

1999 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-AB133)

Received: **06/24/99**

Received By: **olsenje**

Wanted: **Today**

Identical to LRB:

For: **Assembly Republican Caucus**

By/Representing: **Rindfleisch**

This file may be shown to any legislator: **NO**

Drafter: **olsenje**

May Contact:

Alt. Drafters: **malaigm**

Subject: **Public Defender**

Extra Copies: **MGD**

Pre Topic:

ARC:.....Rindfleisch - Am. # 19,

Topic:

SPD representation in CHIPS/JIPS cases

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	olsenje 06/24/99	jgeller 06/24/99	martykr 06/24/99	_____	lrb_docadmin 06/24/99		
	malaigm 06/26/99	jgeller 06/26/99		_____			
/2			kfollet 06/26/99	_____	lrb_docadmin 06/26/99		

FE Sent For:

<END>

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/1	olsenje 06/24/99	kgeller 06/24/99	martykr 06/24/99	_____	lrb_docadmin 06/24/99		
		<i>kg</i> <i>6/26/99</i>	<i>kgf</i> <i>6/26</i>	<i>kgf/jf</i> <i>6/26</i>			

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/1	olsenje	1 6/24 jlg	km 6/24	KF by km 24			

FE Sent For:

<END>

61225

Budget Amendments 1999-2000

Statement of Intent

State Public Defender. Authorizes the State Public Defender to represent parents in CHIPS cases.

Legislator

Spillner

Amendment

19

Staff Contact

Jason

Status

~~Withdrawn~~

passed

Agency

Public Defender

Branch

Summary

In 1995-97 budget, the Legislature eliminated statutory authority regarding a parent's right to counsel in Children in Need of Protective Services proceedings. Subsequently, a Wisconsin Supreme Court ruling indicated that courts have the power to appoint counsel for parents in CHIPS cases. Since the SPD is no longer authorized to represent parents in CHIPS cases, when a court determines that public representation is required, such counsel is paid for by counties.

This budget amendment authorizes the State Public Defender to represent parents in CHIPS cases, when a court determines that public representation is required.

The amendment directs the State Public Defender to find monies within their current budget to fund this change.

Fiscal Impact

None.

ARC Analyst

Kelly Rindfleisch

Request #

129

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madison, wisconsin
53708-8982

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<http://www.legis.state.wi.us/assembly/arc>

6/24/99

To: Jensen Olsen

Fr: Jason K

re: chips

this is the correct
amendment + it did

pass.

frank



Budget Amendments 1999-2000

Statement of Intent

State Public Defender. Authorizes the State Public Defender to represent parents in CHIPS cases. b1225

Legislator

Spillner

Amendment#

19

Staff contact

Jason

Status

~~Withdrawn~~

Agency

Public Defender

Tax Cut

passed
[Signature]

Summary

In 1995-97 budget, the Legislature eliminated statutory authority regarding a parent's right to counsel in Children in Need of Protective Services proceedings. Subsequently, a Wisconsin Supreme Court ruling indicated that courts have the power to appoint counsel for parents in CHIPS cases. Since the SPD is no longer authorized to represent parents in CHIPS cases, when a court determines that public representation is required, such counsel is paid for by counties.

This budget amendment authorizes the State Public Defender to represent parents in CHIPS cases, when a court determines that public representation is required.

The amendment directs the State Public Defender to find monies within their current budget to fund this change.

Fiscal Impact

None.

ARC Analyst

Kclly Rindfleisch

Request#:

129



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb1225/1
JEO&GMM:.....

