Memorandum

STATE OF WISCONSIN
DIRECTOR OF STATE COURTS

Via Electronic Mail

DATE: January 18, 2013

TO: Members of the Special Committee on Permanency for Young Children in the Child Welfare System

FROM: Nancy Rottier, Legislative Liaison

SUBJECT: Comments Relating to Proposed Legislation from the Special Committee on Permanency for Young Children in the Child Welfare System

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Thank you for inviting the court system to comment on the draft legislation under consideration by the Special Committee on Permanency for Young Children in the Child Welfare System ("Special Committee"). The following remarks are based on input from the Wisconsin Judicial Conference Legislative Committee and the Wisconsin Judicial Committee on Child Welfare ("Judicial Committee"), an 11-member committee of judges from counties around the state and court staff dedicated to improving outcomes for children and families in the court system.

The Judicial Committee has devoted its last two meetings to discussing the potential implications of the proposed bills. When analyzing the drafts, committee members asked the following three questions to arrive at the positions and suggestions listed in this memorandum:

1. Does the legislation fall within the objective of the Special Committee to expedite permanency for young children?

2. If the legislation meets the Special Committee's objective, does it have any unintended adverse impact on children and families?

3. Are there specific language changes, based on our knowledge of the judicial system, which will enhance the goals of the legislation?

We respectfully submit the following remarks for the Special Committee's consideration.

WLC: 0009/3, relating to CHIPS jurisdiction over a newborn.

Position: Support, but critical to have counsel appointed for the Temporary Physical Custody Hearing.

Comments: The Judicial Committee believes this bill achieves the objective of protecting unsafe children and promoting permanency through the creation of a new CHIPS ground based on a prior involuntary termination of parental rights to another child. Furthermore, the bill provides a procedural safeguard for parents by requiring a finding that the child should be continued in custody under s. 48.21(4).

Because summary judgment would be available for this ground, unlike most other CHIPS grounds under s. 48.13, it will be imperative for parents to be represented by counsel throughout the proceeding when this CHIPS ground is alleged, especially at the Temporary Physical Custody Hearing. The passage of WLC 0010 relating to the right to counsel for parents in CHIPS proceedings will be critical in the implementation of this bill to adequately maintain children in a safe familial home and to protect the rights of the parents and children from potential misuse.

WLC: 0010/3, relating to right to counsel for parents in CHIPS proceedings.

Position: Support with modifications.

Comments: The Committee is in full support of providing representation for parents in all CHIPS cases as research has shown that quality and effective legal representation, starting at the initial proceeding, can lead to increased permanency for children and ultimate cost savings for the state and counties.[1]

One study in Washington State found that providing representation to parents where the attorneys had limited caseloads and were highly trained as part of a Parent Representation Program (PRP) resulted in the following outcomes for children and families:

- Children were reunified with their parents 11% faster.
- Reunification with a parent occurred approximately one month sooner, saving an estimated $374 per child in foster care maintenance payments. If all children in the study who ultimately reunified with a parent were able to reunify one month sooner, the public would have saved $3 million annually.
- Children were adopted 104% faster and entered guardianship 83% faster. For these children in counties with PRP who could not be reunified with a parent, their adoptions and guardianships were accelerated by approximately one year when compared to children in counties without PRP.

[1] See *Representation of Parents and Children in Abuse and Neglect Cases: The Importance of Early Appointment*, Judge Leonard Edwards (Spring 2012); *Court-Based Child Welfare Reforms: Improved Child/Family Outcomes and Potential Cost Savings*, Elizabeth Thornton (August 2012); and *Evaluation of the Impact of Enhanced Parental Legal Representation on the Timing of Permanency Outcomes for Children in Foster Care*, Mark E. Courtney, Jennifer L. Hook, and Matt Orme (February 2011).

However, recognizing budget constraints, at a minimum parent representation should be provided in CHIPS cases anytime the child is placed out of the home or where there is a recommendation to place the child outside the home starting at the Temporary Physical Custody Hearing.

Proposed modifications:

1. Provide parent representation in all CHIPS cases, including cases where the child remains placed in the home. However, if the current bill draft moves forward, the term "when the child has been taken into custody" is too vague and does not include situations where the child is placed out of the home after disposition (see page 4, line 5). This term should be replaced with, "if the court has ordered, or if a request or recommendation has been made that the court order the child be placed out of his or her home," which is consistent with language used for appointing a guardian ad litem for the child under s. 48.235(1)(e).

