



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX -

PLEASE DO NOT REMOVE FROM DRAFTING FILE

Date Transfer Requested: 10/01/2013 (Per: EHS)

Appendix F ... Part II

Appendix A1 ☞ The drafting file for LRB 13-0480 (used to create 13-3303)

Appendix A2 ☞ The drafting file for LRB 11-0558 (used to create 13-0480)

Appendix B1 ☞ The drafting file for LRB 13-0481 (used to create 13-3303)

Appendix B2 ☞ The drafting file for LRB 11-0559 (used to create 13-0481)

Appendix C1 ☞ The drafting file for LRB 13-0482 (used to create 13-3303)

Appendix C2 ☞ The drafting file for LRB 11-0560 (used to create 13-0482)

Appendix D1 ☞ The drafting file for LRB 13-0483 (used to create 13-3303)

Appendix D2 ☞ The drafting file for LRB 11-0563 (used to create 13-0483)

Appendix E ☞ The drafting file for LRB 13-0484 (used to create 13-3303)

Appendix F ☞ The drafting file for LRB 13-0486 (used to create 13-3303)

Appendix G ☞ The drafting file for LRB 13-0487 (used to create 13-3303)

Appendix H ☞ The drafting file for LRB 13-0488 (used to create 13-3303)

Appendix I ☞ The drafting file for LRB 13-0489 (used to create 13-3303)

has been transferred to the drafting file for

2013 LRB-3303



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0486/P1
EHS:eev:jf

IN 8/9
Sun
Committee 1

1

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

2013 BILL

X

Regen

1 AN ACT *to amend* 48.20 (8) (b), 48.203 (7), 48.21 (3) (b), 48.213 (2) (c), 48.213 (2)

2 (d), 48.245 (3), 48.245 (8), 48.255 (4), 48.27 (3) (a) 1., 48.27 (3) (c), 48.29 (1),

3 48.293 (2), 48.293 (3), 48.297 (6), 48.299 (1) (a), 48.30 (2), 48.31 (2), 48.315 (1)

4 (b), 48.32 (1) (a), 48.32 (2) (c), 48.355 (2) (b) 1m., 48.355 (2) (d), 48.357 (1) (am)

5 1., 48.357 (1) (am) 2. b., 48.357 (1) (am) 2. c., 48.357 (2m) (a), 48.357 (2m) (b),

6 48.363 (1) (a), 48.363 (1) (b), 48.365 (1m), 48.365 (2), 48.396 (1b), 48.396 (1d),

7 48.396 (2) (aj), 48.396 (2) (ap), 48.396 (5) (b), 48.46 (1), 48.78 (2) (aj) and 48.78

8 (2) (ap) of the statutes; **relating to:** the provision of notices to, and the exercise

9 of rights by, an unborn child's guardian ad litem in unborn child in need of

10 protection or services proceedings (suggested as remedial legislation by the

11 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 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. Instead, the bill requires those notices to be provided to, and permits those rights to be exercised by, the unborn child's GAL.

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.** 48.20 (8) (b) of the statutes is amended to read:
- 2 48.20 (8) (b) If the child is an expectant mother who has been taken into custody
- 3 under s. 48.19 (1) (cm) or (d) 8., ~~the unborn child, through~~ the unborn child's guardian
- 4 ad litem, shall receive the same notice about the whereabouts of the child expectant
- 5 mother, about the reasons for holding the child expectant mother in custody, and
- 6 about the detention hearing as the child expectant mother and her parent, guardian,
- 7 legal custodian, or Indian custodian. The intake worker shall notify the child

1 expectant mother, her parent, guardian, legal custodian, or Indian custodian, and
2 ~~the unborn child~~, by the unborn child's guardian ad litem.

3 **SECTION 2.** 48.203 (7) of the statutes is amended to read:

4 48.203 (7) If an adult expectant mother is held in custody, the intake worker
5 shall notify the adult expectant mother and ~~the unborn child~~, through the unborn
6 child's guardian ad litem, of the reasons for holding the adult expectant mother in
7 custody, the time and place of the detention hearing required under s. 48.213, the
8 nature and possible consequences of that hearing, and the right to present and
9 cross-examine witnesses at the hearing.

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

11 48.21 (3) (b) If present at the hearing, a copy of the petition or request shall be
12 given to the parent, guardian, legal custodian, or Indian custodian, and to the child
13 if he or she is 12 years of age or older, before the hearing begins. If the child is an
14 expectant mother who has been taken into custody under s. 48.19 (1) (cm) or (d) 8.,
15 a copy of the petition shall also be given to ~~the unborn child~~, through the unborn
16 child's guardian ad litem, before the hearing begins. Prior notice of the hearing shall
17 be given to the child's parent, guardian, legal custodian, and Indian custodian, to the
18 child if he or she is 12 years of age or older and, if the child is an expectant mother
19 who has been taken into custody under s. 48.19 (1) (cm) or (d) 8., to ~~the unborn child~~,
20 through the unborn child's guardian ad litem, under s. 48.20 (8).

21 **SECTION 4.** 48.213 (2) (c) of the statutes is amended to read:

22 48.213 (2) (c) A copy of the petition shall be given to the adult expectant mother,
23 and to ~~the unborn child~~, through the unborn child's guardian ad litem, before the
24 hearing begins. Prior notice of the hearing shall be given to the adult expectant
25 mother and unborn ~~child~~ child's guardian ad litem in accordance with s. 48.203 (7).

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

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

8 **SECTION 6.** 48.245 (3) of the statutes is amended to read:

9 48.245 (3) The obligations imposed under an informal disposition and its
10 effective date shall be set forth in writing. The child and a parent, guardian, and
11 legal custodian,; the child expectant mother, her parent, guardian, and legal
12 custodian, and ~~the unborn child by~~ the unborn child's guardian ad litem,; or the adult
13 expectant mother and ~~the unborn child by~~ the unborn child's guardian ad litem, shall
14 receive a copy, as shall any agency providing services under the agreement.

15 **SECTION 7.** 48.245 (8) of the statutes is amended to read:

16 48.245 (8) If the obligations imposed under the informal disposition are met,
17 the intake worker shall so inform the child and a parent, guardian, and legal
18 custodian,; the child expectant mother, her parent, guardian, and legal custodian,
19 and ~~the unborn child by~~ the unborn child's guardian ad litem,; or the adult expectant
20 mother and ~~the unborn child by~~ the unborn child's guardian ad litem, in writing, and
21 no petition may be filed on the charges that brought about the informal disposition
22 nor may the charges be the sole basis for a petition under ss. 48.13 to 48.14.

23 **SECTION 8.** 48.255 (4) of the statutes is amended to read:

24 48.255 (4) A copy of a petition under sub. (1) shall be given to the child if the
25 child is 12 years of age or over and to ~~the parents~~ a parent, guardian, legal custodian,

1 and physical custodian. A copy of a petition under sub. (1m) shall be given to the child
2 expectant mother, if 12 years of age or over, her ~~parents~~ parent, guardian, legal
3 custodian, and physical custodian, and ~~the unborn child~~ by the unborn child's
4 guardian ad litem or to the adult expectant mother, ~~the unborn child through the~~
5 unborn child's guardian ad litem, and the physical custodian of the expectant mother,
6 if any. If the child is an Indian child who has been removed from the home of his or
7 her parent or Indian custodian or the unborn child will be an Indian child when born,
8 a copy of a petition under sub. (1) or (1m) shall also be given to the Indian child's
9 Indian custodian and tribe or the Indian tribe with which the unborn child may be
10 eligible for affiliation when born.

11 **SECTION 9.** 48.27 (3) (a) 1. of the statutes is amended to read:

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

1 the hearing. The person giving telephone notice shall place in the case file a signed
2 statement of the time notice was given and the person to whom he or she spoke.

