



2011 SENATE BILL 285

November 8, 2011 - Introduced by LAW REVISION COMMITTEE. Referred to
Committee on Judiciary, Utilities, Commerce, and Government Operations.

1 **AN ACT relating to:** affecting various provisions of the statutes to correct errors
2 and reconcile conflicts (Correction Bill).

Analysis by the Legislative Reference Bureau

This correction bill was prepared by the Legislative Reference Bureau under s.
13.92 (1) (bm) 1. and 2. and (2) (i) and (L), stats. Specific changes are explained in
the NOTES in the body of the bill.

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

3 **SECTION 1.** The treatment of 15.08 (1m) (b) of the statutes by 2009 Wisconsin
4 Act 106 is not repealed by 2009 Wisconsin Act 149. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference
bureau, s. 15.08 (1m) (b) reads:

(b) The public members of the chiropractic examining board, the dentistry
examining board, the hearing and speech examining board, the medical examining
board, the physical therapy examining board, perfusionists examining council,
respiratory care practitioners examining council and council on physician assistants,
the board of nursing, the nursing home administrator examining board, the veterinary
examining board, the optometry examining board, the pharmacy examining board,
the marriage and family therapy, professional counseling, and social work examining
board, the psychology examining board, and the radiography examining board shall not be

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engaged in any profession or occupation concerned with the delivery of physical or mental health care.

1 **SECTION 2.** The treatment of 15.085 (1m) (b) of the statutes by 2009 Wisconsin
2 Act 113 is not repealed by 2009 Wisconsin Act 149. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau s. 15.085 (1m) (b) reads:

(b) The public members of the podiatry affiliated credentialing board or occupational therapists affiliated credentialing board shall not be engaged in any profession or occupation concerned with the delivery of physical or mental health care.

3 **SECTION 3.** 20.437 (1) (jm) of the statutes, as affected by 2009 Wisconsin Act
4 76, section 1j, is amended to read:

5 20.437 (1) (jm) *Licensing activities.* All moneys received from licensing
6 activities under ss. 48.60, 48.62, 48.625, and 938.22 (7), from fees under ss. 48.615,
7 48.625, and 938.22 (7) (b) and (c), and from fees under s. 48.685 (8) charged to entities
8 other than day child care centers or day child care providers, for the costs of licensing
9 child welfare agencies under s. 48.60, foster homes under s. 48.62, group homes
10 under s. 48.625, and shelter care facilities under s. 938.22 (7) and for the purposes
11 specified in s. 48.685 (2) (am) and (b) 1., (3) (a) and (b), and (5) (a) with respect to those
12 entities.

NOTE: Inserts correct term. 2009 Wis. Act 76 inserted references to "day care."
2009 Wis. Act 185 changed "day care" to "child care" throughout the statutes without taking account of the treatment by Act 76.

13 **SECTION 4.** 20.437 (2) (jn) of the statutes, as affected by 2009 Wisconsin Acts
14 76 and 185, is amended to read:

15 20.437 (2) (jn) *Child care licensing and certification activities.* All moneys
16 received from licensing activities under s. 48.65, from certifying activities under s.
17 48.651, from fees under ss. 48.65 (3) and 48.651 (2), and from fees under s. 48.685 (8)
18 charged to day child care centers and day child care providers for the costs of
19 licensing child care centers under s. 48.65 and of certifying child care providers under

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1 s. 48.651 and for the purposes specified in s. 48.685 (2) (am), (ar), and (b) 1. and 2.,
2 (3) (am) and (bm), and (5) (a) with respect to day child care centers and day child care
3 providers.

NOTE: Inserts correct term. 2009 Wis. Act 76 inserted four references to “day care”
in this provision. 2009 Wis. Act 185 changed two previously existing references from “day
care” to “child care” and made similar changes throughout the statutes without taking
the treatment by Act 76 into account.

4 **SECTION 5.** 23.24 (2) (a) 4. of the statutes is amended to read:

5 23.24 (2) (a) 4. Administer and establish by rule procedures and requirements
6 for the issuing of aquatic ~~plants~~ plant management permits required under sub. (3).

NOTE: Makes terminology consistent with the remainder of ch. 23.

7 **SECTION 6.** 23.33 (5r) (e) of the statutes is amended to read:

8 23.33 (5r) (e) If a private landowner enters into an agreement with a county
9 to allow a public all-terrain vehicle corridor on the landowner’s land for a period of
10 at least 5 years, the landowner shall receive a supplemental payment, in addition to
11 the payment as calculated under par. (e) (d), that equals 10 percent of the payment
12 calculated under par. (e) (d) for each full or partial fiscal year that is included in the
13 5-year period.

NOTE: Corrects cross-reference. Section 23.33 (5r) (d) provides the method for
calculating incentive payments. Section 23.33 (5r) (c) requires the forester or another
employee of each county in which a public all-terrain vehicle corridor is located to
measure the length of the corridor for the purpose of calculating the incentive payment.

14 **SECTION 7.** 23.33 (5r) (g) of the statutes is amended to read:

15 23.33 (5r) (g) During fiscal year 2007-08, the department may expend up to
16 \$100,000 from the appropriation under s. 20.370 (5) (~~eu~~) (cv) for incentive payments
17 under this program.

NOTE: Corrects cross-reference. Section 20.370 (5) (cv) is the appropriation for
incentive payments to landowners for public all-terrain vehicle corridors. Section 20.370
(5) (cu) is the appropriation for payments to governmental units, under a separate
program for all-terrain vehicle projects.

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1 **SECTION 8.** 26.39 (7) (a) of the statutes, as affected by 2009 Wisconsin Acts 28
2 and 181, is amended to read:

3 26.39 (7) (a) From the appropriation under s. 20.370 (5) (ax), the department
4 shall establish a scholarship grant program to assist individuals who are seeking
5 certification by the Great Lakes Timber Professionals Association as master loggers
6 or who are seeking logger safety training certified by the ~~Wisconsin Professional~~
7 ~~Loggers~~ Great Lakes Timber Professionals Association. A scholarship grant under
8 the program may not exceed 50 percent of the total cost of receiving the certification
9 or training. The department shall promulgate rules that establish criteria for the
10 program.

NOTE: 2009 Wis. Act 181 changed “Wisconsin Professional Loggers Association” to
“Great Lakes Timber Professionals Association” throughout the statutes but did not take
into account the treatment of s. 26.39 (7) (a) by 2009 Wis. Act 28, which added the
reference stricken above.

11 **SECTION 9.** 29.304 (3) (a) 1. of the statutes, as affected by 2009 Wisconsin Act
12 39, is amended to read:

13 29.304 (3) (a) 1. Is accompanied by his or her parent or guardian or by a person
14 at least 18 years of age who is designated by the parent or guardian; or

NOTE: The underscored “or” was deleted by 2009 Wis. Act 39 without being shown
as stricken. No change was intended.

15 **SECTION 10.** 40.03 (2) (it) of the statutes is repealed.

Section 40.03 (2) (it) provided for the promulgation of rules “required for the
administration of the private employer health care coverage program established under
subch. X.” Subchapter X of Chapter 40 was repealed 1-1-10 by 1999 Wis. Act 9.

16 **SECTION 11.** The treatment of 45.40 (3m) of the statutes by 2009 Wisconsin Act
17 37 is not repealed by 2009 Wisconsin Act 113. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference
bureau, s. 45.40 (3m) reads:

(3m) RULES. The department shall promulgate rules establishing eligibility
criteria and household income limits for payments under subs. (1m), (2), and (2m). The
department may not include in the rules establishing eligibility criteria and household

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income limits any consideration of the first \$50,000 of cash surrender value of any life insurance that is available to the veteran's household.

1 **SECTION 12.** 48.299 (9) of the statutes, as created by 2009 Wisconsin Act 94, is
2 amended to read:

3 48.299 (9) If at any point in the proceeding the court determines or has reason
4 to know that the child is an Indian child, the court shall provide notice of the
5 proceeding to the child's parent, Indian custodian, and tribe in the manner specified
6 in s. 48.028 (4) (a). The next hearing in the proceeding may not be held until at least
7 10 days after receipt of the notice by the parent, Indian custodian, and tribe or, if the
8 identity or location of the parent, Indian custodian, ~~expectant mother~~, or tribe cannot
9 be determined, until at least 15 days after receipt of the notice by the U.S. secretary
10 of the interior. On request of the parent, Indian custodian, or tribe, the court shall
11 grant a continuance of up to 20 additional days to enable the requester to prepare
12 for that hearing.

NOTE: Provides for parallel construction within the affected sentence, which contains no antecedent for "the ... expectant mother." Removal of the term makes the provision consistent with the notice provisions of s. 48.028 (4) (a) and makes the affected sentence congruent with those contained in ss. 48.42 (2g) (ag), 48.357 (2m) (br), and 48.357 (1) (c) 2r., as created by 2009 Wis. Act 94. Drafting records for Act 94 show that references to "expectant mothers" were included in drafts of Act 94 but removed prior to the final version.

13 **SECTION 13.** 48.32 (1) (b) 1. c. of the statutes, as affected by 2009 Wisconsin Acts
14 79 and 185, is amended to read:

15 48.32 (1) (b) 1. c. If a permanency plan has previously been prepared for the
16 child, a finding as to whether the county department, department, or agency has
17 made reasonable efforts to achieve the goal of the child's permanency plan, including,
18 if appropriate, through an out-of-state placement,

NOTE: 2009 Wis. Act 185 deleted a comma where the underscored comma is inserted, but its reinsertion was made necessary by the treatment by 2009 Wis. Act 79. Act 79 inserted the stricken comma, but it was rendered unnecessary by the treatment by Act 185.

SENATE BILL 285**SECTION 14**

1 **SECTION 14.** 48.33 (4) (c) of the statutes, as affected by 2009 Wisconsin Acts 79
2 and 185, is amended to read:

3 48.33 **(4)** (c) Specific information showing that continued placement of the child
4 in his or her home would be contrary to the welfare of the child, specific information
5 showing that the county department, the department, in a county having a
6 population of 500,000 or more, or the agency primarily responsible for providing
7 services to the child has made reasonable efforts to prevent the removal of the child
8 from the home, while assuring that the child's health and safety are the paramount
9 concerns, unless any of the circumstances specified in s. 48.355 (2d) (b) 1. to 5.
10 applies, and, if a permanency plan has previously been prepared for the child,
11 specific information showing that the county department, department, or agency has
12 made reasonable efforts to achieve the goal of the child's permanency plan, including,
13 if appropriate, through an out-of-state placement,

NOTE: 2009 Wis. Act 185 deleted a comma where the underscored comma is inserted, but its reinsertion was made necessary by the treatment by 2009 Wis. Act 79. Act 79 inserted the stricken comma, but it was rendered unnecessary by the treatment by Act 185.

14 **SECTION 15.** 48.335 (3g) (c) of the statutes, as affected by 2009 Wisconsin Acts
15 79 and 185, is amended to read:

16 48.335 **(3g)** (c) That, if a permanency plan has previously been prepared for the
17 child, the county department, department, or agency has made reasonable efforts to
18 achieve the goal of the child's permanency plan, including, if appropriate, through
19 an out-of-state placement,

NOTE: 2009 Wis. Act 185 deleted a comma where the underscored comma is inserted, but its reinsertion was made necessary by the treatment by 2009 Wis. Act 79. Act 79 inserted the stricken comma, but it was rendered unnecessary by the treatment by Act 185.

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1 **SECTION 16.** 48.355 (2) (b) 6. of the statutes, as affected by 2009 Wisconsin Acts
2 79 and 185, is amended to read:

3 48.355 (2) (b) 6. If the child is placed outside the home, a finding that continued
4 placement of the child in his or her home would be contrary to the welfare of the child,
5 a finding as to whether the county department, the department, in a county having
6 a population of 500,000 or more, or the agency primarily responsible for providing
7 services under a court order has made reasonable efforts to prevent the removal of
8 the child from the home, while assuring that the child's health and safety are the
9 paramount concerns, unless the court finds that any of the circumstances specified
10 in sub. (2d) (b) 1. to 5. applies, and, if a permanency plan has previously been
11 prepared for the child, a finding as to whether the county department, department,
12 or agency has made reasonable efforts to achieve the goal of the child's permanency
13 plan, including, if appropriate, through an out-of-state placement,. The court shall
14 make the findings specified in this subdivision on a case-by-case basis based on
15 circumstances specific to the child and shall document or reference the specific
16 information on which those findings are based in the court order. A court order that
17 merely references this subdivision without documenting or referencing that specific
18 information in the court order or an amended court order that retroactively corrects
19 an earlier court order that does not comply with this subdivision is not sufficient to
20 comply with this subdivision.

NOTE: 2009 Wis. Act 185 deleted a comma where the underscored comma is
inserted, but its reinsertion was made necessary by the treatment by 2009 Wis. Act 79.
Act 79 inserted the stricken comma, but it was rendered unnecessary by the treatment
by Act 185.

21 **SECTION 17.** The treatment of 48.363 (1) (b) of the statutes by 2009 Wisconsin
22 Act 79, section 38, is not repealed by 2009 Wisconsin Act 94, section 100. Both
23 treatments stand.

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NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 48.363 (1) (b) reads:

(b) If a hearing is held, at least 3 days before prior to the the hearing the court shall notify the child, the child's parent, guardian, legal custodian, and Indian custodian, all parties bound by the dispositional order, the child's foster parent, treatment foster parent, or other physical custodian described in s. 48.62 (2), the child's court-appointed special advocate, the district attorney or corporation counsel in the county in which the dispositional order was entered, and, if the child is an Indian child who is placed outside the home of his or her parent or Indian custodian, the Indian child's tribe. If the child is the expectant mother of an unborn child under s. 48.133, the court shall also notify the unborn child by the unborn child's guardian ad litem. If the proceeding involves an adult expectant mother of an unborn child under s. 48.133, the court shall notify the adult expectant mother, the unborn child through the unborn child's guardian ad litem, all parties bound by the dispositional order, and the district attorney or corporation counsel in the county in which the dispositional order was entered. A copy of the request or proposal shall be attached to the notice. If all parties consent, the court may proceed immediately with the hearing. No revision may extend the effective period of the original order.

