

## 2005 SENATE BILL 97

March 2, 2005 – Introduced by Senators LEIBHAM, KEDZIE, A. LASEE, REYNOLDS and GROTHMAN, cosponsored by Representatives VUKMIR, KESTELL, GUNDRUM, SUDER, ZIEGELBAUER, KERKMAN, J. FITZGERALD, NISCHKE, NASS, LEMAHIEU, HAHN, HINES, AINSWORTH, ALBERS, KREIBICH, OWENS, KRAWCZYK, KLEEFISCH, FREESE, BALLWEG, OTT, PETROWSKI, GUNDERSON, TOWNSEND, VAN ROY, HUNDERTMARK, MCCORMICK, VRAKAS and PRIDEMORE. Referred to Committee on Judiciary, Corrections and Privacy.

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

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### *Analysis by the Legislative Reference Bureau*

This bill makes various changes to the law that requires an unemancipated minor to obtain parental or other consent or a judicial waiver of that consent

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

***Consent or judicial waiver requirement***

Under current law, subject to certain exceptions, before an unemancipated minor may have an abortion, she must have the written consent of any of the following, unless she obtains a waiver of this requirement from the circuit court:

1. One of her parents.
2. Her guardian or legal custodian, if one has been appointed.
3. An adult family member, which is defined under current law as a grandparent, aunt, uncle, sister, or brother who is at least 25 years of age.
4. One of her foster parents or treatment foster parents, if the minor has been placed in a foster home or a treatment foster home and the minor’s parent has signed a waiver granting the Department of Health and Family Services, a county department of human services or social services, the foster parent, or the treatment foster parent the authority to consent to medical services or treatment on behalf of the minor.

This bill eliminates the authority of an adult family member, a foster parent, a treatment foster parent, or a parent who does not have legal custody of an unemancipated minor to consent to an abortion for the minor.

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

***Exceptions to consent or judicial waiver requirement***

Under current law, the consent or judicial waiver requirement does not apply if the person who intends to perform or induce the abortion believes, to the best of his or her medical judgment based on the facts of the case before him or her, that a medical emergency exists that complicates the pregnancy so as to require an immediate abortion. This bill provides that the consent or judicial waiver requirement does not apply if a medical emergency, as defined in the law requiring voluntary and informed consent to an abortion (informed consent law), exists. The informed consent law defines a “medical emergency” as a condition that, in a physician’s reasonable medical judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death or for which a 24-hour delay in the performance or inducement of the

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abortion will create a serious risk of substantial and irreversible impairment of one or more of the woman's major bodily functions.

In addition, under current law, the consent or judicial waiver requirement does not apply if a psychiatrist or psychologist states in writing that he or she believes that the minor is likely to commit suicide rather than seek consent or a judicial waiver. This bill eliminates that exception.

***Civil liability for violation of consent or judicial waiver requirement***

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

***Judicial waiver procedures***

Under current law, a minor who is seeking an abortion, or a member of the clergy on behalf of the minor, may petition a circuit court for a waiver of the consent requirement. If the minor files a petition on her own behalf, the minor must be present at an initial appearance at which the court appoints counsel for the minor and sets a date for a hearing to determine whether the minor is mature and well-informed enough to make the abortion decision on her own or whether the performance or inducement of an abortion is in the minor's best interests. If a member of the clergy files a petition on behalf of the minor, the member of the clergy may be present at the initial appearance instead of the minor, and the court need not appoint counsel for the minor or set a date for a hearing on the petition. Instead, the member of the clergy must file with the petition an affidavit stating that the member of the clergy has explored with the minor alternative choices for managing the minor's pregnancy, including keeping the baby or placing the baby for adoption, and has discussed with the minor the possibility of obtaining consent for the abortion and whether or not obtaining that consent would be in the minor's best interests. The court may grant the petition, without hearing, based on the member of the clergy's affidavit.

This bill eliminates the option of permitting a member of the clergy to file a petition and affidavit on behalf of the minor. Under the bill, the minor must file her own petition and be present at the initial appearance, and the court must appoint counsel for the minor and hold a hearing on the petition.

In addition, under current law, the court must hear evidence relating to the emotional development, maturity, intellect, and understanding of the minor and the understanding of the minor about the nature of, possible consequences of, and alternatives to the intended abortion before the court may grant a waiver of the consent requirement. This bill requires the court, in addition to hearing the evidence that the court must hear under current law, to hear evidence relating to the nature

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of the relationship between the minor and her parents before the court may grant a waiver of the consent requirement.

