



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-4045/1
GMM:jld&bjk:rs

2009 SENATE BILL 501

January 29, 2010 – Introduced by Senators DARLING, OLSEN, LASSA, LAZICH, HOPPER and PLALE, cosponsored by Representatives STRACHOTA, KNODL, J. OTT, HONADEL, VOS, TOWNSEND and SPANBAUER. Referred to Committee on Children and Families and Workforce Development.

1 **AN ACT** *to renumber and amend* 48.357 (2r), 48.64 (4) (a), 48.64 (4) (c) and
2 938.357 (2r); *to amend* 48.293 (2), 48.295 (1), 48.295 (3), 48.33 (5), 48.355 (2)
3 (b) 2., 48.357 (1) (am) 1., 48.357 (1) (am) 2m., 48.357 (1) (am) 2r., 48.357 (1) (c)
4 1., 48.357 (2m) (a), 48.357 (2m) (b), 48.357 (2m) (bp), 48.38 (4) (c), 48.62 (3m),
5 48.78 (2) (a), 48.78 (2) (ag), 48.78 (2) (aj), 48.78 (2) (am), 48.78 (2) (ap), 48.834
6 (title), 48.834 (1), 48.834 (1m), 938.293 (2), 938.295 (1) (b), 938.295 (3), 938.33
7 (5), 938.355 (2) (b) 2., 938.357 (1) (am) 1., 938.357 (1) (am) 2., 938.357 (1) (am)
8 2r., 938.357 (1) (c) 1., 938.357 (2m) (a), 938.357 (2m) (b), 938.357 (2m) (bp),
9 938.38 (4) (c), 938.78 (2) (a), 938.78 (2) (ag) and 938.78 (2) (am); *to repeal and*
10 **recreate** 48.293 (2), 48.295 (1), 48.295 (3), 48.33 (5), 48.355 (2) (b) 2., 48.357 (1)
11 (am) 1., 48.357 (2m) (b), 48.357 (2r), 48.38 (4) (c), 48.64 (4) (a), 48.64 (4) (c),
12 938.293 (2), 938.295 (1) (b), 938.295 (3), 938.33 (5), 938.355 (2) (b) 2., 938.357
13 (1) (am) 1., 938.357 (1) (am) 2., 938.357 (2m) (b), 938.357 (2r) and 938.38 (4) (c);
14 and *to create* 48.357 (1) (am) 2r., 48.357 (2m) (bp), 48.357 (2r) (b), 48.62 (3m),

SENATE BILL 501

1 48.64 (4) (a) 2., 48.64 (4) (c) 3., 48.834 (1m), 938.357 (1) (am) 2r., 938.357 (2m)
2 (bp) and 938.357 (2r) (b) of the statutes; **relating to:** disclosure of the identity
3 of a foster parent or treatment foster parent of a child; the rights of a foster
4 parent, treatment foster parent, or other physical custodian of a child on
5 removal of the child from the person’s home; and placement of a child for
6 adoption with a foster parent, treatment foster parent, or other physical
7 custodian of the child.

Analysis by the Legislative Reference Bureau

INTRODUCTION

This bill makes various changes relating to disclosure of the identity of a foster parent or treatment foster parent of a child; the rights of a foster parent, treatment foster parent, or other physical custodian of a child on removal of the child from the person’s home, whether that removal is through a change in placement or an agency decision or order; and placement of a child for adoption with a foster parent, treatment foster parent, or other physical custodian of the child.

DISCLOSURE OF IDENTITY

Under current law, a dispositional order of the court assigned to exercise jurisdiction under the Children’s Code (juvenile court) that places a child outside the home must include the name of the place or facility where the child shall be cared for, except that the juvenile court may order the name and address of a foster parent or treatment foster parent to be withheld from a child’s parent or guardian if the juvenile court finds that disclosure of that information would result in imminent danger to the child, the foster parent, or the treatment foster parent.

This bill provides that the name, other than the first name, and address of a person licensed to operate a foster home or treatment foster home may not be disclosed to the parent or guardian of a child placed in the home or to any other adult relative of the child without the written consent of the licensee.

RIGHTS ON REMOVAL OF CHILD

Change in placement. Under current law, a child who is subject to a dispositional order of the juvenile court, the child’s parent, guardian, or legal custodian, or any agency bound by the dispositional order may request a change in placement of the child. Currently, if the agency requests the change in placement, the agency must provide notice to the child, the child’s parent, guardian, and legal custodian, and the child’s foster parent, treatment foster parent, or other physical custodian stating the reasons for the change in placement, why the new placement is preferable to the current placement, and how the new placement satisfies the objectives of the child’s treatment plan. A person who receives notice of such a change

SENATE BILL 501

in placement may obtain a hearing on the change in placement by filing an objection to the change in placement.

Current law provides a slightly different procedure for when the child or the child's parent, guardian, or legal custodian requests a change in placement. In that case, the notice must state what new information affects the advisability of the current placement and a hearing must be held unless all parties waive their objections to the change in placement.

Under either procedure, if a hearing is held and the change in placement would remove the child from a foster home or treatment foster home or from the home of another physical custodian, the juvenile court must give the foster parent, treatment foster parent, or other physical custodian the right to be heard by permitting that person to make a written or oral statement at the hearing or to submit a written statement prior to the hearing relating to the child and to the change in placement.

This bill expands the rights of a foster parent, treatment foster parent, or other physical custodian in connection with a change in placement proceeding. Specifically, the bill provides that, if a hearing is held and the change in placement would remove the child from a foster home or treatment foster home or from the home of another physical custodian in which the child has been placed for six months or more, the foster parent, treatment foster parent, or other physical custodian shall become a party to the proceeding and, as a party, shall have the right to be represented by counsel, to inspect and copy, through counsel, all records relating to the child, to request that the child be examined or assessed by an expert of the foster parent's, treatment foster parent's, or other physical custodian's own choosing, to present evidence, including expert testimony, to confront and cross-examine witnesses, and to present alternative placement recommendations. The bill also requires the juvenile court, in such a proceeding, to consider as paramount the best interests of the child in determining whether to continue placement of the child in his or her current placement or to change the child's placement to the proposed change in placement.

The bill also changes the standard for a change in placement requested by an agency by eliminating the requirement that the request show why the new placement is preferable to the current placement and instead requiring the request to show why the new placement would be in the best interests of the child. In addition, the bill changes the standard for a change in placement requested by the child or the child's parent, guardian, or legal custodian by eliminating the requirement that the request state what *new* information is available that affects the advisability of the current placement and instead requiring the request to state what information, new or old, is available that affects the advisability of the current placement and why the new placement would be in the best interests of the child.

Agency decision or order. Under current law, if a child has been placed in a foster home, treatment foster home, or group home or in the home of a relative other than a parent for six months or longer, the Department of Children and Families (DCF), the county department of human services or social services (county department), or licensed child welfare agency (collectively, "agency") that placed the child must give the head of the home written notice of intent to remove the child from

SENATE BILL 501

the home, stating the reasons for the removal. In those cases, the child may not be removed from the home before completion of a hearing before DCF or the circuit court to review the removal decision, if a hearing has been requested, or 30 days after receipt of the notice of intent to remove, whichever is later, unless the safety of the child requires removal.

Also, under current law, any decision or order issued by an agency that affects the head of a foster home, treatment foster home, or group home, the head of the home of a relative other than a parent in which a child is placed, or the child involved may be appealed to DCF under fair hearing procedures. Under those procedures, the head of the home is entitled to be represented by counsel, to examine documents and records, to bring witnesses, to confront and cross-examine adverse witnesses, and to have judicial review of DCF's decision.

In addition, under current law, an interested party may file a petition with the circuit court for the county where a child is placed alleging that a decision or order of the agency supervising the child's placement is not in the best interests of the child. On receipt of a petition, the circuit court may call a hearing for the purpose of reviewing the decision or order. If the child is placed in a foster home or in the home of a relative other than a parent, the foster parent or relative may present relevant evidence at the hearing.

This bill makes the rights of the head of a foster home, treatment foster home, group home, or home of a relative other than a parent in connection with an appeal of an agency decision or order removing a child from the person's home consistent with the rights of a foster parent, treatment foster parent, or other physical custodian in connection with a change in placement proceeding. Specifically, the bill provides that, if the head of a foster home, treatment foster home, group home, or home of a relative other than a parent in which a child has been placed for six months or more appeals an agency decision affecting the head of the home to DCF or files a petition with the circuit court requesting the circuit court to review the agency decision or order, the head of the home is a party to the proceeding and, as a party, has the right to be represented by counsel, to inspect and copy, through counsel, all records relating to the child, to request that the child be examined or assessed by an expert of his or her own choosing, to present evidence, including expert testimony, to confront and cross-examine witnesses, and to present alternative placement recommendations.

PLACEMENT OF CHILD FOR ADOPTION

Current law requires an agency, before placing a child for adoption, to consider the availability of a placement for adoption with a relative of the child. This bill requires an agency, before placing for adoption a child who has been placed in the home of a foster parent, treatment foster parent, or other physical custodian for six months or more, to first consider the availability of a placement for adoption with that foster parent, treatment foster parent, or other physical custodian before considering the availability of a placement for adoption with a relative.

SENATE BILL 501

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

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

1 **SECTION 1.** 48.293 (2) of the statutes is amended to read:

2 48.293 (2) All records relating to a child, or to an unborn child and the unborn
3 child's expectant mother, ~~which are relevant to the subject matter of a proceeding~~
4 ~~under this chapter~~ shall be open to inspection by a guardian ad litem or counsel for
5 any party ~~and to inspection,~~ by the court-appointed special advocate for the child,
6 or by counsel for any foster parent, treatment foster parent, or other physical
7 custodian described in s. 48.357 (2r) (b), upon demand and upon presentation of
8 releases when necessary, at least 48 96 hours before the proceeding. Persons and
9 unborn children, by their guardians ad litem, entitled to inspect the records may
10 obtain copies of the records with the permission of the custodian of the records or with
11 the permission of the court. The court may instruct counsel, a guardian ad litem, or
12 a court-appointed special advocate not to disclose specified items in the ~~materials~~
13 records to the child ~~or,~~ the parent, ~~or to~~ the expectant mother, or the child's foster
14 parent, treatment foster parent, or other physical custodian described in s. 48.357
15 (2r) (b) if the court reasonably believes that the disclosure would be harmful to the
16 interests of the child or the unborn child.

