

1977 Senate Bill 297

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## CHAPTER 271, Laws of 1977

AN ACT to amend 46.03 (18) (a) and (e), 46.206 (1) (c) and (3), 46.21 (2) (a) and (10) (a), 48.06 (1) (a), 48.07 (3), 48.43 (1) (a), 48.56 (1) (c), 48.57 (1) (e), 48.58 (1) (b), 48.64 (4) (a), 48.66, 48.67 (title) and (1), 48.69, 48.70 (4), 48.88 (2) (b), 48.89 (3), 48.95, 49.19 (1) (c) and (3) (a), 49.50 (7) (a) and (c) and (8) (c), 49.51 (2) (title) and (a) (intro.) and (3) (a), 52.01 (2), 52.05 (5), 52.055 (3), 56.08 (8) and (9), 63.065, 247.08 (2), 247.081 (1) and 247.29 (2) of the statutes, renaming the department of public welfare in populous counties.

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

SECTION 1. 46.03 (18) (a) and (e) of the statutes are amended to read:

46.03 (18) (a) The department shall establish a uniform system of fees for services provided or purchased by the department, a county department of public welfare or social services or a board under s. 51.42 or 51.437, except for services relating to adoption, or services provided to courts, for provision of child support and paternity establishment services or for outreach, information and referral services, or where as determined by the department, a fee is administratively unfeasible or would significantly prevent accomplishing the purpose of the service. Fees collected by a county department of public welfare or social services shall be applied by such department to cover the cost of such services. The department shall report to the joint committee on finance no later than January 31 of each year on the number of children placed for adoption by the department and the costs to the state for services relating to such adoptions.

(e) The department may delegate to county departments of public welfare or social services and other providers of care and services ~~such~~ the powers and duties vested in the department by pars. (c) and (d) as it deems necessary to efficiently administer this subsection, subject to such conditions as the department deems appropriate.

SECTION 2. 46.206 (1) (c) and (3) of the statutes are amended to read:

46.206 (1) (c) The department may at any time audit all county records relating to the administration of such services and public assistance and may at any time conduct administrative reviews of county departments of public welfare created by ss. 49.51 (2) (a) and 46.22. Whenever the department conducts such audit or administrative review in a county it shall furnish a copy of the audit or administrative review report to the ~~chairman~~ chairperson of the county board, to the county clerk, to the ~~chairman~~ chairperson of the county board of public welfare or social services, and to the director of the county department of public welfare, of such county.

(3) The use of the words "county agency" in any statute relating to social services or aid to families with dependent children means the county department of public welfare or social services as created by s. 49.51 (2) (a) or 46.22 (1). Nothing in this subsection shall deprive the juvenile court of any authority it otherwise has under the law.

SECTION 3. 46.21 (2) (a) and (10) (a) of the statutes are amended to read:

46.21 (2) (a) Such board shall be charged with supervising the operation, maintenance and improvement in each county by the director of institutions and departments, of the county hospital, dispensary-emergency unit of said hospital, guidance clinic, infirmary, home for children, the detention home, and the probation section of the children's court center, and the provision and maintenance of the physical facilities for such court and its intake section under the supervision and operation of the children's court judges as provided in s. 48.06 (1), mental health center, north division and south division, tuberculosis hospital, department of public welfare or social services created by s. 49.51 (2) (a), county agent's department, farm, service departments and such other institutions and departments as are placed under the jurisdiction of the board of public welfare by the county board of supervisors, and all buildings and land used in connection with any or all such institutions. A diagnostic and treatment center may be designated as part of the county mental health center, north division, and all personnel fully attached to said facility shall be under the jurisdiction of the superintendent or medical director of the county mental health center, north division. The powers and duties of the board shall be advisory and policy forming only, and not administrative or executive. Such board shall be without authority to adopt policy changes that would increase expenditures beyond budget limitations for the fiscal year, as fixed by the county board of supervisors. Proposed policy changes shall, in all instances, be presented to the director and the finance committee of the county board at the time the department's budget for the ensuing year is being considered.

