

## CHAPTER 48.

## CHILDREN'S CODE.

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**Note:** This chapter was completely revised in 1955 (ch. 575, Laws 1955, effective July 1, 1956) by a committee of the legislative council. Many sections previously in chs. 54 and 322 were revised and included in this chapter by that committee. Detailed notes to each section in the chapter were prepared by the committee for use by the legislature in considering the revision. These notes attempted to explain the background of many of the sections and to correlate the new with the old provisions. They were included in the committee's report to the legislature. Copies of that report were sent to each county and juvenile court judge and to each county welfare department and should be available in those offices. Copies also may be obtained on request from the legislative council, state capitol, Madison. The following conversion table was prepared by the revision committee and accompanied the printed bill and act. (48.991 to 48.997, interstate compact on juveniles, were created by a separate act, ch. 300, Laws 1955.)

TABLE OF OLD AND NEW SECTION NUMBERS

This table is intended as an aid in correlating the present law with the proposed children's code. It shows what sections in the proposed code cover the present sections in chs. 48, 54 and 322. It does not cover miscellaneous sections (for example, 58.01) which are affected by the bill. Also, it does not show (except in the case of complete repeals) what specifically happened to the present section, i.e., whether it was restated or substantially changed. It is necessary to turn to the proposed section covering the present one to find that information. The table is merely a guide to that information.

In some cases when a section is shown as repealed, another section number is given in brackets. This means that the section is repealed because it is covered by the one which is given in the brackets. For example, 54.04 (1) which creates a division for children and youth in the department of public welfare is repealed because 46.015 specifies the various divisions which make up the department. Therefore, no reason for the repeal of 54.04 (1) is given but 46.015 is shown in brackets on the table.

Some difficulty was experienced in dealing with ch. 54, since most of that chapter remains unchanged, although in some cases similar sections will also appear in ch. 48. Therefore, the table shows only those provisions where chapter 54 itself has been changed. Thus, present 54.01 is shown because part of it remains in 54.01 as amended by this bill and part is restated in 48.01 of the proposed children's code.

Stats. 1953	Stats. 1955	Stats. 1953	Stats. 1955
48.01 (1) (a) and (b).....	48.13	(6) .....	48.06 <sup>2</sup>
(1) (c) .....	48.12	(7) .....	48.07 (1)
(1) (c) last sentence .....	Repealed <sup>1</sup>	48.03 .....	48.08
(2) .....	48.05	48.04 (1) .....	Repealed <sup>3</sup>
(3) .....	48.04	(2) .....	Repealed <sup>3</sup>
	48.05 (7)	48.05 .....	Repealed <sup>4</sup>
	48.25	48.06 (1) .....	48.19
	48.26 (2)		48.20
	48.34 (3) (b)	(2) .....	48.21
	48.35 (2) (b)	(3) .....	48.22
	48.43 (3)	(4) .....	48.23
(4) .....	48.04	(5) and (6) .....	48.29
(5) (a) .....	48.12	(7) .....	48.28
	48.13	48.07 (1) (a) and (b) .....	48.34
	48.14		48.35
(5) (am) .....	48.16	(1) (c) and (d) .....	Repealed <sup>5</sup>
	48.18	(1) (e) and (1a) .....	48.36
(5) (am) last part of third sentence .....	Repealed <sup>1</sup>	(2) .....	48.25 (3)
(5) (am) last sentence .....	48.15	(2a) .....	48.46
(5) (ar) .....	48.17	(3) .....	48.38
(5) (b) .....	48.34 (2) and (3)	(3) last sentence .....	48.37
(5) (c) .....	48.44	(4) .....	48.01
	48.45	(5) .....	48.34 (3)
(5) (d) and (e) .....	48.14	(6) .....	48.35 (2)
48.013 .....	48.05	(7) (a) (intro- ductory par.) .....	48.43
[48.015 .....	48.09]	(7) (a) 1 .....	48.14
48.02 (1) .....	48.06 (1)	(7) (a) 2 to 4 .....	48.40 (2)
(1) last sentence .....	48.31 (3)	(7) (am) .....	48.42
(2), (3), (4) .....	48.06 (2) <sup>2</sup>	(7) (b) .....	48.43 (2)
(5) .....	48.06	(7) (c) .....	48.40 (1)
	48.08 (3)	(7) (d) .....	48.43 (3)

<sup>1</sup> This provision giving the juvenile court jurisdiction over persons over 18 years of age but under 21 who are charged with certain nonviolent sex offenses is repealed because the committee was of the opinion that this type of crime did not merit special attention.

<sup>2</sup> Not all of the provisions in the present statutes are included in the proposed sections because they are amply covered by general provisions in ch. 59. See 59.07 (5) and 59.15.

<sup>3</sup> The provision in (1) relating to the appointment of individuals as probation officers is repealed on the ground that the statutes should provide only for professional service to the court; in those cases where the court feels that an individual in the community can provide better service on a given case, there is no need for special statutory authorization to call upon him.

(2) relating to the appointment of referees is repealed because they have never been used and because the advisory committee of juvenile court judges felt the use of referees is undesirable.

<sup>4</sup> This section prohibiting the sending of children as poor persons to county homes is repealed because it is obsolete.

<sup>5</sup> (c) is repealed because the disposition, which the juvenile court may make of cases before it, is spelled out in detail in the revised chapter.

See footnote 1 for the reasons for the repeal of (d).

Stats. 1953	Stats. 1955	Stats. 1953	Stats. 1955
	48.46 <sup>a</sup>	(2)	48.61 (3) and (5)
(8)	48.47		48.62
(9)	48.34 (1) (c)		48.64
	48.35 (1) (b)		48.84 (1) (c)
48.08 (1)	48.45 (2)	48.37 (3) and (4)	48.64
48.09 (2)	48.45 (3)	48.37 (1)	48.63
	48.51	48.37 (2)	48.67
	48.52		48.68
48.10 (1)	48.24		48.71
(2)	Repealed <sup>7</sup>	(3)	48.70
(3)	48.34 (1) (f)	(4)	48.71
	48.35 (1) (c)		48.34 (3)
48.11 (3) last sentence	48.27		48.35 (2)
	48.29 (2)		48.64
48.12 (1) and (2)	48.30		48.67
(3) (a)	48.31	48.38 (1) (a) and (b)	
(3) (b)	48.29 (3)	first sentence	48.62
(4)	48.32	(1) (b)	48.64 (3)
48.13	48.11	(2)	48.62
48.14	48.52		48.71
48.15	Repealed <sup>8</sup>	(3)	48.75
48.16 (1)	48.53 <sup>a</sup>	(4)	48.64 (2)
(2)	48.51 (2)		48.67
	48.53	48.385	48.57 <sup>12</sup>
(3)	48.52		48.75
	48.55	48.39 (1) and (2)	48.71
48.17 (1)	48.48	(3)	48.71 (2)
(2)	Repealed <sup>10</sup>		48.72
48.18	48.55	(4)	48.72
48.19	48.48 (4) and (5)	48.40 (1) (a)	48.74
48.20 (1)	48.52	(1) (b)	48.77
(2)	48.35 (2)	(2)	48.74
	48.51		48.63
	48.52		48.13 (1) (g)
48.22 (3) and (4)	Repealed <sup>11</sup>	48.41	48.76
(1)	48.48 (4)	48.42	48.93
(2)	48.48 (4) and (7)	48.43	rn. 140.35
	48.52	48.44	rn. 140.36
	48.55	48.45 (1)	48.63
(3)	48.64	(2)	rn. 140.37
	48.48 (8)	48.46	rn. 140.38
(4)	48.84 (1) (c)	48.47	rn. 140.39
	Repealed	48.50 (1)	48.65 (1)
(5)	[46.014 (5)]		48.70
48.23	48.48 (6)		48.71
48.24	48.54	(2) and (3)	48.67
	Repealed	(4) (a), (b) and (c)	
48.28	[40.77 (1) (b)]	first sentence	48.71
48.29	48.58	(4) (c) last sen-	
	48.56 (1) (b)	tence	48.72
48.30	and (2)	(5)	48.73
	48.57	(6)	48.65 (2)
	48.59 (2)	(7)	48.76
48.31	48.48 (1) and (2)	54.01	48.01 (2)
	48.59		54.01
48.315	48.56 (1) (a)	54.03 (2), (3), (4) and (5)	Repealed <sup>13</sup>
	48.57	54.04 (1)	Repealed
	48.75		[46.015]
48.32	48.48 (2)	(2)	rn. 46.03 (2a)
48.34	48.99	54.06	48.79
48.35 (1)	48.60		54.06
(2)	48.61 (1) and (3)	54.07	48.80
(3)	48.61 (2)	54.08	No change
(4)	48.61 (3)	54.09	48.34
(5)	48.61 (4)		48.49
48.36 (1)	48.61 (5)	54.10 last sentence	Repealed <sup>13</sup>

<sup>a</sup> The provision in this paragraph providing that all orders for the termination of parental rights are "valid and conclusive and binding" after 2 years is dropped in favor of the general provision that judgments are subject to direct attack on appeal for 40 days and then are subject only to collateral attack for lack of jurisdiction by the court. There is no reason why a judgment of a juvenile court in a termination of parental rights should not have the same status as any other court judgment.

<sup>7</sup> This provision is repealed because lack of an examination is not used as a ground for refusing a commitment at the Milwaukee county children's home, which is the only existing children's home.

<sup>8</sup> This section is repealed because it is amply covered by provisions in ch. 54.

<sup>9</sup> The power of the department to return a delinquent child to the juvenile court because the department cannot control him or because he is a bad influence at the training school is not retained. The court has no other source to draw upon if the department cannot handle the child and, in practice, the department never returns children.

<sup>10</sup> This section is repealed because persons who transport children to the department are in the employ of the county and receive their usual pay.

<sup>11</sup> (3) is repealed because the superintendent of the child center is now under the division for children and youth of the department and, of course, reports frequently to the department.

(4) is repealed for the reason stated in footnote 10.

<sup>12</sup> 48.385 is not completely covered by 48.57 because in a couple of counties the officer or agency administering public assistance is not the county welfare department. However, a check with the state department revealed that in those counties this section is not used. Therefore, 48.385 is amply covered by 48.57.

<sup>13</sup> The provisions, which are repealed, were necessary in ch. 54 when that chapter applied to the treatment of delinquents and to the co-ordination of community services as well as to convicted offenders. Now that the chapter will apply only to the latter it would be confusing to leave the provisions in the chapter.

<i>Stats.</i> 1953	<i>Stats.</i> 1955	<i>Stats.</i> 1953	<i>Stats.</i> 1955
54.11 second sentence ...	48.07	(2) and (3).....	48.84 (1)
54.12 to 54.31 (1).....	No change	(4) .....	48.89 (1)
54.31 (2) .....	48.53	(5) .....	48.84 (2) (a)
54.32 to 54.38.....	No change	(6) .....	48.84 (1) (c)
322.01 .....	48.81	(7) .....	48.88 (2) (b)
	48.82	(8) .....	48.84 (1) (b)
	48.83	(9) (a) .....	48.89 (1) (a)
	322.01	(9) (b) .....	322.02
	322.02	(10) .....	48.40
	322.03	(11) .....	48.84 (2) (a)
322.02 (1) and (2).....	48.83 (2) (a)		Repealed <sup>14</sup>
(2) last sentence..	48.87		
(3) .....	48.88 (3)		
	48.82 (8)	322.05 .....	48.89 (2)
	48.90		48.84 (4)
322.03 (1) .....	48.88 (1)		48.91 (2)
(2) and (3).....	48.91 (1)		322.04
	322.04		48.94
322.04 (1) .....	48.84 (1), (2)	322.055 .....	48.95
(b) and (3)	48.82 (8)	322.06 .....	48.93
		322.07 .....	48.92
		322.08 .....	48.96
		322.09 .....	Repealed <sup>15</sup>

## GENERAL PROVISIONS.

48.01 **Title, intent and construction of chapter.** (1) **TITLE.** This chapter may be cited as "The Children's Code."

(2) **INTENT.** It is declared to be the intent of this chapter to promote the best interests of the children of this state through:

(a) Juvenile courts adequately equipped to review each case on its individual merits under procedures designed to safeguard the legal rights of the child and his parents;

(b) An integrated and co-ordinated program for all delinquent, neglected and dependent children both in their own community and while in the custody of the state;

(c) Protection of children from unnecessary separation, either temporary or permanent, from their parents;

(d) Adequate care and rehabilitation for all children who must be separated from their parents temporarily for the child's protection or that of the public;

(e) Co-ordinated planning to assist local communities in promoting effective programs in health, education, recreation and welfare for the maximum development of all children and for the control of influences detrimental to youth;

(f) Assurance for children needing adoptive homes that they will be placed in the best home available; protection of children from adoption by persons unfit to have responsibility for raising a child; protection for children who are legally established in adoptive homes from interference by their natural parents.

(3) **CONSTRUCTION.** This chapter shall be liberally construed to effect the objectives in sub. (2). The best interests of the child shall always be of paramount consideration, but the court shall also consider the interest of the parents or guardian of the child and the interest of the public.

**History:** 1955 c. 575.

48.02 **Definitions.** In this chapter the following words and phrases have the designated meanings:

(1) "Agency" unless qualified includes the state department of public welfare, county agencies and licensed child welfare agencies.

(2) "Court" means the juvenile court unless otherwise specified in the section, except that in ss. 48.81 to 48.97, relating to adoptions, "court" means the county court.

(3) "Child" means a person under 18 years of age.

(4) "Child welfare agency" means any person required to be licensed by s. 48.60.

(5) "Day care center" means any facility operated by a person required to be licensed by s. 48.65.

(6) "Department" means the state department of public welfare unless otherwise specified in the section.

(7) "Foster home" means any facility operated by a person required to be licensed by s. 48.62.

(8) "Guardian ad litem" means a person appointed to protect the interest of a minor or an incompetent in a particular court proceeding. He has none of the rights of a general guardian. He shall be an attorney admitted to practice in this state, shall be ap-

<sup>14</sup>This paragraph was inserted in the law for one particular case, which has been decided, and, therefore, is no longer necessary. See *In re Adoption of Morrison*, 267 W 625, 66 NW (2d) 732 (1954).

<sup>15</sup>This provision was dropped by the committee on the ground that an adoption order should have the same status as any other final order of the court, i.e., it is subject to direct attack on appeal for a very limited period, and then is subject to collateral attack only on ground of lack of jurisdiction. There is no good reason for allowing attack for procedural errors on an adoption order for 2 years after the adoption is granted.

pointed in the manner provided for appointment of guardians ad litem in county court, and shall be allowed reasonable compensation to be paid by the county in which the proceeding is held, on order of the court.

(9) "Guardian" means guardian of the person and refers to the person having the right to make major decisions affecting a child including the right to consent to marriage, to enlistment in the armed forces, to major surgery and to adoption. The guardian has legal custody of the child unless legal custody is given by the court to another person. A person may be appointed guardian of a child only by court action.

(10) "Legal custody" means the right to the care, custody and control of a child and the duty to provide food, clothing, shelter, ordinary medical care, education and discipline for a child. Legal custody may be taken from a parent only by court action. If legal custody is taken from a parent without termination of parental rights, the parents' duty to provide support continues even though the person having legal custody may provide the necessities of daily living.

