

**2013 DRAFTING REQUEST**

**Bill**

Received: 11/22/2013 Received By: eshea  
Wanted: As time permits Same as LRB: -3303  
For: Legislative Council - LRC By/Representing: Anne Sappenfield  
May Contact: Drafter: eshea  
Subject: Children - abuse and neglect Addl. Drafters: pkahler  
Children - child welfare  
Children - day care  
Children - miscellaneous Extra Copies:  
Children - out-of-home placement

Submit via email: YES  
Requester's email: Anne.Sappenfield@legis.wisconsin.gov  
Carbon copy (CC) to: elisabeth.shea@legis.wisconsin.gov

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Child-related law revisions

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**Instructions:**

See attached

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**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>
/1	eshea 11/22/2013	scalvin 11/25/2013	rschlue 11/25/2013	_____	rose 11/25/2013	lparisi 11/27/2013	

FE Sent For:

*None  
needed*

<END>

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Topic:

Child-related law revisions ✓

Instructions:

See attached

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/1	eshea	1 sac 11/25/2013		_____	_____		

FE Sent For:

<END>

**Shea, Elisabeth**

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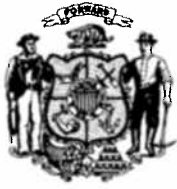
**From:** Sappenfield, Anne  
**Sent:** Thursday, November 21, 2013 4:02 PM  
**To:** Shea, Elisabeth  
**Subject:** lrb3303

Hi Lis,

Could you send me a companion for this draft so it can be introduced in both houses?

Thanks!  
Anne

*Anne Sappenfield*  
Principal Attorney  
WI Legislative Council  
(608) 267-9485



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-3303/1  
PJK&EHS:sac/jm

In 11/22/13

3107  
stays  
Companion RMrun

2013 BILL

SOON

-gen act

1 **AN ACT to repeal** 48.675 and 69.15 (3m) (a) 4.; and **to amend** 20.437 (2) (r), 48.20

2 (8) (b), 48.203 (7), 48.21 (3) (b), 48.213 (2) (c), 48.213 (2) (d), 48.245 (3), 48.245

3 (8), 48.255 (4), 48.27 (3) (a) 1., 48.27 (3) (c), 48.29 (1), 48.293 (2), 48.293 (3),

4 48.297 (6), 48.299 (1) (a), 48.30 (2), 48.31 (2), 48.315 (1) (b), 48.32 (1) (a), 48.32

5 (2) (c), 48.355 (2) (b) 1m., 48.355 (2) (d), 48.357 (1) (am) 1., 48.357 (1) (am) 2. b.,

6 48.357 (1) (am) 2. c., 48.357 (2m) (a), 48.357 (2m) (b), 48.363 (1) (a), 48.363 (1)

7 (b), 48.365 (1m), 48.365 (2), 48.396 (1b), 48.396 (1d), 48.396 (2) (aj), 48.396 (2)

8 (ap), 48.396 (5) (b), 48.46 (1), 48.685 (5) (br) 3m., 48.78 (2) (aj), 48.78 (2) (ap),

9 48.981 (3) (c) 1. a., 49.155 (1m) (a) 4., 49.155 (1m) (a) 5., 49.854 (5) (f), 69.15 (3)

10 (b) 3., 69.15 (3m) (a) 3., 69.15 (3m) (b), 767.805 (3) (b), 767.813 (5) (a) 4. and

11 767.865 (1) (a) of the statutes; **relating to:** minors acknowledging paternity;

12 service of the summons and petition in a paternity action when the respondent

13 is deceased; the form for a paternity action summons; releasing a frozen bank

14 account of a support obligor; determining eligibility for Wisconsin Shares;

**BILL**

1 notices to, and the exercise of rights by, a guardian ad litem in an unborn child  
2 in need of protection or services proceeding; requiring a diligent investigation  
3 by an agency that receives a report of child abuse or neglect if the agency cannot  
4 identify an individual who is suspected of the abuse or neglect; eliminating a  
5 voluntary foster care education program; the prohibition against a person who  
6 has committed armed robbery from showing that he or she has been  
7 rehabilitated for purposes of being licensed, certified, or contracted with to  
8 provide child care (suggested as remedial legislation by the Department of  
9 Children and Families).

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***Analysis by the Legislative Reference Bureau***

This bill makes the following changes to the laws related to children:

1. 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. Since January 1, 2007, a minor has been prohibited from signing a statement acknowledging paternity. Current law, however, still contains references to minors signing statements acknowledging paternity, such as requiring a court to appoint a guardian ad litem for a minor party who signed a statement acknowledging paternity in an action based on the statement and authorizing 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. The bill harmonizes the prohibition against a minor parent signing a statement acknowledging paternity with 1) the statutes related to requirements for when the state registrar may change facts on birth certificates, 2) the statute related to requirements for rescinding a statement acknowledging paternity that has been filed with the state registrar, and 3) the statute that requires the court to appoint a guardian ad litem for a minor who signs a statement acknowledging paternity.

2. 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 both the personal representative and the guardian ad litem of a deceased respondent. The bill changes the "and" to an "or." Since the court appoints a guardian ad litem only if there is no personal representative, a deceased

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respondent in a paternity action would not have both a personal representative and a guardian ad litem. The bill also corrects an incorrect cross-reference to the provision relating to service of the summons and petition.

3. 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. The 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.

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 plus any financial institution and levying fees. 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 does not actually seize the funds, the 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.

5. Under current law, except in Milwaukee County, DCF is required to contract with a county department, the Milwaukee County enrollment services unit (services unit), a Wisconsin Works (W-2) agency, a child care resource and referral agency, or another agency to determine the eligibility of individuals for child care subsidies under Wisconsin Shares in a particular geographic region or for a particular Indian tribal unit, and in Milwaukee County DCF may contract with the services unit to determine eligibility. Under former law, W-2 agencies determined eligibility.

