



State of Wisconsin  
2015 - 2016 LEGISLATURE

LRB-0311/P4  
GMM:kjf:rs

DOA:.....Major, BB0080 - Out-of-home care extension

**FOR 2015-2017 BUDGET -- NOT READY FOR INTRODUCTION**

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

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*Analysis by the Legislative Reference Bureau*

**HEALTH AND HUMAN SERVICES**

**CHILDREN**

Under current law, monthly subsidized guardianship payments may be made to the guardian of a child who has been adjudged to be in need of protection or services if certain additional conditions have been met. In addition, current law permits DCF to provide payments to the adoptive or proposed adoptive parents of a child with special needs to assist in the cost of care of the child when DCF determines that those payments are necessary to assure the child's adoption (adoption assistance). Subject to certain exceptions, subsidized guardianship payments and adoption assistance end when the child attains 18 years of age.

This bill permits subsidized guardianship payments to be made or adoption assistance to be provided until a child attains 21 years of age if the child is a full-time student at a secondary school or its vocational or technical equivalent (full-time student), an individualized education program (IEP) is in effect for the child, and the subsidized guardianship agreement or adoption assistance agreement for the child became effective on or after the date on which the child attained 16 years of age. (An IEP is a written statement for a child with a disability developed by an IEP team appointed by the child's local educational agency that includes, among other things, the child's level of academic achievement and functional performance, measurable goals for the child, the special education and related services to be provided to the child, and how the child's progress toward attaining those goals will be measured.)

Under current law, monthly kinship care payments may be made to a relative of a child (kinship care relative) who is providing care and maintenance for the child if certain additional conditions have been met. Kinship care payments generally end when the child attains 18 years of age, except under certain exceptions including an exception under which kinship care payments may be made until a child attains 21 years of age if the child is a full-time student and an IEP is in effect for the child.

This bill, in addition, requires, as a condition for eligibility for kinship care payments for a child under 21 years of age who is a full-time student and for whom an IEP is in effect, that the child be placed in the home of the kinship care relative under an order of the court assigned to exercise jurisdiction under the Children's Code and the Juvenile Justice Code (juvenile court) or under a voluntary transition-to-independent-living agreement, which is an agreement under which such a child may continue in out-of-home care and receive services to assist him or her in transitioning to independent living until the child attains 21 years of age, is granted a high school or high school equivalency diploma, or terminates the agreement, whichever occurs first.

Under current law, a permanency plan must be prepared for a child who is placed outside the home under a juvenile court order or under a voluntary agreement. (A permanency plan is a plan designed to ensure that a child who is placed outside the home is reunified with his or her family whenever appropriate or that the child quickly attains a placement providing long-term stability.)

This bill requires a permanency plan to be prepared for a child who is placed outside the home under a voluntary transition-to-independent-living agreement. The bill also, with respect to voluntary transition-to-independent-living agreements: 1) requires the juvenile court, by no later than 180 days after the date of the agreement, to determine whether placement of the child in out-of-home care under the agreement is in the best interests of the child; 2) provides that if DCF, DOC, or a county enters into such an agreement with a child, the agreement must specifically state that DCF, DOC, or the county has placement and care responsibility for the child and has primary responsibility for providing services to the child; and 3) creates an appeal procedure under which any person who is aggrieved by the failure of an agency to enter into such an agreement or by an agency's termination of such an agreement has the right to a contested case hearing under the state administrative procedures laws. In addition, the bill requires DCF to promulgate rules governing the provision of subsidized guardianship payments, kinship care payments, and adoption assistance any child 18 years of age or over for whom such payments or assistance is provided.

Under current law, subject to certain exceptions, a facility where five or more adults who do not require care above intermediate level nursing care reside and receive care, treatment, or services that are above the level of room and board must be licensed as a community-based residential facility (CBRF). This bill provides that a facility licensed as a foster home, group home, or residential care center for children and youth (facility) that provides care and maintenance for a person 18 years of age or over, but under 21 years of age, who is placed in the facility under an order of the juvenile court that terminates after the person attains 18 years of age, under a

voluntary transition-to-independent-living agreement, or under the placement and care responsibility of another state is not required to also be licensed as a CBRF.

