

## 2003 SENATE BILL 488

February 24, 2004 – Introduced by Senator ROESSLER, cosponsored by Representative KESTELL. Referred to Committee on Health, Children, Families, Aging and Long Term Care.

1     **AN ACT** *to repeal* 48.977 (1); *to amend* 20.435 (7) (b), 46.10 (14) (a), 46.10 (14)  
2           (b), 46.261 (1) (a), 46.261 (2) (a) 1., 46.261 (2) (a) 3., 46.261 (2) (a) 4., 46.261 (2)  
3           (b), 46.495 (1) (d), 46.51 (4), 48.33 (4) (intro.), 48.345 (3) (c), 48.356 (1), 48.425  
4           (1) (g), 48.427 (3m) (intro.), 48.427 (3p), 48.48 (17) (a) 3., 48.48 (17) (c) 4., 48.57  
5           (1) (c), 48.57 (3) (a) 4., 48.57 (3m) (cm), 48.57 (3n) (cm), 48.61 (3), 48.615 (1) (b),  
6           48.977 (title), 48.977 (2) (intro.), 48.977 (2) (a), 48.977 (2) (b), 48.977 (2) (c),  
7           48.977 (2) (f), 48.977 (4) (a) 4., 48.977 (4) (a) 6., 48.977 (4) (b) 3., 48.977 (4) (c)  
8           1. g., 48.977 (4) (e), 48.977 (4) (g) 1., 48.977 (4) (g) 2., 48.977 (4) (h) 1., 48.977 (4)  
9           (h) 2., 49.155 (1m) (a) 1m. b., 49.155 (1m) (bm), 49.155 (1m) (c) 1g., 49.46 (1) (a)  
10          5., 767.078 (1) (a) 2., 767.29 (1m) (c), 767.29 (2), 767.29 (4), 938.33 (4) (intro.),  
11          938.57 (1) (c) and 938.57 (3) (a) 4.; and **to create** 48.427 (3m) (c), 48.62 (5),  
12          48.977 (3r) and 938.345 (4) of the statutes; **relating to:** the appointment of a  
13          guardian for certain children in need of protection or services, the payment of

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- 1           subsidized guardianship payments to a guardian of a child who meets certain  
2           requirements, and making an appropriation.
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***Analysis by the Legislative Reference Bureau***

Under current law, the court assigned to exercise jurisdiction under the Children's Code (juvenile court) may appoint a relative of a child as the guardian of the child if the juvenile court makes certain findings, including a finding that the child has been adjudged to be in need of protection or services and has been placed outside of his or her home pursuant to an order of the juvenile court for one year or longer.

This bill permits any person, not just a relative, to be appointed as the guardian of a child who has been adjudged to be in need of protection or services. The bill also eliminates that one-year waiting period and permits a child who has been adjudged to be in need of protection or services or whose parents' parental rights to the child have been terminated to be placed directly in the home of a guardian without first having been placed in another out-of-home placement. In addition, the bill permits the parental rights of a parent of a child in need of protection or services for whom a guardian has been appointed to be terminated on the grounds of abandonment if, when the juvenile court appointed the guardian, the juvenile court provided the parent with notice of any ground for termination of parental rights that may be applicable and of the conditions necessary for the child to be returned home and the parent has failed to visit or communicate with the child for a period of three months or longer.

Currently, a relative who is appointed as the guardian of a child in need of protection or services and who meets certain other requirements is eligible to receive long-term kinship care payments in the amount of \$215 per month for providing care and maintenance for the child. This bill permits a county department of human services or social services (county department) or, in Milwaukee County, the Department of Health and Family Services (DHFS) to provide monthly subsidized guardianship payments to a person who is appointed as the guardian for a child in need of protection or services; was the licensed foster parent or treatment foster parent of the child before that appointment; and has entered into a subsidized guardianship agreement with the county department or DHFS. A county department or DHFS may provide the monthly subsidized guardianship payments to the person if the child has been placed outside the home for a cumulative total period of one year or longer; the juvenile court has found that reunification of the child with the child's parents is unlikely or contrary to the best interests of the child and that further reunification efforts are unlikely to be made or are contrary to the best interests of the child; and the juvenile court has found that appointment of a guardian is in the best interests of the child; or if the child does not meet any of those conditions, but DHFS has determined that appointing a guardian for the child and providing subsidized guardianship payments to the guardian are in the best interests of the child and the juvenile court has confirmed that determination.

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Under the bill, the amount of a monthly subsidized guardianship payment is equal to the amount of the monthly foster care or treatment foster care payment received by the guardian immediately before the guardianship order was granted. In addition, a subsidized guardian is eligible for a child care subsidy under the Wisconsin Works Program in the same manner as a foster parent is so eligible, and a child who is in the care of a subsidized guardian is eligible for Medical Assistance in the same manner as a child in foster care is so eligible.

