

2001 DRAFTING REQUEST

Bill

Received: **11/15/2001**

Received By: **malaigm**

Wanted: **As time permits**

Identical to LRB:

For: **Joseph Leibham (608) 266-0656**

By/Representing: **Patrick Vender Sanden**

This file may be shown to any legislator: **NO**

Drafter: **malaigm**

May Contact:

Addl. Drafters:

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

Extra Copies:

Submit via email: **NO**

Pre Topic:

No specific pre topic given

Topic:

Parental consent for a minor's abortion

Instructions:

Redraft ASA 1 to 1999 AB 312

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	malaigm 11/15/2001	hhagen 12/20/2001		_____			S&L
/1			pgreensl 12/20/2001	_____	lrb_docadmin 12/20/2001		S&L
/2	malaigm 01/08/2002	hhagen 01/17/2002	haugeca 01/17/2002	_____	lrb_docadmin 01/17/2002	lrb_docadmin 01/23/2002 lrb_docadmin 01/23/2002	

FE Sent For:

<END>

Atlanta

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/1		<i>Pa2</i>	pgreensl 12/20/2001		lrb_docadmin 12/20/2001		

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Ch 1-17-02
pb 1-17-02

<END>

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11-19-01
12/20/01
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P8

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P8/LE

FE Sent For:

<END>

2001

Date (time) needed

OLD - DUE 12/20

LRB - 4269 / 1

BILL

DN 07E

GMM : r schunk

PWF

Use the appropriate components and routines developed for bills.

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

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

Analysis by the Legislative Reference Bureau

If titles are needed in the analysis, in the component bar:

For the main heading, execute: ... create -> anal: -> title: -> head

For the subheading, execute: ... create -> anal: -> title: -> sub

For the sub-subheading, execute: ... create -> anal: -> title: -> sub-sub

For the analysis text, in the component bar:

For the text paragraph, execute: ... create -> anal: -> text

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

SECTION #.

-4269/1

~~ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 312~~

October 1, 1999 - Offered by Representative KEDZIE.

Generate

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

Insert A

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⁽²⁾ or 46.23 in seeking the consent of the minor's
5 parent, guardian⁽²⁾ or legal custodian, or in seeking the consent of an adult family
6 member, as defined in s. 48.375 (2) (b), for the contemplated abortion or in seeking
7 a waiver from the circuit court, the county department shall provide assistance,
8 including, if so requested, accompanying the minor as appropriate.

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

10 48.23 (1) (cm) Any minor who is subject to the jurisdiction of the circuit court
11 under s. 48.16 and who is required to appear in court shall be represented by counsel.

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

13 48.257 (1) (h) If the minor is not represented by counsel, the place where and
14 the manner in which the minor wishes to be notified of proceedings under s. 48.375
15 (7) until appointment of counsel under s. 48.375 (7) (a) 1. ~~If the petition is filed by~~
16 ~~a member of the clergy on behalf of the minor, the place where and manner in which~~
17 ~~the member of the clergy wishes to be notified of proceedings under s. 48.375 (7).~~

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

19 48.257 (4) The clerk of circuit court shall give a copy of the petition to the minor
20 or to the member of the clergy who files a petition on behalf of the minor, if any.

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

22 48.27 (9) Subsections (1) to (8) do not apply in any proceeding under s. 48.375
23 (7). For proceedings under s. 48.375 (7), the circuit court shall provide notice only
24 to the minor, her counsel^(no strike) if any, ~~the member of the clergy who filed the petition on~~
25 ~~behalf of the minor, if any, and her guardian ad litem, if any.~~ The notice shall contain

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

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

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

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

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

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

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

X

1 SECTION 10. 48.375 (2) (fm) of the statutes is created to read:

2 48.375 (2) (fm) "Parent who has legal custody of the minor" means a parent who
3 has the right and responsibility to make major decisions concerning the minor,
4 whether that right and responsibility are derived from common law, statute, or court
5 order.

X

6 SECTION 11. 48.375 (4) (a) 1. of the statutes is renumbered 48.375 (4) (a) 1.
7 (intro.) and amended to read:

8 48.375 (4) (a) 1. (intro.) The person or the person's agent has, either directly
9 or through a referring physician or his or her agent, received and made part of the
10 minor's medical record, under the requirements of s. 253.10, the voluntary and
11 informed written consent of the minor and the voluntary and informed written
12 consent of one of her the minor's parents; who has legal custody of the minor or of the
13 minor's guardian or legal custodian, if one has been appointed; ~~or of an adult family~~
14 ~~member of the minor; or of one of the minor's foster parents or treatment foster~~
15 ~~parents, if the minor has been placed in a foster home or treatment foster home and~~
16 ~~the minor's parent has signed a waiver granting the department, a county~~
17 ~~department, the foster parent or the treatment foster parent, the authority to consent~~
18 ~~to medical services or treatment on behalf of the minor.~~ All of the following shall
19 govern the provision of consent under this subdivision by the parent, guardian or
20 legal custodian of a minor:

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

22 48.375 (4) (a) 1. a. The parent, guardian, or legal custodian shall sign and
23 acknowledge the consent document before a notary public, who shall determine,
24 either from personal knowledge or from satisfactory evidence consisting of one or
25 more forms of identification, that the person appearing before the notary public and

1 making the acknowledgment is the person whose signature is on the consent
2 document. The parent, guardian or legal custodian shall also verify upon oath or
3 affirmation before the notary public that he or she is the parent, guardian or legal
4 custodian of the minor, and the notary public shall determine, either from personal
5 knowledge or from satisfactory evidence consisting of one or more forms of
6 identification, that the person appearing before the notary public and making the
7 verification is the person whose true signature is on the statement verified. The
8 person signing the consent document and verification upon oath or affirmation shall
9 provide the consent document and verification to the person who intends to perform
10 or induce the abortion or the person's agent, who shall place the consent document
11 and verification in the minor's medical record.

12 SECTION 13. 48.375 (4) (a) 1. b. of the statutes is created to read:

13 48.375 (4) (a) 1. b. For purposes of subd. 1. a., a form of identification constitutes
14 satisfactory evidence of a person's identity if it contains the name, address, signature
15 and photograph of the person identified and if it has been issued by a federal, state,
16 local or foreign governmental agency. Forms of identification that constitute
17 satisfactory evidence of a person's identity, when they contain the name, address,
18 signature and photograph of the person identified, include a valid operator's license
19 issued under ch. 343 or under the laws of any other state, an identification card
20 issued under s. 343.50, a military identification card, a valid passport, an alien
21 registration card or any other identification document issued by a federal, state, local
22 or foreign governmental agency.

23 SECTION 14. 48.375 (4) (a) 1. c. of the statutes is created to read:

24 48.375 (4) (a) 1. c. A notary public who takes an acknowledgement and a
25 verification upon oath or affirmation under subd. 1. a. shall keep confidential any

1 information acquired in taking the acknowledgement and verification. Any person
2 who under oath or affirmation makes a statement under subd. 1. a. that the person
3 does not believe is true is subject to prosecution for a violation of s. 946.32.

4 SECTION 15. 48.375 (4) (b) 1. of the statutes is amended to read:

5 48.375 (4) (b) 1. ~~The person who intends to perform or induce the abortion~~
6 ~~believes, to the best of his or her medical judgment based on the facts of the case~~
7 ~~before him or her, that a A medical emergency, as defined in s. 253.10 (2) (d), exists~~
8 ~~that complicates the pregnancy so as to require an immediate abortion.~~

9 SECTION 16. 48.375 (4) (b) 1m. of the statutes is repealed.

10 SECTION 17. 48.375 (4) (b) 3. of the statutes is amended to read:

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

23 SECTION 18. 48.375 (6) of the statutes is amended to read:

24 48.375 (6) RIGHT TO PETITION COURT FOR WAIVER. Any pregnant minor who is
25 seeking an abortion in this state, and any member of the clergy on the minor's behalf,

1 may file a petition specified under s. 48.257 with any court for a waiver of the
2 parental consent requirement under sub. (4) (a) 1.

3 **SECTION 19.** 48.375 (7) (a) (intro.) of the statutes is amended to read: ^X

4 48.375 (7) (a) *Receipt of petition; initial appearance.* (intro.) On the ^{day on which} ~~date that~~
5 a petition under s. 48.257 is filed, ² or if it is impossible to do so on that day, on the next
6 calendar day, the court shall hold an initial appearance in chambers at which the
7 minor ~~or the member of the clergy who filed the petition on behalf of the minor, if any,~~
8 is present and shall do all of the following:

9 **SECTION 20.** 48.375 (7) (a) 4. of the statutes is amended to read:

10 48.375 (7) (a) 4. Notify the minor, the minor's counsel ^{no strike} ~~if any, the member of the~~
11 ~~clergy who filed the petition on behalf of the minor, if any,~~ and the minor's guardian
12 ad litem, if any, of the time, date ² and place of the hearing.

13 **SECTION 21.** 48.375 (7) (b) (intro.) of the statutes is amended to read: ^X

14 48.375 (7) (b) *Hearing; evidence.* (intro.) The court shall hold a confidential
15 hearing ^{↓ ↓} on ~~a~~ the petition that is filed by a minor. The hearing shall be held in
16 chambers, unless a public fact-finding hearing is demanded by the minor through
17 her counsel. At the hearing, the court shall consider the report of the guardian ad
18 litem, if any, and hear evidence relating to all of the following:

19 **SECTION 22.** 48.375 (7) (bm) of the statutes is repealed. ^X

20 **SECTION 23.** 48.375 (7) (d) ¹ of the statutes is amended to read: ^X

21 48.375 (7) (d) Time limit. ² 1. The court shall make the determination under par.
22 (c) and issue an order within 3 calendar days after the initial appearance unless the
23 minor and her counsel, ~~or the member of the clergy who filed the petition on behalf~~
24 ~~of the minor, if any,~~ consent to an extension of the time period. The order shall be
25 effective immediately. The court shall prepare and file with the clerk of court

① findings of fact, conclusions of law and a final order granting or denying the petition
 2 within 24 hours after making the determination and order. If the court grants the
 3 petition, the court shall immediately so notify the minor by personal service on her
 4 counsel, ~~or the member of the clergy who filed the petition on behalf of the minor, if~~
 5 ~~any,~~ of a certified copy of the court's order granting the petition. If the court denies
 6 the petition, the court shall immediately so notify the minor by personal service on
 7 her counsel, ~~or the member of the clergy who filed the petition on behalf of the minor,~~
 8 ~~if any,~~ of a copy of the court's order denying the petition and shall also notify the minor
 9 by her counsel, ~~or the member of the clergy who filed the petition on behalf of the~~

10 minor, if any, that she has a right to initiate an appeal under s. 809.105.

