



2009 SENATE BILL 361

October 20, 2009 - Introduced by Senators JAUCH and LEHMAN, cosponsored by Representatives PASCH, TURNER, BERCEAU, SEIDEL and ROYS. Referred to Committee on Children and Families and Workforce Development.

1 **AN ACT** *to repeal* 48.75 (1g) (d); *to amend* 20.410 (3) (ho), 48.57 (3m) (am)
2 (intro.), 48.57 (3m) (am) 1., 48.57 (3m) (f), 48.57 (3n) (am) (intro.), 48.57 (3n)
3 (am) 1., 48.62 (4), 48.62 (8) (b), 48.75 (1g) (c) (intro.), 48.75 (1g) (c) 1., 48.75 (1g)
4 (c) 2., 48.75 (1g) (c) 3., 49.343 (1g), 49.343 (1g), 49.343 (2) (a) and 49.343 (2) (a);
5 ***to repeal and recreate*** 20.410 (3) (ho), 48.57 (3m) (am) (intro.), 49.343 (1g)
6 and 49.343 (2) (a); ***to create*** 48.48 (17) (a) 10m., 48.57 (3m) (ap) and 48.57 (3n)
7 (ap) of the statutes; and ***to affect*** 2009 Wisconsin Act 28, section 9408 (6);
8 **relating to:** the monthly rates that are paid for foster care; the levels of care
9 that a foster home may provide; licensing of kinship care relatives to operate
10 foster homes and, subject to certain exceptions, time limits on the receipt of
11 kinship care payments; and licensing of foster homes across county lines.

Analysis by the Legislative Reference Bureau

Introduction. Under current law, any person who receives four or fewer children or, under certain circumstances, more than four children to provide care and maintenance for those children must obtain a license to operate a foster home and is reimbursed for that care and maintenance according to rates specified in the

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statutes. A relative other than a parent (kinship care relative) who provides care and maintenance for a child is not required to obtain a foster home license, but may, if he or she meets certain conditions, receive monthly payments from the county department of human services or social services (county department) or, in Milwaukee County, the Department of Children and Families (DCF) for the care and maintenance provided for the child (kinship care payments).

This bill makes various changes relating to: 1) the monthly rates that are paid for foster care and kinship care; 2) the levels of care that a foster home may provide; 3) licensing of kinship care relatives to operate foster homes and, subject to certain exceptions, time limits on kinship care payments; and 5) licensing of foster homes across county lines.

Monthly rates for foster care and kinship care. Under current law, a foster parent who is a relative of the child who is receiving foster care is reimbursed for basic maintenance at the rate of \$215 per month and, beginning on January 1, 2011, at the rate of \$220 per month. Under current law, a foster parent who is a nonrelative of the child who is receiving foster care is reimbursed for basic maintenance according to age-related rates specified in the statutes and may receive supplemental payments that are commensurate with the level of care that the foster home is licensed to provide and the needs of the child (supplemental payments) according to rules promulgated by DCF. Under current law, a kinship care relative who is providing care and maintenance for a child may receive payments in the amount of \$215 per month for the care and maintenance provided for the child.

This bill provides that a foster parent who is licensed to provide the basic level of care under the rules promulgated by DCF is reimbursed at the rate of \$215 per month and, beginning on January 1, 2011, at the rate of \$220 per month, regardless of whether the foster parent is a relative or a nonrelative of the child who is receiving foster care. Similarly, the bill also provides that a foster parent who is licensed to provide care at a level of care that is higher than that basic level of care is reimbursed according to the current statutory age-related rates and may receive supplemental payments, regardless of whether the foster parent is a relative or a nonrelative of the child who is receiving foster care. In addition, beginning on January 1, 2011, the bill raises the amount paid to a kinship care relative for the care and maintenance of a child to \$220 per month.

Levels of care that a foster home may provide. Under current law, a foster home that is licensed to provide a given level of care may provide foster care for any child whose needs are assessed to be at or below the level of care that the foster home is licensed to provide. This bill also permits a foster home that is licensed to provide a given level of care to provide foster care for a child whose needs are assessed to be *above* that level of care, if support and services sufficient to meet those needs are provided.

Licensing of kinship care relatives to operate foster homes and time limits on kinship care payments. The bill requires a kinship care relative who is providing care and maintenance for a child who is placed in the kinship care relative's home under an order of the court assigned to exercise jurisdiction under the Children's Code and the Juvenile Justice Code (juvenile court), as a condition for

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the receipt of kinship care payments, to apply for a license to operate a foster home and, subject to certain exceptions, places time limits on the receipt of kinship care payments.

Specifically, the bill permits a county department or, in Milwaukee County, DCF to make kinship care payments to a kinship care relative who is providing care and maintenance for a child who is placed in the home of the kinship care relative under a juvenile court order for no more than 60 days after the date on which the county department or DCF received the completed application of the kinship care relative for a license to operate a foster home or, if the application is approved or denied within those 60 days, until the date on which the application is approved or denied.

If the application is not approved or denied within those 60 days for any reason other than an act or omission of the kinship care relative, the county department or DCF may make kinship care payments for four months after the date on which the county department or DCF received the completed application or, if the application is approved or denied within those four months, until the date on which the application is approved or denied.