1 **SECTION 18.** 48.365 (2m) (a) 1. and 1m. of the statutes, as affected by 2009
2 Wisconsin Act 79, section 44, and 2009 Wisconsin Act 94, section 106, and 2009
3 Wisconsin Act 185, section 17, are amended to read:

4 48.365 (2m) (a) 1. Any party may present evidence relevant to the issue of
5 extension. If the child is placed outside of his or her home, the person or agency
6 primarily responsible for providing services to the child shall present as evidence
7 specific information showing that the person or agency has made reasonable efforts
8 to achieve the goal of the child's permanency plan, including, if appropriate, through
9 an out-of-state placement, under. If an Indian child is placed outside the home of
10 his or her parent or Indian custodian, the person or agency primarily responsible for
11 providing services to the Indian child shall also present as evidence specific
12 information showing that active efforts under s. 48.028 (4) (d) 2. have been made to
13 prevent the breakup of the Indian child's family and that those efforts have proved
14 unsuccessful.

15 1m. The judge shall make findings of fact and conclusions of law based on the
16 evidence. The findings of fact shall include a finding as to whether reasonable efforts

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1 were made by the person or agency primarily responsible for providing services to
2 the child to achieve the goal of the child's permanency plan, including, if appropriate,
3 through an out-of-state placement, ~~under~~. If the child is an Indian child who is
4 placed outside the home of his or her parent or Indian custodian, the findings of fact
5 shall also include a finding that active efforts under s. 48.028 (4) (d) 2. were made to
6 prevent the breakup of the Indian child's family and that those efforts have proved
7 unsuccessful. An order shall be issued under s. 48.355.

NOTE: 2009 Wis. Act 185 deleted a comma where each underscored comma is inserted, but the reinsertion of those commas was made necessary by the treatment by 2009 Wis. Act 79. Act 79 inserted the stricken commas, but they were rendered unnecessary by the treatment by Act 185. 2009 Wis. Act 94 inserted the two instances of the word "under" that are stricken here, but they were rendered surplusage by the Act 185 treatment.

8 **SECTION 19.** The treatment of 48.365 (2m) (ag) of the statutes by 2009
9 Wisconsin Act 79, section 48, is not repealed by 2009 Wisconsin Act 94, section 110.
10 Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 48.365 (2m) (ag) reads:

(ag) The court shall give a foster parent, treatment foster parent, or other physical custodian described in s. 48.62 (2) who is notified of a hearing under sub. (2) a right to be heard at the hearing by permitting the foster parent, treatment foster parent, or other physical custodian to make a written or oral statement during the hearing, or to submit a written statement prior to the hearing, relevant to the issue of extension. A foster parent, treatment foster parent, or other physical custodian who receives notice of a hearing under sub. (2) and a right to be heard under this paragraph does not become a party to the proceeding on which the hearing is held solely on the basis of receiving that notice and having the right to be heard.

11 **SECTION 20.** 48.365 (2m) (ag) of the statutes, as affected by 2009 Wisconsin Act
12 Act 94, section 111, is amended to read:

13 48.365 (2m) (ag) The court shall give a foster parent or other physical custodian
14 described in s. 48.62 (2) who is notified of a hearing under sub. (2) ~~an opportunity a~~
15 right to be heard at the hearing by permitting the foster parent or other physical
16 custodian to make a written or oral statement during the hearing, or to submit a

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1 written statement prior to the hearing, relevant to the issue of extension. A foster
2 parent or other physical custodian who receives notice of a hearing under sub. (2) and
3 ~~an opportunity~~ a right to be heard under this paragraph does not become a party to
4 the proceeding on which the hearing is held solely on the basis of receiving that notice
5 and having the ~~opportunity~~ right to be heard.

NOTE: 2009 Wis. Act 94, section 111, repealed and recreated s. 48.365 (2m) (ag) without taking cognizance of the repeal and recreation of the provision by 2009 Wis. Act 79, section 49. There is no mutual inconsistency between the treatments made by the two acts, and the substantive changes made by Act 79 are made here in order to give effect to both treatments.

6 **SECTION 21.** 48.38 (4m) of the statutes, as affected by 2009 Wisconsin Act 79,
7 sections 56 and 57, and 2009 Wisconsin Act 94, sections 113 and 114, is repealed and
8 recreated to read:

9 48.38 (4m) REASONABLE EFFORTS NOT REQUIRED; PERMANENCY PLAN
10 DETERMINATION HEARING. (a) If in a proceeding under s. 48.21, 48.32, 48.355, 48.357,
11 or 48.365 the court finds that any of the circumstances under s. 48.355 (2d) (b) 1. to
12 5. applies with respect to a parent, the court shall hold a hearing within 30 days after
13 the date of that finding to determine the permanency plan for the child. If a hearing
14 is held under this paragraph, the agency responsible for preparing the permanency
15 plan shall file the permanency plan with the court not less than 5 days before the date
16 of the hearing. At the hearing, the court shall consider placing the child in a
17 placement outside this state if the court determines that such a placement would be
18 in the best interests of the child and appropriate to achieving the goal of the child's
19 permanency plan.

20 (b) At least 10 days before the date of the hearing the court shall notify the child;
21 any parent, guardian, and legal custodian of the child; any foster parent, or other
22 physical custodian described in s. 48.62 (2) of the child, the operator of the facility

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1 in which the child is living, or the relative with whom the child is living; and, if the
2 child is an Indian child, the Indian child's Indian custodian and tribe of the time,
3 place, and purpose of the hearing, of the issues to be determined at the hearing, and
4 of the fact that they shall have a right to be heard at the hearing.

5 (c) If the child's permanency plan includes a statement under sub. (4) (i)
6 indicating that the child's age and developmental level are sufficient for the court to
7 consult with the child regarding the child's permanency plan or if, notwithstanding
8 a decision under sub. (4) (i) that it would not be appropriate for the court to consult
9 with the child, the court determines that consultation with the child would be in the
10 best interests of the child, the court shall consult with the child, in an
11 age-appropriate and developmentally appropriate manner, regarding the child's
12 permanency plan and any other matters the court finds appropriate. If none of those
13 circumstances apply, the court may permit the child's caseworker, the child's counsel,
14 or, subject to s. 48.235 (3) (a), the child's guardian ad litem to make a written or oral
15 statement during the hearing, or to submit a written statement prior to the hearing,
16 expressing the child's wishes, goals, and concerns regarding the permanency plan
17 and those matters. If the court permits such a written or oral statement to be made
18 or submitted, the court may nonetheless require the child to be physically present
19 at the hearing.

20 (d) The court shall give a foster parent, other physical custodian described in
21 s. 48.62 (2), operator of a facility, or relative who is notified of a hearing under par.
22 (b) a right to be heard at the hearing by permitting the foster parent, other physical
23 custodian, operator, or relative to make a written or oral statement during the
24 hearing, or to submit a written statement prior to the hearing, relevant to the issues
25 to be determined at the hearing. The foster parent, other physical custodian,

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1 operator of a facility, or relative does not become a party to the proceeding on which
2 the hearing is held solely on the basis of receiving that notice and right to be heard.

NOTE: 2009 Wis. Act 79, section 56, and 2009 Wis. Act 94, section 113, create very similar, but not identical, provisions that are numbered s. 48.38 (4m). This treatment gives effect to both acts by merging the text of the two provisions and eliminating minor differences in punctuation and sentence structure. The provision created as s. 48.38 (4m) (c) in Act 94 is created as s. 48.38 (4m) (d) in Act 79, and a provision with no counterpart in Act 94 is created as s. 48.38 (4m) (c) in Act 79. The provision created as 48.38 (4m) (c) in Act 79 is recreated here as s. 48.38 (4m) (c), and the provision created as s. 48.38 (4m) (c) in Act 94 and as s. 48.38 (4m) (d) in Act 79 is recreated here as s. 48.38 (4m) (d). Act 79, section 57, and Act 94, section 114, each eliminated the phrase "treatment foster parent" in s. 48.38 (4m), as created by the respective acts, as of January 1, 2011.

3 **SECTION 22.** The treatment of 48.38 (5) (b) of the statutes by 2009 Wisconsin
4 Act 79, section 58, is not repealed by 2009 Wisconsin Act 94, section 115. Both
5 treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 48.38 (5) (b) reads:

(b) The court or the agency shall notify the child; the child's parent, guardian, and legal custodian; and the child's foster parent or treatment foster parent, the operator of the facility in which the child is living, or the relative with whom the child is living; and, if the child is an Indian child who is placed outside the home of his or her parent or Indian custodian, the Indian child's Indian custodian and tribe of the time, place, and purpose of the review, of the issues to be determined as part of the review, and of the fact that they shall have a right to be heard at the review as provided in par. (bm) 1. The court or agency shall notify the person representing the interests of the public, the child's counsel, the child's guardian ad litem, and the child's court-appointed special advocate of the time, place, and purpose of the review, of the issues to be determined as part of the review, and of the fact that they may have an opportunity to be heard at the review as provided in par. (bm) 1. The notices under this paragraph shall be provided in writing not less than 30 days before the review and copies of the notices shall be filed in the child's case record.

6 **SECTION 23.** 48.38 (5) (b) of the statutes, as affected by 2009 Wisconsin Act 94,
7 section 116, is amended to read:

8 48.38 (5) (b) The court or the agency shall notify the child, ~~if he or she is 12 years~~
9 ~~of age or older~~; the child's parent, guardian, and legal custodian; the child's foster
10 parent, the operator of the facility in which the child is living, or the relative with
11 whom the child is living; and, if the child is an Indian child who is placed outside the
12 home of his or her parent or Indian custodian, the Indian child's Indian custodian and
13 tribe of the ~~date, time, and place, and purpose~~ of the review, of the issues to be

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1 determined as part of the review, and of the fact that they ~~may have an opportunity~~
2 shall have a right to be heard at the review by submitting written comments not less
3 than 10 working days before the review or by participating at the review as provided
4 in par. (bm) 1. The court or agency shall notify the person representing the interests
5 of the public, the child's counsel, the child's guardian ad litem, and the child's
6 court-appointed special advocate of the ~~date~~ time, place, and purpose of the review,
7 of the issues to be determined as part of the review, and of the fact that they may
8 ~~submit written comments not less than 10 working days before the review~~ have an
9 opportunity to be heard at the review as provided in par. (bm) 1. The notices under
10 this paragraph shall be provided in writing not less than 30 days before the review
11 and copies of the notices shall be filed in the child's case record.

NOTE: 2009 Wis. Act 94, section 116, repealed and recreated s. 48.38 (5) (b) without taking cognizance of the repeal and recreation of the provision by 2009 Wis. Act 79, section 59. There is no mutual inconsistency between the treatments made by the two acts, and the substantive changes made by Act 79 are made here in order to give effect to both acts.

12 **SECTION 24.** 48.38 (5) (bm) 1. of the statutes, as affected by 2009 Wisconsin Act
13 79, section 61, is amended to read:

14 48.38 (5) (bm) 1. A child, parent, guardian, legal custodian, foster parent,
15 operator of a facility, or relative who is provided notice of the review under par. (b)
16 shall have a right to be heard at the review by submitting written comments relevant
17 to the determinations specified in par. (c) not less than 10 working days before the
18 date of the review or by participating at the review. A person representing the
19 interests of the public, counsel, guardian ad litem, or court-appointed special
20 advocate who is provided notice of the review under par. (b) may have an opportunity
21 to be heard at the review by submitting written comments relevant to the
22 determinations specified in par. (c) not less than 10 working days before the date of

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1 the review. A foster parent, operator of a facility, or relative who receives notice of
2 a hearing review under par. (b) and a right to be heard under this subdivision does
3 not become a party to the proceeding on which the review is held solely on the basis
4 of receiving that notice and right to be heard.

NOTE: 2009 Wis. Act 79 deleted “review” without showing it as stricken and inserted “hearing” without showing it as scored. No change was intended. The proceeding under s. 938.38 (5) (b) is referred to as a “review” throughout the provision.

5 **SECTION 25.** 48.38 (5) (c) 7. of the statutes, as affected by 2009 Wisconsin Acts
6 79 and 185, is amended to read:

7 48.38 (5) (c) 7. Whether reasonable efforts were made by the agency to achieve
8 the goal of the permanency plan, including, if appropriate, through an out-of-state
9 placement,

NOTE: 2009 Wis. Act 185 deleted a comma where the underscored comma is inserted, but its reinsertion was made necessary by the treatment by 2009 Wis. Act 79. Act 79 inserted the stricken comma, but it was rendered unnecessary by the treatment by Act 185.

10 **SECTION 26.** The treatment of 48.38 (5) (d) of the statutes by 2009 Wisconsin
11 Act 79 is not repealed by 2009 Wisconsin Act 94. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 48.38 (5) (d) reads:

(d) Notwithstanding s. 48.78 (2) (a), the agency that prepared the permanency plan shall, at least 5 days before a review by a review panel, provide to each person appointed to the review panel, the child’s parent, guardian, and legal custodian, the person representing the interests of the public, the child’s counsel, the child’s guardian ad litem, the child’s court-appointed special advocate, and, if the child is an Indian child who is placed outside the home of his or her parent or Indian custodian, the Indian child’s Indian custodian and tribe a copy of the permanency plan and any written comments submitted under par. (bm) 1. Notwithstanding s. 48.78 (2) (a), a person appointed to a review panel, the person representing the interests of the public, the child’s counsel, the child’s guardian ad litem, the child’s court-appointed special advocate, and, if the child is an Indian child who is placed outside the home of his or her parent or Indian custodian, the Indian child’s Indian custodian and tribe may have access to any other records concerning the child for the purpose of participating in the review. A person permitted access to a child’s records under this paragraph may not disclose any information from the records to any other person.

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1 **SECTION 27.** The treatment of 48.38 (5) (e) of the statutes by 2009 Wisconsin
2 Act 79, section 67, is not repealed by 2009 Wisconsin Act 94, section 119. Both
3 treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 48.38 (5) (e) reads:

(e) Within 30 days, the agency shall prepare a written summary of the determinations under par. (c) and shall provide a copy to the court that entered the order; the child or the child's counsel or guardian ad litem; the person representing the interests of the public; the child's parent, guardian, and or legal custodian; the child's court-appointed special advocate; the child's foster parent or treatment foster parent, the operator of the facility where the child is living, or the relative with whom the child is living; and, if the child is an Indian child who is placed outside the home of his or her parent or Indian custodian, the Indian child's Indian custodian and tribe.