(11) "Parent" means either a natural parent or a parent by adoption. If the child is illegitimate, "parent" means the mother.

(12) "Relative" means a parent, grandparent, brother, sister, uncle or aunt. This relationship may be by consanguinity or direct affinity.

**History:** 1955 c. 575.

#### ORGANIZATION OF COURT.

**48.03 Designation of the juvenile court.** (1) All courts of record of this state shall have jurisdiction to hear all cases coming within the provisions of ss. 48.12, 48.13, 48.14 and 48.44, but the judges of the courts of record of each county shall designate one or more of the courts of record in their county to hear those cases. When hearing those cases, the court shall be known as a juvenile court. The court so designated shall serve as juvenile court until such time as the judges of the courts of record of the county designate another court of record to serve in that capacity.

(2) The judge of a court designated as a juvenile court under sub. (1) shall set apart a time and place to hold juvenile court.

(3) In case of the absence or disability of the judge of a court designated as a juvenile court, he, or if he is unable, the judge of the circuit court for the county, shall designate a judge of another juvenile court or of any other court of record to act temporarily in his place. If the judge so designated to act temporarily is from a county other than the one for which he was elected he shall receive \$25 per day and his actual expenses, to be audited and paid by the county board of the county where he acts temporarily as juvenile court judge.

(4) The juvenile court is a court of record.

(5) In Green county the judge of the county court shall be judge of the juvenile court. After January 1, 1962 the judge of the circuit and county court of Green county shall be judge of the juvenile court of said county.

**History:** 1955 c. 575; 1957 c. 317.

**48.04 Employes of the juvenile court.** (1) The clerk and stenographic reporter of the court or courts designated as the juvenile court in each county shall serve as the clerk and stenographic reporter of the juvenile court.

(2) If the county contains one or more cities of the second or third class and the court designated as the juvenile court does not have a clerk other than the register in probate, the judge may appoint, by an instrument in writing, filed with the county clerk, a clerk of the juvenile court, who shall be a stenographer and shall perform the duties of clerk and reporter of such court. This clerk shall take and file the official oath and shall receive such salary as the county board determines.

(3) The district attorney shall perform any duties in connection with court proceedings as the judge may request.

**History:** 1955 c. 575.

**48.05 Children's court for populous counties.** (1) Sections 48.03 and 48.04 do not apply in counties having a population of 500,000 or more.

(2) In each county having a population of 500,000 or more there is created and established a separate inferior court to serve as the juvenile court of such county with the jurisdiction and powers hereinafter specified.

(3) **NAME OF COURT; MAINTENANCE AND RECEIPTS.** Such court shall be known as the "Children's Court of (here insert name of county) County, Wisconsin," and shall be established and maintained at the expense of the county and all receipts of said court shall be paid to the county treasurer, except that the court may direct the clerk to receive and disburse sums paid under court order for the support and maintenance of children.

(4) **SEAT OF COURT; PROCESS; SEAL.** Such court shall be held at the county seat or at such other place within the county designated by the county board. The county board

of such county shall provide suitable accommodations, furniture, equipment and other supplies as may be necessary for the proper operation of such court. The court shall be a court of record and shall have an official seal, bearing such design as the first judge of said court shall prescribe and the inscription "Children's Court of (here insert name of county) County, Wisconsin—Seal."

(5) JURISDICTION, POWERS AND DUTIES. Such court shall have such jurisdiction, powers and duties as are now given or which may hereafter be given by law and shall also have jurisdiction in actions or proceedings involving the custody of children under 18 years of age, whether raised by habeas corpus or otherwise, except such children as are wards of or whose care and custody is under the control of other courts. Where the words "juvenile court" are used in the statutes, they shall be deemed to include the children's court or the judge of the children's court in counties of 500,000 or more, except as otherwise specifically provided.

(6) PRACTICE AND PROCEDURE. Practice and procedure in such court shall be the same as is now or may be hereafter provided by law for civil courts.

(7) PERSONNEL; BOND; SALARIES. The court shall have a clerk with such assistants as the county board determines and a stenographic reporter, each of whom shall be appointed by the judge of such court pursuant to ss. 16.31 to 16.44 and shall be paid such compensation as the county board determines. Such clerk shall be an officer of the court, and before entering upon his duties shall take and subscribe the constitutional oath of office and furnish an official bond in such amount and with such sureties as the county board determines. Such oath and bond shall be filed in the office of the clerk of the civil court of such county. Such clerk shall have the powers and duties as are now prescribed by law for the juvenile court in counties containing one or more cities of the first class. The reporter of said court shall be deemed an officer of such court and shall take and file the constitutional oath of office. He shall be furnished with all the necessary supplies. He shall be paid for his services if he furnishes a transcript of testimony and proceedings at a hearing in the same manner and amount as circuit court reporters are paid under s. 252.20.

(8) JUDGE; QUALIFICATIONS; ELECTION; TERM; COMPENSATION. There shall be elected in the same manner as civil judges of such county are elected, a judge for said court. No person shall be eligible to the office of judge unless for 5 years immediately prior to January 1 of the year of election he shall have been both a resident of the county and an attorney licensed to practice in the civil courts of this state. The judge shall not practice law while holding office nor be a candidate for election to any other office. The judge shall hold his office for 6 years from the first Monday of June next following his election and until his successor is elected and qualified. The judge may be removed from office in the manner provided for the removal of civil judges, the resignation of the judge shall be made to the governor, and vacancies shall be filled as vacancies in the office of civil judge are filled. The judge shall be paid an annual salary of \$12,000 to be paid in instalments by the county in the same manner as the salaries of civil judges of the county are paid, which salary shall not be lowered during his term of office. The judge shall, before entering upon the duties of his office, take and subscribe the oath of office prescribed in the constitution for judicial office which oath shall be filed in the office of the clerk of the civil court of the county.

(9) ADDITIONAL POWERS OF JUDGE. The judge of the children's court is authorized to solemnize the rites of marriage. He also has power to take acknowledgments and administer an oath.

(10) DEPUTY SHERIFFS OF CHILDREN'S COURT. The sheriff of such county shall upon request of the judge of the children's court assign such deputy sheriffs, one of whom shall be a woman, who shall be designated as deputy sheriffs of the children's court, and each of whom shall receive the same salary as is paid to other deputy sheriffs of said county. Such deputy sheriffs shall act as attendants upon the children's court during its sessions. The judge of said children's court shall have the power to make rules to be entered in full upon the records of said court, concerning the attendance and duties of such deputy sheriffs as the judge deems proper, and it shall be the duty of such deputy sheriffs to conform to the same.

(11) SUBSTITUTE JUDGE. Any judge of the civil court of such county may hold court as judge of said children's court upon request of the judge of such court, and in case of the absence or other disability of the judge of such court without such request having been made, the senior civil judge of the civil court of such county shall designate some judge of its court in said county to so hold court, whose duty it shall be to act temporarily in the place of said judge of the children's court and while so doing the judge, so substituting, shall have all of the powers of the regularly elected judge of the children's court.

(12) **REVIEW BY CIRCUIT AND SUPREME COURTS.** The orders and judgments of the children's court in all actions and proceedings tried before it may be appealed from, examined and reviewed by either the circuit court of said county, not as a trial de novo, but as a review of the record, or the supreme court of Wisconsin in the same manner as other orders and judgments of the circuit court may be appealed from and reviewed.

**History:** 1955 c. 299, 575, 653.

**48.06 Services for court.** (1) **COUNTIES WITH A POPULATION OF 500,000 OR MORE.** In counties having a population of 500,000 or more, the county board shall establish a probation department for the children's court consisting of a chief probation officer and as many more probation officers as the county board shall determine. All such probation officers shall be appointed by the judge of the children's court according to the rules of the county civil service commission. The work of the probation department shall be under the supervision of the chief probation officer.

(2) **COUNTIES WITH A POPULATION UNDER 500,000.** In counties having less than 500,000 population the county board shall provide the court with the services necessary for investigating cases and supervising cases in one or both of the following ways:

(a) By providing for one or more juvenile court workers to be appointed by the judge of the juvenile court. Whenever possible, the juvenile court workers shall have the qualifications required for state social workers under civil service law who perform similar types of duties. If there is more than one juvenile court worker appointed for a county, the judge shall designate one of the number to act as chief juvenile court worker and to supervise the other workers.

(b) By authorizing the county welfare department to provide such services in accordance with s. 46.22 or by providing such services through a county children's board established in accordance with s. 48.29 or 59.08 (9a), Stats. 1953.

(3) Regardless of the form of court service adopted by any county under this section or s. 48.56, the same state and federal aid shall be paid to each county as if such court services were integrated in the county public welfare department. Such state aid shall be administered and prorated in the same manner as other aids under s. 49.51 (3) and (4), as though such co-operative services were requested by the state department of public welfare.

**History:** 1955 c. 575; 1957 c. 374.

**48.07 Additional sources of court services.** If the county board has complied with s. 48.06, the court may obtain supplementary services for investigating cases and providing supervision of cases from one or more of the following sources:

(1) **STATE DEPARTMENT OF PUBLIC WELFARE.** The court may request the services of the department for cases with special needs which cannot adequately be provided by county services. The department shall furnish such requested services.

(2) **LICENSED CHILD WELFARE AGENCY.** The court may request the services of a licensed child welfare agency in accordance with procedures established by that agency. Such child welfare agency shall receive no compensation for these services but may be reimbursed out of funds made available to the court for the actual and necessary traveling expenses incurred in the performance of duties for the court.

**History:** 1955 c. 575.

**48.08 Duties of person furnishing services to court.** (1) It is the duty of each person appointed to furnish services to the court as provided in ss. 48.06 and 48.07 to make such investigations and exercise such discretionary powers as the judge may direct, to keep a written record of such investigations and to submit a report to the judge. Such person shall keep informed concerning the conduct and condition of the child under his supervision and shall report thereon as the judge directs.

(2) Each person appointed to furnish services for the court has the powers of police officers and deputy sheriffs for the purpose of carrying out his duties in connection with the court.

(3) (a) The chief probation officer of the children's court, appointed under s. 48.06 (1), has the power to perform all the duties of the judge of the children's court prior to the filing of a petition.

(b) A juvenile court worker serving as part of the court staff under s. 48.06 (2) (a) has the power to perform all the duties of the judge prior to the filing of a petition if authorized by the judge to do so.

**History:** 1955 c. 575.

**48.09 Board of juvenile court judges.** The juvenile court judges of the state constitute the "Board of Juvenile Court Judges." The board shall meet at least twice each year at the time and place it determines. The board shall elect a chairman, secretary and any other officers from its number it deems necessary. These officers shall perform the duties prescribed by the board. The board shall make any rules it deems advisable,

not inconsistent with law. Each juvenile court judge attending the meetings of the board shall on presenting his certificate of attendance to the county or municipal treasurer be reimbursed for his travel and necessary expenses out of the funds made available for his court.

**History:** 1955 c. 575.

**48.10 Juvenile court forms.** The board of juvenile court judges or its duly authorized committee shall adopt uniform forms necessary for the administration of the business of the juvenile courts under this chapter. Duly authenticated copies of these forms shall be furnished to the secretary of state and kept on file in his office. The secretary of state shall transmit copies of these forms to all the juvenile courts in the state.

**History:** 1955 c. 575.

**48.11 Advisory board.** (1) The court may appoint a board of not more than 15 citizens of the county, known for their interest in the welfare of children, who shall serve without compensation, to be called the advisory board of the court. The members of the board shall hold office during the pleasure of the court. The duties of the board are:

(a) To advise and co-operate with the court upon all matters affecting the workings of this law and other laws relating to children, their care and protection.

(b) To familiarize themselves with the functions and facilities of the court under this law and to interpret to the public the work of the court.

(2) Nothing in this section shall be construed to require the juvenile court to open court records or to disclose their contents.

**History:** 1955 c. 575.

#### JURISDICTION OF COURT OVER CHILDREN.

**48.12 Jurisdiction over children alleged to be delinquent.** The juvenile court has exclusive jurisdiction except as provided in ss. 48.17 and 48.18 over any child who is alleged to be delinquent because:

(1) He has violated any state law or any county, town, or municipal ordinance; or

(2) He is habitually truant from school or home; or

(3) He is uncontrolled by his parent, guardian or legal custodian by reason of being wayward or habitually disobedient; or

(4) He habitually so deports himself as to injure or endanger the morals or health of himself or others.

**History:** 1955 c. 575.

**48.13 Jurisdiction over children alleged to be neglected or dependent.** The juvenile court shall have exclusive jurisdiction over:

(1) A child who is alleged to be neglected because:

(a) He is abandoned by his parent, guardian or legal custodian; or

(b) He is without proper parental care because of the faults or habits of his parent, guardian or legal custodian; or

(c) He is without proper parental care because of the mental or physical disability of his parent, guardian or legal custodian; or

(d) He is without necessary subsistence, education or other care necessary for his health, morals or well-being because his parent, guardian or legal custodian neglects or refuses to provide it; or

(e) He is without the special care made necessary by his physical or mental condition because his parent, guardian or legal custodian neglects or refuses to provide it; or

(f) His occupation, behavior, condition, environment, or associations are such as to injure or endanger his welfare or that of others; or

(g) He is in a home for which a license is required and which any agency authorized by law to license foster homes has refused to license; or

(h) He has been placed in a home for adoption for which approval by the county court is required by s. 48.63 and the county court has refused to approve the home; or

(i) He is in the custody of a person whose petition to adopt him has been denied by the county court and the case has been transferred to the juvenile court under s. 48.95; or

(j) He comes within the provisions of s. 48.12 but his conduct results in whole or in part from parental neglect;

(2) A child who is alleged to be dependent because:

(a) He is without a parent or guardian; or

(b) He is in need of special care and treatment because of his physical or mental condition and his parent, guardian or legal custodian is unable to provide it; or

(c) His parent or legal custodian for good cause desires to be relieved of his legal custody.

**History:** 1955 c. 575.



**48.14 Jurisdiction over other matters relating to children.** The juvenile court shall have exclusive jurisdiction over:

(1) The termination of parental rights to a minor in accordance with the provisions of ss. 48.40 to 48.43.

(2) The appointment and removal of a guardian of the person in the following cases:

(a) For a minor, where parental rights have been terminated under ss. 48.40 to 48.43; or

(b) For a child, where the child is found to be dependent under s. 48.13 (2) because he is without a parent or guardian.

(3) The transfer of legal custody of mentally deficient and mentally ill children living or found in the county, pursuant to ch. 51. If a child is before the court, alleged to be delinquent, neglected or dependent, and it appears that the child may be mentally deficient or mentally ill, the court may order a hearing to determine whether the child is mentally deficient or mentally ill according to ch. 51, except that the order for hearing shall serve in lieu of the application required by ch. 51.

**History:** 1955 c. 575; 1957 c. 468.

**48.15 Jurisdiction of other courts to determine legal custody.** Nothing contained in ss 48.12, 48.13 and 48.14 shall deprive other courts of the right to determine the legal custody of children upon writs of habeas corpus, or to determine the legal custody or guardianship of children when such legal custody or guardianship is incidental to the determination of causes pending in such other courts. But the jurisdiction of the juvenile court shall be paramount in all cases involving children alleged to come within the provisions of ss. 48.12, 48.13 and 48.14.