Notwithstanding that an application of a kinship care relative for a foster home license is denied, the county department or DCF may make kinship care payments to the kinship care relative for as long as the kinship care relative continues to meet the conditions for eligibility for those payments if the county department or DCF submits to the juvenile court information relating to the background investigation required when a kinship care relative applies for kinship care payments, an assessment of the safety of the kinship care relative's home and the ability of the kinship care relative to care for the child, and a recommendation that the child remain in the home of the kinship care relative, and the juvenile court, after considering that information, assessment, and recommendation, orders the child to remain in the kinship care relative's home.

Similarly, the bill requires a kinship care relative who on the day before the effective date of the bill is receiving kinship care payments for the care and maintenance of a child who is placed in the kinship care relative's home under a juvenile court order to obtain a license to operate a foster home by no later than six months after the date of the first annual review of the kinship care placement occurring after the effective date of the bill. If the kinship care relative refuses to obtain such a license or is unable to meet the minimum requirements for the issuance of such a license, at the first permanency plan review or permanency plan hearing occurring after the date by which the kinship care relative is required to obtain the license, the agency that prepared the child's permanency plan must make a recommendation, and the juvenile court or panel conducting the review or hearing must make a determination, regarding the continuing necessity for and safety and appropriateness of the placement. If the juvenile court or panel determines that the placement continues to be necessary, safe, and appropriate, the child may remain in the placement and the kinship care relative may continue to receive kinship care payments.

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Licensing of foster homes across county lines. Under current law, a county department or, in Milwaukee County, DCF (collectively “public licensing agency”) may license a foster home that is located in another county if the person who will be licensed is a relative or guardian of the child, the foster parent moves with the child to the other county and the license will allow the foster parent to continue to care for the child, or the counties are contiguous. A public licensing agency, however, may not license a foster home in another county under those circumstances unless the public licensing agency issuing the license and the public licensing agency of the other county enter into a written agreement that includes: 1) a statement that the public licensing agency issuing the license has placement and care responsibility for the child and has primary responsibility for providing services to the child, as specified in the agreement; 2) a statement that the public licensing agency issuing the license is responsible for the costs of the placement and any related costs, as specified in the agreement; and 3) a description of the procedures to be followed in providing emergency services to the child and to the foster parent, as specified in the agreement.

This bill permits a public licensing agency to license a foster home in another county under those circumstances without entering into an agreement with the public licensing agency of the other county. The public licensing agency issuing the license, however, is still required to have placement and care responsibility for the child and primary responsibility for providing services to the child, is still responsible for the costs of the placement and any related costs, and must have in place procedures to be followed in providing emergency services to the child and to the foster parent.

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

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

1 **SECTION 1.** 20.410 (3) (ho) of the statutes, as affected by 2009 Wisconsin Act 28,
2 sections 315, 316 and 317, is repealed and recreated to read:

3 20.410 (3) (ho) *Juvenile residential aftercare.* The amounts in the schedule for
4 providing foster care, treatment foster care, group home care, and institutional child
5 care to delinquent juveniles under ss. 49.19 (10) (d), 938.48 (4) and (14), and 938.52.
6 All moneys transferred under s. 301.26 (4) (cm) and all moneys received in payment
7 for providing foster care, treatment foster care, group home care, and institutional
8 child care to delinquent juveniles under ss. 49.19 (10) (d), 938.48 (4) and (14), and

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1 938.52 as specified in s. 301.26 (4) (e) and (ed) shall be credited to this appropriation
2 account. If moneys generated by the daily rate exceed actual fiscal year foster care,
3 treatment foster care, group home care, and institutional child care costs by 2% or
4 more, all moneys in excess of 2% shall be remitted to the counties during the
5 subsequent calendar year or transferred to the appropriation account under par. (kx)
6 during the subsequent fiscal year. Each county and the department shall receive a
7 proportionate share of the remittance and transfer depending on the total number
8 of days of placement in foster care, treatment foster care, group home care, or
9 institutional child care. Counties shall use the funds for purposes specified in s.
10 301.26. The department shall deposit in the general fund the amounts transferred
11 under this paragraph to the appropriation account under par. (kx).

12 **SECTION 2.** 20.410 (3) (ho) of the statutes, as affected by 2009 Wisconsin Act
13 (this act), is amended to read:

14 20.410 (3) (ho) *Juvenile residential aftercare.* The amounts in the schedule for
15 providing foster care, ~~treatment foster care,~~ group home care, and institutional child
16 care to delinquent juveniles under ss. 49.19 (10) (d), 938.48 (4) and (14), and 938.52.
17 All moneys transferred under s. 301.26 (4) (cm) and all moneys received in payment
18 for providing foster care, ~~treatment foster care,~~ group home care, and institutional
19 child care to delinquent juveniles under ss. 49.19 (10) (d), 938.48 (4) and (14), and
20 938.52 as specified in s. 301.26 (4) (e) and (ed) shall be credited to this appropriation
21 account. If moneys generated by the daily rate exceed actual fiscal year foster care,
22 ~~treatment foster care,~~ group home care, and institutional child care costs by 2% or
23 more, all moneys in excess of 2% shall be remitted to the counties during the
24 subsequent calendar year or transferred to the appropriation account under par. (kx)
25 during the subsequent fiscal year. Each county and the department shall receive a

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1 proportionate share of the remittance and transfer depending on the total number
2 of days of placement in foster care, ~~treatment foster care~~, group home care, or
3 institutional child care. Counties shall use the funds for purposes specified in s.
4 301.26. The department shall deposit in the general fund the amounts transferred
5 under this paragraph to the appropriation account under par. (kx).

