



State of Wisconsin
2011 - 2012 LEGISLATURE



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2011 SENATE BILL 460

February 10, 2012 - Introduced by LAW REVISION COMMITTEE. Referred to
Committee on Judiciary, Utilities, Commerce, and Government Operations.

1 **AN ACT** *to repeal* 48.675; and *to amend* 20.437 (2) (r), 48.20 (8) (b), 48.203 (7),
2 48.21 (3) (b), 48.213 (2) (c), 48.213 (2) (d), 48.245 (3), 48.245 (8), 48.255 (4), 48.27
3 (3) (a) 1., 48.27 (3) (c), 48.29 (1), 48.293 (2), 48.293 (3), 48.297 (6), 48.299 (1) (a),
4 48.30 (2), 48.31 (2), 48.315 (1) (b), 48.32 (1) (a), 48.32 (2) (c), 48.355 (2) (b) 1m.,
5 48.355 (2) (d), 48.357 (1) (am) 1., 48.357 (1) (am) 2. b., 48.357 (1) (am) 2. c., 48.357
6 (2m) (a), 48.357 (2m) (b), 48.363 (1) (a), 48.363 (1) (b), 48.365 (1m), 48.365 (2),
7 48.396 (1b), 48.396 (1d), 48.396 (2) (aj), 48.396 (2) (ap), 48.396 (5) (b), 48.46 (1),
8 48.78 (2) (aj), 48.78 (2) (ap), 48.981 (3) (c) 1. a., 49.854 (5) (f), 69.15 (3) (b) 3.,
9 767.813 (5) (a) 4. and 767.865 (1) (a) of the statutes; **relating to:** the provision
10 of notices to, and the exercise of rights by, an unborn child's guardian ad litem
11 in unborn child in need of protection or services proceedings investigations
12 when the individual who is suspected of the abuse or neglect cannot be
13 identified; eliminating a voluntary foster care education program developed by
14 the Department of Children and Families; releasing a frozen bank account of

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1 a support obligor; deleting a reference to minors acknowledging paternity;
2 parties on whom the summons and petition must be served in a paternity action
3 when the respondent is deceased; and the maximum prison term length stated
4 in the form for a paternity action summons (suggested as remedial legislation
5 by the Department of Children and Families).

Analysis by the Legislative Reference Bureau

Under current law, the court assigned to exercise jurisdiction under the Children's Code (juvenile court) has exclusive original jurisdiction over an unborn child who is alleged to be in need of protection or services on the grounds that the unborn child's expectant mother habitually lacks self-control in the use of alcohol beverages, controlled substances, or controlled substance analogs, exhibited to a severe degree, to the extent that there is a substantial risk that the physical health of the unborn child will be seriously affected or endangered unless the expectant mother receives prompt and adequate treatment for that habitual lack of self-control (commonly referred to as a "UCHIPS proceeding").

In a UCHIPS proceeding, the unborn child, by or through the unborn child's guardian ad litem (GAL), is entitled to receive notice of all hearings involving the unborn child, including specifically hearings involving the temporary physical custody and changes in placement of the expectant mother and revisions to or extensions of the dispositional order. The unborn child, by or through the unborn child's GAL, is also entitled to exercise certain rights as a party to the proceeding, including the right to request a substitution of judge, to inspect records relevant to the proceeding, to demand a public fact-finding hearing or a jury trial, or to request a change in placement or revision or extension of the dispositional order. In addition, an unborn child, by or through the unborn child's GAL, may request or authorize the disclosure of law enforcement, juvenile court, or social services records relating to the expectant mother of the unborn child.

This bill eliminates the provision of those notices to, and the exercise of those rights by, an unborn child, by or through the unborn child's GAL. Rather, the bill requires those notices to be provided to, and permits those rights to be exercised by, the unborn child's GAL.

Under current law, if a county department of human services or social services (county department), the Department of Children and Families in a county having a population of 500,000 or more (DCF), or a licensed child welfare agency under contract with a county department or DCF to perform child abuse and neglect investigations (collectively "agency"), after evaluating a report of suspected or threatened child abuse or neglect, cannot determine who abused or neglected the child, the agency must initiate a diligent investigation to determine if the child is in need of protection or services. This bill instead requires an agency to initiate such

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an investigation if the agency cannot identify an individual who is suspected of abuse or neglect or of threatened abuse or neglect of the child.

Current law requires DCF to promulgate rules establishing minimum requirements for the issuance of foster home licenses, including rules requiring all foster parents to successfully complete training in the care and support needs of children who have been placed in foster care. That training must be completed before the first child is placed with the foster parent and on an ongoing basis. Current law also requires DCF to develop a voluntary foster care education program to provide specialized training for foster parents who provide care for children with special treatment needs. This bill eliminates that voluntary foster care education program.

Under current law, if a person who has been ordered by a court to pay child support (obligor) is delinquent in the payments, the amount of the delinquency becomes a lien in favor of DCF. To enforce the lien, DCF may levy against one or more accounts that the obligor has at a financial institution by sending a notice of levy to the financial institution instructing the financial institution to prohibit the closing of or withdrawals from the account, up to the amount that is sufficient to pay the amount of the delinquency. If the obligor requests a hearing and at the hearing the court orders an alternative payment arrangement or determines that the obligor does not owe the support, or owes less than the amount claimed by DCF, the court must, under current law, order DCF to return the seized funds or the excess of the seized funds over the delinquent amount. Since DCF has not actually seized the funds, this bill requires the court to order DCF to instruct the financial institution to release the account, or funds in the account that exceed the delinquent amount, to the obligor.