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

4 48.27 (3) (c) If the petition that was filed relates to facts concerning a situation
5 under s. 48.133 involving an expectant mother who is an adult, the court shall notify,
6 under s. 48.273, ~~the unborn child~~ by the unborn child's guardian ad litem, the
7 expectant mother, the physical custodian of the expectant mother, if any, and any
8 person specified in par. (d), if applicable, of all hearings involving the unborn child
9 and expectant mother except hearings on motions for which notice need only be
10 provided to the expectant mother and her counsel and ~~the unborn child~~ through the
11 unborn child's guardian ad litem. The first notice to any interested party shall be
12 written and may have a copy of the petition attached to it. Thereafter, notice of
13 hearings may be given by telephone at least 72 hours before the time of the hearing.
14 The person giving telephone notice shall place in the case file a signed statement of
15 the time notice was given and the person to whom he or she spoke.

16 **SECTION 11.** 48.29 (1) of the statutes is amended to read:

17 48.29 (1) The child, the child's parent, guardian or legal custodian, the
18 expectant mother, or ~~the unborn child~~ by the unborn child's guardian ad litem, either
19 before or during the plea hearing, may file a written request with the clerk of the
20 court or other person acting as the clerk for a substitution of the judge assigned to
21 the proceeding. Upon filing the written request, the filing party shall immediately
22 mail or deliver a copy of the request to the judge named in the request. When any
23 person has the right to request a substitution of judge, that person's counsel or
24 guardian ad litem may file the request. Not more than one such written request may

1 be filed in any one proceeding, nor may any single request name more than one judge.

2 This section does not apply to proceedings under s. 48.21 or 48.213.

3 **SECTION 12.** 48.293 (2) of the statutes is amended to read:

4 48.293 (2) All records relating to a child, or to an unborn child and the unborn
5 child's expectant mother, ~~which~~ that are relevant to the subject matter of a
6 proceeding under this chapter shall be open to inspection by a guardian ad litem or
7 counsel for any party and to inspection by the court-appointed special advocate for
8 the child, upon demand and upon presentation of releases when necessary, at least
9 48 hours before the proceeding. ~~Persons and unborn children, by their guardians ad~~
10 ~~litem,~~ entitled to inspect the records may obtain copies of the records with the
11 permission of the custodian of the records or with permission of the court. The court
12 may instruct counsel, a guardian ad litem, or a court-appointed special advocate not
13 to disclose specified items in the materials to the child or the parent, or to the
14 expectant mother, if the court reasonably believes that the disclosure would be
15 harmful to the interests of the child or the unborn child.

16 **SECTION 13.** 48.293 (3) of the statutes is amended to read:

17 48.293 (3) Upon request prior to the fact-finding hearing, counsel for the
18 interests of the public shall disclose to the child, through his or her counsel or
19 guardian ad litem, or to ~~the unborn child, through~~ the unborn child's guardian ad
20 litem, the existence of any audiovisual recording of an oral statement of a child under
21 s. 908.08 ~~which~~ that is within the possession, custody, or control of the state and shall
22 make reasonable arrangements for the requesting person to view the statement. If,
23 after compliance with this subsection, the state obtains possession, custody, or
24 control of such a statement, counsel for the interests of the public shall promptly

1 notify the requesting person of that fact and make reasonable arrangements for the
2 requesting person to view the statement.

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

4 48.297 (6) A motion required to be served on a child may be served on his or
5 her attorney of record. ~~A motion required to be served on an unborn child may be~~
6 ~~served on the unborn child's guardian ad litem.~~

7 **SECTION 15.** 48.299 (1) (a) of the statutes is amended to read:

8 48.299 (1) (a) The general public shall be excluded from hearings under this
9 chapter and from hearings by courts exercising jurisdiction under s. 48.16 unless a
10 public fact-finding hearing is demanded by a child through his or her counsel, by an
11 expectant mother through her counsel, or by an ~~unborn child through the~~ unborn
12 child's guardian ad litem. However, the court shall refuse to grant the public hearing
13 in a proceeding other than a proceeding under s. 48.375 (7), if a parent, guardian,
14 expectant mother, or ~~unborn child through the~~ unborn child's guardian ad litem
15 objects.

16 **SECTION 16.** 48.30 (2) of the statutes is amended to read:

17 48.30 (2) At the commencement of the hearing under this section the child and
18 the parent, guardian, legal custodian, or Indian custodian; the child expectant
19 mother, her parent, guardian, legal custodian, or Indian custodian, and ~~the unborn~~
20 ~~child through the~~ unborn child's guardian ad litem; or the adult expectant mother
21 and ~~the unborn child through the~~ unborn child's guardian ad litem; shall be advised
22 of ~~their~~ the rights as specified in s. 48.243 and shall be informed that a request for
23 a jury trial or for a substitution of judge under s. 48.29 must be made before the end
24 of the plea hearing or is waived. Nonpetitioning parties, including the child, shall

1 be granted a continuance of the plea hearing if they wish to consult with an attorney
2 on the request for a jury trial or substitution of a judge.

3 **SECTION 17.** 48.31 (2) of the statutes is amended to read:

4 48.31 (2) The hearing shall be to the court unless the child, the child's parent,
5 guardian, or legal custodian, ~~the unborn child~~ by the unborn child's guardian ad
6 litem, or the expectant mother of the unborn child exercises the right to a jury trial
7 by demanding a jury trial at any time before or during the plea hearing. If a jury trial
8 is demanded in a proceeding under s. 48.13 or 48.133, the jury shall consist of 6
9 persons. If a jury trial is demanded in a proceeding under s. 48.42, the jury shall
10 consist of 12 persons unless the parties agree to a lesser number. Chapters 756 and
11 805 shall govern the selection of jurors. If the hearing involves a child victim or
12 witness, as defined in s. 950.02, the court may order that a deposition be taken by
13 audiovisual means and allow the use of a recorded deposition under s. 967.04 (7) to
14 (10) and, with the district attorney, shall comply with s. 971.105. At the conclusion
15 of the hearing, the court or jury shall make a determination of the facts, except that
16 in a case alleging a child or an unborn child to be in need of protection or services
17 under s. 48.13 or 48.133, the court shall make the determination under s. 48.13
18 (intro.) or 48.133 relating to whether the child or unborn child is in need of protection
19 or services that can be ordered by the court. If the court finds that the child or unborn
20 child is not within the jurisdiction of the court or, in a case alleging a child or an
21 unborn child to be in need of protection or services under s. 48.13 or 48.133, that the
22 child or unborn child is not in need of protection or services that can be ordered by
23 the court, or if the court or jury finds that the facts alleged in the petition have not
24 been proved, the court shall dismiss the petition with prejudice.

25 **SECTION 18.** 48.315 (1) (b) of the statutes is amended to read:

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

4 **SECTION 19.** 48.32 (1) (a) of the statutes is amended to read:

5 48.32 (1) (a) At any time after the filing of a petition for a proceeding relating
6 to s. 48.13 or 48.133 and before the entry of judgment, the judge or a circuit court
7 commissioner may suspend the proceedings and place the child or expectant mother
8 under supervision in the home or present placement of the child or expectant mother.
9 The court may establish terms and conditions applicable to the child and the child's
10 parent, guardian, or legal custodian, to the child expectant mother and her parent,
11 guardian or legal custodian, or to the adult expectant mother, including the condition
12 specified in sub. (1b). The order under this section shall be known as a consent decree
13 and must be agreed to by the child if 12 years of age or older, the parent, guardian,
14 or legal custodian, and the person filing the petition under s. 48.25; by the child
15 expectant mother, her parent, guardian, or legal custodian, ~~the unborn child by the~~
16 unborn child's guardian ad litem, and the person filing the petition under s. 48.25;
17 or by the adult expectant mother, ~~the unborn child by the~~ unborn child's guardian
18 ad litem, and the person filing the petition under s. 48.25. The consent decree shall
19 be reduced to writing and given to the parties.