The bill also requires DHFS to request from the secretary of the federal Department of Health and Human Services a waiver of the requirements under Title IV–E of the federal Social Security Act that would authorize the state to receive federal foster care and adoption assistance reimbursement for the costs of providing care for a child who is in the care of a guardian who was licensed as the child's foster parent or treatment foster parent before the guardianship appointment, and who has entered into a subsidized guardianship agreement. If the waiver is approved for Milwaukee County, the bill requires DHFS to provide the monthly subsidized guardianship payments. If the waiver is approved for any other county, the bill requires DHFS to determine which counties are authorized to provide subsidized guardianship payments and requires those authorized counties to provide those payments.

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

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

1           **SECTION 1.** 20.435 (7) (b) of the statutes is amended to read:

2           20.435 (7) (b) *Community aids.* The amounts in the schedule for human  
3 services under s. 46.40, to fund services provided by resource centers under s. 46.283  
4 (5), for services under the family care benefit under s. 46.284 (5), for reimbursement  
5 to counties having a population of less than 500,000 for the cost of court attached  
6 intake services under s. 48.06 (4), for shelter care under ss. 48.58 and 938.22, and for  
7 foster care and, treatment foster care, and subsidized guardianship care under s. ss.  
8 46.261 and 49.19 (10). Social services disbursements under s. 46.03 (20) (b) may be  
9 made from this appropriation. Refunds received relating to payments made under  
10 s. 46.03 (20) (b) for the provision of services for which moneys are appropriated under  
11 this paragraph shall be returned to this appropriation. Notwithstanding ss. 20.001

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(3) (a) and 20.002 (1), the department of health and family services may transfer funds between fiscal years under this paragraph. The department shall deposit into this appropriation funds it recovers under ss. 46.495 (2) (b) and 51.423 (15) from prior year audit adjustments including those resulting from audits of services under s. 46.26, 1993 stats., or s. 46.27. Except for amounts authorized to be carried forward under s. 46.45, all funds recovered under ss. 46.495 (2) (b) and 51.423 (15) and all funds allocated under s. 46.40 and not spent or encumbered by December 31 of each year shall lapse to the general fund on the succeeding January 1 unless carried forward to the next calendar year by the joint committee on finance.

**SECTION 2.** 46.10 (14) (a) of the statutes is amended to read:

46.10 **(14)** (a) Except as provided in pars. (b) and (c), liability of a person specified in sub. (2) or s. 46.03 (18) for inpatient care and maintenance of persons under 18 years of age at community mental health centers, a county mental health complex under s. 51.08, the centers for the developmentally disabled, the Mendota Mental Health Institute, and the Winnebago Mental Health Institute or care and maintenance of persons under 18 years of age in residential, nonmedical facilities such as group homes, foster homes, treatment foster homes, ~~child caring institutions,~~ subsidized guardianship homes, residential care centers for children and youth, and juvenile correctional institutions is determined in accordance with the cost-based fee established under s. 46.03 (18). The department shall bill the liable person up to any amount of liability not paid by an insurer under s. 632.89 (2) or (2m) or by other 3rd-party benefits, subject to rules that include formulas governing ability to pay promulgated by the department under s. 46.03 (18). Any liability of the patient not payable by any other person terminates when the patient reaches age 18, unless the liable person has prevented payment by any act or omission.

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**SECTION 3.** 46.10 (14) (b) of the statutes is amended to read:

46.10 **(14)** (b) Except as provided in par. (c) and subject to par. (cm), liability of a parent specified in sub. (2) or s. 46.03 (18) for the care and maintenance of the parent's minor child who has been placed by a court order under s. 48.355 or 48.357 in a residential, nonmedical facility such as a group home, foster home, treatment foster home, subsidized guardianship home, or residential care center for children and youth shall be determined by the court by using the percentage standard established by the department of workforce development under s. 49.22 (9) and by applying the percentage standard in the manner established by the department under s. 46.247.

**SECTION 4.** 46.261 (1) (a) of the statutes is amended to read:

46.261 **(1)** (a) The child is living in a foster home or treatment foster home licensed under s. 48.62 if a license is required under that section, in a foster home or treatment foster home located within the boundaries of a federally recognized American Indian reservation in this state and licensed by the tribal governing body of the reservation, in a group home licensed under s. 48.625, in a subsidized guardianship home under s. 48.62 (5), or in a residential care center for children and youth licensed under s. 48.60, and has been placed in the foster home, treatment foster home, group home, subsidized guardianship home, or center by a county department under s. 46.215, 46.22<sub>1</sub>, or 46.23, by the department, or by a federally recognized American Indian tribal governing body in this state under an agreement with a county department under s. 46.215, 46.22<sub>1</sub>, or 46.23.

