

AS:ksm;

01/04/2013

1 **AN ACT** *to amend* 48.21 (5) (e) 2. (intro.), 48.355 (2) (cm) 1., 48.357 (2v) (d) 1. and
2 48.78 (2) (i); and *to create* 48.355 (2) (cs), 48.357 (2z) and 48.38 (2) (k) of the
3 statutes; **relating to:** requirements to locate relatives of a child placed outside of his
4 or her home and disclosure of social services records.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill draft was prepared for the Joint Legislative Council's Special Committee on Permanency for Young Children in the Child Welfare System.

Current Law

Under current law, when a child is placed outside of his or her home by the juvenile court at a temporary custody hearing, at a child in need of protection or services (CHIPS) disposition, or at a CHIPS change in placement, the parent, if present at the hearing, is requested to provide the names and other identifying information of 3 relatives of the child or other adult individuals whose homes the parent requests the court to consider as placement for the child. The juvenile court must order the county department, the department of children and families (DCF) (in a county having a population of 500,000 or more), or the agency primarily responsible for providing services to the child under the court order to conduct a diligent search to locate all of the relatives listed by the parent and all adult relatives of the child within 30 days after the child is removed from the custody of his or her parent unless the child is returned home in that period. For purposes of this search, "adult relative" is defined as a grandparent, great-grandparent, aunt, uncle, brother, sister, half brother, or half sister of a child, whether by blood, marriage, or legal adoption who has attained the age of 18.

The court may also order the county department, DCF, or the agency to conduct a diligent search in order to locate all other adult individuals named by the parent as possible placements. The county department, DCF, or the agency must provide notice of the following information to relatives or adult individuals it locates:

- A statement that the child has been removed from the custody of the child's parent.

- A statement that explains the options that the person has under state or federal law to participate in the care and placement of the child, including any options that may be lost by failing to respond to the notice.
- A description of the requirements to obtain a foster care license or to receive kinship care payments and of the additional services and supports that are available to children placed in a foster home or in the home of a person receiving those payments.
- A statement advising the person that he or she may incur additional expenses if the child is placed in his or her home and that reimbursement for some of those expenses may be available.
- The name and contact information of the agency that removed the child from the custody of the child's parent.

A county department, DCF, or an agency may not provide the above notice to a person listed by a parent or to an adult relative if the county department, DCF, or agency has reason to believe that it would be dangerous to the child or to the parent of the child if the child were placed with that person or adult relative.

Current law provides an exception to the general rule that social service records relating to CHIPS proceedings are confidential in order to permit providing notice to adult relatives and other individuals as provided in current law. In addition, under current law, an agency may disclose information to a relative of a child placed outside of his or her home only to the extent necessary to facilitate the establishment of a relationship between the child and the relative or a placement of the child with the relative. For this purpose, "relative" means a parent, stepparent, brother, sister, stepbrother, stepsister, half brother, half sister, brother-in-law, sister-in-law, first cousin, 2nd cousin, nephew, niece, uncle, aunt, stepuncle, stepaunt, or any person of a preceding generation as denoted by the prefix of grand, great, or great-great, whether by blood, marriage, or legal adoption, or the spouse of any person named in this definition, even if the marriage is terminated by death or divorce.

Bill Draft

The draft provides that a court may order a county department, DCF, or an agency to disclose information, in addition to what is included in the notice to adult relatives and other persons named by a parent, to a relative of the child only to the extent necessary to facilitate the establishment of a relationship between the child and the relative or a placement of the child with the relative.

The draft requires the court, in a CHIPS dispositional order or a change in placement order placing a child outside of his or her home, but not

with a relative, to order the county department, DCF, or the agency primarily responsible for providing services to the child to conduct a diligent search in order to locate and provide information to relatives of the child and any domestic partners of a parent of the child in order to facilitate the establishment of relationships between the child and relatives of the child or domestic partners of the child's parent or to facilitate placement of the child with such a relative or domestic partner.

Under the draft, the permanency plan of a child who is not placed with a relative must include a description of efforts made to contact relatives of the child and any domestic partner of a parent of the child in order to facilitate the establishment of a relationship between the child and relatives or domestic partners or a placement of the child with a relative or domestic partner. If no efforts have been made, the permanency plan must include documentation of the reasons for not making those efforts.

