

State of Wisconsin
2011 - 2012 LEGISLATURE



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2011 BILL

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1 AN ACT to amend 48.20 (8) (b), 48.203 (7), 48.21 (3) (b), 48.213 (2) (c), 48.213 (2)

2 (d), 48.245 (3), 48.245 (8), 48.255 (4), 48.27 (3) (a) 1., 48.27 (3) (c), 48.29 (1),

3 48.293 (2), 48.293 (3), 48.297 (6), 48.299 (1) (a), 48.30 (2), 48.31 (2), 48.315 (1)

4 (b), 48.32 (1) (a), 48.32 (2) (c), 48.355 (2) (b) 1m., 48.355 (2) (d), 48.357 (1) (am)

5 1., 48.357 (1) (am) 2. b., 48.357 (1) (am) 2. c., 48.357 (2m) (a), 48.357 (2m) (b),

6 48.363 (1) (a), 48.363 (1) (b), 48.365 (1m), 48.365 (2), 48.396 (1b), 48.396 (1d),

7 48.396 (2) (aj), 48.396 (2) (ap), 48.396 (5) (b), 48.46 (1), 48.78 (2) (aj) and 48.78

8 (2) (ap) of the statutes; **relating to:** the provision of notices to, and the exercise

9 of rights by, an unborn child's guardian ad litem in unborn child in need of

10 Insert 1-10 GMM → inserts 1-10A, B, C, & D ✓
 protection or services proceedings, (suggested as remedial legislation by the

11 Department of Children and Families).

Analysis by the Legislative Reference Bureau

Under current law, the court assigned to exercise jurisdiction under the Children's Code (juvenile court) has exclusive original jurisdiction over an unborn child who is alleged to be in need of protection or services on the grounds that the unborn child's expectant mother habitually lacks self-control in the use of alcohol

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beverages, controlled substances, or controlled substance analogs, exhibited to a severe degree, to the extent that there is a substantial risk that the physical health of the unborn child will be seriously affected or endangered unless the expectant mother receives prompt and adequate treatment for that habitual lack of self-control (commonly referred to as a "UCHIPS proceeding").

In a UCHIPS proceeding, the unborn child, by or through the unborn child's guardian ad litem (GAL), is entitled to receive notice of all hearings involving the unborn child, including specifically hearings involving the temporary physical custody and changes in placement of the expectant mother and revisions to or extensions of the dispositional order. The unborn child, by or through the unborn child's GAL, is also entitled to exercise certain rights as a party to the proceeding, including the right to request a substitution of judge, to inspect records relevant to the proceeding, to demand a public fact-finding hearing or a jury trial, or to request a change in placement or revision or extension of the dispositional order. In addition, an unborn child, by or through the unborn child's GAL, may request or authorize the disclosure of law enforcement, juvenile court, or social services records relating to the expectant mother of the unborn child.

This bill eliminates the provision of those notices to, and the exercise of those rights by, an unborn child, by or through the unborn child's GAL. Rather, the bill requires those notices to be provided to, and permits those rights to be exercised by, the unborn child's GAL.

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Department of Children and Families and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4. and 5., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

SECTION 1. 48.20 (8) (b) of the statutes is amended to read:

48.20 (8) (b) If the child is an expectant mother who has been taken into custody under s. 48.19 (1) (cm) or (d) 8., ~~the unborn child, through~~ the unborn child's guardian ad litem, shall receive the same notice about the whereabouts of the child expectant mother, about the reasons for holding the child expectant mother in custody, and about the detention hearing as the child expectant mother and her parent, guardian, legal custodian, or Indian custodian. The intake worker shall notify the child

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1 expectant mother, her parent, guardian, legal custodian, or Indian custodian, and
2 ~~the unborn child,~~ by the unborn child's guardian ad litem.

3 **SECTION 2.** 48.203 (7) of the statutes is amended to read:

4 48.203 (7) If an adult expectant mother is held in custody, the intake worker
5 shall notify the adult expectant mother and ~~the unborn child, through~~ the unborn
6 child's guardian ad litem, of the reasons for holding the adult expectant mother in
7 custody, the time and place of the detention hearing required under s. 48.213, the
8 nature and possible consequences of that hearing, and the right to present and
9 cross-examine witnesses at the hearing.

10 **SECTION 3.** 48.21 (3) (b) of the statutes is amended to read:

11 48.21 (3) (b) If present at the hearing, a copy of the petition or request shall be
12 given to the parent, guardian, legal custodian, or Indian custodian, and to the child
13 if he or she is 12 years of age or older, before the hearing begins. If the child is an
14 expectant mother who has been taken into custody under s. 48.19 (1) (cm) or (d) 8.,
15 a copy of the petition shall also be given to ~~the unborn child, through~~ the unborn
16 child's guardian ad litem, before the hearing begins. Prior notice of the hearing shall
17 be given to the child's parent, guardian, legal custodian, and Indian custodian, to the
18 child if he or she is 12 years of age or older and, if the child is an expectant mother
19 who has been taken into custody under s. 48.19 (1) (cm) or (d) 8., to ~~the unborn child,~~
20 ~~through~~ the unborn child's guardian ad litem, under s. 48.20 (8).

21 **SECTION 4.** 48.213 (2) (c) of the statutes is amended to read:

22 48.213 (2) (c) A copy of the petition shall be given to the adult expectant mother,
23 and to ~~the unborn child, through~~ the unborn child's guardian ad litem, before the
24 hearing begins. Prior notice of the hearing shall be given to the adult expectant
25 mother and unborn ~~child~~ child's guardian ad litem in accordance with s. 48.203 (7).

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1 **SECTION 5.** 48.213 (2) (d) of the statutes is amended to read:

2 48.213 (2) (d) Prior to the commencement of the hearing, the adult expectant
3 mother and ~~the unborn child, through~~ the unborn child's guardian ad litem, shall be
4 informed by the court of the allegations that have been made or may be made, the
5 nature and possible consequences of this hearing as compared to possible future
6 hearings, the right to confront and cross-examine witnesses, and the right to present
7 witnesses.

8 **SECTION 6.** 48.245 (3) of the statutes is amended to read:

9 48.245 (3) The obligations imposed under an informal disposition and its
10 effective date shall be set forth in writing. The child and a parent, guardian, and
11 legal custodian,; the child expectant mother, her parent, guardian, and legal
12 custodian, and ~~the unborn child by~~ the unborn child's guardian ad litem,; or the adult
13 expectant mother and ~~the unborn child by~~ the unborn child's guardian ad litem, shall
14 receive a copy, as shall any agency providing services under the agreement.