The statutes currently provide that an individual may be eligible for Wisconsin Shares if the W-2 agency determines that basic education or a course of study at a technical college would facilitate the individual's efforts to maintain employment and the individual needs child care services to participate in basic education or the course of study. The bill changes this so that the entity that makes this determination is DCF or the entity with which DCF contracts to determine eligibility, which may be other than a W-2 agency.

6. 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 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

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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, is entitled to receive notice of all hearings involving the unborn child, including 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 guardian ad litem, is also entitled to exercise certain rights as a party to the proceeding, such as the right to request a substitution of judge, to inspect records relevant to the proceeding, and to demand a public fact-finding hearing or a jury trial. In addition, an unborn child, by or through the unborn child’s guardian ad litem, may request or authorize the disclosure of law enforcement, juvenile court, or social services records relating to the expectant mother of the unborn child.

The 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 guardian ad litem. Instead, the bill requires those notices to be provided to, and permits those rights to be exercised by, the unborn child’s guardian ad litem.

7. Under current law, if a county department of human services or social services (county department), DCF in a county having a population of 500,000 or more, 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. The 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.

8. Current law requires DCF to promulgate rules establishing minimum requirements for the issuance of foster home licenses, including rules requiring all 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. The bill eliminates that voluntary foster care education program.

9. Current law prohibits a person who has been convicted or adjudicated delinquent on or after his or her 12th birthday for committing a serious crime, as defined under current law, from 1) being licensed to operate a child care center; 2) being certified as a child care provider for purposes of reimbursement under Wisconsin Shares; or 3) contracting with a school board to provide a child care program (collectively, child care provider). Current law similarly prohibits such a person from being an employee or contractor of a child care provider (caregiver) or from being permitted to reside at a premises where child care is provided (nonclient resident). There is an exception to these prohibitions if the person, caregiver, or nonclient resident shows that he or she has been rehabilitated, except that current



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law bars a person who has committed certain violent crimes, including armed robbery, from showing that he or she has been rehabilitated for purposes of being a child care provider, a caregiver, or a nonclient resident and bars a person who has committed certain property crimes, including armed robbery, from showing that he or she has been rehabilitated for purposes of being a child care provider, but not for purposes of being a caregiver or a nonclient resident.

The bill eliminates armed robbery as a property crime for which a person is barred from showing that he or she has been rehabilitated for purposes of being a child care provider, but not for purposes of being a caregiver or a nonclient resident. The bill, however, retains armed robbery as a violent crime for which a person is barred from showing that he or she has been rehabilitated for purposes of being a child care provider, a caregiver, or a nonclient resident.

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:***

/

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

2           20.437 (2) (r) *Support receipt and disbursement program; payments.* From the

3 support collections trust fund, except as provided in par. (qm), all moneys received

4 under s. 49.854, except for moneys received under s. 49.854 (11) (b), all moneys

5 received under ss. 767.57 and 767.75 for child or family support, maintenance,

6 spousal support, health care expenses, or birth expenses, all other moneys received

7 under judgments or orders in actions affecting the family, as defined in s. 767.001 (1),

8 and all moneys received under s. 49.855 (4) from the department of revenue or the

9 department of administration that were withheld by the department of revenue or

10 the internal revenue service for delinquent child support, family support, or

11 maintenance or outstanding court-ordered amounts for past support, medical

12 expenses, or birth expenses, for disbursement to the persons for whom the payments

13 are awarded, ~~for returning seized funds under s. 49.854 (5) (f), and, if assigned under~~

14 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

**BILL****SECTION 1**

1 (2) (bm), for transfer to the appropriation account under par. (k). Estimated  
2 disbursements under this paragraph shall not be included in the schedule under s.  
3 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 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.

4 **SECTION 2.** 48.20 (8) (b) of the statutes is amended to read:

5 48.20 (8) (b) If the child is an expectant mother who has been taken into custody  
6 under s. 48.19 (1) (cm) or (d) 8., ~~the unborn child, through~~ the unborn child's guardian  
7 ad litem, shall receive the same notice about the whereabouts of the child expectant  
8 mother, about the reasons for holding the child expectant mother in custody, and  
9 about the detention hearing as the child expectant mother and her parent, guardian,  
10 legal custodian, or Indian custodian. The intake worker shall notify the child  
11 expectant mother, her parent, guardian, legal custodian, or Indian custodian, and  
12 ~~the unborn child, by~~ the unborn child's guardian ad litem.

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

14 48.203 (7) If an adult expectant mother is held in custody, the intake worker  
15 shall notify the adult expectant mother and ~~the unborn child, through~~ the unborn  
16 child's guardian ad litem, of the reasons for holding the adult expectant mother in  
17 custody, the time and place of the detention hearing required under s. 48.213, the  
18 nature and possible consequences of that hearing, and the right to present and  
19 cross-examine witnesses at the hearing.

20 **SECTION 4.** 48.21 (3) (b) of the statutes is amended to read:

21 48.21 (3) (b) If present at the hearing, a copy of the petition or request shall be  
22 given to the parent, guardian, legal custodian, or Indian custodian, and to the child  
23 if he or she is 12 years of age or older, before the hearing begins. If the child is an

**BILL**

1 expectant mother who has been taken into custody under s. 48.19 (1) (cm) or (d) 8.,  
2 a copy of the petition shall also be given to ~~the unborn child, through the unborn~~  
3 ~~child's guardian ad litem, before the hearing begins. Prior notice of the hearing shall~~  
4 ~~be given to the child's parent, guardian, legal custodian, and Indian custodian, to the~~  
5 ~~child if he or she is 12 years of age or older and, if the child is an expectant mother~~  
6 ~~who has been taken into custody under s. 48.19 (1) (cm) or (d) 8., to the unborn child,~~  
7 ~~through the unborn child's guardian ad litem, under s. 48.20 (8).~~

8 **SECTION 5.** 48.213<sup>✓</sup> (2) (c) of the statutes is amended to read:

9 48.213 (2) (c) A copy of the petition shall be given to the adult expectant mother,  
10 and to ~~the unborn child, through the unborn child's guardian ad litem, before the~~  
11 ~~hearing begins. Prior notice of the hearing shall be given to the adult expectant~~  
12 ~~mother and unborn child~~ child's guardian ad litem in accordance with s. 48.203 (7).