(10) (a) The county board of supervisors in counties having a population of 500,000 or more shall direct, at least once every 3 years, a total program audit of the county ~~welfare~~ department of social services to be conducted by the state legislative audit bureau. The audit shall include program, fiscal, compliance and management elements and shall be directed toward the following:

1. Examination of procedures for applying for and receiving all grants and services administered by the county ~~welfare~~ department of social services;
2. A general examination of the efficiency and effectiveness with which all programs are administered by the county ~~welfare~~ department of social services;
3. A measurement of how effectively the goals and objectives of these programs are being met by the county ~~welfare~~ department of social services, including a determination of whether the department has considered alternatives which might yield the desired results at a lower cost; and
4. An examination of whether financial operations are properly conducted, whether the ~~county welfare department's~~ financial and accounting reports of the county department of social services are fairly presented, and whether the department has complied with applicable laws, rules and regulations of the state and federal governments governing the programs under its administration.

SECTION 4. 48.06 (1) (a) of the statutes is amended to read:

48.06 (1) (a) In counties having a population of 500,000 or more, the county board of supervisors shall provide the court with the services necessary for investigating and supervising cases by operating a children's court center under the supervision of a director who shall be appointed as provided in s. 46.21 (4) under the laws governing civil service in the county. The director shall be the chief administrative officer of ~~said the~~ center and of the intake, probation and detention sections thereof except as herein otherwise provided, and as such officer shall be charged with administration of the personnel and services of such sections and of the detention home, and be responsible for supervising both the operation of the physical plant and the maintenance and improvement of the buildings and grounds of ~~said the~~ center. The center shall include investigative services for all children alleged to be dependent or neglected to be provided by the county

department of ~~public welfare~~ social services, and the services of an assistant district attorney or assistant corporation counsel or both, who shall be assigned to the center to provide investigative as well as legal work in such cases. The chief judge of the county board of judges shall formulate written judicial policy governing juvenile court services and the director shall be charged with executing such judicial policy. The chief judge or a designee shall direct and supervise the work of all personnel of the court, except the work of the district attorney or corporation counsel assigned thereto. The county board of ~~public welfare~~ social services shall develop policies and establish necessary rules and regulations for the management and administration of the nonjudicial operations of the children's court center, but any such policy, rule or regulation shall be subject to adoption of a different policy, rule or regulation by the county board of supervisors by a majority of the members thereof present and voting; and the director thereof shall report and be responsible to the director of institutions and departments for the execution of all nonjudicial operational policies, rules and regulations governing the center, including activities of probation officers whenever they are not performing services for the court. The director of ~~said~~ the center shall also be responsible for the preparation and submission to the county board of ~~public welfare~~ social services of the annual budget for the center except for such judicial functions or responsibilities which are delegated by law to the judge or judges and clerk of circuit court. Such board shall make provision in the organization of the office of director for the devolution of the director's authority in the case of temporary absence, illness, disability to act or a vacancy in position and shall establish the general qualifications for the position. Such board shall have the further authority to investigate, arbitrate and resolve any conflict in the administration of the center as between judicial and nonjudicial operational policy, rules and regulations, except that the final disposition thereof shall be subject to the approval of the county board of supervisors by a majority of the members thereof present and voting, but shall not have authority or assert jurisdiction over the disposition of any case or child after a written order for detention is made under s. 48.29 (2) or if a petition is filed pursuant to s. 48.20. All personnel of the intake, detention and probation sections, including employees of the detention home, shall be appointed under civil service by the director except that existing court service personnel having permanent civil service status may be reassigned to any of the respective sections within the center specified herein.

SECTION 5. 48.07 (3) of the statutes is amended to read:

48.07 (3) (title) DEPARTMENT OF SOCIAL SERVICES IN POPULOUS COUNTIES. In counties having a population of 500,000 or more, the director of the ~~county welfare~~ department of social services may request the court to authorize ~~his~~ the director's department to provide services for furnishing emergency shelter care to any child whose need therefor, either by reason of dependency, neglect or delinquency or for protective reasons, is brought to the attention of the department. Upon such request, the court may authorize the director to appoint members of ~~his~~ the director's department to furnish emergency shelter care services for ~~such~~ the child. The emergency shelter care may be given in the county children's home, a foster home or an agency-operated institution or may be provided by the furnishing of ~~home-maker's~~ homemaker's services by the department in the home where the child resides. ~~Such~~ The emergency shelter care shall be provided for separate periods of not to exceed 24 hours each, except that if any part of ~~such~~ a period falls on a day on which the court is not in session, the period shall be extended to 5 p.m. of the first day thereafter on which a court session is held. The person appointed to furnish such services shall file a petition under s. 48.20 in court before the expiration of such period.

