

1       **AN ACT** *to amend* 48.357 (1) (am) 1., 48.837 (1r) (c), 48.88 (2) (a) (intro.) and 48.93  
2           (1d); and *to create* 48.88 (2) (d) and 48.93 (1m) of the statutes; **relating to:**  
3           elimination of a home investigation during adoption proceedings if the petitioner has  
4           obtained a license to operate a foster home; disclosure of name and address of  
5           permanent or preadoptive placement in change of placement report; and disclosure  
6           of the name of last-known address of a proposed adoptive parent of a child to an  
7           agency that is determining the availability of an adoptive placement for a sibling of  
8           the child.

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

**JOINT LEGISLATIVE COUNCIL PREFATORY NOTE:** This bill draft was prepared for the Joint Legislative Council's Special Committee on Permanency for Young Children in the Child Welfare System.

**Background**

*Home Investigation of An Adoptive Parent*

Under current law, after an adoption petition is filed, the court assigned to exercise jurisdiction under the Children's Code (juvenile court) must order an investigation to determine whether the child is a proper subject for adoption and whether the petitioner's (adoptive parent) home is suitable for the child. The home of an adoptive parent must be investigated for adoption purposes even if the adoptive parent has obtained a license to operate a foster home.

*Disclosure of Name and Address of a Permanent or Proposed Adoptive Placement in a Change of Placement Report*

Currently, before a child is adjudged to be in need of protection or services, the department of children and families (DCF), a county department of human or social services (county department), or a child welfare agency must submit a report to the court which includes the name and address of the foster parent if the report recommends out-of-home placement. However, the juvenile court may order that

the name and address of the foster parent may be withheld from the child's parent or guardian if the court finds that disclosure would result in imminent danger to the child or to the foster parent. The court must hold a hearing on this matter prior to ordering that the information be withheld. Current law does not include a similar provision for withholding this information if there is a change in out-of-home placement.

*Disclosure of Last Known Address of an Adoptive Parent or Proposed Adoptive Parent*

Current law requires DCF, a county department, or a child welfare agency to include in a child's permanency plan, which is a plan designed to ensure that the child quickly attains a placement or home providing long-term stability, a statement as to the availability of a safe and appropriate placement for the child with a foster parent, adoptive parent, or proposed adoptive parent of a sibling of the child. Current law also requires DCF, a county department, or a child welfare agency, before placing for adoption a child who has a sibling who has been adopted or has been placed for adoption, to consider the availability of a placement for adoption with an adoptive parent or proposed adoptive parent of a sibling of the child who is identified in the child's permanency plan or who is otherwise known by DCF, the county department, or the child welfare agency.

**Bill Draft**

*Home Investigations of an Adoptive Parent*

The draft eliminates the requirement for a home investigation to be conducted for purposes of an adoption if the adoptive parent has obtained a license to operate a foster home.

*Disclosure of Name and Address of a Permanent Placement, Adoptive Placement, or Proposed Adoptive Placement in a Change of Placement Report*

The draft creates a procedure for a juvenile court to order that when there is a proposed change in out-of-home placement to a placement that is anticipated to be a permanent placement, or proposed adoptive placement, that the name and address of anticipated permanent placement, or proposed adoptive placement may be withheld from the child's parent or guardian, or if the child is an Indian child, from the child's parent or Indian guardian. The court must hold a hearing on this matter prior to ordering that the information be withheld.

*Disclosure of Last Known Address of an Adoptive Parent or Proposed Adoptive Parent*

This draft permits records and papers pertaining to an adoption proceeding to be disclosed for purposes of determining the availability of a placement for a child with an adoptive parent or proposed adoptive parent of a sibling of the child. Currently, those records and papers must be kept in a separate locked file and may not be disclosed except under certain exceptions or by order of the court assigned to exercise jurisdiction under the Children's Code for good cause shown.

1           **SECTION 1.** 48.357 (1) (am) 1. of the statutes is amended to read:

2           48.357 (1) (am) 1. If the proposed change in placement involves any change in  
3 placement other than a change in placement specified in par. (c), the person or agency  
4 primarily responsible for implementing the dispositional order, the district attorney, or the  
5 corporation counsel shall cause written notice of the proposed change in placement to be sent  
6 to the child, the parent, guardian, and legal custodian of the child, any foster parent or other  
7 physical custodian described in s. 48.62 (2) of the child, the child's court-appointed special  
8 advocate, and, if the child is an Indian child who has been removed from the home of his or  
9 her parent or Indian custodian, the Indian child's Indian custodian and tribe. If the proposed  
10 change in placement is to a placement that is anticipated to be a permanent placement, or is  
11 a proposed adoptive placement, the court may order the name and address of the placement  
12 withheld from the child's parent or guardian, and if the child is an Indian child his or her parent  
13 or Indian custodian, if the court finds that disclosure [would result in imminent danger to the  
14 child or to the physical custodian described in s. 48.62 (2) of the child] [is not in the best  
15 interests of the child]. After notifying the child's parent or guardian, the court shall hold a  
16 hearing prior to ordering the information withheld. If the child is the expectant mother of an  
17 unborn child under s. 48.133, written notice shall also be sent to the unborn child by the unborn  
18 child's guardian ad litem. If the change in placement involves an adult expectant mother of  
19 an unborn child under s. 48.133, written notice shall be sent to the adult expectant mother and  
20 the unborn child by the unborn child's guardian ad litem. The notice shall contain the name