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

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

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

2           **46.24 Assistance to minors concerning parental consent for abortion.**

3           If a minor who is contemplating an abortion requests assistance from a county  
4           department under s. 46.215, 46.22<sub>1</sub>, or 46.23 in seeking the consent of the minor's  
5           parent, guardian<sub>1</sub>, or legal custodian, ~~or in seeking the consent of an adult family~~  
6           ~~member, as defined in s. 48.375 (2) (b), for the contemplated abortion or in seeking~~  
7           a waiver from the circuit court, the county department shall provide assistance,  
8           including, if so requested, accompanying the minor as appropriate.

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

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

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

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

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

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

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

2           48.27 **(9)** Subsections (1) to (8) do not apply in any proceeding under s. 48.375  
3 (7). For proceedings under s. 48.375 (7), the circuit court shall provide notice only  
4 to the minor, her counsel, ~~if any, the member of the clergy who filed the petition on~~  
5 ~~behalf of the minor, if any,~~ and her guardian ad litem, if any. The notice shall contain  
6 the title and case number of the proceeding, and the nature, location, date, and time  
7 of the hearing or other proceeding. Notice to the minor ~~or to the member of the clergy,~~  
8 ~~if any,~~ shall be provided as requested under s. 48.257 (1) (h) and, after appointment  
9 of the minor’s counsel, ~~if any,~~ by her counsel.

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

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

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

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

23           48.375 **(2)** (c) “Counselor” means a physician, including a physician  
24 specializing in psychiatry, a licensed psychologist, as defined in s. 455.01 (4), or an  
25 ordained member of the clergy, as defined in s. 765.002 (1). “Counselor” does not

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1 include any person who is employed by or otherwise affiliated with a reproductive  
2 health care facility, a family planning clinic, or a family planning agency; any person  
3 affiliated with the performance of abortions, except abortions performed to save the  
4 life of the mother; or any person who may profit from giving advice to seek an  
5 abortion.

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

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

8 48.375 (2) (fm) “Parent who has legal custody of the minor” means a parent who  
9 has the right and responsibility to make major decisions concerning the minor,  
10 whether that right and responsibility are derived from common law, statute, or court  
11 order.

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

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

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1 govern the provision of consent under this subdivision by the parent, guardian, or  
2 legal custodian of a minor:

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

4 48.375 (4) (a) 1. a. The parent, guardian, or legal custodian shall sign and  
5 acknowledge the consent document before a notary public, who shall determine,  
6 either from personal knowledge or from satisfactory evidence consisting of one or  
7 more forms of identification, that the person appearing before the notary public and  
8 making the acknowledgment is the person whose signature is on the consent  
9 document. The parent, guardian, or legal custodian shall also verify upon oath or  
10 affirmation before the notary public that he or she is the parent, guardian, or legal  
11 custodian of the minor, and the notary public shall determine, either from personal  
12 knowledge or from satisfactory evidence consisting of one or more forms of  
13 identification, that the person appearing before the notary public and making the  
14 verification is the person whose true signature is on the statement verified. The  
15 person signing the consent document and verification upon oath or affirmation shall  
16 provide the consent document and verification to the person who intends to perform  
17 or induce the abortion or the person's agent, who shall place the consent document  
18 and verification in the minor's medical record.

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

20 48.375 (4) (a) 1. b. For purposes of subd. 1. a., a form of identification constitutes  
21 satisfactory evidence of a person's identity if it contains the name, address,  
22 signature, and photograph of the person identified and if it has been issued by a  
23 federal, state, local, or foreign governmental agency. Forms of identification that  
24 constitute satisfactory evidence of a person's identity, when they contain the name,  
25 address, signature, and photograph of the person identified, include a valid

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1 operator's license issued under ch. 343 or under the laws of any other state, an  
2 identification card issued under s. 343.50, a military identification card, a valid  
3 passport, an alien registration card, or any other identification document issued by  
4 a federal, state, local, or foreign governmental agency.

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

6 48.375 (4) (a) 1. c. A notary public who takes an acknowledgment and a  
7 verification upon oath or affirmation under subd. 1. a. shall keep confidential any  
8 information acquired in taking the acknowledgment and verification. Any person  
9 who under oath or affirmation makes a statement under subd. 1. a. that the person  
10 does not believe is true is subject to prosecution for a violation of s. 946.32.

