



## 2009 ASSEMBLY BILL 722

February 11, 2010 - Introduced by Representatives STRACHOTA, KNODL, J. OTT, HONADEL, VOS, TOWNSEND and SPANBAUER, cosponsored by Senators DARLING, LASSA, OLSEN, HOPPER and PLALE. Referred to Committee on Children and Families.

1     **AN ACT** *to renumber and amend* 48.357 (2r), 48.64 (4) (a), 48.64 (4) (c) and  
2           938.357 (2r); *to amend* 48.293 (2), 48.295 (1), 48.295 (3), 48.33 (5), 48.355 (2)  
3           (b) 2., 48.357 (1) (am) 1., 48.357 (1) (am) 2m., 48.357 (1) (am) 2r., 48.357 (1) (c)  
4           1., 48.357 (2m) (a), 48.357 (2m) (b), 48.357 (2m) (bp), 48.38 (4) (c), 48.62 (3m),  
5           48.78 (2) (a), 48.78 (2) (ag), 48.78 (2) (aj), 48.78 (2) (am), 48.78 (2) (ap), 48.834  
6           (title), 48.834 (1), 48.834 (1m), 938.293 (2), 938.295 (1) (b), 938.295 (3), 938.33  
7           (5), 938.355 (2) (b) 2., 938.357 (1) (am) 1., 938.357 (1) (am) 2., 938.357 (1) (am)  
8           2r., 938.357 (1) (c) 1., 938.357 (2m) (a), 938.357 (2m) (b), 938.357 (2m) (bp),  
9           938.38 (4) (c), 938.78 (2) (a), 938.78 (2) (ag) and 938.78 (2) (am); *to repeal and*  
10          **recreate** 48.293 (2), 48.295 (1), 48.295 (3), 48.33 (5), 48.355 (2) (b) 2., 48.357 (1)  
11          (am) 1., 48.357 (2m) (b), 48.357 (2r), 48.38 (4) (c), 48.64 (4) (a), 48.64 (4) (c),  
12          938.293 (2), 938.295 (1) (b), 938.295 (3), 938.33 (5), 938.355 (2) (b) 2., 938.357  
13          (1) (am) 1., 938.357 (1) (am) 2., 938.357 (2m) (b), 938.357 (2r) and 938.38 (4) (c);  
14          and *to create* 48.357 (1) (am) 2r., 48.357 (2m) (bp), 48.357 (2r) (b), 48.62 (3m),

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1           48.64 (4) (a) 2., 48.64 (4) (c) 3., 48.834 (1m), 938.357 (1) (am) 2r., 938.357 (2m)  
2           (bp) and 938.357 (2r) (b) of the statutes; **relating to:** disclosure of the identity  
3           of a foster parent or treatment foster parent of a child; the rights of a foster  
4           parent, treatment foster parent, or other physical custodian of a child on  
5           removal of the child from the person's home; and placement of a child for  
6           adoption with a foster parent, treatment foster parent, or other physical  
7           custodian of the child.

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

This bill makes various changes relating to disclosure of the identity of a foster parent or treatment foster parent of a child; the rights of a foster parent, treatment foster parent, or other physical custodian of a child on removal of the child from the person's home, whether that removal is through a change in placement or an agency decision or order; and placement of a child for adoption with a foster parent, treatment foster parent, or other physical custodian of the child.

**DISCLOSURE OF IDENTITY**

Under current law, a dispositional order of the court assigned to exercise jurisdiction under the Children's Code (juvenile court) that places a child outside the home must include the name of the place or facility where the child shall be cared for, except that the juvenile court may order the name and address of a foster parent or treatment foster parent to be withheld from a child's parent or guardian if the juvenile court finds that disclosure of that information would result in imminent danger to the child, the foster parent, or the treatment foster parent.

This bill provides that the name, other than the first name, and address of a person licensed to operate a foster home or treatment foster home may not be disclosed to the parent or guardian of a child placed in the home or to any other adult relative of the child without the written consent of the licensee.

**RIGHTS ON REMOVAL OF CHILD**

***Change in placement.*** Under current law, a child who is subject to a dispositional order of the juvenile court, the child's parent, guardian, or legal custodian, or any agency bound by the dispositional order may request a change in placement of the child. Currently, if the agency requests the change in placement, the agency must provide notice to the child, the child's parent, guardian, and legal custodian, and the child's foster parent, treatment foster parent, or other physical custodian stating the reasons for the change in placement, why the new placement is preferable to the current placement, and how the new placement satisfies the objectives of the child's treatment plan. A person who receives notice of such a change

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in placement may obtain a hearing on the change in placement by filing an objection to the change in placement.

Current law provides a slightly different procedure for when the child or the child's parent, guardian, or legal custodian requests a change in placement. In that case, the notice must state what new information affects the advisability of the current placement and a hearing must be held unless all parties waive their objections to the change in placement.

Under either procedure, if a hearing is held and the change in placement would remove the child from a foster home or treatment foster home or from the home of another physical custodian, the juvenile court must give the foster parent, treatment foster parent, or other physical custodian the right to be heard by permitting that person to make a written or oral statement at the hearing or to submit a written statement prior to the hearing relating to the child and to the change in placement.

This bill expands the rights of a foster parent, treatment foster parent, or other physical custodian in connection with a change in placement proceeding. Specifically, the bill provides that, if a hearing is held and the change in placement would remove the child from a foster home or treatment foster home or from the home of another physical custodian in which the child has been placed for six months or more, the foster parent, treatment foster parent, or other physical custodian shall become a party to the proceeding and, as a party, shall have the right to be represented by counsel, to inspect and copy, through counsel, all records relating to the child, to request that the child be examined or assessed by an expert of the foster parent's, treatment foster parent's, or other physical custodian's own choosing, to present evidence, including expert testimony, to confront and cross-examine witnesses, and to present alternative placement recommendations. The bill also requires the juvenile court, in such a proceeding, to consider as paramount the best interests of the child in determining whether to continue placement of the child in his or her current placement or to change the child's placement to the proposed change in placement.

The bill also changes the standard for a change in placement requested by an agency by eliminating the requirement that the request show why the new placement is preferable to the current placement and instead requiring the request to show why the new placement would be in the best interests of the child. In addition, the bill changes the standard for a change in placement requested by the child or the child's parent, guardian, or legal custodian by eliminating the requirement that the request state what *new* information is available that affects the advisability of the current placement and instead requiring the request to state what information, new or old, is available that affects the advisability of the current placement and why the new placement would be in the best interests of the child.

***Agency decision or order.*** Under current law, if a child has been placed in a foster home, treatment foster home, or group home or in the home of a relative other than a parent for six months or longer, the Department of Children and Families (DCF), the county department of human services or social services (county department), or licensed child welfare agency (collectively, "agency") that placed the child must give the head of the home written notice of intent to remove the child from

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the home, stating the reasons for the removal. In those cases, the child may not be removed from the home before completion of a hearing before DCF or the circuit court to review the removal decision, if a hearing has been requested, or 30 days after receipt of the notice of intent to remove, whichever is later, unless the safety of the child requires removal.

Also, under current law, any decision or order issued by an agency that affects the head of a foster home, treatment foster home, or group home, the head of the home of a relative other than a parent in which a child is placed, or the child involved may be appealed to DCF under fair hearing procedures. Under those procedures, the head of the home is entitled to be represented by counsel, to examine documents and records, to bring witnesses, to confront and cross-examine adverse witnesses, and to have judicial review of DCF's decision.

In addition, under current law, an interested party may file a petition with the circuit court for the county where a child is placed alleging that a decision or order of the agency supervising the child's placement is not in the best interests of the child. On receipt of a petition, the circuit court may call a hearing for the purpose of reviewing the decision or order. If the child is placed in a foster home or in the home of a relative other than a parent, the foster parent or relative may present relevant evidence at the hearing.

This bill makes the rights of the head of a foster home, treatment foster home, group home, or home of a relative other than a parent in connection with an appeal of an agency decision or order removing a child from the person's home consistent with the rights of a foster parent, treatment foster parent, or other physical custodian in connection with a change in placement proceeding. Specifically, the bill provides that, if the head of a foster home, treatment foster home, group home, or home of a relative other than a parent in which a child has been placed for six months or more appeals an agency decision affecting the head of the home to DCF or files a petition with the circuit court requesting the circuit court to review the agency decision or order, the head of the home is a party to the proceeding and, as a party, has the right to be represented by counsel, to inspect and copy, through counsel, all records relating to the child, to request that the child be examined or assessed by an expert of his or her own choosing, to present evidence, including expert testimony, to confront and cross-examine witnesses, and to present alternative placement recommendations.

**PLACEMENT OF CHILD FOR ADOPTION**

Current law requires an agency, before placing a child for adoption, to consider the availability of a placement for adoption with a relative of the child. This bill requires an agency, before placing for adoption a child who has been placed in the home of a foster parent, treatment foster parent, or other physical custodian for six months or more, to first consider the availability of a placement for adoption with that foster parent, treatment foster parent, or other physical custodian before considering the availability of a placement for adoption with a relative.

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

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

1           **SECTION 1.** 48.293 (2) of the statutes is amended to read:

2           48.293 (2) All records relating to a child, or to an unborn child and the unborn  
3 child's expectant mother, ~~which are relevant to the subject matter of a proceeding~~  
4 ~~under this chapter~~ shall be open to inspection by a guardian ad litem or counsel for  
5 any party ~~and to inspection~~, by the court-appointed special advocate for the child,  
6 or by counsel for any foster parent, treatment foster parent, or other physical  
7 custodian described in s. 48.357 (2r) (b), upon demand and upon presentation of  
8 releases when necessary, at least 48 96 hours before the proceeding. Persons and  
9 unborn children, by their guardians ad litem, entitled to inspect the records may  
10 obtain copies of the records with the permission of the custodian of the records or with  
11 the permission of the court. The court may instruct counsel, a guardian ad litem, or  
12 a court-appointed special advocate not to disclose specified items in the ~~materials~~  
13 records to the child ~~or~~, the parent, ~~or to~~ the expectant mother, or the child's foster  
14 parent, treatment foster parent, or other physical custodian described in s. 48.357  
15 (2r) (b) if the court reasonably believes that the disclosure would be harmful to the  
16 interests of the child or the unborn child.

17           **SECTION 2.** 48.293 (2) of the statutes, as affected by 2009 Wisconsin Act .... (this  
18 act), is repealed and recreated to read:

19           48.293 (2) All records relating to a child or to an unborn child and the unborn  
20 child's expectant mother shall be open to inspection by a guardian ad litem or counsel  
21 for any party, by the court-appointed special advocate for the child, or by counsel for

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1 any foster parent or other physical custodian described in s. 48.357 (2r) (b), upon  
2 demand and upon presentation of releases when necessary, at least 96 hours before  
3 the proceeding. Persons and unborn children, by their guardians ad litem, entitled  
4 to inspect the records may obtain copies of the records with the permission of the  
5 custodian of the records or with the permission of the court. The court may instruct  
6 counsel, a guardian ad litem, or a court-appointed special advocate not to disclose  
7 specified items in the records to the child, the parent, the expectant mother, or the  
8 child's foster parent or other physical custodian described in s. 48.357 (2r) (b) if the  
9 court reasonably believes that the disclosure would be harmful to the interests of the  
10 child or the unborn child.

