

1993 Assembly Bill 780

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1993 WISCONSIN ACT 385

AN ACT *to renumber and amend* 48.357 (5); *to amend* 46.03 (6) (c), 46.03 (7) (am), 46.03 (17) (c), 46.049, 46.10 (2), 48.02 (12), 48.023 (4), 48.20 (8), 48.208 (1), 48.23 (1) (a), 48.33 (3), 48.34 (intro.), 48.34 (4m) (intro.), 48.345 (1) (a), 48.355 (4) (a), 48.357 (3), 48.357 (4), 48.366 (1) (intro.), 48.366 (5) (a) 2, 48.366 (6) (a) 2, 48.366 (6) (c) 2, 48.366 (8), 48.38 (3) (a), 48.48 (4), 48.48 (4m) (b), 48.48 (5), 48.48 (6), 48.48 (14), 48.49, 48.50 (title), 48.50 (1), 48.51 (1) (intro.), 48.51 (1) (b) (intro.), 48.52 (2) (a) and (c), 48.53, 48.533 (3), 48.54, 48.59 (1), 48.78 (2) (d) (intro.), 118.125 (4), 146.81 (5), 302.31, 304.07, 946.42 (1) (a), 946.42 (3) (c), 946.44 (2) (d), 946.45 (2) (d) and 946.46; and *to create* 48.069 (1) (dj), 48.20 (2) (cm), 48.20 (7) (c) 1m, 48.23 (1) (ar), 48.34 (4n), 48.357 (4g), 48.357 (5) (e) and (g), 48.505, 48.57 (4) and 48.595 of the statutes, **relating to:** aftercare services for youth, allowing placement in a secured correctional facility without transfer of legal custody to the department of health and social services, requiring aftercare plans for certain juvenile offenders released from secured correctional facilities, permitting county departments of human services or social services to use administrative procedures for revocation of aftercare and granting rule-making authority.

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

SECTION 1. 46.03 (6) (c) of the statutes is amended to read:

46.03 (6) (c) Direct the psychiatric service in all secured correctional facilities for juveniles that are operated by the department, making its services available to ~~those committed to the department as all~~ delinquent children who are placed in those secured correctional facilities.

SECTION 2. 46.03 (7) (am) of the statutes is amended to read:

46.03 (7) (am) Direct the aftercare of all delinquents under its legal custody supervision.

SECTION 3. 46.03 (17) (c) of the statutes is amended to read:

46.03 (17) (c) To contract with public, private or voluntary agencies for the purchase of goods, care and services for youth placed in under department legal custody supervision under s. 48.34 (4m) or (4n) or 48.366. Services may include, but are not limited to, diagnostic ser-

vices, evaluation, treatment, counseling, referral and information, day care, inpatient hospitalization, transportation, recreation, special education, vocational training, work adjustment, sheltered employment, special living arrangements and legal and protective services.

SECTION 4. 46.049 of the statutes is amended to read:

46.049 Training school for delinquent boys. The department, with the approval of the governor, may purchase or accept a gift of land for a suitable site for an additional training school for delinquent boys and erect and equip such buildings as it deems necessary at such time as funds may be allocated for that purpose by the building commission. The training school or other additional facilities for delinquent boys financed by the authorized 1965–67 building program shall be located north of a line between La Crosse and Manitowoc. The department shall operate and maintain the institution for the treatment of delinquent boys ~~committed to the department~~ who are placed in a secured correctional facility under s. 48.34 (4m). All laws pertaining to the care of children received under s. 48.34 shall apply. Officers and

employees of the institution are subject to the same laws as apply to other facilities described in s. 48.52.