2. The term "proceeding" is too vague and needs to be defined (see page 4, line 3). It is suggested that representation end once the CHIPS dispositional order terminates or the case is dismissed.

3. If WLC 0022/2 (relating to standards for parental participation) passes, this bill will need to allow for waiver of counsel as provided under WLC 0022/2.

WLC: 0011/3, relating to physical, psychological, mental, or developmental examination and AODA assessment of a parent.

Position: Oppose due to lack of necessity and potential for legal challenges or appeals.

Comments: The Judicial Committee is opposed to the bill because the objective (ordering examinations and assessments before the CHIPS petition is filed) can be accomplished through local practice and training judges and court commissioners. First, many petitioners file the petition at or before the Temporary Physical Custody Hearing. Second, in cases where the petition is not filed at the Temporary Physical Custody Hearing, the order can provide that evaluations and assessments are ordered upon the filing of the petition. Because the CHIPS petition must be filed within 72 hours of the Temporary Physical Custody Hearing, this accomplishes the same objective without new legislation. Further, the bill creates different standards in ss. 48.21(5m) and 48.295(1) for how the assessments may be used as evidence depending upon how they are ordered. These differing standards will likely lead to unnecessary litigation.

WLC: 0012/3, relating to TPR ground of continuing CHIPS.

Position: Support with modifications.

Comments: The Judicial Committee recommends eliminating the fourth element of s. 48.415(2)(a)3. ("…there is a substantial likelihood that the parent will not meet these conditions within the nine-month period following the fact−finding hearing under s. 48.424") as drafted. By removing this element, TPR cases will be filed and resolved in a more timely fashion consistent with the requirements of the federal Adoption and Safe Families Act (ASFA). There will be less discovery and litigation since the finder of fact will not be

required to predict parental compliance for a period after the TPR trial as part of establishing TPR grounds.

Some reservations were expressed about not increasing the six-month time period that the child has been outside the home pursuant to a court order. Therefore, to alleviate these concerns, it is critical to provide safeguards for parents by affording them legal representation in the underlying CHIPS case beginning at the child's removal and continuing throughout the case, as well as giving oral TPR warnings at the Temporary Physical Custody Hearing.

Proposed modifications:

1. Require oral TPR warnings at the Temporary Physical Custody Hearing, in addition to the warnings currently required under s. 48.356. It should be clear that written TPR warnings would not be required at the Temporary Physical Custody Hearing and failure to provide the oral TPR warnings would not preclude the filing of a TPR petition.

WLC: 0013/3, relating to when no reasonable efforts are required.

Position: Support only with modifications.

Comments: The Judicial Committee supports the attempt to increase the appropriate use of the "reasonable efforts not required" determination as a way to expedite permanence, provided that judicial discretion is maintained and it is consistent with existing federal law. While the current bill draft provides for judicial discretion based on the best interests of the child, there are concerns that the current bill draft is inconsistent with federal law and regulations, thus jeopardizing Title IV-E federal funding. Under the Adoption and Safe Families Act (ASFA), the court may make a "determination" that reasonable efforts are not required. It does not require the court to issue an order prohibiting the agency from making reasonable efforts.

Proposed modifications:

1. See Attachment A for proposed language.

2. Consider additional language that clarifies that if a court official makes a determination as to whether reasonable efforts would be in the child's best interests, a court official at a subsequent hearing has the discretion to make a different determination based on the current facts of the case.

WLC: 0021/2, relating to post-termination agreement.

Position: The Judicial Committee is split between support with modifications and support only with modifications.

Comments: The Judicial Committee is split in its position, with half of the Judicial Committee only supporting the bill if the proposed modifications listed below are adopted by the Special Committee. The other Judicial Committee members would support the bill regardless of whether the proposed modifications are made, but believe the modifications would improve the implementation of the bill.

Parents are more likely to voluntarily terminate their parental rights if they know they have an enforceable agreement for certain contact after TPR when appropriate. Voluntary TPR cases typically require less time and resources than involuntary TPR proceedings, which allows permanency to be achieved more timely. However, the provisions that authorize the agency to enter into an agreement when the adoptive parent has not been identified are impracticable and difficult to implement. In addition, requiring the adoptive parents who are later identified to be bound by the terms that the agency agreed to may hinder recruiting and securing the most appropriate adoptive home for the child, thereby delaying permanency.

Also, a concern was raised regarding the financial burden for families associated with the requirement for mediation or other appropriate dispute resolution prior to filing a petition for termination or modification of the post-termination agreement.