15 **SECTION 7.** 48.245 (8) of the statutes is amended to read:

16 48.245 (8) If the obligations imposed under the informal disposition are met,
17 the intake worker shall so inform the child and a parent, guardian, and legal
18 custodian,; the child expectant mother, her parent, guardian, and legal custodian,
19 and ~~the unborn child by~~ the unborn child's guardian ad litem,; or the adult expectant
20 mother and ~~the unborn child by~~ the unborn child's guardian ad litem, in writing, and
21 no petition may be filed on the charges that brought about the informal disposition
22 nor may the charges be the sole basis for a petition under ss. 48.13 to 48.14.

23 **SECTION 8.** 48.255 (4) of the statutes is amended to read:

24 48.255 (4) A copy of a petition under sub. (1) shall be given to the child if the
25 child is 12 years of age or over and to the parents, guardian, legal custodian, and

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1 physical custodian. A copy of a petition under sub. (1m) shall be given to the child
2 expectant mother, if 12 years of age or over, her parents, guardian, legal custodian,
3 and physical custodian, and ~~the unborn child~~ by the unborn child's guardian ad litem
4 or to the adult expectant mother, ~~the unborn child through~~ the unborn child's
5 guardian ad litem, and the physical custodian of the expectant mother, if any. If the
6 child is an Indian child who has been removed from the home of his or her parent or
7 Indian custodian or the unborn child will be an Indian child when born, a copy of a
8 petition under sub. (1) or (1m) shall also be given to the Indian child's Indian
9 custodian and tribe or the Indian tribe with which the unborn child may be eligible
10 for affiliation when born.

11 **SECTION 9.** 48.27 (3) (a) 1. of the statutes is amended to read:

12 48.27 (3) (a) 1. If the petition that was filed relates to facts concerning a
13 situation under s. 48.13 or a situation under s. 48.133 involving an expectant mother
14 who is a child, the court shall notify, under s. 48.273, the child, any parent, guardian,
15 and legal custodian of the child, any foster parent or other physical custodian
16 described in s. 48.62 (2) of the child, ~~the unborn child~~ by the unborn child's guardian
17 ad litem, if applicable, and any person specified in par. (b), (d), or (e), if applicable,
18 of all hearings involving the child except hearings on motions for which notice must
19 be provided only to the child and his or her counsel and, if applicable, to the unborn
20 child's guardian ad litem. If parents who are entitled to notice have the same place
21 of residence, notice to one constitutes notice to the other. The first notice to any
22 interested party, foster parent, or other physical custodian described in s. 48.62 (2)
23 shall be in writing and may have a copy of the petition attached to it. Notices of
24 subsequent hearings may be given by telephone at least 72 hours before the time of

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

3 **SECTION 10.** 48.27 (3) (c) of the statutes is amended to read:

4 48.27 (3) (c) If the petition that was filed relates to facts concerning a situation
5 under s. 48.133 involving an expectant mother who is an adult, the court shall notify,
6 under s. 48.273, ~~the unborn child~~ by the unborn child's guardian ad litem, the
7 expectant mother, the physical custodian of the expectant mother, if any, and any
8 person specified in par. (d), if applicable, of all hearings involving the unborn child
9 and expectant mother except hearings on motions for which notice need only be
10 provided to the expectant mother and her counsel and ~~the unborn child through~~ the
11 unborn child's guardian ad litem. The first notice to any interested party shall be
12 written and may have a copy of the petition attached to it. Thereafter, notice of
13 hearings may be given by telephone at least 72 hours before the time of the hearing.
14 The person giving telephone notice shall place in the case file a signed statement of
15 the time notice was given and the person to whom he or she spoke.

16 **SECTION 11.** 48.29 (1) of the statutes is amended to read:

17 48.29 (1) The child, the child's parent, guardian or legal custodian, the
18 expectant mother, or ~~the unborn child~~ by the unborn child's guardian ad litem, either
19 before or during the plea hearing, may file a written request with the clerk of the
20 court or other person acting as the clerk for a substitution of the judge assigned to
21 the proceeding. Upon filing the written request, the filing party shall immediately
22 mail or deliver a copy of the request to the judge named in the request. When any
23 person has the right to request a substitution of judge, that person's counsel or
24 guardian ad litem may file the request. Not more than one such written request may

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1 be filed in any one proceeding, nor may any single request name more than one judge.

2 This section does not apply to proceedings under s. 48.21 or 48.213.

3 **SECTION 12.** 48.293 (2) of the statutes is amended to read:

4 48.293 (2) All records relating to a child, or to an unborn child and the unborn
5 child's expectant mother, ~~which~~ that are relevant to the subject matter of a
6 proceeding under this chapter shall be open to inspection by a guardian ad litem or
7 counsel for any party and to inspection by the court-appointed special advocate for
8 the child, upon demand and upon presentation of releases when necessary, at least
9 48 hours before the proceeding. ~~Persons and unborn children, by their guardians ad~~
10 ~~litem,~~ entitled to inspect the records may obtain copies of the records with the
11 permission of the custodian of the records or with permission of the court. The court
12 may instruct counsel, a guardian ad litem, or a court-appointed special advocate not
13 to disclose specified items in the materials to the child or the parent, or to the
14 expectant mother, if the court reasonably believes that the disclosure would be
15 harmful to the interests of the child or the unborn child.

16 **SECTION 13.** 48.293 (3) of the statutes is amended to read:

17 48.293 (3) Upon request prior to the fact-finding hearing, counsel for the
18 interests of the public shall disclose to the child, through his or her counsel or
19 guardian ad litem, or to ~~the unborn child, through~~ the unborn child's guardian ad
20 litem, the existence of any audiovisual recording of an oral statement of a child under
21 s. 908.08 ~~which~~ that is within the possession, custody, or control of the state and shall
22 make reasonable arrangements for the requesting person to view the statement. If,
23 after compliance with this subsection, the state obtains possession, custody, or
24 control of such a statement, counsel for the interests of the public shall promptly

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1 notify the requesting person of that fact and make reasonable arrangements for the
2 requesting person to view the statement.

3 **SECTION 14.** 48.297 (6) of the statutes is amended to read:

4 48.297 (6) A motion required to be served on a child may be served on his or
5 her attorney of record. ~~A motion required to be served on an unborn child may be~~
6 ~~served on the unborn child's guardian ad litem.~~

7 **SECTION 15.** 48.299 (1) (a) of the statutes is amended to read:

8 48.299 (1) (a) The general public shall be excluded from hearings under this
9 chapter and from hearings by courts exercising jurisdiction under s. 48.16 unless a
10 public fact-finding hearing is demanded by a child through his or her counsel, by an
11 expectant mother through her counsel, or by an ~~unborn child through the unborn~~
12 ~~child's guardian ad litem.~~ However, the court shall refuse to grant the public hearing
13 in a proceeding other than a proceeding under s. 48.375 (7), if a parent, guardian,
14 expectant mother, or ~~unborn child through the unborn child's guardian ad litem~~
15 objects.

