



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-1762/1
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2011 SENATE BILL 560

March 14, 2012 - Introduced by Senator RISSER. Referred to Committee on Senate Organization.

1 **AN ACT to repeal** 48.978 (2) (e) 4., 48.978 (2) (f) 4. and 938.345 (4); **to renumber**
2 **and amend** 54.56, 54.57 and 808.075 (4) (f) 3.; **to amend** 48.02 (8), 48.023
3 (intro.), 48.023 (3), 48.023 (4), 48.09 (5), 48.14 (2) (b), 48.14 (11), 48.185 (2),
4 48.235 (1) (c), 48.255 (1) (cm), 48.255 (1m) (d), 48.299 (4) (a), 48.299 (4) (b),
5 48.299 (6) (intro.), 48.299 (6) (d), 48.299 (7), 48.345 (intro.), 48.345 (3) (a), 48.368
6 (1), 48.42 (1) (d), 48.62 (2), 48.831 (1), 48.831 (1m) (e), 48.977 (2) (a), 48.977 (2)
7 (e), 48.977 (2) (f), 48.977 (4) (b) 3., 48.977 (4) (b) 5., 48.977 (4) (b) 6., 48.977 (4)
8 (c) 2., 48.977 (4) (i), 48.977 (6) (c), 48.977 (7) (b) 3., 48.977 (7) (d) 3., 48.977 (8),
9 48.978 (2) (a) 1., 48.978 (2) (a) 2., 48.978 (2) (a) 3., 48.978 (2) (b) 6., 48.978 (2)
10 (b) 7., 48.978 (2) (b) 8., 48.978 (2) (b) 10., 48.978 (2) (b) 11., 48.978 (2) (e) 1.,
11 48.978 (2) (e) 2., 48.978 (2) (f) 1., 48.978 (2) (f) 2., 48.978 (2) (f) 5., 48.978 (3) (b)
12 2., 48.978 (3) (e) 1., 48.978 (3) (e) 3., 48.978 (3) (g) 3., 48.978 (3) (g) 4., 48.978 (3)
13 (g) 5., 48.978 (7), 49.32 (1) (am), 51.30 (4) (b) 18. a., 51.30 (4) (b) 18. c., 54.01 (10),
14 54.10 (1), 54.52 (1), 55.03 (1), 55.08 (1) (b), 55.08 (2) (a), 55.10 (4) (intro.), 115.76

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1 (12) (b) 2., 118.125 (2) (L), 146.82 (2) (a) 9. a., 146.82 (2) (a) 9. c., 214.37 (4) (k)
2 1., 215.26 (8) (e) 1., 757.69 (1m) (e), 808.075 (4) (a) 11., 814.66 (1) (m), 938.02 (8),
3 938.255 (1) (cm), 938.34 (3) (a), 938.34 (3) (c), 938.345 (1) (e), 938.355 (6) (an)
4 1., 938.355 (6) (b) and 938.355 (6m) (am) 1.; and **to create** 48.235 (3) (c), 48.976,
5 48.977 (4) (cm) 1m., 48.978 (2) (d) 1m., 48.981 (7) (a) 11v., 808.075 (4) (a) 9m. and
6 808.075 (4) (a) 13. of the statutes; **relating to:** guardianships of children.

Analysis by the Legislative Reference Bureau**INTRODUCTION**

Current law permits the court assigned to exercise jurisdiction under the Children's Code (juvenile court) to appoint a guardian of the person of a child under the Children's Code only under certain circumstances, including:

1. When a child does not have a living parent and a finding as to the adoptability of the child is sought.

2. When a child who has been adjudged to be in need of protection or services under the Children's Code on any grounds other than on the grounds of relinquishment of custody of not having been immunized as required by law, or adjudged to be in need of protection or services under the Juvenile Justice Code on the grounds of uncontrollability, and placed outside the home is likely to be placed in the home of the guardian for an extended period or until the child attains the age of 18 years, it is not in the best interests of the child that a petition for termination of parental rights be filed, and the child's parent is neglecting, refusing, or unable to carry out the duties of a guardian (protection or services guardianship).

3. When a parent wishes to have a standby guardian appointed to assume the duties and authority of guardianship on the incapacity, debilitation, or death of the parent.

Under any other circumstances, however, the chapter of the statutes governing guardianships generally, which include guardianships of the estates of children and guardianships of the persons and estates of adults who are found incompetent, govern a guardianship of the person of a child.

This bill removes guardianships of the persons of children from the chapter of the statutes governing guardianships generally and instead creates a new provision in the Children's Code that may be used for the appointment of a guardian of the person of a child. The bill also makes certain changes relating to protection or services guardianships, standby guardianships, and protective placement of children.

SENATE BILL 560**THE BILL*****Types of guardianships***

Full guardianships. Under the bill, the juvenile court may appoint a guardian to be a child's full guardian when the child's parents are unfit, unwilling, or unable to provide for the care, custody, and control of the child or when other compelling facts and circumstances demonstrate that a full guardianship is necessary.

Under current law, a full guardian has the duty and authority to make important decisions in matters having a permanent effect on the life and development of the child and the duty to be concerned about the child's general welfare. Those duties and authority include: 1) the authority to consent to marriage, enlistment in the U.S. Armed Forces, major medical, psychiatric, and surgical treatment, and to obtaining a driver's license; 2) the authority to represent the child in legal actions and to make other decisions of substantial legal significance concerning the child; 3) the right and duty of reasonable visitation of the child; and 4) the rights and responsibilities of legal custody, which rights and responsibilities include the right and duty to protect, train, and discipline the child and to provide food, shelter, legal services, education, and ordinary medical and dental care for the child.

This bill expands the duties and authority of a full guardian of a child to include the authority to determine reasonable visitation with the child, the rights and responsibilities of physical custody of the child, and the right to change the residence of the child to another state. The bill also requires the full guardian of a child to notify the court immediately of any change of address of the child or guardian and to make annual reports to the court on the condition of the child.

In addition, the bill specifies that a guardian acting on behalf of a child may exercise only those powers that the guardian is authorized to exercise by statute or juvenile court order and that the juvenile court may authorize a guardian to exercise only those powers that are necessary to provide for the care, custody, and control of the child and to exercise those powers in a manner that is appropriate to the child. Otherwise, the parent retains all rights and duties accruing to the parent as a result of the parent-child relationship that are not assigned to the guardian or otherwise limited by statute or juvenile court order.

Limited guardianships. Under the bill, the juvenile court may appoint a guardian to be a child's limited guardian when the child's parents need assistance in providing for the care, custody, and control of the child. Under a limited guardianship, the duties and authority of the guardian are limited as specified by the order appointing the guardian. The juvenile court may limit the authority of a guardian to allow the parent to retain such power to make decisions as is within the parent's ability to exercise effectively and may limit the physical custody of the guardian to allow shared physical custody with the parent if shared physical custody is in the best interests of the child. The juvenile court must set an expiration date for a limited guardianship order, which may be extended for good cause shown.

Temporary guardianships. Under the bill, the juvenile court may appoint a guardian to be a child's temporary guardian when the child's particular situation,

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including the inability of the child's parent to provide for the care, custody, and control of the child for a temporary period of time, requires the appointment of a temporary guardian. The order appointing a temporary guardian must specify the authority of the guardian, which must be limited to those acts that are reasonably related to the reasons for the appointment as specified in the petition for temporary guardianship. A temporary guardianship may not exceed 180 days, but may be extended for one additional 180-day period for good cause shown. A temporary guardianship ceases on expiration of that period or on termination of the situation of the child that was the cause of the temporary guardianship.

Emergency guardianships. Under the bill, the juvenile court may appoint a guardian to be a child's emergency guardian when the child's welfare requires the immediate appointment of an emergency guardian. The order appointing an emergency guardian must specify the authority of the guardian, which must be limited to those acts that are reasonably related to the reasons for the appointment as specified in the petition for emergency guardianship. An emergency guardianship may not exceed 60 days and ceases on expiration of that period or on termination of the situation of the child that was the cause of the emergency guardianship.

Procedures for appointment of full, limited, or temporary guardian

Petition. Any person, including a child 12 years of age or over on his or her own behalf, may petition for the appointment of a guardian of a child. The petitioner must cause the petition and notice of the time and place of the hearing on the petition to be served upon all interested persons, as defined in the bill, unless notice is waived by an interested person or by the juvenile court for good cause shown.

For purposes of a petition for guardianship of a child, "interested person" means: 1) the child, if 12 years of age or over, and the child's guardian ad litem and counsel, if any; 2) the child's parent, current guardian, legal custodian, and physical custodian; 3) if the child is a nonmarital child whose parents have not intermarried and if paternity of the child has not been established, any person who has filed a declaration of parental interest and any person who is alleged to be, or who may be, the father of the child; 4) the individual who is nominated as the guardian or as a successor guardian; 5) if the child has no living parent, any individual nominated to act as fiduciary for the child in a will or other written instrument executed by a parent of the child; 6) if the child is receiving or in need of any public services or benefits, the county department of human services or social services (county department) or, in Milwaukee County, the Department of Children and Families (DCF); 7) if the child is an Indian child, the child's Indian custodian and tribe; and 8) any other person that the juvenile court may require. In addition, for purposes of standing to present evidence and argument in a proceeding on a guardianship petition, the bill defines "party" as the petitioner and any interested person other than a person who is alleged to be, or who may be, the father of the child.

Guardian ad litem. The juvenile court must appoint a guardian ad litem (GAL) for a child who is the subject of a guardianship proceeding. In addition to his or her general duty to advocate for the best interests of the child, a GAL appointed for a child who is the subject of a guardianship proceeding must, unless granted leave by the juvenile court not to do so, do all of the following:

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1. Personally, or through a trained designee, meet with or observe the child, assess the appropriateness and safety of the environment of the child, and, if appropriate to the age and developmental level of the child, interview the child and determine the child's goals and concerns regarding the proposed guardianship. If the child is 12 years of age or over, the GAL must also advise the child that he or she may request the appointment of counsel or retain counsel of his or her own choosing to oppose the guardianship petition.

2. Interview the proposed guardian, personally or through a trained designee, visit the guardian's home, if appropriate, and report to the juvenile court concerning the suitability of the proposed guardian to serve as guardian of the child.

3. Attend all juvenile court proceedings relating to the guardianship, present evidence concerning the best interests of the child, if necessary, and make clear and specific recommendations to the juvenile court concerning the best interests of the child at every stage of the guardianship proceeding.

4. Report to the juvenile court on any matter that the juvenile court requests.

5. Inspect reports and records relating to the child, the child's family, and the proposed guardian, including law enforcement, juvenile court, social welfare agency, child abuse and neglect, pupil, mental health, and health care records, to the extent necessary to fulfill the duties and responsibilities required of the GAL in the proceeding. The bill requires the juvenile court to include in the order appointing the GAL an order requiring the custodian of those reports or records to permit the GAL to inspect and copy those reports or records on presentation by the GAL of a copy of the order.

Statement by proposed guardian. At least 96 hours before the hearing on the petition, the proposed guardian must submit to the juvenile court a sworn and notarized statement as to the number of persons for whom the proposed guardian is responsible, whether as a parent, guardian, or legal custodian, as to the proposed guardian's income, assets, debts, and living expenses, and as to whether the proposed guardian is currently charged with or has been convicted of a crime or has been determined under the child abuse and neglect reporting law to have abused or neglected a child.

Hearing. The initial hearing on a guardianship petition must be heard within 45 days after the filing of the petition. If the petition is not contested, the juvenile court must immediately proceed to a fact-finding and dispositional hearing, unless an adjournment is requested. If the petition is contested or an adjournment is requested, the juvenile court must set a date for a fact-finding and dispositional hearing that allows reasonable time for the parties to prepare but is not more than 30 days after the initial hearing.

If the petition is contested, any party may request, or the juvenile court may propose on its own motion, that an investigation be conducted to determine whether the child is a proper subject for guardianship and whether the proposed guardian would be a suitable guardian for the child. If the juvenile court determines that such an investigation is necessary and that the welfare of the child demands such an investigation, the juvenile court may order the county department, a licensed child welfare agency, or, in Milwaukee County, DCF or an agency under contract with DCF

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to conduct an investigation. The person conducting the investigation must file a report of the investigation with the juvenile court at least 96 hours before the fact-finding and dispositional hearing, and the parents of the child and the proposed guardian must reimburse that person for the cost of the investigation according to a fee schedule established by DCF based on ability to pay.

The proposed guardian and any successor guardian, which is a person designated to become guardian on the death, unwillingness or inability to act, resignation, or removal of the guardian or to act as guardian during a period of temporary inability of the guardian to fulfill his or her duties, must be physically present at the hearing, unless excused by the juvenile court or the juvenile court permits attendance by telephone. The child is not required to attend the hearing, but if the child has nominated the guardian, the child must provide to his or her GAL sufficient information for the GAL to advise the juvenile court whether the nomination is in the best interests of the child.

Dispositional factors. In determining the appropriate disposition of a guardianship petition, the juvenile court must consider all of the following factors:

1. Any nomination of a guardian made by a parent or by the child, if 12 years of age or over, and the opinions of the parents and child as to what is in the best interests of the child.
2. Whether the proposed guardian would be fit, willing, and able to serve as the guardian of the child.
3. If the child is an Indian child, the order of placement preference required for an Indian child in an Indian child custody proceeding, unless the juvenile court finds good cause for departing from that order.
4. Whether appointment of the proposed guardian is in the best interests of the child.

Disposition. At the conclusion of the fact-finding and dispositional hearing, the juvenile court must do one of the following, unless the juvenile court adjourns the hearing: 1) dismiss the petition if the juvenile court finds that the petitioner has not proved the allegations in the petition by clear and convincing evidence or determines that appointment of the proposed guardian is not in the best interests of the child; or 2) order the proposed guardian to be appointed as the child's guardian if the juvenile court finds that the petitioner has proved those allegations by clear and convincing evidence and determines that the appointment is in the best interests of the child. If the juvenile court orders the appointment of a guardian for a child who has been adjudged to be delinquent or in need of protection or services and the order changes the placement of the child, the disposition must, if applicable, include certain findings, orders, statements, and determinations relating to, among other things, the welfare of the child and reasonable efforts to prevent the removal of the child from the home, that are required under current law when a juvenile court changes the placement of such a child. A disposition ordering the appointment of a guardian may also designate an amount of support to be paid by the child's parents and may include reasonable rules of parental visitation.