17 **SECTION 2.** 48.293 (2) of the statutes, as affected by 2009 Wisconsin Act (this
18 act), is repealed and recreated to read:

19 48.293 (2) All records relating to a child or to an unborn child and the unborn
20 child's expectant mother shall be open to inspection by a guardian ad litem or counsel
21 for any party, by the court-appointed special advocate for the child, or by counsel for

SENATE BILL 501**SECTION 2**

1 any foster parent or other physical custodian described in s. 48.357 (2r) (b), upon
2 demand and upon presentation of releases when necessary, at least 96 hours before
3 the proceeding. Persons and unborn children, by their guardians ad litem, entitled
4 to inspect the records may obtain copies of the records with the permission of the
5 custodian of the records or with the permission of the court. The court may instruct
6 counsel, a guardian ad litem, or a court-appointed special advocate not to disclose
7 specified items in the records to the child, the parent, the expectant mother, or the
8 child's foster parent or other physical custodian described in s. 48.357 (2r) (b) if the
9 court reasonably believes that the disclosure would be harmful to the interests of the
10 child or the unborn child.

11 **SECTION 3.** 48.295 (1) of the statutes is amended to read:

12 48.295 (1) After the filing of a petition and upon a finding by the court that
13 reasonable cause exists to warrant a physical, psychological, mental, or
14 developmental examination or an alcohol and other drug abuse assessment that
15 conforms to the criteria specified under s. 48.547 (4), the court may order any child
16 coming within its jurisdiction to be examined as an outpatient by personnel in an
17 approved treatment facility for alcohol and other drug abuse, by a physician,
18 psychiatrist, or licensed psychologist, or by another expert appointed by the court
19 holding at least a master's degree in social work or another related field of child
20 development, in order that the child's physical, psychological, alcohol or other drug
21 dependency, mental, or developmental condition may be considered. The court may
22 also order a physical, psychological, mental, or developmental examination or an
23 alcohol and other drug abuse assessment that conforms to the criteria specified
24 under s. 48.547 (4) of a parent, guardian, or legal custodian whose ability to care for
25 a child is at issue before the court or of an expectant mother whose ability to control

SENATE BILL 501

1 her use of alcohol beverages, controlled substances, or controlled substance analogs
2 is at issue before the court. The court shall hear any objections by the child or, the
3 child's parents, guardian, or legal custodian, or the child's foster parent, treatment
4 foster parent, or other physical custodian described in s. 48.357 (2r) (b) to the request
5 for such an examination or assessment before ordering the examination or
6 assessment. The expenses of an examination, if approved by the court, shall be paid
7 by the county of the court ordering the examination in a county having a population
8 of less than 500,000 or by the department in a county having a population of 500,000
9 or more. The payment for an alcohol and other drug abuse assessment shall be in
10 accordance with s. 48.361.

11 **SECTION 4.** 48.295 (1) of the statutes, as affected by 2009 Wisconsin Act (this
12 act), is repealed and recreated to read:

13 48.295 (1) After the filing of a petition and upon a finding by the court that
14 reasonable cause exists to warrant a physical, psychological, mental, or
15 developmental examination or an alcohol and other drug abuse assessment that
16 conforms to the criteria specified under s. 48.547 (4), the court may order any child
17 coming within its jurisdiction to be examined as an outpatient by personnel in an
18 approved treatment facility for alcohol and other drug abuse, by a physician,
19 psychiatrist, or licensed psychologist, or by another expert appointed by the court
20 holding at least a master's degree in social work or another related field of child
21 development, in order that the child's physical, psychological, alcohol or other drug
22 dependency, mental, or developmental condition may be considered. The court may
23 also order a physical, psychological, mental, or developmental examination or an
24 alcohol and other drug abuse assessment that conforms to the criteria specified
25 under s. 48.547 (4) of a parent, guardian, or legal custodian whose ability to care for

SENATE BILL 501**SECTION 4**

1 a child is at issue before the court or of an expectant mother whose ability to control
2 her use of alcohol beverages, controlled substances, or controlled substance analogs
3 is at issue before the court. The court shall hear any objections by the child, the
4 child's parents, guardian, or legal custodian, or the child's foster parent or other
5 physical custodian described in s. 48.357 (2r) (b) to the request for such an
6 examination or assessment before ordering the examination or assessment. The
7 expenses of an examination, if approved by the court, shall be paid by the county of
8 the court ordering the examination in a county having a population of less than
9 500,000 or by the department in a county having a population of 500,000 or more.
10 The payment for an alcohol and other drug abuse assessment shall be in accordance
11 with s. 48.361.

12 **SECTION 5.** 48.295 (3) of the statutes is amended to read:

13 48.295 (3) If the child, the child's parent ~~or~~, the expectant mother, or the child's
14 foster parent, treatment foster parent, or other physical custodian described in s.
15 48.357 (2r) (b) objects to a particular physician, psychiatrist, licensed psychologist,
16 or other expert as required under this section, the court shall appoint a different
17 physician, psychiatrist, psychologist, or other expert as required under this section.

18 **SECTION 6.** 48.295 (3) of the statutes, as affected by 2009 Wisconsin Act (this
19 act), is repealed and recreated to read:

20 48.295 (3) If the child, the child's parent, the expectant mother, or the child's
21 foster parent or other physical custodian described in s. 48.357 (2r) (b) objects to a
22 particular physician, psychiatrist, licensed psychologist, or other expert as required
23 under this section, the court shall appoint a different physician, psychiatrist,
24 psychologist, or other expert as required under this section.

25 **SECTION 7.** 48.33 (5) of the statutes is amended to read:

SENATE BILL 501

1 48.33 (5) IDENTITY OF FOSTER PARENT OR TREATMENT FOSTER PARENT;
2 CONFIDENTIALITY. If the report recommends placement in a foster home or a treatment
3 foster home, and the name of the foster parent or treatment foster parent is not
4 available at the time the report is filed, the agency shall provide the court and the
5 child's parent or guardian with the name and address of the foster parent or
6 treatment foster parent within 21 days after the dispositional order is entered. If the
7 foster parent or treatment foster parent has consented under s. 48.62 (3m) to the
8 disclosure of that information to the child's parent or guardian or to any other adult
9 relative of the child, the agency shall also provide that information to that parent,
10 guardian, or adult relative within those 21 days, except that the court may order the
11 information withheld from the child's that parent or, guardian, or adult relative if the
12 court finds that disclosure would result in imminent danger to the child or to the
13 foster parent or treatment foster parent. After notifying the child's that parent or,
14 guardian, or adult relative, the court shall hold a hearing prior to ordering the
15 information withheld.

16 **SECTION 8.** 48.33 (5) of the statutes, as affected by 2009 Wisconsin Acts 28 and
17 (this act), is repealed and recreated to read:

18 48.33 (5) IDENTITY OF FOSTER PARENT; CONFIDENTIALITY. If the report recommends
19 placement in a foster home and the name of the foster parent is not available at the
20 time the report is filed, the agency shall provide the court with the name and address
21 of the foster parent within 21 days after the dispositional order is entered. If the
22 foster parent has consented under s. 48.62 (3m) to the disclosure of that information
23 to the child's parent or guardian or to any other adult relative of the child, the agency
24 shall also provide that information to that parent, guardian, or adult relative within
25 those 21 days, except that the court may order the information withheld from that

SENATE BILL 501**SECTION 8**

1 parent, guardian, or adult relative if the court finds that disclosure would result in
2 imminent danger to the child or to the foster parent. After notifying that parent,
3 guardian, or adult relative, the court shall hold a hearing prior to ordering the
4 information withheld.

5 **SECTION 9.** 48.355 (2) (b) 2. of the statutes is amended to read:

6 48.355 (2) (b) 2. If the child is placed outside the home, the name of the place
7 or facility, including transitional placements, where the child ~~shall~~ will be cared for
8 or treated, except that if the placement is a foster home or treatment foster home and
9 the name and address of the foster parent or treatment foster parent is not available
10 at the time of the order, the name and address of the foster parent or treatment foster
11 parent shall be furnished to the court ~~and the parent~~ within 21 days of the order. If
12 the foster parent or treatment foster parent has consented under s. 48.62 (3m) to the
13 disclosure of that information to the child's parent or guardian or to any other adult
14 relative of the child, the agency shall also provide that information to that parent,
15 guardian, or adult relative within those 21 days, except that the judge may order that
16 information to be withheld from that parent, guardian, or adult relative as provided
17 in this subdivision. If, after a hearing on the issue with due notice to the parent ~~or,~~
18 ~~guardian, or adult relative,~~ the judge finds that disclosure of the identity of the foster
19 parent or treatment foster parent would result in imminent danger to the child, the
20 foster parent, or the treatment foster parent, the judge may order the name and
21 address of the prospective foster parents or treatment foster parents withheld from
22 the parent ~~or,~~ guardian, or adult relative.

23 **SECTION 10.** 48.355 (2) (b) 2. of the statutes, as affected by 2009 Wisconsin Acts
24 28 and (this act), is repealed and recreated to read:

SENATE BILL 501

1 48.355 (2) (b) 2. If the child is placed outside the home, the name of the place
2 or facility, including transitional placements, where the child will be cared for or
3 treated, except that if the placement is a foster home and the name and address of
4 the foster parent is not available at the time of the order, the name and address of
5 the foster parent shall be furnished to the court within 21 days after the order. If the
6 foster parent has consented under s. 48.62 (3m) to the disclosure of that information
7 to the child's parent or guardian or to any other adult relative of the child, the agency
8 shall also provide that information to that parent, guardian, or adult relative within
9 those 21 days, except that the judge may order that information to be withheld from
10 that parent, guardian, or adult relative as provided in this subdivision. If, after a
11 hearing on the issue with due notice to the parent, guardian, or adult relative, the
12 judge finds that disclosure of the identity of the foster parent would result in
13 imminent danger to the child or the foster parent, the judge may order the name and
14 address of the prospective foster parents withheld from the parent, guardian, or
15 adult relative.

16 **SECTION 11.** 48.357 (1) (am) 1. of the statutes, as affected by 2009 Wisconsin
17 Act 94, section 80, is amended to read:

18 48.357 (1) (am) 1. If the proposed change in placement involves any change in
19 placement other than a change in placement specified in par. (c), the person or agency
20 primarily responsible for implementing the dispositional order, the district attorney,
21 or the corporation counsel shall cause written notice of the proposed change in
22 placement to be sent to the child, the parent, guardian, and legal custodian of the
23 child, any foster parent, treatment foster parent, or other physical custodian
24 described in s. 48.62 (2) of the child, the child's court-appointed special advocate,
25 and, if the child is an Indian child who has been removed from the home of his or her

SENATE BILL 501**SECTION 11**

1 parent or Indian custodian, the Indian child’s Indian custodian and tribe. If the child
2 is the expectant mother of an unborn child under s. 48.133, written notice shall also
3 be sent to the unborn child by the unborn child’s guardian ad litem. If the change
4 in placement involves an adult expectant mother of an unborn child under s. 48.133,
5 written notice shall be sent to the adult expectant mother and the unborn child by
6 the unborn child’s guardian ad litem. The notice shall contain the name and address
7 of the new placement, the reasons for the change in placement, a statement
8 describing why the new placement would be in the best interest of the child, and a
9 statement of how the new placement satisfies objectives of the treatment plan
10 ordered by the court.