**History:** 1955 c. 575.

**48.16 Venue.** Venue for any proceeding under ss. 48.12 and 48.13 shall be in any of the following: the county where the child resides, the county where he is present or, in the case of a violation of a state law or a county, town or municipal ordinance, the county where the violation occurred.

**History:** 1955 c. 575.

**48.17 Concurrent jurisdiction of civil courts over violations of traffic ordinances.** Except in counties having a population of 500,000 or more, courts of civil jurisdiction shall have concurrent jurisdiction with the juvenile court in proceedings against children for violation of county or municipal ordinances enacted under s. 349.06. But disposition of such cases shall be made under s. 48.36 instead of under the ordinance.

**History:** 1955 c. 575; 1957 c. 260.

**48.18 Jurisdiction of criminal court over children 16 or older.** The criminal courts shall have jurisdiction over a child 16 or older who is alleged to have violated a state law only if the juvenile court deems it contrary to the best interest of such child or of the public to hear the case and enters an order waiving its jurisdiction and referring the matter to the district attorney for appropriate proceedings in the criminal court. In that event, the district attorney of the county shall proceed with the case in the same manner as though the jurisdiction of the juvenile court had never attached.

**History:** 1955 c. 575.

#### PROCEDURES.

**48.19 Informal disposition.** Whenever any person gives the court information tending to show that a child comes within the provisions of s. 48.12 or 48.13, an investigation shall be made by persons designated by the court to determine the facts. If this investigation shows that the child does not come within the provisions of s. 48.12 or 48.13, the court shall take no further action. If the investigation shows that the child is within the provisions of s. 48.12 or 48.13 the court may authorize the filing of a petition under s. 48.20 or, if it determines that neither the interests of the child nor of the public require that a petition be filed, may defer further proceedings on the condition that the child appear with his parent, guardian or legal custodian for counseling and advice or that the child abide by such obligations imposed upon him with respect to his future conduct as the court deems necessary or advisable to insure the child's protection, correction or rehabilitation. The obligations so imposed may be in writing and copies thereof furnished to the parent, guardian or legal custodian of the child. If a parent, guardian or legal custodian objects to these obligations he shall have the right to have a petition filed in relation to his child.

**History:** 1955 c. 575.

**48.20 Petition.** (1) The petition and all subsequent court documents under ss. 48.12 and 48.13 shall be entitled "In the interest of . . . . ., a child under 18 years of age."

(2) The petition shall be drafted by a suitable person designated by the court. It shall be verified and may be upon information and belief. It shall set forth plainly: (a) the facts which bring the child within the jurisdiction of the court; (b) the name, age, and residence of the child; (c) the names and residence of his parents; (d) the name and residence of his guardian if there be one, of the person having legal custody of the child, or of the nearest known relative if no parent or guardian can be found.

(3) If any of the facts in sub. (2) are not known or cannot be ascertained by the petitioner, the petition shall so state.

(4) In case of a violation of chs. 341 to 349 or a county or municipal ordinance enacted under s. 349.06 no petition is necessary and the complaint may serve as sufficient basis for a court hearing, unless the child is alleged to be delinquent under s. 48.12.

**History:** 1955 c. 575; 1957 c. 260.

**48.21 Summons; notice.** (1) After a petition has been filed relating to facts under s. 48.12 or 48.13 and after such further investigation as the court directs, unless the parties hereinafter named voluntarily appear, the court shall issue a summons requiring the person who has legal custody of the child to appear personally and, if the court so orders, to bring the child before the court at a time and place stated.

(2) If the person so summoned is someone other than the parent or guardian of the child, the parent or guardian or both shall be notified of the pendency of the case and of the time and place appointed.

(3) Summons may be issued requiring the appearance of any other person whose presence, in the opinion of the court, is necessary.

**History:** 1955 c. 575.

**48.22 Service of summons; expenses.** (1) Service of summons or notice required by s. 48.21 shall be made personally by the delivery of a copy thereof to the persons summoned or notified. But, if the court is satisfied that it is impracticable to serve such summons or notice personally, it may make an order providing for the service of such summons or notice by registered mail addressed to the last known addresses of such persons or, if no address is known, by publication thereof. Personal service shall be effected at least 24 hours before the time of the hearing; registered mail shall be mailed at least 5 days before the time of the hearing if within the state or 14 days if outside the state; publication shall be made once in some newspaper printed and circulated in the county in which the hearing will take place at least one week before the time of the hearing.

(2) Service of summons or notice required by s. 48.21 or 48.42 may be made by any suitable person under the direction of the court.

(3) The expenses of service of summons or notice or of the publication of summons or notice and the traveling expenses and fees as allowed in ch. 325 incurred by any person summoned or required to appear at the hearing of any case coming within the jurisdiction of the court under ss. 48.12, 48.13, 48.14 and 48.44 shall be a charge on the county when approved by the court.

**History:** 1955 c. 575.

**48.23 Failure to obey summons; capias.** If any person summoned fails without reasonable cause to appear, he may be proceeded against for contempt of court. In case the summons cannot be served or the parties served fail to obey the same, or in any case when it appears to the court that the service will be ineffectual a capias may be issued for the parent or guardian or for the child.

**History:** 1955 c. 575.

**48.24 Physical and mental examination.** The court may order any person coming within its jurisdiction to be examined by a clinical psychologist, having the qualifications required by s. 51.23, a psychiatrist or physician, appointed by the court, in order that the condition of such person may be given due consideration in the disposition of the case. The expenses of such examination, when approved by the court, shall be paid by the county. In counties maintaining an examination service by one or more physicians, psychiatrists or clinical psychologists such county service shall be used for the purposes of this examination.

**History:** 1955 c. 575.

**48.25 Hearing.** (1) **GENERAL.** The procedure to be followed at the hearing shall be determined by the juvenile court judge and may be as formal or informal as he considers desirable. The hearing may be adjourned from time to time. The general public shall be excluded and only such persons admitted as the court shall find to have a direct interest in the case or in the work of the court. The presence of the child in court may be waived by the court at any stage of the proceeding.

(2) **JURY TRIAL.** There shall be a jury trial only if one is demanded. Justice court practice in civil actions shall govern the selection of jurors.

(3) **EVIDENCE.** If there is a disputed issue of fact, the customary rules of evidence applied to issues of fact in civil trials shall be followed. The finding of fact shall rest on the preponderance of evidence adduced under those rules. Every order shall be based on a finding of fact, entered of record.

(4) **RECORD.** Stenographic notes of the hearing shall be kept but shall be transcribed only upon order of the court.

(5) **GUARDIAN AD LITEM.** The court may appoint a guardian ad litem in any case in which it feels that such appointment is desirable.

(6) **APPOINTMENT OF COUNSEL.** If any child or his parents desire counsel but are unable to employ it, the court in its discretion may appoint counsel to represent them. Such counsel shall be allowed reasonable compensation to be paid by the county wherein the proceeding shall be held, upon the order of the court.

**History:** 1955 c. 575.

**48.26 Records.** (1) Peace officers' records of children shall be kept separate from records of persons 18 or older and shall not be open to inspection or their contents disclosed except by order of the court. This subsection shall not apply to the representatives of newspapers or other reporters of news who wish to obtain information for the purpose of reporting news without revealing the identity of the child involved or to the confidential exchange of information between the police and officials of the school attended by the child or other law enforcement or social welfare agencies or to children 16 or older who are transferred to the criminal courts.

(2) Juvenile court records shall be entered in books or deposited in files kept for that purpose only. They shall not be open to inspection or their contents disclosed except by order of the court.

(3) This section shall not apply to proceedings for violation of any provision of chs. 340 to 349 or any county or municipal or ordinance enacted under s. 349.06.

**History:** 1955 c. 575; 1957 c. 411, 672.

**48.27 Support of child when legal custody transferred from parent.** (1) Whenever legal custody of a child is taken by the court from the child's parents, or whenever the child is given medical, psychological or psychiatric treatment under order of the court, and no provision is otherwise made by law for payment for the care or treatment of the child, compensation for it when approved by order of the court, shall be a charge upon the county. The court may, after giving the parents a reasonable opportunity to be heard, order them to pay as the court may direct, a sum, within their ability to pay, to cover in whole or in part the care or treatment of the child. If the parents fail, without good cause, or refuse to pay such sum, they may be proceeded against for contempt.

(2) The county charged with the cost of the care and treatment under sub. (1) may recover the cost from the county where the child has legal settlement by filing verified claims which shall be payable as are other claims against the county. Any dispute relating to the county of legal settlement may be appealed to the department under s. 46.106.

**History:** 1955 c. 575.

The county of legal settlement is liable for support of a child committed to custody other than that of his parent, pursuant to 48.07 (6), as amended in 1951. Notice to county of legal settlement is desirable but not a prerequisite to commitment of the child. The county of legal settlement is liable for the support irrespective of notice, but a county cannot be bound by an erroneous finding of legal settlement in the absence of notice. 40 Atty. Gen. 298.

#### DETENTION.

**48.28 Taking child into custody.** (1) No child may be taken into immediate custody except:

(a) With a *capias* issued by the judges of the juvenile court in accordance with s. 48.23 or with a warrant; or

(b) When in the presence of the officer who takes the child into custody a child has violated a county, town or municipal ordinance or a state or federal law and the officer believes that such action is necessary for the protection of the public interest; or

(c) When the officer finds a child in such surroundings or condition that he considers it necessary that he take the child into immediate custody for the child's welfare; or

(d) When it is reasonably believed that a child has committed an act which if committed by an adult would be a felony; or

(e) When it is reasonably believed that the child has run away from his parents, guardian or legal custodian or is a fugitive from justice; or

(em) On order of the court when made upon a showing satisfactory to the court that the welfare of a child demands that it be immediately removed from its present custody,

the order to specify that the child be placed in the custody of a licensed welfare agency pending a hearing on the matter; or

(f) When it is reasonably believed that the child has violated the terms of his probation, parole or other field supervision.

(2) Taking into custody under this section shall not be considered an arrest.

**History:** 1955 c. 575; 1957 c. 140.

**48.29 Release or detention.** (1) When a child is taken into custody as provided in s. 48.28, the parent, guardian or legal custodian of the child shall be notified as soon as possible. The person taking the child into custody shall, unless it is impracticable, undesirable, or has been otherwise ordered by the court, return the child to his parent, guardian or legal custodian on the promise of such person to bring the child to the court, if necessary, at a stated time or at such time as the court may direct. If the person taking the child into custody believes it desirable, he may request such parent, guardian or legal custodian to sign a written promise to bring the child to court as provided above.

(2) If the child is not released as provided in sub. (1), he may be detained in a place of detention specified in s. 48.30 but only on written order of the court specifying the reason for detention. The parent, guardian or legal custodian of the child shall be notified of the place of detention as soon as possible. If because of the unreasonableness of the hour or the fact that it is a Sunday or holiday it is impractical to obtain a written order from the court, the child may be detained without a written order of the court for a period of not to exceed 24 hours but a written record of such detention shall be kept and a report in writing filed with the court. The judge of the juvenile court may authorize any person, designated by s. 48.06 or 48.07 to provide services for the court, to order detention of the child.

**History:** 1955 c. 575.

**48.30 Place of detention.** (1) A court may order in writing, as provided in s. 48.29, the detention of a child in one of the following places:

(a) A detention home established in accordance with s. 48.31; or

(b) A licensed foster home, subject to the supervision of the court; or

(c) A suitable place of detention maintained by a licensed child welfare agency, subject to the supervision of the court; or

(d) If the child's habits or conduct are such as to constitute a menace to himself or others, he may be detained in a jail or other facility for the detention of adults if he is placed in a room or ward which is entirely separate from adults confined therein and where there can be no communication with adults confined therein. This room or ward must have been approved by the department in a written instrument filed with the clerk of the juvenile court.

(2) No child shall be detained in a jail or other facility for the detention of adults except in accordance with this section.

(3) If a licensed foster home or licensed child welfare agency is used for the detention of children a reasonable sum, to be fixed by the court, shall be paid by the county for the care of the children.

**History:** 1955 c. 575.

**48.31 Establishment of detention home.** (1) The county board of one county may establish a detention home or 2 or more counties may join together and establish a detention home in accordance with s. 46.20. The policies of the detention home shall be determined by the judge of the juvenile court or, in the case of a detention home established by 2 or more counties, by a committee of the judges of the juvenile courts in the participating counties.

(2) Plans for the detention home shall be approved by the department as provided in s. 46.17. If the department approves, the home may be a part of a public building in which there is a jail or other facility for the detention of adults if it is so physically segregated from such jail or other facility that it may be entered without passing through areas where adults are confined and that children detained in the home cannot communicate with or view adults confined therein.

(3) The detention home shall be in charge of a superintendent and shall be furnished and conducted, as far as possible, as a family home. The judge or, where 2 or more counties operate a joint detention home, the committee of judges shall appoint the superintendent and other necessary personnel for the care and education of the children in the detention home, subject to civil service regulations in counties having civil service. In counties having a children's court established under s. 48.05, the chief probation officer may serve as superintendent of the detention home if the county board so determines.

**History:** 1955 c. 575.

**48.32 State-wide plan for detention homes.** The department shall assist counties in establishing detention homes under s. 48.31 by developing and promulgating a state-wide plan for the establishment and maintenance of suitable detention facilities reasonably accessible to each court.

**History:** 1955 c. 575.

#### DISPOSITION.

**48.33 Dismissal of petition.** If the court finds that the child is not within the jurisdiction of the court, or that the facts alleged in the petition have not been proved, it shall dismiss the petition.

**History:** 1955 c. 575.

**48.34 Disposition if child adjudged delinquent.** (1) **TYPE OF DISPOSITION.** If the court finds that the child is delinquent, it shall enter an order making one of the following dispositions of the case:

- (a) Counsel the child or his parents, guardian or legal custodian; or
- (b) Place the child under supervision in his own home under conditions prescribed by the court including reasonable rules for his conduct and the conduct of his parents, guardian or legal custodian, designed for the physical, mental and moral well-being and behavior of the child; or
- (c) Relieve the parent, guardian or legal custodian of legal custody of the child and place him in a foster home as described in s. 48.62, except that the home does not have to be licensed if the child is placed there for less than 30 days;
- (d) Transfer legal custody of the child to one of the following:
  1. A relative of the child; or
  2. A county agency specified in s. 48.56 (1); or
  3. A licensed child welfare agency; or
  4. The department;

(e) If the child is found to have violated a state law or a county, town or municipal ordinance which has resulted in intentional damage to the property of another, the court may order the child to make reasonable restitution for such damage if the court considers it beneficial to the well-being and behavior of the child;

(f) If the child is in need of special treatment and care, the court may order the child's parents, guardian or legal custodian to provide such care. If the parent, guardian or legal custodian fails to provide such care, the court may order it provided.

