



**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 2005 ASSEMBLY BILL 521**

November 30, 2005 - Offered by JOINT COMMITTEE ON FINANCE.

1     **AN ACT** *to renumber* 48.025 (3); *to renumber and amend* 48.025 (2), 48.41 (2)  
2           (b), 48.42 (2m), 48.423 and 48.43 (6); *to amend* 46.03 (7) (bm), 48.025 (1), 48.27  
3           (3) (b) 1. a., 48.27 (5), 48.295 (1), 48.368 (1), 48.415 (2) (a) 3., 48.415 (6) (a) and  
4           (b), 48.415 (10) (a), 48.415 (10) (b), 48.42 (1) (a), 48.42 (2) (b) (intro.), 48.42 (2)  
5           (b) 1., 48.42 (3) (a), 48.42 (4) (a), 48.422 (6) (a), 48.64 (4) (c), 48.72, 48.78 (2) (a),  
6           48.825 (5), 48.833, 48.837 (1), 48.837 (4) (c), 48.837 (4) (e), 48.839 (2) (b), 48.839  
7           (2) (c), 48.91 (2), 48.913 (1) (c), (i) and (m), 808.04 (7m), 808.04 (8), 809.82 (2) (b),  
8           938.27 (3) (b) 1. a., 938.27 (5), 938.78 (2) (a) and 977.07 (1) (c); and *to create*  
9           48.025 (2) (b), 48.025 (2) (d), 48.025 (3) (a), 48.025 (3) (c) and (d), 48.025 (5),  
10           48.025 (6), 48.235 (1) (g), 48.235 (5m), 48.40 (1r), 48.41 (2) (b) 2., 48.42 (1g),  
11           48.42 (2) (bm), 48.42 (2m) (b), 48.42 (4) (b) 1m., 48.42 (5), 48.423 (2), 48.43 (6)  
12           (b) and (c), 48.43 (6m), 48.48 (17) (bm), 48.57 (2m), 48.825 (3m), 48.837 (1m),  
13           48.837 (2) (d), 48.837 (4) (cm), 48.84, 809.107 (5) (am) and 938.57 (2m) of the

1 statutes; **relating to:** termination of parental rights and adoption, granting  
2 rule-making authority, and providing a penalty.

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### *Analysis by the Legislative Reference Bureau*

#### ***Introduction***

This substitute amendment makes various changes relating to termination of parental rights (TPR) and adoption. Specifically, the substitute amendment modifies current law relating to declarations of paternal interest by persons who may be the father of a nonmarital child and notice to those persons of TPR proceedings, the grounds for TPR, procedures in TPR proceedings, and appeals in TPR proceedings. The substitute amendment also modifies current law relating to adoption of children, agency decisions concerning foster homes, and persons receiving child welfare services.

#### ***Declarations of paternal interest and notice to putative fathers***

**Declarations of paternal interest.** Under current law, any person claiming to be the father of a nonmarital child whose paternity has not been established may file with the Department of Health and Family Services (DHFS) a declaration of paternal interest in matters affecting the child. The declaration may be filed at any time before a TPR and must be in writing and signed by the person filing the declaration. DHFS must send a copy of the declaration to the mother, who may file a written response to the declaration. Filing a declaration does not extend parental rights to the person filing the declaration, but it does entitle that person to notice of a child in need of protection or services (CHIPS), a juvenile in need of protection or services (JIPS), or a TPR proceeding. Current law requires DHFS to release a declaration of paternal interest to the Department of Workforce Development or a county child support agency upon request or to any other person with a direct and tangible interest in the declaration and permits DHFS to release a declaration to any other person only upon court order.

This substitute amendment makes various changes relating to declarations of paternal interest. Subject to certain exceptions, the substitute amendment requires a declaration to be filed before the child's birth or within 14 days after the child's birth and permits a declaration to be revoked at any time. The substitute amendment also requires a declaration or revocation to be verified upon oath or affirmation and, in the case of a minor, to also be signed by the parent or guardian of the minor. The substitute amendment requires DHFS to keep declarations confidential, except that DHFS must, on the request of a court assigned to exercise jurisdiction under the Children's Code and the Juvenile Justice Code (juvenile court) in a CHIPS, JIPS, TPR, or adoption proceeding or of a person authorized to file a CHIPS, JIPS, TPR, or adoption petition, search its files to determine whether a person who may be the father of the child who is the subject of the proceeding or action has filed a declaration. If DHFS has a declaration on file, it must issue to the requester a certified copy of the declaration. If DHFS does not have a declaration on file, it must issue to the requester a certified statement that no declaration could be located.

**Notice of TPR proceedings to putative fathers.** Under current law, certain persons who may be the father of a nonmarital child whose paternity has not been established must be served with a summons and petition notifying the person of a TPR proceeding involving the child. Those persons include, in addition to a person who files a declaration of paternal interest, a person who is alleged to be the father of the child or who, based on statements made by the mother or other information, may be the father of the child, and a person who has lived in a familial relationship with the child and who may be the father of the child. A person who receives a summons and petition in a TPR proceeding has standing to appear and contest the TPR petition and, if grounds for TPR are found, may present evidence relevant to the disposition of the case and make alternative dispositional recommendations.

This substitute amendment makes certain changes relating to notice to a person who may be the father of a nonmarital child under one year of age whose paternity has not been established of a TPR proceeding concerning the child. Specifically, the substitute amendment permits the petitioner in a proceeding to terminate the parental rights of such a person to file with the TPR petition an affidavit signed by the child's mother that identifies or describes the father. If an affidavit is filed, the petitioner is required to notify any man alleged to be the father in the affidavit that he may file a declaration of paternal interest within 21 days after the date on which the notification was mailed. Also, under the substitute amendment, if an affidavit is filed, notice of the TPR proceeding need not be provided to a person who is alleged to be the father of the child or who, based on statements made by the mother or other information, may be the father of the child and instead is only required to be provided to all of the following:

1. A person who has filed an unrevoked declaration of paternal interest, within 14 days after the birth of the child or within 21 days after the notice of his right to file a declaration is mailed, whichever is later.
2. A person who has lived in a familial relationship with the child and who may be the father of the child.

The substitute amendment also specifies that a person who may be the father of a nonmarital child whose paternity has not been established, by virtue of the fact that the person had sexual intercourse with the mother of the child, is considered to be on notice that a pregnancy and a TPR proceeding might result, has the duty to protect his own rights and interests, and, therefore, is entitled to actual notice of the TPR proceeding only as provided in current law, as affected by the substitute amendment. In addition, the substitute amendment specifies that a person who is not entitled to actual notice of a TPR proceeding does not have standing to appear and contest the petition, present evidence relevant to the issue of disposition, or make alternative dispositional recommendations unless the person appears at the hearing, establishes paternity, and proves all of the following:

1. That the person resides and has resided in another state where the mother of the child resided or was located at the time of or after the conception of the child.
2. That the mother left that state without notifying or informing that person that she could be located in this state.

3. That the person attempted to locate the mother through every reasonable means, but did not know or have reason to know that the mother was residing or located in this state.

4. That the person has complied with the requirements of the state where the mother previously resided or was located to protect and preserve his paternal interests in matters affecting the child.

Finally, the substitute amendment prohibits a mother who has completed an affidavit relating to the identity of the child's father from attacking a TPR judgment on the basis that the father was not identified correctly.

### ***Grounds for involuntary TPR***

**Applicability.** Under current law, the parental rights of a parent to his or her child may be terminated involuntarily under various grounds. Currently, those grounds apply only to a parent of a child. The substitute amendment provides that the grounds for involuntary TPR apply as well to a person who *may* be the parent of a child.

**Failure to assume parental responsibility.** Under current law, the ground of failure to assume parental responsibility is established by proving that the parent has *never* had a substantial parental relationship with the child. “Substantial parental relationship” is defined as the acceptance and exercise of significant responsibility for the daily supervision, education, protection, and care of the child. This substitute amendment permits this ground to be established by proving that the parent has *not* had a substantial parental relationship with the child.

**Prior involuntary TPR to another child.** Under current law, the ground of prior involuntary TPR to another child may be established by proving that the child who is the subject of the petition has been adjudged to be CHIPS because he or she has been abandoned or has been the victim of abuse or because his or her parent has neglected, refused, or been unable for reasons other than poverty to provide the necessary care, clothing, medical or dental care, or shelter so as to seriously endanger the physical health of the child (neglect) and that, within three years of the CHIPS adjudication, a juvenile court has ordered an involuntary TPR with respect to another child of the person.

This substitute amendment extends this ground to a child who is found to be CHIPS because he or she is *at risk* of being abused or neglected and whose parent has failed to remedy the conditions responsible for court intervention, if there is a substantial likelihood that the parent will not remedy those conditions within the nine-month period following the TPR fact-finding hearing, and to a child who is born after the filing of a TPR petition on this ground with respect to a sibling of the child.