20 **SECTION 20.** 48.32 (2) (c) of the statutes is amended to read:

21 48.32 (2) (c) Upon the motion of the court or the application of the child, parent,
22 guardian, legal custodian, expectant mother, ~~unborn child by the~~ unborn child's
23 guardian ad litem, intake worker, or any agency supervising the child or expectant
24 mother under the consent decree, the court may, after giving notice to the parties to
25 the consent decree, their counsel or guardian ad litem, and the court-appointed

1 special advocate for the child, if any, extend the decree for up to an additional 6
2 months in the absence of objection to extension by the parties to the initial consent
3 decree. If the child, parent, guardian, legal custodian, expectant mother, or ~~unborn~~
4 ~~child by the unborn child's guardian ad litem~~ objects to the extension, the judge shall
5 schedule a hearing and make a determination on the issue of extension. An
6 extension under this paragraph of a consent decree relating to an unborn child who
7 is alleged to be in need of protection or services may be granted after the child is born.

8 **SECTION 21.** 48.355 (2) (b) 1m. of the statutes is amended to read:

9 48.355 (2) (b) 1m. A notice that the child's parent, guardian, or legal custodian,
10 the child, if 14 years of age or over, the expectant mother, if 14 years of age or over,
11 or ~~the unborn child by the unborn child's guardian ad litem~~ may request an agency
12 that is providing care or services for the child or expectant mother or that has legal
13 custody of the child to disclose to, or make available for inspection by, the parent,
14 guardian, legal custodian, child, expectant mother, or ~~unborn child by the unborn~~
15 ~~child's guardian ad litem~~ the contents of any record kept or information received by
16 the agency about the child or expectant mother as provided in s. 48.78 (2) (ag) and
17 (aj).

18 **SECTION 22.** 48.355 (2) (d) of the statutes is amended to read:

19 48.355 (2) (d) The court shall provide a copy of a dispositional order relating
20 to a child in need of protection or services to the child's parent, guardian, legal
21 custodian, or trustee, to the child through the child's counsel or guardian ad litem,
22 to the child's court-appointed special advocate, and, if the child is an Indian child
23 who has been removed from the home of his or her parent or Indian custodian and
24 placed outside that home, to the Indian child's Indian custodian and tribe. The court
25 shall provide a copy of a dispositional order relating to an unborn child in need of

1 protection or services to the expectant mother, to ~~the unborn child through~~ the
2 unborn child's guardian ad litem, to the parent, guardian, legal custodian, or trustee
3 of a child expectant mother, and, if the expectant mother is an Indian child, to the
4 expectant mother's Indian custodian and tribe.

5 **SECTION 23.** 48.357 (1) (am) 1. of the statutes is amended to read:

6 48.357 (1) (am) 1. If the proposed change in placement involves any change in
7 placement other than a change in placement specified in par. (c), the person or agency
8 primarily responsible for implementing the dispositional order, the district attorney,
9 or the corporation counsel shall cause written notice of the proposed change in
10 placement to be sent to the child, the parent, guardian, and legal custodian of the
11 child, any foster parent or other physical custodian described in s. 48.62 (2) of the
12 child, the child's court-appointed special advocate, and, if the child is an Indian child
13 who has been removed from the home of his or her parent or Indian custodian, the
14 Indian child's Indian custodian and tribe. If the child is the expectant mother of an
15 unborn child under s. 48.133, written notice shall also be sent to ~~the unborn child by~~
16 the unborn child's guardian ad litem. If the change in placement involves an adult
17 expectant mother of an unborn child under s. 48.133, written notice shall be sent to
18 the adult expectant mother and ~~the unborn child by~~ the unborn child's guardian ad
19 litem. The notice shall contain the name and address of the new placement, the
20 reasons for the change in placement, a statement describing why the new placement
21 is preferable to the present placement, and a statement of how the new placement
22 satisfies objectives of the treatment plan ordered by the court.

23 **SECTION 24.** 48.357 (1) (am) 2. b. of the statutes is amended to read:

24 48.357 (1) (am) 2. b. By the child expectant mother, if 12 years of age or over,
25 her parent, guardian, legal custodian, or Indian custodian, ~~the unborn child by~~ the

1 unborn child's guardian ad litem, and the child expectant mother's tribe, if she is an
2 Indian child who has been removed from the home of her parent or Indian custodian.

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

4 48.357 (1) (am) 2. c. By the adult expectant mother and ~~the unborn child~~ by the
5 unborn child's guardian ad litem.

6 **SECTION 26.** 48.357 (2m) (a) of the statutes is amended to read:

7 48.357 (2m) (a) The child, the parent, guardian, legal custodian, or Indian
8 custodian of the child, the expectant mother, ~~the unborn child~~ by the unborn child's
9 guardian ad litem, or any person or agency primarily bound by the dispositional
10 order, other than the person or agency responsible for implementing the order, may
11 request a change in placement under this paragraph. The request shall contain the
12 name and address of the new placement requested and shall state what new
13 information is available that affects the advisability of the current placement. If the
14 proposed change in placement would change the placement of a child placed in the
15 child's home to a placement outside the child's home, the request shall also contain
16 specific information showing that continued placement of the child in the home
17 would be contrary to the welfare of the child and, unless any of the circumstances
18 under s. 48.355 (2d) (b) 1. to 5. applies, specific information showing that the agency
19 primarily responsible for implementing the dispositional order has made reasonable
20 efforts to prevent the removal of the child from the home, while assuring that the
21 child's health and safety are the paramount concerns. The request shall be
22 submitted to the court. The court may also propose a change in placement on its own
23 motion.

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

1 48.357 (2m) (b) The court shall hold a hearing prior to ordering any change in
2 placement requested or proposed under par. (a) if the request states that new
3 information is available that affects the advisability of the current placement. A
4 hearing is not required if the requested or proposed change in placement does not
5 involve a change in placement of a child placed in the child's home to a placement
6 outside the child's home, written waivers of objection to the proposed change in
7 placement are signed by all persons entitled to receive notice under this paragraph,
8 other than a court-appointed special advocate, and the court approves. If a hearing
9 is scheduled, not less than 3 days before the hearing the court shall notify the child,
10 the parent, guardian, and legal custodian of the child, any foster parent or other
11 physical custodian described in s. 48.62 (2) of the child, the child's court-appointed
12 special advocate, all parties who are bound by the dispositional order, and, if the child
13 is an Indian child, the Indian child's Indian custodian and tribe. If the child is the
14 expectant mother of an unborn child under s. 48.133, the court shall also notify ~~the~~
15 ~~unborn child~~ by the unborn child's guardian ad litem. If the change in placement
16 involves an adult expectant mother of an unborn child under s. 48.133, the court shall
17 notify the adult expectant mother, ~~the unborn child~~ by the unborn child's guardian
18 ad litem, and all parties who are bound by the dispositional order, at least 3 days prior
19 to the hearing. A copy of the request or proposal for the change in placement shall
20 be attached to the notice. Subject to par. (br), if all of the parties consent, the court
21 may proceed immediately with the hearing.

22 **SECTION 28.** 48.363 (1) (a) of the statutes is amended to read:

23 48.363 (1) (a) A child, the child's parent, guardian, legal custodian, or Indian
24 custodian, an expectant mother, an ~~unborn child~~ by the unborn child's guardian ad
25 litem, any person or agency bound by a dispositional order, or the district attorney

1 or corporation counsel in the county in which the dispositional order was entered
2 may request a revision in the order that does not involve a change in placement or
3 a trial reunification, including a revision with respect to the amount of child support
4 to be paid by a parent. The court may also propose a revision. The request or court
5 proposal shall set forth in detail the nature of the proposed revision and what new
6 information is available that affects the advisability of the court's disposition. The
7 request or court proposal shall be submitted to the court. The court shall hold a
8 hearing on the matter prior to any revision of the dispositional order if the request
9 or court proposal indicates that new information is available ~~which~~ that affects the
10 advisability of the court's dispositional order, unless written waivers of objections to
11 the revision are signed by all parties entitled to receive notice and the court approves.