(2) **ORDERS FOR SUPERVISION.** All orders for supervision under sub. (1) (b) shall automatically terminate at the end of one year unless the court specifies a shorter or longer period in its order. But the court has continuing jurisdiction to renew any order for supervision before it has expired, either on its own motion or that of any interested party, until the child reaches the age of 21.

(3) **ORDERS TRANSFERRING LEGAL CUSTODY.** (a) All orders under sub. (1) (c) and (d), except orders transferring legal custody to the department, shall be for a specified length of time set by the court. But, before the order has expired the court has continuing jurisdiction to renew the order or make some other disposition of the case, either on its own motion or that of any interested party, until the child reaches the age of 21. Any person to whom legal custody of a child is transferred, except the department, shall report to the court in writing once a year on the status of the child. All transfers of legal custody to the department under sub. (1) (d) shall be until the age of 21 unless the department discharges the child sooner under s. 48.53.

(b) When the court transfers legal custody of a child to any licensed child welfare agency or the department, it shall transmit with the order transferring legal custody a summary of its information concerning the child or a transcript of the testimony taken at the hearing.

(4) **CONTINUING JURISDICTION.** (a) The continuing jurisdiction of the court shall not prevent either a juvenile court in another county from taking jurisdiction of a child alleged to have violated a state law or a county, town or municipal ordinance in that county or a criminal court from taking jurisdiction of a person 18 or over who is alleged to have violated a state or federal law.

(b) If a child who is under the continuing jurisdiction of the court is present in another county, the court may order the case transferred along with all appropriate records to the court of the county where the child is.

**History:** 1955 c. 575.

**48.35 Disposition if child adjudged neglected or dependent.** (1) **TYPE OF DISPOSITION.** If the court finds that the child is dependent or neglected, it shall enter an order making one of the following dispositions of the case:

(a) Place the child under supervision in his own home under conditions prescribed by the court including reasonable rules for his conduct and the conduct of his parents, guardian or legal custodian, designed for the physical, mental and moral well-being and behavior of the child; or

(b) Relieve the parent, guardian or legal custodian of legal custody of the child and place him in a foster home as described in s. 48.62, except that the home does not have to be licensed if the child is placed there for less than 30 days;

(c) Transfer legal custody of the child to one of the following:

1. A relative of the child; or
2. A county agency specified in s. 48.56 (1); or
3. A licensed child welfare agency; or
4. The department;

(d) If the child is in need of special treatment and care, the court may order the child's parent, guardian or legal custodian to provide such care. If the parent, guardian or legal custodian fails to provide such care, the court may order it provided.

(2) ORDERS TRANSFERRING LEGAL CUSTODY. (a) All orders under sub. (1) (b) and (c) shall be for a specified length of time set by the court; but, before the order has expired, the court shall have continuing jurisdiction to renew the order or make some other disposition of the case, either on its own motion or that of any interested party, until the child reaches the age of 21. Any person to whom legal custody of a child is transferred shall report to the court in writing once a year on the status of the child.

(b) When the court transfers legal custody of a child to any licensed child welfare agency or the department, it shall transmit with the order transferring legal custody a summary of its information concerning the child or a transcript of the testimony taken at the hearing.

(3) CONTINUING JURISDICTION. If a child who is under the continuing jurisdiction of the court under this section is present in another county, the court may order that case transferred along with all appropriate records to the court of the county where the child is.

**History:** 1955 c. 575; 1957 c. 138.

Requirement of annual reports, contained in (2) is not applicable to children, legal custody over whom was transferred prior to July 1, 1956. 45 Atty. Gen. 311.

**48.36 Disposition of traffic violations.** (1) JUVENILE COURT. If a juvenile court finds that a child has violated any provision of chs. 341 to 349 or any county or municipal ordinance enacted under s. 349.06, it shall dispose of the case in the following manner:

(a) In cases of moving vehicle violations, it shall either suspend or revoke the child's operating privilege upon the first violation and shall revoke such operating privilege upon a second or subsequent violation. In case of a violation of s. 346.93, whether or not considered to be a moving traffic violation, it may suspend, but may not revoke, the child's operating privilege upon the first violation and may suspend or revoke such operating privilege upon a second or subsequent violation. Immediately upon suspending or revoking the operating privilege, the court shall take possession of any motor vehicle operator's license or instruction permit which had been issued to such child and mail it with a report of the violation to the state motor vehicle department as required by ss. 343.28 and 343.30. In addition the court may require the child to attend traffic safety school as provided in s. 345.16 or may adjudge him delinquent and proceed under s. 48.34.

(b) In cases of nonmoving vehicle violations, it may counsel the child or may adjudge him delinquent.

(2) CIVIL COURT. If a civil court finds that a child has violated a county or municipal ordinance enacted under s. 349.06, it shall dispose of the case in the following manner:

(a) In cases of moving vehicle violations, it shall not impose a forfeiture but shall either suspend or revoke the child's operating privilege upon the first violation and shall revoke such operating privilege upon a second or subsequent violation. In case of a violation of s. 346.93, whether or not considered to be a moving traffic violation, it may suspend, but may not revoke, the child's operating privilege upon the first violation and may suspend or revoke such operating privilege upon a second or subsequent violation. Immediately upon suspending or revoking the operating privilege, the court shall take possession of any motor vehicle operator's license or instruction permit which had been issued to such child and mail it with a report of the violation to the state motor vehicle department as required by ss. 343.28 and 343.30.

(b) In cases of nonmoving vehicle violations, it may impose a forfeiture in accordance with the terms of the ordinance and may enforce payment of the forfeiture by suspension of the child's motor vehicle operator's license until payment is made.

(c) In case of moving traffic violations during a period of suspension under par. (a), it may impose a forfeiture in accordance with the terms of the ordinance and may en-

force payment of the forfeiture by an extension of the period of suspension for not to exceed one year, or until payment of the forfeiture.

(3) PERIOD OF SUSPENSION OR REVOCATION. Suspensions and revocations under subs. (1) (a) and (2) (a) shall be for a period of not less than 30 days nor more than one year, except that if a child is under 16 years of age when his operating privilege is suspended, the period of suspension shall run at least 30 days beyond such child's sixteenth birthday and, in the discretion of the court, may run for one year beyond such date.

(4) OPERATING PRIVILEGE DEFINED. In this section "operating privilege" means, in the case of a person who holds an operator's license or instruction permit under ch. 343, the license or permit so granted; in the case of a resident of this state who is not so licensed, it means the privilege to secure such license or permit; in the case of a nonresident, it means the operating privilege granted by s. 343.05.

**History:** 1955 c. 575; 1957 c. 260, 416, 674.  
Civil court imposing forfeiture on child for traffic violation pursuant to 48.36 (2) (b) and (c), is required by 288.09 (1) to add the costs to the amount of the forfeiture. In cases of moving traffic violations covered by 48.36 (2) (a) where no forfeiture may be imposed, the court should tax costs pursuant to 307.01 and 307.02. Provision of 288.09 (1) for sentence to county jail for nonpayment of forfeiture does not apply to juveniles prosecuted under 48.36 (2) (b) and (c). 45 Atty. Gen. 77.

**48.37 Costs and fines.** No costs shall be assessed against and no fines shall be imposed on any child in the juvenile court.

**History:** 1955 c. 575.

**48.38 Effect of juvenile court proceedings.** (1) No adjudication upon the status of any child in the jurisdiction of the juvenile court shall operate to impose any of the civil disabilities ordinarily imposed by conviction, nor shall any such child be deemed a criminal by reason of such adjudication, nor shall such adjudication be deemed a conviction. The disposition of any child's case or any evidence given in the juvenile court shall not be admissible as evidence against the child in any case or proceeding in any other court, nor shall such disposition or evidence disqualify a child in any future civil service examination, appointment or application.

(2) Nothing contained in this section shall be construed to preclude the juvenile court, under circumstances other than those specifically prohibited in sub. (1), from disclosing information to qualified persons if the court considers such disclosure to be in the best interests of the child or of the administration of justice.

**History:** 1955 c. 575.

**48.39 Disposition by juvenile court bars criminal proceeding.** Disposition by the juvenile court of any violation of state law coming within its jurisdiction under s. 48.12 shall bar any future proceeding on the same matter in criminal court when the child reaches the age of 18. This provision does not affect proceedings in criminal court which have been transferred under s. 48.18.

**History:** 1955 c. 575.

#### TERMINATION OF PARENTAL RIGHTS.

**48.40 Grounds for termination of parental rights.** The court may, upon petition, terminate all rights of parents to a minor in either of the following cases:

(1) With the written consent of the parents to the termination of their parental rights; or

(2) If it finds that one or more of the following conditions exist:

(a) That the parents have abandoned the minor; or

(b) That the parents have substantially and continuously or repeatedly refused to give the minor necessary parental care and protection; or

(c) That, although the parents are financially able, they have substantially and continuously neglected to provide the minor with necessary subsistence, education or other care necessary for his health, morals, or well-being or have neglected to pay for such subsistence, education or other care when legal custody is lodged with others; or

(d) That the parents are unfit by reason of debauchery, habitual use of intoxicating liquor or narcotic drugs, or repeated lewd and lascivious behavior, which conduct is found by the court to be likely to be detrimental to the health, morals or well-being of the minor. This paragraph applies only to cases where the legal custody of the minor has been transferred by order of a court of competent jurisdiction to a person other than the parents at least one year previous and the minor has not been returned to the legal custody of the parents within that period; or

(e) That the parents have been found mentally deficient under ch. 51 and the juvenile court finds that because of this mental deficiency the parents are, and will continue to be, incapable of giving the minor proper parental care and protection.

(3) The parental rights of parents who have been found mentally ill under ch. 51

may be terminated if grounds for termination under sub. (2) (a) to (d) existed prior to the time of the finding of mental illness.

**History:** 1955 c. 575.

Juvenile court could terminate parental rights of parent abandoning child, pursuant to 48.07 (7), Stats. 1953, notwithstanding that court in which parents were divorced has jurisdiction of question of care and custody of said child pursuant to 247.25, 42 Atty. Gen. 341.

Where neglected children have been committed to the department and placed by such department temporarily in licensed foster homes in other counties, and the parents are living in another state but have refused to consent to adoption, parental rights may be terminated by said court under 48.07 (7), Stats. 1953, upon proper notice where statutory grounds for such termination are proved. 44 Atty. Gen. 136.

Discussion of grounds for termination of parental rights. 46 Atty. Gen. 53.

**48.41 Jurisdiction and venue for termination of parental rights.** The juvenile court has jurisdiction to terminate parental rights if the minor is within the state. If a court has made an order under s. 48.34 or 48.35 transferring legal custody of the minor, that court shall hear the termination of parental rights proceeding unless it transfers the proceeding along with all appropriate records to the county where the minor or his parents are. Otherwise venue for the proceeding is in the county either where the minor is or where the parents whose rights are being terminated are.

**History:** 1955 c. 575.

**48.42 Procedure in terminating parental rights.** (1) The termination of parental rights under s. 48.40 shall be made only after a hearing before the court. The court shall have notice of the time, place and purpose of the hearing served on the parents personally at least 10 days prior to the date of the hearing; or if the court is satisfied that personal service, either within or outside the state, cannot be effected, then such notice may be given by registered mail sent at least 20 days before the date of the hearing to the last known address of the parent, if an address is known, and by publication thereof in a newspaper in the county once a week for 3 weeks prior to the date of hearing. A parent who consents to the termination of his parental rights under s. 48.40 (1) may waive in writing the notice required by this section; if the parent is a minor his waiver shall be effective only if his guardian ad litem concurs in writing.

(2) In the case of any minor or incompetent parent the court shall appoint a guardian ad litem. No parental rights may be terminated on consent under s. 48.40 (1) unless the guardian ad litem, in writing, joins in the written consent of the parent to the termination of his parental rights.

**History:** 1955 c. 575.

**48.43 Disposition of proceeding to terminate parental rights.** (1) If, after a hearing, the court finds that one or more of the conditions set out in s. 48.40 exist, it may terminate parental rights. If the court terminates parental rights of both parents, of the mother, if the child was born out of wedlock, or of the only living parent, the court shall transfer guardianship and legal custody of the minor to:

(a) A county department of public welfare in counties having a population of 500,000 or more; or

(b) A child welfare agency licensed to accept guardianship of children; or

(c) The department; or

(d) A suitable individual in whose home the minor has resided at least one year prior to the termination of parental rights.

(2) If only one parent consents under s. 48.40 (1) or if the conditions specified in s. 48.40 (2) are found to exist as to only one parent, the rights of only that parent with reference to the minor may be terminated without affecting the rights of the other parent.

(3) A certified copy of the order terminating parental rights, a certified copy of the birth certificate of the minor, and a transcript of the testimony in the termination of parental rights hearing shall be furnished by the court to the person given guardianship of the minor.

**History:** 1955 c. 575; 1957 c. 672.

#### JURISDICTION OVER PERSON 18 OR OLDER.

**48.44 Jurisdiction over persons 18 or older.** The court has exclusive jurisdiction over persons 18 or older in the following cases:

(1) A case of contributing to the delinquency or neglect of a child under s. 48.45;

(2) A petition by the department in accordance with s. 48.53 to retain legal custody beyond the age of 21 of a person adjudged delinquent.

**History:** 1955 c. 575.

**48.45 Contributing to the delinquency or neglect of children.** (1) If in the hearing of a case of a child alleged to be delinquent or neglected, it appears that any person 18 or older has been guilty of contributing to, encouraging, or tending to cause by



any act or omission, the delinquency or neglect of the child, the court may make orders with respect to the conduct of such person in his relationship to the child, including orders determining the ability of such person to provide for the maintenance or care of such child and directing when, how and where money for such maintenance or care shall be paid.

(2) No order to any person 18 or older pursuant to sub. (1) shall be entered until he has been given an opportunity to be heard upon the allegation against him and the contemplated order of the court. The court shall cause notice of the time, place and purpose of such hearing to be served on such person personally at least 10 days before the date of hearing. The procedure in such cases shall, as far as practicable, be the same as in other cases in the juvenile court, and shall otherwise be the procedure followed in courts of equity. Any person 18 or older who fails to comply with any order issued by a juvenile court pursuant to this section may be proceeded against for contempt of court, and if his conduct involves a crime, he may be proceeded against under the criminal law.

(3) If it appears at a juvenile court hearing that any person 18 or older has violated s. 947.15, the judge shall refer the record to the district attorney for such criminal proceedings as may be warranted in the district attorney's judgment. This subsection does not prevent prosecution of violations of s. 947.15 without such prior reference by the judge to the district attorney, as in other criminal cases.

(4) An act or failure to act contributes to the delinquency or neglect of a child, although the child does not actually become neglected or delinquent, if the natural and probable consequences of that act or failure to act would be to cause the child to become delinquent or neglected.

**History:** 1955 c. 575; 1957 c. 38.

351.20 (1), Stats. 1953, is not limited in its application to that class of persons who stand in loco parentis to the minor to whose delinquency they have contributed. The evidence in the instant case was sufficient to sustain convictions for contributing to the delinquency of a minor, although her testimony was contradicted by the defendants and their witnesses. *State v. Driscoll*, 263 W 230, 56 NW (2d) 788.

