



2007 SENATE BILL 496

February 15, 2008 – Introduced by Senators COGGS and DARLING, cosponsored by Representatives JESKEWITZ and GRIGSBY. Referred to Committee on Judiciary, Corrections, and Housing.

1 **AN ACT** *to renumber* 48.315 (2m) (a) 1. and 48.315 (2m) (a) 2.; *to renumber and*
2 *amend* 48.245 (1), 48.315 (2m) (a) (intro.) and 48.315 (2m) (b); and *to amend*
3 48.24 (4), 48.24 (5), 48.245 (2) (c), 48.245 (2r), 48.245 (4), 48.245 (5), 48.245 (5m),
4 48.245 (7), 48.25 (2), 48.315 (1) (intro.), 48.365 (6), 48.375 (7) (a) 3., 48.375 (7)
5 (d) (title), 48.375 (7) (d) 1m., 48.43 (6) (c), 48.43 (6m), 48.63 (1), 938.24 (5),
6 938.245 (7) (a), 938.25 (2) (title), 938.25 (2) (a), 938.25 (2) (b), 938.25 (4), 938.315
7 (1) (intro.), 938.315 (2m) (intro.), 938.315 (3), 938.357 (4g) (a), 938.357 (5) (d)
8 and 938.365 (6) of the statutes; **relating to:** the consequences for failure to act
9 within a time period specified in the Children’s Code or the Juvenile Justice
10 Code, extension of certain time periods specified in the Children’s Code, and
11 informal dispositions under the Children’s Code.

Analysis by the Legislative Reference Bureau

Consequences for failure to act within time period

Under current law, certain actions in a proceeding under the Children’s Code, such as a child in need of protection or services (CHIPS) proceeding or a termination

SENATE BILL 496

of parental rights (TPR) proceeding, must take place within certain time limits. For example, the intake worker of the court assigned to exercise jurisdiction under the Children’s Code (juvenile court) must request that a CHIPS petition be filed, enter into an informal disposition, which is a written agreement under which the child and his or her parent, guardian, and legal custodian agree to meet certain obligations, or close the case within 40 days after the receipt of information that a child should be referred to the juvenile court. Similarly, the district attorney or corporation counsel must file a CHIPS petition, close the case, or refer the case back to the intake worker within 20 days after receiving the intake worker’s recommendation regarding the case. Currently, if those time limits are not met, the juvenile court must dismiss the case with prejudice, that is, without leave to file a new petition.

In addition, in a CHIPS proceeding, a plea hearing must take place no later than 30 days after the filing of the petition (ten days for a child held in secure custody), a fact-finding hearing must take place no later than 30 days after the plea hearing (20 days for a child held in secure custody), a dispositional hearing must take place no later than 30 days after the fact-finding hearing (ten days for a child held in secure custody), and a hearing on an extension of a dispositional order must take place no later than 30 days after the expiration of the order. Similarly, in a TPR proceeding, a plea hearing must take place no later than 30 days after the petition is filed, a fact-finding hearing must take place no later than 45 days after the plea hearing, and a dispositional hearing must take place no later than 45 days after the fact-finding hearing. If the required action does not take place within any of those time periods, the juvenile court loses competency to exercise jurisdiction and, therefore, must dismiss the proceeding.

In a proceeding under the Juvenile Justice Code, for example, a delinquency proceeding or a proceeding for a juvenile in need of protection or services, failure to comply with a time limit does not require dismissal of the petition with prejudice or deprive the juvenile court of competency to exercise jurisdiction. Instead, if a party does not comply with a time limit specified in the Juvenile Justice Code, the juvenile court may grant a continuance for good cause shown, dismiss the petition with or without prejudice, release the juvenile from secure or nonsecure custody or from the terms of a custody order, or grant any other relief that the juvenile court considers appropriate. Moreover, the Juvenile Justice Code specifies that failure to object if a time limit is not met waives that time limit. The Wisconsin Supreme Court, however, recently held, in *State v. Michael S., Jr.*, 2005 WI 82, 282 Wis. 2d 1, that these provisions do not apply to the expiration of a dispositional order because the expiration of a dispositional order is not a “time limit” under the Juvenile Justice Code.

This bill provides that failure by the juvenile court or a party to act within a time *period* specified in the Children’s Code or the Juvenile Justice Code does not require dismissal of a petition with prejudice or deprive the juvenile court of competency to exercise jurisdiction. Also, under the bill, failure to object to a period or delay or continuance in a proceeding under the Children’s Code or the Juvenile Justice Code waives any challenge to the juvenile court’s competency to act during the period of the delay or continuance. Finally, under the bill, if the juvenile court or a party fails

SENATE BILL 496

to act within a time period specified in the Children's Code or the Juvenile Justice Code, the juvenile court may grant a continuance for good cause shown, dismiss the petition (with or without prejudice under the Juvenile Justice Code, without prejudice under the Children's Code), release the child from secure or nonsecure custody or from the terms of a custody order, or grant any other relief that the juvenile court considers appropriate.