**SECTION 5.** 46.261 (2) (a) 1. of the statutes is amended to read:

46.261 **(2)** (a) 1. A nonrelative who cares for the dependent child in a foster home or treatment foster home having a license under s. 48.62, in a foster home or

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1 treatment foster home located within the boundaries of a federally recognized  
2 American Indian reservation in this state and licensed by the tribal governing body  
3 of the reservation or in a group home licensed under s. 48.625, a subsidized guardian  
4 under s. 48.62 (5) who cares for the dependent child, or a minor custodial parent who  
5 cares for the dependent child, regardless of the cause or prospective period of  
6 dependency. The state shall reimburse counties pursuant to the procedure under s.  
7 46.495 (2) and the percentage rate of participation set forth in s. 46.495 (1) (d) for aid  
8 granted under this section except that if the child does not have legal settlement in  
9 the granting county, state reimbursement shall be at 100%. The county department  
10 under s. 46.215 or 46.22 or the department under s. 48.48 (17) shall determine the  
11 legal settlement of the child. A child under one year of age shall be eligible for aid  
12 under this subsection irrespective of any other residence requirement for eligibility  
13 within this section.

14 **SECTION 6.** 46.261 (2) (a) 3. of the statutes is amended to read:

15 46.261 **(2)** (a) 3. A county or, in a county having a population of 500,000 or more,  
16 the department, when the child is placed in a licensed foster home, treatment foster  
17 home, group home, or residential care center for children and youth or in a subsidized  
18 guardianship home by a licensed child welfare agency or by a federally recognized  
19 American Indian tribal governing body in this state or by its designee, if the child is  
20 in the legal custody of the county department under s. 46.215, 46.22, or 46.23 or the  
21 department under s. 48.48 (17) or if the child was removed from the home of a  
22 relative, as defined under s. 48.02 (15), as a result of a judicial determination that  
23 continuance in the home of the relative would be contrary to the child's welfare for  
24 any reason and the placement is made pursuant to an agreement with the county  
25 department or the department.

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**SECTION 7.** 46.261 (2) (a) 4. of the statutes is amended to read:

46.261 **(2)** (a) 4. A licensed foster home, treatment foster home, group home, or residential care center for children and youth or a subsidized guardianship home when the child is in the custody or guardianship of the state, when the child is a ward of an American Indian tribal court in this state and the placement is made under an agreement between the department and the tribal governing body, or when the child was part of the state's direct service case load and was removed from the home of a relative, as defined under s. 48.02 (15), as a result of a judicial determination that continuance in the home of a relative would be contrary to the child's welfare for any reason and the child is placed by the department.

**SECTION 8.** 46.261 (2) (b) of the statutes is amended to read:

46.261 **(2)** (b) Notwithstanding par. (a), aid under this section may not be granted for placement of a child in a foster home or treatment foster home licensed by a federally recognized American Indian tribal governing body, for placement of a child in a foster home, treatment foster home, group home, subsidized guardianship home, or residential care center for children and youth by a tribal governing body or its designee, or for the placement of a child who is a ward of a tribal court if the tribal governing body is receiving or is eligible to receive funds from the federal government for that type of placement ~~or for placement of a child in a group home licensed under s. 48.625.~~

**SECTION 9.** 46.495 (1) (d) of the statutes is amended to read:

46.495 **(1)** (d) From the appropriations under s. 20.435 (3) (o) and (7) (b) and (o), the department shall distribute the funding for social services, including funding for foster care ~~or, treatment foster care,~~ or subsidized guardianship care of a child on whose behalf aid is received under s. 46.261, to county departments under ss. 46.215,



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1 46.22, and 46.23 as provided under s. 46.40. County matching funds are required for  
2 the distributions under s. 46.40 (2), (8), and (9) (b). Each county's required match for  
3 the distributions under s. 46.40 (2) and (8) for a year equals 9.89% of the total of the  
4 county's distributions under s. 46.40 (2) and (8) for that year for which matching  
5 funds are required plus the amount the county was required by s. 46.26 (2) (c), 1985  
6 stats., to spend for juvenile delinquency-related services from its distribution for  
7 1987. Each county's required match for the distribution under s. 46.40 (9) (b) for a  
8 year equals 9.89% of that county's amounts described in s. 46.40 (9) (a) (intro.) for  
9 that year. Matching funds may be from county tax levies, federal and state revenue  
10 sharing funds, or private donations to the county that meet the requirements  
11 specified in s. 51.423 (5). Private donations may not exceed 25% of the total county  
12 match. If the county match is less than the amount required to generate the full  
13 amount of state and federal funds distributed for this period, the decrease in the  
14 amount of state and federal funds equals the difference between the required and the  
15 actual amount of county matching funds.

16 **SECTION 10.** 46.51 (4) of the statutes is amended to read:

17 46.51 (4) A county may use the funds distributed under this section to fund  
18 additional foster parents and, treatment foster parents, and subsidized guardians  
19 to care for abused and neglected children and to fund additional staff positions to  
20 provide services related to child abuse and neglect and to unborn child abuse.