Proposed modifications:

1. Remove the provisions that allow an agency to enter into an agreement when a proposed adoptive parent has not been identified. Post-termination contact agreements would only be allowed if there was a guardian or a proposed adoptive parent.

2. "Birth parent" should be changed to "legal parent" or a similar term that would include adoptive parents who are subject to a TPR case. In addition, "birth relative" should be changed to "legal relative" or "relative."

3. If the child is placed with his/her guardian, allow the child's guardian to propose and enter into a post-termination contact agreement.

WLC: 0022/2, relating to standards for parental participation.

Position: Support with modifications.

Comments: The Judicial Committee believes that this bill will reduce continuances and delay in CHIPS and TPR cases, thus resolving the case more quickly. By permitting the court to discharge the attorney when a parent repeatedly fails to appear, the court and attorneys involved in the case can devote time and resources to other cases.

Proposed modifications:

1. Remove "or discharge" from page 2, line 13, as s. 48.23(2)(c) does not specifically address discharge.

2. Add a new paragraph under s. 48.23(2) that would read, "Upon a waiver under s. 48.23(2)(c)2., the court may discharge the parent's attorney."

3. On page 3, line 7: Add "to vacate a default judgment or" before "for reconsideration of" and remove "under s. 806.02."

WLC: 0026/1, relating to eliminating right to jury trial in CHIPS and TPR.

Position: Support eliminating jury trials in CHIPS cases, but no consensus on eliminating jury trials in TPR cases.

Comments: While eliminating jury trials in TPR cases may expedite the process and lead to achieving timely permanence in some cases, two concerns were raised: (1) the right to a jury trial can be used as a negotiating tool, which leads to faster case resolution and (2) there are philosophical objections to eliminating jury trials based on the severity of the consequences and the fundamental rights at stake.

The Judicial Committee supports eliminating jury trials in CHIPS cases as the constitutional concerns are not the same as TPR cases. Therefore, the benefits gained from a more timely resolution would outweigh due process protections provided by the jury in CHIPS cases.

WLC: 0027/2, relating to adoption home investigations and confidentiality of change in placement and adoptive parent information.

Position: Support with modifications.

Comments: The Judicial Committee is in agreement with the provisions related to adoption investigations and disclosure of last known address of adoptive parent for sibling placement as it eliminates delay in reaching adoption and promotes finding permanent homes for children placed in out-of-home care.

As it pertains to the provisions related to disclosing the name and address of the child's placement, it is important to prevent the disclosure of this information in appropriate cases to prevent placement disruption and harm to the child and placement provider. The proposed modifications below would make the procedures for non-disclosure uniform at different stages of the case and less burdensome.

Proposed modifications:

1. Remove "permanent placement" and "proposed adoptive placement" from the bill. The best interest standard should apply to all out-of-home placements.

2. Use the "best interest" standard throughout the statute when determining when to disclose the name and address of the child's placement (change "imminent danger" to "best interest").

3. Incorporate the provisions in the bill related to disclosing the name and address of the placement and the changes listed above to Chapter 938.

WLC: 0028/1, relating to TPR participation by alleged father.

Position: Support only with modifications.

Comments: The Judicial Committee agrees in concept to removing the right for certain alleged fathers to participate in the TPR proceeding in order to prevent delays in the case.

However, there are constitutional concerns associated with cases where the alleged father lacked the opportunity to establish paternity or meet one of the criteria specified in the bill. For example, the father did not have the opportunity to establish paternity or file a Declaration of Paternal Interest because the existence of the pregnancy or birth was not disclosed to the alleged father. While there is consensus on adding language to the bill that addresses these situations, some of the Judicial Committee members preferred proposed modification 2.a. below while other members preferred proposed modification 2.b.

Proposed modifications:

1. In s. 48.42(2)(b)3., change "lived in a familial relationship" to "established and maintained a familial relationship" to clarify that the father did not have to live in the same residence with the child.

2. Add one of the following statements to the end of s. 48.423(1) in the bill:
   a. "…or establishes that he has been deprived of the opportunity to assume parental responsibility for the child."

   b. "…or establishes that he had good cause for having failed to exercise parental responsibility for the child."

WLC: 0030/2, relating to CHIPS jurisdiction over a child born with alcohol or controlled substances.

Position: Oppose as drafted.