Under current law, a court may order child support, legal custody, and periods of physical placement on the basis of a statement acknowledging paternity that is signed by both parents and filed with the state registrar. The state registrar may insert the name of the father on a child's birth certificate on the basis of a statement acknowledging paternity. Since January 1, 2007, a minor has been prohibited from signing a statement acknowledging paternity. Current law, however, authorizes the state registrar to insert the father's name on a child's birth certificate on the basis of a statement acknowledging paternity that is signed by a minor parent as long as the minor parent's parent or legal guardian signs, too. This bill harmonizes the prohibition against a minor parent signing a statement acknowledging paternity with the statutes related to requirements for when the state registrar may change facts on birth certificates.

Under current law, a personal representative for a deceased respondent in a paternity action may appear for the respondent whenever an appearance is required. If the deceased respondent does not have a personal representative, the court may appoint a guardian ad litem, and the guardian ad litem may appear for the deceased respondent. Current law requires that the summons and petition in the paternity action be served on the personal representative *and* the guardian ad litem of a deceased respondent. This bill changes the "and" to an "or." Since the court appoints a guardian ad litem only if there is no personal representative, a deceased

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respondent in a paternity action would not have both a personal representative and a guardian ad litem.

Under current law, the form for a summons in a paternity action provides notice that interfering with the custody of a child, which is a Class I felony, is punishable by imprisonment for up to five years. A Class I felony actually is punishable under current law by imprisonment for up to three years and six months. This bill corrects the maximum length of time for imprisonment for interfering with the custody of a child that is stated in the form for a paternity action summons.

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Department of Children and Families and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4. and 5., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

1 **SECTION 1.** 20.437 (2) (r) of the statutes is amended to read:
2 20.437 (2) (r) *Support receipt and disbursement program; payments.* From the
3 support collections trust fund, except as provided in par. (qm), all moneys received
4 under s. 49.854, except for moneys received under s. 49.854 (11) (b), all moneys
5 received under ss. 767.57 and 767.75 for child or family support, maintenance,
6 spousal support, health care expenses, or birth expenses, all other moneys received
7 under judgments or orders in actions affecting the family, as defined in s. 767.001 (1),
8 and all moneys received under s. 49.855 (4) from the department of revenue or the
9 department of administration that were withheld by the department of revenue or
10 the internal revenue service for delinquent child support, family support, or
11 maintenance or outstanding court-ordered amounts for past support, medical
12 expenses, or birth expenses, for disbursement to the persons for whom the payments
13 are awarded, ~~for returning seized funds under s. 49.854 (5) (f), and, if assigned under~~
14 s. 48.57 (3m) (b) 2. or (3n) (b) 2., 48.645 (3), 49.145 (2) (s), 49.19 (4) (h) 1. b., or 49.775

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1 (2) (bm), for transfer to the appropriation account under par. (k). Estimated
2 disbursements under this paragraph shall not be included in the schedule under s.
3 20.005.

NOTE: Removes as a purpose of the support collections trust fund returning funds seized from a financial institution. This reflects that a financial institution freezes accounts at the request of the Department of Children and Families upon notice of levy but the department does not seize the funds until an opportunity for a hearing is afforded.

4 **SECTION 2.** 48.20 (8) (b) of the statutes is amended to read:

5 48.20 (8) (b) If the child is an expectant mother who has been taken into custody
6 under s. 48.19 (1) (cm) or (d) 8., ~~the unborn child, through the unborn child's guardian~~
7 ~~ad litem,~~ shall receive the same notice about the whereabouts of the child expectant
8 mother, about the reasons for holding the child expectant mother in custody, and
9 about the detention hearing as the child expectant mother and her parent, guardian,
10 legal custodian, or Indian custodian. The intake worker shall notify the child
11 expectant mother, her parent, guardian, legal custodian, or Indian custodian, and
12 ~~the unborn child,~~ by the unborn child's guardian ad litem.

13 **SECTION 3.** 48.203 (7) of the statutes is amended to read:

14 48.203 (7) If an adult expectant mother is held in custody, the intake worker
15 shall notify the adult expectant mother and ~~the unborn child, through the unborn~~
16 ~~child's guardian ad litem,~~ of the reasons for holding the adult expectant mother in
17 custody, the time and place of the detention hearing required under s. 48.213, the
18 nature and possible consequences of that hearing, and the right to present and
19 cross-examine witnesses at the hearing.

20 **SECTION 4.** 48.21 (3) (b) of the statutes is amended to read:

21 48.21 (3) (b) If present at the hearing, a copy of the petition or request shall be
22 given to the parent, guardian, legal custodian, or Indian custodian, and to the child
23 if he or she is 12 years of age or older, before the hearing begins. If the child is an

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1 expectant mother who has been taken into custody under s. 48.19 (1) (cm) or (d) 8.,
2 a copy of the petition shall also be given to ~~the unborn child,~~ through the unborn
3 child's guardian ad litem, before the hearing begins. Prior notice of the hearing shall
4 be given to the child's parent, guardian, legal custodian, and Indian custodian, to the
5 child if he or she is 12 years of age or older and, if the child is an expectant mother
6 who has been taken into custody under s. 48.19 (1) (cm) or (d) 8., to ~~the unborn child,~~
7 ~~through~~ the unborn child's guardian ad litem, under s. 48.20 (8).

8 **SECTION 5.** 48.213 (2) (c) of the statutes is amended to read:

9 48.213 (2) (c) A copy of the petition shall be given to the adult expectant mother,
10 and to ~~the unborn child,~~ through the unborn child's guardian ad litem, before the
11 hearing begins. Prior notice of the hearing shall be given to the adult expectant
12 mother and unborn child child's guardian ad litem in accordance with s. 48.203 (7).

13 **SECTION 6.** 48.213 (2) (d) of the statutes is amended to read:

14 48.213 (2) (d) Prior to the commencement of the hearing, the adult expectant
15 mother and ~~the unborn child,~~ through the unborn child's guardian ad litem, shall be
16 informed by the court of the allegations that have been made or may be made, the
17 nature and possible consequences of this hearing as compared to possible future
18 hearings, the right to confront and cross-examine witnesses, and the right to present
19 witnesses.