→ # 48.375 (7) (d) 1m., as affected by 2001 Wisconsin Act 16, is amended to read:
 → ⑪ 48.375 (d) 1m. Except as provided under s. 48.315 (1) (b), (c) and (f), if the court fails to

12 comply with the time limits specified under subd. 1. without the prior consent of the
 13 minor and the minor's counsel, ~~if any, or the member of the clergy who filed the~~
 14 ~~petition on behalf of the minor, if any,~~ the minor and the minor's counsel, ~~if any, or~~
 15 ~~the member of the clergy, if any,~~ shall select a temporary reserve judge, as defined
 16 in s. 753.075 (1) (b), to make the determination under par. (c) and issue an order

⑬ granting or denying the petition and the chief judge of the judicial administrative
 18 district in which the court is located shall assign the temporary reserve judge
 19 selected by the minor and the minor's counsel, ~~if any, or the member of the clergy, if~~
 20 ~~any,~~ to make the determination and issue the order. A temporary reserve judge
 21 assigned under this subdivision to make a determination under par. (c) and issue an
 22 order granting or denying a petition shall make the determination and issue the
 23 order within 2 calendar days after the assignment, unless the minor and her counsel,
 24 ~~if any, or the member of the clergy who filed the petition on behalf of the minor, if any,~~
 25 consent to an extension of that time period. The order shall be effective immediately.

1 The court shall prepare and file with the clerk of court findings of fact, conclusions
 2 of law, and a final order granting or denying the petition, and shall notify the minor

3 of the court's order, as provided under subd. 1.

4 ~~48.375 (7)(d) 2. Counsel for the minor, or the member of the clergy who filed the petition on~~
 5 behalf of the minor, if any, shall immediately, upon notification under subd. 1. or 1m.

6 that the court has granted or denied the petition, notify the minor. If the court has
 7 granted the petition, counsel for the minor, ~~or the member of the clergy who filed the~~
 8 ~~petition on behalf of the minor, if any,~~ shall hand deliver a certified copy of the court

9 order to the person who intends to perform or induce the abortion. If with reasonable
 10 diligence the person who intends to perform or induce the abortion cannot be located

11 for delivery, then counsel for the minor, ~~or the member of the clergy who filed the~~
 12 ~~petition on behalf of the minor, if any,~~ shall leave a certified copy of the order with

13 the person's agent at the person's principal place of business. If a clinic or medical
 14 facility is specified in the petition as the corporation, limited liability company,

15 partnership⁽¹⁾ or other unincorporated association that employs the person who
 16 intends to perform or induce the abortion, then counsel for the minor, ~~or the member~~
 17 ~~of the clergy who filed the petition on behalf of the minor, if any,~~ shall hand deliver

18 a certified copy of the order to an agent of the corporation, limited liability company,
 19 partnership⁽²⁾ or other unincorporated association at its principal place of business.

20 There may be no service by mail or publication. The person or agent who receives
 21 the certified copy of the order under this subdivision shall place the copy in the
 22 minor's medical record.

23 SECTION 24. 48.375 (7) (f) of the statutes is amended to read:

24 48.375 (7) (f) *Certain persons barred from proceedings.* No parent, or guardian
 25 or legal custodian, if one has been appointed, ~~or foster parent or treatment foster~~

1 ~~parent, if the minor has been placed in a foster home or treatment foster home and~~
2 ~~the minor's parent has signed a waiver granting the department, a county~~
3 ~~department, the foster parent or the treatment foster parent the authority to consent~~
4 ~~to medical services or treatment on behalf of the minor, or adult family member, of~~
5 any minor who is seeking a court determination under this subsection may attend,
6 ² intervene² or give evidence in any proceeding under this subsection.

7 **SECTION 25.** 69.186 (1) (j) of the statutes is amended to read:

8 69.186 (1) (j) If the patient is a minor, whether consent was provided under s.
9 48.375 (4) (a) 1. for the abortion and, if so, the relationship of the individual providing
10 consent to the minor; or, if consent under s. 48.375 (4) (a) 1. was not provided, on
11 which of the bases under s. 48.375 (4) (a) 2. or (b) 1., 1g., 1m., 2, ² or 3. the abortion was
12 performed.

13 **SECTION 26.** 809.105 (2) of the statutes is amended to read:

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

24 **SECTION 27.** 809.105 (3) (a) of the statutes is amended to read:

1 809.105 (3) (a) *Fee*. No fee for filing an appeal in the court of appeals under this
2 section may be required of a minor ~~or of a member of the clergy who files an appeal~~
3 ~~under this section on behalf of the minor.~~

4 **SECTION 28.** 809.105 (3) (d) of the statutes is amended to read:

5 809.105 (3) (d) *Statement on transcript*. A minor ~~or member of the clergy~~ may
6 not be required to file a statement on transcript in an appeal under this section.

7 **SECTION 29.** 809.105 (5) of the statutes is amended to read:

8 809.105 (5) **TRANSCRIPT OF REPORTER'S NOTES**. At the time that a minor ~~or~~
9 ~~member of the clergy~~ files a notice of appeal, the minor ~~or member of the clergy~~ shall
10 make arrangements with the reporter for the preparation of a transcript of the
11 reporter's notes of the proceedings under s. 48.375 (7). The reporter shall file the
12 transcript with the trial court within 2 calendar days after the notice of appeal is
13 filed. The county of the court that held the proceeding under s. 48.375 (7) shall pay
14 the expense of transcript preparation under this subsection.

15 **SECTION 30.** 809.105 (8) of the statutes is amended to read:

16 809.105 (8) **ASSIGNMENT AND ADVANCEMENT OF CASES**. The court of appeals shall
17 take cases appealed under this section in an order that ensures that a judgment is
18 made within 4 calendar days after the appeal has been filed in the court of appeals.
19 The time limit under this subsection may be extended with the consent of the minor
20 and her counsel, if any, ~~or the member of the clergy who initiated the appeal under~~
21 ~~this section, if any.~~

22 **SECTION 31.** 809.105 (8m) of the statutes is amended to read:

23 809.105 (8m) **ORAL ARGUMENT**. If the court of appeals determines that a case
24 appealed under this section is to be submitted with oral argument, the oral argument
25 shall be held in chambers or, on motion of the minor through her counsel ~~or through~~

1 ~~the member of the clergy who filed the appeal under this section, if any, or on the~~
2 court of appeals' own motion, by telephone, unless the minor through her counsel ~~or~~
3 ~~the member of the clergy~~ demands that the oral argument be held in open court.

4 **SECTION 32.** 809.105 (9) of the statutes is amended to read: X

5 809.105 (9) COSTS. The court of appeals may not assess costs against a minor
6 ~~or member of the clergy~~ in an appeal under this section.

7 **SECTION 33.** 809.105 (10) of the statutes is amended to read: X

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

on which

1 is filed under sub. (11), the transmittal shall be made within 31 days after the date
2 ^{on which} ~~that~~ the supreme court rules on the petition for review.

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

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

23 809.105 (11) (a) (intro.) Only a minor ~~or the member of the clergy who initiated~~
24 ~~the appeal under this section, if any,~~ may initiate a review of an appeal under this
25 section. The petition for review of an appeal in the supreme court shall contain:

1 SECTION 35. 809.105 (11) (a) 3. of the statutes is amended to read:

2 809.105 (11) (a) 3. The judgment and opinion of the court of appeals, and the
3 findings of fact, conclusions of law and final order of the trial court that were
4 furnished to the court of appeals. The court of appeals shall provide a copy of these
5 papers to the minor, if any, ~~the member of the clergy who initiated the appeal under~~
6 ~~this section, if any,~~ her counsel or her guardian ad litem, if any, immediately upon
7 request.

8 SECTION 36. 809.105 (11) (cm) of the statutes is amended to read:

9 809.105 (11) (cm) If the supreme court determines that a case reviewed under
10 this subsection is to be submitted with oral argument, the oral argument shall be
11 held in chambers or, on motion of the minor through her counsel ~~or through the~~
12 ~~member of the clergy who initiated the appeal under this section, if any,~~ or on the
13 supreme court's own motion, by telephone, unless the minor through her counsel ~~or~~
14 ~~the member of the clergy~~ demands that the oral argument be held in open court.

15 SECTION 37. 809.105 (11) (d) of the statutes is amended to read:

16 809.105 (11) (d) A judgment or decision by the supreme court under this section
17 is effective immediately, without transmittal to the trial court, as an order either
18 granting or denying the petition. If the supreme court reverses a court of appeals
19 order affirming a trial court order denying a petition under s. 48.375 (7), the supreme
20 court shall immediately so notify the minor by personal service on her counsel, if any,
21 ~~or on the member of the clergy who initiated the appeal under this section, if any,~~ of
22 a certified copy of the order of the supreme court granting the minor's petition. If the
23 supreme court affirms the order of the court of appeals, it shall immediately so notify
24 the minor by her counsel ~~or by the member of the clergy who initiated the appeal~~
25 ~~under this section, if any.~~ The clerk of the supreme court shall transmit to the trial

On which

1 court the judgment, or decision, and opinion of the supreme court and the complete
2 record in the case within 31 days after the date ~~that~~ the judgment, or decision, and
3 opinion of the supreme court are filed. The supreme court shall pay the expense of
4 service of notice under this subsection.

X

5 SECTION 38. 809.105 (11) (e) of the statutes is amended to read:

6 809.105 (11) (e) Counsel for the minor, ~~if any, or the member of the clergy who~~
7 ~~initiated the appeal under this section, if any,~~ shall immediately, upon notification
8 under par. (d) that the supreme court has granted or denied the petition, notify the
9 minor. If the supreme court has granted the petition, counsel for the minor, ~~if any,~~
10 ~~or the member of the clergy who initiated the appeal under this section, if any,~~ shall
11 hand deliver a certified copy of the order of the supreme court to the person who
12 intends to perform or induce the abortion. If with reasonable diligence the person
13 who intends to perform or induce the abortion cannot be located for delivery, then
14 counsel for the minor, ~~if any, or the member of the clergy who initiated the appeal~~
15 ~~under this section, if any,~~ shall leave a certified copy of the order with the person's
16 agent at the person's principal place of business. If a clinic or medical facility is
17 specified in the petition as the corporation, limited liability company, partnership, or
18 other unincorporated association that employs the person who intends to perform or
19 induce the abortion, then counsel for the minor, ~~if any, or the member of the clergy~~
20 ~~who initiated the appeal under this section, if any,~~ shall hand deliver a certified copy
21 of the order to an agent of the corporation, limited liability company, partnership, or
22 other unincorporated association at its principal place of business. There may be no
23 service by mail or publication. The person or agent who receives the certified copy
24 of the order under this paragraph shall place the order in the minor's medical record.