SECTION 5d. 46.10 (2) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

46.10 (2) Except as provided in sub. (2m), any person, including but not limited to a person admitted, committed or placed under s. 975.01, 1977 stats., s. 975.02, 1977 stats., and s. 975.17, 1977 stats., and ss. 48.34 (4m), 48.357 (4) and (5) (e), 48.366, 51.10, 51.13, 51.15, 51.20, 51.35 (3), 51.37 (5), 51.45 (10), (11), (12) and (13), 55.05, 55.06, 971.14 (2) and (5), 971.17 (1) and 975.06, receiving care, maintenance, services and supplies provided by any institution in this state including university of Wisconsin hospital and clinics, in which the state is chargeable with all or part of the person's care, maintenance, services and supplies, any person receiving care and services from a county department established under s. 51.42 or 51.437 or from a facility established under s. 49.175, and any person receiving treatment and services from a public or private agency under s. 971.17 (3) (d) or (4) (e) and the person's property and estate, including the homestead, and the spouse of the person, and the spouse's property and estate, including the homestead, and, in the case of a minor child, the parents of the person, and their property and estates, including their homestead, and, in the case of a foreign child described in s. 48.839 (1) who became dependent on public funds for his or her primary support before an order granting his or her adoption, the resident of this state appointed guardian of the child by a foreign court who brought the child into this state for the purpose of adoption, and his or her property and estate, including his or her homestead, shall be liable for the cost of the care, maintenance, services and supplies in accordance with the fee schedule established by the department under s. 46.03 (18). If a spouse, widow or minor, or an incapacitated person may be lawfully dependent upon the property for their support, the court shall release all or such part of the property and estate from the charges that may be necessary to provide for those persons. The department shall make every reasonable effort to notify the liable persons as soon as possible after the beginning of the maintenance, but the notice or the receipt thereof is not a condition of liability.

SECTION 5m. 48.02 (12) of the statutes is amended to read:

48.02 (12) "Legal custody" means a legal status created by the order of a court, which confers the right and duty to protect, train and discipline the child, and to provide food, shelter, legal services, education and ordinary medical and dental care, subject to the rights, duties and responsibilities of the guardian of the child and subject to any existing residual parental rights and responsibilities and the provisions of any court order.

SECTION 5p. 48.023 (4) of the statutes is amended to read:

48.023 (4) The rights and responsibilities of legal custody except when legal custody has been vested in another person or when the child is under the supervision of the department under s. 48.34 (4m) or (4n) or the supervision of a county department under s. 48.34 (4n).

SECTION 6. 48.069 (1) (dj) of the statutes is created to read:

48.069 (1) (dj) Provide aftercare services for a child who has been released from a secured correctional facility.

SECTION 7d. 48.20 (2) (cm) of the statutes is created to read:

48.20 (2) (cm) If the child has violated the terms of aftercare supervision administered by the department or a county department, the person who took the child into custody may release the child to the department or county department, whichever has aftercare supervision over the child.

SECTION 7g. 48.20 (7) (c) 1m of the statutes is created to read:

48.20 (7) (c) 1m. In the case of a child who has violated the terms of aftercare supervision administered by the department or a county department, to the department or county department, whichever has aftercare supervision of the child.

SECTION 7j. 48.20 (8) of the statutes, as affected by 1993 Wisconsin Act 98, is amended to read:

48.20 (8) If a child is held in custody, the intake worker shall notify the child's parent, guardian and legal custodian of the reasons for holding the child in custody and of the child's whereabouts unless there is reason to believe that notice would present imminent danger to the child. If a child who has violated the terms of aftercare supervision administered by the department or a county department is held in custody, the intake worker shall also notify the department or county department, whichever has supervision over the child, of the reasons for holding the child in custody, of the child's whereabouts and of the time and place of the detention hearing required under s. 48.21. The parent, guardian and legal custodian shall also be notified of the time and place of the detention hearing required under s. 48.21, the nature and possible consequences of that hearing, the right to counsel under s. 48.23 regardless of ability to pay, and the right to present and cross-examine witnesses at the hearing. If the parent, guardian or legal custodian is not immediately available, the intake worker or another person designated by the court shall provide notice as soon as possible. When the child is alleged to be in need of protection or services and is 12 years of age or older, or is alleged to have committed a delinquent act, the child shall receive the same notice about the detention hearing as the parent, guardian or legal custodian. The intake worker shall notify both the child and the child's parent, guardian or legal custodian.

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SECTION 7m. 48.208 (1) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

48.208 (1) Probable cause exists to believe that the child has committed a delinquent act and either presents a substantial risk of physical harm to another person or a substantial risk of running away as evidenced by a previous act or attempt so as to be unavailable for a court hearing or a revocation hearing for children on aftercare or corrective sanctions supervision. For children on aftercare or corrective sanctions supervision, the delinquent act referred to in this section may be the act for which the child was ~~committed to~~ placed in a secured correctional facility.

