



**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 2009 ASSEMBLY BILL 298**

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

1 **AN ACT to create** 48.21 (3) (f), 48.21 (5) (e), 48.78 (2) (i), 48.981 (7) (a) 4m., 938.21  
2 (2) (e), 938.21 (3) (f), 938.21 (5) (e) and 938.78 (2) (i) of the statutes; **relating**  
3 **to:** requiring notice to relatives when a child is taken into custody and  
4 disclosure of information to relatives for the purpose of facilitating a  
5 relationship or placement.

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***Analysis by the Legislative Reference Bureau***

Under current law, the court assigned to exercise jurisdiction under the Children's Code and the Juvenile Justice Code (juvenile court) may order a child to be placed with a relative when the child is taken into temporary physical custody.

Recently, the U.S. Congress enacted the Fostering Connections to Success and Increasing Adoptions Act of 2008, which amends Title IV-E of the Social Security Act to require that within 30 days after the removal of a child from the custody of the parent or parents of the child, a state must exercise due diligence to identify and provide notice to all adult grandparents and other adult relatives of the child, including any other adult relatives suggested by the parents, subject to exceptions due to family or domestic violence. The notice must do all of the following:

1. Specify that the child has been or is being removed from the custody of the parent or parents of the child.

2. Explain the options the relative has under federal, state, and local law to participate in the care and placement of the child, including any options that may be lost by failing to respond to the notice.

3. Describe the requirements to become a foster family home and the additional services and supports that are available for children placed in such a home.

This substitute amendment modifies current law relating to temporary physical custody hearings under the Children's Code and the Juvenile Justice Code to conform those codes to the changes recently enacted by Congress. Specifically, the substitute amendment requires the juvenile court to request a child's parent, if present at a temporary physical custody hearing, to provide the names of three relatives of the child or family friends 18 years of age or over whose homes the parent requests the juvenile court to consider as placements for the child. If the parent does not provide that information at the hearing, the county department of human services or social services (county department) or, in Milwaukee County, the Department of Children and Families (DCF) must permit the parent to provide the information at a later date.

The juvenile court then must order the county department or DCF to conduct a diligent search in order to locate and provide notice of certain information specified in the substitute amendment to all of the relatives names by the parent and to all adult relatives of the child within 30 days after the temporary physical custody hearing. The substitute amendment, for purposes of notification, defines "adult relative" as a grandparent, great-grandparent, aunt, uncle, brother, sister, half brother, or half sister of the child who has attained 18 years of age. The substitute amendment also permits the juvenile court to order the county department or DCF to notify any other individual whose home is recommended as a placement option by the parent. The county department or DCF may not provide notice to a person named by a parent or to an adult relative if the county department or DCF has reason to believe that it would be dangerous to the child or to the parent if the child were placed with that person or adult relative.

The substitute amendment requires the notice to include all of the following:

1. A statement that the child has been removed from the custody of the child's parent.

2. A statement that explains the options that the person notified has under state or federal law to participate in the care and placement of the child, including any options that may be lost by failing to respond to the notice.

3. A description of the requirements to obtain a foster home license or to receive kinship care payments and of the additional services and supports that are available for children placed in a foster home or in the home of a person receiving those payments.

4. A statement advising the person notified that he or she may incur additional expenses if the child is placed in his or her home and that reimbursement for some of those expenses may be available.

5. The name and contact information of the agency that removed the child from the custody of the child's parent.

Finally, the substitute amendment creates an exception to the confidentiality of agency and child abuse and neglect records so that the county department or DCF may disclose information to a relative of a child who is placed outside his or her home only to the extent necessary to facilitate the establishment of a relationship between the child and the relative or a placement of the child with the relative.

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

1           **SECTION 1.** 48.21 (3) (f) of the statutes is created to read:

2           48.21 **(3)** (f) If present at the hearing, the parent shall be requested to provide  
3 the names and other identifying information of 3 relatives of the child or family  
4 friends 18 years of age or over whose homes the parent requests the court to consider  
5 as placements for the child. If the parent does not provide this information at the  
6 hearing, the county department or, in a county having a population of 500,000 or  
7 more, the department shall permit the parent to provide the information at a later  
8 date.

9           **SECTION 2.** 48.21 (5) (e) of the statutes is created to read:

10          48.21 **(5)** (e) 1. In this paragraph, “adult relative” means a grandparent,  
11 great-grandparent, aunt, uncle, brother, sister, half brother, or half sister of a child,  
12 whether by blood, marriage, or legal adoption, who has attained 18 years of age.

