



State of Wisconsin  
2005 - 2006 LEGISLATURE

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**SENATE SUBSTITUTE AMENDMENT 1,  
TO 2005 SENATE BILL 284**

September 19, 2005 – Offered by COMMITTEE ON HEALTH, CHILDREN, FAMILIES, AGING  
AND LONG TERM CARE.

1     **AN ACT** *to repeal* 48.981 (1) (fm); *to renumber and amend* 48.21 (1) (b), 48.43  
2           (2), 48.981 (3) (a) 2. and 48.981 (3) (c) 1.; *to amend* 48.02 (15), 48.21 (1) (a),  
3           48.371 (1) (intro.), 48.371 (1) (a), 48.371 (1) (b), 48.371 (1) (c), 48.371 (3) (intro.),  
4           48.371 (3) (a), 48.371 (3) (b), 48.371 (3) (c), 48.371 (3) (d), 48.425 (1) (f), 48.425  
5           (1) (g), 48.427 (3m) (a) 1., 48.428 (2) (a), 48.428 (2) (b), 48.43 (5) (c), 48.57 (3m)  
6           (a) 2., 48.57 (3n) (a) 2., 48.62 (2), 48.65 (2) (a), 48.75 (1g) (a) 1., 48.92 (2), 48.981  
7           (1) (d), 48.981 (3) (c) 4., 938.02 (15), 938.371 (1) (intro.), 938.371 (1) (a), 938.371  
8           (1) (b), 938.371 (1) (c), 938.371 (3) (intro.), 938.371 (3) (a), 938.371 (3) (b),  
9           938.371 (3) (c) and 938.371 (3) (d); and *to create* 48.21 (1) (b) 1., 48.371 (4),  
10          48.371 (5), 48.427 (3m) (am), 48.43 (2) (a), 48.43 (2) (b), 48.981 (3) (a) 2. a., 48.981  
11          (3) (a) 2. b., 48.981 (3) (a) 2. c., 48.981 (3) (a) 2. d., 48.981 (3) (a) 2d., 938.371 (4)  
12          and 938.371 (5) of the statutes; **relating to:** the investigation of child abuse  
13          reports in which a person who is not a caregiver of the child is suspected of the

1 abuse of the child; defining the persons who are considered to be relatives of a  
2 child or juvenile for purposes of the Children’s Code and the Juvenile Justice  
3 Code; extending the time for which a child may be held in custody when  
4 additional time is required to determine whether the filing of a petition  
5 initiating proceedings under the Children’s Code is necessary; the provision of  
6 certain information to a relative of a child when the child is placed in the home  
7 of the relative; the status of a child’s relatives following a termination of  
8 parental rights; and the transfer of guardianship and custody of a child to a  
9 county department of human services or social services in a county other than  
10 Milwaukee County for the placement of a child for adoption in the home of the  
11 child’s foster or treatment foster parents.

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

This substitute amendment makes various changes to the Children’s Code and the Juvenile Justice Code relating to the investigation of child abuse reports in which a person who is not a caregiver of the child is suspected of the abuse of the child; defining the persons who are considered to be relatives of a child or juvenile for purposes of the Children’s Code and the Juvenile Justice Code; extending the time for which a child may be held in custody when additional time is required to determine whether the filing of a petition initiating proceedings under the Children’s Code is necessary; and the transfer of guardianship and custody of a child to a county department of human services or social services (county department) in a county other than Milwaukee County for placement of the child for adoption in the home of the child’s foster or treatment foster parents. The changes are as follows:

***Child abuse investigations of noncaregivers***

Under current law, certain persons having reasonable cause to suspect that a child seen in the course of professional duties has been abused or neglected or having reason to believe that a child seen in the course of professional duties has been threatened with abuse or neglect and that abuse or neglect of the child will occur must report that suspected or threatened abuse or neglect to the county department of human services or social services or, in Milwaukee County, to the Department of Health and Family Services (DHFS) or a child welfare agency under contract with DHFS (collectively “agency”) or to the sheriff or police department. Current law also permits any other person having reason to suspect that a child has been abused or

neglected or reason to believe that a child has been threatened with abuse or neglect and that abuse or neglect of the child will occur to make such a report.

Current law requires the sheriff or police department to refer to an agency all cases of child abuse or neglect reported to it and the agency, within 24 hours after receiving a report, to initiate a diligent investigation to determine if the child is in need of protection or services. Current law also specifies certain procedures that an agency must follow in investigating cases in which there is reason to suspect that the child was abused or neglected, or was threatened with abuse or neglect, by a caregiver, which is defined under current law as a relative, guardian, or legal custodian of the child; a person who resides or has resided regularly or intermittently in the same dwelling as the child; an employee of a residential facility or a residential care center for children and youth in which the child was or is placed; a person who provides or has provided care for the child in or outside of the child's home; or any other person who exercises or has exercised temporary or permanent control or supervision over the child.

This substitute amendment permits, rather than requires, the sheriff or police department to refer to an agency a case in which a person who is not a caregiver of a child is suspected of the abuse, or of the threatened abuse, of the child and permits, rather than requires, the agency to initiate a diligent investigation to determine if the child is in need of protection or services. In cases in which a caregiver is suspected of the abuse or neglect, or of the threatened abuse or neglect, of a child, in which a caregiver is suspected of facilitating or failing to take action to prevent the suspected or threatened abuse or neglect of a child, or in which it cannot be determined who abused or neglected a child, the sheriff or police department must refer the case to an agency and the agency must investigate the case as under current law.

