

2005 Senate Bill 284

Date of enactment: **March 29, 2006**

Date of publication\*: **April 12, 2006**

## 2005 WISCONSIN ACT 232

AN ACT *to repeal* 48.981 (1) (fm); *to renumber and amend* 48.21 (1) (b), 48.43 (2), 48.981 (3) (a) 2. and 48.981 (3) (c) 1.; *to amend* 48.02 (15), 48.21 (1) (a), 48.371 (1) (intro.), 48.371 (1) (a), 48.371 (1) (b), 48.371 (1) (c), 48.371 (3) (intro.), 48.371 (3) (a), 48.371 (3) (b), 48.371 (3) (c), 48.371 (3) (d), 48.425 (1) (f), 48.425 (1) (g), 48.427 (3m) (a) 1., 48.428 (2) (a), 48.428 (2) (b), 48.43 (5) (c), 48.57 (3m) (a) 2., 48.57 (3n) (a) 2., 48.62 (2), 48.65 (2) (a), 48.75 (1g) (a) 1., 48.92 (2), 48.981 (1) (d), 48.981 (3) (c) 4., 938.02 (15), 938.371 (1) (intro.), 938.371 (1) (a), 938.371 (1) (b), 938.371 (1) (c), 938.371 (3) (intro.), 938.371 (3) (a), 938.371 (3) (b), 938.371 (3) (c) and 938.371 (3) (d); and *to create* 48.21 (1) (b) 1., 48.371 (4), 48.371 (5), 48.427 (3m) (am), 48.43 (2) (a), 48.43 (2) (b), 48.981 (3) (a) 2. a., 48.981 (3) (a) 2. b., 48.981 (3) (a) 2. c., 48.981 (3) (a) 2. d., 48.981 (3) (a) 2d., 938.371 (4) and 938.371 (5) of the statutes; **relating to:** the investigation of child abuse reports in which a person who is not a caregiver of the child is suspected of the abuse of the child; defining the persons who are considered to be relatives of a child or juvenile for purposes of the Children's Code and the Juvenile Justice Code; extending the time for which a child may be held in custody when additional time is required to determine whether the filing of a petition initiating proceedings under the Children's Code is necessary; the provision of certain information to a relative of a child when the child is placed in the home of the relative; the status of a child's relatives following a termination of parental rights; and the transfer of guardianship and custody of a child to a county department of human services or social services in a county other than Milwaukee County for the placement of a child for adoption in the home of the child's foster or treatment foster parents.

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

**SECTION 1.** 48.02 (15) of the statutes is amended to read:

48.02 (15) "Relative" means a parent, ~~grandparent,~~ ~~greatgrandparent,~~ stepparent, brother, sister, stepbrother, stepsister, half brother, half sister, brother-in-law, sister-in-law, first cousin, 2nd cousin, nephew, niece, uncle, ~~or~~ aunt. ~~This relationship shall be, 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 subsection, even if the marriage is terminated by death or divorce.

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

48.21 (1) (a) If a child who has been taken into custody is not released under s. 48.20, a hearing to determine whether the child shall continue to be held in custody under the criteria of ss. 48.205 to 48.209 shall be conducted by the judge or a circuit court commissioner within 48 hours of the time the decision to hold the child was made, excluding Saturdays, Sundays, and legal holidays. By the time of the hearing a petition under s. 48.25 shall be filed, except that no petition need be filed ~~where~~

\* Section 991.11, WISCONSIN STATUTES 2003-04 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

a when the child is taken into custody under s. 48.19 (1) (b) or (d) 2. or 7. or ~~where~~ when the child is a runaway from another state, in which case a written statement of the reasons for holding ~~a~~ the child in custody shall be substituted if the petition is not filed. If no hearing has been held within 48 hours, excluding Saturdays, Sundays, and legal holidays, or if no petition or statement has been filed at the time of the hearing, the child shall be released except as provided in ~~par. (b) pars. (b) and (bm)~~. A parent not present at the hearing shall be granted a rehearing upon request for good cause shown.