Today

Jg

ARC:.....Rindfleisch - Am. # 19, SPD representation in CHIPS/JIPS cases

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

1 At the locations indicated, amend the substitute amendment[✓] as follows:

2 1. Page 645, line 22: after that line insert:

3 "SECTION 1130z. 48.23 (3)^X of the statutes is amended to read:

4 48.23 (3) POWER OF THE COURT TO APPOINT COUNSEL. ~~Except in proceedings under~~

5 s. 48.13, at[✓] At any time, upon request or on its own motion, the court may appoint

6 counsel for the child or any party, unless the child or the party has or wishes to retain

7 counsel of his or her own choosing. ~~The court may not appoint counsel for any party~~

8 ~~other than the child in a proceeding under s. 48.13.~~[✓]

History: 1977 c. 354, 355, 447, 449; 1979 c. 300, 356; 1987 a. 27; 1987 a. 383; 1989 a. 31; Sup. Ct. Order, 151 W (2d) xxv (1989); 1989 a. 56, 107; 1991 a. 263; 1993 a. 377, 385, 395, 451, 491; 1995 a. 27, 77; 1997 a. 292.

9 2. Page 1431, line 22: after that line insert:

10 "SECTION 3142m. 938.23 (3)[✓] of the statutes is amended to read:

1 938.23 (3) POWER OF THE COURT TO APPOINT COUNSEL. ~~Except in proceedings~~
 2 ~~under s. 938.13, at~~ [✓]At any time, upon request or on its own motion, the court may
 3 appoint counsel for the juvenile or any party, unless the juvenile or the party has or
 4 wishes to retain counsel of his or her own choosing. ~~The court may not appoint~~
 5 ~~counsel for any party other than the juvenile in a proceeding under s. 938.13."~~ [✓]

History: 1995 a. 77.

6 3. Page 1603, line 24: after that line insert:

7 ^{(7) initial app} ^{(4s) c} REPRESENTATION IN PROCEEDINGS INVOLVING CHILDREN IN NEED OF PROTECTION
 8 OR SERVICES. The treatment of section 48.23 (3) [✓]of the statutes first applies to
 9 proceedings commenced under section [✓]48.13 of the statutes on the effective date of
 10 this subsection.

11 ^{(11) initial app} ^{(4t) c} REPRESENTATION IN PROCEEDINGS INVOLVING JUVENILES IN NEED OF PROTECTION
 12 OR SERVICES. The treatment of section [✓]938.23 (3) of the statutes first applies to
 13 proceedings commenced under section [✓]938.13 of the statutes on the effective date of
 14 this subsection."

15 (END)



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb1225/1
JEO&GMM:jlq:km

PMR

ARC:.....Rindfleisch - Am. # 19, SPD representation in CHIPS/JIPS cases

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

1130v (3)

✓
Insert
1-2
③

At the locations indicated, amend the substitute amendment as follows:

1. Page 645, line 22: after that line insert:

SECTION 48.23 (3) of the statutes is amended to read:

4 48.23 (3) POWER OF THE COURT TO APPOINT COUNSEL. ~~Except in proceedings under~~
5 s. 48.13, at At any time, upon request or on its own motion, the court may appoint
6 counsel for the child or any party, unless the child or the party has or wishes to retain
counsel of his or her own choosing. ~~The court may not appoint counsel for any party~~
other than the child in a proceeding under s. 48.13.

2. Page 1431, line 22: after that line insert:

SECTION 938.23 (3) of the statutes is amended to read:

✓
Insert
1-8
③
Insert
1-9
⑩

1 938.23 (3) POWER OF THE COURT TO APPOINT COUNSEL. ~~Except in proceedings~~
 2 ~~under s. 938.13, at~~ At any time, upon request or on its own motion, the court may
 3 appoint counsel for the juvenile or any party, unless the juvenile or the party has or
 4 wishes to retain counsel of his or her own choosing. ~~The court may not appoint~~
~~counsel for any party other than the juvenile in a proceeding under s. 938.13.~~

Line 5
2-5 6

3. Page 1603, line 24: after that line insert:

sections 48.20(8), 48.21(3)(d),

7 (4cs) REPRESENTATION IN PROCEEDINGS INVOLVING CHILDREN IN NEED OF
 8 PROTECTION OR SERVICES. The treatment of section 48.23 (3) ~~of the statutes first~~
 9 ~~applies to~~ proceedings commenced under section 48.13 of the statutes on the effective
 10 date of this subsection.

and (4) and 48.27(4)(a)?

sections 938.20(8), 938.21(3)(d),

11 (4ct) REPRESENTATION IN PROCEEDINGS INVOLVING JUVENILES IN NEED OF
 12 PROTECTION OR SERVICES. The treatment of section 938.23 (3) ~~of the statutes first~~
 13 ~~applies to~~ proceedings commenced under section 938.13 of the statutes on the plain
 14 plain effective date of this subsection."