4 **SECTION 28.** 48.38 (5) (e) of the statutes, as affected by 2009 Wisconsin Act 94,
5 section 120, is amended to read:

6 48.38 (5) (e) Within 30 days, the agency shall prepare a written summary of
7 the determinations under par. (c) and shall provide a copy to the court that entered
8 the order; the child or the child's counsel or guardian ad litem; the person
9 representing the interests of the public; the child's parent, guardian, or legal
10 custodian; the child's court-appointed special advocate; the child's foster parent or
11 the operator of the facility where the child is living, or the relative with whom the
12 child is living; and, if the child is an Indian child who is placed outside the home of
13 his or her parent or Indian custodian, the Indian child's Indian custodian and tribe.

NOTE: 2009 Wis. Act 94, section 120, repealed and recreated s. 48.38 (5) (e) without taking cognizance of the repeal and recreation of the provision by 2009 Wis. Act 79, section 68. There is no mutual inconsistency between the treatments made by the two acts, and the substantive changes made by Act 79 are made here in order to give effect to both acts.

14 **SECTION 29.** The treatment of 48.38 (5m) (b) of the statutes by 2009 Wisconsin
15 Act 79, section 69, is not repealed by 2009 Wisconsin Act 94, section 121. Both
16 treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 48.38 (5m) (b) reads:

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(b) Not less than 30 days before the date of the hearing, the court shall notify the child; the child's parent, guardian, and legal custodian; and the child's foster parent or treatment foster parent, the operator of the facility in which the child is living, or the relative with whom the child is living of the time, place, and purpose of the hearing, of the issues to be determined at the hearing, and of the fact that they shall have a right to be heard at the hearing as provided in par. (c) 1. and shall notify the child's counsel, the child's guardian ad litem, and the child's court-appointed special advocate; the agency that prepared the permanency plan; the person representing the interests of the public; and, if the child is an Indian child who is placed outside the home of his or her parent or Indian custodian, the Indian child's Indian custodian and tribe of the time, place, and purpose of the hearing, of the issues to be determined at the hearing, and of the fact that they may have an opportunity to be heard at the hearing as provided in par. (c) 1.

1 **SECTION 30.** 48.38 (5m) (b) of the statutes, as affected by 2009 Wisconsin Act
2 94, section 122, is amended to read:

3 48.38 **(5m)** (b) Not less than 30 days before the date of the hearing, the court
4 shall notify the child; the child's parent, guardian, and legal custodian; and the
5 child's foster parent, the operator of the facility in which the child is living, or the
6 relative with whom the child is living; of the time, place, and purpose of the hearing,
7 of the issues to be determined at the hearing, and of the fact that they shall have a
8 right to be heard at the hearing as provided in par. (c) 1. and shall notify the child's
9 counsel, the child's guardian ad litem, and the child's court-appointed special
10 advocate; the agency that prepared the permanency plan; the person representing
11 the interests of the public; and, if the child is an Indian child who is placed outside
12 the home of his or her parent or Indian custodian, the Indian child's Indian custodian
13 and tribe of the date, time, and place, and purpose of the hearing, of the issues to be
14 determined at the hearing, and of the fact that they may have an opportunity to be
15 heard at the hearing as provided in par. (c) 1.

NOTE: 2009 Wis. Act 94, section 122, repealed and recreated section 48.38 (5m) (b) without taking cognizance of the repeal and recreation of the provision by 2009 Wis. Act 79, section 70. There is no mutual inconsistency between the treatments made by the two acts, and the substantive changes made by Act 79 are made here in order to give effect to both acts.

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1 **SECTION 31.** The treatment of 48.38 (5m) (d) of the statutes by 2009 Wisconsin
2 Act 79 is not repealed by 2009 Wisconsin Act 94. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 48.38 (5m) (d) reads:

(d) At least 5 days before the date of the hearing the agency that prepared the permanency plan shall provide a copy of the permanency plan and any written comments submitted under par. (c) 1. to the court, to the child's parent, guardian, and legal custodian, to the person representing the interests of the public, to the child's counsel or guardian ad litem, to the child's court-appointed special advocate, and, if the child is an Indian child who is placed outside the home of his or her parent or Indian custodian, to the Indian child's Indian custodian and tribe. Notwithstanding s. 48.78 (2) (a), the person representing the interests of the public, the child's counsel or guardian ad litem, the child's court-appointed special advocate, and, if the child is an Indian child who is placed outside of the home of his or her parent or Indian custodian, the Indian child's Indian custodian and tribe may have access to any other records concerning the child for the purpose of participating in the review. A person permitted access to a child's records under this paragraph may not disclose any information from the records to any other person.

3 **SECTION 32.** The treatment of 48.43 (5m) of the statutes by 2009 Wisconsin Act
4 79, section 90, is not repealed by 2009 Wisconsin Act 94, section 157. Both
5 treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 48.43 (5m) reads:

(5m) Either the court or the agency that prepared the permanency plan shall furnish a copy of the original plan and each revised plan to the child, if he or she is 12 years of age or over, to the child's foster parent or treatment foster parent, the operator of the facility in which the child is living, or the relative with whom the child is living, and, if the order under sub. (1) involuntarily terminated parental rights to an Indian child, to the Indian child's tribe.

6 **SECTION 33.** 48.43 (5m) of the statutes, as affected by 2009 Wisconsin Act 94,
7 section 158, is amended to read:

8 48.43 (5m) Either the court or the agency that prepared the permanency plan
9 shall furnish a copy of the original plan and each revised plan to the child, if he or
10 she is 12 years of age or over, to the child's foster parent ~~or~~, the operator of the facility
11 in which the child is living, or the relative with whom the child is living, and, if the
12 order under sub. (1) involuntarily terminated parental rights to an Indian child, to
13 the Indian child's tribe.

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NOTE: 2009 Wis. Act 94, section 158, repealed and recreated s. 48.43 (5m) without taking cognizance of the repeal and recreation of the provision by 2009 Wis. Act 79, section 91. There is no mutual inconsistency between the treatments made by the two acts, and the substantive changes made by Act 79 are made here in order to give effect to both acts.

1 **SECTION 34.** The treatment of 48.48 (17) (c) 4. of the statutes by 2009 Wisconsin
2 Act 28, section 984, is not repealed by 2009 Wisconsin Act 180. Both treatments
3 stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 48.48 (17) (c) 4. reads:

4. Is living in a foster home, treatment foster home, group home, or residential care center for children and youth.

4 **SECTION 35.** 48.48 (17) (c) 4. of the statutes, as affected by 2009 Wisconsin Act
5 28, section 985, and 2009 Wisconsin Act 180, is amended to read:

6 48.48 (17) (c) 4. Is living in a foster home, group home, or residential care center
7 for children and youth.

NOTE: 2009 Wis. Act 28, section 985, deleted the scored "or" without showing it as stricken. No change was intended.

8 **SECTION 36.** The treatment of 48.63 (5) (d) 4. of the statutes by 2009 Wisconsin
9 Act 79 is not repealed by 2009 Wisconsin Act 94. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 48.63 (5) (d) 4. reads:

4. Not less than 10 days before the review, the agency that placed the child or that arranged the placement of the child shall provide a copy of the revised permanency plan or plans and the request for review submitted under subd. 3. and notice of the time and place of the review to the child, the parent, guardian, Indian custodian, and legal custodian of the child, and the operator of the group home in which the child is placed, together with notice of the issues to be determined as part of the permanency plan review and notice of the fact that those persons shall have a right to be heard at the review by submitting written comments to that agency or the independent reviewing agency before the review or by participating at the review.

10 **SECTION 37.** 48.651 (3) of the statutes, as created by 2009 Wisconsin Act 76, is
11 amended to read:

12 48.651 (3) (a) If a day child care provider certified under sub. (1) is convicted
13 of a serious crime, as defined in s. 48.685 (1) (c) 3m., or if a caregiver specified in s.

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1 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), of the day
2 child care provider is convicted or adjudicated delinquent for committing a serious
3 crime on or after his or her 12th birthday, the department in a county having a
4 population of 500,000 or more, a county department, or an agency contracted with
5 under sub. (2) shall revoke the certification of the day child care provider
6 immediately upon providing written notice of revocation and the grounds for
7 revocation and an explanation of the process for appealing the revocation.

8 (b) If a day child care provider certified under sub. (1) is the subject of a pending
9 criminal charge alleging that the person has committed a serious crime, as defined
10 in s. 48.685 (1) (c) 3m., or if a caregiver specified in s. 48.685 (1) (ag) 1. a. or a nonclient
11 resident, as defined in s. 48.685 (1) (bm), of the day child care provider is the subject
12 of a pending criminal charge or delinquency petition alleging that the person has
13 committed a serious crime on or after his or her 12th birthday, the department in a
14 county having a population of 500,000 or more, a county department, or an agency
15 contracted with under sub. (2) shall immediately suspend the certification of the day
16 child care provider until the department, county department, or agency obtains
17 information regarding the final disposition of the charge or delinquency petition
18 indicating that the person is not ineligible to be certified under sub. (1).

NOTE: Inserts correct term. 2009 Wis. Act 76 included references to “day care” in
this provision. 2009 Wis. Act 185 changed “day care” to “child care” throughout the
statutes without taking account of the treatment by Act 76.

19 **SECTION 38.** 48.685 (1) (c) 3m. of the statutes, as created by 2009 Wisconsin Act
20 76, is amended to read:

21 48.685 (1) (c) 3m. For purposes of licensing a person to operate a day child care
22 center under s. 48.65, certifying a day child care provider under s. 48.651, or
23 contracting with a person under s. 120.13 (14) to operate a day child care center, or

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1 of permitting a person to be a caregiver or nonclient resident of such a ~~day~~ child care
2 center or ~~day~~ child care provider, any violation listed in subds. 1. to 3. or sub. (5) (br)
3 1. to 7.

NOTE: Inserts correct term. 2009 Wis. Act 76 included references to “day care” in this provision. 2009 Wis. Act 185 changed “day care” to “child care” throughout the statutes without taking account of the treatment by Act 76.

4 **SECTION 39.** The treatment of 48.685 (2) (am) (intro.) of the statutes by 2009
5 Wisconsin Act 76 is not repealed by 2009 Wisconsin Act 185. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau s. 48.685 (2) (am) (intro.) reads:

(am) The department, a county department, an agency contracted with under s. 48.651 (2), a child welfare agency, or a school board shall obtain all of the following with respect to a caregiver specified in sub. (1) (ag) 1. b., a nonclient resident of an entity, and a person under 18 years of age, but not under 12 years of age, who is a caregiver of a child care center that is licensed under s. 48.65 or established or contracted for under s. 120.13 (14) or of a child care provider that is certified under s. 48.651:

6 **SECTION 40.** 48.685 (2) (ar) of the statutes, as created by 2009 Wisconsin Act
7 76, is amended to read:

8 48.685 (2) (ar) In addition to obtaining the information specified in par. (am)
9 with respect to a person who has, or is seeking, a license to operate a ~~day~~ child care
10 center under s. 48.65, certification as a ~~day~~ child care provider under s. 48.651, or a
11 contract under s. 120.13 (14) to operate a ~~day~~ child care center, a nonclient resident
12 of such an entity, or a person under 18 years of age, but not under 12 years of age,
13 who is a caregiver of such an entity, the department, a county department, an agency
14 contracted with under s. 48.651 (2), or a school board shall obtain information that
15 is contained in the sex offender registry under s. 301.45 regarding whether the
16 person has committed a sex offense that is a serious crime.

NOTE: Inserts correct term. 2009 Wis. Act 76 included references to “day care” in this provision. 2009 Wis. Act 185 changed “day care” to “child care” throughout the statutes without taking account of the treatment by Act 76.

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1 **SECTION 41.** 48.685 (2) (b) 2. of the statutes, as created by 2009 Wisconsin Act
2 76, is amended to read:

3 48.685 (2) (b) 2. In addition to obtaining the information specified in subd. 1.
4 with respect to a caregiver specified in sub. (1) (ag) 1. a. of a day child care center that
5 is licensed under s. 48.65 or established or contracted for under s. 120.13 (14) or of
6 a day child care provider that is certified under s. 48.651, the day child care center
7 or day child care provider shall obtain information that is contained in the sex
8 offender registry under s. 301.45 regarding whether the person has committed a sex
9 offense that is a serious crime.

NOTE: Inserts correct term. 2009 Wis. Act 76 included references to “day care” in
this provision. 2009 Wis. Act 185 changed “day care” to “child care” throughout the
statutes without taking account of the treatment by Act 76.

10 **SECTION 42.** The treatment of 48.685 (2) (b) 4. of the statutes by 2009 Wisconsin
11 Act 76 is not repealed by 2009 Wisconsin Act 185. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference
bureau, s. 48.685 (2) (b) 4. reads:

4. Subdivisions 1. and 2. do not apply with respect to a nonclient resident or person
under 18 years of age, but not under 12 years of age, who is a caregiver of a child care
center that is licensed under s. 48.65 or established or contracted for under s. 120.13 (14)
or of a child care provider that is certified under s. 48.651 and with respect to whom the
department, a county department, an agency contracted with under s. 48.651 (2), or a
school board is required under par. (am) (intro.) to obtain the information specified in par.
(am) 1. to 5.

12 **SECTION 43.** 48.685 (3) (am) 1. of the statutes, as created by 2009 Wisconsin Act
13 76, is amended to read:

14 48.685 (3) (am) 1. Every 3 months or at any time within that period that the
15 department, a county department, an agency contracted with under s. 48.651 (2), or
16 a school board considers appropriate, the department, county department,
17 contracted agency, or school board shall request the information specified in sub. (2)
18 (am) 1. to 5. and (ar) for all caregivers specified in sub. (1) (ag) 1. b. who are licensed

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1 under s. 48.65 to operate a day child care center, certified as a day child care provider
2 under s. 48.651, or contracted under s. 120.13 (14) to operate a day child care center.
3 Beginning on January 1, 2011, and annually after that, the department shall submit
4 a report to the appropriate standing committees of the legislature under s. 13.172 (3)
5 describing the information collected under this subdivision, specifically any
6 information indicating that a caregiver specified in sub. (1) (ag) 1. b. is ineligible
7 under sub. (4m) (a) to be licensed under s. 48.65 to operate a day child care center,
8 certified under s. 48.651 as a child care provider, or contracted under s. 120.13 (14)
9 to operate a day child care center, and describing any action taken in response to the
10 receipt of information under this subdivision indicating that such a caregiver is so
11 ineligible.