11 **SECTION 12.** 48.357 (1) (am) 1. of the statutes, as affected by 2009 Wisconsin
12 Act 94, section 81, and 2009 Wisconsin Act ... (this act), is repealed and recreated to
13 read:

14 48.357 (1) (am) 1. If the proposed change in placement involves any change in
15 placement other than a change in placement specified in par. (c), the person or agency
16 primarily responsible for implementing the dispositional order, the district attorney,
17 or the corporation counsel shall cause written notice of the proposed change in
18 placement to be sent to the child, the parent, guardian, and legal custodian of the
19 child, any foster parent or other physical custodian described in s. 48.62 (2) of the
20 child, the child’s court-appointed special advocate, and, if the child is an Indian child
21 who has been removed from the home of his or her parent or Indian custodian, the
22 Indian child’s Indian custodian and tribe. If the child is the expectant mother of an
23 unborn child under s. 48.133, written notice shall also be sent to the unborn child by
24 the unborn child’s guardian ad litem. If the change in placement involves an adult
25 expectant mother of an unborn child under s. 48.133, written notice shall be sent to

SENATE BILL 501

1 the adult expectant mother and the unborn child by the unborn child's guardian ad
2 litem. The notice shall contain the name and address of the new placement, the
3 reasons for the change in placement, a statement describing why the new placement
4 would be in the best interests of the child, and a statement of how the new placement
5 satisfies objectives of the treatment plan ordered by the court.

6 **SECTION 13.** 48.357 (1) (am) 2m. of the statutes, as affected by 2009 Wisconsin
7 Act 94, is amended to read:

8 48.357 (1) (am) 2m. Changes in placement that were authorized in the
9 dispositional order may be made immediately if notice is given as required under
10 subd. 1. In addition, a hearing is not required for placement changes authorized in
11 the dispositional order except when an objection filed by a person who received notice
12 alleges that new information is available that affects the advisability of the court's
13 dispositional order.

14 **SECTION 14.** 48.357 (1) (am) 2r. of the statutes is created to read:

15 48.357 (1) (am) 2r. In the case of a child who has been placed in the home of a
16 foster parent, treatment foster parent, or other physical custodian for 6 months or
17 more, if a hearing is held on a proposed change in placement of such a child to another
18 placement outside the home, the court shall consider as paramount the best interests
19 of the child in determining whether to continue placement of the child in his or her
20 current placement or to change the child's placement to the proposed change in
21 placement.

22 **SECTION 15.** 48.357 (1) (am) 2r. of the statutes, as created by 2009 Wisconsin
23 Act (this act), is amended to read:

24 48.357 (1) (am) 2r. In the case of a child who has been placed in the home of a
25 foster parent, ~~treatment foster parent~~, or other physical custodian for 6 months or

SENATE BILL 501

1 more, if a hearing is held on a proposed change in placement of such a child to another
2 placement outside the home, the court shall consider as paramount the best interests
3 of the child in determining whether to continue placement of the child in his or her
4 current placement or to change the child's placement to the proposed change in
5 placement.

6 **SECTION 16.** 48.357 (1) (c) 1. of the statutes is amended to read:

7 48.357 (1) (c) 1. If the proposed change in placement would change the
8 placement of a child placed in the home to a placement outside the home, the person
9 or agency primarily responsible for implementing the dispositional order, the district
10 attorney, or the corporation counsel shall submit a request for the change in
11 placement to the court. The request shall contain the name and address of the new
12 placement, the reasons for the change in placement, a statement describing why the
13 new placement is ~~preferable to the present placement~~ would be in the best interests
14 of the child, and a statement of how the new placement satisfies objectives of the
15 treatment plan ordered by the court. The request shall also contain specific
16 information showing that continued placement of the child in his or her home would
17 be contrary to the welfare of the child and, unless any of the circumstances specified
18 in s. 48.355 (2d) (b) 1. to 5. applies, specific information showing that the agency
19 primarily responsible for implementing the dispositional order has made reasonable
20 efforts to prevent the removal of the child from the home, while assuring that the
21 child's health and safety are the paramount concerns.

22 **SECTION 17.** 48.357 (2m) (a) of the statutes, as affected by 2009 Wisconsin Act
23 94, is amended to read:

24 48.357 (2m) (a) The child, the parent, guardian, legal custodian, or Indian
25 custodian of the child, the expectant mother, the unborn child by the unborn child's

SENATE BILL 501

1 guardian ad litem, or any person or agency primarily bound by the dispositional
2 order, other than the person or agency responsible for implementing the order, may
3 request a change in placement under this paragraph. The request shall contain the
4 name and address of the new placement requested and shall state what new
5 information is available that affects the advisability of the current placement and
6 why the new placement would be in the best interests of the child. If the proposed
7 change in placement would change the placement of a child placed in the child's home
8 to a placement outside the child's home, the request shall also contain specific
9 information showing that continued placement of the child in the home would be
10 contrary to the welfare of the child and, unless any of the circumstances under s.
11 48.355 (2d) (b) 1. to 5. applies, specific information showing that the agency primarily
12 responsible for implementing the dispositional order has made reasonable efforts to
13 prevent the removal of the child from the home, while assuring that the child's health
14 and safety are the paramount concerns. The request shall be submitted to the court.
15 The court may also propose a change in placement on its own motion.

16 **SECTION 18.** 48.357 (2m) (b) of the statutes, as affected by 2009 Wisconsin Act
17 79, section 28, and 2009 Wisconsin Act 94, section 91, is amended to read:

18 48.357 **(2m)** (b) The court shall hold a hearing prior to ordering any change in
19 placement requested or proposed under par. (a) if the request states that new
20 information is available that affects the advisability of the current placement and
21 why the new placement would be in the best interests of the child. A hearing is not
22 required if the requested or proposed change in placement does not involve a change
23 in placement of a child placed in the child's home to a placement outside the child's
24 home, written waivers of objection to the proposed change in placement are signed
25 by all persons entitled to receive notice under this paragraph, other than a

SENATE BILL 501

1 court-appointed special advocate, and the court approves. If a hearing is scheduled,
2 not less than 3 days before the hearing the court shall notify the child, the parent,
3 guardian, and legal custodian of the child, any foster parent, treatment foster parent,
4 or other physical custodian described in s. 48.62 (2) of the child, the child's
5 court-appointed special advocate, all parties who are bound by the dispositional
6 order, and, if the child is an Indian child, the Indian child's Indian custodian and
7 tribe. If the child is the expectant mother of an unborn child under s. 48.133, the
8 court shall also notify the unborn child by the unborn child's guardian ad litem. If
9 the change in placement involves an adult expectant mother of an unborn child
10 under s. 48.133, the court shall notify the adult expectant mother, the unborn child
11 by the unborn child's guardian ad litem, and all parties who are bound by the
12 dispositional order, at least 3 days prior to the hearing. A copy of the request or
13 proposal for the change in placement shall be attached to the notice. Subject to par.
14 ~~(bm)~~ (br), if all of the parties consent, the court may proceed immediately with the
15 hearing.

16 **SECTION 19.** 48.357 (2m) (b) of the statutes, as affected by 2009 Wisconsin Act
17 79, section 29, 2009 Wisconsin Act 94, section 92, and 2009 Wisconsin Act (this
18 act), is repealed and recreated to read:

19 48.357 **(2m)** (b) The court shall hold a hearing prior to ordering any change in
20 placement requested or proposed under par. (a) if the request states that information
21 is available that affects the advisability of the current placement and why the new
22 placement would be in the best interests of the child. A hearing is not required if the
23 requested or proposed change in placement does not involve a change in placement
24 of a child placed in the child's home to a placement outside the child's home, written
25 waivers of objection to the proposed change in placement are signed by all persons

SENATE BILL 501

1 entitled to receive notice under this paragraph, other than a court-appointed special
2 advocate, and the court approves. If a hearing is scheduled, not less than 3 days
3 before the hearing the court shall notify the child, the parent, guardian, and legal
4 custodian of the child, any foster parent or other physical custodian described in s.
5 48.62 (2) of the child, the child's court-appointed special advocate, all parties who are
6 bound by the dispositional order, and, if the child is an Indian child, the Indian child's
7 Indian custodian and tribe. If the child is the expectant mother of an unborn child
8 under s. 48.133, the court shall also notify the unborn child by the unborn child's
9 guardian ad litem. If the change in placement involves an adult expectant mother
10 of an unborn child under s. 48.133, the court shall notify the adult expectant mother,
11 the unborn child by the unborn child's guardian ad litem, and all parties who are
12 bound by the dispositional order, at least 3 days prior to the hearing. A copy of the
13 request or proposal for the change in placement shall be attached to the notice.
14 Subject to par. (br), if all of the parties consent, the court may proceed immediately
15 with the hearing.

16 **SECTION 20.** 48.357 (2m) (bp) of the statutes is created to read:

17 48.357 (2m) (bp) In the case of a child who has been placed in the home of a
18 foster parent, treatment foster parent, or other physical custodian for 6 months or
19 more, if a hearing is held on a proposed change in placement of such a child to another
20 placement outside the home, the court shall consider as paramount the best interests
21 of the child in determining whether to continue placement of the child in his or her
22 current placement or to change the child's placement to the proposed change in
23 placement.

24 **SECTION 21.** 48.357 (2m) (bp) of the statutes, as created by 2009 Wisconsin Act
25 (this act), is amended to read:

SENATE BILL 501**SECTION 21**

1 48.357 (2m) (bp) In the case of a child who has been placed in the home of a
2 foster parent, ~~treatment foster parent~~, or other physical custodian for 6 months or
3 more, if a hearing is held on a proposed change in placement of such a child to another
4 placement outside the home, the court shall consider as paramount the best interests
5 of the child in determining whether to continue placement of the child in his or her
6 current placement or to change the child's placement to the proposed change in
7 placement.

8 **SECTION 22.** 48.357 (2r) of the statutes, as affected by 2009 Wisconsin Act 79,
9 section 31, is renumbered 48.357 (2r) (a) and amended to read:

10 48.357 (2r) (a) If a hearing is held under sub. (1) (am) 2. or (2m) (b) and the
11 change in placement would remove a child from a foster home, treatment foster
12 home, or other placement with a physical custodian described in s. 48.62 (2) in which
13 the child has been placed for less than 6 months, the court shall give the foster
14 parent, treatment foster parent, or other physical custodian ~~described in s. 48.62 (2)~~
15 a right to be heard at the hearing by permitting the foster parent, treatment foster
16 parent, or other physical custodian to make a written or oral statement during the
17 hearing or to submit a written statement prior to the hearing relating to the child and
18 the requested change in placement. A foster parent, treatment foster parent, or
19 other physical custodian described in s. 48.62 (2) who receives notice of a hearing
20 under sub. (1) (am) 1. or (2m) (b) and a right to be heard under this ~~subsection~~
21 paragraph does not become a party to the proceeding on which the hearing is held
22 solely on the basis of receiving that notice and right to be heard.