16 **SECTION 16.** 48.30 (2) of the statutes is amended to read:

17 48.30 (2) At the commencement of the hearing under this section the child and
18 the parent, guardian, legal custodian, or Indian custodian; the child expectant
19 mother, her parent, guardian, legal custodian, or Indian custodian, and ~~the unborn~~
20 ~~child through the unborn child's guardian ad litem;~~ or the adult expectant mother
21 and ~~the unborn child through the unborn child's guardian ad litem;~~ shall be advised
22 of ~~their~~ the rights as specified in s. 48.243 and shall be informed that a request for
23 a jury trial or for a substitution of judge under s. 48.29 must be made before the end
24 of the plea hearing or is waived. Nonpetitioning parties, including the child, shall

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1 be granted a continuance of the plea hearing if they wish to consult with an attorney
2 on the request for a jury trial or substitution of a judge.

3 **SECTION 17.** 48.31 (2) of the statutes is amended to read:

4 48.31 (2) The hearing shall be to the court unless the child, the child's parent,
5 guardian, or legal custodian, ~~the unborn child~~ by the unborn child's guardian ad
6 litem, or the expectant mother of the unborn child exercises the right to a jury trial
7 by demanding a jury trial at any time before or during the plea hearing. If a jury trial
8 is demanded in a proceeding under s. 48.13 or 48.133, the jury shall consist of 6
9 persons. If a jury trial is demanded in a proceeding under s. 48.42, the jury shall
10 consist of 12 persons unless the parties agree to a lesser number. Chapters 756 and
11 805 shall govern the selection of jurors. If the hearing involves a child victim or
12 witness, as defined in s. 950.02, the court may order that a deposition be taken by
13 audiovisual means and allow the use of a recorded deposition under s. 967.04 (7) to
14 (10) and, with the district attorney, shall comply with s. 971.105. At the conclusion
15 of the hearing, the court or jury shall make a determination of the facts, except that
16 in a case alleging a child or an unborn child to be in need of protection or services
17 under s. 48.13 or 48.133, the court shall make the determination under s. 48.13
18 (intro.) or 48.133 relating to whether the child or unborn child is in need of protection
19 or services that can be ordered by the court. If the court finds that the child or unborn
20 child is not within the jurisdiction of the court or, in a case alleging a child or an
21 unborn child to be in need of protection or services under s. 48.13 or 48.133, that the
22 child or unborn child is not in need of protection or services that can be ordered by
23 the court or if the court or jury finds that the facts alleged in the petition have not
24 been proved, the court shall dismiss the petition with prejudice.

25 **SECTION 18.** 48.315 (1) (b) of the statutes is amended to read:

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1 48.315 (1) (b) Any period of delay resulting from a continuance granted at the
2 request of or with the consent of the child and his or her counsel or of ~~the unborn child~~
3 ~~by~~ the unborn child's guardian ad litem.

4 **SECTION 19.** 48.32 (1) (a) of the statutes is amended to read:

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

20 **SECTION 20.** 48.32 (2) (c) of the statutes is amended to read:

21 48.32 (2) (c) Upon the motion of the court or the application of the child, parent,
22 guardian, legal custodian, expectant mother, ~~unborn child~~ by the unborn child's
23 guardian ad litem, intake worker, or any agency supervising the child or expectant
24 mother under the consent decree, the court may, after giving notice to the parties to
25 the consent decree, their counsel or guardian ad litem, and the court-appointed

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

8 **SECTION 21.** 48.355 (2) (b) 1m. of the statutes is amended to read:

9 48.355 (2) (b) 1m. A notice that the child's parent, guardian, or legal custodian,
10 the child, if 14 years of age or over, the expectant mother, if 14 years of age or over,
11 or ~~the unborn child by the unborn child's guardian ad litem~~ may request an agency
12 that is providing care or services for the child or expectant mother or that has legal
13 custody of the child to disclose to, or make available for inspection by, the parent,
14 guardian, legal custodian, child, expectant mother, or ~~unborn child by the unborn~~
15 ~~child's guardian ad litem~~ the contents of any record kept or information received by
16 the agency about the child or expectant mother as provided in s. 48.78 (2) (ag) and
17 (aj).

18 **SECTION 22.** 48.355 (2) (d) of the statutes is amended to read:

19 48.355 (2) (d) The court shall provide a copy of a dispositional order relating
20 to a child in need of protection or services to the child's parent, guardian, legal
21 custodian, or trustee, to the child through the child's counsel or guardian ad litem,
22 to the child's court-appointed special advocate, and, if the child is an Indian child
23 who has been removed from the home of his or her parent or Indian custodian and
24 placed outside that home, to the Indian child's Indian custodian and tribe. The court
25 shall provide a copy of a dispositional order relating to an unborn child in need of

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1 protection or services to the expectant mother, to ~~the unborn child through~~ the
2 unborn child's guardian ad litem, to the parent, guardian, legal custodian, or trustee
3 of a child expectant mother, and, if the expectant mother is an Indian child, to the
4 expectant mother's Indian custodian and tribe.

5 **SECTION 23.** 48.357 (1) (am) 1. of the statutes is amended to read:

6 48.357 (1) (am) 1. If the proposed change in placement involves any change in
7 placement other than a change in placement specified in par. (c), the person or agency
8 primarily responsible for implementing the dispositional order, the district attorney,
9 or the corporation counsel shall cause written notice of the proposed change in
10 placement to be sent to the child, the parent, guardian, and legal custodian of the
11 child, any foster parent or other physical custodian described in s. 48.62 (2) of the
12 child, the child's court-appointed special advocate, and, if the child is an Indian child
13 who has been removed from the home of his or her parent or Indian custodian, the
14 Indian child's Indian custodian and tribe. If the child is the expectant mother of an
15 unborn child under s. 48.133, written notice shall also be sent to ~~the unborn child by~~
16 the unborn child's guardian ad litem. If the change in placement involves an adult
17 expectant mother of an unborn child under s. 48.133, written notice shall be sent to
18 the adult expectant mother and ~~the unborn child by~~ the unborn child's guardian ad
19 litem. The notice shall contain the name and address of the new placement, the
20 reasons for the change in placement, a statement describing why the new placement
21 is preferable to the present placement, and a statement of how the new placement
22 satisfies objectives of the treatment plan ordered by the court.

23 **SECTION 24.** 48.357 (1) (am) 2. b. of the statutes is amended to read:

24 48.357 (1) (am) 2. b. By the child expectant mother, if 12 years of age or over,
25 her parent, guardian, legal custodian, or Indian custodian, ~~the unborn child by~~ the

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1 unborn child's guardian ad litem, and the child expectant mother's tribe, if she is an
2 Indian child who has been removed from the home of her parent or Indian custodian.