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

13 48.363 (1) (b) If a hearing is held, at least 3 days before the hearing the court
14 shall notify the child, the child's parent, guardian, legal custodian, and Indian
15 custodian, all parties bound by the dispositional order, the child's foster parent or
16 other physical custodian described in s. 48.62 (2), the child's court-appointed special
17 advocate, the district attorney or corporation counsel in the county in which the
18 dispositional order was entered, and, if the child is an Indian child who is placed
19 outside the home of his or her parent or Indian custodian, the Indian child's tribe.
20 If the child is the expectant mother of an unborn child under s. 48.133, the court shall
21 also notify ~~the unborn child~~ by the unborn child's guardian ad litem. If the
22 proceeding involves an adult expectant mother of an unborn child under s. 48.133,
23 the court shall notify the adult expectant mother, ~~the unborn child~~ through the
24 unborn child's guardian ad litem, all parties bound by the dispositional order, and
25 the district attorney or corporation counsel in the county in which the dispositional

1 order was entered, at least 3 days prior to the hearing. A copy of the request
2 proposal shall be attached to the notice. If all parties consent, the court may proceed
3 immediately with the hearing. No revision may extend the effective period of the
4 original order.

5 **SECTION 30.** 48.365 (1m) of the statutes is amended to read:

6 48.365 (1m) The parent, child, guardian, legal custodian, Indian custodian,
7 expectant mother, ~~unborn child by the~~ unborn child's guardian ad litem, any person
8 or agency bound by the dispositional order, the district attorney or corporation
9 counsel in the county in which the dispositional order was entered, or the court on
10 its own motion may request an extension of an order under s. 48.355 including an
11 order under s. 48.355 that was entered before the child was born. The request shall
12 be submitted to the court that entered the order. An order under s. 48.355 may be
13 extended only as provided in this section.

14 **SECTION 31.** 48.365 (2) of the statutes is amended to read:

15 48.365 (2) No order may be extended without a hearing. The court shall
16 provide notice of the time and place of the hearing to the child, the child's parent,
17 guardian, legal custodian, and Indian custodian, all the parties present at the
18 original hearing, the child's foster parent or other physical custodian described in s.
19 48.62 (2), the child's court-appointed special advocate, the district attorney or
20 corporation counsel in the county in which the dispositional order was entered and,
21 if the child is an Indian child who is placed outside the home of his or her parent or
22 Indian custodian, the Indian child's tribe. If the child is an expectant mother of an
23 unborn child under s. 48.133, the court shall also notify ~~the unborn child by the~~
24 unborn child's guardian ad litem. If the extension hearing involves an adult
25 expectant mother of an unborn child under s. 48.133, the court shall notify the adult

1 expectant mother, ~~the unborn child through~~ the unborn child's guardian ad litem, all
2 the parties present at the original hearing, and the district attorney or corporation
3 counsel in the county in which the dispositional order was entered, of the time and
4 place of the hearing.

5 **SECTION 32.** 48.396 (1b) of the statutes is amended to read:

6 48.396 (1b) If requested by the parent, guardian, or legal custodian of a child
7 who is the subject of a law enforcement officer's report, or if requested by the child,
8 if 14 years of age or over, a law enforcement agency may, subject to official agency
9 policy, provide to the parent, guardian, legal custodian, or child a copy of that report.
10 If requested by the parent, guardian, or legal custodian of a child expectant mother
11 of an unborn child who is the subject of a law enforcement officer's report, if requested
12 by an expectant mother of an unborn child who is the subject of a law enforcement
13 officer's report, if 14 years of age or over, or if requested by an ~~unborn child through~~
14 ~~the~~ unborn child's guardian ad litem, a law enforcement agency may, subject to
15 official agency policy, provide to the parent, guardian, legal custodian, expectant
16 mother or ~~unborn child by the~~ unborn child's guardian ad litem a copy of that report.

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

18 48.396 (1d) Upon the written permission of the parent, guardian, or legal
19 custodian of a child who is the subject of a law enforcement officer's report or upon
20 the written permission of the child, if 14 years of age or over, a law enforcement
21 agency may, subject to official agency policy, make available to the person named in
22 the permission any reports specifically identified by the parent, guardian, legal
23 custodian or child in the written permission. Upon the written permission of the
24 parent, guardian, or legal custodian of a child expectant mother of an unborn child
25 who is the subject of a law enforcement officer's report, or of an expectant mother of

1 an unborn child who is the subject of a law enforcement officer's report, if 14 years
2 of age or over, and of ~~the unborn child~~ by the unborn child's guardian ad litem, a law
3 enforcement agency may, subject to official agency policy, make available to the
4 person named in the permission any reports specifically identified by the parent,
5 guardian, legal custodian or expectant mother, and ~~unborn child by the~~ unborn
6 child's guardian ad litem in the written permission.

7 **SECTION 34.** 48.396 (2) (aj) of the statutes is amended to read:

8 48.396 (2) (aj) Upon request of the parent, guardian, or legal custodian of a
9 child expectant mother of an unborn child who is the subject of a record of a court
10 specified in par. (a), upon request of an expectant mother of an unborn child who is
11 the subject of a record of a court specified in par. (a), if 14 years of age or over, or upon
12 request of an ~~unborn child by the~~ unborn child's guardian ad litem, the court shall
13 open for inspection by the parent, guardian, legal custodian, expectant mother, or
14 ~~unborn child by the~~ unborn child's guardian ad litem the records of the court relating
15 to that expectant mother, unless the court finds, after due notice and hearing, that
16 inspection of those records by the parent, guardian, legal custodian, expectant
17 mother, or ~~unborn child by the~~ unborn child's guardian ad litem would result in
18 imminent danger to anyone.

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

20 48.396 (2) (ap) Upon the written permission of the parent, guardian, or legal
21 custodian of a child expectant mother of an unborn child who is the subject of a record
22 of a court specified in par. (a), or of an expectant mother of an unborn child who is
23 the subject of a record of a court specified in par. (a), if 14 years of age or over, and
24 of ~~the unborn child by the~~ unborn child's guardian ad litem, the court shall open for
25 inspection by the person named in the permission any records specifically identified

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

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

6 48.396 (5) (b) The court shall notify the child, the child's counsel, the child's
7 parents, appropriate law enforcement agencies, and, if the child is an expectant
8 mother of an unborn child under s. 48.133, ~~the unborn child~~ by the unborn child's
9 guardian ad litem, or shall notify the adult expectant mother, ~~the unborn child~~ by the
10 unborn child's guardian ad litem, and appropriate law enforcement agencies, in
11 writing of the petition. If any person notified objects to the disclosure, the court may
12 hold a hearing to take evidence relating to the petitioner's need for the disclosure.

13 **SECTION 37.** 48.46 (1) of the statutes is amended to read:

14 48.46 (1) Except as provided in subs. (1m), (2), and (3), the child whose status
15 is adjudicated by the court, the parent, guardian, or legal custodian of that child, the
16 guardian ad litem of an unborn child whose status is adjudicated by the court, or the
17 expectant mother of that unborn child may at any time within one year after the
18 entering of the court's order petition the court for a rehearing on the ground that new
19 evidence has been discovered affecting the advisability of the court's original
20 adjudication. Upon a showing that such evidence does exist, the court shall order a
21 new hearing.

NOTE: SECTIONS 1 to 31, 36, and 37 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.