NOTE: Inserts correct term. 2009 Wis. Act 76 included references to "day care" in
this provision. 2009 Wis. Act 185 changed "day care" to "child care" throughout the
statutes without taking account of the treatment by Act 76.

12 **SECTION 44.** 48.685 (3) (b) of the statutes, as affected by 2009 Wisconsin Acts
13 76 and 185, is amended to read:

14 48.685 (3) (b) Subject to par. (bm), every 4 years or at any time within that
15 period that an entity considers appropriate, the entity shall request the information
16 specified in sub. (2) (b) 1. a. to e. for all persons who are caregivers specified in sub.
17 (1) (ag) 1. a. of the entity. ~~child-child~~

NOTE: The stricken language was inserted by 2009 Wis. Act 185, but rendered
superfluous by the treatment by 2009 Wis. Act 76.

18 **SECTION 45.** 48.685 (3) (bm) of the statutes, as created by 2009 Wisconsin Act
19 76, is amended to read:

20 48.685 (3) (bm) Every year or at any time within that period that a day child
21 care center that is licensed under s. 48.65 or established or contracted for under s.
22 120.13 (14) or a day child care provider that is certified under s. 48.651 considers

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1 appropriate, the ~~day~~ child care center or ~~day~~ child care provider shall request the
2 information specified in sub. (2) (b) 1. a. to e. and 2. for all persons who are caregivers
3 specified in sub. (1) (ag) 1. a. of the ~~day~~ child care center or ~~day~~ child care provider
4 who are 18 years of age or over.

NOTE: Inserts correct term. 2009 Wis. Act 76 included references to “day care” in this provision. 2009 Wis. Act 185 changed “day care” to “child care” throughout the statutes without taking account of the treatment by Act 76.

5 **SECTION 46.** The treatment of 48.685 (4m) (a) 1. of the statutes by 2009
6 Wisconsin Act 76 is not repealed by 2009 Wisconsin Act 185. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 48.685 (4m) (a) 1. reads:

1. That the person has been convicted of a serious crime or, if the person is an applicant for issuance or continuation of a license to operate a child care center or for initial certification under s. 48.651 or for renewal of that certification or if the person is proposing to contract with a school board under s. 120.13 (14) or to renew a contract under that subsection, that the person has been convicted of a serious crime or adjudicated delinquent on or after his or her 12th birthday for committing a serious crime or that the person is the subject of a pending criminal charge or delinquency petition alleging that the person has committed a serious crime on or after his or her 12th birthday.

7 **SECTION 47.** The treatment of 48.685 (4m) (ad) of the statutes by 2009
8 Wisconsin Act 76, section 20, is not repealed by 2009 Wisconsin Act 185, section 66.
9 Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 48.685 (4m) (ad) reads:

(ad) The department, a county department, or a child welfare agency may license a foster home or treatment foster home under s. 48.62; the department may license a day care center under s. 48.65; the department in a county having a population of 500,000 or more, a county department, or an agency contracted with under s. 48.651 (2) may certify a child care provider under s. 48.651; and a school board may contract with a person under s. 120.13 (14), conditioned on the receipt of the information specified in sub. (2) (am) and (ar) indicating that the person is not ineligible to be licensed, certified, or contracted with for a reason specified in par. (a) 1. to 5.

10 **SECTION 48.** The treatment of 48.685 (4m) (b) 1. of the statutes by 2009
11 Wisconsin Act 76 is not repealed by 2009 Wisconsin Act 185. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 48.685 (4m) (b) 1. reads:

1. That the person has been convicted of a serious crime or, if the person is a caregiver or nonclient resident of a child care center that is licensed under s. 48.65 or

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established or contracted for under s. 120.13 (14) or of a child care provider that is certified under s. 48.651, that the person has been convicted of a serious crime or adjudicated delinquent on or after his or her 12th birthday for committing a serious crime or that the person is the subject of a pending criminal charge or delinquency petition alleging that the person has committed a serious crime on or after his or her 12th birthday.

1 **SECTION 49.** 48.685 (5) (br) (intro.) and 3m. of the statutes, as created by 2009
2 Wisconsin Act 76, are amended to read:

3 48.685 (5) (br) (intro.) For purposes of licensing a person to operate a day child
4 care center under s. 48.65, certifying a day child care provider under s. 48.651, or
5 contracting with a person under s. 120.13 (14) to operate a day child care center or
6 of permitting a person to be a nonclient resident or caregiver specified in sub. (1) (ag)
7 1. a. of a day child care center or day child care provider, no person who has been
8 convicted or adjudicated delinquent on or after his or her 12th birthday for
9 committing any of the following offenses or who is the subject of a pending criminal
10 charge or delinquency petition alleging that the person has committed any of the
11 following offenses on or after his or her 12th birthday may be permitted to
12 demonstrate that he or she has been rehabilitated:

13 3m. Except for purposes of permitting a person to be a nonclient resident or
14 caregiver specified in sub. (1) (ag) 1. a. of a day child care center or day child care
15 provider, a violation of s. 943.201, 943.203, 943.32 (2), or 943.38 (1) or (2); a violation
16 of s. 943.34 (1), 943.395 (1), 943.41 (3) (e), (4) (a), (5), (6), or (6m), 943.45 (1), 943.455
17 (2), 943.46 (2), 943.47 (2), 943.50 (1m), or 943.70 (2) (a) or (am) or (3) (a) that is a
18 felony; or an offense under subch. IV of ch. 943 that is a felony.

NOTE: Inserts correct term. 2009 Wis. Act 76 included references to "day care" in these provisions. 2009 Wis. Act 185 changed "day care" to "child care" throughout the statutes without taking account of the treatment by Act 76.

19 **SECTION 50.** 48.685 (6) (am) of the statutes, as affected by 2009 Wisconsin Act
20 76, is amended to read:

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1 48.685 (6) (am) Except as provided in this paragraph, every 4 years an entity
2 shall require all of its caregivers and nonclient residents to complete a background
3 information form that is provided to the entity by the department. Every year a ~~day~~
4 child care center that is licensed under s. 48.65 or established or contracted for under
5 s. 120.13 (14) or a ~~day~~ child care provider that is certified under s. 48.651 shall
6 require all of its caregivers and nonclient residents to complete a background
7 information form that is provided to the ~~day~~ child care center or ~~day~~ child care
8 provider by the department.

NOTE: Inserts correct term. 2009 Wis. Act 76 inserted references to “day care.”
2009 Wis. Act 185 changed “day care” to “child care” throughout the statutes without
taking account of the treatment by Act 76.

9 **SECTION 51.** 48.715 (4g) of the statutes, as created by 2009 Wisconsin Act 76,
10 is amended to read:

11 48.715 (4g) (a) If a person who has been issued a license under s. 48.66 (1) (a)
12 or a probationary license under s. 48.69 to operate a ~~day~~ child care center is convicted
13 of a serious crime, as defined in s. 48.685 (1) (c) 3m., or if a caregiver specified in s.
14 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), of the ~~day~~
15 child care center is convicted or adjudicated delinquent for committing a serious
16 crime on or after his or her 12th birthday, the department shall revoke the license
17 of the ~~day~~ child care center immediately upon providing written notice of revocation
18 and the grounds for revocation and an explanation of the process for appealing the
19 revocation.

20 (b) If a person who has been issued a license under s. 48.66 (1) (a) or a
21 probationary license under s. 48.69 to operate a ~~day~~ child care center is the subject
22 of a pending criminal charge alleging that the person has committed a serious crime,
23 as defined in s. 48.685 (1) (c) 3m., or if a caregiver specified in s. 48.685 (1) (ag) 1. a.

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1 or a nonclient resident, as defined in s. 48.685 (1) (bm), of the day child care center
2 is the subject of a pending criminal charge or delinquency petition alleging that the
3 person has committed a serious crime on or after his or her 12th birthday, the
4 department shall immediately suspend the license of the day child care center until
5 the department obtains information regarding the final disposition of the charge or
6 delinquency petition indicating that the person is not ineligible to be licensed to
7 operate a day child care center.

NOTE: Inserts correct term. 2009 Wis. Act 76 included references to “day care” in this provision. 2009 Wis. Act 185 changed “day care” to “child care” throughout the statutes without taking account of the treatment by Act 76.

8 **SECTION 52.** 49.45 (5m) (ag) of the statutes is repealed.

NOTE: Section 49.45 (5m) (ag) defines “critical access hospital” for purposes of s. 49.45 (5m). 2009 Wis. Act 2 removed the only references to “critical access hospital” in s. 49.45 (5m), rendering the definition superfluous.

9 **SECTION 53.** The treatment of 50.39 (3) of the statutes by 2009 Wisconsin Act
10 113 is not repealed by 2009 Wisconsin Act 149. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 50.39 (3) reads:

(3) Facilities governed by ss. 45.50, 48.62, 49.70, 49.72, 50.02, 51.09, and 252.10, juvenile correctional facilities as defined in s. 938.02 (10p), correctional institutions governed by the department of corrections under s. 301.02, and the offices and clinics of persons licensed to treat the sick under chs. 446, 447, and 448 are exempt from ss. 50.32 to 50.39. Sections 50.32 to 50.39 do not abridge the rights of the medical examining board, physical therapy examining board, podiatry affiliated credentialing board, dentistry examining board, pharmacy examining board, chiropractic examining board, and board of nursing in carrying out their statutory duties and responsibilities.

11 **SECTION 54.** 66.0602 (3) (e) 8. of the statutes, as created by 2009 Wisconsin Act
12 28, is amended to read:

13 66.0602 (3) (e) 8. The amount that a political subdivision levies in that year to
14 pay the unreimbursed expenses related to an emergency declared under s. ~~166.03 (1)~~
15 ~~(b) 1.~~ 323.10, including any amounts levied in that year to replenish cash reserves
16 that were used to pay any unreimbursed expenses related to that emergency. A levy

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1 under this subdivision that relates to a particular emergency initially shall be
2 imposed in the year in which the emergency is declared or in the following year.

NOTE: Corrects cross-reference. Section 166.03 (1) (b) 1. was consolidated with s.
166.03 (1) (b) (intro.) and renumbered to s. 323.10 by 2009 Wis. Act 42.

3 **SECTION 55.** The treatment of 66.1103 (11) (a) of the statutes by 2009 Wisconsin
4 Act 112 is not repealed by 2009 Wisconsin Act 173. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference
bureau, s. 66.1103 (11) (a) reads:

(a) With respect to the enforcement of any construction lien or other lien under ch.
779 arising out of the construction of projects financed under this section, no deficiency
judgment or judgment for costs may be entered against the municipality or county.
Projects financed under this section are not public works, public improvements or public
construction within the meaning of ss. 59.52 (29), 60.47, 61.54, 62.15, 779.14, 779.15 and
779.155 and contracts for the construction of the projects are not public contracts within
the meaning of ss. 59.52 (29) and 66.0901 unless factors including municipal or county
control over the costs, construction and operation of the project and the beneficial
ownership of the project warrant the conclusion that they are public contracts.

5 **SECTION 56.** 79.05 (2) (c) of the statutes, as affected by 2009 Wisconsin Act 28,
6 is amended to read:

7 79.05 (2) (c) Its municipal budget; exclusive of principal and interest on
8 long-term debt and exclusive of revenue sharing payments under s. 66.0305,
9 recycling fee payments under s. 289.645, unreimbursed expenses related to an
10 emergency declared under s. ~~166.03 (1) (b) 1.~~ 323.10, and expenditures from moneys
11 received pursuant to P.L. 111-5; for the year of the statement under s. 79.015
12 increased over its municipal budget as adjusted under sub. (6); exclusive of principal
13 and interest on long-term debt and exclusive of revenue sharing payments under s.
14 66.0305, recycling fee payments under s. 289.645, unreimbursed expenses related to
15 an emergency declared under s. ~~166.03 (1) (b) 1.~~ 323.10, and expenditures from
16 moneys received pursuant to P.L. 111-5; for the year before that year by less than the
17 sum of the inflation factor and the valuation factor, rounded to the nearest 0.10%.

NOTE: Corrects cross-reference. Section 166.03 (1) (b) 1. was consolidated with s.
166.03 (1) (b) (intro.) and renumbered to s. 323.10 by 2009 Wis. Act 42.

SENATE BILL 285**SECTION 57**

1 **SECTION 57.** 91.40 (3) of the statutes, as affected by 2009 Wisconsin Act 28, is
2 amended to read:

3 91.40 (3) A statement, signed by the county planning director or the chief
4 elected official, certifying that the farmland preservation zoning ordinance or
5 amendment complies with s. 91.38 (1) (f) and (g) and ~~(h)~~.

NOTE: Corrects cross-reference. Drafting records indicate that s. 91.38 (1) (f) and (g), which were created as part of the repeal and recreation of ch. 91 by 2009 Wis. Act 28 had been numbered s. 91.38 (1) (g) and (h) in a draft of that act that also contained a cross-reference to s. 91.38 (1) (g) and (h) in s. 91.40 (3). The numbering of s. 91.38 (1) (g) and (h) was subsequently changed to s. 91.38 (1) (f) and (g), but the corresponding cross-reference in s. 91.40 (3) was not.

6 **SECTION 58.** 100.187 (2) (a) 2. of the statutes, as created by 2009 Wisconsin Act
7 169, is amended to read:

8 100.187 (2) (a) 2. A summary of the results of the testing performed under subd.
9 1. ~~have~~ has been submitted to the department and approved by the department.

NOTE: Corrects grammar.

10 **SECTION 59.** 106.50 (5m) (dm) (intro.) of the statutes, as created by 2009
11 Wisconsin Act 95, is amended to read:

12 106.50 (5m) (dm) (intro.) It is not discrimination based on status as a victim
13 of domestic abuse, sexual ~~abuse~~ assault, or stalking for a landlord to bring an action
14 for eviction of a tenant based on a violation of the rental agreement or of a statute
15 that entitles the landlord to possession of the premises, unless subd. 1. or 2. applies.
16 A tenant has a defense to an action for eviction brought by a landlord if the tenant
17 proves by a preponderance of the evidence that the landlord knew or should have
18 known any of the following:

NOTE: Makes terminology consistent with a defined term and with usage throughout the statutes. The term defined in s. 106.50 (1m) (u), as created by 2009 Wis. Act 95, is "status as a victim of domestic abuse, sexual *assault*, or stalking."