20 **SECTION 7.** 48.245 (3) of the statutes is amended to read:

21 48.245 (3) The obligations imposed under an informal disposition and its
22 effective date shall be set forth in writing. The child and a parent, guardian, and
23 legal custodian,; the child expectant mother, her parent, guardian, and legal
24 custodian, and ~~the unborn child~~ by the unborn child's guardian ad litem,; or the adult

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1 expectant mother and ~~the unborn child~~ by the unborn child's guardian ad litem, shall
2 receive a copy, as shall any agency providing services under the agreement.

3 **SECTION 8.** 48.245 (8) of the statutes is amended to read:

4 48.245 (8) If the obligations imposed under the informal disposition are met,
5 the intake worker shall so inform the child and a parent, guardian, and legal
6 custodian; the child expectant mother, her parent, guardian, and legal custodian,
7 and ~~the unborn child~~ by the unborn child's guardian ad litem; or the adult expectant
8 mother and ~~the unborn child~~ by the unborn child's guardian ad litem, in writing, and
9 no petition may be filed on the charges that brought about the informal disposition
10 nor may the charges be the sole basis for a petition under ss. 48.13 to 48.14.

11 **SECTION 9.** 48.255 (4) of the statutes is amended to read:

12 48.255 (4) A copy of a petition under sub. (1) shall be given to the child if the
13 child is 12 years of age or over and to the parents, guardian, legal custodian, and
14 physical custodian. A copy of a petition under sub. (1m) shall be given to the child
15 expectant mother, if 12 years of age or over, her parents, guardian, legal custodian,
16 and physical custodian, and ~~the unborn child~~ by the unborn child's guardian ad litem
17 or to the adult expectant mother, ~~the unborn child through~~ the unborn child's
18 guardian ad litem, and the physical custodian of the expectant mother, if any. If the
19 child is an Indian child who has been removed from the home of his or her parent or
20 Indian custodian or the unborn child will be an Indian child when born, a copy of a
21 petition under sub. (1) or (1m) shall also be given to the Indian child's Indian
22 custodian and tribe or the Indian tribe with which the unborn child may be eligible
23 for affiliation when born.

24 **SECTION 10.** 48.27 (3) (a) 1. of the statutes is amended to read:

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1 48.27 (3) (a) 1. If the petition that was filed relates to facts concerning a
2 situation under s. 48.13 or a situation under s. 48.133 involving an expectant mother
3 who is a child, the court shall notify, under s. 48.273, the child, any parent, guardian,
4 and legal custodian of the child, any foster parent or other physical custodian
5 described in s. 48.62 (2) of the child, ~~the unborn child~~ by the unborn child's guardian
6 ad litem, if applicable, and any person specified in par. (b), (d), or (e), if applicable,
7 of all hearings involving the child except hearings on motions for which notice must
8 be provided only to the child and his or her counsel and, if applicable, to the unborn
9 child's guardian ad litem. If parents who are entitled to notice have the same place
10 of residence, notice to one constitutes notice to the other. The first notice to any
11 interested party, foster parent, or other physical custodian described in s. 48.62 (2)
12 shall be in writing and may have a copy of the petition attached to it. Notices of
13 subsequent hearings may be given by telephone at least 72 hours before the time of
14 the hearing. The person giving telephone notice shall place in the case file a signed
15 statement of the time notice was given and the person to whom he or she spoke.

16 **SECTION 11.** 48.27 (3) (c) of the statutes is amended to read:

17 48.27 (3) (c) If the petition that was filed relates to facts concerning a situation
18 under s. 48.133 involving an expectant mother who is an adult, the court shall notify,
19 under s. 48.273, ~~the unborn child~~ by the unborn child's guardian ad litem, the
20 expectant mother, the physical custodian of the expectant mother, if any, and any
21 person specified in par. (d), if applicable, of all hearings involving the unborn child
22 and expectant mother except hearings on motions for which notice need only be
23 provided to the expectant mother and her counsel and ~~the unborn child~~ through the
24 unborn child's guardian ad litem. The first notice to any interested party shall be
25 written and may have a copy of the petition attached to it. Thereafter, notice of

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1 hearings may be given by telephone at least 72 hours before the time of the hearing.
2 The person giving telephone notice shall place in the case file a signed statement of
3 the time notice was given and the person to whom he or she spoke.

4 **SECTION 12.** 48.29 (1) of the statutes is amended to read:

5 48.29 (1) The child, the child's parent, guardian or legal custodian, the
6 expectant mother, ~~or the unborn child by the unborn child's guardian ad litem,~~ either
7 before or during the plea hearing, may file a written request with the clerk of the
8 court or other person acting as the clerk for a substitution of the judge assigned to
9 the proceeding. Upon filing the written request, the filing party shall immediately
10 mail or deliver a copy of the request to the judge named in the request. When any
11 person has the right to request a substitution of judge, that person's counsel or
12 guardian ad litem may file the request. Not more than one such written request may
13 be filed in any one proceeding, nor may any single request name more than one judge.
14 This section does not apply to proceedings under s. 48.21 or 48.213.

15 **SECTION 13.** 48.293 (2) of the statutes is amended to read:

16 48.293 (2) All records relating to a child, or to an unborn child and the unborn
17 child's expectant mother, ~~which~~ that are relevant to the subject matter of a
18 proceeding under this chapter shall be open to inspection by a guardian ad litem or
19 counsel for any party and to inspection by the court-appointed special advocate for
20 the child, upon demand and upon presentation of releases when necessary, at least
21 48 hours before the proceeding. ~~Persons and unborn children, by their guardians ad~~
22 ~~litem,~~ entitled to inspect the records may obtain copies of the records with the
23 permission of the custodian of the records or with permission of the court. The court
24 may instruct counsel, a guardian ad litem, or a court-appointed special advocate not
25 to disclose specified items in the materials to the child or the parent, or to the

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1 expectant mother, if the court reasonably believes that the disclosure would be
2 harmful to the interests of the child or the unborn child.

