

1999 DRAFTING REQUEST

Bill

Received: **08/18/1999**

Received By: **malaigm**

Wanted: **As time permits**

Identical to LRB:

For: **John Steinbrink (608) 266-0455**

By/Representing: **Geoff**

This file may be shown to any legislator: NO

Drafter: **malaigm**

May Contact:

Alt. Drafters:

Subject: **Children - abuse and neglect**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Court-appointed special advocates

Instructions:

See Attached--redraft SB 106 for the assembly

Drafting History:

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Resuired</u> |
|--------------|-----------------------|-----------------------|----------------------|----------------|----------------------------|----------------------------|-----------------|
| /? | malaigm 08/18/1999 | jgeller 08/19/1999 | | _____ | | | S&L |
| /1 | | | mclark 08/23/1999 | _____ | lrb-docadmin 08/23/1999 | lrb-docadmin 10/05/1999 | |

FE Sent For:

<END>

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|--------------|----------------|-----------------|--------------|----------------|------------------|-----------------|-----------------|
| I? | malaigm | 1 8/19 jlg | MRC 8/20 | MRC/JF 8/23 | | | |

FE Sent For:

<END>

Malaise. Gordon

From: Williams, Landon
Sent: Wednesday, August 18, 1999 10:12 AM
To: Grant, Peter; Malaise, Gordon
Subject: FW: redrafts

-----Original Message-----

From: Gaston, Geoff
Sent: Wednesday, August 18, 1999 9: 19 AM
To: LRB.Legal
Subject:

Representative Steinbrink would like to have SB 106 (LRB 0175/3) drafted as an Assembly bill

~~In addition, he would like to have AA3-ASA1-AB133 redrafted as a bill with language in lines 22-23 on page 2 modified to eliminate "for any purpose or be transferred to any other fund" so (4) would read, in part: "...may not be used without the approval of a majority..."~~

Thanks, and please call with any questions.

Geoff
Rep. Steinbrink's office
6-0455

3464/1
L + jg

1999 ~~SENATE~~ BILL ~~106~~

March 31, 1999 - Introduced by Senators WIRCH, PLACHE, ~~HUELSMAN, BURKE, DARLING, CLAUSING, ROSENZWEIG, ERPENBACH and ROESSLER~~, cosponsored by Representatives STEINBRINK, KREUSER, PORTER, LADWIG, KELSO, TURNER, COGGS, BRANDEMUEHL, SYKORA, ~~REYNOLDS, MEYER, LA FAVE, JOHNSRUD and RYBA~~. Referred to Committee on Judiciary and Consumer Affairs.

Regenerate

1 **AN ACT to amend** **46.48** (28), **48.23** (3m), 48.23 (6), 48.235 (2), 48.27 (3) (a) 1.,
2 48.27 (3) (c), 48.293 (1), 48.293 (2), 48.295 (2), 48.299 (1) (ag), 48.32 (l), 48.32
3 **(2)** (c), **48.355 (2)** (d), **48.355 (2e)** (c), **48.357** (l), 48.357 (2m), 48.363 (l), 48.365
4 (2), 48.38 (5) (b), 48.38 (5) (d), 48.38 (5) (e), 48.981 (2), 48.981 (7) (a) llr., 118.125
5 **(2)** (L), **938.23** (6), **938.235** (2), **938.27 (3)** (a) 1., 938.293 (l), 938.293 (2), 938.295
6 (2) (b), 938.299 (1) (a), 938.32 (1) (a), 938.32 (2) (c), 938.355 (2) (d), 938.355 (2e)
7 (c), 938.355 (6) (b), 938.355 (6m) (b), 938.357 (l), 938.357 (2m), 938.363 (1),
8 938.365 (2), 938.38 (5) (b), 938.38 (5) (d) and 938.38 (5) (e); and **to create** **48.07**
9 (5), **48.236**, **48.27 (3)** (e), **48.32** (lb), 48.345 (2r), 938.07 (5), 938.236, 938.27 (3)
10 (c), 938.32 (lb) and 938.345 (3) of the statutes; **relating to:** court-appointed
11 special advocates for children and juveniles in need of protection or services,

Analysis by the Legislative Reference Bureau

Under current law, child abuse and neglect reports and records are confidential and may be disclosed only under certain exceptions. One of those exceptions permits those reports and records to be disclosed to a volunteer appointed or person employed by a court-appointed special advocate (CASA) program recognized by the county

SENATE BILL 106

board of supervisors (county board) or the county department of human services or social services (county department) or, in a county having a population of 500,000 or more, the department of health and family services (DHFS) or a licensed child welfare agency under contract with DHFS, to the extent necessary to perform the advocacy services in child in need of protection or services proceedings for which the CASA program is recognized.

This bill eliminates the authority of DHFS, a county board, a county department or a licensed child welfare agency to recognize a CASA program and instead permits the chief judge of a judicial administrative district to recognize a CASA program. A chief judge may recognize a CASA program by entering into a memorandum of understanding with the CASA program that specifies the responsibilities of the CASA program and of a CASA volunteer. To be a CASA volunteer, a person must be 21 years of age or older, must demonstrate an interest in the welfare of children, must undergo a satisfactory background investigation, must complete the training program required under the bill and must meet any other qualifications required by the CASA program. Before a person may be designated as a CASA in a proceeding of the court assigned to exercise jurisdiction under the children's code and the juvenile justice code (juvenile court), the person must complete a training program that includes instruction on recognizing child abuse and neglect, cultural competency, child development, juvenile court procedures, permanency planning for children, the responsibilities of a CASA and information gathering and documentation. A CASA volunteer must also complete continuing training annually.

The bill permits the juvenile court to request a CASA program to designate a CASA volunteer to perform certain activities in any proceeding in which it is alleged that a child or juvenile is in need of protection or services and in which the juvenile court finds that providing the services of a CASA would be in the best interests of the child or juvenile. Those proceedings include proceedings in which it is alleged that a child has been the victim of abuse or neglect or that a juvenile is uncontrollable, habitually truant from home or school or a dropout. The bill permits a juvenile court to request a CASA program to designate a CASA volunteer to perform the following activities:

1. Gather information and make observations about the child or juvenile, his or her family and any other person residing in the same home as the child or juvenile and provide that information and those observations to the juvenile court in the form of written reports or, if requested by the juvenile court, oral testimony.

2. Maintain regular contact with the child or juvenile; monitor the appropriateness and safety of the environment of the child or juvenile, the extent to which the child or juvenile and his or her family are complying with any consent decree or dispositional order of the juvenile court or any permanency plan for the child or juvenile and the extent to which any agency that is required to provide services for the child or juvenile and his or her family is providing those services; and, based on that regular contact and monitoring, provide information to the juvenile court in the form of written reports or, if requested by the juvenile court, oral testimony.

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3. Advocate for the best interests of the child or juvenile.

4. Undertake any other activities that are consistent with the memorandum of understanding between the chief judge and the CASA program.

A juvenile court that requests a CASA program to designate a CASA volunteer to undertake the activities described in paragraph 1. or 2., above, must include in the order requesting that designation an order authorizing the CASA to do any of the following:

1. Inspect any reports and records relating to the child or juvenile, his or her family and any other person residing in the same home as the child or juvenile that are relevant to the subject matter of the proceeding. Those reports and records include physical, psychological and alcohol or other drug dependency examination reports, law enforcement agency reports and records, juvenile court records, social welfare agency records, abuse and neglect reports and records and pupil records. A CASA that obtains access to such a report or record must keep the information contained in the report or record confidential and may disclose that information only to the juvenile court and, if disclosed to the juvenile court, to all parties to the proceeding.

2. Observe the child or juvenile and his or her living environment and, if the child or juvenile is old enough to communicate, interview the child or juvenile; interview the parent, guardian, legal custodian or other caregiver of the child or juvenile and observe that person's living environment; and interview any other person who might possess any information relating to the child or juvenile and his or her family that is relevant to the proceeding. A CASA may observe or interview the child or juvenile at any location without the permission of the parent, guardian, legal custodian or other caregiver of the child or juvenile if necessary to obtain any information that is relevant to the subject of the proceeding, except that a CASA may enter the home of a child or juvenile only with the permission of the parent, guardian, legal custodian or other caregiver of the child or juvenile or after obtaining a court order permitting the ~~court-appointed special advocate~~ to do so. A CASA that obtains any information from those observations or interviews must keep the information confidential and may disclose that information only to the juvenile court and, if disclosed to the juvenile court, to all parties to the proceeding.