25 SECTION 39. 809.105 (13) of the statutes is amended to read:

under circumstances in which the person knew
or, in the exercise of reasonable care,
should have known that the requirements of that subsection

have not
been
complied
with

1 809.105 (13) CERTAIN PERSONS BARRED FROM PROCEEDINGS. No parent, or
2 guardian or legal custodian, if one has been appointed, or foster parent or treatment
3 foster parent, if the minor has been placed in a foster home or treatment foster home,
4 and the minor's parent has signed a waiver granting the department of health and
5 family services, a county department under s. 46.215, 46.22 or 46.23, the foster
6 parent or the treatment foster parent the authority to consent to medical services or
7 treatment on behalf of the minor, or adult family member, as defined in s. 48.375 (2)
8 (b), of any minor who has initiated an appeal under this section may attend or
9 intervene in any proceeding under this section.

10 SECTION 40. 895.037 (3) (a) of the statutes is amended to read:

11 895.037 (3) (a) A person who intentionally violates s. 48.375 (4) is liable to the
12 minor on or for whom the abortion was performed or induced and to the minor's
13 parent, guardian and legal custodian for damages arising out of the performance or
14 inducement of the abortion including, but not limited to, damages for personal injury
15 and emotional and psychological distress.

16 SECTION 41. Initial applicability.

17 (1) ABORTIONS PERFORMED OR INDUCED. The treatment of sections 46.24, 48.375
18 (2) (b) and (fm) and (4) (b) 1., 1m and 3., 69.186 (1) (j) and 895.037 (3) (a) of the
19 statutes, the renumbering and amendment of section 48.375 (4) (a) 1. of the statutes
20 and the creation of section 48.375 (4) (a) 1. a., b and c. of the statutes first apply to
21 abortions performed or induced on the effective date of this subsection.

22 (2) WAIVER PETITIONS FILED. The treatment of sections 48.23 (1) (cm), 48.257 (1)
23 (h) and (4), 48.27 (9), 48.273 (4) (b), 48.375 (2) (c) and (em), (6) and (7) (a) (intro.) and
24 4., (b) (intro.), (bm), (d) and (f) and 809.105 (2), (3) (a) and (d), (5), (8), (8m), (9), (10),
25 (11) (a) (intro.) and 3., (cm), (d) and (e) and (13) of the statutes first applies to petitions

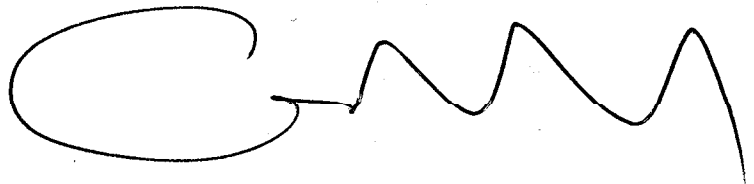
1 filed to initiate a proceeding under section 48.375 (7) of the statutes, as affected by
2 this act, on the effective date of this subsection.

3 (END)

DN = TE
Date

Representative Leibham:

Last session the Assembly also adopted AA 9 to ASA 1 to AB 312, which requires as a condition for civil liability for the performance of an abortion on a minor without parental consent a showing that the person performed the abortion under circumstances in which the person knew or should have known that the parental consent law was not complied with. This draft includes that requirement. If you do not want that requirement included in this draft, please advise and the requirement can be removed on redraft.



↓
Insert A

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, STASKONAS, 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.

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).

consisting of one or more forms of identification issued by a governmental agency

1999 - 2000 Legislature

- 2 -

LRB-0505/3
GMM:wlj&ksh:ijs

SENATE BILL 133

Insert A

of 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. and verification

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.

For the minor (P)
The consent document, who must

a foster parent, a treatment foster parent, or a parent who does not have legal custody of an unemancipated minor

In addition, the bill requires

Verification is the person whose signature is on the stated statement verified

To verify upon oath or affirmation before the notary public that he or she is the parent, guardian, or legal custodian of the minor, and requires the notary public to determine, either from personal knowledge or from satisfactory evidence consisting of one or more forms of identification issued by a governmental agency, that the person appearing before the notary public and making the

and instead requires that the violation be committed under circumstances in which the person knew or, in the exercise of reasonable care, should have known that the consent or judicial waiver requirement was not complied with

1999-2000 Legislature

LRB-0505/3

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SENATE BILL 133

Insert A

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
- 2
- 3
- 4
- 5

SECTION 1. 46.24 of the statutes is amended to read:

46.24 Assistance to minors concerning parental consent for abortion.

If a minor who is contemplating an abortion requests assistance from a county department under s. 46.215, 46.22 or 46.23 in seeking the consent of the minor's parent, guardian or legal custodian, or in seeking the consent of an adult family

(ed & rest)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4269/1dn
GMM:rs&hmh:pg

December 20, 2001

Representative Leibham:

Last session the assembly also adopted AA9 to ASA 1 to AB 312, which requires as a condition for civil liability for the performance of an abortion on a minor without parental consent a showing that the person performed the abortion under circumstances in which the person knew or should have known that the parental consent law was not complied with. This draft includes that requirement. If you do not want that requirement included in this draft, please advise and the requirement can be removed on redraft.

Gordon M. Malaise
Senior Legislative Attorney
Phone: (608) 266-9738
E-mail: gordon.malaise@legis.state.wi.us

1/8/02

Patrick

Vol 2 in LRB-4006/1

GMJ



2001 BILL

Thurs.
if possible

Repeal

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

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

BILL

requirement before she may have an abortion (generally referred to as "the parental consent" law).

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 of 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, a foster parent, a treatment foster parent, or a parent who does not have legal custody of an unemancipated minor to consent to an abortion for the minor.

The bill also requires the parent, guardian, or legal custodian who consents to the minor's abortion to sign and acknowledge the consent document, that is, declare that he or she has signed the consent document for the purpose stated in the consent document, before a notary public, who must determine, either from personal knowledge or from satisfactory evidence consisting of one or more forms of identification issued by a governmental agency, that the person appearing before the notary public and making the acknowledgment is the person whose signature is on the consent document. In addition, the bill requires the parent, guardian, or legal custodian to verify upon oath or affirmation before the notary public that he or she is the parent, guardian, or legal custodian of the minor, and requires the notary public to determine, either from personal knowledge or from satisfactory evidence consisting of one or more forms of identification issued by a governmental agency, that the person appearing before the notary public and making the verification is the person whose signature is on the statement verified. The bill also requires the notary public to keep confidential any information acquired in taking the acknowledgment and verification.

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

BILL

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.

Civil liability for violation of consent or judicial waiver requirement.

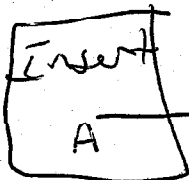
Under current law, a person who intentionally performs or induces an abortion on or for a minor without prior consent or waiver of the consent requirement by a court is liable to the minor and to the minor's parent, guardian, and legal custodian for damages arising out of the performance or inducement of the abortion. This bill eliminates the requirement that the violation of the consent or judicial waiver requirement be intentional and instead requires that the violation be committed under circumstances in which the person knew or, in the exercise of reasonable care, should have known that the consent or judicial waiver requirement was not complied with.

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:

BILL

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

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

10 48.23 (1) (cm) Any minor who is subject to the jurisdiction of the circuit court
11 under s. 48.16 ~~and who is required to appear in court~~ shall be represented by counsel.

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

13 48.257 (1) (h) If the minor is not represented by counsel, the place where and
14 the manner in which the minor wishes to be notified of proceedings under s. 48.375
15 (7) until appointment of counsel under s. 48.375 (7) (a) 1. ~~If the petition is filed by~~
16 ~~a member of the clergy on behalf of the minor, the place where and manner in which~~
17 ~~the member of the clergy wishes to be notified of proceedings under s. 48.375 (7).~~

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

19 48.257 (4) The clerk of circuit court shall give a copy of the petition to the minor
20 ~~or to the member of the clergy who files a petition on behalf of the minor, if any.~~

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

22 48.27 (9) Subsections (1) to (8) do not apply in any proceeding under s. 48.375
23 (7). For proceedings under s. 48.375 (7), the circuit court shall provide notice only
24 to the minor, her counsel, ~~if any, the member of the clergy who filed the petition on~~
25 ~~behalf of the minor, if any,~~ and her guardian ad litem, if any. The notice shall contain

BILL

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

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

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

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

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

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

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

2 **SECTION 10.** 48.375 (2) (fm) of the statutes is created to read:

3 48.375 (2) (fm) "Parent who has legal custody of the minor" means a parent who
4 has the right and responsibility to make major decisions concerning the minor,
5 whether that right and responsibility are derived from common law, statute, or court
6 order.

