

## 1999 SENATE BILL 133

April 28, 1999 – Introduced by Senators WELCH, FITZGERALD, DRZEWIECKI, BRESKE, SCHULTZ, ROESSLER, ZIEN and FARROW, cosponsored by Representatives KEDZIE, PLALE, HAHN, SERATTI, LADWIG, SUDER, DUFF, SYKORA, RYBA, KESTELL, HUEBSCH, URBAN, M. LEHMAN, VRAKAS, ZIEGELBAUER, GUNDRUM, MONTGOMERY, F. LASEE, ALBERS, KREIBICH, GUNDERSON, STASKUNAS, PETROWSKI, HOVEN, NASS, WARD, GOETSCH, PORTER, MEYERHOFER, WALKER, OWENS, GROTHMAN, FREESE, RHOADES, LEIBHAM, WIECKERT and HUNDERTMARK. Referred to Committee on Judiciary and Consumer Affairs.

1     **AN ACT to repeal** 48.375 (2) (b), 48.375 (2) (em), 48.375 (4) (b) 1m. 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) 1., 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 (10), 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 has an abortion.

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### ***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).

**SENATE BILL 133*****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.

**SENATE BILL 133*****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.

***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           parent, guardian or legal custodian, ~~or in seeking the consent of an adult family~~

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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:

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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, ~~if any,~~ 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. 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

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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  
4 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 acknowledgment 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.

21 **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.~~

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1           **SECTION 12.** 48.375 (4) (b) 1m. 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:



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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, ~~if any, the member of the~~  
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) *Time limit.* 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 counsel, ~~or the member 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 counsel, ~~or the member of the clergy who filed the petition on behalf of the minor, if~~  
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



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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 1m. Except as provided under s. 48.315 (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 1m.  
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

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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 48.375 (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:

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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., 1g., ~~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, ~~or by a member of the clergy~~  
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:

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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 and her counsel, ~~if any, or the member of the clergy who initiated the appeal under~~  
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:

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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. (11), 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. (11), 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, ~~if any, 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

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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, ~~if 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.

14 **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:

18 **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.

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

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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



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1 minor. If the supreme court has granted the petition, counsel for the minor, ~~if any,~~  
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 counsel for the minor, ~~if any, or the member of the clergy who initiated the appeal~~  
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. 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)~~

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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.

9             **SECTION 37. Initial applicability.**

10            (1) ABORTIONS PERFORMED OR INDUCED. The treatment of sections 46.24, 48.375  
11     (2) (b) and (4) (a) 1. and (b) 1., 1m. and 3., 69.186 (1) (j) and 895.037 (3) (a) of the  
12     statutes first applies 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), (10),  
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)