#### ***Definition of "relative" in Children's Code and Juvenile Justice Code***

Currently, for purposes of the Children's Code and the Juvenile Justice Code, a "relative" of a child or juvenile is defined as a parent, grandparent, greatgrandparent, stepparent, brother, sister, first cousin, nephew, niece, uncle, or aunt, whether the relationship is by blood, marriage, or adoption. For the purpose of determining eligibility to receive kinship care or long-term kinship care payments for providing care and maintenance for a child, for the purpose of determining eligibility to be appointed as the guardian of a child in need of protection or services, and for the purpose of exempting a relative who is providing care and maintenance for a child from having to obtain a foster home license, the definition is expanded to include a stepbrother or stepsister, any person of a preceding generation as denoted by the prefix grand, great, or great-great, and the spouse of any relative, even if the marriage is terminated by death or divorce. The definition is also expanded for purposes of investigating any suspected or threatened abuse or neglect of a child by a caregiver of the child to include a second cousin, stepgrandparent, stepbrother, stepsister, half brother, half sister, brother-in-law, sister-in-law, stepuncle, or steppaunt.

This substitute amendment expands the definitions of a "relative" of a child or juvenile for purposes of the Children's Code and the Juvenile Justice Code, other than for purposes of day care licensing, to include, in addition to the relatives

currently listed in those definitions, a stepbrother, stepsister, half brother, half sister, brother-in-law, sister-in-law, second cousin, stepuncle, stepaunt, any person of a preceding generation as denoted by the prefix grand, great, or great-great, and the spouse of any relative, even if the marriage is terminated by death or divorce. The substitute amendment also conforms the various other definitions of “relative” found in the Children’s Code to the expanded definition, except that under the substitute amendment the definitions of “kinship care relative,” “long-term kinship care relative,” and “relative,” for purposes of eligibility to be appointed as the guardian of a child in need of protection or services, do not include a parent of the child.

### ***Holding a child in custody***

Under current law, if a child who has been taken into custody under the Children’s Code is not released, a judge of the court assigned to exercise jurisdiction under the Children’s Code (juvenile court) or a circuit court commissioner must conduct a hearing within 48 hours of the time the decision to hold the child in custody was made, exclusive of Saturdays, Sundays, and legal holidays, and a petition initiating proceedings under the Children’s Code must be filed by the time of the hearing. If a hearing is not held within the time required or if a petition is not filed by the time of the hearing, the child must be released, except that if a hearing is held, but no petition is filed, the child may be held in custody for an additional 72 hours, exclusive of Saturdays, Sundays, and legal holidays, if the juvenile court judge or circuit court commissioner determines that probable cause exists to believe that the child is an imminent danger to himself or herself or others or that the child’s parent, guardian, or legal custodian or another responsible adult is neglecting, refusing, unable, or unavailable to provide adequate supervision and care for the child.

This substitute amendment permits a child to be held in custody for an additional 72 hours, when no petition is filed by the time of the custody hearing, if the juvenile court judge or circuit court commissioner determines that probable cause exists to believe that additional time is required to determine whether the filing of a petition initiating proceedings under the Children’s Code is necessary.

### ***Provision of information to relative caregivers***

Under current law, a permanency plan, which is a plan designed to ensure that a child is reunified with his or her family whenever appropriate or that the child quickly attains a placement or home providing long-term stability, must be prepared for a child who is living in a foster home, treatment foster home, group home, or residential care center for children and youth (RCC), whether under a voluntary agreement or an order of the juvenile court, or in the home of a relative under an order of the juvenile court. Currently, certain information from a child’s permanency plan and certain medical information must be provided to the child’s foster parent, treatment foster parent, or operator of the group home or RCC in which the child is placed at the time of placement. This information includes information relating to any mental, emotional, cognitive, developmental, or behavioral disability of the child; any involvement of the child in a criminal gang; any involvement of the child in any activities that are harmful to the child’s physical, mental, or moral well-being; any involvement of the child, whether as victim or perpetrator, in certain sex crimes;

the religious affiliation or belief of the child; the results of any tests of the child for human immunodeficiency virus or viral hepatitis, type B; and any other medical information concerning the child that is necessary for the care of the child

This substitute amendment requires the information to be provided also to a relative in whose home a child is placed and permits the information to be provided before the child is placed.

***Status of relative following TPR***

Under current law, a TPR order permanently severs all legal rights and duties between the parent whose parental rights have been terminated and the child. A TPR order also results in the legal severance of the relationship between the child and the child's entire family. *State v. Margaret H.*, 234 Wis. 2d 606, 619 (2000).

This substitute amendment codifies that a TPR order permanently severs all legal rights and duties not only between the parent whose parental rights are terminated but also between all persons whose relationship to the child is derived through that parent except as follows:

1. The relationship between the child and his or her siblings is not severed until that relationship is extinguished by an order of adoption.
2. A relative whose relationship to the child is derived through the parent whose parental rights are terminated is considered to be a relative of the child for purposes of placement of, and permanency planning for, the child until that relationship is extinguished by an order of adoption.

***Placement of a child for adoption***

Under current law, if the parental rights of both parents or of the only living parent of a child are terminated, the juvenile court must do one of the following:

1. Transfer guardianship and custody of the child pending adoptive placement to a county department that is authorized to accept guardianship of a child, for purposes of placing a child for adoption, to a child welfare agency that is licensed to accept guardianship of a child and to place the child for adoption, to DHFS, to a relative with whom the child resides, or to an individual who has been appointed guardian of the child by a court of a foreign jurisdiction.
2. Transfer guardianship of the child to a county department, child welfare agency, or DHFS and custody of the child to a relative or to an individual in whose home the child has resided for at least 12 consecutive months immediately prior to the termination of parental rights (TPR).

This substitute amendment permits the juvenile court, following a TPR, to transfer guardianship and custody of a child to a county department of a county other than Milwaukee County for placement of the child for adoption by the child's foster parent or treatment foster parent, only if the county department has agreed to accept guardianship and custody of the child and the foster parent or treatment foster parent has agreed to adopt the child.

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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 (15) of the statutes is amended to read:

2           48.02 (15) “Relative” means a parent, ~~grandparent, greatgrandparent,~~  
3           stepparent, brother, sister, stepbrother, stepsister, half brother, half sister,  
4           ~~brother-in-law, sister-in-law,~~ first cousin, 2nd cousin, nephew, niece, uncle, or  
5           aunt. ~~This relationship shall be, stepuncle, stepaunt, or any person of a preceding~~  
6           generation as denoted by the prefix of grand, great, or great-great, whether by blood,  
7           marriage, or legal adoption, or the spouse of any person named in this subsection,  
8           even if the marriage is terminated by death or divorce.