6 **SECTION 3.** 48.48 (17) (a) 10m. of the statutes is created to read:

7 48.48 (17) (a) 10m. Administer kinship care and long-term kinship care as
8 provided in s. 48.57 (3m), (3n), and (3p).

9 **SECTION 4.** 48.57 (3m) (am) (intro.) of the statutes, as affected by 2009
10 Wisconsin Act 28, is amended to read:

11 48.57 (3m) (am) (intro.) From the appropriation under s. 20.437 (2) (md), the
12 department shall reimburse counties having populations of less than 500,000 for
13 payments made under this subsection and shall make payments under this
14 subsection in a county having a population of 500,000 or more. ~~A Subject to par. (ap),~~
15 a county department and, in a county having a population of 500,000 or more, the
16 department shall make payments in the amount of \$215 per month to a kinship care
17 relative who is providing care and maintenance for a child if all of the following
18 conditions are met:

19 **SECTION 5.** 48.57 (3m) (am) (intro.) of the statutes, as affected by 2009
20 Wisconsin Act (this act), is repealed and recreated to read:

21 48.57 (3m) (am) (intro.) From the appropriation under s. 20.437 (2) (md), the
22 department shall reimburse counties having populations of less than 500,000 for
23 payments made under this subsection and shall make payments under this
24 subsection in a county having a population of 500,000 or more. Subject to par. (ap),
25 a county department and, in a county having a population of 500,000 or more, the

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1 department shall make payments in the amount of \$220 per month to a kinship care
2 relative who is providing care and maintenance for a child if all of the following
3 conditions are met:

4 **SECTION 6.** 48.57 (3m) (am) 1. of the statutes is amended to read:

5 48.57 (3m) (am) 1. The kinship care relative applies to the county department
6 or department for payments under this subsection and ~~the~~, if the child is placed in
7 the home of the kinship care relative under a court order, for a license to operate a
8 foster home under s. 48.62 (1).

9 1m. The county department or department determines that there is a need for
10 the child to be placed with the kinship care relative and that the placement with the
11 kinship care relative is in the best interests of the child.

12 **SECTION 7.** 48.57 (3m) (ap) of the statutes is created to read:

13 48.57 (3m) (ap) 1. Subject to subds. 2. and 3., the county department or, in a
14 county having a population of 500,000 or more, the department may make payments
15 under par. (am) to a kinship care relative who is providing care and maintenance for
16 a child who is placed in the home of the kinship care relative under a court order for
17 no more than 60 days after the date on which the county department or department
18 received under par. (am) 1. the completed application of the kinship care relative for
19 a license to operate a foster home or, if the application is approved or denied within
20 those 60 days, until the date on which the application is approved or denied.

21 2. If the application specified in subd. 1. is not approved or denied within 60
22 days after the date on which the county department or department received the
23 completed application for any reason other than an act or omission of the kinship care
24 relative, the county department or department may make payments under par. (am)
25 for 4 months after the date on which the county department or department received

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1 the completed application or, if the application is approved or denied within those 4
2 months, until the date on which the application is approved or denied.

3 3. Notwithstanding that an application of a kinship care relative specified in
4 subd. 1. is denied, the county department or, in a county having a population of
5 500,000 or more, the department may make payments under par. (am) to the kinship
6 care relative for as long as the conditions specified in par. (am) 1. to 6. continue to
7 apply if the county department or department submits to the court information
8 relating to the background investigation specified in par. (am) 4., an assessment of
9 the safety of the kinship care relative's home and the ability of the kinship care
10 relative to care for the child, and a recommendation that the child remain in the home
11 of the kinship care relative and the court, after considering that information,
12 assessment, and recommendation, orders the child to remain in the kinship care
13 relative's home. If the court does not order the child to remain in the kinship care
14 relative's home, the court shall order the county department or department to
15 request a change in placement under s. 48.357 (1) (am) or 938.357 (1) (am). Any
16 person specified in s. 48.357 (2m) (a) or 938.357 (2m) (a) may also request a change
17 in placement

18 **SECTION 8.** 48.57 (3m) (f) of the statutes is amended to read:

19 48.57 (3m) (f) Any person whose application for payments under par. (am) is
20 not acted on promptly or is denied on the grounds that a condition specified in par.
21 (am) 1., 1m., 2., 5., or 6. has not been met and any person whose payments under par.
22 (am) are discontinued under par. (d) may petition the department under par. (g) for
23 a review of that action or failure to act. Review is unavailable if the action or failure
24 to act arose more than 45 days before submission of the petition for review.

