

1999 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB312)

Received: **08/23/1999**

Received By: **malaigm**

Wanted: **As time permits**

Identical to LRB:

For: **Neal Kedzie (608) 266-9650**

By/Representing: **Mary Klaver**

This file may be shown to any legislator: NO

Drafter: **malaigm**

May Contact: **Mary Klaver (414) 778-5780**

Alt. Drafters:

Subject: **Children - miscellaneous
Health - abortion**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Parental consent requirement to a minor's abortion; exceptions; judicial waiver procedure

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
I?	malaigm 08/26/1999	wj ackson 08/31/1999		_____			
/1			martykr 09/01/1999	_____	lrb-docadmin 09/01/1999	lrb-docadmin 09/01/1999	
/2	malaigm 09/28/1999	wj ackson 09/28/1999	hhagen 09/28/1999	_____	lrb-docadmin 09/28/1999	lrb-docadmin 09/28/1999	
/3	malaigm 09/30/1999	wjackson 09/30/1999		_____			
/4			mclark	_____	lrb-docadmin	lrb-docadmin	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Rewired</u>
			09/30/1999 _____		09/30/1999	09/30/1999	

FE Sent For:

<END>

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/?	malaigm 08/26/1999	wjackson 08/31/1999		_____			
/1			martykr 09/01/1999	_____	lrb-docadmin 09/01/1999	lrb-docadmin 09/01/1999	
/2	malaigm 09/28/1999	wjackson 09/28/1999	hhagen 09/28/1999	_____	lrb-docadmin 09/28/1999	lrb-docadmin 09/28/1999	

FE Sent For: /4 9/30 WLJ 9/30 MRC/JF
MRC 9/30
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/?	malaigm 08/26/1999	wjackson 08/3 111999		_____			
/1		1/2 9/28 wlj	martykr 09/01/1999 cd 9/28	_____	lrb_docadmin 09/01/1999	lrb_docadmin 09/01/1999	

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1/?	malaigm	11 Wlj 8/31	<i>[Signature]</i>	<i>[Signature]</i>			

FE Sent For:

<END>



Wisconsin Right to Life, Inc.

State Affiliate of the National
Right to Life Committee, Inc.
Washington, DC 20004-2293

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Wisconsin Right to Life, Inc.
 10625 West North Avenue, Suite LL
 Milwaukee, WI 53226-2331
 PH: 414/778-5780
 FAX: 414/778-5785
 E-MAIL: wrtl@inc.net
 HMPGE: <http://www.wrtl.org>

SENT VIA FAX (608-264-8522)

August 20, 1999

To: Gordon Malaise

From: **Mary Klaver**

Re: substitute Amendment to **AB 3 12**

On behalf of Representative Neal **Kedzie**, please draft a substitute amendment to Assembly Bill 3 12, the **parental** consent cleanup bill.

The substitute amendment should do the following:

1. Rewrite the **notarization** requirement as set forth in **INSERT A**, to address the concerns raised by the Secretary of State's **office** and to **require use of an identification issued** by a **governmental** agency with a photo.
2. Add a **definition** of "identification issued by a governmental agency" which **lists common identifications**, such as a driver's license and a state **identification** card, and permits use of any other form of identification issued by a **governmental** agency **containing** the person's name, address, signature and photograph
3. **Clarify** that in a situation where the minor's parents are divorced or any other situation where there has been a **determination** of legal custody of the minor, **that** consent **shall** be obtained **from** a parent who has legal custody of the minor.
4. **Delete all references to a foster parent.**

If you have any questions, please **call** me at **414-778-5780**.

CC: **Representative Neal Kedzie**
 Senator Robert Welch

Dedicated successfully since 1968 to advocating for and protecting precious human life.

Please remember the Wisconsin Right-to Life Education Fund 501(c)(3) charity and its lifesaving programs in your estate plan. By doing so, you may be able to achieve significant income, gift or estate tax benefits. Please call our development department today for confidential help in successfully implementing the gift plan most suitable for you.

intends
who ~~is~~ to perform or induce
the abortion

INSERT A (s. 48.375 (4) (a) ~~It is~~ it would read after amended)

48.375 (4) (a) 1. The person or the person's agent has, either directly or through a referring physician or his or her agent, received and made part of the minor's medical record, under the requirements of s. 253.10, the voluntary and informed written consent of the *minor* and the voluntary and **informed** written consent of one of her parents, or of the minor's guardian or **legal custodian**, if one has been appointed. If there has been a **determination** of legal custody of Under ch. 762 the ~~minor,~~ then consent shall be obtained from a parent who has legal custody, as defined in s.

767.001 (2), of the minor. The person or the person's agent shall **verify** that the person consenting to an abortion for the minor ~~is, in fact,~~ the parent, guardian or legal custodian of the minor and ^{shall} place in the minor's medical record a copy of **evidence**, such as a birth certificate or a court order, which documents that the person consent& to an abortion for the minor is, in fact, **the parent, guardian or legal custodian of the minor.** [The minor's parent, guardian or legal

custodian shall sign the consent document before a notary public and, in addition, shall sign before the notary public ~~a statement in which the parent, guardian or legal custodian swears or affirms~~ ^{verifies upon oath or affirmation} that he or she is the parent, guardian or legal custodian ^{witnessing the} of the minor. ~~In taking a verification~~ upon oath or ~~affirmation under this subdivision,~~ the notary public shall determine, either from personal knowledge or from satisfactory **evidence**, consisting of one or more forms **identification** issued by a governmental agency containing the name, address, signature and photograph of the person, that the person appearing before the notary public and making the ^{verification} ~~oath or affirmation~~ is the

person whose true signature is ~~on the~~ consent document and ~~statement.~~ ^{verified} A notary public who

^{witnesses a signature} takes a verification upon oath or **affirmation** under this subdivision shall keep **confidential** any ^{under oath or affirmation makes} **information acquired in taking the verification.** Any person who ~~swears or affirms to a false statement~~ under this subdivision, which the person does not believe is true, is subject to prosecution for a violation of s. **946.32** (2) (?)

ASSEMBLY BILL 312

add definition of "identification issued by governmental agency"

48.273 (4) (b) Personal service is required for notice of all proceedings under s. 48.375 (7), except that, if the minor is not represented by counsel, notice to the minor shall be in the manner and at the place designated by the minor in the petition under s. 48.257 (1) until appointment of the minor's counsel- under s. 48.375 (7) (a) 1. Notice shall be served immediately for any proceeding under s. 48.375 (7) unless the minor waives the immediate notice. If the minor waives the immediate notice, the notice shall be served at least 24 hours before the time of the hearing under s. 48.375 (7) (b) or any other proceeding under s. 48.375 (7). A minor may, in acknowledging receipt of service of the notice, sign the name "Jane Doe" in lieu of providing the minor's full signature.

SECTION 7. 48.375 (2) (b) of the statutes is repealed.

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

48.375 (2) (c) 'Counselor' means a physician including a physician specializing in psychiatry, a licensed psychologist, as defined in s. 455.01 (4). or an ordained member of the clergy, as defined in s. 765.002 (1). 'Counselor' does not include any person who is employed by or otherwise affiliated with a reproductive health care facility, a family planning clinic or a family planning agency; any person affiliated with the performance of abortions, except abortions performed to save the life of the mother; or any person who may profit from giving advice to seek an abortion.

SECTION 9. 48.375 (2) (em) of the statutes is repealed.

SECTION 10. 48.375 (4) (a) 1. of the statutes is amended to read:

48.375 (4) (a) 1. The person or the person's agent has, either directly or through a referring physician or his or her agent, received and made part of the minor's medical record. under the requirements of s. 253.10, the voluntary and informed written consent of the minor and the voluntary and informed written consent of one

replace with language in INSEAT A

ASSEMBLY BILL 312

SECTION 10

Replace with language in INSERT A

of her parents; or of the minor's guardian or legal custodian, if one has been appointed ~~or of an adult family member of the minor;~~ or of one of the minor's foster parents or treatment foster parents. if the minor has been placed in a foster home or treatment foster home and the minor's parent has signed a waiver granting the department, a county department, the foster parent or the treatment foster parent the authority to consent to medical services or treatment on behalf of the minor. The minor's parent, guardian, legal custodian, foster parent or treatment foster parent shall sign and acknowledge the consent document before a notary public. In taking the acknowledgement, the notary public shall determine, either from personal knowledge or from satisfactory evidence consisting of one or more forms of identification containinthe name, address, signature and photograph of the person, the person swearing brfore the notary public and making t h e acknowledgement is the person whose true signature is on the consent document. e

perso also determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the notary public and making the acknowledgement is, in fact, the parent, guardian, legal custodian, foster parent or treatment foster parent of the minor and does, in fact, have the authority to consent to medical services or treatment on behalf of the minor. A notary public taking an acknowledgement under this section shall keep confidential any information acquired in taking the acknowledgement.