Adjournment; proposed guardian unfit or not in best interests. If at the conclusion of the fact-finding and dispositional hearing the juvenile court finds that

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the petitioner has proved the allegations in the petition by clear and convincing evidence, but that the proposed guardian is not fit, willing, and able to serve as the guardian of the child or that appointment of the proposed guardian as the child's guardian is not in the best interests of the child, the juvenile court may, in lieu of granting a disposition dismissing the petition, adjourn the hearing for not more than 30 days, request the petitioner or any other party to nominate a new proposed guardian, and order the GAL to report to the juvenile court concerning the suitability of the new proposed guardian to serve as the guardian of the child.

Procedures for appointment of emergency guardian

Petition. Any person may petition for the appointment of an emergency guardian for a child. The petitioner must give notice of the petition and of the time and place of the hearing on the petition to the child, if 12 years of age or over, the child's guardian ad litem, and the child's counsel, if any; the child's parents, guardian, and legal custodian; and the person nominated as emergency guardian. Notice of the petition and a copy of the petition must be served by the most practical means possible, including personal service or service by electronic mail or telephone, as soon after the filing of the petition as possible and must include notice of the right to counsel and of the right to petition for reconsideration or modification of the emergency guardianship.

GAL. The juvenile court must appoint a GAL for the child as soon as possible after the filing of the petition and must attempt to appoint the GAL before the hearing on the petition, but may appoint the GAL after the hearing if exigent circumstances require the immediate appointment of an emergency guardian. The GAL must attempt to meet with or observe the child before the hearing or as soon as is practicable after the hearing, but not later than three days after the hearing, and must report to the juvenile court on the advisability of the emergency guardianship at the hearing or, if not appointed until after the hearing, not later than seven days after the hearing.

Hearing. The juvenile court must hold a hearing on the emergency guardianship petition as soon as possible after the filing of the petition or, for good cause shown, may issue a temporary order appointing an emergency guardian without a hearing, which remains in effect until a hearing is held on the petition. If the juvenile court appoints an emergency guardian, any person entitled to receive notice of the emergency guardianship petition may petition for reconsideration or modification of the emergency guardianship and the juvenile court must hold a rehearing on the issue of appointment of the emergency guardian within 30 days after the filing of the petition.

Immunity. An emergency guardian of a child is immune from civil liability for his or her acts or omissions in performing the duties of emergency guardianship if he or she performs the duties in good faith, in the best interests of the child, and with the degree of diligence and prudence that an ordinarily prudent person exercises in his or her own affairs.

Post-appointment procedures

Successor guardian. As part of a petition for the original appointment of a guardian of a child or at any time after that appointment, a person may petition for

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the appointment of one or more successor guardians to assume the duty and authority of full, limited, or temporary guardianship in the event of the death, unwillingness or inability to act, resignation, or removal by the juvenile court of the initially appointed guardian or during a period when the initially appointed guardian is temporarily unable to fulfill his or her duties. If the petition for the appointment of a successor guardian is brought after the original appointment of a guardian, the petition must be heard in the same manner and subject to the same requirements as provided for an original appointment of a guardian.

The juvenile court may also appoint a successor guardian after a guardian has died, been removed, or resigned. The appointment may be made on the juvenile court's own motion or on the petition of any interested person, which, for purposes of proceedings subsequent to an order for guardianship of a child, means: 1) the child, if 12 years of age or over, the child's guardian ad litem, and the child's counsel; 2) the child's parent and guardian; 3) the county of venue, if the county has an interest in the guardianship; 4) if the child is an Indian child, the child's tribe; and 5) any other person that the juvenile court may require.

After a guardian has died, been removed, or resigned, a successor guardian may be appointed without a hearing, but the juvenile court may, upon request of any interested person or on its own motion, direct that the petition or motion for the appointment of a successor guardian be heard in the same manner and subject to the same requirements as provided for an original appointment of a guardian. If a successor is appointed without a hearing, the successor guardian must provide notice to all interested persons of the appointment, the right to counsel, and the right to petition for reconsideration of the appointment.

Modification of guardianship order. Any interested person or other person approved by the juvenile court may request a modification of a guardianship order or the juvenile court may, on its own motion, propose such a modification. The request or motion must set forth in detail the nature of the proposed modification, allege facts sufficient to show that there has been a substantial change in circumstances since the last order affecting the guardianship was entered and that the proposed modification would be in the best interests of the child, and allege any other information that affects the advisability of the juvenile court's disposition. The juvenile court must hold a hearing on the matter prior to any modification of the guardianship order if the request or motion indicates that new information is available that affects the advisability of the juvenile court's guardianship order, unless written waivers of objections to the modification are signed by all interested persons and the juvenile court approves the waivers. The juvenile court may order a modification if, at the hearing, the juvenile court finds that the person proposing the modification has proved by clear and convincing evidence that there has been a substantial change in circumstances and determines that a modification would be in the best interests of the child.

Review of conduct of guardian. The juvenile court that appointed the guardian of a child has continuing jurisdiction over the guardian and may impose certain remedies if the guardian abuses or neglects the child or knowingly permits others to do so, fails to disclose information that would have prevented his or her

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appointment as guardian, or otherwise fails to perform any of his or her duties as guardian. If the juvenile court finds by clear and convincing evidence that any of those circumstances apply, the juvenile court may remove the guardian, remove the guardian and appoint a successor guardian, enter any other order that may be necessary or appropriate to compel the guardian to carry out his or her duties, modify the duties and authority of the guardian, or, if the guardian's conduct was egregious, require the guardian to pay any costs of the proceeding.

Termination of guardianship. A guardianship continues until the child attains the age of 18 years unless: 1) the guardianship is for a lesser period of time and that time has expired; 2) the child marries; 3) the child dies; 4) the child's residence changes from this state to another state and a guardian is appointed in the new state of residence; 5) the guardian dies, or resigns and the resignation is approved by the juvenile court, and a successor guardian is not appointed; 6) the guardian is removed for cause and a successor guardian is not appointed; or 7) the guardianship is terminated on the request of a parent.

A parent may request that a guardianship be terminated by filing a petition with the juvenile court alleging facts sufficient to show that there has been a substantial change in circumstances since the last order affecting the guardianship was entered, that the parent is fit, willing, and able to carry out the duties of a guardian, and that termination of the guardianship would be in the best interests of the child. The juvenile court must hold a hearing on the petition, unless written waivers of objections to termination of the guardianship are signed by all interested persons and the juvenile court approves the waivers. The juvenile court must terminate the guardianship if the juvenile court finds that the parent has proved by clear and convincing evidence that he or she has remedied the unfitness, unwillingness, or inability to provide for the care, custody, and control of the child or the compelling facts and circumstances on which the guardianship was granted and that he or she is now fit, willing, and able to carry out the duties of a guardian and the juvenile court determines that termination of the guardianship would be in the best interests of the child.

Protection or services guardianships

Under the current Children's Code, a protection or services guardianship may be ordered when a child who has been adjudged to be in need of protection or services under the Children's Code on any grounds other than the grounds of relinquishment of custody or of not having been immunized as required by law, or adjudged to be in need of protection or services under the Juvenile Justice Code on the grounds of uncontrollability, and placed outside the home is likely to be placed in the home of the guardian for an extended period or until the child attains the age of 18 years, it is not in the best interests of the child that a petition for termination of parental rights be filed, and the child's parent is neglecting, refusing, or unable to carry out the duties of a guardian.

This bill expands the applicability of a protection or services guardianship to include a child who has been adjudged to be in need of protection or services under the Children's Code on the grounds of relinquishment of custody or of not having been immunized as required by law, a child who has been adjudged to be in need of

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protection or services under the Juvenile Justice Code on the grounds of truancy from home or school, being a school dropout, or having committed a delinquent act while under ten years of age, and a child ten years of age or over who has been adjudged delinquent. The bill also permits such a guardianship to be ordered not only when the child's parent is neglecting, refusing, or unable to carry out the duties of a guardian but also when the child's parent is not meeting the conditions established in a juvenile court order for the safe return of the child to the home.

Under current law, service of a petition for a protection or services guardianship and notice of hearing on the petition may be made by 1st class mail, by personal service or, if with reasonable diligence a party cannot be served by mail or by personal service, by publication of the notice in a newspaper that is likely to give notice to the parties. This bill eliminates service by publication for a protection or services guardianship petition.

Standby guardianships

Under current law, a petition for the appointment of a standby guardian to assume the duty and authority of guardianship on the incapacity, death, or debilitation and consent, of a parent of a child must be joined by each parent of the child who with reasonable diligence can be located. If a parent can be located, but refuses to join in the petition or indicates that he or she is unwilling or unable to exercise the duty and authority of guardianship, the petition may be filed without the other parent joining in the petition.

This bill limits that joinder requirement to each parent *who has legal custody* of the child, which means: 1) a parent to whom a family court has granted the right and responsibility to make major decisions concerning the child; or 2) in the case of a nonmarital child, the child's mother. Accordingly, under the bill, a parent who does not have legal custody of the child is not required to join in the guardianship petition. The bill also permits one parent who has legal custody of a child to file a guardianship petition without the other parent joining in the petition if that other parent *fails*, rather than refuses, to join in the petition or to indicate that he or she is fit, willing, and able to exercise the duty and authority of guardianship.

In addition, under current law, before the juvenile court may appoint a person as the standby guardian of a child, the juvenile court must make certain findings, including a finding: 1) that there is a significant risk that the petitioner will become incapacitated or debilitated or die within two years after the petition was filed; 2) that, if a parent has refused to join in the petition, the refusal was unreasonable; and 3) that the person nominated as guardian is willing and able to act as standby guardian.

This bill changes the findings that the juvenile court must make before the juvenile court may appoint a standby guardian by: 1) eliminating the two-year window for significant risk of incapacitation, debilitation, or death and instead requiring the juvenile court to find that that the petitioner has a physical or mental impairment or a physical illness, disease, or injury and that there is a significant risk that the petitioner will become incapacitated or debilitated or die as a result of that impairment, illness, disease, or injury; 2) eliminating altogether the finding that a

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parent's refusal to join in the petition was unreasonable; and 3) requiring a finding that a person is *fit*, willing, and able to act as standby guardian.

Protective placements

Finally, under current law, the juvenile court may order a protective placement, which is a placement for the residential care and custody of an individual, for a minor 14 years of age or over who is alleged to have a developmental disability and on whose behalf a petition for guardianship has been submitted. This bill eliminates the requirement that a guardianship petition be submitted in order for a juvenile court to order a protective placement for a minor 14 years of age or over who is alleged to have a developmental disability.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 48.02 (8) of the statutes is amended to read:

2 48.02 (8) "Guardian" means the person named by the court having the duty and
3 authority of guardianship guardian of the person of a child under s. 48.023.

4 **SECTION 2.** 48.023 (intro.) of the statutes is amended to read:

5 **48.023 Guardianship.** (intro.) Except as limited by an order of the court
6 under s. 48.976 (2) (c) 2., 48.977 (5) (b), or 48.978 (6) (b) 2., a person appointed by the
7 court to be the guardian of the person of a child under this chapter has the duty and
8 authority to make important decisions in matters having a permanent effect on the
9 life and development of the child and the duty to be concerned about the child's
10 general welfare, including ~~but not limited to~~ all of the following:

11 **SECTION 3.** 48.023 (3) of the statutes is amended to read:

12 48.023 (3) The right and duty of reasonable visitation of with the child and,
13 subject to an order of a court of competent jurisdiction, the authority to determine
14 reasonable visitation with the child.

15 **SECTION 4.** 48.023 (4) of the statutes is amended to read:

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1 48.023 (4) The rights and responsibilities of physical custody and legal custody,
2 including the right to change the residence of the child from this state to another
3 state, except when physical custody or legal custody has been vested in another
4 person or when the child is under the supervision of the department of corrections
5 under s. 938.183, 938.34 (4h), (4m) or (4n), or 938.357 (4) or the supervision of a
6 county department under s. 938.34 (4d) or (4n).

7 **SECTION 5.** 48.09 (5) of the statutes is amended to read:

8 48.09 (5) By the district attorney or, if designated by the county board of
9 supervisors, by the corporation counsel, in any matter arising under s. 48.13, 48.133,
10 48.976, or 48.977. If the county board transfers this authority to or from the district
11 attorney on or after May 11, 1990, the board may do so only if the action is effective
12 on September 1 of an odd-numbered year and the board notifies the department of
13 administration of that change by January 1 of that odd-numbered year.

14 **SECTION 6.** 48.14 (2) (b) of the statutes is amended to read:

15 48.14 (2) (b) The appointment and removal of a guardian of the person for a
16 child under ss. 48.427, 48.428, 48.43, 48.831, 48.832, 48.839 (4) (a), 48.976, 48.977,
17 and 48.978 ~~and ch. 54~~ and for a child found to be in need of protection or services
18 under s. 48.13 because the child is without parent or guardian.

19 **SECTION 7.** 48.14 (11) of the statutes is amended to read:

20 48.14 (11) Granting visitation privileges under s. ~~54.56~~ 48.976 (11).

21 **SECTION 8.** 48.185 (2) of the statutes is amended to read:

22 48.185 (2) In an action under s. 48.41, venue shall be in the county where the
23 birth parent or child resides at the time that the petition is filed. Venue for any
24 proceeding under s. 48.363, 48.365, or 48.977, or any proceeding under subch. VIII
25 or s. 48.976 when the child has been placed outside the home pursuant to a

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1 dispositional order under s. 48.345 ~~or~~, 48.347, or 938.345 shall be in the county where
2 the dispositional order was issued, unless the child's county of residence has
3 changed, or the parent of the child or the expectant mother of the unborn child has
4 resided in a different county of this state for 6 months. In either case, the court may,
5 upon a motion and for good cause shown, transfer the case, along with all appropriate
6 records, to the county of residence of the child, parent, or expectant mother.