#### REHEARING AND APPEAL.

**48.46 New evidence.** A parent, guardian, legal custodian or next friend of any child whose status has been adjudicated by the juvenile court may at any time within one year of the entering of the court's order petition the court for a rehearing on the ground that new evidence has been discovered affecting the advisability of the court's original adjudication or disposition. Upon a showing that such evidence does exist, the court shall order a new hearing and make such disposition of the case as the facts and the best interests of the child warrant.

**History:** 1955 c. 575.

**48.47 Appeal.** Any person aggrieved by an adjudication of the juvenile court and directly affected thereby has the right to appeal to the circuit court of the same county within 40 days of the entry of the order in the manner in which appeals are taken from judgments in civil actions. No undertaking shall be required on such appeal. The order of the juvenile court shall stand, pending the determination of the appeal, but the circuit court may in its discretion and upon application stay such order. The appeal shall be on the record which the juvenile court shall make and keep of the entire proceedings.

**History:** 1955 c. 575; 1957 c. 374.

At common law a putative father of an illegitimate child has, in general, the right to the custody of such child against all but the mother. A putative father of an illegitimate child, voluntarily appearing in juvenile court proceedings instituted pursuant to 48.06, Stats. 1951, and acknowledging in open court that he is the father and thereby establishing the right of the child under 287.06 to inherit from him, is a proper party to the proceedings possessing a right of appeal from a final order transferring the permanent custody of the child and terminating parental rights, even though the proceedings are not jurisdictionally defective if he has not been notified thereof either by personal service or by publication. In re *Aronson*, 263 W 604, 58 NW (2d) 553.

48.07 (7) (am), Stats. 1951, providing that the juvenile court shall order the transfer of the permanent custody of a child or the termination of parental rights only after a hearing as to which notice has been given to the parents, does not require the filing of any new petition but is only an additional step in the original proceedings instituted

by the filing of the original petition. Under (8), conferring the right of appeal from the final order of the juvenile court in proceedings instituted pursuant to 48.06, but silent as to who may exercise such right of appeal, the person having the custody of the child at the time of the institution of the proceedings, as well as a parent, has the right to appeal from an order transferring the permanent custody of the child, so that in the instant case the person having such custody, and appearing in the proceedings in person and by attorney, was entitled to appeal. In re *Aronson*, 263 W 604, 58 NW (2d) 553.

Proceedings under 48.06 and 48.07, Stats. 1953, are in the nature of a judicial inquiry, which differs materially from the ordinary action between adversary parties, and error occurring in the trial, which would be of such character as to be prejudicial and necessitate a new trial in the ordinary action, may not necessarily require such a result in such proceedings. In re *Aronson*, 269 W 460, 67 NW (2d) 470.

## STATE DEPARTMENT OF PUBLIC WELFARE.

**48.48 Authority of department.** The department shall have authority:

(1) To promote the enforcement of the laws relating to mentally defective, dependent, neglected, delinquent, and illegitimate children and to take the initiative in all matters involving the interests of such children where adequate provision therefor is not made. This duty shall be discharged in co-operation with the juvenile courts, county agencies, licensed child welfare agencies and with individuals interested in the welfare of children;

(2) To assist in extending and strengthening child welfare services in co-operation with the United States children's bureau in conformity with the federal social security act and in co-operation with other agencies so that all children needing such services are reached;

(3) To accept legal custody of children transferred to it by the juvenile court under ss. 48.34 and 48.35;

(4) To provide appropriate care and training for children in its legal custody; including placing those children in licensed foster homes or contracting for care of them by licensed child welfare agencies;

(5) To provide for the moral and religious training of children in its legal custody according to the religious belief of the child or of his parents;

(6) To consent to emergency surgery under the direction of a licensed physician or surgeon for any child in its legal custody upon notification by a licensed physician or surgeon of the need for such surgery and if reasonable effort, compatible with the nature and time limitation of the emergency, has been made to secure the consent of the child's parent or guardian;

(7) To accept guardianship of children when appointed by the juvenile court;

(8) To place children under its guardianship for adoption;

(9) To license foster homes as provided in s. 48.66 for its own use or for the use of licensed child welfare agencies or, if requested to do so, for the use of county agencies;

(10) To license child welfare agencies and day care centers as provided in s. 48.66;

(11) When notified of the birth or expected birth of a child born or likely to be born out of wedlock, to see that the interests of the child are safeguarded, that steps are taken to establish its paternity and that there is secured for the child, if possible, the care, support and education it would receive if legitimate.

**History:** 1955 c. 575; 1957 c. 138, 672.

**48.49 Notification by juvenile court of transfer to department; information for department.** (1) When the juvenile court transfers legal custody of a child to the department, the court shall immediately notify the department of such action. The court shall, in accordance with procedures established by the department, provide transportation for the child to a receiving center designated by the department or deliver the child to personnel of the department.

(2) The court and all other public agencies shall furnish the department on request all pertinent data in their possession regarding the child whose legal custody is transferred to the department.

**History:** 1955 c. 575.

**48.50 Examination of children in legal custody of department.** (1) The department shall examine all children whose legal custody is transferred to it by the court to determine the type of placement best suited to the child and, in the case of children who have violated a state law, to the protection of the public. This examination shall include an investigation of the personal and family history of the child and his environment and any physical or mental examinations considered necessary.

(2) In making this examination the department may use any facilities, public or private, which offer aid to it in the determination of the correct placement for the child.

**History:** 1955 c. 575.

**48.51 Type of care.** (1) Depending on the results of the examination of the child, the department may place the child in any of the appropriate facilities described in s. 48.52.

(2) In addition, if the child has been adjudged delinquent, the department may allow him his liberty under supervision either immediately or after a period in one of the facilities described in s. 48.52. If this is unsatisfactory in the judgment of the department, it may place the child in one of the facilities described in s. 48.52.

**History:** 1955 c. 575.

**48.52 Facilities for care of children in legal custody of department.** (1) FACILITIES MAINTAINED FOR CHILDREN. The state department of public welfare may maintain the following facilities for the care of children in its legal custody:

- (a) Receiving homes to be used for the temporary care of children;
- (b) Foster homes;
- (c) Group homes;
- (d) Institutions, facilities and services, including without limitation forestry or conservation camps for the training and treatment of children 12 years of age or older who have been adjudged delinquent;
- (e) The Wisconsin child center.

(2) **USE OF OTHER FACILITIES.** (a) In addition to the facilities and services described in sub. (1), the department may use other facilities and services under its jurisdiction, except that penal institutions may be used only for children adjudged delinquent and only until July 1, 1959, or such earlier date as medium security facilities for delinquents are in operation. The department may also use other public facilities or contract for the use of private facilities for the care and treatment of children in its legal custody; but placement of children in private or public facilities not under its jurisdiction does not terminate the legal custody of the department. Removals to institutions for the mentally ill or mentally deficient shall be made in accordance with ch. 51.

(b) Public facilities are required to accept and care for persons placed with them by the department in the same manner as they would be required to do had the legal custody of these persons been transferred by a court of competent jurisdiction. Nothing in this subsection shall be construed to require any public facility to serve the department inconsistently with its functions or with the laws and regulations governing their activities; or to give the department authority to use any private facility without its consent.

(c) The department shall have the right to inspect all facilities it is using and to examine and consult with persons in its legal custody who have been placed in that facility.

**History:** 1955 c. 575.

Authority under 48.09 (2), Stats. 1953, to transfer children to and from the school for boys or the school for girls and the child center are a proper delegation of authority and not in violation of the due process of law safeguard of the constitution. 39 Atty. Gen. 304.

**48.53 Duration of control over delinquents.** (1) All children adjudged delinquent, whose legal custody has been transferred to the department, shall be discharged as soon as the department determines that there is a reasonable probability that it is no longer necessary either for the rehabilitation and treatment of the child or for the protection of the public that the department retain legal custody.

(2) All children adjudged delinquent, whose legal custody has been transferred to the department, and who have not been discharged under sub. (1) shall be discharged when they reach the age of 21, except that the department may, in accordance with s. 54.32, petition the court which adjudged the person delinquent to retain legal custody of that person. Sections 54.33, 54.34 and 54.35 apply to such proceeding to retain legal custody.

**History:** 1955 c. 575.

**48.54 Records.** (1) The department shall keep a complete record on each child in its legal custody. This record shall include the information received from the juvenile court, the date of reception, all available data on the personal and family history of the child, the results of all tests and examinations given the child, and a complete history of all placements of the child while in the legal custody of the department.

**History:** 1955 c. 575.

**48.55 Liability of counties.** The county of legal settlement shall be liable for the cost of care of children in legal custody of the department, except for children in homes which do not receive board payments. The charge shall be one half of the average cost, excluding administration, for children placed in foster homes by the department and for which board payments are made. These charges shall be adjusted in accordance with s. 46.106.

**History:** 1955 c. 575; 1957 c. 616.

County of legal settlement is chargeable for care of child in legal custody of department of public welfare, notwithstanding transfer or commitment to penal institution. 46 Atty. Gen. 101.

#### COUNTY CHILD WELFARE SERVICES.

**48.56 County child welfare services.** (1) Each county shall provide child welfare services through the staff of one or more of the following agencies:

- (a) A county welfare department authorized by the county board under s. 46.22 (5) (g) to provide child welfare services; or
- (b) A county children's board organized under s. 48.29 or 59.08 (9a) (Stats. 1953); or
- (c) In counties with a population of 500,000 or more a county welfare department organized under s. 49.51.

(2) Each county shall require the agency furnishing child welfare services to employ personnel who devote all or part of their time to child welfare services. Whenever possible, this personnel shall have the qualifications required for state social workers under civil service law who perform similar types of duties.

(3) This section shall not apply to those counties which had child welfare services administered by the staff of the juvenile court prior to January 1, 1955.

**History:** 1955 c. 575.

Under 1953 Stats., it was held that a county board may not divide the governmental functions of administering laws relating to child welfare between a children's board and a county department of public welfare. It must either delegate the authority to a children's board under 48.29 to 48.31 or to the county department of public welfare under 46.22 (5) (g) and 48.315. 48 Atty. Gen. 295.

**48.57 Powers and duties of county agencies providing child welfare services.**

(1) The county agency specified in s. 48.56 (1) to provide child welfare services shall administer and expend such amounts as may be necessary out of any moneys which may be appropriated for child welfare purposes by the county board or donated by individuals or private organizations. It shall have authority:

(a) To investigate the conditions surrounding mentally defective, dependent, neglected and delinquent children and children born out of wedlock within the county and to take every reasonable action within its power to secure for them the full benefit of all laws enacted for their benefit. This duty shall be discharged in co-operation with the juvenile court and with the public officers or boards legally responsible for the administration and enforcement of these laws;

(b) To accept legal custody of children transferred to it by the juvenile court under s. 48.34 or 48.35;

(c) To provide appropriate care and training for children in its legal custody, including placing those children in licensed foster homes in this state or contracting for care of them by licensed child welfare agencies;

(d) To provide for the moral and religious training of children in its legal custody according to the religious belief of the child or of his parents;

(e) If a county welfare department in a county with a population of 500,000 or more, to place children in a county children's home in the county pursuant to rules adopted by the board of public welfare of such county, to accept guardianship of children when appointed by the juvenile court, and to place children under its guardianship for adoption;

(f) To provide services to the juvenile court under s. 48.06;

(g) Upon request of the state department of public welfare to assume supervision of any juvenile still in the legal custody of the department;

(h) To contract with any parent or guardian or other person for the care and maintenance of any child;

(i) To license foster homes in the county in accordance with s. 48.75.

(2) In performing the functions specified in sub. (1) the county agency may avail itself of the co-operation of any individual or private agency or organization interested in the social welfare of children in the county.

**History:** 1955 c. 575; 1957 c. 672.

County department of public welfare administering child welfare services pursuant to 48.315 (Stats. 1953) is without authority to make home study and favorable report to a social agency of a foreign country in support of an adoption of a child in the foreign country by Wisconsin residents. 44 Atty. Gen. 197.  
See note to 49.19, citing 45 Atty. Gen. 235.

**45.58 County children's home.** (1) Any existing county children's home may do any of the following:

(a) Accept legal custody of dependent or neglected children transferred to it by the children's court;

(b) Provide care for dependent or neglected children referred by the county welfare department;

(c) Provide temporary shelter care for dependent or neglected children.

(2) A county shall be reimbursed by the state for 50 per cent of the average cost of the care of the children who are in the children's home under sub. (1) (a) and (b). The cost shall be computed as provided in s. 48.55. The claim shall be in such form and contain such information as prescribed by the department. If the department is satisfied as to the correctness of the claim it shall certify the same for payment from the appropriation made by s. 20.670 (22). Payments shall be made annually for the fiscal year ending June 30, the first payment to be for the fiscal year ending June 30, 1958.

**History:** 1955 c. 575; 1957 c. 616.

**48.59 Examination and records.** (1) The county agency shall investigate the personal and family history and environment of any child transferred to its legal custody and make any physical or mental examinations of the child considered necessary to de-

termine the type of care necessary for the child. The county agency shall keep a complete record of the information received from the juvenile court, the date of reception, all available data on the personal and family history of the child, the results of all tests and examinations given the child, and a complete history of all placements of the child while in the legal custody of the county agency.

(2) The county agency shall report to the department, as the department shall request, regarding children in legal custody or under supervision of the county agency.

**History:** 1955 c. 575.

#### CHILD WELFARE AGENCIES.

**48.60 Child welfare agencies licensed.** (1) No person shall receive children with or without transfer of legal custody, to provide care and maintenance for 75 days in any consecutive 12 months' period for 4 or more such children at any one time unless he obtains a license to operate a child welfare agency from the department.

(2) This section does not include:

(a) A relative or guardian who provides care and maintenance for such children;

(b) A bona fide educational institution whose pupils, in the ordinary course of events, return annually to the homes of their parents or guardians for not less than 2 months of summer vacation;

(c) A public agency;

(d) A maternity hospital licensed by the state board of health under s. 140.35;

(e) A licensed foster home.

**History:** 1955 c. 575.

**48.61 Powers and duties of child welfare agencies.** A child welfare agency shall have authority:

(1) To accept legal custody of children transferred to it by the juvenile court under ss. 48.34 and 48.35;

(2) To contract with any parent or guardian or other person for the supervision or care and maintenance of any child;

(3) To provide appropriate care and training for children in its legal custody and, if licensed to do so, to place children in licensed foster homes;

(4) To provide for the moral and religious training of children in its legal custody according to the religious belief of the child or his parents;

(5) If licensed to do so, to accept guardianship of children when appointed by the juvenile court, and to place children under its guardianship for adoption;

(6) To provide services to the juvenile court under s. 48.07;

(7) To license foster homes in accordance with s. 48.75 if licensed to do so.

**History:** 1955 c. 575.

#### FOSTER HOMES.

**48.62 Foster homes licensed.** No person shall receive, with or without transfer of legal custody, any child to provide care and maintenance for that child unless he obtains a license to operate a foster home from the department or from a county agency or licensed child welfare agency as provided in s. 48.75.

(2) This section does not include a relative or guardian of a child who provides care and maintenance for the child.