**Continuing need of protection or services.** Under current law, the ground of continuing CHIPS may be established by proving: 1) that the child has been adjudged to be CHIPS and placed outside of his or her home by the juvenile court; 2) that the agency responsible for the care of the child and the family has made a reasonable effort to provide the services ordered by the juvenile court; 3) that the child has been outside the home for a cumulative period of six months or longer pursuant to juvenile court orders; and 4) that the parent has failed to meet the conditions established for the safe return of the child to the home and there is a

substantial likelihood that the parent will not meet those conditions within the 12-month period following the TPR fact-finding hearing.

This substitute amendment permits a TPR on the ground of continuing CHIPS if there is a substantial likelihood that the parent will not meet the conditions established for the safe return of the child to the home within nine months, rather than 12 months, following the TPR fact-finding hearing.

### ***Procedures in TPR proceedings***

**Penalty for false statement in TPR proceeding.** Under current law, a person may be convicted of perjury for orally making a false statement under oath or affirmation or of false swearing for making or subscribing to a false statement under oath or affirmation. There is no general penalty, however, for making a false statement if it is not made under oath or affirmation.

This substitute amendment creates a penalty for making a false statement or representation of material fact in the course of a TPR proceeding with the intent of preventing a person who is entitled to receive notice of the TPR proceeding from receiving notice. Under the substitute amendment, making such a false statement or representation is punishable by a fine not to exceed \$10,000 or imprisonment not to exceed nine months, or both. The substitute amendment, however, permits a person to refuse to make a statement or representation of material fact in the course of a TPR proceeding for the purpose of preventing a person who is entitled to receive notice of the TPR proceeding from receiving notice if the person fears that making such a statement or representation would place the person or another person at risk of domestic abuse and if the refusal is because of a recent overt act, attempt, or threat that caused him or her reasonably to believe that the refusal was the only means of preventing that abuse.

**Voluntary consent to TPR by telephone or audiovisual means.** Under current law, a parent may give voluntary consent to the termination of his or her parental rights. If the juvenile court finds that it would be difficult or impossible for the parent to appear in person at the hearing, the juvenile court may accept the written consent of the parent given before an embassy or consul official, a military judge, or a judge of any court of record in another county or state or a foreign jurisdiction. This substitute amendment permits a parent who is unable to appear in person at the hearing to provide testimony by telephone or through live audiovisual means, upon request of the parent, unless good cause is shown.

**Notice when child is relinquished as a newborn.** Under current law, subject to certain exceptions, a copy of the summons and petition in a TPR proceeding must be personally served on the parties to the proceeding. This substitute amendment permits the parents of a child whose custody was relinquished when he or she was less than 72 hours old to be served with the summons and petition in a TPR proceeding by publication in a newspaper instead of by personal service.

**Guardian ad litem (GAL) for parent in TPR proceeding.** Current law permits the juvenile court to appoint a GAL in any appropriate matter under the Children's Code. This substitute amendment requires a juvenile court to appoint a GAL for a parent who is not competent to participate in a TPR proceeding or to assist counsel or the juvenile court in protecting the parent's rights in a TPR proceeding.

The substitute amendment also directs a GAL of such a parent, in a proceeding that involves a child who has been found to be in need of protection or services in which the parent is contesting the termination of his or her parental rights, to provide information to the juvenile court relating to the parent's competency to participate in the proceeding and to provide assistance to the juvenile court and to the parent's adversary counsel in protecting the parent's rights.

### ***Appeals in TPR proceedings***

**Time for filing of notice of appeal.** Under current law, if a judgment or order that is being appealed was entered after the notice of appeal was filed, the notice of appeal is treated as if it were filed after the judgment or order was entered. An appeal of a TPR judgment, however, is initiated not by the filing of a notice of appeal but rather by the filing of a notice of *intent* to appeal. This substitute amendment provides that if the judgment or order appealed from was entered after the notice of appeal *or* the notice of intent to appeal was filed, the notice shall be treated as filed after the entry and on the day of the entry.

**Notification of abandonment of appeal.** Under current law, in a TPR proceeding, a person has 30 days from the date of entry of judgment to file a notice of intent to appeal. Within 15 days after filing this notice, the person must request the transcript and juvenile court record. The clerk of circuit court must serve a copy of the case record on the person filing the notice of intent to appeal within 30 days after the juvenile court record is requested. Within 30 days after service of the transcript, the person filing a notice of intent to appeal must file a notice of appeal and serve a copy of the notice on the required persons. Current law places no obligation on a person who files a notice of intent to appeal, but who decides not to file a notice of appeal, to notify the parties that a notice of appeal will not be filed. This substitute amendment requires a person who decides not to file a notice of appeal to notify the persons who would have been required to be served with the notice of appeal that the appeal will not be pursued.

**State Public Defender (SPD) indigency determinations in TPR appeals.** Under current law, subject to certain exceptions, a representative of the SPD must determine indigency for a person referred to the SPD who is seeking postdispositional relief in a proceeding under the Children's Code, other than a TPR proceeding. For these referrals, the SPD representative may rely upon a determination of indigency made for purposes of trial representation, unless a request for redetermination of indigency has been filed or the defendant's request for representation states that his or her financial circumstances have materially improved. This substitute amendment permits the SPD representative to rely upon a determination of indigency made for purposes of trial representation for a person referred to the SPD for an appeal in a TPR proceeding, unless a request for a redetermination is filed or the person's request for representation states that his or her financial circumstances have materially improved.

**Continuing representation in TPR appeals.** Currently, an attorney who represents a person in a TPR proceeding does not automatically continue to represent the person during the appeal process. Under this substitute amendment, an attorney who represents a person in a TPR proceeding continues representation

of that person during the appeal process by filing a notice of intent to appeal, unless the attorney has been previously discharged during the proceeding by the person or by the juvenile court.

**Written notification of time limits for TPR appeals.** Current law does not require that notice of the time limits within which to appeal a TPR judgment be given to a person whose parental rights are terminated. This substitute amendment requires the juvenile court that orders a TPR to provide written notification of the time limits within which to appeal the TPR order to the person whose parental rights are terminated if the person is present in juvenile court when the order is granted. The person must sign the written notification, indicating that he or she has been notified of those time limits. The person's counsel must file a copy of the signed, written notification with the juvenile court on the date on which the order is granted.

**Enlargement of time for filing notice of appeal.** Under current law, the time for filing a notice of appeal of a final judgment or order in a TPR proceeding may not be enlarged. This substitute amendment permits the time within which to file a notice of appeal in a TPR case to be enlarged if the judgment or order was entered as a result of a petition for an involuntary TPR that was filed by a district attorney, corporation counsel, or other representative of the public.

**Time limit for collateral attack of TPR judgment.** Under current law, a person whose parental rights have been terminated may petition for a rehearing on the grounds that new evidence has been discovered affecting the advisability of the juvenile court's adjudication no later than one year after the date on which the TPR judgment was entered. However, a parent who has consented to the TPR or who did not contest the TPR petition may move for relief from the judgment no later than 30 days after entry of the TPR judgment.

This substitute amendment prohibits any person, for any reason, from collaterally attacking a TPR judgment more than one year after the date on which the time limit for filing an appeal from the judgment has expired, or more than one year after the date on which all appeals from the judgment, if any were filed, have been decided, whichever is later.

### ***Adoption of children***

**Adoption expenses.** Under current law, a proposed adoptive parent of a child may make certain payments to the birth parents of the child, including: 1) payment for the actual cost of maternity clothes for the child's birth mother, not to exceed a reasonable amount; 2) living expenses of the child's birth mother, in an amount not to exceed \$1,000, if payment of the expenses by the proposed adoptive parent is necessary to protect the health and welfare of the birth mother or fetus; and 3) a gift to the child's birth mother, of no greater than \$50 in value. This substitute amendment places a \$300 cap on the amount that a proposed adoptive parent may pay for the cost of maternity clothes for the birth mother and increases the amount that a proposed adoptive parent may pay for living expenses for the birth mother from \$1,000 to \$5,000 and the amount that a proposed adoptive parent may pay for a gift to the birth mother from \$50 to \$100.

**Preadoptive placement with out-of-state petitioners.** Under current law, a parent having custody of a child and a proposed adoptive parent of the child

who is not a relative of the child may petition the juvenile court for placement of the child for adoption in the home of the proposed adoptive parent if the home is licensed as a foster home or treatment foster home. This substitute amendment permits a parent having custody of a child and a proposed adoptive parent who resides out-of-state to petition the juvenile court for the preadoptive placement of the child in the home of the proposed adoptive parent, if the home meets the criteria established by the laws of the state of residence for a preadoptive placement of a child in the home of a nonrelative.