13 **SECTION 6.** 48.213<sup>✓</sup> (2) (d) of the statutes is amended to read:

14 48.213 (2) (d) Prior to the commencement of the hearing, the adult expectant  
15 mother and ~~the unborn child, through the unborn child's guardian ad litem,~~ shall be  
16 informed by the court of the allegations that have been made or may be made, the  
17 nature and possible consequences of this hearing as compared to possible future  
18 hearings, the right to confront and cross-examine witnesses, and the right to present  
19 witnesses.

20 **SECTION 7.** 48.245<sup>✓</sup> (3) of the statutes is amended to read:

21 48.245 (3) The obligations imposed under an informal disposition and its  
22 effective date shall be set forth in writing. The child and a parent, guardian, and  
23 legal custodian,; the child expectant mother, her parent, guardian, and legal  
24 custodian, and ~~the unborn child by the unborn child's guardian ad litem,;~~ or the adult

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1 expectant mother and ~~the unborn child~~ by the unborn child's guardian ad litem, shall  
2 receive a copy, as shall any agency providing services under the agreement.

3 **SECTION 8.** 48.245<sup>✓</sup> (8) of the statutes is amended to read:

4 48.245 (8) If the obligations imposed under the informal disposition are met,  
5 the intake worker shall so inform the child and a parent, guardian, and legal  
6 custodian; the child expectant mother, her parent, guardian, and legal custodian,  
7 and ~~the unborn child~~ by the unborn child's guardian ad litem; or the adult expectant  
8 mother and ~~the unborn child~~ by the unborn child's guardian ad litem, in writing, and  
9 no petition may be filed on the charges that brought about the informal disposition  
10 nor may the charges be the sole basis for a petition under ss. 48.13 to 48.14.

11 **SECTION 9.** 48.255<sup>✓</sup> (4) of the statutes is amended to read:

12 48.255 (4) A copy of a petition under sub. (1) shall be given to the child if the  
13 child is 12 years of age or over and to ~~the parents~~ a parent, guardian, legal custodian,  
14 and physical custodian. A copy of a petition under sub. (1m) shall be given to the child  
15 expectant mother, if 12 years of age or over, her ~~parents~~ parent, guardian, legal  
16 custodian, and physical custodian, and ~~the unborn child~~ by the unborn child's  
17 guardian ad litem or to the adult expectant mother, ~~the unborn child~~ through the  
18 unborn child's guardian ad litem, and the physical custodian of the expectant mother,  
19 if any. If the child is an Indian child who has been removed from the home of his or  
20 her parent or Indian custodian or the unborn child will be an Indian child when born,  
21 a copy of a petition under sub. (1) or (1m) shall also be given to the Indian child's  
22 Indian custodian and tribe or the Indian tribe with which the unborn child may be  
23 eligible for affiliation when born.

24 **SECTION 10.** 48.27<sup>✓</sup> (3) (a) 1. of the statutes is amended to read:

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

16           **SECTION 11.** 48.27 (3) (c) of the statutes is amended to read:

17           48.27 (3) (c) If the petition that was filed relates to facts concerning a situation  
18 under s. 48.133 involving an expectant mother who is an adult, the court shall notify,  
19 under s. 48.273, ~~the unborn child~~ by the unborn child's guardian ad litem, the  
20 expectant mother, the physical custodian of the expectant mother, if any, and any  
21 person specified in par. (d), if applicable, of all hearings involving the unborn child  
22 and expectant mother except hearings on motions for which notice need only be  
23 provided to the expectant mother and her counsel and ~~the unborn child~~ through the  
24 unborn child's guardian ad litem. The first notice to any interested party shall be  
25 written and may have a copy of the petition attached to it. Thereafter, notice of

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

4 **SECTION 12.** 48.29<sup>✓</sup> (1) of the statutes is amended to read:

5 48.29 (1) The child, the child's parent, guardian or legal custodian, the  
6 expectant mother, or ~~the unborn child~~ by the unborn child's guardian ad litem, either  
7 before or during the plea hearing, may file a written request with the clerk of the  
8 court or other person acting as the clerk for a substitution of the judge assigned to  
9 the proceeding. Upon filing the written request, the filing party shall immediately  
10 mail or deliver a copy of the request to the judge named in the request. When any  
11 person has the right to request a substitution of judge, that person's counsel or  
12 guardian ad litem may file the request. Not more than one such written request may  
13 be filed in any one proceeding, nor may any single request name more than one judge.  
14 This section does not apply to proceedings under s. 48.21 or 48.213.

15 **SECTION 13.** 48.293<sup>✓</sup> (2) of the statutes is amended to read:

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

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1 expectant mother, if the court reasonably believes that the disclosure would be  
2 harmful to the interests of the child or the unborn child.

3 **SECTION 14.** 48.293<sup>✓</sup> (3) of the statutes is amended to read:

4 48.293 (3) Upon request prior to the fact-finding hearing, counsel for the  
5 interests of the public shall disclose to the child, through his or her counsel or  
6 guardian ad litem, or to ~~the unborn child, through~~ the unborn child's guardian ad  
7 litem, the existence of any audiovisual recording of an oral statement of a child under  
8 s. 908.08 ~~which~~ that is within the possession, custody, or control of the state and shall  
9 make reasonable arrangements for the requesting person to view the statement. If,  
10 after compliance with this subsection, the state obtains possession, custody, or  
11 control of such a statement, counsel for the interests of the public shall promptly  
12 notify the requesting person of that fact and make reasonable arrangements for the  
13 requesting person to view the statement.