3 **SECTION 25.** 48.357 (1) (am) 2. c. of the statutes is amended to read:

4 48.357 (1) (am) 2. c. By the adult expectant mother and ~~the unborn child~~ by the
5 unborn child's guardian ad litem.

6 **SECTION 26.** 48.357 (2m) (a) of the statutes is amended to read:

7 48.357 (2m) (a) The child, the parent, guardian, legal custodian, or Indian
8 custodian of the child, the expectant mother, ~~the unborn child~~ by the unborn child's
9 guardian ad litem, or any person or agency primarily bound by the dispositional
10 order, other than the person or agency responsible for implementing the order, may
11 request a change in placement under this paragraph. The request shall contain the
12 name and address of the new placement requested and shall state what new
13 information is available that affects the advisability of the current placement. If the
14 proposed change in placement would change the placement of a child placed in the
15 child's home to a placement outside the child's home, the request shall also contain
16 specific information showing that continued placement of the child in the home
17 would be contrary to the welfare of the child and, unless any of the circumstances
18 under s. 48.355 (2d) (b) 1. to 5. applies, specific information showing that the agency
19 primarily responsible for implementing the dispositional order has made reasonable
20 efforts to prevent the removal of the child from the home, while assuring that the
21 child's health and safety are the paramount concerns. The request shall be
22 submitted to the court. The court may also propose a change in placement on its own
23 motion.

24 **SECTION 27.** 48.357 (2m) (b) of the statutes is amended to read:

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1 48.357 (2m) (b) The court shall hold a hearing prior to ordering any change in
2 placement requested or proposed under par. (a) if the request states that new
3 information is available that affects the advisability of the current placement. A
4 hearing is not required if the requested or proposed change in placement does not
5 involve a change in placement of a child placed in the child's home to a placement
6 outside the child's home, written waivers of objection to the proposed change in
7 placement are signed by all persons entitled to receive notice under this paragraph,
8 other than a court-appointed special advocate, and the court approves. If a hearing
9 is scheduled, not less than 3 days before the hearing the court shall notify the child,
10 the parent, guardian, and legal custodian of the child, any foster parent or other
11 physical custodian described in s. 48.62 (2) of the child, the child's court-appointed
12 special advocate, all parties who are bound by the dispositional order, and, if the child
13 is an Indian child, the Indian child's Indian custodian and tribe. If the child is the
14 expectant mother of an unborn child under s. 48.133, the court shall also notify the
15 ~~unborn child~~ by the unborn child's guardian ad litem. If the change in placement
16 involves an adult expectant mother of an unborn child under s. 48.133, the court shall
17 notify the adult expectant mother, ~~the unborn child~~ by the unborn child's guardian
18 ad litem, and all parties who are bound by the dispositional order, at least 3 days prior
19 to the hearing. A copy of the request or proposal for the change in placement shall
20 be attached to the notice. Subject to par. (br), if all of the parties consent, the court
21 may proceed immediately with the hearing.

22 **SECTION 28.** 48.363 (1) (a) of the statutes is amended to read:

23 48.363 (1) (a) A child, the child's parent, guardian, legal custodian, or Indian
24 custodian, an expectant mother, an ~~unborn child~~ by the unborn child's guardian ad
25 litem, any person or agency bound by a dispositional order, or the district attorney

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1 or corporation counsel in the county in which the dispositional order was entered
2 may request a revision in the order that does not involve a change in placement,
3 including a revision with respect to the amount of child support to be paid by a
4 parent. The court may also propose a revision. The request or court proposal shall
5 set forth in detail the nature of the proposed revision and what new information is
6 available that affects the advisability of the court's disposition. The request or court
7 proposal shall be submitted to the court. The court shall hold a hearing on the matter
8 prior to any revision of the dispositional order if the request or court proposal
9 indicates that new information is available which affects the advisability of the
10 court's dispositional order, unless written waivers of objections to the revision are
11 signed by all parties entitled to receive notice and the court approves.

12 **SECTION 29.** 48.363 (1) (b) of the statutes is amended to read:

13 48.363 (1) (b) If a hearing is held, at least 3 days before the hearing the court
14 shall notify the child, the child's parent, guardian, legal custodian, and Indian
15 custodian, all parties bound by the dispositional order, the child's foster parent or
16 other physical custodian described in s. 48.62 (2), the child's court-appointed special
17 advocate, the district attorney or corporation counsel in the county in which the
18 dispositional order was entered, and, if the child is an Indian child who is placed
19 outside the home of his or her parent or Indian custodian, the Indian child's tribe.
20 If the child is the expectant mother of an unborn child under s. 48.133, the court shall
21 also notify ~~the unborn child~~ by the unborn child's guardian ad litem. If the
22 proceeding involves an adult expectant mother of an unborn child under s. 48.133,
23 the court shall notify the adult expectant mother, ~~the unborn child through~~ the
24 unborn child's guardian ad litem, all parties bound by the dispositional order, and
25 the district attorney or corporation counsel in the county in which the dispositional

BILL**SECTION 29**

1 order was entered, at least 3 days prior to the hearing. A copy of the request or
2 proposal shall be attached to the notice. If all parties consent, the court may proceed
3 immediately with the hearing. No revision may extend the effective period of the
4 original order.

5 **SECTION 30.** 48.365 (1m) of the statutes is amended to read:

6 48.365 (1m) The parent, child, guardian, legal custodian, Indian custodian,
7 expectant mother, ~~unborn child by the~~ unborn child's guardian ad litem, any person
8 or agency bound by the dispositional order, the district attorney or corporation
9 counsel in the county in which the dispositional order was entered, or the court on
10 its own motion may request an extension of an order under s. 48.355 including an
11 order under s. 48.355 that was entered before the child was born. The request shall
12 be submitted to the court that entered the order. An order under s. 48.355 may be
13 extended only as provided in this section.

14 **SECTION 31.** ^{auto ref B} 48.365 (2) of the statutes is amended to read:

15 48.365 (2) No order may be extended without a hearing. The court shall
16 provide notice of the time and place of the hearing to the child, the child's parent,
17 guardian, legal custodian, and Indian custodian, all the parties present at the
18 original hearing, the child's foster parent or other physical custodian described in s.
19 48.62 (2), the child's court-appointed special advocate, the district attorney or
20 corporation counsel in the county in which the dispositional order was entered and,
21 if the child is an Indian child who is placed outside the home of his or her parent or
22 Indian custodian, the Indian child's tribe. If the child is an expectant mother of an
23 unborn child under s. 48.133, the court shall also notify ~~the unborn child by the~~
24 unborn child's guardian ad litem. If the extension hearing involves an adult
25 expectant mother of an unborn child under s. 48.133, the court shall notify the adult

BILL

1 expectant mother, ~~the unborn child through~~ the unborn child's guardian ad litem, all
2 the parties present at the original hearing, and the district attorney or corporation
3 counsel in the county in which the dispositional order was entered, of the time and
4 place of the hearing.