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1 **SECTION 9.** 48.57 (3n) (am) (intro.) of the statutes, as affected by 2009 Wisconsin
2 Act 28, is amended to read:

3 48.57 **(3n)** (am) (intro.) From the appropriation under s. 20.437 (2) (md), the
4 department shall reimburse counties having populations of less than 500,000 for
5 payments made under this subsection and shall make payments under this
6 subsection in a county having a population of 500,000 or more. ~~A~~ Subject to par. (ap),
7 a county department and, in a county having a population of 500,000 or more, the
8 department shall make monthly payments for each child in the amount specified in
9 sub. (3m) (am) (intro.) to a long-term kinship care relative who is providing care and
10 maintenance for that child if all of the following conditions are met:

11 **SECTION 10.** 48.57 (3n) (am) 1. of the statutes is amended to read:

12 48.57 **(3n)** (am) 1. The long-term kinship care relative applies to the county
13 department or department for payments under this subsection, applies for a license
14 to operate a foster home under s. 48.62 (1), and provides proof that he or she has been
15 appointed as the guardian of the child under s. 48.977 (2).

16 **SECTION 11.** 48.57 (3n) (ap) of the statutes is created to read:

17 48.57 **(3n)** (ap) 1. Subject to subds. 2. and 3., the county department or, in a
18 county having a population of 500,000 or more, the department may make payments
19 under par. (am) to a long-term kinship care relative who is providing care and
20 maintenance for a child who is placed in the home of the long-term kinship care
21 relative for no more than 60 days after the date on which the county department or
22 department received under par. (am) 1. the completed application of the long-term
23 kinship care relative for a license to operate a foster home or, if the application is
24 approved or denied within those 60 days, until the date on which the application is
25 approved or denied.

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1 2. If the application specified in subd. 1. is not approved or denied within 60
2 days after the date on which the county department or department received the
3 completed application for any reason other than an act or omission of the long-term
4 kinship care relative, the county department or department may make payments
5 under par. (am) for 4 months after the date on which the county department or
6 department received the completed application or, if the application is approved or
7 denied within those 4 months, until the date on which the application is approved
8 or denied.

9 3. Notwithstanding that an application of a long-term kinship care relative
10 specified in subd. 1. is denied, the county department or, in a county having a
11 population of 500,000 or more, the department may make payments under par. (am)
12 to the long-term kinship care relative until an event specified in par. (am) 6. a. to f.
13 occurs if the county department or department submits to the court information
14 relating to the background investigation specified in par. (am) 4., an assessment of
15 the safety of the long-term kinship care relative's home and the ability of the
16 long-term kinship care relative to care for the child, and a recommendation that the
17 child remain in the home of the long-term kinship care relative and the court, after
18 considering that information, assessment, and recommendation, orders the child to
19 remain in the long-term kinship care relative's home. If the court does not order the
20 child to remain in the kinship care relative's home, the court shall order the county
21 department or department to request a change in placement under s. 48.357 (1) (am)
22 or 938.357 (1) (am) or to request a termination of the guardianship order under s.
23 48.977 (7). Any person specified in s. 48.357 (2m) (a) or 938.357 (2m) (a) may also
24 request a change in placement and any person specified in s. 48.977 (4) (a) may also
25 request a termination of the guardianship order.

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1 **SECTION 12.** 48.62 (4) of the statutes, as affected by 2009 Wisconsin Act 28, is
2 amended to read:

3 48.62 (4) Monthly payments in foster care shall be provided according to the
4 rates specified in this subsection. Beginning on January 1, 2010, the rates are \$215
5 for care and maintenance provided by a relative of a child of any age for a child of any
6 age by a foster home that is licensed to provide the basic level of care under the rules
7 promulgated under sub. (8) (a) and, for care and maintenance provided by a
8 nonrelative foster home that is licensed to provide care at a level of care that is higher
9 than that basic level of care, \$349 for a child under 5 years of age; \$381 for a child
10 5 to 11 years of age; \$433 for a child 12 to 14 years of age; and \$452 for a child 15 years
11 of age or over. Beginning on January 1, 2011, the rates are \$220 for care and
12 maintenance provided by a relative of a child of any age for a child of any age by a
13 foster home that is licensed to provide the basic level of care under the rules
14 promulgated under sub. (8) (a) and, for care and maintenance provided by a
15 nonrelative foster home that is licensed to provide care at a level of care that is higher
16 than that basic level of care, \$366 for a child under 5 years of age; \$400 for a child
17 5 to 11 years of age; \$455 for a child 12 to 14 years of age; and \$475 for a child 15 years
18 of age or over. In addition to these grants for basic maintenance, the department
19 shall make supplemental payments for foster care to a foster home that is receiving
20 an age-related rate under this subsection that are commensurate with the level of
21 care that the foster home is licensed to provide and the needs of the child who is
22 placed in the foster home according to the rules promulgated by the department
23 under sub. (8) (c).

24 **SECTION 13.** 48.62 (8) (b) of the statutes, as created by 2009 Wisconsin Act 28,
25 is amended to read:

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1 48.62 (8) (b) Rules establishing a standardized assessment tool to assess the
2 needs of a child placed or to be placed outside the home, to determine the level of care
3 that is required to meet those needs, and to place the child in a placement that meets
4 those needs. A foster home that is licensed to provide a given level of care under par.
5 (a) may provide foster care for any child whose needs are assessed to be at or below
6 the level of care that the foster home is licensed to provide or, if support and services
7 sufficient to meet the child's needs are provided, may provide foster care for a child
8 whose needs are assessed to be above that level of care.