**Adoption advertising.** Under current law, no person may advertise for the purpose of finding a child to adopt or advertise that the person will find an adoptive home for a child or arrange for or assist in the adoption of a child or will place a child for adoption. This prohibition does not apply to DHFS, a county department of human services or social services (county department), or a child welfare agency licensed by DHFS to place children for adoption (collectively “agency”). This substitute amendment prohibits publishing by a public medium of an adoption advertisement that violates current law relating to adoption advertising.

**Preadoption preparation for first-time adoptive parents.** Under current law, preadoption preparation is not required of a proposed adoptive parent. This substitute amendment requires a proposed adoptive parent who has not previously adopted a child to obtain preadoption preparation on issues that may confront adoptive parents. The preparation may be provided by a licensed child welfare agency, a licensed private adoption agency, or a state-funded postadoption resource center. The substitute amendment requires DHFS to promulgate rules on the number of hours of preadoption preparation that is required, as well as on the topics to be covered in the training. The proposed adoptive parents must pay for the training, except that DHFS must pay for the training if the child is placed for adoption by an agency.

**Continuation of dispositional orders.** Under current law, if a petition for TPR is filed or an appeal from a judgment granting or denying TPR is filed during the year in which a CHIPS dispositional order or an extension order is in effect, the dispositional or extension order remains in effect until all proceedings relating to the petition or appeal are concluded. This substitute amendment provides that a voluntary agreement for the placement of a child, or a guardianship order for a child, also remain in effect until all proceedings relating to a TPR petition or appeal are concluded, as is allowed under current law with respect to CHIPS dispositional or extension orders.

### ***Agency decisions concerning foster homes***

**Jurisdiction for review of agency decisions.** Under current law, the circuit court for the county where a child is placed in a foster home, treatment foster home, or group home has jurisdiction upon the petition of any interested party over the child. The circuit court may call a hearing for the purpose of reviewing any decision or order of the agency that placed the child that involves the placement and care of the child. The court must determine the case so as to promote the best interests of the child. This substitute amendment provides that the circuit court for the county where the dispositional order placing the child in the foster, treatment



foster, or group home was entered or a voluntary agreement so placing the child was made has jurisdiction to review an agency decision or order involving the placement of the child. Under the bill, the petitioner must show by clear and convincing evidence that the agency's decision or order is not in the best interests of the child.

**Appeals of licensing decisions.** Under current law, any person aggrieved by DHFS's refusal or failure to issue, renew, or continue a license has the right to an administrative hearing and to judicial review of the hearing decision under procedures provided for contested cases. This substitute amendment specifically grants the right to judicial review in a contested case involving a DHFS licensing decision to *any party* in the contested case.

***Persons receiving child welfare services***

**Change in county of residence of child welfare services clients.** Current law does not require notice to a new county of residence when a person who is receiving child welfare services moves to another county. This substitute amendment requires the county department or, in Milwaukee County, DHFS, as soon as practicable after learning that a person who is receiving child welfare services has changed his or her county of residence, to provide notice of that change to the county department of the person's new county of residence. Notice must be provided to DHFS if the person's new county of residence is Milwaukee County.

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

1           **SECTION 1.** 46.03 (7) (bm) of the statutes is amended to read:

2           46.03 (7) (bm) Maintain a file containing records of artificial inseminations

3           under s. 891.40 and records of, declarations of paternal interest under s. 48.025, and

4           of statements acknowledging paternity under s. 69.15 (3) (b). The department shall

5           may release these those records, declarations, and statements only upon an order of

6           the court except that the department may use nonidentifying information

7           concerning artificial inseminations for the purpose of compiling statistics and except

8           that records relating to, declarations of paternal interest shall be released as

9           provided in s. 48.025 (3) (b) and (c), and statements acknowledging paternity shall

10          be released without a court order to the department of workforce development or a

11          county child support agency under s. 59.53 (5) ~~without a court order~~ upon the request

12          of the that department of workforce development or a or county child support agency

1 ~~under s. 59.53 (5)~~ pursuant to the program responsibilities under s. 49.22 or ~~by~~ to any  
2 other person with a direct and tangible interest in the ~~record~~ statement.

3 **SECTION 2.** 48.025 (1) of the statutes is amended to read:

4 48.025 (1) Any person claiming to be the father of a nonmarital child who is not  
5 adopted or whose parents do not subsequently intermarry under s. 767.60 and whose  
6 paternity has not been established may, in accordance with procedures under this  
7 section, file with the department a declaration of his interest in matters affecting  
8 ~~such~~ the child. The department may not charge a fee for filing a declaration under  
9 this section.

10 **SECTION 3.** 48.025 (2) of the statutes is renumbered 48.025 (2) (a) and amended  
11 to read:

12 48.025 (2) (a) The A declaration provided in under sub. (1) may be filed at any  
13 time ~~except after~~ before a termination of the father's parental rights under subch.  
14 VIII. This paragraph does not apply to a declaration that is filed on or after the  
15 effective date of this paragraph .... [revisor inserts date].

16 (c) The declaration shall be in writing, shall be signed and verified upon oath  
17 or affirmation by the person filing the declaration, and shall contain the person's  
18 name and address, the name and last-known address of the mother, the month and  
19 year of the birth or expected birth of the child, and a statement that ~~he~~ the person  
20 filing the declaration has reason to believe that he may be the father of the child. If  
21 the person filing the declaration is under 18 years of age, the declaration shall also  
22 be signed by a parent or guardian of the person.

23 **SECTION 4.** 48.025 (2) (b) of the statutes is created to read:

24 48.025 (2) (b) A declaration under sub. (1) may be filed at any time before the  
25 birth of the child or within 14 days after the birth of the child, except that a man who

1 receives a notice under s. 48.42 (1g) (b) may file a declaration within 21 days after  
2 the date on which the notice was mailed. This paragraph does not apply to a  
3 declaration filed before the effective date of this paragraph .... [revisor inserts date].

4 **SECTION 5.** 48.025 (2) (d) of the statutes is created to read:

5 48.025 (2) (d) A person who has filed a declaration under sub. (1) may revoke  
6 the declaration at any time by filing with the department a statement, signed and  
7 verified upon oath or affirmation, that the person, to the best of his knowledge and  
8 belief, is not the father of the child or that another person has been adjudicated as  
9 the father of the child. If the person filing the revocation is under 18 years of age,  
10 the revocation shall also be signed by a parent or guardian of the person.

11 **SECTION 6.** 48.025 (3) of the statutes is renumbered 48.025 (3) (b).

12 **SECTION 7.** 48.025 (3) (a) of the statutes is created to read:

13 48.025 (3) (a) The department shall keep confidential and may not open to  
14 public inspection or disclose the contents of any declaration, revocation of a  
15 declaration, or response to a declaration filed under this section, except as provided  
16 under pars. (b) and (c) or by order of the court for good cause shown.

17 **SECTION 8.** 48.025 (3) (c) and (d) of the statutes are created to read:

18 48.025 (3) (c) A court in a proceeding under s. 48.13, 48.133, 48.14, or 938.13  
19 or under a substantially similar law of another state or a person authorized to file  
20 a petition under s. 48.25, 48.42, 48.837, or 938.25 or under a substantially similar  
21 law of another state may request the department to search its files to determine  
22 whether a person who may be the father of the child who is the subject of the  
23 proceeding has filed a declaration under this section. If the department has on file  
24 a declaration of paternal interest in matters affecting the child, the department shall  
25 issue to the requester a copy of the declaration. If the department does not have on

1 file a declaration of paternal interest in matters affecting the child, the department  
2 shall issue to the requester a statement that no declaration could be located. The  
3 department may require a person who requests a search under this paragraph to pay  
4 a reasonable fee that is sufficient to defray the costs to the department of  
5 maintaining its file of declarations and publicizing information relating to  
6 declarations of paternal interest under this section.

7 (d) Any person who obtains any information under this subsection may use or  
8 disclose that information only for the purposes of a proceeding under s. 48.13, 48.133,  
9 48.14, or 938.13 or under a substantially similar law of another state and may not  
10 use or disclose that information for any other purpose except by order of the court for  
11 good cause shown.

12 **SECTION 9.** 48.025 (5) of the statutes is created to read:

13 48.025 (5) (a) The department shall publicize, in a manner calculated to  
14 provide maximum notice to all persons who might claim to be the father of a  
15 nonmarital child, all of the following information:

16 1. That a person claiming to be the father of a nonmarital child may  
17 affirmatively protect his parental rights by filing a declaration of interest under this  
18 section.

19 2. The procedures for filing a declaration of interest.

20 3. The consequences of filing a declaration of interest.

21 4. The consequences of not filing a declaration of interest.

22 (b) The department may publicize the information under par. (a) by posting the  
23 information on the Internet, by creating a pamphlet for use by schools and health  
24 care providers, and by requiring agencies that provide services under contract with  
25 the department to provide the information to clients.