**History:** 1955 c. 575.

For the purposes of 48.38, Stats. 1951, a putative father, who acknowledges that he is the father of his child with whom he resides in the same house, is the "natural" parent of such child, so that such child is not a "neglected" child within the provision

in 48.01 (1) (a), Stats. 1951, stating that a child is a neglected child if he is in a home, other than his own, to which the state department of public welfare refuses to issue a "foster home" permit. In re Aronson, 263 W 604, 58 NW (2d) 553.

**48.63 Restrictions on independent placements.** (1) No person, except the child's parent or guardian or the department, a county agency performing child welfare services under s. 48.56 (1), a child welfare agency licensed to place children in foster homes, or a court of record, may:

(a) Place a child or negotiate or act as intermediary for the placement of a child in a foster home; or

(b) Offer or hold himself out as able to place a child in a foster home.

(2) No parent or guardian, except a licensed child welfare agency or public agency authorized to place children for adoption, may place a child in a foster home for adoption without obtaining the written approval of the county court. Every person appointed to furnish services to the court under ss. 48.06 and 48.07 is eligible to petition the county court for approval of a foster home for placement of a child. The court shall, before taking action to approve or disapprove, have an investigation of the facts and a report made by the department, a county agency performing child welfare services under s. 48.56, or a child welfare agency licensed to place children in foster homes. Such report on the

investigation for placement shall be filed with the county court within 30 days after entry of the court's order for such investigation unless the time therefor is extended by the court for good cause shown. If the court does not approve, it shall refer the matter to the juvenile court for appropriate action.

(3) The proper county for proceedings under this section is the county wherein a child is present.

**History:** 1955 c. 575; 1957 c. 374.

Charitable or fraternal organization not licensed as a child welfare agency is prohibited by 48.37 (1) (Stats. 1953) from making study of proposed adoptive home and sending favorable report thereon to a foreign country in order that a passport may be issued by that country for a child to be placed in such home for adoption in Wisconsin. 44 Atty. Gen. 197.

**48.64 Placement of children in foster homes.** (1) **FOSTER HOME AGREEMENT.** If the department, a county agency specified in s. 48.56, a juvenile court, or a child welfare agency authorized to do so places a child in a foster home, it shall enter into a written agreement with the head of such home, which agreement shall provide that the agency shall have access at all times to the child and the home, and that the child will be released to the agency whenever, in the opinion of the agency placing the child or the department, the best interests of the child require it. If a child is removed from an adoptive placement, the foster parents shall have no claim against the placing agency for the expense of care, clothing or medical treatment.

(2) **SUPERVISION OF FOSTER HOME PLACEMENT.** Every child in a foster home shall be under the supervision of a county agency, specified in s. 48.56, a child welfare agency authorized to place children in foster homes, or of the department.

(3) **NUMBER OF CHILDREN IN FOSTER HOME.** No more than 4 children may be placed in a foster home unless all are in the relationship to each other of brother or sister, or unless the department in accordance with its rules, adopted under s. 48.67 makes an exception.

**History:** 1955 c. 575.

#### DAY CARE CENTERS.

**48.65 Day care centers licensed.** (1) No person shall for compensation provide care and supervision for 4 or more children under the age of 7 for less than 24 hours a day unless he obtains a license to operate a day care center from the department.

(2) This section does not include:

(a) A relative or guardian of a child who provides care and supervision for the child; or

(b) A public or parochial school; or

(c) A person employed to come to the home of the child's parent or guardian for less than 24 hours a day.

**History:** 1955 c. 575.

The department cannot require that a permit under 48.50, Stats. 1949, be issued to a home in which fewer than 4 children are received for control and care for a period of less than 24 hours a day. 39 Atty. Gen. 445.

One who operates a boarding home for mothers and children requires a permit if she provides care and supervision for 4 or more children for more than 2 and less than 24 hours a day, while the mothers are at work, irrespective of whether a separate charge is made for the children's care or it is included in the charge for board and room. 43 Atty. Gen. 124.

#### LICENSING PROCEDURES AND REQUIREMENTS FOR CHILD WELFARE AGENCIES, FOSTER HOMES, AND DAY CARE CENTERS.

**48.66 Licensing duties of the department.** The department shall license and supervise child welfare agencies, as required by s. 48.60, foster homes, as required by s. 48.62, and day care centers, as required by s. 48.65, in accordance with the procedures specified in ss. 48.67 to 48.74.

**History:** 1955 c. 575.

**48.67 Rules governing child welfare agencies, day care centers and foster homes.**

(1) The department shall prescribe rules establishing minimum requirements for the issuance of licenses to and establishing standards for the operation of child welfare agencies, day care centers and foster homes. These rules shall be designed to protect and promote the health, safety and welfare of the children in the care of all licensees. The department shall consult with the industrial commission, the department of public instruction, and the state board of health before prescribing these rules.

(2) The department shall prescribe application forms to be used by all applicants for licenses from it.

(3) The department shall prescribe the form and content of records to be kept and information to be reported by persons licensed by it.

**History:** 1955 c. 575.

Under 48.50 (3), Stats. 1953, state department of public welfare may adopt rule requiring physical examinations of children attending child care centers, day nurseries, and nursery schools, but by virtue of 147.19 (2), such rule may not require the vaccination or immunization of Christian Scientists. 44 Atty. Gen. 19.

**48.68 Investigation of applicant; granting of license.** After receipt of an application for a license, the department shall investigate to determine if the applicant meets all minimum requirements for a license adopted by the department under s. 48.67. Upon satisfactory completion of this investigation, the license shall be granted.

**History:** 1955 c. 575.

**48.69 Provisional licenses.** A provisional license for a period of 6 months may be issued to any child welfare agency or day care center whose services are needed, but which is temporarily unable to conform to all established minimum requirements. This provisional license may be renewed for 6-month periods up to 2 years.

**History:** 1955 c. 575.

**48.70 Provisions of licenses.** (1) **GENERAL.** Each license shall bear the name of the person licensed, describe the premises included and state the maximum number of children who can be received and their age and sex.

(2) **SPECIAL PROVISIONS FOR CHILD WELFARE AGENCY LICENSES.** Licenses to child welfare agencies shall also specify the kind of child welfare work the agency is authorized to undertake, whether it may accept guardianship of children, whether it may place children in foster homes, and if so, the area it is equipped to serve.

(3) **SPECIAL PROVISIONS FOR DAY CARE CENTERS.** Licenses to day care centers shall also specify whether the center is licensed as a day nursery or a nursery school.

**History:** 1955 c. 575.

**48.71 Expiration and revocation of licenses.** (1) All licenses issued by the department shall be for any term not to exceed one year from date of issuance, shall not be transferable, and may be revoked by the department because the licensee has substantially and intentionally violated any provision of this chapter or of the rules of the department adopted pursuant to s. 48.67 or because the licensee fails to meet the minimum requirements for a license.

(2) The department shall give the licensee written notice of any revocation and of the grounds for the revocation.

**History:** 1955 c. 575.

**48.72 Appeal procedure.** Any person aggrieved by the department's refusal or failure to issue or renew a license or by its revocation of a license has the right to an administrative hearing provided for contested cases in ch. 227. Judicial review of the department's decision may be had as provided in ch. 227.

**History:** 1955 c. 575.

**48.73 Inspection of licensees.** The department may visit and inspect each child welfare agency, foster home and day care center licensed by it, and for such purpose shall be given unrestricted access to the premises described in the license.

**History:** 1955 c. 575.

**48.74 Authority of department to investigate alleged violations.** Whenever the department is advised or has reason to believe that any person is violating any of the provisions of ss. 48.60, 48.62 or 48.65, it shall make an investigation to determine the facts. For the purposes of this investigation, it shall have authority to inspect the premises where the violation is alleged to occur. If it finds that the person is violating any of the specified sections, it may either issue a license if the person is qualified or may institute a prosecution under s. 48.76.

**History:** 1955 c. 575.

**48.75 Foster homes licensed by county agencies and by child welfare agencies.** (1) Child welfare agencies, if licensed to do so by the state department, and county agencies, specified in s. 48.56 (1) to furnish child welfare services, may license foster homes under the rules adopted by the department under s. 48.67 governing the licensing of foster homes. All such licenses shall be for a term not to exceed one year from date of issuance, shall not be transferable, and may be revoked by the agency or by the department because the licensee has substantially and intentionally violated any provision of this chapter or of the rules of the department adopted pursuant to s. 48.67 or because the licensee fails to meet the minimum requirements for a license. The licensee shall be given written notice of any revocation and the grounds therefor.

(2) Any foster home applicant or licensee of a county agency or a child welfare agency may, if aggrieved by the failure to issue or renew its license or by revocation of its license, appeal as provided in s. 48.72.

**History:** 1955 c. 575.

**48.76 Penalties.** Any person who violates s. 48.60, 48.62, 48.63 or 48.65 may be fined not more than \$500 or imprisoned not more than one year in county jail or both.

**History:** 1955 c. 575.

**48.77 Injunction against violations.** In addition to the penalties provided in s. 48.76, the circuit courts shall have jurisdiction to prevent and restrain by injunction violations of s. 48.60, 48.62, 48.63 or 48.65. It shall be the duty of the district attorneys, upon request of the department, to institute action for such injunction under ch. 268.

**History:** 1955 c. 575.

#### GENERAL PROVISIONS ON RECORDS.

**48.78 Confidentiality of records.** Records kept or information received by the department, county agencies specified in s. 48.56, licensed child welfare agencies, licensed day care centers and licensed maternity hospitals regarding individuals in their care or legal custody shall not be open to inspection or their contents disclosed except by order of the court. This section does not apply to the confidential exchange of information between these agencies or other social welfare or law enforcement agencies regarding individuals in the care or legal custody of one of the agencies.

**History:** 1955 c. 575.

#### COMMUNITY SERVICES.

**48.79 Powers of the department.** The department shall have authority and power:

(1) To collect and to collaborate with other agencies in collecting statistics and information useful in determining the cause and amount of delinquency and crime in this state or in carrying out the powers and duties of the department.

(2) To render assistance to communities in their efforts to combat delinquency and social breakdown likely to cause delinquency and crime and assist them in setting up programs for co-ordinating the total community program, including the improvement of law enforcement.

(3) To assist schools in extending their particular contribution in locating and helping children vulnerable to delinquency and in improving their services to all youth.

(4) To assist communities in setting up recreational commissions and to assist them in extending and broadening recreational programs so as to reach all children.

(5) To assist in extending the local child care programs so as to reach all homes needing such help.

(6) To assist in recruiting and training voluntary leaders for youth-serving organizations.

(7) To assist localities in securing needed specialized services such as medical, psychiatric, psychological and social work services when existing agencies are not able to supply them.

(8) To assist localities in making surveys of needs and available resources.

(9) To assist in appraising the achievement of local programs.

(10) To serve in a general consultative capacity, acting as a clearing house, developing materials, arranging conferences and participating in public addresses and radio programs.

(11) To develop and maintain an enlightened public opinion in support of a program to control delinquency.

**History:** 1955 c. 575.

**48.80 Municipalities may sponsor activities.** (1) Any municipality is hereby authorized and empowered to sponsor the establishment and operation of any committee, agency or council for the purpose of co-ordinating and supplementing the activities of public and private agencies devoted in whole or in part to the welfare of youth therein. Any municipality may appropriate, raise and expend funds for the purpose of establishing and of providing an executive staff to such committees, agencies or councils; may levy taxes and appropriate money for recreation and welfare projects; and may also receive and expend moneys from the state or federal government or private persons for such purposes.

(2) No provision of this section shall be construed as vesting in any youth committee, council or agency any power, duty or function enjoined by law upon any municipal officer, board or department or as vesting in such committee, council or agency any supervisory or other authority over such officer, board or department.

(3) In this section municipality means a county, city, village or town.

**History:** 1955 c. 575.



## ADOPTION OF MINORS.

**48.81 Who may be adopted.** Any minor present within this state at the time the petition for adoption is filed may be adopted.

**History:** 1955 c. 575.

**48.82 Who may adopt.** The following persons are eligible to adopt a minor if they are residents of this state:

(1) A husband and wife jointly, or either the husband or wife if the other spouse is a parent of the minor;

(2) An unmarried adult;

(3) When practicable, the petitioners shall be of the same religious faith as the natural parents of the person to be adopted. No person shall be denied the benefits of this chapter because of a religious belief in the use of spiritual means of prayer for healing.

**History:** 1955 c. 575, 653.

**48.83 Jurisdiction and venue.** The county court shall have jurisdiction to order an adoption. Venue shall be in the county where the petitioner resides.

**History:** 1955 c. 575.

**48.84 Persons required to consent to adoption.** (1) No adoption of a minor may be ordered without the written consent of the following to the adoption of the minor by the petitioner:

(a) Both parents, if living, or the surviving parent, of a legitimate minor; provided, that consent shall not be required from one whose parental rights have been legally terminated; or

(b) The mother alone, if the minor was born out of wedlock; provided that consent shall not be required from a mother whose parental rights have been legally terminated; or

(c) The guardian of the minor, if there is one; and

(d) The minor himself if he is 14 or older.

(2) (a) The consents required by sub. (1) (a) and (b) shall be given in writing before a judge of any court of record, unless the court orders otherwise, after the judge has explained to the parent that such consent is irrevocable, except as provided in s. 48.86, and has examined the parent and is satisfied that the parent gives his consent voluntarily. In the case of a minor parent, his minority shall not be grounds for revoking consent, but a guardian ad litem shall be appointed for him and his consent shall be effective only when concurred in by the written consent of the guardian ad litem.

(b) The consent of the minor required by sub. (1) (d) shall be given in writing before the county judge, unless the court orders otherwise.

(3) The consent of the father of a minor born out of wedlock shall not be necessary even though the father has married the mother if, prior to the marriage, the mother's parental rights were legally terminated or she consented to the adoption of the minor in the manner provided in sub. (2).

(4) In the case of a minor brought to this state pursuant to the displaced persons act of 1948, as amended, a certification of the displaced persons commission or of the department stating that such child is available for adoption shall be in lieu of any further proof of death of parents, valid release by parents, termination of parental rights or other similar requirements.

**History:** 1955 c. 575; 1957 c. 672.

The adoption statutes confer on the court only the right to decree, or not to decree, adoption, and they give the court no power to award custody to the proposed adoptive parents if adoption is denied, even though the court finds that the best interests of the child so require. Adoption of Morrison, 260 W 50, 49 NW (2d) 759.

Under the provision in 322.04 (9), Stats. 1947, that in case of a minor parent a guardian ad litem shall be appointed for the parent and the consent of such parent to the adoption shall be effective only when concurred in by the guardian ad litem, such concurrence is a jurisdictional requirement which cannot be waived by the court, so that, where it has not been obtained, the judgment decreeing adoption is void. The function of a guardian ad litem for a minor parent in an adoption case, appointed after the written consent of the parent to the adoption has already been obtained, is to make his own independent investigation thereafter as to whether the parent freely and voluntarily executed such consent, and also as to whether the best interests of the child would be promoted by the guardian's joining in such consent. The attorney rep-

resenting the proposed adoptive parents and the court, with whom the adoption petition is filed, should see to it that the guardian ad litem for the minor parent performs his duties and either files his written consent to adoption, or reports to the court adversely with respect thereto, before the court assumes jurisdiction by setting a hearing on the petition and ordering the investigation. Adoption of Morrison, 260 W 50, 49 NW (2d) 759.

