



State of Wisconsin
2005 - 2006 LEGISLATURE

LRBa1305/1
GMM:kjf:jf

**ASSEMBLY AMENDMENT 2,
TO 2005 ASSEMBLY BILL 175**

November 1, 2005 – Offered by Representative SINICKI.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 2, line 2: after “abortion” insert “, requiring an unemancipated minor
3 to obtain parental or other consent or a judicial waiver of that consent requirement
4 before she may give birth, and providing a penalty”.

5 **2.** Page 4, line 1: delete lines 1 to 8 and substitute:

6 “**SECTION 1d.** 46.24 of the statutes is amended to read:

7 **46.24 Assistance to minors concerning parental consent for abortion**
8 **or for giving birth.** If a minor who is contemplating an abortion or who is
9 contemplating giving birth requests assistance from a county department under s.
10 46.215, 46.22, or 46.23 in seeking the consent of the minor’s parent, guardian, or legal
11 custodian, ~~or in seeking the consent of an adult family member, as defined in s.~~
12 ~~48.375 (2) (b),~~ for the contemplated abortion or giving of birth or in seeking a waiver

1 from the circuit court, the county department shall provide assistance, including, if
2 so requested, accompanying the minor as appropriate.

3 **SECTION 1r.** 48.16 (title) of the statutes is amended to read:

4 **48.16** (title) **Jurisdiction over petitions for waiver of parental consent**
5 **to a minor’s abortion or giving birth.**”.

6 **3.** Page 4, line 11: after that line insert:

7 “**SECTION 2d.** 48.235 (1) (d) of the statutes is amended to read:

8 48.235 (1) (d) The circuit court may appoint a guardian ad litem for a minor in
9 a proceeding under s. 48.375 (7) to aid the circuit court in determining under s. 48.375
10 (7) (c) whether or not the minor is mature and well-informed enough to make the
11 abortion decision on her own and whether or not the performance or inducement of
12 the abortion is in the minor’s best interests or to aid the circuit court in determining
13 under s. 48.375 (7) (a) whether or not the minor is mature and well-informed enough
14 to make the decision whether to give birth on her own and whether or not giving birth
15 is in the minor’s best interests.

16 **SECTION 2g.** 48.257 (title) of the statutes is amended to read:

17 **48.257** (title) **Petition to initiate a procedure to waive parental consent**
18 **prior to a minor’s abortion or giving birth.**

19 **SECTION 2j.** 48.257 (1) (b) of the statutes is amended to read:

20 48.257 (1) (b) A statement that the minor is pregnant and the estimated
21 gestational age of the fetus at the time that the petition is filed, and either a
22 statement that the minor is seeking an abortion or a statement that the minor is
23 seeking to give birth.

24 **SECTION 2m.** 48.257 (1) (c) of the statutes is amended to read:

1 48.257 (1) (c) The name and address of the person who intends to perform or
2 induce the abortion or who intends to attend the birth, if known. If that person is
3 not known, the name and address of the clinic or other medical facility that intends
4 to perform or induce the abortion or to attend the birth, if known.

5 **SECTION 2p.** 48.257 (1) (e) of the statutes is amended to read:

6 48.257 (1) (e) ~~A~~ Either a statement alleging that the minor is mature and
7 well-informed enough to make her own decision on whether or not to have an
8 abortion and facts sufficient to establish that the minor is mature enough and
9 well-informed enough to make her own decision or a statement alleging that the
10 minor is mature and well-informed enough to make her own decision on whether or
11 not to give birth and facts sufficient to establish that the minor is mature enough and
12 well-informed enough to make her own decision.

13 **SECTION 2r.** 48.257 (1) (f) of the statutes is amended to read:

14 48.257 (1) (f) ~~A~~ Either a statement alleging that, if the circuit court does not
15 find that the minor is mature enough and well-informed enough to make her own
16 decision, the circuit court should find that having an abortion is in the minor's best
17 interest and facts sufficient to establish that an abortion is in the minor's best
18 interest or a statement alleging if the circuit court does not find that the minor is
19 mature enough and well-informed enough to make her own decision, the circuit
20 court should find that giving birth is in the minor's best interest and facts sufficient
21 to establish that giving birth is in the minor's best interest."