14 **SECTION 15.** 48.297<sup>✓</sup> (6) of the statutes is amended to read:

15 48.297 (6) A motion required to be served on a child may be served on his or  
16 her attorney of record. ~~A motion required to be served on an unborn child may be~~  
17 ~~served on the unborn child's guardian ad litem.~~

18 **SECTION 16.** 48.299<sup>✓</sup> (1) (a) of the statutes is amended to read:

19 48.299 (1) (a) The general public shall be excluded from hearings under this  
20 chapter and from hearings by courts exercising jurisdiction under s. 48.16 unless a  
21 public fact-finding hearing is demanded by a child through his or her counsel, by an  
22 expectant mother through her counsel, or by an ~~unborn child through~~ the unborn  
23 child's guardian ad litem. However, the court shall refuse to grant the public hearing  
24 in a proceeding other than a proceeding under s. 48.375 (7), if a parent, guardian,

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1 expectant mother, or ~~unborn child through the~~ unborn child's guardian ad litem  
2 objects.

3 **SECTION 17.** 48.30 (2) of the statutes is amended to read:

4 48.30 (2) At the commencement of the hearing under this section the child and  
5 the parent, guardian, legal custodian, or Indian custodian; the child expectant  
6 mother, her parent, guardian, legal custodian, or Indian custodian, and ~~the unborn~~  
7 ~~child through~~ the unborn child's guardian ad litem; or the adult expectant mother  
8 and ~~the unborn child through~~ the unborn child's guardian ad litem; shall be advised  
9 of ~~their~~ the rights as specified in s. 48.243 and shall be informed that a request for  
10 a jury trial or for a substitution of judge under s. 48.29 must be made before the end  
11 of the plea hearing or is waived. Nonpetitioning parties, including the child, shall  
12 be granted a continuance of the plea hearing if they wish to consult with an attorney  
13 on the request for a jury trial or substitution of a judge.

14 **SECTION 18.** 48.31 (2) of the statutes is amended to read:

15 48.31 (2) The hearing shall be to the court unless the child, the child's parent,  
16 guardian, or legal custodian, ~~the unborn child by~~ the unborn child's guardian ad  
17 litem, or the expectant mother of the unborn child exercises the right to a jury trial  
18 by demanding a jury trial at any time before or during the plea hearing. If a jury trial  
19 is demanded in a proceeding under s. 48.13 or 48.133, the jury shall consist of 6  
20 persons. If a jury trial is demanded in a proceeding under s. 48.42, the jury shall  
21 consist of 12 persons unless the parties agree to a lesser number. Chapters 756 and  
22 805 shall govern the selection of jurors. If the hearing involves a child victim or  
23 witness, as defined in s. 950.02, the court may order that a deposition be taken by  
24 audiovisual means and allow the use of a recorded deposition under s. 967.04 (7) to  
25 (10) and, with the district attorney, shall comply with s. 971.105. At the conclusion



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1 of the hearing, the court or jury shall make a determination of the facts, except that  
2 in a case alleging a child or an unborn child to be in need of protection or services  
3 under s. 48.13 or 48.133, the court shall make the determination under s. 48.13  
4 (intro.) or 48.133 relating to whether the child or unborn child is in need of protection  
5 or services that can be ordered by the court. If the court finds that the child or unborn  
6 child is not within the jurisdiction of the court or, in a case alleging a child or an  
7 unborn child to be in need of protection or services under s. 48.13 or 48.133, that the  
8 child or unborn child is not in need of protection or services that can be ordered by  
9 the court, or if the court or jury finds that the facts alleged in the petition have not  
10 been proved, the court shall dismiss the petition with prejudice.

11 **SECTION 19.** 48.315<sup>✓</sup> (1) (b) of the statutes is amended to read:

12 48.315 (1) (b) Any period of delay resulting from a continuance granted at the  
13 request of or with the consent of the child and his or her counsel or of ~~the unborn child~~  
14 by the unborn child's guardian ad litem.

15 **SECTION 20.** 48.32<sup>✓</sup> (1) (a) of the statutes is amended to read:

16 48.32 (1) (a) At any time after the filing of a petition for a proceeding relating  
17 to s. 48.13 or 48.133 and before the entry of judgment, the judge or a circuit court  
18 commissioner may suspend the proceedings and place the child or expectant mother  
19 under supervision in the home or present placement of the child or expectant mother.  
20 The court may establish terms and conditions applicable to the child and the child's  
21 parent, guardian, or legal custodian, to the child expectant mother and her parent,  
22 guardian or legal custodian, or to the adult expectant mother, including the condition  
23 specified in sub. (1b). The order under this section shall be known as a consent decree  
24 and must be agreed to by the child if 12 years of age or older, the parent, guardian,  
25 or legal custodian, and the person filing the petition under s. 48.25; by the child

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1 expectant mother, her parent, guardian, or legal custodian, ~~the unborn child by the~~  
2 unborn child's guardian ad litem, and the person filing the petition under s. 48.25;  
3 or by the adult expectant mother, ~~the unborn child by the~~ unborn child's guardian  
4 ad litem, and the person filing the petition under s. 48.25. The consent decree shall  
5 be reduced to writing and given to the parties.

6 **SECTION 21.** 48.32<sup>✓</sup> (2) (c) of the statutes is amended to read:

7 48.32 (2) (c) Upon the motion of the court or the application of the child, parent,  
8 guardian, legal custodian, expectant mother, ~~unborn child by the~~ unborn child's  
9 guardian ad litem, intake worker, or any agency supervising the child or expectant  
10 mother under the consent decree, the court may, after giving notice to the parties to  
11 the consent decree, their counsel or guardian ad litem, and the court-appointed  
12 special advocate for the child, if any, extend the decree for up to an additional 6  
13 months in the absence of objection to extension by the parties to the initial consent  
14 decree. If the child, parent, guardian, legal custodian, expectant mother, or ~~unborn~~  
15 ~~child by the~~ unborn child's guardian ad litem objects to the extension, the judge shall  
16 schedule a hearing and make a determination on the issue of extension. An  
17 extension under this paragraph of a consent decree relating to an unborn child who  
18 is alleged to be in need of protection or services may be granted after the child is born.