Under the provision in 322.04 (1), Stats. 1953, that the consent of the father of an illegitimate child is not required, the determining date is construed to be the date on which the court assumes jurisdiction in the adoption proceedings after all other jurisdictional requirements in respect to the consent of the mother have been met, so that the consent of the father is not required where he marries the mother after such date, even though the marriage takes place before the date of entry of the decree of adoption and the marriage operates under 245.36 to legitimate the child. Adoption of Morrison, 260 W 50, 49 NW (2d) 759.

Judgment of divorce awarding permanent custody of a minor child to one parent does

not judicially terminate the parental rights of the other parent so as to obviate consent of such other parent to an adoption under 322.04 (2), Stats. 1951. 39 Atty. Gen. 67. Consent of minor 14 years of age or older is a jurisdictional requirement for adoption and cannot be waived by the court. 42 Atty. Gen. 318.

**48.85 Refusal of guardian to consent.** If a guardian whose consent is required by s. 48.84 (1) (c) refuses to consent, he shall file with the court a summary of his reasons for withholding consent. After a study of this report, the court may dismiss the petition on the ground that the guardian refuses to consent or may set a time and place for a hearing to determine whether the guardian's refusal to consent is contrary to the best interests of the child. At least 10 days' notice in writing of the hearing shall be given to both the petitioner and the guardian refusing to consent. If the court, after the hearing, determines that the guardian's refusal to consent is arbitrary, capricious or not based on substantial evidence, it may waive the requirement of such consent and proceed to determine the petition for adoption in accordance with the best interests of the child.

**History:** 1955 c. 575.

**48.86 Withdrawal of consent.** Withdrawal of any consent filed in connection with a petition for adoption hereunder shall not be permitted, except that the court, after notice and opportunity to be heard is given to the petitioner in the adoption proceedings, to the person seeking to withdraw consent and to any agency participating in the adoption proceedings, may, if it finds that the best interests of the child will be furthered thereby, issue a written order permitting the withdrawal of such consent. The entry of an order of adoption renders any consent irrevocable.

**History:** 1955 c. 575.

**48.87 Filing of consents.** Written consents required by s. 48.84 shall be filed with the court prior to the hearing. In the case of a consent by a guardian under s. 48.84 (1) (c), the guardian shall file with his consent satisfactory evidence of his authority to consent to adoption of the minor. In the case where the parents' rights have been judicially terminated, this evidence shall be a certified copy of the order terminating their rights and appointing the guardian. In other cases of a guardian appointed by a court, this evidence shall be a certified copy of the order appointing him guardian. In the case of a guardian having the authority to consent under an instrument other than a court order, valid under the laws of another state, that instrument shall serve as evidence of the authority to consent.

**History:** 1955 c. 575.

**48.88 Notice of hearing; investigation.** (1) Upon the filing of a petition, the court shall set a time and place for hearing the petition, allowing time for the investigation and report required by sub. (2), which must be received prior to the hearing. Notice of the hearing shall be mailed, at least 10 days prior to the hearing, to the agency making that investigation, to the state department of public welfare when its recommendation is required by s. 48.89.

(2) (a) Upon the filing of a petition, the court shall order the state department of public welfare, a licensed child welfare agency or a county agency specified in s. 48.56 to make an investigation of the environment and antecedents of the person to be adopted to ascertain whether he is a proper subject for adoption and of the home of the petitioner to determine whether it is a suitable home. The agency ordered to make the investigation shall make a report to the court within 90 days of the entry of the order for hearing unless the time is extended by the court. The report shall be part of the record of the proceedings.

(b) The investigation and report required by par. (a) is not necessary where the guardian of the child whose consent is required under s. 48.84 (1) (c) is either the state department of public welfare, a licensed child welfare agency or a county welfare department authorized by s. 48.57 to accept guardianship of a child; but that agency shall file with the court a report on its investigation of the environment and antecedents of the person to be adopted and of the home of the petitioner.

(3) If the report of the investigation is unfavorable or if it discloses a situation which, in the opinion of the court, raises a serious question as to the suitability of the proposed adoption, the court may appoint a guardian ad litem for the minor whose adoption is proposed. The guardian ad litem may have witnesses subpoenaed and present proof at the hearing.

**History:** 1955 c. 575.

**48.89 Recommendation of the department.** (1) The recommendation of the state department of public welfare is required for the adoption of the following minors:

- (a) A minor born out of wedlock;
- (b) A minor who has no living parents or whose parents have had their rights legally terminated;

(c) A nonresident minor;

(d) A minor whose nonresident parent has executed a written consent to the adoption, valid at the time of its execution.

(2) The state department of public welfare shall make its recommendation to the court within 90 days of the entry of the order for hearing unless the time is extended by the court. The recommendation shall be part of the record of the proceedings.

(3) The recommendation of the state department of public welfare shall not be required if the consent of that department, a licensed child welfare agency or a county welfare department authorized by s. 48.57 to accept guardianship of a child is required by s. 48.84 (1) (c).

**History:** 1955 c. 575; 1957 c. 572.

**48.90 Probationary residence.** No petition for the adoption of a minor shall be granted until he has lived 6 months in the home of the petitioner. The 6 months' residence may be waived by order of the court, upon a petition stating the reason therefor, if the court is satisfied that immediate action is desirable and the best interests of the child will be furthered thereby.

**History:** 1955 c. 575.

**48.91 Hearing; order.** (1) The hearing may be in chambers unless an interested person objects. The petitioner and the minor to be adopted, if 14 or older, shall attend unless the court orders otherwise.

(2) If after the hearing and a study of the report required by s. 48.88 and the recommendation required by s. 48.89, the court is satisfied that the necessary consents have been filed and that the adoption is in the best interests of the child, the court shall make an order granting the adoption. The order may change the name of the minor to that of the petitioners.

**History:** 1955 c. 575.

**48.92 Effect of adoption.** (1) After the order of adoption is entered the relation of parent and child and all the rights, duties and other legal consequences of the natural relation of child and parent shall thereafter exist between the adopted person and the adoptive parents. The adopted person shall be entitled to inherit real and personal property from and through the adoptive parents in accordance with the statutes of descent and distribution, and the adoptive parents shall be entitled to inherit real and personal property from and through the adopted person in accordance with said statutes.

(2) After the order of adoption is entered the relationship of parent and child between the adopted person and his natural parents, unless the natural parent is the spouse of the adoptive parent, shall be completely altered and all the rights, duties and other legal consequences of the relationship shall cease to exist.

**History:** 1955 c. 575.

In determining whether an adopted child has the right to inherit from its intestate natural relatives under statutory provisions, the statutes which control are those in force at the time of the death of the intestate. Under 322.07, Stats. 1947, the status of an adopted child is completely changed to that of a child of the adoptive parents, and as such it has no right of inheritance from its natural relatives save for the one exception which the statute makes—the right to inherit from its natural parents. Estate of Ries, 259 W 453, 49 NW (2d) 483, 50 NW (2d) 397.

The extent to which an adopted child may have a dual status in matters of inheritance is a question of policy for the legislature, not for the court. The legal status of a child, whose father died and whose mother then married a man who then adopted the child, was changed by the order of adoption so that in legal effect she became the child of the adoptive father and his wife, and as such she had no claim on the estate of her natural fathers aunt dying

intestate. (322.07, Stats. 1947) Estate of Ries, 259 W 453, 49 NW (2d) 483, 50 NW (2d) 397.

See note to 237.01, citing Estate of Nelson, 266 W 617, 64 NW (2d) 406.

The amendment in 1947 so as to enlarge the rights of adopted children, whatever its effect may have been on the status of adopted children in relation to taking under wills, was not controlling in construing the meaning of the word "issue" of a legatee in the will of a testator who died before the enactment of such amendment. Estate of Uihlein, 269 W 170, 68 NW (2d) 316.

322.07, as it existed in 1942, dealt with the right of an adopted child to inherit and not with his right to take as a beneficiary under a will, and did not purport to deny or to limit the right of a person to treat such a child as he might desire when making testamentary disposition of his property. Estate of Uihlein, 269 W 170, 68 NW (2d) 316.

See note to 238.02, citing Estate of Rhodes, 271 W 342, 73 NW (2d) 602.

**48.93 Records closed.** (1) All records and papers pertaining to an adoption proceeding shall be kept in a separate locked file. No person shall have access to such records except on order of the court for good cause shown. No person in charge of adoption records shall disclose the names of the natural or adoptive parents of a child unless ordered to do so by the court.

(2) All correspondence and papers, relating to the investigation, which are not a part of the court record, except those in the custody of agencies authorized to place children

for adoption shall be transferred to the state department of public welfare and placed in its closed files.

**History:** 1955 c. 575.

Board of public welfare cannot discuss closed records of adoption proceedings at any conference which is open to the public. 42 Atty. Gen. 339. See note to 85.08, citing 43 Atty. Gen. 96.

**48.94 New birth certificate.** After entry of the order granting the adoption the clerk of the court shall promptly mail a copy thereof to the state bureau of vital statistics and furnish any additional data needed for the new birth certificate. Whenever the parents by adoption request, or the adopting parent and his spouse who is the natural parent of the person adopted request, that the birth certificate for the person adopted be not changed, then the court shall so order. In such event no new birth certificate shall be filed by the state registrar of vital statistics, notwithstanding the provisions of s. 69.33 or any other law of this state.

**History:** 1955 c. 575.

**48.95 Withdrawal or denial of petition.** If the petition is withdrawn or denied, the court shall order the case transferred to the juvenile court for appropriate action, except that if parental rights have been terminated and the guardian of the minor is the state department of public welfare, a licensed child welfare agency, or a county department of public welfare in counties having a population of 500,000 or more, the minor shall remain in the legal custody of that department or agency.

**History:** 1955 c. 575.

**48.96 Subsequent adoption.** The adoption of an adopted person is authorized and, in that case, the references to parent and natural parent are to adoptive parent.

**History:** 1955 c. 575.

**48.97 Foreign adoption orders.** When the relationship of parent and child has been created by an order of adoption of a court of any other state or nation, the rights and obligations of the parties as to matters within the jurisdiction of this state shall be determined by s. 48.92.

**History:** 1955 c. 575.

#### MISCELLANEOUS PROVISIONS.

**48.98 Interstate placement of children.** (1) No person shall bring or cause to be brought or send or cause to be sent into this state or take, or cause to be taken, or send, or cause to be sent, out of this state any child for the purpose of placing such child in a foster home or of procuring his adoption, without first obtaining the consent of the state department of public welfare.

(2) Such consent by the state department of public welfare shall be given only upon the following conditions:

(a) Any person who brings or sends children into this state for the purpose of placing such children in foster homes or of procuring their adoption must file with the department a bond to the state of Wisconsin, approved by the department, in the penal sum of \$1,000, conditioned that he will not bring or send into this state any child who is incorrigible or unsound of mind or body and that he will remove any such child who becomes a public charge or who, in the opinion of the department, becomes a menace to the community prior to his adoption or becoming of legal age, and conditioned further that all placements shall be made under the same conditions as placements may be made by licensed child welfare agencies. The state department of public welfare may waive the bond herein provided for, whenever in the opinion of said department such waiver is warranted. This paragraph shall not apply to child welfare agencies licensed in this state and no bond shall be required from such agencies.

(b) Before any child is brought or sent into this state or taken from or sent out of this state for placement in a foster home, the person bringing, taking or sending such child must obtain a certificate from the state department of public welfare that such home is a suitable home for such child.

(c) The person bringing, taking or sending such child into or out of this state, shall make a report to the state department of public welfare, at least once each year and at such other times as the department may require, as to the location and well-being of such child, until he shall be 18 years of age or until he shall be legally adopted.

(3) The state department of public welfare shall have power and authority to make all necessary rules for the enforcement of this section, not in conflict therewith, and all persons bringing, taking or sending children into or out of this state shall comply with all such rules.

**History:** 1955 c. 575.

48.99 Earnings of self-supporting minors. During any time when a parent of a minor neglects or refuses to provide for his support, or for his support and education, the earnings of such minor shall be his sole property as against such parent or any creditor of such parent.

History: 1955 c. 575.

48.991 Interstate compact on juveniles. The following compact, by and between the state of Wisconsin and any other state which has or shall hereafter ratify or legally join in the same, is ratified and approved:

#### INTERSTATE COMPACT ON JUVENILES.

The contracting states solemnly agree:

##### ARTICLE I—Findings and Purposes.

That juveniles who are not under proper supervision and control, or who have absconded, escaped or run away, are likely to endanger their own health, morals and welfare, and the health, morals and welfare of others. The co-operation of the states party to this compact is therefore necessary to provide for the welfare and protection of juveniles and of the public with respect to (1) co-operative supervision of delinquent juveniles on probation or parole; (2) the return, from one state to another, of delinquent juveniles who have escaped or absconded; (3) the return, from one state to another, of nondelinquent juveniles who have run away from home; and (4) additional measures for the protection of juveniles and of the public, which any 2 or more of the party states may find desirable to undertake co-operatively. In carrying out the provisions of this compact the party states shall be guided by the noncriminal, reformatory and protective policies which guide their laws concerning delinquent, neglected or dependent juveniles generally. It shall be the policy of the states party to this compact to co-operate and observe their respective responsibilities for the prompt return and acceptance of juveniles and delinquent juveniles who become subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the foregoing purposes.

##### ARTICLE II—Existing Rights and Remedies.

That all remedies and procedures provided by this compact shall be in addition to and not in substitution for other rights, remedies and procedures, and shall not be in derogation of parental rights and responsibilities.

##### ARTICLE III — Definitions.

That, for the purposes of this compact, "delinquent juvenile" means any juvenile who has been adjudged delinquent and who, at the time the provisions of this compact are invoked, is still subject to the jurisdiction of the court that has made such adjudication or to the jurisdiction or supervision of an agency or institution pursuant to an order of such court; "probation or parole" means any kind of conditional release of juveniles authorized under the laws of the states party hereto; "court" means any court having jurisdiction over delinquent, neglected or dependent children; "state" means any state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico; and "residence" or any variant thereof means a place at which a home or regular place of abode is maintained.