7 **SECTION 9.** 48.235 (1) (c) of the statutes is amended to read:

8 48.235 (1) (c) The court shall appoint a guardian ad litem for any child who is
9 the subject of a proceeding to terminate parental rights, whether voluntary or
10 involuntary, for a child who is the subject of a contested adoption proceeding, and for
11 a child who is the subject of a proceeding under s. 48.976, 48.977, or 48.978.

12 **SECTION 10.** 48.235 (3) (c) of the statutes is created to read:

13 48.235 (3) (c) In addition to any other duties and responsibilities required of
14 a guardian ad litem, a guardian ad litem appointed for a child who is the subject of
15 a proceeding under s. 48.976 shall do all of the following unless granted leave by the
16 court not to do so:

17 1. Personally, or through a trained designee, meet with or observe the child,
18 assess the appropriateness and safety of the environment of the child, and, if
19 appropriate to the age and developmental level of the child, interview the child and
20 determine the child's goals and concerns regarding the proposed guardianship. If the
21 child is 12 years of age or over, the guardian ad litem shall also advise the child that
22 he or she may request the appointment of counsel or retain counsel of his or her own
23 choosing.

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1 2. Interview the proposed guardian, personally or through a trained designee,
2 visit the guardian's home, if appropriate, and report to the court concerning the
3 suitability of the proposed guardian to serve as guardian of the child.

4 3. Attend all court proceedings relating to the guardianship, present evidence
5 concerning the best interests of the child, if necessary, and make clear and specific
6 recommendations to the court concerning the best interests of the child at every stage
7 of the proceedings.

8 4. Report to the court on any matter that the court requests.

9 5. To the extent necessary to make recommendations to the court concerning
10 the best interests of the child, to report to the court concerning the suitability of the
11 proposed guardian to serve as guardian of the child and on any other matter that the
12 court requests, and otherwise to fulfill the duties and responsibilities required of the
13 guardian ad litem in the proceedings, inspect reports and records relating to the
14 child, the child's family, and the proposed guardian, including law enforcement
15 reports and records under ss. 48.396 (1) and 938.396 (1) (a), court records under ss.
16 48.396 (2) (a) and 938.396 (2), social welfare agency records under ss. 48.78 (2) (a)
17 and 938.78 (2) (a), abuse and neglect reports and records under s. 48.981 (7) (a) 11v.,
18 pupil records under s. 118.125 (2) (L), mental health records under s. 51.30 (4) (b) 4.,
19 and health care records under s. 146.82 (2) (a) 4. The court shall include in the order
20 appointing the guardian ad litem an order requiring the custodian of any report or
21 record specified in this subdivision to permit the guardian ad litem to inspect and
22 copy the report or record on presentation by the guardian ad litem of a copy of the
23 order. A guardian ad litem who obtains access to a report or record described in this
24 subdivision shall keep the information contained in the report or record confidential
25 and may use or further disclose that information only for purpose of the proceedings.

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1 **SECTION 11.** 48.255 (1) (cm) of the statutes is amended to read:

2 48.255 (1) (cm) Whether the child may be subject to s. 48.028 or the federal
3 Indian Child Welfare Act, 25 USC 1901 to 1963, and, if the child may be subject to
4 s. 48.028 or that act, the names and addresses of the child's Indian custodian, if any,
5 and Indian tribe, if known.

6 **SECTION 12.** 48.255 (1m) (d) of the statutes is amended to read:

7 48.255 (1m) (d) Whether the unborn child, when born, may be subject to s.
8 48.028 or the federal Indian Child Welfare Act, 25 USC 1901 to 1963, and, if the
9 unborn child may be subject to s. 48.028 or that act, the name and address of the
10 Indian tribe in which the unborn child may be eligible for affiliation when born, if
11 known.

12 **SECTION 13.** 48.299 (4) (a) of the statutes is amended to read:

13 48.299 (4) (a) Chapters 901 to 911 shall govern the presentation of evidence at
14 the fact-finding hearings under ss. 48.31, 48.42, 48.976, 48.977 (4) (d), and 48.978
15 (2) (e) and (3) (f) 2.

16 **SECTION 14.** 48.299 (4) (b) of the statutes is amended to read:

17 48.299 (4) (b) Except as provided in s. 901.05, neither common law nor
18 statutory rules of evidence are binding at a hearing for a child held in custody under
19 s. 48.21, a hearing for an adult expectant mother held in custody under s. 48.213, a
20 runaway home hearing under s. 48.227 (4), a dispositional hearing, or a hearing
21 about changes in placement, revision of dispositional orders, extension of
22 dispositional orders or termination of guardianship orders entered under s. 48.976,
23 48.977 (4) (h) 2. or (6), or 48.978 (2) (j) 2. or (3) (g). At those hearings, the court shall
24 admit all testimony having reasonable probative value, but shall exclude
25 immaterial, irrelevant or unduly repetitious testimony or evidence that is

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1 inadmissible under s. 901.05. Hearsay evidence may be admitted if it has
2 demonstrable circumstantial guarantees of trustworthiness. The court shall give
3 effect to the rules of privilege recognized by law. The court shall apply the basic
4 principles of relevancy, materiality and probative value to proof of all questions of
5 fact. Objections to evidentiary offers and offers of proof of evidence not admitted may
6 be made and shall be noted in the record.

7 **SECTION 15.** 48.299 (6) (intro.) of the statutes is amended to read:

8 48.299 (6) (intro.) If a man who has been given notice under s. 48.27 (3) (b) 1.,
9 48.976 (3) (b) 1., 48.977 (4) (c) 1., or 48.978 (2) (c) 1. appears at any hearing for which
10 he received the notice, alleges that he is the father of the child, and states that he
11 wishes to establish the paternity of the child, all of the following apply:

12 **SECTION 16.** 48.299 (6) (d) of the statutes is amended to read:

13 48.299 (6) (d) The court may stay the proceedings under this chapter pending
14 the outcome of the paternity proceedings under subch. IX of ch. 767 if the court
15 determines that the paternity proceedings will not unduly delay the proceedings
16 under this chapter and the determination of paternity is necessary to the court's
17 disposition of the child ~~if the child is found to be in need of protection or services~~
18 proceeding or if the court determines or has reason to know that the paternity
19 proceedings may result in a finding that the child is an Indian child and in a petition
20 by the child's parent, Indian custodian, or tribe for transfer of the proceeding to the
21 jurisdiction of the tribe.

22 **SECTION 17.** 48.299 (7) of the statutes is amended to read:

23 48.299 (7) If a man who has been given notice under s. 48.27 (3) (b) 1., 48.976
24 (3) (b) 1., 48.977 (4) (c) 1., or 48.978 (2) (c) 1. appears at any hearing for which he
25 received the notice but does not allege that he is the father of the child and state that

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1 he wishes to establish the paternity of the child or if no man to whom such notice was
2 given appears at a hearing, the court may refer the matter to the state or to the
3 attorney responsible for support enforcement under s. 59.53 (6) (a) for a
4 determination, under s. 767.80, of whether an action should be brought for the
5 purpose of determining the paternity of the child.

6 **SECTION 18.** 48.345 (intro.) of the statutes is amended to read:

7 **48.345 Disposition of child or unborn child of child expectant mother**
8 **adjudged in need of protection or services.** (intro.) If the judge finds that the
9 child is in need of protection or services or that the unborn child of a child expectant
10 mother is in need of protection or services, the judge shall enter an order deciding one
11 or more of the dispositions of the case as provided in this section under a care and
12 treatment plan, except that the order may not place any child not specifically found
13 under this chapter or chs. 46, 49, 51, 54, or 115 to be developmentally disabled,
14 mentally ill, or to have a disability specified in s. 115.76 (5) in ~~facilities~~ a facility that
15 exclusively ~~treat~~ treats those categories of children, and the court may not place any
16 child expectant mother of an unborn child in need of protection or services outside
17 of the child expectant mother's home unless the court finds that the child expectant
18 mother is refusing or has refused to accept any alcohol or other drug abuse services
19 offered to her or is not making or has not made a good faith effort to participate in
20 any alcohol or other drug abuse services offered to her. The dispositions under this
21 section are as follows:

22 **SECTION 19.** 48.345 (3) (a) of the statutes is amended to read:

23 48.345 (3) (a) The home of a parent ~~or~~, other relative, or guardian of the child,
24 except that the judge may not designate the home of a parent ~~or~~, other relative, or
25 guardian of the child as the child's placement if the parent ~~or~~, other relative, or

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1 guardian has been convicted under s. 940.01 of the first-degree intentional homicide,
2 or under s. 940.05 of the 2nd-degree intentional homicide, of a parent of the child,
3 and the conviction has not been reversed, set aside or vacated, unless the judge
4 determines by clear and convincing evidence that the placement would be in the best
5 interests of the child. The judge shall consider the wishes of the child in making that
6 determination.

7 **SECTION 20.** 48.368 (1) of the statutes is amended to read:

8 48.368 (1) If a petition for termination of parental rights is filed under s. 48.41
9 or 48.415 or an appeal from a judgment terminating or denying termination of
10 parental rights is filed during the year in which a dispositional order under s. 48.355,
11 an extension order under s. 48.365, a voluntary agreement for placement of the child
12 under s. 48.63, or a guardianship order under ch. 54, 2009 stats., or ch. 880, 2003
13 stats., or s. 48.976 or 48.977 ~~or ch. 54~~ is in effect, the dispositional or extension order,
14 voluntary agreement, or guardianship order shall remain in effect until all
15 proceedings related to the filing of the petition or an appeal are concluded.

16 **SECTION 21.** 48.42 (1) (d) of the statutes is amended to read:

17 48.42 (1) (d) A statement of whether the child may be subject to s. 48.028 or the
18 federal Indian & Child Welfare Act, 25 USC 1901 to 1963, and, if the child may be
19 subject to s. 48.028 or that act, the names of the child's Indian custodian, if any, and
20 tribe, if known.

21 **SECTION 22.** 48.62 (2) of the statutes, as affected by 2011 Wisconsin Act 87, is
22 amended to read:

23 48.62 (2) A relative, a guardian of a child, or a person delegated care and
24 custody of a child under s. 48.979 who provides care and maintenance for the child
25 is not required to obtain the license specified in this section. The department, county

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1 department, or licensed child welfare agency as provided in s. 48.75 may issue a
2 license to operate a foster home to a relative who has no duty of support under s. 49.90
3 (1) (a) and who requests a license to operate a foster home for a specific child who is
4 either placed by court order or who is the subject of a voluntary placement agreement
5 under s. 48.63. The department, a county department, or a licensed child welfare
6 agency may, at the request of a guardian appointed under s. 48.976, 48.977, or
7 48.978, ch. 54, 2009 stats., or ch. 880, 2003 stats., license the guardian's home as a
8 foster home for the guardian's minor ward who is living in the home and who is placed
9 in the home by court order. Relatives with no duty of support and guardians
10 appointed under s. 48.976, 48.977, or 48.978, ch. 54, 2009 stats., or ch. 880, 2003
11 stats., who are licensed to operate foster homes are subject to the department's
12 licensing rules.

13 **SECTION 23.** 48.831 (1) of the statutes is amended to read:

14 48.831 (1) TYPE OF GUARDIANSHIP. This section may be used for the appointment
15 of a guardian of a child who does not have a living parent if a finding as to the
16 adoptability of a child is sought. Except as provided in ss. 48.977 and 48.978, ~~ch. 54~~
17 s. 48.976 applies to the appointment of a guardian for a child who does not have a
18 living parent for all other purposes. An appointment of a guardian of the estate of
19 a child who does not have a living parent shall be conducted in accordance with the
20 procedures specified in ch. 54.

21 **SECTION 24.** 48.831 (1m) (e) of the statutes is amended to read:

22 48.831 (1m) (e) A guardian appointed under s. 48.976, ch. 54, 2009 stats., or
23 ch. 880, 2003 stats., whose resignation as guardian has been accepted by a court
24 under s. 48.976 (10), 54.54 (1), 2009 stats., or s. 880.17 (1), 2003 stats.

25 **SECTION 25.** 48.976 of the statutes is created to read:

SENATE BILL 560**1 48.976 Appointment of guardian of the person of a child. (1)**

2 DEFINITIONS. In this section:

3 (a) "Interested person" means any of the following:

4 1. For purposes of a petition for guardianship of a child, any of the following:

5 a. The child, if he or she has attained 12 years of age, and the child's guardian
6 ad litem and counsel, if any.

7 b. The child's parent, guardian, legal custodian, and physical custodian.

8 c. Any person who has filed a declaration of paternal interest under s. 48.025,
9 who is alleged to the court to be the father of the child, or who may, based on the
10 statements of the mother or other information presented to the court, be the father
11 of the child.

12 d. Any individual who is nominated as guardian or as a successor guardian.

13 e. If the child has no living parent, any individual nominated to act as fiduciary
14 for the child in a will or other written instrument that was executed by a parent of
15 the child.

16 f. If the child is receiving or in need of any public services or benefits, the county
17 department or, in a county having a population of 750,000 or more, the department
18 that is providing the services or benefits, through district attorney, corporation
19 counsel, or other officials designated under s. 48.09.

20 g. If the child is an Indian child, the Indian child's Indian custodian and Indian
21 tribe.

22 h. Any other person that the court may require.

23 2. For purposes of proceedings subsequent to an order for guardianship of a
24 child, any of the following:

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1 a. The child, if 12 years of age or over, the child's guardian ad litem, and the
2 child's counsel.

3 b. The child's parent and guardian.

4 c. The county of venue, through the district attorney, corporation counsel, or
5 other official designated under s. 48.09, if the county has an interest in the
6 guardianship.

7 d. If the child is an Indian child, the Indian child's tribe.

8 e. Any other person that the court may require.

9 (b) "Party" means the person petitioning for the appointment of a guardian for
10 a child or any interested person other than a person who is alleged to the court to be
11 the father of the child or who may, based on the statements of the mother or other
12 information presented to the court, be the father of the child.

