



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-0091/1
EAW:klm

2023 SENATE BILL 81

February 21, 2023 - Introduced by Senators JACQUE, BALLWEG and TOMCZYK, cosponsored by Representatives MURPHY, ROZAR, BRANDTJEN, BROOKS, MURSAU, WICHGERS and BEHNKE. Referred to Committee on Mental Health, Substance Abuse Prevention, Children and Families.

1 **AN ACT** *to amend* 48.78 (2) (a) and 938.78 (2) (a); and *to create* 48.38 (5) (dm),
2 48.38 (5m) (dm), 938.38 (5) (dm) and 938.38 (5m) (dm) of the statutes; **relating**
3 **to:** providing permanency plan and comments to out-of-home care providers
4 in advance of a permanency plan review or hearing.

Analysis by the Legislative Reference Bureau

Under current law, when a child is the subject of a child or juvenile in need of protection or services (CHIPS or JIPS) proceeding, the county social or human services department, a child welfare agency, or the Department of Children and Families in Milwaukee County is required to prepare a permanency plan for the child. The permanency plan is reviewed every six months either by a review panel or at a court hearing. Before the review or hearing, the agency is required to provide a copy of the plan, and any written comments that the agency receives about the plan, to the following people: the members of the review panel; the child's parent, guardian, or legal custodian; the person representing the interests of the public; the child's counsel, guardian ad litem, or court-appointed special advocate; and, if the child is an Indian child who is placed outside the home of his or her parent or Indian custodian, the child's Indian custodian and tribe.

This bill allows an agency to provide a copy of a child's permanency plan and comments on the plan to a child's out-of-home care provider in the context of a permanency review and a permanency hearing. An out-of-home care provider includes a foster parent, guardian, relative other than a parent, or nonrelative in whose home a child or juvenile is placed, or the operator of a group home, residential

SENATE BILL 81

care center for children and youth, or shelter care facility in which a child or juvenile is placed.

Under this bill, any information that is required to remain confidential under federal or state law must be redacted from the permanency plan before it is provided to the out-of-home care provider.

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.** 48.38 (5) (dm) of the statutes is created to read:

2 48.38 **(5)** (dm) The agency that prepared the permanency plan may provide a
3 copy of the permanency plan and any written comments submitted under par. (bm)
4 1. to the out-of-home care provider of the child. A permanency plan provided to an
5 out-of-home care provider of the child under this paragraph shall be redacted to
6 protect information that is required to remain confidential, including confidentiality
7 under s. 48.396 (1) and (2), 48.57 (3p) (i), 48.685 (2) (c) 1., 48.686 (4s) (m), 48.981 (7),
8 49.83, 51.30 (4), 118.125 (2), 146.82 (1), or 938.396 (1) and (2), or that is required to
9 remain confidential under federal law.

10 **SECTION 2.** 48.38 (5m) (dm) of the statutes is created to read:

11 48.38 **(5m)** (dm) The agency that prepared the permanency plan may provide
12 a copy of the permanency plan and any written comments submitted under par. (c)
13 1. to the out-of-home care provider of the child. A permanency plan provided to an
14 out-of-home care provider of the child under this paragraph shall be redacted to
15 protect information that is required to remain confidential, including confidentiality
16 under s. 48.396 (1) and (2), 48.57 (3p) (i), 48.685 (2) (c) 1., 48.686 (4s) (m), 48.981 (7),
17 49.83, 51.30 (4), 118.125 (2), 146.82 (1), or 938.396 (1) and (2), or that is required to
18 remain confidential under federal law.

SENATE BILL 81

1 **SECTION 3.** 48.78 (2) (a) of the statutes is amended to read:

2 48.78 **(2)** (a) No agency may make available for inspection or disclose the
3 contents of any record kept or information received about an individual who is or was
4 in its care or legal custody, except as provided under sub. (2m) or s. 48.371, 48.38 (5)
5 (b) ~~or~~, (d), or (dm) or (5m) (d) or (dm), 48.396 (3) (bm) or (c) 1r., 48.432, 48.433, 48.48
6 (17) (bm), 48.57 (2m), 48.66 (6), 48.93, 48.981 (7), 938.396 (2m) (c) 1r., 938.51, or
7 938.78 or by order of the court.

8 **SECTION 4.** 938.38 (5) (dm) of the statutes is created to read:

9 938.38 **(5)** (dm) The agency that prepared the permanency plan may provide
10 a copy of the permanency plan and any written comments submitted under par. (bm)
11 1. to the out-of-home care provider of the child. A permanency plan provided to an
12 out-of-home care provider of the child under this paragraph shall be redacted to
13 protect information that is required to remain confidential, including confidentiality
14 under s. 48.396 (1) and (2), 48.57 (3p) (i), 48.685 (2) (c) 1., 48.686 (4s) (m), 48.981 (7),
15 49.83, 51.30 (4), 118.125 (2), 146.82 (1), or 938.396 (1) and (2), or that is required to
16 remain confidential under federal law.

17 **SECTION 5.** 938.38 (5m) (dm) of the statutes is created to read:

18 938.38 **(5m)** (dm) The agency that prepared the permanency plan may provide
19 a copy of the permanency plan and any written comments submitted under par. (c)
20 1. to the out-of-home care provider of the child. A permanency plan provided to an
21 out-of-home care provider of the child under this paragraph shall be redacted to
22 protect information that is required to remain confidential, including confidentiality
23 under s. 48.396 (1) and (2), 48.57 (3p) (i), 48.685 (2) (c) 1., 48.686 (4s) (m), 48.981 (7),
24 49.83, 51.30 (4), 118.125 (2), 146.82 (1), or 938.396 (1) and (2), or that is required to
25 remain confidential under federal law.