7 **SECTION 11.** 48.375 (4) (a) 1. of the statutes is renumbered 48.375 (4) (a) 1.
8 (intro.) and amended to read:

9 48.375 (4) (a) 1. (intro.) The person or the person's agent has, either directly
10 or through a referring physician or his or her agent, received and made part of the
11 minor's medical record, under the requirements of s. 253.10, the voluntary and
12 informed written consent of the minor and the voluntary and informed written
13 consent of one of her the minor's parents; who has legal custody of the minor or of the
14 minor's guardian or legal custodian, if one has been appointed; ~~or of an adult family~~
15 ~~member of the minor; or of one of the minor's foster parents or treatment foster~~
16 ~~parents, if the minor has been placed in a foster home or treatment foster home and~~
17 ~~the minor's parent has signed a waiver granting the department, a county~~
18 ~~department, the foster parent or the treatment foster parent the authority to consent~~
19 ~~to medical services or treatment on behalf of the minor. All of the following shall~~
20 govern the provision of consent under this subdivision by the parent, guardian, or
21 legal custodian of a minor:

22 **SECTION 12.** 48.375 (4) (a) 1. a. of the statutes is created to read:

23 48.375 (4) (a) 1. a. The parent, guardian, or legal custodian shall sign and
24 acknowledge the consent document before a notary public, who shall determine,
25 either from personal knowledge or from satisfactory evidence consisting of one or

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1 more forms of identification, that the person appearing before the notary public and
2 making the acknowledgment is the person whose signature is on the consent
3 document. The parent, guardian, or legal custodian shall also verify upon oath or
4 affirmation before the notary public that he or she is the parent, guardian, or legal
5 custodian of the minor, and the notary public shall determine, either from personal
6 knowledge or from satisfactory evidence consisting of one or more forms of
7 identification, that the person appearing before the notary public and making the
8 verification is the person whose true signature is on the statement verified. The
9 person signing the consent document and verification upon oath or affirmation shall
10 provide the consent document and verification to the person who intends to perform
11 or induce the abortion or the person's agent, who shall place the consent document
12 and verification in the minor's medical record.

13 **SECTION 13.** 48.375 (4) (a) 1. b. of the statutes is created to read:

14 48.375 (4) (a) 1. b. For purposes of subd. 1. a., a form of identification constitutes
15 satisfactory evidence of a person's identity if it contains the name, address,
16 signature, and photograph of the person identified and if it has been issued by a
17 federal, state, local, or foreign governmental agency. Forms of identification that
18 constitute satisfactory evidence of a person's identity, when they contain the name,
19 address, signature, and photograph of the person identified, include a valid
20 operator's license issued under ch. 343 or under the laws of any other state, an
21 identification card issued under s. 343.50, a military identification card, a valid
22 passport, an alien registration card, or any other identification document issued by
23 a federal, state, local, or foreign governmental agency.

24 **SECTION 14.** 48.375 (4) (a) 1. c. of the statutes is created to read:

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1 48.375 (4) (a) 1. c. A notary public who takes an acknowledgement and a
2 verification upon oath or affirmation under subd. 1. a. shall keep confidential any
3 information acquired in taking the acknowledgement and verification. Any person
4 who under oath or affirmation makes a statement under subd. 1. a. that the person
5 does not believe is true is subject to prosecution for a violation of s. 946.32.

6 **SECTION 15.** 48.375 (4) (b) 1. of the statutes is amended to read:

7 48.375 (4) (b) 1. ~~The person who intends to perform or induce the abortion~~
8 ~~believes, to the best of his or her medical judgment based on the facts of the case~~
9 ~~before him or her, that a A medical emergency, as defined in s. 253.10 (2) (d), exists~~
10 ~~that complicates the pregnancy so as to require an immediate abortion.~~

11 **SECTION 16.** 48.375 (4) (b) 1m. of the statutes is repealed.

12 **SECTION 17.** 48.375 (4) (b) 3. of the statutes is amended to read:

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

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

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

5 **SECTION 19.** 48.375 (7) (a) (intro.) of the statutes is amended to read:

6 48.375 (7) (a) *Receipt of petition; initial appearance.* (intro.) On the ~~date that~~
7 day on which a petition under s. 48.257 is filed, or, if it is impossible to do so on that
8 day, on the next calendar day, the court shall hold an initial appearance in chambers
9 at which the minor ~~or the member of the clergy who filed the petition on behalf of the~~
10 ~~minor, if any,~~ is present and shall do all of the following:

11 **SECTION 20.** 48.375 (7) (a) 4. of the statutes is amended to read:

12 48.375 (7) (a) 4. Notify the minor, the minor's counsel, ~~if any, the member of the~~
13 ~~clergy who filed the petition on behalf of the minor, if any,~~ and the minor's guardian
14 ad litem, if any, of the time, date, and place of the hearing.

15 **SECTION 21.** 48.375 (7) (b) (intro.) of the statutes is amended to read:

16 48.375 (7) (b) *Hearing; evidence.* (intro.) The court shall hold a confidential
17 hearing on ~~a~~ the ~~petition that is filed by a minor.~~ The hearing shall be held in
18 chambers, unless a public fact-finding hearing is demanded by the minor through
19 her counsel. At the hearing, the court shall consider the report of the guardian ad
20 litem, if any, and hear evidence relating to all of the following:

21 **SECTION 22.** 48.375 (7) (bm) of the statutes is repealed.

22 **SECTION 23.** 48.375 (7) (d) 1. of the statutes is amended to read:

23 48.375 (7) (d) 1. The court shall make the determination under par. (c) and issue
24 an order within 3 calendar days after the initial appearance unless the minor and
25 her counsel, ~~or the member of the clergy who filed the petition on behalf of the minor,~~

Insert
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1 if any, consent to an extension of the time period. The order shall be effective
2 immediately. The court shall prepare and file with the clerk of court findings of fact,
3 conclusions of law, and a final order granting or denying the petition within 24 hours
4 after making the determination and order. If the court grants the petition, the court
5 shall immediately so notify the minor by personal service on her counsel, ~~or the~~
6 ~~member of the clergy who filed the petition on behalf of the minor, if any,~~ of a certified
7 copy of the court's order granting the petition. If the court denies the petition, the
8 court shall immediately so notify the minor by personal service on her counsel, ~~or the~~
9 ~~member of the clergy who filed the petition on behalf of the minor, if any,~~ of a copy
10 of the court's order denying the petition and shall also notify the minor by her
11 counsel, ~~or the member of the clergy who filed the petition on behalf of the minor, if~~
12 ~~any,~~ that she has a right to initiate an appeal under s. 809.105.

13 **SECTION 24.** 48.375 (7) (d) 1m. of the statutes, as affected by 2001 Wisconsin
14 Act 16, is amended to read:

15 48.375 (7) (d) 1m. Except as provided under s. 48.315 (1) (b), (c), (f), and (h) if
16 the court fails to comply with the time limits specified under subd. 1. without the
17 prior consent of the minor and the minor's counsel, ~~if any, or the member of the clergy~~
18 ~~who filed the petition on behalf of the minor, if any,~~ the minor and the minor's counsel,
19 ~~if any, or the member of the clergy, if any,~~ shall select a temporary reserve judge, as
20 defined in s. 753.075 (1) (b), to make the determination under par. (c) and issue an
21 order granting or denying the petition, and the chief judge of the judicial
22 administrative district in which the court is located shall assign the temporary
23 reserve judge selected by the minor and the minor's counsel, ~~if any, or the member~~
24 ~~of the clergy, if any,~~ to make the determination and issue the order. A temporary
25 reserve judge assigned under this subdivision to make a determination under par.

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1 (c) and issue an order granting or denying a petition shall make the determination
2 and issue the order within 2 calendar days after the assignment, unless the minor
3 and her counsel, ~~if any, or the member of the clergy who filed the petition on behalf~~
4 ~~of the minor, if any,~~ consent to an extension of that time period. The order shall be
5 effective immediately. The court shall prepare and file with the clerk of court
6 findings of fact, conclusions of law, and a final order granting or denying the petition,
7 and shall notify the minor of the court's order, as provided under subd. 1.

8 **SECTION 25.** 48.375 (7) (d) 2. of the statutes is amended to read:

9 48.375 (7) (d) 2. Counsel for the minor, ~~or the member of the clergy who filed~~
10 ~~the petition on behalf of the minor, if any,~~ shall immediately, upon notification under
11 subd. 1. or 1m. that the court has granted or denied the petition, notify the minor.
12 If the court has granted the petition, counsel for the minor, ~~or the member of the~~
13 ~~clergy who filed the petition on behalf of the minor, if any,~~ shall hand deliver a
14 certified copy of the court order to the person who intends to perform or induce the
15 abortion. If with reasonable diligence the person who intends to perform or induce
16 the abortion cannot be located for delivery, then counsel for the minor, ~~or the member~~
17 ~~of the clergy who filed the petition on behalf of the minor, if any,~~ shall leave a certified
18 copy of the order with the person's agent at the person's principal place of business.
19 If a clinic or medical facility is specified in the petition as the corporation, limited
20 liability company, partnership, or other unincorporated association that employs the
21 person who intends to perform or induce the abortion, then counsel for the minor, ~~or~~
22 ~~the member of the clergy who filed the petition on behalf of the minor, if any,~~ shall
23 hand deliver a certified copy of the order to an agent of the corporation, limited
24 liability company, partnership, or other unincorporated association at its principal
25 place of business. There may be no service by mail or publication. The person or

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1 agent who receives the certified copy of the order under this subdivision shall place
2 the copy in the minor's medical record.

3 **SECTION 26.** 48.375 (7) (f) of the statutes is amended to read:

4 48.375 (7) (f) *Certain persons barred from proceedings.* No parent, or guardian
5 or legal custodian, if one has been appointed, ~~or foster parent or treatment foster~~
6 ~~parent, if the minor has been placed in a foster home or treatment foster home and~~
7 ~~the minor's parent has signed a waiver granting the department, a county~~
8 ~~department, the foster parent or the treatment foster parent the authority to consent~~
9 ~~to medical services or treatment on behalf of the minor, or adult family member, of~~
10 any minor who is seeking a court determination under this subsection may attend,
11 intervene, or give evidence in any proceeding under this subsection.

12 **SECTION 27.** 69.186 (1) (j) of the statutes is amended to read:

13 69.186 (1) (j) If the patient is a minor, whether consent was provided under s.
14 48.375 (4) (a) 1. for the abortion and, if so, the relationship of the individual providing
15 consent to the minor; or, if consent under s. 48.375 (4) (a) 1. was not provided, on
16 which of the bases under s. 48.375 (4) (a) 2. or (b) 1., 1g., ~~1m.,~~ 2., or 3. the abortion
17 was performed.

18 **SECTION 28.** 809.105 (2) of the statutes is amended to read:

19 809.105 (2) INITIATING AN APPEAL. Only a minor may initiate an appeal under
20 this section. The minor shall initiate the appeal by filing, ~~or by a member of the clergy~~
21 ~~filing on the minor's behalf,~~ a notice of appeal with the clerk of the trial court in which
22 the order appealed from was entered and shall specify in the notice of appeal the
23 order appealed from. At the same time, the minor ~~or member of the clergy~~ shall notify
24 the court of appeals of the filing of the appeal by sending a copy of the notice of appeal
25 to the clerk of the court of appeals. The clerk of the trial court shall assist the minor

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1 ~~or member of the clergy~~ in sending a copy of the notice of appeal to the clerk of the
2 court of appeals. The minor may use the name “Jane Doe” instead of her name on
3 the notice of appeal and all other papers filed with the court of appeals.