(2), (3) and (4), 938.243(1)(e) and 938.27(4)(b)

~~applies to~~
 MAXIMUM
 plain
 the sen

(END)

the renumbering and amendment of section 48.23(2) of the statutes and the creation of section 48.23 (2)(b) of the statutes first apply

Insert 1-2

1130m

Section 48.20 (8) of the statutes is amended to read:

the right to counsel under s. 48.23[✓] regardless of
ability to pay

48.20 (8) If a child is held in custody, the intake worker shall notify the child's parent, guardian and legal custodian of the reasons for holding the child in custody and of the child's whereabouts unless there is reason to believe that notice would present imminent danger to the child. The parent, guardian and legal custodian shall also be notified of the time and place of the detention hearing required under s. 48.21, the nature and possible consequences of that hearing, and the right to present and cross-examine witnesses at the hearing. If the parent, guardian or legal custodian is not immediately available, the intake worker or another person designated by the court shall provide notice as soon as possible. When the child is 12 years of age or older, the child shall receive the same notice about the detention hearing as the parent, guardian or legal custodian. The intake worker shall notify both the child and the child's parent, guardian or legal custodian. When the child is an expectant mother who has been taken into custody under s. 48.19 (1) (cm) or (d) 8., the unborn child, through the unborn child's guardian ad litem, shall receive the same notice about the whereabouts of the child expectant mother, about the reasons for holding the child expectant mother in custody and about the detention hearing as the child expectant mother and her parent, guardian or legal custodian. The intake worker shall notify the child expectant mother, her parent, guardian or legal custodian and the unborn child, by the unborn child's guardian ad litem.

History: 1977 c. 354, 449; 1979 c. 300; 1983 a. 189 s. 329 (5); 1993 a. 16, 56, 98, 385; 1995 a. 27, 77; 1997 a. 292.



Trust 1-2

1130p

x

Section #. 48.21 (3) (d) of the statutes is amended to read:

The right to counsel under s. 48.23 regardless of ability to pay.

48.21 (3) (d) Prior to the commencement of the hearing, the parent, guardian or legal custodian shall be informed by the court of the allegations that have been made or may be made, the nature and possible consequences of this hearing as compared to possible future hearings, the right to confront and cross-examine witnesses and the right to present witnesses.

History: 1977 c. 354, 447; 1979 c. 300; 1983 a. 399; 1985 a. 311; 1993 a. 98; 1995 a. 27, 77, 275; 1997 a. 35, 237, 292.



number
 1130c
 insert 1-2
 renumbered 48.23(2)(a) and
 Section #. 48.23 (2) of the statutes is amended to read:
 (a) alleged to be in need of protection or services under s. 48.13 or 13

48.23 (2) ~~RIGHT OF PARENTS TO COUNSEL~~ Whenever a child is the subject of a proceeding involving a contested adoption or the involuntary termination of parental rights, any parent under 18 years of age who appears before the court shall be represented by counsel; but no such parent may waive counsel. A minor parent petitioning for the voluntary termination of parental rights shall be represented by a guardian ad litem. If a proceeding involves a contested adoption or the involuntary termination of parental rights, any parent 18 years old or older who appears before the court shall be represented by counsel; but the parent may waive counsel provided the court is satisfied such waiver is knowingly and voluntarily made.

History: 1977 c. 354, 355, 447, 449; 1979 c. 300, 356; 1987 a. 27; 1987 a. 383; 1989 a. 31; Sup. Ct. Order, 151 W (2d) xxv (1989); 1989 a. 56, 107; 1991 a. 263; 1993 a. 377, 385, 395, 451, 491; 1995 a. 27, 77; 1997 a. 292.



1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb1225/2
GMM.....