The draft creates exceptions to the requirement that social service records relating to CHIPS proceedings are confidential in order to permit the disclosure of information to relatives and domestic partners as provided in the draft.

1 **SECTION 1.** 48.21 (5) (e) 2. (intro.) of the statutes is amended to read:

2 48.21 **(5)** (e) 2. (intro.) The court shall order the county department, the department in
3 a county having a population of 500,000 or more, or the agency primarily responsible for
4 providing services to the child under the custody order to conduct a diligent search in order
5 to locate and provide notice of the information specified in this subdivision to all relatives of
6 the child named under sub. (3) (f) and to all adult relatives of the child within 30 days after
7 the child is removed from the custody of the child's parent unless the child is returned to his
8 or her home within that period. The county department, department, or agency may disclose
9 information, in addition to the information in subd. pars. a. to e., to a relative of the child only
10 to the extent necessary to facilitate the establishment of a relationship between the child and
11 the relative or a placement of the child with the relative. The court may also order the county
12 department, department, or agency to conduct a diligent search in order to locate and provide
13 notice of the information specified in this subdivision to all other adult individuals named

1 under sub. (3) (f) within 30 days after the child is removed from the custody of the child's
2 parent unless the child is returned to his or her home within that period. The county
3 department, department, or agency may not provide that notice to a person named under sub.
4 (3) (f) or to an adult relative if the county department, department, or agency has reason to
5 believe that it would be dangerous to the child or to the parent if the child were placed with
6 that person or adult relative. The notice shall include all of the following:

NOTE: This SECTION provides that, if the court orders a child to be held in custody at a temporary custody hearing, the county department, DCF, or an agency may disclose information to a relative of the child only to the extent necessary to facilitate the establishment of a relationship between the child and the relative or a placement with the relative.

7 **SECTION 2.** 48.355 (2) (cm) 1. of the statutes is amended to read:

8 48.355 (2) (cm) 1. Subject to subd. 2., the court shall order the county department, the
9 department in a county having a population of 500,000 or more, or the agency primarily
10 responsible for providing services to the child under the dispositional order to conduct a
11 diligent search in order to locate and provide notice of the information specified in s. 48.21
12 (5) (e) 2. a. to e. to all relatives of the child named under s. 48.335 (6) and to all adult relatives,
13 as defined in s. 48.21 (5) (e) 1., of the child within 30 days after the child is removed from the
14 custody of the child's parent unless the child is returned to his or her home within that period.
15 The county department, department, or agency may disclose information, in addition to the
16 information in s. 48.21 (5) (e) 2. a. to e., to a relative of a child placed outside of his or her home
17 only to the extent necessary to facilitate the establishment of a relationship between the child
18 and the relative or a placement of the child with the relative. The court may also order the
19 county department, department, or agency to conduct a diligent search in order to locate and
20 provide notice of that information to all other adult individuals named under s. 48.335 (6)
21 within 30 days after the child is removed from the custody of the child's parent unless the child

1 is returned to his or her home within that period. The county department, department, or
2 agency may not provide that notice to a person named under s. 48.335 (6) or to an adult relative
3 if the county department, department, or agency has reason to believe that it would be
4 dangerous to the child or to the parent if the child were placed with that person or adult relative.

5 **SECTION 3.** 48.355 (2) (cs) of the statutes is created to read:

6 48.355 (2) (cs) If the child is placed outside of his or her home and is not placed with
7 a relative, the court shall order the county department, the department in a county having a
8 population of 500,000 or more, or the agency primarily responsible for providing services to
9 the child under the dispositional order to conduct a diligent search to locate and provide
10 information to relatives of the child and any domestic partners of a parent of the child in order
11 to facilitate the establishment of relationships between the child and relatives of the child or
12 domestic partners of the child's parent or to facilitate placement of the child with such a
13 relative or domestic partner.

NOTE: This SECTION requires a CHIPS dispositional order placing a child outside of his or her home, but not with a relative, to order the county department, DCF, or the agency primarily responsible for providing services to the child to conduct a diligent search to locate and provide information to relatives of the child and any domestic partners of a parent of the child in order to facilitate the establishment of relationships between the child and relatives of the child or domestic partners of the child's parent or to facilitate placement of the child with such a relative or domestic partner.