19 **SECTION 22.** 48.355<sup>✓</sup> (2) (b) 1m. of the statutes is amended to read:

20 48.355 (2) (b) 1m. A notice that the child's parent, guardian, or legal custodian,  
21 the child, if 14 years of age or over, the expectant mother, if 14 years of age or over,  
22 or ~~the unborn child by the~~ unborn child's guardian ad litem may request an agency  
23 that is providing care or services for the child or expectant mother or that has legal  
24 custody of the child to disclose to, or make available for inspection by, the parent,  
25 guardian, legal custodian, child, expectant mother, or ~~unborn child by the~~ unborn

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1 child's guardian ad litem the contents of any record kept or information received by  
2 the agency about the child or expectant mother as provided in s. 48.78 (2) (ag) and  
3 (aj).

4 **SECTION 23.** 48.355 (2) (d) of the statutes is amended to read:

5 48.355 (2) (d) The court shall provide a copy of a dispositional order relating  
6 to a child in need of protection or services to the child's parent, guardian, legal  
7 custodian, or trustee, to the child through the child's counsel or guardian ad litem,  
8 to the child's court-appointed special advocate, and, if the child is an Indian child  
9 who has been removed from the home of his or her parent or Indian custodian and  
10 placed outside that home, to the Indian child's Indian custodian and tribe. The court  
11 shall provide a copy of a dispositional order relating to an unborn child in need of  
12 protection or services to the expectant mother, to the unborn child through the  
13 unborn child's guardian ad litem, to the parent, guardian, legal custodian, or trustee  
14 of a child expectant mother, and, if the expectant mother is an Indian child, to the  
15 expectant mother's Indian custodian and tribe.

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

17 48.357 (1) (am) 1. If the proposed change in placement involves any change in  
18 placement other than a change in placement specified in par. (c), the person or agency  
19 primarily responsible for implementing the dispositional order, the district attorney,  
20 or the corporation counsel shall cause written notice of the proposed change in  
21 placement to be sent to the child, the parent, guardian, and legal custodian of the  
22 child, any foster parent or other physical custodian described in s. 48.62 (2) of the  
23 child, the child's court-appointed special advocate, and, if the child is an Indian child  
24 who has been removed from the home of his or her parent or Indian custodian, the  
25 Indian child's Indian custodian and tribe. If the child is the expectant mother of an

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1 unborn child under s. 48.133, written notice shall also be sent to ~~the unborn child by~~  
2 the unborn child's guardian ad litem. If the change in placement involves an adult  
3 expectant mother of an unborn child under s. 48.133, written notice shall be sent to  
4 the adult expectant mother and ~~the unborn child by~~ the unborn child's guardian ad  
5 litem. The notice shall contain the name and address of the new placement, the  
6 reasons for the change in placement, a statement describing why the new placement  
7 is preferable to the present placement, and a statement of how the new placement  
8 satisfies objectives of the treatment plan ordered by the court.

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

10 48.357 (1) (am) 2. b. By the child expectant mother, if 12 years of age or over,  
11 her parent, guardian, legal custodian, or Indian custodian, ~~the unborn child by~~ the  
12 unborn child's guardian ad litem, and the child expectant mother's tribe, if she is an  
13 Indian child who has been removed from the home of her parent or Indian custodian.

14 **SECTION 26.** 48.357 (1) (am) 2. c. of the statutes is amended to read:

15 48.357 (1) (am) 2. c. By the adult expectant mother and ~~the unborn child by~~ the  
16 unborn child's guardian ad litem.

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

18 48.357 (2m) (a) The child, the parent, guardian, legal custodian, or Indian  
19 custodian of the child, the expectant mother, ~~the unborn child by~~ the unborn child's  
20 guardian ad litem, or any person or agency primarily bound by the dispositional  
21 order, other than the person or agency responsible for implementing the order, may  
22 request a change in placement under this paragraph. The request shall contain the  
23 name and address of the new placement requested and shall state what new  
24 information is available that affects the advisability of the current placement. If the  
25 proposed change in placement would change the placement of a child placed in the

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1 child's home to a placement outside the child's home, the request shall also contain  
2 specific information showing that continued placement of the child in the home  
3 would be contrary to the welfare of the child and, unless any of the circumstances  
4 under s. 48.355 (2d) (b) 1. to 5. applies, specific information showing that the agency  
5 primarily responsible for implementing the dispositional order has made reasonable  
6 efforts to prevent the removal of the child from the home, while assuring that the  
7 child's health and safety are the paramount concerns. The request shall be  
8 submitted to the court. The court may also propose a change in placement on its own  
9 motion.

10 **SECTION 28.** 48.357 (2m) (b) of the statutes is amended to read:

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

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1 involves an adult expectant mother of an unborn child under s. 48.133, the court shall  
2 notify the adult expectant mother, ~~the unborn child~~ by the unborn child's guardian  
3 ad litem, and all parties who are bound by the dispositional order, at least 3 days prior  
4 to the hearing. A copy of the request or proposal for the change in placement shall  
5 be attached to the notice. Subject to par. (br), if all of the parties consent, the court  
6 may proceed immediately with the hearing.

7 **SECTION 29.** 48.363<sup>✓</sup> (1) (a) of the statutes is amended to read:

8 48.363 (1) (a) A child, the child's parent, guardian, legal custodian, or Indian  
9 custodian, an expectant mother, an ~~unborn child~~ by the unborn child's guardian ad  
10 litem, any person or agency bound by a dispositional order, or the district attorney  
11 or corporation counsel in the county in which the dispositional order was entered  
12 may request a revision in the order that does not involve a change in placement or  
13 a trial reunification, including a revision with respect to the amount of child support  
14 to be paid by a parent. The court may also propose a revision. The request or court  
15 proposal shall set forth in detail the nature of the proposed revision and what new  
16 information is available that affects the advisability of the court's disposition. The  
17 request or court proposal shall be submitted to the court. The court shall hold a  
18 hearing on the matter prior to any revision of the dispositional order if the request  
19 or court proposal indicates that new information is available ~~which~~ that affects the  
20 advisability of the court's dispositional order, unless written waivers of objections to  
21 the revision are signed by all parties entitled to receive notice and the court approves.