(INSERT 1-2)

SECTION 1130t. 48.23 (2) (b)[✓] of the statutes is created to read:

48.23 (2) (b) If a petition under s. 48.13 is contested, no child may be placed outside his or her home unless the nonpetitioning parent is represented by counsel at the fact-finding hearing and subsequent proceedings. If the petition is not contested, the child may not be placed outside his or her home unless the nonpetitioning parent is represented by counsel at the hearing at which the placement is made. A parent who is required under this[✓] paragraph to be represented by counsel may, however, waive counsel if the court is satisfied that such waiver is knowingly and voluntarily made, and the court may place the child outside the home even though the parent was not represented by counsel.

(END OF INSERT)

1-2

Insert 1-8

1130x

Section #. 48.23 (4) of the statutes is amended to read:

child

~~person~~

child (use history)

48.23 (4) PROVIDING COUNSEL. In any situation under this section in which a ~~person~~ has a right to be represented by counsel or is provided counsel at the discretion of the court and counsel is not knowingly and voluntarily waived, the court shall refer the ~~person~~ to the state public defender and counsel shall be appointed by the state public defender under s. 977.08 without a determination of indigency. If the referral is of a ~~person~~ who has filed a petition under s. 48.375 (7), the state public defender shall appoint counsel within 24 hours after that referral. Any counsel appointed in a petition filed under s. 48.375 (7) shall continue to represent the ~~child~~ in any appeal brought under s. 809.105 unless the ~~child~~ requests substitution of counsel or extenuating circumstances make it impossible for counsel to continue to represent the child. In any situation under sub. (2) or (2m) in which a parent 18 years of age or over or an adult expectant mother is entitled to representation by counsel; counsel is not knowingly and voluntarily waived; and it appears that the parent or adult expectant mother is unable to afford counsel in full, or the parent or adult expectant mother so indicates; the court shall refer the parent or adult expectant mother to the authority for indigency determinations specified under s. 977.07 (1). In any other situation under this section in which a person has a right to be represented by counsel or is provided counsel at the discretion of the court, competent and independent counsel shall be provided and reimbursed in any manner suitable to the court regardless of the person's ability to pay, except that the court may not order a person who files a petition under s. 813.122 or 813.125 to reimburse counsel for the child who is named as the respondent in that petition.

History: 1977 c. 354, 355, 447, 449; 1979 c. 300, 356; 1987 a. 27; 1987 a. 383; 1989 a. 31; Sup. Ct. Order, 151 W (2d) xxv (1989); 1989 a. 56, 107; 1991 a. 263; 1993 a. 377, 385, 395, 451, 491; 1995 a. 27, 77; 1997 a. 292.



1131m

Insert 1-8

4302

Page 646, line 3; after that line insert:

" Section #. 48.27 (4) (a) 2. of the statutes is amended to read:

and any other party, if applicable,

48.27 (4) (a) 2. Advise the child of his or her right to legal counsel regardless of ability to pay. "

History: 1977 c. 354; 1979 c. 300, 331, 359; 1983 a. 27; Sup. Ct. Order, 141 W (2d) xiv (1987); 1987 a. 403; 1991 a. 263, 315; 1993 a. 98, 395; 1995 a. 27, 77, 275; 1997 a. 237, 292; 13.93 (1) (b).

(end of insert)

Insert 1-9

942 3130m (B)

Section 938.20 (8) of the statutes is amended to read:

, the right to counsel under s. 938.23 regardless of ability to pay

938.20 (8) If a juvenile is held in custody, the intake worker shall notify the juvenile's parent, guardian and legal custodian of the reasons for holding the juvenile in custody and of the juvenile's whereabouts unless there is reason to believe that notice would present imminent danger to the juvenile. If a juvenile who has violated the terms of aftercare supervision administered by the department or a county department is held in custody, the intake worker shall also notify the department or county department, whichever has supervision over the juvenile, of the reasons for holding the juvenile in custody, of the juvenile's whereabouts and of the time and place of the detention hearing required under s. 938.21. The parent, guardian and legal custodian shall also be notified of the time and place of the detention hearing required under s. 938.21, the nature and possible consequences of that hearing and the right to present and cross-examine witnesses at the hearing. If the parent, guardian or legal custodian is not immediately available, the intake worker or another person designated by the court shall provide notice as soon as possible. When the juvenile is alleged to have committed a delinquent act, the juvenile shall receive the same notice about the detention hearing as the parent, guardian or legal custodian. The intake worker shall notify both the juvenile and the juvenile's parent, guardian or legal custodian.