14 **SECTION 4.** 48.357 (2v) (d) 1. of the statutes is amended to read:

15 48.357 (2v) (d) 1. Subject to subd. 2., the court shall order the county department, the
16 department in a county having a population of 500,000 or more, or the agency primarily
17 responsible for implementing the dispositional order to conduct a diligent search in order to
18 locate and provide notice of the information specified in s. 48.21 (5) (e) 2. a. to e. to all relatives
19 of the child named under sub. (1) (c) 2m. or (2m) (bm) and to all adult relatives, as defined

1 in s. 48.21 (5) (e) 1., of the child within 30 days after the child is removed from the custody
2 of the child's parent unless the child is returned to his or her home within that period. The court
3 may also order the county department, department, or agency to conduct a diligent search in
4 order to locate and provide notice of that information to all other adult individuals named
5 under sub. (1) (c) 2m. or (2m) (bm) within 30 days after the child is removed from the custody
6 of the child's parent unless the child is returned to his or her home within that period. The
7 county department, department, or agency may disclose information, in addition to the
8 information in s. 48.21 (5) (e) 2. a. to e., to a relative of a child placed outside of his or her home
9 only to the extent necessary to facilitate the establishment of a relationship between the child
10 and the relative or a placement of the child with the relative. The county department,
11 department, or agency may not provide that notice to a person named under sub. (1) (c) 2m.
12 or (2m) (bm) or to an adult relative if the county department, department, or agency has reason
13 to believe that it would be dangerous to the child or to the parent if the child were placed with
14 that person or adult relative.

NOTE: This SECTION provides that, if a court orders a child to be placed outside of his or her home at a hearing to change placement, the county department, DCF, or an agency may disclose information to a relative of the child only to the extent necessary to facilitate the establishment of a relationship between the child and the relative or a placement with the relative.

15 **SECTION 5.** 48.357 (2z) of the statutes is created to read:

16 48.357 (2z) If the child is placed outside of his or her home and is not placed with a
17 relative, the court shall order the county department, the department in a county having a
18 population of 500,000 or more, or the agency primarily responsible for providing services to
19 the child under the dispositional order to conduct a diligent search to locate and provide
20 information to relatives of the child and any domestic partners of a parent of the child in order

1 to facilitate the establishment of relationships between the child and relatives of the child or
2 domestic partners of the child's parent or to facilitate placement of the child with such a
3 relative or domestic partner.

NOTE: This SECTION requires an order to change placement that places a child outside of his or her home, but not with a relative, to order the county department, DCF, or the agency primarily responsible for providing services to the child to conduct a diligent search to locate and provide information to relatives of the child and any domestic partners of a parent of the child in order to facilitate the establishment of relationships between the child and relatives of the child or domestic partners of the child's parent or to facilitate placement of the child with such a relative or domestic partner.

4 **SECTION 6.** 48.38 (2) (k) of the statutes is created to read:

5 48.38 (2) (k) If the child is not placed with a relative, a description of efforts made to
6 contact relatives of the child and any domestic partner of a parent of the child in order to
7 facilitate the establishment of a relationship between the child and relatives or domestic
8 partners or a placement of the child with a relative or domestic partner. If no efforts have been
9 made, the permanency plan shall include documentation of the reasons for not making those
10 efforts.

NOTE: This SECTION requires the permanency plan of a child who is not placed with a relative to include a description of efforts made to contact relatives of the child and any domestic partner of a parent of the child in order to facilitate the establishment of a relationship between the child and relatives or domestic partners or a placement of the child with a relative or domestic partner. If no efforts have been made, the permanency plan must include documentation of the reasons for not making those efforts.

11 **SECTION 7.** 48.78 (2) (i) of the statutes is amended to read:

12 48.78 (2) (i) Paragraph (a) does not prohibit an agency from disclosing information to
13 a relative of a child placed outside of his or her home only to the extent necessary to facilitate
14 the establishment of a relationship between the child and the relative or a placement of the

1 child with the relative or from disclosing information under s. 48.21 (5) (e), 48.355 (2) (cm),
2 or (cs), 48.357 (2v) (d) or (2z), or 48.38 (2) (k). In this paragraph, “relative” includes a relative
3 whose relationship is derived through a parent of the child whose parental rights are
4 terminated.

NOTE: This SECTION provides that confidential social services
information may be disclosed as provided in this draft.

5 (END)