Comments: The Judicial Committee supports the concept of creating a CHIPS ground for a child born with a specific level of alcohol or controlled substance in the child's system, but the standard of "detectable amounts" in the current draft is constitutionally problematic and would cover situations where government intervention is not warranted. The requisite level of alcohol or controlled substance needs to be medically based and connected to child safety. The Judicial Committee would recommend consulting with the appropriate medical authorities to determine the level that should be used for the CHIPS ground.

WLC: 0031/2, relating to expedited appellate procedures for ch. 48 cases.

Position: Support with modifications.

Comments: The Judicial Committee supports expediting CHIPS appeals, as this is consistent with promoting permanency for children. Based on the small number of CHIPS appeals filed over the last few years (see the *Appellate Filings for Child in Need of Protection or Services (CHIPS) and Termination of Parental Rights (TPR) Cases* memorandum), the bill would not result in a significant workload increase.

This bill draft has been reviewed by the Chief Judge and Chief Staff Attorney for the Court of Appeals. It is the Judicial Committee's understanding that they support the bill in general, but would appreciate the opportunity to review the final draft before formally taking a position.

Proposed modifications:

1. Once the appellate process for adoption cases is placed under the expedited procedure in Rule 809.107, it will no longer be necessary to have a separate statutory provision affording adoption cases a preference. Accordingly, s. 48.915 should be removed. The expedited procedure will make the appeal process as short as possible, and inclusion of adoptions in the expedited process gives the Court of Appeals the legislative directive that adoption appeals should move along quickly.

2. There is no need for reconsideration of an appeal issued under ss. 809.105 or 809.107. Therefore, retain current law under s. 809.24(4) by removing the proposed language on page 7, lines 3-4 of the bill draft. If the Special Committee chooses to retain reconsideration for some cases appealed under Rule 809.107, then a change may be necessary to Rule 809.107(6)(f) excepting out those same cases. This change would be necessitated because the time to file a petition for review runs from the Court of Appeals' decision on the motion for reconsideration.

WLC: 0040/1, relating to recognizing tribal customary adoption and suspension of parental rights.

Position: Neutral.

Comments: While the Judicial Committee believes that a suspension of parental rights from a tribal court or an adoption under tribal law would be recognized pursuant to the full faith and credit provisions of the Indian Child Welfare Act and s. 48.028(3)(f), the Judicial Committee does not object to clarifying this through the proposed legislation. If the current bill draft moves forward, the same modifications should be made to the corresponding statutes in Chapter 938.

WLC: 0041/1, relating to who may file an adoption petition.

Position: Support as drafted.

Comments: The Judicial Committee is in support of permitting an adoption petition to be filed in the county where the TPR petition was filed. When an adoption petition is filed in the county where the TPR occurred, the court will be more familiar with the case and it is easier for the court conducting Permanency Hearings in the TPR case to monitor the timeliness of the adoption.

WLC: 0055/1, relating to revising certain TPR grounds.

Position: Support as drafted.

Comments: The Judicial Committee supports this bill as it will result in more timely permanence for children. TPR cases alleging the involuntary TPR ground of ss. 48.415(5), (8), (9), or (9m) can be initiated and concluded more quickly since other evidence can be used in the place of a judgment of conviction. Using other evidence in the context of not requiring notice to a father of a child conceived as a result of a sexual assault will reduce delays in applicable CHIPS and TPR cases. The new time period proposed for the TPR ground of

continuing parental disability will allow TPR petitions under this ground to be filed sooner and is consistent with the TPR timeframe in the federal Adoption and Safe Families Act (ASFA).

WLC: 0063/1, relating to locating relatives.

Position: Support with modifications.

Comments: The Judicial Committee supports the proposition of requiring the agency to make efforts to locate relatives throughout the CHIPS case as placement with an appropriate relative leads to permanence and ongoing family connections. The Judicial Committee proposes going a step further by requiring an ongoing search regardless of whether the child is placed with a relative because there are cases where the placement will need to be changed later in the case for a variety of reasons. In addition, there will be less confusion and greater compliance if the new provisions under the bill are consolidated with existing relative notice requirements and the same changes are made to Chapter 938.

Proposed modifications:

1. Remove "if the child is not placed with a relative" from the language in the bill. Require the agency to continue searching for and contacting relatives for children in out-of-home care regardless of whether the child is placed with a relative.

2. Consolidate the new provisions under this bill with existing relative notice requirements so that there is only one set of procedures for locating and contacting relatives, while maintaining the minimum requirements established by the federal Fostering Connections to Success and Increasing Adoptions Act (codified in 2009 Wisconsin Act 79).