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

12 48.375 (4) (b) 1. ~~The person who intends to perform or induce the abortion~~  
13 ~~believes, to the best of his or her medical judgment based on the facts of the case~~  
14 ~~before him or her, that a A medical emergency, as defined in s. 253.10 (2) (d), exists~~  
15 ~~that complicates the pregnancy so as to require an immediate abortion.~~

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

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

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

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1 inflicted abuse on the minor. The person who intends to perform or induce the  
2 abortion shall place the statement in the minor's medical record. The person who  
3 intends to perform or induce the abortion shall report the abuse as required under  
4 s. 48.981 (2).

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

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

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

11 48.375 (7) (a) *Receipt of petition; initial appearance.* (intro.) On the ~~date that~~  
12 day on which a petition under s. 48.257 is filed, ~~or, if it is impossible to do so on that~~  
13 day, on the next calendar day, the court shall hold an initial appearance in chambers  
14 at which the minor ~~or the member of the clergy who filed the petition on behalf of the~~  
15 minor, if any, is present and shall do all of the following:

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

17 48.375 (7) (a) 4. Notify the minor, the minor's counsel, ~~if any, the member of the~~  
18 ~~clergy who filed the petition on behalf of the minor, if any,~~ and the minor's guardian  
19 ad litem, if any, of the time, date, and place of the hearing.

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

21 48.375 (7) (b) *Hearing; evidence.* (intro.) The court shall hold a confidential  
22 hearing on ~~a~~ the petition ~~that is filed by a minor.~~ The hearing shall be held in  
23 chambers, unless a public fact-finding hearing is demanded by the minor through  
24 her counsel. At the hearing, the court shall consider the report of the guardian ad  
25 litem, if any, and hear evidence relating to all of the following:

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1           **SECTION 22.** 48.375 (7) (b) 2m. of the statutes is created to read:

2           48.375 (7) (b) 2m. The nature of the relationship between the minor and her  
3 parents.

4           **SECTION 23.** 48.375 (7) (bm) of the statutes is repealed.

5           **SECTION 24.** 48.375 (7) (d) 1. of the statutes is amended to read:

6           48.375 (7) (d) 1. The court shall make the determination under par. (c) and issue  
7 an order within 3 calendar days after the initial appearance unless the minor and  
8 her counsel, ~~or the member of the clergy who filed the petition on behalf of the minor,~~  
9 ~~if any,~~ consent to an extension of the time period. The order shall be effective  
10 immediately. The court shall prepare and file with the clerk of court findings of fact,  
11 conclusions of law, and a final order granting or denying the petition within 24 hours  
12 after making the determination and order. If the court grants the petition, the court  
13 shall immediately so notify the minor by personal service on her counsel, ~~or the~~  
14 ~~member of the clergy who filed the petition on behalf of the minor, if any,~~ of a certified  
15 copy of the court's order granting the petition. If the court denies the petition, the  
16 court shall immediately so notify the minor by personal service on her counsel, ~~or the~~  
17 ~~member of the clergy who filed the petition on behalf of the minor, if any,~~ of a copy  
18 of the court's order denying the petition and shall also notify the minor by her  
19 counsel, ~~or the member of the clergy who filed the petition on behalf of the minor, if~~  
20 ~~any,~~ that she has a right to initiate an appeal under s. 809.105.

21           **SECTION 25.** 48.375 (7) (d) 1m. of the statutes is amended to read:

22           48.375 (7) (d) 1m. Except as provided under s. 48.315 (1) (b), (c), (f), and (h), if  
23 the court fails to comply with the time limits specified under subd. 1. without the  
24 prior consent of the minor and the minor's counsel, ~~if any, or the member of the clergy~~  
25 ~~who filed the petition on behalf of the minor, if any,~~ the minor and the minor's counsel,