History: 1995 a. 77; 1997 a. 35.



(Insert 9)

§ 930 3/3/m

Section #. 938.21 (3) (d) of the statutes is amended to read:

the right to counsel under s. 938.23 regarding
an ability to pay,

938.21 (3) (d) Prior to the commencement of the hearing, the parent, guardian or legal custodian shall be informed by the court of the allegations that have been made or may be made, the nature and possible consequences of this hearing as compared to possible future hearings, the right to confront and cross-examine witnesses and the right to present witnesses.

History: 1995 a. 77, 275; 1997 a. 35, 237, 296.



1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb1225/2
GMM.....

938 ✓
3142g (B) ✓
93 ✓
938.13 ✓
Insert 1-9
~~INSERT 1-2~~
SECTION ~~1101~~ 48.23 (2) ~~(b)~~ of the statutes is created to read: Juvenile

~~48.23 (2)~~ (b) If a petition under s. ~~48.23~~ is contested, no ~~child~~ may be placed outside his or her home unless the nonpetitioning parent is represented by counsel at the fact-finding hearing and subsequent proceedings. If the petition is not contested, the ~~child~~ Juvenile may not be placed outside his or her home unless the nonpetitioning parent is represented by counsel at the hearing at which the placement is made. A parent who is required under this paragraph to be represented by counsel may, however, waive counsel if the court is satisfied that such waiver is knowingly and voluntarily made, and the court may place the ~~child~~ Juvenile outside the home even though the parent was not represented by counsel.

~~END OF INSERT~~ (end of insert)
1-9

NO TP (a) Whenever a juvenile is alleged to be in need of protection or services under s. 938.13 ✓, any parent under 18 years of age who appears before the court shall be represented by counsel; but no such parent may waive counsel. (P)

§ 1429

Insert 2-5

Section #. 938.23 (4) of the statutes is amended to read:

(use twice)

juvenile

938.23 (4) PROVIDING COUNSEL. In any situation under this section in which a ~~person~~ ^{juvenile} has a right to be represented by counsel or is provided counsel at the discretion of the court and counsel is not knowingly and voluntarily waived, the court shall refer the ~~person~~ to the state public defender and counsel shall be appointed by the state public defender under s. 977.08 without a determination of indigency. In any other situation under this section in which a person has a right to be represented by counsel or is provided counsel at the discretion of the court, competent and independent counsel shall be provided and reimbursed in any manner suitable to the court regardless of the person's ability to pay, except that the court may not order a person who files a petition under s. 813.122 or 813.125 to reimburse counsel for the juvenile who is named as the respondent in that petition. »

History: 1995 a. 77.

In any situation under sub.(2) in which a parent 18 years of age or over is entitled to representation by counsel; counsel is not knowingly and voluntarily waived; and it appears that the parent is unable to afford counsel in full, or the parent so indicates; the court shall refer the parent to the authority for indigency determinations specified in s. 977.01(1).



3142r
~~3142r~~

Insert 2-5

Section #. 938.243 (1) (e) of the statutes is amended to read:

938.243 (1) (e) The right of the juvenile to counsel under s. 938.23.

History: 1995 a. 77; 1997 a. 35.

Page 1432, line 21: after that line insert:



Insert 2-5

3148m

Section #. 938.27 (4) (b) of the statutes is amended to read:

and any other party, if applicable,

938.27 (4) (b) Advise the juvenile of his or her right to legal counsel regardless of ability to pay.