SECTION 11. 48.375 (4) (b) 1. of the statutes is amended to read:

48.375 (4) (b) 1. ~~The person who intends to perform or induce the abortion believes, to the best of his or her medical judgment based on the facts of the case before him or her, that a medical emergency, as defined in s. 253.10 (2) (d), exists that complicates the pregnancy so as to require an immediate abortion.~~

delete foster parent through statute

1 SECTION 12. 48.375 (4) (b) lm. of the statutes is repealed.

2 SECTION 13. 48.375 (4) (b) 3. of the statutes is amended to read:

3 48.375 (4) (b) 3. ~~the~~ minor provides the person who intends to perform or
4 induce the abortion with a written statement, signed and dated by the minor, that
5 a parent who has legal custody of the minor, or the minor's guardian or legal
6 custodian ~~if one has been appointed, or an adult family member of the minor, or a~~
7 ~~foster parent or treatment foster parent, if the minor has been placed in a foster home~~
8 ~~treatment foster home and the minor's parent has signed a waiver granting the~~
9 ~~department, a county department, the foster parent or the treatment foster parent~~
10 ~~the authority to consent to medical services or treatment on behalf of the minor,~~ has
11 inflicted abuse on the minor. The person who intends to perform or induce the
12 abortion shall place the statement in the minor's medical record. The person who
13 intends to perform or induce the abortion shall report the abuse as required under
14 s. 48.981 (2).

15 SECTION 14. 48.375 (6) of the statutes is amended to read:

16 48.375 (6) RIGHT TO PETITION COURT FOR WAIVER. Any pregnant minor who is
17 seeking an abortion in this state, ~~and any member of the clergy on the minor's behalf,~~
18 may file a petition specified under s. 48.257 with any court for a *waiver* of the
19 *parental* consent requirement under sub. (4) (a) 1.

20 SECTION 15. 48.375 (7) (a) (intro.) of the statutes is amended to read:

21 **48.375 (7) (a) Receipt of petition; initial appearance. (intro.)** On the date that
22 a petition under s. 48.257 is filed, or if it is impossible to do so on that day, on the next
23 calendar day. the court shall hold an initial appearance in chambers at which the
24 minor ~~or the member of the clergy who filed the petition on behalf of the minor, if any,~~
25 is present and shall do all of the following:

1 order to the person who intends to perform or induce the abortion- **If with** reasonable
 2 diligence the person who intends to perform or induce the abortion cannot be located
 3 for delivery, then counsel for the ~~minor, or the member of the clergy who filed the~~
 4 ~~petition on behalf of the minor, if any,~~ shall leave a certified copy of the order with
 5 the person's agent at the person's principal place of business. If a clinic or medical
 6 facility is specified in the petition as the corporation, limited **liability** company
 7 partnership or other unincorporated association that employs the person who
 8 intends to perform or induce the abortion, then counsel for the minor-
 9 ~~of the clergy who filed the petition on behalf of the minor, if any,~~ shall hand deliver
 10 a certified copy of the order to an agent of the corporation, limited liability company,
 11 partnership or other unincorporated association at its principal place of business.
 12 There may be no service by mail or publication. The person or agent who receives
 13 the certified copy of the order under this subdivision **shall** pface the copy in the
 14 minor's medical record.

15 SECTION 20. 48.375 ~~(7)~~ (f) of the statutes is amended to read:

16 **48.375 (7) (f) Certain persons barred from proceedings.** No parent, or guardian
 17 or legal custodian, if one has been appointed, ~~or foster parent or treatment foster~~
 18 ~~parent, if the minor has been placed in a foster home or treatment foster home and~~
 19 ~~the minor's parent has signed a waiver granting the department, a county~~
 20 ~~department, the foster parent or the treatment foster parent the authority to consent~~
 21 ~~to medical services or treatment on behalf of the minor, or adult family member,~~ of
 22 any minor who is seeking a court **determination** under **this** subsection may attend,
 23 intervene or give evidence in **any** proceeding under this subsection.

24 SECTION 21. 69.186 (1) (j) of the statutes is amended to read:

1 minor. If the supreme court has granted the petition, counsel for the minor-
 2 ~~or the member of the clergy who initiated the appeal under this section, if any,~~ shall
 3 hand deliver a certified copy of the order of the supreme court to the person who
 4 intends to perform or induce the **abortion**. If with reasonable diligence the person
 5 who intends to perform or induce the abortion cannot be located for **delivery**, then
 6 c o u n s e l f o r t h e m i n o r <
 7 ~~under this section, if any,~~ shall leave a certified copy of the order with the person's
 8 agent at the person's principal place of business. **If** a clinic or medical facility is
 9 specified in the petition as ~~the~~ corporation, limited liability company, partnership or
 10 other unincorporated association that employs the person who intends to perform or
 11 induce the abortion, then counsel for the minor, ~~if any, or the member of the clergy~~
 12 ~~who initiated the appeal under this section, if any,~~ shall hand deliver a certified copy
 13 of the order to an agent of the corporation, limited liability company, partnership or
 14 other unincorporated association at its principal place of business. There may be no
 15 service by mail or publication. The person or agent who receives the **certified** copy
 16 of the order under this paragraph shall place the order in the minor's medical record.

17 SECTION 35. 809.105 (13) of the statutes is amended to read:

18 809.105 (13) CERTAIN PERSONS BARRED FROM PROCEEDINGS. No parent, or
 19 guardian or legal custodian, if one **has** been appointed, ~~or foster parent or treatment~~
 20 ~~foster parent, if the minor has been placed in a foster home or treatment foster home,~~
 21 ~~and the minor's parent has signed a waiver granting the department of health and~~
 22 ~~family services, a county department under s. 10.215, 16.22 or 16.23, the foster~~
 23 ~~parent or the treatment foster parent the authority to consent to medical services or~~
 24 ~~treatment on behalf of the minor, or adult family member, as defined in s. 48.375 (2)~~

1999

Date (time) needed soon

LRB s 0111 / 1

SUBSTITUTE AMENDMENT [TO A BILL]

GMM : WLj : _____

Use the appropriate components and routines developed for substitute amendments.

W § A SUBSTITUTE AMENDMENT

W TO 1999 W SB/ AB 312 LRB _____

~~AN ACT . . . [generate catalog] to repeal . . . ; to renumber . . . ; to consolidate and renumber . . . ; to renumber and amend . . . ; to consolidate, renumber and amend . . . ; to amend . . . ; to repeal and recreate . . . ; and to create . . . of the statutes; relating to: . . .~~

[NOTE: See section 4.02 (2) (br), Drafting Manual, for specific order of standard phrases.]

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

SECTION #.



50111/1

1999 ASSEMBLY BILL 312

April 27, 1999 - Introduced by Representatives KEDZIE, PLALE, KESTELL, PETTIS, M. LEHMAN, HANDRICK, PORTER, HAHN, WARD, HUEBSCH, MEYERHOFER, JOHNSRUD, F. LASEE, AINSWORTH, KREIBICH, OWENS, HOVEN, GOETSCH, WALKER, LADWIG, GROTHMAN, ALBERS, DUFF, SYKORA, GARD, FREESE, VRAKAS, GUNDERSON, PETROWSKI, MONTGOMERY, ZIEGELBAUER, STASKUNAS, URBAN, RYBA, SERATTI, OTT, RHOADES, LEIBHAM, WIECKERT, POWERS, SUDER, NASS, JESKEWITZ, HUNDERTMARK and GUNDRUM, cosponsored by Senators WELCH, SCHULTZ, FITZGERALD, BRESKE, ZIEN, ROESSLER, FARROW and DRZEWIECKI. Referred to Committee on Judiciary and Personal Privacy.