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

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

**SECTION 1.** 48.366 (1) of the statutes is renumbered 48.366 (1) (intro.) and amended to read:

48.366 (1) (intro.) APPLICABILITY. This section applies to a person who is a full-time student of a secondary school or its vocational or technical equivalent, for whom an individualized education program under s. 115.787 is in effect, and to whom any of the following applies:

(a) The person is placed in a foster home, group home, or residential care center for children and youth, in the home of a relative other than a parent, or in a supervised independent living arrangement under an order under s. 48.355, 48.357, or 48.365 that terminates as provided in s. 48.355 (4) (b) 1., 2., or 3., 48.357 (6) (a) 1., 2., or 3., or 48.365 (5) (b) 1., 2., or 3. on or after the person attains 18 years of age or who,

(b) The person is in the guardianship and custody of an agency specified in s. 48.427 (3m) (a) 1. to 4. or (am) under an order under s. 48.43, who is a full-time student of a secondary school or its vocational or technical equivalent, and for whom an individualized education program under s. 115.787 is in effect that terminates on the date on which the person attains 18 years of age.

**SECTION 2.** 48.366 (1) (c) of the statutes is created to read:

48.366 (1) (c) The person is placed in a shelter care facility on the date on which an order specified in par. (a) or (b) terminates.

**SECTION 3.** 48.366 (2) (a) of the statutes is amended to read:

48.366 (2) (a) Not less than 120 days before an order described in sub. (1) (a) or (b) terminates, the agency primarily responsible for providing services under the order shall request the person who is the subject of the order to indicate whether he or she wishes to be discharged from out-of-home care on termination of the order or wishes to continue in out-of-home care under a voluntary agreement under sub. (3). If the person is subject to an order under s. 48.355, 48.357, or 48.365 described in sub. (1) (a), the agency shall also request the person to indicate whether he or she wishes to continue in out-of-home care until the date specified in s. 48.365 (5) (b) 4. under an extension of the order. If the person indicates that he or she wishes to be discharged from out-of-home care on termination of the order, the agency shall request a transition-to-discharge hearing under par. (b). If the person indicates that he or she wishes to continue in out-of-home care under an extension of an order under s. 48.355, 48.357, or 48.365 described in sub. (1) (a), the agency shall request an extension of the order under s. 48.365. If the person indicates that he or she wishes to continue in out-of-home care under a voluntary agreement under sub. (3), the agency and the person shall enter into such an agreement.

**SECTION 4.** 48.366 (2) (b) 1. of the statutes is amended to read:

48.366 (2) (b) 1. If the person who is the subject of an order described in sub. (1) (a) or (b) indicates that he or she wishes to be discharged from out-of-home care on termination of the order, the agency primarily responsible for providing services to the person under the order shall request the court to hold a transition-to-discharge hearing and shall cause notice of that request to be provided to that person, the parent, guardian, and legal custodian of that person, any foster parent or other physical custodian described in s. 48.62 (2) of that person, that

person's court-appointed special advocate, all parties who are bound by the dispositional order, and, if that person is an Indian child who has been removed from the home of his or her parent or Indian custodian, that person's Indian custodian and tribe.

**SECTION 5.** 48.366 (2) (b) 3. of the statutes is amended to read:

48.366 (2) (b) 3. At the hearing the court shall review with the person who is the subject of an order described in sub. (1) (a) or (b) the options specified in par. (a) and. If the person is subject to an order under s. 48.355, 48.357, or 48.365 described in sub. (1) (a), the court shall also advise the person that he or she may continue in out-of-home care as provided in par. (a) under an extension of an order under s. 48.355, 48.357, or 48.365 described in sub. (1) (a) or under a voluntary agreement under sub. (3).

**SECTION 6.** 48.366 (2) (b) 4. of the statutes is amended to read:

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

care under a voluntary agreement under sub. (3), the court shall order the agency primarily responsible for providing services to the person under the order to provide transition-to-independent-living services for the person under a voluntary agreement under sub. (3).