1           **SECTION 10.** 48.025 (6) of the statutes is created to read:

2           48.025 **(6)** (a) Any person who makes a false statement in a declaration,  
3           revocation of a declaration, or response to a declaration filed under this section that  
4           the person does not believe is true is subject to prosecution for false swearing under  
5           s. 946.32 (2).

6           (b) Except as permitted under sub. (3), any person who intentionally obtains,  
7           uses, or discloses information that is confidential under this section may be fined not  
8           more than \$1,000 or imprisoned for not more than 90 days or both.

9           **SECTION 11.** 48.235 (1) (g) of the statutes is created to read:

10          48.235 **(1)** (g) The court shall appoint a guardian ad litem for a parent who is  
11          the subject of a termination of parental rights proceeding, if any assessment or  
12          examination of a parent that is ordered under s. 48.295 (1) shows that the parent is  
13          not competent to participate in the proceeding or to assist his or her counsel or the  
14          court in protecting the parent's rights in the proceeding.

15          **SECTION 12.** 48.235 (5m) of the statutes is created to read:

16          48.235 **(5m)** MATTERS INVOLVING CONTESTED TERMINATION OF PARENTAL RIGHTS  
17          PROCEEDINGS. (a) In any termination of parental rights proceeding involving a child  
18          who has been found to be in need of protection or services and whose parent is  
19          contesting the termination of his or her parental rights, a guardian ad litem for a  
20          parent who has been appointed under sub. (1) (g) shall provide information to the  
21          court relating to the parent's competency to participate in the proceeding, and shall  
22          also provide assistance to the court and the parent's adversary counsel in protecting  
23          the parent's rights in the proceeding.

24          (b) The guardian ad litem may not participate in the proceeding as a party, and  
25          may not call witnesses, provide opening statements or closing arguments, or

1 participate in any activity at trial that is required to be performed by the parent's  
2 adversary counsel.

3 **SECTION 13.** 48.27 (3) (b) 1. a. of the statutes is amended to read:

4 48.27 (3) (b) 1. a. A person who has filed a declaration of paternal interest under  
5 s. 48.025.

6 **SECTION 14.** 48.27 (5) of the statutes is amended to read:

7 48.27 (5) Subject to sub. (3) (b), the court shall make every reasonable effort  
8 to identify and notify any person who has filed a declaration of paternal interest  
9 under s. 48.025, any person who has acknowledged paternity of the child under s.  
10 767.62 (1), and any person who has been adjudged to be the ~~biological~~ father of the  
11 child in a judicial proceeding unless the ~~biological father's~~ person's parental rights  
12 have been terminated.

13 **SECTION 15.** 48.295 (1) of the statutes is amended to read:

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

1 under s. 48.547 (4) of a parent, guardian, or legal custodian whose ability to care for  
2 a child is at issue before the court or of an expectant mother whose ability to control  
3 her use of alcohol beverages, controlled substances, or controlled substance analogs  
4 is at issue before the court. The court shall hear any objections by the child, or the  
5 child's parents, guardian, or legal custodian to the request for such an examination  
6 or assessment before ordering the examination or assessment. The expenses of an  
7 examination, if approved by the court, shall be paid by the county of the court  
8 ordering the examination in a county having a population of less than 500,000 or by  
9 the department in a county having a population of 500,000 or more. The payment  
10 for an alcohol and other drug abuse assessment shall be in accordance with s. 48.361.

11 **SECTION 16.** 48.368 (1) of the statutes is amended to read:

12 **48.368 Continuation of dispositional orders.** (1) If a petition for  
13 termination of parental rights is filed under s. 48.41 or 48.415 or an appeal from a  
14 judgment terminating or denying termination of parental rights is filed during the  
15 year in which a dispositional order under s. 48.355 ~~or~~, an extension order under s.  
16 48.365, a voluntary agreement for placement of the child under s. 48.63, or a  
17 guardianship order under s. 48.977 or ch. 880 is in effect, the dispositional or  
18 extension order, voluntary agreement, or guardianship order shall remain in effect  
19 until all proceedings related to the filing of the petition or an appeal are concluded.

20 **SECTION 17.** 48.40 (1r) of the statutes is created to read:

21 48.40 (1r) "Parent" has the meaning given in s. 48.02 (13), except that for  
22 purposes of filing a petition seeking the involuntary termination of parental rights  
23 under s. 48.415 to a nonmarital child who is not adopted or whose parents do not  
24 subsequently intermarry under s. 767.60 and whose paternity has not been  
25 established, of finding grounds under s. 48.415 for the involuntary termination of

1 parental rights to such a child, and of terminating the parental rights to such a child  
2 on a ground specified in s. 48.415, “parent” includes a person who may be the parent  
3 of such a child.

4 **SECTION 18.** 48.41 (2) (b) of the statutes is renumbered 48.41 (2) (b) (intro.) and  
5 amended to read:

6 48.41 (2) (b) (intro.) If the court finds that it would be difficult or impossible for  
7 the parent to appear in person at the hearing, the court may do any of the following:

8 1. Accept ~~accept~~ the written consent of the parent given before an embassy or  
9 consul official, a military judge, or a judge of any court of record in another county  
10 or state or a foreign jurisdiction. This written consent shall be accompanied by the  
11 signed findings of the embassy or consul official or judge who accepted the parent’s  
12 consent. These findings shall recite that the embassy or consul official or judge or  
13 an attorney who represents any of the parties questioned the parent and found that  
14 the consent was informed and voluntary before the embassy or consul official or  
15 judge accepted the consent of the parent.

16 **SECTION 19.** 48.41 (2) (b) 2. of the statutes is created to read:

17 48.41 (2) (b) 2. On request of the parent, unless good cause to the contrary is  
18 shown, admit testimony on the record by telephone or live audiovisual means as  
19 prescribed in s. 807.13 (2).

20 **SECTION 20.** 48.415 (2) (a) 3. of the statutes is amended to read:

21 48.415 (2) (a) 3. That the child has been outside the home for a cumulative total  
22 period of 6 months or longer pursuant to such orders not including time spent outside  
23 the home as an unborn child; and that the parent has failed to meet the conditions  
24 established for the safe return of the child to the home and there is a substantial



1 likelihood that the parent will not meet these conditions within the ~~12-month~~  
2 9-month period following the fact-finding hearing under s. 48.424.

3 **SECTION 21.** 48.415 (6) (a) and (b) of the statutes are amended to read:

4 48.415 **(6)** (a) Failure to assume parental responsibility, which shall be  
5 established by proving that the parent or the person or persons who may be the  
6 parent of the child have ~~never~~ not had a substantial parental relationship with the  
7 child.

8 (b) In this subsection, “substantial parental relationship” means the  
9 acceptance and exercise of significant responsibility for the daily supervision,  
10 education, protection and care of the child. In evaluating whether the person has had  
11 a substantial parental relationship with the child, the court may consider such  
12 factors, including, but not limited to, whether the person has ~~ever~~ expressed concern  
13 for or interest in the support, care or well-being of the child, whether the person has  
14 neglected or refused to provide care or support for the child and whether, with respect  
15 to a person who is or may be the father of the child, the person has ~~ever~~ expressed  
16 concern for or interest in the support, care or well-being of the mother during her  
17 pregnancy.

18 **SECTION 22.** 48.415 (10) (a) of the statutes is amended to read:

19 48.415 **(10)** (a) That the child who is the subject of the petition has been  
20 adjudged to be in need of protection or services under s. 48.13 (2), (3) or (10); or that  
21 the child who is the subject of the petition has been adjudged to be in need of  
22 protection or services under s. 48.13 (3m) or (10m) and the parent has failed to  
23 remedy the conditions responsible for court intervention and there is a substantial  
24 likelihood that the parent will not remedy those conditions within the 9-month  
25 period following the fact-finding hearing under s. 48.424; or that the child who is the

1 subject of the petition was born after the filing of a petition under this subsection  
2 whose subject is a sibling of the child.

3 **SECTION 23.** 48.415 (10) (b) of the statutes is amended to read:

4 48.415 (10) (b) That, within 3 years prior to the date the court adjudged the  
5 child ~~who is the subject of the petition~~ to be in need of protection or services as  
6 specified in par. (a) or, in the case of a child born after the filing of a petition as  
7 specified in par. (a), within 3 years prior to the date of birth of the child, a court has  
8 ordered the termination of parental rights with respect to another child of the person  
9 whose parental rights are sought to be terminated on one or more of the grounds  
10 specified in this section.

11 **SECTION 24.** 48.42 (1) (a) of the statutes is amended to read:

12 48.42 (1) (a) The name, birth date or anticipated birth date, and address of the  
13 child.