History: 1995 a. 77, 275; 1997 a. 80, 181, 237.

ed G
2-5

Page 1434, line 2: after that
line insert:



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb1225/2
JEO&GMM;jlg:kjf

ARC:.....Rindfleisch - Am. # 19, SPD representation in CHIPS/JIPS cases

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 645, line 22: after that line insert:

3 **“SECTION 1130m.** 48.20 (8) of the statutes is amended to read:

4 48.20 (8) If a child is held in custody, the intake worker shall notify the child's
5 parent, guardian and legal custodian of the reasons for holding the child in custody
6 and of the child's whereabouts unless there is reason to believe that notice would
7 present imminent danger to the child. The parent, guardian and legal custodian
8 shall also be notified of the time and place of the detention hearing required under
9 s. 48.21, the nature and possible consequences of that hearing, the right to counsel
10 under s. 48.23 regardless of ability to pay and the right to present and cross-examine

1 witnesses at the hearing. If the parent, guardian or legal custodian is not
2 immediately available, the intake worker or another person designated by the court
3 shall provide notice as soon as possible. When the child is 12 years of age or older,
4 the child shall receive the same notice about the detention hearing as the parent,
5 guardian or legal custodian. The intake worker shall notify both the child and the
6 child's parent, guardian or legal custodian. When the child is an expectant mother
7 who has been taken into custody under s. 48.19 (1) (cm) or (d) 8., the unborn child,
8 through the unborn child's guardian ad litem, shall receive the same notice about the
9 whereabouts of the child expectant mother, about the reasons for holding the child
10 expectant mother in custody and about the detention hearing as the child expectant
11 mother and her parent, guardian or legal custodian. The intake worker shall notify
12 the child expectant mother, her parent, guardian or legal custodian and the unborn
13 child, by the unborn child's guardian ad litem.

14 **SECTION 1130p.** 48.21 (3) (d) of the statutes is amended to read:

15 48.21 (3) (d) Prior to the commencement of the hearing, the parent, guardian
16 or legal custodian shall be informed by the court of the allegations that have been
17 made or may be made, the nature and possible consequences of this hearing as
18 compared to possible future hearings, the right to counsel under s. 48.23 regardless
19 of ability to pay, the right to confront and cross-examine witnesses and the right to
20 present witnesses.

21 **SECTION 1130r.** 48.23 (2) of the statutes is renumbered 48.23 (2) (a) and
22 amended to read:

23 48.23 (2) (a) Whenever a child is alleged to be in need of protection or services
24 under s. 48.13 or is the subject of a proceeding involving a contested adoption or the
25 involuntary termination of parental rights, any parent under 18 years of age who

1 appears before the court shall be represented by counsel; but no such parent may
2 waive counsel. A minor parent petitioning for the voluntary termination of parental
3 rights shall be represented by a guardian ad litem. If a proceeding involves a
4 contested adoption or the involuntary termination of parental rights, any parent 18
5 years old or older who appears before the court shall be represented by counsel; but
6 the parent may waive counsel provided the court is satisfied such waiver is
7 knowingly and voluntarily made.

8 **SECTION 1130t.** 48.23 (2) (b) of the statutes is created to read:

9 48.23 (2) (b) If a petition under s. 48.13 is contested, no child may be placed
10 outside his or her home unless the nonpetitioning parent is represented by counsel
11 at the fact-finding hearing and subsequent proceedings. If the petition is not
12 contested, the child may not be placed outside his or her home unless the
13 nonpetitioning parent is represented by counsel at the hearing at which the
14 placement is made. A parent who is required under this paragraph to be represented
15 by counsel may, however, waive counsel if the court is satisfied that such waiver is
16 knowingly and voluntarily made, and the court may place the child outside the home
17 even though the parent was not represented by counsel.