Extension of time periods

Current law requires a county department of human services or social services, the Department of Health and Family Services, or a child welfare agency (collectively "agency") that investigates a report of suspected child abuse or neglect to determine, within 60 days after receipt of the report, whether abuse or neglect has occurred. Current law also requires the intake worker to request that a CHIPS petition be filed, enter into an informal disposition, or close the case within 40 days after the receipt of information that the child should be referred to the juvenile court. Recently, in *Sheboygan County DHHS v. Jodell G.*, 2001 WI App 18, 240 Wis. 2d 516, the court of appeals held that the 60-day period within which an agency must determine whether child abuse or neglect has occurred and the 40-day period within which an intake worker must take action following receipt of referral information run concurrently.

This bill increases from 40 days to 60 days the period within which an intake worker must take action following receipt of referral information and codifies *Jodell G.* by providing that, if the referral information is a report of suspected child abuse or neglect received by an agency, that 60-day period begins on the day on which the report is received by the agency.

Also, under current law, the district attorney or corporation counsel must file a CHIPS petition within ten days after an intake worker cancels an informal disposition for failure of a parent or child to meet the obligations imposed under the informal disposition.

This bill extends the time within which a district attorney or corporation counsel must take action after an intake worker cancels an informal disposition by permitting the intake worker to notify the district attorney or corporation counsel of the cancellation within ten days after the informal disposition is cancelled and the district attorney or corporation counsel to file a CHIPS petition or close the case within 20 days after the date of the notice. Moreover, the bill permits the CHIPS petition to include information received before the effective date of the informal disposition, as well as information received during the period of the informal disposition, including information indicating that a party has not met the obligations imposed under the informal disposition, to provide a basis for conferring jurisdiction on the juvenile court.

Informal dispositions

Under current law, an informal disposition may be entered into only if the child and his or her parent, guardian, and legal custodian consent and may not exceed six months in length, unless extended by the intake worker after notice to the child, parent, guardian, and legal custodian. An informal disposition, however, may not

SENATE BILL 496

be extended if the child, parent, guardian, or legal custodian objects. A child, parent, guardian, or legal custodian may also terminate an informal disposition on request.

This bill requires the consent of a child to enter into an informal disposition, permits a child to object to an extension of an informal disposition, and permits a child to terminate an informal disposition only if the child is 12 years of age or over. Accordingly, for a child under 12 years of age, only the consent of a parent, guardian, and legal custodian is required to enter into an informal disposition and only a parent, guardian, or legal custodian is permitted to object to an extension of, or request the termination of, an informal disposition.

Similarly, an informal disposition may be entered into with respect to an unborn child only if the unborn child, by the unborn child's guardian ad litem, the expectant mother, and, if the expectant mother is a child, her parent, guardian, and legal custodian consent; may not be extended if the unborn child, by the unborn child's guardian ad litem, the expectant mother, or, if the expectant mother is a child, her parent, guardian, or legal custodian object; and may be terminated upon the request of the unborn child, by the unborn child's guardian ad litem, the expectant mother, or, if the expectant mother is a child, her parent, guardian, or legal custodian.

This bill permits an informal disposition to be entered into without the consent of an unborn child, by the unborn child's guardian ad litem, or of a child expectant mother under 12 years of age and eliminates the right of an unborn child, by the unborn child's guardian ad litem, or of a child expectant mother under 12 years of age to object to an extension of, or to request the termination of, an informal disposition. Accordingly, for an unborn child, only the consent of the expectant mother, if 12 years of age or over, and the parent, guardian, and legal custodian of a child expectant mother are required to enter into an informal disposition and only an expectant mother, if 12 years of age or over, or a parent, guardian, or legal custodian of a child expectant mother are permitted to object to an extension of, or to request the termination of, an informal disposition.

Finally, current law provides that an informal disposition is terminated if the district attorney or corporation counsel files a CHIPS petition within 20 days after receipt of notice that the informal disposition has been entered into. If an informal disposition is terminated by the filing of a CHIPS petition, statements made to the intake worker during the intake inquiry are inadmissible. This bill eliminates the inadmissibility of those statements.