4 **SECTION 29.** 809.105 (3) (a) of the statutes is amended to read:

5 809.105 (3) (a) *Fee.* No fee for filing an appeal in the court of appeals under this
6 section may be required of a minor ~~or of a member of the clergy who files an appeal~~
7 ~~under this section on behalf of the minor.~~

8 **SECTION 30.** 809.105 (3) (d) of the statutes is amended to read:

9 809.105 (3) (d) *Statement on transcript.* A minor ~~or member of the clergy~~ may
10 not be required to file a statement on transcript in an appeal under this section.

11 **SECTION 31.** 809.105 (5) of the statutes is amended to read:

12 809.105 (5) **TRANSCRIPT OF REPORTER'S NOTES.** At the time that a minor ~~or~~
13 ~~member of the clergy~~ files a notice of appeal, the minor ~~or member of the clergy~~ shall
14 make arrangements with the reporter for the preparation of a transcript of the
15 reporter's notes of the proceedings under s. 48.375 (7). The reporter shall file the
16 transcript with the trial court within 2 calendar days after the notice of appeal is
17 filed. The county of the court that held the proceeding under s. 48.375 (7) shall pay
18 the expense of transcript preparation under this subsection.

19 **SECTION 32.** 809.105 (8) of the statutes is amended to read:

20 809.105 (8) **ASSIGNMENT AND ADVANCEMENT OF CASES.** The court of appeals shall
21 take cases appealed under this section in an order that ensures that a judgment is
22 made within 4 calendar days after the appeal has been filed in the court of appeals.
23 The time limit under this subsection may be extended with the consent of the minor
24 and her counsel, ~~if any, or the member of the clergy who initiated the appeal under~~
25 ~~this section, if any.~~

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1 **SECTION 33.** 809.105 (8m) of the statutes is amended to read:

2 809.105 **(8m)** ORAL ARGUMENT. If the court of appeals determines that a case
3 appealed under this section is to be submitted with oral argument, the oral argument
4 shall be held in chambers or, on motion of the minor through her counsel ~~or through~~
5 ~~the member of the clergy who filed the appeal under this section, if any,~~ or on the
6 court of appeals' own motion, by telephone, unless the minor through her counsel ~~or~~
7 ~~the member of the clergy~~ demands that the oral argument be held in open court.

8 **SECTION 34.** 809.105 (9) of the statutes is amended to read:

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

11 **SECTION 35.** 809.105 (10) of the statutes is amended to read:

12 809.105 **(10)** REMITTITUR. (a) A judgment by the court of appeals under this
13 section is effective immediately, without transmittal to the trial court, as an order
14 either granting or denying the petition. If the court of appeals reverses a trial court
15 order denying a petition under s. 48.375 (7), the court of appeals shall immediately
16 so notify the minor by personal service on her counsel ~~or the member of the clergy~~
17 ~~who initiated the appeal under this section, if any,~~ of a certified copy of the order of
18 the court of appeals granting the minor's petition. If the court of appeals affirms the
19 trial court order, it shall immediately so notify the minor by personal service on her
20 counsel ~~or the member of the clergy who initiated the appeal under this section, if~~
21 ~~any,~~ of a copy of the order of the court of appeals denying the petition and shall also
22 notify the minor by her counsel ~~or the member of the clergy who initiated the appeal~~
23 ~~under this section on behalf of the minor, if any,~~ that she may, under sub. (11), file
24 a petition for review with the supreme court under s. 809.62. The court of appeals
25 shall pay the expenses of service of notice under this subsection. The clerk of the

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1 court of appeals shall transmit to the trial court the judgment and opinion of the court
2 of appeals and the record in the case filed under sub. (4), within 31 days after the date
3 ~~that~~ on which the judgment and opinion of the court of appeals are filed. If a petition
4 for review is filed under sub. (11), the transmittal shall be made within 31 days after
5 the date ~~that~~ on which the supreme court rules on the petition for review.

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

25 **SECTION 36.** 809.105 (11) (a) (intro.) of the statutes is amended to read:

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

4 **SECTION 37.** 809.105 (11) (a) 3. of the statutes is amended to read:

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

11 **SECTION 38.** 809.105 (11) (cm) of the statutes is amended to read:

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

18 **SECTION 39.** 809.105 (11) (d) of the statutes is amended to read:

19 809.105 (11) (d) A judgment or decision by the supreme court under this section
20 is effective immediately, without transmittal to the trial court, as an order either
21 granting or denying the petition. If the supreme court reverses a court of appeals
22 order affirming a trial court order denying a petition under s. 48.375 (7), the supreme
23 court shall immediately so notify the minor by personal service on her counsel, ~~if any,~~
24 ~~or on the member of the clergy who initiated the appeal under this section, if any,~~ of
25 a certified copy of the order of the supreme court granting the minor's petition. If the

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1 supreme court affirms the order of the court of appeals, it shall immediately so notify
2 the minor by her counsel ~~or by the member of the clergy who initiated the appeal~~
3 ~~under this section, if any.~~ The clerk of the supreme court shall transmit to the trial
4 court the judgment, or decision, and opinion of the supreme court and the complete
5 record in the case within 31 days after the date that on which the judgment, or
6 decision, and opinion of the supreme court are filed. The supreme court shall pay the
7 expense of service of notice under this subsection.

8 **SECTION 40.** 809.105 (11) (e) of the statutes is amended to read:

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

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

3 **SECTION 41.** 809.105 (13) of the statutes is amended to read:

4 809.105 (13) CERTAIN PERSONS BARRED FROM PROCEEDINGS. No parent, or
5 guardian or legal custodian, if one has been appointed, ~~or foster parent or treatment~~
6 ~~foster parent, if the minor has been placed in a foster home or treatment foster home,~~
7 ~~and the minor's parent has signed a waiver granting the department of health and~~
8 ~~family services, a county department under s. 46.215, 46.22 or 46.23, the foster~~
9 ~~parent or the treatment foster parent the authority to consent to medical services or~~
10 ~~treatment on behalf of the minor, or adult family member, as defined in s. 48.375 (2)~~
11 ~~(b),~~ of any minor who has initiated an appeal under this section may attend or
12 intervene in any proceeding under this section.

13 **SECTION 42.** 895.037 (3) (a) of the statutes is amended to read:

14 895.037 (3) (a) A person who intentionally violates s. 48.375 (4) under
15 circumstances in which the person knew or, in the exercise of reasonable care, should
16 have known that the requirements of that subsection have not been complied with
17 is liable to the minor on or for whom the abortion was performed or induced and to
18 the minor's parent, guardian, and legal custodian for damages arising out of the
19 performance or inducement of the abortion including, but not limited to, damages for
20 personal injury and emotional and psychological distress.

21 **SECTION 43. Initial applicability.**

22 (1) ABORTIONS PERFORMED OR INDUCED. The treatment of sections 46.24, 48.375
23 (2) (b) and (fm) and (4) (b) 1., 1m., and 3., 69.186 (1) (j), and 895.037 (3) (a) of the
24 statutes, the renumbering and amendment of section 48.375 (4) (a) 1. of the statutes

BILL*and 2m,*

1 and the creation of section 48.375 (4) (a) 1. a., b., and c. of the statutes first apply to
2 abortions performed or induced on the effective date of this subsection.

3 (2) WAIVER PETITIONS FILED. The treatment of sections 48.23 (1) (cm), 48.257 (1)
4 (h) and (4), 48.27 (9), 48.273 (4) (b), 48.375 (2) (c) and (em), (6), and (7) (a) (intro.) and
5 4., (b) (intro.), (bm), (d), and (f), and 809.105 (2), (3) (a) and (d), (5), (8), (8m), (9), (10),
6 (11) (a) (intro.) and 3., (cm), (d), and (e), and (13) of the statutes first applies to
7 petitions filed to initiate a proceeding under section 48.375 (7) of the statutes, as
8 affected by this act, on the effective date of this subsection.

9 (END)

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Insert 9-20

1 **SECTION 1.** 48.375 (7) (b) 2m. of the statutes is created to read:
2 48.375 (7) (b) 2m. The nature of the relationship between the minor and her
3 parents.

4 ~~**SECTION 2. Initial applicability.**~~

5 ~~(1) EVIDENCE AT JUDICIAL WAIVER OF PARENTAL CONSENT HEARING. This act first~~
6 ~~applies to a petition to initiate a proceeding under section 48.375 (7) of the statutes,~~
7 ~~as affected by this act, filed on the effective date of this subsection.~~

8 (END)



Insert A

(use twice)

2001 BILL

before the court may grant a waiver of the consent requirement

Ⓟ In addition, under current law,

1 ~~AN ACT to create 48.375 (7) (b) 2m. of the statutes; relating to: the evidence that~~
2 ~~a court must hear at a hearing on a petition for a waiver of the requirement that~~
3 ~~a minor's parent consent before the minor may have an abortion.~~

Analysis by the Legislative Reference Bureau

~~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, a guardian or legal custodian, an adult family member 25 years of age or over, or, in certain cases, a foster parent or treatment foster parent, unless the minor obtains a waiver of that consent requirement from the circuit court. Before granting such a waiver, the circuit court must hold a hearing at which the court must hear evidence relating to the emotional development, maturity, intellect, and understanding of the minor and the understanding of the minor about the nature of, possible consequences of, and alternatives to the intended abortion. After the hearing, the court must grant the petition if the court finds either that the minor is mature and well-informed enough to make the abortion decision on her own or that the performance or inducement of the abortion is in the minor's best interests. This bill requires the circuit court, in addition to hearing the evidence that the court must hear under current law, to hear evidence relating to the nature of the relationship between the minor and her parents.~~

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



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
5TH FLOOR
MADISON, WI 53701-2037

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

January 17, 2002

MEMORANDUM

To: Representative Leihham

From: Gordon M. Malaise, Senior Legislative Attorney

Re: LRB-4269/2 Parental consent for a minor's abortion

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-9738 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.