22 **4.** Page 5, line 23: after that line insert:

23 **"SECTION 6g.** 48.373 (2) of the statutes is amended to read:

1 48.373 (2) Section 48.375 (7) applies if the medical service authorized under
2 sub. (1) is an abortion or if the medical service authorized under sub. (1) is attending
3 to a live birth.

4 **SECTION 6j.** 48.373 (3) of the statutes is amended to read:

5 48.373 (3) In a proceeding under s. 48.375 (7), a circuit court exercising
6 jurisdiction under s. 48.16 may not authorize any medical services other than the
7 performance or inducement of an abortion or the attendance to a live birth.

8 **SECTION 6m.** 48.375 (title) of the statutes is amended to read:

9 **48.375 (title) Parental consent required prior to abortion or giving**
10 **birth; judicial waiver procedure.**

11 **SECTION 6p.** 48.375 (1) (a) 5. of the statutes is amended to read:

12 48.375 (1) (a) 5. Parents who are aware that their minor is pregnant ~~or~~, has had
13 an abortion, or has given birth may better ensure that she receives adequate medical
14 attention during her pregnancy ~~or~~, after her abortion, or after her giving birth.

15 **SECTION 6r.** 48.375 (1) (a) 6. of the statutes is amended to read:

16 48.375 (1) (a) 6. Parental knowledge of a minor’s pregnancy and parental
17 consent to an abortion or to giving birth are usually desirable and in the best interest
18 of the minor.”.

19 **5.** Page 6, line 14: after that line insert:

20 “**SECTION 10g.** 48.375 (2) (h) of the statutes is amended to read:

21 48.375 (2) (h) “Referring physician” means a physician who refers a minor to
22 another physician for the purpose of obtaining an abortion or of giving birth.

23 **SECTION 10r.** 48.375 (4) (a) (intro.) of the statutes is amended to read:

1 48.375 (4) (a) (intro.) Except as provided in this section, no person may perform
2 or induce an abortion on or for a minor who is not an emancipated minor or attend
3 the giving of birth by a minor who is not an emancipated minor unless the person is
4 a physician and one of the following applies.”.

5 **6.** Page 8, line 12: after that line insert:

6 “**SECTION 14m.** 48.375 (4) (b) (intro.) of the statutes is amended to read:

7 48.375 (4) (b) (intro.) Paragraph (a) does not apply if the person who intends
8 to perform or induce the abortion or who intends to attend the birth is a physician
9 and any of the following occurs”.

10 **7.** Page 9, line 7: delete lines 7 to 11 and substitute:

11 “**SECTION 17m.** 48.375 (5) of the statutes is amended to read:

12 48.375 (5) COUNSELING. Any minor who is pregnant and who is seeking an
13 abortion or to give birth and any minor who has had an abortion or who has given
14 birth may receive counseling from a counselor of her choice. A county department
15 may refer the minor to a private counselor.

16 **SECTION 18d.** 48.375 (6) of the statutes is amended to read:

17 48.375 (6) RIGHT TO PETITION COURT FOR WAIVER. Any pregnant minor who is
18 seeking an abortion in this state, ~~and any member of the clergy on the minor’s behalf,~~
19 or who is seeking to give birth in this state may file a petition specified under s.
20 48.257 with any court for a waiver of the parental consent requirement under sub.
21 (4) (a) 1.”.

22 **8.** Page 10, line 2: after that line insert:

23 “**SECTION 21m.** 48.375 (7) (b) 2. of the statutes is amended to read:

1 48.375 (7) (b) 2. The understanding of the minor about the nature of, possible
2 consequences of, and alternatives to the intended abortion procedure or the intended
3 giving of birth.”.

4 **9.** Page 10, line 6: after that line insert:

5 “**SECTION 23m.** 48.375 (7) (c) 1. of the statutes is amended to read:

6 48.375 (7) (c) 1. That the minor is mature and well-informed enough to make
7 the abortion decision or the decision to give birth on her own.

8 **SECTION 23p.** 48.375 (7) (c) 2. of the statutes is amended to read:

9 48.375 (7) (c) 2. That the performance or inducement of the abortion or the
10 giving of birth is in the minor’s best interests.”.

11 **10.** Page 11, line 17: delete lines 17 to 25.