Regenerate

1 **AN ACT** to repeal 148.375 (2) (b), 48.375 (2) (em), 48.375 (4) (b) lm. and 48.375 (7)
2 (bm); and to amend 46.24, 48.23 (1) (cm), 48.257 (1) (h), 48.257 (4), 48.27 (9),
3 48.273 (4) (b), 48.375 (2) (c), 48.375 (4) (a) 1., 48.375 (4) (b) l., 48.375 (4) (b) 3.,
4 48.375 (6), 48.375 (7) (a) (intro.), 48.375 (7) (a) 4., 48.375 (7) (b) (intro.), 48.375
5 (7) (d), 48.375 (7) (f), 69.186 (1) (j), 809.105 (2), 809.105 (3) (a), 809.105 (3) (d),
6 809.105 (5), 809.105 (8), 809.105 (8m), 809.105 (9), 809.105 (lo), 809.105 (11)
7 (a) (intro.), 809.105 (11) (a) 3., 809.105 (11) (cm), 809.105 (11) (d), 809.105 (11)
8 (e), 809.105 (13) and 895.037 (3) (a) of the statutes; relating to: the
9 requirement that an unemancipated minor obtain parental or other consent or
10 a judicial waiver of that consent requirement before she may have an abortion.

may

Analysis by the Legislative Reference Bureau

This bill makes various changes to the law that requires an unemancipated minor to obtain parental or other consent or a judicial waiver of that consent requirement before she may have an abortion (generally referred to as "the parental consent" law).

ASSEMBLY BILL 312***Consent or judicial waiver requirement.***

Under current law, subject to certain exceptions, before an unemancipated minor may have an abortion, she must have the written consent of one of her parents; or of her guardian or legal custodian, if one has been appointed; or of an adult family member; or one of her foster parents or treatment foster parents, if the minor has been placed in a foster home or a treatment foster home and the minor's parent has signed a waiver granting the department of health and family services, a county department of human services or social services, the foster parent or the treatment foster parent the authority to consent to medical services or treatment on behalf of the minor; unless the minor obtains a waiver of this requirement from the circuit court. Current law defines "adult family member" as a grandparent, aunt, uncle, sister or brother who is at least 25 years of age.

This bill eliminates the authority of an adult family member to consent to an unemancipated minor's abortion. The bill also requires the parent, guardian, legal custodian, foster parent or treatment foster parent who consents to the minor's abortion to sign and acknowledge, that is, declare that he or she has signed the consent document for the purpose stated in the consent document, before a notary public. The bill requires the notary public, in taking the acknowledgment, to determine, either from personal knowledge or satisfactory evidence, that the person appearing before the notary public and making the acknowledgment is the person whose signature is on the consent document, that the person is, in fact, the parent, guardian, legal custodian, foster parent or treatment foster parent of the minor and that the person does, in fact, have the authority to consent to medical services or treatment on behalf of the minor. The bill also requires the notary public to keep confidential any information acquired in taking the acknowledgment.

Exceptions to consent or judicial waiver requirement.

Under current law, the consent or judicial waiver requirement does not apply if the person who intends to perform or induce the abortion believes, to the best of his or her medical judgment based on the facts of the case before him or her, that a medical emergency exists that complicates the pregnancy so as to require an immediate abortion. This bill provides that the consent or judicial waiver requirement does not apply if a medical emergency, as defined in the law requiring voluntary and informed consent to an abortion (informed consent law), exists. The informed consent law defines a "medical emergency" as a condition that, in a physician's reasonable medical judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death or for which a 24-hour delay in the performance or inducement of the abortion will create a serious risk of substantial and irreversible impairment of one or more of the woman's major bodily functions.

In addition, under current law, the consent or judicial waiver requirement does not apply if a psychiatrist or psychologist states in writing that he or she believes that the minor is likely to commit suicide rather than seek consent or a judicial waiver. This bill eliminates that exception.

ASSEMBLY BILL 312~~***Civil liability for violation of consent or judicial waiver requirement.***~~

~~Under current law, a person who intentionally performs or induces an abortion on or for a minor without prior consent or waiver of the consent requirement by a court is liable to the minor and to the minor's parent, guardian and legal custodian for damages arising out of the performance or inducement of the abortion. This bill eliminates the requirement that the violation of the consent or judicial waiver requirement be intentional.~~

~~***Judicial waiver procedures.***~~

~~Under current law, a minor who is seeking an abortion, or a member of the clergy on behalf of the minor, may petition a circuit court for a waiver of the consent requirement. If the minor files a petition on her own behalf, the minor must be present at an initial appearance at which the court appoints counsel for the minor and sets a date for a hearing to determine whether the minor is mature and well-informed enough to make the abortion decision on her own or whether the performance or inducement of an abortion is in the minor's best interests. If a member of the clergy files a petition on behalf of the minor, the member of the clergy may be present at the initial appearance instead of the minor and the court need not appoint counsel for the minor or set a date for a hearing on the petition. Instead, the member of the clergy must file with the petition an affidavit stating that the member of the clergy has explored with the minor alternative choices for managing the minor's pregnancy, including keeping the baby or placing the baby for adoption, and has discussed with the minor the possibility of obtaining consent for the abortion and whether or not obtaining that consent would be in the minor's best interests. The court may grant the petition, without hearing, based on the member of the clergy's affidavit.~~

~~This bill eliminates the option of permitting a member of the clergy to file a petition and affidavit on behalf of the minor. Under the bill, the minor must file her own petition and be present at the initial appearance, and the court must appoint counsel for the minor and hold a hearing on the petition.~~

~~For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.~~

A

n

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

- 1 **SECTION 1. 46.24** of the statutes is amended to read:
- 2 **46.24 Assistance to minors concerning parental consent for abortion.**
- 3 If a minor who is contemplating an abortion requests assistance from a county
- 4 department under s. 46.215, 46.22 or 46.23 in seeking the consent of the minor's
- 5 p a r e n t , g u a r d i a n o r l e g a l c u s t o d i a n ,

ASSEMBLY BILL 312

1 ~~member, as defined in s. 48.375 (2) (b),~~ for the contemplated abortion or in seeking
2 a waiver from the circuit court, the county department shall provide assistance,
3 including, if so requested, accompanying the minor as appropriate.

4 **SECTION 2.** 48.23 (1) (cm) of the statutes is amended to read:

5 48.23 (1) (cm) Any minor who is subject to the jurisdiction of the circuit court
6 under s. 48.16 ~~and who is required to appear in court~~ shall be represented by counsel.

7 **SECTION 3.** 48.257 (1) (h) of the statutes is amended to read:

8 48.257 (1) (h) If the minor is not represented by counsel, the place where and
9 the manner in which the minor wishes to be notified of proceedings under s. 48.375
10 (7) until appointment of counsel under s. 48.375 (7) (a) 1. ~~If the petition is filed by~~
11 ~~a member of the clergy on behalf of the minor, the place where and manner in which~~
12 ~~the member of the clergy wishes to be notified of proceedings under s. 48.375 (7).~~

13 **SECTION 4.** 48.257 (4) of the statutes is amended to read:

14 48.257 (4) The clerk of circuit court shall give a copy of the petition to the minor
15 ~~or to the member of the clergy who files a petition on behalf of the minor, if any.~~

16 **SECTION 5.** 48.27 (9) of the statutes is amended to read:

17 48.27 (9) Subsections (1) to (8) do not apply in any proceeding under s. 48.375
18 (7). For proceedings under s. 48.375 (7), the circuit court shall provide notice only
19 to the minor, her counsel, ~~if any, the member of the clergy who filed the petition on~~
20 ~~behalf of the minor, if any,~~ and her guardian ad litem, ~~if any.~~ The notice shall contain
21 the title and case number of the proceeding, and the nature, location, date and time
22 of the hearing or other proceeding. Notice to the minor ~~or to the member of the clergy,~~
23 ~~if any,~~ shall be provided as requested under s. 48.257 (1) (h) and, after appointment
24 of the minor's counsel, ~~if any,~~ by her counsel.

25 **SECTION 6.** 48.273 (4) (b) of the statutes is amended to read:

ASSEMBLY BILL 312

1 48.273 (4) (b) Personal service is required for notice of all proceedings under
 2 s. 48.375 (7), except that, if the minor is not represented by counsel, notice to the
 3 minor shall be in the manner and at the place designated by the minor in the petition
 4 under s. 48.257 (1) until appointment of the minor's counsel- under s. 48.375
 5 (7) (a) 1. Notice shall be served immediately for any proceeding under s. 48.375 (7)
 6 unless the minor waives the immediate notice. If the minor waives the immediate
 7 notice, the notice shall be served at least 24 hours before the time of the hearing
 8 under s. 48.375 (7) (b) or any other proceeding under s. 48.375 (7). A minor may, in
 9 acknowledging receipt of service of the notice, sign the name "Jane Doe" in lieu of
 10 providing the minor's full signature.