13 **(2) APPOINTMENT; NOMINATION; DUTY AND AUTHORITY.** (a) *Appointment.* 1. This
14 section may be used for the appointment of a guardian of the person for a child. An
15 appointment of a guardian of the estate of a child shall be conducted under the
16 procedures specified in ch. 54. If the court assigned to exercise jurisdiction under this
17 chapter has jurisdiction over a proceeding for the appointment of a guardian of the
18 person for a child or continuing jurisdiction over such a guardianship and the court
19 assigned to exercise probate jurisdiction has jurisdiction over a proceeding for the
20 appointment of a guardian of the estate of the child or continuing jurisdiction over
21 such a guardianship, the court assigned to exercise jurisdiction under this chapter
22 may order those proceedings or guardianships to be consolidated under the
23 jurisdiction of the court assigned to exercise jurisdiction under this chapter. Upon
24 such consolidation, the court assigned to exercise jurisdiction under this chapter
25 shall order all records relating to the guardianship of the estate of the child to be

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1 transferred to the court assigned to exercise jurisdiction under this chapter and that
2 court shall retain those records as required under SCR chapter 72. This section does
3 not prohibit a person from petitioning a court under s. 48.831, 48.977, or 48.978 for
4 the appointment of a guardian of the person of a child.

5 2. The court may appoint coguardians of the person for a child under this
6 section, subject to any conditions that the court imposes. Unless the court orders
7 otherwise, any decision concerning the child must be concurred in by all coguardians
8 or is void.

9 (b) *Nomination by parent or child.* 1. A parent may nominate a guardian and
10 successor guardian for any of his or her children who is in need of guardianship,
11 including a nomination by will. Subject to the rights of a surviving parent, the court
12 shall appoint the person nominated as guardian or successor guardian, unless the
13 court finds that appointment of the person nominated is not in the child's best
14 interests.

15 2. A child who is 12 years of age or over may nominate his or her own guardian,
16 but if the child is in the armed service or is outside of the state or if other good reason
17 exists, the court may dispense with the child's right of nomination. If neither parent
18 of a child who is 12 years of age or over is fit, willing, and able to carry out the duties
19 of a guardian, the court may appoint the nominee of the child.

20 3. In determining who is appointed as guardian, the court shall consider the
21 nominations of the parents and child and the opinions of the parents and child as to
22 what is in the best interests of the child, but the best interests of the child as
23 determined by the court shall control in making the determination when those
24 nominations and opinions are in conflict with those best interests.

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1 (c) *Duties and authority of guardian.* 1. 'Full guardianship.' Subject to subd.
2 5., a guardian appointed under sub. (3) (f) 2. shall have all of the duties and authority
3 specified in s. 48.023, unless those duties and that authority are limited under subd.
4 2. A guardian appointed under sub. (3) (f) 2. shall also immediately notify the court
5 that appointed the guardian of any change in the address of the guardian or child and
6 shall make an annual report to that court on the condition of the child. The report
7 shall include the location of the child, the health condition of the child, and any
8 recommendations regarding the child.

9 2. 'Limited guardianship.' The court may order that the duties and authority
10 of a guardian appointed under sub. (3) (f) 2. be limited. The duties and authority of
11 a limited guardian shall be as specified by the order of appointment under sub. (3)
12 (f) 2. The duties and authority of a full guardian shall apply to a limited guardian
13 to the extent relevant to the duties or authority of the limited guardian, except as
14 limited by the order of appointment. The court may limit the authority of a guardian
15 with respect to any power to allow the parent to retain such power to make decisions
16 as is within the parent's ability to exercise effectively and may limit the physical
17 custody of a guardian to allow shared physical custody with the parent if shared
18 physical custody is in the best interests of the child. The court shall set an expiration
19 date for a limited guardianship order, which may be extended for good cause shown.

20 3. 'Temporary guardianship.' If it is demonstrated to the court that a child's
21 particular situation, including the inability of the child's parent to provide for the
22 care, custody, and control of the child for a temporary period of time, requires the
23 appointment of a temporary guardian, the court may appoint a temporary guardian
24 as provided under sub. (4).

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1 4. 'Emergency guardianship.' If it is demonstrated to the court that the welfare
2 of a child requires the immediate appointment of an emergency guardian, the court
3 may appoint an emergency guardian as provided under sub. (5).

4 5. 'Powers of guardian.' The parent retains all rights and duties accruing to the
5 parent as a result of the parent-child relationship that are not assigned to the
6 guardian or otherwise limited by statute or court order. A guardian acting on behalf
7 of a child may exercise only those powers that the guardian is authorized to exercise
8 by statute or court order. The court may authorize a guardian to exercise only those
9 powers that are necessary to provide for the care, custody, and control of the child and
10 to exercise those powers in a manner that is appropriate to the child.

11 **(3) PROCEDURES.** (a) *Petition.* Any person, including a child 12 years of age or
12 over on his or her own behalf, may petition for the appointment of a guardian for a
13 child. A petition for guardianship may include an application for protective
14 placement or protective services or both under ch. 55. The petition shall be entitled
15 "In the interest of (child's name), a person under the age of 18" and shall state all
16 of the following, if known to the petitioner:

17 1. The name, date of birth, and address of the child.

18 2. The names and addresses of the petitioner, the child's parents, current
19 guardian, and legal custodian, if any, the proposed guardian, any proposed successor
20 guardians, and all other interested persons.

21 3. Whether the petitioner is requesting a full guardianship, a limited
22 guardianship, a temporary guardianship, or an emergency guardianship.

23 4. If the petitioner is requesting a full guardianship, the facts and
24 circumstances establishing that the child's parents are unfit, unwilling, or unable to

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1 provide for the care, custody, and control of the child or other compelling facts and
2 circumstances demonstrating that a full guardianship is necessary.

3 5. If the petitioner is requesting a limited guardianship, the facts and
4 circumstances establishing that the child's parents need assistance in providing for
5 the care, custody, and control of the child and a statement of the specific duties and
6 authority under s. 48.023 sought by the petitioner for the proposed guardian and the
7 specific parental rights and duties that the petitioner seeks to have transferred.

8 6. If the petitioner is requesting a temporary guardianship, the facts and
9 circumstances establishing that the child's particular situation, including the
10 inability of the child's parents to provide for the care, custody, and control of the child
11 for a temporary period of time, requires the appointment of a temporary guardian;
12 the reasons for the appointment of a temporary guardian; and the powers requested
13 for the temporary guardian.

14 7. If the petitioner is requesting an emergency guardianship, the facts and
15 circumstances establishing that the welfare of the child requires the immediate
16 appointment of an emergency guardian.

17 8. The facts and circumstances establishing that the proposed guardian is fit,
18 willing, and able to serve as the child's guardian.

19 9. The information required under s. 822.29 (1).

20 10. Whether the child may be subject to s. 48.028 or the federal Indian Child
21 Welfare Act, 25 USC 1901 to 1963 and, if the child may be subject to s. 48.028 or that
22 act, the names and addresses of the child's Indian custodian, if any, and Indian tribe,
23 if known.

24 11. If the petitioner knows or has reason to know that the child is an Indian
25 child, reliable and credible information showing that continued custody of the child

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1 by the child's parent or Indian custodian is likely to result in serious emotional or
2 physical damage to the child under s. 48.028 (4) (d) 1. and that active efforts under
3 s. 48.028 (4) (d) 2. have been made to prevent the breakup of the Indian child's family
4 and that those efforts have proved unsuccessful and, if the proposed guardianship
5 would change the placement of the child from the home of his or her parent or Indian
6 custodian to a placement outside that home, a statement as to whether the new
7 placement is in compliance with the order of placement preference under s. 48.028
8 (7) (b) or, if applicable, s. 48.028 (7) (c) and, if the new placement is not in compliance
9 with that order, specific information showing good cause, as described in s. 48.028
10 (7) (e), for departing from that order.

11 12. Whether the petitioner is aware of any guardianship or other related
12 proceeding involving the child that is pending in another court and, if so, the details
13 of the guardianship or related proceeding.

14 13. If the child has been adjudged to be in need of protection or services under
15 s. 48.13 or 938.13 or has been adjudged delinquent under s. 938.12, and is subject to
16 a court order under s. 48.345, 48.357, 48.363, 48.365, 938.34, 938.345, 938.357,
17 938.363, or 938.365, and the petition filed under this subsection requests a change
18 in the placement of the child or a revision of the order, the information that is
19 required to be included in a request for a change in placement under s. 48.357 (2m)
20 (a) or 938.357 (2m) (a), whichever is applicable, or a request for a revision of the order
21 under s. 48.363 (1) (b) or 938.363 (1) (b), whichever is applicable.

22 (b) *Service of petition and notice.* 1. Except as provided in subd. 3., the
23 petitioner shall cause the petition and notice of the time and place of the hearing
24 under par. (d) to be served at least 10 days before the time of the hearing upon all

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1 interested persons, unless notice is specifically waived by an interested person or by
2 the court for good cause shown.

3 2. A notice shall be in writing. A copy of the petition and any other required
4 document shall be attached to the notice. Except as provided in subd. 3., notice shall
5 be delivered in person or by 1st class mail. Notice is considered to be given by proof
6 of personal delivery, by proof that the notice was mailed to the last-known address
7 of the recipient, or, if the recipient is an adult, by the written admission of service of
8 the person served.

9 3. If the petitioner knows or has reason to know that the child is an Indian child,
10 notice to the Indian child's parent, Indian custodian, and Indian tribe shall be
11 provided in the manner specified in s. 48.028 (4) (a). No hearing may be held under
12 par. (d) until at least 10 days after receipt of the notice by the Indian child's parent,
13 Indian custodian, and Indian tribe or, if the identity or location of the Indian child's
14 parent, Indian custodian, or tribe cannot be determined, until at least 15 days after
15 receipt of the notice by the U.S. secretary of the interior. On request of the Indian
16 child's parent, Indian custodian, or Indian tribe, the court shall grant a continuance
17 of up to 20 additional days to enable the requester to prepare for the hearing.

18 (c) *Statement by proposed guardian.* At least 96 hours before the hearing under
19 par. (d), the proposed guardian shall submit to the court a sworn and notarized
20 statement as to the number of persons for whom the proposed guardian is
21 responsible, whether as a parent, guardian, or legal custodian, as to the proposed
22 guardian's income, assets, debts, and living expenses, and as to whether the
23 proposed guardian is currently charged with or has been convicted of a crime or has
24 been determined under s. 48.981 (3) (c) to have abused or neglected a child. If the
25 proposed guardian is currently charged with or has been convicted of a crime or has

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1 been determined under s. 48.981 (3) (c) to have abused or neglected a child, he or she
2 shall include in the sworn and notarized statement a description of the
3 circumstances surrounding the charge, conviction, or determination.

4 (d) *Hearing.* 1. The initial hearing on a petition for guardianship, other than
5 a petition for emergency guardianship under sub. (5), shall be heard within 45 days
6 after the filing of the petition. At the hearing the court shall first determine whether
7 any party wishes to contest the petition. If the petition is not contested, the court
8 shall immediately proceed to a fact-finding and dispositional hearing, unless an
9 adjournment is requested. If the petition is contested or if an adjournment is
10 requested, the court shall set a date for a fact-finding and dispositional hearing that
11 allows reasonable time for the parties to prepare but is not more than 30 days after
12 the initial hearing. The court shall hold the fact-finding and dispositional hearing
13 at the time specified or set by the court under this subdivision, at which any party
14 may present evidence, including expert testimony, and argument relating to the
15 allegations in the petition.

16 2. If the petition is contested, any party may request, or the court may propose
17 on its own motion, that an investigation be conducted to determine whether the child
18 is a proper subject for guardianship and whether the proposed guardian would be a
19 suitable guardian for the child. If the court determines that such an investigation
20 is necessary and that the welfare of the child demands such an investigation, the
21 court may order the county department, a licensed child welfare agency, or, in a
22 county having a population of 750,000 or more, the department or an agency under
23 contract with the department to conduct such an investigation. The person
24 conducting the investigation shall file a report of its investigation with the court at
25 least 96 hours before the fact-finding and dispositional hearing. The parents of the

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1 child and the proposed guardian shall reimburse the person conducting the
2 investigation for the cost of the investigation according to a fee schedule established
3 by the department based on ability to pay.

4 3. The proposed guardian and any proposed successor guardian shall be
5 physically present at the hearing unless the court excuses the attendance of either
6 or, for good cause shown, permits attendance by telephone. The child is not required
7 to attend the hearing, but if the child has nominated the proposed guardian, the child
8 shall provide to his or her guardian ad litem sufficient information for the guardian
9 ad litem to advise the court whether the nomination is in the best interests of the
10 child.

11 4. If a man who has been given notice under par. (b) 1. appears at the hearing,
12 alleges that he is the father of the child, and states that he wishes to establish the
13 paternity of the child, s. 48.299 (6) applies. The court may order a temporary
14 guardianship under sub. (4) pending the outcome of the paternity proceedings

15 (e) *Dispositional factors.* In determining the appropriate disposition under this
16 section, the court shall consider all of the following:

17 1. Any nominations made under sub. (2) (b) 1. or 2. and the opinions of the
18 parents and child as to what is in the best interests of the child, but the best interests
19 of the child as determined by the court shall control in making the determination
20 when those nominations and opinions are in conflict with those best interests.

21 2. Whether the proposed guardian would be fit, willing, and able to serve as the
22 guardian of the child.

23 3. If the child is an Indian child, the order of placement preference under s.
24 48.028 (7) (b) or, if applicable, s. 48.028 (7) (c), unless the court finds good cause, as
25 described in s. 48.028 (7) (e), for departing from that order.

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1 4. Whether appointment of the proposed guardian as the child's guardian is in
2 the best interests of the child.

3 (f) *Disposition.* At the conclusion of the hearing under par. (d), the court shall
4 grant one of the following dispositions, unless the court adjourns the hearing under
5 par. (g):

6 1. A disposition dismissing the petition if the court finds that the petitioner has
7 not proved the allegations in the petition by clear and convincing evidence or
8 determines that appointment of the proposed guardian as the child's guardian is not
9 in the best interests of the child. Dismissal of a petition under this subdivision does
10 not preclude the court from referring the child to the intake worker for an intake
11 inquiry under s. 48.24.