23 **SECTION 23.** 48.357 (2r) of the statutes, as affected by 2009 Wisconsin Act 79,
24 section 32, and 2009 Wisconsin Act ... (this act), is repealed and recreated to read:

SENATE BILL 501

1 48.357 **(2r)** (a) If a hearing is held under sub. (1) (am) 2. or (2m) (b) and the
2 change in placement would remove a child from a foster home or other placement
3 with a physical custodian described in s. 48.62 (2) in which the child has been placed
4 for less than 6 months, the court shall give the foster parent or other physical
5 custodian a right to be heard at the hearing by permitting the foster parent or other
6 physical custodian to make a written or oral statement during the hearing or to
7 submit a written statement prior to the hearing relating to the child and the
8 requested change in placement. A foster parent or other physical custodian
9 described in s. 48.62 (2) who receives notice of a hearing under sub. (1) (am) 1. or (2m)
10 (b) and a right to be heard under this paragraph does not become a party to the
11 proceeding on which the hearing is held solely on the basis of receiving that notice
12 and right to be heard.

13 (b) If a hearing is held under sub. (1) (am) 2. or (2m) (b) and the change in
14 placement would remove a child from a foster home or other placement with a
15 physical custodian described in s. 48.62 (2) in which the child has been placed for 6
16 months or more, the foster parent or other physical custodian shall become a party
17 to the proceeding and, as a party, shall have the right to be heard as described in par.
18 (a), to be represented by counsel, to request an examination or assessment of the
19 child under s. 48.295 by an expert of the foster parent's or other physical custodian's
20 own choosing, to present evidence relative to the issue of placement, including expert
21 testimony, to confront and cross-examine witnesses, and to make alternative
22 placement recommendations. In addition, counsel for the foster parent or other
23 physical custodian may, notwithstanding s. 48.78 (2) (a), inspect and obtain copies
24 of all records relating to the child as provided under s. 48.293. If counsel for the foster
25 parent or other physical custodian discloses a record to the foster parent or other

SENATE BILL 501

1 physical custodian, counsel shall advise that person that the information contained
2 in the record is confidential and may be disclosed only for the purpose of participating
3 in the change-in-placement proceeding.

4 **SECTION 24.** 48.357 (2r) (b) of the statutes is created to read:

5 48.357 (2r) (b) If a hearing is held under sub. (1) (am) 2. or (2m) (b) and the
6 change in placement would remove a child from a foster home, treatment foster
7 home, or other placement with a physical custodian described in s. 48.62 (2) in which
8 the child has been placed for 6 months or more, the foster parent, treatment foster
9 parent, or other physical custodian shall become a party to the proceeding and, as
10 a party, shall have the right to be heard as described in par. (a), to be represented by
11 counsel, to request an examination or assessment of the child under s. 48.295 by an
12 expert of the foster parent's, treatment foster parent's, or other physical custodian's
13 own choosing, to present evidence relative to the issue of placement, including expert
14 testimony, to confront and cross-examine witnesses, and to make alternative
15 placement recommendations. In addition, counsel for the foster parent, treatment
16 foster parent, or other physical custodian may, notwithstanding s. 48.78 (2) (a),
17 inspect and obtain copies of all records relating to the child as provided under s.
18 48.293. If counsel for the foster parent, treatment foster parent, or other physical
19 custodian discloses a record to the foster parent, treatment foster parent, or other
20 physical custodian, counsel shall advise that person that the information contained
21 in the record is confidential and may be disclosed only for the purpose of participating
22 in the change-in-placement proceeding.

23 **SECTION 25.** 48.38 (4) (c) of the statutes is amended to read:

24 48.38 (4) (c) The location and type of facility in which the child is currently held
25 or placed, and the location and type of facility in which the child will be placed. If

SENATE BILL 501

1 the child is or will be placed in a foster home or treatment foster home, the
2 information specified in this paragraph may not be disclosed to the child's parent or
3 guardian or to any other adult relative of the child without the consent of the foster
4 parent or treatment foster parent under s. 48.62 (3m).

5 **SECTION 26.** 48.38 (4) (c) of the statutes, as affected by 2009 Wisconsin Act
6 (this act), is repealed and recreated to read:

7 48.38 (4) (c) The location and type of facility in which the child is currently held
8 or placed, and the location and type of facility in which the child will be placed. If
9 the child is or will be placed in a foster home, the information specified in this
10 paragraph may not be disclosed to the child's parent or guardian or to any other adult
11 relative of the child without the consent of the foster parent under s. 48.62 (3m).

12 **SECTION 27.** 48.62 (3m) of the statutes is created to read:

13 48.62 (3m) The name, other than the first name, and address of a person
14 licensed to operate a foster home or treatment foster home may not be disclosed to
15 the parent or guardian of a child placed in the home or to any other adult relative of
16 the child without the written consent of the licensee. When the department, a county
17 department, or a child welfare agency issues a license to operate a foster home or
18 treatment foster home, the department, county department, or child welfare agency
19 shall notify the licensee of that confidentiality requirement. A person licensed to
20 operate a foster home or a treatment foster home may consent to the disclosure of his
21 or her full name and address to the parent or guardian of a child placed in the person's
22 care or to an adult relative of the child by submitting a signed and dated statement
23 to the department, county department, or child welfare agency stating the name of
24 the child and indicating that the person consents to the disclosure of that information
25 to the parent, guardian, or other adult relative. Consent under this subsection shall

SENATE BILL 501**SECTION 27**

1 be given individually with respect to each child in the care of a licensee, except that
2 a licensee may provide one consent covering all members of a sibling group in the care
3 of the licensee.

4 **SECTION 28.** 48.62 (3m) of the statutes, as created by 2009 Wisconsin Act ...
5 (this act), is amended to read:

6 48.62 **(3m)** The name, other than the first name, and address of a person
7 licensed to operate a foster home ~~or treatment foster home~~ may not be disclosed to
8 the parent or guardian of a child placed in the home or to any other adult relative of
9 the child without the written consent of the licensee. When the department, a county
10 department, or a child welfare agency issues a license to operate a foster home ~~or~~
11 ~~treatment foster home~~, the department, county department, or child welfare agency
12 shall notify the licensee of that confidentiality requirement. A person licensed to
13 operate a foster home ~~or a treatment foster home~~ may consent to the disclosure of his
14 or her full name and address to the parent or guardian of a child placed in the person's
15 care or to an adult relative of the child by submitting a signed and dated statement
16 to the department, county department, or child welfare agency stating the name of
17 the child and indicating that the person consents to the disclosure of that information
18 to the parent, guardian, or other adult relative. Consent under this subsection shall
19 be given individually with respect to each child in the care of a licensee, except that
20 a licensee may provide one consent covering all members of a sibling group in the care
21 of the licensee.

22 **SECTION 29.** 48.64 (4) (a) of the statutes, as affected by 2009 Wisconsin Act 81,
23 section 6, is renumbered 48.64 (4) (a) 1. and amended to read:

24 48.64 **(4)** (a) 1. Any decision or order issued by an agency that affects the head
25 of a foster home, treatment foster home, or group home, the head of the home of a

SENATE BILL 501

1 relative other than a parent in which a child is placed, or the child involved may be
2 appealed to the department under fair hearing procedures established under rules
3 promulgated by the department. Upon receipt of an appeal, the department shall
4 give the head of the home reasonable notice and an opportunity for a fair hearing.
5 The department may make such any additional investigation as the department
6 considers necessary. The department shall give notice of the hearing to the head of
7 the home and to the departmental subunit, county department, or child welfare
8 agency that issued the decision or order. Each person receiving notice of the hearing
9 is entitled to be represented at the hearing. ~~At all hearings conducted under this~~
10 ~~paragraph, the head of the home, or a representative of the head of the home, shall~~
11 ~~have an adequate opportunity, notwithstanding s. 48.78 (2) (a), to examine all~~
12 ~~documents and records to be used at the hearing at a reasonable time before the date~~
13 ~~of the hearing as well as during the hearing, to bring witnesses, to establish all~~
14 ~~pertinent facts and circumstances, and to question or refute any testimony or~~
15 ~~evidence, including an opportunity to confront and cross-examine adverse~~
16 ~~witnesses.~~

17 3. The department shall grant a continuance for a reasonable period of time
18 when an issue is raised for the first time during a hearing. This requirement may
19 be waived with the consent of the parties. The decision of the department shall be
20 based exclusively on evidence introduced at the hearing. A transcript of testimony
21 and exhibits, or an official report containing the substance of what transpired at the
22 hearing, together with all papers and requests filed in the proceeding, and the
23 findings of the hearing examiner shall constitute the exclusive record for decision by
24 the department. The department shall make the record available at any reasonable
25 time and at an accessible place to the head of the home or his or her representative.

SENATE BILL 501**SECTION 29**

1 Decisions by the department shall specify the reasons for the decision and identify
2 the supporting evidence. No person participating in an agency action being appealed
3 may participate in the final administrative decision on that action. The department
4 shall render its decision as soon as possible after the hearing and shall send a
5 certified copy of its decision to the head of the home and to the departmental subunit,
6 county department or child welfare agency that issued the decision or order. The
7 decision shall be binding on all parties concerned.

8 **SECTION 30.** 48.64 (4) (a) of the statutes, as affected by 2009 Wisconsin Act 81,
9 section 6m, and 2009 Wisconsin Act (this act), is repealed and recreated to read:

10 48.64 (4) (a) 1. Any decision or order issued by an agency that affects the head
11 of a foster home or group home, the head of the home of a relative other than a parent
12 in which a child is placed, or the child involved may be appealed to the department
13 under fair hearing procedures established under rules promulgated by the
14 department. Upon receipt of an appeal, the department shall give the head of the
15 home reasonable notice and an opportunity for a fair hearing. The department may
16 make any additional investigation as the department considers necessary. The
17 department shall give notice of the hearing to the head of the home and to the
18 departmental subunit, county department, or child welfare agency that issued the
19 decision or order. Each person receiving notice of the hearing is entitled to be
20 represented at the hearing.

21 2. The head of a foster or group home or the head of the home of a relative other
22 than a parent who receives notice of intent to remove the child under sub. (1m) and
23 who requests a hearing under subd. 1. is a party to the proceeding under this
24 paragraph and, as a party, shall have the right to be heard, to be represented by
25 counsel, to request an examination or assessment of the child as provided in s. 48.295

SENATE BILL 501

1 by an expert of his or her own choosing, to present evidence relative to the issue of
2 placement, including expert testimony, to confront and cross-examine witnesses,
3 and to make alternative placement recommendations. In addition, counsel for the
4 head of the foster or group home or for the head of the home of the relative other than
5 a parent may, notwithstanding s. 48.78 (2) (a), inspect and obtain copies of all records
6 relating to the child as provided under s. 48.293. If counsel for the head of the foster
7 or group home or for the head of the home of the relative other than a parent discloses
8 a record to the head of the foster or group home or to the head of the home of the
9 relative other than a parent, counsel shall advise him or her that the information
10 contained in the record is confidential and may be disclosed only for the purpose of
11 participating in the proceeding under this paragraph.