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:

SENATE BILL 496

1 48.24 (4) If the intake worker determines as a result of the intake inquiry that
2 the case should be subject to an informal disposition, or should be closed, the intake
3 worker shall so proceed. If a petition has been filed, informal disposition may not
4 occur or a case may not be closed unless the petition is withdrawn by the district
5 attorney, corporation counsel or other official specified in s. 48.09, or is dismissed by
6 the judge court.

7 **SECTION 2.** 48.24 (5) of the statutes is amended to read:

8 48.24 (5) The intake worker shall request that a petition be filed, enter into an
9 informal disposition, or close the case within 40 60 days ~~or sooner of~~ after receipt of
10 referral information. If the referral information is a report received by a county
11 department or, in a county having a population of 500,000 or more, the department
12 or a licensed child welfare agency under contract with the department under s.
13 48.981 (3) (a) 1., 1., or 2d., that 60-day period shall begin on the day on which the
14 report is received by the county department, department, or licensed child welfare
15 agency. If the case is closed or an informal disposition is entered into, the district
16 attorney, corporation counsel, or other official under s. 48.09 shall receive written
17 notice of such that action. If a law enforcement officer has made a recommendation
18 concerning the child, or the unborn child and the expectant mother of the unborn
19 child, the intake worker shall forward this recommendation to the district attorney,
20 corporation counsel, or other official under s. 48.09. ~~With respect to petitioning a~~
21 ~~child or unborn child to be in need of protection or services,~~ If a petition is filed, the
22 petition may include information received more than 40 60 days before filing the
23 petition ~~may be included~~ to establish a condition or pattern which, together with
24 information received within the 40-day 60-day period, provides a basis for
25 conferring jurisdiction on the court. ~~The judge shall dismiss with prejudice any such~~

SENATE BILL 496**SECTION 2**

1 ~~petition which court shall grant appropriate relief as provided in s. 48.315 (3) with~~
2 ~~respect to any petition that is not referred or filed within the time limits periods~~
3 ~~specified within in this subsection. Failure to object to the fact that a petition is not~~
4 ~~requested within the time period specified in this subsection waives any challenge~~
5 ~~to the court's competency to act on the petition.~~

6 **SECTION 3.** 48.245 (1) of the statutes is renumbered 48.245 (1) (intro.) and
7 amended to read:

8 48.245 (1) (intro.) ~~The~~ An intake worker may enter into a written agreement
9 with all parties ~~which~~ that imposes informal disposition under this section if ~~the~~ all
10 of the following apply:

11 (a) The intake worker has determined that neither the interests of the child or
12 unborn child nor of the public require the filing of a petition for circumstances
13 relating to ss. 48.13 to 48.14. ~~Informal disposition shall be available only if the~~

14 (b) The facts persuade the intake worker that the jurisdiction of the court, if
15 sought, would exist ~~and upon consent of the,~~

16 (c) The child, if 12 years of age or over, and the child's parent, guardian, and
17 legal custodian; ~~or upon consent of the parent, guardian, and legal custodian of the~~
18 child expectant mother, her parent, guardian and legal custodian and the unborn
19 child, ~~by the unborn child's guardian ad litem~~ and the child expectant mother, if 12
20 years of age or over; or upon consent of the adult expectant mother and the unborn
21 child, by the unborn child's guardian ad litem, consent.

22 **SECTION 4.** 48.245 (2) (c) of the statutes is amended to read:

23 48.245 (2) (c) If the informal disposition provides for alcohol and other drug
24 abuse outpatient treatment under par. (a) 4., the child, if 12 years of age or over, and
25 the child's parent, guardian, or legal custodian, or the adult expectant mother, shall

SENATE BILL 496

1 execute an informed consent form that indicates that they are, or that she is,
2 voluntarily and knowingly entering into an informal disposition agreement for the
3 provision of alcohol and other drug abuse outpatient treatment.

4 **SECTION 5.** 48.245 (2r) of the statutes is amended to read:

5 48.245 (2r) ~~If an informal disposition is based on allegations that a child or an~~
6 ~~unborn child is in need of protection or services, the~~ The intake worker may, after
7 giving written notice to the child ~~and, the child's parent, guardian, and legal~~
8 ~~custodian, and their counsel, if any, or after giving written notice to the child~~
9 ~~expectant mother, her parent, guardian, and legal custodian, and their counsel, if~~
10 ~~any, and the unborn child by the unborn child's guardian ad litem, or after giving~~
11 ~~written notice to the adult expectant mother, and her counsel, if any, and the unborn~~
12 ~~child, by the unborn child's guardian ad litem, extend the informal disposition for up~~
13 ~~to an additional 6 months unless the child or the child's parent, guardian, or legal~~
14 ~~custodian, the~~ child or child expectant mother, ~~her parent, guardian or legal~~
15 ~~custodian or the unborn child by the unborn child's guardian ad litem, or if 12 years~~
16 ~~of age or over, or the adult expectant mother or the unborn child by the unborn child's~~
17 ~~guardian ad litem, objects to the extension. If the child or the child's parent,~~
18 ~~guardian, or legal custodian, the~~ child or child expectant mother, ~~her parent,~~
19 ~~guardian or legal custodian or the unborn child by the unborn child's guardian ad~~
20 ~~litem, or if 12 years of age or over, or the adult expectant mother or the unborn child~~
21 ~~by the unborn child's guardian ad litem, objects to the extension, the intake worker~~
22 ~~may recommend to~~ request the district attorney or corporation counsel ~~that to file~~ a
23 petition be filed under s. 48.13 or 48.133. An extension under this subsection may
24 be granted only once for any informal disposition. An extension under this