14 **SECTION 25.** 48.42 (1g) of the statutes is created to read:

15 48.42 (1g) AFFIDAVIT. (a) Except as provided in par. (c), if the petition is filed  
16 by a person or agency other than the district attorney, corporation counsel, or other  
17 appropriate official under s. 48.09; if the petition seeks to terminate the parental  
18 rights of a person who may be the father of a nonmarital child who is under one year  
19 of age at the time the petition is filed, who is not adopted or whose parents do not  
20 subsequently intermarry under s. 767.60, and whose paternity has not been  
21 established; and if the mother of the child has voluntarily consented to or seeks to  
22 voluntarily consent to the termination of her parental rights to the child, the  
23 petitioner may file with the petition an affidavit signed by the mother that includes  
24 all of the following:

1           1. A statement that the mother has voluntarily consented to or seeks to  
2 voluntarily consent to the termination of her parental rights to the child.

3           2. A statement acknowledging that the mother has been asked to identify the  
4 father of the child.

5           3. A statement that the mother knows and is identifying the father or that she  
6 does not know the identity of the father.

7           4. A statement identifying any man who has lived in a familial relationship  
8 with the child and who may be the father of the child.

9           5. If the mother states that she knows and is identifying the father under subd.  
10 3. or 4., the father's name, age, and last-known mailing address, and the last-known  
11 mailing address of the father's employer.

12           6. If the mother states that she does not know the identity of the father, an  
13 explanation of why she is unable to identify him and a physical description of the  
14 father.

15           7. A statement that the mother has been informed and understands that if she  
16 misidentifies the father, she is permanently barred from attacking the termination  
17 of the father's or her parental rights on the basis that the father was not correctly  
18 identified.

19           8. A statement that the mother understands that she may be prosecuted under  
20 s. 946.32 (2) for false swearing if she makes a false statement that she does not  
21 believe is true in the affidavit under this paragraph.

22           9. A statement that the mother has reviewed and understands the affidavit,  
23 the name of the person who explained the affidavit and the consequences of signing  
24 the affidavit to her, and a statement that the mother is signing the affidavit  
25 voluntarily.

1 (b) The petitioner shall notify any man identified in the affidavit under par. (a)  
2 as an alleged father of his right to file a declaration of paternal interest under s.  
3 48.025 before the birth of the child, within 14 days after the birth of the child, or  
4 within 21 days after the date on which the notice is mailed, whichever is later; of the  
5 birth date or anticipated birth date of the child; and of the consequences of filing or  
6 not filing a declaration of paternal interest. The petitioner shall include with the  
7 notice a copy of the form required to file a declaration of paternal interest under s.  
8 48.025. The notice shall be sent by certified mail to the last-known address of the  
9 alleged father.

10 (c) If an affidavit under par. (a) is not filed with the petition, notice shall be  
11 given to an alleged father under sub. (2).

12 **SECTION 26.** 48.42 (2) (b) (intro.) of the statutes is amended to read:

13 48.42 (2) (b) (intro.) If Except as provided in par. (bm), if the child is a  
14 nonmarital child who is not adopted or whose parents do not subsequently  
15 intermarry under s. 767.60 and whose paternity has not been established:

16 **SECTION 27.** 48.42 (2) (b) 1. of the statutes is amended to read:

17 48.42 (2) (b) 1. A person who has filed ~~a~~ an unrevoked declaration of paternal  
18 interest under s. 48.025 before the birth of the child or within 14 days after the birth  
19 of the child.

20 **SECTION 28.** 48.42 (2) (bm) of the statutes is created to read:

21 48.42 (2) (bm) If the child is a nonmarital child who is under one year of age  
22 at the time the petition is filed and who is not adopted or whose parents do not  
23 subsequently intermarry under s. 767.60 and whose paternity has not been  
24 established and if an affidavit under sub. (1g) (a) is filed with the petition:

1           1. A person who has filed an unrevoked declaration of paternal interest under  
2 s. 48.025 before the birth of the child, within 14 days after the birth of the child, or  
3 within 21 days after a notice under sub. (1g) (b) is mailed, whichever is later.

4           2. A person who has lived in a familial relationship with the child and who may  
5 be the father of the child.

6           **SECTION 29.** 48.42 (2m) of the statutes is renumbered 48.42 (2m) (a) and  
7 amended to read:

8           48.42 (2m) (a) *Parent as a result of sexual assault.* Except as provided in this  
9 ~~subsection~~ paragraph, notice is not required to be given to a person who may be the  
10 father of a child conceived as a result of a sexual assault in violation of s. 940.225 (1),  
11 (2) or (3), 948.02 (1) or (2), or 948.025 if a physician attests to his or her belief that  
12 a sexual assault as specified in this ~~subsection~~ paragraph has occurred or if the  
13 person who may be the father of the child has been convicted of sexual assault as  
14 specified in this ~~subsection~~ paragraph for conduct which may have led to the child's  
15 conception. A person who under this ~~subsection~~ paragraph is not given notice does  
16 not have standing to appear and contest a petition for the termination of his parental  
17 rights, present evidence relevant to the issue of disposition, or make alternative  
18 dispositional recommendations. This ~~subsection~~ paragraph does not apply to a  
19 person who may be the father of a child conceived as a result of a sexual assault in  
20 violation of s. 948.02 (1) or (2) if that person was under 18 years of age at the time  
21 of the sexual assault.

22           **SECTION 30.** 48.42 (2m) (b) of the statutes is created to read:

23           48.42 (2m) (b) *Parent of nonmarital child.* A person who may be the father of  
24 a nonmarital child who is not adopted or whose parents do not subsequently  
25 intermarry under s. 767.60 and whose paternity has not been established, by virtue

1 of the fact that he has engaged in sexual intercourse with the mother of the child, is  
2 considered to be on notice that a pregnancy and a termination of parental rights  
3 proceeding concerning the child may occur, and has the duty to protect his own rights  
4 and interests. He is therefore entitled to actual notice of such a proceeding only as  
5 provided in sub. (2) (b) or (bm). A person who is not entitled to notice under sub. (2)  
6 (b) or (bm) does not have standing to appear and contest a petition for the termination  
7 of his parental rights, present evidence relevant to the issue of disposition, or make  
8 alternative dispositional recommendations.

9 **SECTION 31.** 48.42 (3) (a) of the statutes is amended to read:

10 48.42 (3) (a) Contain the name and birth date or anticipated birth date of the  
11 child, and the nature, location, date and time of the initial hearing.

12 **SECTION 32.** 48.42 (4) (a) of the statutes is amended to read:

13 48.42 (4) (a) *Personal service.* ~~A Except as provided in this paragraph and par.~~  
14 (b), a copy of the summons and petition shall be served personally upon the parties  
15 specified in sub. (2), if known, at least 7 days before the date of the hearing, ~~except~~  
16 ~~that service.~~ Service of summons is not required if the party submits to the  
17 jurisdiction of the court. Service upon parties who are not natural persons and upon  
18 persons under a disability shall be as prescribed in s. 801.11.

19 **SECTION 33.** 48.42 (4) (b) 1m. of the statutes is created to read:

20 48.42 (4) (b) 1m. If the child's custody was relinquished under s. 48.195, service  
21 to the parents of the child may be made by publication of the notice under subd. 4.

22 **SECTION 34.** 48.42 (5) of the statutes is created to read:

23 48.42 (5) PENALTY. Any person who knowingly and willfully makes or causes  
24 to be made any false statement or representation of a material fact in the course of  
25 a proceeding under this section with an intent to deceive or mislead the court for the

1 purpose of preventing a person who is entitled to receive notice of a proceeding under  
2 this section from receiving notice may be fined not more than \$10,000 or imprisoned  
3 for not more than 9 months, or both. It is not a violation of this subsection for a person  
4 to refuse to make a statement or representation of material fact in the course of a  
5 proceeding under this section for the purpose of preventing a person who is entitled  
6 to receive notice of a proceeding under this section from receiving notice if, at the time  
7 of the refusal, the person stated that he or she feared that making such a statement  
8 or representation would place the person or another person at risk of domestic abuse,  
9 as defined in s. 813.12 (1) (am), or abuse, as defined in s. 813.122 (1) (a), and if the  
10 person proves that he or she refused to make such a statement or representation  
11 because of a recent overt act, attempt, or threat that caused him or her reasonably  
12 to believe that refusing to make such a statement or representation was the only  
13 means of preventing domestic abuse, as defined in s. 813.12 (1) (am), or abuse, as  
14 defined in s. 813.122 (1) (a), to himself or herself or to another.

15 **SECTION 35.** 48.422 (6) (a) of the statutes is amended to read:

16 48.422 (6) (a) ~~If the child is~~ In the case of a nonmarital child who is not adopted  
17 or whose parents do not subsequently intermarry under s. 767.60 and for whom  
18 paternity has not been established, or for whom a declaration of paternal interest has  
19 not been filed under s. 48.025 within 14 days after the date of birth of the child or,  
20 if s. 48.42 (1g) (b) applies, within 21 days after the date on which the notice under  
21 s. 48.42 (1g) (b) is mailed, the court shall hear testimony concerning the paternity of  
22 the child. Based on the testimony, the court shall determine whether all interested  
23 parties who are known have been notified under s. 48.42 (2). If not, the court shall  
24 adjourn the hearing and order appropriate notice to be given.