9           **SECTION 2.** 48.21 (1) (a) of the statutes is amended to read:

10          48.21 (1) (a) If a child who has been taken into custody is not released under  
11          s. 48.20, a hearing to determine whether the child shall continue to be held in custody  
12          under the criteria of ss. 48.205 to 48.209 shall be conducted by the judge or a circuit  
13          court commissioner within 48 hours of the time the decision to hold the child was  
14          made, excluding Saturdays, Sundays, and legal holidays. By the time of the hearing  
15          a petition under s. 48.25 shall be filed, except that no petition need be filed ~~where a~~  
16          when the child is taken into custody under s. 48.19 (1) (b) or (d) 2. or 7. or ~~where~~ when  
17          the child is a runaway from another state, in which case a written statement of the  
18          reasons for holding ~~a~~ the child in custody shall be substituted if the petition is not  
19          filed. If no hearing has been held within 48 hours, excluding Saturdays, Sundays,  
20          and legal holidays, or if no petition or statement has been filed at the time of the  
21          hearing, the child shall be released except as provided in ~~par. (b)~~ pars. (b) and (bm).  
22          A parent not present at the hearing shall be granted a rehearing upon request for  
23          good cause shown.

24          **SECTION 3.** 48.21 (1) (b) of the statutes is renumbered 48.21 (1) (b) (intro.) and  
25          amended to read:

1           48.21 (1) (b) (intro.) If no petition has been filed by the time of the hearing, a  
2 child may be held in custody with approval of the judge or circuit court commissioner  
3 for an additional 72 hours from the time of the hearing, excluding Saturdays,  
4 Sundays, and legal holidays, only if, as a result of the facts brought forth at the  
5 hearing, the judge or circuit court commissioner determines that probable cause  
6 exists to believe ~~that~~ any of the following:

7           2. That the child is an imminent danger to himself or herself or to others, ~~that,~~

8           3. That probable cause exists to believe that the parent, guardian, or legal  
9 custodian of the child or other responsible adult is neglecting, refusing, unable, or  
10 unavailable to provide adequate supervision and care ~~or,~~

11           4. That, if the child is an expectant mother who was taken into custody under  
12 s. 48.19 (1) (cm) or (d) 8., ~~that~~ probable cause exists to believe that there is a  
13 substantial risk that if the child expectant mother is not held, the physical health of  
14 the unborn child, and of the child when born, will be seriously affected or endangered  
15 by the child expectant mother's habitual lack of self-control in the use of alcohol  
16 beverages, controlled substances, or controlled substance analogs, exhibited to a  
17 severe degree, and to believe that the child expectant mother is refusing or has  
18 refused to accept any alcohol or other drug abuse services offered to her or is not  
19 making or has not made a good faith effort to participate in any alcohol or other drug  
20 abuse services offered to her. The

21           **(bm)** An extension under par. (b) may be granted only once for any petition. In  
22 the event of failure to file a petition within the extension period provided for in ~~this~~  
23 ~~paragraph~~ par. (b), the judge or circuit court commissioner shall order the child's  
24 immediate release from custody.

25           **SECTION 4.** 48.21 (1) (b) 1. of the statutes is created to read:

1           48.21 (1) (b) 1. That additional time is required to determine whether the filing  
2 of a petition initiating proceedings under this chapter is necessary.

3           **SECTION 5.** 48.371 (1) (intro.) of the statutes is amended to read:

4           48.371 (1) (intro.) If a child is placed in a foster home, treatment foster home,  
5 group home, or residential care center for children and youth or in the home of a  
6 relative other than a parent, including a placement under s. 48.205 or 48.21, the  
7 agency, as defined in s. 48.38 (1) (a), that placed the child or arranged for the  
8 placement of the child shall provide the following information to the foster parent,  
9 treatment foster parent, relative, or operator of the group home or residential care  
10 center for children and youth at the time of placement or, if the information has not  
11 been provided to the agency by that time, as soon as possible after the date on which  
12 the agency receives that information, but not more than 2 working days after that  
13 date:

14           **SECTION 6.** 48.371 (1) (a) of the statutes is amended to read:

15           48.371 (1) (a) Results of a test or a series of tests of the child to determine the  
16 presence of HIV, as defined in s. 968.38 (1) (b), antigen or nonantigenic products of  
17 HIV, or an antibody to HIV, as provided under s. 252.15 (5) (a) 19., including results  
18 included in a court report or permanency plan. At the time that the test results are  
19 provided, the agency shall notify the foster parent, treatment foster parent, relative,  
20 or operator of the group home or residential care center for children and youth of the  
21 confidentiality requirements under s. 252.15 (6).

22           **SECTION 7.** 48.371 (1) (b) of the statutes is amended to read:

23           48.371 (1) (b) Results of any tests of the child to determine the presence of viral  
24 hepatitis, type B, including results included in a court report or permanency plan.  
25 ~~The foster parent, treatment foster parent, or operator of a group home or residential~~



1 ~~care center for children and youth receiving information under this paragraph shall~~  
2 ~~keep the information confidential.~~

3 **SECTION 8.** 48.371 (1) (c) of the statutes is amended to read:

4 48.371 (1) (c) Any other medical information concerning the child that is  
5 necessary for the care of the child. ~~The foster parent, treatment foster parent, or~~  
6 ~~operator of a group home or residential care center for children and youth receiving~~  
7 ~~information under this paragraph shall keep the information confidential.~~

8 **SECTION 9.** 48.371 (3) (intro.) of the statutes is amended to read:

9 48.371 (3) (intro.) At the time of placement of a child in a foster home, treatment  
10 foster home, group home, or residential care center for children and youth or in the  
11 home of a relative other than a parent or, if the information is not available at that  
12 time, as soon as possible after the date on which the court report or permanency plan  
13 has been submitted, but no later than 7 days after that date, the agency, as defined  
14 in s. 48.38 (1) (a), responsible for preparing the child's permanency plan shall provide  
15 to the foster parent, treatment foster parent, relative, or operator of the group home  
16 or residential care center for children and youth information contained in the court  
17 report submitted under s. 48.33 (1), 48.365 (2g), 48.425 (1), 48.831 (2) or 48.837 (4)  
18 (c) or permanency plan submitted under s. 48.355 (2e), 48.38, 48.43 (1) (c) or (5) (c),  
19 48.63 (4) or (5) (c) or 48.831 (4) (e) relating to findings or opinions of the court or  
20 agency that prepared the court report or permanency plan relating to any of the  
21 following:

22 **SECTION 10.** 48.371 (3) (a) of the statutes is amended to read:

23 48.371 (3) (a) Any mental, emotional, cognitive, developmental, or behavioral  
24 disability of the child. ~~The foster parent, treatment foster parent, or operator of a~~

1 ~~group home or residential care center for children and youth receiving information~~  
2 ~~under this subsection shall keep the information confidential.~~

3 **SECTION 11.** 48.371 (3) (b) of the statutes is amended to read:

4 48.371 (3) (b) Any involvement of the child in any criminal gang, as defined in  
5 s. 939.22 (9), or in any other group in which any child was traumatized as a result  
6 of his or her association with that group. ~~The foster parent, treatment foster parent,~~  
7 ~~or operator of a group home or residential care center for children and youth~~  
8 ~~receiving information under this paragraph shall keep the information confidential.~~

9 **SECTION 12.** 48.371 (3) (c) of the statutes is amended to read:

10 48.371 (3) (c) Any involvement of the child in any activities that are harmful  
11 to the child's physical, mental, or moral well-being. ~~The foster parent, treatment~~  
12 ~~foster parent, or operator of a group home or residential care center for children and~~  
13 ~~youth receiving information under this paragraph shall keep the information~~  
14 ~~confidential.~~

15 **SECTION 13.** 48.371 (3) (d) of the statutes is amended to read:

16 48.371 (3) (d) Any involvement of the child, whether as victim or perpetrator,  
17 in sexual intercourse or sexual contact in violation of s. 940.225, 948.02, or 948.025,  
18 prostitution in violation of s. 944.30, sexual exploitation of a child in violation of s.  
19 948.05, or causing a child to view or listen to sexual activity in violation of s. 948.055,  
20 if the information is necessary for the care of the child or for the protection of any  
21 person living in the foster home, treatment foster home, group home, or residential  
22 care center for children and youth. ~~The foster parent, treatment foster parent, or~~  
23 ~~operator of a group home or residential care center for children and youth receiving~~  
24 ~~information under this paragraph shall keep the information confidential.~~

25 **SECTION 14.** 48.371 (4) of the statutes is created to read:

1           48.371 (4) Subsection (1) does not preclude an agency, as defined in s. 48.38 (1)  
2 (a), that is arranging for the placement of a child from providing the information  
3 specified in sub. (1) (a) to (c) to a person specified in sub. (1) (intro.) before the time  
4 of placement of the child. Subsection (3) does not preclude an agency, as defined in  
5 s. 48.38 (1) (a), responsible for preparing a child's court report or permanency plan  
6 from providing the information specified in sub. (3) (a) to (e) to a person specified in  
7 sub. (3) (intro.) before the time of placement of the child.

8           **SECTION 15.** 48.371 (5) of the statutes is created to read:

9           48.371 (5) Except as permitted under s. 252.15 (6), a foster parent, treatment  
10 foster parent, relative, or operator of a group home or residential care center for  
11 children and youth that receives any information under sub. (1) or (3), other than the  
12 information described in sub. (3) (e), shall keep the information confidential and may  
13 disclose that information only for the purposes of providing care for the child or  
14 participating in a court hearing or permanency plan review concerning the child.

15           **SECTION 16.** 48.425 (1) (f) of the statutes is amended to read:

16           48.425 (1) (f) If the report recommends that the parental rights of both of the  
17 child's parents or the child's only living or known parent are to be terminated, the  
18 report shall contain a statement of the likelihood that the child will be adopted. This  
19 statement shall be prepared by an agency designated in s. 48.427 (3m) (a) 1. to 4. or  
20 (am) and include a presentation of the factors ~~which~~ that might prevent adoption,  
21 those ~~which~~ that would facilitate its adoption, and the agency ~~which~~ that would be  
22 responsible for accomplishing the adoption.

23           **SECTION 17.** 48.425 (1) (g) of the statutes, as affected by 2005 Wisconsin Act 25,  
24 is amended to read:

1           48.425 (1) (g) If an agency designated under s. 48.427 (3m) (a) 1. to 4. or (am)  
2 determines that it is unlikely that the child will be adopted, or if adoption would not  
3 be in the best interests of the child, the report shall include a plan for placing the child  
4 in a permanent family setting. The plan shall include a recommendation as to the  
5 agency to be named guardian of the child, a recommendation that the person  
6 appointed as the guardian of the child under s. 48.977 (2) continue to be the guardian  
7 of the child, or a recommendation that a guardian be appointed for the child under  
8 s. 48.977 (2).

9           **SECTION 18.** 48.427 (3m) (a) 1. of the statutes is amended to read:

10           48.427 (3m) (a) 1. A county department authorized to accept guardianship  
11 under s. 48.57 (1) (e) ~~or (hm)~~.

12           **SECTION 19.** 48.427 (3m) (am) of the statutes is created to read:

13           48.427 (3m) (am) Transfer guardianship and custody of the child to a county  
14 department authorized to accept guardianship under s. 48.57 (1) (hm) for placement  
15 of the child for adoption by the child's foster parent or treatment foster parent, if the  
16 county department has agreed to accept guardianship and custody of the child and  
17 the foster parent or treatment foster parent has agreed to adopt the child.