Finally, the bill does all of the following:

1. Makes a CASA a mandatory reporter of suspected or threatened child abuse or neglect.

2. Makes a CASA volunteer and an employe of a CASA program immune from civil liability for any act or omission of the volunteer or employe occurring while acting within the scope of his or her activities and authority as a CASA volunteer or employe.

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

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

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SECTION 1

1 **SECTION 1.** 46.48 (28) of the statutes is amended to read:

2 **46.48 (28) GRANTS FOR COURT-APPOINTED SPECIAL ADVOCATES.** The department
3 shall distribute \$50,000 in each fiscal year as grants to court-appointed special
4 advocate programs that are recognized by a ~~county board, by a county department~~
5 ~~under s. 46.22 or 46.23 or, in a county having a population of 500,000 or more, by the~~
6 ~~department or a licensed child welfare agency under contract with the department~~
7 chief judge of a judicial administrative district under s. 48.07 (5) to perform advocacy
8 services in proceedings under s. 48.13 or by a chief judge of a judicial administrative
9 district under s. 938.07 (5) to perform advocacy services in proceedings under s.
10 938.13 (4), (6), (6m) or (7).

11 **SECTION 2.** 48.07 (5) of the statutes is created to read:

12 **48.07 (5) COURT-APPOINTED SPECIAL ADVOCATE PROGRAM.** (a) ***Memorandum of***
13 ***understanding.*** The court may obtain the services of a court-appointed special
14 advocate program that has been recognized by the chief judge of the judicial
15 administrative district. A chief judge of a judicial administrative district may
16 recognize a court-appointed special advocate program by entering into a
17 memorandum of understanding with the court-appointed special advocate program
18 that specifies the responsibilities of the court-appointed special advocate program
19 and of a court-appointed special advocate designated under s. 48.236 (1). The
20 memorandum of understanding shall specify that the court-appointed special
21 advocate program is responsible for selecting, training, supervising and evaluating
22 the volunteers participating in the program as provided in pars. (b) to (d).

23 (b) ***Selection.*** 1. A court-appointed special advocate program may select a
24 person to participate in the program if the person is 21 years of age or older,
25 demonstrates an interest in the welfare of children, undergoes a satisfactory

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1 background investigation as provided under subd. 2., completes the training
2 required under par. (c) and meets any other qualifications required by the
3 court-appointed special advocate program. A court-appointed special advocate
4 program may refuse to permit to participate in the program any person whose
5 participation in the program might pose a risk, as determined by the
6 court-appointed special advocate program, to the safety of any child.

7 2. On receipt of an application from a prospective court-appointed special
8 advocate, the court-appointed special advocate program, with the assistance of the
9 department of justice, shall conduct a background investigation of the applicant. If
10 the court-appointed special advocate program determines that any information
11 obtained as a result of the background investigation provides a reasonable basis for
12 further investigation, the court-appointed special advocate program may require
13 the applicant to be fingerprinted on 2 fingerprint cards, each bearing a complete set
14 of the applicant's fingerprints. The department of justice may provide for the
15 submission of the fingerprint cards to the federal bureau of investigation for the
16 purposes of verifying the identification of the applicant and obtaining the applicant's
17 criminal arrest and conviction record. The court-appointed special advocate
18 program shall keep confidential all information received from the department of
19 justice and the federal bureau of investigation under this subdivision.

20 **(c) Training.** A court-appointed special advocate program shall require a
21 volunteer selected under par. (b) to complete a training program before the volunteer
22 may be designated as a court-appointed special advocate under s. 48.236 (1). The
23 training program shall include instruction on recognizing child abuse and neglect,
24 cultural competency, as defined in s. 48.982 (1) (bm), child development, the
25 procedures of the court, permanency planning, the activities of a court-appointed

SENATE BILL 106**SECTION 2**

1 special advocate under s. 48.236 (3) and information gathering and documentation,
2 and shall include observation of a proceeding under s. 48.13. A court-appointed
3 special advocate program shall also require each volunteer to complete continuing
4 training annually.

5 (d) **Supervision and evaluation.** The supervisory support staff of a
6 court-appointed special advocate program shall be easily accessible to the
7 volunteers of the program, shall hold regular case conferences with those volunteers
8 to review case progress and shall conduct annual performance evaluations of those
9 volunteers. A court-appointed special advocate program shall provide its staff and
10 volunteers with written guidelines describing the policies, practices and procedures
11 of the program and the responsibilities of a volunteer with the program.

12 **SECTION 3.** 48.23 (3m) of the statutes is amended to read:

13 48.23 (3m) GUARDIANS AD LITEM OR COUNSEL FOR ABUSED OR NEGLECTED CHILDREN .

14 The court shall appoint counsel for any child alleged to be in need of protection or
15 services under s. 48.13 (3), (3m), (10), (10m) and (11), except that if the child is less
16 than 12 years of age the court may appoint a guardian ad litem instead of counsel.
17 The guardian ad litem or counsel for the child ~~shall~~ may not be the same act as
18 counsel for any other party or any governmental or social agency involved in the
19 proceeding; and may not act as court-appointed special advocate for the child in the
20 proceeding.

21 **SECTION 4.** 48.23 (6) of the statutes is amended to read:

22 48.23 (6) **DEFINITION.** For the purposes of this section, "counsel" means an
23 attorney acting as adversary counsel who shall advance and protect the legal rights
24 of the party represented, and who may not act as guardian ad litem or
25 court-appointed special advocate for any party in the same proceeding.

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1 **SECTION 5.** 48.235 (2) of the statutes is amended to read:

2 48.235 (2) **QUALIFICATIONS.** The guardian ad litem shall be an attorney
3 admitted to practice in this state. No person who is an interested party in a
4 proceeding, who appears as counsel or court-appointed special advocate in a
5 proceeding on behalf of any party or who is a relative or representative of an
6 interested party in a proceeding may be appointed guardian ad litem in that
7 proceeding.

8 **SECTION 6.** 48.236 of the statutes is created to read:

9 **48.236 Court-appointed special advocate. (1) DESIGNATION.** In any
10 proceeding under s. 48.13 in which the court finds that providing the services of a
11 court-appointed special advocate would be in the best interests of the child, the court
12 may request a court-appointed special advocate program to designate a person who
13 meets the qualifications specified in sub. (2) as a court-appointed special advocate
14 to undertake the activities specified in sub. (3). A court-appointed special advocate
15 does not become a party to the proceeding and, as a nonparty, may not make motions
16 or call or cross-examine witnesses. A designation under this subsection terminates
17 when the jurisdiction of the court over the child under s. 48.13 terminates, unless the
18 court discharges the court-appointed special advocate sooner.

19 (2) **QUALIFICATIONS.** A court-appointed special advocate shall be a volunteer
20 who has been selected and trained as provided in s. 48.07 (5) (b) and (c). No person
21 who is a party in a proceeding, who appears as counsel or guardian ad litem in a
22 proceeding on behalf of any party or who is a relative or representative of a party in
23 a proceeding may be designated as a court-appointed special advocate in that
24 proceeding.

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1 (3) **ACTIVITIES.** A court-appointed special advocate may be designated under
2 sub. (1) to perform any of the following activities:

3 (a) Gather information and make observations about the child for whom the
4 designation is made, the child's family and any other person residing in the same
5 home as the child and provide that information and those observations to the court
6 in the form of written reports or, if requested by the court, oral testimony.

7 (b) Maintain regular contact with the child for whom the designation is made;
8 monitor the appropriateness and safety of the environment of the child, the extent
9 to which the child and the child's family are complying with any consent decree or
10 dispositional order of the court and with any permanency plan under s. 48.38, and
11 the extent to which any agency that is required to provide services for the child and
12 the child's family under a consent decree, dispositional order or permanency plan is
13 providing those services; and, based on that regular contact and monitoring, provide
14 information to the court in the form of written reports or, if requested by the court,
15 oral testimony

16 (c) Advocate for the best interests of the child.

17 (d) Undertake any other activities that are consistent with the memorandum
18 of understanding entered into under s. 48.07 (5) (a).