**SECTION 3.** 48.21 (1) (b) of the statutes is renumbered 48.21 (1) (b) (intro.) and amended to read:

48.21 (1) (b) (intro.) If no petition has been filed by the time of the hearing, a child may be held in custody with approval of the judge or circuit court commissioner for an additional 72 hours from the time of the hearing, excluding Saturdays, Sundays, and legal holidays, only if, as a result of the facts brought forth at the hearing, the judge or circuit court commissioner determines that probable cause exists to believe that any of the following:

2. That the child is an imminent danger to himself or herself or to others, ~~that~~.

3. That probable cause exists to believe that the parent, guardian, or legal custodian of the child or other responsible adult is neglecting, refusing, unable, or unavailable to provide adequate supervision and care ~~or,~~

4. That, if the child is an expectant mother who was taken into custody under s. 48.19 (1) (cm) or (d) 8., ~~that~~ probable cause exists to believe that there is a substantial risk that if the child expectant mother is not held, the physical health of the unborn child, and of the child when born, will be seriously affected or endangered by the child expectant mother's habitual lack of self-control in the use of alcohol beverages, controlled substances, or controlled substance analogs, exhibited to a severe degree, and to believe that the child expectant mother is refusing or has refused to accept any alcohol or other drug abuse services offered to her or is not making or has not made a good faith effort to participate in any alcohol or other drug abuse services offered to her. ~~The~~

~~(bm)~~ An extension under par. (b) may be granted only once for any petition. In the event of failure to file a petition within the extension period provided for in ~~this paragraph par. (b)~~, the judge or circuit court commissioner shall order the child's immediate release from custody.

**SECTION 4.** 48.21 (1) (b) 1. of the statutes is created to read:

48.21 (1) (b) 1. That additional time is required to determine whether the filing of a petition initiating proceedings under this chapter is necessary.

**SECTION 5.** 48.371 (1) (intro.) of the statutes is amended to read:

48.371 (1) (intro.) If a child is placed in a foster home, treatment foster home, group home, or residential care center for children and youth or in the home of a relative

other than a parent, including a placement under s. 48.205 or 48.21, the agency, as defined in s. 48.38 (1) (a), that placed the child or arranged for the placement of the child shall provide the following information to the foster parent, treatment foster parent, relative, or operator of the group home or residential care center for children and youth at the time of placement or, if the information has not been provided to the agency by that time, as soon as possible after the date on which the agency receives that information, but not more than 2 working days after that date:

**SECTION 6.** 48.371 (1) (a) of the statutes is amended to read:

48.371 (1) (a) Results of a test or a series of tests of the child to determine the presence of HIV, as defined in s. 968.38 (1) (b), antigen or nonantigenic products of HIV, or an antibody to HIV, as provided under s. 252.15 (5) (a) 19., including results included in a court report or permanency plan. At the time that the test results are provided, the agency shall notify the foster parent, treatment foster parent, relative, or operator of the group home or residential care center for children and youth of the confidentiality requirements under s. 252.15 (6).

**SECTION 7.** 48.371 (1) (b) of the statutes is amended to read:

48.371 (1) (b) Results of any tests of the child to determine the presence of viral hepatitis, type B, including results included in a court report or permanency plan. ~~The foster parent, treatment foster parent, or operator of a group home or residential care center for children and youth receiving information under this paragraph shall keep the information confidential.~~

**SECTION 8.** 48.371 (1) (c) of the statutes is amended to read:

48.371 (1) (c) Any other medical information concerning the child that is necessary for the care of the child. ~~The foster parent, treatment foster parent, or operator of a group home or residential care center for children and youth receiving information under this paragraph shall keep the information confidential.~~

**SECTION 9.** 48.371 (3) (intro.) of the statutes is amended to read:

48.371 (3) (intro.) At the time of placement of a child in a foster home, treatment foster home, group home, or residential care center for children and youth or in the home of a relative other than a parent or, if the information is not available at that time, as soon as possible after the date on which the court report or permanency plan has been submitted, but no later than 7 days after that date, the agency, as defined in s. 48.38 (1) (a), responsible for preparing the child's permanency plan shall provide to the foster parent, treatment foster parent, relative, or operator of the group home or residential care center for children and youth information contained in the court report submitted under s. 48.33 (1), 48.365 (2g), 48.425 (1), 48.831 (2) or 48.837 (4) (c) or permanency plan submitted under

s. 48.355 (2e), 48.38, 48.43 (1) (c) or (5) (c), 48.63 (4) or (5) (c) or 48.831 (4) (e) relating to findings or opinions of the court or agency that prepared the court report or permanency plan relating to any of the following:

**SECTION 10.** 48.371 (3) (a) of the statutes is amended to read:

48.371 (3) (a) Any mental, emotional, cognitive, developmental, or behavioral disability of the child. ~~The foster parent, treatment foster parent, or operator of a group home or residential care center for children and youth receiving information under this subsection shall keep the information confidential.~~

**SECTION 11.** 48.371 (3) (b) of the statutes is amended to read:

48.371 (3) (b) Any involvement of the child in any criminal gang, as defined in s. 939.22 (9), or in any other group in which any child was traumatized as a result of his or her association with that group. ~~The foster parent, treatment foster parent, or operator of a group home or residential care center for children and youth receiving information under this paragraph shall keep the information confidential.~~

**SECTION 12.** 48.371 (3) (c) of the statutes is amended to read:

48.371 (3) (c) Any involvement of the child in any activities that are harmful to the child's physical, mental, or moral well-being. ~~The foster parent, treatment foster parent, or operator of a group home or residential care center for children and youth receiving information under this paragraph shall keep the information confidential.~~

**SECTION 13.** 48.371 (3) (d) of the statutes is amended to read:

48.371 (3) (d) Any involvement of the child, whether as victim or perpetrator, in sexual intercourse or sexual contact in violation of s. 940.225, 948.02, or 948.025, prostitution in violation of s. 944.30, sexual exploitation of a child in violation of s. 948.05, or causing a child to view or listen to sexual activity in violation of s. 948.055, if the information is necessary for the care of the child or for the protection of any person living in the foster home, treatment foster home, group home, or residential care center for children and youth. ~~The foster parent, treatment foster parent, or operator of a group home or residential care center for children and youth receiving information under this paragraph shall keep the information confidential.~~

**SECTION 14.** 48.371 (4) of the statutes is created to read:

48.371 (4) Subsection (1) does not preclude an agency, as defined in s. 48.38 (1) (a), that is arranging for the placement of a child from providing the information specified in sub. (1) (a) to (c) to a person specified in sub. (1) (intro.) before the time of placement of the child. Subsection (3) does not preclude an agency, as defined in s. 48.38 (1) (a), responsible for preparing a child's court

report or permanency plan from providing the information specified in sub. (3) (a) to (e) to a person specified in sub. (3) (intro.) before the time of placement of the child.

**SECTION 15.** 48.371 (5) of the statutes is created to read:

48.371 (5) Except as permitted under s. 252.15 (6), a foster parent, treatment foster parent, relative, or operator of a group home or residential care center for children and youth that receives any information under sub. (1) or (3), other than the information described in sub. (3) (e), shall keep the information confidential and may disclose that information only for the purposes of providing care for the child or participating in a court hearing or permanency plan review concerning the child.

**SECTION 16.** 48.425 (1) (f) of the statutes is amended to read:

48.425 (1) (f) If the report recommends that the parental rights of both of the child's parents or the child's only living or known parent are to be terminated, the report shall contain a statement of the likelihood that the child will be adopted. This statement shall be prepared by an agency designated in s. 48.427 (3m) (a) 1. to 4. or (am) and include a presentation of the factors ~~which that~~ might prevent adoption, those ~~which that~~ would facilitate it adoption, and the agency ~~which that~~ would be responsible for accomplishing the adoption.

**SECTION 17.** 48.425 (1) (g) of the statutes, as affected by 2005 Wisconsin Act 25, is amended to read:

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

**SECTION 18.** 48.427 (3m) (a) 1. of the statutes is amended to read:

48.427 (3m) (a) 1. A county department authorized to accept guardianship under s. 48.57 (1) (e) ~~or (hm)~~.

**SECTION 19.** 48.427 (3m) (am) of the statutes is created to read:

48.427 (3m) (am) Transfer guardianship and custody of the child to a county department authorized to accept guardianship under s. 48.57 (1) (hm) for placement of the child for adoption by the child's foster parent or treatment foster parent, if the county department has agreed to accept guardianship and custody of the child and the foster parent or treatment foster parent has agreed to adopt the child.