18           **SECTION 20.** 48.428 (2) (a) of the statutes is amended to read:

19           48.428 (2) (a) Except as provided in par. (b), when a court places a child in  
20 sustaining care after an order under s. 48.427 (4), the court shall transfer legal  
21 custody of the child to the county department, the department, in a county having  
22 a population of 500,000 or more, or a licensed child welfare agency, transfer  
23 guardianship of the child to an agency listed in s. 48.427 (3m) (a) 1. to 4. or (am) and  
24 place the child in the home of a licensed foster parent, licensed treatment foster  
25 parent, or kinship care relative with whom the child has resided for 6 months or

1 longer. Pursuant to such a placement, this licensed foster parent, licensed treatment  
2 foster parent, or kinship care relative shall be a sustaining parent with the powers  
3 and duties specified in sub. (3).

4 **SECTION 21.** 48.428 (2) (b) of the statutes is amended to read:

5 48.428 (2) (b) When a court places a child in sustaining care after an order  
6 under s. 48.427 (4) with a person who has been appointed as the guardian of the child  
7 under s. 48.977 (2), the court may transfer legal custody of the child to the county  
8 department, the department, in a county having a population of 500,000 or more, or  
9 a licensed child welfare agency, transfer guardianship of the child to an agency listed  
10 in s. 48.427 (3m) (a) 1. to 4. or (am) and place the child in the home of a licensed foster  
11 parent, licensed treatment foster parent, or kinship care relative with whom the  
12 child has resided for 6 months or longer. Pursuant to such a placement, that licensed  
13 foster parent, licensed treatment foster parent, or kinship care relative shall be a  
14 sustaining parent with the powers and duties specified in sub. (3). If the court  
15 transfers guardianship of the child to an agency listed in s. 48.427 (3m) (a) 1. to 4.  
16 or (am), the court shall terminate the guardianship under s. 48.977.

17 **SECTION 22.** 48.43 (2) of the statutes is renumbered 48.43 (2) (intro.) and  
18 amended to read:

19 48.43 (2) (intro.) An order terminating parental rights permanently severs all  
20 legal rights and duties between the parent whose parental rights are terminated and  
21 the child. and between the child and all persons whose relationship to the child is  
22 derived through that parent, except as follows:

23 **SECTION 23.** 48.43 (2) (a) of the statutes is created to read:

1           48.43 (2) (a) The relationship between the child and his or her siblings is not  
2 severed until that relationship is extinguished by an order of adoption as provided  
3 in s. 48.92 (2).

4           **SECTION 24.** 48.43 (2) (b) of the statutes is created to read:

5           48.43 (2) (b) A relative whose relationship to the child is derived through the  
6 parent whose parental rights are terminated is considered to be a relative of the child  
7 for purposes of placement of, and permanency planning for, the child until that  
8 relationship is extinguished by an order of adoption as provided in s. 48.92 (2).

9           **SECTION 25.** 48.43 (5) (c) of the statutes is amended to read:

10          48.43 (5) (c) Following the hearing, the court shall make all of the  
11 determinations specified under s. 48.38 (5) (c), except the determinations relating to  
12 the child's parents. The court may amend the order under sub. (1) to transfer the  
13 child's guardianship and custody to any agency specified under s. 48.427 (3m) (a) 1.  
14 to 4. which or (am) that consents to the transfer, if the court determines that the  
15 transfer is in the child's best interest. If an order is amended, the agency that  
16 prepared the permanency plan shall revise the plan to conform to the order and shall  
17 file a copy of the revised plan with the court. Each plan filed under this paragraph  
18 shall be made a part of the court order.

19          **SECTION 26.** 48.57 (3m) (a) 2. of the statutes is amended to read:

20          48.57 (3m) (a) 2. "Kinship care relative" means a ~~stepparent, brother, sister,~~  
21 ~~stepbrother, stepsister, first cousin, nephew, niece, aunt, uncle or any person of a~~  
22 ~~preceding generation as denoted by the prefix of grand, great or great-great,~~  
23 ~~whether by blood, marriage or legal adoption, or the spouse of any person named in~~  
24 ~~this paragraph, even if the marriage is terminated by death or divorce~~ relative other  
25 than a parent.

1           **SECTION 27.** 48.57 (3n) (a) 2. of the statutes is amended to read:

2           48.57 **(3n)** (a) 2. “Long-term kinship care relative” means a stepparent,  
3           brother, sister, stepbrother, stepsister, first cousin, nephew, niece, aunt, uncle or any  
4           person of a preceding generation as denoted by the prefix of grand, great or  
5           great-great, whether by blood, marriage or legal adoption, or the spouse of any  
6           person named in this paragraph, even if the marriage is terminated by death or  
7           divorce relative other than a parent.

8           **SECTION 28.** 48.62 (2) of the statutes is amended to read:

9           48.62 **(2)** A relative as defined in s. 48.02 (15) or as specified in s. 49.19 (1) (a)  
10          or a guardian of a child, who provides care and maintenance for a the child, is not  
11          required to obtain the license specified in this section. The department, county  
12          department, or licensed child welfare agency as provided in s. 48.75 may issue a  
13          license to operate a foster home or a treatment foster home to a relative who has no  
14          duty of support under s. 49.90 (1) (a) and who requests a license to operate a foster  
15          home or treatment foster home for a specific child who is either placed by court order  
16          or who is the subject of a voluntary placement agreement under s. 48.63. The  
17          department, a county department, or a licensed child welfare agency may, at the  
18          request of a guardian appointed under s. 48.977 or 48.978 or ch. 880, license the  
19          guardian’s home as a foster home or treatment foster home for the guardian’s minor  
20          ward who is living in the home and who is placed in the home by court order.  
21          Relatives with no duty of support and guardians appointed under s. 48.977 or 48.978  
22          or ch. 880 who are licensed to operate foster homes or treatment foster homes are  
23          subject to the department’s licensing rules.