12 2. A disposition ordering that the proposed guardian be appointed as the child's
13 full guardian under sub. (2) (c) 1., limited guardian under sub. (2) (c) 2., or temporary
14 guardian under sub. (2) (c) 3., if the court finds that the petitioner has proved the
15 allegations in the petition by clear and convincing evidence and determines that such
16 an appointment is in the best interests of the child. If the court orders the
17 appointment of a guardian for a child described in par. (a) 13. and the order changes
18 the placement of the child, the disposition shall include the applicable findings,
19 orders, statements, and determinations specified in s. 48.357 (2m) (c) or 938.357 (2m)
20 (c), whichever is applicable. The disposition may also designate an amount of
21 support to be paid by the child's parents and, subject to sub. (12), may include
22 reasonable rules of parental visitation, which rules the court shall determine in
23 accordance with the factors specified in s. 767.41 (5), as applicable. If the court
24 appoints the proposed guardian as the child's guardian, the court shall issue letters
25 of guardianship to the guardian.

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1 (g) *Adjournment; proposed guardian unfit or not in best interests.* If at the
2 conclusion of the hearing under par. (d) the court finds that the petitioner has proved
3 the allegations in the petition, other than the allegation specified in par. (a) 8., by
4 clear and convincing evidence, but that the proposed guardian is not fit, willing, and
5 able to serve as the guardian of the child, or if the court finds that the petitioner has
6 so proved all of the allegations in the petition, but that appointment of the proposed
7 guardian as the child's guardian is not in the best interests of the child, the court may,
8 in lieu of granting a disposition dismissing the petition under par. (f) 1., adjourn the
9 hearing for not more than 30 days, request the petitioner or any other party to
10 nominate a new proposed guardian, and order the guardian ad litem to report to the
11 court concerning the suitability of the new proposed guardian to serve as the
12 guardian of the child.

13 (4) TEMPORARY GUARDIANSHIPS. (a) *Duration and extent of authority.* The court
14 may appoint a temporary guardian for a child for a period not to exceed 180 days,
15 except that the court may extend this period for good cause shown for one additional
16 180-day period. The court's determination and order appointing the temporary
17 guardian shall specify the authority of the temporary guardian, which shall be
18 limited to those acts that are reasonably related to the reasons for the appointment
19 that are specified in the petition for temporary guardianship. The authority of the
20 temporary guardian is limited to the performance of those acts stated in the order
21 of appointment.

22 (b) *Procedures for appointment.* A petition for the appointment of a temporary
23 guardian shall be heard in the same manner and is subject to the same requirements
24 as provided in this section for the appointment of a full or limited guardian.

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1 (c) *Cessation of powers.* The duties and powers of the temporary guardian cease
2 upon the expiration of the period specified in par. (a), or the termination as
3 determined by the court of the situation of the child that was the cause of the
4 temporary guardianship. Upon cessation of a temporary guardianship, the
5 temporary guardian shall file with the court any report that the court requires.

6 **(5) EMERGENCY GUARDIANSHIPS.** (a) *Duration and extent of authority.* The court
7 may appoint an emergency guardian for a child for a period not to exceed 60 days.
8 The court's determination and order appointing the emergency guardian shall
9 specify the authority of the emergency guardian and shall be limited to those acts
10 that are reasonably related to the reasons for the appointment that are specified in
11 the petition for emergency guardianship. The authority of the emergency guardian
12 is limited to the performance of those acts stated in the order of appointment.

13 (b) *Procedures for appointment.* All of the following procedures apply to the
14 appointment of an emergency guardian:

15 1. Any person may petition for the appointment of an emergency guardian for
16 a child. The petition shall contain the information required under sub. (3) (a) and
17 shall specify the reasons for the appointment of an emergency guardian and the
18 powers requested for the emergency guardian.

19 2. The petitioner shall give notice of the petition and of the time and place of
20 the hearing under subd. 4. to the child, if 12 years of age or over, the child's guardian
21 ad litem, and the child's counsel, if any; the child's parents, guardian, and legal
22 custodian; and the person nominated as emergency guardian. The notice and a copy
23 of the petition shall be served as soon after the filing of the petition as possible, shall
24 be served by the most practical means possible, including personal service or service
25 by electronic mail or telephone, and shall include notice of the right to request the

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1 appointment of counsel or to retain counsel of the party's own choosing and of the
2 right to petition for reconsideration or modification of the emergency guardianship
3 under subd. 5. If the petitioner serves notice of the hearing after the hearing is
4 conducted and the court has entered an order, the petitioner shall include the court's
5 order with the notice of the hearing.

6 3. The court shall appoint a guardian ad litem for the child as soon as possible
7 after the filing of the petition. The court shall attempt to appoint the guardian ad
8 litem before the hearing on the petition, but may appoint the guardian ad litem after
9 the hearing if the court finds that exigent circumstances require the immediate
10 appointment of an emergency guardian. The guardian ad litem shall attempt to meet
11 with or observe the child before the hearing or as soon as is practicable after the
12 hearing, but not later than 3 calendar days after the hearing. The guardian ad litem
13 shall report to the court on the advisability of the emergency guardianship at the
14 hearing or, if not appointed until after the hearing, not later than 7 calendar days
15 after the hearing.

16 4. The court shall hold a hearing on the emergency guardianship petition as
17 soon as possible after the filing of the petition or, for good cause shown, may issue a
18 temporary order appointing an emergency guardian without a hearing which shall
19 remain in effect until a hearing is held on the emergency guardianship petition. If
20 appointed prior to the hearing, the guardian ad litem shall attend the hearing in
21 person or by telephone.

22 5. If the court appoints an emergency guardian, any person specified in subd.
23 2. may petition for reconsideration or modification of the emergency guardianship
24 and the court shall hold a rehearing on the issue of appointment of the emergency
25 guardian within 30 calendar days after the filing of the petition.

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1 (c) *Immunity.* An emergency guardian of a child is immune from civil liability
2 for his or her acts or omissions in performing the duties of emergency guardianship
3 if he or she performs the duties in good faith, in the best interests of the child, and
4 with the degree of diligence and prudence that an ordinarily prudent person
5 exercises in his or her own affairs.

6 (d) *Cessation of powers.* The duties and powers of the emergency guardian
7 cease upon the expiration of the period specified in par. (a), or the termination as
8 determined by the court of the situation of the child that was the cause of the
9 emergency guardianship. Upon cessation of an emergency guardianship, the
10 emergency guardian shall file with the court any report that the court requires.

11 **(6) STANDBY GUARDIANSHIP.** A petition for the appointment of a standby
12 guardian of the person of a child to assume the duty and authority of guardianship
13 on the incapacity, death, or debilitation and consent, of the child's parent shall be
14 brought under s. 48.978.

15 **(7) SUCCESSOR GUARDIAN.** (a) *Appointment; original petition or during*
16 *guardianship.* 1. As part of a petition for the original appointment of a guardian of
17 a child or at any time after that appointment, a person may petition for the
18 appointment of one or more successor guardians of the child to assume the duty and
19 authority of full, limited, or temporary guardianship in the event of an occurrence
20 specified in subd. 2. Except as provided in par. (b), if the petition for the appointment
21 of a successor guardian is brought after the original appointment of a guardian, the
22 petition shall be heard in the same manner and subject to the same requirements as
23 provided under this section for an original appointment of a guardian.

24 2. After hearing, the court may designate one or more successor guardians
25 whose appointment shall become effective immediately upon the death,

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1 unwillingness or inability to act, resignation, or removal by the court of the initially
2 appointed guardian or during a period, as determined by the initially appointed
3 guardian, when the initially appointed guardian is temporarily unable to fulfill his
4 or her duties, including during an extended vacation or illness. The powers and
5 duties of the successor guardian shall be the same as those of the initially appointed
6 guardian. The successor guardian shall receive a copy of the court order establishing
7 or modifying the initial guardianship and of the order designating the successor
8 guardian. Upon the occurrence of an event specified in this subdivision, the
9 successor guardian shall so notify the court and request the court to issue new letters
10 of guardianship. Upon notification, the court shall issue new letters of guardianship
11 that specify that the successor guardianship is permanent or that specify the period
12 for a temporary successor guardianship.

13 (b) *Appointment; when no guardian.* 1. If a guardian dies, is removed by order
14 of the court, or resigns and the resignation is accepted by the court, the court, on its
15 own motion or upon petition of any interested person, may appoint a competent and
16 suitable person as successor guardian. The court may, upon request of any interested
17 person or on its own motion, direct that the petition or motion for the appointment
18 of a successor guardian be heard in the same manner and subject to the same
19 requirements as provided under this section for an original appointment of a
20 guardian.

21 2. If the appointment under subd. 1. is made without hearing, the successor
22 guardian shall provide notice to all interested persons of the appointment, the right
23 to request the appointment of counsel or to retain counsel of the interested person's
24 own choosing, and the right to petition for reconsideration of the appointment of the

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1 successor guardian. The notice shall be served personally or by mail not later than
2 10 days after the appointment.

3 (8) MODIFICATION OF GUARDIANSHIP ORDER. (a) Any interested person or other
4 person approved by the court may request a modification of a guardianship order
5 entered under this subsection or sub. (3) (f) 2. or the court may, on its own motion,
6 propose such a modification. The request or motion shall set forth in detail the
7 nature of the proposed modification, shall allege facts sufficient to show that there
8 has been a substantial change in circumstances since the last order affecting the
9 guardianship was entered and that the proposed modification would be in the best
10 interests of the child, and shall allege any other information that affects the
11 advisability of the court's disposition.

12 (b) The court shall hold a hearing on the matter prior to any modification of the
13 guardianship order if the request or motion indicates that new information is
14 available that affects the advisability of the court's guardianship order, unless
15 written waivers of objections to the modification are signed by all interested persons
16 and the court approves the waivers.

17 (c) If a hearing is to be held, the person requesting or proposing the modification
18 shall notify all interested persons at least 7 days prior to the hearing of the date,
19 place, and purpose of the hearing. A copy of the request or proposal shall be attached
20 to the notice. The court may order a modification if, at the hearing, the court finds
21 that the person proposing the modification has proved by clear and convincing
22 evidence that there has been a substantial change in circumstances and determines
23 that a modification would be in the best interests of the child.

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1 **(9) REVIEW OF CONDUCT OF GUARDIAN.** (a) *Continuing jurisdiction of court.* The
2 court that appointed the guardian of a child has continuing jurisdiction over the
3 guardian.

4 (b) *Cause for court action against a guardian.* The court may impose a remedy
5 under par. (d) if a guardian of a child does any of the following:

6 1. Abuses or neglects the child or knowingly permits others to do so.

7 2. Fails to disclose information specified in sub. (3) (c) that would have
8 prevented appointment of the person as guardian.

9 3. Otherwise fails to perform any of his or her duties as a guardian under s.
10 48.023.

11 (c) *Procedure.* Any interested person or other person approved by the court may
12 file a petition requesting a review of the conduct of a guardian or the court, on its own
13 motion, may propose such a review. The request or motion shall allege facts
14 sufficient to show cause under par. (b) for the court to impose a remedy under par.
15 (d). The court shall hold a hearing on the request or motion not more than 30 days
16 after the filing of the request or proposal. Not less than 7 days before the date of the
17 hearing, the person requesting or proposing the review shall provide notice of the
18 hearing to the child, his or her or parents, the guardian, and any other persons
19 required by the court. A copy of the request or motion shall be attached to the notice.

20 (d) *Remedies of the court.* If after hearing the court finds by clear and
21 convincing evidence cause as specified in par. (b) to order a remedy under this
22 paragraph, the court may do any of the following:

23 1. Remove the guardian.

24 2. Remove the guardian and appoint a successor guardian.

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1 3. Enter any other order that may be necessary or appropriate to compel the
2 guardian to carry out the guardian's duties, including an order setting reasonable
3 rules of visitation with the child.

4 4. Modify the duties and authority of the guardian.

5 5. Require the guardian to pay any costs of the proceeding, including costs of
6 service and attorney fees, if the court finds that the guardian's conduct was
7 egregious.

8 **(10) TERMINATION OF GUARDIANSHIP.** (a) *Term of guardianship.* A guardianship
9 under this section shall continue until the child attains the age of 18 years unless any
10 of the following occurs:

11 1. The guardianship is for a lesser period of time and that time has expired.

12 2. The child marries.

13 3. The child dies.

14 4. The child's residence changes from this state to another state and a guardian
15 is appointed in the new state of residence.

16 5. The guardian dies, or resigns and the resignation is accepted by the court,
17 and a successor guardian is not appointed.

18 6. The guardian is removed for cause under sub. (9) (d) 1. and a successor
19 guardian is not appointed.

20 7. The court terminates the guardianship on the request of a parent of the child
21 under par. (b).

22 (b) *Termination on request of parent.* 1. A parent of the child may file a petition
23 requesting that a guardianship order entered under sub. (3) (f) 2. (4), (5), or (7) be
24 terminated. The petition shall allege facts sufficient to show that there has been a
25 substantial change in circumstances since the last order affecting the guardianship

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1 was entered, that the parent is fit, willing, and able to carry out the duties of a
2 guardian, and that termination of the guardianship would be in the best interests
3 of the child.

4 2. The court shall hold a hearing on the petition unless written waivers of
5 objections to termination of the guardianship are signed by all interested persons
6 and the court approves the waivers.

7 3. If a hearing is to be held, by no less than 7 days before the date of the hearing
8 the parent requesting the termination shall provide notice of the hearing to the child,
9 the child's other parent, the guardian, and any other persons required by the court.
10 A copy of the request or proposal shall be attached to the notice. The court shall
11 terminate the guardianship if the court finds that the parent has proved by clear and
12 convincing evidence that he or she has remedied the unfitness, unwillingness, or
13 inability to provide for the care, custody, and control of the child or other compelling
14 facts and circumstances on which the guardianship was granted and that he or she
15 is now fit, willing, and able to carry out the duties of a guardian and the court
16 determines that termination of the guardianship would be in the best interests of the
17 child.

