48.63 (1) (bm) Acting under a voluntary agreement, a child's parent, guardian,  
6 or Indian custodian, the department, the department of corrections, a county  
7 department under s. 46.215, 46.22, or 46.23, or a child welfare agency, may place the  
8 child or negotiate or act as intermediary for the placement of the child in a qualifying  
9 family-based residential treatment facility, if such a placement is recommended in  
10 the child's permanency plan under s. 48.38. A voluntary agreement under this  
11 paragraph may not be used for placement in a facility other than a qualifying  
12 family-based residential treatment facility. A placement under this paragraph may  
13 not exceed 180 days from the date on which the child was removed from the home  
14 under the voluntary agreement.

X \*\*\*\*NOTE: Is the <sup>six</sup> 6-month limit on the amount of time that a child may be placed under a voluntary agreement correct here? Is this the correct list of entities that may place a child under this section? (Should other entities (e.g., DCF) be able to

man

15 SECTION 14. 48.63 (1) (c) of the statutes is amended to read:

16 48.63 (1) (c) Voluntary agreements may be made only under par. (a) ~~or~~, (b), or  
17 (bm) or sub. (5) (b), shall be in writing, shall state whether the child has been adopted,  
18 and shall specifically state that the agreement may be terminated at any time by the  
19 parent, guardian, or Indian custodian or by the child if the child's consent to the  
20 agreement is required. In the case of an Indian child who is placed under par. (a) ~~or~~,  
21 (b), or (bm) by the voluntary agreement of the Indian child's parent or Indian  
22 custodian, the voluntary consent of the parent or Indian custodian to the placement

1 shall be given as provided in s. 48.028 (5) (a). The child's consent to an agreement  
2 under par. (a) ~~or~~, (b), or (bm) is required whenever the child is 12 years of age or older.

History: 1977 c. 354, 449; 1979 c. 300; 1981 c. 81; 1983 a. 351, 399; 1985 a. 176; 1989 a. 31, 107; 1993 a. 446; 1995 a. 27 ss. 2594, 9126 (19); 1995 a. 77; 2001 a. 69, 109; 2007 a. 20, 186, 199; 2009 a. 28, 79, 94, 339; 2011 a. 87, 181, 258; 2013 a. 335; 2015 a. 378, 381.

3 **SECTION 15.** 48.63 (1) (d) of the statutes is amended to read:

4 48.63 (1) (d) If a county department, the department, or the department of  
5 corrections places a child or negotiates or acts as intermediary for the placement of  
6 a child under par. (a) ~~or~~, (b), or (bm), the voluntary agreement shall also specifically  
7 state that the county department, department, or department of corrections has  
8 placement and care responsibility for the child as required under 42 USC 672 (a) (2)  
9 and has primary responsibility for providing services to the child.

History: 1977 c. 354, 449; 1979 c. 300; 1981 c. 81; 1983 a. 351, 399; 1985 a. 176; 1989 a. 31, 107; 1993 a. 446; 1995 a. 27 ss. 2594, 9126 (19); 1995 a. 77; 2001 a. 69, 109; 2007 a. 20, 186, 199; 2009 a. 28, 79, 94, 339; 2011 a. 87, 181, 258; 2013 a. 335; 2015 a. 378, 381.

10 **SECTION 16.** 48.645 (1) (a) of the statutes is amended to read:

11 48.645 (1) (a) The child is living in a foster home licensed under s. 48.62 if a  
12 license is required under that section, in a foster home located within the boundaries  
13 of a reservation in this state and licensed by the tribal governing body of the  
14 reservation, in a group home licensed under s. 48.625, in a subsidized guardianship  
15 home under s. 48.623, in a residential care center for children and youth licensed  
16 under s. 48.60, with a parent in a qualifying residential family-based treatment  
17 center, or in a supervised independent living arrangement and has been placed in  
18 that home, center, or arrangement by a county department under s. 46.215, 46.22,  
19 or 46.23, by the department, or by a governing body of an Indian tribe in this state  
20 under an agreement with a county department under s. 46.215, 46.22, or 46.23.

History: 2007 a. 20 ss. 894 to 903; Stats. 2007 s. 48.645; 2007 a. 97 s. 61; 2009 a. 28, 94, 180; 2011 a. 32; 2013 a. 20, 334.

21

(END)

## Wheeler, Elizabeth

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**From:** Bork, Matthew - DOA  
**Sent:** Monday, January 21, 2019 11:29 AM  
**To:** Wheeler, Elizabeth  
**Subject:** FW: LRB-0691/P1 DCF Comments

**Importance:** High

Good morning Elizabeth,

Below are comments from DCF regarding the draft of LRB-0691/P1 relating to children being placed with parents in treatment facilities. They also sent their thanks for your time and thoughtful drafting.

Kind regards,  
Matt

1. Comments on Draft:  
Pg. 2 Section 1. Note:

✓ \*\*\*\*NOTE: I used the term “certified” because that is what DHS provides for alcohol or drug abuse treatment facilities. Ok If you are aware of other licensing requirements under the federal law please let me know. Also, are there any further requirements or specifications you would like to include in this definition? No.