24          **SECTION 29.** 48.65 (2) (a) of the statutes is amended to read:

1           48.65 (2) (a) ~~A relative or parent, grandparent, greatgrandparent, stepparent,~~  
2 ~~brother, sister, first cousin, nephew, niece, uncle, or aunt of a child, whether by blood,~~  
3 ~~marriage, or legal adoption, who provides care and supervision for the child.~~

4           ~~(am) A guardian of a child who provides care and supervision for the child.~~

5           **SECTION 30.** 48.75 (1g) (a) 1. of the statutes is amended to read:

6           48.75 (1g) (a) 1. The person who will be licensed to operate the foster home is  
7 a relative, ~~as defined in s. 48.02 (15) or as specified in s. 49.19 (1) (a) 2. a.,~~ or a  
8 guardian of the child who will be placed in the foster home.

9           **SECTION 31.** 48.92 (2) of the statutes is amended to read:

10           48.92 (2) After the order of adoption is entered the relationship of parent and  
11 child between the adopted person and the adopted person's birth parents, ~~unless the~~  
12 ~~birth parent is the spouse of the adoptive parent, and the relationship between the~~  
13 ~~adopted person and all persons whose relationship to the adopted person is derived~~  
14 ~~through those birth parents~~ shall be completely altered and all the rights, duties, and  
15 other legal consequences of the relationship ~~those relationships~~ shall cease to exist,  
16 ~~unless the birth parent is the spouse of the adoptive parent, in which case those~~  
17 ~~relationships shall be completely altered and those rights, duties, and other legal~~  
18 ~~consequences shall cease to exist only with respect to the birth parent who is not the~~  
19 ~~spouse of the adoptive parent and all persons whose relationship to the adopted~~  
20 ~~person is derived through that birth parent.~~ Notwithstanding the extinction of all  
21 parental rights under this subsection, a court may order reasonable visitation under  
22 s. 48.925.

23           **SECTION 32.** 48.981 (1) (d) of the statutes is amended to read:

24           48.981 (1) (d) "Neglect" means failure, refusal or inability on the part of a  
25 ~~parent, guardian, legal custodian or other person exercising temporary or~~



1 ~~permanent control over a child caregiver~~, for reasons other than poverty, to provide  
2 necessary care, food, clothing, medical or dental care or shelter so as to seriously  
3 endanger the physical health of the child.

4 **SECTION 33.** 48.981 (1) (fm) of the statutes is repealed.

5 **SECTION 34.** 48.981 (3) (a) 2. of the statutes is renumbered 48.981 (3) (a) 2.  
6 (intro.) and amended to read:

7 48.981 (3) (a) 2. (intro.) The sheriff or police department shall within 12 hours,  
8 exclusive of Saturdays, Sundays, or legal holidays, refer to the county department  
9 or, in a county having a population of 500,000 or more, the department or a licensed  
10 child welfare agency under contract with the department all of the following types  
11 of cases reported to it. the sheriff or police department:

12 2g. The county department, department, or licensed child welfare agency may  
13 require that a subsequent report of a case referred under subd. 2. or 2d. be made in  
14 writing.

15 **SECTION 35.** 48.981 (3) (a) 2. a. of the statutes is created to read:

16 48.981 (3) (a) 2. a. Cases in which a caregiver is suspected of abuse or neglect  
17 or of threatened abuse or neglect of a child.

18 **SECTION 36.** 48.981 (3) (a) 2. b. of the statutes is created to read:

19 48.981 (3) (a) 2. b. Cases in which a caregiver is suspected of facilitating or  
20 failing to take action to prevent the suspected or threatened abuse or neglect of a  
21 child.

22 **SECTION 37.** 48.981 (3) (a) 2. c. of the statutes is created to read:

23 48.981 (3) (a) 2. c. Cases in which it cannot be determined who abused or  
24 neglected or threatened to abuse or neglect a child.

25 **SECTION 38.** 48.981 (3) (a) 2. d. of the statutes is created to read:

1           48.981 (3) (a) 2. d. Cases in which there is reason to suspect that an unborn  
2 child has been abused or there is reason to believe that an unborn child is at  
3 substantial risk of abuse.

4           **SECTION 39.** 48.981 (3) (a) 2d. of the statutes is created to read:

5           48.981 (3) (a) 2d. The sheriff or police department may refer to the county  
6 department or, in a county having a population of 500,000 or more, the department  
7 or a licensed child welfare agency under contract with the department a case  
8 reported to the sheriff or police department in which a person who is not a caregiver  
9 is suspected of abuse or of threatened abuse of a child.

10          **SECTION 40.** 48.981 (3) (c) 1. of the statutes is renumbered 48.981 (3) (c) 1. a.  
11 and amended to read:

12          48.981 (3) (c) 1. a. ~~Within 24 hours~~ Immediately after receiving a report under  
13 par. (a), the agency shall evaluate the report to determine whether there is reason  
14 to suspect that a caregiver has abused or neglected the child, has threatened the child  
15 with abuse or neglect, or has facilitated or failed to take action to prevent the  
16 suspected or threatened abuse or neglect of the child. If the agency determines that  
17 a caregiver is suspected of abuse or neglect or of threatened abuse or neglect of the  
18 child, determines that a caregiver is suspected of facilitating or failing to take action  
19 to prevent the suspected or threatened abuse or neglect of the child, or cannot  
20 determine who abused or neglected the child, within 24 hours after receiving the  
21 report the agency shall, in accordance with the authority granted to the department  
22 under s. 48.48 (17) (a) 1. or the county department under s. 48.57 (1) (a), initiate a  
23 diligent investigation to determine if the child ~~or unborn child~~ is in need of protection  
24 or services. ~~The~~ If the agency determines that a person who is not a caregiver is  
25 suspected of abuse or of threatened abuse, the agency may, in accordance with that

1 authority, initiate a diligent investigation to determine if the child is in need or  
2 protection or services. Within 24 hours after receiving a report under par. (a) of  
3 suspected unborn child abuse, the agency, in accordance with that authority, shall  
4 initiate a diligent investigation to determine if the unborn child is in need of  
5 protection or services. An investigation under this subd. 1. a. shall be conducted in  
6 accordance with standards established by the department for conducting child abuse  
7 and neglect investigations or unborn child abuse investigations.