SECTION 8. 48.23 (1) (a) of the statutes is amended to read:

48.23 (1) (a) Any child alleged to be delinquent under s. 48.12 or held in a secure detention facility shall be represented by counsel at all stages of the proceedings, but a child 15 years of age or older may waive counsel if the court is satisfied that the waiver is knowingly and voluntarily made and the court accepts the waiver. If the waiver is accepted, the court may not ~~transfer legal custody of~~ place the child ~~to the department for placement~~ in a secured correctional facility or transfer jurisdiction over the child to adult court.

SECTION 9. 48.23 (1) (ar) of the statutes is created to read:

48.23 (1) (ar) A child subject to proceedings under s. 48.357 (3) or (5) shall be afforded legal representation as provided in those subsections.

SECTION 10. 48.33 (3) of the statutes is amended to read:

48.33 (3) CORRECTIONAL PLACEMENT REPORTS. A report ~~recommending transfer of the child's custody to the department for placement of a child~~ in a secured correctional facility shall be in writing and, in addition to the information specified under sub. (1) (a) to (d), shall include a description of any less restrictive alternatives that are available and that have been considered, and why they have been determined to be inappropriate.

SECTION 11m. 48.34 (intro.) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

48.34 Disposition of child adjudged delinquent. (intro.) If the judge adjudges a child delinquent, he or she shall enter an order deciding one or more of the dispositions of the case as provided in this section under a care and treatment plan. Subsections (4m) and (8) are exclusive dispositions, except that either disposition may be combined with the disposition under sub. (4p), (7m) or (15) ~~and the, a~~ disposition under sub. (4m) may be combined with ~~the a~~ disposition under sub. (5) ~~and a disposition under sub. (4m) must be combined with a disposition under sub. (4n).~~ The dispositions under this section are:

SECTION 12. 48.34 (4m) (intro.) of the statutes is amended to read:

48.34 (4m) (intro.) ~~Transfer legal custody to the department for placement~~ Place the child in a secured correctional facility under the supervision of the department, but only if:

SECTION 13. 48.34 (4n) of the statutes is created to read:

48.34 (4n) Subject to any arrangement between the department and a county department regarding the provision of aftercare supervision for children, designate one of the following to provide aftercare supervision for the child following the child's release from a secured correctional facility:

(a) The department.

(b) The county department of the county of the court that placed the child in the secured correctional facility.

(c) The county department of the child's county of legal residence.

SECTION 14. 48.345 (1) (a) of the statutes is amended to read:

48.345 (1) (a) ~~Transfer the custody of~~ Place the child ~~to the department in a secured correctional facility.~~

SECTION 15. 48.355 (4) (a) of the statutes is amended to read:

48.355 (4) (a) Except as provided under par. (b) or s. 48.362, all orders under this section shall terminate at the end of one year unless the judge specifies a shorter period of time. Except if s. 48.362 applies, extensions or revisions shall terminate at the end of one year unless the judge specifies a shorter period of time. No extension under s. 48.365 of an original dispositional order may be granted for a child ~~whose legal custody has been transferred to who is under the supervision of~~ the department under s. 48.34 (4m) ~~or (4n) or under the supervision of a county department under s. 48.34 (4n)~~ if the child is 18 years of age or older when the original dispositional order terminates. Any order made before the child reaches the age of majority shall be effective for a time up to one year after its entry unless the judge specifies a shorter period of time.

SECTION 16. 48.357 (3) of the statutes is amended to read:

48.357 (3) If the proposed change in placement would involve placing ~~the a child with the department, other than a child on aftercare, in a secured correctional facility,~~ notice shall be given as provided in sub. (1). A hearing shall be held, unless waived by the child, parent, guardian and legal custodian, before the judge makes a decision on the request. The child shall be entitled to counsel at the hearing, and any party opposing or favoring the proposed new placement may present relevant evidence and cross-examine witnesses. The proposed new placement may be approved only if the judge finds, on the record, that the conditions set forth in s. 48.34 (4m) have been met.

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SECTION 17m. 48.357 (4) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

48.357 (4) When the child is placed with the department, the department may, after an examination under s. 48.50, place the child in a secured correctional facility or place the child on aftercare or corrective sanctions supervision, either immediately or after a period of placement in a secured correctional facility. The department shall send written notice of the change to the parent, guardian, legal custodian, county department designated under s. 48.34 (4n), if any, and committing court.