3. Incorporate the new relative search requirements into Chapter 938 (the changes made in Chapter 48 should also be made to Chapter 938). The policy reasons for the legislation apply to both chapters.

Legislation Effective Date

The Judicial Committee strongly recommends a deferred effective date for all of the bills proposed by the Special Committee for a minimum of six months after enactment. First, delaying the effective date will result in a more efficient and consistent implementation of the legislation. It will allow time for the court system and other agencies to provide training and to modify applicable policies, procedures, and forms. Second, it is important to have the same effective date to prevent confusion, duplicative efforts, and the need for multiple trainings.

Attachment A: Proposed Language for Bill Draft WLC 0013

SECTION 1. 48.21 (5) (b) 3. of the statutes is amended to read:

48.21 (5) (b) 3. If the judge or circuit court commissioner finds that any of the circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent, the order shall include a determination that the county department, department, in a county having a population of 500,000 or more, or agency primarily responsible for providing services under the custody order is not required to make reasonable efforts with respect to the parent to make it possible for the child to return safely to his or her home, unless the court determines or has determined under a prior order that such efforts would be in the best interests of the child.

SECTION 2. 48.32 (1) (b) 2. of the statutes is amended to read:

48.32 (1) (b) 2. If the judge or circuit court commissioner finds that any of the circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent, the consent decree shall include a determination that the county department, department, in a county having a population of 500,000 or more, or agency primarily responsible for providing services under the consent decree is not required to make reasonable efforts with respect to the parent to make it possible for the child to return safely to his or her home, unless the court determines or has determined under a prior order that such efforts would be in the best interests of the child.

SECTION 3. 48.355 (2) (b) 6r. of the statutes is amended to read:

48.355 (2) (b) 6r. If the court finds that any of the circumstances specified in sub. (2d) (b) 1. to 5. applies with respect to a parent, the order shall include a determination that the county department, department, in a county having a population of 500,000 or more, or agency primarily responsible for providing services under the court order is not required to make reasonable efforts with respect to the parent to make it possible for the child to return safely to his or her home, unless the court determines or has determined under a prior order that such efforts would be in the best interests of the child.

SECTION 4. 48.355 (2d) (b) (intro.) of the statutes is amended to read:

48.355 (2d) (b) (intro.) Notwithstanding sub. (2) (b) 6., the court is ~~not~~ required to include in a dispositional order a determination that ~~finding as to whether~~ the county department, the department, in a county having a population of 500,000 or more, or the agency primarily responsible for providing services under a court order is not required to make ~~has made~~ reasonable efforts with respect to a parent of a child to prevent the removal of the child from the home~~, while assuring that the child's health and safety are the paramount concerns,~~ or ~~a finding as to whether the county department, department, or agency has made~~ reasonable efforts with respect to a parent of a child to achieve the permanency goal of returning the child safely to his or her home, unless the court determines or has determined under a prior order that such efforts would be in the best interests of the child, if the court finds any of the following:

SECTION 5. 48.355 (2d) (c) of the statutes is renumbered 48.355 (2d) (c) (intro.) and amended to read:

48.355 (2d) (c) If the court finds that any of the circumstances specified in par. (b) 1. to 5. applies with respect to a parent, the court shall ~~hold~~ do all of the following:

2. Hold a hearing under s. 48.38 (4m) within 30 days after the date of that finding to determine the permanency goal and, if applicable, any concurrent permanency goals for the child.

SECTION 6. 48.355 (2d) (c) 1. of the statutes is created to read:

48.355 (2d) (c) 1. Include in the order a determination that the person or agency primarily responsible for providing services to the child is not required to make reasonable efforts with respect to the parent to make it possible for the child to return safely to his or her home, unless the court determines that such efforts would be in the best interests of the child.

SECTION 7. 48.357 (2v) (a) 3. of the statutes is amended to read:

48.357 (2v) (a) 3. If the court finds that any of the circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent, the order shall include a determination that the agency primarily responsible for providing services under the change in placement order is not required to make reasonable efforts with respect to the parent to make it possible for

the child to return safely to his or her home, unless the court determines or has determined under a prior order that such efforts would be in the best interests of the child.

SECTION 8. 48.365 (2m) (a) 2. of the statutes is amended to read:

48.365 (2m) (a) 2. If the judge finds that any of the circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent, the order shall include a determination that the person or agency primarily responsible for providing services to the child is not required to make reasonable efforts with respect to the parent to make it possible for the child to return safely to his or her home, unless the court determines or has determined under a prior order that such efforts would be in the best interests of the child.