5 **SECTION 32.** 48.396 (1b) of the statutes is amended to read:

6 48.396 (1b) If requested by the parent, guardian, or legal custodian of a child
7 who is the subject of a law enforcement officer's report, or if requested by the child,
8 if 14 years of age or over, a law enforcement agency may, subject to official agency
9 policy, provide to the parent, guardian, legal custodian, or child a copy of that report.
10 If requested by the parent, guardian, or legal custodian of a child expectant mother
11 of an unborn child who is the subject of a law enforcement officer's report, if requested
12 by an expectant mother of an unborn child who is the subject of a law enforcement
13 officer's report, if 14 years of age or over, or if requested by an ~~unborn child through~~
14 ~~the~~ unborn child's guardian ad litem, a law enforcement agency may, subject to
15 official agency policy, provide to the parent, guardian, legal custodian, expectant
16 mother or ~~unborn child by the~~ unborn child's guardian ad litem a copy of that report.

17 **SECTION 33.** 48.396 (1d) of the statutes is amended to read:

18 48.396 (1d) Upon the written permission of the parent, guardian, or legal
19 custodian of a child who is the subject of a law enforcement officer's report or upon
20 the written permission of the child, if 14 years of age or over, a law enforcement
21 agency may, subject to official agency policy, make available to the person named in
22 the permission any reports specifically identified by the parent, guardian, legal
23 custodian or child in the written permission. Upon the written permission of the
24 parent, guardian, or legal custodian of a child expectant mother of an unborn child
25 who is the subject of a law enforcement officer's report, or of an expectant mother of

BILL**SECTION 33**

1 an unborn child who is the subject of a law enforcement officer's report, if 14 years
2 of age or over, and of ~~the unborn child by the unborn child's guardian ad litem~~, a law
3 enforcement agency may, subject to official agency policy, make available to the
4 person named in the permission any reports specifically identified by the parent,
5 guardian, legal custodian or expectant mother, and ~~unborn child by the unborn~~
6 child's guardian ad litem in the written permission.

7 **SECTION 34.** 48.396 (2) (aj) of the statutes is amended to read:

8 48.396 (2) (aj) Upon request of the parent, guardian, or legal custodian of a
9 child expectant mother of an unborn child who is the subject of a record of a court
10 specified in par. (a), upon request of an expectant mother of an unborn child who is
11 the subject of a record of a court specified in par. (a), if 14 years of age or over, or upon
12 request of an ~~unborn child by the unborn child's guardian ad litem~~, the court shall
13 open for inspection by the parent, guardian, legal custodian, expectant mother, or
14 ~~unborn child by the unborn child's guardian ad litem~~ the records of the court relating
15 to that expectant mother, unless the court finds, after due notice and hearing, that
16 inspection of those records by the parent, guardian, legal custodian, expectant
17 mother, or ~~unborn child by the unborn child's guardian ad litem~~ would result in
18 imminent danger to anyone.

19 **SECTION 35.** 48.396 (2) (ap) of the statutes is amended to read:

20 48.396 (2) (ap) Upon the written permission of the parent, guardian, or legal
21 custodian of a child expectant mother of an unborn child who is the subject of a record
22 of a court specified in par. (a), or of an expectant mother of an unborn child who is
23 the subject of a record of a court specified in par. (a), if 14 years of age or over, and
24 of ~~the unborn child by the unborn child's guardian ad litem~~, the court shall open for
25 inspection by the person named in the permission any records specifically identified

BILL

1 by the parent, guardian, legal custodian, or expectant mother, and ~~unborn child~~ by
2 ~~the~~ unborn child's guardian ad litem in the written permission, unless the court
3 finds, after due notice and hearing, that inspection of those records by the person
4 named in the permission would result in imminent danger to anyone.

5 **SECTION 36.** ^{auto ref C} 48.396 (5) (b) of the statutes is amended to read:

6 48.396 (5) (b) The court shall notify the child, the child's counsel, the child's
7 parents, appropriate law enforcement agencies, and, if the child is an expectant
8 mother of an unborn child under s. 48.133, ~~the unborn child~~ by the unborn child's
9 guardian ad litem, or shall notify the adult expectant mother, ~~the unborn child~~ by the
10 unborn child's guardian ad litem, and appropriate law enforcement agencies, in
11 writing of the petition. If any person notified objects to the disclosure, the court may
12 hold a hearing to take evidence relating to the petitioner's need for the disclosure.

13 **SECTION 37.** ^{auto ref D} 48.46 (1) of the statutes is amended to read:

14 48.46 (1) Except as provided in subs. (1m), (2), and (3), the child whose status
15 is adjudicated by the court, the parent, guardian, or legal custodian of that child, the
16 guardian ad litem of an unborn child whose status is adjudicated by the court, or the
17 expectant mother of that unborn child may at any time within one year after the
18 entering of the court's order petition the court for a rehearing on the ground that new
19 evidence has been discovered affecting the advisability of the court's original
20 adjudication. Upon a showing that such evidence does exist, the court shall order a
21 new hearing.

NOTE: SECTIONS ~~31, 34,~~ ^{31, 34,} and ~~37~~ ³⁷ modify provisions of the Children's Code relating to proceedings in which an unborn child is alleged to be in need of protection or services so that notices must be given to and rights must be exercised by the unborn child's guardian ad litem instead of by the unborn child through the unborn child's guardian ad litem.

Insert
9-21 →

22 **SECTION 38.** 48.78 (2) (aj) of the statutes is amended to read:

BILL

SECTION 38

1 48.78 (2) (aj) Paragraph (a) does not prohibit an agency from making available
 2 for inspection or disclosing the contents of a record, upon the request of a parent,
 3 guardian, or legal custodian of a child expectant mother of an unborn child who is
 4 the subject of the record, upon the request of an expectant mother of an unborn child
 5 who is the subject of the record, if 14 years of age or over, or upon the request of an
 6 ~~unborn child by the~~ unborn child's guardian ad litem to the parent, guardian, legal
 7 custodian, expectant mother, or ~~unborn child by the~~ unborn child's guardian ad
 8 litem, unless the agency determines that inspection of the record by the parent,
 9 guardian, legal custodian, expectant mother, or ~~unborn child by the~~ unborn child's
 10 guardian ad litem would result in imminent danger to anyone.