11 **SECTION 3.** 48.295 (1) of the statutes is amended to read:

12 48.295 (1) After the filing of a petition and upon a finding by the court that  
13 reasonable cause exists to warrant a physical, psychological, mental, or  
14 developmental examination or an alcohol and other drug abuse assessment that  
15 conforms to the criteria specified under s. 48.547 (4), the court may order any child  
16 coming within its jurisdiction to be examined as an outpatient by personnel in an  
17 approved treatment facility for alcohol and other drug abuse, by a physician,  
18 psychiatrist, or licensed psychologist, or by another expert appointed by the court  
19 holding at least a master's degree in social work or another related field of child  
20 development, in order that the child's physical, psychological, alcohol or other drug  
21 dependency, mental, or developmental condition may be considered. The court may  
22 also order a physical, psychological, mental, or developmental examination or an  
23 alcohol and other drug abuse assessment that conforms to the criteria specified  
24 under s. 48.547 (4) of a parent, guardian, or legal custodian whose ability to care for  
25 a child is at issue before the court or of an expectant mother whose ability to control

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1 her use of alcohol beverages, controlled substances, or controlled substance analogs  
2 is at issue before the court. The court shall hear any objections by the child or the  
3 child's parents, guardian, or legal custodian, or the child's foster parent, treatment  
4 foster parent, or other physical custodian described in s. 48.357 (2r) (b) to the request  
5 for such an examination or assessment before ordering the examination or  
6 assessment. The expenses of an examination, if approved by the court, shall be paid  
7 by the county of the court ordering the examination in a county having a population  
8 of less than 500,000 or by the department in a county having a population of 500,000  
9 or more. The payment for an alcohol and other drug abuse assessment shall be in  
10 accordance with s. 48.361.

11 **SECTION 4.** 48.295 (1) of the statutes, as affected by 2009 Wisconsin Act .... (this  
12 act), is repealed and recreated to read:

13 48.295 (1) After the filing of a petition and upon a finding by the court that  
14 reasonable cause exists to warrant a physical, psychological, mental, or  
15 developmental examination or an alcohol and other drug abuse assessment that  
16 conforms to the criteria specified under s. 48.547 (4), the court may order any child  
17 coming within its jurisdiction to be examined as an outpatient by personnel in an  
18 approved treatment facility for alcohol and other drug abuse, by a physician,  
19 psychiatrist, or licensed psychologist, or by another expert appointed by the court  
20 holding at least a master's degree in social work or another related field of child  
21 development, in order that the child's physical, psychological, alcohol or other drug  
22 dependency, mental, or developmental condition may be considered. The court may  
23 also order a physical, psychological, mental, or developmental examination or an  
24 alcohol and other drug abuse assessment that conforms to the criteria specified  
25 under s. 48.547 (4) of a parent, guardian, or legal custodian whose ability to care for

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1 a child is at issue before the court or of an expectant mother whose ability to control  
2 her use of alcohol beverages, controlled substances, or controlled substance analogs  
3 is at issue before the court. The court shall hear any objections by the child, the  
4 child's parents, guardian, or legal custodian, or the child's foster parent or other  
5 physical custodian described in s. 48.357 (2r) (b) to the request for such an  
6 examination or assessment before ordering the examination or assessment. The  
7 expenses of an examination, if approved by the court, shall be paid by the county of  
8 the court ordering the examination in a county having a population of less than  
9 500,000 or by the department in a county having a population of 500,000 or more.  
10 The payment for an alcohol and other drug abuse assessment shall be in accordance  
11 with s. 48.361.

12 **SECTION 5.** 48.295 (3) of the statutes is amended to read:

13 48.295 (3) If the child, the child's parent ~~or~~, the expectant mother, or the child's  
14 foster parent, treatment foster parent, or other physical custodian described in s.  
15 48.357 (2r) (b) objects to a particular physician, psychiatrist, licensed psychologist,  
16 or other expert as required under this section, the court shall appoint a different  
17 physician, psychiatrist, psychologist, or other expert as required under this section.

18 **SECTION 6.** 48.295 (3) of the statutes, as affected by 2009 Wisconsin Act .... (this  
19 act), is repealed and recreated to read:

20 48.295 (3) If the child, the child's parent, the expectant mother, or the child's  
21 foster parent or other physical custodian described in s. 48.357 (2r) (b) objects to a  
22 particular physician, psychiatrist, licensed psychologist, or other expert as required  
23 under this section, the court shall appoint a different physician, psychiatrist,  
24 psychologist, or other expert as required under this section.

25 **SECTION 7.** 48.33 (5) of the statutes is amended to read:



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1           48.33 (5) IDENTITY OF FOSTER PARENT OR TREATMENT FOSTER PARENT;  
2           CONFIDENTIALITY. If the report recommends placement in a foster home or a treatment  
3           foster home, and the name of the foster parent or treatment foster parent is not  
4           available at the time the report is filed, the agency shall provide the court ~~and the~~  
5           ~~child's parent or guardian~~ with the name and address of the foster parent or  
6           treatment foster parent within 21 days after the dispositional order is entered. If the  
7           foster parent or treatment foster parent has consented under s. 48.62 (3m) to the  
8           disclosure of that information to the child's parent or guardian or to any other adult  
9           relative of the child, the agency shall also provide that information to that parent,  
10           guardian, or adult relative within those 21 days, except that the court may order the  
11           information withheld from ~~the child's that parent or, guardian, or adult relative~~ if the  
12           court finds that disclosure would result in imminent danger to the child or to the  
13           foster parent or treatment foster parent. After notifying ~~the child's that parent or,~~  
14           ~~guardian, or adult relative,~~ the court shall hold a hearing prior to ordering the  
15           information withheld.

16           **SECTION 8.** 48.33 (5) of the statutes, as affected by 2009 Wisconsin Acts 28 and  
17           .... (this act), is repealed and recreated to read:

18           48.33 (5) IDENTITY OF FOSTER PARENT; CONFIDENTIALITY. If the report recommends  
19           placement in a foster home and the name of the foster parent is not available at the  
20           time the report is filed, the agency shall provide the court with the name and address  
21           of the foster parent within 21 days after the dispositional order is entered. If the  
22           foster parent has consented under s. 48.62 (3m) to the disclosure of that information  
23           to the child's parent or guardian or to any other adult relative of the child, the agency  
24           shall also provide that information to that parent, guardian, or adult relative within  
25           those 21 days, except that the court may order the information withheld from that

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1 parent, guardian, or adult relative if the court finds that disclosure would result in  
2 imminent danger to the child or to the foster parent. After notifying that parent,  
3 guardian, or adult relative, the court shall hold a hearing prior to ordering the  
4 information withheld.

5 **SECTION 9.** 48.355 (2) (b) 2. of the statutes is amended to read:

6 48.355 (2) (b) 2. If the child is placed outside the home, the name of the place  
7 or facility, including transitional placements, where the child shall will be cared for  
8 or treated, except that if the placement is a foster home or treatment foster home and  
9 the name and address of the foster parent or treatment foster parent is not available  
10 at the time of the order, the name and address of the foster parent or treatment foster  
11 parent shall be furnished to the court ~~and the parent~~ within 21 days of the order. If  
12 the foster parent or treatment foster parent has consented under s. 48.62 (3m) to the  
13 disclosure of that information to the child's parent or guardian or to any other adult  
14 relative of the child, the agency shall also provide that information to that parent,  
15 guardian, or adult relative within those 21 days, except that the judge may order that  
16 information to be withheld from that parent, guardian, or adult relative as provided  
17 in this subdivision. If, after a hearing on the issue with due notice to the parent ~~or,~~  
18 ~~guardian, or adult relative,~~ the judge finds that disclosure of the identity of the foster  
19 parent or treatment foster parent would result in imminent danger to the child, the  
20 foster parent, or the treatment foster parent, the judge may order the name and  
21 address of the prospective foster parents or treatment foster parents withheld from  
22 the parent ~~or,~~ guardian, or adult relative.

23 **SECTION 10.** 48.355 (2) (b) 2. of the statutes, as affected by 2009 Wisconsin Acts  
24 28 and .... (this act), is repealed and recreated to read:

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1           48.355 (2) (b) 2. If the child is placed outside the home, the name of the place  
2 or facility, including transitional placements, where the child will be cared for or  
3 treated, except that if the placement is a foster home and the name and address of  
4 the foster parent is not available at the time of the order, the name and address of  
5 the foster parent shall be furnished to the court within 21 days after the order. If the  
6 foster parent has consented under s. 48.62 (3m) to the disclosure of that information  
7 to the child's parent or guardian or to any other adult relative of the child, the agency  
8 shall also provide that information to that parent, guardian, or adult relative within  
9 those 21 days, except that the judge may order that information to be withheld from  
10 that parent, guardian, or adult relative as provided in this subdivision. If, after a  
11 hearing on the issue with due notice to the parent, guardian, or adult relative, the  
12 judge finds that disclosure of the identity of the foster parent would result in  
13 imminent danger to the child or the foster parent, the judge may order the name and  
14 address of the prospective foster parents withheld from the parent, guardian, or  
15 adult relative.

16           **SECTION 11.** 48.357 (1) (am) 1. of the statutes, as affected by 2009 Wisconsin  
17 Act 94, section 80, is amended to read:

18           48.357 (1) (am) 1. If the proposed change in placement involves any change in  
19 placement other than a change in placement specified in par. (c), the person or agency  
20 primarily responsible for implementing the dispositional order, the district attorney,  
21 or the corporation counsel shall cause written notice of the proposed change in  
22 placement to be sent to the child, the parent, guardian, and legal custodian of the  
23 child, any foster parent, treatment foster parent, or other physical custodian  
24 described in s. 48.62 (2) of the child, the child's court-appointed special advocate,  
25 and, if the child is an Indian child who has been removed from the home of his or her

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1 parent or Indian custodian, the Indian child's Indian custodian and tribe. If the child  
2 is the expectant mother of an unborn child under s. 48.133, written notice shall also  
3 be sent to the unborn child by the unborn child's guardian ad litem. If the change  
4 in placement involves an adult expectant mother of an unborn child under s. 48.133,  
5 written notice shall be sent to the adult expectant mother and the unborn child by  
6 the unborn child's guardian ad litem. The notice shall contain the name and address  
7 of the new placement, the reasons for the change in placement, a statement  
8 describing why the new placement would be in the best interest of the child, and a  
9 statement of how the new placement satisfies objectives of the treatment plan  
10 ordered by the court.