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1 if any, ~~or the member of the clergy, if any,~~ shall select a temporary reserve judge, as  
2 defined in s. 753.075 (1) (b), to make the determination under par. (c) and issue an  
3 order granting or denying the petition, and the chief judge of the judicial  
4 administrative district in which the court is located shall assign the temporary  
5 reserve judge selected by the minor and the minor's counsel, ~~if any, or the member~~  
6 ~~of the clergy, if any,~~ to make the determination and issue the order. A temporary  
7 reserve judge assigned under this subdivision to make a determination under par.  
8 (c) and issue an order granting or denying a petition shall make the determination  
9 and issue the order within 2 calendar days after the assignment, unless the minor  
10 and her counsel, ~~if any, or the member of the clergy who filed the petition on behalf~~  
11 ~~of the minor, if any,~~ consent to an extension of that time period. The order shall be  
12 effective immediately. The court shall prepare and file with the clerk of court  
13 findings of fact, conclusions of law, and a final order granting or denying the petition,  
14 and shall notify the minor of the court's order, as provided under subd. 1.

15 **SECTION 26.** 48.375 (7) (d) 2. of the statutes is amended to read:

16 48.375 (7) (d) 2. Counsel for the minor, ~~or the member of the clergy who filed~~  
17 ~~the petition on behalf of the minor, if any,~~ shall immediately, upon notification under  
18 subd. 1. or 1m. that the court has granted or denied the petition, notify the minor.  
19 If the court has granted the petition, counsel for the minor, ~~or the member of the~~  
20 ~~clergy who filed the petition on behalf of the minor, if any,~~ shall hand deliver a  
21 certified copy of the court order to the person who intends to perform or induce the  
22 abortion. If with reasonable diligence the person who intends to perform or induce  
23 the abortion cannot be located for delivery, then counsel for the minor, ~~or the member~~  
24 ~~of the clergy who filed the petition on behalf of the minor, if any,~~ shall leave a certified  
25 copy of the order with the person's agent at the person's principal place of business.

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1 If a clinic or medical facility is specified in the petition as the corporation, limited  
2 liability company, partnership, or other unincorporated association that employs the  
3 person who intends to perform or induce the abortion, then counsel for the minor, ~~or~~  
4 ~~the member of the clergy who filed the petition on behalf of the minor, if any,~~ shall  
5 hand deliver a certified copy of the order to an agent of the corporation, limited  
6 liability company, partnership, or other unincorporated association at its principal  
7 place of business. There may be no service by mail or publication. The person or  
8 agent who receives the certified copy of the order under this subdivision shall place  
9 the copy in the minor's medical record.

10 **SECTION 27.** 48.375 (7) (f) of the statutes is amended to read:

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

19 **SECTION 28.** 69.186 (1) (j) of the statutes is amended to read:

20 69.186 (1) (j) If the patient is a minor, whether consent was provided under s.  
21 48.375 (4) (a) 1. for the abortion and, if so, the relationship of the individual providing  
22 consent to the minor; or, if consent under s. 48.375 (4) (a) 1. was not provided, on  
23 which of the bases under s. 48.375 (4) (a) 2. or (b) 1., 1g., ~~1m.,~~ 2., or 3. the abortion  
24 was performed.

25 **SECTION 29.** 809.105 (2) of the statutes is amended to read:

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1           **809.105 (2) INITIATING AN APPEAL.** Only a minor may initiate an appeal under  
2 this section. The minor shall initiate the appeal by filing, ~~or by a member of the clergy~~  
3 ~~filing on the minor's behalf~~, a notice of appeal with the clerk of the trial court in which  
4 the order appealed from was entered and shall specify in the notice of appeal the  
5 order appealed from. At the same time, the minor ~~or member of the clergy~~ shall notify  
6 the court of appeals of the filing of the appeal by sending a copy of the notice of appeal  
7 to the clerk of the court of appeals. The clerk of the trial court shall assist the minor  
8 ~~or member of the clergy~~ in sending a copy of the notice of appeal to the clerk of the  
9 court of appeals. The minor may use the name “Jane Doe” instead of her name on  
10 the notice of appeal and all other papers filed with the court of appeals.

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

12           **809.105 (3) (a) Fee.** No fee for filing an appeal in the court of appeals under this  
13 section may be required of a minor ~~or of a member of the clergy who files an appeal~~  
14 ~~under this section on behalf of the minor.~~

15           **SECTION 31.** 809.105 (3) (d) of the statutes is amended to read:

16           **809.105 (3) (d) Statement on transcript.** A minor ~~or member of the clergy~~ may  
17 not be required to file a statement on transcript in an appeal under this section.