**SECTION 7.** 48.366 (3) (a) of the statutes is amended to read:

48.366 (3) (a) On termination of an order described in sub. (1) (a) or (b), the person who is the subject of the order, or the person's guardian on behalf of the person, and the agency primarily responsible for providing services to the person under the order may enter into a transition-to-independent-living agreement under which the person continues in out-of-home care and continues to be a full-time student at a secondary school or its vocational or technical equivalent under an individualized education program under s. 115.787 until the date on which the person reaches 21 years of age, is granted a high school or high school equivalency diploma, or terminates the agreement as provided in par. (b), whichever occurs first, and the agency provides services to the person to assist him or her in transitioning to independent living.

**SECTION 8.** 48.366 (3) (am) of the statutes is created to read:

48.366 (3) (am) 1. The agency primarily responsible for providing services under the agreement shall petition the court for a determination that the person's placement in out-of-home care under the agreement is in the best interests of the person. The request shall contain the name and address of the placement and a statement describing why the placement is in the best interests of the person and shall have a copy of the agreement attached to it. The agency shall cause written notice of the petition to be sent to the person who is the subject of the agreement and the person's guardian.

2. On receipt of a petition under subd. 1., the court shall schedule a hearing on the petition. Not less than 3 days before the hearing the agency primarily responsible for providing services under the agreement or the court shall provide notice of the hearing to all persons who are entitled to receive notice under subd. 1. A copy of the petition shall be attached to the notice.

3. If the court finds that the person's placement in out-of-home care under the agreement is in the best interests of the person, the court shall grant an order determining that placement in out-of-home care under the agreement is in the best interests of the person.

**SECTION 9.** 48.366 (3) (d) of the statutes is created to read:

48.366 (3) (d) If the agency that enters into a voluntary agreement under this subsection is the department or a county department, the voluntary agreement shall also specifically state that the department or the county department has placement and care responsibility for the person who is the subject of the agreement as required under [42 USC 672](#) (a) (2) and has primary responsibility for providing services to the person.

**SECTION 10.** 48.366 (3g) of the statutes is created to read:

48.366 (3g) APPEAL PROCEDURES. (a) Any person who is aggrieved by the failure of an agency to enter into a transition-to-independent-living agreement under sub. (3) or by an agency's termination of such an agreement has the right to a contested case hearing under ch. 227.

**SECTION 11.** 48.366 (4) (a) of the statutes is amended to read:

48.366 (4) (a) Rules permitting a foster home, group home, or residential care center for children and youth to provide care for persons who agree to continue in

out-of-home care under an extension of an order described in sub. (1) (a) or a voluntary agreement under sub. (3).

**SECTION 12.** 48.38 (1) (ad) of the statutes is created to read:

48.38 (1) (ad) "Child" includes a person 18 years of age or over for whom a permanency plan is required under sub. (2).

**SECTION 13.** 48.38 (2) (d) of the statutes is amended to read:

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

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

48.38 (4) (fg) 5. As provided in par. (fm), placement in some other planned permanent living arrangement that includes an appropriate, enduring relationship with an adult, including sustaining care ~~or long-term foster care, but not including independent living, or the goal of transitioning the child to independence.~~

**SECTION 15.** 48.38 (4) (fg) 6. of the statutes is repealed.

**SECTION 16.** 48.38 (4) (fm) of the statutes is amended to read:

48.38 (4) (fm) If the agency determines that there is a compelling reason why it currently would not be in the best interests of the child to return the child to his or her home or to place the child for adoption, with a guardian, or with a fit and willing relative as the permanency goal for the child, the permanency goal of placing the child in some other planned permanent living arrangement or of transitioning the child to independence as described in par. (fg) 5. If the agency makes that determination, the plan shall include the efforts made to achieve that permanency goal, including, if appropriate, through an out-of-state placement, a statement of that compelling reason, and, notwithstanding that compelling reason, a concurrent



plan under s. 48.355 (2b) towards achieving a goal under par. (fg) 1. to 4. as a concurrent permanency goal in addition to the permanency goal under par. (fg) 5.

**SECTION 17.** 48.38 (5) (a) of the statutes is amended to read:

48.38 (5) (a) Except as provided in s. 48.63 (5) (d), the court or a panel appointed under par. (ag) shall review the permanency plan for each child for whom a permanency plan is required under sub. (2) in the manner provided in this subsection not later than 6 months after the date on which the child was first removed from his or her home and every 6 months after a previous review under this subsection for as long as the child is placed outside the home, except that for the review that is required to be conducted not later than 12 months after the child was first removed from his or her home and the reviews that are required to be conducted every 12 months after that review the court shall hold a hearing under sub. (5m) to review the permanency plan, which hearing may be instead of or in addition to the review under this subsection. The 6-month and 12-month periods referred to in this paragraph include trial reunifications under s. 48.358.