5. The North Carolina law requires a candidate for local office who brings an action for damages for violation of the television or radio disclosure requirements to file a notice of complaint with the local board of elections. Unlike North Carolina, Wisconsin generally does not have local boards of election. Thus, this draft requires these candidates to file the notice with the county clerk or board of election commissioners and to publish a notice of complaint in a newspaper of general circulation within the candidate's jurisdiction or district. See proposed s. 11.59 (1). Please let us know if these requirements are inconsistent with your intent.

6. Under the North Carolina law, a plaintiff in an action for damages must send a copy of a particular notice to a specified governmental official "within 5 days after the notice is returned to the possession of the plaintiff." It is unclear what this provision means. This bill instead requires the copy to be sent within 5 days after *the return receipt* is provided to the plaintiff. See proposed s. 11.59 (2). Please review this provision and let us know if you desire any changes.

7. The definition of "print media" under this draft includes "billboards" and "outdoor advertising facilities." See proposed s. 11.01 (17). It is unclear what outdoor advertising facilities are, although they may be the same as billboards. We have removed "outdoor advertising facilities" from the definition. Also, the definition of "print media" does not specifically include sample ballots, however, even though sample ballots in some cases are regulated as campaign advertisements under current law. Please let us know if you would like to make any change to the definition of "print media."

8. The North Carolina law provides that, with the exception of misrepresentation, certain information required to be disclosed in television or radio advertisements cannot be used as the basis for a criminal prosecution. This language is likely designed to eliminate the chilling effect that potential criminal penalties may have on campaign-related speech. However, this language is extremely broad and could potentially affect even a prosecution for disorderly conduct. This draft, instead, exempts these disclosure requirements from the criminal penalties provided under s. 11.61 (1) (c), stats. Please let us know if you prefer the North Carolina language instead.

9. North Carolina's s. 163.278.39 creates a Class I misdemeanor for misrepresentation of information disclosed in certain communications. We did not incorporate this provision because: a) it does not require any proof of criminal intent, which is generally required in a criminal statute; and b) there is an existing misdemeanor provided in s. 11.61 (1) (c), stats., that will automatically apply to intentional violations of all provisions of the requirements and prohibitions in this draft, except the radio and television advertisement disclosure requirements, violation of which this draft specifically exempts from the misdemeanor penalty (North Carolina provides that compliance with these requirements cannot be used as a basis for establishing criminal liability). Please let us know if this treatment is not in accord with your intent.

10. Several other provisions of current law are not incorporated into this draft and, thus, would be eliminated if this draft becomes law. Please review s. 11.30 (2) (d), (e), (g), (hm), and (i), stats., and let us know if you would like to preserve any of these

provisions. Also, please note that current law, with certain exceptions, requires disclosure with every communication that is paid for by or through a contribution, disbursement, or incurred obligation. This draft only applies if the communications are made in print media [as defined in proposed s. 11.01 (17)] or on television or radio. In this way, the draft is narrower in scope than the current disclosure law under s. 11.30 (2), stats. Please let us know if the scope of this draft is inconsistent with your intent.

OK
11. This draft also raises three constitutional issues. First, by requiring certain persons to affirmatively state in their advertisements their position for or against a particular candidate or question presented at a referendum, the draft may compel speech in violation of the First Amendment. See *North Carolina Right to Life v. Leake*, 108 F. Supp. 2d 498 (E.D.N.C. 2000) (enjoining enforcement of a similar provision in North Carolina law). While compelled sponsorship disclosures are likely constitutional, see *FEC v. Public Citizen, Inc.*, 2001 U.S. App. LEXIS 21692 (11th Cir.) and *Kentucky Right to Life, Inc. v. Terry*, 108 F.3d 637, 648 (6th Cir. 1997), cert. denied, 118 S. Ct. 162 (1997), the courts may be less willing to uphold a requirement that a person voice a particular opinion. However, please note that currently there is no court decision on this issue that is binding in Wisconsin. It is possible that, if presented with the issue, a court with jurisdiction over Wisconsin would uphold a requirement of this type.

OK
Second, like our current disclosure law, this draft requires disclosures to be made in certain communications relating to referenda. Although the U.S. Supreme Court has not addressed the issue, at least one federal district court has held that disclosure requirements that apply to communications relating to referenda are invalid under the First Amendment. See *Yes for life Political Action Committee v. Webster*, 84 F. Supp. 2d 150 (D. ME 2000).

Finally, please note that many requirements under this draft are not uniform and, as a result, the requirements may violate the Equal Protection Clause. For example, the content of the televised disclosures required under this draft is not uniform. Compare proposed s. 11.30 (2m) (d) 5. to proposed s. 11.30 (2m) (d) 1. to 4. Also, the full-screen picture requirement under proposed s. 11.30 (2m) (d) 6. does not apply to persons required to disclose information under proposed s. 11.30 (2m) (d) 5. Furthermore, the content of the required radio disclosures is not uniform as compared with the content of the televised disclosure statements. Compare proposed s. 11.30 (2m) (d) 1. to 5. with proposed s. 11.30 (2m) (e) 1. to 5. It is unclear what the rational basis is for these differing treatments. If there is no rational basis, then these differing treatments would be susceptible to challenge under the Equal Protection Clause. You may want to treat these disclosures uniformly, except where it is rational to do otherwise (for example, it would be rational to specify image size in the context of televised disclosure statements but not radio disclosure statements).

↳ make uniform to take away this issue

Please feel free to contact us if you would like to discuss any of these items.

Robert J. Marchant
Legislative Attorney
Phone: (608) 261-4454
E-mail: robert.marchant@legis.state.wi.us

Jeffery T. Kuesel
Managing Attorney
Phone: (608) 266-6778

Due
1-18-02

Rm WRC

2001 BILL

Sen. Cat.

1 **AN ACT to repeal** 11.30 (2); **to renumber** 11.01 (1); **to amend** 7.40, 8.30 (2), 11.05
2 (2g), 11.30 (3) (b), 11.61 (1) (c) and 13.62 (5g); and **to create** 11.01 (1g), 11.01
3 (17), 11.30 (2m) and 11.59 of the statutes; **relating to:** disclosures required in
4 certain campaign advertisements.

Analysis by the Legislative Reference Bureau

CURRENT LAW

Current law contains several disclosure requirements with regard to advertisements and similar communications relating to campaigns for state or local office. For example, with certain exceptions, current law requires every printed advertisement, billboard, handbill, sample ballot, television or radio advertisement, or other communication that is paid for through a campaign contribution, disbursement (expenditure), or obligation to make a campaign contribution or disbursement to include a statement disclosing the source of the communication. Generally, current law requires this statement to include the words "Paid for by," followed by the name of the committee, group, or individual who pays for or reimburses the cost of the communication. If the communication is by a personal campaign committee, this statement may identify that committee or any of its bona fide subcommittees. If the communication is a solicitation on behalf of more than one candidate for a lawful joint fund-raising effort, this statement may indicate that a joint fund-raising effort is being conducted on behalf of the named candidates rather than indicate the names of the candidates or personal campaign committees

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assuming responsibility for the communication. The statement need not be included at all if the communication is made by a person that is not primarily organized for political purposes, unless the communication constitutes an independent expenditure (generally, an expenditure made without cooperation or consultation with a candidate or candidate's personal campaign committee and made for the purpose of expressly advocating the election or defeat of a clearly identified candidate). If the communication is made by a person who has filed an oath indicating an intent to make independent expenditures, the communication must also include the words "Not authorized by any candidate or candidate's agent or committee."

Current law contains several exceptions to these disclosure requirements. The requirements do not apply to the preparation and transmittal of personal correspondence; the production, wearing, or display of a single personal item which is not reproduced or manufactured for distribution to more than one individual; or communications printed on small items on which the disclosure information cannot be conveniently printed. In addition, the requirements do not apply to certain election-related, nonadvertising material included in an organization's newsletter, if the newsletter is distributed only to members of the organization.

Current law also prohibits a person from publishing or disseminating a communication that does not comply with these disclosure requirements. However, this prohibition does not apply to a communications medium that relies in good faith on the reasonable representations of a person who places an advertisement with the medium as to the applicability of these requirements to the person.

Currently, a person who violates these disclosure requirements or the prohibition on publication or dissemination is subject to a forfeiture (civil penalty) of up to \$500 per violation. In addition, depending upon the amount or value of the violation, if the violation is intentional, the person is subject to a fine of up to \$10,000 or imprisonment for up to four years and six months, or both, or a fine of up to \$1,000 or imprisonment of up to six months, or both.

CHANGES TO CURRENT LAW***Generally***

This bill repeals these disclosure requirements and the prohibition on publication or dissemination and creates a new system of disclosure requirements applicable to elections for state or local office. The disclosure requirements under the bill apply to any person who purchases or incurs an obligation for an advertisement. Generally, an "advertisement" under this bill is a communication in a billboard, card, newspaper, newspaper insert, magazine, mailing with more than 500 pieces, pamphlet, flier, or periodical or on television or radio, if the communication constitutes a campaign contribution or disbursement. However, among other things, the bill does not apply to certain communications that do not expressly advocate the election or defeat of a clearly identified candidate or the adoption or rejection of a question at a referendum (commonly referred to as "issue ads"). The bill creates general disclosure requirements and additional disclosure requirements applicable to television or radio advertisements. In addition, the bill prohibits any person from

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misrepresenting in an advertisement the sponsorship or authorization of the advertisement.

The general disclosure requirements under the bill prohibit a person from purchasing or incurring an obligation for an advertisement unless: a) the advertisement includes the statement "Paid for by ... [name of each purchaser]"; b) if the advertisement supports or opposes the nomination or election of one or more clearly identified candidates, the person states in the advertisement its position for or against the candidate or candidates; c) if the advertisement supports or opposes a question presented at a referendum, the person states in the advertisement its position for or against the question; d) if the advertisement is in the print media and supports or opposes the nomination or election of one or more clearly identified candidates, the person states whether or not the advertisement is authorized by a candidate, except that this requirement does not apply if the person purchasing the advertisement is the candidate whom the advertisement supports or that candidate's personal campaign committee; and e) if the advertisement is in the print media and identifies a candidate whom the person is opposing, the person discloses in the advertisement the name of any candidate whom the advertisement is intended to benefit, except that this requirement applies only if the person coordinates or consults with regard to the advertisement, or with regard to the disbursement for the advertisement, with the candidate who is intended to benefit.