11 **SECTION 12.** 48.357 (1) (am) 1. of the statutes, as affected by 2009 Wisconsin  
12 Act 94, section 81, and 2009 Wisconsin Act .... (this act), is repealed and recreated to  
13 read:

14 48.357 (1) (am) 1. If the proposed change in placement involves any change in  
15 placement other than a change in placement specified in par. (c), the person or agency  
16 primarily responsible for implementing the dispositional order, the district attorney,  
17 or the corporation counsel shall cause written notice of the proposed change in  
18 placement to be sent to the child, the parent, guardian, and legal custodian of the  
19 child, any foster parent or other physical custodian described in s. 48.62 (2) of the  
20 child, the child's court-appointed special advocate, and, if the child is an Indian child  
21 who has been removed from the home of his or her parent or Indian custodian, the  
22 Indian child's Indian custodian and tribe. If the child is the expectant mother of an  
23 unborn child under s. 48.133, written notice shall also be sent to the unborn child by  
24 the unborn child's guardian ad litem. If the change in placement involves an adult  
25 expectant mother of an unborn child under s. 48.133, written notice shall be sent to

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1 the adult expectant mother and the unborn child by the unborn child's guardian ad  
2 litem. The notice shall contain the name and address of the new placement, the  
3 reasons for the change in placement, a statement describing why the new placement  
4 would be in the best interests of the child, and a statement of how the new placement  
5 satisfies objectives of the treatment plan ordered by the court.

6 **SECTION 13.** 48.357 (1) (am) 2m. of the statutes, as affected by 2009 Wisconsin  
7 Act 94, is amended to read:

8 48.357 (1) (am) 2m. Changes in placement that were authorized in the  
9 dispositional order may be made immediately if notice is given as required under  
10 subd. 1. In addition, a hearing is not required for placement changes authorized in  
11 the dispositional order except when an objection filed by a person who received notice  
12 alleges that new information is available that affects the advisability of the court's  
13 dispositional order.

14 **SECTION 14.** 48.357 (1) (am) 2r. of the statutes is created to read:

15 48.357 (1) (am) 2r. In the case of a child who has been placed in the home of a  
16 foster parent, treatment foster parent, or other physical custodian for 6 months or  
17 more, if a hearing is held on a proposed change in placement of such a child to another  
18 placement outside the home, the court shall consider as paramount the best interests  
19 of the child in determining whether to continue placement of the child in his or her  
20 current placement or to change the child's placement to the proposed change in  
21 placement.

22 **SECTION 15.** 48.357 (1) (am) 2r. of the statutes, as created by 2009 Wisconsin  
23 Act .... (this act), is amended to read:

24 48.357 (1) (am) 2r. In the case of a child who has been placed in the home of a  
25 foster parent, ~~treatment foster parent~~, or other physical custodian for 6 months or

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1 more, if a hearing is held on a proposed change in placement of such a child to another  
2 placement outside the home, the court shall consider as paramount the best interests  
3 of the child in determining whether to continue placement of the child in his or her  
4 current placement or to change the child's placement to the proposed change in  
5 placement.

6 **SECTION 16.** 48.357 (1) (c) 1. of the statutes is amended to read:

7 48.357 (1) (c) 1. If the proposed change in placement would change the  
8 placement of a child placed in the home to a placement outside the home, the person  
9 or agency primarily responsible for implementing the dispositional order, the district  
10 attorney, or the corporation counsel shall submit a request for the change in  
11 placement to the court. The request shall contain the name and address of the new  
12 placement, the reasons for the change in placement, a statement describing why the  
13 new placement is ~~preferable to the present placement~~ would be in the best interests  
14 of the child, and a statement of how the new placement satisfies objectives of the  
15 treatment plan ordered by the court. The request shall also contain specific  
16 information showing that continued placement of the child in his or her home would  
17 be contrary to the welfare of the child and, unless any of the circumstances specified  
18 in s. 48.355 (2d) (b) 1. to 5. applies, specific information showing that the agency  
19 primarily responsible for implementing the dispositional order has made reasonable  
20 efforts to prevent the removal of the child from the home, while assuring that the  
21 child's health and safety are the paramount concerns.

22 **SECTION 17.** 48.357 (2m) (a) of the statutes, as affected by 2009 Wisconsin Act  
23 94, is amended to read:

24 48.357 (2m) (a) The child, the parent, guardian, legal custodian, or Indian  
25 custodian of the child, the expectant mother, the unborn child by the unborn child's

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1 guardian ad litem, or any person or agency primarily bound by the dispositional  
2 order, other than the person or agency responsible for implementing the order, may  
3 request a change in placement under this paragraph. The request shall contain the  
4 name and address of the new placement requested and shall state what new  
5 information is available that affects the advisability of the current placement and  
6 why the new placement would be in the best interests of the child. If the proposed  
7 change in placement would change the placement of a child placed in the child's home  
8 to a placement outside the child's home, the request shall also contain specific  
9 information showing that continued placement of the child in the home would be  
10 contrary to the welfare of the child and, unless any of the circumstances under s.  
11 48.355 (2d) (b) 1. to 5. applies, specific information showing that the agency primarily  
12 responsible for implementing the dispositional order has made reasonable efforts to  
13 prevent the removal of the child from the home, while assuring that the child's health  
14 and safety are the paramount concerns. The request shall be submitted to the court.  
15 The court may also propose a change in placement on its own motion.

16 **SECTION 18.** 48.357 (2m) (b) of the statutes, as affected by 2009 Wisconsin Act  
17 79, section 28, and 2009 Wisconsin Act 94, section 91, is amended to read:

18 48.357 **(2m)** (b) The court shall hold a hearing prior to ordering any change in  
19 placement requested or proposed under par. (a) if the request states that new  
20 information is available that affects the advisability of the current placement and  
21 why the new placement would be in the best interests of the child. A hearing is not  
22 required if the requested or proposed change in placement does not involve a change  
23 in placement of a child placed in the child's home to a placement outside the child's  
24 home, written waivers of objection to the proposed change in placement are signed  
25 by all persons entitled to receive notice under this paragraph, other than a

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1 court-appointed special advocate, and the court approves. If a hearing is scheduled,  
2 not less than 3 days before the hearing the court shall notify the child, the parent,  
3 guardian, and legal custodian of the child, any foster parent, treatment foster parent,  
4 or other physical custodian described in s. 48.62 (2) of the child, the child's  
5 court-appointed special advocate, all parties who are bound by the dispositional  
6 order, and, if the child is an Indian child, the Indian child's Indian custodian and  
7 tribe. If the child is the expectant mother of an unborn child under s. 48.133, the  
8 court shall also notify the unborn child by the unborn child's guardian ad litem. If  
9 the change in placement involves an adult expectant mother of an unborn child  
10 under s. 48.133, the court shall notify the adult expectant mother, the unborn child  
11 by the unborn child's guardian ad litem, and all parties who are bound by the  
12 dispositional order, at least 3 days prior to the hearing. A copy of the request or  
13 proposal for the change in placement shall be attached to the notice. Subject to par.  
14 ~~(bm)~~ (br), if all of the parties consent, the court may proceed immediately with the  
15 hearing.

16 **SECTION 19.** 48.357 (2m) (b) of the statutes, as affected by 2009 Wisconsin Act  
17 79, section 29, 2009 Wisconsin Act 94, section 92, and 2009 Wisconsin Act .... (this  
18 act), is repealed and recreated to read:

19 48.357 **(2m)** (b) The court shall hold a hearing prior to ordering any change in  
20 placement requested or proposed under par. (a) if the request states that information  
21 is available that affects the advisability of the current placement and why the new  
22 placement would be in the best interests of the child. A hearing is not required if the  
23 requested or proposed change in placement does not involve a change in placement  
24 of a child placed in the child's home to a placement outside the child's home, written  
25 waivers of objection to the proposed change in placement are signed by all persons



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1 entitled to receive notice under this paragraph, other than a court-appointed special  
2 advocate, and the court approves. If a hearing is scheduled, not less than 3 days  
3 before the hearing the court shall notify the child, the parent, guardian, and legal  
4 custodian of the child, any foster parent or other physical custodian described in s.  
5 48.62 (2) of the child, the child's court-appointed special advocate, all parties who are  
6 bound by the dispositional order, and, if the child is an Indian child, the Indian child's  
7 Indian custodian and tribe. If the child is the expectant mother of an unborn child  
8 under s. 48.133, the court shall also notify the unborn child by the unborn child's  
9 guardian ad litem. If the change in placement involves an adult expectant mother  
10 of an unborn child under s. 48.133, the court shall notify the adult expectant mother,  
11 the unborn child by the unborn child's guardian ad litem, and all parties who are  
12 bound by the dispositional order, at least 3 days prior to the hearing. A copy of the  
13 request or proposal for the change in placement shall be attached to the notice.  
14 Subject to par. (br), if all of the parties consent, the court may proceed immediately  
15 with the hearing.

16 **SECTION 20.** 48.357 (2m) (bp) of the statutes is created to read:

17 48.357 (2m) (bp) In the case of a child who has been placed in the home of a  
18 foster parent, treatment foster parent, or other physical custodian for 6 months or  
19 more, if a hearing is held on a proposed change in placement of such a child to another  
20 placement outside the home, the court shall consider as paramount the best interests  
21 of the child in determining whether to continue placement of the child in his or her  
22 current placement or to change the child's placement to the proposed change in  
23 placement.

24 **SECTION 21.** 48.357 (2m) (bp) of the statutes, as created by 2009 Wisconsin Act  
25 .... (this act), is amended to read:

**ASSEMBLY BILL 722****SECTION 21**

1           48.357 (2m) (bp) In the case of a child who has been placed in the home of a  
2 foster parent, ~~treatment foster parent~~, or other physical custodian for 6 months or  
3 more, if a hearing is held on a proposed change in placement of such a child to another  
4 placement outside the home, the court shall consider as paramount the best interests  
5 of the child in determining whether to continue placement of the child in his or her  
6 current placement or to change the child's placement to the proposed change in  
7 placement.

8           **SECTION 22.** 48.357 (2r) of the statutes, as affected by 2009 Wisconsin Act 79,  
9 section 31, is renumbered 48.357 (2r) (a) and amended to read:

10           48.357 (2r) (a) If a hearing is held under sub. (1) (am) 2. or (2m) (b) and the  
11 change in placement would remove a child from a foster home, treatment foster  
12 home, or other placement with a physical custodian described in s. 48.62 (2) in which  
13 the child has been placed for less than 6 months, the court shall give the foster  
14 parent, treatment foster parent, or other physical custodian ~~described in s. 48.62 (2)~~  
15 a right to be heard at the hearing by permitting the foster parent, treatment foster  
16 parent, or other physical custodian to make a written or oral statement during the  
17 hearing or to submit a written statement prior to the hearing relating to the child and  
18 the requested change in placement. A foster parent, treatment foster parent, or  
19 other physical custodian described in s. 48.62 (2) who receives notice of a hearing  
20 under sub. (1) (am) 1. or (2m) (b) and a right to be heard under this ~~subsection~~  
21 paragraph does not become a party to the proceeding on which the hearing is held  
22 solely on the basis of receiving that notice and right to be heard.

23           **SECTION 23.** 48.357 (2r) of the statutes, as affected by 2009 Wisconsin Act 79,  
24 section 32, and 2009 Wisconsin Act .... (this act), is repealed and recreated to read:

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1           48.357 (2r) (a) If a hearing is held under sub. (1) (am) 2. or (2m) (b) and the  
2 change in placement would remove a child from a foster home or other placement  
3 with a physical custodian described in s. 48.62 (2) in which the child has been placed  
4 for less than 6 months, the court shall give the foster parent or other physical  
5 custodian a right to be heard at the hearing by permitting the foster parent or other  
6 physical custodian to make a written or oral statement during the hearing or to  
7 submit a written statement prior to the hearing relating to the child and the  
8 requested change in placement. A foster parent or other physical custodian  
9 described in s. 48.62 (2) who receives notice of a hearing under sub. (1) (am) 1. or (2m)  
10 (b) and a right to be heard under this paragraph does not become a party to the  
11 proceeding on which the hearing is held solely on the basis of receiving that notice  
12 and right to be heard.