21 **SECTION 11.** 48.33 (4) (intro.) of the statutes is amended to read:

22 48.33 (4) OTHER OUT-OF-HOME PLACEMENTS. (intro.) A report recommending  
23 placement of an adult expectant mother outside of her home shall be in writing. A  
24 report recommending placement of a child in a foster home, treatment foster home,  
25 group home, or residential care center for children and youth or, in the home of a



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1 relative other than a parent, or in the home of the child's guardian under s. 48.977  
2 (2) shall be in writing and shall include all of the following:

3 **SECTION 12.** 48.345 (3) (c) of the statutes is amended to read:

4 48.345 **(3)** (c) A foster home or treatment foster home licensed under s. 48.62  
5 ~~or~~, a group home licensed under s. 48.625, or in the home of the child's guardian under  
6 s. 48.977 (2).

7 **SECTION 13.** 48.356 (1) of the statutes is amended to read:

8 48.356 **(1)** Whenever the court orders a child to be placed outside his or her  
9 home, orders an expectant mother of an unborn child to be placed outside of her  
10 home, or denies a parent visitation because the child or unborn child has been  
11 adjudged to be in need of protection or services under s. 48.345, 48.347, 48.357,  
12 48.363, or 48.365 or whenever the court appoints a guardian for a child under s.  
13 48.977 (2), the court shall orally inform the parent or parents who appear in court  
14 or the expectant mother who appears in court of any grounds for termination of  
15 parental rights under s. 48.415 which that may be applicable and of the conditions  
16 necessary for the child or expectant mother to be returned to the home or for the  
17 parent to be granted visitation.

18 **SECTION 14.** 48.425 (1) (g) of the statutes is amended to read:

19 48.425 **(1)** (g) If an agency designated under s. 48.427 (3m) (a) 1. to 4.  
20 determines that it is unlikely that the child will be adopted, or if adoption would not  
21 be in the best interests of the child, the report shall include a plan for placing the child  
22 in a permanent family setting. The plan shall include a recommendation as to the  
23 agency to be named guardian of the child or a recommendation that the person  
24 appointed as the guardian of the child under s. 48.977 (2) continue to be the guardian  
25 of the child or that a guardian be appointed for the child under s. 48.977 (2).

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**SECTION 15.** 48.427 (3m) (intro.) of the statutes is amended to read:

48.427 **(3m)** (intro.) If the rights of both parents or of the only living parent are terminated under sub. (3) and if a guardian has not been appointed under s. 48.977, the court shall either do one of the following:

**SECTION 16.** 48.427 (3m) (c) of the statutes is created to read:

48.427 **(3m)** (c) Appoint a guardian under s. 48.977 and transfer guardianship and custody of the child to the guardian.

**SECTION 17.** 48.427 (3p) of the statutes is amended to read:

48.427 **(3p)** If the rights of both parents or of the only living parent are terminated under sub. (3) and if a guardian has been appointed under s. 48.977, the court may enter one of the orders specified in sub. (3m) (a) or (b). If the court enters an order under this subsection, the court shall terminate the guardianship under s. 48.977.

**SECTION 18.** 48.48 (17) (a) 3. of the statutes is amended to read:

48.48 **(17)** (a) 3. Provide appropriate protection and services for children and the expectant mothers of unborn children in its care, including providing services for those children and their families and for those expectant mothers in their own homes, placing the children in licensed foster homes, treatment foster homes, or group homes in this state or another state within a reasonable proximity to the agency with legal custody, placing the children in the homes of the children's guardians under s. 48.977 (2), or contracting for services for those children by licensed child welfare agencies, except that the department may not purchase the educational component of private day treatment programs unless the department, the school board, as defined in s. 115.001 (7), and the state superintendent of public instruction all determine that an appropriate public education program is not

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1 available. Disputes between the department and the school district shall be resolved  
2 by the state superintendent of public instruction.

3 **SECTION 19.** 48.48 (17) (c) 4. of the statutes is amended to read:

4 48.48 (17) (c) 4. Is living in a foster home, treatment foster home, group home,  
5 or residential care center for children and youth or in the home of a subsidized  
6 guardian under s. 48.62 (5).

7 **SECTION 20.** 48.57 (1) (c) of the statutes is amended to read:

8 48.57 (1) (c) To provide appropriate protection and services for children and the  
9 expectant mothers of unborn children in its care, including providing services for  
10 those children and their families and for those expectant mothers in their own  
11 homes, placing those children in licensed foster homes, treatment foster homes, or  
12 group homes in this state or another state within a reasonable proximity to the  
13 agency with legal custody, placing those children in the homes of the children's  
14 guardians under s. 48.977 (2), or contracting for services for those children by  
15 licensed child welfare agencies, except that the county department may not purchase  
16 the educational component of private day treatment programs unless the county  
17 department, the school board, as defined in s. 115.001 (7), and the state  
18 superintendent of public instruction all determine that an appropriate public  
19 education program is not available. Disputes between the county department and  
20 the school district shall be resolved by the state superintendent of public instruction.

21 **SECTION 21.** 48.57 (3) (a) 4. of the statutes is amended to read:

22 48.57 (3) (a) 4. Is living in a foster home, treatment foster home, group home,  
23 or residential care center for children and youth or is living in the home of a  
24 subsidized guardian under s. 48.62 (5).