12 3. The department shall grant a continuance for a reasonable period of time
13 when an issue is raised for the first time during a hearing. This requirement may
14 be waived with the consent of the parties. The decision of the department shall be
15 based exclusively on evidence introduced at the hearing. A transcript of testimony
16 and exhibits, or an official report containing the substance of what transpired at the
17 hearing, together with all papers and requests filed in the proceeding, and the
18 findings of the hearing examiner shall constitute the exclusive record for decision by
19 the department. The department shall make the record available at any reasonable
20 time and at an accessible place to the head of the home or his or her representative.
21 Decisions by the department shall specify the reasons for the decision and identify
22 the supporting evidence. No person participating in an agency action being appealed
23 may participate in the final administrative decision on that action. The department
24 shall render its decision as soon as possible after the hearing and shall send a
25 certified copy of its decision to the head of the home and to the departmental subunit,

SENATE BILL 501**SECTION 30**

1 county department or child welfare agency that issued the decision or order. The
2 decision shall be binding on all parties concerned.

3 **SECTION 31.** 48.64 (4) (a) 2. of the statutes is created to read:

4 48.64 (4) (a) 2. The head of a foster, treatment foster, or group home or the head
5 of the home of a relative other than a parent who receives notice of intent to remove
6 the child under sub. (1m) and who requests a hearing under subd. 1. is a party to the
7 proceeding under this paragraph and, as a party, shall have the right to be heard, to
8 be represented by counsel, to request an examination or assessment of the child as
9 provided in s. 48.295 by an expert of his or her own choosing, to present evidence
10 relative to the issue of placement, including expert testimony, to confront and
11 cross-examine witnesses, and to make alternative placement recommendations. In
12 addition, counsel for the head of the foster, treatment foster, or group home or for the
13 head of the home of the relative other than a parent may, notwithstanding s. 48.78
14 (2) (a), inspect and obtain copies of all records relating to the child as provided under
15 s. 48.293. If counsel for the head of the foster, treatment foster, or group home or for
16 the head of the home of the relative other than a parent discloses a record to the head
17 of the foster, treatment foster, or group home or to the head of the home of the relative
18 other than a parent, counsel shall advise him or her that the information contained
19 in the record is confidential and may be disclosed only for the purpose of participating
20 in the proceeding under this paragraph.

21 **SECTION 32.** 48.64 (4) (c) of the statutes, as affected by 2009 Wisconsin Act 81,
22 section 7, is renumbered 48.64 (4) (c) 1. and amended to read:

23 48.64 (4) (c) 1. The circuit court for the county where the dispositional order
24 placing a child in a foster home, treatment foster home, or group home or in the home
25 of a relative other than a parent was entered or the voluntary agreement under s.

SENATE BILL 501

1 48.63 placing a child in a foster home, treatment foster home, or group home was
2 made has jurisdiction upon petition of any interested party over the child who is
3 placed in the foster home, treatment foster home, group home, or home of the
4 relative. The

5 2. Subject to subd. 3., the circuit court may call a hearing, at which the head
6 of the home and the supervising agency under sub. (2) shall be present, for the
7 purpose of reviewing any decision or order of that agency involving the placement
8 and care of the child. If the child has been placed in a foster home or in the home of
9 a relative other than a parent, the foster parent or relative may present relevant
10 evidence at the hearing.

11 4. The petitioner has the burden of proving by clear and convincing evidence
12 that the decision or order issued by the agency is not in the best interests of the child.

13 **SECTION 33.** 48.64 (4) (c) of the statutes, as affected by 2009 Wisconsin Act 81,
14 section 7m, and 2009 Wisconsin Act (this act), is repealed and recreated to read:

15 48.64 (4) (c) 1. The circuit court for the county where the dispositional order
16 placing a child in a foster home or group home or in the home of a relative other than
17 a parent was entered or the voluntary agreement under s. 48.63 placing a child in
18 a foster home or group home was made has jurisdiction upon petition of any
19 interested party over the child who is placed in the foster home, group home, or home
20 of the relative.

21 2. Subject to subd. 3., the circuit court may call a hearing, at which the head
22 of the home and the supervising agency under sub. (2) shall be present, for the
23 purpose of reviewing any decision or order of that agency involving the placement
24 and care of the child. If the child has been placed in a foster home or in the home of

SENATE BILL 501

1 a relative other than a parent, the foster parent or relative may present relevant
2 evidence at the hearing.

3 3. If the head of a foster or group home or the head of the home of a relative other
4 than a parent who receives notice of intent to remove the child under sub. (1m)
5 petitions for a hearing under this paragraph, the circuit court shall call a hearing,
6 at which the head of the foster or group home, or the head of the home of the relative
7 other than a parent, and the supervising agency under sub. (2) shall be present, for
8 the purpose of reviewing the decision to remove the child from the home. The head
9 of the foster or group home or the head of the home of the relative other than a parent
10 is a party to the proceeding under this paragraph and, as a party, shall have the right
11 to be heard, to be represented by counsel, to request an examination or assessment
12 of the child as provided in s. 48.295 by an expert of his or her own choosing, to present
13 evidence relative to the issue of placement, including expert testimony, to confront
14 and cross-examine witnesses, and to make alternative placement
15 recommendations. In addition, counsel for the head of the foster or group home or
16 for the head of the home of the relative other than a parent may, notwithstanding s.
17 48.78 (2) (a), inspect and obtain copies of all records relating to the child as provided
18 under s. 48.293. If counsel for the head of the foster or group home or for the head
19 of the home of the relative other than a parent discloses a record to the head of the
20 foster or group home or to the head of the home of the relative other than a parent,
21 counsel shall advise him or her that the information contained in the record is
22 confidential and may be disclosed only for the purpose of participating in the
23 proceeding under this paragraph.

24 4. The petitioner has the burden of proving by clear and convincing evidence
25 that the decision or order issued by the agency is not in the best interests of the child.

SENATE BILL 501

1 **SECTION 34.** 48.64 (4) (c) 3. of the statutes is created to read:

2 48.64 (4) (c) 3. If the head of a foster, treatment foster, or group home or the head
3 of the home of a relative other than a parent who receives notice of intent to remove
4 the child under sub. (1m) petitions for a hearing under this paragraph, the circuit
5 court shall call a hearing, at which the head of the foster, treatment foster, or group
6 home, or the head of the home of the relative other than a parent, and the supervising
7 agency under sub. (2) shall be present, for the purpose of reviewing the decision to
8 remove the child from the home. The head of the foster, treatment foster, or group
9 home or the head of the home of the relative other than a parent is a party to the
10 proceeding under this paragraph and, as a party, shall have the right to be heard, to
11 be represented by counsel, to request an examination or assessment of the child as
12 provided in s. 48.295 by an expert of his or her own choosing, to present evidence
13 relative to the issue of placement, including expert testimony, to confront and
14 cross-examine witnesses, and to make alternative placement recommendations. In
15 addition, counsel for the head of the foster, treatment foster, or group home or for the
16 head of the home of the relative other than a parent may, notwithstanding s. 48.78
17 (2) (a), inspect and obtain copies of all records relating to the child as provided under
18 s. 48.293. If counsel for the head of the foster, treatment foster, or group home or for
19 the head of the home of the relative other than a parent discloses a record to the head
20 of the foster, treatment foster, or group home or to the head of the home of the relative
21 other than a parent, counsel shall advise him or her that the information contained
22 in the record is confidential and may be disclosed only for the purpose of participating
23 in the proceeding under this paragraph.

24 **SECTION 35.** 48.78 (2) (a) of the statutes is amended to read:

SENATE BILL 501

1 48.78 (2) (a) No agency may make available for inspection or disclose the
2 contents of any record kept or information received about an individual in its care
3 or legal custody, except as provided under s. 48.357 (2r) (b), 48.371, 48.38 (5) (b) or
4 (d) or (5m) (d), 48.432, 48.433, 48.48 (17) (bm), 48.57 (2m), 48.93, 48.981 (7), 938.51,
5 or 938.78 or by order of the court.

6 **SECTION 36.** 48.78 (2) (ag) of the statutes is amended to read:

7 48.78 (2) (ag) Paragraph (a) does not prohibit an agency from making available
8 for inspection or disclosing the contents of a record, upon the request of the parent,
9 guardian, or legal custodian of the child who is the subject of the record or upon the
10 request of the child, if 14 years of age or over, to the parent, guardian, legal custodian,
11 or child, unless the record discloses information that is confidential under s. 48.62
12 (3m) or the agency determines that inspection of the record by the child, parent,
13 guardian, or legal custodian would result in imminent danger to anyone.

14 **SECTION 37.** 48.78 (2) (aj) of the statutes is amended to read:

15 48.78 (2) (aj) Paragraph (a) does not prohibit an agency from making available
16 for inspection or disclosing the contents of a record, upon the request of a parent,
17 guardian, or legal custodian of a child expectant mother of an unborn child who is
18 the subject of the record, upon the request of an expectant mother of an unborn child
19 who is the subject of the record, if 14 years of age or over, or upon the request of an
20 unborn child by the unborn child's guardian ad litem to the parent, guardian, legal
21 custodian, expectant mother, or unborn child by the unborn child's guardian ad
22 litem, unless the record discloses information that is confidential under s. 48.62 (3m)
23 or the agency determines that inspection of the record by the parent, guardian, legal
24 custodian, expectant mother, or unborn child by the unborn child's guardian ad litem
25 would result in imminent danger to anyone.

SENATE BILL 501

1 **SECTION 38.** 48.78 (2) (am) of the statutes is amended to read:

2 48.78 (2) (am) Paragraph (a) does not prohibit an agency from making
3 available for inspection or disclosing the contents of a record, upon the written
4 permission of the parent, guardian, or legal custodian of the child who is the subject
5 of the record or upon the written permission of the child, if 14 years of age or over,
6 to the person named in the permission if the parent, guardian, legal custodian, or
7 child specifically identifies the record in the written permission, unless the record
8 discloses information that is confidential under s. 48.62 (3m) or the agency
9 determines that inspection of the record by the person named in the permission
10 would result in imminent danger to anyone.