13           (b) If a hearing is held under sub. (1) (am) 2. or (2m) (b) and the change in  
14 placement would remove a child from a foster home or other placement with a  
15 physical custodian described in s. 48.62 (2) in which the child has been placed for 6  
16 months or more, the foster parent or other physical custodian shall become a party  
17 to the proceeding and, as a party, shall have the right to be heard as described in par.  
18 (a), to be represented by counsel, to request an examination or assessment of the  
19 child under s. 48.295 by an expert of the foster parent's or other physical custodian's  
20 own choosing, to present evidence relative to the issue of placement, including expert  
21 testimony, to confront and cross-examine witnesses, and to make alternative  
22 placement recommendations. In addition, counsel for the foster parent or other  
23 physical custodian may, notwithstanding s. 48.78 (2) (a), inspect and obtain copies  
24 of all records relating to the child as provided under s. 48.293. If counsel for the foster  
25 parent or other physical custodian discloses a record to the foster parent or other

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1 physical custodian, counsel shall advise that person that the information contained  
2 in the record is confidential and may be disclosed only for the purpose of participating  
3 in the change-in-placement proceeding.

4 **SECTION 24.** 48.357 (2r) (b) of the statutes is created to read:

5 48.357 (2r) (b) If a hearing is held under sub. (1) (am) 2. or (2m) (b) and the  
6 change in placement would remove a child from a foster home, treatment foster  
7 home, or other placement with a physical custodian described in s. 48.62 (2) in which  
8 the child has been placed for 6 months or more, the foster parent, treatment foster  
9 parent, or other physical custodian shall become a party to the proceeding and, as  
10 a party, shall have the right to be heard as described in par. (a), to be represented by  
11 counsel, to request an examination or assessment of the child under s. 48.295 by an  
12 expert of the foster parent's, treatment foster parent's, or other physical custodian's  
13 own choosing, to present evidence relative to the issue of placement, including expert  
14 testimony, to confront and cross-examine witnesses, and to make alternative  
15 placement recommendations. In addition, counsel for the foster parent, treatment  
16 foster parent, or other physical custodian may, notwithstanding s. 48.78 (2) (a),  
17 inspect and obtain copies of all records relating to the child as provided under s.  
18 48.293. If counsel for the foster parent, treatment foster parent, or other physical  
19 custodian discloses a record to the foster parent, treatment foster parent, or other  
20 physical custodian, counsel shall advise that person that the information contained  
21 in the record is confidential and may be disclosed only for the purpose of participating  
22 in the change-in-placement proceeding.

23 **SECTION 25.** 48.38 (4) (c) of the statutes is amended to read:

24 48.38 (4) (c) The location and type of facility in which the child is currently held  
25 or placed, and the location and type of facility in which the child will be placed. If

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1 the child is or will be placed in a foster home or treatment foster home, the  
2 information specified in this paragraph may not be disclosed to the child's parent or  
3 guardian or to any other adult relative of the child without the consent of the foster  
4 parent or treatment foster parent under s. 48.62 (3m).

5 **SECTION 26.** 48.38 (4) (c) of the statutes, as affected by 2009 Wisconsin Act ....  
6 (this act), is repealed and recreated to read:

7 48.38 (4) (c) The location and type of facility in which the child is currently held  
8 or placed, and the location and type of facility in which the child will be placed. If  
9 the child is or will be placed in a foster home, the information specified in this  
10 paragraph may not be disclosed to the child's parent or guardian or to any other adult  
11 relative of the child without the consent of the foster parent under s. 48.62 (3m).

12 **SECTION 27.** 48.62 (3m) of the statutes is created to read:

13 48.62 (3m) The name, other than the first name, and address of a person  
14 licensed to operate a foster home or treatment foster home may not be disclosed to  
15 the parent or guardian of a child placed in the home or to any other adult relative of  
16 the child without the written consent of the licensee. When the department, a county  
17 department, or a child welfare agency issues a license to operate a foster home or  
18 treatment foster home, the department, county department, or child welfare agency  
19 shall notify the licensee of that confidentiality requirement. A person licensed to  
20 operate a foster home or a treatment foster home may consent to the disclosure of his  
21 or her full name and address to the parent or guardian of a child placed in the person's  
22 care or to an adult relative of the child by submitting a signed and dated statement  
23 to the department, county department, or child welfare agency stating the name of  
24 the child and indicating that the person consents to the disclosure of that information  
25 to the parent, guardian, or other adult relative. Consent under this subsection shall

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1 be given individually with respect to each child in the care of a licensee, except that  
2 a licensee may provide one consent covering all members of a sibling group in the care  
3 of the licensee.

4 **SECTION 28.** 48.62 (3m) of the statutes, as created by 2009 Wisconsin Act ...  
5 (this act), is amended to read:

6 48.62 **(3m)** The name, other than the first name, and address of a person  
7 licensed to operate a foster home ~~or treatment foster home~~ may not be disclosed to  
8 the parent or guardian of a child placed in the home or to any other adult relative of  
9 the child without the written consent of the licensee. When the department, a county  
10 department, or a child welfare agency issues a license to operate a foster home ~~or~~  
11 ~~treatment foster home~~, the department, county department, or child welfare agency  
12 shall notify the licensee of that confidentiality requirement. A person licensed to  
13 operate a foster home ~~or a treatment foster home~~ may consent to the disclosure of his  
14 or her full name and address to the parent or guardian of a child placed in the person's  
15 care or to an adult relative of the child by submitting a signed and dated statement  
16 to the department, county department, or child welfare agency stating the name of  
17 the child and indicating that the person consents to the disclosure of that information  
18 to the parent, guardian, or other adult relative. Consent under this subsection shall  
19 be given individually with respect to each child in the care of a licensee, except that  
20 a licensee may provide one consent covering all members of a sibling group in the care  
21 of the licensee.

22 **SECTION 29.** 48.64 (4) (a) of the statutes, as affected by 2009 Wisconsin Act 81,  
23 section 6, is renumbered 48.64 (4) (a) 1. and amended to read:

24 48.64 **(4)** (a) 1. Any decision or order issued by an agency that affects the head  
25 of a foster home, treatment foster home, or group home, the head of the home of a

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1 relative other than a parent in which a child is placed, or the child involved may be  
2 appealed to the department under fair hearing procedures established under rules  
3 promulgated by the department. Upon receipt of an appeal, the department shall  
4 give the head of the home reasonable notice and an opportunity for a fair hearing.  
5 The department may make ~~such~~ any additional investigation as the department  
6 considers necessary. The department shall give notice of the hearing to the head of  
7 the home and to the departmental subunit, county department, or child welfare  
8 agency that issued the decision or order. Each person receiving notice of the hearing  
9 is entitled to be represented at the hearing. ~~At all hearings conducted under this~~  
10 ~~paragraph, the head of the home, or a representative of the head of the home, shall~~  
11 ~~have an adequate opportunity, notwithstanding s. 48.78 (2) (a), to examine all~~  
12 ~~documents and records to be used at the hearing at a reasonable time before the date~~  
13 ~~of the hearing as well as during the hearing, to bring witnesses, to establish all~~  
14 ~~pertinent facts and circumstances, and to question or refute any testimony or~~  
15 ~~evidence, including an opportunity to confront and cross-examine adverse~~  
16 ~~witnesses.~~

17 3. The department shall grant a continuance for a reasonable period of time  
18 when an issue is raised for the first time during a hearing. This requirement may  
19 be waived with the consent of the parties. The decision of the department shall be  
20 based exclusively on evidence introduced at the hearing. A transcript of testimony  
21 and exhibits, or an official report containing the substance of what transpired at the  
22 hearing, together with all papers and requests filed in the proceeding, and the  
23 findings of the hearing examiner shall constitute the exclusive record for decision by  
24 the department. The department shall make the record available at any reasonable  
25 time and at an accessible place to the head of the home or his or her representative.

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1 Decisions by the department shall specify the reasons for the decision and identify  
2 the supporting evidence. No person participating in an agency action being appealed  
3 may participate in the final administrative decision on that action. The department  
4 shall render its decision as soon as possible after the hearing and shall send a  
5 certified copy of its decision to the head of the home and to the departmental subunit,  
6 county department or child welfare agency that issued the decision or order. The  
7 decision shall be binding on all parties concerned.

8 **SECTION 30.** 48.64 (4) (a) of the statutes, as affected by 2009 Wisconsin Act 81,  
9 section 6m, and 2009 Wisconsin Act .... (this act), is repealed and recreated to read:

10 48.64 (4) (a) 1. Any decision or order issued by an agency that affects the head  
11 of a foster home or group home, the head of the home of a relative other than a parent  
12 in which a child is placed, or the child involved may be appealed to the department  
13 under fair hearing procedures established under rules promulgated by the  
14 department. Upon receipt of an appeal, the department shall give the head of the  
15 home reasonable notice and an opportunity for a fair hearing. The department may  
16 make any additional investigation as the department considers necessary. The  
17 department shall give notice of the hearing to the head of the home and to the  
18 departmental subunit, county department, or child welfare agency that issued the  
19 decision or order. Each person receiving notice of the hearing is entitled to be  
20 represented at the hearing.

21 2. The head of a foster or group home or the head of the home of a relative other  
22 than a parent who receives notice of intent to remove the child under sub. (1m) and  
23 who requests a hearing under subd. 1. is a party to the proceeding under this  
24 paragraph and, as a party, shall have the right to be heard, to be represented by  
25 counsel, to request an examination or assessment of the child as provided in s. 48.295



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1 by an expert of his or her own choosing, to present evidence relative to the issue of  
2 placement, including expert testimony, to confront and cross-examine witnesses,  
3 and to make alternative placement recommendations. In addition, counsel for the  
4 head of the foster or group home or for the head of the home of the relative other than  
5 a parent may, notwithstanding s. 48.78 (2) (a), inspect and obtain copies of all records  
6 relating to the child as provided under s. 48.293. If counsel for the head of the foster  
7 or group home or for the head of the home of the relative other than a parent discloses  
8 a record to the head of the foster or group home or to the head of the home of the  
9 relative other than a parent, counsel shall advise him or her that the information  
10 contained in the record is confidential and may be disclosed only for the purpose of  
11 participating in the proceeding under this paragraph.

12 3. The department shall grant a continuance for a reasonable period of time  
13 when an issue is raised for the first time during a hearing. This requirement may  
14 be waived with the consent of the parties. The decision of the department shall be  
15 based exclusively on evidence introduced at the hearing. A transcript of testimony  
16 and exhibits, or an official report containing the substance of what transpired at the  
17 hearing, together with all papers and requests filed in the proceeding, and the  
18 findings of the hearing examiner shall constitute the exclusive record for decision by  
19 the department. The department shall make the record available at any reasonable  
20 time and at an accessible place to the head of the home or his or her representative.  
21 Decisions by the department shall specify the reasons for the decision and identify  
22 the supporting evidence. No person participating in an agency action being appealed  
23 may participate in the final administrative decision on that action. The department  
24 shall render its decision as soon as possible after the hearing and shall send a  
25 certified copy of its decision to the head of the home and to the departmental subunit,

**ASSEMBLY BILL 722****SECTION 30**

1 county department or child welfare agency that issued the decision or order. The  
2 decision shall be binding on all parties concerned.