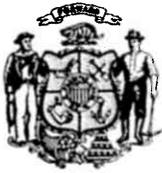
22 **SECTION 38.** 48.78 (2) (aj) of the statutes is amended to read:

1 48.78 (2) (aj) Paragraph (a) does not prohibit an agency from making available
2 for inspection or disclosing the contents of a record, upon the request of a parent,
3 guardian, or legal custodian of a child expectant mother of an unborn child who is
4 the subject of the record, upon the request of an expectant mother of an unborn child
5 who is the subject of the record, if 14 years of age or over, or upon the request of an
6 ~~unborn child by the~~ unborn child's guardian ad litem, to the parent, guardian, legal
7 custodian, expectant mother, or ~~unborn child by the~~ unborn child's guardian ad
8 litem, unless the agency determines that inspection of the record by the parent,
9 guardian, legal custodian, expectant mother, or ~~unborn child by the~~ unborn child's
10 guardian ad litem would result in imminent danger to anyone.

11 **SECTION 39.** 48.78 (2) (ap) of the statutes is amended to read:

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

NOTE: SECTIONS 32 to 35, 38, and 39 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.



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0486/1
EHS:eev:ph

2013 BILL

1 **AN ACT to amend** 48.20 (8) (b), 48.203 (7), 48.21 (3) (b), 48.213 (2) (c), 48.213 (2)
2 (d), 48.245 (3), 48.245 (8), 48.255 (4), 48.27 (3) (a) 1., 48.27 (3) (c), 48.29 (1),
3 48.293 (2), 48.293 (3), 48.297 (6), 48.299 (1) (a), 48.30 (2), 48.31 (2), 48.315 (1)
4 (b), 48.32 (1) (a), 48.32 (2) (c), 48.355 (2) (b) 1m., 48.355 (2) (d), 48.357 (1) (am)
5 1., 48.357 (1) (am) 2. b., 48.357 (1) (am) 2. c., 48.357 (2m) (a), 48.357 (2m) (b),
6 48.363 (1) (a), 48.363 (1) (b), 48.365 (1m), 48.365 (2), 48.396 (1b), 48.396 (1d),
7 48.396 (2) (aj), 48.396 (2) (ap), 48.396 (5) (b), 48.46 (1), 48.78 (2) (aj) and 48.78
8 (2) (ap) of the statutes; **relating to:** the provision of notices to, and the exercise
9 of rights by, an unborn child's guardian ad litem in unborn child in need of
10 protection or services proceedings (suggested as remedial legislation by the
11 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

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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 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. Instead, the bill requires those notices to be provided to, and permits those rights to be exercised by, the unborn child's GAL.

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.** 48.20 (8) (b) of the statutes is amended to read:
- 2 48.20 (8) (b) If the child is an expectant mother who has been taken into custody
- 3 under s. 48.19 (1) (cm) or (d) 8., ~~the unborn child, through~~ the unborn child's guardian
- 4 ad litem, shall receive the same notice about the whereabouts of the child expectant
- 5 mother, about the reasons for holding the child expectant mother in custody, and
- 6 about the detention hearing as the child expectant mother and her parent, guardian,
- 7 legal custodian, or Indian custodian. The intake worker shall notify the child

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1 expectant mother, her parent, guardian, legal custodian, or Indian custodian, and
2 ~~the unborn child~~, by the unborn child's guardian ad litem.

3 **SECTION 2.** 48.203 (7) of the statutes is amended to read:

4 48.203 (7) If an adult expectant mother is held in custody, the intake worker
5 shall notify the adult expectant mother and ~~the unborn child, through~~ the unborn
6 child's guardian ad litem, of the reasons for holding the adult expectant mother in
7 custody, the time and place of the detention hearing required under s. 48.213, the
8 nature and possible consequences of that hearing, and the right to present and
9 cross-examine witnesses at the hearing.

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

11 48.21 (3) (b) If present at the hearing, a copy of the petition or request shall be
12 given to the parent, guardian, legal custodian, or Indian custodian, and to the child
13 if he or she is 12 years of age or older, before the hearing begins. If the child is an
14 expectant mother who has been taken into custody under s. 48.19 (1) (cm) or (d) 8.,
15 a copy of the petition shall also be given to ~~the unborn child, through~~ the unborn
16 child's guardian ad litem, before the hearing begins. Prior notice of the hearing shall
17 be given to the child's parent, guardian, legal custodian, and Indian custodian, to the
18 child if he or she is 12 years of age or older and, if the child is an expectant mother
19 who has been taken into custody under s. 48.19 (1) (cm) or (d) 8., to ~~the unborn child,~~
20 ~~through~~ the unborn child's guardian ad litem, under s. 48.20 (8).

21 **SECTION 4.** 48.213 (2) (c) of the statutes is amended to read:

22 48.213 (2) (c) A copy of the petition shall be given to the adult expectant mother,
23 and to ~~the unborn child, through~~ the unborn child's guardian ad litem, before the
24 hearing begins. Prior notice of the hearing shall be given to the adult expectant
25 mother and unborn ~~child~~ child's guardian ad litem in accordance with s. 48.203 (7).

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

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

8 **SECTION 6.** 48.245 (3) of the statutes is amended to read:

9 48.245 (3) The obligations imposed under an informal disposition and its
10 effective date shall be set forth in writing. The child and a parent, guardian, and
11 legal custodian,; the child expectant mother, her parent, guardian, and legal
12 custodian, and ~~the unborn child by~~ the unborn child's guardian ad litem,; or the adult
13 expectant mother and ~~the unborn child by~~ the unborn child's guardian ad litem, shall
14 receive a copy, as shall any agency providing services under the agreement.

15 **SECTION 7.** 48.245 (8) of the statutes is amended to read:

16 48.245 (8) If the obligations imposed under the informal disposition are met,
17 the intake worker shall so inform the child and a parent, guardian, and legal
18 custodian,; the child expectant mother, her parent, guardian, and legal custodian,
19 and ~~the unborn child by~~ the unborn child's guardian ad litem,; or the adult expectant
20 mother and ~~the unborn child by~~ the unborn child's guardian ad litem, in writing, and
21 no petition may be filed on the charges that brought about the informal disposition
22 nor may the charges be the sole basis for a petition under ss. 48.13 to 48.14.

23 **SECTION 8.** 48.255 (4) of the statutes is amended to read:

24 48.255 (4) A copy of a petition under sub. (1) shall be given to the child if the
25 child is 12 years of age or over and to ~~the parents~~ a parent, guardian, legal custodian,

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1 and physical custodian. A copy of a petition under sub. (1m) shall be given to the child
2 expectant mother, if 12 years of age or over, her ~~parents~~ parent, guardian, legal
3 custodian, and physical custodian, and ~~the unborn child~~ by the unborn child's
4 guardian ad litem or to the adult expectant mother, ~~the unborn child through~~ the
5 unborn child's guardian ad litem, and the physical custodian of the expectant mother,
6 if any. If the child is an Indian child who has been removed from the home of his or
7 her parent or Indian custodian or the unborn child will be an Indian child when born,
8 a copy of a petition under sub. (1) or (1m) shall also be given to the Indian child's
9 Indian custodian and tribe or the Indian tribe with which the unborn child may be
10 eligible for affiliation when born.

11 **SECTION 9.** 48.27 (3) (a) 1. of the statutes is amended to read:

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

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1 the hearing. The person giving telephone notice shall place in the case file a signed
2 statement of the time notice was given and the person to whom he or she spoke.

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

4 48.27 (3) (c) If the petition that was filed relates to facts concerning a situation
5 under s. 48.133 involving an expectant mother who is an adult, the court shall notify,
6 under s. 48.273, ~~the unborn child~~ by the unborn child's guardian ad litem, the
7 expectant mother, the physical custodian of the expectant mother, if any, and any
8 person specified in par. (d), if applicable, of all hearings involving the unborn child
9 and expectant mother except hearings on motions for which notice need only be
10 provided to the expectant mother and her counsel and ~~the unborn child~~ through the
11 unborn child's guardian ad litem. The first notice to any interested party shall be
12 written and may have a copy of the petition attached to it. Thereafter, notice of
13 hearings may be given by telephone at least 72 hours before the time of the hearing.
14 The person giving telephone notice shall place in the case file a signed statement of
15 the time notice was given and the person to whom he or she spoke.