3 **SECTION 14.** 48.293 (3) of the statutes is amended to read:

4 48.293 (3) Upon request prior to the fact-finding hearing, counsel for the
5 interests of the public shall disclose to the child, through his or her counsel or
6 guardian ad litem, or to ~~the unborn child, through the unborn child's guardian ad~~
7 litem, the existence of any audiovisual recording of an oral statement of a child under
8 s. 908.08 ~~which~~ that is within the possession, custody, or control of the state and shall
9 make reasonable arrangements for the requesting person to view the statement. If,
10 after compliance with this subsection, the state obtains possession, custody, or
11 control of such a statement, counsel for the interests of the public shall promptly
12 notify the requesting person of that fact and make reasonable arrangements for the
13 requesting person to view the statement.

14 **SECTION 15.** 48.297 (6) of the statutes is amended to read:

15 48.297 (6) A motion required to be served on a child may be served on his or
16 her attorney of record. ~~A motion required to be served on an unborn child may be~~
17 ~~served on the unborn child's guardian ad litem.~~

18 **SECTION 16.** 48.299 (1) (a) of the statutes is amended to read:

19 48.299 (1) (a) The general public shall be excluded from hearings under this
20 chapter and from hearings by courts exercising jurisdiction under s. 48.16 unless a
21 public fact-finding hearing is demanded by a child through his or her counsel, by an
22 expectant mother through her counsel, or by an ~~unborn child through the unborn~~
23 ~~child's guardian ad litem.~~ However, the court shall refuse to grant the public hearing
24 in a proceeding other than a proceeding under s. 48.375 (7), if a parent, guardian,

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1 expectant mother, or ~~unborn child through the~~ unborn child's guardian ad litem
2 objects.

3 **SECTION 17.** 48.30 (2) of the statutes is amended to read:

4 48.30 (2) At the commencement of the hearing under this section the child and
5 the parent, guardian, legal custodian, or Indian custodian; the child expectant
6 mother, her parent, guardian, legal custodian, or Indian custodian, and ~~the unborn~~
7 ~~child through the~~ unborn child's guardian ad litem; or the adult expectant mother
8 and ~~the unborn child through the~~ unborn child's guardian ad litem; shall be advised
9 of ~~their~~ the rights as specified in s. 48.243 and shall be informed that a request for
10 a jury trial or for a substitution of judge under s. 48.29 must be made before the end
11 of the plea hearing or is waived. Nonpetitioning parties, including the child, shall
12 be granted a continuance of the plea hearing if they wish to consult with an attorney
13 on the request for a jury trial or substitution of a judge.

14 **SECTION 18.** 48.31 (2) of the statutes is amended to read:

15 48.31 (2) The hearing shall be to the court unless the child, the child's parent,
16 guardian, or legal custodian, ~~the unborn child by the~~ unborn child's guardian ad
17 litem, or the expectant mother of the unborn child exercises the right to a jury trial
18 by demanding a jury trial at any time before or during the plea hearing. If a jury trial
19 is demanded in a proceeding under s. 48.13 or 48.133, the jury shall consist of 6
20 persons. If a jury trial is demanded in a proceeding under s. 48.42, the jury shall
21 consist of 12 persons unless the parties agree to a lesser number. Chapters 756 and
22 805 shall govern the selection of jurors. If the hearing involves a child victim or
23 witness, as defined in s. 950.02, the court may order that a deposition be taken by
24 audiovisual means and allow the use of a recorded deposition under s. 967.04 (7) to
25 (10) and, with the district attorney, shall comply with s. 971.105. At the conclusion

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1 of the hearing, the court or jury shall make a determination of the facts, except that
2 in a case alleging a child or an unborn child to be in need of protection or services
3 under s. 48.13 or 48.133, the court shall make the determination under s. 48.13
4 (intro.) or 48.133 relating to whether the child or unborn child is in need of protection
5 or services that can be ordered by the court. If the court finds that the child or unborn
6 child is not within the jurisdiction of the court or, in a case alleging a child or an
7 unborn child to be in need of protection or services under s. 48.13 or 48.133, that the
8 child or unborn child is not in need of protection or services that can be ordered by
9 the court or if the court or jury finds that the facts alleged in the petition have not
10 been proved, the court shall dismiss the petition with prejudice.

11 **SECTION 19.** 48.315 (1) (b) of the statutes is amended to read:

12 48.315 (1) (b) Any period of delay resulting from a continuance granted at the
13 request of or with the consent of the child and his or her counsel or of ~~the unborn child~~
14 ~~by~~ the unborn child's guardian ad litem.

15 **SECTION 20.** 48.32 (1) (a) of the statutes is amended to read:

16 48.32 (1) (a) At any time after the filing of a petition for a proceeding relating
17 to s. 48.13 or 48.133 and before the entry of judgment, the judge or a circuit court
18 commissioner may suspend the proceedings and place the child or expectant mother
19 under supervision in the home or present placement of the child or expectant mother.
20 The court may establish terms and conditions applicable to the child and the child's
21 parent, guardian, or legal custodian, to the child expectant mother and her parent,
22 guardian or legal custodian, or to the adult expectant mother, including the condition
23 specified in sub. (1b). The order under this section shall be known as a consent decree
24 and must be agreed to by the child if 12 years of age or older, the parent, guardian,
25 or legal custodian, and the person filing the petition under s. 48.25; by the child

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1 expectant mother, her parent, guardian, or legal custodian, ~~the unborn child by the~~
2 unborn child's guardian ad litem, and the person filing the petition under s. 48.25;
3 or by the adult expectant mother, ~~the unborn child by the~~ unborn child's guardian
4 ad litem, and the person filing the petition under s. 48.25. The consent decree shall
5 be reduced to writing and given to the parties.