18 **SECTION 26.** 48.977 (2) (a) of the statutes is amended to read:

19 48.977 (2) (a) That the child has been adjudged to be in need of protection or
20 services under s. 48.13 ~~(1), (2), (3), (3m), (4), (4m), (5), (8), (9), (10), (10m), (11), or~~
21 ~~(11m)~~ or 938.13 (4), or has been adjudged delinquent under s. 938.12, and been
22 placed, or continued in a placement, outside of his or her home pursuant to one or
23 more court orders under s. 48.345, 48.357, 48.363, 48.365, 938.34, 938.345, 938.357,
24 938.363, or 938.365 ~~or~~, that the child has been so adjudged and placement of the child
25 in the home of a guardian under this section has been recommended under s. 48.33

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1 (1) or 938.33 (1), or that the child has had a guardian of the person appointed for him
2 or her under ch. 54, 2009 stats., or ch. 880, 2003 stats., and is placed in the home of
3 the guardian.

4 **SECTION 27.** 48.977 (2) (e) of the statutes is amended to read:

5 48.977 (2) (e) That the child's parent is neglecting, refusing, or unable to carry
6 out the duties of a guardian or is not meeting the conditions established in the court
7 order described in par. (a) for the safe return of the child to the home or, if the child
8 has 2 parents, both parents are neglecting, refusing or unable to carry out ~~the duties~~
9 of a guardian those duties or are not meeting those conditions.

10 **SECTION 28.** 48.977 (2) (f) of the statutes is amended to read:

11 48.977 (2) (f) That the agency primarily responsible for providing services to
12 the child under a court order has made reasonable efforts to make it possible for the
13 child to return to his or her home, while assuring that the child's health and safety
14 are the paramount concerns, but that reunification of the child with the child's
15 parent or parents is unlikely or contrary to the best interests of the child and that
16 further reunification efforts are unlikely to be made or are contrary to the best
17 interests of the child or that the agency primarily responsible for providing services
18 to the child under a court order has made reasonable efforts to prevent the removal
19 of the child from his or her home, while assuring the child's health and safety, but that
20 continued placement of the child in the home would be contrary to the welfare of the
21 child, except that the court is not required to find that the agency has made those
22 reasonable efforts with respect to a parent of the child if any of the circumstances
23 specified in s. 48.355 (2d) (b) 1. to 5. applies to that parent. The court shall make the
24 findings specified in this paragraph on a case-by-case basis based on circumstances
25 specific to the child and shall document or reference the specific information on

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1 which those findings are based in the guardianship order. A guardianship order that
2 merely references this paragraph without documenting or referencing that specific
3 information in the order or an amended guardianship order that retroactively
4 corrects an earlier guardianship order that does not comply with this paragraph is
5 not sufficient to comply with this paragraph. This paragraph does not apply to a
6 child who is placed in the home of a guardian under ch. 54, 2009 stats., or ch. 880,
7 2003 stats., and who is not receiving services from an agency under a court order.

8 **SECTION 29.** 48.977 (4) (b) 3. of the statutes is amended to read:

9 48.977 (4) (b) 3. The date on which the child was adjudged in need of protection
10 or services under s. 48.13 (1), (2), (3), (3m), (4), (4m), (5), (8), (9), (10), (10m), (11), or
11 (11m) or 938.13 (4), or was adjudicated delinquent under s. 938.12, and the dates on
12 which the child has been placed, or continued in a placement, outside of his or her
13 home pursuant to one or more court orders under s. 48.345, 48.357, 48.363, 48.365,
14 938.34, 938.345, 938.357, 938.363, or 938.365; or, if the child has been so adjudged,
15 but not so placed, the date of the report under s. 48.33 (1) or 938.33 (1) in which
16 placement of the child in the home of the person is recommended; or, if the child has
17 had a guardian of the person appointed for him or her under ch. 54, 2009 stats., or
18 ch. 880, 2003 stats., the date on which the child was placed in the home of the
19 guardian.

20 **SECTION 30.** 48.977 (4) (b) 5. of the statutes is amended to read:

21 48.977 (4) (b) 5. ~~A statement of whether the proceedings are subject to the~~
22 ~~Uniform Child Custody Jurisdiction and Enforcement Act~~ The information required
23 under ch. 822 s. 822.29 (1).

24 **SECTION 31.** 48.977 (4) (b) 6. of the statutes is amended to read:

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1 48.977 (4) (b) 6. A statement of whether the child may be subject to s. 48.028
2 or the federal Indian Child Welfare Act, 25 USC 1901 to 1963, and, if the child may
3 be subject to s. 48.028 or that act, the names and addresses of the child's Indian
4 custodian, if any, and Indian tribe, if known.

5 **SECTION 32.** 48.977 (4) (c) 2. of the statutes is amended to read:

6 48.977 (4) (c) 2. Except as provided in subd. 2m., service shall be made by 1st
7 class mail at least 7 days before the hearing or by personal service at least 7 days
8 before the hearing ~~or, if with reasonable diligence a party specified in subd. 1. cannot~~
9 ~~be served by mail or personal service, service shall be made by publication of a notice~~
10 ~~published as a class 1 notice under ch. 985. In determining which newspaper is likely~~
11 ~~to give notice as required under s. 985.02 (1), the petitioner shall consider the~~
12 ~~residence of the party, if known, or the residence of the relatives of the party, if~~
13 ~~known, or the last-known location of the party. Service is considered to be made by~~
14 proof that the petition and notice under subd. 1. were mailed to the last-known
15 address of the recipient, by proof of personal delivery of that petition and notice, or,
16 if the recipient is an adult, by the written admission of service of the person served.

17 **SECTION 33.** 48.977 (4) (cm) 1m. of the statutes is created to read:

18 48.977 (4) (cm) 1m. If a man who has been given notice under par. (c) 1. appears
19 at the hearing, alleges that he is the father of the child, and states that he wishes to
20 establish the paternity of the child, s. 48.299 (6) applies.

21 **SECTION 34.** 48.977 (4) (i) of the statutes is amended to read:

22 48.977 (4) (i) *Effect of disposition on permanency plan review process.* After a
23 disposition under par. (h), the child's permanency plan shall continue to be reviewed
24 under s. 48.38 (5) or 938.38 (5), if applicable required under s. 48.38 (2) or 938.38 (2).

25 **SECTION 35.** 48.977 (6) (c) of the statutes is amended to read:

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1 48.977 (6) (c) If a hearing is to be held, the ~~court~~ person requesting or proposing
2 the revision shall notify the persons entitled to receive notice under sub. (4) (c) at
3 least 7 days prior to the hearing of the date, place and purpose of the hearing. A copy
4 of the request or proposal shall be attached to the notice. The court may order a
5 revision if, at the hearing, the court finds that it has been proved by clear and
6 convincing evidence that there has been a substantial change in circumstances and
7 if the court determines that a revision would be in the best interests of the child.

8 **SECTION 36.** 48.977 (7) (b) 3. of the statutes is amended to read:

9 48.977 (7) (b) 3. If a hearing is to be held, the ~~court~~ person requesting or
10 proposing the removal shall notify the persons entitled to receive notice under sub.
11 (4) (c) at least 7 days prior to the hearing of the date, place and purpose of the hearing.
12 A copy of the request or court proposal shall be attached to the notice. The court shall
13 remove the guardian for cause if, at the hearing, the court finds that it has been
14 proved by clear and convincing evidence that the guardian is or has been neglecting,
15 is or has been refusing or is or has been unable to discharge the guardian's trust and
16 if the court determines that removal of the guardian would be in the best interests
17 of the child.

18 **SECTION 37.** 48.977 (7) (d) 3. of the statutes is amended to read:

19 48.977 (7) (d) 3. If a hearing is to be held, the ~~court~~ parent requesting the
20 termination shall notify the persons entitled to receive notice under sub. (4) (c) at
21 least 7 days prior to the hearing of the date, place and purpose of the hearing. A copy
22 of the request shall be attached to the notice. The court shall terminate the
23 guardianship if, at the hearing, the court finds that it has been proved by clear and
24 convincing evidence that there has been a substantial change in circumstances since
25 the last order affecting the guardianship was entered and the parent is willing and

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1 able to carry out the duties of a guardian and if the court determines that termination
2 of the guardianship would be in the best interests of the child.

3 **SECTION 38.** 48.977 (8) of the statutes is amended to read:

4 48.977 (8) ~~RELATIONSHIP TO CH. 54 AND CH. 880, 2003 STATS~~ OTHER GUARDIANSHIP
5 PROCEDURES. (a) This section does not abridge the duties or authority of a guardian
6 appointed under s. 48.976, ch. 54, 2009 stats., or ch. 880, 2003 stats.

7 (b) Nothing in this section prohibits an individual from petitioning a court
8 under ~~ch. 54 s. 48.976~~ for appointment of a guardian.

9 **SECTION 39.** 48.978 (2) (a) 1. of the statutes is amended to read:

10 48.978 (2) (a) 1. A parent who has legal custody of a child may file a petition
11 for the judicial appointment of a standby guardian of the person or estate or both of
12 the child under this subsection. A parent may include in the petition the nomination
13 of an alternate standby guardian for the court to appoint if the person nominated as
14 standby guardian is unfit, unwilling, or unable to serve as the child's guardian or if
15 the court determines that appointment of the person nominated as standby guardian
16 as the child's guardian is not in the best interests of the child. Subject to subds. 2.
17 and 3., if a petition is filed under this subdivision, the petition shall be joined by each
18 parent who has legal custody of the child.

19 **SECTION 40.** 48.978 (2) (a) 2. of the statutes is amended to read:

20 48.978 (2) (a) 2. If a parent who has legal custody of a child cannot with
21 reasonable diligence locate the other parent who has legal custody of the child, the
22 parent may file a petition under subd. 1. without ~~the~~ that other parent joining in the
23 petition and, if the parent filing the petition submits proof satisfactory to the court
24 of that reasonable diligence, the court may grant the petition.

25 **SECTION 41.** 48.978 (2) (a) 3. of the statutes is amended to read:

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1 48.978 (2) (a) 3. If a parent who has legal custody of a child can locate the other
2 parent who has legal custody of the child, but that other parent ~~refuses~~ fails to join
3 in the petition or ~~indicates~~ to indicate that he or she is ~~unwilling or unable~~ fit, willing,
4 and able to exercise the duty and authority of guardianship, the parent may file a
5 petition under subd. 1. without the ~~that~~ other parent joining in the petition and, if
6 the parent filing the petition submits proof satisfactory to the court of that ~~refusal,~~
7 ~~unwillingness or inability~~ failure, the court may grant the petition.

8 **SECTION 42.** 48.978 (2) (b) 6. of the statutes is amended to read:

9 48.978 (2) (b) 6. A statement that the petitioner has a physical or mental
10 impairment or a physical illness, disease, or injury and that that there is a significant
11 risk that the petitioner will become incapacitated or debilitated or die, as applicable,
12 ~~within 2 years after the date on which the petition is filed~~ as a result of that
13 impairment, illness, disease, or injury and the factual basis for that statement.

14 **SECTION 43.** 48.978 (2) (b) 7. of the statutes is amended to read:

15 48.978 (2) (b) 7. If a parent of the child cannot with reasonable diligence locate
16 the other parent of the child, a statement that the child has no parent, other than the
17 petitioner, who is fit, willing, and able to exercise the duties and authority of
18 guardianship and who, with reasonable diligence, can be located and a statement of
19 the efforts made to locate the other parent.

20 **SECTION 44.** 48.978 (2) (b) 8. of the statutes is amended to read:

21 48.978 (2) (b) 8. If a parent of the child can locate the other parent who has legal
22 custody of the child, but that other parent ~~refuses~~ fails to join in the petition or
23 ~~indicates~~ to indicate that he or she is ~~unwilling or unable~~ fit, willing, and able to
24 exercise the duty and authority of guardianship, a statement that the child has no
25 parent, other than the petitioner, who is fit, willing, and able to exercise the duty and

SENATE BILL 560**SECTION 44**

1 authority of guardianship and a statement that the nonpetitioning parent has
2 refused has failed to join in the petition or has indicated to indicate that he or she
3 is ~~unwilling or unable~~ fit, willing, and able to exercise the duty and authority of
4 guardianship.

5 **SECTION 45.** 48.978 (2) (b) 10. of the statutes is amended to read:

6 48.978 (2) (b) 10. ~~A statement of whether the proceedings are subject to the~~
7 ~~Uniform Child Custody Jurisdiction and Enforcement Act~~ The information required
8 ~~under ch. 822 s. 822.29 (1).~~

9 **SECTION 46.** 48.978 (2) (b) 11. of the statutes is amended to read:

10 48.978 (2) (b) 11. A statement of whether the child may be subject to s. 48.028
11 or the federal Indian Child Welfare Act, 25 USC 1901 to 1963, and, if the child may
12 be subject to s. 48.028 or that act, the names and addresses of the child's Indian
13 custodian, if any, and Indian tribe, if known.

14 **SECTION 47.** 48.978 (2) (d) 1m. of the statutes is created to read:

15 48.978 (2) (d) 1m. If a man who has been given notice under par. (c) 1. appears
16 at the hearing, alleges that he is the father of the child, and states that he wishes to
17 establish the paternity of the child, s. 48.299 (6) applies.

18 **SECTION 48.** 48.978 (2) (e) 1. of the statutes is amended to read:

19 48.978 (2) (e) 1. Whether the petitioner has a physical or mental impairment
20 or a physical illness, disease, or injury and there is a significant risk that the
21 petitioner will become incapacitated or debilitated or die ~~within 2 years after the date~~
22 ~~on which the petition was filed~~ as a result of that impairment, illness, disease, or
23 injury.

24 **SECTION 49.** 48.978 (2) (e) 2. of the statutes is amended to read:

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1 48.978 (2) (e) 2. Whether the child has any parent, other than the petitioner,
2 who is fit, willing, and able to exercise the duty and authority of guardianship.