SENATE BILL 496

1 subsection of an informal disposition relating to an unborn child who is alleged to be
2 in need of protection or services may be granted after the child is born.

3 **SECTION 6.** 48.245 (4) of the statutes is amended to read:

4 48.245 (4) The intake worker shall inform the child, if 12 years of age or over,
5 and the child's parent, guardian, and legal custodian, the child expectant mother, if
6 12 years of age or over, and her parent, guardian, and legal custodian ~~and the unborn~~
7 ~~child by the unborn child's guardian ad litem, or the adult expectant mother and the~~
8 ~~unborn child by the unborn child's guardian ad litem,~~ in writing of their right to
9 terminate the informal disposition at any time or object at any time to the fact or
10 terms of the informal disposition. If there is an objection ~~arises,~~ the intake worker
11 may alter the terms of the agreement or request the district attorney or corporation
12 counsel to file a petition. If the informal disposition is terminated, the intake worker
13 may request the district attorney or corporation counsel to file a petition.

14 **SECTION 7.** 48.245 (5) of the statutes is amended to read:

15 48.245 (5) Informal disposition shall be terminated upon the request of the
16 child, if 12 years of age or over, or the child's parent, guardian, or legal custodian,
17 upon request of the child expectant mother, if 12 years of age or over, or her parent,
18 guardian, or legal custodian ~~or the unborn child by the unborn child's guardian ad~~
19 ~~litem, or upon the request of the adult expectant mother or the unborn child by the~~
20 ~~unborn child's guardian ad litem.~~

21 **SECTION 8.** 48.245 (5m) of the statutes is amended to read:

22 48.245 (5m) An informal disposition is terminated if the district attorney or
23 corporation counsel files a petition within 20 days after receipt of notice of the
24 informal disposition under s. 48.24 (5). ~~In such case statements made to the intake~~
25 ~~worker during the intake inquiry are inadmissible.~~

SENATE BILL 496

1 **SECTION 9.** 48.245 (7) of the statutes is amended to read:

2 48.245 (7) If at any time during the period of informal disposition the intake
3 worker determines that the obligations imposed under it are not being met, the
4 intake worker may cancel the informal disposition. Within 10 days after the
5 ~~cancellation of the informal disposition is cancelled~~, the intake worker shall notify
6 the district attorney, corporation counsel, or other official under s. 48.09 of the
7 cancellation and may request that a petition be filed. ~~The judge shall dismiss with~~
8 ~~prejudice any petition which~~ district attorney, corporation counsel, or other official
9 under s. 48.09 shall file the petition or close the case within 20 days after the date
10 of the notice. The petition may include information received before the effective date
11 of the informal disposition, as well as information received during the period of the
12 informal disposition, including information indicating that a party has not met the
13 obligations imposed under the informal disposition, to provide a basis for conferring
14 jurisdiction on the court. The court shall grant appropriate relief as provided in s.
15 48.315 (3) with respect to any petition that is not filed within the time limit period
16 specified in this subsection. Failure to object to the fact that a petition is not filed
17 within the time period specified in this subsection waives any objection to the court's
18 competency to act on the petition.

19 **SECTION 10.** 48.25 (2) of the statutes is amended to read:

20 48.25 (2) If the proceeding is brought under s. 48.13 or 48.133, the district
21 attorney, corporation counsel, or other appropriate official shall file the petition,
22 close the case, or refer the case back to intake within 20 days after the date that the
23 intake worker's ~~recommendation~~ request was filed. A referral back to intake may
24 be made only when the district attorney, corporation counsel, or other appropriate
25 official decides not to file a petition or determines that further investigation is