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1 **SECTION 60.** 106.50 (5m) (dm) 1. of the statutes, as created by 2009 Wisconsin
2 Act 95, is amended to read:

3 106.50 (**5m**) (dm) 1. That the tenant is a victim of domestic abuse, sexual ~~abuse~~
4 assault, or stalking and that the basis for the action for eviction is conduct that
5 related to the commission of domestic abuse, sexual ~~abuse~~ assault, or stalking by a
6 person who was not the invited guest of the tenant.

NOTE: See the previous section of this bill.

7 **SECTION 61.** 106.50 (5m) (dm) 2. (intro.) of the statutes, as created by 2009
8 Wisconsin Act 95, is amended to read:

9 106.50 (**5m**) (dm) 2. (intro.) That the tenant is a victim of domestic abuse,
10 sexual ~~abuse~~ assault, or stalking, that the basis for the action for eviction is conduct
11 that related to the commission of domestic abuse, sexual ~~abuse~~ assault, or stalking
12 by a person who was the invited guest of the tenant, and that the tenant has done
13 one of the following:

NOTE: See the previous two sections of this bill.

14 **SECTION 62.** The treatment of 115.395 (2) of the statutes by 2009 Wisconsin Act
15 58 is not repealed by 2009 Wisconsin Act 180. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 119.245 (2), as renumbered from s. 115.395 (2) by 2009 Wis. Act 58, reads:

(2) Beginning in the 2008-09 school year, the board may apply to the department for an annual grant of up to \$10,000,000 to implement initiatives to improve pupil academic achievement in all grades, such as employing licensed teachers to tutor pupils who are struggling academically, or employing persons to coordinate the district's instructional programs and provide ongoing professional development for teachers. The board shall submit with its application a plan for the department's approval describing the initiatives for which the grant will be used, describing the research showing that the initiatives have a positive effect on pupil academic achievement, and including criteria for evaluating the effectiveness of the initiatives, such as high school graduation rates or the results of the statewide pupil assessments under s. 118.30.

16 **SECTION 63.** 118.51 (2) of the statutes, as affected by 2009 Wisconsin Act 185,
17 is amended to read:

SENATE BILL 285**SECTION 63**

1 118.51 (2) APPLICABILITY. A pupil may attend a public school, including a
2 charter school, prekindergarten, or 4-year-old kindergarten, or early childhood or
3 school-operated child care program, in a nonresident school district under this
4 section, except that a pupil may attend a prekindergarten, 4-year-old kindergarten,
5 or early childhood or school-operated child care program in a nonresident school
6 district only if the pupil's resident school district offers the same type of program that
7 the pupil wishes to attend and the pupil is eligible to attend that program in his or
8 her resident school district.

NOTE: 2009 Wis. Act 185 inserted "or" without showing it as underscored. No
change was intended.

9 **SECTION 64.** 120.13 (14) (b) of the statutes, as created by 2009 Wisconsin Act
10 76, is amended to read:

11 120.13 (14) (b) 1. If a person who has contracted under par. (a) to provide a day
12 child care program is convicted of a serious crime, as defined in s. 48.685 (1) (c) 3m.,
13 or if a caregiver specified in s. 48.685 (1) (ag) 1. a. or a nonclient resident, as defined
14 in s. 48.685 (1) (bm), of the day child care program is convicted or adjudicated
15 delinquent for committing a serious crime on or after his or her 12th birthday, the
16 school board shall rescind the contract of the contractor immediately upon providing
17 written notice of the rescission and the grounds for the rescission and an explanation
18 of the process for appealing the rescission.

19 2. If a person who has contracted under par. (a) to provide a day child care
20 program is the subject of a pending criminal charge alleging that the person has
21 committed a serious crime, as defined in s. 48.685 (1) (c) 3m., or if a caregiver
22 specified in s. 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1)
23 (bm), of the day child care program is the subject of a pending criminal charge or

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1 delinquency petition alleging that the person has committed a serious crime on or
2 after his or her 12th birthday, the school board shall immediately suspend the
3 contract of the contractor until the school board obtains information regarding the
4 final disposition of the charge or delinquency petition indicating that the person is
5 not ineligible to provide a day child care program under this subsection.

NOTE: Inserts correct term. 2009 Wis. Act 76 included references to “day care” in this provision. 2009 Wis. Act 185 changed “day care” to “child care” throughout the statutes without taking account of the treatment by Act 76.

6 **SECTION 65.** 146.62 (1) (b) of the statutes is amended to read:

7 146.62 (1) (b) “Rural” means outside a metropolitan statistical area, as
8 specified under 42 CFR 412.62 (f) (ii) (A).

NOTE: Corrects cross-reference. There is no 42 CFR 412.62 (ii) (A). 42 CFR 412.62 (f) (ii) (A) provides: “(A) A Metropolitan Statistical Area (MSA) or New England County Metropolitan Area (NECMA), as defined by the Executive Office of Management and Budget; or”.

9 **SECTION 66.** 157.06 (14m) (e) of the statutes is amended to read:

10 157.06 (14m) (e) Ensure that the hospital works cooperatively with the
11 procurement organizations with which it has agreements ~~with~~ under par. (a) in
12 educating staff on donation issues, reviewing death records to improve identification
13 of potential donors, and maintaining potential donors while necessary testing and
14 placement of potential donated organs, tissues, and eyes takes place.

NOTE: Strikes unnecessary word.

15 **SECTION 67.** 166.218 of the statutes, as created by 2009 Wisconsin Act 43, is
16 renumbered 323.72, and 323.72 (1), as renumbered, is amended to read:

17 323.72 (1) A regional structural collapse team shall assist in the emergency
18 response to a structural collapse incident in a region of this state designated by the
19 division. Whenever a regional structural collapse team assists in an emergency
20 response under this subsection, it shall determine under the rules promulgated

SENATE BILL 285**SECTION 67**

1 under sub. (5) whether an emergency requiring the team's response existed. If the
2 regional structural collapse team determines that such an emergency existed, it
3 shall make a good faith effort to identify the person who is required to reimburse the
4 division under sub. (3) and shall provide that information to the division. The
5 division shall contract with local agencies, as defined in s. ~~166.22~~ 323.70 (1) (e) (b),
6 to establish no more than 4 regional structural collapse teams. A member of a
7 regional structural collapse team shall meet the highest standards for a structural
8 collapse team under the National Fire Protection Association standards NFPA 1006
9 and 1670.

NOTE: Confirms renumbering by the legislative reference bureau under s. 13.92
(1) (bm) 2. 2009 Wis. Act 42 renumbered all of chapter 166 to be chapter 323. Section
166.22 (1) (c) was renumbered s. 323.70 (1) (b) by Act 42.

10 **SECTION 68.** 169.01 (12m) of the statutes is amended to read:

11 169.01 (12m) "Farm-raised game bird" means a bird of a wild nature that is
12 not native and that is held captive, but that is not possessed under the authority of
13 a license issued under s. 169.15, 169.19, 169.20, or 169.21.

NOTE: Inserts "and" to correct grammar.

14 **SECTION 69.** The treatment of 185.09 of the statutes by 2009 Wisconsin Act 165
15 is not repealed by 2009 Wisconsin Act 177. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference
bureau s. 185.09 reads:

185.09 Promotion expense; limitation. No cooperative funds may be used, nor
any stock issued, in payment of any promotion expenses in excess of 5 percent of the
paid-up capital stock or membership fees. This section does not apply to a cooperative
association organized under s. 185.981.

16 **SECTION 70.** 224.77 (1) (o) of the statutes, as affected by 2009 Wisconsin Act 95,
17 section 19, is amended to read:

18 224.77 (1) (o) In the course of practice as a mortgage banker, mortgage loan
19 originator, or mortgage broker, except in relation to housing designed to meet the

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1 needs of elderly individuals, treat a person unequally solely because of sex, race,
2 color, handicap, sexual orientation, as defined in s. 111.32 (13m), religion, national
3 origin, age, or ancestry, the person's lawful source of income, or the sex, marital
4 status, or status as a victim of domestic abuse, sexual assault, or stalking, as defined
5 in s. 106.50 ~~(1)~~ (1m) (u), of the person maintaining a household.

NOTE: Corrects cross-reference. "Status as a victim of domestic abuse, sexual assault, or stalking" is defined at s. 106.50 (1m) (u). There is no s. 106.50 (1) (u).

6 **SECTION 71.** 231.35 (1) (d) of the statutes is amended to read:

7 231.35 (1) (d) "Rural" means outside a metropolitan statistical area specified
8 under 42 CFR 412.62 (f) (ii) (A) or in a city, village, or town with a population of not
9 more than 14,000.

NOTE: Corrects cross-reference. There is no 42 CFR 412.62 (ii) (A). 42 CFR 412.62 (f) (ii) (A) provides: "(A) A Metropolitan Statistical Area (MSA) or New England County Metropolitan Area (NECMA), as defined by the Executive Office of Management and Budget; or".

10 **SECTION 72.** 287.17 (10) (j) of the statutes, as created by 2009 Wisconsin Act
11 50, is amended to read:

12 287.17 (10) (j) *Audits.* The department may perform or contract for the
13 performance of an audit of the activities of a registered collector or registered
14 recycler. If the department performs or contracts for the performance of an audit of
15 a collector or recycler during the first 3 years in which the collector or recycler is
16 registered under sub. (7) or (8) (a), the collector or recycler shall pay 25 percent of the
17 cost of the audit. If the department performs or contracts for the performance of an
18 audit of a collector or recycler after the first 3 years in which the collector or recycler
19 is registered, the collector or recycler shall pay 50 percent of the cost of the audit.

NOTE: Inserts missing word.

20 **SECTION 73.** 287.95 (1) of the statutes, as affected by 2009 Wisconsin Acts 50
21 and 86, is amended to read:

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1 287.95 (1) Any person who violates s. 287.07 (1m) or (4m), or (5) may be
2 required to forfeit \$50 for a first violation, may be required to forfeit \$200 for a 2nd
3 violation and may be required to forfeit not more than \$2,000 for a 3rd or subsequent
4 violation.

NOTE: Corrects punctuation required by the merger of the treatments by Acts 50
and 86.

5 **SECTION 74.** 321.66 (1) (a) 2. of the statutes, as created by 2009 Wisconsin Act
6 56, is amended to read:

7 321.66 (1) (a) 2. An operation to provide disaster relief or humanitarian
8 services, when requested by the federal emergency management agency; the first air
9 force of the U.S. air force; the Civil Air Patrol national operations center; the
10 governor; the adjutant general; the governing body, chief or acting chief executive
11 officer, or head of emergency management services of any county, city, village, town,
12 or federally recognized American Indian tribe or band in this state; or, in the case of
13 a public health emergency, as defined in s. ~~166.02 (7)~~ 323.02 (16), the department of
14 health services, if that department is designated by the governor under s. ~~166.03 (1)~~
15 ~~(b) 1.~~ 323.10, or a local health department acting under s. 251.05 (3) (e).

NOTE: Corrects cross-references. Section 166.02 (7) was renumbered to s. 323.02
(16) by 2009 Wis. Act 42. Section 166.03 (1) (b) 1. was consolidated with s. 166.03 (1) (b)
(intro.) and renumbered to s. 323.10 by Act 42.

16 **SECTION 75.** 343.23 (2) (b) of the statutes, as affected by 2009 Wisconsin Act
17 100, section 15, is amended to read:

18 343.23 (2) (b) The information specified in pars. (a) and (am) must be filed by
19 the department so that the complete operator's record is available for the use of the
20 secretary in determining whether operating privileges of such person shall be
21 suspended, revoked, canceled, or withheld, or the person disqualified, in the interest
22 of public safety. The record of suspensions, revocations, and convictions that would

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1 be counted under s. 343.307 (2) shall be maintained permanently. The record of
2 convictions for disqualifying offenses under s. 343.315 (2) (h) shall be maintained for
3 at least 10 years. The record of convictions for disqualifying offenses under s.
4 343.315 (2) (f), (j), and (L), and all records specified in par. (am), shall be maintained
5 for at least 3 years. The record of convictions for disqualifying offenses under s.
6 343.315 (2) (a) to (e) shall be maintained permanently, except that 5 years after a
7 licensee transfers residency to another state such record may be transferred to
8 another state of licensure of the licensee if that state accepts responsibility for
9 maintaining a permanent record of convictions for disqualifying offenses. Such
10 reports and records may be cumulative beyond the period for which a license is
11 granted, but the secretary, in exercising the power of suspension granted under s.
12 343.32 (2) may consider only those reports and records entered during the 4-year
13 period immediately preceding the exercise of such power of suspension.

NOTE: The underscored comma was deleted by 2009 Wis. Act 100 without being
shown as stricken. No change was intended.

14 **SECTION 76.** The treatment of 343.315 (3) (b) of the statutes by 2009 Wisconsin
15 Act 28 is not repealed by 2009 Wisconsin Act 103. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference
bureau, s. 343.315 (3) (b) reads:

(b) If a person's license or operating privilege is not otherwise revoked or
suspended as the result of an offense committed after March 31, 1992, which results in
disqualification under sub. (2) (a) to (f), (h) to (j), or (L), the department shall immediately
disqualify the person from operating a commercial motor vehicle for the period required
under sub. (2) (a) to (f), (h) to (j), or (L). Upon proper application by the person and
payment of the fees specified in s. 343.21 (1) (L) and (n), the department may issue a
separate license authorizing only the operation of vehicles other than commercial motor
vehicles.

16 **SECTION 77.** The treatment of 343.38 (2) of the statutes by 2009 Wisconsin Act
17 100 is not repealed by 2009 Wisconsin Act 103. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference
bureau, s. 343.38 (2) reads:

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(2) REINSTATEMENT OF NONRESIDENT'S OPERATING PRIVILEGE. A nonresident's operating privilege revoked or suspended under the laws of this state is reinstated as a matter of law when the period of revocation or suspension has expired and the nonresident pays the fees specified in s. 343.21 (1) (j), (jr), if applicable, and (n).