2. Pg. 5 Section 3.

✓ Line 1 – change “because he or she needs assistance” to “and he or she needs assistance”. This will be consistent with 48.13(4).

Note: Just the child’s parent.

✓ \*\*\*\*NOTE: Do you want this to be the child's parent, or the child's parent, guardian, or legal custodian? Just the Child’s Parent. If you want to include guardian or legal custodian, I will update throughout the draft.

✓ 3. Pg. 5 Section 5., line 7-11 modify 48.345 (5) to 48.345 (3)(e) (See also related comments below).

4. Page 5 Section 5, lines 10-11 delete “and the parent consents to the placement”. The consent language is for purposes of triggering CHIPS jurisdiction. DCF wants the parent consents to the placement to be required for the CHIPS ground because DCF doesn’t want there to be CHIPS jurisdiction based on treatment in a facility unless the parent wants the child there. But if the CHIPS was under a different ground the parental consent may not already be in the record; DCF doesn’t put language in the other dispositions that the parent must agree; and it is not necessary for the federal funding. As a practical matter, it probably doesn’t matter if the dispositional language says the parent must consent because I can’t imagine anyone would place the child there if the parent didn’t consent – but it seems unnecessary and cleaner to leave it out.

✓ 5. Page 5, Section 6, lines 15 – 16 change to child living in a “qualifying residential family-based treatment facility with a parent”. DCF doesn’t want to require a perm plan for a child who is in treatment facility without a parent.

6. Page 6, Section 8 language as drafted would require a perm plan for any child living in a qualifying residential family-based treatment facility with a parent even if none of the other requirements in (2)(a)-(f) – but DCF wants at least one of those conditions to apply because otherwise the perm plan requirement would apply even to a private pay situation where a child lived with a parent in the facility (a non-child welfare situation). DCF recognizes that the language in (g) reads similarly, but (g) applies when the minor parent is in a child welfare placement already. Or perhaps it would also work if we delete the language in (g) and list it separately in the intro as suggested for Section 6 above?

7. Page 6, Section 9, lines 7-8 For the reasons explained above in Section 5, lines 10-11, delete “if the parent consents to the placement”. Also, this should say something to the effect that the content of the plan should include: “A recommendation regarding whether the child should be placed with a parent in a qualifying family-based treatment facility, if the parent is or it may be appropriate for the parent to be placed in a qualifying family-based treatment facility.”

8. Pg. 6 Section 10

\*\*\*\*NOTE: This is the language requested, but the second half is very broad. Do you mean to place children in residential family-based treatment facilities in other states? Yes or do you intend for it to be this broad? Yes. If not, should I add facilities in other states to the definition of “qualifying residential family-based treatment centers”? No.

DCF would like to clarify that children may be placed in out of state facilities as well as in Wisconsin facilities more generally. DCF suggests changes to the effect of:

**48.48(17)(a)3. and 48.57(1)(c)**

Provide appropriate protection and services for children and the expectant mothers of unborn children in its care, including providing services for those children and their families and for those expectant mothers in their own homes, placing the children in licensed foster homes or group homes in this state or another state within a reasonable proximity to the agency with legal custody, placing the children in the homes of guardians under s. 48.977 (2), placing the children in a qualifying family-based residential treatment facility, or in a regulated facility in another state, or contracting for services for those children by licensed child welfare agencies in this state or a regulated child welfare agency in another state, except that the department may not purchase the educational component of private day treatment programs unless the department, the school board, as defined in s. 115.001 (7), and the state superintendent of public instruction all determine that an appropriate public education program is not available. Disputes between the department and the school district shall be resolved by the state superintendent of public instruction.

**48.345 (3)** Subject to sub. (3m), designate one of the following as the placement for the child:

✓ (c) A foster home licensed under s. 48.62, a group home licensed under s. 48.625, or a foster home or group home regulated in another state, or in the home of a guardian under s. 48.977 (2).

✓ (cm) A group home described in s. 48.625 (1m), or such a facility regulated in another state, if the child is at least 12 years of age, is a custodial parent, as defined in s. 49.141 (1) (b), or an expectant mother, is receiving inadequate care, and is in need of a safe and structured living arrangement.

✓ (d) A residential care center for treatment center children and youth operated by a child welfare agency licensed under s. 48.60, or such a facility regulated in another state.

✓ (e) A qualifying family-based residential treatment facility, or such a facility regulated in another state, with the child's parent, if the child's permanency plan includes a recommendation for such a placement under s. 48.38.4)(em).

✓ 9. Pg. 7 Section 13, line 2, change the parent may place a child in “a qualifying family-based residential treatment facility” to “a qualifying family-based residential treatment facility with the parent”.

Note: Yes, DCF wants the time limit to be 6 months.

✓ \*\*\*\*NOTE: Is the six-month limit on the amount of time that a child may be placed under a voluntary agreement correct here? Yes Should other entities (e.g., DCF) be able to

place a child under this section? DCF and a county department should be able to make voluntary placements into these facilities – not DOC – and DCF is still considering if licensed child welfare agencies should be able to do this.

✓ 10. Page 8, Section 16 – do we need to amend 48.645(2) to include these placements because that says when DCF or the county should pay aid?