12 **11.** Page 12, line 1: delete lines 1 to 11 and substitute:

13 “**SECTION 26d.** 48.375 (7) (d) of the statutes is amended to read:

14 48.375 (7) (d) 2. Counsel for the minor, ~~or the member of the clergy who filed~~
15 ~~the petition on behalf of the minor, if any,~~ shall immediately, upon notification under
16 subd. 1. or 1m. that the court has granted or denied the petition, notify the minor.
17 If the court has granted the petition, counsel for the minor, ~~or the member of the~~
18 ~~clergy who filed the petition on behalf of the minor, if any,~~ shall hand deliver a
19 certified copy of the court order to the person who intends to perform or induce the
20 abortion or to attend the birth. If with reasonable diligence the person who intends
21 to perform or induce the abortion or to attend the birth cannot be located for delivery,
22 then counsel for the minor, ~~or the member of the clergy who filed the petition on~~
23 ~~behalf of the minor, if any,~~ shall leave a certified copy of the order with the person’s
24 agent at the person’s principal place of business. If a clinic or medical facility is

1 specified in the petition as the corporation, limited liability company, partnership,
2 or other unincorporated association that employs the person who intends to perform
3 or induce the abortion or to attend the birth, then counsel for the minor, ~~or the~~
4 ~~member of the clergy who filed the petition on behalf of the minor, if any,~~ shall hand
5 deliver a certified copy of the order to an agent of the corporation, limited liability
6 company, partnership, or other unincorporated association at its principal place of
7 business. There may be no service by mail or publication. The person or agent who
8 receives the certified copy of the order under this subdivision shall place the copy in
9 the minor’s medical record.”.

10 **12.** Page 13, line 2: after that line insert:

11 “SECTION 28r. 809.105 (title) of the statutes is amended to read:

12 **809.105 (title) Appeals in proceedings related to parental consent prior**
13 **to performance of abortion or giving birth.”.**

14 **13.** Page 13, line 20: after that line insert:

15 “SECTION 31m. 809.105 (4) (j) of the statutes is amended to read:

16 809.105 (4) (j) If the trial court appointed a guardian ad litem under s. 48.235
17 (1) (d), a letter written to the court of appeals by the guardian ad litem indicating his
18 or her position on whether or not the minor is mature and well-informed enough to
19 make the abortion decision or the decision to give birth on her own and whether or
20 not the performance or inducement of an abortion or the giving of birth is in the
21 minor’s best interests.”.

22 **14.** Page 15, line 16: delete lines 16 to 25.

23 **15.** Page 16, line 1: delete lines 1 to 9 and substitute:

1 “(b) Counsel for the minor, ~~if any, or the member of the clergy who initiated the~~
2 ~~appeal under this section, if any,~~ shall immediately, upon notification under par. (a)
3 that the court of appeals has granted or denied the petition, notify the minor. If the
4 court of appeals has granted the petition, counsel for the minor, ~~if any, or the member~~
5 ~~of the clergy who initiated the appeal under this section, if any,~~ shall hand deliver
6 a certified copy of the order of the court of appeals to the person who intends to
7 perform or induce the abortion or to attend the birth. If with reasonable diligence
8 the person who intends to perform or induce the abortion or to attend the birth cannot
9 be located for delivery, then counsel for the minor, ~~if any, or the member of the clergy~~
10 ~~who initiated the appeal under this section, if any,~~ shall leave a certified copy of the
11 order with the person’s agent at the person’s principal place of business. If a clinic
12 or medical facility is specified in the petition as the corporation, limited liability
13 company, partnership, or other unincorporated association that employs the person
14 who intends to perform or induce the abortion or to attend the birth, then counsel for
15 the minor, ~~if any, or the member of the clergy who initiated the appeal under this~~
16 ~~section, if any,~~ shall hand deliver a certified copy of the order to an agent of the
17 corporation, limited liability company, partnership, or other unincorporated
18 association at its principal place of business. There may be no service by mail or
19 publication. The person or agent who receives the certified copy of the order under
20 this paragraph shall place the copy in the minor’s medical record.”.

21 **16.** Page 16, line 21: after that line insert:

22 “**SECTION 38r.** 809.105 (11) (c) of the statutes is amended to read:

1 809.105 (11) (c) The supreme court shall, by court rule, provide for expedited
2 appellate review of cases appealed under this subsection because time may be of the
3 essence regarding the performance of the abortion or the attendance of the birth.”.

4 **17.** Page 17, line 19: delete lines 19 to 25.