11 **SECTION 39.** 48.78 (2) (ap) of the statutes is amended to read:

12 48.78 (2) (ap) Paragraph (a) does not prohibit an agency from making available
13 for inspection or disclosing the contents of a record, upon the written permission of
14 the parent, guardian, or legal custodian of a child expectant mother of an unborn
15 child who is the subject of the record, or of an expectant mother of an unborn child
16 who is the subject of the record, if 14 years of age or over, and of the unborn child by
17 the unborn child's guardian ad litem, to the person named in the permission if the
18 parent, guardian, legal custodian, or expectant mother, and unborn child by the
19 unborn child's guardian ad litem, specifically identify the record in the written
20 permission, unless the record discloses information that is confidential under s.
21 48.62 (3m) or the agency determines that inspection of the record by the person
22 named in the permission would result in imminent danger to anyone.

23 **SECTION 40.** 48.834 (title) of the statutes is amended to read:

SENATE BILL 501

1 **48.834** (title) **Placement of children with relatives, physical**
2 **custodians, or siblings for adoption by the department, county**
3 **departments, and child welfare agencies.**

4 **SECTION 41.** 48.834 (1) of the statutes is amended to read:

5 48.834 (1) PLACEMENT WITH RELATIVES. Before Subject to sub. (1m), before
6 placing a child for adoption under s. 48.833, the department, county department
7 under s. 48.57 (1) (e) or (hm), or child welfare agency making the placement shall
8 consider the availability of a placement for adoption with a relative of the child who
9 is identified in the child's permanency plan under s. 48.38 or 938.38 or who is
10 otherwise known by the department, county department, or child welfare agency.

11 **SECTION 42.** 48.834 (1m) of the statutes is created to read:

12 48.834 (1m) PLACEMENT WITH PHYSICAL CUSTODIANS. Before placing for adoption
13 under s. 48.833 a child who has been placed in the home of a foster parent, treatment
14 foster parent, or other physical custodian described in s. 48.62 (2) for 6 months or
15 more, the department, county department under s. 48.57 (1) (e) or (hm), or child
16 welfare agency making the placement shall first consider the availability of a
17 placement for adoption with that foster parent, treatment foster parent, or other
18 physical custodian before considering the availability of a placement for adoption
19 with a relative under sub. (1).

20 **SECTION 43.** 48.834 (1m) of the statutes, as created by 2009 Wisconsin Act
21 (this act), is amended to read:

22 48.834 (1m) PLACEMENT WITH PHYSICAL CUSTODIANS. Before placing for adoption
23 under s. 48.833 a child who has been placed in the home of a foster parent, ~~treatment~~
24 ~~foster parent~~, or other physical custodian described in s. 48.62 (2) for 6 months or
25 more, the department, county department under s. 48.57 (1) (e) or (hm), or child

SENATE BILL 501

1 welfare agency making the placement shall first consider the availability of a
2 placement for adoption with that foster parent, ~~treatment foster parent~~, or other
3 physical custodian before considering the availability of a placement for adoption
4 with a relative under sub. (1).

5 **SECTION 44.** 938.293 (2) of the statutes is amended to read:

6 938.293 (2) RECORDS RELATING TO JUVENILE. All records relating to a juvenile
7 ~~which are relevant to the subject matter of a proceeding under this chapter~~ shall be
8 open to inspection by a guardian ad litem or counsel for any party or by counsel for
9 any foster parent, treatment foster parent, or other physical custodian described in
10 s. 938.357 (2r) (b), upon demand and upon presentation of releases ~~where~~ when
11 necessary, at least ~~48~~ 96 hours before the proceeding. Persons entitled to inspect the
12 records may obtain copies of the records with the permission of the custodian of the
13 records or with the permission of the court. The court may instruct counsel not to
14 disclose specified items in the ~~materials~~ records to the juvenile ~~or~~, the parent, or the
15 juvenile's foster parent, treatment foster parent, or other physical custodian
16 described in s. 938.357 (2r) (b) if the court reasonably believes that the disclosure
17 would be harmful to the interests of the juvenile. Section 971.23 shall be applicable
18 in all delinquency proceedings under this chapter, except that the court shall
19 establish the timetable for the disclosures required under s. 971.23 (1), (2m), (8), and
20 (9).

21 **SECTION 45.** 938.293 (2) of the statutes, as affected by 2009 Wisconsin Act
22 (this act), is repealed and recreated to read:

23 938.293 (2) RECORDS RELATING TO JUVENILE. All records relating to a juvenile
24 shall be open to inspection by a guardian ad litem or counsel for any party or by
25 counsel for any foster parent or other physical custodian described in s. 938.357 (2r)

SENATE BILL 501

1 (b), upon demand and upon presentation of releases when necessary, at least 96
2 hours before the proceeding. Persons entitled to inspect the records may obtain
3 copies of the records with the permission of the custodian of the records or with the
4 permission of the court. The court may instruct counsel not to disclose specified
5 items in the records to the juvenile, the parent, or the juvenile's foster parent or other
6 physical custodian described in s. 938.357 (2r) (b) if the court reasonably believes
7 that the disclosure would be harmful to the interests of the juvenile. Section 971.23
8 shall be applicable in all delinquency proceedings under this chapter, except that the
9 court shall establish the timetable for the disclosures required under s. 971.23 (1),
10 (2m), (8), and (9).

11 **SECTION 46.** 938.295 (1) (b) of the statutes is amended to read:

12 938.295 (1) (b) The court shall hear any objections by the juvenile and, the
13 juvenile's parents, guardian, or legal custodian, or the juvenile's foster parent,
14 treatment foster parent, or other physical custodian described in s. 938.357 (2r) (b)
15 to the request under par. (a) for an examination or assessment before ordering the
16 examination or assessment.

17 **SECTION 47.** 938.295 (1) (b) of the statutes, as affected by 2009 Wisconsin Act
18 (this act), is repealed and recreated to read:

19 938.295 (1) (b) The court shall hear any objections by the juvenile, the juvenile's
20 parents, guardian, or legal custodian, or the juvenile's foster parent or other physical
21 custodian described in s. 938.357 (2r) (b) to the request under par. (a) for an
22 examination or assessment before ordering the examination or assessment.

23 **SECTION 48.** 938.295 (3) of the statutes is amended to read:

24 938.295 (3) **OBJECTION TO A PARTICULAR PROFESSIONAL.** If the juvenile or, a
25 parent, or the juvenile's foster parent, treatment foster parent, or other physical

SENATE BILL 501

1 custodian described in s. 938.357 (2r) (b) objects to a particular physician,
2 psychiatrist, licensed psychologist, or other expert, the court shall appoint a different
3 physician, psychiatrist, psychologist, or other expert.

4 **SECTION 49.** 938.295 (3) of the statutes, as affected by 2009 Wisconsin Act ...
5 (this act), is repealed and recreated to read:

6 938.295 (3) OBJECTION TO A PARTICULAR PROFESSIONAL. If the juvenile, a parent,
7 or the juvenile's foster parent or other physical custodian described in s. 938.357 (2r)
8 (b) objects to a particular physician, psychiatrist, licensed psychologist, or other
9 expert, the court shall appoint a different physician, psychiatrist, psychologist, or
10 other expert.

11 **SECTION 50.** 938.33 (5) of the statutes is amended to read:

12 938.33 (5) IDENTITY OF FOSTER PARENT OR TREATMENT FOSTER PARENT;
13 CONFIDENTIALITY. If the report recommends placement in a foster home or a treatment
14 foster home, and the name of the foster parent or treatment foster parent is not
15 available at the time the report is filed, the agency shall provide the court and the
16 juvenile's parent or guardian with the name and address of the foster parent or
17 treatment foster parent within 21 days after the dispositional order is entered. If the
18 foster parent or treatment foster parent has consented under s. 48.62 (3m) to the
19 disclosure of that information to the juvenile's parent or guardian or to any other
20 adult relative of the juvenile, the agency shall also provide that information to that
21 parent, guardian, or adult relative within those 21 days, except that the court may
22 order the information withheld from the juvenile's that parent or, guardian, or adult
23 relative if the court finds that disclosure would result in imminent danger to the
24 juvenile or to the foster parent or treatment foster parent. After notifying the

SENATE BILL 501**SECTION 50**

1 juvenile's that parent or, guardian, or adult relative, the court shall hold a hearing
2 prior to ordering the information withheld.

3 **SECTION 51.** 938.33 (5) of the statutes, as affected by 2009 Wisconsin Acts 28
4 and ... (this act), is repealed and recreated to read:

5 938.33 (5) IDENTITY OF FOSTER PARENT; CONFIDENTIALITY. If the report
6 recommends placement in a foster home and the name of the foster parent is not
7 available at the time the report is filed, the agency shall provide the court with the
8 name and address of the foster parent within 21 days after the dispositional order
9 is entered. If the foster parent has consented under s. 48.62 (3m) to the disclosure
10 of that information to the juvenile's parent or guardian or to any other adult relative
11 of the juvenile, the agency shall also provide that information to that parent,
12 guardian, or adult relative within those 21 days, except that the court may order the
13 information withheld from that parent, guardian, or adult relative if the court finds
14 that disclosure would result in imminent danger to the juvenile or to the foster
15 parent. After notifying that parent, guardian, or adult relative, the court shall hold
16 a hearing prior to ordering the information withheld.

17 **SECTION 52.** 938.355 (2) (b) 2. of the statutes is amended to read:

18 938.355 (2) (b) 2. If the juvenile is placed outside the home, the name of the
19 place or facility, including transitional placements, where the juvenile ~~shall~~ will be
20 cared for or treated, except that if the placement is a foster home or treatment foster
21 home and the name and address of the foster parent or treatment foster parent is not
22 available at the time of the order, the name and address of the foster parent or
23 treatment foster parent shall be furnished to the court ~~and the parent~~ within 21 days
24 of the order. If the foster parent or treatment foster parent has consented under s.
25 48.62 (3m) to the disclosure of that information to the juvenile's parent or guardian

SENATE BILL 501

1 or to any other adult relative of the juvenile, the agency shall also provide that
2 information to that parent, guardian, or adult relative within those 21 days, except
3 that the judge may order that information to be withheld from that parent, guardian,
4 or adult relative as provided in this subdivision. If, after a hearing on the issue with
5 due notice to the parent ~~or~~, guardian, or adult relative, the court finds that disclosure
6 of the identity of the foster parent or treatment foster parent would result in
7 imminent danger to the juvenile, the foster parent, or the treatment foster parent,
8 the court may order the name and address of the prospective foster parents or
9 treatment foster parents withheld from the parent ~~or~~, guardian, or adult relative.