3 **SECTION 31.** 48.64 (4) (a) 2. of the statutes is created to read:

4 48.64 (4) (a) 2. The head of a foster, treatment foster, or group home or the head  
5 of the home of a relative other than a parent who receives notice of intent to remove  
6 the child under sub. (1m) and who requests a hearing under subd. 1. is a party to the  
7 proceeding under this paragraph and, as a party, shall have the right to be heard, to  
8 be represented by counsel, to request an examination or assessment of the child as  
9 provided in s. 48.295 by an expert of his or her own choosing, to present evidence  
10 relative to the issue of placement, including expert testimony, to confront and  
11 cross-examine witnesses, and to make alternative placement recommendations. In  
12 addition, counsel for the head of the foster, treatment foster, or group home or for the  
13 head of the home of the relative other than a parent may, notwithstanding s. 48.78  
14 (2) (a), inspect and obtain copies of all records relating to the child as provided under  
15 s. 48.293. If counsel for the head of the foster, treatment foster, or group home or for  
16 the head of the home of the relative other than a parent discloses a record to the head  
17 of the foster, treatment foster, or group home or to the head of the home of the relative  
18 other than a parent, counsel shall advise him or her that the information contained  
19 in the record is confidential and may be disclosed only for the purpose of participating  
20 in the proceeding under this paragraph.

21 **SECTION 32.** 48.64 (4) (c) of the statutes, as affected by 2009 Wisconsin Act 81,  
22 section 7, is renumbered 48.64 (4) (c) 1. and amended to read:

23 48.64 (4) (c) 1. The circuit court for the county where the dispositional order  
24 placing a child in a foster home, treatment foster home, or group home or in the home  
25 of a relative other than a parent was entered or the voluntary agreement under s.

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1 48.63 placing a child in a foster home, treatment foster home, or group home was  
2 made has jurisdiction upon petition of any interested party over the child who is  
3 placed in the foster home, treatment foster home, group home, or home of the  
4 relative. The

5 2. Subject to subd. 3., the circuit court may call a hearing, at which the head  
6 of the home and the supervising agency under sub. (2) shall be present, for the  
7 purpose of reviewing any decision or order of that agency involving the placement  
8 and care of the child. If the child has been placed in a foster home or in the home of  
9 a relative other than a parent, the foster parent or relative may present relevant  
10 evidence at the hearing.

11 4. The petitioner has the burden of proving by clear and convincing evidence  
12 that the decision or order issued by the agency is not in the best interests of the child.

13 **SECTION 33.** 48.64 (4) (c) of the statutes, as affected by 2009 Wisconsin Act 81,  
14 section 7m, and 2009 Wisconsin Act .... (this act), is repealed and recreated to read:

15 48.64 (4) (c) 1. The circuit court for the county where the dispositional order  
16 placing a child in a foster home or group home or in the home of a relative other than  
17 a parent was entered or the voluntary agreement under s. 48.63 placing a child in  
18 a foster home or group home was made has jurisdiction upon petition of any  
19 interested party over the child who is placed in the foster home, group home, or home  
20 of the relative.

21 2. Subject to subd. 3., the circuit court may call a hearing, at which the head  
22 of the home and the supervising agency under sub. (2) shall be present, for the  
23 purpose of reviewing any decision or order of that agency involving the placement  
24 and care of the child. If the child has been placed in a foster home or in the home of

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1 a relative other than a parent, the foster parent or relative may present relevant  
2 evidence at the hearing.

3 3. If the head of a foster or group home or the head of the home of a relative other  
4 than a parent who receives notice of intent to remove the child under sub. (1m)  
5 petitions for a hearing under this paragraph, the circuit court shall call a hearing,  
6 at which the head of the foster or group home, or the head of the home of the relative  
7 other than a parent, and the supervising agency under sub. (2) shall be present, for  
8 the purpose of reviewing the decision to remove the child from the home. The head  
9 of the foster or group home or the head of the home of the relative other than a parent  
10 is a party to the proceeding under this paragraph and, as a party, shall have the right  
11 to be heard, to be represented by counsel, to request an examination or assessment  
12 of the child as provided in s. 48.295 by an expert of his or her own choosing, to present  
13 evidence relative to the issue of placement, including expert testimony, to confront  
14 and cross-examine witnesses, and to make alternative placement  
15 recommendations. In addition, counsel for the head of the foster or group home or  
16 for the head of the home of the relative other than a parent may, notwithstanding s.  
17 48.78 (2) (a), inspect and obtain copies of all records relating to the child as provided  
18 under s. 48.293. If counsel for the head of the foster or group home or for the head  
19 of the home of the relative other than a parent discloses a record to the head of the  
20 foster or group home or to the head of the home of the relative other than a parent,  
21 counsel shall advise him or her that the information contained in the record is  
22 confidential and may be disclosed only for the purpose of participating in the  
23 proceeding under this paragraph.

24 4. The petitioner has the burden of proving by clear and convincing evidence  
25 that the decision or order issued by the agency is not in the best interests of the child.

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1           **SECTION 34.** 48.64 (4) (c) 3. of the statutes is created to read:

2           48.64 (4) (c) 3. If the head of a foster, treatment foster, or group home or the head  
3 of the home of a relative other than a parent who receives notice of intent to remove  
4 the child under sub. (1m) petitions for a hearing under this paragraph, the circuit  
5 court shall call a hearing, at which the head of the foster, treatment foster, or group  
6 home, or the head of the home of the relative other than a parent, and the supervising  
7 agency under sub. (2) shall be present, for the purpose of reviewing the decision to  
8 remove the child from the home. The head of the foster, treatment foster, or group  
9 home or the head of the home of the relative other than a parent is a party to the  
10 proceeding under this paragraph and, as a party, shall have the right to be heard, to  
11 be represented by counsel, to request an examination or assessment of the child as  
12 provided in s. 48.295 by an expert of his or her own choosing, to present evidence  
13 relative to the issue of placement, including expert testimony, to confront and  
14 cross-examine witnesses, and to make alternative placement recommendations. In  
15 addition, counsel for the head of the foster, treatment foster, or group home or for the  
16 head of the home of the relative other than a parent may, notwithstanding s. 48.78  
17 (2) (a), inspect and obtain copies of all records relating to the child as provided under  
18 s. 48.293. If counsel for the head of the foster, treatment foster, or group home or for  
19 the head of the home of the relative other than a parent discloses a record to the head  
20 of the foster, treatment foster, or group home or to the head of the home of the relative  
21 other than a parent, counsel shall advise him or her that the information contained  
22 in the record is confidential and may be disclosed only for the purpose of participating  
23 in the proceeding under this paragraph.

24           **SECTION 35.** 48.78 (2) (a) of the statutes is amended to read:

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1           48.78 (2) (a) No agency may make available for inspection or disclose the  
2 contents of any record kept or information received about an individual in its care  
3 or legal custody, except as provided under s. 48.357 (2r) (b), 48.371, 48.38 (5) (b) or  
4 (d) or (5m) (d), 48.432, 48.433, 48.48 (17) (bm), 48.57 (2m), 48.93, 48.981 (7), 938.51,  
5 or 938.78 or by order of the court.

6           **SECTION 36.** 48.78 (2) (ag) of the statutes is amended to read:

7           48.78 (2) (ag) Paragraph (a) does not prohibit an agency from making available  
8 for inspection or disclosing the contents of a record, upon the request of the parent,  
9 guardian, or legal custodian of the child who is the subject of the record or upon the  
10 request of the child, if 14 years of age or over, to the parent, guardian, legal custodian,  
11 or child, unless the record discloses information that is confidential under s. 48.62  
12 (3m) or the agency determines that inspection of the record by the child, parent,  
13 guardian, or legal custodian would result in imminent danger to anyone.

14           **SECTION 37.** 48.78 (2) (aj) of the statutes is amended to read:

15           48.78 (2) (aj) Paragraph (a) does not prohibit an agency from making available  
16 for inspection or disclosing the contents of a record, upon the request of a parent,  
17 guardian, or legal custodian of a child expectant mother of an unborn child who is  
18 the subject of the record, upon the request of an expectant mother of an unborn child  
19 who is the subject of the record, if 14 years of age or over, or upon the request of an  
20 unborn child by the unborn child's guardian ad litem to the parent, guardian, legal  
21 custodian, expectant mother, or unborn child by the unborn child's guardian ad  
22 litem, unless the record discloses information that is confidential under s. 48.62 (3m)  
23 or the agency determines that inspection of the record by the parent, guardian, legal  
24 custodian, expectant mother, or unborn child by the unborn child's guardian ad litem  
25 would result in imminent danger to anyone.

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1           **SECTION 38.** 48.78 (2) (am) of the statutes is amended to read:

2           48.78 (2) (am) Paragraph (a) does not prohibit an agency from making  
3 available for inspection or disclosing the contents of a record, upon the written  
4 permission of the parent, guardian, or legal custodian of the child who is the subject  
5 of the record or upon the written permission of the child, if 14 years of age or over,  
6 to the person named in the permission if the parent, guardian, legal custodian, or  
7 child specifically identifies the record in the written permission, unless the record  
8 discloses information that is confidential under s. 48.62 (3m) or the agency  
9 determines that inspection of the record by the person named in the permission  
10 would result in imminent danger to anyone.

11           **SECTION 39.** 48.78 (2) (ap) of the statutes is amended to read:

12           48.78 (2) (ap) Paragraph (a) does not prohibit an agency from making available  
13 for inspection or disclosing the contents of a record, upon the written permission of  
14 the parent, guardian, or legal custodian of a child expectant mother of an unborn  
15 child who is the subject of the record, or of an expectant mother of an unborn child  
16 who is the subject of the record, if 14 years of age or over, and of the unborn child by  
17 the unborn child's guardian ad litem, to the person named in the permission if the  
18 parent, guardian, legal custodian, or expectant mother, and unborn child by the  
19 unborn child's guardian ad litem, specifically identify the record in the written  
20 permission, unless the record discloses information that is confidential under s.  
21 48.62 (3m) or the agency determines that inspection of the record by the person  
22 named in the permission would result in imminent danger to anyone.

23           **SECTION 40.** 48.834 (title) of the statutes is amended to read:

**ASSEMBLY BILL 722****SECTION 40**

1           **48.834** (title) **Placement of children with relatives, physical**  
2 **custodians, or siblings for adoption by the department, county**  
3 **departments, and child welfare agencies.**

4           **SECTION 41.** 48.834 (1) of the statutes is amended to read:

5           48.834 (1) PLACEMENT WITH RELATIVES. ~~Before~~ Subject to sub. (1m), before  
6 placing a child for adoption under s. 48.833, the department, county department  
7 under s. 48.57 (1) (e) or (hm), or child welfare agency making the placement shall  
8 consider the availability of a placement for adoption with a relative of the child who  
9 is identified in the child's permanency plan under s. 48.38 or 938.38 or who is  
10 otherwise known by the department, county department, or child welfare agency.