19 (4) **AUTHORITY.** A court that requests a court-appointed special advocate
20 program to designate a court-appointed special advocate to undertake the activities
21 specified in sub. (3) shall include in the order requesting that designation an order
22 authorizing the court-appointed special advocate to do any of the following:

23 (a) Inspect any reports and records relating to the child who is the subject of
24 the proceeding, the child's family and any other person residing in the same home
25 as the child that are relevant to the subject matter of the proceeding, including

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1 records discoverable under s. 48.293, examination reports under s. 48.295 (2), law
2 enforcement reports and records under ss. 48.396 (1) and 938.396 (1), court records
3 under ss. 48.396 (2) (a) and 938.396 (2) (a), social welfare agency records under ss.
4 48.78 (2) (a) and 938.78 (2) (a), abuse and neglect reports and records under s. 48.981
5 (7) (a) 1 lr. and pupil records under s. 118.125 (2) (L). The order shall also require the
6 custodian of any report or record specified in this paragraph to permit the
7 court-appointed special advocate to inspect the report or record on presentation by
8 the court-appointed special advocate of a copy of the order. A court-appointed
9 special advocate that obtains access to a report or record described in this paragraph
10 shall keep the information contained in the report or record confidential and may
11 disclose that information only to the court. If a court-appointed special advocate
12 discloses any information to the court under this paragraph, the court-appointed
13 special advocate shall also disclose that information to all parties to the proceeding.

14 (b) Observe the child who is the subject of the proceeding and the child's living
15 environment and, if the child is old enough to communicate, interview the child;
16 interview the parent, guardian, legal custodian or other caregiver of the child who
17 is the subject of the proceeding and observe that person's living environment; and
18 interview any other person who might possess any information relating to the child
19 and the child's family that is relevant to the subject of the proceeding. A
20 court-appointed special advocate may observe or interview the child at any location
21 without the permission of the child's parent, guardian, legal custodian or other
22 caregiver if necessary to obtain any information that is relevant to the subject of the
23 proceeding, except that a court-appointed special advocate may enter a child's home
24 only with the permission of the child's parent, guardian, legal custodian or other
25 caregiver or after obtaining a court order permitting the court-appointed special

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1 advocate to do so. A court-appointed special advocate who obtains any information
2 under this paragraph shall keep the information confidential and may disclose that
3 information only to the court. If a court-appointed special advocate discloses any
4 information to the court under this paragraph, the court-appointed special advocate
5 shall also disclose that information to all parties to the proceeding.

6 **(5) IMMUNITY FROM LIABILITY.** A volunteer court-appointed special advocate
7 designated under sub. (1) or an employe of a court-appointed special advocate
8 program recognized under s. 48.07 (5) is immune from civil liability for any act or
9 omission of the volunteer or employe occurring while acting within the scope of his
10 or her activities and authority as a volunteer court-appointed special advocate or
11 employe of a court-appointed special advocate program.

12 **(6) COMMUNICATION TO A JURY.** If a court-appointed special advocate submits
13 a written report or testifies orally in a jury trial under this chapter, the court may
14 tell the jury that the court-appointed special advocate represents the interests of the
15 child for whom the court-appointed special advocate was designated.

16 **SECTION 7.** 48.27 (3) (a) 1. of the statutes is amended to read:

17 48.27 (3) (a) 1. If the petition that was filed relates to facts concerning a
18 situation under s. 48.13 or a situation under s. 48.133 involving an expectant mother
19 who is a child, the court shall also notify, under. s. 48.273, the child, any parent,
20 guardian and legal custodian of the child, any foster parent, treatment foster parent
21 or other physical custodian described in s. 48.62 (2) of the child, the unborn child by
22 the unborn child's guardian ad litem, if applicable, and any person specified in par.
23 (b) ~~or~~, (d) or (e), if applicable, of all hearings involving the child except hearings on
24 motions for which notice need only be provided to the child and his or her counsel.

25 When parents who are entitled to notice have the same place of residence, notice to

SENATE BILL 106

1 one shall constitute notice to the other. The first notice to any interested party, foster
2 parent, treatment foster parent or other physical custodian described in s. 48.62 (2)
3 shall be written and may have a copy of the petition attached to it. Thereafter, notice
4 of hearings may be given by telephone at least 72 hours before the time of the
5 hearing. The person giving telephone notice shall place in the case file a signed
6 statement of the time notice was given and the person to whom he or she spoke.

7 ~~SECTION 8. 48.27 (3) (c) of the statutes is amended to read:~~

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

20 **SECTION 9. 48.27 (3) (e) of the statutes is created to read:**

21 48.27 (3) (e) If the petition that was filed relates to facts concerning a situation
22 under s. 48.13, the court shall also notify, under s. 48.273, the court-appointed
23 special advocate for the child of all hearings involving the child. The first notice to
24 a court-appointed special advocate shall be written and shall have a copy of the
25 petition attached to it. Thereafter, notice of hearings may be given by telephone at

SENATE BILL 106**SECTION 9**

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

4 **SECTION 10.** 48.293 (1) of the statutes is amended to read:

5 48.293 (1) Copies of all law enforcement officer reports, including ~~but not~~
6 ~~limited to~~ the officer's memorandum and witnesses' statements, shall be made
7 available upon request to counsel or guardian ad litem for any party and to the
8 court-appointed special advocate for the child prior to a plea hearing. The reports
9 shall be available through the representative of the public designated under s. 48.09.
10 The identity of a confidential informant may be withheld pursuant to s. 905.10.

11 **SECTION 11.** 48.293 (2) of the statutes is amended to read:

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

24 **SECTION 12.** 48.295 (2) of the statutes is amended to read:

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1 48.295 (2) The examiner shall file a report of the examination with the court
2 by the date specified in the order. The court shall cause copies to be transmitted to
3 the district attorney or corporation counsel, to counsel or guardian ad litem for the
4 child and ~~& to the court-appointed special advocate for the child.~~ If applicable, the
5 court shall also cause copies to be transmitted to counsel or guardian ad litem for the
6 unborn child and the unborn child's expectant mother. The report shall describe the
7 nature of the examination and identify the persons interviewed, the particular
8 records reviewed and any tests administered to the child or expectant mother. The
9 report shall also state in reasonable detail the facts and reasoning upon which the
10 examiner's opinions are based.

11 **SECTION 13.** 48.299 (1) (ag) of the statutes is amended to read:

12 48.299 (1) (ag) In a proceeding other than a proceeding under s. 48.375 (7), if
13 a public hearing is not held, only the parties and their counsel or guardian ad litem,
14 ~~if any~~ the court-appointed special advocate for the child, the child's foster parent,
15 treatment foster parent or other physical custodian described in s. 48.62 (2),
16 witnesses and other persons requested by a party and approved by the court may be
17 present, except that the court may exclude a foster parent, treatment foster parent
18 or other physical custodian described in s. 48.62 (2) from any portion of the hearing
19 if that portion of the hearing deals with sensitive personal information of the child
20 or the child's family or if the court determines that excluding the foster parent,
21 treatment foster parent or other physical custodian would be in the best interests of
22 the child. Except in a proceeding under s. 48.375 (7), any other person the court finds
23 to have a proper interest in the case or in the work of the court, including a member
24 of the bar, may be admitted by the court.

25 **SECTION 14.** 48.32 (1) of the statutes is amended to read:

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

16 **SECTION 15.** 48.32 (1 b) of the statutes is created to read:

17 48.32 (1b) The judge or juvenile court commissioner may, as a condition under
18 sub. (1), request a court-appointed special advocate program to designate a
19 court-appointed special advocate for the child to perform the activities specified in
20 s. 48.236 (3). A court-appointed special advocate designated under this subsection
21 shall have the authority specified in s. 48.236 (4).

22 **SECTION 16.** 48.32 (2) (c) of the statutes is amended to read:

23 48.32 (2) (c) Upon the motion of the court or the application of the child, parent,
24 guardian, legal custodian, expectant mother, unborn child by the unborn child's
25 guardian ad litem, intake worker or any agency supervising the child or expectant

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

10 **SECTION 17.** 48.345 (2r) of the statutes is created to read:

11 48.345 **(2r)** Place the child as provided in sub. (2) or (2m) and, in addition,
12 request a court-appointed special advocate program to designate a court-appointed
13 special advocate for the child to perform the activities specified in s. 48.236 (3). A
14 court-appointed special advocate designated under this subsection shall have the
15 authority specified in s. 48.236 (4).