13          2. The court shall order the county department or, in a county having a  
14 population of 500,000 or more, the department to conduct a diligent search in order  
15 to locate and provide notice of the information specified in this subdivision to all  
16 relatives of the child named under sub. (3) (f) and to all adult relatives of the child  
17 within 30 days after the child is removed from the custody of the child’s parent unless  
18 the child is returned to his or her home within that period. The court may also order  
19 the county department or, in a county having a population of 500,000 or more, the

1 department to conduct a diligent search in order to locate and provide notice of the  
2 information specified in this subdivision to all other adult individuals named under  
3 sub. (3) (f) within 30 days after the child is removed from the custody of the child's  
4 parent unless the child is returned to his or her home within that period. The county  
5 department or department may not provide that notice to a person named under sub.  
6 (3) (f) or to an adult relative if the county department or department has reason to  
7 believe that it would be dangerous to the child or to the parent if the child were placed  
8 with that person or adult relative. The notice shall include all of the following:

9 a. A statement that the child has been removed from the custody of the child's  
10 parent.

11 b. A statement that explains the options that the person provided with the  
12 notice has under state or federal law to participate in the care and placement of the  
13 child, including any options that may be lost by failing to respond to the notice.

14 c. A description of the requirements to obtain a foster home license under s.  
15 48.62 or to receive kinship care or long-term kinship care payments under s. 48.57  
16 (3m) or (3n) and of the additional services and supports that are available for  
17 children placed in a foster home or in the home of a person receiving those payments.

18 d. A statement advising the person provided with the notice that he or she may  
19 incur additional expenses if the child is placed in his or her home and that  
20 reimbursement for some of those expenses may be available.

21 e. The name and contact information of the agency that removed the child from  
22 the custody of the child's parent.

23 **SECTION 3.** 48.78 (2) (i) of the statutes is created to read:

24 48.78 (2) (i) Paragraph (a) does not prohibit an agency from disclosing  
25 information to a relative of a child placed outside of his or her home only to the extent

1 necessary to facilitate the establishment of a relationship between the child and the  
2 relative or a placement of the child with the relative or from disclosing information  
3 under s. 48.21 (5) (e). In this paragraph, “relative” includes a relative whose  
4 relationship is derived through a parent of the child whose parental rights are  
5 terminated.

6 **SECTION 4.** 48.981 (7) (a) 4m. of the statutes is created to read:

7 48.981 (7) (a) 4m. A relative of a child placed outside of his or her home only  
8 to the extent necessary to facilitate the establishment of a relationship between the  
9 child and the relative or a placement of the child with the relative or to a person  
10 provided with the notice under s. 48.21 (5) (e). In this subdivision, “relative” includes  
11 a relative whose relationship is derived through a parent of the child whose parental  
12 rights are terminated.

13 **SECTION 5.** 938.21 (2) (e) of the statutes is created to read:

14 938.21 (2) (e) If present at the hearing, the parent shall be requested to provide  
15 the names and other identifying information of 3 relatives of the juvenile or family  
16 friends 18 years of age or over whose homes the parent requests the court to consider  
17 as placements for the juvenile. If the parent does not provide this information at the  
18 hearing, the county department shall permit the parent to provide that information  
19 at a later date.

20 **SECTION 6.** 938.21 (3) (f) of the statutes is created to read:

21 938.21 (3) (f) If present at the hearing, the parent shall be requested to provide  
22 the names and other identifying information of 3 relatives of the juvenile or family  
23 friends 18 years of age or over whose homes the parent requests the court to consider  
24 as placements for the juvenile. If the parent does not provide this information at the

1 hearing, the county department shall permit the parent to provide that information  
2 at a later date.

3 **SECTION 7.** 938.21 (5) (e) of the statutes is created to read:

4 938.21 (5) (e) 1. In this paragraph, “adult relative” means a grandparent,  
5 great-grandparent, aunt, uncle, brother, sister, half brother, or half sister of a  
6 juvenile, whether by blood, marriage, or legal adoption, who has attained 18 years  
7 of age.

8 2. The court shall order the county department to conduct a diligent search in  
9 order to locate and provide notice of the information specified in this subdivision to  
10 all relatives of the juvenile named under sub. (2) (e) or (3) (f) and to all adult relatives  
11 of the juvenile within 30 days after the juvenile is removed from the custody of the  
12 juvenile’s parent unless the juvenile is returned to his or her home within that period.  
13 The court may also order the county department to conduct a diligent search in order  
14 to locate and provide notice of the information specified in this subdivision to all  
15 other adult individuals named under sub. (2) (e) or (3) (f) within 30 days after the  
16 juvenile is removed from the custody of the juvenile’s parent unless the juvenile is  
17 returned to his or her home within that period. The county department may not  
18 provide that notice to a person named under sub. (2) (e) or (3) (f) or to an adult relative  
19 if the county department has reason to believe that it would be dangerous to the  
20 juvenile or to the parent if the juvenile were placed with that person or adult relative.  
21 The notice shall include all of the following:

22 a. A statement that the juvenile has been removed from the custody of the  
23 juvenile’s parent.