16 **SECTION 11.** 48.29 (1) of the statutes is amended to read:

17 48.29 (1) The child, the child's parent, guardian or legal custodian, the
18 expectant mother, or ~~the unborn child~~ by the unborn child's guardian ad litem, either
19 before or during the plea hearing, may file a written request with the clerk of the
20 court or other person acting as the clerk for a substitution of the judge assigned to
21 the proceeding. Upon filing the written request, the filing party shall immediately
22 mail or deliver a copy of the request to the judge named in the request. When any
23 person has the right to request a substitution of judge, that person's counsel or
24 guardian ad litem may file the request. Not more than one such written request may

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1 be filed in any one proceeding, nor may any single request name more than one judge.

2 This section does not apply to proceedings under s. 48.21 or 48.213.

3 **SECTION 12.** 48.293 (2) of the statutes is amended to read:

4 48.293 (2) All records relating to a child, or to an unborn child and the unborn
5 child's expectant mother, ~~which~~ that are relevant to the subject matter of a
6 proceeding under this chapter shall be open to inspection by a guardian ad litem or
7 counsel for any party and to inspection by the court-appointed special advocate for
8 the child, upon demand and upon presentation of releases when necessary, at least
9 48 hours before the proceeding. ~~Persons and unborn children, by their guardians ad~~
10 ~~litem,~~ entitled to inspect the records may obtain copies of the records with the
11 permission of the custodian of the records or with permission of the court. The court
12 may instruct counsel, a guardian ad litem, or a court-appointed special advocate not
13 to disclose specified items in the materials to the child or the parent, or to the
14 expectant mother, if the court reasonably believes that the disclosure would be
15 harmful to the interests of the child or the unborn child.

16 **SECTION 13.** 48.293 (3) of the statutes is amended to read:

17 48.293 (3) Upon request prior to the fact-finding hearing, counsel for the
18 interests of the public shall disclose to the child, through his or her counsel or
19 guardian ad litem, or to ~~the unborn child, through~~ the unborn child's guardian ad
20 litem, the existence of any audiovisual recording of an oral statement of a child under
21 s. 908.08 ~~which~~ that is within the possession, custody, or control of the state and shall
22 make reasonable arrangements for the requesting person to view the statement. If,
23 after compliance with this subsection, the state obtains possession, custody, or
24 control of such a statement, counsel for the interests of the public shall promptly

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1 notify the requesting person of that fact and make reasonable arrangements for the
2 requesting person to view the statement.

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

4 48.297 (6) A motion required to be served on a child may be served on his or
5 her attorney of record. ~~A motion required to be served on an unborn child may be~~
6 ~~served on the unborn child's guardian ad litem.~~

7 **SECTION 15.** 48.299 (1) (a) of the statutes is amended to read:

8 48.299 (1) (a) The general public shall be excluded from hearings under this
9 chapter and from hearings by courts exercising jurisdiction under s. 48.16 unless a
10 public fact-finding hearing is demanded by a child through his or her counsel, by an
11 expectant mother through her counsel, or by an ~~unborn child through the~~ unborn
12 child's guardian ad litem. However, the court shall refuse to grant the public hearing
13 in a proceeding other than a proceeding under s. 48.375 (7), if a parent, guardian,
14 expectant mother, or ~~unborn child through the~~ unborn child's guardian ad litem
15 objects.

16 **SECTION 16.** 48.30 (2) of the statutes is amended to read:

17 48.30 (2) At the commencement of the hearing under this section the child and
18 the parent, guardian, legal custodian, or Indian custodian; the child expectant
19 mother, her parent, guardian, legal custodian, or Indian custodian, and ~~the unborn~~
20 ~~child through the~~ unborn child's guardian ad litem; or the adult expectant mother
21 and ~~the unborn child through the~~ unborn child's guardian ad litem; shall be advised
22 of ~~their~~ the rights as specified in s. 48.243 and shall be informed that a request for
23 a jury trial or for a substitution of judge under s. 48.29 must be made before the end
24 of the plea hearing or is waived. Nonpetitioning parties, including the child, shall

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1 be granted a continuance of the plea hearing if they wish to consult with an attorney
2 on the request for a jury trial or substitution of a judge.

3 **SECTION 17.** 48.31 (2) of the statutes is amended to read:

4 48.31 (2) The hearing shall be to the court unless the child, the child's parent,
5 guardian, or legal custodian, ~~the unborn child~~ by the unborn child's guardian ad
6 litem, or the expectant mother of the unborn child exercises the right to a jury trial
7 by demanding a jury trial at any time before or during the plea hearing. If a jury trial
8 is demanded in a proceeding under s. 48.13 or 48.133, the jury shall consist of 6
9 persons. If a jury trial is demanded in a proceeding under s. 48.42, the jury shall
10 consist of 12 persons unless the parties agree to a lesser number. Chapters 756 and
11 805 shall govern the selection of jurors. If the hearing involves a child victim or
12 witness, as defined in s. 950.02, the court may order that a deposition be taken by
13 audiovisual means and allow the use of a recorded deposition under s. 967.04 (7) to
14 (10) and, with the district attorney, shall comply with s. 971.105. At the conclusion
15 of the hearing, the court or jury shall make a determination of the facts, except that
16 in a case alleging a child or an unborn child to be in need of protection or services
17 under s. 48.13 or 48.133, the court shall make the determination under s. 48.13
18 (intro.) or 48.133 relating to whether the child or unborn child is in need of protection
19 or services that can be ordered by the court. If the court finds that the child or unborn
20 child is not within the jurisdiction of the court or, in a case alleging a child or an
21 unborn child to be in need of protection or services under s. 48.13 or 48.133, that the
22 child or unborn child is not in need of protection or services that can be ordered by
23 the court, or if the court or jury finds that the facts alleged in the petition have not
24 been proved, the court shall dismiss the petition with prejudice.

25 **SECTION 18.** 48.315 (1) (b) of the statutes is amended to read:

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

4 **SECTION 19.** 48.32 (1) (a) of the statutes is amended to read:

5 48.32 (1) (a) At any time after the filing of a petition for a proceeding relating
6 to s. 48.13 or 48.133 and before the entry of judgment, the judge or a circuit court
7 commissioner may suspend the proceedings and place the child or expectant mother
8 under supervision in the home or present placement of the child or expectant mother.
9 The court may establish terms and conditions applicable to the child and the child's
10 parent, guardian, or legal custodian, to the child expectant mother and her parent,
11 guardian or legal custodian, or to the adult expectant mother, including the condition
12 specified in sub. (1b). The order under this section shall be known as a consent decree
13 and must be agreed to by the child if 12 years of age or older, the parent, guardian,
14 or legal custodian, and the person filing the petition under s. 48.25; by the child
15 expectant mother, her parent, guardian, or legal custodian, ~~the unborn child by the~~
16 ~~unborn child's guardian ad litem,~~ and the person filing the petition under s. 48.25;
17 or by the adult expectant mother, ~~the unborn child by the unborn child's guardian~~
18 ~~ad litem,~~ and the person filing the petition under s. 48.25. The consent decree shall
19 be reduced to writing and given to the parties.

20 **SECTION 20.** 48.32 (2) (c) of the statutes is amended to read:

21 48.32 (2) (c) Upon the motion of the court or the application of the child, parent,
22 guardian, legal custodian, expectant mother, ~~unborn child by the~~ unborn child's
23 guardian ad litem, intake worker, or any agency supervising the child or expectant
24 mother under the consent decree, the court may, after giving notice to the parties to
25 the consent decree, their counsel or guardian ad litem, and the court-appointed

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1 special advocate for the child, if any, extend the decree for up to an additional 6
2 months in the absence of objection to extension by the parties to the initial consent
3 decree. If the child, parent, guardian, legal custodian, expectant mother, or ~~unborn~~
4 ~~child by the~~ unborn child's guardian ad litem objects to the extension, the judge shall
5 schedule a hearing and make a determination on the issue of extension. An
6 extension under this paragraph of a consent decree relating to an unborn child who
7 is alleged to be in need of protection or services may be granted after the child is born.