18 **SECTION 1130v.** 48.23 (3) of the statutes is amended to read:

19 48.23 (3) POWER OF THE COURT TO APPOINT COUNSEL. ~~Except in proceedings under~~
20 ~~s. 48.13, at~~ At any time, upon request or on its own motion, the court may appoint
21 counsel for the child or any party, unless the child or the party has or wishes to retain
22 counsel of his or her own choosing. ~~The court may not appoint counsel for any party~~
23 ~~other than the child in a proceeding under s. 48.13.~~

24 **SECTION 1130x.** 48.23 (4) of the statutes is amended to read:

1 48.23 (4) PROVIDING COUNSEL. In any situation under this section in which a
2 ~~person~~ child has a right to be represented by counsel or is provided counsel at the
3 discretion of the court and counsel is not knowingly and voluntarily waived, the court
4 shall refer the ~~person~~ child to the state public defender and counsel shall be
5 appointed by the state public defender under s. 977.08 without a determination of
6 indigency. If the referral is of a ~~person~~ child who has filed a petition under s. 48.375
7 (7), the state public defender shall appoint counsel within 24 hours after that
8 referral. Any counsel appointed in a petition filed under s. 48.375 (7) shall continue
9 to represent the child in any appeal brought under s. 809.105 unless the child
10 requests substitution of counsel or extenuating circumstances make it impossible for
11 counsel to continue to represent the child. In any situation under sub. (2) or (2m) in
12 which a parent 18 years of age or over or an adult expectant mother is entitled to
13 representation by counsel; counsel is not knowingly and voluntarily waived; and it
14 appears that the parent or adult expectant mother is unable to afford counsel in full,
15 or the parent or adult expectant mother so indicates; the court shall refer the parent
16 or adult expectant mother to the authority for indigency determinations specified
17 under s. 977.07 (1). In any other situation under this section in which a person has
18 a right to be represented by counsel or is provided counsel at the discretion of the
19 court, competent and independent counsel shall be provided and reimbursed in any
20 manner suitable to the court regardless of the person's ability to pay, except that the
21 court may not order a person who files a petition under s. 813.122 or 813.125 to
22 reimburse counsel for the child who is named as the respondent in that petition.”.

23 **2.** Page 646, line 3: after that line insert:

24 “**SECTION 1131m.** 48.27 (4) (a) 2. of the statutes is amended to read:

1 48.27 (4) (a) 2. Advise the child and any other party, if applicable, of his or her
2 right to legal counsel regardless of ability to pay.”

3 **3.** Page 1431, line 22: after that line insert:

4 “**SECTION 3130m.** 938.20 (8) of the statutes is amended to read:

5 938.20 (8) If a juvenile is held in custody, the intake worker shall notify the
6 juvenile’s parent, guardian and legal custodian of the reasons for holding the juvenile
7 in custody and of the juvenile’s whereabouts unless there is reason to believe that
8 notice would present imminent danger to the juvenile. If a juvenile who has violated
9 the terms of aftercare supervision administered by the department or a county
10 department is held in custody, the intake worker shall also notify the department or
11 county department, whichever has supervision over the juvenile, of the reasons for
12 holding the juvenile in custody, of the juvenile’s whereabouts and of the time and
13 place of the detention hearing required under s. 938.21. The parent, guardian and
14 legal custodian shall also be notified of the time and place of the detention hearing
15 required under s. 938.21, the nature and possible consequences of that hearing, the
16 right to counsel under s. 938.23 regardless of ability to pay and the right to present
17 and cross-examine witnesses at the hearing. If the parent, guardian or legal
18 custodian is not immediately available, the intake worker or another person
19 designated by the court shall provide notice as soon as possible. When the juvenile
20 is alleged to have committed a delinquent act, the juvenile shall receive the same
21 notice about the detention hearing as the parent, guardian or legal custodian. The
22 intake worker shall notify both the juvenile and the juvenile’s parent, guardian or
23 legal custodian.

24 **SECTION 3131m.** 938.21 (3) (d) of the statutes is amended to read:

1 938.21 (3) (d) Prior to the commencement of the hearing, the parent, guardian
2 or legal custodian shall be informed by the court of the allegations that have been
3 made or may be made, the nature and possible consequences of this hearing as
4 compared to possible future hearings, the right to counsel under s. 938.23 regardless
5 of ability to pay, the right to confront and cross-examine witnesses and the right to
6 present witnesses.

7 **SECTION 3142g.** 938.23 (2) of the statutes is created to read:

8 938.23 (2) (a) Whenever a juvenile is alleged to be in need of protection or
9 services under s. 938.13, any parent under 18 years of age who appears before the
10 court shall be represented by counsel; but no such parent may waive counsel.