9 **SECTION 14.** 48.75 (1g) (c) (intro.) of the statutes is amended to read:

10 48.75 (1g) (c) (intro.) ~~No license may be issued under par. (a) 1., 2. or 3. unless~~
11 ~~the public licensing agency issuing the license has notified the public licensing~~
12 ~~agency of the county in which the foster home will be located of its intent to issue the~~
13 ~~license and the 2 public licensing agencies have entered into a written agreement~~
14 ~~under this paragraph. A public licensing agency is not required to enter into any~~
15 ~~agreement under this paragraph allowing the public licensing agency of another~~
16 ~~county to license a foster home within its jurisdiction. The written agreement shall~~
17 ~~include all~~ All of the following apply to a public licensing agency that issues a license
18 under par. (a) 1., 2., or 3.:

19 **SECTION 15.** 48.75 (1g) (c) 1. of the statutes is amended to read:

20 48.75 (1g) (c) 1. ~~A statement that the~~ The public licensing agency issuing the
21 ~~license has~~ shall have placement and care responsibility for the child as required
22 under 42 USC 672 (a) (2) and ~~has~~ primary responsibility for providing services to the
23 child who is placed in the foster home, ~~as specified in the agreement.~~

24 **SECTION 16.** 48.75 (1g) (c) 2. of the statutes is amended to read:

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1 48.75 (1g) (c) 2. ~~A statement that the~~ The public licensing agency issuing the
2 license is responsible for the costs of the placement and any related costs, ~~as specified~~
3 ~~in the agreement.~~

4 **SECTION 17.** 48.75 (1g) (c) 3. of the statutes is amended to read:

5 48.75 (1g) (c) 3. ~~A description of the~~ The public licensing agency shall have in
6 place procedures to be followed in providing emergency services to the child who is
7 placed in the foster home and to the foster parent, ~~as specified in the agreement.~~

8 **SECTION 18.** 48.75 (1g) (d) of the statutes is repealed.

9 **SECTION 19.** 49.343 (1g) of the statutes, as affected by 2009 Wisconsin Act 28,
10 sections 1275, 1276m, and 1277, is repealed and recreated to read:

11 49.343 (1g) ESTABLISHMENT OF RATES. Subject to sub. (1m), each residential care
12 center for children and youth and each group home shall establish a per client rate
13 for its services and each child welfare agency shall establish a per client
14 administrative rate for the administrative portion of its treatment foster care
15 services. A residential care center for children and youth and a group home shall
16 charge all purchasers the same rate for the same services and a child welfare agency
17 shall charge all purchasers the same administrative rate for the same treatment
18 foster care services. The department shall determine the levels of care created under
19 the rules promulgated under s. 48.62 (8) to which this section applies.

20 **SECTION 20.** 49.343 (1g) of the statutes, as affected by 2009 Wisconsin Act ...
21 (this act), section 19, is amended to read:

22 49.343 (1g) ESTABLISHMENT OF RATES. ~~Subject to sub. (1m), each~~ For services
23 provided beginning on January 1, 2011, the department shall establish the per client
24 rate that a residential care center for children and youth ~~and each~~ or a group home
25 ~~shall establish a per client rate~~ may charge for its services and each child welfare

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1 ~~agency shall establish a, and the per client administrative rate that a child welfare~~
2 ~~agency may charge~~ for the administrative portion of its treatment foster care
3 ~~services, as provided in this section. In establishing rates for a placement specified~~
4 ~~in s. 938.357 (4) (c) 1. or 2., the department shall consult with the department of~~
5 ~~corrections.~~ A residential care center for children and youth and a group home shall
6 charge all purchasers the same rate for the same services and a child welfare agency
7 shall charge all purchasers the same administrative rate for the same treatment
8 foster care services. The department shall determine the levels of care created under
9 the rules promulgated under s. 48.62 (8) to which this section applies.

10 **SECTION 21.** 49.343 (1g) of the statutes, as affected by 2009 Wisconsin Act ...
11 (this act), section 20, is amended to read:

12 49.343 (1g) ESTABLISHMENT OF RATES. For services provided beginning on
13 January 1, 2011, the department shall establish the per client rate that a residential
14 care center for children and youth or a group home may charge for its services, and
15 the per client administrative rate that a child welfare agency may charge for the
16 administrative portion of its ~~treatment~~ foster care services, as provided in this
17 section. In establishing rates for a placement specified in s. 938.357 (4) (c) 1. or 2.,
18 the department shall consult with the department of corrections. A residential care
19 center for children and youth and a group home shall charge all purchasers the same
20 rate for the same services and a child welfare agency shall charge all purchasers the
21 same administrative rate for the same ~~treatment~~ foster care services. The
22 department shall determine the levels of care created under the rules promulgated
23 under s. 48.62 (8) to which this section applies.