SECTION 6. 48.43 (1) (a) of the statutes is amended to read:

48.43 (1) (a) A county department of ~~public welfare~~ social services in counties having a population of 500,000 or more; or

SECTION 7. 48.56 (1) (c) of the statutes is amended to read:

48.56 (1) (c) In counties with a population of 500,000 or more a county ~~welfare~~ department of social services organized under s. 49.51.

SECTION 8. 48.57 (1) (e) of the statutes is amended to read:

48.57 (1) (e) If a county ~~welfare~~ department of social services in a county with a population of 500,000 or more, to place children in a county children's home in the county pursuant to rules adopted by the board of public welfare of such county, to accept guardianship of children when appointed by the juvenile court, and to place children under its guardianship for adoption;

SECTION 9. 48.58 (1) (b) of the statutes is amended to read:

48.58 (1) (b) Provide care for dependent or neglected children referred by the county ~~welfare department or department of social services~~;

SECTION 10. 48.64 (4) (a) of the statutes is amended to read:

48.64 (4) (a) Any decision or order issued by a division of the department of health and social services, a county welfare department or department of social services, or a child welfare agency affecting foster parents or the children involved may be appealed to the department of health and social services under fair hearing procedures established under department rules. The department shall, upon receipt of such petition, give the foster parents reasonable notice and opportunity for a fair hearing. The department may make such additional investigation as it deems necessary. Notice of the hearing shall be given to the foster parents and to the division, the county department or child welfare agency. They shall be entitled to be represented at ~~such~~ the hearing. At all hearings conducted under this subsection, the foster parents, or their representative, shall have an adequate opportunity, notwithstanding s. 48.78, to examine all documents and records to be used at the hearing at a reasonable time before the date of the hearing as well as during the hearing, to bring witnesses, to establish all pertinent facts and circumstances, and to question or refute any testimony or evidence, including opportunity to confront and cross-examine adverse witnesses. A continuance for a reasonable period of time shall be granted when an issue is raised for the first time during a hearing. This requirement may be waived with the consent of the parties. The decision of the department shall be based exclusively on evidence introduced at the hearing. A transcript of testimony and exhibits, or an official report containing the substance of what transpired at the hearing, together with all papers and requests filed in the proceeding, and the findings of the hearing examiner shall constitute the exclusive record for decision by the department and shall be available to the foster parents or their representative, at a place accessible to them, at any reasonable time. Decisions by the department shall specify the reasons for the decision and identify the supporting evidence. No person participating in a departmental or agency action being appealed shall participate in the final administrative decision on such action. The department shall render its decision as soon as possible after the hearing and shall send a certified copy of its decision to the foster parents, the division, the county department or the child welfare agency. The decision shall be binding on all parties concerned.

SECTION 11. 48.66 of the statutes is amended to read:

**48.66 Licensing duties of the department.** The department shall license and supervise child welfare agencies, as required by s. 48.60, foster homes, as required by s. 48.62, day care centers, as required by s. 48.65, and may license and supervise county departments of social services or public welfare for the purposes stated in s. 48.43 (1) (am) in accordance with the procedures specified in ss. 48.67 to 48.74.

SECTION 12. 48.67 (title) and (1) of the statutes are amended to read:

**48.67 (title) Rules governing child welfare agencies, day care centers, foster homes and county departments of social services or public welfare.** (1) The department shall prescribe rules establishing minimum requirements for the issuance of licenses to and establishing standards for the operation of child welfare agencies, day care centers, foster homes and county departments of social services or public welfare. These rules shall be designed to protect and promote the health, safety and welfare of the children in the care of all licensees. The department shall consult with the department of industry, labor and human relations and the department of public instruction before prescribing these rules.