11 (b) If a petition under s. 938.13 is contested, no juvenile may be placed outside
12 his or her home unless the nonpetitioning parent is represented by counsel at the
13 fact-finding hearing and subsequent proceedings. If the petition is not contested,
14 the juvenile may not be placed outside his or her home unless the nonpetitioning
15 parent is represented by counsel at the hearing at which the placement is made. A
16 parent who is required under this paragraph to be represented by counsel may,
17 however, waive counsel if the court is satisfied that such waiver is knowingly and
18 voluntarily made, and the court may place the juvenile outside the home even though
19 the parent was not represented by counsel.

20 **SECTION 3142m.** 938.23 (3) of the statutes is amended to read:

21 938.23 (3) POWER OF THE COURT TO APPOINT COUNSEL. ~~Except in proceedings~~
22 ~~under s. 938.13, at~~ At any time, upon request or on its own motion, the court may
23 appoint counsel for the juvenile or any party, unless the juvenile or the party has or
24 wishes to retain counsel of his or her own choosing. ~~The court may not appoint~~
25 ~~counsel for any party other than the juvenile in a proceeding under s. 938.13.~~

1 **SECTION 3142p.** 938.23 (4) of the statutes is amended to read:

2 938.23 (4) PROVIDING COUNSEL. In any situation under this section in which a
3 ~~person~~ juvenile has a right to be represented by counsel or is provided counsel at the
4 discretion of the court and counsel is not knowingly and voluntarily waived, the court
5 shall refer the ~~person~~ juvenile to the state public defender and counsel shall be
6 appointed by the state public defender under s. 977.08 without a determination of
7 indigency. In any situation under sub. (2) in which a parent 18 years of age or over
8 is entitled to representation by counsel; counsel is not knowingly and voluntarily
9 waived; and it appears that the parent is unable to afford counsel in full, or the parent
10 so indicates; the court shall refer the parent to the authority for indigency
11 determinations specified in s. 977.01 (1). In any other situation under this section
12 in which a person has a right to be represented by counsel or is provided counsel at
13 the discretion of the court, competent and independent counsel shall be provided and
14 reimbursed in any manner suitable to the court regardless of the person's ability to
15 pay, except that the court may not order a person who files a petition under s. 813.122
16 or 813.125 to reimburse counsel for the juvenile who is named as the respondent in
17 that petition.”.

18 **4.** Page 1432, line 21: after that line insert:

19 “**SECTION 3142r.** 938.243 (1) (e) of the statutes is amended to read:
20 938.243 (1) (e) The right of ~~the juvenile~~ to counsel under s. 938.23.”.

21 **5.** Page 1434, line 2: after that line insert:

22 “**SECTION 3148m.** 938.27 (4) (b) of the statutes is amended to read:
23 938.27 (4) (b) Advise the juvenile and any other party, if applicable, of his or
24 her right to legal counsel regardless of ability to pay.”.

1 **6.** Page 1603, line 24: after that line insert:

2 “(4cs) REPRESENTATION IN PROCEEDINGS INVOLVING CHILDREN IN NEED OF
3 PROTECTION OR SERVICES. The treatment of sections 48.20 (8), 48.21 (3) (d), 48.23 (3)
4 and (4) and 48.27 (4) (a) 2. of the statutes, the renumbering and amendment of
5 section 48.23 (2) of the statutes and the creation of section 48.23 (2) (b) of the statutes
6 first apply to proceedings commenced under section 48.13 of the statutes on the
7 effective date of this subsection.

8 (4ct) REPRESENTATION IN PROCEEDINGS INVOLVING JUVENILES IN NEED OF
9 PROTECTION OR SERVICES. The treatment of sections 938.20 (8), 938.21 (3) (d), 938.23
10 (2), (3) and (4), 938.243 (1) (e) and 938.27 (4) (b) of the statutes first applies to
11 proceedings commenced under section 938.13 of the statutes on the effective date of
12 this subsection.”.

13

(END)