SECTION 18. 48.357 (4g) of the statutes is created to read:

48.357 (4g) (a) Not later than 120 days after the date on which the child is placed in a secured correctional facility, or not less than 30 days before the date on which the department determines that the child is eligible for release to aftercare supervision, whichever is earlier, the aftercare provider designated under s. 48.34 (4n) shall prepare an aftercare plan for the child. If the aftercare provider designated under s. 48.34 (4n) is a county department, that county department shall submit the aftercare plan to the department within the time limits specified in this paragraph, unless the department waives those time limits under par. (b).

(b) The department may waive the time period within which an aftercare plan must be prepared and submitted under par. (a) if the department anticipates that the child will remain in the secured correctional facility for a period exceeding 8 months, if the child is subject to extended jurisdiction under s. 48.366 or if the child is under corrective sanctions supervision under s. 48.533. If the department has waived the time period within which an aftercare plan must be prepared and submitted and if there will be a reasonable time period after release from the secured correctional facility or from corrective sanctions supervision during which the child may remain subject to court jurisdiction, the department shall notify the county department providing aftercare supervision of the anticipated release date not less than 60 days before the date on which the child will be eligible for release. If the department waives the time limits specified under par. (a), the aftercare plan shall be prepared by the department or prepared and submitted by the county department providing aftercare supervision on or before the date on which the child becomes eligible for release.

(c) An aftercare plan prepared under par. (a) or (b) shall include all of the following:

1. The minimum number of supervisory contacts per week.
2. The conditions, if any, under which the child's aftercare status may be revoked.
3. Services or programming to be provided to the child while on aftercare.
4. The estimated length of time that aftercare supervision and services shall be provided to the child.

(d) A child may be released from a secured correctional facility or from corrective sanctions supervision whether or not an aftercare plan has been prepared under this subsection.

SECTION 19m. 48.357 (5) of the statutes, as affected by 1993 Wisconsin Act 16, is renumbered 48.357 (5) (a) and amended to read:

48.357 (5) (a) ~~If a child placed with the department has been released to aftercare or corrective sanctions supervision, revocation~~ The department or a county department, whichever has been designated as a child's aftercare provider under s. 48.34 (4n), may revoke the aftercare status of that child. The department may revoke a child's placement in the community under corrective sanctions supervision. Revocation of aftercare or corrective sanctions supervision shall not require prior notice under sub. (1).

(b) A child on aftercare status may be taken into custody only as provided in ss. 48.19 to 48.21. A child under corrective sanctions supervision may be taken into custody under ss. 48.19 to 48.21 or under s. 48.533 (3).

(c) The child shall be entitled to representation by counsel at all stages of the revocation proceeding. The

~~(d) A hearing on the revocation~~ shall be conducted by the division of hearings and appeals in the department of administration within 30 days after the child is taken into custody for an alleged violation of the conditions of the child's aftercare or corrective sanctions supervision. This time limit may be waived only upon the agreement of the aftercare or corrective sanctions provider, the child and the child's counsel.

~~(f) Review of a revocation decision shall be by certiorari to the court by whose order the child was placed with the department in a secured correctional facility.~~

SECTION 20. 48.357 (5) (e) and (g) of the statutes are created to read:

48.357 (5) (e) If the hearing examiner finds that the child has violated a condition of aftercare or corrective sanctions supervision, the hearing examiner shall determine whether confinement in a secured correctional facility is necessary to protect the public or to provide for the child's rehabilitation.

(g) The department shall promulgate rules setting standards to be used by a hearing examiner to determine whether to revoke a child's aftercare or corrective sanctions status. The standards shall specify that the burden is on the department or county department seeking revocation to show by a preponderance of the evidence that the child violated a condition of aftercare or corrective sanctions supervision.