5 **18.** Page 18, line 1: delete lines 1 to 13 and substitute:

6 “**SECTION 41d.** 809.105 (11) (e) of the statutes is amended to read:

7 809.105 (11) (e) Counsel for the minor, ~~if any, or the member of the clergy who~~
8 ~~initiated the appeal under this section, if any,~~ shall immediately, upon notification
9 under par. (d) that the supreme court has granted or denied the petition, notify the
10 minor. If the supreme court has granted the petition, counsel for the minor, ~~if any,~~
11 ~~or the member of the clergy who initiated the appeal under this section, if any,~~ shall
12 hand deliver a certified copy of the order of the supreme court to the person who
13 intends to perform or induce the abortion or to attend the birth. If with reasonable
14 diligence the person who intends to perform or induce the abortion or to attend the
15 birth cannot be located for delivery, then counsel for the minor, ~~if any, or the member~~
16 ~~of the clergy who initiated the appeal under this section, if any,~~ shall leave a certified
17 copy of the order with the person’s agent at the person’s principal place of business.
18 If a clinic or medical facility is specified in the petition as the corporation, limited
19 liability company, partnership, or other unincorporated association that employs the
20 person who intends to perform or induce the abortion or to attend the birth, then
21 counsel for the minor, ~~if any, or the member of the clergy who initiated the appeal~~
22 ~~under this section, if any,~~ shall hand deliver a certified copy of the order to an agent
23 of the corporation, limited liability company, partnership, or other unincorporated
24 association at its principal place of business. There may be no service by mail or

1 publication. The person or agent who receives the certified copy of the order under
2 this paragraph shall place the order in the minor’s medical record.”.

3 **19.** Page 18, line 24: delete that line.

4 **20.** Page 19, line 1: delete lines 1 to 7 and substitute:

5 “**SECTION 42p.** 895.037 (title) of the statutes is amended to read:

6 **895.037 (title) Abortions on or for a minor or births by a minor without**
7 **parental consent or judicial waiver.**

8 **SECTION 42r.** 895.037 (2) (a) of the statutes is amended to read:

9 895.037 (2) (a) Any person who, in violation of s. 48.375 (4), intentionally
10 performs or induces an abortion on or for a minor whom the person knows or has
11 reason to know is not an emancipated minor and any person who, in violation of s.
12 48.375 (4), intentionally attends a birth given by a minor whom the person knows or
13 has reason to know is not an emancipated minor may be required to forfeit not more
14 than \$10,000.

15 **SECTION 43d.** 895.037 (3) (a) of the statutes is amended to read:

16 895.037 (3) (a) A person who ~~intentionally~~ violates s. 48.375 (4) under
17 circumstances in which the person knew or, in the exercise of reasonable care, should
18 have known that the requirements of the subsection have not been complied with is
19 liable to the minor on or for whom the abortion was performed or induced or to the
20 minor who gave birth and to the minor’s parent, guardian, and legal custodian for
21 damages arising out of the performance or inducement of the abortion or out of the
22 giving of birth including, ~~but not limited to,~~ damages for personal injury and
23 emotional and psychological distress.”.

24 **21.** Page 19, line 9: after “INDUCED” insert “OR BIRTHS ATTENDED”.

1 **22.** Page 19, line 10: delete that line and substitute “(2) (b), (fm), and (h) and
2 (4) (a) (intro.) and (b) (intro.), 1., 1m., and 3., 69.186 (1) (j), and 895.037 (title), (2) (a),
3 and (3) (a) of the”.

4 **23.** Page 19, line 13: after “induced” insert “or births attended”.

5 **24.** Page 19, line 14: delete lines 14 to 17 and substitute:

6 “(2m) WAIVER PETITIONS FILED. The treatment of sections 48.16 (title), 48.23
7 (1m) (cm), 48.235 (1) (d), 48.257 (title), (1) (b), (c), (e), (f), and (h), and (4), 48.27 (9),
8 48.273 (4) (b), 48.373 (2) and (3), 48.375 (title), (1) (a) 5. and 6., (2) (c), (em), and (h),
9 (6), and (7) (a) (intro.) and 4., (b) (intro.), 2., and 2m., (bm), (c) 1. and 2., (d) 1., 1m.,
10 and 2., and (f), and 809.105 (title), (2), (3) (a) and (d), (4) (j), (5), (8), (8m), (9), (10) (a)
11 and (b), (11) (a) (intro.) and 3., (c), (cm), (d), and (e), and”.

12

(END)