6 **SECTION 21.** 48.32 (2) (c) of the statutes is amended to read:

7 48.32 (2) (c) Upon the motion of the court or the application of the child, parent,
8 guardian, legal custodian, expectant mother, ~~unborn child by the~~ unborn child's
9 guardian ad litem, intake worker, or any agency supervising the child or expectant
10 mother under the consent decree, the court may, after giving notice to the parties to
11 the consent decree, their counsel or guardian ad litem, and the court-appointed
12 special advocate for the child, if any, extend the decree for up to an additional 6
13 months in the absence of objection to extension by the parties to the initial consent
14 decree. If the child, parent, guardian, legal custodian, expectant mother or ~~unborn~~
15 ~~child by the~~ unborn child's guardian ad litem objects to the extension, the judge shall
16 schedule a hearing and make a determination on the issue of extension. An
17 extension under this paragraph of a consent decree relating to an unborn child who
18 is alleged to be in need of protection or services may be granted after the child is born.

19 **SECTION 22.** 48.355 (2) (b) 1m. of the statutes is amended to read:

20 48.355 (2) (b) 1m. A notice that the child's parent, guardian, or legal custodian,
21 the child, if 14 years of age or over, the expectant mother, if 14 years of age or over,
22 or ~~the unborn child by the~~ unborn child's guardian ad litem may request an agency
23 that is providing care or services for the child or expectant mother or that has legal
24 custody of the child to disclose to, or make available for inspection by, the parent,
25 guardian, legal custodian, child, expectant mother, or ~~unborn child by the~~ unborn

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1 child's guardian ad litem the contents of any record kept or information received by
2 the agency about the child or expectant mother as provided in s. 48.78 (2) (ag) and
3 (aj).

4 **SECTION 23.** 48.355 (2) (d) of the statutes is amended to read:

5 48.355 (2) (d) The court shall provide a copy of a dispositional order relating
6 to a child in need of protection or services to the child's parent, guardian, legal
7 custodian, or trustee, to the child through the child's counsel or guardian ad litem,
8 to the child's court-appointed special advocate, and, if the child is an Indian child
9 who has been removed from the home of his or her parent or Indian custodian and
10 placed outside that home, to the Indian child's Indian custodian and tribe. The court
11 shall provide a copy of a dispositional order relating to an unborn child in need of
12 protection or services to the expectant mother, to ~~the unborn child through the~~
13 unborn child's guardian ad litem, to the parent, guardian, legal custodian, or trustee
14 of a child expectant mother, and, if the expectant mother is an Indian child, to the
15 expectant mother's Indian custodian and tribe.

16 **SECTION 24.** 48.357 (1) (am) 1. of the statutes is amended to read:

17 48.357 (1) (am) 1. If the proposed change in placement involves any change in
18 placement other than a change in placement specified in par. (c), the person or agency
19 primarily responsible for implementing the dispositional order, the district attorney,
20 or the corporation counsel shall cause written notice of the proposed change in
21 placement to be sent to the child, the parent, guardian, and legal custodian of the
22 child, any foster parent or other physical custodian described in s. 48.62 (2) of the
23 child, the child's court-appointed special advocate, and, if the child is an Indian child
24 who has been removed from the home of his or her parent or Indian custodian, the
25 Indian child's Indian custodian and tribe. If the child is the expectant mother of an

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1 unborn child under s. 48.133, written notice shall also be sent to ~~the unborn child by~~
2 the unborn child's guardian ad litem. If the change in placement involves an adult
3 expectant mother of an unborn child under s. 48.133, written notice shall be sent to
4 the adult expectant mother and ~~the unborn child by~~ the unborn child's guardian ad
5 litem. The notice shall contain the name and address of the new placement, the
6 reasons for the change in placement, a statement describing why the new placement
7 is preferable to the present placement, and a statement of how the new placement
8 satisfies objectives of the treatment plan ordered by the court.

9 **SECTION 25.** 48.357 (1) (am) 2. b. of the statutes is amended to read:

10 48.357 (1) (am) 2. b. By the child expectant mother, if 12 years of age or over,
11 her parent, guardian, legal custodian, or Indian custodian, ~~the unborn child by the~~
12 unborn child's guardian ad litem, and the child expectant mother's tribe, if she is an
13 Indian child who has been removed from the home of her parent or Indian custodian.

14 **SECTION 26.** 48.357 (1) (am) 2. c. of the statutes is amended to read:

15 48.357 (1) (am) 2. c. By the adult expectant mother and ~~the unborn child by the~~
16 unborn child's guardian ad litem.

17 **SECTION 27.** 48.357 (2m) (a) of the statutes is amended to read:

18 48.357 (2m) (a) The child, the parent, guardian, legal custodian, or Indian
19 custodian of the child, the expectant mother, ~~the unborn child by the~~ unborn child's
20 guardian ad litem, or any person or agency primarily bound by the dispositional
21 order, other than the person or agency responsible for implementing the order, may
22 request a change in placement under this paragraph. The request shall contain the
23 name and address of the new placement requested and shall state what new
24 information is available that affects the advisability of the current placement. If the
25 proposed change in placement would change the placement of a child placed in the

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1 child's home to a placement outside the child's home, the request shall also contain
2 specific information showing that continued placement of the child in the home
3 would be contrary to the welfare of the child and, unless any of the circumstances
4 under s. 48.355 (2d) (b) 1. to 5. applies, specific information showing that the agency
5 primarily responsible for implementing the dispositional order has made reasonable
6 efforts to prevent the removal of the child from the home, while assuring that the
7 child's health and safety are the paramount concerns. The request shall be
8 submitted to the court. The court may also propose a change in placement on its own
9 motion.