SECTION 21. 48.366 (1) (intro.) of the statutes is amended to read:

48.366 (1) **APPLICABILITY.** (intro.) If the person committed any crime specified under s. 940.01, 940.02, 940.05, 940.21 or 940.225 (1) (a) to (c), 948.03 or 948.04, is adjudged delinquent on that basis and is ~~transferred to~~

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the legal custody of the department placed in a secured correctional facility under s. 48.34 (4m), the court shall enter an order extending its jurisdiction as follows:

SECTION 22. 48.366 (5) (a) 2. of the statutes is amended to read:

48.366 (5) (a) 2. The department or county department having legal custody ordered under s. 48.34 (4n) to provide aftercare supervision of the person.

SECTION 23. 48.366 (6) (a) 2. of the statutes is amended to read:

48.366 (6) (a) 2. The department or ~~the~~ county department having legal custody ordered under s. 48.34 (4n) to provide aftercare supervision of the person.

SECTION 24. 48.366 (6) (c) 2. of the statutes is amended to read:

48.366 (6) (c) 2. At the time a person subject to an order files a petition under par. (a), he or she shall provide written notice of the petition to the department or county department, whichever has legal custody been ordered under s. 48.34 (4n) to provide aftercare supervision of the person.

SECTION 25. 48.366 (8) of the statutes is amended to read:

48.366 (8) TRANSFER TO OR BETWEEN FACILITIES. The department may transfer a person subject to an order between secured correctional facilities. After the person attains the age of 18 years, the department may, after consulting with the department of corrections, place the person in a state prison named in s. 302.01. ~~Regardless of the placement, the person remains in the legal custody of the department of health and social services.~~ The department of corrections may transfer a person placed in a state prison under this subsection to or between state prisons named in s. 302.01 without petitioning for revision of the order under sub. (5) (a).

SECTION 26. 48.38 (3) (a) of the statutes is amended to read:

48.38 (3) (a) If the child is alleged to be delinquent and is being held in a secure detention facility, juvenile portion of a county jail or shelter care facility, and the agency intends to recommend that custody of the child be ~~transferred to the department for placement~~ placed in a secured correctional facility, the agency is not required to submit the permanency plan unless the court does not accept the agency's recommendation. If the court places the child in any facility outside of ~~his or her~~ the child's home other than a secured correctional facility, the agency shall file the permanency plan with the court within 60 days after the date of disposition.

SECTION 27. 48.48 (4) of the statutes is amended to read:

48.48 (4) To provide appropriate care and training for children in its legal custody or under its supervision under s. 48.34 (4m) or (4n); including serving those children in their own homes, placing them in licensed foster homes in accordance with s. 48.63 or licensed group

homes, contracting for their care by licensed child welfare agencies or replacing them in juvenile correctional institutions in accordance with rules promulgated under ch. 227, except that the department shall not purchase the educational component of private day treatment programs for children in its custody 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.

SECTION 28. 48.48 (4m) (b) of the statutes is amended to read:

48.48 (4m) (b) Was ~~when he or she reached age 18 in the legal custody of the department or under its supervision under s. 48.34 (4m) or (4n) when the person reached 18 years of age;~~

SECTION 29. 48.48 (5) of the statutes is amended to read:

48.48 (5) To provide for the moral and religious training of ~~children~~ a child in its legal custody or under its supervision under s. 48.34 (4m) or (4n) according to the religious belief of the child or of the child's parents.

SECTION 30. 48.48 (6) of the statutes is amended to read:

48.48 (6) To consent to emergency surgery under the direction of a licensed physician or surgeon for any child in its legal custody or under its supervision under s. 48.34 (4m) or (4n) upon notification by a licensed physician or surgeon of the need for such surgery and if reasonable effort, compatible with the nature and time limitation of the emergency, has been made to secure the consent of the child's parent or guardian.

SECTION 31. 48.48 (14) of the statutes is amended to read:

48.48 (14) To pay maintenance, tuition and related expenses from the appropriations under s. 20.435 (3) (ho) and (7) (dd) for persons who when they reached 18 years of age were students regularly attending a school, college or university or regularly attending a course of vocational or technical training designed to fit them for gainful employment, and who when reaching that age were in the legal custody of the department or under its supervision under s. 48.34 (4m) or (4n) as a result of a judicial decision.

SECTION 32. 48.49 of the statutes is amended to read:

48.49 (title) Notification by court of placement with department; information for department. (1) When the court ~~transfers legal custody of~~ places a child ~~to the department in a secured correctional facility,~~ the court shall immediately notify the department of that action. The court shall, in accordance with procedures established by the department, provide transportation for the child to a receiving center designated by the department or deliver the child to personnel of the department.