11 **SECTION 39.** 48.78 (2) (ap) of the statutes is amended to read:

12 48.78 (2) (ap) Paragraph (a) does not prohibit an agency from making available
 13 for inspection or disclosing the contents of a record, upon the written permission of
 14 the parent, guardian, or legal custodian of a child expectant mother of an unborn
 15 child who is the subject of the record, or of an expectant mother of an unborn child
 16 who is the subject of the record, if 14 years of age or over, and of ~~the unborn child by~~
 17 ~~the~~ unborn child's guardian ad litem, to the person named in the permission if the
 18 parent, guardian, legal custodian, or expectant mother, and ~~unborn child by the~~
 19 unborn child's guardian ad litem, specifically identify the record in the written
 20 permission, unless the agency determines that inspection of the record by the person
 21 named in the permission would result in imminent danger to anyone.

NOTE: SECTIONS 32 to 35, 37, and 38 provide that law enforcement, juvenile court, and agency records governed by the Children's Code may be released to certain persons upon the request or with the permission of an unborn child's guardian ad litem instead of upon the request or with the permission of the unborn child by the unborn child's guardian ad litem

Insert 20-21A

Insert
20-21
GMM

✓ LPS-Keep as auto refs

Keep as auto refs

22 Insert 20-21C ✓

(END)

Insert 20-21B ✓



2011 BILL

Insert 1-10 B

1 **AN ACT to amend** 69.15 (3) (b) 3. of the statutes; **relating to:** deleting a reference
 2 to minors acknowledging paternity (suggested as remedial legislation by the
 3 Department of Children and Families).

Analysis by the Legislative Reference Bureau

4 Under current law, a court may order child support, legal custody, and periods of physical placement on the basis of a statement acknowledging paternity that is signed by both parents and filed with the state registrar. The state registrar may insert the name of the father on a child's birth certificate on the basis of a statement acknowledging paternity. Since January 1, 2007, a minor has been prohibited from signing a statement acknowledging paternity. Current law, however, authorizes the state registrar to insert the father's name on a child's birth certificate on the basis of a statement acknowledging paternity that is signed by a minor parent as long as the minor parent's parent or legal guardian signs, too. This bill harmonizes the prohibition against a minor parent signing a statement acknowledging paternity with the statutes related to requirements for when the state registrar may change facts on birth certificates. *(end ins)*

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

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

Insert 2-B

BILL

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Department of Children and Families and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4. and 5. stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

1 **SECTION 1.** 69.15 (3) (b) 3. of the statutes is amended to read:

2 69.15 (3) (b) 3. Except as provided under par. (c), if the state registrar receives
3 a statement acknowledging paternity on a form prescribed by the state registrar and
4 signed by both parents, ~~and by a parent or legal guardian of any parent who is neither~~
5 of whom was under the age of 18 years when the form was signed, along with the fee
6 under s. 69.22, the state registrar shall insert the name of the father under subd. 1.
7 The state registrar shall mark the certificate to show that the form is on file. The
8 form shall be available to the department of children and families or a county child
9 support agency under s. 59.53 (5) pursuant to the program responsibilities under s.
10 49.22 or to any other person with a direct and tangible interest in the record. The
11 state registrar shall include on the form for the acknowledgment the information in
12 s. 767.805 and the items in s. 767.813 (5g).

NOTE: Modifies the statute relating to inserting the name of a father on a birth certificate pursuant to an acknowledgement of paternity so that it is consistent with current law under which a minor father may not sign an acknowledgement of paternity.

13

~~(enr)~~

(end ins 20-21B)

insat 20-21B



2011 BILL

Insert 1-10 C

✓
parties

1 **AN ACT to amend** 767.865 (1) (a) of the statutes; **relating to:** on whom the
2 summons and petition must be served in a paternity action when the
3 respondent is deceased (suggested as remedial legislation by the Department
4 of Children and Families).

Analysis by the Legislative Reference Bureau

Insert 2-C

→ Under current law, a personal representative for a deceased respondent in a paternity action may appear for the respondent whenever an appearance is required. If the deceased respondent does not have a personal representative, the court may appoint a guardian ad litem, and the guardian ad litem may appear for the deceased respondent. Current law requires that the summons and petition in the paternity action be served on the personal representative *and* the guardian ad litem of a deceased respondent. This bill changes the "and" to an "or." Since the court appoints a guardian ad litem only if there is no personal representative, a deceased respondent in a paternity action would not have both a personal representative and a guardian ad litem. *(end ins)*

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

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

BILL

Insert 20-21C cont'd 282

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Department of Children and Families and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4. and 5., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

1 **SECTION 1.** 767.865 (1) (a) of the statutes is amended to read:

2 767.865 (1) (a) The personal representative or, if there is no personal
3 representative, a guardian ad litem in accordance with par. (b) may appear for a
4 deceased respondent whenever an appearance by the respondent is required. The
5 summons and petition shall be served on the personal representative of ~~and~~ or
6 guardian ad litem for the deceased respondent under s. 767.813 (3).

NOTE: Provides that in a paternity action in which the respondent is deceased, either the personal representative or the guardian ad litem for the deceased respondent must be served with the summons and petition. Under current law, a personal representative or a guardian ad litem may appear for a deceased respondent; however, current law requires both to be served with the summons or petition.

7 (END) *ins 20-21C*



2011 BILL

Insert 1-10D

✓ and etc

1 **AN ACT to amend** 767.813 (5) (a) 4. of the statutes; **relating to:** maximum prison
 2 term length stated in the form for a paternity action summons (suggested as
 3 remedial legislation by the Department of Children and Families).

Analysis by the Legislative Reference Bureau

Insert 2-D

Under current law, the form for a summons in a paternity action provides notice that interfering with the custody of a child, which is a Class I felony, is punishable by imprisonment for up to five years. A Class I felony actually is punishable under current law by imprisonment for up to three years and six months. This bill corrects the maximum length of time for imprisonment for interfering with the custody of a child that is stated in the form for a paternity action summons. *(end ins)*

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Department of Children and Families and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4. and 5., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

BILL

Insert 20-21C 1002

1 **SECTION 1.** 767.813 (5) (a) 4. of the statutes is amended to read:
2 767.813 (5) (a) 4. You are also notified that interference with the custody of a
3 child is punishable by a fine of up to \$10,000 and imprisonment for up to ~~5~~ 3 years
4 and 6 months. Section 948.31, stats.

NOTE: Changes the form for a summons in a paternity action to correctly reflect that interfering with the custody of a child may be punished by imprisonment not to exceed 3 years and 6 months instead of 5 years.

5 (END) 





2011 BILL

Insert 1-10 A

- 1 AN ACT *to amend* 20.437 (2) (r) and 49.854 (5) (f) of the statutes; **relating to:**
- 2 **releasing a frozen bank account of a support obligor** (suggested as remedial
- 3 legislation by the Department of Children and Families).