1           **SECTION 36.** 48.423 of the statutes is renumbered 48.423 (1) and amended to  
2 read:

3           48.423 (1) RIGHTS TO PATERNITY DETERMINATION. ~~If a man who alleges that he~~  
4 ~~is the father of the child~~ person appears at the hearing and wishes to contest the  
5 ~~termination of his parental rights~~ claims that he is the father of the child, the court  
6 shall set a date for a hearing on the issue of paternity or, if all parties agree, the court  
7 may immediately commence hearing testimony concerning the issue of paternity.  
8 The court shall inform the ~~man~~ person claiming to be the father of the child of any  
9 right to counsel under s. 48.23. The ~~man~~ person claiming to be the father of the child  
10 must prove paternity by clear and convincing evidence. A person who establishes his  
11 paternity of the child under this section may further participate in the termination  
12 of parental rights proceeding only if the person meets the conditions specified in sub.  
13 (2) or meets a condition specified in s. 48.42 (2) or (b) or (bm).

14           **SECTION 37.** 48.423 (2) of the statutes is created to read:

15           48.423 (2) **RIGHTS OF OUT-OF-STATE FATHERS.** A person who may be the father  
16 of a nonmarital child who is not adopted or whose parents do not subsequently  
17 intermarry under s. 767.60 and whose paternity has not been established may  
18 contest the petition, present evidence relevant to the issue of disposition, and make  
19 alternative dispositional recommendations if the person appears at the hearing,  
20 establishes paternity under sub. (1), and proves all of the following by a  
21 preponderance of the evidence:

22           (a) That the person resides and has resided in another state where the mother  
23 of the child resided or was located at the time of or after the conception of the child.

24           (b) That the mother left that state without notifying or informing that person  
25 that she could be located in this state.



1 (c) That the person attempted to locate the mother through every reasonable  
2 means, but did not know or have reason to know that the mother was residing or  
3 located in this state.

4 (d) That the person has complied with the requirements of the state where the  
5 mother previously resided or was located to protect and preserve his paternal  
6 interests in matters affecting the child.

7 **SECTION 38.** 48.43 (6) of the statutes is renumbered 48.43 (6) (a) and amended  
8 to read:

9 48.43 (6) (a) Judgments under this subchapter terminating parental rights are  
10 final and are appealable under s. 808.03 (1) according to the procedure specified in  
11 s. 809.107 and are subject to a petition for rehearing or a motion for relief only as  
12 provided in s. 48.46 (1m) and (2). The attorney representing a person during a  
13 proceeding under this subchapter shall continue representation of that person by  
14 filing a notice of intent to appeal under s. 809.107 (2), unless the attorney has been  
15 previously discharged during the proceeding by the person or by the trial court.

16 **SECTION 39.** 48.43 (6) (b) and (c) of the statutes are created to read:

17 48.43 (6) (b) The mother of a child who completes an affidavit under s. 48.42  
18 (1g) may not collaterally attack a judgment terminating parental rights on the basis  
19 that the father of the child was not correctly identified.

20 (c) In no event may any person, for any reason, collaterally attack a judgment  
21 terminating parental rights more than one year after the date on which the time limit  
22 for filing an appeal from the judgment has expired, or more than one year after the  
23 date on which all appeals from the judgment, if any were filed, have been decided,  
24 whichever is later.

25 **SECTION 40.** 48.43 (6m) of the statutes is created to read:

1           48.43 **(6m)** If a person whose parental rights are terminated is present in court  
2 when the court grants the order terminating those rights, the court shall provide  
3 written notification to the person of the time limits for appeal of the judgment. The  
4 person shall sign the written notification, indicating that he or she has been notified  
5 of the time limits for filing an appeal under ss. 808.04 (7m) and 809.107. The person's  
6 counsel shall file a copy of the signed, written notification with the court on the date  
7 on which the judgment is granted.

8           **SECTION 41.** 48.48 (17) (bm) of the statutes is created to read:

9           48.48 **(17)** (bm) As soon as practicable after learning that a person who is  
10 receiving child welfare services under par. (a) from the department has changed his  
11 or her county of residence, the department shall provide notice of that change to the  
12 county department of the person's new county of residence. The notice shall include  
13 a brief, written description of the services offered or provided to the person by the  
14 department and the name, telephone number, and address of a person to contact for  
15 more information.

16           **SECTION 42.** 48.57 (2m) of the statutes is created to read:

17           48.57 **(2m)** A county department, as soon as practicable after learning that a  
18 person who is receiving child welfare services under sub. (1) from the county  
19 department has changed his or her county of residence, shall provide notice of that  
20 change to the county department of the person's new county of residence or, if that  
21 new county of residence is a county having a population of 500,000 or more, the  
22 department. The notice shall include a brief, written description of the services  
23 offered or provided to the person by the county department and the name, telephone  
24 number, and address of a person to contact for more information.

25           **SECTION 43.** 48.64 (4) (c) of the statutes is amended to read:

1           48.64 (4) (c) The circuit court for the county where the child is placed  
2           dispositional order placing a child in a foster home, treatment foster home, or group  
3           home was entered or the voluntary agreement under s. 48.63 so placing a child was  
4           made has jurisdiction upon petition of any interested party over a child who is placed  
5           in a foster home, treatment foster home, or group home. The circuit court may call  
6           a hearing, at which the head of the home and the supervising agency under sub. (2)  
7           shall be present, for the purpose of reviewing any decision or order of that agency  
8           involving the placement and care of the child. If the child has been placed in a foster  
9           home, the foster parent may present relevant evidence at the hearing. ~~The court~~  
10          ~~shall determine the case so as to promote~~ The petitioner has the burden of proving  
11          by clear and convincing evidence that the decision or order issued by the agency is  
12          not in the best interests of the child.

13           **SECTION 44.** 48.72 of the statutes is amended to read:

14           **48.72 Appeal procedure.** Except as provided in s. 48.715 (6) and (7), any  
15          person aggrieved by the department's refusal or failure to issue, renew, or continue  
16          a license or by any action taken by the department under s. 48.715 has the right to  
17          an administrative hearing provided for contested cases in ch. 227. To receive an  
18          administrative hearing under ch. 227, the aggrieved person shall send to the  
19          department a written request for a hearing under s. 227.44 within 10 days after the  
20          date of the department's refusal or failure to issue, renew, or continue a license or the  
21          department's action taken under s. 48.715. The department shall hold an  
22          administrative hearing under s. 227.44 within 30 days after receipt of the request  
23          for the administrative hearing unless the aggrieved person consents to an extension  
24          of that time period. Judicial review of the department's decision may be had by any  
25          party in the contested case as provided in ch. 227.

1           **SECTION 45.** 48.78 (2) (a) of the statutes is amended to read:

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

7           **SECTION 46.** 48.825 (3m) of the statutes is created to read:

8           48.825 **(3m)** No person may publish by a public medium an advertisement that  
9 violates this section. If the owner, agent, or employee of the public medium receives  
10 a copy of the license of the person or agency requesting the advertisement that  
11 indicates that the person or agency is licensed to provide adoption services in this  
12 state, there is a rebuttable presumption that the advertisement does not violate this  
13 section.

14           **SECTION 47.** 48.825 (5) of the statutes is amended to read:

15           48.825 **(5)** Any person who violates sub. (2) or (3m) may be fined not more than  
16 \$10,000 or imprisoned not more than 9 months or both.

17           **SECTION 48.** 48.833 of the statutes is amended to read:

18           **48.833 Placement of children for adoption by the department, county**  
19 **departments, and child welfare agencies.** The department, a county  
20 department under s. 48.57 (1) (e) or (hm), or a child welfare agency licensed under  
21 s. 48.60 may place a child for adoption in a licensed foster home or a licensed  
22 treatment foster home without a court order if the department, county department  
23 under s. 48.57 (1) (e) or (hm) or the, or child welfare agency is the guardian of the child  
24 or makes the placement at the request of another agency which that is the guardian  
25 of the child and if the proposed adoptive parents have completed the preadoption

1 preparation required under s. 48.84 (1) or the department, county department, or  
2 child welfare agency determines that the proposed adoptive parents are not required  
3 to complete that preparation. Before placing a child for adoption under this section,  
4 the department, county department, or child welfare agency making the placement  
5 shall consider the availability of a placement for adoption with a relative of the child  
6 who is identified in the child's permanency plan under s. 48.38 or 938.38 or who is  
7 otherwise known by the department, county department, or child welfare agency.  
8 When a child is placed under this section in a licensed foster home or a licensed  
9 treatment foster home for adoption, the department, county department, or child  
10 welfare agency making the placement shall enter into a written agreement with the  
11 proposed adoptive parent, which shall state the date on which the child is placed in  
12 the licensed foster home or licensed treatment foster home for adoption by the  
13 proposed adoptive parent.