**SECTION 20.** 48.428 (2) (a) of the statutes is amended to read:

48.428 (2) (a) Except as provided in par. (b), when a court places a child in sustaining care after an order under s. 48.427 (4), the court shall transfer legal custody of the child to the county department, the department, in a county having a population of 500,000 or more, or a licensed child welfare agency, transfer guardianship of the child to an agency listed in s. 48.427 (3m) (a) 1. to 4. or (am) and place the child in the home of a licensed foster parent, licensed treatment foster parent, or kinship care relative with whom the child has resided for 6 months or longer. Pursuant to such a placement, this licensed foster parent, licensed treatment foster parent, or kinship care relative shall be a sustaining parent with the powers and duties specified in sub. (3).

**SECTION 21.** 48.428 (2) (b) of the statutes is amended to read:

48.428 (2) (b) When a court places a child in sustaining care after an order under s. 48.427 (4) with a person who has been appointed as the guardian of the child under s. 48.977 (2), the court may transfer legal custody of the child to the county department, the department, in a county having a population of 500,000 or more, or a licensed child welfare agency, transfer guardianship of the child to an agency listed in s. 48.427 (3m) (a) 1. to 4. or (am) and place the child in the home of a licensed foster parent, licensed treatment foster parent, or kinship care relative with whom the child has resided for 6 months or longer. Pursuant to such a placement, that licensed foster parent, licensed treatment foster parent, or kinship care relative shall be a sustaining parent with the powers and duties specified in sub. (3). If the court transfers guardianship of the child to an agency listed in s. 48.427 (3m) (a) 1. to 4. or (am), the court shall terminate the guardianship under s. 48.977.

**SECTION 22.** 48.43 (2) of the statutes is renumbered 48.43 (2) (intro.) and amended to read:

48.43 (2) (intro.) An order terminating parental rights permanently severs all legal rights and duties between the parent whose parental rights are terminated and the child, and between the child and all persons whose relationship to the child is derived through that parent, except as follows:

**SECTION 23.** 48.43 (2) (a) of the statutes is created to read:

48.43 (2) (a) The relationship between the child and his or her siblings is not severed until that relationship is extinguished by an order of adoption as provided in s. 48.92 (2).

**SECTION 24.** 48.43 (2) (b) of the statutes is created to read:

48.43 (2) (b) A relative whose relationship to the child is derived through the parent whose parental rights are terminated is considered to be a relative of the child for purposes of placement of, and permanency planning for, the child until that relationship is extinguished by an order of adoption as provided in s. 48.92 (2).

**SECTION 25.** 48.43 (5) (c) of the statutes is amended to read:

48.43 (5) (c) Following the hearing, the court shall make all of the determinations specified under s. 48.38 (5) (c), except the determinations relating to the child's parents. The court may amend the order under sub. (1) to transfer the child's guardianship and custody to any agency specified under s. 48.427 (3m) (a) 1. to 4. which or (am) that consents to the transfer, if the court determines that the transfer is in the child's best interest. If an order is amended, the agency that prepared the permanency plan shall revise the plan to conform to the order and shall file a copy of the revised plan with the court. Each plan filed under this paragraph shall be made a part of the court order.

**SECTION 26.** 48.57 (3m) (a) 2. of the statutes is amended to read:

48.57 (3m) (a) 2. "Kinship care relative" means a stepparent, ~~brother, sister, stepbrother, stepsister, first cousin, nephew, niece, aunt, uncle 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 paragraph, even if the marriage is terminated by death or divorce~~ relative other than a parent.

**SECTION 27.** 48.57 (3n) (a) 2. of the statutes is amended to read:

48.57 (3n) (a) 2. "Long-term kinship care relative" means a ~~stepparent, brother, sister, stepbrother, stepsister, first cousin, nephew, niece, aunt, uncle 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 paragraph, even if the marriage is terminated by death or divorce~~ relative other than a parent.