**SECTION 18.** 48.38 (5) (c) 6. d. of the statutes is amended to read:

48.38 (5) (c) 6. d. Being placed in some other planned permanent living arrangement that includes an appropriate, enduring relationship with an adult, including sustaining care ~~or long-term foster care, but not including independent living, or transitioning to independence.~~

**SECTION 19.** 48.38 (5) (c) 9. of the statutes is amended to read:

48.38 (5) (c) 9. If the child is the subject of an order that terminates as provided in s. 48.355 (4) (b) 4., 48.357 (6) (a) 4. or 48.365 (5) (b) 4. or of a voluntary transition-to-independent-living agreement under s. 48.366 (3), the appropriateness of the transition-to-independent-living plan developed under s.

48.385; the extent of compliance with that plan by the child, the child's guardian, if any, the agency primarily responsible for providing services under that plan, and any other service providers; and the progress of the child toward making the transition to independent living.

**SECTION 20.** 48.38 (5m) (a) of the statutes is amended to read:

48.38 **(5m)** (a) The court shall hold a hearing to review the permanency plan and to make the determinations specified in sub. (5) (c) for each child for whom a permanency plan is required under sub. (2) no later than 12 months after the date on which the child was first removed from the home and every 12 months after a previous hearing under this subsection for as long as the child is placed outside the home. The 12-month periods referred to in this paragraph include trial reunifications under s. 48.358.

**SECTION 21.** 48.385 of the statutes is amended to read:

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

transition plan shall be personalized at the direction of the child, shall be as detailed as the child directs, and shall include specific options for obtaining housing, health care, education, mentoring and continuing support services, and workforce support and employment services.

**SECTION 22.** 48.57 (3m) (a) 1. of the statutes is renumbered 48.57 (3m) (a) 1. (intro.) and amended to read:

48.57 (3m) (a) 1. (intro.) “Child” means a person under 18 years of age; “Child” also includes a person 18 years of age or over, but if any of the following applies:

a. The person is under 19 years of age, who is a full-time student in good academic standing at a secondary school or its vocational or technical equivalent, and who is reasonably expected to complete his or her program of study and be granted a high school or high school equivalency diploma; or a person 18 years of age or over, but

b. The person is under 21 years of age, who is a full-time student in good academic standing at a secondary school or its vocational or technical equivalent if, an individualized education program under s. 115.787 is in effect for the person, and the person is placed in the home of the kinship care relative under an order under s. 48.355, 48.357, 48.365, 938.355, 938.357, or 938.365 that terminates under s. 48.355 (4) (b) or 938.355 (4) (am) after the person attains 18 years of age or under a voluntary transition-to-independent-living agreement under s. 48.366 (3) or 938.366 (3).

**SECTION 23.** 48.57 (3m) (ar) of the statutes is renumbered 48.57 (3m) (i) 1. and amended to read:

48.57 (3m) (i) 1. ~~The department shall promulgate rules~~ Rules to provide assessment criteria for determining whether a kinship care relative who is providing

care and maintenance for a child is eligible to receive payments under par. (am). The rules shall also provide that any criteria established under the rules shall first apply to applications for payments under par. (am) received, and to reviews under par. (d) conducted, on the effective date of those rules.

**SECTION 24.** 48.57 (3m) (b) 1. of the statutes is amended to read:

48.57 **(3m)** (b) 1. The county department or, in a county having a population of 500,000 or more, the department shall refer to the attorney responsible for support enforcement under s. 59.53 (6) (a) the name of the parent or parents of a child for whom a payment is made under par. (am). This subdivision does not apply to a child 18 years of age or over for whom a payment is made under par. (am).

**SECTION 25.** 48.57 (3m) (i) of the statutes is created to read:

48.57 **(3m)** (i) The department shall promulgate rules to implement this subsection. Those rules shall include all of the following:

2. Rules governing the provision of kinship care payments for the care and maintenance of a child after the child attains 18 years of age.