3 **SECTION 50.** 48.978 (2) (e) 4. of the statutes is repealed.

4 **SECTION 51.** 48.978 (2) (f) 1. of the statutes is amended to read:

5 48.978 (2) (f) 1. That the petitioner has a physical or mental impairment or a
6 physical illness, disease, or injury and there is a significant risk that the petitioner
7 will become incapacitated or debilitated or die within 2 years after the date on which
8 the petition was filed as a result of that impairment, illness, disease, or injury.

9 **SECTION 52.** 48.978 (2) (f) 2. of the statutes is amended to read:

10 48.978 (2) (f) 2. That the child has no parent, other than the petitioner, who is
11 fit, willing, and able to exercise the duty and authority of guardianship.

12 **SECTION 53.** 48.978 (2) (f) 4. of the statutes is repealed.

13 **SECTION 54.** 48.978 (2) (f) 5. of the statutes is amended to read:

14 48.978 (2) (f) 5. That the person nominated as standby guardian is fit, willing,
15 and able to act as standby guardian or, if that person is not so fit, willing, and able,
16 that the person nominated as alternate standby guardian is fit, willing, and able to
17 act as standby guardian.

18 **SECTION 55.** 48.978 (3) (b) 2. of the statutes is amended to read:

19 48.978 (3) (b) 2. A written designation of a standby guardian complies with this
20 subsection if the written designation substantially conforms to the following form:

21 DESIGNATION OF STANDBY GUARDIAN

22 I, (name and address of parent), being of sound mind, do hereby designate
23 (name and address of standby guardian) as standby guardian of the person and
24 estate of my child(ren) (name(s), birth date(s) and address(es) of child(ren)).

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1 (You may, if you wish, provide that the duty and authority of the standby
2 guardian shall extend only to the person, or only to the estate, of your child(ren), by
3 crossing out “person and” or “and estate”, whichever is inapplicable, above.)

4 The duty and authority of the standby guardian shall begin on one of the
5 following events, whichever occurs first:

6 1. I die.

7 2. My doctor determines that I am mentally incapacitated, and thus unable to
8 care for my child(ren).

9 3. My doctor determines that I am physically debilitated, and thus unable to
10 care for my child(ren), and I consent in writing, before 2 witnesses, to the standby
11 guardian’s duty and authority taking effect.

12 If the person I designate above is unfit, unwilling, or unable to act as standby
13 guardian for my child(ren), I hereby designate ... (name and address of alternate
14 standby guardian) as standby guardian for my child(ren).

15 I also understand that the duty and authority of the standby guardian
16 designated above will end 180 days after the day on which that duty and authority
17 begin if the standby guardian does not petition the court within those 180 days for
18 an order appointing him or her as standby guardian.

19 I understand that I retain full parental rights over my child(ren) even after the
20 beginning of the standby guardianship, that I may revoke the standby guardianship
21 at any time before the standby guardianship begins, that I may revoke the standby
22 guardianship at any time after the standby guardianship begins, subject to the
23 approval of the court, and that the standby guardianship will be suspended on my
24 recovery or remission from my incapacity or debilitation.

25 Signature....

Date ...

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1 STATEMENT OF WITNESSES

2 I declare that the person whose name appears above signed this document in
3 my presence, or was physically unable to sign the document and asked another
4 person 18 years of age or over to sign the document, who did so in my presence, and
5 that I believe the person whose name appears above to be of sound mind. I further
6 declare that I am 18 years of age or over and that I am not the person designated as
7 standby guardian or alternate standby guardian.

8 Witness No. 1:

9 (print) Name ... Date ...

10 Address

11 Signature

12 Witness No. 2:

13 (print) Name Date ...

14 Address

15 Signature

16 STATEMENT OF STANDBY GUARDIAN

17 AND ALTERNATE STANDBY GUARDIAN

18 I ... (name and address of standby guardian), and I, ... (name and address of
19 alternate standby guardian), understand that ... (name of parent) has designated
20 me to be the standby guardian or alternate standby guardian of the person and estate
21 (cross out "person and" or "and estate", if inapplicable) of his or her child(ren) if he
22 or she dies, becomes mentally incapacitated, or becomes physically debilitated and
23 consents, to my duty and authority taking effect. I hereby declare that I am fit,
24 willing, and able to undertake the duty and authority of standby guardianship and
25 I understand that within 180 days after that duty and authority begin I must petition

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1 the court for an order appointing me as standby guardian. I further understand
2 that (name of parent) retains full parental rights over his or her child(ren) even
3 after the beginning of the standby guardianship, that he or she may revoke the
4 standby guardianship at any time before the standby guardianship begins, that he
5 or she may revoke the standby guardianship at any time after the standby
6 guardianship begins, subject to the approval of the court, and that the standby
7 guardianship will be suspended on his or her recovery or remission from his or her
8 incapacity or debilitation.

9 Standby guardian's signature Date

10 Address

11 Alternate standby guardian' signature Date

12 Address

13 **SECTION 56.** 48.978 (3) (e) 1. of the statutes is amended to read:

14 48.978 (3) (e) 1. The written designation under par. (a) signed or consented to
15 by each parent of the child or, if a parent cannot with reasonable diligence be located
16 or has ~~refused~~ failed to consent to the designation, the written designation under par.
17 (a) signed by one parent and a statement of the efforts made to find the other parent
18 or of the fact that the other parent has ~~refused~~ failed to consent to the designation.

19 **SECTION 57.** 48.978 (3) (e) 3. of the statutes is amended to read:

20 48.978 (3) (e) 3. If the petition is filed by a person who has been designated as
21 an alternate standby guardian, a statement that the person designated as standby
22 guardian is unfit, unwilling, or unable to act as standby guardian and the factual
23 basis for that statement.

24 **SECTION 58.** 48.978 (3) (g) 3. of the statutes is amended to read:

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1 48.978 (3) (g) 3. That the child has no parent who is fit, willing, and able to
2 exercise the duty and authority of guardianship.

3 **SECTION 59.** 48.978 (3) (g) 4. of the statutes is amended to read:

4 48.978 (3) (g) 4. That, if a parent cannot be located, the petitioner has made
5 diligent efforts to locate that parent ~~or, if a parent has refused to consent to the~~
6 ~~designation of the standby guardian, the consent was unreasonably withheld.~~

7 **SECTION 60.** 48.978 (3) (g) 5. of the statutes is amended to read:

8 48.978 (3) (g) 5. That, if the petitioner is a person designated as an alternate
9 standby guardian, the person designated as standby guardian is unfit, unwilling, or
10 unable to act as standby guardian.

11 **SECTION 61.** 48.978 (7) of the statutes is amended to read:

12 48.978 (7) ~~RELATIONSHIP TO CH. 54~~ OTHER GUARDIANSHIP PROCEDURES. (a) Except
13 when a different right, remedy, or procedure is provided under this section, the
14 rights, remedies, and procedures provided in s. 48.976 or ch. 54, whichever is
15 applicable, shall govern a standby guardianship created under this section.

16 (b) This section does not abridge the duties or authority of a guardian appointed
17 under s. 48.976, ch. 880, 2003 stats., or ch. 54.

18 (c) Nothing in this section prohibits an individual from petitioning a court for
19 the appointment of a guardian of the person under s. 48.976 or a guardian of the
20 estate under ch. 54.

21 **SECTION 62.** 48.981 (7) (a) 11v. of the statutes is created to read:

22 48.981 (7) (a) 11v. A guardian ad litem for a child who is the subject of a
23 guardianship proceeding under s. 48.976 to the extent necessary for the guardian ad
24 litem to make recommendations to the court concerning the best interests of the
25 child, to report to the court concerning the suitability of the proposed guardian to

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1 serve as guardian of the child and on any other matter that the court requests, and
2 otherwise to fulfill the duties and responsibilities required of the guardian ad litem
3 in the proceeding.

4 **SECTION 63.** 49.32 (1) (am) of the statutes is amended to read:

5 49.32 (1) (am) Paragraph (a) does not prevent the department or a county
6 department under s. 46.22 or 46.23 from charging and collecting the cost of adoptive
7 placement investigations and child care as authorized under s. 48.837 (7) or the cost
8 of guardianship investigations as authorized under s. 48.976 (3) (d) 2.

9 **SECTION 64.** 51.30 (4) (b) 18. a. of the statutes is amended to read:

10 51.30 (4) (b) 18. a. In this subdivision, “abuse” has the meaning given in s. 51.62
11 (1) (ag); “neglect” has the meaning given in s. 51.62 (1) (br); and “parent” has the
12 meaning given in s. 48.02 (13), except that “parent” does not include the parent of a
13 minor whose custody is transferred to a legal custodian, as defined in s. 48.02 (11),
14 or for whom a guardian is appointed under, ~~or~~ s. 48.976 or 54.10 or s. 880.33, 2003
15 stats.

16 **SECTION 65.** 51.30 (4) (b) 18. c. of the statutes is amended to read:

17 51.30 (4) (b) 18. c. If the patient, regardless of age, has a guardian appointed
18 under s. 48.976 or 54.10 or s. 880.33, 2003 stats., or if the patient is a minor with
19 developmental disability who has a parent or has a guardian appointed under s.
20 48.831 and does not have a guardian appointed under s. 48.976 or 54.10 or s. 880.33,
21 2003 stats., information concerning the patient that is obtainable by staff members
22 of the agency or nonprofit corporation with which the agency has contracted is
23 limited, except as provided in subd. 18. e., to the nature of an alleged rights violation,
24 if any; the name, birth date and county of residence of the patient; information
25 regarding whether the patient was voluntarily admitted, involuntarily committed

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1 or protectively placed and the date and place of admission, placement or
2 commitment; and the name, address and telephone number of the guardian of the
3 patient and the date and place of the guardian's appointment or, if the patient is a
4 minor with developmental disability who has a parent or has a guardian appointed
5 under s. 48.831 and does not have a guardian appointed under s. 48.976 or 54.10 or
6 s. 880.33, 2003 stats., the name, address and telephone number of the parent or
7 guardian appointed under s. 48.831 of the patient.

8 **SECTION 66.** 54.01 (10) of the statutes is amended to read:

9 54.01 (10) "Guardian" means a person appointed by a court under s. 54.10 to
10 manage the income and assets and provide for the essential requirements for health
11 and safety and the personal needs of ~~a minor~~, an individual found incompetent, or
12 a spendthrift or to manage the income and assets of a minor.

13 **SECTION 67.** 54.10 (1) of the statutes is amended to read:

14 54.10 (1) A court may appoint ~~a guardian of the person or~~ a guardian of the
15 estate, ~~or both~~, for an individual if the court determines that the individual is a
16 minor. Except as provided in ss. 48.831, 48.977, and 48.978, an appointment of a
17 guardian of the person of a minor shall be conducted under the procedures specified
18 in s. 48.976.

19 **SECTION 68.** 54.52 (1) of the statutes is amended to read:

20 54.52 (1) A person may at any time bring a petition for the appointment of a
21 standby guardian of the person or estate of an individual who is determined under
22 s. 54.10 to be incompetent, ~~a minor~~, or a spendthrift or for the appointment of a
23 standby guardian of the estate of a minor, except that, as specified in s. ~~48.97~~ 48.978,
24 a petition for the appointment of a standby guardian of the person or ~~property~~ estate,
25 or both, of a minor to assume the duty and authority of guardianship on the

SENATE BILL 560**SECTION 68**

1 incapacity, death, or debilitation and consent, of the minor's parent ~~may~~ shall be
2 brought under s. 48.978.

3 **SECTION 69.** 54.56 of the statutes is renumbered 48.976 (11) and amended to
4 read:

5 48.976 (11) VISITATION BY A MINOR'S CHILD'S GRANDPARENTS AND STEPPARENTS. (a)
6 In this ~~section~~ subsection, "stepparent" means the surviving spouse of a deceased
7 parent of a ~~minor~~ child, whether or not the surviving spouse has remarried.

8 (b) If one or both parents of a ~~minor~~ child are deceased and the ~~minor~~ child is
9 in the custody of the surviving parent or any other person, a grandparent or
10 stepparent of the ~~minor~~ child may petition for visitation privileges with respect to the
11 ~~minor~~ child, whether or not the person with custody is married. The grandparent
12 or stepparent may file the petition in a guardianship or temporary guardianship
13 proceeding under this ~~chapter~~ section that affects the ~~minor~~ child or may file the
14 petition to commence an independent action under this ~~chapter~~ subsection. Except
15 as provided in ~~sub. (3m)~~ par. (cm), the court may grant reasonable visitation
16 privileges to the grandparent or stepparent if the surviving parent or other person
17 who has custody of the ~~minor~~ child has notice of the hearing and if the court
18 determines that visitation is in the best interest of the ~~minor~~ child.

19 (c) Whenever possible, in making a determination under ~~sub. (2)~~ par. (b), the
20 court shall consider the wishes of the ~~minor~~ child.

21 (cm) 1. Except as provided in ~~par. (b)~~ subd. 2., the court may not grant visitation
22 privileges to a grandparent or stepparent under this ~~section~~ subsection if the
23 grandparent or stepparent has been convicted under s. 940.01 of the first-degree
24 intentional homicide, or under s. 940.05 of the 2nd-degree intentional homicide, of

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1 a parent of the ~~minor~~ child, and the conviction has not been reversed, set aside, or
2 vacated.

3 2. ~~Paragraph (a)~~ Subdivision 1. does not apply if the court determines by clear
4 and convincing evidence that the visitation would be in the best interests of the ~~minor~~
5 child. The court shall consider the wishes of the ~~minor~~ child in making the
6 determination.

7 (d) The court may issue any necessary order to enforce a visitation order that
8 is granted under this ~~section~~ subsection, and may from time to time modify the
9 visitation privileges or enforcement order for good cause shown.