**SECTION 28.** 48.62 (2) of the statutes is amended to read:

48.62 (2) A relative as defined in s. 48.02 (15) or as specified in s. 49.19 (1) (a) or a guardian of a child, who provides care and maintenance for a the child, is not required to obtain the license specified in this section. The department, county department, or licensed child welfare agency as provided in s. 48.75 may issue a license to operate a foster home or a treatment foster home to a relative who has no duty of support under s. 49.90 (1) (a) and who requests a license to operate a foster home or treatment foster home for a specific child who is either placed by court order or who is the subject of a voluntary placement agreement under s. 48.63. The department, a county department, or a licensed child welfare agency may, at the request of a guardian appointed under s. 48.977 or 48.978 or ch. 880, license the guardian's home as a foster home or treatment foster home for the guardian's minor ward who is living in the home and who is placed in the home by court order. Relatives with no duty of support and guardians appointed under s. 48.977 or

48.978 or ch. 880 who are licensed to operate foster homes or treatment foster homes are subject to the department's licensing rules.

**SECTION 29.** 48.65 (2) (a) of the statutes is amended to read:

48.65 (2) (a) A relative or parent, grandparent, great-grandparent, stepparent, brother, sister, first cousin, nephew, niece, uncle, or aunt of a child, whether by blood, marriage, or legal adoption, who provides care and supervision for the child.

(am) A guardian of a child who provides care and supervision for the child.

**SECTION 30.** 48.75 (1g) (a) 1. of the statutes is amended to read:

48.75 (1g) (a) 1. The person who will be licensed to operate the foster home is a relative, ~~as defined in s. 48.02 (15) or as specified in s. 49.19 (1) (a) 2. a.,~~ or a guardian of the child who will be placed in the foster home.

**SECTION 31.** 48.92 (2) of the statutes is amended to read:

48.92 (2) After the order of adoption is entered the relationship of parent and child between the adopted person and the adopted person's birth parents, ~~unless the birth parent is the spouse of the adoptive parent, and the relationship between the adopted person and all persons whose relationship to the adopted person is derived through those birth parents~~ shall be completely altered and all the rights, duties, and other legal consequences of ~~the relationship those relationships~~ shall cease to exist, ~~unless the birth parent is the spouse of the adoptive parent, in which case those relationships shall be completely altered and those rights, duties, and other legal consequences shall cease to exist only with respect to the birth parent who is not the spouse of the adoptive parent and all persons whose relationship to the adopted person is derived through that birth parent.~~ Notwithstanding the extinction of all parental rights under this subsection, a court may order reasonable visitation under s. 48.925.

**SECTION 32.** 48.981 (1) (d) of the statutes is amended to read:

48.981 (1) (d) "Neglect" means failure, refusal or inability on the part of a ~~parent, guardian, legal custodian or other person exercising temporary or permanent control over a child~~ caregiver, for reasons other than poverty, to provide necessary care, food, clothing, medical or dental care or shelter so as to seriously endanger the physical health of the child.

**SECTION 33.** 48.981 (1) (fm) of the statutes is repealed.

**SECTION 34.** 48.981 (3) (a) 2. of the statutes is renumbered 48.981 (3) (a) 2. (intro.) and amended to read:

48.981 (3) (a) 2. (intro.) The sheriff or police department shall within 12 hours, exclusive of Saturdays, Sundays, or legal holidays, refer to the county department or, in a county having a population of 500,000 or more, the department or a licensed child welfare agency under con-

tract with the department all of the following types of cases reported to it: the sheriff or police department:

2g. The county department, department, or licensed child welfare agency may require that a subsequent report of a case referred under subd. 2. or 2d. be made in writing.

**SECTION 35.** 48.981 (3) (a) 2. a. of the statutes is created to read:

48.981 (3) (a) 2. a. Cases in which a caregiver is suspected of abuse or neglect or of threatened abuse or neglect of a child.

**SECTION 36.** 48.981 (3) (a) 2. b. of the statutes is created to read:

48.981 (3) (a) 2. b. Cases in which a caregiver is suspected of facilitating or failing to take action to prevent the suspected or threatened abuse or neglect of a child.

**SECTION 37.** 48.981 (3) (a) 2. c. of the statutes is created to read:

48.981 (3) (a) 2. c. Cases in which it cannot be determined who abused or neglected or threatened to abuse or neglect a child.