**SECTION 26.** 48.57 (3n) (a) 1. of the statutes is renumbered 48.57 (3n) (a) 1. (intro.) and amended to read:

48.57 **(3n)** (a) 1. (intro.) “Child” means a person under 18 years of age; “Child” also includes a person 18 years of age or over, but if any of the following applies:

a. The person is under 19 years of age, who is a full-time student in good academic standing at a secondary school or its vocational or technical equivalent, and who is reasonably expected to complete his or her program of study and be granted a high school or high school equivalency diploma; ~~or a person 18 years of age or over, but,~~

b. The person is under 21 years of age, who is a full-time student in good academic standing at a secondary school or its vocational or technical equivalent if, an individualized education program under s. 115.787 is in effect for the person, and the person is placed in the home of the long-term kinship care relative under an order under s. 48.355, 48.357, 48.365, 938.355, 938.357, or 938.365 that terminates under s. 48.355 (4) (b) or 938.355 (4) (am) after the person attains 18 years of age or under a voluntary transition-to-independent-living agreement under s. 48.366 (3) or 938.366 (3).

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

48.57 (3n) (b) 1. The county department or, in a county having a population of 500,000 or more, the department shall refer to the attorney responsible for support enforcement under s. 59.53 (6) (a) the name of the parent or parents of a child for whom a payment is made under par. (am). This subdivision does not apply to a child 18 years of age or over for whom a payment is made under par. (am).

**SECTION 28.** 48.57 (3n) (i) of the statutes is created to read:

48.57 (3n) (i) The department shall promulgate rules to implement this subsection. Those rules shall include rules governing the provision of long-term kinship care payments for the care and maintenance of a child after the child attains 18 years of age.

**SECTION 29.** 48.599 (1) of the statutes is renumbered 48.599 (1r).

**SECTION 30.** 48.599 (1g) of the statutes is created to read:

48.599 (1g) "Child" means a person under 18 years of age. For purposes of the authority to provide care and maintenance for a child placed in a residential care center for children and youth operated by a child welfare agency and of counting the number of children for whom a child welfare agency may provide such care and

maintenance, “child” also includes a person 18 years of age or over, but under 21 years of age, who is placed in a residential care center for children and youth operated by a child welfare agency under an order under s. 48.355, 48.357, 48.365, 938.355, 938.357, or 938.365 that terminates after the person attains 18 years of age, under a voluntary transition-to-independent-living agreement under s. 48.366 (3) or 938.366 (3), or under the placement and care responsibility of another state under [42 USC 675](#) (8) (B) (iv).

**SECTION 31.** 48.619 (intro.) of the statutes is renumbered 48.619 and amended to read:

**48.619 Definition.** In this subchapter, “child” means a person under 18 years of age. For purposes of the authority to provide care and maintenance for a child and of counting the number of children for whom a foster home or group home may provide care and maintenance, “child” also includes a person 18 years of age or over, but under 21 years of age, who resides in the foster home or group home, if any of the following applies: under an order under s. 48.355, 48.357, 48.365, 938.355, 938.357, or 938.365 that terminates after the person attains 18 years of age, under a voluntary transition-to-independent-living agreement under s. 48.366 (3) or 938.366 (3), or under the placement and care responsibility of another state under [42 USC 675](#) (8) (B) (iv).

**SECTION 32.** 48.619 (1) of the statutes is repealed.

**SECTION 33.** 48.619 (2) of the statutes is repealed.

**SECTION 34.** 48.623 (1m) of the statutes is created to read:

**48.623 (1m) DURATION OF ELIGIBILITY.** Subsidized guardianship payments under sub. (1) or (6) may be continued after the child attains 18 years of age if any of the following applies:

(a) The child is under 19 years of age, is a full-time student at a secondary school or its vocational or technical equivalent, and is reasonably expected to complete the program before reaching 19 years of age.

(b) The child is under 21 years of age, is a full-time student at a secondary school or its vocational or technical equivalent, has a mental or physical disability that warrants the continuation of those payments as determined by the county department or, in a county having a population of 750,000 or more, the department, is not eligible for social security disability insurance under [42 USC 401 to 433](#) or supplemental security income under [42 USC 1381 to 1385](#) based on disability, and otherwise lacks adequate resources to continue in secondary school or its vocational or technical equivalent.