SECTION 13. 48.69 of the statutes is amended to read:

**48.69 Provisional licenses.** A provisional license for a period of 6 months may be issued to any child welfare agency, day care center or county department of social services or public welfare whose services are needed, but which is temporarily unable to conform to all established minimum requirements. This provisional license may be renewed for 6-month periods up to 2 years.

SECTION 14. 48.70 (4) of the statutes is amended to read:

48.70 (4) (title) SPECIAL PROVISIONS FOR COUNTY DEPARTMENTS OF SOCIAL SERVICES OR PUBLIC WELFARE AND COUNTY CHILDREN'S BOARDS. Licenses to county departments of social services or public welfare shall specify whether the department may accept guardianship of children and place such children for adoption.

SECTION 15. 48.88 (2) (b) of the statutes is amended to read:

48.88 (2) (b) The investigation and report required by par. (a) is not necessary where the guardian of the child whose recommendation is required files a favorable recommendation and such guardian is either the department, a licensed child welfare agency or a county ~~welfare~~ department of social services or public welfare authorized by s. 48.57 to accept guardianship of a child; but that agency shall file with the court a report on its investigation of the environment and antecedents of the person to be adopted and of the home of the petitioners.

SECTION 16. 48.89 (3) of the statutes is amended to read:

48.89 (3) The recommendation of the department shall not be required if the recommendation of that department, a licensed child welfare agency, a county ~~welfare~~ department of social services or public welfare or a county children's board authorized by s. 48.57 to accept guardianship of a child is required by s. 48.841, or if one of the petitioners is a stepparent.

SECTION 17. 48.95 of the statutes is amended to read:

**48.95 Withdrawal or denial of petition.** If the petition is withdrawn or denied, the court shall order the case transferred to the juvenile court for appropriate action, except that if parental rights have been terminated and the guardian of the minor is the department, a licensed child welfare agency, a county department of ~~public welfare~~ social services in counties having a population of 500,000 or more, a county department of public welfare or a county children's board licensed for such purpose by the department, the minor shall remain in the legal custody of that department or agency.

SECTION 18. 49.19 (1) (c) and (3) (a) of the statutes are amended to read:

49.19 (1) (c) "Aid to families with dependent children" means money payments with respect to, or vendor payments as prescribed by the department, or medical care in behalf of or any type of remedial care recognized under subs. (1) to (10) or s. 49.46 or necessary burial expenses as defined in sub. (5) in behalf of a dependent child or dependent children including such aid to meet the needs of the relative with whom any dependent child is living and the spouse of ~~such the~~ relative if living with ~~him the~~ relative and if ~~such the~~ relative is the child's parent and the child is a dependent child by reason of the physical or mental incapacity of a parent or payments made to another individual not

a relative enumerated under par. (a), pursuant to federal regulations, when such individual has been appointed by a court of competent jurisdiction as a legal representative of the dependent child or when such individual who may be a caseworker has been designated by the county welfare or social services department to receive payment of the aid or cash payments to recipients who are engaged in an approved work relief or training project. The rate of payment for skilled nursing care provided under this section shall be determined by the county under guidelines established by the department pursuant to s. 49.45 (6m). Payment for limited care shall not exceed 90% of the applicable Title XIX skilled care rate. Payment for personal care shall not exceed 80% of the applicable Title XIX skilled care rate.

(3) (a) After the investigation and report and a finding of eligibility, aid as defined in sub. (1) shall be granted by the county welfare or social services department as the best interest of the child requires. No such aid shall be furnished any person for any period during which that person is receiving supplemental security income or to any person who fails to provide such social security account numbers as required by federal law.

SECTION 19. 49.50 (7) (a) and (c) and (8) (c) of the statutes are amended to read:

49.50 (7) (a) The department shall ensure that all appropriate individuals so required by federal law and regulations as a condition of eligibility for aid to families with dependent children shall register for manpower services, training and employment under the work incentive program. The department shall administer or purchase directly, or where the services would be more effectively performed through contracts with county welfare or social services departments, the health, vocational rehabilitation, counseling, child care, social and other supportive services related to individuals' preparation for, and participation in, the work incentive program and related to individuals' continuation in employment. Allowances for costs incurred by an individual participating in the program shall be paid to ~~such~~ the individual by the department of industry, labor and human relations.