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(2) When the court transfers legal custody of places a child to the department in a secured correctional facility, the court shall also immediately transfer to the department a copy of the report submitted to it under s. 48.33 and shall immediately notify the child's last school district in writing of its obligation under s. 118.125 (4).

(3) The court and all other public agencies shall furnish the department on request all pertinent data in their possession regarding the a child whose legal custody is transferred to the department who has been placed in a secured correctional facility, including the information specified in sub. (2), within 5 working days of the request.

SECTION 33. 48.50 (title) of the statutes is amended to read:

48.50 (title) Examination of children in legal custody or under supervision of department of health and social services.

SECTION 34m. 48.50 (1) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

48.50 (1) The department shall examine all children who are placed under its supervision under s. 48.34 (4m) or (4n) or whose legal custody is transferred to it by the court to determine the type of placement best suited to the child and, in the case of children who have violated a state law, to the protection of the public. This examination shall include an investigation of the personal and family history of the child and his or her environment, any physical or mental examinations considered necessary to determine the type of placement that is necessary for the child and the evaluation under s. 48.533 (1) or (2) to determine whether the child is eligible for corrective sanctions supervision.

SECTION 35. 48.505 of the statutes is created to read:

48.505 Children placed in a secured correctional facility. The department shall have the right and duty to protect, train, discipline, treat and confine a child who is placed in a secured correctional facility under s. 48.34 (4m), 48.357 (4) or (5) (e) or 48.366, and to provide food, shelter, legal services, education and ordinary medical and dental care for the child, subject to the rights, duties and responsibilities of the guardian of the child and subject to any residual parental rights and responsibilities and the provisions of any court order.

SECTION 36m. 48.51 (1) (intro.) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

48.51 (1) (intro.) At least 15 days prior to the date of release of a child from ~~its legal custody or release of a child to an aftercare or corrective sanctions placement~~ a secured correctional facility, the department shall:

SECTION 36p. 48.51 (1) (b) (intro.) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

48.51 (1) (b) (intro.) Notify any known victim of an act for which the child has been found delinquent of the child's release ~~from departmental legal custody or release~~

to an aftercare or corrective sanctions placement, if all of the following apply:

SECTION 37. 48.52 (2) (a) and (c) of the statutes are amended to read:

48.52 (2) (a) In addition to the facilities and services described in sub. (1), the department may use other facilities and services under its jurisdiction. The department may also contract for and pay for the use of other public facilities or private facilities for the care and treatment of children in its care; but placement of children in private or public facilities not under its jurisdiction does not terminate the legal custody or supervision under s. 48.34 (4m) or (4n) of the department. Placements in institutions for the mentally ill or developmentally disabled shall be made in accordance with ss. 48.14 (5) and 48.63 and ch. 51.

(c) The department shall have the right to inspect all facilities it is using and to examine and consult with persons in its legal custody or under its supervision under s. 48.34 (4m) or (4n) who have been placed in that facility.

SECTION 38. 48.53 of the statutes is amended to read:

48.53 (title) Duration of control of department over delinquents. Except as provided under s. 48.366, all children adjudged delinquent, ~~whose legal custody has been transferred to the~~ who have been placed under the supervision of the department, under s. 48.34 (4m) or (4n) shall be discharged as soon as the department determines that there is a reasonable probability that it is no longer necessary either for the rehabilitation and treatment of the child or for the protection of the public that the department retain legal custody supervision.

SECTION 38m. 48.533 (3) of the statutes, as created by 1993 Wisconsin Act 16, is amended to read:

48.533 (3) INSTITUTIONAL STATUS. A participant in the pilot program under sub. (1) or the program under sub. (2) remains ~~in the legal custody~~ under the supervision of the department, remains subject to the rules and discipline of that department and is considered to be in custody, as defined in s. 946.42 (1) (a). Notwithstanding ss. 48.19 to 48.21, if a child violates a condition of that child's participation in the pilot program under sub. (1) or the program under sub. (2) the department may, without a hearing, take the child into custody and return the child to placement in a secured correctional facility for up to 72 hours as a sanction for that violation. If the child is returned to a secured correctional facility, for longer than 72 hours, the child is entitled to a hearing under s. 48.357 (5). If a child runs away from the child's placement in the community while participating in the pilot program under sub. (1) or the program under sub. (2), that child is considered to have escaped in violation of s. 946.42 (3) (c).