(c) The child is under 21 years of age, is a full-time student at a secondary school or its vocational or technical equivalent, an individualized education program under s. 115.787 is in effect for the child, and the subsidized guardianship agreement for the child became effective on or after the date on which the child attained 16 years of age.

**SECTION 35.** 48.623 (7) (d) of the statutes is created to read:

48.623 (7) (d) Rules governing the provision of subsidized guardianship payments for the care of a child after the child attains 18 years of age.

**SECTION 36.** 48.975 (3m) of the statutes is renumbered 48.975 (3m) (intro.) and amended to read:

48.975 (3m) DURATION. (intro.) The adoption assistance may be continued after the adoptee reaches the age of 18 if that adoptee is a full-time high school student. attains 18 years of age if any of the following applies:

**SECTION 37.** 48.975 (3m) (a), (b) and (c) of the statutes are created to read:

48.975 **(3m)** (a) The adoptee is under 19 years of age, is a full-time student at a secondary school or its vocational or technical equivalent, and is reasonably expected to complete the program before reaching 19 years of age.

(b) The adoptee is under 21 years of age, is a full-time student at a secondary school or its vocational or technical equivalent, has a mental or physical disability that warrants the continuation of adoption assistance as determined by the department, is not eligible for social security disability insurance under [42 USC 401](#) to [433](#) or supplemental security income under [42 USC 1381](#) to [1385](#) based on disability, and otherwise lacks adequate resources to continue in secondary school or its vocational or technical equivalent.

(c) The adoptee is under 21 years of age, is a full-time student at a secondary school or its vocational or technical equivalent, an individualized education program under s. 115.787 is in effect for the adoptee, and the adoption assistance agreement for the adoptee became effective on or after the date on which the adoptee attained 16 years of age.

**SECTION 38.** 48.975 (5) (f) of the statutes is created to read:

48.975 **(5)** (f) Rules governing the provision of adoption assistance for the care of a child after the child attains 18 years of age.

**SECTION 39.** 50.01 (1g) (i) of the statutes is created to read:

50.01 **(1g)** (i) A facility licensed as a foster home, group home, or residential care center for children and youth that provides care and maintenance for persons specified in s. 48.599 (1g) or 48.619.

**SECTION 40.** 938.366 (1) of the statutes is renumbered 938.366 (1) (intro.) and amended to read:



938.366 (1) (intro.) APPLICABILITY. This section applies to a person who is a full-time student of a secondary school or its vocational or technical equivalent, for whom an individualized education program under s. 115.787 is in effect, and to whom any of the following applies:

(a) The person is placed in a foster home, group home, or residential care center for children and youth, in the home of a relative other than a parent, or in a supervised independent living arrangement under an order under s. 938.355, 938.357, or 938.365 that terminates as provided in s. 938.355 (4) (am) 1., 2., or 3., 938.357 (6) (a) 1., 2., or 3., or 938.365 (5) (b) 1., 2., or 3. on or after the person attains 18 years of age, who is a full-time student of a secondary school or its vocational or technical equivalent, and for whom an individualized education program under s. 115.787 is in effect.

**SECTION 41.** 938.366 (1) (b) of the statutes is created to read:

938.366 (1) (b) The person is placed in a shelter care facility on the date on which an order specified in par. (a) terminates.

**SECTION 42.** 938.366 (2) (a) of the statutes is amended to read:

938.366 (2) (a) Not less than 120 days before an order described in sub. (1) (a) terminates, the agency primarily responsible for providing services under the order shall request the person who is the subject of the order to indicate whether he or she wishes to be discharged from out-of-home care on termination of the order, wishes to continue in out-of-home care until the date specified in s. 938.365 (5) (b) 4. under an extension of the order, or wishes to continue in out-of-home care under a voluntary agreement under sub. (3). If the person indicates that he or she wishes to be discharged from out-of-home care on termination of the order, the agency shall request a transition-to-discharge hearing under par. (b). If the person indicates that

he or she wishes to continue in out-of-home care under an extension of the order, the agency shall request an extension of the order under s. 938.365. If the person indicates that he or she wishes to continue in out-of-home care under a voluntary agreement under sub. (3), the agency and the person shall enter into such an agreement.