18           **SECTION 32.** 809.105 (5) of the statutes is amended to read:

19           **809.105 (5) TRANSCRIPT OF REPORTER'S NOTES.** At the time that a minor ~~or~~  
20 ~~member of the clergy~~ files a notice of appeal, the minor ~~or member of the clergy~~ shall  
21 make arrangements with the reporter for the preparation of a transcript of the  
22 reporter's notes of the proceedings under s. 48.375 (7). The reporter shall file the  
23 transcript with the trial court within 2 calendar days after the notice of appeal is  
24 filed. The county of the court that held the proceeding under s. 48.375 (7) shall pay  
25 the expense of transcript preparation under this subsection.

**SENATE BILL 97****SECTION 33**

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

2           809.105 **(8)** ASSIGNMENT AND ADVANCEMENT OF CASES. The court of appeals shall  
3 take cases appealed under this section in an order that ensures that a judgment is  
4 made within 4 calendar days after the appeal has been filed in the court of appeals.  
5 The time limit under this subsection may be extended with the consent of the minor  
6 and her counsel, ~~if any, or the member of the clergy who initiated the appeal under~~  
7 ~~this section, if any.~~

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

9           809.105 **(8m)** ORAL ARGUMENT. If the court of appeals determines that a case  
10 appealed under this section is to be submitted with oral argument, the oral argument  
11 shall be held in chambers or, on motion of the minor through her counsel ~~or through~~  
12 ~~the member of the clergy who filed the appeal under this section, if any,~~ or on the  
13 court of appeals' own motion, by telephone, unless the minor through her counsel ~~or~~  
14 ~~the member of the clergy~~ demands that the oral argument be held in open court.

15           **SECTION 35.** 809.105 (9) of the statutes is amended to read:

16           809.105 **(9)** COSTS. The court of appeals may not assess costs against a minor  
17 ~~or member of the clergy~~ in an appeal under this section.

18           **SECTION 36.** 809.105 (10) of the statutes is amended to read:

19           809.105 **(10)** REMITTITUR. (a) A judgment by the court of appeals under this  
20 section is effective immediately, without transmittal to the trial court, as an order  
21 either granting or denying the petition. If the court of appeals reverses a trial court  
22 order denying a petition under s. 48.375 (7), the court of appeals shall immediately  
23 so notify the minor by personal service on her counsel ~~or the member of the clergy~~  
24 ~~who initiated the appeal under this section, if any,~~ of a certified copy of the order of  
25 the court of appeals granting the minor's petition. If the court of appeals affirms the

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1 trial court order, it shall immediately so notify the minor by personal service on her  
2 counsel ~~or the member of the clergy who initiated the appeal under this section, if~~  
3 ~~any~~, of a copy of the order of the court of appeals denying the petition and shall also  
4 notify the minor by her counsel ~~or the member of the clergy who initiated the appeal~~  
5 ~~under this section on behalf of the minor, if any~~, that she may, under sub. (11), file  
6 a petition for review with the supreme court under s. 809.62. The court of appeals  
7 shall pay the expenses of service of notice under this subsection. The clerk of the  
8 court of appeals shall transmit to the trial court the judgment and opinion of the court  
9 of appeals and the record in the case filed under sub. (4), within 31 days after the date  
10 ~~that~~ on which the judgment and opinion of the court of appeals are filed. If a petition  
11 for review is filed under sub. (11), the transmittal shall be made within 31 days after  
12 the date ~~that~~ on which the supreme court rules on the petition for review.

13 (b) Counsel for the minor, ~~if any, or the member of the clergy who initiated the~~  
14 ~~appeal under this section, if any~~, shall immediately, upon notification under par. (a)  
15 that the court of appeals has granted or denied the petition, notify the minor. If the  
16 court of appeals has granted the petition, counsel for the minor, ~~if any, or the member~~  
17 ~~of the clergy who initiated the appeal under this section, if any~~, shall hand deliver  
18 a certified copy of the order of the court of appeals to the person who intends to  
19 perform or induce the abortion. If with reasonable diligence the person who intends  
20 to perform or induce the abortion cannot be located for delivery, then counsel for the  
21 minor, ~~if any, or the member of the clergy who initiated the appeal under this section,~~  
22 ~~if any~~, shall leave a certified copy of the order with the person's agent at the person's  
23 principal place of business. If a clinic or medical facility is specified in the petition  
24 as the corporation, limited liability company, partnership, or other unincorporated  
25 association that employs the person who intends to perform or induce the abortion,

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1 then counsel for the minor, ~~if any, or the member of the clergy who initiated the~~  
2 ~~appeal under this section, if any,~~ shall hand deliver a certified copy of the order to an  
3 agent of the corporation, limited liability company, partnership, or other  
4 unincorporated association at its principal place of business. There may be no  
5 service by mail or publication. The person or agent who receives the certified copy  
6 of the order under this paragraph shall place the copy in the minor's medical record.