8 **SECTION 21.** 48.355 (2) (b) 1m. of the statutes is amended to read:

9 48.355 (2) (b) 1m. A notice that the child's parent, guardian, or legal custodian,
10 the child, if 14 years of age or over, the expectant mother, if 14 years of age or over,
11 or ~~the unborn child by the~~ unborn child's guardian ad litem may request an agency
12 that is providing care or services for the child or expectant mother or that has legal
13 custody of the child to disclose to, or make available for inspection by, the parent,
14 guardian, legal custodian, child, expectant mother, or ~~unborn child by the~~ unborn
15 child's guardian ad litem the contents of any record kept or information received by
16 the agency about the child or expectant mother as provided in s. 48.78 (2) (ag) and
17 (aj).

18 **SECTION 22.** 48.355 (2) (d) of the statutes is amended to read:

19 48.355 (2) (d) The court shall provide a copy of a dispositional order relating
20 to a child in need of protection or services to the child's parent, guardian, legal
21 custodian, or trustee, to the child through the child's counsel or guardian ad litem,
22 to the child's court-appointed special advocate, and, if the child is an Indian child
23 who has been removed from the home of his or her parent or Indian custodian and
24 placed outside that home, to the Indian child's Indian custodian and tribe. The court
25 shall provide a copy of a dispositional order relating to an unborn child in need of

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1 protection or services to the expectant mother, to ~~the unborn child through~~ the
2 unborn child's guardian ad litem, to the parent, guardian, legal custodian, or trustee
3 of a child expectant mother, and, if the expectant mother is an Indian child, to the
4 expectant mother's Indian custodian and tribe.

5 **SECTION 23.** 48.357 (1) (am) 1. of the statutes is amended to read:

6 48.357 (1) (am) 1. If the proposed change in placement involves any change in
7 placement other than a change in placement specified in par. (c), the person or agency
8 primarily responsible for implementing the dispositional order, the district attorney,
9 or the corporation counsel shall cause written notice of the proposed change in
10 placement to be sent to the child, the parent, guardian, and legal custodian of the
11 child, any foster parent or other physical custodian described in s. 48.62 (2) of the
12 child, the child's court-appointed special advocate, and, if the child is an Indian child
13 who has been removed from the home of his or her parent or Indian custodian, the
14 Indian child's Indian custodian and tribe. If the child is the expectant mother of an
15 unborn child under s. 48.133, written notice shall also be sent to ~~the unborn child by~~
16 the unborn child's guardian ad litem. If the change in placement involves an adult
17 expectant mother of an unborn child under s. 48.133, written notice shall be sent to
18 the adult expectant mother and ~~the unborn child by~~ the unborn child's guardian ad
19 litem. The notice shall contain the name and address of the new placement, the
20 reasons for the change in placement, a statement describing why the new placement
21 is preferable to the present placement, and a statement of how the new placement
22 satisfies objectives of the treatment plan ordered by the court.

23 **SECTION 24.** 48.357 (1) (am) 2. b. of the statutes is amended to read:

24 48.357 (1) (am) 2. b. By the child expectant mother, if 12 years of age or over,
25 her parent, guardian, legal custodian, or Indian custodian, ~~the unborn child by the~~

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1 unborn child's guardian ad litem, and the child expectant mother's tribe, if she is an
2 Indian child who has been removed from the home of her parent or Indian custodian.

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

4 48.357 (1) (am) 2. c. By the adult expectant mother and ~~the unborn child~~ by the
5 unborn child's guardian ad litem.

6 **SECTION 26.** 48.357 (2m) (a) of the statutes is amended to read:

7 48.357 (2m) (a) The child, the parent, guardian, legal custodian, or Indian
8 custodian of the child, the expectant mother, ~~the unborn child~~ by the unborn child's
9 guardian ad litem, or any person or agency primarily bound by the dispositional
10 order, other than the person or agency responsible for implementing the order, may
11 request a change in placement under this paragraph. The request shall contain the
12 name and address of the new placement requested and shall state what new
13 information is available that affects the advisability of the current placement. If the
14 proposed change in placement would change the placement of a child placed in the
15 child's home to a placement outside the child's home, the request shall also contain
16 specific information showing that continued placement of the child in the home
17 would be contrary to the welfare of the child and, unless any of the circumstances
18 under s. 48.355 (2d) (b) 1. to 5. applies, specific information showing that the agency
19 primarily responsible for implementing the dispositional order has made reasonable
20 efforts to prevent the removal of the child from the home, while assuring that the
21 child's health and safety are the paramount concerns. The request shall be
22 submitted to the court. The court may also propose a change in placement on its own
23 motion.

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

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1 48.357 (2m) (b) The court shall hold a hearing prior to ordering any change in
2 placement requested or proposed under par. (a) if the request states that new
3 information is available that affects the advisability of the current placement. A
4 hearing is not required if the requested or proposed change in placement does not
5 involve a change in placement of a child placed in the child's home to a placement
6 outside the child's home, written waivers of objection to the proposed change in
7 placement are signed by all persons entitled to receive notice under this paragraph,
8 other than a court-appointed special advocate, and the court approves. If a hearing
9 is scheduled, not less than 3 days before the hearing the court shall notify the child,
10 the parent, guardian, and legal custodian of the child, any foster parent or other
11 physical custodian described in s. 48.62 (2) of the child, the child's court-appointed
12 special advocate, all parties who are bound by the dispositional order, and, if the child
13 is an Indian child, the Indian child's Indian custodian and tribe. If the child is the
14 expectant mother of an unborn child under s. 48.133, the court shall also notify the
15 ~~unborn child~~ by the unborn child's guardian ad litem. If the change in placement
16 involves an adult expectant mother of an unborn child under s. 48.133, the court shall
17 notify the adult expectant mother, ~~the unborn child~~ by the unborn child's guardian
18 ad litem, and all parties who are bound by the dispositional order, at least 3 days prior
19 to the hearing. A copy of the request or proposal for the change in placement shall
20 be attached to the notice. Subject to par. (br), if all of the parties consent, the court
21 may proceed immediately with the hearing.

22 **SECTION 28.** 48.363 (1) (a) of the statutes is amended to read:

23 48.363 (1) (a) A child, the child's parent, guardian, legal custodian, or Indian
24 custodian, an expectant mother, an ~~unborn child~~ by the unborn child's guardian ad
25 litem, any person or agency bound by a dispositional order, or the district attorney

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1 or corporation counsel in the county in which the dispositional order was entered
2 may request a revision in the order that does not involve a change in placement or
3 a trial reunification, including a revision with respect to the amount of child support
4 to be paid by a parent. The court may also propose a revision. The request or court
5 proposal shall set forth in detail the nature of the proposed revision and what new
6 information is available that affects the advisability of the court's disposition. The
7 request or court proposal shall be submitted to the court. The court shall hold a
8 hearing on the matter prior to any revision of the dispositional order if the request
9 or court proposal indicates that new information is available ~~which~~ that affects the
10 advisability of the court's dispositional order, unless written waivers of objections to
11 the revision are signed by all parties entitled to receive notice and the court approves.