SECTION 39. 48.54 of the statutes is amended to read:

48.54 Records. The department shall keep a complete record on each child in its legal custody or under its

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supervision under s. 48.34 (4m) or (4n). This record shall include the information received from the court, the date of reception, all available data on the personal and family history of the child, the results of all tests and examinations given the child, and a complete history of all placements of the child while in the legal custody or under the supervision of the department.

SECTION 40. 48.57 (4) of the statutes is created to read:

48.57 (4) A county department may provide aftercare supervision under s. 48.34 (4n) for children who are released from secured correctional facilities. If a county department intends to change its policy regarding whether the county department or the department shall provide aftercare supervision for children released from secured correctional facilities, the county executive or county administrator, or, if the county has no county executive or county administrator, the chairperson of the county board of supervisors, or, for multicounty departments, the chairpersons of the county boards of supervisors jointly, shall submit a letter to the department stating that intent before July 1 of the year preceding the year in which the policy change will take effect.

SECTION 41. 48.59 (1) of the statutes is amended to read:

48.59 (1) The county department shall investigate the personal and family history and environment of any child transferred to its legal custody or placed under its supervision under s. 48.34 (4n) and make any physical or mental examinations of the child considered necessary to determine the type of care necessary for the child. The county department shall keep a complete record of the information received from the court, the date of reception, all available data on the personal and family history of the child, the results of all tests and examinations given the child and a complete history of all placements of the child while in the legal custody or under the supervision of the county agency department.

SECTION 42. 48.595 of the statutes is created to read:

48.595 Duration of control of county departments over delinquents. Except as provided in s. 48.366, a child who has been adjudged delinquent and placed under the supervision of a county department under s. 48.34 (4n) shall be discharged as soon as the county department determines that there is a reasonable probability that it is no longer necessary either for the rehabilitation and treatment of the child or for the protection of the public that the county department retain supervision.

SECTION 43. 48.78 (2) (d) (intro.) of the statutes is amended to read:

48.78 (2) (d) (intro.) Paragraph (a) does not prohibit the department or a county department from disclosing information about an individual formerly ~~in its legal custody under the supervision of the department~~ under s. 48.34 (4m) or formerly under the supervision of the department or county department under s. 48.34 (4n) to

the department of corrections, if the individual is at the time of disclosure any of the following:

SECTION 44. 118.125 (4) of the statutes is amended to read:

118.125 (4) **TRANSFER OF RECORDS.** Within 5 working days, a school district shall transfer to another school or school district all pupil records relating to a specific pupil if the transferring school district has received written notice from the pupil if he or she is an adult or his or her parent or guardian if the pupil is a minor that the pupil intends to enroll in the other school or school district or written notice from the other school or school district that the pupil has enrolled or from a court that ~~legal custody of the pupil has been transferred to the department of health and social services for placement placed~~ in a juvenile correctional facility. In this subsection, “school” and “school district” include any state juvenile correctional facility which provides an educational program for its residents instead of or in addition to that which is provided by public and private schools.

SECTION 45. 146.81 (5) of the statutes is amended to read:

146.81 (5) “Person authorized by the patient” means the parent, guardian or legal custodian of a minor patient, as defined in s. 48.02 (8) and (11), the person vested with supervision of the child under s. 48.34 (4m) or (4n), the guardian of a patient adjudged incompetent, as defined in s. 880.01 (3) and (4), the personal representative or spouse of a deceased patient, any person authorized in writing by the patient or a health care agent designated by the patient as a principal under ch. 155 if the patient has been found to be incapacitated under s. 155.05 (2), except as limited by the power of attorney for health care instrument. If no spouse survives a deceased patient, “person authorized by the patient” also means an adult member of the deceased patient’s immediate family, as defined in s. 632.895 (1) (d). A court may appoint a temporary guardian for a patient believed incompetent to consent to the release of records under this section as the person authorized by the patient to decide upon the release of records, if no guardian has been appointed for the patient.