22 **SECTION 30.** 48.363<sup>✓</sup> (1) (b) of the statutes is amended to read:

23 48.363 (1) (b) If a hearing is held, at least 3 days before the hearing the court  
24 shall notify the child, the child's parent, guardian, legal custodian, and Indian  
25 custodian, all parties bound by the dispositional order, the child's foster parent or

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1 other physical custodian described in s. 48.62 (2), the child's court-appointed special  
2 advocate, the district attorney or corporation counsel in the county in which the  
3 dispositional order was entered, and, if the child is an Indian child who is placed  
4 outside the home of his or her parent or Indian custodian, the Indian child's tribe.  
5 If the child is the expectant mother of an unborn child under s. 48.133, the court shall  
6 also notify ~~the unborn child~~ by the unborn child's guardian ad litem. If the  
7 proceeding involves an adult expectant mother of an unborn child under s. 48.133,  
8 the court shall notify the adult expectant mother, ~~the unborn child through~~ the  
9 unborn child's guardian ad litem, all parties bound by the dispositional order, and  
10 the district attorney or corporation counsel in the county in which the dispositional  
11 order was entered, at least 3 days prior to the hearing. A copy of the request or  
12 proposal shall be attached to the notice. If all parties consent, the court may proceed  
13 immediately with the hearing. No revision may extend the effective period of the  
14 original order.

15 **SECTION 31.** 48.365 (1m) of the statutes is amended to read:

16 48.365 (1m) The parent, child, guardian, legal custodian, Indian custodian,  
17 expectant mother, ~~unborn child~~ by the unborn child's guardian ad litem, any person  
18 or agency bound by the dispositional order, the district attorney or corporation  
19 counsel in the county in which the dispositional order was entered, or the court on  
20 its own motion may request an extension of an order under s. 48.355 including an  
21 order under s. 48.355 that was entered before the child was born. The request shall  
22 be submitted to the court that entered the order. An order under s. 48.355 may be  
23 extended only as provided in this section.

24 **SECTION 32.** 48.365 (2) of the statutes is amended to read:

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1           48.365 (2) No order may be extended without a hearing. The court shall  
2 provide notice of the time and place of the hearing to the child, the child's parent,  
3 guardian, legal custodian, and Indian custodian, all the parties present at the  
4 original hearing, the child's foster parent or other physical custodian described in s.  
5 48.62 (2), the child's court-appointed special advocate, the district attorney or  
6 corporation counsel in the county in which the dispositional order was entered and,  
7 if the child is an Indian child who is placed outside the home of his or her parent or  
8 Indian custodian, the Indian child's tribe. If the child is an expectant mother of an  
9 unborn child under s. 48.133, the court shall also notify ~~the unborn child~~ by the  
10 unborn child's guardian ad litem. If the extension hearing involves an adult  
11 expectant mother of an unborn child under s. 48.133, the court shall notify the adult  
12 expectant mother, ~~the unborn child through~~ the unborn child's guardian ad litem, all  
13 the parties present at the original hearing, and the district attorney or corporation  
14 counsel in the county in which the dispositional order was entered, of the time and  
15 place of the hearing.

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

17           48.396 (1b) If requested by the parent, guardian, or legal custodian of a child  
18 who is the subject of a law enforcement officer's report, or if requested by the child,  
19 if 14 years of age or over, a law enforcement agency may, subject to official agency  
20 policy, provide to the parent, guardian, legal custodian, or child a copy of that report.  
21 If requested by the parent, guardian, or legal custodian of a child expectant mother  
22 of an unborn child who is the subject of a law enforcement officer's report, if requested  
23 by an expectant mother of an unborn child who is the subject of a law enforcement  
24 officer's report, if 14 years of age or over, or if requested by an ~~unborn child through~~  
25 ~~the~~ unborn child's guardian ad litem, a law enforcement agency may, subject to



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1 official agency policy, provide to the parent, guardian, legal custodian, expectant  
2 mother or ~~unborn child by the~~ unborn child's guardian ad litem a copy of that report.

3 **SECTION 34.** 48.396 (1d) of the statutes is amended to read:

4 48.396 (1d) Upon the written permission of the parent, guardian, or legal  
5 custodian of a child who is the subject of a law enforcement officer's report or upon  
6 the written permission of the child, if 14 years of age or over, a law enforcement  
7 agency may, subject to official agency policy, make available to the person named in  
8 the permission any reports specifically identified by the parent, guardian, legal  
9 custodian or child in the written permission. Upon the written permission of the  
10 parent, guardian, or legal custodian of a child expectant mother of an unborn child  
11 who is the subject of a law enforcement officer's report, or of an expectant mother of  
12 an unborn child who is the subject of a law enforcement officer's report, if 14 years  
13 of age or over, and of ~~the unborn child by the~~ unborn child's guardian ad litem, a law  
14 enforcement agency may, subject to official agency policy, make available to the  
15 person named in the permission any reports specifically identified by the parent,  
16 guardian, legal custodian or expectant mother, and ~~unborn child by the~~ unborn  
17 child's guardian ad litem in the written permission.