11 **SECTION 7.** 48.375 (2) (b) of the statutes is repealed.

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

13 48.375 (2) (c) "Counselor" means a physician including a physician specializing
 14 in psychiatry, a licensed psychologist, as defined in s. 455.01 (4), or an ordained
 15 member of the clergy, as defined in s. 765.002 (1). "Counselor" does not include any
 16 person who is employed by or otherwise affiliated with a reproductive health care
 17 facility, a family planning clinic or a family planning agency; any person affiliated
 18 with the performance of abortions, except abortions performed to save the life of the
 19 mother; or any person who may profit from giving advice to seek an abortion.

20 **SECTION 9.** 48.375 (2) (em) of the statutes is repealed.

21 **SECTION 10.** 48.375 (4) (a) 1. of the statutes is amended to read:

22 48.375 (4) (a) 1. ^(Intro.) The person or the person's agent has, either directly or through
 23 a referring physician or his or her agent, received and made part of the minor's
 24 medical record, under the requirements of s. 253.10, the voluntary and informed
 25 written, consent of the minor and the voluntary and informed written consent of one

(renumbered 48.375
(4)(a) 1. (Intro.) and

ASSEMBLY BILL 312

SECTION 10

① of her parents, or of the minor's guardian or legal custodian, if one has been
 ② appointed, or of an adult family member of the minor; or of one of the minor's foster
 ③ ~~parents or treatment foster parents, if the minor has been placed in a foster home~~
 3 ~~or treatment foster home and the minor's parent has signed a waiver granting the~~
 ⑤ ~~department, a county department, the foster parent or the treatment foster parent~~
 6 ~~the authority to consent to medical services or treatment on behalf of the minor. The~~
 7 minor's parent, guardian, legal custodian, foster parent or treatment foster parent
 8 shall sign and acknowledge the consent document before a notary public. In taking
 9 the acknowledgement, the notary public shall determine, either from personal
 10 knowledge or from satisfactory evidence consisting of one or more forms of
 11 identification containing the name, address, signature and photograph of the person
 12 that the person appearing before the notary public and making the acknowledgment
 13 is the person whose true signature is on the consent document. The notary public
 14 shall also determine, either from personal knowledge or from satisfactory evidence,
 15 that the person appearing before the notary public and making the
 16 acknowledgement is, in fact, the parent, guardian, legal custodian, foster parent or
 17 treatment foster parent of the minor and does, in fact, have the authority to consent
 18 to medical services or treatment on behalf of the minor. A notary public who takes
 19 an acknowledgment under this subdivision shall keep confidential any information
 20 acquired in taking the acknowledgment.

Insert
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 20

SECTION 11. 48.375 (4) (b) 1. of the statutes is amended to read:

22 **48.375 (4) (b) 1.** ~~The person who intends to perform or induce the abortion~~
 23 ~~believes, to the best of his or her medical judgment based on the facts of the case~~
 24 ~~before him or her, that a~~ A medical emergency, as defined in s. 253.10 (2) (d), exists
 25 ~~that complicates the pregnancy so as to require an immediate abortion~~

ASSEMBLY BILL 312

1 **SECTION 12.** 48.375 (4) (b) lm. of the statutes is repealed.

2 **SECTION 13.** 48.375 (4) (b) 3. of the statutes is amended to read:

3 48.375 (4) (b) 3. The minor provides the person who intends to perform or
4 induce the abortion with a written statement, signed and dated by the minor, that
5 a parent who has legal custody of the minor, or the minor's guardian or legal
6 custodian, if one has been appointed, ~~or an adult family member of the minor, or a~~
7 ~~foster parent or treatment foster parent, if the minor has been placed in a foster home~~
8 ~~or treatment foster home and the minor's parent has signed a waiver granting the~~
9 ~~department, a county department, the foster parent or the treatment foster parent,~~
10 ~~the authority to consent to medical services or treatment on behalf of the minor, has~~
11 inflicted abuse on the minor. The person who intends to perform or induce the
12 abortion shall place the statement in the minor's medical record. The person who
13 intends to perform or induce the abortion shall report the abuse as required under
14 s. 48.981 (2).

15 **SECTION 14.** 48.375 (6) of the statutes is amended to read:

16 48.375 (6) **RIGHT TO PETITION COURT FOR WAIVER.** Any pregnant minor who is
17 seeking an abortion in this state, ~~and any member of the clergy on the minor's behalf,~~
18 may file a petition specified under s. 48.257 with any court for a waiver of the
19 parental consent requirement under sub. (4) (a) 1.

20 **SECTION 15.** 48.375 (7) (a) (intro.) of the statutes is amended to read:

21 48.375 (7) (a) Receipt *of petition; initial appearance.* (intro.) On the date that
22 a petition under s. 48.257 is filed, or if it is impossible to do so on that day, on the next
23 calendar day, the court shall hold an initial appearance in chambers at which the
24 minor ~~or the member of the clergy who filed the petition on behalf of the minor, if any,~~
25 is present and shall do all of the following:

ASSEMBLY BILL 312**SECTION 16**

1 **SECTION 16.** 48.375 (7) (a) 4. of the statutes is amended to read:

2 48.375 (7) (a) 4. Notify the minor, the minor's counsel-
3 ~~clergy who filed the petition on behalf of the minor, if any,~~ and the minor's guardian
4 ~~ad litem, if any,~~ of the time, date and place of the hearing.

5 **SECTION 17.** 48.375 (7) (b) (intro.) of the statutes is amended to read:

6 48.375 (7) (b) **Hearing; evidence.** (intro.) The court shall hold a confidential
7 hearing on a the petition ~~that is filed by~~ a minor. The hearing shall be held in
8 chambers, unless a public fact-finding hearing is demanded by the minor through
9 her counsel. At the hearing, the court shall consider the report of the guardian ad
10 ~~litem, if any,~~ and hear evidence relating to all of the following:

11 **SECTION 18.** 48.375 (7) (bm) of the statutes is repealed.

12 **SECTION 19.** 48.375 (7) (d) of the statutes is amended to read:

13 **48.375 (7) (d) Timelimit.** 1. The court shall make the determination under par.
14 (c) and issue an order within 3 calendar days after the initial appearance unless the
15 minor and her counsels of ~~the clergy who filed the petition on behalf~~
16 ~~of the minor, if any,~~ consent to an extension of the time period. The order shall be
17 effective immediately. The court shall prepare and file with the clerk of court
18 findings of fact, conclusions of law and a final order granting or denying the petition
19 within 24 hours after making the determination and order. If the court grants the
20 petition, the court shall immediately so notify the minor by personal service on her
21 c o u n s e l , <
22 ~~any,~~ of a certified copy of the court's order granting the petition. If the court denies
23 the petition, the court shall immediately so notify the minor by personal service on
24 her counsel, ~~or the member of the clergy who filed the petition on behalf of the minor,~~
25 ~~if any,~~ of a copy of the court's order denying the petition and shall also notify the minor

ASSEMBLY BILL 312

1 by her counsel, ~~or the member of the clergy who filed the petition on behalf of the~~
2 ~~minor, if any,~~ that she has a right to initiate an appeal under s. 809.105.

3 1 m. Except as provided under s. 48.3 15 (1) (b), (c) and (f), if the court fails to
4 comply with the time limits specified under subd. 1. without the prior consent of the
5 minor and the minor's counsel, ~~if any, or the member of the clergy who filed the~~
6 ~~petition on behalf of the minor, if any,~~ the minor and the minor's counsel, ~~if any, or~~
7 ~~the member of the clergy, if any,~~ shall select a temporary reserve judge, as defined
8 in s. 753.075 (1) (b), to make the determination under par. (c) and issue an order
9 granting or denying the petition and the chief judge of the judicial administrative
10 district in which the court is located shall assign the temporary reserve judge
11 selected by the minor and the minor's counsel, ~~if any, or the member of the clergy, if~~
12 ~~any,~~ to make the determination and issue the order. A temporary reserve judge
13 assigned under this subdivision to make a determination under par. (c) and issue an
14 order granting or denying a petition shall make the determination and issue the
15 order within 2 calendar days after the assignment, unless the minor and her counsel,
16 ~~if any, or the member of the clergy who filed the petition on behalf of the minor, if any,~~
17 consent to an extension of that time period. The order shall be effective immediately.
18 The court shall prepare and file with the clerk of court findings of fact, conclusions
19 of law and a final order granting or denying the petition, and shall notify the minor
20 of the court's order, as provided under subd. 1.