(c) The department shall reimburse county welfare or social services departments under s. 49.52 (1) and (2) for payments advanced by ~~such~~ the county welfare departments to or in behalf of recipients of aid and potential aid recipients.

(8) (c) Whenever any municipality or county receives a nonresident notice ~~pursuant to~~ under s. 49.11 and there is reasonable basis for belief that the recipient of such relief may be eligible for assistance under s. 49.19, ~~such~~ the municipality or county may after 60 days request the county department of social services or public welfare of the county wherein the recipient of relief is residing to investigate the possible eligibility of ~~such~~ the relief recipient for assistance under s. 49.19. If the latter county refuses to grant such assistance, the municipality or county wherein liability for paying the relief ultimately rests may petition the department for a hearing under this section to determine eligibility of the relief recipient for such assistance. Copies of the petition shall be sent to the county wherein the dependent person may be residing or receiving relief by the county or municipality liable for ultimately paying said relief. This procedure or any subsequent decision of the department shall not bar recovery of any claim under s. 49.11 to the date of the final decision.

SECTION 20. 49.51 (2) (title) and (a) (intro.) and (3) (a) of the statutes are amended to read:

49.51 (2) (title) COUNTY DEPARTMENTS OF SOCIAL SERVICES OR PUBLIC WELFARE. (a) (intro.) In counties having a population of 500,000 or more ~~or in the administration of welfare services~~ shall be vested in a department of social services. In counties electing to be under s. 46.21, the administration of welfare services shall be vested in a department of public welfare. Each department of social services or public welfare shall be under the jurisdiction of the county board of public welfare as provided in s. 46.21 and in

conformity with s. 49.50. The director of county institutions and departments shall appoint a director of public welfare and such director of public welfare shall appoint assistants. The county department of social services or public welfare shall have the following functions, duties and powers, and such other welfare functions as may be delegated to it:

(3) (a) In order to ~~insure~~ ensure the availability of a full range of care and services, the county ~~welfare~~ department of social services or public welfare may contract, either directly or through the state department, with public or voluntary agencies or others to purchase, in full or in part, care and services which such county ~~welfare~~ departments are authorized by any statute to furnish in any manner. Such services may be purchased from the department where the department has staff to furnish ~~such~~ the services. If the agency has adequate staff, it may sell ~~such~~ the care and services directly to another county or state agency.

SECTION 21. 52.01 (2) of the statutes is amended to read:

52.01 (2) Upon failure of relatives so to do said authorities or board shall submit to the district attorney a report of its findings, and upon receipt thereof the district attorney shall, within 60 days, apply to the county court of the county in which ~~such~~ the dependent person resides for an order to compel such maintenance. Upon such application ~~said~~ the district attorney shall make a written report thereof to the county ~~welfare~~ department of social services or public welfare, with a copy to the ~~chairman~~ chairperson of the county board and to the department.

SECTION 22. 52.05 (5) of the statutes is amended to read:

52.05 (5) SENTENCE. If the court is satisfied by information and due proof under oath, that at any time during ~~said~~ the 2-year period ~~of 2-years~~ the defendant has violated the term of ~~such~~ the order, it may forthwith proceed with the trial of the defendant under the original charge, or sentence him or her under the original conviction, or enforce the suspended sentence, or punish for violation of ~~such~~ the order as for contempt and sentence the ~~said~~ person to confinement in the county jail under s. 56.08, as the case may be. In case of forfeiture of recognizance, and enforcement thereof by execution, the sum recovered may, in the discretion of the court, be paid, in whole or in part, to the wife, or to the guardian, curator, custodian or trustee of the said minor child or children, or to the county ~~welfare~~ department of social services or public welfare.

SECTION 23. 52.055 (3) of the statutes is amended to read:

52.055 (3) If the court is satisfied by information and due proof under oath, that any time during ~~said~~ the 2-year period ~~of 2-years~~ the defendant has violated the term of ~~such~~ the order, it may forthwith proceed with the trial of the defendant under the original charge, or sentence him or her under the original conviction, or enforce the suspended sentence, or may punish for violation of such order as for contempt and sentence the person to confinement in the county jail under s. 56.08, as the case may be. In case of the forfeiture of recognizance, and enforcement thereof by execution, the sum recovered may, in the discretion of the court, be paid in whole or in part, to the wife, or to the guardian, curator, custodian, trustee of the minor children or to the county ~~welfare~~ department of social services or public welfare.