24 **SECTION 22.** 49.343 (2) (a) of the statutes, as affected by 2009 Wisconsin Act 28,
25 sections 1281 and 1282, is repealed and recreated to read:

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1 49.343 (2) (a) By October 1, 2010, and annually after that, a residential care
2 center for children and youth or a group home shall submit to the department the per
3 client rate that it proposes to charge for services provided in the next year and a child
4 welfare agency shall submit to the department the proposed per client
5 administrative rate that it proposes to charge for treatment foster care services
6 provided in the next year. The department shall provide forms and instructions for
7 the submission of proposed rates under this paragraph and a residential care center
8 for children and youth, group home, or child welfare agency that is required to submit
9 a proposed rate under this paragraph shall submit that proposed rate using those
10 forms and instructions.

11 **SECTION 23.** 49.343 (2) (a) of the statutes, as affected by 2009 Wisconsin Act
12 (this act), section 22, is amended to read:

13 49.343 (2) (a) By October 1, 2010, ~~and annually after that,~~ annually, a
14 residential care center for children and youth or a group home shall submit to the
15 department the per client rate that it proposes to charge for services provided in the
16 next year and a child welfare agency shall submit to the department the proposed
17 per client administrative rate that it proposes to charge for treatment foster care
18 services provided in the next year. The department shall provide forms and
19 instructions for the submission of proposed rates under this paragraph and a
20 residential care center for children and youth, group home, or child welfare agency
21 that is required to submit a proposed rate under this paragraph shall submit that
22 proposed rate using those forms and instructions.

23 **SECTION 24.** 49.343 (2) (a) of the statutes, as affected by 2009 Wisconsin Act
24 (this act), section 23, is amended to read:

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1 49.343 (2) (a) By October 1, annually, a residential care center for children and
2 youth or a group home shall submit to the department the per client rate that it
3 proposes to charge for services provided in the next year and a child welfare agency
4 shall submit to the department the proposed per client administrative rate that it
5 proposes to charge for ~~treatment~~ foster care services provided in the next year. The
6 department shall provide forms and instructions for the submission of proposed
7 rates under this paragraph and a residential care center for children and youth,
8 group home, or child welfare agency that is required to submit a proposed rate under
9 this paragraph shall submit that proposed rate using those forms and instructions.

10 **SECTION 25.** 2009 Wisconsin Act 28, section 9408 (6) is amended to read:

11 [2009 Wisconsin Act 28] Section 9408 (6) FOSTER CARE LEVELS OF CARE. The
12 repeal of sections 48.02 (17q), 48.48 (17) (a) 10., 48.62 (1) (b), 49.001 (7), 619.01 (1)
13 (c) 4m., 619.01 (9m), 895.485 (1) (c), and 938.02 (17q) of the statutes, the renumbering
14 of section 48.62 (1) (a) of the statutes, the amendment of sections 20.410 (3) (ho) (by
15 SECTION 316), 20.437 (1) (b), 20.437 (1) (cf), 20.437 (1) (dd) (by SECTION 474), 20.437
16 (1) (jm), 20.437 (1) (pd) (by SECTION 480), 46.10 (14) (a), 46.10 (14) (b), 46.21 (2) (j),
17 46.56 (8) (L), 46.56 (15) (b) 4., 46.985 (1) (f), 48.01 (1) (gg), 48.02 (6), 48.195 (2) (d) 5.,
18 48.207 (1) (c), 48.207 (1) (f), 48.207 (3), 48.21 (5) (d) 2., 48.21 (5) (d) 3., 48.27 (3) (a)
19 1., 48.27 (3) (a) 1m., 48.27 (3) (a) 2., 48.27 (6), 48.299 (1) (ag), 48.299 (1) (ar), 48.32
20 (1) (c) 2., 48.32 (1) (c) 3., 48.33 (4) (intro.), 48.33 (5), 48.335 (3g) (intro.), 48.345 (3) (c),
21 48.355 (2) (b) 2., 48.355 (2d) (c) 2., 48.355 (2d) (c) 3., 48.355 (4), 48.357 (1) (am) 1.,
22 48.357 (2m) (b), 48.357 (2r), 48.357 (2v) (c) 2., 48.357 (2v) (c) 3., 48.363 (1) (b), 48.363
23 (1m), 48.365 (2), 48.365 (2m) (ad) 2., 48.365 (2m) (ag), 48.371 (1) (intro.), 48.371 (1)
24 (a), 48.371 (3) (intro.), 48.371 (3) (d), 48.371 (5), 48.375 (4) (a) 1., 48.375 (4) (b) 1m.,
25 48.375 (4) (b) 3., 48.375 (7) (f), 48.38 (2) (intro.), 48.38 (2) (g), 48.38 (4) (d) (intro.),