14 **SECTION 49.** 48.837 (1) of the statutes is amended to read:

15 48.837 (1) ~~ADOPTIVE~~ IN-STATE ADOPTIVE PLACEMENT. ~~-A-~~ When the proposed  
16 adoptive parent or parents of a child reside in this state and are not relatives of the  
17 child, a parent having custody of a child and the proposed adoptive parent or parents  
18 of the child may petition the court for placement of the child for adoption in the home  
19 of a person who is not a relative of the child if the home is licensed as a foster home  
20 or treatment foster home under s. 48.62.

21 **SECTION 50.** 48.837 (1m) of the statutes is created to read:

22 48.837 (1m) **OUT-OF-STATE ADOPTIVE PLACEMENT.** Notwithstanding s. 48.988,  
23 when the proposed adoptive parent or parents of a child reside outside this state and  
24 are not relatives of the child, a parent having custody of a child and the proposed  
25 adoptive parent or parents of the child may petition the court for placement of the

1 child for adoption in the home of the proposed adoptive parent or parents, if the home  
2 meets the criteria established by the laws of the other state for a preadoptive  
3 placement of a child in the home of a nonrelative.

4 **SECTION 51.** 48.837 (2) (d) of the statutes is created to read:

5 48.837 (2) (d) That the proposed adoptive parents have completed the  
6 preadoption preparation required under s. 48.84 (1) or are not required to complete  
7 that preparation.

8 **SECTION 52.** 48.837 (4) (c) of the statutes is amended to read:

9 48.837 (4) (c) Shall, when the petition has been filed under sub. (1), order the  
10 department or a county department under s. 48.57 (1) (e) or (hm) to investigate the  
11 proposed adoptive placement, to interview each petitioner, to provide counseling if  
12 requested and to report its recommendation to the court at least 5 days before the  
13 hearing on the petition. If a licensed child welfare agency has investigated the  
14 proposed adoptive placement and interviewed the petitioners, the court may accept  
15 a report and recommendation from the child welfare agency in place of the  
16 court-ordered report required under this paragraph.

17 **SECTION 53.** 48.837 (4) (cm) of the statutes is created to read:

18 48.837 (4) (cm) Shall, when the petition has been filed under sub. (1m), request  
19 the appropriate agency in the state where the proposed adoptive parent or parents  
20 reside to follow the procedure established by the laws of that state to ensure that the  
21 proposed adoptive home meets the criteria for a preadoptive placement of the child  
22 in the home of a nonrelative.

23 **SECTION 54.** 48.837 (4) (e) of the statutes is amended to read:

24 48.837 (4) (e) Shall, before hearing the petitions under subs. (2) and (3),  
25 ascertain whether the ~~child's~~ paternity of a nonmarital child who is not adopted or

1 whose parents do not subsequently intermarry under s. 767.60 has been  
2 acknowledged under s. 767.62 (1) or a substantially similar law of another state or  
3 adjudicated in this state or another jurisdiction. ~~If any person has filed a declaration~~  
4 ~~of paternal interest under s. 48.025, the court shall determine the rights of that~~  
5 ~~person.~~ If the child's paternity has not been acknowledged or adjudicated and if no  
6 person has filed a declaration under s. 48.025, the court shall attempt to ascertain  
7 the paternity of the child and shall determine the rights of any person who may be  
8 the father of the child as provided under s. 48.423. The court may not proceed with  
9 the hearing on the petitions under this section unless the parental rights of the  
10 nonpetitioning parent, whether known or unknown, have been terminated.

11 **SECTION 55.** 48.839 (2) (b) of the statutes is amended to read:

12 48.839 (2) (b) If the guardian files a judgment or order of a court under par. (a),  
13 the department shall review the judgment or order. If the department determines  
14 that the judgment or order has the effect of freeing the child for adoption, if the  
15 department has been furnished with a copy of a home study recommending the  
16 guardian as an adoptive parent, if a licensed child welfare agency has been identified  
17 to provide the services required under sub. (5) and, if the guardian has filed the bond  
18 required under sub. (1), and if the guardian has completed the preadoption  
19 preparation required under s. 48.84 (1) or the department has determined that the  
20 guardian is not required to complete that preparation, the department shall certify  
21 to the U.S. immigration and naturalization service that all preadoptive  
22 requirements of this state that can be met before the child's arrival in the United  
23 States have been met.

24 **SECTION 56.** 48.839 (2) (c) of the statutes is amended to read:

1           48.839 (2) (c) If the guardian files an instrument other than a judgment or order  
2 of a court under par. (a), the department shall review the instrument. If the  
3 department determines that the instrument has the effect under the laws of the  
4 foreign jurisdiction of freeing the child for adoption, if the department has been  
5 furnished with a copy of a home study recommending the adoptive parents, if a  
6 licensed child welfare agency has been identified to provide the services required  
7 under sub. (5) ~~and~~, if the guardian has filed the bond required under sub. (1), and if  
8 the guardian has completed the preadoption preparation required under s. 48.84 (1)  
9 or the department has determined that the guardian is not required to complete that  
10 preparation, the department shall certify to the U.S. immigration and naturalization  
11 service that all preadoptive requirements of this state that can be met prior to the  
12 child's arrival in the United States have been met.

13           **SECTION 57.** 48.84 of the statutes is created to read:

14           **48.84 Preadoption preparation for proposed adoptive parents. (1)**  
15 Before a child may be placed under s. 48.833 for adoption by a proposed adoptive  
16 parent who has not previously adopted a child, before a proposed adoptive parent  
17 who has not previously adopted a child may petition for placement of a child for  
18 adoption under s. 48.837, and before a proposed adoptive parent who has not  
19 previously adopted a child may bring a child into this state for adoption under s.  
20 48.839, the proposed adoptive parent shall complete the preadoption preparation  
21 required under this section. The preparation shall be provided by a licensed child  
22 welfare agency, a licensed private adoption agency, or a state-funded postadoption  
23 resource center. If the proposed adoptive parent does not reside in this state, he or  
24 she may meet this requirement by obtaining equivalent preparation in his or her  
25 state of residence.



1           **(2)** The department shall promulgate rules establishing the number of hours  
2 of preadoption preparation that is required under sub. (1) and the topics covered  
3 under that preparation. The preparation shall include training on issues that may  
4 confront adoptive parents, in general, and that may confront adoptive parents of  
5 special needs children or foreign children.

6           **(3)** A proposed adoptive parent who petitions to adopt a child under s. 48.837  
7 or 48.839 shall pay the costs of the preadoption preparation required under sub. (1).  
8 The department shall pay the costs of the preadoption preparation required under  
9 sub. (1) for a proposed adoptive parent with whom a child is placed under s. 48.833.

10           **SECTION 58.** 48.91 (2) of the statutes is amended to read:

11           48.91 **(2)** In an adoption proceeding for a nonmarital child who is not adopted  
12 or whose parents do not subsequently intermarry under s. 767.60, the court shall  
13 establish ~~whether the rights of any persons who have filed declarations of paternal~~  
14 ~~interest under s. 48.025 have been determined or whether the child's paternity has~~  
15 ~~been acknowledged under s. 767.62 (1) or a substantially similar law of another state~~  
16 ~~or adjudicated in this state or in another jurisdiction. If the court finds that no such~~  
17 ~~determination has been made child's paternity has not been acknowledged or~~  
18 ~~adjudicated, the court shall proceed, prior to any action on the petition for adoption,~~  
19 ~~to attempt to ascertain the paternity of the child and the rights of any person who~~  
20 ~~has filed a declaration under s. 48.025 shall determine the rights of any person who~~  
21 ~~may be the father of the child as provided under s. 48.423. The court may not proceed~~  
22 ~~with the hearing on the petition for adoption unless the parental rights of the~~  
23 ~~nonpetitioning parent, whether known or unknown, have been terminated.~~

24           **SECTION 59.** 48.913 (1) (c), (i) and (m) of the statutes are amended to read:

1           48.913 (1) (c) Maternity clothes for the child's birth mother, ~~not to exceed a~~  
2 ~~reasonable in an amount not to exceed \$300.~~

3           (i) Living expenses of the child's birth mother, in an amount not to exceed  
4 ~~\$1,000~~ \$5,000, if payment of the expenses by the proposed adoptive parents or a  
5 person acting on their behalf is necessary to protect the health and welfare of the  
6 birth mother or the fetus.

7           (m) A gift to the child's birth mother from the proposed adoptive parents, of no  
8 greater than ~~\$50~~ \$100 in value.