21 2. Counsel for the minor, ~~or the member of the clergy who filed the petition on~~
22 ~~behalf of the minor, if any,~~ shall immediately, upon notification under subd. 1. or 1 m.
23 that the court has granted or denied the petition, notify the minor. If the court has
24 granted the petition, counsel for the minor, ~~or the member of the clergy who filed the~~
25 ~~petition on behalf of the minor, if any,~~ shall hand deliver a certified copy of the court

ASSEMBLY BILL 312**SECTION 19**

1 order to the person who intends to perform or induce the abortion. If with reasonable
2 diligence the person who intends to perform or induce the abortion cannot be located
3 for delivery, then counsel for the minor, ~~or the member of the clergy who filed the~~
4 ~~petition on behalf of the minor, if any,~~ shall leave a certified copy of the order with
5 the person's agent at the person's principal place of business. If a clinic or medical
6 facility is specified in the petition as the corporation, limited liability company,
7 partnership or other unincorporated association that employs the person who
8 intends to perform or induce the abortion, then counsel for the minor, ~~or the member~~
9 ~~of the clergy who filed the petition on behalf of the minor, if any,~~ shall hand deliver
10 a certified copy of the order to an agent of the corporation, limited liability company,
11 partnership or other unincorporated association at its principal place of business.
12 There may be no service by mail or publication. The person or agent who receives
13 the certified copy of the order under this subdivision shall place the copy in the
14 minor's medical record.

15 **SECTION 20.** 48.375 (7) (f) of the statutes is amended to read:

16 **48.37 5 (7) (f) *Certain persons barred from proceedings.*** No parent, or guardian
17 or legal custodian, if one has been appointed, ~~or foster parent or treatment foster~~
18 ~~parent, if the minor has been placed in a foster home or treatment foster home and~~
19 ~~the minor's parent has signed a waiver granting the department, a county~~
20 ~~department, the foster parent or the treatment foster parent the authority to consent~~
21 ~~to medical services or treatment on behalf of the minor, or adult family member, of~~
22 any minor who is seeking a court determination under this subsection may attend,
23 intervene or give evidence in any proceeding under this subsection.

24 **SECTION 21.** 69.186 (1) (j) of the statutes is amended to read:

ASSEMBLY BILL 312

1 69.186 (1) (j) If the patient is a minor, whether consent was provided under s.
2 48.375 (4) (a) 1. for the abortion and, if so, the relationship of the individual providing
3 consent to the minor; or, if consent under s. 48.375 (4) (a) 1. was not provided, on
4 which of the bases under s. 48.375 (4) (a) 2. or (b) 1., lg., ~~1m.~~, 2. or 3. the abortion was
5 performed.

6 **SECTION 22.** 809.105 (2) of the statutes is amended to read:

7 809.105 (2) **INITIATING AN APPEAL.** Only a minor may initiate an appeal under
8 this section. The minor shall initiate the appeal by filing?
9 ~~filing on the minor's behalf~~, a notice of appeal with the clerk of the trial court in which
10 the order appealed from was entered and shall specify in the notice of appeal the
11 order appealed from. At the same time, the minor ~~or member of the clergy~~ shall notify
12 the court of appeals of the filing of the appeal by sending a copy of the notice of appeal
13 to the clerk of the court of appeals. The clerk of the trial court shall assist the minor
14 ~~or member of the clergy~~ in sending a copy of the notice of appeal to the clerk of the
15 court of appeals. The minor may use the name "Jane Doe" instead of her name on
16 the notice of appeal and all other papers filed with the court of appeals.

17 **SECTION 23.** 809.105 (3) (a) of the statutes is amended to read:

18 809.105 (3) (a) Fee. No fee for filing an appeal in the court of appeals under this
19 section may be required of a minor ~~or of a member of the clergy who files an appeal~~
20 ~~under this section on behalf of the minor.~~

21 **SECTION 24.** 809.105 (3) (d) of the statutes is amended to read:

22 **809.105 (3) (d) *Statement on transcript.*** A minor ~~or member of the clergy~~ may
23 not be required to file a statement on transcript in an appeal under this section.

24 **SECTION 25.** 809.105 (5) of the statutes is amended to read:

ASSEMBLY BILL 312

1 809.105 (5) **TRANSCRIPT OF REPORTER'S NOTES**. At the time that a minor ~~or~~
2 ~~member of the clergy~~ files a notice of appeal, the minor ~~or member of the clergy~~ shall
3 make arrangements with the reporter for the preparation of a transcript of the
4 reporter's notes of the proceedings under s. 48.375 (7). The reporter shall file the
5 transcript with the trial court within 2 calendar days after the notice of appeal is
6 filed. The county of the court that held the proceeding under s. 48.375 (7) shall pay
7 the expense of transcript preparation under this subsection.

8 **SECTION 26.** 809.105 (8) of the statutes is amended to read:

9 809.105 **(8) ASSIGNMENT AND ADVANCEMENT OF CASES**. The court of appeals shall
10 take cases appealed under this section in an order that ensures that a judgment is
11 made within 4 calendar days after the appeal has been filed in the court of appeals.
12 The time limit under this subsection may be extended with the consent of the minor
13 a n d h e r c o u n t y ' s e l e
14 ~~this section, if any.~~

15 **SECTION 27.** 809.105 (8m) of the statutes is amended to read:

16 809.105 (8m) **ORAL ARGUMENT**. If the court of appeals determines that a case
17 appealed under this section is to be submitted with oral argument, the oral argument
18 shall be held in chambers or, on motion of the minor through her counsel ~~or through~~
19 ~~the member of the clergy who filed the appeal under this section, if any,~~ or on the
20 court of appeals' own motion, by telephone, unless the minor through her counsel ~~or~~
21 ~~the member of the clergy~~ demands that the oral argument be held in open court.

22 **SECTION 28.** 809.105 (9) of the statutes is amended to read:

23 809.105 (9) **COSTS**. The court of appeals may not assess costs against a minor
24 ~~or member of the clergy~~ in an appeal under this section.

25 **SECTION 29.** 809.105 (10) of the statutes is amended to read:

ASSEMBLY BILL 312

1 **809.105 (10)** REMITTITUR. (a) A judgment by the court of appeals under this
2 section is effective immediately, without transmittal to the trial court, as an order
3 either granting or denying the petition. If the court of appeals reverses a trial court
4 order denying a petition under s. 48.375 (7), the court of appeals shall immediately
5 so notify the minor by personal service on her counsel ~~or the member of the clergy~~
6 ~~who initiated the appeal under this section, if any,~~ of a certified copy of the order of
7 the court of appeals granting the minor's petition. If the court of appeals affirms the
8 trial court order, it shall immediately so notify the minor by personal service on her
9 counsel ~~or the member of the clergy who initiated the appeal under this section, if~~
10 ~~any,~~ of a copy of the order of the court of appeals denying the petition and shall also
11 notify the minor by her counsel ~~or the member of the clergy who initiated the appeal~~
12 ~~under this section on behalf of the minor, if any,~~ that she may, under sub. (1 l), file
13 a petition for review with the supreme court under s. 809.62. The court of appeals
14 shall pay the expenses of service of notice under this subsection. The clerk of the
15 court of appeals shall transmit to the trial court the judgment and opinion of the court
16 of appeals and the record in the case filed under sub. (4), within 31 days after the date
17 that the judgment and opinion of the court of appeals are filed. If a petition for review
18 is filed under sub. (1 l), the transmittal shall be made within 31 days after the date
19 that the supreme court rules on the petition for review.