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1 48.38 (4) (f) (intro.), 48.38 (5) (b), 48.38 (5) (e), 48.38 (5m) (b), 48.38 (5m) (c), 48.38
2 (5m) (e), 48.42 (2) (d), 48.42 (2g) (a), 48.42 (2g) (am), 48.42 (2g) (b), 48.427 (1m),
3 ~~48.427 (3m) (a) 5.~~, 48.427 (3m) (am), 48.428 (2) (a), 48.428 (2) (b), 48.428 (4), 48.43
4 (5) (b), 48.43 (5m), 48.48 (9), 48.48 (17) (a) 3., 48.48 (17) (a) 8., 48.48 (17) (c) 4. (by
5 SECTION 985), 48.481 (1) (a), 48.52 (1) (a), 48.52 (1) (b), 48.52 (1) (c), 48.569 (1) (d),
6 48.57 (1) (c), 48.57 (1) (hm), 48.57 (1) (i), 48.57 (3) (a) 4., 48.60 (2) (e), 48.61 (3), 48.61
7 (7), 48.615 (1) (b), subchapter XIV (title) of chapter 48 [precedes 48.619], 48.619,
8 48.62 (title), 48.62 (2), 48.62 (3), 48.62 (5) (a) (intro.), 48.62 (5) (d) (by SECTION 1018),
9 48.62 (6), 48.62 (7), 48.625 (3), 48.627 (title), 48.627 (2) (a), 48.627 (2c), 48.627 (2m),
10 48.627 (2s) (a), 48.627 (2s) (b), 48.627 (3) (b), 48.627 (3) (d), 48.627 (3) (e), 48.627 (3)
11 (f), 48.627 (3) (h), 48.627 (4), 48.627 (5), 48.63 (1), 48.63 (3) (b) 2., 48.63 (4), 48.64
12 (title), 48.64 (1), 48.64 (1m), 48.64 (1r), 48.64 (2), 48.64 (4) (a), 48.64 (4) (c), 48.645
13 (1) (a), 48.645 (2) (a) 1., 48.645 (2) (a) 3., 48.645 (2) (a) 4., 48.645 (2) (b), subchapter
14 X of chapter 48 [precedes 48.66], 48.66 (1) (a), 48.66 (1) (c), 48.67 (intro.), 48.67 (4),
15 48.675 (1), 48.675 (2), 48.675 (3) (intro.), 48.675 (3) (a), 48.685 (1) (b), 48.685 (2) (c)
16 1., 48.685 (2) (c) 2., 48.685 (4m) (a) (intro.) (by SECTION 1072d), 48.685 (4m) (ad) (by
17 SECTION 1074d), 48.685 (5) (bm) (intro.), 48.685 (5m) (by SECTION 1078d), 48.685 (6)
18 (a) (by SECTION 1080d), 48.70 (2), 48.73, 48.75 (title), 48.75 (1d), 48.75 (2), 48.833 (1),
19 48.833 (2), 48.837 (1), 48.837 (1r) (b), 48.88 (2) (am) 1., 48.88 (2) (am) 2., 48.975 (3)
20 (a) 1., 48.975 (3) (a) 2., 48.98 (1), 48.98 (2) (a), 48.981 (3) (d) 1., 48.981 (7) (a) 4., 48.986
21 (4), 49.136 (1) (m), 49.155 (1) (c), ~~49.155 (1m) (a) (intro.)~~, 49.155 (1m) (a) 1m. b., 49.155
22 (1m) (bm), ~~49.175 (1) (s)~~, 49.19 (1) (a) 2. b., 49.19 (4e) (a), 49.19 (10) (a), 49.19 (10) (c),
23 49.19 (10) (d), 49.19 (10) (e), 49.32 (9) (a), 49.34 (1), 49.343 (1d) (a) and (b), (1g) (by
24 SECTION 1276m), (1m) (by SECTION 1278g), ~~and (2) (a), (b), and (e)~~, 49.345 (14) (a),
25 49.345 (14) (b), 49.45 (3) (e) 7., 49.46 (1) (a) 5., 49.46 (1) (d) 1., 49.471 (4) (a) 5., 50.01