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

17 **48.355 (2)** (d) The court shall provide a copy of a dispositional order relating
18 to a child in need of protection or services to the child's parent, guardian or trustee,
19 to the child through the child's counsel or guardian ad litem and to the child's
20 court-appointed special advocate. The court shall provide a copy of a dispositional
21 order relating to an unborn child in need of protection or services to the expectant
22 mother, to the unborn child through the unborn child's guardian ad litem and, if the
23 expectant mother is a child, to her parent, guardian or trustee.

24 **SECTION 19.** 48.355 (2e) (c) of the statutes is amended to read:

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1 48.355 **(2e)** (c) Either the court or the agency that prepared the permanency
2 plan shall furnish a copy of the original plan and each revised plan to the child's
3 parent or guardian, to the child or the child's counsel or guardian ad litem, to the
4 child's court-appointed special advocate and to the person representing the interests
5 of the public.

6 **SECTION 20.** 48.357 (1) of the statutes is amended to read:

7 48.357 **(1)** The person or agency primarily responsible for implementing the
8 dispositional order, the district attorney or the corporation counsel may request a
9 change in the placement of the child or expectant mother, whether or not the change
10 requested is authorized in the dispositional order and shall cause written notice to
11 be sent to the child, the parent, guardian and legal custodian of the child, any foster
12 parent, treatment foster parent or other physical custodian described in s. 48.62 (2)
13 of the child, the child's court-appointed special advocate and, if the child is the
14 expectant mother of an unborn child under s. 48.133, the unborn child by the unborn
15 child's guardian ad litem. If the expectant mother is an adult, written notice shall
16 be sent to the adult expectant mother and the unborn child by the unborn child's
17 guardian ad litem. The notice shall contain the name and address of the new
18 placement, the reasons for the change in placement, a statement describing why the
19 new placement is preferable to the present placement and a statement of how the
20 new placement satisfies objectives of the treatment plan ordered by the court. Any
21 person receiving the notice under this subsection or notice of a specific placement
22 under s. 48.355 (2) (b) 2., other than a court-appointed special advocate, may obtain
23 a hearing on the matter by filing an objection with the court within 10 days after
24 receipt of the notice. Placements may not be changed until 10 days after that notice
25 is sent to the court unless the parent, guardian or legal custodian and the child, if

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1 12 years of age or over, or the child expectant mother, if 12 years of age or over, her
2 parent, guardian or legal custodian and the unborn child by the unborn child's
3 guardian ad litem, or the adult expectant mother and the unborn child by the unborn
4 child's guardian ad litem, sign written waivers of objection, except that placement
5 changes which were authorized in the dispositional order may be made immediately
6 if notice is given as required in this subsection. In addition, a hearing is not required
7 for placement changes authorized in the dispositional order except when an objection
8 filed by a person who received notice alleges that new information is available which
9 affects the advisability of the court's dispositional order.

10 **SECTION 21.** 48.357 (2m) of the statutes is amended to read:

11 48.357 **(2m)** The child, the parent, guardian or legal custodian of the child, the
12 expectant mother, the unborn child by the unborn child's guardian at litem or any
13 person or agency primarily bound by the dispositional order, other than the person
14 or agency responsible for implementing the order, may request a change in
15 placement under this subsection. The request shall contain the name and address
16 of the place of the new placement requested and shall state what new information
17 is available which affects the advisability of the current placement. This request
18 shall be submitted to the court. In addition, the court may propose a change in
19 placement on its own motion. The court shall hold a hearing ~~on~~ the matter prior to
20 ordering any change in placement under this subsection if the request states that
21 new information is available which affects the advisability of the current placement,
22 unless written waivers of objection to the proposed change in placement are signed
23 by all ~~parties~~ persons entitled to receive notice under sub. (1), other than a
24 court-appointed special advocate, and the court approves. If a hearing is scheduled,
25 the court shall notify the child, the parent, guardian and legal custodian of the child,

1 any foster parent, treatment foster parent or other physical custodian described in
2 s. 48.62 (2) of the child, ~~the child's court-appointed special advocate.~~ all parties who
3 are bound by the dispositional order and, if the child is the expectant mother of an
4 unborn child under s. 48.133, the unborn child by the unborn child's guardian ad
5 litem, or shall notify the adult expectant mother, the unborn child by the unborn
6 child's guardian ad litem and all parties who are bound by the dispositional order,
7 at least 3 days prior to the hearing. A copy of the request or proposal for the change
8 in placement shall be attached to the notice. If all the parties consent, the court may
9 proceed immediately with the hearing.

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

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

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1 parties bound by the dispositional order, the child's foster parent, treatment foster
2 parent or other physical custodian described in s. 48.62 (2), the child's
3 court-annointed special advocate, the district attorney or corporation counsel in the
4 county in which the dispositional order was entered, and, if the child is the expectant
5 mother of an unborn child under s. 48.133, the unborn child by the unborn child's
6 guardian ad litem or shall notify the adult expectant mother, the unborn child
7 through the unborn child's guardian ad litem, all parties bound by the dispositional
8 order and the district attorney or corporation counsel in the county in which the
9 dispositional order was entered, at least 3 days prior to the hearing. A copy of the
10 request or proposal shall be attached to the notice. If the proposed revision is for a
11 change in the amount of child support to be paid by a parent, the court shall order
12 the child's parent to provide a statement of income, assets, debts and living expenses
13 to the court and the person or agency primarily responsible for implementing the
14 dispositional order by a date specified by the court. The clerk of court shall provide,
15 without charge, to any parent ordered to provide a statement of income, assets, debts
16 and living expenses a document setting forth the percentage standard established
17 by the department of workforce development under s. 49.22 (9) and the manner of
18 its application established by the department of health and family services under s.
19 46.247 and listing the factors that a court may consider under s. 46.10 (14) (c). If all
20 parties consent, the court may proceed immediately with the hearing. No revision
21 may extend the effective period of the original order.

22 **SECTION 23.** 48.365 (2) of the statutes is amended to read:

23 48.365 (2) No order may be extended without a hearing. The court shall notify
24 the child, the child's parent, guardian and legal custodian, all the parties present at
25 the original hearing, the child's foster parent, treatment foster parent or other

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1 physical custodian described in s. 48.62 (2), the child's court-annointed snecial
2 advocate, the district attorney or corporation counsel in the county in which the
3 dispositional order was entered and, if the child is an expectant mother of an unborn
4 child under s. 48.133, the unborn child by the unborn child's guardian ad litem, or
5 shall notify the adult expectant mother, the unborn child through the unborn child's
6 guardian ad litem, all the parties present at the original hearing and the district
7 attorney or corporation counsel in the county in which the dispositional order was
8 entered, of the time and place of the hearing.

9 **SECTION 24.** 48.38 (5) (b) of the statutes is amended to read:

10 48.38 (5) (b) The court or the agency shall notify the parents of the child, the
11 child if he or she is 12 years of age or older and the child's foster parent, the child's
12 treatment foster parent or the operator of the facility in which the child is living of
13 the date, time and place of the review, of the issues to be determined as part of the
14 review, of the fact that they may have an opportunity to be heard at the review by
15 submitting written comments not less than 10 working days before the review or by
16 participating at the review. The court or agency shall notify the person representing
17 the interests of the public, the child's counsel ~~and~~, the child's guardian ad litem and
18 the child's court-anoointed snecial advocate of the date of the review, of the issues
19 to be determined as part of the review and of the fact that they may submit written
20 comments not less than 10 working days before the review. The notices under this
21 paragraph shall be provided in writing not less than 30 days before the review and
22 copies of the notices shall be filed in the child's case record.

23 **SECTION 25.** 48.38 (5) (d) of the statutes is amended to read:

24 48.38 (5) (d) Notwithstanding s. 48.78 (2) (a), the agency that prepared the
25 permanency plan shall, at least 5 days before a review by a review panel, provide to

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1 each person appointed to the review panel, the person representing the interests of
2 the public, the child's counsel ~~and~~, the child's guardian ad litem and the child's
3 court-annointed special advocate a copy of the permanency plan and any written
4 comments submitted under par. (b). Notwithstanding s. 48.78 (2) (a), a person
5 appointed to a review panel, the person representing the interests of the public, the
6 child's counsel ~~and~~, the child's guardian ad litem and the child's court-annointed
7 special advocate may have access to any other records concerning the child for the
8 purpose of participating in the review. A person permitted access to a child's records
9 under this paragraph may not disclose any information from the records to any other
10 person.