10 (dm) 1. If a grandparent or stepparent granted visitation privileges with
11 respect to a ~~minor~~ child under this ~~section~~ subsection is convicted under s. 940.01 of
12 the first-degree intentional homicide, or under s. 940.05 of the 2nd-degree
13 intentional homicide, of a parent of the ~~minor~~ child, and the conviction has not been
14 reversed, set aside, or vacated, the court shall modify the visitation order by denying
15 visitation with the ~~minor~~ child upon petition, motion, or order to show cause by a
16 person having custody of the ~~minor~~ child, or upon the court's own motion, and upon
17 notice to the grandparent or stepparent granted visitation privileges.

18 2. ~~Paragraph (a)~~ Subdivision 1. does not apply if the court determines by clear
19 and convincing evidence that the visitation would be in the best interests of the ~~minor~~
20 child. The court shall consider the wishes of the ~~minor~~ child in making the
21 determination.

22 (e) This ~~section~~ subsection applies to every ~~minor~~ child in this state whose
23 parent or parents are deceased, regardless of the date of death of the parent or
24 parents.

SENATE BILL 560**SECTION 70**

1 **SECTION 70.** 54.57 of the statutes is renumbered 48.976 (12) and amended to
2 read:

3 **48.976 (12) PROHIBITING VISITATION OR PHYSICAL PLACEMENT IF ~~A~~ PARENT KILLS**
4 **OTHER PARENT.** (a) ~~Except as provided in sub. (2), in an action under this chapter that~~
5 ~~affects a minor~~ par. (b), a court may not grant to a parent of the ~~minor~~ a child who
6 is the subject of a proceeding under this section visitation or physical placement
7 rights with the ~~minor~~ child if the parent has been convicted under s. 940.01 of the
8 first-degree intentional homicide, or under s. 940.05 of the 2nd-degree intentional
9 homicide, of the ~~minor's~~ child's other parent, and the conviction has not been
10 reversed, set aside, or vacated.

11 (b) ~~Subsection (1) Paragraph (a)~~ does not apply if the court determines by clear
12 and convincing evidence that visitation or periods of physical placement would be in
13 the best interests of the ~~minor~~ child. The court shall consider the wishes of the ~~minor~~
14 child in making the determination.

15 **SECTION 71.** 55.03 (1) of the statutes is amended to read:

16 **55.03 (1) AGENCY AS BOTH GUARDIAN AND PROVIDER PROHIBITED.** No agency acting
17 as a guardian appointed under s. 48.976, ch. 880, 2003 stats., or ch. 54, 2009 stats.,
18 may be a provider of protective services or protective placement for its ward under
19 this chapter.

20 **SECTION 72.** 55.08 (1) (b) of the statutes is amended to read:

21 **55.08 (1) (b)** The individual is a minor 14 years of age or over who is ~~not~~ alleged
22 to have a developmental disability ~~and on whose behalf a petition for guardianship~~
23 ~~has been submitted~~, or is an adult who has been determined to be incompetent by a
24 circuit court.

25 **SECTION 73.** 55.08 (2) (a) of the statutes is amended to read:

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1 55.08 (2) (a) The individual has been determined to be incompetent by a circuit
2 court or is a minor 14 years of age or over who is alleged to have a developmental
3 disability ~~and on whose behalf a petition for a guardianship has been submitted.~~

4 **SECTION 74.** 55.10 (4) (intro.) of the statutes is amended to read:

5 55.10 (4) RIGHTS. (intro.) Sections 54.42, 54.44, and 54.46 and the following
6 provisions apply to all hearings under this chapter involving protective placement
7 or protective services for an adult, and the following provisions apply to all hearings
8 under this chapter involving protective placement or protective services for a minor,
9 except transfers of placement under s. 55.15 and summary hearings under ss. 55.18
10 (3) (d) and 55.19 (3) (d):

11 **SECTION 75.** 115.76 (12) (b) 2. of the statutes is amended to read:

12 115.76 (12) (b) 2. The state, a county, or a child welfare agency, if a child was
13 made a ward of the state, county, or child welfare agency under ch. 54, 2009 stats.,
14 or ch. 880, 2003 stats., or if a child has been placed in the legal custody or
15 guardianship of the state, county, or child welfare agency under ch. 48 or ~~ch.~~ 767.

16 **SECTION 76.** 118.125 (2) (L) of the statutes is amended to read:

17 118.125 (2) (L) A school board shall disclose the pupil records of a pupil in
18 compliance with a court order under s. 48.235 (3) (c) 5., 48.236 (4) (a), 48.345 (12) (b),
19 938.34 (7d) (b), 938.396 (1) (d), or 938.78 (2) (b) 2. after making a reasonable effort
20 to notify the pupil's parent or legal guardian.

21 **SECTION 77.** 146.82 (2) (a) 9. a. of the statutes is amended to read:

22 146.82 (2) (a) 9. a. In this subdivision, "abuse" has the meaning given in s. 51.62
23 (1) (ag); "neglect" has the meaning given in s. 51.62 (1) (br); and "parent" has the
24 meaning given in s. 48.02 (13), except that "parent" does not include the parent of a

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1 minor whose custody is transferred to a legal custodian, as defined in s. 48.02 (11),
2 or for whom a guardian is appointed under s. 48.976 or 54.10 or s. 880.33, 2003 stats.

3 **SECTION 78.** 146.82 (2) (a) 9. c. of the statutes is amended to read:

4 146.82 (2) (a) 9. c. If the patient, regardless of age, has a guardian appointed
5 under s. 48.976 or 54.10 or s. 880.33, 2003 stats., or if the patient is a minor with
6 developmental disability, as defined in s. 51.01 (5) (a), who has a parent or has a
7 guardian appointed under s. 48.831 and does not have a guardian appointed under
8 s. 48.976 or 54.10 or s. 880.33, 2003 stats., information concerning the patient that
9 is obtainable by staff members of the agency or nonprofit corporation with which the
10 agency has contracted is limited, except as provided in subd. 9. e., to the nature of
11 an alleged rights violation, if any; the name, birth date and county of residence of the
12 patient; information regarding whether the patient was voluntarily admitted,
13 involuntarily committed or protectively placed and the date and place of admission,
14 placement or commitment; and the name, address and telephone number of the
15 guardian of the patient and the date and place of the guardian's appointment or, if
16 the patient is a minor with developmental disability who has a parent or has a
17 guardian appointed under s. 48.831 and does not have a guardian appointed under
18 s. 48.976 or 54.10 or s. 880.33, 2003 stats., the name, address and telephone number
19 of the parent or guardian appointed under s. 48.831 of the patient.

20 **SECTION 79.** 214.37 (4) (k) 1. of the statutes is amended to read:

21 214.37 (4) (k) 1. An affidavit stating that the person has standing under s.
22 867.01 (3) (ac) or 867.02 (2) (ac) to petition for summary settlement or assignment
23 of a decedent's estate or that the person is an heir of the decedent, or was guardian,
24 as defined in s. 54.01 (10) or s. 880.01 (3), 2003 stats., of the estate of the decedent

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1 at the time of the decedent's death, and may obtain transfer of property of a decedent
2 under s. 867.03.

3 **SECTION 80.** 215.26 (8) (e) 1. of the statutes is amended to read:

4 215.26 (8) (e) 1. Submits an affidavit stating that the person has standing
5 under s. 867.01 (3) (ac) or 867.02 (2) (ac) to petition for summary settlement or
6 assignment of a decedent's estate or that the person is an heir of the decedent, or was
7 guardian, as defined in s. 54.01 (10) or s. 880.01 (3), 2003 stats., of the estate of the
8 decedent at the time of the decedent's death, and may obtain transfer of property of
9 a decedent under s. 867.03; and

10 **SECTION 81.** 757.69 (1m) (e) of the statutes is amended to read:

11 757.69 (1m) (e) Conduct hearings, make findings, or issue orders in
12 proceedings under s. 48.976, 48.977, or 48.978.

13 **SECTION 82.** 808.075 (4) (a) 9m. of the statutes is created to read:

14 808.075 (4) (a) 9m. Review of the conduct of a guardian under s. 48.976 (9).

15 **SECTION 83.** 808.075 (4) (a) 11. of the statutes is amended to read:

16 808.075 (4) (a) 11. Termination of guardianship under s. 48.976 (10) or 48.977
17 (7), including removal of a guardian.

18 **SECTION 84.** 808.075 (4) (a) 13. of the statutes is created to read:

19 808.075 (4) (a) 13. Appointment of a successor guardian under s. 48.976 (7).

20 **SECTION 85.** 808.075 (4) (f) 3. of the statutes is renumbered 808.075 (4) (a) 14.

21 and amended to read:

22 808.075 (4) (a) 14. Order for visitation under s. ~~54.56~~ 48.976 (11).

23 **SECTION 86.** 814.66 (1) (m) of the statutes is amended to read:

SENATE BILL 560**SECTION 86**

1 814.66 (1) (m) For filing a petition under s. ~~54.56~~ 48.976 (11), whether in a
2 guardianship or temporary guardianship proceeding or to commence an
3 independent action, \$60.

4 **SECTION 87.** 938.02 (8) of the statutes is amended to read:

5 938.02 (8) “Guardian” means the person named by the court having the duty
6 and authority of ~~guardianship~~ guardian of the person of a juvenile.

7 **SECTION 88.** 938.255 (1) (cm) of the statutes is amended to read:

8 938.255 (1) (cm) If the petition is initiating proceedings under s. 938.13 (4), (6),
9 (6m), or (7), whether the juvenile may be subject to s. 938.028 or the federal Indian
10 Child Welfare Act, 25 USC 1901 to 1963, and, if the juvenile may be subject to s.
11 938.028 or that act, the names and addresses of the juvenile’s Indian custodian, if
12 any, and Indian tribe, if known.

13 **SECTION 89.** 938.34 (3) (a) of the statutes is amended to read:

14 938.34 (3) (a) The home of a parent ~~or~~, other relative, or guardian of the
15 juvenile, except that the court may not designate the home of a parent ~~or~~, other
16 relative, or guardian of the juvenile as the juvenile’s placement if the parent ~~or~~, other
17 relative, or guardian has been convicted of the homicide of a parent of the juvenile
18 under s. 940.01 or 940.05, and the conviction has not been reversed, set aside, or
19 vacated, unless the court determines by clear and convincing evidence that the
20 placement would be in the best interests of the juvenile. The court shall consider the
21 wishes of the juvenile in making that determination.

22 **SECTION 90.** 938.34 (3) (c) of the statutes is amended to read:

23 938.34 (3) (c) A foster home licensed under s. 48.62 ~~or~~, a group home licensed
24 under s. 48.625, or the home of a guardian under s. 48.977 (2).

25 **SECTION 91.** 938.345 (1) (e) of the statutes is amended to read:

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1 938.345 (1) (e) Place any juvenile not found under ch. 880, 2003 stats., or ch.
2 46, ~~48~~, 49, 51, 54, or 115 to have a developmental disability or a mental illness or to
3 be a child with a disability, as defined in s. 115.76 (5), in a facility that exclusively
4 treats one or more of those categories of juveniles.

5 **SECTION 92.** 938.345 (4) of the statutes is repealed.

6 **SECTION 93.** 938.355 (6) (an) 1. of the statutes is amended to read:

7 938.355 (6) (an) 1. If a juvenile who has violated a municipal ordinance, other
8 than an ordinance enacted under s. 118.163 (1m) or (2), violates a condition of a
9 dispositional order imposed by the municipal court, the municipal court may petition
10 the court assigned to exercise jurisdiction under this chapter and ch. 48 to impose
11 on the juvenile the sanction under par. (d) 1. or the sanction under par. (d) 3., with
12 monitoring by an electronic monitoring system. A sanction may be imposed under
13 this subdivision only if, at the time of the judgment, the municipal court explained
14 the conditions to the juvenile and informed the juvenile of those possible sanctions
15 for a violation or if before the violation the juvenile has acknowledged in writing that
16 he or she has read, or has had read to him or her, those conditions and possible
17 sanctions and that he or she understands those conditions and possible sanctions.
18 The petition shall contain a statement of whether the juvenile may be subject to s.
19 938.028 or the federal Indian Child Welfare Act, 25 USC 1901 to 1963, and, if the
20 juvenile may be subject to s. 938.028 or that act, the names and addresses of the
21 juvenile's Indian custodian, if any, and tribe, if known.

22 **SECTION 94.** 938.355 (6) (b) of the statutes is amended to read:

23 938.355 (6) (b) *Motion to impose sanction.* A motion for imposition of a sanction
24 may be brought by the person or agency primarily responsible for the provision of
25 dispositional services, the district attorney or corporation counsel, or the court that

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1 entered the dispositional order. If the court initiates the motion, that court is
2 disqualified from holding a hearing on the motion. Notice of the motion shall be given
3 to the juvenile, guardian ad litem, counsel, parent, guardian, legal custodian, and all
4 parties present at the original dispositional hearing. The motion shall contain a
5 statement of whether the juvenile may be subject to s. 938.028 or the federal Indian
6 Child Welfare Act, 25 USC 1901 to 1963 and, if the juvenile may be subject to s.
7 938.028 or that act, the names and addresses of the juvenile's Indian custodian, if
8 any, and tribe, if known.

9 **SECTION 95.** 938.355 (6m) (am) 1. of the statutes is amended to read:

10 938.355 **(6m)** (am) 1. If a juvenile who has violated a municipal ordinance
11 enacted under s. 118.163 (2) violates a condition of a dispositional order imposed by
12 the municipal court, the municipal court may petition the court assigned to exercise
13 jurisdiction under this chapter and ch. 48 to impose on the juvenile the sanction
14 specified in par. (a) 1g. A sanction may be imposed under this subdivision only if, at
15 the time of the judgment the municipal court explained the conditions to the juvenile
16 and informed the juvenile of that possible sanction or if before the violation the
17 juvenile has acknowledged in writing that he or she has read, or has had read to him
18 or her, those conditions and that possible sanction and that he or she understands
19 those conditions and that possible sanction. The petition shall contain a statement
20 of whether the juvenile may be subject to s. 938.028 or the federal Indian Child
21 Welfare Act, 25 USC 1901 to 1963, and, if the juvenile may be subject to s. 938.028
22 or that act, the names and addresses of the juvenile's Indian custodian, if any, and
23 tribe, if known.

24 **SECTION 96. Nonstatutory provisions.**