8 b. If the investigation is of a report of child abuse or neglect or of threatened  
9 child abuse or neglect by a caregiver specified in sub. (1) (am) 5. to 8. who continues  
10 to have access to the child or a caregiver specified in sub. (1) (am) 1. to 4., or of a report  
11 that does not disclose who is suspected of the child abuse or neglect and in which the  
12 investigation does not disclose who abused or neglected the child, the investigation  
13 shall also include observation of or an interview with the child, or both, and, if  
14 possible, an interview with the child's parents, guardian, or legal custodian. If the  
15 investigation is of a report of child abuse or neglect or threatened child abuse or  
16 neglect by a caregiver who continues to reside in the same dwelling as the child, the  
17 investigation shall also include, if possible, a visit to that dwelling. At the initial visit  
18 to the child's dwelling, the person making the investigation shall identify himself or  
19 herself and the agency involved to the child's parents, guardian, or legal custodian.  
20 The agency may contact, observe, or interview the child at any location without  
21 permission from the child's parent, guardian, or legal custodian if necessary to  
22 determine if the child is in need of protection or services, except that the person  
23 making the investigation may enter a child's dwelling only with permission from the  
24 child's parent, guardian, or legal custodian or after obtaining a court order  
25 permitting the person to do so.

1           **SECTION 41.** 48.981 (3) (c) 4. of the statutes is amended to read:

2           48.981 (3) (c) 4. The county department or, in a county having a population of  
3           500,000 or more, the department or a licensed child welfare agency under contract  
4           with the department shall determine, within 60 days after receipt of a report that the  
5           county department, department, or licensed child welfare agency investigates under  
6           subd. 1., whether abuse or neglect has occurred or is likely to occur. The  
7           determination shall be based on a preponderance of the evidence produced by the  
8           investigation. A determination that abuse or neglect has occurred may not be based  
9           solely on the fact that the child's parent, guardian, or legal custodian in good faith  
10          selects and relies on prayer or other religious means for treatment of disease or for  
11          remedial care of the child. In making a determination that emotional damage has  
12          occurred, the county department or, in a county having a population of 500,000 or  
13          more, the department or a licensed child welfare agency under contract with the  
14          department shall give due regard to the culture of the subjects. This subdivision does  
15          not prohibit a court from ordering medical services for the child if the child's health  
16          requires it.

17          **SECTION 42.** 938.02 (15) of the statutes is amended to read:

18          938.02 (15) "Relative" means a parent, grandparent, ~~greatgrandparent,~~  
19          stepparent, brother, sister, stepbrother, stepsister, half brother, half sister,  
20          brother-in-law, sister-in-law, first cousin, 2nd cousin, nephew, niece, uncle, or  
21          aunt, stepuncle, stepaunt, or any person of a preceding generation as denoted by the  
22          prefix of grand, great, or great-great, whether by blood, marriage, or legal adoption,  
23          or the spouse of any person named in this subsection, even if the marriage is  
24          terminated by death or divorce.

25          **SECTION 43.** 938.371 (1) (intro.) of the statutes is amended to read:

1           938.371 (1) (intro.) If a juvenile is placed in a foster home, treatment foster  
2 home, group home, residential care center for children and youth, or secured  
3 correctional facility or in the home of a relative other than a parent, including a  
4 placement under s. 938.205 or 938.21, the agency, as defined in s. 938.38 (1) (a), that  
5 placed the juvenile or arranged for the placement of the juvenile shall provide the  
6 following information to the foster parent, treatment foster parent, relative, or  
7 operator of the group home, residential care center for children and youth, or secured  
8 correctional facility at the time of placement or, if the information has not been  
9 provided to the agency by that time, as soon as possible after the date on which the  
10 agency receives that information, but not more than 2 working days after that date:

11           **SECTION 44.** 938.371 (1) (a) of the statutes is amended to read:

12           938.371 (1) (a) Results of a test or a series of tests of the juvenile to determine  
13 the presence of HIV, as defined in s. 968.38 (1) (b), antigen or nonantigenic products  
14 of HIV, or an antibody to HIV, as provided under s. 252.15 (5) (a) 19., including results  
15 included in a court report or permanency plan. At the time that the test results are  
16 provided, the agency shall notify the foster parent, treatment foster parent, relative,  
17 or operator of the group home, residential care center for children and youth, or  
18 secured correctional facility of the confidentiality requirements under s. 252.15 (6).

19           **SECTION 45.** 938.371 (1) (b) of the statutes is amended to read:

20           938.371 (1) (b) Results of any tests of the juvenile to determine the presence  
21 of viral hepatitis, type B, including results included in a court report or permanency  
22 plan. ~~The foster parent, treatment foster parent, or operator of a group home,~~  
23 ~~residential care center for children and youth, or secured correctional facility~~  
24 ~~receiving information under this paragraph shall keep the information confidential.~~

25           **SECTION 46.** 938.371 (1) (c) of the statutes is amended to read:

1           938.371 (1) (c) Any other medical information concerning the juvenile that is  
2 necessary for the care of the juvenile. ~~The foster parent, treatment foster parent, or~~  
3 ~~operator of a group home, residential care center for children and youth, or secured~~  
4 ~~correctional facility receiving information under this paragraph shall keep the~~  
5 ~~information confidential.~~

6           **SECTION 47.** 938.371 (3) (intro.) of the statutes is amended to read:

7           938.371 (3) (intro.) At the time of placement of a juvenile in a foster home,  
8 treatment foster home, group home, residential care center for children and youth,  
9 or secured correctional facility or in the home of a relative other than a parent or, if  
10 the information is not available at that time, as soon as possible after the date on  
11 which the court report or permanency plan has been submitted, but no later than 7  
12 days after that date, the agency, as defined in s. 938.38 (1) (a), responsible for  
13 preparing the juvenile's permanency plan shall provide to the foster parent,  
14 treatment foster parent, relative, or operator of the group home, residential care  
15 center for children and youth, or secured correctional facility information contained  
16 in the court report submitted under s. 938.33 (1) or 938.365 (2g) or permanency plan  
17 submitted under s. 938.355 (2e) or 938.38 relating to findings or opinions of the court  
18 or agency that prepared the court report or permanency plan relating to any of the  
19 following:

20           **SECTION 48.** 938.371 (3) (a) of the statutes is amended to read:

21           938.371 (3) (a) Any mental, emotional, cognitive, developmental, or behavioral  
22 disability of the juvenile. ~~The foster parent, treatment foster parent, or operator of~~  
23 ~~a group home, residential care center for children and youth, or secured correctional~~  
24 ~~facility receiving information under this subsection shall keep the information~~  
25 ~~confidential.~~

1           **SECTION 49.** 938.371 (3) (b) of the statutes is amended to read:

2           938.371 (3) (b) Any involvement of the juvenile in any criminal gang, as defined  
3 in s. 939.22 (9), or in any other group in which any child was traumatized as a result  
4 of his or her association with that group. ~~The foster parent, treatment foster parent,~~  
5 ~~or operator of a group home, residential care center for children and youth, or secured~~  
6 ~~correctional facility receiving information under this paragraph shall keep the~~  
7 ~~information confidential.~~

8           **SECTION 50.** 938.371 (3) (c) of the statutes is amended to read:

9           938.371 (3) (c) Any involvement of the juvenile in any activities that are  
10 harmful to the juvenile's physical, mental, or moral well-being. ~~The foster parent,~~  
11 ~~treatment foster parent, or operator of a group home, residential care center for~~  
12 ~~children and youth, or secured correctional facility receiving information under this~~  
13 ~~paragraph shall keep the information confidential.~~

14           **SECTION 51.** 938.371 (3) (d) of the statutes is amended to read:

15           938.371 (3) (d) Any involvement of the juvenile, whether as victim or  
16 perpetrator, in sexual intercourse or sexual contact in violation of s. 940.225, 948.02,  
17 or 948.025, prostitution in violation of s. 944.30, sexual exploitation of a child in  
18 violation of s. 948.05, or causing a child to view or listen to sexual activity in violation  
19 of s. 948.055, if the information is necessary for the care of the juvenile or for the  
20 protection of any person living in the foster home, treatment foster home, group  
21 home, residential care center for children and youth, or secured correctional facility.  
22 ~~The foster parent, treatment foster parent, or operator of a group home, residential~~  
23 ~~care center for children and youth, or secured correctional facility receiving~~  
24 ~~information under this paragraph shall keep the information confidential.~~

25           **SECTION 52.** 938.371 (4) of the statutes is created to read:

1           938.371 (4) Subsection (1) does not preclude an agency, as defined in s. 48.38  
2 (1) (a), that is arranging for the placement of a juvenile from providing the  
3 information specified in sub. (1) (a) to (c) to a person specified in sub. (1) (intro.) before  
4 the time of placement of the juvenile. Subsection (3) does not preclude an agency, as  
5 defined in s. 48.38 (1) (a), responsible for preparing a juvenile’s court report or  
6 permanency plan from providing the information specified in sub. (3) (a) to (e) to a  
7 person specified in sub. (3) (intro.) before the time of placement of the juvenile.

8           **SECTION 53.** 938.371 (5) of the statutes is created to read:

9           938.371 (5) Except as permitted under s. 252.15 (6), a foster parent, treatment  
10 foster parent, relative, or operator of a group home, residential care center for  
11 children and youth, or secured correctional facility that receives any information  
12 under sub. (1) or (3), other than the information described in sub. (3) (e), shall keep  
13 the information confidential and may disclose that information only for the purposes  
14 of providing care for the juvenile or participating in a court hearing or permanency  
15 plan review concerning the juvenile.

16           **SECTION 54. Nonstatutory provisions.**

17           (1) PROVISION OF INFORMATION TO RELATIVE CAREGIVERS. Notwithstanding  
18 sections 48.371 (1) (intro.) and (3) (intro.) and 938.371 (1) (intro.) and (3) (intro.) of  
19 the statutes, as affected by this act, in the case of a child or juvenile who is living in  
20 the home of a relative other than a parent on the day before the effective date of this  
21 subsection, the agency assigned primary responsibility for providing services for the  
22 child or juvenile shall provide the information specified in section 48.371 (1) (a) to  
23 (c) and (3) (a) to (e) or 938.371 (1) (a) to (c) and (3) (a) to (e) of the statutes, as affected  
24 by this act, to the relative with whom the child or juvenile is placed no later than 60  
25 days after the effective date of this subsection.



**SECTION 55. Initial applicability.**

(1) CHILDREN PLACED WITH RELATIVE CAREGIVERS. The treatment of sections 48.371 (1) (intro.) and (3) (intro.) and 938.371 (1) (intro.) and (3) (intro.) of the statutes first applies to a child or juvenile who is placed in the home of a relative other than a parent on the effective date of this subsection.

(2) STATUS OF RELATIVES FOLLOWING TERMINATION OF PARENTAL RIGHTS AND ADOPTION.

(a) *Status of relatives following termination of parental rights.* The treatment of section 48.92 (2) of the statutes, the renumbering and amendment of section 48.43 (2) of the statutes, and the creation of section 48.43 (2) (a) and (b) of the statutes first applies to an order terminating parental rights granted on the effective date of this paragraph.

(b) *Status of relatives following adoption.* The treatment of section 48.92 (2) of the statutes first applies to an order of adoption granted on the effective date of this paragraph.

**SECTION 56. Effective date.**

(1) CHILD ABUSE INVESTIGATIONS OF NONCAREGIVERS. The treatment of section 48.981 (1) (d) and (3) (a) 2d. and (3) (c) 1. and 4. of the statutes, the renumbering and amendment of section 48.981 (3) (a) 2. of the statutes, and the creation of section 48.981 (3) (a) 2. a., b., c., and d. of the statutes take effect on the first day of the 6th month beginning after publication.

(END)