11 SECTION 26. 48.38 (5) (e) of the statutes is amended to read:

12 48.38 (5) (e) Within 30 days, the agency shall prepare a written summary of
13 the determinations under par. (c) and shall provide a copy to the court that entered
14 the order, the child or the child's counsel or guardian ad litem, the person
15 representing the interests of the public, the child's parent or guardian, the child's
16 court-annointed special advocate and the child's foster parent, the child's treatment
17 foster parent or the operator of the facility where the child is living.

18 SECTION 27. 48,981 (2) of the statutes is amended to read:

19 48.981 (2) **PERSONS REQUIRED TO REPORT.** A physician, coroner, medical
20 examiner, nurse, dentist, chiropractor, optometrist, acupuncturist, other medical or
21 mental health professional, social worker, marriage and family therapist,
22 professional counselor, public assistance worker, including a financial and
23 employment planner, as defined in s. 49.14 1 (1) (d), school teacher, administrator or
24 counselor, mediator under s. 767.11, child care worker in a day care center or child
25 caring institution, day care provider, alcohol or other drug abuse counselor, member

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1 of the treatment staff employed by or working under contract with a county
2 department under s. 46.23, 51.42 or 51.437, physical therapist, occupational
3 therapist, dietitian, speech-language pathologist, audiologist, emergency medical
4 technician or police or law enforcement officer having reasonable cause to suspect
5 that a child seen in the course of professional duties has been abused or neglected
6 or having reason to believe that a child seen in the course of professional duties has
7 been threatened with abuse or neglect and that abuse or neglect of the child will occur
8 shall, except as provided under sub. (2m), report as provided in sub. (3). A
9 court-annointed sneial advocate having reasonable cause to suspect that a child
10 seen in the course of the court-annointed sneial advocate's volunteer activities
11 under s. 48.236 (3) or 938.236 (3) has been abused or neglected or having: reason to
12 believe that a child seen in the course of those activities has been threatened with
13 abuse and neglect and that abuse or neglect of the child will occur shall, except as
14 provided in sub. (2m), renort as nrovided in sub. (3). Any other person, including an
15 attorney, having reason to suspect that a child has been abused or neglected or reason
16 to believe that a child has been threatened with abuse or neglect and that abuse or
17 neglect of the child will occur may make such a report. Any person, including an
18 attorney having reason to suspect that an unborn child has been abused or reason
19 to believe that an unborn child is at substantial risk of abuse may report as provided
20 in sub. (3). No person making a report under this subsection may be discharged from
21 employment for so doing.

22 **SECTION 28.** 48.981 (7) (a) llr. of the statutes is amended to read:

23 48.981 (7) (a) llr. A volunteer ~~appointed~~ court-annointed sneial advocate
24 designated under s. 48.236 (1) or 938.236 (1) or person employed by a
25 court-appointed special advocate program recognized by the ~~county board or the~~

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1 ~~county department or, in a county having a population of 500,000 or more, the~~
2 ~~department or a licensed child welfare agency under contract with the department~~
3 chief judge of a judicial administrative district under s. 48.07 (5) or 938.07 (5), to the
4 extent necessary for the court-appointed special advocate to perform the advocacy
5 services specified in s. 48.236 (3) or 938.236 (3) that the court-appointed special
6 advocate was designated to perform in proceedings related to a petition under s.
7 48.13 ~~or 48.133 for which the court-appointed special advocate program is~~
8 ~~recognized by the county board, county department or department or~~ 938.13 (4), (6),
9 (6m) or (7).

10 **SECTION 29.** 118.125 (2) (L) of the statutes is amended to read:

11 118.125 (2) (L) A school board shall disclose the pupil records of a pupil in
12 compliance with a court order under s. ~~48.236 (4) (a), 48.345 (12) (b), 938.236 (4) (a),~~
13 938.34 (7d) (b), 938,396 (lm) (c) or (d) or 938.78 (2) (b) 2. after making a reasonable
14 effort to notify the pupil's parent or legal guardian.

15 **SECTION 30.** 938.07 (5) of the statutes is created to read:

16 938.07 (5) ~~COURT-APPOINTEDSPECIALADVOCATEPROGRAM.~~ (a) *Memorandum of*
17 *understanding.* The court may obtain the services of a court-appointed special
18 advocate program that has been recognized by the chief judge of the judicial
19 administrative district. A chief judge of a judicial administrative district may
20 recognize a court-appointed special advocate program by entering into a
21 memorandum of understanding with the court-appointed special advocate program
22 that specifies the responsibilities of the court-appointed special advocate program
23 and of a court-appointed special advocate designated under s. 938.236 (1). The
24 memorandum of understanding shall specify that the court-appointed special

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1 advocate program is responsible for selecting, training, supervising and evaluating
2 the volunteers participating in the program as provided in pars. (b) to (d).

3 (b) Selection. 1. A court-appointed special advocate program may select a
4 person to participate in the program if the person is 21 years of age or older,
5 demonstrates an interest in the welfare of juveniles, undergoes a satisfactory
6 background investigation as provided under subd. 2., completes the training
7 required under par. (c) and meets any other qualifications required by the
8 court-appointed special advocate program. A court-appointed special advocate
9 program may refuse to permit to participate in the program any person whose
10 participation in the program might pose a risk, as determined by the
11 court-appointed special advocate program, to the safety of any juvenile.

12 2. On receipt of an application from a prospective court-appointed special
13 advocate, the court-appointed special advocate program, with the assistance of the
14 department of justice, shall conduct a background investigation of the applicant. If
15 the court-appointed special advocate program determines that any information
16 obtained as a result of the background investigation provides a reasonable basis for
17 further investigation, the court-appointed special advocate program may require
18 the applicant to be fingerprinted on 2 fingerprint cards, each bearing a complete set
19 of the applicant's fingerprints. The department of justice may provide for the
20 submission of the fingerprint cards to the federal bureau of investigation for the
21 purposes of verifying the identification of the applicant and obtaining the applicant's
22 criminal arrest and conviction record. The court-appointed special advocate
23 program shall keep confidential all information received from the department of
24 justice and the federal bureau of investigation under this subdivision.

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1 **(c) Training.** A court-appointed special advocate program shall require a
2 volunteer selected under par. (b) to complete a training program before the volunteer
3 may be designated as a court-appointed special advocate under s. 938.236 (1). The
4 training program shall include instruction on recognizing child abuse and neglect,
5 cultural competency, as defined in s. 48.982 (1) (bm), child development, the
6 procedures of the court, permanency planning, the responsibilities of a
7 court-appointed special advocate under s. 938.236 (3) and information gathering
8 and documentation, and shall include observation of a proceeding under s. 938.13 (4),
9 (6), (6m) or (7). A court-appointed special advocate program shall also require each
10 volunteer to complete continuing training annually.

11 **(d) Supervision and evaluation.** The supervisory support staff of a
12 court-appointed special advocate program shall be easily accessible to the
13 volunteers of the program, shall hold regular case conferences with those volunteers
14 to review case progress and shall conduct annual performance evaluations of those
15 volunteers. A court-appointed special advocate program shall provide its staff and
16 volunteers with written guidelines describing the policies, practices and procedures
17 of the program and the responsibilities of a volunteer with the program.

18 **SECTION 31.** 938.23 (6) of the statutes is amended to read:

19 938.23 (6) **DEFINITION.** For the purposes of this section, "counsel" means an
20 attorney acting as adversary counsel who shall advance and protect the legal rights
21 of the party represented, and who may not act as guardian ad litem or
22 court-appointed special advocate for any party in the same proceeding.

23 **SECTION 32.** 938.235 (2) of the statutes is amended to read:

24 938.235 (2) **QUALIFICATIONS.** The guardian ad litem shall be an attorney
25 admitted to practice in this state. No person who is an interested party in a

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1 proceeding, who appears as counsel or court-appointed special advocate in a
2 proceeding on behalf of any party or who is a relative or representative of an
3 interested party in a proceeding may be appointed guardian ad litem in that
4 proceeding.