20 (b) Counsel for the minor ~~or the member of the clergy who initiated the~~
21 ~~appeal under this section, if any,~~ shall immediately, upon notification under par. (a)
22 that the court of appeals has granted or denied the petition, notify the minor. If the
23 court of appeals has granted the petition, counsel for the minor, ~~if any, or the member~~
24 ~~of the clergy who initiated the appeal under this section, if any,~~ shall hand deliver
25 a certified copy of the order of the court of appeals to the person who intends to

ASSEMBLY BILL 312

1 perform or induce the abortion. If with reasonable diligence the person who intends
 2 to perform or induce the abortion cannot be located for delivery, then counsel for the
 3 minor, ~~if any, or the member of the clergy who initiated the appeal under this section,~~
 4 ~~if any,~~ shall leave a certified copy of the order with the person's agent at the person's
 5 principal place of business. If a clinic or medical facility is specified in the petition
 6 as the corporation, limited liability company, partnership or other unincorporated
 7 association that employs the person who intends to perform or induce the abortion,
 8 then counsel for the minor ~~& any, or the member of the clergy who initiated the~~
 9 ~~appeal under this section, if any,~~ shall hand deliver a certified copy of the order to an
 10 agent of the corporation, limited liability company, partnership or other
 11 unincorporated association at its principal place of business. There may be no
 12 service by mail or publication. The person or agent who receives the certified copy
 13 of the order under this paragraph shall place the copy in the minor's medical record.

SECTION 30. 809.105 (11) (a) (intro.) of the statutes is amended to read:

15 809.105 **(11)** (a) (intro.) Only a minor ~~or the member of the clergy who initiated~~
 16 ~~the appeal under this section, if any,~~ may initiate a review of an appeal under this
 17 section. The petition for review of an appeal in the supreme court shall contain:

SECTION 31. 809.105 (11) (a) 3. of the statutes is amended to read:

19 809.105 **(11)** (a) 3. The judgment and opinion of the court of appeals, and the
 20 findings of fact, conclusions of law and final order of the trial court that were
 21 furnished to the court of appeals. The court of appeals shall provide a copy of these
 22 papers to the minor, [↓] ~~if any, the member of the clergy who initiated the appeal under~~
 23 ~~this section, if any,~~ her counsel or her guardian ad litem, ~~if any,~~ immediately upon
 24 request.

5 **SECTION 32.** 809.105 (11) (cm) of the statutes is amended to read:

ASSEMBLY BILL 312

1 809.105 **(11)** (cm) If the supreme court determines that a case reviewed under
2 this subsection is to be submitted with oral argument, the oral argument shall be
3 held in chambers or, on motion of the minor through her counsel ~~or through the~~
4 ~~member of the clergy who initiated the appeal under this section, if any,~~ or on the
5 supreme court's own motion, by telephone, unless the minor through her counsel ~~or~~
6 ~~the member of the clergy~~ demands that the oral argument be held in open court.

7 **SECTION 33.** 809.105 (11) (d) of the statutes is amended to read:

8 809.105 **(11)** (d) A judgment or decision by the supreme court under this section
9 is effective immediately, without transmittal to the trial court, as an order either
10 granting or denying the petition. If the supreme court reverses a court of appeals
11 order affirming a trial court order denying a petition under s. 48.375 (7), the supreme
12 court shall immediately so notify the minor by personal service on her counsel, ~~if any,~~
13 ~~or on the member of the clergy who initiated the appeal under this section, if any,~~ of
14 a certified copy of the order of the supreme court granting the minor's petition. If the
15 supreme court affirms the order of the court of appeals, it shall immediately so notify
16 the minor by her counsel ~~or by the member of the clergy who initiated the appeal~~
17 ~~under this section, if any.~~ The clerk of the supreme court shall transmit to the trial
18 court the judgment, or decision, and opinion of the supreme court and the complete
19 record in the case within 31 days after the date that the judgment, or decision, and
20 opinion of the supreme court are filed. The supreme court shall pay the expense of
21 service of notice under this subsection.

22 **SECTION 34.** 809.105 (11) (e) of the statutes is amended to read:

23 809.105 **(11)** (e) Counsel for the minor, ~~if any, or the member of the clergy who~~
24 ~~initiated the appeal under this section, if any,~~ shall immediately, upon notification
25 under par. (d) that the supreme court has granted or denied the petition, notify the

ASSEMBLY BILL 312

1 minor. If the supreme court has granted the petition, counsel for the minor-
 2 ~~or the member of the clergy who initiated the appeal under this section, if any,~~ shall
 3 hand deliver a certified copy of the order of the supreme court to the person who
 4 intends to perform or induce the abortion. If with reasonable diligence the person
 5 who intends to perform or induce the abortion cannot be located for delivery, then
 6 c o u n s e l f o r t h e m i n o r ;
 7 ~~under this section, if any,~~ shall leave a certified copy of the order with the person's
 8 agent at the person's principal place of business. If a clinic or medical facility is
 9 specified in the petition as the corporation, limited liability company, partnership or
 10 other unincorporated association that employs the person who intends to perform or
 11 induce the abortion, then counsel for the minor-
 12 ~~who initiated the appeal under this section, if any,~~ shall hand deliver a certified copy
 13 of the order to an agent of the corporation, limited liability comoaany, partnership or
 14 other unincorporated association at its principal place of business. There may be no
 15 service by mail or publication. The person or agent who receives the certified copy
 16 of the order under this paragraph shall place the order in the minor's medical record.

SECTION 35. 809.105 (13) of the statutes is amended to read:

18 809.105 (13) CERTAIN PERSONS BARRED FROM PROCEEDINGS. No parent, or
 19 guardian or legal custodian, if one has been appointed, ~~or foster parent or treatment~~
 20 ~~foster parent, if the minor has been placed in a foster home or treatment foster home,~~
 21 ~~and the minor's parent has signed a waiver granting the department of health and~~
 22 ~~family services, a county department under s. 46.215, 46.22 or 46.23, the foster~~
 23 ~~parent or the treatment foster parent the authority to consent to medical services or~~
 24 ~~treatment on behalf of the minor, or adult family member, as defined in s. 48.375 (2)~~

ASSEMBLY BILL 312

1 ~~(b)~~, of any minor who has initiated an appeal under this section may attend or
2 intervene in any proceeding under this section.

3 **SECTION 36.** 895.037 (3) (a) of the statutes is amended to read:

4 895.037 (3) (a) A person who ~~intentionally~~ violates s. 48.375 (4) is liable to the
5 minor on or for whom the abortion was performed or induced and to the minor's
6 parent, guardian and legal custodian for damages arising out of the performance or
7 inducement of the abortion including, but not limited to, damages for personal injury
8 and emotional and psychological distress.

SECTION 37. Initial applicability.

10 (1) **ABORTIONS PERFORMED OR INDUCED.** The treatment of sections 46.24, 48.375

11 (2) (b) and (4) ~~and~~ ^{and} (b) 1., 1m. and 3., 69.186 (1) (j) and 895.037 (3) (a) of the

12 ~~statutes first applies~~ ^{apply} to abortions performed or induced on the effective date of this
13 subsection.

14 (2) **WAIVER PETITIONS FILED.** The treatment of sections 48.23 (1) (cm), 48.257 (1)

15 (h) and (4), 48.27 (9), 48.273 (4) (b), 48.375 (2) (c) and (em), (6) and (7) (a) (intro.) and
16 4., (b) (intro.), (bm), (d) and (f) and 809.105 (2), (3) (a) and (d), (5), (8), (8m), (9), (lo),
17 (11) (a) (intro.) and 3., (cm), (d) and (e) and (13) of the statutes first applies to petitions
18 filed to initiate a proceeding under section 48.375 (7) of the statutes, as affected by
19 this act, on the effective date of this subsection.