SECTION 46m. 302.31 of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

302.31 Use of jails. The county jail may be used for the detention of persons charged with crime and committed for trial; for the detention of persons committed to secure their attendance as witnesses; to imprison persons committed pursuant to a sentence or held in custody by the sheriff for any cause authorized by law; for the detention of persons sentenced to imprisonment in state penal institutions or the Milwaukee county house of correction, until they are removed to said institutions; for the detention of persons participating in the intensive sanctions program; for the temporary detention of persons in the custody of the department; and for other detentions authorized by law. The county jail may be used for the

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temporary placement of persons in the custody of the department, and persons who have attained the age of 18 years but have not attained the age of 25 years who are in the legal custody under the supervision of the department of health and social services under s. 48.355 (4) or 48.366 and who have been taken into custody pending revocation of aftercare supervision under s. 48.357 (5) (e) or 48.366 (5) or corrective sanctions supervision under s. 48.357 (5) (e).

SECTION 47. 304.07 of the statutes is amended to read:

304.07 Early release and intensive supervision program; limits. The department may establish a program for the early release and intensive supervision of children who have had their legal custody transferred under s. 48.34 (4m) to the department for placement been placed in a secured correctional facility under s. 48.34 (4m). The program may not include any children who have been placed in a secured correctional facility as a result of a delinquent act involving the commission of a violent crime as defined in s. 969.035, but not including the crime specified in s. 948.02 (1).

SECTION 49c. 946.42 (1) (a) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

946.42 (1) (a) "Custody" includes without limitation actual custody of an institution, including a secured juvenile correctional facility, a secure detention facility, as defined under s. 48.02 (16), or a juvenile portion of a county jail, or of a peace officer or institution guard and constructive custody of prisoners and juveniles subject to an order under s. 48.34 (4m), 48.357 (4) or (5) (e) or 48.366 temporarily outside the institution whether for the purpose of work, school, medical care, a leave granted under s. 303.068, a temporary leave or furlough granted to a juvenile or otherwise. Under s. 303.08 (6) it means, without limitation, that of the sheriff of the county to which the prisoner was transferred after conviction. "Custody" also includes the custody by the department of health and social services of a child who is placed in the community under corrective sanctions supervision under s. 48.533. It does not include the custody of a probationer or parolee by the department of corrections or a probation or parole officer or the custody of a person who has been released to aftercare supervision under ch. 48 unless the person is in actual custody.

SECTION 49m. 946.42 (3) (c) of the statutes is amended to read:

946.42 (3) (c) Subject to a disposition under s. 48.34 (4m), to a placement under s. 48.357 (4) or to aftercare revocation under s. 48.357 (5) (e).

SECTION 50. 946.44 (2) (d) of the statutes is amended to read:

946.44 (2) (d) "Prisoner" includes a person who is committed to the custody of the department of health and social services placed in a secured correctional facility under s. 48.34 (4m) or 48.357 (4) or (5) (e) or who is subject to an order under s. 48.366.

SECTION 51. 946.45 (2) (d) of the statutes is amended to read:

946.45 (2) (d) "Prisoner" includes a person who is committed to the custody of the department of health and social services placed in a secured correctional facility under s. 48.34 (4m) or 48.357 (4) or (5) (e) or who is subject to an order under s. 48.366.

SECTION 52. 946.46 of the statutes is amended to read:

946.46 Encouraging violation of probation or parole. Whoever intentionally aids or encourages a parolee or probationer or any person committed to the custody or supervision of the department of corrections or the department of health and social services or a county department under s. 46.215, 46.22 or 46.23 by reason of crime or delinquency to abscond or violate a term or condition of parole or probation is guilty of a Class A misdemeanor.

SECTION 53m. Nonstatutory provisions; administrative rules. The department of health and social services shall submit in proposed form the rules required under section 48.357 (5) (g) of the statutes, as created by this act, to the legislative council staff under section 227.15 (1) of the statutes by no later than July 1, 1995.

SECTION 55. Initial applicability. The treatment of section 48.23 (1) (ar) of the statutes, the amendment of section 48.357 (5) of the statutes and the creation of section 48.357 (5) (e) and (g) of the statutes first apply to persons placed in a secured correctional facility under section 48.34 (4m) of the statutes who have been released on aftercare on the effective date of this SECTION.

SECTION 56. Effective date. This act takes effect on July 1, 1995.