SENATE BILL 496**SECTION 10**

1 necessary. If the case is referred back to intake upon a decision not to file a petition,
2 the intake worker shall close the case or enter into an informal disposition within 20
3 days after the date of the referral. If the case is referred back to intake for further
4 investigation, the appropriate agency or person shall complete the investigation
5 within 20 days after the date of the referral. If another referral is made to the district
6 attorney, corporation counsel, or other appropriate official, it shall be considered a
7 new referral to which the time ~~limits periods~~ of this subsection shall apply. The time
8 ~~limits periods~~ in this subsection may only be extended by a judge court upon a
9 showing of good cause under s. 48.315. If a petition is not filed within the applicable
10 time limitations period set forth in this subsection and the court has not granted an
11 extension, the petition shall be accompanied by a statement of reasons for the delay.
12 ~~The court shall dismiss with prejudice a petition which was not timely filed unless~~
13 ~~the court finds at the plea hearing that good cause has been shown for failure to meet~~
14 ~~the time limitations~~ grant appropriate relief as provided in s. 48.315 (3) with respect
15 to any petition that is not filed within the applicable time period specified in this
16 subsection. Failure to object to the fact that a petition is not filed within the
17 applicable time period specified in this subsection waives any challenge to the court's
18 competency to act on the petition.

19 **SECTION 11.** 48.315 (1) (intro.) of the statutes is amended to read:

20 48.315 (1) (intro.) The following time periods shall be excluded in computing
21 time ~~requirements within periods under~~ this chapter:

22 **SECTION 12.** 48.315 (2m) (a) (intro.) of the statutes is renumbered 48.315 (2m)
23 (intro.) and amended to read:

24 48.315 (2m) (intro.) No continuance or extension of a time limit period specified
25 in this chapter may be granted and no period of delay specified in sub. (1) may be

SENATE BILL 496

1 excluded in computing a time requirement period under this chapter if the
2 continuance, extension, or exclusion would result in any of the following:

3 **SECTION 13.** 48.315 (2m) (a) 1. of the statutes, as affected by 2007 Wisconsin
4 Act 20, is renumbered 48.315 (2m) (a).

5 **SECTION 14.** 48.315 (2m) (a) 2. of the statutes is renumbered 48.315 (2m) (b).

6 **SECTION 15.** 48.315 (2m) (b) of the statutes is renumbered 48.315 (3) and
7 amended to read:

8 48.315 (3) ~~Failure to comply with any time limit by the court or a party to act~~
9 within any time period specified in par. (a) this chapter does not deprive the court of
10 personal or subject matter jurisdiction or of competency to exercise that jurisdiction.
11 Failure to object to a period of delay or a continuance waives any challenge to the
12 court's competency to act during the period of delay or continuance. If the court or
13 a party does not comply with a time limit act within a time period specified in par.
14 (a) this chapter, the court, while assuring the safety of the child, may grant a
15 continuance under sub. (2), dismiss the proceeding with or without prejudice, release
16 the child from ~~eustody~~ secure or nonsecure custody or from the terms of a custody
17 order, or grant any other relief that the court considers appropriate.

18 **SECTION 16.** 48.365 (6) of the statutes is amended to read:

19 48.365 (6) If a request to extend a dispositional order is made prior to the
20 termination of the order, but the court is unable to conduct a hearing on the request
21 prior to the termination date, the court may extend the order for a period of not more
22 than 30 days, not including any period of delay resulting from any of the
23 circumstances specified in s. 48.315 (1). The court shall grant appropriate relief as
24 provided in s. 48.315 (3) with respect to any request to extend a dispositional order
25 on which a hearing is not held within the time period specified in this subsection.

SENATE BILL 496**SECTION 16**

1 Failure to object if a hearing is not held within the time period under this subsection
2 waives any challenge to the court's competency to act on the request.

3 **SECTION 17.** 48.375 (7) (a) 3. of the statutes is amended to read:

4 48.375 (7) (a) 3. Set a time for a hearing on the petition that will enable the
5 court to ~~comply with~~ act within the time ~~limit~~ period specified in par. (d) 1.

6 **SECTION 18.** 48.375 (7) (d) (title) of the statutes is amended to read:

7 48.375 (7) (d) (title) *Time limit period.*

8 **SECTION 19.** 48.375 (7) (d) 1m. of the statutes is amended to read:

9 48.375 (7) (d) 1m. Except as provided under s. 48.315 (1) (b), (c), (f), and (h), if
10 the court fails to ~~comply with~~ act within the applicable time ~~limits~~ period specified
11 under subd. 1. without the prior consent of the minor and the minor's counsel, if any,
12 or the member of the clergy who filed the petition on behalf of the minor, if any, the
13 minor and the minor's counsel, if any, or the member of the clergy, if any, shall select
14 a temporary reserve judge, as defined in s. 753.075 (1) (b), to make the determination
15 under par. (c) and issue an order granting or denying the petition and the chief judge
16 of the judicial administrative district in which the court is located shall assign the
17 temporary reserve judge selected by the minor and the minor's counsel, if any, or the
18 member of the clergy, if any, to make the determination and issue the order. A
19 temporary reserve judge assigned under this subdivision to make a determination
20 under par. (c) and issue an order granting or denying a petition shall make the
21 determination and issue the order within 2 calendar days after the assignment,
22 unless the minor and her counsel, if any, or the member of the clergy who filed the
23 petition on behalf of the minor, if any, consent to an extension of that time period.
24 The order shall be effective immediately. The court shall prepare and file with the
25 clerk of court findings of fact, conclusions of law and a final order granting or denying

SENATE BILL 496

1 the petition, and shall notify the minor of the court's order, as provided under subd.
2 1.

3 **SECTION 20.** 48.43 (6) (c) of the statutes is amended to read:

4 48.43 (6) (c) In no event may any person, for any reason, collaterally attack a
5 judgment terminating parental rights more than one year after the date on which
6 the time ~~limit~~ period for filing an appeal from the judgment has expired, or more than
7 one year after the date on which all appeals from the judgment, if any were filed, have
8 been decided, whichever is later.

9 **SECTION 21.** 48.43 (6m) of the statutes is amended to read:

10 48.43 (6m) If a person whose parental rights are terminated is present in court
11 when the court grants the order terminating those rights, the court shall provide
12 written notification to the person of the time ~~limits~~ periods for appeal of the
13 judgment. The person shall sign the written notification, indicating that he or she
14 has been notified of the time ~~limits~~ periods for filing an appeal under ss. 808.04 (7m)
15 and 809.107. The person's counsel shall file a copy of the signed, written notification
16 with the court on the date on which the judgment is granted.

17 **SECTION 22.** 48.63 (1) of the statutes, as affected by 2007 Wisconsin Act 20, is
18 amended to read:

19 48.63 (1) Acting under court order or voluntary agreement, the child's parent
20 or guardian or the department, the department of corrections, a county department,
21 or a child welfare agency licensed to place children in foster homes, treatment foster
22 homes, or group homes may place a child or negotiate or act as intermediary for the
23 placement of a child in a foster home, treatment foster home, or group home.
24 Voluntary agreements under this subsection may not be used for placements in
25 facilities other than foster, treatment foster, or group homes and may not be

SENATE BILL 496**SECTION 22**

1 extended. A foster home or treatment foster home placement under a voluntary
2 agreement may not exceed 180 days from the date on which the child was removed
3 from the home under the voluntary agreement. A group home placement under a
4 voluntary agreement may not exceed 15 days from the date on which the child was
5 removed from the home under the voluntary agreement, except as provided in sub.
6 (5). These time ~~limitations~~ periods do not apply to placements made under s. 48.345,
7 938.183, 938.34, or 938.345. Voluntary agreements may be made only under this
8 subsection and sub. (5) (b) and shall be in writing and shall specifically state that the
9 agreement may be terminated at any time by the parent or guardian or by the child
10 if the child's consent to the agreement is required. The child's consent to the
11 agreement is required whenever the child is 12 years of age or older. If a county
12 department, the department, or the department of corrections places a child or
13 negotiates or acts as intermediary for the placement of a child under this subsection,
14 the voluntary agreement shall also specifically state that the county department,
15 department, or department of corrections has placement and care responsibility for
16 the child as required under 42 USC 672 (a) (2) and has primary responsibility for
17 providing services to the child.

18 **SECTION 23.** 938.24 (5) of the statutes is amended to read:

19 938.24 (5) REQUEST FOR PETITION, DEFERRED PROSECUTION, OR CASE CLOSURE; TIME
20 PERIODS. The intake worker shall request that a petition be filed, enter into a deferred
21 prosecution agreement, or close the case within 40 days of after receipt of referral
22 information. Before entering into a deferred prosecution agreement, the intake
23 worker shall comply with s. 938.245 (1m), if applicable. If the case is closed or a
24 deferred prosecution agreement is entered into, the district attorney, corporation
25 counsel, or other official under s. 938.09 shall receive written notice of that action.