The bill establishes certain requirements with regard to the manner in which these general disclosure requirements may be satisfied. In a print media advertisement, the height of all of the disclosure statements must constitute at least 5% of the height of the printed space of the advertisement, except that the type may not be less than 12 points in size. If a single advertisement consists of multiple pages, folds, or faces, the disclosure statements apply only to one page, fold, or face of the advertisement. In a television advertisement, a written disclosure statement must be made with letters equal to or greater than 4% of the vertical picture height. In a radio advertisement, the disclosure statements must last at least a total of three seconds.

Additional disclosure requirements applicable to television ^(and radio) and

^{or radio} The bill requires a person who purchases or incurs an obligation for a television advertisement that supports or opposes the nomination or election of one or more clearly identified candidates to make certain additional disclosures. If the advertisement is obtained by a candidate or a candidate's personal campaign committee and mentions the name of, shows the picture of, transmits the voice of, or otherwise refers to an opposing candidate, the advertisement must include a statement spoken by the candidate containing at least the following: "I am (or "This is") ... [name of candidate], candidate for ... [name of office], and I (or "my campaign committee") sponsored this advertisement." If the advertisement is obtained by a political party, the advertisement must include a statement spoken by the chairperson, executive director, or treasurer of the political party containing at least the following: "The ... [name of political party] sponsored this advertisement [opposing or supporting] ... [name of candidate] for ... [name of office]." If the advertisement is obtained by a committee other than a political party or legislative

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campaign committee, the advertisement must include a statement spoken by the chief executive officer or treasurer of the committee containing at least the following: "The ... [name of committee], a political action committee, sponsored this advertisement [opposing or supporting] ... [name of candidate] for ... [name of office]." If the advertisement is obtained by an individual, the advertisement must include a statement spoken by the individual containing at least the following: "I am ... [individual's name], and I sponsored this advertisement [opposing or supporting] ... [name of candidate] for ... [name of office]." If the advertisement is obtained by any other person, the advertisement ~~shall~~ include a statement spoken by the chief executive or principal decision maker of the person containing at least the following: "....[Name of person] sponsored this advertisement." If an advertisement requiring one of these additional disclosures is obtained by a political party, individual, or committee other than a political party or legislative campaign committee, the political party, individual, or committee must characterize the advertisement as either supporting or opposing the nomination or election of one or more clearly identified candidates.

televised
The bill establishes certain requirements with regard to the manner in which these additional disclosure requirements may be satisfied. A full-screen picture containing the individual making the required statement must be featured throughout the duration of any statement of a candidate, personal campaign committee, political party, individual, or committee other than a political party or legislative campaign committee. The picture may not contain any printed material other than any visual disclosure statement required by law. In addition, the image of the individual must occupy at least 50% of the vertical picture height and nothing may block the view of the individual's face. If the advertisement is more than five minutes long, the statement must be made at the beginning and at the end of the advertisement.

Additional disclosure requirements applicable to radio

The bill requires a person who purchases or incurs an obligation for a radio advertisement that supports or opposes the nomination or election of one or more clearly identified candidates to make certain additional disclosures. If the advertisement is obtained by a candidate or a candidate's personal campaign committee and mentions the name of, transmits the voice of, or otherwise refers to an opposing candidate, the advertisement must include a statement spoken by the candidate containing at least the following: "I am (or "This is") ... [name of candidate], candidate for ... [name of office], and this advertisement was paid for (or "sponsored" or "furnished") by me (or "... [name of personal campaign committee])." If the advertisement is obtained by a political party, the advertisement must include a statement spoken by the chairperson, executive director, or treasurer of the political party containing at least the following: "This advertisement [opposing or supporting] ... [name of candidate] for ... [name of office] was paid for (or "sponsored" or "furnished") by ... [name of political party]." If the advertisement is obtained by a committee other than a political party or legislative campaign committee, the advertisement must include a statement spoken by the chief executive officer or treasurer of the committee containing at least the following: "This advertisement

person other than a candidate or the candidate's personal campaign committee

must

Opposing or supporting ... [name of candidate] will for ... [name of office] person

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[opposing or supporting] ... [name of candidate] for ... [name of office] was paid for (or "sponsored" or "furnished") by ... [name of committee], a political action committee." If the advertisement is obtained by an individual, the advertisement must include a statement spoken by the individual containing at least the following: "I am ... [individual's name], and this advertisement [opposing or supporting] ... [name of candidate] for ... [name of office] was paid for (or "sponsored" or "furnished") by me." If the advertisement is obtained by any other person, the advertisement shall include a statement spoken by the chief executive or principal decision maker of the person containing at least the following: "...[Name of person] paid for (or "sponsored" or "furnished") this advertisement." If an advertisement requiring one of these additional disclosures is obtained by a political party, individual, or committee other than a political party or legislative campaign committee, the political party, individual, or committee must characterize the advertisement as either supporting or opposing the nomination or election of one or more clearly identified candidates.

Remedies and penalties

This bill provides a candidate, or his or her personal campaign committee, with a private right of action against any person who purchases or incurs an obligation for a television or radio advertisement that violates these disclosure requirements, if the advertisement relates to an election for the office that the candidate seeks. The bill establishes filing requirements that a candidate or personal campaign committee must follow in order to bring such an action and requires the action to be brought no later than the 90th day after the election. The bill permits a successful plaintiff to receive damages equal to the total dollar amount of the television and radio advertising time that was aired in violation of these disclosure requirements, except that the damages must be increased to three times that amount in certain circumstances. Under the bill, a candidate and his or her personal campaign committee are jointly and individually liable for the payment of damages and any attorney fees awarded in such an action. However, if a candidate is held personally liable for the payment of damages, attorney fees, or both, the candidate may not use or be reimbursed with funds from his or her personal campaign committee in paying the damages or attorney fees.

This bill also applies the civil and criminal penalties that apply to violations of the current disclosure requirements to violations of the disclosure requirements established under the bill, except that under the bill the criminal penalties do not apply to violations of the additional disclosure requirements for television and radio advertisements.

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

1

SECTION 1. 7.40 of the statutes is amended to read:

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1 **7.40 Sample ballots.** Any individual, committee or candidate, at their own
2 expense, subject to limitations upon contributions and disbursements under ch. 11,
3 may print a supply of sample ballots, provided ~~they bear on their face the information~~
4 required by ~~s. 11.30 (2)~~ and they contain all of the names shown on the official ballot.

5 **SECTION 2.** 8.30 (2) of the statutes is amended to read:

6 **8.30 (2)** If no registration statement has been filed by or on behalf of a candidate
7 for state or local office in accordance with s. 11.05 (2g) or (2r) by the applicable
8 deadline for filing nomination papers by such candidate, or the deadline for filing a
9 declaration of candidacy for an office for which nomination papers are not filed, the
10 name of the candidate may not appear on the ballot. This subsection may not be
11 construed to exempt a candidate from applicable penalties if he or she files a
12 registration statement later than the time prescribed in ss. 11.01 ~~(1)~~ (1r) and 11.05
13 (2g).

14 **SECTION 3.** 11.01 (1) of the statutes is renumbered 11.01 (1r).

15 **SECTION 4.** 11.01 (1g) of the statutes is created to read:

16 **11.01 (1g)** “Advertisement” means a communication in the print media or on
17 television or radio that constitutes a contribution or disbursement.

18 **SECTION 5.** 11.01 (17) of the statutes is created to read:

19 **11.01 (17)** “Print media” means billboards, cards, newspapers, newspaper
20 inserts, magazines, mailings with more than 500 pieces, pamphlets, fliers, or
21 periodicals.

22 **SECTION 6.** 11.05 (2g) of the statutes is amended to read:

23 **11.05 (2g) CANDIDATES AND PERSONAL CAMPAIGN COMMITTEES.** Every candidate,
24 as defined in s. 11.01 ~~(1)~~ (1r), shall file a registration statement with the appropriate
25 filing officer giving the information required by sub. (3). If a candidate appoints

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1 another person as campaign treasurer the candidate's registration statement shall
2 be cosigned by the candidate and the candidate's appointed treasurer. A candidate
3 who receives no contributions and makes no disbursements shall file such statement
4 as provided in s. 11.10 (1) but need not appoint a campaign treasurer or designate
5 a campaign depository account until the first contribution is received or
6 disbursement made.

7 **SECTION 7.** 11.30 (2) of the statutes is repealed.

8 **SECTION 8.** 11.30 (2m) of the statutes is created to read: f

9 11.30 (2m) (a) Except as provided in par. (g), no person may purchase or incur
10 an obligation for an advertisement unless all of the following conditions are satisfied:

11 1. The advertisement includes the statement "Paid for by [name of each
12 purchaser, as indicated on the purchaser's registration statement under s. 11.05]."

13 2. If the advertisement supports or opposes the nomination or election of one
14 or more clearly identified candidates, the person states in the advertisement its
15 position for or against the candidate or candidates.

16 3. If the advertisement supports or opposes a question proposed at a
17 referendum, the person states in the advertisement its position for or against the
18 question.

19 4. If the advertisement is in the print media and supports or opposes the
20 nomination or election of one or more clearly identified candidates, the person states
21 whether or not the advertisement is authorized by a candidate. The statement in the
22 advertisement shall indicate as follows: "Authorized by [name of candidate],
23 candidate for [name or office]" or "Not authorized by a candidate," as applicable.

24 This subdivision does not apply if the person purchasing the advertisement is the

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1 candidate whom the advertisement supports or that candidate's personal campaign
2 committee.

3 5. If the advertisement is in the print media and identifies a candidate whom
4 the person is opposing, the person discloses in the advertisement the name of any
5 candidate whom the advertisement is intended to benefit. This subdivision applies
6 only if the person coordinates or consults with regard to the advertisement, or with
7 regard to the disbursement for the advertisement, with the candidate who is
8 intended to benefit.

9 (b) 1. In a print media advertisement, the height of all disclosure statements
10 required under par. (a) shall constitute at least 5% of the height of the printed space
11 of the advertisement, except that the type may not be less than 12 points in size. If
12 a single advertisement consists of multiple pages, folds, or faces, the disclosure
13 statements required under par. (a) apply only to one page, fold, or face of the
14 advertisement.

15 2. In a television advertisement, a written disclosure statement used to comply
16 with par. (a) shall be made with letters equal to or greater than 4% of the vertical
17 picture height.

18 3. In a radio advertisement, all disclosure statements, combined, that are
19 required under par. (a) shall last at least 3 seconds.

20 (c) No person may misrepresent in an advertisement the sponsorship or
21 authorization of the advertisement.