**SECTION 38.** 48.981 (3) (a) 2. d. of the statutes is created to read:

48.981 (3) (a) 2. d. Cases in which there is reason to suspect that an unborn child has been abused or there is reason to believe that an unborn child is at substantial risk of abuse.

**SECTION 39.** 48.981 (3) (a) 2d. of the statutes is created to read:

48.981 (3) (a) 2d. The sheriff or police department may refer to the county department or, in a county having a population of 500,000 or more, the department or a licensed child welfare agency under contract with the department a case reported to the sheriff or police department in which a person who is not a caregiver is suspected of abuse or of threatened abuse of a child.

**SECTION 40.** 48.981 (3) (c) 1. of the statutes is renumbered 48.981 (3) (c) 1. a. and amended to read:

48.981 (3) (c) 1. a. Within 24 hours Immediately after receiving a report under par. (a), the agency shall evaluate the report to determine whether there is reason to suspect that a caregiver has abused or neglected the child, has threatened the child with abuse or neglect, or has facilitated or failed to take action to prevent the suspected or threatened abuse or neglect of the child. If the agency determines that a caregiver is suspected of abuse or neglect or of threatened abuse or neglect of the child, determines that a caregiver is suspected of facilitating or failing to take action to prevent the suspected or threatened abuse or neglect of the child, or cannot determine who abused or neglected the child, within 24 hours after receiving the report the agency shall, in accordance with the authority granted to the department under s. 48.48 (17) (a) 1. or the county department under s. 48.57 (1) (a), initiate a diligent investigation to determine if the child ~~or unborn child~~ is in need of protection or services. The

If the agency determines that a person who is not a caregiver is suspected of abuse or of threatened abuse, the agency may, in accordance with that authority, initiate a diligent investigation to determine if the child is in need of protection or services. Within 24 hours after receiving a report under par. (a) of suspected unborn child abuse, the agency, in accordance with that authority, shall initiate a diligent investigation to determine if the unborn child is in need of protection or services. An investigation under this subd. 1. a. shall be conducted in accordance with standards established by the department for conducting child abuse and neglect investigations or unborn child abuse investigations.

b. If the investigation is of a report of child abuse or neglect or of threatened child abuse or neglect by a caregiver specified in sub. (1) (am) 5. to 8. who continues to have access to the child or a caregiver specified in sub. (1) (am) 1. to 4., or of a report that does not disclose who is suspected of the child abuse or neglect and in which the investigation does not disclose who abused or neglected the child, the investigation shall also include observation of or an interview with the child, or both, and, if possible, an interview with the child's parents, guardian, or legal custodian. If the investigation is of a report of child abuse or neglect or threatened child abuse or neglect by a caregiver who continues to reside in the same dwelling as the child, the investigation shall also include, if possible, a visit to that dwelling. At the initial visit to the child's dwelling, the person making the investigation shall identify himself or herself and the agency involved to the child's parents, guardian, or legal custodian. The agency may contact, observe, or interview the child at any location without permission from the child's parent, guardian, or legal custodian if necessary to determine if the child is in need of protection or services, except that the person making the investigation may enter a child's dwelling only with permission from the child's parent, guardian, or legal custodian or after obtaining a court order permitting the person to do so.

**SECTION 41.** 48.981 (3) (c) 4. of the statutes is amended to read:

48.981 (3) (c) 4. The county department or, in a county having a population of 500,000 or more, the department or a licensed child welfare agency under contract with the department shall determine, within 60 days after receipt of a report that the county department, department, or licensed child welfare agency investigates under subd. 1., whether abuse or neglect has occurred or is likely to occur. The determination shall be based on a preponderance of the evidence produced by the investigation. A determination that abuse or neglect has occurred may not be based solely on the fact that the child's parent, guardian, or legal custodian in good faith selects and relies on prayer or other religious means for treatment of disease or for remedial care of the child. In making a determination that emotional damage has

occurred, the county department or, in a county having a population of 500,000 or more, the department or a licensed child welfare agency under contract with the department shall give due regard to the culture of the subjects. This subdivision does not prohibit a court from ordering medical services for the child if the child's health requires it.