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

19 48.396 (2) (aj) Upon request of the parent, guardian, or legal custodian of a  
20 child expectant mother of an unborn child who is the subject of a record of a court  
21 specified in par. (a), upon request of an expectant mother of an unborn child who is  
22 the subject of a record of a court specified in par. (a), if 14 years of age or over, or upon  
23 request of an ~~unborn child by the~~ unborn child's guardian ad litem, the court shall  
24 open for inspection by the parent, guardian, legal custodian, expectant mother, or  
25 ~~unborn child by the~~ unborn child's guardian ad litem the records of the court relating

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

5 **SECTION 36.** 48.396 (2) (ap) of the statutes is amended to read:

6 48.396 (2) (ap) Upon the written permission of the parent, guardian, or legal  
7 custodian of a child expectant mother of an unborn child who is the subject of a record  
8 of a court specified in par. (a), or of an expectant mother of an unborn child who is  
9 the subject of a record of a court specified in par. (a), if 14 years of age or over, and  
10 ~~of the unborn child by the~~ unborn child's guardian ad litem, the court shall open for  
11 inspection by the person named in the permission any records specifically identified  
12 by the parent, guardian, legal custodian, or expectant mother, and ~~unborn child by~~  
13 ~~the~~ unborn child's guardian ad litem in the written permission, unless the court  
14 finds, after due notice and hearing, that inspection of those records by the person  
15 named in the permission would result in imminent danger to anyone.

16 **SECTION 37.** 48.396 (5) (b) of the statutes is amended to read:

17 48.396 (5) (b) The court shall notify the child, the child's counsel, the child's  
18 parents, appropriate law enforcement agencies, and, if the child is an expectant  
19 mother of an unborn child under s. 48.133, ~~the unborn child by the~~ unborn child's  
20 guardian ad litem, or shall notify the adult expectant mother, ~~the unborn child by the~~  
21 unborn child's guardian ad litem, and appropriate law enforcement agencies, in  
22 writing of the petition. If any person notified objects to the disclosure, the court may  
23 hold a hearing to take evidence relating to the petitioner's need for the disclosure.

24 **SECTION 38.** 48.46 (1) of the statutes is amended to read:

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

NOTE: SECTIONS 2 to 32, 37, and 38 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.

9           **SECTION 39.** 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.

10           **SECTION 40.** 48.685 (5) (br) 3m. of the statutes is amended to read:

11           48.685 (5) (br) 3m. Except for purposes of permitting a person to be a nonclient  
12 resident or caregiver specified in sub. (1) (ag) 1. a. of a child care center or child care  
13 provider, a violation of s. 943.201, 943.203, ~~943.32 (2)~~, or 943.38 (1) or (2); a violation  
14 of s. 943.34 (1), 943.395 (1), 943.41 (3) (e), (4) (a), (5), (6), or (6m), 943.45 (1), 943.455  
15 (2), 943.46 (2), 943.47 (2), 943.50 (1m), or 943.70 (2) (a) or (am) or (3) (a) that is a  
16 felony; or an offense under subch. IV of ch. 943 that is a felony.

NOTE: Removes the reference to armed robbery in violation of s. 943.32 (2), stats., from s. 48.685 (5) (br) 3m., stats. The reference is redundant insofar as that crime is also referenced in s. 48.685 (5) (br) 3., stats. A review of the drafting record for 2009 Wisconsin Act 76 indicates that a reference to s. 943.32 (2), stats., was already included in s. 48.685 (5) (br) 3., stats., when s. 48.685 (5) (br) 3m., stats., was drafted and that, therefore, the inclusion of the reference to s. 943.32 (2), stats., in s. 48.685 (5) (br) 3m., was done in error.

17           **SECTION 41.** 48.78 (2) (aj) of the statutes is amended to read:

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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 42.** 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 33 to 36, 41, and 42 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.

22           **SECTION 43.** 48.981 (3) (c) 1. a. of the statutes is amended to read:

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1           48.981 (3) (c) 1. a. Immediately after receiving a report under par. (a), the  
2           agency shall evaluate the report to determine whether there is reason to suspect that  
3           a caregiver has abused or neglected the child, has threatened the child with abuse  
4           or neglect, or has facilitated or failed to take action to prevent the suspected or  
5           threatened abuse or neglect of the child. Except as provided in sub. (3m), if the  
6           agency determines that a caregiver is suspected of abuse or neglect or of threatened  
7           abuse or neglect of the child, determines that a caregiver is suspected of facilitating  
8           or failing to take action to prevent the suspected or threatened abuse or neglect of  
9           the child, or cannot determine who abused or neglected the child identify an  
10          individual who is suspected of abuse or neglect or of threatened abuse or neglect of  
11          the child, within 24 hours after receiving the report the agency shall, in accordance  
12          with the authority granted to the department under s. 48.48 (17) (a) 1. or the county  
13          department under s. 48.57 (1) (a), initiate a diligent investigation to determine if the  
14          child is in need of protection or services. If the agency determines that a person who  
15          is not a caregiver is suspected of abuse or of threatened abuse, the agency may, in  
16          accordance with that authority, initiate a diligent investigation to determine if the  
17          child is in need or protection or services. Within 24 hours after receiving a report  
18          under par. (a) of suspected unborn child abuse, the agency, in accordance with that  
19          authority, shall initiate a diligent investigation to determine if the unborn child is  
20          in need of protection or services. An investigation under this subd. 1. a. shall be  
21          conducted in accordance with standards established by the department for  
22          conducting child abuse and neglect investigations or unborn child abuse  
23          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

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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.

1           **SECTION 44.** 49.155 (1m) (a) 4. of the statutes is amended to read:

2           49.155 (1m) (a) 4. ~~If the Wisconsin works agency determines that basic~~  
3 ~~education would facilitate the individual's efforts to maintain employment,~~  
4 ~~participate~~ Participate in basic education, including an English as a 2nd language  
5 course; literacy tutoring; or a course of study meeting the standards established by  
6 the state superintendent of public instruction under s. 115.29 (4) for the granting of  
7 a declaration of equivalency of high school graduation, if the department or the  
8 county department or agency determining eligibility determines that basic  
9 education would facilitate the individual's efforts to maintain employment. An  
10 individual may receive aid under this subdivision for up to 2 years.

11           **SECTION 45.** 49.155 (1m) (a) 5. of the statutes is amended to read:

12           49.155 (1m) (a) 5. Participate in a course of study at a technical college, or  
13 participate in educational courses that provide an employment skill, as determined  
14 by the department, ~~if the Wisconsin works~~ department or the county department or  
15 agency determining eligibility determines that the course or courses would facilitate  
16 the individual's efforts to maintain employment. An individual may receive aid  
17 under this subdivision for up to 2 years.