Analysis by the Legislative Reference Bureau

4 Under current law, if a person who has been ordered by a court to pay child support (obligor) is delinquent in the payments, the amount of the delinquency becomes a lien in favor of ~~the Department of Children and Families~~ DCF. To enforce the lien, DCF may levy against one or more accounts that the obligor has at a financial institution by sending a notice of levy to the financial institution instructing the financial institution to prohibit the closing of or withdrawals from the account, up to the amount that is sufficient to pay the amount of the delinquency. If the obligor requests a hearing and at the hearing the court orders an alternative payment arrangement or determines that the obligor does not owe the support, or owes less than the amount claimed by DCF, the court must, under current law, order DCF to return the seized funds or the excess of the seized funds over the delinquent amount. Since DCF has not actually seized the funds, this bill requires the court to order DCF to instruct the financial institution to release the account, or funds in the account that exceed the delinquent amount, to the obligor.

Insert 2-A

Send ins 2-A

BILL

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Department of Children and Families and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4. and 5., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

SECTION 1. 20.437 (2) (r) of the statutes is amended to read:

20.437 (2) (r) *Support receipt and disbursement program; payments.* From the support collections trust fund, except as provided in par. (qm), all moneys received under s. 49.854, except for moneys received under s. 49.854 (11) (b), all moneys received under ss. 767.57 and 767.75 for child or family support, maintenance, spousal support, health care expenses, or birth expenses, all other moneys received under judgments or orders in actions affecting the family, as defined in s. 767.001 (1), and all moneys received under s. 49.855 (4) from the department of revenue or the department of administration that were withheld by the department of revenue or the internal revenue service for delinquent child support, family support, or maintenance or outstanding court-ordered amounts for past support, medical expenses, or birth expenses, for disbursement to the persons for whom the payments are awarded, ~~for returning seized funds under s. 49.854 (5) (f),~~ and, if assigned under s. 48.57 (3m) (b) 2. or (3n) (b) 2., 48.645 (3), 49.145 (2) (s), 49.19 (4) (h) 1. b., or 49.775 (2) (bm), for transfer to the appropriation account under par. (k). Estimated disbursements under this paragraph shall not be included in the schedule under s. 20.005.

NOTE: Removes as a purpose of the support collections trust fund returning funds seized from a financial institution. This reflects that a financial institution freezes

Insert 2-1

BILL

INS 2-1
cont

Insert 2-1
cont'd

accounts at the request of the Department of Children and Families upon notice of levy but the department does not seize the funds until an opportunity for a hearing is afforded.

(end ins 2-1)

Insert 20-21A

1 SECTION 2. 49.854 (5) (f) of the statutes is amended to read:

2 49.854 (5) (f) *Hearings*. A hearing requested under par. (d) 6. shall be

3 conducted before the circuit court rendering the order to pay support. Within 45

4 business days after receiving a request for hearing under par. (d) 6., the court shall

5 conduct the hearing. A circuit court commissioner may conduct the hearing. The

6 hearing shall be limited to a review of whether the account holder owes the amount

7 of support certified and whether any alternative payment arrangement offered by

8 the department or the county child support agency is reasonable. If the court or

9 circuit court commissioner makes a written determination that an alternative

10 payment arrangement offered by the department or county child support agency is

11 not reasonable, the court or circuit court commissioner may order an alternative

12 payment arrangement. If the court or circuit court commissioner orders an

13 alternative payment arrangement, the court or circuit court commissioner shall

14 order the department to instruct the financial institution to release all or a portion

15 of the funds. If the court or circuit court commissioner determines that the account

16 holder does not owe support or owes less than the amount claimed by the

17 department, the court shall order the department to ~~return the seized funds~~ instruct

18 the financial institution to release the funds in the account or the excess of ~~the seized~~

19 those funds over the amount of the delinquency to the account holder. If a circuit

20 court commissioner conducts the hearing under this paragraph, the department or

21 the obligor may, within 15 business days after the date that the circuit court

22 commissioner makes his or her decision, request review of the decision by the court

23 with jurisdiction over the action.



Insert 20-21A
Contd

INS 20-21A
cont

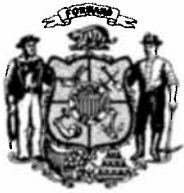
BILL

NOTE: In a hearing relating to a levy against a delinquent obligor's financial account, provides that the court may order the department to instruct the financial institution to release all or a portion of the funds, instead of ordering the department to release the funds.

(end ins)

(END)

1



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-0569/1
GMM:kjf:jm

LPS - INSERTS OUT OF ORDER

2011 BILL

Insert 1-10 GMM

cannot be identified;

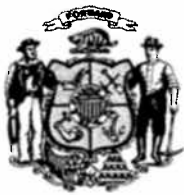
investigations when the

1 ~~AN ACT to repeal 48.675; and to amend 48.981 (3) (c) 1. a. of the statutes;~~
 2 ~~relating to~~ requiring an agency that receives a report of child abuse or neglect
 3 to initiate a diligent investigation if the agency cannot identify an individual
 4 who is suspected of ^{the} abuse or neglect [&] ~~of the child and~~ eliminating a voluntary
 5 foster care education program developed by the Department of Children and
 6 Families ~~suggested as remedial legislation by the Department of Children and~~
 7 ~~Families~~ () (ed & met)

Analysis by the Legislative Reference Bureau

Under current law, if a county department of human services or social services (county department), the Department of Children and Families in a county having a population of 500,000 or more (DCF), or a licensed child welfare agency under contract with a county department or DCF to perform child abuse and neglect investigations (collectively "agency"), after evaluating a report of suspected or threatened child abuse or neglect, cannot determine who abused or neglected the child, the agency must initiate a diligent investigation to determine if the child is in need of protection or services. This bill instead requires an agency to initiate such an investigation if the agency cannot identify an individual who is suspected of abuse or neglect or of threatened abuse or neglect of the child.

Current law requires DCF to promulgate rules establishing minimum requirements for the issuance of foster home licenses, including rules requiring all



2011 BILL

Insert 2 GMM

1 ~~AN ACT to repeal 48.675; and to amend 48.981 (3) (c) 1. a. of the statutes;~~
 2 ~~relating to: requiring an agency that receives a report of child abuse or neglect~~
 3 ~~to initiate a diligent investigation if the agency cannot identify an individual~~
 4 ~~who is suspected of abuse or neglect of the child and eliminating a voluntary~~
 5 ~~foster care education program developed by the Department of Children and~~
 6 ~~Families (suggested as remedial legislation by the Department of Children and~~
 7 ~~Families).~~

Analysis by the Legislative Reference Bureau

Under current law, if a county department of human services or social services (county department), the Department of Children and Families in a county having a population of 500,000 or more (DCF), or a licensed child welfare agency under contract with a county department or DCF to perform child abuse and neglect investigations (collectively "agency"), after evaluating a report of suspected or threatened child abuse or neglect, cannot determine who abused or neglected the child, the agency must initiate a diligent investigation to determine if the child is in need of protection or services. This bill instead requires an agency to initiate such an investigation if the agency cannot identify an individual who is suspected of abuse or neglect or of threatened abuse or neglect of the child.