1 and address of the new placement, the reasons for the change in placement, a statement  
2 describing why the new placement is preferable to the present placement, and a statement of  
3 how the new placement satisfies objectives of the treatment plan ordered by the court.

**NOTE:** This SECTION allows the court to order that if there is change in placement of out-of-home care to a permanent placement or proposed adoptive placement, the name and address of the new placement be withheld from the child's parent or guardian. If the child is an Indian child, the court may also order that the name and address be withheld from the child's parent or Indian custodian. The court may not order that this information be withheld until after a hearing is held on this issue.

**COMMENT:** Is it the committee's intent to allow the name and address of a change in placement to be withheld only when the change in placement is anticipated to be a permanent placement or proposed adoptive placement, or whenever there is a change in placement?

Also when a child is originally placed in out-of-home care, the juvenile court may order that the information be withheld from the parent or guardian if the court finds that disclosure would result in imminent danger to the child or the foster parent. Is it the committee's intent to require the juvenile court to make a similar finding when there is a change in placement or is it the committee's intent that this information instead be withheld if it is in the best interests of the child?

4 **SECTION 2.** 48.837 (1r) (c) of the statutes is amended to read:

5 48.837 (1r) (c) The department, a county department under s. 48.57 (1) (e) or (hm), or  
6 a child welfare agency licensed under s. 48.60 may place a child under par. (a) in the home  
7 of a proposed adoptive parent or parents who reside outside this state if the placement is made  
8 in compliance with s. 48.98, 48.988, or 48.99, whichever is applicable, if the home meets the  
9 criteria established by the laws of the state where the proposed adoptive parent or parents  
10 reside for a preadoptive placement of a child in the home of a nonrelative, and if an appropriate  
11 agency in that state has completed an investigation of the home as required under s. 48.88 (2)  
12 (a) and filed a report and recommendation concerning the home with the department, county  
13 department, or licensed child welfare agency.

1           **SECTION 3.** 48.88 (2) (a) (intro.) of the statutes is amended to read:

2           48.88 (2) (a) (intro.) Except as provided under pars. (ag) ~~and~~, (c), and (d), when a  
3 petition to adopt a child is filed, the court shall order an investigation to determine whether  
4 the child is a proper subject for adoption and whether the petitioner's home is suitable for the  
5 child. The court shall order one of the following to conduct the investigation:

6           **SECTION 4.** 48.88 (2) (d) of the statutes is created to read:

7           48.88 (2) (d) If a petitioner obtained a license to operate a foster home under s. 48.62  
8 (1) and is the same home as the adoptive placement, an investigation to determine whether the  
9 petitioner's home is suitable for the child that is not required.

**NOTE:** SECTIONS 2, 3, and 4 eliminate the requirement that a home study be conducted for purposes of an adoption if the petitioner has ever obtained a license to operate a foster home.

**COMMENT:** Is it the committee's intent that a home study is not required if a petitioner in adoption proceedings has ever obtained a license to operate a foster care home? If not, this SECTION could be amended to specify that the license to operate a foster care home must have been obtained within a certain time frame, such as the last 2 years or 5 years.

10           **SECTION 5.** 48.93 (1d) of the statutes is amended to read:

11           48.93 (1d) All records and papers pertaining to an adoption proceeding shall be kept  
12 in a separate locked file and may not be disclosed except under sub. (1g), (1m), (1r), or (1v),  
13 s. 48.432, 48.433, 48.434, 48.48 (17) (a) 9. or 48.57 (1) or by order of the court for good cause  
14 shown.

15           **SECTION 6.** 48.93 (1m) of the statutes is created to read:

16           48.93 (1m) If an adoptive parent or proposed adoptive parent of a child consents, the  
17 court or the agency that placed the child for adoption in the home of the adoptive parent or  
18 proposed adoptive parent may disclose the name and last-known address of the adoptive  
19 parent or proposed adoptive parent to an agency that is determining the availability of an

1 adoptive placement for a sibling of the child under s. 48.38 (4) (br), 48.834 (2), or 938.38 (4)  
2 (br).

**NOTE:** SECTIONS 5 and 6 permit records and papers pertaining to an adoption proceeding to be disclosed for purposes of determining the availability of a placement for a child with an adoptive parent or proposed adoptive parent of a sibling of the child.

3 (END)