



**SENATE SUBSTITUTE AMENDMENT 1,
TO 1995 SENATE BILL 354**

March 12, 1996 - Offered by COMMITTEE ON JUDICIARY.

1 **AN ACT to amend** 48.293 (2), 48.295 (1), 48.295 (3), 48.33 (5), 48.355 (2) (b) 2.,
2 48.357 (1), 48.357 (2m) and 48.78 (2) (a) of the statutes; **relating to:** removal
3 of a child from a foster home, treatment foster home or certain other physical
4 placements.

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

5 **SECTION 1.** 48.293 (2) of the statutes, as affected by 1995 Wisconsin Act 77, is
6 amended to read:

7 48.293 (2) All records relating to a child which are relevant to the subject
8 matter of a proceeding under this chapter shall be open to inspection by a guardian
9 ad litem or counsel for any party, upon demand and upon presentation of releases
10 where necessary, at least 48 hours before the proceeding. Persons entitled to inspect
11 the records may obtain copies of the records with the permission of the custodian of
12 the records or with permission of the court. The court may instruct counsel not to
13 disclose specified items in the materials to the child ~~or~~ the parent or any other party

1 if the court reasonably believes that the disclosure would be harmful to the interests
2 of the child.

3 **SECTION 2.** 48.295 (1) of the statutes is amended to read:

4 48.295 (1) After the filing of a petition and upon a finding by the court that
5 reasonable cause exists to warrant an examination or an alcohol and other drug
6 abuse assessment that conforms to the criteria specified under s. 48.547 (4), the court
7 may order any child coming within its jurisdiction to be examined as an outpatient
8 by personnel in an approved treatment facility for alcohol and other drug abuse, by
9 a physician, psychiatrist or licensed psychologist, or by another expert appointed by
10 the court holding at least a masters degree in social work or another related field of
11 child development, in order that the child's physical, psychological, alcohol or other
12 drug dependency, mental or developmental condition may be considered. The court
13 may also order an examination or an alcohol and other drug abuse assessment that
14 conforms to the criteria specified under s. 48.547 (4) of a parent, guardian or legal
15 custodian whose ability to care for a child is at issue before the court. The court shall
16 hear any objections by the child, the child's parents, guardian or legal custodian or
17 any other party to the request for such an examination or assessment before ordering
18 the examination or assessment. The expenses of an examination, if approved by the
19 court, shall be paid by the county of the court ordering the examination. The
20 payment for an alcohol and other drug abuse assessment shall be in accordance with
21 s. 48.361.

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

23 48.295 (3) If the child ~~or~~, a parent or any other party objects to a particular
24 physician, psychiatrist, licensed psychologist or other expert as required under this

1 section, the court shall appoint a different physician, psychiatrist, psychologist or
2 other expert as required under this section.

3 **SECTION 4.** 48.33 (5) of the statutes is amended to read:

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

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

16 48.355 (2) (b) 2. If the child is placed outside the home, the name of the place
17 or facility, including transitional placements, where the child shall be cared for or
18 treated, except that if the placement is a foster home or treatment foster home and
19 the name and address of the foster parent or treatment foster parent is not available
20 at the time of the order, the name and address of the foster parent or treatment foster
21 parent shall be furnished to the court and the parent within 21 days of the order. If,
22 after a hearing on the issue with due notice to the parent or guardian, the judge finds
23 that disclosure of the identity of the foster parent or treatment foster parent would
24 result in imminent danger to the child, the foster parent or the treatment foster

1 parent, the judge may order the name and address of the prospective foster parents
2 or treatment foster parents withheld from the parent or guardian or any other party.

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

4 48.357 (1) The person or agency primarily responsible for implementing the
5 dispositional order may request a change in the placement of the child, whether or
6 not the change requested is authorized in the dispositional order and shall cause
7 written notice to be sent to the child or the child's counsel or guardian ad litem,
8 parent, foster parent, treatment foster parent or other physical custodian described
9 in s. 48.62 (2), guardian and legal custodian. The notice shall contain the name and
10 address of the new placement, the reasons for the change in placement, a statement
11 describing why the new placement is preferable to the present placement would be
12 in the best interests of the child and a statement of how the new placement satisfies
13 objectives of the treatment plan ordered by the court. Any person receiving the notice
14 under this subsection or notice of the specific foster or treatment foster placement
15 under s. 48.355 (2) (b) 2. may obtain a hearing on the matter by filing an objection
16 with the court within 10 days of receipt of the notice. Placements shall not be
17 changed until 10 days after such notice is sent to the court unless the parent,
18 guardian or legal custodian and the child, if 12 or more years of age, sign written
19 waivers of objection, except that placement changes which were authorized in the
20 dispositional order may be made immediately if notice is given as required in this
21 subsection. In addition, a hearing is not required for placement changes authorized
22 in the dispositional order except where an objection filed by a person who received
23 notice alleges that new information is available which affects the advisability of the
24 court's dispositional order. If a hearing is held under this subsection and the change
25 in placement would remove a child from a foster home, treatment foster home or