SECTION 9. 48.415 (2) (a) 2. b. of the statutes is amended to read:

48.415 (2) (a) 2. b. That the agency responsible for the care of the child and the family or of the unborn child and expectant mother has made a reasonable effort to provide the services ordered by the court, excluding any period during which the responsible agency was not required under s. 48.355 (2) (b) 6r., 48.357 (2v) (a) 3., 938.355 (2) (b) 6r., or 938.357 (2v) (a) 3. to make reasonable efforts with respect to a parent to make it possible for the child to return safely to his or her home.

SECTION 10. 938.21 (5) (b) 3. of the statutes is amended to read:

938.21 (5) (b) 3. If the court finds that any of the circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent, the order shall include a determination that the county department or agency primarily responsible for providing services under the custody order is not required to make reasonable efforts with respect to the parent to make it possible for the juvenile to return safely to his or her home, unless the court determines or has determined under a prior order that such efforts would be in the best interests of the juvenile.

SECTION 11. 938.32 (1) (c) 2. of the statutes is amended to read:

938.32 (1) (c) 2. If the court finds that any of the circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent, the consent decree shall include a determination that the county department or agency primarily responsible for providing services under the consent decree is not required to make reasonable efforts with respect to the parent to make it possible for the juvenile to return safely to his or her home, unless the

court determines or has determined under a prior order that such efforts would be in the best interests of the juvenile.

SECTION 12. 938.355 (2) (b) 6r. and (2d) (b) (intro.) of the statutes are amended to read:

938.355 (2) (b) 6r. If the court finds that any of the circumstances under sub. (2d) (b) 1. to 4. applies with respect to a parent, the order shall include a determination that the county department or agency primarily responsible for providing services under the court order is not required to make reasonable efforts with respect to the parent to make it possible for the juvenile to return safely to his or her home unless the court determines or has determined under a prior order that such efforts would be in the best interests of the juvenile.

(2d) (b) (intro.) Notwithstanding sub. (2) (b) 6., the court is ~~not~~ required to include in a dispositional order a ~~finding as to whether~~ determination that the county department or the agency primarily responsible for providing services under a court order is not required to make ~~has made~~ reasonable efforts with respect to a parent of a juvenile to prevent the removal of the juvenile from the home~~, while assuring that the juvenile's health and safety are the paramount concerns,~~ or~~, if applicable, a finding as to whether the county department or agency has made~~ reasonable efforts with respect to a parent of a juvenile to achieve the permanency goal of returning the juvenile safely to his or her home, unless the court determines or has determined under a prior order that such efforts would be in the best interests of the juvenile, if the court finds any of the following:

SECTION 13. 938.355 (2d) (c) of the statutes is renumbered 938.355 (2d) (c) (intro.) and amended to read:

938.355 (2d) (c) (intro.) If the court finds that any of the circumstances under par. (b) 1. to 4. applies with respect to a parent, the court shall ~~hold a hearing under s. 938.38 (4m) within 30 days after the date of that finding to determine the permanency goal and, if applicable, any concurrent permanency goals for the juvenile.~~ do all of the following:

SECTION 14. 938.355 (2d) (c) 1. and 2. of the statutes are created to read:

938.355 (2d) (c) 1. Include in the order a determination that the person or agency primarily responsible for providing services to the juvenile is not required to make reasonable efforts with respect to the parent to make it possible for the juvenile to return

safely to his or her home, unless the court determines that such efforts would be in the best interests of the juvenile.

2. Hold a hearing under s. 938.38 (4m) within 30 days after the date of that finding to determine the permanency goal and, if applicable, any concurrent permanency goals for the juvenile.

SECTION 15. 938.357 (2v) (a) 3. of the statutes is amended to read:

938.357 (2v) (a) 3. If the court finds that any of the circumstances under s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent, the order shall include a determination that the agency primarily responsible for providing services under the change in placement order is not required to make reasonable efforts with respect to the parent to make it possible for the juvenile to return safely to his or her home, unless the court determines or has determined under a prior order that such efforts would be in the best interests of the juvenile.

SECTION 16. 938.365 (2m) (a) 2. of the statutes is amended to read:

938.365 (2m) (a) 2. If the court finds that any of the circumstances under s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent, the order shall include a determination that the person or agency primarily responsible for providing services to the juvenile is not required to make reasonable efforts with respect to the parent to make it possible for the juvenile to return safely to his or her home, unless the court determines or has determined under a prior order that such efforts would be in the best interests of the juvenile.