Current law requires DCF to promulgate rules establishing minimum requirements for the issuance of foster home licenses, including rules requiring all



BILL

Int 19-21 GMM

foster parents to successfully complete training in the care and support needs of children who have been placed in foster care. That training must be completed before the first child is placed with the foster parent and on an ongoing basis. Current law also requires DCF to develop a voluntary foster care education program to provide specialized training for foster parents who provide care for children with special treatment needs. This bill eliminates that voluntary foster care education program.

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal requested by the Department of Children and Families and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4. and 5., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

Insert 19-21 GMM

SECTION 1. 48.675 of the statutes, is repealed.

NOTE: Repeals a statute that requires the Department of Children and Families to develop a voluntary foster parent education program for foster parents who provide care for children with special treatment needs.

SECTION 2. 48.981 (3) (c) 1. a. of the statutes is amended to read:

48.981 (3) (c) 1. a. Immediately after receiving a report under par. (a), the agency shall evaluate the report to determine whether there is reason to suspect that a caregiver has abused or neglected the child, has threatened the child with abuse or neglect, or has facilitated or failed to take action to prevent the suspected or threatened abuse or neglect of the child. Except as provided in sub. (3m), if the agency determines that a caregiver is suspected of abuse or neglect or of threatened abuse or neglect of the child, determines that a caregiver is suspected of facilitating or failing to take action to prevent the suspected or threatened abuse or neglect of the child, or cannot determine who abused or neglected the child identify an individual who is suspected of abuse or neglect or of threatened abuse or neglect of the child, within 24 hours after receiving the report the agency shall, in accordance

(let Int)

BILL

*Instr 2 GMM
CONT*

foster parents to successfully complete training in the care and support needs of children who have been placed in foster care. That training must be completed before the first child is placed with the foster parent and on an ongoing basis. Current law also requires DCF to develop a voluntary foster care education program to provide specialized training for foster parents who provide care for children with special treatment needs. This bill eliminates that voluntary foster care education program.

*(end ins
2 Gmm*

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Department of Children and Families and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4. and 5., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

1 **SECTION 1.** 48.675 of the statutes, is repealed.

NOTE: Repeals a statute that requires the Department of Children and Families to develop a voluntary foster parent education program for foster parents who provide care for children with special treatment needs.

2 **SECTION 2.** 48.981 (3) (c) 1. a. of the statutes is amended to read:

3 48.981 (3) (c) 1. a. Immediately after receiving a report under par. (a), the
4 agency shall evaluate the report to determine whether there is reason to suspect that
5 a caregiver has abused or neglected the child, has threatened the child with abuse
6 or neglect, or has facilitated or failed to take action to prevent the suspected or
7 threatened abuse or neglect of the child. Except as provided in sub. (3m), if the
8 agency determines that a caregiver is suspected of abuse or neglect or of threatened
9 abuse or neglect of the child, determines that a caregiver is suspected of facilitating
10 or failing to take action to prevent the suspected or threatened abuse or neglect of
11 the child, or cannot determine who abused or neglected the child identify an
12 individual who is suspected of abuse or neglect or of threatened abuse or neglect of
13 the child, within 24 hours after receiving the report the agency shall, in accordance

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foster parents to successfully complete training in the care and support needs of children who have been placed in foster care. That training must be completed before the first child is placed with the foster parent and on an ongoing basis. Current law also requires DCF to develop a voluntary foster care education program to provide specialized training for foster parents who provide care for children with special treatment needs. This bill eliminates that voluntary foster care education program.

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

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

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cont

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1 with the authority granted to the department under s. 48.48 (17) (a) 1. or the county
 2 department under s. 48.57 (1) (a), initiate a diligent investigation to determine if the
 3 child is in need of protection or services. If the agency determines that a person who
 4 is not a caregiver is suspected of abuse or of threatened abuse, the agency may, in
 5 accordance with that authority, initiate a diligent investigation to determine if the
 6 child is in need or protection or services. Within 24 hours after receiving a report
 7 under par. (a) of suspected unborn child abuse, the agency, in accordance with that
 8 authority, shall initiate a diligent investigation to determine if the unborn child is
 9 in need of protection or services. An investigation under this subd. 1. a. shall be
 10 conducted in accordance with standards established by the department for
 11 conducting child abuse and neglect investigations or unborn child abuse
 12 investigations.

NOTE: Under current law, if an agency that investigates a report of alleged child abuse or neglect cannot determine who abused or neglected the child, the agency must initiate a diligent investigation to determine if the child is in need of protection or services within 24 hours after receiving the report. This SECTION instead requires an investigation to be initiated within 24 hours after receiving such a report if the agency cannot identify an individual who is suspected of abuse or neglect or of threatened abuse or neglect of the child.

13

(END)

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"RESEARCH APPENDIX"

... Drafting History Reproduction Request Form ...

 DRAFTING ATTORNEYS: PLEASE COMPLETE THIS FORM AND GIVE TO MIKE BARMAN


(Request Made By: PTK+GMM) (Date: 2/6/12)

Note:

BOTH DRAFTS SHOULD HAVE THE SAME "REQUESTOR"

(exception: companion bills)




²⁰¹¹  Please transfer the drafting file^s for
~~2009~~ LRB 558, 559, 560, 563, 569 (For: Rep./Sen. Law Revision Committee)
to the drafting file for

2011 LRB 568 (For: Rep./Sen. Law Revision Committee)


(See attached request)

----- **OR** -----

 Please copy the drafting file for
2011 LRB _____ (include the version) (For: Rep. / Sen. _____)

and place it in the drafting file for

2011 LRB _____ (For: Rep. / Sen. _____)

 Are These "Companion Bills" ?? ... Yes No

If yes, who in the initial requestor's office authorized the copy/transfer of the drafting history ("guts") from the original file: _____

Kahler, Pam

From: Sappenfield, Anne
Sent: Monday, February 06, 2012 8:54 AM
To: Malaise, Gordon; Kahler, Pam
Cc: Young, Tracey
Subject: DCF remedial legislation

Hi Pam & Gordon,

The Law Revision Committee voted to introduce the following DCF drafts: 0558/1, 0559/1, 0560/1, 0563/1, 0568/1 and 0569/1. Could you please combine these into one draft?

Thank you,
Anne

Anne Sappenfield
Senior Staff Attorney
WI Legislative Council
(608) 267-9485

Combine all into 568

Basford, Sarah

From: Rose, Laura
Sent: Thursday, February 09, 2012 5:04 PM
To: LRB.Legal
Subject: Draft Review: LRB 11-0568/2 Topic: Unborn children in need of protection or services; notices to unborn child

Please Jacket LRB 11-0568/2 for the SENATE.