11           **SECTION 42.** 48.834 (1m) of the statutes is created to read:

12           48.834 (1m) PLACEMENT WITH PHYSICAL CUSTODIANS. Before placing for adoption  
13 under s. 48.833 a child who has been placed in the home of a foster parent, treatment  
14 foster parent, or other physical custodian described in s. 48.62 (2) for 6 months or  
15 more, the department, county department under s. 48.57 (1) (e) or (hm), or child  
16 welfare agency making the placement shall first consider the availability of a  
17 placement for adoption with that foster parent, treatment foster parent, or other  
18 physical custodian before considering the availability of a placement for adoption  
19 with a relative under sub. (1).

20           **SECTION 43.** 48.834 (1m) of the statutes, as created by 2009 Wisconsin Act ....  
21 (this act), is amended to read:

22           48.834 (1m) PLACEMENT WITH PHYSICAL CUSTODIANS. Before placing for adoption  
23 under s. 48.833 a child who has been placed in the home of a foster parent, ~~treatment~~  
24 ~~foster parent,~~ or other physical custodian described in s. 48.62 (2) for 6 months or  
25 more, the department, county department under s. 48.57 (1) (e) or (hm), or child



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1 welfare agency making the placement shall first consider the availability of a  
2 placement for adoption with that foster parent, ~~treatment foster parent~~, or other  
3 physical custodian before considering the availability of a placement for adoption  
4 with a relative under sub. (1).

5 **SECTION 44.** 938.293 (2) of the statutes is amended to read:

6 938.293 (2) RECORDS RELATING TO JUVENILE. All records relating to a juvenile  
7 ~~which are relevant to the subject matter of a proceeding under this chapter~~ shall be  
8 open to inspection by a guardian ad litem or counsel for any party or by counsel for  
9 any foster parent, treatment foster parent, or other physical custodian described in  
10 s. 938.357 (2r) (b), upon demand and upon presentation of releases ~~where~~ when  
11 necessary, at least 48 96 hours before the proceeding. Persons entitled to inspect the  
12 records may obtain copies of the records with the permission of the custodian of the  
13 records or with the permission of the court. The court may instruct counsel not to  
14 disclose specified items in the ~~materials~~ records to the juvenile ~~or, the parent, or the~~  
15 juvenile's foster parent, treatment foster parent, or other physical custodian  
16 described in s. 938.357 (2r) (b) if the court reasonably believes that the disclosure  
17 would be harmful to the interests of the juvenile. Section 971.23 shall be applicable  
18 in all delinquency proceedings under this chapter, except that the court shall  
19 establish the timetable for the disclosures required under s. 971.23 (1), (2m), (8), and  
20 (9).

21 **SECTION 45.** 938.293 (2) of the statutes, as affected by 2009 Wisconsin Act ....  
22 (this act), is repealed and recreated to read:

23 938.293 (2) RECORDS RELATING TO JUVENILE. All records relating to a juvenile  
24 shall be open to inspection by a guardian ad litem or counsel for any party or by  
25 counsel for any foster parent or other physical custodian described in s. 938.357 (2r)

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1 (b), upon demand and upon presentation of releases when necessary, at least 96  
2 hours before the proceeding. Persons entitled to inspect the records may obtain  
3 copies of the records with the permission of the custodian of the records or with the  
4 permission of the court. The court may instruct counsel not to disclose specified  
5 items in the records to the juvenile, the parent, or the juvenile's foster parent or other  
6 physical custodian described in s. 938.357 (2r) (b) if the court reasonably believes  
7 that the disclosure would be harmful to the interests of the juvenile. Section 971.23  
8 shall be applicable in all delinquency proceedings under this chapter, except that the  
9 court shall establish the timetable for the disclosures required under s. 971.23 (1),  
10 (2m), (8), and (9).

11 **SECTION 46.** 938.295 (1) (b) of the statutes is amended to read:

12 938.295 (1) (b) The court shall hear any objections by the juvenile and, the  
13 juvenile's parents, guardian, or legal custodian, or the juvenile's foster parent,  
14 treatment foster parent, or other physical custodian described in s. 938.357 (2r) (b)  
15 to the request under par. (a) for an examination or assessment before ordering the  
16 examination or assessment.

17 **SECTION 47.** 938.295 (1) (b) of the statutes, as affected by 2009 Wisconsin Act  
18 .... (this act), is repealed and recreated to read:

19 938.295 (1) (b) The court shall hear any objections by the juvenile, the juvenile's  
20 parents, guardian, or legal custodian, or the juvenile's foster parent or other physical  
21 custodian described in s. 938.357 (2r) (b) to the request under par. (a) for an  
22 examination or assessment before ordering the examination or assessment.

23 **SECTION 48.** 938.295 (3) of the statutes is amended to read:

24 938.295 (3) **OBJECTION TO A PARTICULAR PROFESSIONAL.** If the juvenile or, a  
25 parent, or the juvenile's foster parent, treatment foster parent, or other physical

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1 custodian described in s. 938.357 (2r) (b) objects to a particular physician,  
2 psychiatrist, licensed psychologist, or other expert, the court shall appoint a different  
3 physician, psychiatrist, psychologist, or other expert.

4 **SECTION 49.** 938.295 (3) of the statutes, as affected by 2009 Wisconsin Act ...  
5 (this act), is repealed and recreated to read:

6 938.295 (3) OBJECTION TO A PARTICULAR PROFESSIONAL. If the juvenile, a parent,  
7 or the juvenile's foster parent or other physical custodian described in s. 938.357 (2r)  
8 (b) objects to a particular physician, psychiatrist, licensed psychologist, or other  
9 expert, the court shall appoint a different physician, psychiatrist, psychologist, or  
10 other expert.

11 **SECTION 50.** 938.33 (5) of the statutes is amended to read:

12 938.33 (5) IDENTITY OF FOSTER PARENT OR TREATMENT FOSTER PARENT;  
13 CONFIDENTIALITY. If the report recommends placement in a foster home or a treatment  
14 foster home, and the name of the foster parent or treatment foster parent is not  
15 available at the time the report is filed, the agency shall provide the court and the  
16 ~~juvenile's parent or guardian~~ with the name and address of the foster parent or  
17 treatment foster parent within 21 days after the dispositional order is entered. If the  
18 foster parent or treatment foster parent has consented under s. 48.62 (3m) to the  
19 disclosure of that information to the juvenile's parent or guardian or to any other  
20 adult relative of the juvenile, the agency shall also provide that information to that  
21 parent, guardian, or adult relative within those 21 days, except that the court may  
22 order the information withheld from the juvenile's that parent or, guardian, or adult  
23 relative if the court finds that disclosure would result in imminent danger to the  
24 juvenile or to the foster parent or treatment foster parent. After notifying the

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1 juvenile's that parent or, guardian, or adult relative, the court shall hold a hearing  
2 prior to ordering the information withheld.

3 **SECTION 51.** 938.33 (5) of the statutes, as affected by 2009 Wisconsin Acts 28  
4 and ... (this act), is repealed and recreated to read:

5 938.33 (5) IDENTITY OF FOSTER PARENT; CONFIDENTIALITY. If the report  
6 recommends placement in a foster home and the name of the foster parent is not  
7 available at the time the report is filed, the agency shall provide the court with the  
8 name and address of the foster parent within 21 days after the dispositional order  
9 is entered. If the foster parent has consented under s. 48.62 (3m) to the disclosure  
10 of that information to the juvenile's parent or guardian or to any other adult relative  
11 of the juvenile, the agency shall also provide that information to that parent,  
12 guardian, or adult relative within those 21 days, except that the court may order the  
13 information withheld from that parent, guardian, or adult relative if the court finds  
14 that disclosure would result in imminent danger to the juvenile or to the foster  
15 parent. After notifying that parent, guardian, or adult relative, the court shall hold  
16 a hearing prior to ordering the information withheld.

17 **SECTION 52.** 938.355 (2) (b) 2. of the statutes is amended to read:

18 938.355 (2) (b) 2. If the juvenile is placed outside the home, the name of the  
19 place or facility, including transitional placements, where the juvenile ~~shall~~ will be  
20 cared for or treated, except that if the placement is a foster home or treatment foster  
21 home and the name and address of the foster parent or treatment foster parent is not  
22 available at the time of the order, the name and address of the foster parent or  
23 treatment foster parent shall be furnished to the court ~~and the parent~~ within 21 days  
24 of the order. If the foster parent or treatment foster parent has consented under s.  
25 48.62 (3m) to the disclosure of that information to the juvenile's parent or guardian

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1 or to any other adult relative of the juvenile, the agency shall also provide that  
2 information to that parent, guardian, or adult relative within those 21 days, except  
3 that the judge may order that information to be withheld from that parent, guardian,  
4 or adult relative as provided in this subdivision. If, after a hearing on the issue with  
5 due notice to the parent ~~or~~, guardian, or adult relative, the court finds that disclosure  
6 of the identity of the foster parent or treatment foster parent would result in  
7 imminent danger to the juvenile, the foster parent, or the treatment foster parent,  
8 the court may order the name and address of the prospective foster parents or  
9 treatment foster parents withheld from the parent ~~or~~, guardian, or adult relative.

10 **SECTION 53.** 938.355 (2) (b) 2. of the statutes, as affected by 2009 Wisconsin Acts  
11 28 and .... (this act), is repealed and recreated to read:

12 938.355 (2) (b) 2. If the juvenile is placed outside the home, the name of the  
13 place or facility, including transitional placements, where the juvenile will be cared  
14 for or treated, except that if the placement is a foster home and the name and address  
15 of the foster parent is not available at the time of the order, the name and address  
16 of the foster parent shall be furnished to the court within 21 days of the order. If the  
17 foster parent has consented under s. 48.62 (3m) to the disclosure of that information  
18 to the juvenile's parent or guardian or to any other adult relative of the juvenile, the  
19 agency shall also provide that information to that parent, guardian, or adult relative  
20 within those 21 days, except that the judge may order that information to be withheld  
21 from that parent, guardian, or adult relative as provided in this subdivision. If, after  
22 a hearing on the issue with due notice to the parent, guardian, or adult relative, the  
23 court finds that disclosure of the identity of the foster parent would result in  
24 imminent danger to the juvenile or the foster parent, the court may order the name

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1 and address of the prospective foster parents withheld from the parent, guardian, or  
2 adult relative.

3 **SECTION 54.** 938.357 (1) (am) 1. of the statutes, as affected by 2009 Wisconsin  
4 Act 94, section 346, is amended to read:

5 938.357 (1) (am) 1. If the proposed change in placement involves any change  
6 in placement other than a change in placement under par. (c), the person or agency  
7 primarily responsible for implementing the dispositional order or the district  
8 attorney shall cause written notice of the proposed change in placement to be sent  
9 to the juvenile, the parent, guardian, and legal custodian of the juvenile, and any  
10 foster parent, treatment foster parent, or other physical custodian described in s.  
11 48.62 (2) of the juvenile. If the juvenile is an Indian juvenile who has been removed  
12 from the home of his or her parent or Indian custodian under s. 938.13 (4), (6), (6m),  
13 or (7), written notice shall also be sent to the Indian juvenile's Indian custodian and  
14 tribe. The notice shall contain the name and address of the new placement, the  
15 reasons for the change in placement, a statement describing why the new placement  
16 ~~is preferable to the present placement~~ would be in the best interests of the juvenile,  
17 and a statement of how the new placement satisfies objectives of the treatment plan  
18 ordered by the court.