10 **SECTION 53.** 938.355 (2) (b) 2. of the statutes, as affected by 2009 Wisconsin Acts
11 28 and (this act), is repealed and recreated to read:

12 938.355 (2) (b) 2. If the juvenile is placed outside the home, the name of the
13 place or facility, including transitional placements, where the juvenile will be cared
14 for or treated, except that if the placement is a foster home and the name and address
15 of the foster parent is not available at the time of the order, the name and address
16 of the foster parent shall be furnished to the court within 21 days of the order. If the
17 foster parent has consented under s. 48.62 (3m) to the disclosure of that information
18 to the juvenile's parent or guardian or to any other adult relative of the juvenile, the
19 agency shall also provide that information to that parent, guardian, or adult relative
20 within those 21 days, except that the judge may order that information to be withheld
21 from that parent, guardian, or adult relative as provided in this subdivision. If, after
22 a hearing on the issue with due notice to the parent, guardian, or adult relative, the
23 court finds that disclosure of the identity of the foster parent would result in
24 imminent danger to the juvenile or the foster parent, the court may order the name

SENATE BILL 501**SECTION 53**

1 and address of the prospective foster parents withheld from the parent, guardian, or
2 adult relative.

3 **SECTION 54.** 938.357 (1) (am) 1. of the statutes, as affected by 2009 Wisconsin
4 Act 94, section 346, is amended to read:

5 938.357 (1) (am) 1. If the proposed change in placement involves any change
6 in placement other than a change in placement under par. (c), the person or agency
7 primarily responsible for implementing the dispositional order or the district
8 attorney shall cause written notice of the proposed change in placement to be sent
9 to the juvenile, the parent, guardian, and legal custodian of the juvenile, and any
10 foster parent, treatment foster parent, or other physical custodian described in s.
11 48.62 (2) of the juvenile. If the juvenile is an Indian juvenile who has been removed
12 from the home of his or her parent or Indian custodian under s. 938.13 (4), (6), (6m),
13 or (7), written notice shall also be sent to the Indian juvenile's Indian custodian and
14 tribe. The notice shall contain the name and address of the new placement, the
15 reasons for the change in placement, a statement describing why the new placement
16 ~~is preferable to the present placement~~ would be in the best interests of the juvenile,
17 and a statement of how the new placement satisfies objectives of the treatment plan
18 ordered by the court.

19 **SECTION 55.** 938.357 (1) (am) 1. of the statutes, as affected by 2009 Wisconsin
20 Act 94, section 347, and 2009 Wisconsin Act (this act), is repealed and recreated
21 to read:

22 938.357 (1) (am) 1. If the proposed change in placement involves any change
23 in placement other than a change in placement under par. (c), the person or agency
24 primarily responsible for implementing the dispositional order or the district
25 attorney shall cause written notice of the proposed change in placement to be sent

SENATE BILL 501

1 to the juvenile, the parent, guardian, and legal custodian of the juvenile, and any
2 foster parent or other physical custodian described in s. 48.62 (2) of the juvenile. If
3 the juvenile is an Indian juvenile who has been removed from the home of his or her
4 parent or Indian custodian under s. 938.13 (4), (6), (6m), or (7), written notice shall
5 also be sent to the Indian juvenile's Indian custodian and tribe. The notice shall
6 contain the name and address of the new placement, the reasons for the change in
7 placement, a statement describing why the new placement would be in the best
8 interests of the juvenile, and a statement of how the new placement satisfies
9 objectives of the treatment plan ordered by the court.

10 **SECTION 56.** 938.357 (1) (am) 2. of the statutes, as affected by 2009 Wisconsin
11 Act 94, section 349, is amended to read:

12 938.357 (1) (am) 2. Any person receiving the notice under subd. 1. or notice of
13 a specific foster or treatment foster placement under s. 938.355 (2) (b) 2. may obtain
14 a hearing on the matter by filing an objection with the court within 10 days after
15 receipt of the notice. Placements may not be changed until 10 days after that notice
16 is sent to the court unless the parent, guardian, legal custodian, or Indian custodian,
17 the juvenile, if 12 or more years of age, and the juvenile's tribe, if the juvenile is an
18 Indian juvenile who has been removed from the home of his or her parent or Indian
19 custodian under s. 938.13 (4), (6), (6m), or (7), sign written waivers of objection,
20 except that changes in placement that were authorized in the dispositional order
21 may be made immediately if notice is given as required under subd. 1. In addition,
22 a hearing is not required for placement changes authorized in the dispositional order
23 except when an objection filed by a person who received notice alleges that new
24 information is available that affects the advisability of the court's dispositional order.

SENATE BILL 501**SECTION 57**

1 **SECTION 57.** 938.357 (1) (am) 2. of the statutes, as affected by 2009 Wisconsin
2 Act 94, section 350, and 2009 Wisconsin Act (this act), is repealed and recreated
3 to read:

4 938.357 (1) (am) 2. Any person receiving the notice under subd. 1. or notice of
5 a specific foster placement under s. 938.355 (2) (b) 2. may obtain a hearing on the
6 matter by filing an objection with the court within 10 days after receipt of the notice.
7 Placements may not be changed until 10 days after that notice is sent to the court
8 unless the parent, guardian, legal custodian, or Indian custodian, the juvenile, if 12
9 or more years of age, and the juvenile's tribe, if the juvenile is an Indian juvenile who
10 has been removed from the home of his or her parent or Indian custodian under s.
11 938.13 (4), (6), (6m), or (7), sign written waivers of objection, except that changes in
12 placement that were authorized in the dispositional order may be made immediately
13 if notice is given as required under subd. 1. In addition, a hearing is not required for
14 placement changes authorized in the dispositional order except when an objection
15 filed by a person who received notice alleges that information is available that affects
16 the advisability of the court's dispositional order.

17 **SECTION 58.** 938.357 (1) (am) 2r. of the statutes is created to read:

18 938.357 (1) (am) 2r. In the case of a juvenile who has been placed in the home
19 of a foster parent, treatment foster parent, or other physical custodian for 6 months
20 or more, if a hearing is held on a proposed change in placement of such a juvenile to
21 another placement outside the home, the court shall consider as paramount the best
22 interests of the juvenile in determining whether to continue placement of the
23 juvenile in his or her current placement or to change the juvenile's placement to the
24 proposed change in placement.

SENATE BILL 501

1 **SECTION 59.** 938.357 (1) (am) 2r. of the statutes, as created by 2009 Wisconsin
2 Act (this act), is amended to read:

3 938.357 (1) (am) 2r. In the case of a juvenile who has been placed in the home
4 of a foster parent, ~~treatment foster parent,~~ or other physical custodian for 6 months
5 or more, if a hearing is held on a proposed change in placement of such a juvenile to
6 another placement outside the home, the court shall consider as paramount the best
7 interests of the juvenile in determining whether to continue placement of the
8 juvenile in his or her current placement or to change the juvenile's placement to the
9 proposed change in placement.

10 **SECTION 60.** 938.357 (1) (c) 1. of the statutes is amended to read:

11 938.357 (1) (c) 1. If the proposed change in placement would change the
12 placement of a juvenile placed in the home to a placement outside the home, the
13 person or agency primarily responsible for implementing the dispositional order or
14 the district attorney shall submit a request for the change in placement to the court.
15 The request shall contain the name and address of the new placement, the reasons
16 for the change in placement, a statement describing why the new placement is
17 ~~preferable to the present placement~~ would be in the best interests of the juvenile, and
18 a statement of how the new placement satisfies objectives of the treatment plan
19 ordered by the court. The request shall also contain specific information showing
20 that continued placement of the juvenile in his or her home would be contrary to the
21 welfare of the juvenile and, unless any of the circumstances under s. 938.355 (2d) (b)
22 1. to 4. applies, specific information showing that the agency primarily responsible
23 for implementing the dispositional order has made reasonable efforts to prevent the
24 removal of the juvenile from the home, while assuring that the juvenile's health and
25 safety are the paramount concerns.

SENATE BILL 501**SECTION 61**

1 **SECTION 61.** 938.357 (2m) (a) of the statutes, as affected by 2009 Wisconsin Act
2 94, is amended to read:

3 938.357 **(2m)** (a) *Request; information required.* The juvenile, the parent,
4 guardian, or legal custodian of the juvenile, any person or agency primarily bound
5 by the dispositional order, other than the person or agency responsible for
6 implementing the order, or, if the juvenile is an Indian juvenile who is in need of
7 protection or services under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian
8 custodian may request a change in placement under this paragraph. The request
9 shall contain the name and address of the new placement requested and shall state
10 what new information is available that affects the advisability of the current
11 placement and why the new placement would be in the best interests of the juvenile.
12 If the proposed change in placement would change the placement of a juvenile placed
13 in the juvenile's home to a placement outside the home, the request shall also contain
14 specific information showing that continued placement of the juvenile in the
15 juvenile's home would be contrary to the welfare of the juvenile and, unless any of
16 the circumstances under s. 938.355 (2d) (b) 1. to 4. applies, specific information
17 showing that the agency primarily responsible for implementing the dispositional
18 order has made reasonable efforts to prevent the removal of the juvenile from the
19 home, while assuring that the juvenile's health and safety are the paramount
20 concerns. The request shall be submitted to the court. The court may also propose
21 a change in placement on its own motion.

22 **SECTION 62.** 938.357 (2m) (b) of the statutes, as affected by 2009 Wisconsin Act
23 94, section 358, is amended to read:

24 938.357 **(2m)** (b) *Hearing; when required.* The court shall hold a hearing prior
25 to ordering any change in placement requested or proposed under par. (a) if the

SENATE BILL 501

1 request states that new information is available that affects the advisability of the
2 current placement and why the new placement would be in the best interests of the
3 child. A hearing is not required if the requested or proposed change in placement
4 does not involve a change in placement of a juvenile placed in the juvenile's home to
5 a placement outside the juvenile's home, written waivers of objection to the proposed
6 change in placement are signed by all parties entitled to receive notice under this
7 paragraph, and the court approves. If a hearing is scheduled, not less than 3 days
8 before the hearing the court shall notify the juvenile, the parent, guardian, and legal
9 custodian of the juvenile, any foster parent, treatment foster parent, or other
10 physical custodian described in s. 48.62 (2) of the juvenile, all parties who are bound
11 by the dispositional order, and, if the juvenile is an Indian juvenile who is in need of
12 protection or services under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian
13 custodian and tribe. A copy of the request or proposal for the change in placement
14 shall be attached to the notice. Subject to par. ~~(bm)~~ (br), if all of the parties consent,
15 the court may proceed immediately with the hearing.

16 **SECTION 63.** 938.357 (2m) (b) of the statutes, as affected by 2009 Wisconsin Act
17 94, section 359, and 2009 Wisconsin Act (this act), is repealed and recreated to
18 read:

19 938.357 **(2m)** (b) *Hearing; when required.* The court shall hold a hearing prior
20 to ordering any change in placement requested or proposed under par. (a) if the
21 request states that information is available that affects the advisability of the
22 current placement and why the new placement would be in the best interests of the
23 child. A hearing is not required if the requested or proposed change in placement
24 does not involve a change in placement of a juvenile placed in the juvenile's home to
25 a placement outside the juvenile's home, written waivers of objection to the proposed

SENATE BILL 501**SECTION 63**

1 change in placement are signed by all parties entitled to receive notice under this
2 paragraph, and the court approves. If a hearing is scheduled, not less than 3 days
3 before the hearing the court shall notify the juvenile, the parent, guardian, and legal
4 custodian of the juvenile, any foster parent or other physical custodian described in
5 s. 48.62 (2) of the juvenile, all parties who are bound by the dispositional order, and,
6 if the juvenile is an Indian juvenile who is in need of protection or services under s.
7 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian and tribe. A copy
8 of the request or proposal for the change in placement shall be attached to the notice.
9 Subject to par. (br), if all of the parties consent, the court may proceed immediately
10 with the hearing.