20 (END)

, the renumbering and amendment of section 48.375
(4)(a) 1. of the statutes and the creation of section
48.375 (4)(a) 1. a. and b. of the statutes

(INSERT 6-20)

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, except that if there has been a determination of legal custody of the minor under ch. 767, a parent who does not have legal custody, as defined in s. 767.001 (2) (a), of the minor may not consent to the performance or inducement of an abortion on or for the minor. The following procedure shall govern the provision of consent under this subdivision by a parent, guardian or legal custodian of a minor:

SECTION #. 48.375 (4) (a) 1a. of the statutes is created to read:

48.375 (4) (a) 1. a. The parent, guardian or legal custodian shall sign the consent document before a notary public, who shall determine, either from personal knowledge or from satisfactory evidence consisting of one or more forms of identification, that the signature on the consent document is that of the person appearing before the notary public and named in the signature. The parent, guardian or legal custodian shall also verify upon oath or affirmation before the notary public that he or she is the parent, guardian or legal custodian of the minor, and the notary public shall determine, either from personal knowledge or from satisfactory evidence consisting of 'one or more forms of identification, that the person appearing before the notary public and making the verification is the person whose true signature is on the statement verified. For purposes of this subd. 1. a., a form of identification constitutes satisfactory evidence of a person's identity if it contains the name, address, signature and photograph of the person identified and if it has been issued by a federal, state, or local governmental agency Forms of identification that constitute satisfactory evidence of a person's identity, when they contain the name, address, signature and photograph of the person identified, include a valid operator's license issued under ch. 343 or under the laws of any other

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state, an identification card issued under s. 343.50, a military identification card, a valid passport, an alien registration card or any other identification document issued by a federal, state or local governmental agency. A notary public who witnesses a signature or who takes a verification upon oath or affirmation under this subd. 1. a. shall keep confidential any information acquired in witnessing the signature or in taking the verification. Any person who under oath or affirmation makes a statement under this subd. 1. a. that the person does not believe is true is subject to prosecution for a violation of s. 946.32 (2).

SECTION #. 48.375 (4) (a) 1. b. of the statutes is created to read:

48.375 (4) (a) 1. b. The person signing the consent document and verification upon oath or affirmation shall provide the consent document and verification to the person who intends to perform or induce the abortion or the person's agent, who shall place the consent document and verification in the minor's medical record. In addition, the person signing the consent document and verification shall provide a copy of the minor's birth certificate, a court order appointing that person as the guardian or legal custodian of the minor or some other documentary evidence showing that the person is the parent, guardian or legal custodian of the minor to the person who intends to perform or induce the abortion or the person's agent. The person or the person's agent shall verify that the person signing the consent document and verification is the parent, guardian or legal custodian of the minor and shall place the documentary evidence provided under this subd. 1. b. in the minor's medical record.

(END OF INSERT)



Wisconsin Right to Life, Inc.

State Affiliate of the National Right to Life Committee, Inc. Washington, DC 20004-2293

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FAX COVER SHEET

OPERATOR: PLEASE NOTIFY THE PERSON NAMED BELOW THAT THIS FAX HAS ARRIVED. Thank You!

Important Notice: The information contained in this transmission is intended for the specific person(s) addressed. If you have received this fax in error, please contact us immediately at the phone number below. Thank you!

TO (Name): Gordon Malaise
LOCATION: LRB
AT FAX#: 608-264-8522 AT PHONE#: 608-266-9738
FROM: Mary Klaver
WRL Fax: 414/778-5785
WRL Phone: 414/778-5780

Date: 9/28/99
Pages: 8 (including this cover sheet)
Time Sent: a.m. / p.m.

MESSAGE: Gordon,
Please redraft the substitute amendment to AB 312 as we have discussed.
The marked up pages are attached (pages 2-7 and 14)
If you have any questions, please call me.

Mary Klaver signature

1999 - 2000 Legislature

- 2 -

LRBs0111/1
GMM:wj:km
SECTION 1**46.24 Assistance to minors concerning parental consent for abortion.**

If a minor who is contemplating an abortion requests assistance from a county department under s. 46.215, 46.22 or 46.23 in seeking the consent of the minor's parent, guardian or legal custodian, ~~or in seeking the consent of an adult family member, defined in s. 48.315 (2) (b),~~ for the contemplated abortion or in seeking a waiver from the circuit court, the county department shall provide assistance, including, if so requested, accompanying the minor as appropriate.

SECTION 2. 48.23 (1) (cm) of the statutes is amended to read:

48.23 (1) (cm) Any minor who is subject to the jurisdiction of the circuit court under s. 48.16 ~~and who is required to appear in court~~ shall be represented by counsel.

SECTION 3. 48.257 (1) (h) of the statutes is amended to read:

48.257 (1) (h) If the minor is not represented by counsel, the place where and the manner in which the *minor* wishes to be notified of proceedings under s. 48.376 (7) until appointment of counsel under s. 48.375 (7) (a) 1. ~~If the petition is filed by a member of the clergy on behalf of the minor, the place where and manner in which the member of the clergy wishes to be notified of proceedings under s. 48.375 (7).~~

SECTION 4. 48.257 (4) of the statutes is amended to read:

48.257 (4) The clerk of circuit court shall give a copy of the petition to the minor ~~or to the member of the clergy who files a petition on behalf of the minor, if any.~~

SECTION 5. 48.27 (9) of the statutes is amended to read:

46.27 (9) Subsection (1) to (8) do not apply in any proceeding under s. 46.375 (7). For proceedings under s. 48.375 (7), the circuit court shall provide notice only to the minor, her counsel, ~~if any, the member of the clergy who filed the petition on behalf of the minor, if any,~~ and her guardian ad litem, ~~if any.~~ The notice shall contain the title and case number of the proceeding, and the nature, location, date and time

restore

1 of the hearing or other proceeding. Notice to the minor ~~or to the member of the clergy,~~
2 ~~if any,~~ shall be provided as requested under s. 48.257 (1)(h) and, after appointment
3 of the minor's counsel, ~~if any,~~ by her counsel.

4 **SECTION 6.** 48.273 (4) (b) of the statutes is amended to read:

5 48.273 (4) (b) Personal service is required for notice of all proceedings under
6 s. 48.375 (7), except that, if the minor is not represented by counsel, notice to the
7 minor shall be in the manner and at the place designated- in the petition
8 under s. 48.257 (1) until appointment of the minor's ~~counsel, if any,~~ under s. 48.375
9 (7) (a) 1. Notice shall be **served** immediately for **any** proceeding under s. **48.375 (7)**
10 unless the minor waives the immediate notice. If the minor waives the immediate
11 notice, the notice **shall** be served at least 24 hours before the time **of** the hearing
12 under s. 43,375 (7) (b) or any other **proceeding** under s. 43.375 (7). A minor may, in
13 acknowledging receipt of **service** of the notice, sign the name "Jane Doe" in lieu of
14 providing the minor's **full** signature.

15 **SECTION 7.** 48.375 (2) (b) of the statutes is repealed,

16 **SECTION 8.** 48,375 (2) (c) of the statutes is amended to read:

17 48,375 (2) (c) "**Counselor**" means a physician including a physician specializing
18 in psychiatry, a licensed psychologist, as defined in s. 455.01 (4), or an ordained
19 member of the ~~clergy as defined in s. 765.002 (1).~~ 'Counselor' does not include any
20 person who is employed by or otherwise **affiliated** with a reproductive health care
21 facility. a family planning clinic or a family planning agency; any person affiliated
22 with the **performance** of abortions, except abortions performed to save the life of the
23 mother; or any person who may profit from giving advice to seek an abortion.

24 **SECTION 9.** 48.375 (2) (em) of the statutes is repealed.

"parent who has legal custody of the minor" means a parent who has the right and responsibility to make major decisions concerning the minor whether that right and responsibility is derived from common law, statute or court order.

add definition

1 SECTION IO. 48.375 (4) (a) 1. of the statutes is renumbered 48.375 (4) (a) 1,
2 (intro.) and amended to read:

3 48.375 (4) (a) 1. (intro.) The person or the person's agent has, either directly
4 or through a referring physician or his or her agent, received and made part of the
5 minor's medical record, under the requirements of s. 253.10, the voluntary and
6 informed written consent of the minor and the voluntary and informed written
7 *who has legal custody of the minor* consent of one of her parents, or of the minor's guardian or legal custodian, if one has
8 been appointed; or of an adult family member of the minor; or of one of the minor's
9 foster parents or treatment foster parents, if the minor has been placed in a foster
10 home or treatment foster home and the minor's parent has signed a waiver granting
11 the department, a county department, the foster parent or the treatment foster
12 parent the authority to consent to medical services or treatment on behalf of the
13 ~~minor. except that if there has been a determination of legal custody of the minor~~
14 ~~under ch. 767, a parent who does not have legal custody as defined in s. 767.001(2)~~
15 ~~(a) of the minor may not consent to the performance or inducement of an abortion~~
16 ~~on or for the minor. The following procedure shall govern the provision of consent~~
17 ~~under this subdivision by a parent, guardian or legal custodian of a minor:~~

delete

18 SECTION 11. 48.375 (4) (a) 1. a. of the statutes is created to read:

19 48.375 (4) (a) 1. a. The parent, guardian or legal custodian shall sign, the
20 consent document before a notary public, who shall determine, either from personal
21 knowledge or from satisfactory evidence consisting of one or more forms of
22 identification, that ~~the signature on the consent document is that of the person~~
23 *and making the acknowledgment is the person whose true signature is on the*
24 ~~appearing before the notary public and placed in the signature.~~ The parent, guardian or legal custodian shall also verify upon oath or affirmation before the
25 notary public that he or she is the parent, guardian or legal custodian of the minor,

and acknowledge

document.