5 **SECTION 33.** 938.236 of the statutes is created to read:

6 **938.236 Court-appointed special advocate. (1) DESIGNATIONS.** In any
7 proceeding under s. 938.13 (4), (6), (6m) or (7) in which the court finds that providing
8 the services of a court-appointed special advocate would be in the best interests of
9 the juvenile, the court may request a court-appointed special advocate program to
10 designate a person who meets the qualifications specified in sub. (2) as a
11 court-appointed special advocate to undertake the activities specified in sub. (3). A
12 court-appointed special advocate does not become a party to the proceeding and, as
13 a nonparty, may not make motions or call or cross-examine witnesses. A designation
14 under this subsection terminates when the jurisdiction of the court over the juvenile
15 under s. 938.13 (4), (6), (6m) or (7) terminates, unless the court discharges the
16 court-appointed special advocate sooner.

17 **(2) QUALIFICATIONS.** A court-appointed special advocate shall be a volunteer
18 who has been selected and trained as provided in s. 938.07 (5) (b) and (c). No person
19 who is a party in a proceeding, who appears as counsel or guardian ad litem in a
20 proceeding on behalf of any party or who is a relative or representative of a party in
21 a proceeding may be designated as a court-appointed special advocate in that
22 proceeding.

23 **(3) ACTIVITIES.** A court-appointed special advocate may be designated under
24 sub. (1) to perform any of the following activities:

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1 (a) Gather information and make observations about the juvenile for whom the
2 designation is made, the juvenile's family and any other person residing in the same
3 home as the juvenile and provide that information and those observations to the
4 court in the form of written reports or, if requested by the court, oral testimony

5 (b) Maintain regular contact with the juvenile for whom the designation is
6 made; monitor the appropriateness and safety of the environment of the juvenile, the
7 extent to which the juvenile and the juvenile's family are complying with any consent
8 decree or dispositional order of the court and with any permanency plan under s.
9 938.38, and the extent to which any agency that is required to provide services for
10 the juvenile and the juvenile's family under a consent decree, dispositional order or
11 permanency plan is providing those services; and, based on that regular contact and
12 monitoring, provide information to the court in the form of written reports or, if
13 requested by the court, oral testimony.

14 (c) Advocate for the best interests of the juvenile.

15 (d) Undertake any other activities that are consistent with the memorandum
16 of understanding entered into under s. 938.07 (5) (a).

17 (4) **AUTHORITY.** A court that requests a court-appointed special advocate
18 program to designate a court-appointed special advocate to undertake the activities
19 specified in sub. (3) shall include in the order requesting that designation an order
20 authorizing the court-appointed special advocate to do any of the following:

21 (a) Inspect any reports and records relating to the juvenile who is the subject
22 of the proceeding, the juvenile's family and any other person residing in the same
23 home as the juvenile that are relevant to the subject matter of the proceeding,
24 including records discoverable under s. 938.293, examination reports under s.
25 938.295 (2) (b), law enforcement reports and records under ss. 48.396 (1) and 938.396

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1 (1), court records under ss. 48.396 (2) (a) and 938.396 (2) (a), social welfare agency
2 records under s. 48.78 (2) (a) and 938.78 (2) (a), abuse and neglect reports and records
3 under s. 48.98 1 (7) (a) 11 r. and pupil records under s. 118.125 (2) (L). The order shall
4 also require the custodian of any report or record specified in this paragraph to
5 permit the court-appointed special advocate to inspect the report or record on
6 presentation by the court-appointed special advocate of a copy of the order. A
7 court-appointed special advocate that obtains access to a report or record described
8 in this paragraph shall keep the information contained in the report or record
9 confidential and may disclose that information only to the court. If a
10 court-appointed special advocate discloses any information to the court under this
11 paragraph, the court-appointed special advocate shall also disclose the information
12 to all parties to the proceeding.

13 (b) Observe the juvenile who is the subject of the proceeding and the juvenile's
14 living environment and, if the juvenile is old enough to communicate, interview the
15 juvenile; interview the parent, guardian, legal custodian or other caregiver of the
16 juvenile and observe that person's living environment; and interview any other
17 person who might possess any information relating to the juvenile and the juvenile's
18 family that is relevant to the subject of the proceeding. A court-appointed special
19 advocate may observe or interview the juvenile at any location without the
20 permission of the juvenile's parent, guardian, legal custodian or other caregiver if
21 necessary to obtain any information that is relevant to the subject of the proceeding,
22 except that a court-appointed special advocate may enter a juvenile's home only with
23 the permission of the juvenile's parent, guardian, legal custodian or other caregiver
24 or after obtaining a court order permitting the court-appointed special advocate to
25 do so. A court-appointed special advocate who obtains any information under this

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1 paragraph shall keep the information confidential and may disclose that information
2 only to the court. If a court-appointed special advocate discloses any information to
3 the court under this paragraph, the court-appointed special advocate shall also
4 disclose that information to all parties to the proceeding.

5 (5) IMMUNITY FROM LIABILITY. A volunteer court-appointed special advocate
6 designated under sub. (1) or an employe of a court-appointed special advocate
7 program recognized under s. 938.07 (5) is immune from civil liability for any act or
8 omission of the volunteer or employe occurring while acting within the scope of his
9 or her activities and authority as a volunteer court-appointed special advocate or
10 employe of a court-appointed special advocate program.

11 **SECTION 34.** 938.27 (3) (a) 1. of the statutes is amended to read:

12 938.27 (3) (a) 1. The court shall also notify, under s. 938.273, the juvenile, any
13 parent, guardian and legal custodian of the juvenile, any foster parent, treatment
14 foster parent or other physical custodian described in s. 48.62 (2) of the juvenile and
15 any person specified in par. (b) or (c), if applicable, of all hearings involving the
16 juvenile ~~under this subchapter~~, except hearings on motions for which notice need
17 only be provided to the juvenile and his or her counsel. Where parents entitled to
18 notice have the same place of residence, notice to one shall constitute notice to the
19 other. The first notice to any interested party, foster parent, treatment foster parent
20 or other physical custodian described in s. 48.62 (2) shall be written and may have
21 a copy of the petition attached to it. Thereafter, notice of hearings may be given by
22 telephone at least 72 hours before the time of the hearing. The person giving
23 telephone notice shall place in the case file a signed statement of the time notice was
24 given and the person to whom he or she spoke.

25 **SECTION 35.** 938.27 (3) (c) of the statutes is created to read:

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1 938.27 (3) (c) If the petition that was filed relates to facts concerning a situation
2 under s. 938.13 (4), (6), (6m) or (7), the court shall also notify, under s. 938.273, the
3 court-appointed special advocate for the juvenile of all hearings involving the
4 juvenile. The first notice to a court-appointed special advocate shall be written and
5 shall have a copy of the petition attached to it. Thereafter, notice of hearings may be
6 given by telephone at least 72 hours before the time of the hearing. The person giving
7 telephone notice shall place in the case file a signed statement of the time that notice
8 was given and the person to whom he or she spoke.

9 **SECTION 36.** 938.293 (1) of the statutes is amended to read:

10 938.293 **(1)** Copies of all law enforcement officer reports, including ~~but not~~
11 ~~limited to~~ the officer's memorandum and witnesses' statements, shall be made
12 available upon request to counsel or guardian ad litem for any party and to the
13 court-appointed special advocate for the juvenile prior to a plea hearing. The reports
14 shall be available through the representative of the public designated under s.
15 938.09. The juvenile, through counsel or guardian ad litem, is the only party who
16 shall have access to the reports in proceedings under s. 938.12, 938.125 or 938.13
17 (12). The identity of a confidential informant may be withheld pursuant to s. 905.10.

18 **SECTION 37.** 938.293 (2) of the statutes is amended to read:

19 938.293 (2) All records relating to a juvenile which are relevant to the subject
20 matter of a proceeding under this chapter shall be open to inspection by a guardian
21 ad litem or counsel for any party and to inspection by the court-appointed special
22 advocate for the juvenile, upon demand and upon presentation of releases where
23 necessary, at least 48 hours before the proceeding. Persons entitled to inspect the
24 records may obtain copies of the records with the permission of the custodian of the
25 records or with the permission of the court. The court may instruct counsel, a

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1 ~~guardian ad litem or a court-appointed special advocate~~ not to disclose specified
2 items in the materials to the juvenile or the parent if the court reasonably believes
3 that the disclosure would be harmful to the interests of the juvenile. Sections 97 1.23
4 and 972.11 (5) shall be applicable in all delinquency proceedings under this chapter,
5 except that the court shall establish the timetable for the disclosures required under
6 ss. 971.23 (1), (2m) and (8) and 972.11 (5).