1 other placement with a physical custodian described in s. 48.62 (2), the court shall
2 permit the foster parent may, treatment foster parent or other physical custodian
3 described in s. 48.62 (2) to make a written or oral statement during the hearing or
4 to submit a written statement prior to the hearing, relating to the child and the
5 requested change in placement. If a hearing is held under this subsection and the
6 change in placement would remove a child from a foster home, treatment foster home
7 or other physical placement described in s. 48.62 (2) in which the child has been
8 placed for a total of 4 or more years, the foster parent, treatment foster parent or
9 other physical custodian may be represented by counsel, may request an
10 examination or assessment of the child under s. 48.295 by an expert of the foster
11 parent's, treatment foster parent's or other physical custodian's own choosing, may
12 present evidence relative to the issue of placement, including expert testimony, may
13 confront and cross-examine witnesses and may make alternative placement
14 recommendations. In addition, counsel for the foster parent, treatment foster parent
15 or other physical custodian may, notwithstanding s. 48.78 (2) (a), inspect and obtain
16 copies of all records relating to the child that are relevant to the issue of placement
17 as provided under s. 48.293.

18 **SECTION 7.** 48.357 (2m) of the statutes is amended to read:

19 48.357 (2m) The child, the parent, guardian, or legal custodian of the child or
20 any person or agency primarily bound by the dispositional order, other than the
21 person or agency responsible for implementing the order, may request a change in
22 placement under this subsection. The request shall contain the name and address
23 of the place of the new placement requested and shall state what new information
24 is available which affects the advisability of the current placement and why the new
25 placement would be in the best interests of the child. This request shall be submitted

1 to the court. In addition, the court may propose a change in placement on its own
2 motion. The court shall hold a hearing on the matter prior to ordering any change
3 in placement under this subsection if the request states that new information is
4 available which affects the advisability of the current placement, unless written
5 waivers of objection to the proposed change in placement are signed by all parties
6 entitled to receive notice under sub. (1) and the court approves. If a hearing is
7 scheduled, the court shall notify the child, the parent, foster parent, guardian, and
8 legal custodian of the child, any foster parent, treatment foster parent or other
9 physical custodian described in s. 48.62 (2) of the child and all parties who are bound
10 by the dispositional order at least 3 days prior to the hearing. A copy of the request
11 or proposal for the change in placement shall be attached to the notice. If all the
12 parties consent, the court may proceed immediately with the hearing. If a hearing
13 is held under this subsection and the change in placement would remove a child from
14 a foster home, treatment foster home or other placement with a physical custodian
15 described in s. 48.62 (2), the court shall permit the foster parent may, treatment
16 foster parent or other physical custodian described in s. 48.62 (2) to make a written
17 or oral statement during the hearing or to submit a written statement prior to the
18 hearing relating to the child and the requested change in placement. If a hearing is
19 held under this subsection and the change in placement would remove a child from
20 a foster home, treatment foster home or other physical placement described in s.
21 48.62 (2) in which the child has been placed for a total of 4 or more years, the foster
22 parent, treatment foster parent or other physical custodian may be represented by
23 counsel, may request an examination or assessment of the child under s. 48.295 by
24 an expert of the foster parent's, treatment foster parent's or other physical
25 custodian's own choosing, may present evidence relative to the issue of placement,

1 including expert testimony, may confront and cross-examine witnesses and may
2 make alternative placement recommendations. In addition, counsel for the foster
3 parent, treatment foster parent or other physical custodian may, notwithstanding s.
4 48.78 (2) (a), inspect and obtain copies of all records relating to the child that are
5 relevant to the issue of placement as provided under s. 48.293.

6 **SECTION 8.** 48.78 (2) (a) of the statutes, as affected by 1995 Wisconsin Act 77,
7 is amended to read:

8 48.78 (2) (a) No agency may make available for inspection or disclose the
9 contents of any record kept or information received about an individual in its care
10 or legal custody, except as provided under s. 48.357 (1) or (2m), 48.371, 48.38 (5) (b)
11 or (d), 48.432, 48.433, 48.93 or 48.981 (7) or by order of the court.

12 **SECTION 9. Initial applicability.**

13 (1) This act first applies to hearings under section 48.357 (1) or (2m) of the
14 statutes, as affected by this act, held on the effective date of this subsection.

15 **SECTION 10. Effective date.**

16 (1) This act takes effect on July 1, 1996 or on the day after publication,
17 whichever is later.

18 (END)