19 **SECTION 55.** 938.357 (1) (am) 1. of the statutes, as affected by 2009 Wisconsin  
20 Act 94, section 347, and 2009 Wisconsin Act .... (this act), is repealed and recreated  
21 to read:

22 938.357 (1) (am) 1. If the proposed change in placement involves any change  
23 in placement other than a change in placement under par. (c), the person or agency  
24 primarily responsible for implementing the dispositional order or the district  
25 attorney shall cause written notice of the proposed change in placement to be sent

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1 to the juvenile, the parent, guardian, and legal custodian of the juvenile, and any  
2 foster parent or other physical custodian described in s. 48.62 (2) of the juvenile. If  
3 the juvenile is an Indian juvenile who has been removed from the home of his or her  
4 parent or Indian custodian under s. 938.13 (4), (6), (6m), or (7), written notice shall  
5 also be sent to the Indian juvenile's Indian custodian and tribe. The notice shall  
6 contain the name and address of the new placement, the reasons for the change in  
7 placement, a statement describing why the new placement would be in the best  
8 interests of the juvenile, and a statement of how the new placement satisfies  
9 objectives of the treatment plan ordered by the court.

10 **SECTION 56.** 938.357 (1) (am) 2. of the statutes, as affected by 2009 Wisconsin  
11 Act 94, section 349, is amended to read:

12 938.357 (1) (am) 2. Any person receiving the notice under subd. 1. or notice of  
13 a specific foster or treatment foster placement under s. 938.355 (2) (b) 2. may obtain  
14 a hearing on the matter by filing an objection with the court within 10 days after  
15 receipt of the notice. Placements may not be changed until 10 days after that notice  
16 is sent to the court unless the parent, guardian, legal custodian, or Indian custodian,  
17 the juvenile, if 12 or more years of age, and the juvenile's tribe, if the juvenile is an  
18 Indian juvenile who has been removed from the home of his or her parent or Indian  
19 custodian under s. 938.13 (4), (6), (6m), or (7), sign written waivers of objection,  
20 except that changes in placement that were authorized in the dispositional order  
21 may be made immediately if notice is given as required under subd. 1. In addition,  
22 a hearing is not required for placement changes authorized in the dispositional order  
23 except when an objection filed by a person who received notice alleges that new  
24 information is available that affects the advisability of the court's dispositional order.

**ASSEMBLY BILL 722****SECTION 57**

1           **SECTION 57.** 938.357 (1) (am) 2. of the statutes, as affected by 2009 Wisconsin  
2 Act 94, section 350, and 2009 Wisconsin Act .... (this act), is repealed and recreated  
3 to read:

4           938.357 (1) (am) 2. Any person receiving the notice under subd. 1. or notice of  
5 a specific foster placement under s. 938.355 (2) (b) 2. may obtain a hearing on the  
6 matter by filing an objection with the court within 10 days after receipt of the notice.  
7 Placements may not be changed until 10 days after that notice is sent to the court  
8 unless the parent, guardian, legal custodian, or Indian custodian, the juvenile, if 12  
9 or more years of age, and the juvenile's tribe, if the juvenile is an Indian juvenile who  
10 has been removed from the home of his or her parent or Indian custodian under s.  
11 938.13 (4), (6), (6m), or (7), sign written waivers of objection, except that changes in  
12 placement that were authorized in the dispositional order may be made immediately  
13 if notice is given as required under subd. 1. In addition, a hearing is not required for  
14 placement changes authorized in the dispositional order except when an objection  
15 filed by a person who received notice alleges that information is available that affects  
16 the advisability of the court's dispositional order.

17           **SECTION 58.** 938.357 (1) (am) 2r. of the statutes is created to read:

18           938.357 (1) (am) 2r. In the case of a juvenile who has been placed in the home  
19 of a foster parent, treatment foster parent, or other physical custodian for 6 months  
20 or more, if a hearing is held on a proposed change in placement of such a juvenile to  
21 another placement outside the home, the court shall consider as paramount the best  
22 interests of the juvenile in determining whether to continue placement of the  
23 juvenile in his or her current placement or to change the juvenile's placement to the  
24 proposed change in placement.



**ASSEMBLY BILL 722**

1           **SECTION 59.** 938.357 (1) (am) 2r. of the statutes, as created by 2009 Wisconsin  
2 Act .... (this act), is amended to read:

3           938.357 (1) (am) 2r. In the case of a juvenile who has been placed in the home  
4 of a foster parent, ~~treatment foster parent~~, or other physical custodian for 6 months  
5 or more, if a hearing is held on a proposed change in placement of such a juvenile to  
6 another placement outside the home, the court shall consider as paramount the best  
7 interests of the juvenile in determining whether to continue placement of the  
8 juvenile in his or her current placement or to change the juvenile's placement to the  
9 proposed change in placement.

10           **SECTION 60.** 938.357 (1) (c) 1. of the statutes is amended to read:

11           938.357 (1) (c) 1. If the proposed change in placement would change the  
12 placement of a juvenile placed in the home to a placement outside the home, the  
13 person or agency primarily responsible for implementing the dispositional order or  
14 the district attorney shall submit a request for the change in placement to the court.  
15 The request shall contain the name and address of the new placement, the reasons  
16 for the change in placement, a statement describing why the new placement is  
17 ~~preferable to the present placement~~ would be in the best interests of the juvenile, and  
18 a statement of how the new placement satisfies objectives of the treatment plan  
19 ordered by the court. The request shall also contain specific information showing  
20 that continued placement of the juvenile in his or her home would be contrary to the  
21 welfare of the juvenile and, unless any of the circumstances under s. 938.355 (2d) (b)  
22 1. to 4. applies, specific information showing that the agency primarily responsible  
23 for implementing the dispositional order has made reasonable efforts to prevent the  
24 removal of the juvenile from the home, while assuring that the juvenile's health and  
25 safety are the paramount concerns.

**ASSEMBLY BILL 722****SECTION 61**

1           **SECTION 61.** 938.357 (2m) (a) of the statutes, as affected by 2009 Wisconsin Act  
2 94, is amended to read:

3           938.357 **(2m)** (a) *Request; information required.* The juvenile, the parent,  
4 guardian, or legal custodian of the juvenile, any person or agency primarily bound  
5 by the dispositional order, other than the person or agency responsible for  
6 implementing the order, or, if the juvenile is an Indian juvenile who is in need of  
7 protection or services under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian  
8 custodian may request a change in placement under this paragraph. The request  
9 shall contain the name and address of the new placement requested and shall state  
10 what new information is available that affects the advisability of the current  
11 placement and why the new placement would be in the best interests of the juvenile.  
12 If the proposed change in placement would change the placement of a juvenile placed  
13 in the juvenile's home to a placement outside the home, the request shall also contain  
14 specific information showing that continued placement of the juvenile in the  
15 juvenile's home would be contrary to the welfare of the juvenile and, unless any of  
16 the circumstances under s. 938.355 (2d) (b) 1. to 4. applies, specific information  
17 showing that the agency primarily responsible for implementing the dispositional  
18 order has made reasonable efforts to prevent the removal of the juvenile from the  
19 home, while assuring that the juvenile's health and safety are the paramount  
20 concerns. The request shall be submitted to the court. The court may also propose  
21 a change in placement on its own motion.

22           **SECTION 62.** 938.357 (2m) (b) of the statutes, as affected by 2009 Wisconsin Act  
23 94, section 358, is amended to read:

24           938.357 **(2m)** (b) *Hearing; when required.* The court shall hold a hearing prior  
25 to ordering any change in placement requested or proposed under par. (a) if the

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1 request states that new information is available that affects the advisability of the  
2 current placement and why the new placement would be in the best interests of the  
3 child. A hearing is not required if the requested or proposed change in placement  
4 does not involve a change in placement of a juvenile placed in the juvenile's home to  
5 a placement outside the juvenile's home, written waivers of objection to the proposed  
6 change in placement are signed by all parties entitled to receive notice under this  
7 paragraph, and the court approves. If a hearing is scheduled, not less than 3 days  
8 before the hearing the court shall notify the juvenile, the parent, guardian, and legal  
9 custodian of the juvenile, any foster parent, treatment foster parent, or other  
10 physical custodian described in s. 48.62 (2) of the juvenile, all parties who are bound  
11 by the dispositional order, and, if the juvenile is an Indian juvenile who is in need of  
12 protection or services under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian  
13 custodian and tribe. A copy of the request or proposal for the change in placement  
14 shall be attached to the notice. Subject to par. ~~(bm)~~ (br), if all of the parties consent,  
15 the court may proceed immediately with the hearing.

16 **SECTION 63.** 938.357 (2m) (b) of the statutes, as affected by 2009 Wisconsin Act  
17 94, section 359, and 2009 Wisconsin Act .... (this act), is repealed and recreated to  
18 read:

19 938.357 **(2m)** (b) *Hearing; when required.* The court shall hold a hearing prior  
20 to ordering any change in placement requested or proposed under par. (a) if the  
21 request states that information is available that affects the advisability of the  
22 current placement and why the new placement would be in the best interests of the  
23 child. A hearing is not required if the requested or proposed change in placement  
24 does not involve a change in placement of a juvenile placed in the juvenile's home to  
25 a placement outside the juvenile's home, written waivers of objection to the proposed

**ASSEMBLY BILL 722****SECTION 63**

1 change in placement are signed by all parties entitled to receive notice under this  
2 paragraph, and the court approves. If a hearing is scheduled, not less than 3 days  
3 before the hearing the court shall notify the juvenile, the parent, guardian, and legal  
4 custodian of the juvenile, any foster parent or other physical custodian described in  
5 s. 48.62 (2) of the juvenile, all parties who are bound by the dispositional order, and,  
6 if the juvenile is an Indian juvenile who is in need of protection or services under s.  
7 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian and tribe. A copy  
8 of the request or proposal for the change in placement shall be attached to the notice.  
9 Subject to par. (br), if all of the parties consent, the court may proceed immediately  
10 with the hearing.

11 **SECTION 64.** 938.357 (2m) (bp) of the statutes is created to read:

12 938.357 (2m) (bp) *Placement preference.* In the case of a juvenile who has been  
13 placed in the home of a foster parent, treatment foster parent, or other physical  
14 custodian for 6 months or more, if a hearing is held on a proposed change in  
15 placement of such a juvenile to another placement outside the home, the court shall  
16 consider as paramount the best interests of the juvenile in determining whether to  
17 continue placement of the juvenile in his or her current placement or to change the  
18 juvenile's placement to the proposed change in placement.