**SECTION 42.** 938.02 (15) of the statutes is amended to read:

938.02 (15) "Relative" means a parent, ~~grandparent, greatgrandparent,~~ stepparent, brother, sister, ~~stepbrother, stepsister, half brother, half sister, brother-in-law, sister-in-law,~~ first cousin, 2nd cousin, nephew, niece, uncle, ~~or 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 subsection, even if the marriage is terminated by death or divorce.

**SECTION 43.** 938.371 (1) (intro.) of the statutes is amended to read:

938.371 (1) (intro.) If a juvenile is placed in a foster home, treatment foster home, group home, residential care center for children and youth, or secured correctional facility or in the home of a relative other than a parent, including a placement under s. 938.205 or 938.21, the agency, as defined in s. 938.38 (1) (a), that placed the juvenile or arranged for the placement of the juvenile shall provide the following information to the foster parent, treatment foster parent, relative, or operator of the group home, residential care center for children and youth, or secured correctional facility at the time of placement or, if the information has not been provided to the agency by that time, as soon as possible after the date on which the agency receives that information, but not more than 2 working days after that date:

**SECTION 44.** 938.371 (1) (a) of the statutes is amended to read:

938.371 (1) (a) Results of a test or a series of tests of the juvenile to determine the presence of HIV, as defined in s. 968.38 (1) (b), antigen or nonantigenic products of HIV, or an antibody to HIV, as provided under s. 252.15 (5) (a) 19., including results included in a court report or permanency plan. At the time that the test results are provided, the agency shall notify the foster parent, treatment foster parent, relative, or operator of the group home, residential care center for children and youth, or secured correctional facility of the confidentiality requirements under s. 252.15 (6).

**SECTION 45.** 938.371 (1) (b) of the statutes is amended to read:

938.371 (1) (b) Results of any tests of the juvenile to determine the presence of viral hepatitis, type B, including results included in a court report or permanency plan. ~~The foster parent, treatment foster parent, or operator of a group home, residential care center for children and~~

youth, or secured correctional facility receiving information under this paragraph shall keep the information confidential.

**SECTION 46.** 938.371 (1) (c) of the statutes is amended to read:

938.371 (1) (c) Any other medical information concerning the juvenile that is necessary for the care of the juvenile. ~~The foster parent, treatment foster parent, or operator of a group home, residential care center for children and youth, or secured correctional facility receiving information under this paragraph shall keep the information confidential.~~

**SECTION 47.** 938.371 (3) (intro.) of the statutes is amended to read:

938.371 (3) (intro.) At the time of placement of a juvenile in a foster home, treatment foster home, group home, residential care center for children and youth, or secured correctional facility or in the home of a relative other than a parent or, if the information is not available at that time, as soon as possible after the date on which the court report or permanency plan has been submitted, but no later than 7 days after that date, the agency, as defined in s. 938.38 (1) (a), responsible for preparing the juvenile's permanency plan shall provide to the foster parent, treatment foster parent, relative, or operator of the group home, residential care center for children and youth, or secured correctional facility information contained in the court report submitted under s. 938.33 (1) or 938.365 (2g) or permanency plan submitted under s. 938.355 (2e) or 938.38 relating to findings or opinions of the court or agency that prepared the court report or permanency plan relating to any of the following:

**SECTION 48.** 938.371 (3) (a) of the statutes is amended to read:

938.371 (3) (a) Any mental, emotional, cognitive, developmental, or behavioral disability of the juvenile. ~~The foster parent, treatment foster parent, or operator of a group home, residential care center for children and youth, or secured correctional facility receiving information under this subsection shall keep the information confidential.~~

**SECTION 49.** 938.371 (3) (b) of the statutes is amended to read:

938.371 (3) (b) Any involvement of the juvenile in any criminal gang, as defined in s. 939.22 (9), or in any other group in which any child was traumatized as a result of his or her association with that group. ~~The foster parent, treatment foster parent, or operator of a group home, residential care center for children and youth, or secured correctional facility receiving information under this paragraph shall keep the information confidential.~~

**SECTION 50.** 938.371 (3) (c) of the statutes is amended to read:

938.371 (3) (c) Any involvement of the juvenile in any activities that are harmful to the juvenile's physical, mental, or moral well-being. ~~The foster parent, treat-~~