10 **SECTION 28.** 48.357 (2m) (b) of the statutes is amended to read:

11 48.357 (2m) (b) The court shall hold a hearing prior to ordering any change in
12 placement requested or proposed under par. (a) if the request states that new
13 information is available that affects the advisability of the current placement. A
14 hearing is not required if the requested or proposed change in placement does not
15 involve a change in placement of a child placed in the child's home to a placement
16 outside the child's home, written waivers of objection to the proposed change in
17 placement are signed by all persons entitled to receive notice under this paragraph,
18 other than a court-appointed special advocate, and the court approves. If a hearing
19 is scheduled, not less than 3 days before the hearing the court shall notify the child,
20 the parent, guardian, and legal custodian of the child, any foster parent or other
21 physical custodian described in s. 48.62 (2) of the child, the child's court-appointed
22 special advocate, all parties who are bound by the dispositional order, and, if the child
23 is an Indian child, the Indian child's Indian custodian and tribe. If the child is the
24 expectant mother of an unborn child under s. 48.133, the court shall also notify the
25 ~~unborn child~~ by the unborn child's guardian ad litem. If the change in placement

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1 involves an adult expectant mother of an unborn child under s. 48.133, the court shall
2 notify the adult expectant mother, ~~the unborn child~~ by the unborn child's guardian
3 ad litem, and all parties who are bound by the dispositional order, at least 3 days prior
4 to the hearing. A copy of the request or proposal for the change in placement shall
5 be attached to the notice. Subject to par. (br), if all of the parties consent, the court
6 may proceed immediately with the hearing.

7 **SECTION 29.** 48.363 (1) (a) of the statutes is amended to read:

8 48.363 (1) (a) A child, the child's parent, guardian, legal custodian, or Indian
9 custodian, an expectant mother, ~~an unborn child~~ by the unborn child's guardian ad
10 litem, any person or agency bound by a dispositional order, or the district attorney
11 or corporation counsel in the county in which the dispositional order was entered
12 may request a revision in the order that does not involve a change in placement,
13 including a revision with respect to the amount of child support to be paid by a
14 parent. The court may also propose a revision. The request or court proposal shall
15 set forth in detail the nature of the proposed revision and what new information is
16 available that affects the advisability of the court's disposition. The request or court
17 proposal shall be submitted to the court. The court shall hold a hearing on the matter
18 prior to any revision of the dispositional order if the request or court proposal
19 indicates that new information is available which affects the advisability of the
20 court's dispositional order, unless written waivers of objections to the revision are
21 signed by all parties entitled to receive notice and the court approves.

22 **SECTION 30.** 48.363 (1) (b) of the statutes is amended to read:

23 48.363 (1) (b) If a hearing is held, at least 3 days before the hearing the court
24 shall notify the child, the child's parent, guardian, legal custodian, and Indian
25 custodian, all parties bound by the dispositional order, the child's foster parent or

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

15 **SECTION 31.** 48.365 (1m) of the statutes is amended to read:

16 48.365 (1m) The parent, child, guardian, legal custodian, Indian custodian,
17 expectant mother, ~~unborn child by~~ the unborn child's guardian ad litem, any person
18 or agency bound by the dispositional order, the district attorney or corporation
19 counsel in the county in which the dispositional order was entered, or the court on
20 its own motion may request an extension of an order under s. 48.355 including an
21 order under s. 48.355 that was entered before the child was born. The request shall
22 be submitted to the court that entered the order. An order under s. 48.355 may be
23 extended only as provided in this section.

24 **SECTION 32.** 48.365 (2) of the statutes is amended to read:

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1 48.365 (2) No order may be extended without a hearing. The court shall
2 provide notice of the time and place of the hearing to the child, the child's parent,
3 guardian, legal custodian, and Indian custodian, all the parties present at the
4 original hearing, the child's foster parent or other physical custodian described in s.
5 48.62 (2), the child's court-appointed special advocate, the district attorney or
6 corporation counsel in the county in which the dispositional order was entered and,
7 if the child is an Indian child who is placed outside the home of his or her parent or
8 Indian custodian, the Indian child's tribe. If the child is an expectant mother of an
9 unborn child under s. 48.133, the court shall also notify ~~the unborn child by the~~
10 unborn child's guardian ad litem. If the extension hearing involves an adult
11 expectant mother of an unborn child under s. 48.133, the court shall notify the adult
12 expectant mother, ~~the unborn child through~~ the unborn child's guardian ad litem, all
13 the parties present at the original hearing, and the district attorney or corporation
14 counsel in the county in which the dispositional order was entered, of the time and
15 place of the hearing.

16 **SECTION 33.** 48.396 (1b) of the statutes is amended to read:

17 48.396 (1b) If requested by the parent, guardian, or legal custodian of a child
18 who is the subject of a law enforcement officer's report, or if requested by the child,
19 if 14 years of age or over, a law enforcement agency may, subject to official agency
20 policy, provide to the parent, guardian, legal custodian, or child a copy of that report.
21 If requested by the parent, guardian, or legal custodian of a child expectant mother
22 of an unborn child who is the subject of a law enforcement officer's report, if requested
23 by an expectant mother of an unborn child who is the subject of a law enforcement
24 officer's report, if 14 years of age or over, or if requested by an ~~unborn child through~~
25 ~~the~~ unborn child's guardian ad litem, a law enforcement agency may, subject to

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1 official agency policy, provide to the parent, guardian, legal custodian, expectant
2 mother or ~~unborn child by the unborn child's guardian ad litem~~ a copy of that report.

3 **SECTION 34.** 48.396 (1d) of the statutes is amended to read:

4 48.396 (1d) Upon the written permission of the parent, guardian, or legal
5 custodian of a child who is the subject of a law enforcement officer's report or upon
6 the written permission of the child, if 14 years of age or over, a law enforcement
7 agency may, subject to official agency policy, make available to the person named in
8 the permission any reports specifically identified by the parent, guardian, legal
9 custodian or child in the written permission. Upon the written permission of the
10 parent, guardian, or legal custodian of a child expectant mother of an unborn child
11 who is the subject of a law enforcement officer's report, or of an expectant mother of
12 an unborn child who is the subject of a law enforcement officer's report, if 14 years
13 of age or over, and of ~~the unborn child by the unborn child's guardian ad litem~~, a law
14 enforcement agency may, subject to official agency policy, make available to the
15 person named in the permission any reports specifically identified by the parent,
16 guardian, legal custodian or expectant mother, and ~~unborn child by the unborn~~
17 ~~child's guardian ad litem~~ in the written permission.