19 **SECTION 65.** 938.357 (2m) (bp) of the statutes, as created by 2009 Wisconsin Act  
20 .... (this act), is amended to read:

21 938.357 (2m) (bp) *Placement preference.* In the case of a juvenile who has been  
22 placed in the home of a foster parent, ~~treatment foster parent,~~ or other physical  
23 custodian for 6 months or more, if a hearing is held on a proposed change in  
24 placement of such a juvenile to another placement outside the home, the court shall  
25 consider as paramount the best interests of the juvenile in determining whether to

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1 continue placement of the juvenile in his or her current placement or to change the  
2 juvenile's placement to the proposed change in placement.

3 **SECTION 66.** 938.357 (2r) of the statutes, as affected by 2009 Wisconsin Act 79,  
4 section 131, is renumbered 938.357 (2r) (a) and amended to read:

5 938.357 (2r) (a) If a hearing is held under sub. (1) (am) 2. or (2m) (b) and the  
6 change in placement would remove a juvenile from a foster home, treatment foster  
7 home, or other placement with a physical custodian described in s. 48.62 (2) in which  
8 the juvenile has been placed for less than 6 months, the court shall give the foster  
9 parent, treatment foster parent, or other physical custodian a right to be heard at the  
10 hearing by permitting the foster parent, treatment foster parent, or other physical  
11 custodian to make a written or oral statement during the hearing or to submit a  
12 written statement prior to the hearing relating to the juvenile and the requested  
13 change in placement. A foster parent, treatment foster parent, or other physical  
14 custodian who receives notice of a hearing under sub. (1) (am) 1. or (2m) (b) and a  
15 right to be heard under this subsection paragraph does not become a party to the  
16 proceeding on which the hearing is held solely on the basis of receiving that notice  
17 and right to be heard.

18 **SECTION 67.** 938.357 (2r) of the statutes, as affected by 2009 Wisconsin Act 79,  
19 section 132, and 2009 Wisconsin Act .... (this act), is repealed and recreated to read:

20 938.357 (2r) (a) If a hearing is held under sub. (1) (am) 2. or (2m) (b) and the  
21 change in placement would remove a juvenile from a foster home or other placement  
22 with a physical custodian described in s. 48.62 (2) in which the juvenile has been  
23 placed for less than 6 months, the court shall give the foster parent or other physical  
24 custodian a right to be heard at the hearing by permitting the foster parent or other  
25 physical custodian to make a written or oral statement during the hearing or to

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1 submit a written statement prior to the hearing relating to the juvenile and the  
2 requested change in placement. A foster parent or other physical custodian who  
3 receives notice of a hearing under sub. (1) (am) 1. or (2m) (b) and a right to be heard  
4 under this paragraph does not become a party to the proceeding on which the hearing  
5 is held solely on the basis of receiving that notice and right to be heard.

6 (b) If a hearing is held under sub. (1) (am) 2. or (2m) (b) and the change in  
7 placement would remove a juvenile from a foster home or other placement with a  
8 physical custodian described in s. 48.62 (2) in which the juvenile has been placed for  
9 6 months or more, the foster parent or other physical custodian shall become a party  
10 to the proceeding and, as a party, shall have the right to be heard as described in par.  
11 (a), to be represented by counsel, to request an examination or assessment of the  
12 juvenile under s. 938.295 by an expert of the foster parent's or other physical  
13 custodian's own choosing, to present evidence relative to the issue of placement,  
14 including expert testimony, to confront and cross-examine witnesses, and to make  
15 alternative placement recommendations. In addition, counsel for the foster parent  
16 or other physical custodian may, notwithstanding s. 938.78 (2) (a), inspect and obtain  
17 copies of all records relating to the juvenile as provided under s. 938.293. If counsel  
18 for the foster parent or other physical custodian discloses a record to the foster parent  
19 or other physical custodian, counsel shall advise that person that the information  
20 contained in the record is confidential and may be disclosed only for the purpose of  
21 participating in the change-in-placement proceeding.

22 **SECTION 68.** 938.357 (2r) (b) of the statutes is created to read:

23 938.357 (2r) (b) If a hearing is held under sub. (1) (am) 2. or (2m) (b) and the  
24 change in placement would remove a juvenile from a foster home, treatment foster  
25 home, or other placement with a physical custodian described in s. 48.62 (2) in which

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1 the juvenile has been placed for 6 months or more, the foster parent, treatment foster  
2 parent, or other physical custodian shall become a party to the proceeding and, as  
3 a party, shall have the right to be heard as described in par. (a), to be represented by  
4 counsel, to request an examination or assessment of the juvenile under s. 938.295 by  
5 an expert of the foster parent's, treatment foster parent's, or other physical  
6 custodian's own choosing, to present evidence relative to the issue of placement,  
7 including expert testimony, to confront and cross-examine witnesses, and to make  
8 alternative placement recommendations. In addition, counsel for the foster parent,  
9 treatment foster parent, or other physical custodian may, notwithstanding s. 938.78  
10 (2) (a), inspect and obtain copies of all records relating to the juvenile as provided  
11 under s. 938.293. If counsel for the foster parent, treatment foster parent, or other  
12 physical custodian discloses a record to the foster parent, treatment foster parent,  
13 or other physical custodian, counsel shall advise that person that the information  
14 contained in the record is confidential and may be disclosed only for the purpose of  
15 participating in the change-in-placement proceeding.

16 **SECTION 69.** 938.38 (4) (c) of the statutes is amended to read:

17 938.38 (4) (c) The location and type of facility in which the juvenile is currently  
18 held or placed, and the location and type of facility in which the juvenile will be  
19 placed. If the juvenile is or will be placed in a foster home or treatment foster home,  
20 the information specified in this paragraph may not be disclosed to the juvenile's  
21 parent or guardian or to any other adult relative of the juvenile without the consent  
22 of the foster parent or treatment foster parent under s. 48.62 (3m).

23 **SECTION 70.** 938.38 (4) (c) of the statutes, as affected by 2009 Wisconsin Act ....  
24 (this act), is repealed and recreated to read:

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1           938.38 (4) (c) The location and type of facility in which the juvenile is currently  
2 held or placed, and the location and type of facility in which the juvenile will be  
3 placed. If the juvenile is or will be placed in a foster home, the information specified  
4 in this paragraph may not be disclosed to the juvenile’s parent or guardian or to any  
5 other adult relative of the juvenile without the consent of the foster parent under s.  
6 48.62 (3m).

7           **SECTION 71.** 938.78 (2) (a) of the statutes is amended to read:

8           938.78 (2) (a) No agency may make available for inspection or disclose the  
9 contents of any record kept or information received about an individual who is or was  
10 in its care or legal custody, except as provided under sub. (3) or s. 938.357 (2r) (b),  
11 938.371, 938.38 (5) (b) or (d) or (5m) (d), 938.51, or 938.57 (2m) or by order of the court.

12           **SECTION 72.** 938.78 (2) (ag) of the statutes is amended to read:

13           938.78 (2) (ag) Paragraph (a) does not prohibit an agency from making  
14 available for inspection or disclosing the contents of a record, upon the request of the  
15 parent, guardian, or legal custodian of the juvenile who is the subject of the record  
16 or upon the request of the juvenile, if 14 years of age or older, to the parent, guardian,  
17 legal custodian, or juvenile, unless the record discloses information that is  
18 confidential under s. 48.62 (3m) or the agency finds that inspection of the record by  
19 the juvenile, parent, guardian, or legal custodian would result in imminent danger  
20 to anyone.

21           **SECTION 73.** 938.78 (2) (am) of the statutes is amended to read:

22           938.78 (2) (am) Paragraph (a) does not prohibit an agency from making  
23 available for inspection or disclosing the contents of a record, upon the written  
24 permission of the parent, guardian, or legal custodian of the juvenile who is the  
25 subject of the record or upon the written permission of the juvenile, if 14 years of age



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1 or older, to the person named in the permission if the parent, guardian, legal  
2 custodian, or juvenile specifically identifies the record in the written permission,  
3 unless the record discloses information that is confidential under s. 48.62 (3m) or the  
4 agency determines that inspection of the record by the person named in the  
5 permission would result in imminent danger to anyone.

**SECTION 74. Initial applicability.**

7 (1) CHANGES IN PLACEMENT. The amendment of sections 48.293 (2), 48.295 (1)  
8 and (3), 48.357 (1) (am) 1. and 2m. and (c) 1. and (2m) (a) and (b), 48.78 (2) (a), 938.293  
9 (2), 938.295 (1) (b) and (3), 938.357 (1) (am) 1. and 2. and (c) 1. and (2m) (a) and (b),  
10 and 938.78 (2) (a) of the statutes, the renumbering and amendment of sections 48.357  
11 (2r) and 938.357 (2r) of the statutes, and the creation of sections 48.357 (1) (am) 2r.,  
12 (2m) (bp), and (2r) (b) and 938.357 (1) (am) 2r., (2m) (bp), and (2r) (b) of the statutes  
13 first apply to a change of placement requested on the effective date of this subsection.

14 (2) FOSTER PARENT CONFIDENTIALITY. The amendment of sections 48.33 (5),  
15 48.355 (2) (b) 2., 48.38 (4) (c), 48.78 (2) (ag), (aj), (am), and (ap), 938.33 (5), 938.355  
16 (2) (b) 2., 938.38 (4) (c), and 938.78 (2) (ag) and (am) of the statutes and the creation  
17 of section 48.62 (3m) of the statutes first apply to a person that is issued a license to  
18 operate a foster home or treatment foster home on the effective date of this  
19 subsection.

20 (3) DECISIONS AFFECTING OUT-OF-HOME PLACEMENTS. The renumbering and  
21 amendment of section 48.64 (4) (a) and (c) of the statutes and the creation of section  
22 48.64 (4) (a) 2. and (c) 3. of the statutes first apply to a decision or order of an agency  
23 involving the placement and care of a child issued on the effective date of this  
24 subsection.

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1 (4) PLACEMENT OF CHILD WITH PHYSICAL CUSTODIAN FOR ADOPTION. The treatment  
2 of section 48.834 (title) and (1) of the statutes and the creation of section 48.834 (1m)  
3 of the statutes first apply to a child who is placed for adoption under section 48.833  
4 of the statutes on the effective date of this subsection.

5 **SECTION 75. Effective dates.** This act takes effect on the day after publication,  
6 except as follows:

7 (1) TREATMENT FOSTER HOMES. The amendment of sections 48.357 (1) (am) 2r.,  
8 (2m) (bp), 48.62 (3m), 48.834 (1m), and 938.357 (1) (am) 2r. and (2m) (bp) of the  
9 statutes and the repeal and recreation of sections 48.293 (2), 48.295 (1) and (3), 48.33  
10 (5), 48.355 (2) (b) 2., 48.357 (1) (am) 1., (2m) (b), and (2r), 48.38 (4) (c), 48.64 (4) (a)  
11 and (c), 938.293 (2), 938.295 (1) (b) and (3), 938.33 (5), 938.355 (2) (b) 2., 938.357 (1)  
12 (am) 1. and 2., (2m) (b), and (2r), and 938.38 (4) (c) of the statutes take effect on the  
13 date stated in the notice provided by the secretary of children and families and  
14 published in the Wisconsin Administrative Register under section 48.62 (9) of the  
15 statutes.

16 (END)