25 **SECTION 22.** 48.57 (3m) (cm) of the statutes is amended to read:

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1           48.57 **(3m)** (cm) A kinship care relative who receives a payment under par. (am)  
2 for providing care and maintenance for a child is not eligible to receive a payment  
3 under sub. (3n) or s. 48.62 (4) or (5) for that child.

4           **SECTION 23.** 48.57 (3n) (cm) of the statutes is amended to read:

5           48.57 **(3n)** (cm) A long-term kinship care relative who receives a payment  
6 under par. (am) for providing care and maintenance for a child is not eligible to  
7 receive a payment under sub. (3m) or s. 48.62 (4) or (5) for that child.

8           **SECTION 24.** 48.61 (3) of the statutes is amended to read:

9           48.61 **(3)** To provide appropriate care and training for children in its legal or  
10 physical custody and, if licensed to do so, to place children in licensed foster homes,  
11 licensed treatment foster homes, and licensed group homes and in the homes of the  
12 children's guardians under s. 48.977 (2).

13           **SECTION 25.** 48.615 (1) (b) of the statutes is amended to read:

14           48.615 **(1)** (b) Before the department may issue a license under s. 48.60 (1) to  
15 a child welfare agency that places children in licensed foster homes, licensed  
16 treatment foster homes, and licensed group homes and in the homes of the children's  
17 guardians under s. 48.977 (2), the child welfare agency must pay to the department  
18 a biennial fee of \$254.10.

19           **SECTION 26.** 48.62 (5) of the statutes is created to read:

20           48.62 **(5)** (a) Subject to par. (b), a county department or, in a county having a  
21 population of 500,000 or more, the department shall provide monthly subsidized  
22 guardianship payments in the amount specified in par. (c) to a guardian of a child  
23 under s. 48.977 (2) who was licensed as the child's foster parent or treatment foster  
24 parent before the guardianship appointment and who has entered into a subsidized

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1 guardianship agreement with the county department or department if the child  
2 meets any of the following conditions:

3 1. The child has been placed outside of his or her home, as described in s. 48.365  
4 (1), for a cumulative total period of one year or longer, the court has found under s.  
5 48.977 (2) (f) that the agency primarily responsible for providing services to the child  
6 under a court order has made reasonable efforts to make it possible for the child to  
7 return to his or her home, while assuring that the child's health and safety are the  
8 paramount concerns, but that reunification of the child with the child's parent or  
9 parents is unlikely or contrary to the best interests of the child and that further  
10 reunification efforts are unlikely to be made or are contrary to the best interests of  
11 the child, or that any of the circumstances specified in s. 48.355 (2d) (b) 1. to 5. apply,  
12 and the court has found under s. 48.977 (4) (h) 2. that appointment of a guardian for  
13 the child is in the best interests of the child.

14 2. The child does not meet the conditions specified in subd. 1., but the county  
15 department or department has determined, and the court has confirmed under s.  
16 48.977 (3r), that appointing a guardian for the child under s. 48.977 (2) and providing  
17 monthly subsidized guardianship payments to the guardian are in the best interests  
18 of the child.

19 (b) The department shall request from the secretary of the federal department  
20 of health and human services a waiver of the requirements under 42 USC 670 to 679a  
21 that would authorize the state to receive federal foster care and adoption assistance  
22 reimbursement under 42 USC 670 to 679a for the costs of providing care for a child  
23 who is in the care of a guardian who was licensed as the child's foster parent or  
24 treatment foster parent before the guardianship appointment and who has entered  
25 into a subsidized guardianship agreement with the county department or

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1 department. If the waiver is approved for a county having a population of 500,000  
2 or more, the department shall provide the monthly payments under par. (a) from the  
3 appropriations under s. 20.435 (3) (cx), (gx), (kw), and (mx). If the waiver is approved  
4 for any other county, the department shall determine which counties are authorized  
5 to provide monthly payments under par. (a), and the county departments of those  
6 counties shall provide those payments from moneys received under s. 46.495 (1) (d).

7 (c) The amount of a monthly payment under par. (a) for the care of a child shall  
8 equal the amount received under sub. (4) by the guardian of the child for the month  
9 immediately preceding the month in which the guardianship order was granted. A  
10 guardian who receives a monthly payment under par. (a) is not eligible to receive a  
11 payment under sub. (4) or s. 48.57 (3m) or (3n).

12 **SECTION 27.** 48.977 (title) of the statutes is amended to read:

13 **48.977 (title) Appointment of relatives as guardians for certain**  
14 **children in need of protection or services.**

15 **SECTION 28.** 48.977 (1) of the statutes is repealed.