18 **SECTION 35.** 48.396 (2) (aj) of the statutes is amended to read:

19 48.396 (2) (aj) Upon request of the parent, guardian, or legal custodian of a
20 child expectant mother of an unborn child who is the subject of a record of a court
21 specified in par. (a), upon request of an expectant mother of an unborn child who is
22 the subject of a record of a court specified in par. (a), if 14 years of age or over, or upon
23 request of an ~~unborn child by the unborn child's guardian ad litem~~, the court shall
24 open for inspection by the parent, guardian, legal custodian, expectant mother, or
25 ~~unborn child by the unborn child's guardian ad litem~~ the records of the court relating

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1 to that expectant mother, unless the court finds, after due notice and hearing, that
2 inspection of those records by the parent, guardian, legal custodian, expectant
3 mother, or ~~unborn child by the~~ unborn child's guardian ad litem would result in
4 imminent danger to anyone.

5 **SECTION 36.** 48.396 (2) (ap) of the statutes is amended to read:

6 48.396 (2) (ap) Upon the written permission of the parent, guardian, or legal
7 custodian of a child expectant mother of an unborn child who is the subject of a record
8 of a court specified in par. (a), or of an expectant mother of an unborn child who is
9 the subject of a record of a court specified in par. (a), if 14 years of age or over, and
10 of ~~the unborn child by the~~ unborn child's guardian ad litem, the court shall open for
11 inspection by the person named in the permission any records specifically identified
12 by the parent, guardian, legal custodian, or expectant mother, and ~~unborn child by~~
13 ~~the~~ unborn child's guardian ad litem in the written permission, unless the court
14 finds, after due notice and hearing, that inspection of those records by the person
15 named in the permission would result in imminent danger to anyone.

16 **SECTION 37.** 48.396 (5) (b) of the statutes is amended to read:

17 48.396 (5) (b) The court shall notify the child, the child's counsel, the child's
18 parents, appropriate law enforcement agencies, and, if the child is an expectant
19 mother of an unborn child under s. 48.133, ~~the unborn child by the~~ unborn child's
20 guardian ad litem, or shall notify the adult expectant mother, ~~the unborn child by the~~
21 unborn child's guardian ad litem, and appropriate law enforcement agencies, in
22 writing of the petition. If any person notified objects to the disclosure, the court may
23 hold a hearing to take evidence relating to the petitioner's need for the disclosure.

24 **SECTION 38.** 48.46 (1) of the statutes is amended to read:

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1 48.46 (1) Except as provided in subs. (1m), (2), and (3), the child whose status
2 is adjudicated by the court, the parent, guardian, or legal custodian of that child, the
3 guardian ad litem of an unborn child whose status is adjudicated by the court, or the
4 expectant mother of that unborn child may at any time within one year after the
5 entering of the court's order petition the court for a rehearing on the ground that new
6 evidence has been discovered affecting the advisability of the court's original
7 adjudication. Upon a showing that such evidence does exist, the court shall order a
8 new hearing.

NOTE: SECTIONS 2 to 32, 37, and 38 modify provisions of the Children's Code relating to proceedings in which an unborn child is alleged to be in need of protection or services so that notices must be given to and rights must be exercised by the unborn child's guardian ad litem instead of by the unborn child through the unborn child's guardian ad litem.

9 **SECTION 39.** 48.675 of the statutes is repealed.

NOTE: Repeals a statute that requires the Department of Children and Families to develop a voluntary foster parent education program for foster parents who provide care for children with special treatment needs.

10 **SECTION 40.** 48.78 (2) (aj) of the statutes is amended to read:

11 48.78 (2) (aj) Paragraph (a) does not prohibit an agency from making available
12 for inspection or disclosing the contents of a record, upon the request of a parent,
13 guardian, or legal custodian of a child expectant mother of an unborn child who is
14 the subject of the record, upon the request of an expectant mother of an unborn child
15 who is the subject of the record, if 14 years of age or over, or upon the request of an
16 ~~unborn child by the~~ unborn child's guardian ad litem to the parent, guardian, legal
17 custodian, expectant mother, or ~~unborn child by the~~ unborn child's guardian ad
18 litem, unless the agency determines that inspection of the record by the parent,
19 guardian, legal custodian, expectant mother, or ~~unborn child by the~~ unborn child's
20 guardian ad litem would result in imminent danger to anyone.

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1 **SECTION 41.** 48.78 (2) (ap) of the statutes is amended to read:
2 48.78 (2) (ap) Paragraph (a) does not prohibit an agency from making available
3 for inspection or disclosing the contents of a record, upon the written permission of
4 the parent, guardian, or legal custodian of a child expectant mother of an unborn
5 child who is the subject of the record, or of an expectant mother of an unborn child
6 who is the subject of the record, if 14 years of age or over, and of ~~the unborn child by~~
7 the unborn child's guardian ad litem, to the person named in the permission if the
8 parent, guardian, legal custodian, or expectant mother, and ~~unborn child by the~~
9 unborn child's guardian ad litem, specifically identify the record in the written
10 permission, unless the agency determines that inspection of the record by the person
11 named in the permission would result in imminent danger to anyone.