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

13 48.363 (1) (b) If a hearing is held, at least 3 days before the hearing the court
14 shall notify the child, the child's parent, guardian, legal custodian, and Indian
15 custodian, all parties bound by the dispositional order, the child's foster parent or
16 other physical custodian described in s. 48.62 (2), the child's court-appointed special
17 advocate, the district attorney or corporation counsel in the county in which the
18 dispositional order was entered, and, if the child is an Indian child who is placed
19 outside the home of his or her parent or Indian custodian, the Indian child's tribe.
20 If the child is the expectant mother of an unborn child under s. 48.133, the court shall
21 also notify ~~the unborn child~~ by the unborn child's guardian ad litem. If the
22 proceeding involves an adult expectant mother of an unborn child under s. 48.133,
23 the court shall notify the adult expectant mother, ~~the unborn child~~ through the
24 unborn child's guardian ad litem, all parties bound by the dispositional order, and
25 the district attorney or corporation counsel in the county in which the dispositional

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1 order was entered, at least 3 days prior to the hearing. A copy of the request or
2 proposal shall be attached to the notice. If all parties consent, the court may proceed
3 immediately with the hearing. No revision may extend the effective period of the
4 original order.

5 **SECTION 30.** 48.365 (1m) of the statutes is amended to read:

6 48.365 (1m) The parent, child, guardian, legal custodian, Indian custodian,
7 expectant mother, ~~unborn child by the~~ unborn child's guardian ad litem, any person
8 or agency bound by the dispositional order, the district attorney or corporation
9 counsel in the county in which the dispositional order was entered, or the court on
10 its own motion may request an extension of an order under s. 48.355 including an
11 order under s. 48.355 that was entered before the child was born. The request shall
12 be submitted to the court that entered the order. An order under s. 48.355 may be
13 extended only as provided in this section.

14 **SECTION 31.** 48.365 (2) of the statutes is amended to read:

15 48.365 (2) No order may be extended without a hearing. The court shall
16 provide notice of the time and place of the hearing to the child, the child's parent,
17 guardian, legal custodian, and Indian custodian, all the parties present at the
18 original hearing, the child's foster parent or other physical custodian described in s.
19 48.62 (2), the child's court-appointed special advocate, the district attorney or
20 corporation counsel in the county in which the dispositional order was entered and,
21 if the child is an Indian child who is placed outside the home of his or her parent or
22 Indian custodian, the Indian child's tribe. If the child is an expectant mother of an
23 unborn child under s. 48.133, the court shall also notify ~~the unborn child by the~~
24 unborn child's guardian ad litem. If the extension hearing involves an adult
25 expectant mother of an unborn child under s. 48.133, the court shall notify the adult

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1 expectant mother, ~~the unborn child through~~ the unborn child's guardian ad litem, all
2 the parties present at the original hearing, and the district attorney or corporation
3 counsel in the county in which the dispositional order was entered, of the time and
4 place of the hearing.

5 **SECTION 32.** 48.396 (1b) of the statutes is amended to read:

6 48.396 (1b) If requested by the parent, guardian, or legal custodian of a child
7 who is the subject of a law enforcement officer's report, or if requested by the child,
8 if 14 years of age or over, a law enforcement agency may, subject to official agency
9 policy, provide to the parent, guardian, legal custodian, or child a copy of that report.
10 If requested by the parent, guardian, or legal custodian of a child expectant mother
11 of an unborn child who is the subject of a law enforcement officer's report, if requested
12 by an expectant mother of an unborn child who is the subject of a law enforcement
13 officer's report, if 14 years of age or over, or if requested by an ~~unborn child through~~
14 ~~the~~ unborn child's guardian ad litem, a law enforcement agency may, subject to
15 official agency policy, provide to the parent, guardian, legal custodian, expectant
16 mother or ~~unborn child by the~~ unborn child's guardian ad litem a copy of that report.

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

18 48.396 (1d) Upon the written permission of the parent, guardian, or legal
19 custodian of a child who is the subject of a law enforcement officer's report or upon
20 the written permission of the child, if 14 years of age or over, a law enforcement
21 agency may, subject to official agency policy, make available to the person named in
22 the permission any reports specifically identified by the parent, guardian, legal
23 custodian or child in the written permission. Upon the written permission of the
24 parent, guardian, or legal custodian of a child expectant mother of an unborn child
25 who is the subject of a law enforcement officer's report, or of an expectant mother of

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1 an unborn child who is the subject of a law enforcement officer's report, if 14 years
2 of age or over, and of ~~the unborn child by~~ the unborn child's guardian ad litem, a law
3 enforcement agency may, subject to official agency policy, make available to the
4 person named in the permission any reports specifically identified by the parent,
5 guardian, legal custodian or expectant mother, and ~~unborn child by the~~ unborn
6 child's guardian ad litem in the written permission.

7 **SECTION 34.** 48.396 (2) (aj) of the statutes is amended to read:

8 48.396 (2) (aj) Upon request of the parent, guardian, or legal custodian of a
9 child expectant mother of an unborn child who is the subject of a record of a court
10 specified in par. (a), upon request of an expectant mother of an unborn child who is
11 the subject of a record of a court specified in par. (a), if 14 years of age or over, or upon
12 request of an ~~unborn child by the~~ unborn child's guardian ad litem, the court shall
13 open for inspection by the parent, guardian, legal custodian, expectant mother, or
14 ~~unborn child by the~~ unborn child's guardian ad litem the records of the court relating
15 to that expectant mother, unless the court finds, after due notice and hearing, that
16 inspection of those records by the parent, guardian, legal custodian, expectant
17 mother, or ~~unborn child by the~~ unborn child's guardian ad litem would result in
18 imminent danger to anyone.

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

20 48.396 (2) (ap) Upon the written permission of the parent, guardian, or legal
21 custodian of a child expectant mother of an unborn child who is the subject of a record
22 of a court specified in par. (a), or of an expectant mother of an unborn child who is
23 the subject of a record of a court specified in par. (a), if 14 years of age or over, and
24 of ~~the unborn child by~~ the unborn child's guardian ad litem, the court shall open for
25 inspection by the person named in the permission any records specifically identified

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

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

6 48.396 (5) (b) The court shall notify the child, the child's counsel, the child's
7 parents, appropriate law enforcement agencies, and, if the child is an expectant
8 mother of an unborn child under s. 48.133, ~~the unborn child~~ by the unborn child's
9 guardian ad litem, or shall notify the adult expectant mother, ~~the unborn child~~ by the
10 unborn child's guardian ad litem, and appropriate law enforcement agencies, in
11 writing of the petition. If any person notified objects to the disclosure, the court may
12 hold a hearing to take evidence relating to the petitioner's need for the disclosure.

13 **SECTION 37.** 48.46 (1) of the statutes is amended to read:

14 48.46 (1) Except as provided in subs. (1m), (2), and (3), the child whose status
15 is adjudicated by the court, the parent, guardian, or legal custodian of that child, the
16 guardian ad litem of an unborn child whose status is adjudicated by the court, or the
17 expectant mother of that unborn child may at any time within one year after the
18 entering of the court's order petition the court for a rehearing on the ground that new
19 evidence has been discovered affecting the advisability of the court's original
20 adjudication. Upon a showing that such evidence does exist, the court shall order a
21 new hearing.

NOTE: SECTIONS 1 to 31, 36, and 37 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.

22 **SECTION 38.** 48.78 (2) (aj) of the statutes is amended to read:

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1 48.78 (2) (aj) Paragraph (a) does not prohibit an agency from making available
2 for inspection or disclosing the contents of a record, upon the request of a parent,
3 guardian, or legal custodian of a child expectant mother of an unborn child who is
4 the subject of the record, upon the request of an expectant mother of an unborn child
5 who is the subject of the record, if 14 years of age or over, or upon the request of an
6 ~~unborn child by the~~ unborn child's guardian ad litem, to the parent, guardian, legal
7 custodian, expectant mother, or ~~unborn child by the~~ unborn child's guardian ad
8 litem, unless the agency determines that inspection of the record by the parent,
9 guardian, legal custodian, expectant mother, or ~~unborn child by the~~ unborn child's
10 guardian ad litem would result in imminent danger to anyone.

11 **SECTION 39.** 48.78 (2) (ap) of the statutes is amended to read:

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

NOTE: SECTIONS 32 to 35, 38, and 39 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.