SENATE BILL 496

1 If the case is closed, the known victims of the juvenile's alleged act shall receive notice
2 as provided under sub. (5m), if applicable. A notice of deferred prosecution of an
3 alleged delinquency case shall include a summary of the facts surrounding the
4 allegation and a list of the juvenile's prior intake referrals and dispositions. If a law
5 enforcement officer has made a recommendation concerning the juvenile, the intake
6 worker shall forward the recommendation to the district attorney under s. 938.09.
7 Notwithstanding the requirements of this section, the district attorney may initiate
8 a delinquency petition under s. 938.25 within 20 days after notice that the case has
9 been closed or that a deferred prosecution agreement has been entered into. The
10 court shall grant appropriate relief as provided in s. 938.315 (3) with respect to any
11 such petition that is not referred or filed within the time limits period specified in this
12 subsection. Failure to object to the fact that a petition is not referred or filed within
13 a time limit period specified in this subsection waives ~~that time limit~~ any challenge
14 to the court's competency to act on the petition.

15 **SECTION 24.** 938.245 (7) (a) of the statutes is amended to read:

16 938.245 (7) (a) If at any time during the period of a deferred prosecution
17 agreement the intake worker determines that the obligations imposed under it are
18 not being met, the intake worker may cancel the agreement. Within 10 days after
19 the agreement is cancelled, the intake worker shall notify the district attorney,
20 corporation counsel, or other official under s. 938.09 of the cancellation and may
21 request that a petition be filed. In delinquency cases, the district attorney may
22 initiate a petition within 20 days after the date of the notice regardless of whether
23 the intake worker has requested that a petition be filed. The court shall grant
24 appropriate relief as provided in s. 938.315 (3) with respect to any petition that is not
25 filed within the time limit period specified in this paragraph. Failure to object if to

SENATE BILL 496**SECTION 24**

1 the fact that a petition is not filed within the time ~~limit~~ period specified in this
2 paragraph waives ~~that time limit~~ any challenge to the court's competency to act on
3 the petition.

4 **SECTION 25.** 938.25 (2) (title) of the statutes is amended to read:

5 938.25 (2) (title) ~~TIME LIMITS PERIODS;~~ REFERRAL BACK.

6 **SECTION 26.** 938.25 (2) (a) of the statutes is amended to read:

7 938.25 (2) (a) The district attorney, corporation counsel, or other appropriate
8 official shall file the petition, close the case, or refer the case back to intake or, with
9 notice to intake, the law enforcement agency investigating the case within 20 days
10 after the date that the intake worker's request was filed. A referral back to intake
11 or to the law enforcement agency investigating the case may be made only when the
12 district attorney, corporation counsel, or other appropriate official decides not to file
13 a petition or determines that further investigation is necessary. If the case is referred
14 back to intake upon a decision not to file a petition, the intake worker shall close the
15 case or enter into a deferred prosecution agreement within 20 days after the date of
16 the referral. If the case is referred back to intake or to the law enforcement agency
17 investigating the case for further investigation, the appropriate agency or person
18 shall complete the investigation within 20 days after the date of the referral. If
19 another referral is made to the district attorney, corporation counsel, or other
20 appropriate official by intake or by the law enforcement agency investigating the
21 case, it shall be considered a new referral to which the time limits of this subsection
22 apply. The time ~~limits~~ periods in this subsection paragraph may only be extended
23 by a court upon a showing of good cause under s. 938.315. If a petition is not filed
24 within the time ~~limits~~ periods in this subsection paragraph and the court has not
25 granted an extension, the petition shall be accompanied by a statement of reasons

SENATE BILL 496

1 for the delay. The court shall grant appropriate relief as provided in s. 938.315 (3)
2 with respect to a petition that is not filed within the applicable time limits period in
3 this paragraph. Failure to object if to the fact that a petition is not filed within the
4 applicable time limits period in this paragraph waives ~~those time limits~~ any
5 challenge to the court's competency to act on the petition.

6 **SECTION 27.** 938.25 (2) (b) of the statutes is amended to read:

7 938.25 (2) (b) In delinquency cases in which there has been a case closure or
8 deferred prosecution agreement, the petition shall be filed within 20 days after
9 receipt of the notice of the closure or agreement. Failure to file within those 20 days
10 invalidates the petition and affirms the case closure or agreement, except that the
11 court shall grant appropriate relief as provided in s. 938.315 (3) with respect to a
12 petition that is not filed within the time limit period specified in this paragraph and
13 that failure to object if a petition is not filed within ~~the time limit in this paragraph~~
14 that time period waives ~~that time limit~~ any challenge to the court's competency to act
15 on the petition. If a petition is filed within those 20 days or the time permitted by
16 the court under s. 938.315 (3), whichever is later, the district attorney shall notify the
17 parties to the agreement and the intake worker of the filing as soon as possible.

18 **SECTION 28.** 938.25 (4) of the statutes is amended to read:

19 938.25 (4) ~~TIME LIMIT ON PERIOD FOR PROSECUTION.~~ Section 939.74 applies to
20 delinquency petitions filed under this chapter.