NOTE: SECTIONS 33 to 36, 40, and 41 provide that law enforcement, juvenile court, and agency records governed by the Children's Code may be released to certain persons upon the request or with the permission of an unborn child's guardian ad litem instead of upon the request or with the permission of the unborn child by the unborn child's guardian ad litem

12 **SECTION 42.** 48.981 (3) (c) 1. a. of the statutes is amended to read:
13 48.981 (3) (c) 1. a. Immediately after receiving a report under par. (a), the
14 agency shall evaluate the report to determine whether there is reason to suspect that
15 a caregiver has abused or neglected the child, has threatened the child with abuse
16 or neglect, or has facilitated or failed to take action to prevent the suspected or
17 threatened abuse or neglect of the child. Except as provided in sub. (3m), if the
18 agency determines that a caregiver is suspected of abuse or neglect or of threatened
19 abuse or neglect of the child, determines that a caregiver is suspected of facilitating
20 or failing to take action to prevent the suspected or threatened abuse or neglect of
21 the child, or cannot ~~determine who abused or neglected the child~~ identify an
22 individual who is suspected of abuse or neglect or of threatened abuse or neglect of

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1 the child, within 24 hours after receiving the report the agency shall, in accordance
2 with the authority granted to the department under s. 48.48 (17) (a) 1. or the county
3 department under s. 48.57 (1) (a), initiate a diligent investigation to determine if the
4 child is in need of protection or services. If the agency determines that a person who
5 is not a caregiver is suspected of abuse or of threatened abuse, the agency may, in
6 accordance with that authority, initiate a diligent investigation to determine if the
7 child is in need or protection or services. Within 24 hours after receiving a report
8 under par. (a) of suspected unborn child abuse, the agency, in accordance with that
9 authority, shall initiate a diligent investigation to determine if the unborn child is
10 in need of protection or services. An investigation under this subd. 1. a. shall be
11 conducted in accordance with standards established by the department for
12 conducting child abuse and neglect investigations or unborn child abuse
13 investigations.

NOTE: Under current law, if an agency that investigates a report of alleged child abuse or neglect cannot determine who abused or neglected the child, the agency must initiate a diligent investigation to determine if the child is in need of protection or services within 24 hours after receiving the report. This SECTION instead requires an investigation to be initiated within 24 hours after receiving such a report if the agency cannot identify an individual who is suspected of abuse or neglect or of threatened abuse or neglect of the child.

14 **SECTION 43.** 49.854 (5) (f) of the statutes is amended to read:

15 49.854 (5) (f) *Hearings.* A hearing requested under par. (d) 6. shall be
16 conducted before the circuit court rendering the order to pay support. Within 45
17 business days after receiving a request for hearing under par. (d) 6., the court shall
18 conduct the hearing. A circuit court commissioner may conduct the hearing. The
19 hearing shall be limited to a review of whether the account holder owes the amount
20 of support certified and whether any alternative payment arrangement offered by
21 the department or the county child support agency is reasonable. If the court or

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1 circuit court commissioner makes a written determination that an alternative
2 payment arrangement offered by the department or county child support agency is
3 not reasonable, the court or circuit court commissioner may order an alternative
4 payment arrangement. If the court or circuit court commissioner orders an
5 alternative payment arrangement, the court or circuit court commissioner shall
6 order the department to instruct the financial institution to release all or a portion
7 of the funds. If the court or circuit court commissioner determines that the account
8 holder does not owe support or owes less than the amount claimed by the
9 department, the court shall order the department to ~~return the seized funds~~ instruct
10 the financial institution to release the funds in the account or the excess of ~~the seized~~
11 those funds over the amount of the delinquency to the account holder. If a circuit
12 court commissioner conducts the hearing under this paragraph, the department or
13 the obligor may, within 15 business days after the date that the circuit court
14 commissioner makes his or her decision, request review of the decision by the court
15 with jurisdiction over the action.

NOTE: In a hearing relating to a levy against a delinquent obligor's financial account, provides that the court may order the department to instruct the financial institution to release all or a portion of the funds, instead of ordering the department to release the funds.

16 **SECTION 44.** 69.15 (3) (b) 3. of the statutes is amended to read:

17 69.15 (3) (b) 3. Except as provided under par. (c), if the state registrar receives
18 a statement acknowledging paternity on a form prescribed by the state registrar and
19 signed by both parents, ~~and by a parent or legal guardian of any parent who is~~ neither
20 of whom was under the age of 18 years when the form was signed, along with the fee
21 under s. 69.22, the state registrar shall insert the name of the father under subd. 1.
22 The state registrar shall mark the certificate to show that the form is on file. The
23 form shall be available to the department of children and families or a county child

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1 support agency under s. 59.53 (5) pursuant to the program responsibilities under s.
2 49.22 or to any other person with a direct and tangible interest in the record. The
3 state registrar shall include on the form for the acknowledgment the information in
4 s. 767.805 and the items in s. 767.813 (5g).

NOTE: Modifies the statute relating to inserting the name of a father on a birth certificate pursuant to an acknowledgement of paternity so that it is consistent with current law under which a minor father may not sign an acknowledgement of paternity.

5 **SECTION 45.** 767.813 (5) (a) 4. of the statutes is amended to read:

6 767.813 (5) (a) 4. You are also notified that interference with the custody of a
7 child is punishable by a fine of up to \$10,000 and imprisonment for up to ~~5~~ 3 years
8 and 6 months. Section 948.31, stats.

NOTE: Changes the form for a summons in a paternity action to correctly reflect that interfering with the custody of a child may be punished by imprisonment not to exceed 3 years and 6 months instead of 5 years.

9 **SECTION 46.** 767.865 (1) (a) of the statutes is amended to read:

10 767.865 (1) (a) The personal representative or, if there is no personal
11 representative, a guardian ad litem in accordance with par. (b) may appear for a
12 deceased respondent whenever an appearance by the respondent is required. The
13 summons and petition shall be served on the personal representative of ~~and~~ or
14 guardian ad litem for the deceased respondent under s. 767.813 (3).

NOTE: Provides that in a paternity action in which the respondent is deceased, either the personal representative or the guardian ad litem for the deceased respondent must be served with the summons and petition. Under current law, a personal representative or a guardian ad litem may appear for a deceased respondent; however, current law requires both to be served with the summons or petition.

15

(END)