16 **SECTION 29.** 48.977 (2) (intro.) of the statutes is amended to read:

17 **48.977 (2) TYPE OF GUARDIANSHIP.** (intro.) This section may be used for the  
18 appointment of a relative of a child as a guardian of the person for the a child if the  
19 court finds all of the following:

20 **SECTION 30.** 48.977 (2) (a) of the statutes is amended to read:

21 **48.977 (2) (a)** That the child has been adjudged to be in need of protection or  
22 services under s. 48.13 (1), (2), (3), (3m), (4), (5), (8), (9), (10), (10m), (11), 1 or (11m) or  
23 938.13 (4) and been placed, or continued in a placement, outside of his or her home  
24 pursuant to one or more court orders under s. 48.345, 48.357, 48.363, 48.365,  
25 938.345, 938.357, 938.363, 1 or 938.365 ~~for a cumulative total period of one year or~~

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1 longer or that the child has been so adjudged and placement of the child in the home  
2 of a guardian under this section has been recommended under s. 48.33 (1) or 938.33  
3 (1).

4 **SECTION 31.** 48.977 (2) (b) of the statutes is amended to read:

5 48.977 (2) (b) That the person nominated as the guardian of the child is a  
6 relative of the child person with whom the child has been placed or in whose home  
7 placement of the child is recommended under par. (a) and that it is likely that the  
8 child will continue to be placed with that relative person for an extended period of  
9 time or until the child attains the age of 18 years.

10 **SECTION 32.** 48.977 (2) (c) of the statutes is amended to read:

11 48.977 (2) (c) That, if appointed, it is likely that the relative person would be  
12 willing and able to serve as the child's guardian for an extended period of time or until  
13 the child attains the age of 18 years.

14 **SECTION 33.** 48.977 (2) (f) of the statutes is amended to read:

15 48.977 (2) (f) That the agency primarily responsible for providing services to  
16 the child under a court order has made reasonable efforts to make it possible for the  
17 child to return to his or her home, while assuring that the child's health and safety  
18 are the paramount concerns, but that reunification of the child with the child's  
19 parent or parents is unlikely or contrary to the best interests of the child and that  
20 further reunification efforts are unlikely to be made or are contrary to the best  
21 interests of the child or that the agency primarily responsible for providing services  
22 to the child under a court order has made reasonable efforts to prevent the removal  
23 of the child from his or her home, while assuring the child's health and safety, but that  
24 continued placement of the child in the home would be contrary to the welfare of the  
25 child, except that the court is not required to find that the agency has made those



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1 reasonable efforts with respect to a parent of the child if any of the circumstances  
2 specified in s. 48.355 (2d) (b) 1. to 5. applies to that parent. The court shall make the  
3 findings specified in this paragraph on a case-by-case basis based on circumstances  
4 specific to the child and shall document or reference the specific information on  
5 which those findings are based in the guardianship order. A guardianship order that  
6 merely references this paragraph without documenting or referencing that specific  
7 information in the order or an amended guardianship order that retroactively  
8 corrects an earlier guardianship order that does not comply with this paragraph is  
9 not sufficient to comply with this paragraph.

10 **SECTION 34.** 48.977 (3r) of the statutes is created to read:

11 48.977 (3r) SUBSIDIZED GUARDIANSHIP. Subject to s. 48.62 (5) (b), if a county  
12 department or, in a county having a population of 500,000 or more, the department  
13 has determined under s. 48.62 (5) (a) 2. that appointing a guardian under sub. (2) for  
14 a child who does not meet the conditions specified under s. 48.62 (5) (a) 1. and  
15 providing monthly subsidized guardianship payments to the guardian are in the best  
16 interests of the child, the petitioner under sub. (4) (a) shall include in the petition  
17 under sub. (4) (b) a statement of that determination and a request for the court to  
18 include in the court's findings under sub. (4) (d) a finding confirming that  
19 determination. If the court confirms that determination and appoints a guardian for  
20 the child under sub. (2), the county department or department shall provide monthly  
21 subsidized guardianship payments to the guardian under s. 48.62 (5).

22 **SECTION 35.** 48.977 (4) (a) 4. of the statutes is amended to read:

23 48.977 (4) (a) 4. The relative person with whom the child is placed or in whose  
24 home placement of the child is recommended as described in sub. (2) (a). if the  
25 relative person is nominated as the guardian of the child in the petition.

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1           **SECTION 36.** 48.977 (4) (a) 6. of the statutes is amended to read:

2           48.977 **(4)** (a) 6. A county department under s. 46.22 or 46.23 or, if the child has  
3           been placed pursuant to an order under ch. 938 or the child's placement with the  
4           guardian is recommended under ch. 938, a county department under s. 46.215, 46.22,  
5           or 46.23.

6           **SECTION 37.** 48.977 (4) (b) 3. of the statutes is amended to read:

7           48.977 **(4)** (b) 3. The date the child was adjudged in need of protection or  
8           services under s. 48.13 (1), (2), (3), (3m), (4), (5), (8), (9), (10), (10m), (11), or (11m) or  
9           938.13 (4) and the dates that the child has been placed, or continued in a placement,  
10          outside of his or her home pursuant to one or more court orders under s. 48.345,  
11          48.357, 48.363, 48.365, 938.345, 938.357, 938.363, or 938.365 or, if the child has been  
12          so adjudged, but not so placed, the date of the report under s. 48.33 (1) or 938.33 (1)  
13          in which placement of the child in the home of the person is recommended.