**SECTION 43.** 938.366 (2) (b) 1. of the statutes is amended to read:

938.366 (2) (b) 1. If the person who is the subject of an order described in sub. (1) (a) indicates that he or she wishes to be discharged from out-of-home care on termination of the order, the agency primarily responsible for providing services to the person under the order shall request the court to hold a transition-to-discharge hearing and shall cause notice of that request to be provided to that person, the parent, guardian, and legal custodian of that person, any foster parent or other physical custodian described in s. 48.62 (2) of that person, all parties who are bound by the dispositional order, and, if that person is an Indian juvenile who has been removed from the home of his or her parent or Indian custodian, that person's Indian custodian and tribe.

**SECTION 44.** 938.366 (2) (b) 3. of the statutes is amended to read:

938.366 (2) (b) 3. At the hearing the court shall review with the person who is the subject of an order described in sub. (1) (a) the options specified in par. (a) and shall advise the person that he or she may continue in out-of-home care as provided in par. (a) under an extension of the order or under a voluntary agreement under sub. (3).

**SECTION 45.** 938.366 (2) (b) 4. of the statutes is amended to read:

938.366 (2) (b) 4. If the court determines that the person who is the subject of an order described in sub. (1) (a) understands that he or she may continue in

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

**SECTION 46.** 938.366 (3) (a) of the statutes is amended to read:

938.366 (3) (a) On termination of an order described in sub. (1) (a), the person who is the subject of the order, or the person's guardian on behalf of the person, and the agency primarily responsible for providing services to the person under the order may enter into a transition-to-independent-living agreement under which the person continues in out-of-home care and continues to be a full-time student at a secondary school or its vocational or technical equivalent under an individualized education program under s. 115.787 until the date on which the person reaches 21 years of age, is granted a high school or high school equivalency diploma, or terminates the agreement as provided in par. (b), whichever occurs first, and the agency provides services to the person to assist him or her in transitioning to independent living.

**SECTION 47.** 938.366 (3) (am) of the statutes is created to read:

938.366 (3) (am) 1. The agency primarily responsible for providing services under the agreement shall petition the court for a determination that the person's placement in out-of-home care under the agreement is in the best interests of the person. The request shall contain the name and address of the placement and a statement describing why the placement is in the best interests of the person and shall have a copy of the agreement attached to it. The agency shall cause written notice of the petition to be sent to the person who is the subject of the agreement and the person's guardian.

2. On receipt of a petition under subd. 1., the court shall schedule a hearing on the petition. Not less than 3 days before the hearing the agency primarily responsible for providing services under the agreement or the court shall provide notice of the hearing to all persons who are entitled to receive notice under subd. 1. A copy of the petition shall be attached to the notice.

3. If the court finds that the person's placement in out-of-home care under the agreement is in the best interests of the person, the court shall grant an order determining that placement in out-of-home care under the agreement is in the best interests of the person.

**SECTION 48.** 938.366 (3) (d) of the statutes is created to read:

938.366 (3) (d) If the agency that enters into a voluntary agreement under this subsection is the department or a county department, the voluntary agreement shall also specifically state that the department or the county department has placement and care responsibility for the person who is the subject of the agreement as required under [42 USC 672](#) (a) (2) and has primary responsibility for providing services to the person.

**SECTION 49.** 938.366 (3g) of the statutes is created to read:

938.366 (3g) APPEAL PROCEDURES. Any person who is aggrieved by the failure of an agency to enter into a transition-to-independent-living agreement under sub. (3) or by an agency's termination of such an agreement has the right to a contested case hearing under ch. 227.

**SECTION 50.** 938.366 (4) (a) of the statutes is amended to read:

938.366 (4) (a) Rules permitting a foster home, group home, or residential care center for children and youth to provide care for persons who agree to continue in out-of-home care under an extension of an order described in sub. (1) (a) or a voluntary agreement under sub. (3).

**SECTION 51.** 938.38 (1) (ap) of the statutes is created to read:

938.38 (1) (ap) "Juvenile" includes a person 17 years of age or over for whom a permanency plan is required under sub. (2).