7 **SECTION 38.** 938.295 (2) (b) of the statutes is amended to read:

8 938.295 (2) (b) The examiner shall file a report of the examination with the
9 court by the date specified in the order. The court shall cause copies to be transmitted
10 to the district attorney or corporation counsel ~~and~~, to the juvenile's counsel or
11 guardian ad litem and, if applicable, to the juvenile's court-appointed special
12 advocate. The report shall describe the nature of the examination and identify the
13 persons interviewed, the particular records reviewed and any tests administered to
14 the juvenile. If the examination is ordered following a plea under s. 938.30 (4) (c),
15 the report shall also contain an opinion regarding whether the juvenile suffered from
16 mental disease or defect at the time of the commission of the act alleged in the
17 petition and, if so, whether this caused the juvenile to lack substantial capacity to
18 appreciate the wrongfulness of his or her conduct or to conform his or her conduct to
19 the requirements of the law. If the examination is ordered following a finding that
20 there is probable cause to believe that the juvenile has committed the alleged offense
21 and that there is reason to doubt the juvenile's competency to proceed, the report
22 shall also contain an opinion regarding the juvenile's present mental capacity to
23 understand the proceedings and assist in his or her defense and, if the examiner
24 reports that the juvenile lacks competency to proceed, the examiner's opinion
25 regarding the likelihood that the juvenile, if provided treatment, may be restored to

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SECTION 38

1 competency within the time specified in s. 938.30 (5) (e) 1. The report shall also state
 2 in reasonable detail the facts and reasoning upon which the examiner's opinions are
 3 based.

✓ or guardian ad litem The court-appointed special advocate for the juvenile

4 **SECTION 39.** 938.299 (1) (a) of the statutes is amended to read:

5 938.299 (1) (a) Except as provided in par. (ar), the general public shall be
 6 excluded from hearings under this chapter unless a public fact-finding hearing is
 7 demanded by a juvenile through his or her counsel. The court shall refuse to grant
 8 the public hearing, however, if the victim of an alleged sexual assault objects or, in
 9 a nondelinquency proceeding, if a parent or guardian objects. If a public hearing is
 10 not held, only the parties, ^(arc) their counsel, witnesses, ~~the juvenile's court-appointed~~
 11 ~~special advocate~~, a representative of the news media who wishes to attend the
 12 hearing for the purpose of reporting news without revealing the identity of the
 13 juvenile involved and other persons requested by a party and approved by the court
 14 may be present. Any other person the court finds to have a proper interest in the case
 15 or in the work of the court, including a member of the bar, may be admitted by the
 16 court.

17 **SECTION 40.** 938.32 (1) (a) of the statutes is amended to read:

18 938.32 (1) (a) At any time after the filing of a petition for a proceeding relating
 19 to s. 938.12 or 938.13 and before the entry of judgment, the judge or juvenile court
 20 commissioner may suspend the proceedings and place the juvenile under
 21 supervision in the juvenile's own home or present placement or in a youth village
 22 program as described in s. 118.42. The court may establish terms and conditions
 23 applicable to the parent, guardian or legal custodian, and to the juvenile, including
 24 any of the conditions specified in subs. (1b), (ld), (lg), (lm), (lt), (lv) and (lx). The
 25 order under this section shall be known as a consent decree and must be agreed to

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1 by the juvenile; the parent, guardian or legal custodian; and the person filing the
2 petition under s. 938.25. If the consent decree includes any conditions specified in
3 sub. (lg), the consent decree shall include provisions for payment of the services as
4 specified in s. 938.361. The consent decree shall be reduced to writing and given to
5 the parties.

6 **SECTION 41.** 938.32 (1 b) of the statutes is created to read:

7 938.32 **(lb)** If the' petition alleges that the juvenile is in need of protection or
8 services under s. 938.13 (4), (6), (6m) or (7), the judge or juvenile court commissioner
9 may, as a condition under sub. (l), request a court-appointed special advocate
10 program to designate a court-appointed special advocate for the juvenile to perform
11 the activities specified in s. 938.236 (3). A court-appointed special advocate
12 . designated under this subsection shall have the authority specified in s. 938.236 (4).

13 **SECTION 42.** 938.32 (2) (c) of the statutes is amended to read:

14 938.32 (2) (c) Upon the motion of the court or the application of the juvenile,
15 parent, guardian, legal custodian, intake worker or any agency supervising the
16 juvenile.under the consent decree, the court may, after giving notice to the parties
17 to the consent decree ~~and~~, their counsel or guardian ad litem and the
18 court-annointed special advocate for the iuvenile, if any, extend the decree for up to
19 an additional 6 months or, if the consent decree places the juvenile in a youth village
20 program as described in s. 118.42, for up to an additional one year in the absence of
21 objection to extension by the parties to the initial consent decree. If the parent,
22 guardian or legal custodian objects to the extension, the court shall schedule a
23 hearing and make a determination on the issue of extension. A consent decree
24 placing a juvenile in a youth village program as described in s. 118.42 may be
25 extended no more than twice.

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1 **SECTION 43.** 938.345 (3) of the statutes is created to read:

2 938.345 (3) If the court finds that a juvenile is in need of protection or services
3 under s. 938.13 (4), (6), (6m) or (7), the court, instead of or in addition to any other
4 disposition that may be imposed under sub. (l), may place the juvenile as provided
5 ins. 938.34 (2) (a) or (b) and request a court-appointed special advocate program to
6 designate a court-appointed special advocate for the juvenile to perform the
7 activities specified in s. 938.236 (3). A court-appointed special advocate designated
8 under this subsection shall have the authority specified in s. 938.236 (4).

9 **SECTION 44.** 938.355 (2) (d) of the statutes is amended to read:

10 938.355 (2) (d) The court shall provide a copy of the dispositional order to the
11 juvenile's parent, guardian or trustee and to the juvenile through the juvenile's
12 counsel or guardian ad litem. In addition, the court shall provide a CODV of a
13 dispositional order relating to a juvenile in need of protection or services under s.
14 938.13 (4), (6), (6m) or (7) to the juvenile's court-appointed special advocate.

15 **SECTION 45.** 938.355 (2e) (c) of the statutes is amended to read:

16 938.355 (2e) (c) Either the court or the agency that prepared the permanency
17 plan shall furnish a copy of the original plan and each revised plan to the juvenile's
18 parent or guardian, to the juvenile or the juvenile's counsel or guardian ad litem, to
19 the juvenile's court-appointed special advocate and to the person representing the
20 interests of the public.

21 **SECTION 46.** 938.355 (6) (b) of the statutes is amended to read:

22 938.355 (6) (b) A motion for imposition of a sanction may be brought by the
23 person or agency primarily responsible for the provision of dispositional services, the
24 district attorney or corporation counsel or the court that entered the dispositional
25 order. If the court initiates the motion, that court is disqualified from holding a

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1 hearing on the motion, Notice of the motion shall be given to the juvenile, guardian
2 ad litem, counsel, court-annointed snecial advocate, parent, guardian, legal
3 custodian and all parties present at the original dispositional hearing. The motion
4 shall contain a statement of whether the juvenile may be subject to the federal Indian
5 child welfare act, 25 USC 1911 to 1963.

6 **SECTION 47.** 938.355 (6m) (b) of the statutes is amended to read:

7 938.355 **(6m)** (b) A motion for the imposition of a sanction under par. (a) or (ag)
8 may be brought by the person or agency primarily responsible for providing
9 dispositional services to the juvenile, the district attorney, the corporation counsel
10 or the court that entered the dispositional order. If the court initiates the motion,
11 that court is disqualified from holding a hearing on the motion. Notice of the motion
12 shall be given to the juvenile, guardian ad litem, counsel, court-aonointed snecial
13 advocate, parent, guardian, legal custodian and all parties present at the original
14 dispositional hearing.