14          **SECTION 38.** 48.977 (4) (c) 1. g. of the statutes is amended to read:

15          48.977 **(4)** (c) 1. g. The relative person with whom the child is placed or in whose  
16          home placement of the child is recommended as described in sub. (2) (a). if the  
17          relative person is nominated as the guardian of the child in the petition.

18          **SECTION 39.** 48.977 (4) (e) of the statutes is amended to read:

19          48.977 **(4)** (e) *Court report.* The For a child who has been placed, or continued  
20          in a placement, outside of his or her home for 6 months or longer, the court shall order  
21          the person or agency primarily responsible for providing services to the child under  
22          a court order to file with the court a report containing the written summary under  
23          s. 48.38 (5) (e) and as much information relating to the appointment of a guardian  
24          as is reasonably ascertainable. For a child who has been placed, or continued in a  
25          placement, outside of his or her home for less than 6 months, the court shall order

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1 the person or agency primarily responsible for providing services to the child under  
2 a court order to file with the court the report submitted under s. 48.33 (1) or 938.33  
3 (1), the permanency plan prepared under s. 48.38 or 938.38, if one has been prepared,  
4 and as much information relating to the appointment of a guardian as is reasonably  
5 ascertainable. The agency shall file the report at least 48 hours before the date of  
6 the dispositional hearing under par. (fm).

7 **SECTION 40.** 48.977 (4) (g) 1. of the statutes is amended to read:

8 48.977 (4) (g) 1. Whether the relative person would be a suitable guardian of  
9 the child.

10 **SECTION 41.** 48.977 (4) (g) 2. of the statutes is amended to read:

11 48.977 (4) (g) 2. The willingness and ability of the relative person to serve as  
12 the child's guardian for an extended period of time or until the child attains the age  
13 of 18 years.

14 **SECTION 42.** 48.977 (4) (h) 1. of the statutes is amended to read:

15 48.977 (4) (h) 1. A disposition dismissing the petition if the court determines  
16 that appointment of the relative person as the child's guardian is not in the best  
17 interests of the child.

18 **SECTION 43.** 48.977 (4) (h) 2. of the statutes is amended to read:

19 48.977 (4) (h) 2. A disposition ordering that the relative person with whom the  
20 child has been placed or in whose home placement of the child is recommended as  
21 described in sub. (2) (a) be appointed as the child's guardian under sub. (5) (a) or  
22 limited guardian under sub. (5) (b), if the court determines that such an appointment  
23 is in the best interests of the child.

24 **SECTION 44.** 49.155 (1m) (a) 1m. b. of the statutes is amended to read:

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1           49.155 **(1m)** (a) 1m. b. The individual has not yet attained the age of 18 years  
2           and the individual resides with his or her custodial parent or with a kinship care  
3           relative under s. 48.57 (3m) or with a long-term kinship care relative under s. 48.57  
4           (3n) or is in a foster home or treatment foster home licensed under s. 48.62, a  
5           subsidized guardianship home under s. 48.62 (5), a group home, or an independent  
6           living arrangement supervised by an adult.

7           **SECTION 45.** 49.155 (1m) (bm) of the statutes is amended to read:

8           49.155 **(1m)** (bm) If the individual is providing care for a child under a court  
9           order and is receiving payments on behalf of the child under s. 48.57 (3m) or (3n) or  
10          48.62 (5), or if the individual is a foster parent or treatment foster parent, and child  
11          care is needed for that child, the individual meets the requirement under s. 49.145  
12          (2) (c).

13          **SECTION 46.** 49.155 (1m) (c) 1g. of the statutes is amended to read:

14          49.155 **(1m)** (c) 1g. If the individual is a foster parent of the child or a subsidized  
15          guardian of the child under s. 48.62 (5), the child's biological or adoptive family has  
16          a gross income that is at or below 200% of the poverty line. In calculating the gross  
17          income of the child's biological or adoptive family, the Wisconsin works agency shall  
18          include income described under s. 49.145 (3) (b) 1. and 3.

19          **SECTION 47.** 49.46 (1) (a) 5. of the statutes is amended to read:

20          49.46 **(1)** (a) 5. Any child in an adoption assistance, foster care, kinship care,  
21          long-term kinship care ~~or~~, treatment foster care, or subsidized guardianship  
22          placement under ch. 48 or 938, as determined by the department.

23          **SECTION 48.** 767.078 (1) (a) 2. of the statutes is amended to read:

24          767.078 **(1)** (a) 2. The child's right to support is assigned to the state under s.  
25          46.261, 48.57 (3m) (b) 2. or (3n) (b) 2., or 49.19 (4) (h) 1. b.

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**SECTION 49.** 767.29 (1m) (c) of the statutes is amended to read:

767.29 **(1m)** (c) The party entitled to the support or maintenance money or a minor child of the party has applied for or is receiving ~~aid to families with dependent children~~ aid under s. 46.261 or public assistance under ch. 49 and there is an assignment to the state under s. 46.261 or 49.19 (4) (h) 1. b. of the party's right to the support or maintenance money.