1 **SECTION 78.** 343.44 (2) (am) of the statutes is repealed.

NOTE: Repeals obsolete provision. This provision provides a penalty for violations of s. 343.44 (1) (b) that occurred before May 1, 2002. The criminal statute of limitations has now run on any violation committed prior to May 1, 2002.

2 **SECTION 79.** 343.44 (2) (b) (intro.) of the statutes is amended to read:

3 343.44 (2) (b) (intro.) Except as provided in ~~pars. (am) and par.~~ (as), any person
4 who violates sub. (1) (b) or (d) shall be fined not more than \$2,500 or imprisoned for
5 not more than one year in the county jail or both. In imposing a sentence under this
6 paragraph, or a local ordinance in conformity with this paragraph, the court shall
7 review the record and consider the following:

NOTE: Section 343.44 (2) (am) is repealed by the previous section of this bill.

8 **SECTION 80.** 345.47 (1) (c) of the statutes, as affected by 2009 Wisconsin Acts
9 100 and 103, is amended to read:

10 345.47 (1) (c) If a court suspends an operating privilege under this section, the
11 court may take possession of the suspended license. If the court takes possession of
12 a license, it shall destroy the license. The court shall forward to the department the
13 notice of suspension, which shall clearly state that the suspension was for failure to
14 pay a forfeiture, plus costs, fees, and surcharges imposed under ch. 814 or for failure
15 to comply with an installment payment plan ordered by the court. The notice of
16 suspension shall be forwarded to the department within 48 hours after the order of
17 suspension. If the forfeiture, plus costs, fees, and surcharges imposed under ch. 814,
18 are paid during a period of suspension, or if the court orders an installment payment
19 plan under sub. (4), the court shall immediately notify the department., ~~(jr), if~~
20 applicable,

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NOTE: The stricken language was inserted by 2009 Wis. Act 100 but rendered superfluous by 2009 Wis. Act 103.

1 **SECTION 81.** The treatment of 346.65 (2c) of the statutes by 2009 Wisconsin Act
2 100 is not repealed by 2009 Wisconsin Act 180. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 346.65 (2c) reads:

(2c) In sub. (2) (am) 2., 3., 4., 4m., 5., 6., and 7., the time period shall be measured from the dates of the refusals or violations that resulted in the revocation or convictions. If a person has a suspension, revocation, or conviction for any offense under a local ordinance or a state statute of another state that would be counted under s. 343.307 (1), that suspension, revocation, or conviction shall count as a prior suspension, revocation, or conviction under sub. (2) (am) 2., 3., 4., 4m., 5., 6., and 7.

3 **SECTION 82.** The treatment of 440.08 (2) (a) (intro.) of the statutes by 2009
4 Wisconsin Act 130 is not repealed by 2009 Wisconsin Act 174. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 440.08 (2) (a) (intro.) reads:

(a) Except as provided in par. (b) and in ss. 440.51, 442.04, 444.03, 444.11, 447.04 (2) (c) 2., 448.065, 449.17 (1m) (d), and 449.18 (2) (d), the renewal dates for credentials are as follows:

5 **SECTION 83.** 444.11 of the statutes, as affected by 2009 Wisconsin Act 111, is
6 amended to read:

7 **444.11 Licenses to matchmakers, referees, contestants, etc.** The
8 department may grant licenses upon application and the payment of the prescribed
9 fees to matchmakers, managers, referees, boxers, mixed martial arts fighters,
10 seconds, and trainers in professional contests and amateur mixed martial arts
11 fighting contests. The fees to be paid per year shall be: Matchmakers and managers,
12 \$10; referees and judges, \$15; examining physicians, \$10; boxers, ~~\$40~~ and mixed
13 martial arts fighters, ~~\$40~~; seconds, \$40; and timekeepers, \$10. The department may
14 limit, suspend, or revoke any license granted under this section or reprimand the
15 licensee upon such cause as it deems sufficient.

NOTE: Places dollar figure in correct location.

SENATE BILL 285**SECTION 84**

1 **SECTION 84.** The treatment of 447.03 (1) (intro.) of the statutes by 2009
2 Wisconsin Act 10 is not repealed by 2009 Wisconsin Act 42. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 447.03 (1) (intro.) reads:

(1) **DENTISTS.** Except as provided under sub. (3) and ss. 257.03 and 447.02 (3), no person may do any of the following unless he or she is licensed to practice dentistry under this chapter:

3 **SECTION 85.** The treatment of 655.45 (1) of the statutes by 2009 Wisconsin Act
4 113 is not repealed by 2009 Wisconsin Act 149. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 655.45 (1) reads:

(1) For the quarter beginning on July 1, 1986, and for each quarter thereafter, the director of state courts shall file reports complying with sub. (2) with the medical examining board, the physical therapy examining board, the podiatry affiliated credentialing board, the board of nursing and the department, respectively, regarding health care providers licensed by the respective bodies.

5 **SECTION 86.** The treatment of 757.05 (1) (a) of the statutes by 2009 Wisconsin
6 Act 12 is not repealed by 2009 Wisconsin Acts 28 and 100. All treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau s. 757.05 (1) (a) reads:

(a) Whenever a court imposes a fine or forfeiture for a violation of state law or for a violation of a municipal or county ordinance except for a violation of s. 101.123 (2) or (2m), for a financial responsibility violation under s. 344.62 (2), or for a violation of state laws or municipal or county ordinances involving nonmoving traffic violations, violations under s. 343.51 (1m) (b), or safety belt use violations under s. 347.48 (2m), there shall be imposed in addition a penalty surcharge under ch. 814 in an amount of 26 percent of the fine or forfeiture imposed. If multiple offenses are involved, the penalty surcharge shall be based upon the total fine or forfeiture for all offenses. When a fine or forfeiture is suspended in whole or in part, the penalty surcharge shall be reduced in proportion to the suspension.

7 **SECTION 87.** 767.127 (1) of the statutes is amended to read:

8 767.127 (1) **REQUIRED DISCLOSURE.** In an action affecting the family, except an
9 action to affirm marriage under s. 767.001 (1) (a), the court shall require each party
10 to furnish, on standard forms required by the court, full disclosure of all assets owned
11 in full or in part by either party separately or by the parties jointly. Disclosure may
12 be made by each party individually or by the parties jointly. Assets required to be

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1 disclosed include, but are not be limited to, real estate, savings accounts, stocks and
2 bonds, mortgages and notes, life insurance, retirement interests, interest in a
3 partnership, limited liability company, or corporation, tangible personal property,
4 future interests whether vested or nonvested, and any other financial interest or
5 source. The court shall also require each party to furnish, on the same standard form,
6 information pertaining to all debts and liabilities of the parties. The form used shall
7 contain a statement in conspicuous print that complete disclosure of assets and debts
8 is required by law and deliberate failure to provide complete disclosure constitutes
9 perjury. The court shall require each party to attach to the disclosure form a
10 statement reflecting income earned to date for the current year and the most recent
11 statement under s. 71.65 (1) (a) that the party has received. The court may on its own
12 initiative and shall at the request of either party require the parties to furnish copies
13 of all state and federal income tax returns filed by them for the past 2 years, and may
14 require copies of those returns for prior years.

NOTE: Deletes word made unnecessary by 2005 Wis. Act 443.

15 **SECTION 88.** 814.63 (2) of the statutes, as affected by 2009 Wisconsin Acts 28
16 and 100, is amended to read:

17 814.63 (2) Upon the disposition of a forfeiture action in circuit court for
18 violation of a county, town, city, village, town sanitary district, or public inland lake
19 protection and rehabilitation district ordinance, except for an action for a financial
20 responsibility violation under s. 344.62 (2), or for a violation under s. 343.51 (1m) (b)
21 or a safety belt use violation under s. 347.48 (2m), the county, town, city, village, town
22 sanitary district, or public inland lake protection and rehabilitation district shall pay
23 a nonrefundable fee of \$5 to the clerk of circuit court.

SENATE BILL 285**SECTION 88**

NOTE: The underscored "or" was removed by 2009 Wis. Act 100, but its reinsertion is necessary as a result of the treatment by 2009 Wis. Act 28. The stricken comma was inserted by Act 28 but is unnecessary as a result of the treatment by Act 100.

1 **SECTION 89.** 815.18 (2) (i) of the statutes is amended to read:

2 815.18 **(2)** (i) "Farm products" has the meaning given under s. 409.102 (1) ~~(im)~~
3 (ig).

NOTE: Corrects cross-reference. "Farm products" is defined at s. 409.102 (1) (ig).
"Farming operation" is defined at s. 409.102 (1) (im).

4 **SECTION 90.** 895.483 (4) of the statutes, as created by 2009 Wisconsin Act 43,
5 is amended to read:

6 895.483 **(4)** A regional structural collapse team, a member of such a team, and
7 a local agency, as defined in s. ~~166.22~~ 323.70 (1) ~~(e)~~ (b), that contracts with the division
8 of emergency management in the department of military affairs for the provision of
9 a regional structural collapse team, are immune from civil liability for acts or
10 omissions related to carrying out responsibilities under a contract under s. ~~166.218~~
11 323.72 (1).

NOTE: Section 166.22 (1) (c) was renumbered s. 323.70 (1) (b) by 2009 Wis. Act 42.
Section 166.218 is renumbered s. 323.72 by this bill.

12 **SECTION 91.** 938.02 (8p) of the statutes, as created by 2009 Wisconsin Act 94,
13 is renumbered 938.02 (8e) and amended to read:

14 938.02 **(8e)** "Indian custodian" means an Indian person who has legal custody
15 under tribal law or custom or under state law of an Indian juvenile who is the subject
16 of an Indian juvenile custody proceeding, as defined in s. 938.028 (2) (b), or of an
17 Indian juvenile in need of protection or services under s. 938.13 (4), (6), (6m), or (7)
18 who is the subject of a temporary physical custody proceeding under ss. ~~939.19~~
19 938.19 to 938.21 or to whom temporary physical care, custody, and control has been
20 transferred by the parent of that juvenile.

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NOTE: Places definition in alphabetical order consistent with current style. Corrects cross-reference. There is no s. 939.19. Sections 938.19 to 938.21 relate to custody proceedings.

1 **SECTION 92.** The treatment of 938.32 (1) (c) 1. c. of the statutes by 2009
2 Wisconsin Act 79 is not repealed by 2009 Wisconsin Act 185. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 938.32 (1) (c) 1. c. reads:

c. If a permanency plan has previously been prepared for the juvenile, a finding as to whether the county department or agency has made reasonable efforts to achieve the goal of the juvenile's permanency plan, including, if appropriate, through an out-of-state placement.

3 **SECTION 93.** 938.32 (1) (c) 1m. of the statutes, as created by 2009 Wisconsin Act
4 79, is amended to read:

5 938.32 (1) (c) 1m. If the juvenile has one or more siblings, as defined in s. 938.38
6 (4) (br) 1., who have also been removed from the home, the consent decree shall
7 include a finding as to whether the county department or agency primarily
8 responsible for providing services to the juvenile has made reasonable efforts to place
9 the juvenile in a placement that enables the sibling group to remain together, unless
10 the court determines that a joint placement would be contrary to the safety or
11 well-being of the juvenile or any of those siblings, in which case the court shall order
12 the county department or agency to make reasonable efforts to provide for frequent
13 visitation or other ongoing interaction between the ~~child~~ juvenile and the siblings,
14 unless the court determines that such visitation or interaction would be contrary to
15 the safety or well-being of the juvenile or any of those siblings.

NOTE: Inserts correct word. The affected sentence contains no antecedent for "the child." The original subject of the sentence is "the juvenile." Chapter 938 relates to juveniles, whereas chapter 48 relates to children. Replacement of the term makes the provision consistent with multiple provisions created in chapter 938 by 2009 Wis. Act 79 that contain otherwise identical language.

16 **SECTION 94.** 938.33 (4) (c) of the statutes, as affected by 2009 Wisconsin Acts
17 79 and 185, is amended to read:

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1 938.33 (4) (c) Specific information showing that continued placement of the
2 juvenile in his or her home would be contrary to the welfare of the juvenile, specific
3 information showing that the county department or the agency primarily
4 responsible for providing services to the juvenile has made reasonable efforts to
5 prevent the removal of the juvenile from the home, while assuring that the juvenile's
6 health and safety are the paramount concerns, unless any of the circumstances
7 specified in s. 938.355 (2d) (b) 1. to 4. applies, and, if a permanency plan has
8 previously been prepared for the juvenile, specific information showing that the
9 county department or agency has made reasonable efforts to achieve the goal of the
10 juvenile's permanency plan, including, if appropriate, through an out-of-state
11 placement.

NOTE: 2009 Wis. Act 185 deleted a comma where the underscored comma is inserted, but its reinsertion was made necessary by the treatment by 2009 Wis. Act 79. Act 79 inserted the stricken comma, but it was rendered unnecessary by the treatment by Act 185.

12 **SECTION 95.** 938.335 (3g) (c) of the statutes, as affected by 2009 Wisconsin Acts
13 79 and 185, is amended to read:

14 938.335 (3g) (c) That, if a permanency plan has previously been prepared for
15 the juvenile, the county department or agency has made reasonable efforts to achieve
16 the goal of the juvenile's permanency plan, including, if appropriate, through an
17 out-of-state placement.

NOTE: 2009 Wis. Act 185 deleted a comma where the underscored comma is inserted, but its reinsertion was made necessary by the treatment by 2009 Wis. Act 79. Act 79 inserted the stricken comma, but it was rendered unnecessary by the treatment by Act 185.

18 **SECTION 96.** The treatment of 938.34 (14r) (a) of the statutes by 2009 Wisconsin
19 Act 8 is not repealed by 2009 Wisconsin Act 103. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 938.34 (14r) (a) reads:

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(a) In addition to any other dispositions imposed under this section, if the juvenile is found to have violated ch. 961, the court may suspend the juvenile's operating privilege, as defined in s. 340.01 (40), for not less than 6 months nor more than 5 years. If a court suspends a person's operating privilege under this paragraph, the court may take possession of any suspended license. If the court takes possession of a license, it shall destroy the license. The court shall forward to the department of transportation the notice of suspension stating that the suspension or revocation is for a violation of ch. 961.