9           **SECTION 60.** 808.04 (7m) of the statutes is amended to read:

10           808.04 (7m) An appeal from a judgment or order terminating parental rights  
11 or denying termination of parental rights shall be initiated by filing the notice  
12 required by s. 809.107 (2) within 30 days after the date of entry of the judgment or  
13 order appealed from. Notwithstanding s. 809.82 (2) (b), this time period may not be  
14 enlarged unless the judgment or order was entered as a result of a petition under s.  
15 48.415 that was filed by a representative of the public under s. 48.09.

16           **SECTION 61.** 808.04 (8) of the statutes is amended to read:

17           808.04 (8) If the record discloses that the judgment or order appealed from was  
18 entered after the notice of appeal or intent to appeal was filed, the notice of appeal  
19 shall be treated as filed after ~~such~~ that entry and on the day thereof of the entry.

20           **SECTION 62.** 809.107 (5) (am) of the statutes is created to read:

21           809.107 (5) (am) *Notice of abandonment of appeal.* If the person who filed a  
22 notice of intent to appeal under sub. (2) and requested a transcript and case record  
23 under sub. (4) decides not to file a notice of appeal, that person shall notify the person  
24 required to be served under sub. (2) of this decision, within 30 days after the service  
25 of the transcript and case record under sub. (4).

1           **SECTION 63.** 809.82 (2) (b) of the statutes is amended to read:

2           809.82 **(2)** (b) Notwithstanding the provisions of par. (a), the time for filing a  
3 notice of appeal or cross-appeal of a final judgment or order, other than in an appeal  
4 under s. 809.30 or 809.32 or as provided under s. 808.04 (7m), may not be enlarged.

5           **SECTION 64.** 938.27 (3) (b) 1. a. of the statutes is amended to read:

6           938.27 **(3)** (b) 1. a. A person who has filed a declaration of paternal interest  
7 under s. 48.025.

8           **SECTION 65.** 938.27 (5) of the statutes is amended to read:

9           938.27 **(5)** Subject to sub. (3) (b), the court shall make every reasonable effort  
10 to identify and notify any person who has filed a declaration of paternal interest  
11 under s. 48.025, any person who has acknowledged paternity of the child under s.  
12 767.62 (1), and any person who has been adjudged to be the biological father of the  
13 juvenile in a judicial proceeding unless the ~~biological father's~~ person's parental  
14 rights have been terminated.

15           **SECTION 66.** 938.57 (2m) of the statutes is created to read:

16           938.57 **(2m)** A county department, as soon as practicable after learning that  
17 a person who is receiving juvenile welfare services under sub. (1) from the county  
18 department has changed his or her county of residence, shall provide notice of that  
19 change to the county department of the person's new county of residence. The notice  
20 shall include a brief, written description of the services offered or provided to the  
21 person by the county department and the name, telephone number, and address of  
22 a person to contact for more information.

23           **SECTION 67.** 938.78 (2) (a) of the statutes is amended to read:

24           938.78 **(2)** (a) No agency may make available for inspection or disclose the  
25 contents of any record kept or information received about an individual in its care

1 or legal custody, except as provided under sub. (3) or s. 938.371, 938.38 (5) (b) or (d)  
2 or (5m) (d), ~~or 938.51, or 938.57 (2m)~~ or by order of the court.

3 **SECTION 68.** 977.07 (1) (c) of the statutes is amended to read:

4 977.07 (1) (c) For all referrals made under ss. 809.107, 809.30, 974.06 (3) (b)  
5 and 974.07 (11), except a referral of a child who is entitled to be represented by  
6 counsel under s. 48.23 or 938.23, a representative of the state public defender shall  
7 determine indigency. For referrals made under ss. 809.107, 809.30 and 974.06 (3) (b),  
8 except a referral of a child who is entitled to be represented by counsel under s. 48.23  
9 or 938.23, the representative of the state public defender may, unless a request for  
10 redetermination has been filed under s. 809.30 (2) (d) or the ~~defendant's~~ person's  
11 request for representation states that his or her financial circumstances have  
12 materially improved, rely upon a determination of indigency made for purposes of  
13 trial representation under this section.

14 **SECTION 69. Nonstatutory provisions.**

15 (1) PREADoption PREPARATION. The department of health and family services  
16 shall submit in proposed form the rules required under section 48.84 (2) of the  
17 statutes, as created by this act, to the legislative council staff under section 227.15  
18 (1) of the statutes no later than the first day of the 4th month beginning after the  
19 effective date of this subsection.

20 **SECTION 70. Initial applicability.**

21 (1) NOTICE OF AND PARTICIPATION IN TERMINATION OF PARENTAL RIGHTS  
22 PROCEEDINGS. The treatment of sections 48.42 (1) (a), (1g), (2) (b) (intro.) and 1. and  
23 (bm) and (3) (a), 48.422 (6) (a), 48.837 (4) (e), and 48.91 (2) of the statutes, the  
24 renumbering and amendment of sections 48.42 (2m), 48.423, and 48.43 (6) of the  
25 statutes, and the creation of sections 48.42 (2m) (b), 48.423 (2), and 48.43 (6) (b) and

1 (c) of the statutes first apply to a termination of parental rights petition filed on the  
2 effective date of this subsection.

3 (2) NOTICE TO COUNTY WHEN PERSON RECEIVING SERVICES CHANGES COUNTY OF  
4 RESIDENCE. The treatment of sections 48.48 (17) (bm), 48.57 (2m), 48.78 (2) (a), 938.57  
5 (2m), and 938.78 (2) (a) of the statutes first applies to a person who changes his or  
6 her county of residence on the effective date of this subsection.

7 (3) TERMINATION OF PARENTAL RIGHTS GROUNDS.

8 (a) The treatment of section 48.415 (2) (a) 3. of the statutes first applies to court  
9 orders required to contain the notice under section 48.356 (2) or 938.356 (2) of the  
10 statutes granted on the effective date of this subsection.

11 (b) The treatment of section 48.415 (10) (a) and (b) of the statutes first applies  
12 to court orders required to contain the notice under section 48.356 (2) of the statutes  
13 granted on the effective date of this paragraph but does not preclude consideration  
14 of prior orders of a court terminating parental rights with respect to a child who is  
15 not the subject of the petition in determining whether to terminate, or to find grounds  
16 to terminate, the parental rights of a person under section 48.415 (10) of the statutes,  
17 as affected by this act.

18 (4) TERMINATION OF PARENTAL RIGHTS APPEALS. The treatment of sections 48.43  
19 (6m), 808.04 (7m) and (8), 809.107 (5) (am), and 809.82 (2) (b) of the statutes first  
20 applies to judgments or orders granted under section 48.43 of the statutes, as  
21 affected by this act, on the effective date of this paragraph.

22 (5) AGENCY DECISIONS INVOLVING PLACEMENT OF CHILD. The treatment of section  
23 48.64 (4) (c) of the statutes first applies to a decision or order of an agency involving  
24 the placement and care of a child made on the effective date of this subsection.

1           (6) JUDICIAL REVIEW. The treatment of section 48.72 of the statutes first applies  
2 to a decision made or action taken by the department of health and family services  
3 on the effective date of this subsection.

4           (7) ADVERTISING RELATING TO ADOPTION. The treatment of section 48.825 (3m)  
5 and (5) of the statutes first applies to advertisements published on the effective date  
6 of this subsection.

7           (8) PAYMENT OF BIRTH PARENTS' EXPENSES. The treatment of section 48.913 (1) (c),  
8 (i), and (m) of the statutes first applies to the payment of expenses that are incurred  
9 on the effective date of this subsection.

10           (9) PREADOPTON PREPARATION. The treatment of sections 48.833, 48.837 (2) (d),  
11 48.839 (2) (b) and (c), and 48.84 of the statutes first applies to a child placed for  
12 adoption under section 48.833 of the statutes, as affected by this act, a petition for  
13 adoptive placement of a child filed under s. 48.837 (2) of the statutes, as affected by  
14 this act, or a child brought into this state for purposes of adoption under section  
15 48.839 of the statutes, as affected by this act, on the effective date of this subsection.

16           **SECTION 71. Effective dates.** This act takes effect on the day after publication,  
17 except as follows:

18           (1) DECLARATION OF PATERNAL INTEREST. The treatment of sections 46.03 (7) (bm),  
19 48.025 (1), (5) and (6), 48.27 (3) (b) 1. a., 48.27 (5), 48.42 (1) (a), (1g), (2) (b) (intro.)  
20 and 1. and (bm), and (3) (a), 48.422 (6) (a), 48.837 (4) (e), 48.91 (2), 938.27 (3) (b) 1.  
21 a. and (5) of the statutes, the renumbering of section 48.025 (3) of the statutes, the  
22 renumbering and amendment of sections 48.025 (2), 48.42 (2m), 48.423, and 48.43  
23 (6) of the statutes, and the creation of sections 48.025 (2) (b) and (d) and (3) (a), (c),  
24 and (d), 48.42 (2m) (b), 48.423 (2), and 48.43 (6) (b) and (c) of the statutes and SECTION