15 **SECTION 48.** 938.357 (1) of the statutes is amended to read:

16 938.357 **(1)** The person or agency primarily responsible for implementing the
17 dispositional order or the district attorney may request a change in the placement
18 of the juvenile, whether or not the change requested is authorized in the dispositional
19 order and shall cause written notice to be sent to the juvenile or the juvenile's counsel
20 or guardian ad litem, the parent, guardian and legal custodian of the iuvenile. any
21 foster parent, treatment foster parent or other physical custodian described in s.
22 48.62 (2), ~~guardian and legal custodian of the juvenile and the juvenile's~~
23 court-aonointed snecial advocate. The notice shall contain the name and address of
24 the new placement, the reasons for the change in placement, a statement describing
25 why the new placement is preferable to the present placement and a statement of

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1 how the new placement satisfies objectives of the treatment plan ordered by the
2 court. Any person receiving the notice under this subsection or notice of the specific
3 foster or treatment foster placement under s. 938.355 (2) (b) 2., other than a
4 court-appointed special advocate, may obtain a hearing on the matter by filing an
5 objection with the court within 10 days after receipt of the notice. Placements ~~shall~~
6 ~~may~~ not be hanged until 10 days after such notice is sent to the court unless the
7 parent, guardian or legal custodian and the juvenile, if 12 or more years of age, sign
8 written waivers of objection, except that placement changes which were authorized
9 in the dispositional order may be made immediately if notice is given as required in
10 this subsection. In addition, a hearing is not required for placement changes
11 authorized in the dispositional order except where an objection filed by a person who
12 received notice alleges that new information is available which affects the
13 advisability of the court's dispositional order.

14 **SECTION 49.** 938.357 (2m) of the statutes is amended to read:

15 938.357 **(2m)** The juvenile, the parent, guardian or legal custodian of the
16 juvenile or any person or agency primarily bound by the dispositional order, other
17 than the person or agency responsible for implementing the order, may request a
18 change in placement under this subsection. The request shall contain the name and
19 address of the place of the new placement requested and shall state what new
20 information is available which affects the advisability of the current placement. This
21 request shall be submitted to the court. In addition, the court may propose a change
22 in placement on its own motion. The court shall hold a hearing on the matter prior
23 to ordering any change in placement under this subsection if the request states that
24 new information is available which affects the advisability of the current placement,
25 unless written waivers of objection to the proposed change in placement are signed

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1 by all ~~parties~~ persons entitled to receive notice under sub. (l), other than a
2 court-annointed soecial advocate, and the court approves. If a hearing is scheduled,
3 the court shall notify the juvenile, the parent, guardian and legal custodian of the
4 juvenile,' any foster parent, treatment foster parent or other physical custodian
5 described in s. 48.62 (2) of the juvenile, the 'juvenile's court-annointed soecial
6 advocate and all parties who are bound by the dispositional order at least 3 days prior
7 to the hearing. A copy of the request or proposal for the change in placement shall
8 be attached to the notice. If all the parties consent, the court may proceed
9 immediately with the hearing.

10 **SECTION 50. 938.363 (1)** of the statutes is amended to read:

11 938.363 (1) A juvenile, the juvenile's parent, guardian or legal custodian, any
12 person or agency bound by a dispositional order or the district attorney or
13 corporation counsel in the county in which the dispositional order was entered may
14 request a revision in the order that does not involve a change in placement, including
15 a revision with respect to the amount of child support to be paid by a parent, or the
16 court may on its own motion propose such a revision. The request or court proposal
17 shall set forth in detail the nature of the proposed revision and what new information
18 is available that affects the advisability of the court's disposition. The request or
19 court proposal shall be submitted to the court. The court shall hold a hearing on the
20 matter if the request or court proposal indicates that new information is available
21 which affects the advisability of the court's dispositional order and prior to any
22 revision of the dispositional order, unless written waivers of objections to the revision
23 are signed by all parties entitled to receive notice and the court approves. If a hearing
24 is held, the court shall notify the juvenile, the juvenile's parent, guardian and legal
25 custodian, all parties bound by the dispositional order, the juvenile's foster parent,

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1 treatment foster parent or other physical custodian described in s. 48.62 (2), the
2 juvenile's court-annointed snecial advocate and the district attorney or corporation
3 counsel in the county in which the dispositional order was entered at least 3 days
4 prior to the hearing. A copy of the request or proposal shall be attached to the notice.
5 If the proposed revision is for a change in the amount of child support to be paid by
6 a parent, the court shall order the juvenile's parent to provide a statement of income,
7 assets, debts and living expenses to the court and the person or agency primarily
8 responsible for implementing the dispositional order by a date specified by the court.
9 The clerk of court shall provide, without charge, to any parent ordered to provide a
10 statement of income, assets, debts and living expenses a document setting forth the
11 percentage standard established by the department of workforce development under
12 s. 49.22 (9) and listing the factors that a court may consider under s. 46.10 (14) (c).
13 If all parties consent, the court may proceed immediately with the hearing. No
14 revision may extend the effective period of the original order, or revise an original
15 order under s. 938.34 (3) (f) or (6) (am) to impose more than 30 days of detention,
16 nonsecure custody or inpatient treatment on a juvenile.

17 **SECTION 51.** 938.365 (2) of the statutes is amended to read:

18 938.365 (2) No order may be extended without a hearing. The court shall notify
19 the juvenile or the juvenile's guardian ad litem or counsel, the juvenile's parent,
20 guardian, and legal custodian, all of the parties present at the original hearing, the
21 juvenile's foster parent, treatment foster parent or other physical custodian
22 described in s. 48.62 (2), the iuvenile's court-annointed snecial advocate and the
23 district attorney or corporation counsel in the county in which the dispositional order
24 was entered of the time and place of the hearing.

25 **SECTION 52.** 938.38 (5) (b) of the statutes is amended to read:

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1 938.38 (5) (b) The court or the agency shall notify the parents of the juvenile,
2 the juvenile if he or she is 10 years of age or older and the juvenile's foster parent,
3 the juvenile's treatment foster parent or the operator of the facility in which the
4 juvenile is living of the date, time and place of the review, of the issues to be
5 determined as part of the review, of the fact that they may have an opportunity to
6 be heard at the review by submitting written comments not less than 10 working
7 days before the review or by participating at the review. The court or agency shall
8 notify the person representing the interests of the public, the juvenile's counsel ~~and,~~
9 the juvenile's guardian ad litem and the iuvenile's court-annointed snecial advocate
10 of the date of the review, of the issues to be determined as part of the review and of
11 the fact that they may submit written comments not less than 10 working days before
12 the review. The notices under this paragraph shall be provided in writing not less
13 than 30 days before the review and copies of the notices shall be filed in the juvenile's
14 case record.

15 **SECTION 53.** 938.38 (5) (d) of the statutes is amended to read:

16 938.38 (5) (d) Notwithstanding s. 938.78 (2) (a), the agency that prepared the
17 permanency plan shall, at least 5 days before a review by a review panel, provide to
18 each person appointed to the review panel, the person representing the interests of
19 the public, the juvenile's counsel and, the juvenile's guardian ad litem and the
20 juvenile's court-appointed snecial advocate a copy of the permanency plan and any
21 written comments submitted under par. (b). Notwithstanding s. 938.78 (2) (a), a
22 person appointed to a review panel, the person representing the interests of the
23 public, the juvenile's counsel ~~and,~~ the juvenile's guardian ad litem and the iuvenile's
24 court-appointed snecial advocate may have access to any other records concerning
25 the juvenile for the purpose of participating in the review. A person permitted access

SENATE BILL 106**SECTION 53**

1 to a juvenile's records under this paragraph may not disclose any information from
2 the records to any other person.

3 SECTION 54. 938.38 (5) (e) of the statutes is amended to read:

4 938.38 (5) (e) Within 30 days, the agency shall prepare a written summary of
5 the determinations under par. (c) and shall provide a copy to the court that entered
6 the order, the juvenile or the juvenile's counsel or guardian ad litem, the person
7 representing the interests of the public, the juvenile's parent or guardian, the
8 juvenile's court-annointed special advocate and the juvenile's foster parent, the
9 juvenile's treatment foster parent or the operator of the facility where the juvenile
10 is living.

11

(E N D)

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 08/23/1999

To: Representative Steinbrink

Relating to LRB drafting number: LRB-3464

Topic

Court-appointed special advocates

Subject(s)

Children - abuse and neglect

1. **JACKET** the draft for introduction _____

in the **Senate** _____ or the **Assembly** (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Gordon M. Malaise, Senior Legislative Attorney
Telephone: (608) 266-9738