##### ARTICLE IV — Return of Runaways.

(a) That the parent, guardian, person or agency entitled to legal custody of a juvenile who has not been adjudged delinquent but who has run away without the consent of such parent, guardian, person or agency may petition the appropriate court in the demanding state for the issuance of a requisition for his return. The petition shall state the name and age of the juvenile, the name of the petitioner and the basis of entitlement to the juvenile's custody, the circumstances of his running away, his location if known at the time application is made, and such other facts as may tend to show that the juvenile who has run away is endangering his own welfare or the welfare of others and is not an emancipated minor. The petition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by 2 certified copies of the document or documents on which the petitioner's entitlement to the juvenile's custody is based, such as birth certificates, letters of guardianship, or custody decrees. Such further affidavits and other documents as may be deemed proper may be submitted with such petition. The judge of the court to which this application is made may hold a hearing thereon to determine whether for the purposes of this compact the petitioner is entitled to the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run away without consent, whether or not he is an emancipated minor, and whether or not it is in the best interest of the juvenile to compel his return to the state. If the judge determines, either with or without

a hearing, that the juvenile should be returned, he shall present to the appropriate court or to the executive authority of the state where the juvenile is alleged to be located a written requisition for the return of such juvenile. Such requisition shall set forth the name and age of the juvenile, the determination of the court that the juvenile has run away without the consent of a parent, guardian, person or agency entitled to his legal custody, and that it is in the best interest and for the protection of such juvenile that he be returned. In the event that a proceeding for the adjudication of the juvenile as a delinquent, neglected or dependent juvenile is pending in the court at the time when such juvenile runs away, the court may issue a requisition for the return of such juvenile upon its own motion, regardless of the consent of the parent, guardian, person or agency entitled to legal custody, reciting therein the nature and circumstances of the pending proceeding. The requisition shall in every case be executed in duplicate and shall be signed by the judge. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of such court. Upon the receipt of a requisition demanding the return of a juvenile who has run away, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No juvenile detained upon such order shall be delivered over to the officer whom the court demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of a court in the state, who shall inform him of the demand made for his return, and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such juvenile over to the officer whom the court demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a juvenile who has run away from another state party to this compact without the consent of a parent, guardian, person or agency entitled to his legal custody, such juvenile may be taken into custody without a requisition and brought forthwith before a judge of the appropriate court who may appoint counsel or guardian ad litem for such juvenile and who shall determine after a hearing whether sufficient cause exists to hold the person, subject to the order of the court, for his own protection and welfare, for such a time not exceeding 90 days as will enable his return to another state party to this compact pursuant to a requisition for his return from a court of that state. If, at the time when a state seeks the return of a juvenile who has run away, there is pending in the state wherein he is found any criminal charge, or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duty accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the juvenile being returned, shall be permitted to transport such juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he ran away, the juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(b) That the state to which a juvenile is returned under this Article shall be responsible for payment of the transportation costs of such return.

(c) That "juvenile" as used in this Article means any person who is a minor under the law of the state of residence of the parent, guardian, person or agency entitled to legal custody of such minor.

#### ARTICLE V — Return of Escapees and Absconders.

(a) That the appropriate person or authority from whose probation or parole supervision a delinquent juvenile has absconded or from whose institutional custody he has escaped shall present to the appropriate court or to the executive authority of the state where the delinquent juvenile is alleged to be located a written requisition for the return of such delinquent juvenile. Such requisition shall state the name and age of the delinquent juvenile, the particulars of his adjudication as a delinquent juvenile, the circumstances of the breach of the terms of his probation or parole or of his escape from an institution or agency vested with his legal custody or supervision, and the location of such delinquent juvenile, if known, at the time the requisition is made. The requisition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by 2 certified copies of the judgment, formal adjudication, or order of commitment which subjects such delinquent juvenile to probation or parole or to the legal custody of the institution or agency concerned. Such further affidavits and other documents as may be deemed

proper may be submitted with such requisition. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of the appropriate court. Upon the receipt of a requisition demanding the return of a delinquent juvenile who has absconded or escaped, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such delinquent juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No delinquent juvenile detained upon such order shall be delivered over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of an appropriate court in the state, who shall inform him of the demand made for his return and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such delinquent juvenile over to the officer whom the appropriate person or authority demanding shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, such person may be taken into custody in any other state party to this compact without a requisition. But in such event, he must be taken forthwith before a judge of the appropriate court, who may appoint counsel or guardian ad litem for such person and who shall determine, after a hearing, whether sufficient cause exists to hold the person subject to the order of the court for such a time, not exceeding 90 days, as will enable his detention under a detention order issued on a requisition pursuant to this Article. If, at the time when a state seeks the return of a delinquent juvenile who has either absconded while on probation or parole or escaped from an institution or agency vested with his legal custody or supervision, there is pending in the state wherein he is detained any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the delinquent juvenile being returned, shall be permitted to transport such delinquent juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he escaped or absconded, the delinquent juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(b) That the state to which a delinquent juvenile is returned under this Article shall be responsible for payment of the transportation costs of such return.

#### ARTICLE VI — Voluntary Return Procedure.

That any delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, and any juvenile who has run away from any state party to this compact, who is taken into custody without a requisition in another state party to this compact under the provisions of Article IV (a) or of Article V (a), may consent to his immediate return to the state from which he absconded, escaped or ran away. Such consent shall be given by the juvenile or delinquent juvenile and his counsel or guardian ad litem if any, by executing or subscribing a writing, in the presence of a judge of the appropriate court, which states that the juvenile or delinquent juvenile and his counsel or guardian ad litem, if any, consent to his return to the demanding state. Before such consent shall be executed or subscribed, however, the judge, in the presence of counsel or guardian ad litem, if any, shall inform the juvenile or delinquent juvenile of his rights under this compact. When the consent has been duly executed, it shall be forwarded to and filed with the compact administrator of the state in which the court is located and the judge shall direct the officer having the juvenile or delinquent juvenile in custody to deliver him to the duly accredited officer or officers of the state demanding his return, and shall cause to be delivered to such officer or officers a copy of the consent. The court may, however, upon the request of the state to which the juvenile or delinquent juvenile is being returned, order him to return unaccompanied to such state and shall provide him with a copy of such court order; in such event a copy of the consent shall be forwarded to the compact administrator of the state to which said juvenile or delinquent juvenile is ordered to return.

## ARTICLE VII — Co-operative Supervision of Probationers and Parolees.

(a) That the duly constituted judicial and administrative authorities of a state party to this compact (herein called "sending state") may permit any delinquent juvenile within such state, placed on probation or parole, to reside in any other state party to this compact (herein called "receiving state") while on probation or parole, and the receiving state shall accept such delinquent juvenile, if the parent, guardian or person entitled to the legal custody of such delinquent juvenile is residing or undertakes to reside within the receiving state. Before granting such permission, opportunity shall be given to the receiving state to make such investigations as it deems necessary. The authorities of the sending state shall send to the authorities of the receiving state copies of pertinent court orders, social case studies and all other available information which may be of value to and assist the receiving state in supervising a probationer or parolee under this compact. A receiving state, in its discretion, may agree to accept supervision of a probationer or parolee in cases where the parent, guardian or person entitled to legal custody of the delinquent juvenile is not a resident of the receiving state, and if so accepted the sending state may transfer supervision accordingly.

(b) That each receiving state will assume the duties of visitation and of supervision over any such delinquent juvenile and in the exercise of those duties will be governed by the same standards of visitation and supervision that prevail for its own delinquent juveniles released on probation or parole.

(c) That, after consultation between the appropriate authorities of the sending state and of the receiving state as to the desirability and necessity of returning such a delinquent juvenile, the duly accredited officers of a sending state may enter a receiving state and there apprehend and retake any such delinquent juvenile on probation or parole. For that purpose, no formalities will be required, other than establishing the authority of the officer and the identity of the delinquent juvenile to be retaken and returned. The decision of the sending state to retake a delinquent juvenile on probation or parole shall be conclusive upon and not reviewable within the receiving state, but if, at the time the sending state seeks to retake a delinquent juvenile on probation or parole, there is pending against him within the receiving state any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for any act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of the sending state shall be permitted to transport delinquent juveniles being so returned through any and all states party to this compact, without interference.

(d) That the sending state shall be responsible under this Article for paying the costs of transporting any delinquent juvenile to the receiving state or of returning any delinquent juvenile to the sending state.

## ARTICLE VIII — Responsibility for Costs.

(a) That the provision of Articles IV (b), V (b) and VII (d) of this compact shall not be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions; as to the payment of costs, or responsibilities therefor.

(b) That nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to Articles IV (b), V (b) or VII (d) of this compact.

## ARTICLE IX — Detention Practices.

That, to every extent possible, it shall be the policy of states party to this compact that no juvenile or delinquent juvenile shall be placed or detained in any prison, jail or lockup nor be detained or transported in association with criminal, vicious or dissolute persons.

## ARTICLE X — Supplementary Agreements.

That the duly constituted administrative authorities of a state party to this compact may enter into supplementary agreements with any other state or states party hereto for the co-operative care, treatment and rehabilitation of delinquent juveniles whenever they shall find that such agreements will improve the facilities or programs available for such care, treatment and rehabilitation. Such care, treatment and rehabilitation may be provided in an institution located within any state entering into such supplementary agreement. Such supplementary agreements shall (1) provide the rates to be paid for the



care, treatment and custody of such delinquent juveniles, taking into consideration the character of facilities, services and subsistence furnished; (2) provide that the delinquent juvenile shall be given a court hearing prior to his being sent to another state for care, treatment and custody; (3) provide that the state receiving such a delinquent juvenile in one of its institutions shall act solely as agent for the state sending such delinquent juvenile; (4) provide that the sending state shall at all times retain jurisdiction over delinquent juveniles sent to an institution in another state; (5) provide for reasonable inspection of such institutions by the sending state; (6) provide that the consent of the parent, guardian, person or agency entitled to the legal custody of said delinquent juvenile shall be secured prior to his being sent to another state; and (7) make provision for such other matters and details as shall be necessary to protect the rights and equities of such delinquent juveniles and of the co-operating states.

#### ARTICLE XI — Acceptance of Federal and Other Aid.

That any state party to this compact may accept any and all donations, gifts and grants of money, equipment and services from the federal or any local government, or any agency thereof and from any person, firm or corporation, for any of the purposes and functions of this compact, and may receive and utilize the same subject to the terms, conditions and regulations governing such donations, gifts and grants.

#### ARTICLE XII — Compact Administrators.

That the governor of each state party to this compact shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

#### ARTICLE XIII — Execution of Compact.

That this compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the full force and effect of law within such state, the form of execution to be in accordance with the laws of the executing state.

#### ARTICLE XIV — Renunciation.

That this compact shall continue in force and remain binding upon each executing state until renounced by it. Renunciation of this compact shall be by the same authority which executed it, by sending 6 months notice in writing of its intention to withdraw from the compact to the other states party hereto. The duties and obligations of a renouncing state under Article VII hereof shall continue as to parolees and probationers residing therein at the time of withdrawal until retaken or finally discharged. Supplementary agreements entered into under Article X hereof shall be subject to renunciation as provided by such supplementary agreements, and shall not be subject to the 6 months' renunciation notice of the present Article.

#### ARTICLE XV — Severability.

That the provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

**History:** 1955 c. 300.

**48.992 Definitions.** As used in the interstate compact on juveniles, the following words and phrases have the following meanings as to this state:

- (1) "Executive authority" means the compact administrator.
- (2) (a) The "appropriate court" of this state to issue a requisition under Article IV of the compact is the juvenile court of the county of the petitioner's residence, or, if the petitioner is a child welfare agency, the juvenile court of the county where it has its principal office, or, if the petitioner is the state department of public welfare, any juvenile court in the state.
- (b) The "appropriate court" of this state to receive a requisition under Article IV or V of the Compact is the juvenile court of the county where the juvenile is located.

**History:** 1955 c. 300.

**48.993 Juvenile compact administrator.** (1) Pursuant to the interstate compact on juveniles, the governor is authorized to designate an officer or employe of the state department of public welfare to be the compact administrator, who, acting jointly with like officers of other party states, shall promulgate rules to carry out more effectively the terms of the compact. He shall serve subject to the pleasure of the governor. Whenever there is a vacancy in the office of compact administrator or in the case of his absence or disability, his functions shall be performed by the director of the division of corrections of the state department of public welfare, or other employe designated by the director of the department. The compact administrator is authorized to co-operate with all departments, agencies and officers of and in the government of this state and its political subdivisions in facilitating the proper administration of the compact or of any supplementary agreement entered into by this state thereunder.

(2) The compact administrator shall determine for this state whether to receive juvenile probationers and parolees of other states pursuant to Article VII of the interstate compact on juveniles and shall arrange for the supervision of each such probationer or parolee so received, either by the state department of public welfare or by a person appointed to perform supervision service for the juvenile court of the county where the juvenile is to reside, whichever is more convenient. Such persons shall in all such cases make periodic reports to the compact administrator regarding the conduct and progress of such juveniles.

**History:** 1955 c. 300.

**48.994 Supplementary agreements.** The state department of public welfare is authorized to enter into supplementary agreements with appropriate officials of other states pursuant to Article X of the interstate compact on juveniles. In the event that such supplementary agreement requires or contemplates the use of any institution or facility of this state or the provision of any service by this state, said supplementary agreement shall have no effect until approved by the department or agency under whose jurisdiction said institution or facility is operated or which shall be charged with the rendering of such service.

**History:** 1955 c. 300.

**48.995 Financial arrangements.** The expense of returning juveniles to this state pursuant to the interstate compact on juveniles shall be paid as follows:

(1) In the case of a runaway under Article IV, the court making the requisition shall inquire summarily regarding the financial ability of the petitioner to bear the expense and if it finds he is able to do so, shall order that he pay all such expenses; otherwise the court shall arrange for the transportation at the expense of the county and order that the county reimburse the person, if any, who returns the juvenile, for his actual and necessary expenses; and the court may order that the petitioner reimburse the county for so much of said expense as the court finds he is able to pay. If the petitioner fails, without good cause, or refuses to pay such sum, he may be proceeded against for contempt.

(2) In the case of an escapee or absconder under Article V or Article VI, if the juvenile is in the legal custody of the state department of public welfare it shall bear the expense of his return; otherwise the appropriate court shall, on petition of the person entitled to his custody or charged with his supervision, arrange for the transportation at the expense of the county and order that the county reimburse the person, if any, who returns the juvenile, for his actual and necessary expenses. In this subsection "appropriate court" means the juvenile court which adjudged the juvenile to be delinquent or, if the juvenile is under supervision for another state under Article VII of the compact, then the juvenile court of the county of the juvenile's residence during such supervision.

(3) In the case of a voluntary return of a runaway without requisition under Article VI, the person entitled to his legal custody shall pay the expense of transportation and the actual and necessary expenses of the person, if any, who returns such juvenile; but if he is financially unable to pay all the expenses he may petition the juvenile court of the county of the petitioner's residence for an order arranging for the transportation as provided in sub. (1). The court shall inquire summarily into the financial ability of the petitioner and, if it finds he is unable to bear any or all of the expense, the court shall arrange for such transportation at the expense of the county and shall order the county to reimburse the person, if any, who returns the juvenile, for his actual and necessary expenses. The court may order that the petitioner reimburse the county for so much of said expense as the court finds he is able to pay. If the petitioner fails, without good cause, or refuses to pay such sum, he may be proceeded against for contempt.

**History:** 1955 c. 300.

**48.996 Fees.** Any judge of this state who appoints counsel or a guardian ad litem pursuant to the provisions of the interstate compact on juveniles may, in his discretion, allow a reasonable fee to be paid by the county on order of the court.

**History:** 1955 c. 300.

**48.997 Responsibilities of state departments, agencies and officers.** The courts, departments, agencies and officers of this state and its political subdivisions shall enforce the interstate compact on juveniles and shall do all things appropriate to the effectuation of its purposes which may be within their respective jurisdictions.

**History:** 1955 c. 300.