



State of Wisconsin
2009 - 2010 LEGISLATURE

LRBa0602/1
GMM:nwn:jf

**ASSEMBLY AMENDMENT 1,
TO 2009 ASSEMBLY BILL 164**

August 19, 2009 – Offered by COMMITTEE ON CHILDREN AND FAMILIES.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 2, line 3: after that line insert:

3 “**SECTION 1m.** 48.64 (title) of the statutes, as affected by 2009 Wisconsin Acts
4 28 and (this act), is repealed and recreated to read:

5 **48.64 (title) Placement of children in out-of-home care.”.**

6 **2.** Page 3, line 2: after that line insert:

7 “**SECTION 2m.** 48.64 (1) of the statutes, as affected by 2009 Wisconsin Acts 28
8 and (this act), is repealed and recreated to read:

9 48.64 (1) DEFINITION. In this section, “agency” means the department, the
10 department of corrections, a county department, or a licensed child welfare agency
11 authorized to place children in foster homes or group homes or in the homes of
12 relatives other than a parent.”.

13 **3.** Page 3, line 24: after that line insert:

1 “**SECTION 3m.** 48.64 (1m) of the statutes, as affected by 2009 Wisconsin Acts
2 28 and (this act), is repealed and recreated to read:

3 48.64 (1m) OUT-OF-HOME CARE AGREEMENTS. If an agency places a child in a
4 foster home or group home or in the home of a relative other than a parent under a
5 court order or places a child in a foster home or group home under a voluntary
6 agreement under s. 48.63, the agency shall enter into a written agreement with the
7 head of the home. The agreement shall provide that the agency shall have access at
8 all times to the child and the home, and that the child will be released to the agency
9 whenever, in the opinion of the agency placing the child or the department, the best
10 interests of the child require release to the agency. If a child has been in a foster home
11 or group home or in the home of a relative other than a parent for 6 months or more,
12 the agency shall give the head of the home written notice of intent to remove the
13 child, stating the reasons for the removal. The child may not be removed before
14 completion of the hearing under sub. (4) (a) or (c), if requested, or 30 days after the
15 receipt of the notice, whichever is later, unless the safety of the child requires it or,
16 in a case in which the reason for removal is to place the child for adoption under s.
17 48.833, unless all of the persons who have the right to request a hearing under sub.
18 (4) (a) or (c) sign written waivers of objection to the proposed removal. If the safety
19 of the child requires earlier removal, s. 48.19 applies. If an agency removes a child
20 from an adoptive placement, the head of the home shall have no claim against the
21 placing agency for the expense of care, clothing, or medical treatment.”.

22 **4.** Page 4, line 7: after that line insert:

23 “**SECTION 4m.** 48.64 (1r) of the statutes, as affected by 2009 Wisconsin Acts 28
24 and (this act), is repealed and recreated to read:

1 48.64 (1r) NOTIFICATION OF SCHOOL DISTRICT. When an agency places a
2 school-age child in a foster home or group home or in the home of a relative other
3 than a parent, the agency shall notify the clerk of the school district in which the
4 foster home, group home, or home of the relative is located that a school-age child
5 has been placed in a foster home, group home, or home of a relative in the school
6 district.”.

7 **5.** Page 4, line 13: after that line insert:

8 “**SECTION 5m.** 48.64 (2) of the statutes, as affected by 2009 Wisconsin Acts 28
9 and (this act), is repealed and recreated to read:

10 48.64 (2) SUPERVISION OF OUT-OF-HOME CARE PLACEMENTS. Every child who is
11 placed in a foster home or group home shall be under the supervision of an agency.
12 Every child who is placed in the home of a relative other than a parent under a court
13 order shall be under the supervision of an agency.”.

14 **6.** Page 5, line 23: after that line insert:

15 “**SECTION 6m.** 48.64 (4) (a) of the statutes, as affected by 2009 Wisconsin Acts
16 28 and (this act), is repealed and recreated to read:

17 48.64 (4) (a) Any decision or order issued by an agency that affects the head of
18 a foster home or group home, the head of the home of a relative other than a parent
19 in which a child is placed, or the child involved may be appealed to the department
20 under fair hearing procedures established under rules promulgated by the
21 department. Upon receipt of an appeal, the department shall give the head of the
22 home reasonable notice and an opportunity for a fair hearing. The department may
23 make any additional investigation that the department considers necessary. The
24 department shall give notice of the hearing to the head of the home and to the

1 departmental subunit, county department, or child welfare agency that issued the
2 decision or order. Each person receiving notice is entitled to be represented at the
3 hearing. At all hearings conducted under this paragraph, the head of the home, or
4 a representative of the head of the home, shall have an adequate opportunity,
5 notwithstanding s. 48.78 (2) (a), to examine all documents and records to be used at
6 the hearing at a reasonable time before the date of the hearing as well as during the
7 hearing, to bring witnesses, to establish all pertinent facts and circumstances, and
8 to question or refute any testimony or evidence, including an opportunity to confront
9 and cross-examine adverse witnesses. The department shall grant a continuance
10 for a reasonable period of time when an issue is raised for the first time during a
11 hearing. This requirement may be waived with the consent of the parties. The
12 decision of the department shall be based exclusively on evidence introduced at the
13 hearing. A transcript of testimony and exhibits, or an official report containing the
14 substance of what transpired at the hearing, together with all papers and requests
15 filed in the proceeding, and the findings of the hearing examiner shall constitute the
16 exclusive record for decision by the department. The department shall make the
17 record available at any reasonable time and at an accessible place to the head of the
18 home or his or her representative. Decisions by the department shall specify the
19 reasons for the decision and identify the supporting evidence. No person
20 participating in an agency action being appealed may participate in the final
21 administrative decision on that action. The department shall render its decision as
22 soon as possible after the hearing and shall send a certified copy of its decision to the
23 head of the home and to the departmental subunit, county department, or child
24 welfare agency that issued the decision or order. The decision shall be binding on all
25 parties concerned.”.

1 **7. Page 6, line 13:** after that line insert:

2 “**SECTION 7m.** 48.64 (4) (c) of the statutes, as affected by 2009 Wisconsin Acts
3 28 and (this act), is repealed and recreated to read:

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

17 **8. Page 6, line 17:** after that line insert:

18 “**SECTION 9m. Effective dates.** This act takes effect on the day after
19 publication, except as follows:

20 (1) **TREATMENT FOSTER HOMES.** The repeal and recreation of sections 48.64 (title),
21 (1), (1m), (1r), (2), and (4) (a) and (c) of the statutes takes effect on the date stated in
22 the notice provided by the secretary of children and families and published in the

1 Wisconsin Administrative Register under section 48.62 (9) of the statutes, as created
2 by 2009 Wisconsin Act 28.”.

3 (END)