11 **SECTION 64.** 938.357 (2m) (bp) of the statutes is created to read:

12 938.357 (2m) (bp) *Placement preference.* In the case of a juvenile who has been
13 placed in the home of a foster parent, treatment foster parent, or other physical
14 custodian for 6 months or more, if a hearing is held on a proposed change in
15 placement of such a juvenile to another placement outside the home, the court shall
16 consider as paramount the best interests of the juvenile in determining whether to
17 continue placement of the juvenile in his or her current placement or to change the
18 juvenile's placement to the proposed change in placement.

19 **SECTION 65.** 938.357 (2m) (bp) of the statutes, as created by 2009 Wisconsin Act
20 (this act), is amended to read:

21 938.357 (2m) (bp) *Placement preference.* In the case of a juvenile who has been
22 placed in the home of a foster parent, ~~treatment foster parent,~~ or other physical
23 custodian for 6 months or more, if a hearing is held on a proposed change in
24 placement of such a juvenile to another placement outside the home, the court shall
25 consider as paramount the best interests of the juvenile in determining whether to

SENATE BILL 501

1 continue placement of the juvenile in his or her current placement or to change the
2 juvenile's placement to the proposed change in placement.

3 **SECTION 66.** 938.357 (2r) of the statutes, as affected by 2009 Wisconsin Act 79,
4 section 131, is renumbered 938.357 (2r) (a) and amended to read:

5 938.357 (2r) (a) If a hearing is held under sub. (1) (am) 2. or (2m) (b) and the
6 change in placement would remove a juvenile from a foster home, treatment foster
7 home, or other placement with a physical custodian described in s. 48.62 (2) in which
8 the juvenile has been placed for less than 6 months, the court shall give the foster
9 parent, treatment foster parent, or other physical custodian a right to be heard at the
10 hearing by permitting the foster parent, treatment foster parent, or other physical
11 custodian to make a written or oral statement during the hearing or to submit a
12 written statement prior to the hearing relating to the juvenile and the requested
13 change in placement. A foster parent, treatment foster parent, or other physical
14 custodian who receives notice of a hearing under sub. (1) (am) 1. or (2m) (b) and a
15 right to be heard under this subsection paragraph does not become a party to the
16 proceeding on which the hearing is held solely on the basis of receiving that notice
17 and right to be heard.

18 **SECTION 67.** 938.357 (2r) of the statutes, as affected by 2009 Wisconsin Act 79,
19 section 132, and 2009 Wisconsin Act (this act), is repealed and recreated to read:

20 938.357 (2r) (a) If a hearing is held under sub. (1) (am) 2. or (2m) (b) and the
21 change in placement would remove a juvenile from a foster home or other placement
22 with a physical custodian described in s. 48.62 (2) in which the juvenile has been
23 placed for less than 6 months, the court shall give the foster parent or other physical
24 custodian a right to be heard at the hearing by permitting the foster parent or other
25 physical custodian to make a written or oral statement during the hearing or to

SENATE BILL 501**SECTION 67**

1 submit a written statement prior to the hearing relating to the juvenile and the
2 requested change in placement. A foster parent or other physical custodian who
3 receives notice of a hearing under sub. (1) (am) 1. or (2m) (b) and a right to be heard
4 under this paragraph does not become a party to the proceeding on which the hearing
5 is held solely on the basis of receiving that notice and right to be heard.

6 (b) If a hearing is held under sub. (1) (am) 2. or (2m) (b) and the change in
7 placement would remove a juvenile from a foster home or other placement with a
8 physical custodian described in s. 48.62 (2) in which the juvenile has been placed for
9 6 months or more, the foster parent or other physical custodian shall become a party
10 to the proceeding and, as a party, shall have the right to be heard as described in par.
11 (a), to be represented by counsel, to request an examination or assessment of the
12 juvenile under s. 938.295 by an expert of the foster parent's or other physical
13 custodian's own choosing, to present evidence relative to the issue of placement,
14 including expert testimony, to confront and cross-examine witnesses, and to make
15 alternative placement recommendations. In addition, counsel for the foster parent
16 or other physical custodian may, notwithstanding s. 938.78 (2) (a), inspect and obtain
17 copies of all records relating to the juvenile as provided under s. 938.293. If counsel
18 for the foster parent or other physical custodian discloses a record to the foster parent
19 or other physical custodian, counsel shall advise that person that the information
20 contained in the record is confidential and may be disclosed only for the purpose of
21 participating in the change-in-placement proceeding.

22 **SECTION 68.** 938.357 (2r) (b) of the statutes is created to read:

23 938.357 (2r) (b) If a hearing is held under sub. (1) (am) 2. or (2m) (b) and the
24 change in placement would remove a juvenile from a foster home, treatment foster
25 home, or other placement with a physical custodian described in s. 48.62 (2) in which

SENATE BILL 501

1 the juvenile has been placed for 6 months or more, the foster parent, treatment foster
2 parent, or other physical custodian shall become a party to the proceeding and, as
3 a party, shall have the right to be heard as described in par. (a), to be represented by
4 counsel, to request an examination or assessment of the juvenile under s. 938.295 by
5 an expert of the foster parent's, treatment foster parent's, or other physical
6 custodian's own choosing, to present evidence relative to the issue of placement,
7 including expert testimony, to confront and cross-examine witnesses, and to make
8 alternative placement recommendations. In addition, counsel for the foster parent,
9 treatment foster parent, or other physical custodian may, notwithstanding s. 938.78
10 (2) (a), inspect and obtain copies of all records relating to the juvenile as provided
11 under s. 938.293. If counsel for the foster parent, treatment foster parent, or other
12 physical custodian discloses a record to the foster parent, treatment foster parent,
13 or other physical custodian, counsel shall advise that person that the information
14 contained in the record is confidential and may be disclosed only for the purpose of
15 participating in the change-in-placement proceeding.

16 **SECTION 69.** 938.38 (4) (c) of the statutes is amended to read:

17 938.38 (4) (c) The location and type of facility in which the juvenile is currently
18 held or placed, and the location and type of facility in which the juvenile will be
19 placed. If the juvenile is or will be placed in a foster home or treatment foster home,
20 the information specified in this paragraph may not be disclosed to the juvenile's
21 parent or guardian or to any other adult relative of the juvenile without the consent
22 of the foster parent or treatment foster parent under s. 48.62 (3m).

23 **SECTION 70.** 938.38 (4) (c) of the statutes, as affected by 2009 Wisconsin Act
24 (this act), is repealed and recreated to read:

SENATE BILL 501

1 938.38 (4) (c) The location and type of facility in which the juvenile is currently
2 held or placed, and the location and type of facility in which the juvenile will be
3 placed. If the juvenile is or will be placed in a foster home, the information specified
4 in this paragraph may not be disclosed to the juvenile’s parent or guardian or to any
5 other adult relative of the juvenile without the consent of the foster parent under s.
6 48.62 (3m).

7 **SECTION 71.** 938.78 (2) (a) of the statutes is amended to read:

8 938.78 (2) (a) No agency may make available for inspection or disclose the
9 contents of any record kept or information received about an individual who is or was
10 in its care or legal custody, except as provided under sub. (3) or s. 938.357 (2r) (b),
11 938.371, 938.38 (5) (b) or (d) or (5m) (d), 938.51, or 938.57 (2m) or by order of the court.

12 **SECTION 72.** 938.78 (2) (ag) of the statutes is amended to read:

13 938.78 (2) (ag) Paragraph (a) does not prohibit an agency from making
14 available for inspection or disclosing the contents of a record, upon the request of the
15 parent, guardian, or legal custodian of the juvenile who is the subject of the record
16 or upon the request of the juvenile, if 14 years of age or older, to the parent, guardian,
17 legal custodian, or juvenile, unless the record discloses information that is
18 confidential under s. 48.62 (3m) or the agency finds that inspection of the record by
19 the juvenile, parent, guardian, or legal custodian would result in imminent danger
20 to anyone.

21 **SECTION 73.** 938.78 (2) (am) of the statutes is amended to read:

22 938.78 (2) (am) Paragraph (a) does not prohibit an agency from making
23 available for inspection or disclosing the contents of a record, upon the written
24 permission of the parent, guardian, or legal custodian of the juvenile who is the
25 subject of the record or upon the written permission of the juvenile, if 14 years of age

SENATE BILL 501

1 or older, to the person named in the permission if the parent, guardian, legal
2 custodian, or juvenile specifically identifies the record in the written permission,
3 unless the record discloses information that is confidential under s. 48.62 (3m) or the
4 agency determines that inspection of the record by the person named in the
5 permission would result in imminent danger to anyone.

SECTION 74. Initial applicability.

7 (1) CHANGES IN PLACEMENT. The amendment of sections 48.293 (2), 48.295 (1)
8 and (3), 48.357 (1) (am) 1. and 2m. and (c) 1. and (2m) (a) and (b), 48.78 (2) (a), 938.293
9 (2), 938.295 (1) (b) and (3), 938.357 (1) (am) 1. and 2. and (c) 1. and (2m) (a) and (b),
10 and 938.78 (2) (a) of the statutes, the renumbering and amendment of sections 48.357
11 (2r) and 938.357 (2r) of the statutes, and the creation of sections 48.357 (1) (am) 2r.,
12 (2m) (bp), and (2r) (b) and 938.357 (1) (am) 2r., (2m) (bp), and (2r) (b) of the statutes
13 first apply to a change of placement requested on the effective date of this subsection.

14 (2) FOSTER PARENT CONFIDENTIALITY. The amendment of sections 48.33 (5),
15 48.355 (2) (b) 2., 48.38 (4) (c), 48.78 (2) (ag), (aj), (am), and (ap), 938.33 (5), 938.355
16 (2) (b) 2., 938.38 (4) (c), and 938.78 (2) (ag) and (am) of the statutes and the creation
17 of section 48.62 (3m) of the statutes first apply to a person that is issued a license to
18 operate a foster home or treatment foster home on the effective date of this
19 subsection.

20 (3) DECISIONS AFFECTING OUT-OF-HOME PLACEMENTS. The renumbering and
21 amendment of section 48.64 (4) (a) and (c) of the statutes and the creation of section
22 48.64 (4) (a) 2. and (c) 3. of the statutes first apply to a decision or order of an agency
23 involving the placement and care of a child issued on the effective date of this
24 subsection.