SECTION 24. 56.08 (8) and (9) of the statutes are amended to read:

56.08 (8) The county board may by resolution direct that functions of the sheriff under sub. (3) or (5), or both, be performed by the county department of social services or public welfare; or, if the board has not so directed, a court of record may order that the prisoner's earnings be collected and disbursed by the clerk of court. ~~Such~~ The order shall remain in force until rescinded by the board or the court, whichever made it.

(9) The county department of social services or public welfare shall at the request of

the court investigate and report to the court the amount necessary for the support of the prisoner's dependents.

SECTION 25. 63.065 of the statutes is amended to read:

**63.065 Elected county or state officers.** A permanent employe in the classified service of any ~~such~~ county having a population of 500,000 or more, who is elected to a county or state office shall be granted a leave of absence without pay from ~~his a~~ position for the period of his ~~or her~~ entire service as an elected county or state officer and thereafter ~~he~~ shall be entitled to return to ~~such the~~ former position or to one with equivalent responsibility and pay in the classified service without loss of seniority or civil service status. At the discretion of the civil service commission, any elected state officer, while on leave of absence, may also be permitted to return to ~~his a~~ former position or to one with equivalent responsibility and pay in the classified service for such periods of time as may be set by ~~said the~~ commission. This section shall not apply to any department head in the classified service whenever the commission has established a list of department heads or employes of any department of social services or public welfare which functions under the authority of s. 49.51 (2).

SECTION 26. 247.08 (2) of the statutes is amended to read:

247.08 (2) If the state or any subdivision thereof furnishes public aid to a spouse or dependent children for support and maintenance and ~~such the~~ spouse fails or refuses to institute an appropriate court action under this chapter to provide for the same, the person in charge of county welfare activities, the county child support agency or the state department of health and social services shall have the same right as the individual spouse to initiate an action ~~pursuant to~~ under this section, for the purpose of securing reimbursement for support and maintenance furnished and of obtaining continued support and maintenance. The title of the action shall be substantially in the following form:

A.B. (Welfare official), on behalf of

C.D. (Spouse)

v.

E.F. (Other spouse)

In counties having a population of 500,000 or more, counsel employed by the department of ~~public welfare~~ social services, the county child support agency or the department of health and social services shall represent the director or department thereof in any such action and may petition the court to be appointed as guardian ad litem for any minor or incompetent children.

SECTION 27. 247.081 (1) of the statutes is amended to read:

247.081 (1) In every action for divorce or legal separation the family court commissioner shall cause an effort to be made to effect a reconciliation between the parties, either by his ~~or her~~ own efforts and the efforts of a family court conciliation department if it exists or by referring ~~such the~~ parties to and having them voluntarily consult the director of the town, village, city or county ~~public welfare~~ department of social services or public welfare, a county mental health or guidance clinic, a ~~clergyman~~ member of the clergy, or a child welfare agency licensed under ss. 48.66 to 48.73, or by other suitable means. The person so consulted shall not disclose any statement made to him ~~or her~~ by either party without the consent of ~~such the~~ party.

SECTION 28. 247.29 (2) of the statutes is amended to read:

247.29 (2) If any party entitled to alimony or support money, or both, is receiving public assistance under ch. 49, ~~such the~~ party may assign the party's right thereto to the county department of social services or public welfare or municipal relief agency granting such assistance. Such assignment shall be approved by order of the court granting ~~such the~~ the alimony or support money, and may be terminated in like manner; except that it shall

not be terminated in cases where there is any delinquency in the amount of alimony and support money previously ordered or adjudged to be paid to ~~such~~ the assignee without the written consent of the assignee or upon notice to the assignee and hearing. When an assignment of alimony or support money, or both, has been approved by ~~such~~ the order, the assignee shall be deemed a real party in interest within s. 803.01 but solely for the purpose of securing payment of unpaid alimony or support money adjudged or ordered to be paid, by participating in proceedings to secure the payment thereof. This provision for a voluntary assignment does not apply to child support paid in behalf of recipients of assistance under s. 49.19.

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