**SECTION 52.** 938.38 (2) (d) of the statutes is amended to read:

938.38 (2) (d) The juvenile was placed under a voluntary agreement between the agency and the juvenile's parent under s. 48.63 (1) (a) or (5) (b) or under a voluntary transition-to-independent-living agreement under s. 938.366 (3).

**SECTION 53.** 938.38 (4) (fg) 5. of the statutes is amended to read:

938.38 (4) (fg) 5. As provided in par. (fm), placement in some other planned permanent living arrangement that includes an appropriate, enduring relationship with an adult, including sustaining care ~~or long-term foster care, but not including independent living, or the goal of transitioning the juvenile to independence.~~

**SECTION 54.** 938.38 (4) (fg) 6. of the statutes is repealed.

**SECTION 55.** 938.38 (4) (fm) of the statutes is amended to read:

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

**SECTION 56.** 938.38 (5) (a) of the statutes is amended to read:

938.38 (5) (a) Except as provided in s. 48.63 (5) (d), the court or a panel appointed under par. (ag) shall review the permanency plan for each juvenile for whom a permanency plan is required under sub. (2) in the manner provided in this subsection not later than 6 months after the date on which the juvenile was first removed from his or her home and every 6 months after a previous review under this subsection for as long as the juvenile is placed outside the home, except that for the review that is required to be conducted not later than 12 months after the juvenile was first removed from his or her home and the reviews that are required to be conducted every 12 months after that review, the court shall hold a hearing under sub. (5m) to review the permanency plan. The hearing may be instead of or in addition to the review under this subsection. The 6-month and 12-month periods referred to in this paragraph include trial reunifications under s. 938.358.

**SECTION 57.** 938.38 (5) (c) 6. d. of the statutes is amended to read:

938.38 (5) (c) 6. d. Being placed in some other planned permanent living arrangement that includes an appropriate, enduring relationship with an adult, including sustaining care ~~or long-term foster care, but not including independent living, or transitioning to independence.~~

**SECTION 58.** 938.38 (5) (c) 9. of the statutes is amended to read:

938.38 (5) (c) 9. If the juvenile is the subject of an order that terminates as provided in s. 938.355 (4) (am) 4., 938.357 (6) (a) 4., or 938.365 (5) (b) 4. or of a voluntary transition-to-independent-living agreement under s. 938.366 (3), the appropriateness of the transition-to-independent-living plan developed under s. 938.385; the extent of compliance with that plan by the juvenile, the juvenile's guardian, if any, the agency primarily responsible for providing services under that plan, and any other service providers; and the progress of the juvenile toward making the transition to independent living.

**SECTION 59.** 938.38 (5m) (a) of the statutes is amended to read:

938.38 (5m) (a) The court shall hold a hearing to review the permanency plan and to make the determinations specified in sub. (5) (c) for each juvenile for whom a permanency plan is required under sub. (2) no later than 12 months after the date on which the juvenile was first removed from the home and every 12 months after a previous hearing under this subsection for as long as the juvenile is placed outside the home. The 12-month periods referred to in this paragraph include trial reunifications under s. 938.358.

**SECTION 60.** 938.385 of the statutes is amended to read:

**938.385 Plan for transition to independent living.** During the 90 days immediately before a juvenile who is placed in a foster home, group home, or

residential care center for children and youth, in the home of a relative other than a parent, or in a supervised independent living arrangement attains 18 years of age or, if the juvenile is placed in such a placement under an order under s. 938.355, 938.357, or 938.365 that terminates under s. 938.355 (4) (am) after the juvenile attains 18 years of age or under a voluntary transition-to-independent-living agreement under s. 938.366 (3) that terminates under s. 938.366 (3) (a) after the juvenile attains 18 years of age, during the 90 days immediately before the termination of the order or agreement, the agency primarily responsible for providing services to the juvenile under the order or agreement shall provide the juvenile with assistance and support in developing a plan for making the transition from out-of-home care to independent living. The transition plan shall be personalized at the direction of the juvenile, shall be as detailed as the juvenile directs, and shall include specific options for obtaining housing, health care, education, mentoring and continuing support services, and workforce support and employment services.

(END)