22 (d) In addition to the disclosure statements required under par. (a) and except
23 as provided in par. (f), a person purchasing or incurring an obligation for an
24 advertisement on television ^(f) that supports or opposes the nomination or election of
25 one or more clearly identified candidates shall satisfy all of the following:

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1 1. If the advertisement is purchased by a candidate or a candidate's personal
2 campaign committee, the advertisement shall include a statement spoken by the
3 candidate containing at least the following: "I am (or "This is") [name of
4 candidate], candidate for [name of office], and I (or "my campaign committee")
5 sponsored this advertisement." This subdivision applies only to an advertisement
6 that mentions the name of, shows the picture of, transmits the voice of, or otherwise
7 refers to a candidate for the same office as that sought by the purchasing candidate
8 or by the candidate supported by the purchasing personal campaign committee.

9 2. If the advertisement is purchased by a political party, the advertisement
10 shall include a statement spoken by the chairperson, executive director, or treasurer
11 of the political party containing at least the following: "The [name of political
12 party] sponsored this advertisement [opposing or supporting] [name of candidate]
13 for [name of office]." The name of the political party disclosed under this
14 subdivision shall ~~include~~ ^{be the same as} the name used by the political party on the ballot at the
15 election.

16 3. If the advertisement is purchased by a committee other than a political party
17 or legislative campaign committee, the advertisement shall include a statement
18 spoken by the chief executive officer or treasurer of the committee containing at least
19 the following: "The [name of committee], a political action committee, sponsored
20 this advertisement [opposing or supporting] [name of candidate] for [name of
21 office]." The name of the committee disclosed under this subdivision shall be the
22 same as the name indicated on the committee's registration statement under s.
23 11.05.

24 4. Except as provided under subd. 1., if the advertisement is purchased by an
25 individual, the advertisement shall include a statement spoken by the individual

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1 containing at least the following: "I am [individual's name], and I sponsored this
2 advertisement [opposing or supporting] [name of candidate] for [name of
3 office]."

4 5. If the advertisement is purchased by a person other than a candidate, a
5 candidate's personal campaign committee, a political party, a committee other than
6 a political party or legislative campaign committee, or an individual, the
7 advertisement shall include a statement spoken by the chief executive or principal
8 decision maker of the person containing at least the following: "...[Name of person]

9 sponsored this advertisement" ... ~~opposing or supporting~~ ... ~~[name of candidate]~~ for ...
10 ~~[name of office]~~

11 6. ~~(If a statement is required under subds. 1. to 4.)~~ ^{the advertisement is televised} a full-screen picture
12 containing an image of the individual making the statement, ^{required under subds. 1. to 5.} in photographic form
13 or through the actual appearance of the individual on camera, shall be featured
14 throughout the duration of the statement. The picture may not contain any printed
15 material other than any visual disclosure statement required by law. The image of
16 the individual shall occupy at least 50% of the vertical picture height and nothing
17 may block the view of the individual's face.

18 7. If the advertisement ^{is televised and} is more than 5 minutes long, any statement required
19 under ~~this paragraph~~ ^{subds. 1. to 5.} shall be made at the beginning and at the end of the
20 advertisement. ⁵

21 8. If a statement is required under subd. ~~2. 13, or 14,~~ ⁵ the person shall
22 characterize the advertisement as either supporting or opposing the nomination or
23 election of one or more clearly identified candidates.

24 (e) In addition to the disclosure statements required under par. (a) and except
as provided in par. (g), a person purchasing or incurring an obligation for an

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If (or "my campaign committee") sponsored

1 advertisement on radio that supports or opposes the nomination or election of one or
2 more clearly identified candidates shall satisfy all of the following:

3 1. If the advertisement is purchased by a candidate or a candidate's personal
4 campaign committee, the advertisement shall include a statement spoken by the
5 candidate containing at least the following: "I am (or "This is") [name of
6 candidate], candidate for [name of office], and this advertisement was paid for (or
7 "sponsored" or "furnished") by me (or ... "name of personal campaign committee")."

8 This subdivision applies only to an advertisement that mentions the name of,
9 transmits the voice of, or otherwise refers to a candidate for the same office as that
10 sought by the purchasing candidate or by the candidate supported by the purchasing
11 personal campaign committee.

12 2. If the advertisement is purchased by a political party, the advertisement
13 shall include a statement spoken by the chairperson, executive director, or treasurer
14 of the political party containing at least the following: *The [name of political party] sponsored* This advertisement [opposing
15 or supporting] [name of candidate] for ... [name of office] *was paid for (or*
16 *"sponsored" or furnished") by ... [name of political party].* The name of the political
17 party disclosed under this subdivision shall *include* *be the same as* the name used by the political
18 party on the ballot at the election.

19 3. If the advertisement is purchased by a committee other than a political party
20 or legislative campaign committee, the advertisement shall include a statement
21 spoken by the chief executive officer or treasurer of the committee containing at least
22 the following: *This advertisement [opposing or supporting] [name of candidate]*
23 *for ... [name of office] was paid for (or "sponsored" or "furnished") by ... [name of*
24 *committee], a political action committee.* *sponsored* The name of the committee disclosed

The

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1 under this subdivision shall be the same as the name indicated on the committee's
2 registration statement under s. 11.05.

3 4. Except as provided in subd. 1., if the advertisement is purchased by an
4 individual, the advertisement shall include a statement spoken by the individual
5 containing at least the following: "I am [individual's name], and ^{I sponsored} this
6 advertisement [opposing or supporting] [name of candidate] for [name of office]
7 ~~was paid for (or "sponsored" or "furnished") by me."~~

8 5. If the advertisement is purchased by a person other than a candidate, a
9 candidate's personal campaign committee, a political party, a committee other than
10 a political party or legislative campaign committee, or an individual, the
11 advertisement shall include a statement spoken by the chief executive or principal
12 decision maker of the person containing at least the following: "... [Name of person]
13 paid for (or "sponsored" or "furnished") this advertisement." ^{... [opposing or supporting] ... [name of candidate] ... for [name of office]}

14 6. If a statement is required under subd. 2. ^{to 5.} ~~3. or 4.~~, the person shall
15 characterize the advertisement as either supporting or opposing the nomination or
16 election of one or more clearly identified candidates.

17 ^e (f) If an advertisement that is subject to par. (d) ^e or (e) is jointly purchased or
18 if an obligation for such an advertisement is jointly incurred, the statement required
19 under par. (d) ^e or (e) shall name all of the purchasers but need be made by only one
20 individual. If a candidate or a candidate's personal campaign committee is one of the
21 purchasers or persons who incurs the obligation, that candidate shall be the
22 individual making the statement. If multiple candidates are the purchasers or
23 persons who incur the obligation, if a candidate and a personal campaign committee
24 of another candidate are the purchasers or persons who incur the obligation, or if the
25 personal campaign committees of multiple candidates are the purchasers or persons

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1 who incur the obligation, at least one of the candidates shall be the individual
2 making the statement.

3 ~~(g)~~ Paragraphs (a), ^{and} (d), and (e) do not apply to any of the following:

4 1. An individual who makes disbursements with regard to a particular election
5 that total less than \$1,000 and that do not constitute a contribution to any candidate
6 or other individual.

7 2. An individual who purchases or incurs an obligation for an advertisement
8 with regard to a referendum.

9 3. A person who is exempt from reporting the purchase of or obligation incurred
10 for an advertisement under s. 11.06 (2).

11 **SECTION 9.** 11.30 (3) (b) of the statutes is amended to read:

12 11.30 (3) (b) Any person named in par. (a) is guilty of a violation of this chapter
13 unless, before using the communications medium for political purposes other than
14 as provided for in sub. (2) (2m), there is filed with the board a verified declaration
15 specifically stating the communications medium in which the person has financial
16 interest or over which the person has control and the exact nature and extent of the
17 interest or control.

18 **SECTION 10.** 11.59 of the statutes is created to read:

19 **11.59 Liability for unlawful advertisements.** (1) A candidate who
20 complies with all applicable requirements under s. 11.30 (2m) throughout the
21 candidate's campaign, or the personal campaign committee of such a candidate, may
22 bring an action for damages against any person who violates s. 11.30 (2m) with
23 regard to a television or radio advertisement relating to an election for the office that
24 the candidate seeks. As a condition of bringing an action under this section, a
25 candidate for state office, or the personal campaign committee of such a candidate,

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1 shall complete and file with the board a notice of complaint, on a form prescribed by
2 the board, regarding a violation of s. 11.30 (2m). The notice shall be filed after the
3 airing of the advertisement, but no later than the Friday after the date of the election.
4 Any other candidate, or the personal campaign committee of such other candidate,
5 as a condition of bringing an action under this section, shall file the notice of
6 complaint during the same time period with the county clerk or, if applicable, the
7 county board of election commissioners, of any county with territory in the
8 jurisdiction or district that the candidate seeks to represent and shall publish a short
9 form notice of complaint, in the form prescribed by the board, in a newspaper having
10 general circulation in the jurisdiction or district that the candidate seeks to
11 represent. A candidate or personal campaign committee shall bring an action in
12 circuit court for the county where the notice of complaint is filed no later than the
13 90th day following the date of the election.

14 (2) The court shall award a successful plaintiff in an action under this section
15 damages equal to the total dollar amount of the television and radio advertising time
16 that was aired in violation of s. 11.30 (2m). The court shall award treble damages
17 if the plaintiff notified or reasonably attempted to notify the defendant, by 1st class
18 mail with return receipt requested, that a particular advertisement or that
19 particular advertisements failed to comply with s. 11.30 (2m) and if, after the notice
20 or attempted notice, the advertisement continued to be aired. The court shall
21 calculate the treble damages beginning on the date on which the notice was accepted
22 or rejected by the defendant. Within 5 days after the return receipt for any notice
23 mailed under this subsection is provided to the plaintiff, the plaintiff shall send a
24 copy of the notice to the board or to the county clerk or county board of election
25 commissioners of the county where the plaintiff's notice of complaint was filed.

Basford, Sarah

From: Wavrunek, Glenn
Sent: Tuesday, January 22, 2002 3:20 PM
To: LRB.Legal
Subject: Draft review: LRB-4193/2 Topic: Campaign ad disclosure requirements (stand by your ad)

It has been requested by <Wavrunek, Glenn> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB-4193/2 Topic: Campaign ad disclosure requirements (stand by your ad)