21 **SECTION 29.** 938.315 (1) (intro.) of the statutes is amended to read:

22 938.315 (1) **TIME PERIODS TO BE EXCLUDED.** (intro.) The following time periods
23 shall be excluded in computing time requirements periods under this chapter:

24 **SECTION 30.** 938.315 (2m) (intro.) of the statutes is amended to read:

SENATE BILL 496**SECTION 30**

1 938.315 **(2m)** WHEN NO CONTINUANCE, EXTENSION, OR EXCLUSION PERMITTED.
2 (intro.) No continuance or extension of a time limit period specified in this chapter
3 may be granted and no period of delay specified in sub. (1) may be excluded in
4 computing a time requirement period under this chapter if the continuance,
5 extension, or exclusion would result in any of the following:

6 **SECTION 31.** 938.315 (3) of the statutes is amended to read:

7 938.315 **(3)** CONSEQUENCES OF FAILURE TO ~~COMPLY WITH ACT WITHIN TIME LIMIT~~
8 PERIOD. Failure to ~~comply with any time limit by the court or a party to act within~~
9 any time period specified in this chapter does not deprive the court of personal or
10 subject matter jurisdiction or of competency to exercise that jurisdiction. Failure to
11 object to a period of delay or a continuance waives ~~the time limit that is the subject~~
12 of any challenge to the court's competency to act during the period of delay or
13 continuance. If the court or a party does not ~~comply with a time limit~~ act within a
14 time period specified in this chapter, the court, while assuring the safety of the
15 juvenile, may grant a continuance under sub. (2), dismiss the petition with or
16 without prejudice, release the juvenile from secure or nonsecure custody or from the
17 terms of a custody order, or grant any other relief that the court considers
18 appropriate.

19 **SECTION 32.** 938.357 (4g) (a) of the statutes is amended to read:

20 938.357 **(4g)** (a) Not later than 120 days after the date on which the juvenile
21 is placed in a juvenile correctional facility or a secured residential care center for
22 children and youth, or within 30 days after the date on which the department
23 requests the aftercare plan, whichever is earlier, the aftercare provider designated
24 under s. 938.34 (4n) shall prepare an aftercare plan for the juvenile. If the designated
25 aftercare provider is a county department, that county department shall submit the

SENATE BILL 496

1 aftercare plan to the department within the applicable time limits period specified
2 in this paragraph, unless the department waives ~~those time limits~~ the time period
3 under par. (b).

4 **SECTION 33.** 938.357 (5) (d) of the statutes is amended to read:

5 938.357 (5) (d) A hearing on the revocation shall be conducted by the division
6 of hearings and appeals in the department of administration within 30 days after the
7 juvenile is taken into custody for an alleged violation of a condition of the juvenile's
8 aftercare supervision. This time ~~limit~~ period may be waived only upon the
9 agreement of the aftercare provider, the juvenile, and the juvenile's counsel.

10 **SECTION 34.** 938.365 (6) of the statutes is amended to read:

11 938.365 (6) HEARINGS CONDUCTED AFTER ORDER TERMINATES. If a request to
12 extend a dispositional order is made prior to the termination of the order, but the
13 court is unable to conduct a hearing on the request prior to the termination date, the
14 court may extend the order for a period of not more than 30 days, not including any
15 period of delay resulting from any of the circumstances under s. 938.315 (1). The
16 court shall grant appropriate relief as provided in s. 938.315 (3) with respect to any
17 request to extend a dispositional order on which a hearing is not held within the time
18 limit period specified in this subsection. Failure to object if a hearing is not held
19 within the time ~~limit~~ period under this subsection waives ~~that time limit~~ any
20 challenge to the court's competency to act on the request.

21 **SECTION 35. Initial applicability.**

22 (1) TIME PERIODS. The treatment of sections 48.24 (5), 48.245 (7), 48.25 (2),
23 48.315 (1) (intro.) and (2m) (a) (intro.), 1., and 2. and (b), 48.365 (6), 48.375 (7) (a) 3.
24 and (d) (title) and 1m., 48.43 (6) (c) and (6m), 48.63 (1), 938.24 (5), 938.245 (7) (a),
25 938.25 (2) (title), (a), and (b) and (4), 938.315 (1) (intro.), (2m) (intro.), and (3), 938.357

SENATE BILL 496

1 (4g) (a) and (5) (d), and 938.365 (6) of the statutes first applies to a time period that
2 begins on the effective date of this subsection.

3 (2) INFORMAL DISPOSITIONS. The treatment of section 48.245 (1), (2) (c), (2r), (4),
4 (5), and (5m) of the statutes first applies to an informal disposition entered into on
5 the effective date of this subsection.

6 (END)