NOTE: Provides that the Department of Children and Families or a county department or agency may determine for purposes of eligibility for a Wisconsin Shares child care subsidy that certain educational activities would facilitate the individual's efforts to maintain employment. This change reflects that, under current law, the department or a county department or agency with which the department contracts determines eligibility for the Wisconsin Shares child care subsidy program.

18           **SECTION 46.** 49.854 (5) (f) of the statutes is amended to read:

19           49.854 (5) (f) *Hearings.* A hearing requested under par. (d) 6. shall be  
20 conducted before the circuit court rendering the order to pay support. Within 45

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1 business days after receiving a request for hearing under par. (d) 6., the court shall  
2 conduct the hearing. A circuit court commissioner may conduct the hearing. The  
3 hearing shall be limited to a review of whether the account holder owes the amount  
4 of support certified and whether any alternative payment arrangement offered by  
5 the department or the county child support agency is reasonable. If the court or  
6 circuit court commissioner makes a written determination that an alternative  
7 payment arrangement offered by the department or county child support agency is  
8 not reasonable, the court or circuit court commissioner may order an alternative  
9 payment arrangement. If the court or circuit court commissioner orders an  
10 alternative payment arrangement, the court or circuit court commissioner shall  
11 order the department to instruct the financial institution to release all or a portion  
12 of the funds. If the court or circuit court commissioner determines that the account  
13 holder does not owe support or owes less than the amount claimed by the  
14 department, the court shall order the department to ~~return the seized funds~~ instruct  
15 the financial institution to release the funds in the account or the excess of the seized  
16 those funds over the amount of the delinquency to the account holder. If a circuit  
17 court commissioner conducts the hearing under this paragraph, the department or  
18 the obligor may, within 15 business days after the date that the circuit court  
19 commissioner makes his or her decision, request review of the decision by the court  
20 with jurisdiction over the action.

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.

21 **SECTION 47.** 69.15 (3) (b) 3. of the statutes is amended to read:

22 69.15 (3) (b) 3. Except as provided under par. (c), if the state registrar receives  
23 a statement acknowledging paternity on a form prescribed by the state registrar and

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1 signed by both parents, ~~and by a parent or legal guardian of any parent who is neither~~  
2 of whom was under the age of 18 years when the form was signed, along with the fee  
3 under s. 69.22, the state registrar shall insert the name of the father under subd. 1.  
4 The state registrar shall mark the certificate to show that the form is on file. The  
5 form shall be available to the department of children and families or a county child  
6 support agency under s. 59.53 (5) pursuant to the program responsibilities under s.  
7 49.22 or to any other person with a direct and tangible interest in the record. The  
8 state registrar shall include on the form for the acknowledgment the information in  
9 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 acknowledgment of paternity so that it is consistent with  
current law, under which a minor father may not sign an acknowledgment of paternity.

✓  
10 **SECTION 48.** 69.15 (3m) (a) 3. of the statutes is amended to read:

11 69.15 (3m) (a) 3. ~~Except as provided in subd. 4., the~~ The person rescinding the  
12 statement files the document under subd. 2. before the day on which a court or circuit  
13 court commissioner makes an order in an action affecting the family involving the  
14 man who signed the statement and the child who is the subject of the statement or  
15 before 60 days elapse after the statement was filed, whichever occurs first.

✓  
16 **SECTION 49.** 69.15 (3m) (a) 4. of the statutes is repealed.

✓  
17 **SECTION 50.** 69.15 (3m) (b) of the statutes is amended to read:

18 69.15 (3m) (b) If the state registrar, within the time required under par. (a) 3.  
19 ~~or 4., whichever is appropriate~~, receives a document prescribed by the state registrar  
20 for rescinding a statement acknowledging paternity under sub. (3) (b) 3., along with  
21 the proper fee under s. 69.22, the state registrar shall prepare under sub. (6) a new  
22 certificate omitting the father's name if it was inserted under sub. (3) (b).



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NOTE: SECTIONS 48 and 50 modify the statute relating to rescinding a statement acknowledging paternity so that it is consistent with current law, under which a minor father may not sign a statement acknowledging paternity.

1           **SECTION 51.** 767.805<sup>✓</sup> (3) (b) of the statutes is amended to read:

2           767.805 (3) (b) Except as provided in s. 767.407, in an action specified in par.  
3 (a) the court may appoint a guardian ad litem for the child ~~and shall appoint a~~  
4 ~~guardian ad litem for a party who is a minor, unless the minor party is represented~~  
5 ~~by an attorney.~~

NOTE: Removes a reference to appointing a guardian ad litem for a minor party in an action to establish child custody and placement for a father who has acknowledged paternity because a minor may not acknowledge paternity under current law.

6           **SECTION 52.** 767.813<sup>✓</sup> (5) (a) 4. of the statutes is amended to read:

7           767.813 (5) (a) 4. You are also notified that interference with the custody of a  
8 child is punishable by a fine of up to \$10,000 and imprisonment for up to 5 3 years  
9 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.

10           **SECTION 53.** 767.865<sup>✓</sup> (1) (a) of the statutes is amended to read:

11           767.865 (1) (a) The personal representative or, if there is no personal  
12 representative, a guardian ad litem appointed in accordance with par. (b) may  
13 appear for a deceased respondent whenever an appearance by the respondent is  
14 required. The summons and petition shall be served on the deceased respondent's  
15 personal representative of and or guardian ad litem for the deceased respondent, as  
16 the case may be, under s. 767.813 (3) (4).

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. Also corrects a cross-reference.

17

(END)

**Parisi, Lori**

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**From:** Sappenfield, Anne  
**Sent:** Wednesday, November 27, 2013 10:38 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB -3707/1 Topic: Child-related law revisions

Please Jacket LRB -3707/1 for the SENATE.