1 **SECTION 97.** 938.355 (2) (b) 6. of the statutes, as affected by 2009 Wisconsin Acts
2 79 and 185, is amended to read:

3 938.355 (2) (b) 6. If the juvenile is placed outside the home, a finding that
4 continued placement of the juvenile in his or her home would be contrary to the
5 welfare of the juvenile or, if the juvenile has been adjudicated delinquent and is
6 placed outside the home under s. 938.34 (3) (a), (c), (cm), or (d) or (4d), a finding that
7 the juvenile's current residence will not safeguard the welfare of the juvenile or the
8 community due to the serious nature of the act for which the juvenile was adjudicated
9 delinquent. The court order shall also contain a finding as to whether the county
10 department or the agency primarily responsible for providing services under a court
11 order has made reasonable efforts to prevent the removal of the juvenile from the
12 home, while assuring that the juvenile's health and safety are the paramount
13 concerns, unless the court finds that any of the circumstances under sub. (2d) (b) 1.
14 to 4. applies, and, if a permanency plan has previously been prepared for the juvenile,
15 a finding as to whether the county department or agency has made reasonable efforts
16 to achieve the goal of the juvenile's permanency plan, including, if appropriate,
17 through an out-of-state placement,. The court shall make the findings specified in
18 this subdivision on a case-by-case basis based on circumstances specific to the
19 juvenile and shall document or reference the specific information on which those
20 findings are based in the court order. A court order that merely references this
21 subdivision without documenting or referencing that specific information in the

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1 court order or an amended court order that retroactively corrects an earlier court
2 order that does not comply with this subdivision is not sufficient to comply with this
3 subdivision.

NOTE: 2009 Wis. Act 185 deleted a comma where the underscored comma is inserted, but its reinsertion was made necessary by the treatment by 2009 Wis. Act 79. Act 79 inserted the stricken comma, but it was rendered unnecessary by the treatment by Act 185.

4 **SECTION 98.** 938.357 (2m) (am) 1. of the statutes, as created by 2009 Wisconsin
5 Act 94, is amended to read:

6 938.357 (**2m**) (am) 1. If the proposed change of placement would change the
7 placement of an Indian juvenile placed in the home of his or her parent or Indian
8 custodian under s. ~~938.357~~ 938.13 (4), (6), (6m), or (7) to a placement outside that
9 home, a request under par. (a) shall also contain specific information showing that
10 continued custody of the Indian juvenile by the parent or Indian custodian is likely
11 to result in serious emotional or physical damage to the juvenile under s. 938.028 (4)
12 (d) 1., specific information showing that active efforts under s. 938.028 (4) (d) 2. have
13 been made to prevent the breakup of the Indian juvenile's family and that those
14 efforts have proved unsuccessful, a statement as to whether the new placement is in
15 compliance with the order of placement preference under s. 938.028 (6) (a) or, if
16 applicable, s. 938.028 (6) (b) and, if the new placement is not in compliance with that
17 order, specific information showing good cause, as described in s. 938.028 (6) (d), for
18 departing from that order.

NOTE: Corrects cross-reference consistent with s. 938.357 (2m) (am) 2. There is no s. 938.357 (6m) or (7). Section 938.13 (4), (6), (6m), or (7) relate to conditions that provide jurisdiction to a court when a juvenile is alleged to be in need of protection or services.

19 **SECTION 99.** 938.365 (2) of the statutes, as affected by 2009 Wisconsin Act 94,
20 section 371, is amended to read:

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1 938.365 (2) NOTICE. No order may be extended without a hearing. The court
2 shall provide notice of the time and place of the hearing to the juvenile ~~or the~~
3 ~~juvenile's guardian ad litem or counsel~~, the juvenile's parent, guardian, and legal
4 custodian, all of the parties present at the original hearing, the juvenile's foster
5 parent or other physical custodian described in s. 48.62 (2), and the district attorney
6 or corporation counsel in the county in which the dispositional order was entered.
7 If the juvenile is an Indian juvenile who is in need of protection or services under s.
8 938.13 (4), (6), (6m), or (7), the court shall also notify the Indian juvenile's Indian
9 custodian and, if that juvenile is placed outside the home of his or her parent or
10 Indian custodian, the Indian juvenile's tribe.

NOTE: 2009 Wis. Act 94, section 371, repealed and recreated s. 98.365 (2) without taking cognizance of the repeal and recreation of the provision by 2009 Wis. Act 79, section 143. There is no mutual inconsistency between the treatments made by the two acts, and the substantive changes made by Act 79 are made here in order to give effect to both acts.

11 **SECTION 100.** 938.365 (2m) (a) 1. and 1m. of the statutes, as affected by 2009
12 Wisconsin Act 79, section 146, 2009 Wisconsin Act 94, section 373, and 2009
13 Wisconsin Act 185, section 179, are amended to read:

14 938.365 (2m) (a) 1. Any party may present evidence relevant to the issue of
15 extension. If the juvenile is placed outside of his or her home, the person or agency
16 primarily responsible for providing services to the juvenile shall present as evidence
17 specific information showing that the person or agency has made reasonable efforts
18 to achieve the goal of the juvenile's permanency plan, including, if appropriate,
19 through an out-of-state placement. If an Indian juvenile is placed outside the home
20 of his or her parent or Indian custodian under s. 938.13 (4), (6), (6m), or (7), the person
21 or agency primarily responsible for providing services to the Indian juvenile shall
22 also present as evidence specific information showing that active efforts under s.

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1 938.028 (4) (d) 2. have been made to prevent the breakup of the Indian juvenile's
2 family and that those efforts have proved unsuccessful.

3 1m. The court shall make findings of fact and conclusions of law based on the
4 evidence. The findings of fact shall include a finding as to whether reasonable efforts
5 were made by the person or agency primarily responsible for providing services to
6 the juvenile to achieve the goal of the juvenile's permanency plan, including, if
7 appropriate, through an out-of-state placement. If the juvenile is an Indian
8 juvenile who is placed outside the home of his or her parent or Indian custodian
9 under s. 938.13 (4), (6), (6m), or (7), the findings of fact shall also include a finding
10 that active efforts under s. 938.028 (4) (d) 2. were made to prevent the breakup of the
11 Indian juvenile's family and that those efforts have proved unsuccessful. An order
12 shall be issued under s. 938.355.

NOTE: 2009 Wis. Act 185 deleted a comma where each underscored comma is
inserted, but the reinsertion of those commas was made necessary by the treatment by
2009 Wis. Act 79. Act 79 inserted the stricken commas, but they were rendered
unnecessary by the treatment by Act 185.

13 **SECTION 101.** 938.365 (2m) (ag) of the statutes, as affected by 2009 Wisconsin
14 Act 94, section 378, is amended to read:

15 938.365 (2m) (ag) The court shall give a foster parent or other physical
16 custodian described in s. 48.62 (2) who is notified of a hearing under sub. (2) an
17 ~~opportunity~~ a right to be heard at the hearing by permitting the foster parent or other
18 physical custodian to make a written or oral statement during the hearing, or to
19 submit a written statement prior to the hearing, relevant to the issue of extension.
20 A foster parent or other physical custodian who receives notice of a hearing under
21 sub. (2) and ~~an opportunity~~ a right to be heard under this paragraph does not become
22 a party to the proceeding on which the hearing is held solely on the basis of receiving
23 that notice and having the ~~opportunity~~ right to be heard.

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NOTE: 2009 Wis. Act 94, section 378, repealed and recreated s. 938.365 (2m) (ag) without taking cognizance of the repeal and recreation of the provision by 2009 Wis. Act 79, section 151. There is no mutual inconsistency between the treatments made by the two acts, and the substantive changes made by Act 79 are made here in order to give effect to both acts.

1 **SECTION 102.** The treatment of 938.38 (3) (intro.) of the statutes by 2009
2 Wisconsin Act 79 is not repealed by 2009 Wisconsin Act 94. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 938.38 (3) (intro.) reads:

(3) TIME. Subject to sub. (4m) (a), the agency shall file the permanency plan with the court within 60 days after the date on which the juvenile was first removed from his or her home, except under either of the following conditions:

3 **SECTION 103.** 938.38 (4m) of the statutes, as affected by 2009 Wisconsin Act 79,
4 sections 158 and 159, and 2009 Wisconsin Act 94, sections 381 and 382, is repealed
5 and recreated to read:

6 **938.38 (4m) REASONABLE EFFORTS NOT REQUIRED; PERMANENCY PLAN**
7 **DETERMINATION HEARING.** (a) If in a proceeding under s. 938.21, 938.32, 938.355,
8 938.357, or 938.365 the court finds that any of the circumstances in s. 938.355 (2d)
9 (b) 1. to 4. applies with respect to a parent, the court shall hold a hearing within 30
10 days after the date of that finding to determine the permanency plan for the juvenile.
11 If a hearing is held under this paragraph, the agency responsible for preparing the
12 permanency plan shall file the permanency plan with the court not less than 5 days
13 before the date of the hearing. At the hearing, the court shall consider placing the
14 juvenile in a placement outside this state if the court determines that such a
15 placement would be in the best interests of the juvenile and appropriate to achieving
16 the goal of the juvenile's permanency plan.

17 (b) At least 10 days before the date of the hearing the court shall notify the
18 juvenile; any parent, guardian, and legal custodian of the juvenile; any foster parent,
19 or other physical custodian described in s. 48.62 (2) of the juvenile, the operator of

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1 the facility in which the juvenile is living, or the relative with whom the juvenile is
2 living; and, if the juvenile is an Indian juvenile who is or is alleged to be in need of
3 protection or services under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian
4 custodian and tribe of the time, place, and purpose of the hearing, of the issues to be
5 determined at the hearing, and of the fact that they shall have a right to be heard
6 at the hearing.

7 (c) If the juvenile's permanency plan includes a statement under sub. (4) (i)
8 indicating that the juvenile's age and developmental level are sufficient for the court
9 to consult with the juvenile regarding the juvenile's permanency plan or if,
10 notwithstanding a decision under sub. (4) (i) that it would not be appropriate for the
11 court to consult with the juvenile, the court determines that consultation with the
12 juvenile would be in the best interests of the juvenile, the court shall consult with the
13 juvenile, in an age-appropriate and developmentally appropriate manner, regarding
14 the juvenile's permanency plan and any other matters the court finds appropriate.
15 If none of those circumstances apply, the court may permit the juvenile's caseworker,
16 the juvenile's counsel, or, subject to s. 938.235 (3) (a), the juvenile's guardian ad litem
17 to make a written or oral statement during the hearing, or to submit a written
18 statement prior to the hearing, expressing the juvenile's wishes, goals, and concerns
19 regarding the permanency plan and those matters. If the court permits such a
20 written or oral statement to be made or submitted, the court may nonetheless require
21 the juvenile to be physically present at the hearing.

22 (d) The court shall give a foster parent, other physical custodian described in
23 s. 48.62 (2), operator of a facility, or relative who is notified of a hearing under par.
24 (b) a right to be heard at the hearing by permitting the foster parent, other physical
25 custodian, operator, or relative to make a written or oral statement during the

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1 hearing, or to submit a written statement prior to the hearing, relevant to the issues
2 to be determined at the hearing. The foster parent, other physical custodian,
3 operator of a facility, or relative does not become a party to the proceeding on which
4 the hearing is held solely on the basis of receiving that notice and right to be heard.

NOTE: 2009 Wis. Act 79, section 158, and 2009 Wis. Act 94, section 381, create very similar, but not identical, provisions that are numbered s. 938.38 (4m). This treatment gives effect to both acts by merging the text of the two provisions and eliminating minor differences in punctuation and sentence structure. The provision created as s. 938.38 (4m) (c) in Act 94 is created as s. 938.38 (4m) (d) in Act 79, and a provision with no counterpart in Act 94 is created as s. 938.38 (4m) (c) in Act 79. The provision created as 938.38 (4m) (c) in Act 79 is recreated here as s. 938.38 (4m) (c), and the provision created as s. 938.38 (4m) (c) in Act 94 and as s. 938.38 (4m) (d) in Act 79 is recreated here as s. 938.38 (4m) (d). Act 79, section 159, and Act 94, section 382, each eliminated the phrase "treatment foster parent" in s. 938.38 (4m), as created by the respective acts, as of January 1, 2011.

5 **SECTION 104.** The treatment of 938.38 (5) (b) of the statutes by 2009 Wisconsin
6 Act 79, section 160, is not repealed by 2009 Wisconsin Act 94, section 383. Both
7 treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 938.38 (5) (b) reads:

(b) The court or the agency shall notify the juvenile; the juvenile's parent, guardian, and legal custodian; and the juvenile's foster parent or treatment foster parent, the operator of the facility in which the juvenile is living, or the relative with whom the juvenile is living; and, if the juvenile is an Indian juvenile who is placed outside the home of his or her parent or Indian custodian under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian and tribe of the time, place, and purpose of the review, of the issues to be determined as part of the review, and of the fact that they shall have right to be heard at the review as provided in par. (bm) 1. The court or agency shall notify the person representing the interests of the public, the juvenile's counsel, and the juvenile's guardian ad litem of the time, place, and purpose of the review, of the issues to be determined as part of the review, and of the fact that they may have an opportunity to be heard at the review as provided in par. (bm) 1. The notices under this paragraph shall be provided in writing not less than 30 days before the review and copies of the notices shall be filed in the juvenile's case record.

8 **SECTION 105.** 938.38 (5) (b) of the statutes, as affected by 2009 Wisconsin Act
9 94, section 384, is amended to read:

10 938.38 (5) (b) The court or the agency shall notify the juvenile, ~~if he or she is~~
11 ~~10 years of age or older~~; the juvenile's parent, guardian, and legal custodian; the
12 juvenile's foster parent, the operator of the facility in which the juvenile is living, or

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1 the relative with whom the juvenile is living; and, if the juvenile is an Indian juvenile
2 who is placed outside the home of his or her parent or Indian custodian under s.
3 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian and tribe of the
4 ~~date, time, and place, and purpose~~ of the review, of the issues to be determined as part
5 of the review, and of the fact that they ~~may have an opportunity~~ shall have a right
6 to be heard at the review ~~by submitting written comments not less than 10 working~~
7 ~~days before the review or by participating at the review~~ as provided in par. (bm) 1.
8 The court or agency shall notify the person representing the interests of the public,
9 the juvenile's counsel, and the juvenile's guardian ad litem of the ~~date~~ time, place,
10 and purpose of the review, of the issues to be determined as part of the review, and
11 of the fact that they may ~~submit written comments not less than 10 working days~~
12 ~~before the review~~ have an opportunity to be heard at the review as provided in par.
13 (bm) 1. The notices under this paragraph shall be provided in writing not less than
14 30 days before the review and copies of the notices shall be filed in the juvenile's case
15 record.