~~ment foster parent, or operator of a group home, residential care center for children and youth, or secured correctional facility receiving information under this paragraph shall keep the information confidential.~~

**SECTION 51.** 938.371 (3) (d) of the statutes is amended to read:

938.371 (3) (d) Any involvement of the juvenile, whether as victim or perpetrator, in sexual intercourse or sexual contact in violation of s. 940.225, 948.02, or 948.025, prostitution in violation of s. 944.30, sexual exploitation of a child in violation of s. 948.05, or causing a child to view or listen to sexual activity in violation of s. 948.055, if the information is necessary for the care of the juvenile or for the protection of any person living in the foster home, treatment foster home, group home, residential care center for children and youth, or secured correctional facility. ~~The foster parent, treatment foster parent, or operator of a group home, residential care center for children and youth, or secured correctional facility receiving information under this paragraph shall keep the information confidential.~~

**SECTION 52.** 938.371 (4) of the statutes is created to read:

938.371 (4) Subsection (1) does not preclude an agency, as defined in s. 48.38 (1) (a), that is arranging for the placement of a juvenile from providing the information specified in sub. (1) (a) to (c) to a person specified in sub. (1) (intro.) before the time of placement of the juvenile. Subsection (3) does not preclude an agency, as defined in s. 48.38 (1) (a), responsible for preparing a juvenile's court report or permanency plan from providing the information specified in sub. (3) (a) to (e) to a person specified in sub. (3) (intro.) before the time of placement of the juvenile.

**SECTION 53.** 938.371 (5) of the statutes is created to read:

938.371 (5) Except as permitted under s. 252.15 (6), a foster parent, treatment foster parent, relative, or operator of a group home, residential care center for children and youth, or secured correctional facility that receives any information under sub. (1) or (3), other than the information described in sub. (3) (e), shall keep the information confidential and may disclose that information only for the purposes of providing care for the juvenile or participating in a court hearing or permanency plan review concerning the juvenile.

**SECTION 54. Nonstatutory provisions.**

(1) PROVISION OF INFORMATION TO RELATIVE CAREGIVERS. Notwithstanding sections 48.371 (1) (intro.) and (3) (intro.) and 938.371 (1) (intro.) and (3) (intro.) of the statutes, as affected by this act, in the case of a child or juvenile who is living in the home of a relative other than a parent on the day before the effective date of this subsection, the agency assigned primary responsibility for providing services for the child or juvenile shall provide the information specified in section 48.371 (1) (a) to (c) and

(3) (a) to (e) or 938.371 (1) (a) to (c) and (3) (a) to (e) of the statutes, as affected by this act, to the relative with whom the child or juvenile is placed no later than 60 days after the effective date of this subsection.

**SECTION 55. Initial applicability.**

(1) CHILDREN PLACED WITH RELATIVE CAREGIVERS. The treatment of sections 48.371 (1) (intro.) and (3) (intro.) and 938.371 (1) (intro.) and (3) (intro.) of the statutes first applies to a child or juvenile who is placed in the home of a relative other than a parent on the effective date of this subsection.

(2) STATUS OF RELATIVES FOLLOWING TERMINATION OF PARENTAL RIGHTS AND ADOPTION.

(a) *Status of relatives following termination of parental rights.* The treatment of section 48.92 (2) of the statutes, the renumbering and amendment of section 48.43

(2) of the statutes, and the creation of section 48.43 (2) (a) and (b) of the statutes first applies to an order terminating parental rights granted on the effective date of this paragraph.

(b) *Status of relatives following adoption.* The treatment of section 48.92 (2) of the statutes first applies to an order of adoption granted on the effective date of this paragraph.

**SECTION 56. Effective date.**

(1) CHILD ABUSE INVESTIGATIONS OF NONCAREGIVERS. The treatment of section 48.981 (1) (d) and (3) (a) 2d. and (3) (c) 1. and 4. of the statutes, the renumbering and amendment of section 48.981 (3) (a) 2. of the statutes, and the creation of section 48.981 (3) (a) 2. a., b., c., and d. of the statutes take effect on the first day of the 6th month beginning after publication.