**SECTION 50.** 767.29 (2) of the statutes is amended to read:

767.29 **(2)** If any party entitled to maintenance payments or support money, or both, is receiving public assistance under ch. 49, the party may assign the party's right thereto to the county department under s. 46.215, 46.22, or 46.23 granting such assistance. Such assignment shall be approved by order of the court granting the maintenance payments or support money, and may be terminated in like manner; except that it shall not be terminated in cases where there is any delinquency in the amount of maintenance payments and support money previously ordered or adjudged to be paid to the assignee without the written consent of the assignee or upon notice to the assignee and hearing. When an assignment of maintenance payments or support money, or both, has been approved by the order, the assignee shall be deemed a real party in interest within s. 803.01 but solely for the purpose of securing payment of unpaid maintenance payments or support money adjudged or ordered to be paid, by participating in proceedings to secure the payment thereof. Notwithstanding assignment under this subsection, and without further order of the court, the department or its designee, upon receiving notice that a party or a minor child of the parties is receiving aid under s. 46.261 or public assistance under ch. 49 or that a kinship care relative or long-term kinship care relative of the minor child is receiving kinship care payments or long-term kinship care payments for the minor

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1 child, shall forward all support assigned under s. 46.261, 48.57 (3m) (b) 2. or (3n) (b)  
2 2., 49.19 (4) (h) 1., or 49.45 (19) to the assignee under s. 46.261, 48.57 (3m) (b) 2. or  
3 (3n) (b) 2., 49.19 (4) (h) 1., or 49.45 (19).

4 **SECTION 51.** 767.29 (4) of the statutes is amended to read:

5 767.29 (4) If an order or judgment providing for the support of one or more  
6 children not receiving aid under s. 46.261, 48.57 (3m) or (3n), or 49.19 includes  
7 support for a minor who is the beneficiary of aid under s. 46.261, 48.57 (3m) or (3n),  
8 or 49.19, any support payment made under the order or judgment is assigned to the  
9 state under s. 46.261, 48.57 (3m) (b) 2. or (3n) (b) 2., or 49.19 (4) (h) 1. b. in the amount  
10 that is the proportionate share of the minor receiving aid under s. 46.261, 48.57 (3m)  
11 or (3n), or 49.19, except as otherwise ordered by the court on the motion of a party.

12 **SECTION 52.** 938.33 (4) (intro.) of the statutes is amended to read:

13 938.33 (4) OTHER OUT-OF-HOME PLACEMENTS. (intro.) A report recommending  
14 placement in a foster home, treatment foster home, group home, or nonsecured  
15 residential care center for children and youth or, in the home of a relative other than  
16 a parent, or in the home of the juvenile's guardian under s. 48.977 (2) shall be in  
17 writing, except that the report may be presented orally at the dispositional hearing  
18 if all parties consent. A report that is presented orally shall be transcribed and made  
19 a part of the court record. The report shall include all of the following:

20 **SECTION 53.** 938.345 (4) of the statutes is created to read:

21 938.345 (4) If the court finds that a juvenile is in need of protection or services  
22 under s. 938.13 (4), the court, instead of or in addition to any other disposition  
23 imposed under sub. (1), may place the juvenile in the home of the juvenile's guardian  
24 under s. 48.977 (2).

25 **SECTION 54.** 938.57 (1) (c) of the statutes is amended to read:

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1           938.57 (1) (c) Provide appropriate protection and services for juveniles in its  
2 care, including providing services for juveniles and their families in their own homes,  
3 placing the juveniles in licensed foster homes, licensed treatment foster homes, or  
4 licensed group homes in this state or another state within a reasonable proximity to  
5 the agency with legal custody, placing the juveniles in the homes of the juveniles'  
6 guardians under s. 48.977 (2), or contracting for services for them by licensed child  
7 welfare agencies or replacing them in secured correctional facilities, secured child  
8 caring institutions, or secured group homes in accordance with rules promulgated  
9 under ch. 227, except that the county department may not purchase the educational  
10 component of private day treatment programs unless the county department, the  
11 school board, as defined in s. 115.001 (7), and the state superintendent of public  
12 instruction all determine that an appropriate public education program is not  
13 available. Disputes between the county department and the school district shall be  
14 resolved by the state superintendent of public instruction.

15           **SECTION 55.** 938.57 (3) (a) 4. of the statutes is amended to read:

16           938.57 (3) (a) 4. Is living in a foster home, treatment foster home, group home,  
17 or residential care center for children and youth or in the home of a subsidized  
18 guardian under s. 48.62 (5).

19           **SECTION 56. Nonstatutory provisions.**

20           (1) RELATIVE GUARDIANSHIPS. Notwithstanding section 48.977 (2) (a), 2001  
21 stats., a petition under section 48.977 (4) of the statutes, as affected by this act, may  
22 be filed for the appointment of a relative as the guardian of the person of a child who  
23 has been placed, or continued in a placement, outside of his or her home for less than  
24 one year on the effective date of this subsection.

25           **(END)**