NOTE: 2009 Wis. Act 94, section 384, repealed and recreated s. 938.38 (5) (b) without taking cognizance of the repeal and recreation of the provision by 2009 Wis. Act 79, section 161. There is no mutual inconsistency between the treatments made by the two acts, and the substantive changes made by Act 79 are made here in order to give effect to both acts.

16 **SECTION 106.** 938.38 (5) (bm) 1. of the statutes, as affected by 2009 Wisconsin
17 Act 79, section 163, is amended to read:

18 938.38 (5) (bm) 1. A juvenile, parent, guardian, legal custodian, foster parent,
19 operator of a facility, or relative who is provided notice of the review under par. (b)
20 shall have a right to be heard at the review by submitting written comments relevant
21 to the determinations specified in par. (c) not less than 10 working days before the
22 date of the review or by participating at the review. A person representing the

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1 interests of the public, counsel, or guardian ad litem who is provided notice of the
2 review under par. (b) may have an opportunity to be heard at the review by
3 submitting written comments relevant to the determinations specified in par. (c) not
4 less than 10 working days before the date of the review. A foster parent, operator of
5 a facility, or relative who receives notice of a hearing review under par. (b) and a right
6 to be heard under this subdivision does not become a party to the proceeding on which
7 the review is held solely on the basis of receiving that notice and right to be heard.

NOTE: 2009 Wis. Act 79 deleted "review" without showing it as stricken and inserted "hearing" without showing it as scored. No change was intended. The proceeding under s. 938.38 (5) (b) is referred to as a "review" throughout the provision.

8 **SECTION 107.** 938.38 (5) (c) 7. of the statutes, as affected by 2009 Wisconsin Acts
9 79 and 185, is amended to read:

10 938.38 (5) (c) 7. Whether reasonable efforts were made by the agency to achieve
11 the goal of the permanency plan, including, if appropriate, through an out-of-state
12 placement.

NOTE: 2009 Wis. Act 185 deleted a comma where the underscored comma is inserted, but its reinsertion was made necessary by the treatment by 2009 Wis. Act 79. Act 79 inserted the stricken comma, but it was rendered unnecessary by the treatment by Act 185.

13 **SECTION 108.** The treatment of 938.38 (5) (d) of the statutes by 2009 Wisconsin
14 Act 79 is not repealed by 2009 Wisconsin Act 94. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 938.38 (5) (d) reads:

(d) Notwithstanding s. 938.78 (2) (a), the agency that prepared the permanency plan shall, at least 5 days before a review by a review panel, provide to each person appointed to the review panel, the juvenile's parent, guardian, and legal custodian, the person representing the interests of the public, the juvenile's counsel, the juvenile's guardian ad litem, and, if the juvenile is an Indian juvenile who is placed outside the home of his or her parent or Indian custodian under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian and tribe a copy of the permanency plan and any written comments submitted under par. (bm) 1. Notwithstanding s. 938.78 (2) (a), a person appointed to a review panel, the person representing the interests of the public, the juvenile's counsel, the juvenile's guardian ad litem, and, if the juvenile is an Indian juvenile who is placed outside the home of his or her parent or Indian custodian under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian and tribe may have access to any other records concerning the juvenile for the purpose of participating in the

SENATE BILL 285**SECTION 108**

review. A person permitted access to a juvenile's records under this paragraph may not disclose any information from the records to any other person.

1 **SECTION 109.** The treatment of 938.38 (5) (e) of the statutes by 2009 Wisconsin
2 Act 79, section 169, is not repealed by 2009 Wisconsin Act 94, section 387. Both
3 treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 938.38 (5) (e) reads:

(e) Within 30 days, the agency shall prepare a written summary of the determinations under par. (c) and shall provide a copy to the court that entered the order; the juvenile or the juvenile's counsel or guardian ad litem; the person representing the interests of the public; the juvenile's parent, guardian, and or legal custodian; the juvenile's foster parent or treatment foster parent, the operator of the facility where the juvenile is living, or the relative with whom the juvenile is living; and, if the juvenile is an Indian juvenile who is placed outside the home of his or her parent or Indian custodian under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian and tribe.

4 **SECTION 110.** 938.38 (5) (e) of the statutes, as affected by 2009 Wisconsin Act
5 94, section 388, is amended to read:

6 938.38 (5) (e) Within 30 days, the agency shall prepare a written summary of
7 the determinations under par. (c) and shall provide a copy to the court that entered
8 the order; the juvenile or the juvenile's counsel or guardian ad litem; the person
9 representing the interests of the public; the juvenile's parent, guardian, or legal
10 custodian; the juvenile's foster parent ~~or~~, the operator of the facility where the
11 juvenile is living, or the relative with whom the juvenile is living; and, if the juvenile
12 is an Indian juvenile who is placed outside the home of his or her parent or Indian
13 custodian under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian
14 and tribe.

NOTE: 2009 Wis. Act 94, section 388, repealed and recreated s. 938.38 (5) (e) without taking cognizance of the repeal and recreation of the provision by 2009 Wis. Act 79, section 170. There is no mutual inconsistency between the treatments made by the two acts, and the substantive changes made by Act 79 are made here in order to give effect to both acts.

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1 **SECTION 111.** The treatment of 938.38 (5m) (b) of the statutes by 2009
2 Wisconsin Act 79, section 171, is not repealed by 2009 Wisconsin Act 94, section 389.
3 Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 938.38 (5m) (b) reads:

(b) Not less than 30 days before the date of the hearing, the court shall notify the juvenile; the juvenile's parent, guardian, and legal custodian; and the juvenile's foster parent or treatment foster parent, the operator of the facility in which the juvenile is living, or the relative with whom the juvenile is living of the time, place, and purpose of the hearing, of the issues to be determined at the hearing, and of the fact that they shall have a right to be heard at the hearing as provided in par. (c) 1. and shall notify the juvenile's counsel and the juvenile's guardian ad litem; the agency that prepared the permanency plan; the person representing the interests of the public; and, if the juvenile is an Indian juvenile who is placed outside the home of his or her parent or Indian custodian under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian and tribe of the time, place, and purpose of the hearing, of the issues to be determined at the hearing, and of the fact that they may have an opportunity to be heard at the hearing as provided in par. (c) 1.

4 **SECTION 112.** 938.38 (5m) (b) of the statutes, as affected by 2009 Wisconsin Act
5 94, section 390, is amended to read:

6 938.38 **(5m)** (b) Not less than 30 days before the date of the hearing, the court
7 shall notify the juvenile; the juvenile's parent, guardian, and legal custodian; and the
8 juvenile's foster parent, the operator of the facility in which the juvenile is living, or
9 the relative with whom the juvenile is living; of the time, place, and purpose of the
10 hearing, of the issues to be determined at the hearing, and of the fact that they shall
11 have a right to be heard at the hearing as provided in par. (c) 1. and shall notify the
12 juvenile's counsel and the juvenile's guardian ad litem; the agency that prepared the
13 permanency plan; the person representing the interests of the public; and, if the
14 juvenile is an Indian juvenile who is placed outside the home of his or her parent or
15 Indian custodian under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian
16 custodian and tribe of the date, time, and place, and purpose of the hearing, of the

SENATE BILL 285**SECTION 112**

1 issues to be determined at the hearing, and of the fact that they may have an
2 opportunity to be heard at the hearing as provided in par. (c) 1.

NOTE: 2009 Wis. Act 94, section 390, repealed and recreated s. 48.38 (5m) (b) without taking cognizance of the repeal and recreation of the provision by 2009 Wis. Act 79, section 172. There is no mutual inconsistency between the treatments made by the two acts, and the substantive changes made by Act 79 are made here in order to give effect to both acts.

3 **SECTION 113.** The treatment of 938.38 (5m) (d) of the statutes by 2009
4 Wisconsin Act 79 is not repealed by 2009 Wisconsin Act 94. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 938.38 (5m) (d) reads:

(d) At least 5 days before the date of the hearing the agency that prepared the permanency plan shall provide a copy of the permanency plan and any written comments submitted under par. (c) 1. to the court, to the juvenile's parent, guardian, and legal custodian, to the person representing the interests of the public, to the juvenile's counsel or guardian ad litem, and, if the juvenile is an Indian juvenile who is placed outside the home of his or her parent or Indian custodian under s. 938.13 (4), (6), (6m), or (7), to the Indian juvenile's Indian custodian and tribe. Notwithstanding s. 938.78 (2) (a), the person representing the interests of the public, the juvenile's counsel or guardian ad litem, and, if the juvenile is an Indian juvenile who is placed outside the home of his or her parent or Indian custodian under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian and tribe may have access to any other records concerning the juvenile for the purpose of participating in the review. A person permitted access to a juvenile's records under this paragraph may not disclose any information from the records to any other person.

5 **SECTION 114.** 938.48 (8p) of the statutes, as affected by 2009 Wisconsin Act 233,
6 is amended to read:

7 **938.48 (8p) INDIAN JUVENILE PLACEMENTS.** Reimburse Indian tribes and county
8 departments, from the appropriation under s. 20.410 ~~(1)~~ (3) (kp), for unexpected or
9 unusually high-cost out-of-home care placements of Indian juveniles who have
10 been adjudicated delinquent by tribal courts. In this subsection, "unusually
11 high-cost out-of-home care placements" means the amount by which the cost to an
12 Indian tribe or to a county department of out-of-home care placements of Indian
13 juveniles who have been adjudicated delinquent by tribal courts exceeds \$50,000 in
14 a fiscal year.

SENATE BILL 285**SECTION 114**

NOTE: Corrects cross-reference. Sections 20.410 (3) (kp) and 938.48 (8p) relate to Indian juvenile placements. Section 20.410 (1) (kp) relates to correctional officer training under s. 301.28.

1 **SECTION 115.** 941.29 (1) (f) of the statutes is amended to read:

2 941.29 (1) (f) Enjoined under an injunction issued under s. 813.12 or 813.122
3 or under a tribal injunction, as defined in s. 813.12 (1) (e), issued by a court
4 established by any federally recognized Wisconsin Indian tribe or band, except the
5 Menominee Indian tribe of Wisconsin, that includes notice to the respondent that he
6 or she is subject to the requirements and penalties under s. ~~941.29~~ this section and
7 that has been filed under s. 806.247 (3).

NOTE: Corrects citation form.

8 **SECTION 116.** The treatment of 961.50 (1) (intro.) of the statutes by 2009
9 Wisconsin Act 8 is not repealed by 2009 Wisconsin Act 103. Both treatments stand.

NOTE: There is no conflict of substance. As merged by the legislative reference bureau, s. 961.50 (1) (intro.) reads:

(1) If a person is convicted of any violation of this chapter, the court may, in addition to any other penalties that may apply to the crime, suspend the person's operating privilege, as defined in s. 340.01 (40), for not less than 6 months nor more than 5 years. If a court suspends a person's operating privilege under this subsection, the court may take possession of any suspended license. If the court takes possession of a license, it shall destroy the license. The court shall forward to the department of transportation the record of conviction and notice of the suspension. The person is eligible for an occupational license under s. 343.10 as follows:

10 **SECTION 117.** 971.17 (1g) (title) of the statutes is created to read:

11 971.17 (1g) (title) NOTICE OF RESTRICTION ON FIREARM POSSESSION.

NOTE: The other subsections in s. 971.17 have titles.

12 **SECTION 118.** 973.195 (1r) (e) of the statutes is amended to read:

13 973.195 (1r) (e) Notwithstanding the confidentiality of victim address
14 information obtained under s. ~~302.113 (9g) (g) 3.~~ 302.1135 (7) (c), a district attorney
15 who is required to send notice to a victim under par. (d) may obtain from the clerk
16 of the circuit court victim address information that the victim provided to the clerk
17 under s. ~~302.113 (9g) (g) 3.~~ 302.1135 (7) (c).

SENATE BILL 285**SECTION 118**

NOTE: Corrects cross-reference. Section 302.113 (9g) (g) 3. was renumbered to s. 302.1135 (7) (c) by 2009 Wis. Act 28.

1 **SECTION 119.** 2009 Wisconsin Act 42, section 16 is amended by replacing
2 “~~166.21 (2) (b) (r)~~” with “~~166.21 (2) (br)~~”.

NOTE: “(br)” was deleted without being shown as stricken. The change was intended but the characters “(b) (r)”, which were not a part of the statute text, were shown as stricken instead.

3 **SECTION 120.** 2009 Wisconsin Act 42, section 99 is amended by replacing “~~Each~~
4 ~~such may appropriate~~” with “~~Each such governing body may appropriate~~”.

NOTE: “governing body” was deleted without being shown as stricken. The change was intended.

5 **SECTION 121.** 2009 Wisconsin Act 42, section 104 is amended by replacing
6 “whichever is applicable,” with “whichever is applicable,”.

NOTE: A comma was inserted without being shown as underscored. The change was intended.

7 **SECTION 122.** 2009 Wisconsin Act 42, section 212 is amended by replacing
8 “323.60 (3)~~_and the~~” with “323.60 (3) and the”.

NOTE: A blank space was stricken and scored. No change was intended.

9 **SECTION 123.** 2009 Wisconsin Act 42, section 245 is amended by replacing “An
10 individual who ~~at any time~~” with “An individual who, ~~at any time~~”.

NOTE: A comma was deleted without being shown as stricken. The change was intended.

11 **SECTION 124.** 2009 Wisconsin Act 76, section 14 is amended by replacing “s.
12 ~~120.13 (14)~~” with “s. ~~120.13 (4)~~”.

NOTE: “(4)” was deleted without being stricken. The change was intended but the characters “(14)”, which were not a part of the statute text, were shown as stricken instead.

13 **SECTION 125.** 2009 Wisconsin Act 112, section 4e is amended by replacing
14 “~~village, town, or county~~” with “~~village or, town, or county~~”.

NOTE: “Or” was deleted without being shown as stricken. The change was intended.

15

(END)