1 and the notary public shall determine, either **from** personal knowledge or **from**
 2 satisfactory **evidence** ~~consisting~~ of one or more forms of identification, that the
 3 person appearing before the notary public and making the verification is the person
 4 whose true signature is on the **statement** verified. For purposes of this subd. 1. a,
 5 a form of identification constitutes satisfactory evidence of a person's identity if it
 6 contains the name, address, signature and **photograph of the person identified** and
 7 if it has been issued by a federal, ~~state,~~ ^{or foreign} ~~local,~~ governmental agency. Forms of
 8 identification that constitute **satisfactory evidence of a person's identity, when they**
 9 contain the name, address, signature and photograph of the person identified,
 10 include a valid operator's license issued under **ch. 343** or under the laws of any other
 11 state, ~~an identification card issued under s. 343.50,~~ a military identification card, a
 12 valid passport, an alien registration card or any other identification document issued
 13 by a federal, ~~state,~~ ^{or foreign} ~~local,~~ governmental agency. A notary public who ~~witnesses~~ ^{takes an acknowledgment} and
 14 ~~signature or who takes~~ a verification upon oath or affirmation under this subd. 1. a.
 15 shall keep confidential any information acquired ~~in witnessing the signature or in~~ ^{acknowledgment and}
 16 taking the verification. Any person who under oath or affirmation makes a
 17 ~~statement under this subd. 1. a. that the person does not believe is true is subject to~~
 18 prosecution for a violation of ~~s. 946.32(2).~~

19 SECTION 12. 48.375 (4) (a) ~~1. b. of the statutes is created~~ to read:

20 43.375 (4) (a) 1. **b.** The **person signing the consent** document and verification
 21 upon oath or **affirmation** shall provide the consent document and verification to the
 22 **person who intends to perform or induce the abortion or the person's agent, who shall**
 23 **place the consent document and verification in the minor's medical record.** In
 24 **addition, the person signing the consent document and verification shall provide a**
 25 **copy of the minor's birth certificate, a court order appointing that person as the**

delete

delete -6-

Satisfactory

1 guardian or legal custodian of the minor or some other documentary evidence
 2 showing that *the person is* the parent, guardian or legal custodian of **the minor** to the
 3 person who intends to perform or induce the abortion or the person's agent. The
 4 person or the person's agent shall **verify** that the person signing the consent
 5 document and verification is the parent, guardian or legal custodian **of the** minor and
 6 shall place the do~~cu~~**mentary** evidence provided under this subd. 1. b. in the minor's
 7 medical record.

8 **SECTION 13.** 48,375 (4) (b) 1. of the statutes is amended to read:

9 **48.375 (4) (b) 1.** ~~The person who intends to perform or induce the abortion~~
 10 ~~believes, to the best of his or her medical judgment based on the facts of the case~~
 11 ~~before him or her, that a 4 medical emergency, as defined in s. 253.10(2)(d), exists'~~
 12 ~~that complicates the pregnancy so as to require an immediate abortion.~~

13 **SECTION 14.** 48,375 (4) (b) 1m. of the statutes is **repealed.**

14 **SECTION 15.** 48.375 (4) (b) 3. of the statutes is amended to read:

15 **48.375 (4) (b) 3.** ~~The~~ The minor provides the person who intends to **perform** or
 16 induce the abortion with a written statement, signed **and** dated by the minor, that
 17 a parent who has legal custody of the minor, or the minor's guardian or legal
 18 custodian, if one has been appointed, ~~or an adult family member of the minor, or a~~
 19 ~~foster parent or treatment foster parent, if the minor has been placed in a foster home~~
 20 ~~or treatment foster home and the minor's parent has signed a waiver granting the~~
 21 ~~department, a county department, the foster parent or the treatment foster parent~~
 22 ~~the authority to consent to medical services or treatment on behalf of the minor, has~~
 23 **inflicted** abuse on the minor. The person who intends to perform or induce the
 24 abortion shall place the statement in the minor's medical record. The person who

1 intends to perform or induce the abortion shall report the abuse as required **under**
2 s. **48.981 (2)**.

3 SECTION 16. 48.375 (6) of the statutes is amended to read:

4 48.375 (6) **RIGHT To PETITION COURT FOR WAIVER.** Any pregnant minor who is
5 seeking an abortion in this state, ~~and any member of the clergy on the minor's behalf,~~
6 may file a petition specified under s. 48.257 with any court for a waiver of the
7 parental consent requirement under sub. (4) (a) 1.

8 SECTION 17. 48.375 (7) (a) (intro.) of the statutes is amended to read:

9 48.375 (7) (a) **Receipt of petition; initial appearance.** (intro.) On the date that
10 a petition under s. ~~48.257~~ is filed, or if it is impossible to do so on that day, on the next
11 calendar day, the court shall hold an initial appearance in chambers at **which** the
12 m i n o r - ,
13 is present and shall do all of **the** following:

14 SECTION 18. 48.375 (7) (a) 4. of the statutes is amended to read:

15 48.375 (7) (a) 4. Notify the minor, the **minor's counsel, if any, the member of the**
16 ~~clergy who filed the petition on behalf of the minor, if any,~~ and the minor's guardian
17 **ad litem, if any,** of the time, date and place of the hearing,

restore

18 SECTION 19. 48.375 (7) (b) (intro.) of the statutes is amended to read:

19 48,375 (7) (b) **Hearing; evidence.** (intro.) The court shall hold a confidential
20 hearing on ~~a the~~ petition ~~that is filed by a minor.~~ The hearing shall be held in
21 chambers, unless a public fact-finding hearing is demanded by the minor through
22 ~~her counsel.~~ **At** the hearing, the court shall consider the report of the guardian ad
23 ~~litem, if any,~~ and hear evidence relating to all of the following

24 SECTION 20. 48,375 (7) (bm) of the statutes is repealed.

25 SECTION 21. 48.375 (7) (d) of the statutes is amended to read:

restore

1 809.105 (11)(a) (intro.) Only ~~minor or the member of the clergy who initiated~~
2 ~~the appeal under this section, if any,~~ may initiate a review of an appeal under this
3 section. The petition for review of an appeal in the supreme court shall contain:

4 SECTION 33. ~~809.105~~ (11) (a) 3. of the statutes is amended to read:

5 809.105 (11) (a) 3. The judgment and opinion of the court of appeals, and the
6 findings of fact, conclusions of law and final order of the trial court that were
7 furnished to the court of appeals. The court of appeals shall provide a copy of these
8 papers to the ~~minor, if any, the member of the clergy who initiated the appeal under~~
9 ~~this section, if any,~~ her counsel or her guardian ad litem, ~~if any,~~ immediately upon
10 request. restore

11 SECTION 34. 809.105 (11) (cm) of the statutes is amended to read:

12 809.105 (11) (cm) If the supreme court determines that a case reviewed under
13 this subsection is to be submitted with oral argument, the oral argument shall be
14 held in chambers or, on motion of the minor through her counsel ~~or through the~~
15 ~~member of the clergy who initiated the appeal under this section, if any,~~ or on the
16 supreme court's own motion, by telephone, unless the minor through her counsel ~~or~~
17 ~~the member of the clergy~~ demands that the oral argument be held in open court.

18 SECTION 35. 809.105 (11) (d) of the statutes is amended to read:

19 809.105 (11) (d) A judgment or decision by the supreme court under this section
20 is effective immediately, without transmittal to the trial court, as an order either
21 granting or denying the petition, If the supreme court reverses a court of appeals
22 order affirming a trial court order denying a petition under s. 43.375 (7), the supreme
23 court shall immediately so notify the minor by personal service on her counsel, ~~if any,~~
24 ~~or on the member of the clergy who initiated the appeal under this section, if any,~~ of
25 a certified copy of the ~~order~~ of the supreme court granting the minor's petition. If the