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1 (1) (a) 1., 50.01 (1) (a) 2., 59.69 (15) (intro.) (by SECTION 1451), 59.69 (15) (bm), 60.63
2 (intro.) (by SECTION 1454), 60.63 (3), 62.23 (7) (i) (intro.) (by SECTION 1458), 62.23 (7)
3 (i) 2m., 103.10 (1) (a) (intro.), 103.10 (1) (f) (by SECTION 2173), 121.79 (1) (d) (intro.),
4 121.79 (1) (d) 2., 121.79 (1) (d) 3., 146.82 (2) (a) 18m., 167.10 (7), 252.15 (5) (a) 19.,
5 253.10 (3) (c) 2. c., 301.12 (14) (a), 301.12 (14) (b), 301.26 (4) (d) 2. (by SECTION 2676),
6 301.26 (4) (d) 3. (by SECTION 2678), 301.26 (4) (e), 301.26 (4) (ed), 301.46 (4) (a) 6.,
7 343.15 (4) (a) 3., 619.01 (1) (a), 619.01 (1) (c) 1., 619.01 (9), 767.41 (3) (c), 786.37 (3),
8 809.105 (13), 895.485 (title), 895.485 (2) (intro.), 895.485 (2) (a), 895.485 (2) (b),
9 895.485 (3), 895.485 (4) (intro.), 895.485 (4) (a), 938.02 (6), 938.207 (1) (c), 938.207
10 (1) (f), 938.21 (5) (d) 2., 938.21 (5) (d) 3., 938.27 (3) (a) 1., 938.27 (3) (a) 1m., 938.27
11 (3) (a) 2., 938.27 (6), 938.299 (1) (ag), 938.32 (1) (d) 2., 938.32 (1) (d) 3., 938.33 (4)
12 (intro.), 938.33 (5), 938.335 (3g) (intro.), 938.34 (3) (c), 938.355 (2) (b) 2., 938.355 (2d)
13 (c) 2., 938.355 (2d) (c) 3., 938.355 (4) (a), 938.357 (1) (am) 1., 938.357 (1) (am) 2.,
14 938.357 (2m) (b), 938.357 (2r), 938.357 (2v) (c) 2., 938.357 (2v) (c) 3., 938.357 (6),
15 938.363 (1) (b), 938.363 (1m), 938.365 (2), 938.365 (2m) (ad) 2., 938.365 (2m) (ag),
16 938.365 (5), 938.371 (1) (intro.), 938.371 (1) (a), 938.371 (3) (intro.), 938.371 (3) (d),
17 938.38 (2) (intro.), 938.38 (4) (f) (intro.), 938.38 (5) (b), 938.38 (5) (e), 938.38 (5m) (b),
18 938.38 (5m) (c), 938.38 (5m) (e), 938.48 (4), 938.52 (1) (b), 938.538 (3) (a) 1p., 938.57
19 (1) (c), 938.57 (3) (a) 4., 940.201 (1) (a), 940.203 (1) (a), 940.205 (1), 940.207 (1), 940.43
20 (1), 940.45 (1), 943.011 (1) (a), 943.013 (1) (a), 943.015 (1), 943.017 (2m) (a) 1., 948.01
21 (3), 948.085 (1), 949.06 (1m) (a) (by SECTION 3359), and 973.017 (6) (a) of the statutes,
22 ~~and the creation of section 48.62 (8) of the statutes~~ and SECTION 9108 (3) (a) of this
23 act take effect on the date stated in the notice provided by the secretary of children
24 and families and published in the Wisconsin Administrative Register under section
25 48.62 (9) of the statutes, as created by this act.

SENATE BILL 361**1 SECTION 26. Nonstatutory provisions.**

2 (1) TRANSITION OF KINSHIP CARE AND LONG-TERM KINSHIP CARE PROVIDERS TO FOSTER
3 CARE PROVIDERS.

4 (a) *Foster home license required.* By no later than 6 months after the date of
5 the first review under section 48.57 (3m) (d) or (3n) (d) of the statutes occurring after
6 the effective date of this subsection of the placement of a child who on the day before
7 the effective date of this subsection was placed in the home of a kinship care relative,
8 as defined in section 48.57 (3m) (a) 2. of the statutes, or a long-term kinship care
9 relative, as defined in section 48.57 (3n) (a) 2. of the statutes, under an order of the
10 court assigned to exercise jurisdiction under chapters 48 and 938 of the statutes, the
11 kinship care relative or long-term kinship care relative shall obtain a license to
12 operate a foster home under section 48.62 (1) of the statutes.

13 (b) *Exception.* If the kinship care relative or long-term kinship care relative
14 refuses to obtain a license to operate a foster home as required under paragraph (a)
15 or is unable to meet the minimum requirements for the issuance of such a license,
16 at the first permanency plan review under section 48.38 (5) or 938.38 (5) of the
17 statutes or permanency plan hearing under section 48.38 (5m) or 938.38 (5m) of the
18 statutes occurring after the date by which the kinship care relative or long-term
19 kinship care relative is required under paragraph (a) to obtain the license, the
20 agency, as defined in section 48.38 (1) (a) or 938.38 (1) (a) of the statutes, that
21 prepared the child's permanency plan shall make a recommendation, and the court
22 or panel conducting the review or hearing shall make a determination under section
23 48.38 (5) (c) 1. or 938.38 (5) (c) 1. of the statutes, regarding the continuing necessity
24 for and safety and appropriateness of the placement. If the court or panel determines
25 that the placement continues to be necessary, safe, and appropriate, the child may

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1 remain in the placement and the kinship care relative or long-term kinship care
2 relative may continue to receive payments under section 48.57 (3m) (am) or (3n) (am)
3 of the statutes.

4 **SECTION 27. Effective dates.** This act takes effect on January 1, 2010, or on
5 the day after publication, whichever is later, except as follows:

6 (1) JUVENILE RESIDENTIAL AFTERCARE. The repeal and recreation of section
7 20.410 (3) (ho) of the statutes takes effect on July 1, 2010, or on the day after
8 publication, whichever is later.

9 (2) ESTABLISHMENT OF RATES. The amendment of section 49.343 (1g) (by SECTION
10 20) and (2) (a) (by SECTION 23) of the statutes and the repeal and recreation of section
11 48.57 (3m) (am) (intro.) of the statutes take effect on January 1, 2011.

12 (3) TREATMENT FOSTER HOMES. The treatment of section 48.48 (17) (a) 10m. of
13 the statutes and the amendment of sections 20.410 (3) (ho) and 49.343 (1g) (by
14 SECTION 21) and (2) (a) (by SECTION 24) of the statutes take effect on the date stated
15 in the notice provided by the secretary of children and families and published in the
16 Wisconsin Administrative Register under section 48.62 (9) of the statutes.

17 (END)