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

8 809.105 **(11)** (a) (intro.) Only a minor ~~or the member of the clergy who initiated~~  
9 ~~the appeal under this section, if any,~~ may initiate a review of an appeal under this  
10 section. The petition for review of an appeal in the supreme court shall contain all  
11 of the following:

12 **SECTION 38.** 809.105 (11) (a) 3. of the statutes is amended to read:

13 809.105 **(11)** (a) 3. The judgment and opinion of the court of appeals, and the  
14 findings of fact, conclusions of law, and final order of the trial court that were  
15 furnished to the court of appeals. The court of appeals shall provide a copy of these  
16 papers to the minor, ~~if any, the member of the clergy who initiated the appeal under~~  
17 ~~this section, if any,~~ her counsel, or her guardian ad litem, if any, immediately upon  
18 request.

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

20 809.105 **(11)** (cm) If the supreme court determines that a case reviewed under  
21 this subsection is to be submitted with oral argument, the oral argument shall be  
22 held in chambers or, on motion of the minor through her counsel ~~or through the~~  
23 ~~member of the clergy who initiated the appeal under this section, if any,~~ or on the  
24 supreme court's own motion, by telephone, unless the minor through her counsel ~~or~~  
25 ~~the member of the clergy~~ demands that the oral argument be held in open court.

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

2           809.105 **(11)** (d) A judgment or decision by the supreme court under this section  
3 is effective immediately, without transmittal to the trial court, as an order either  
4 granting or denying the petition. If the supreme court reverses a court of appeals  
5 order affirming a trial court order denying a petition under s. 48.375 (7), the supreme  
6 court shall immediately so notify the minor by personal service on her counsel, ~~if any,~~  
7 ~~or on the member of the clergy who initiated the appeal under this section, if any,~~ of  
8 a certified copy of the order of the supreme court granting the minor's petition. If the  
9 supreme court affirms the order of the court of appeals, it shall immediately so notify  
10 the minor by her counsel ~~or by the member of the clergy who initiated the appeal~~  
11 ~~under this section, if any.~~ The clerk of the supreme court shall transmit to the trial  
12 court the judgment, or decision, and opinion of the supreme court and the complete  
13 record in the case within 31 days after the date ~~that~~ on which the judgment, or  
14 decision, and opinion of the supreme court are filed. The supreme court shall pay the  
15 expense of service of notice under this subsection.

16           **SECTION 41.** 809.105 (11) (e) of the statutes is amended to read:

17           809.105 **(11)** (e) Counsel for the minor, ~~if any, or the member of the clergy who~~  
18 ~~initiated the appeal under this section, if any,~~ shall immediately, upon notification  
19 under par. (d) that the supreme court has granted or denied the petition, notify the  
20 minor. If the supreme court has granted the petition, counsel for the minor, ~~if any,~~  
21 ~~or the member of the clergy who initiated the appeal under this section, if any,~~ shall  
22 hand deliver a certified copy of the order of the supreme court to the person who  
23 intends to perform or induce the abortion. If with reasonable diligence the person  
24 who intends to perform or induce the abortion cannot be located for delivery, then  
25 counsel for the minor, ~~if any, or the member of the clergy who initiated the appeal~~

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1 ~~under this section, if any,~~ shall leave a certified copy of the order with the person's  
2 agent at the person's principal place of business. If a clinic or medical facility is  
3 specified in the petition as the corporation, limited liability company, partnership,  
4 or other unincorporated association that employs the person who intends to perform  
5 or induce the abortion, then counsel for the minor, ~~if any, or the member of the clergy~~  
6 ~~who initiated the appeal under this section, if any,~~ shall hand deliver a certified copy  
7 of the order to an agent of the corporation, limited liability company, partnership, or  
8 other unincorporated association at its principal place of business. There may be no  
9 service by mail or publication. The person or agent who receives the certified copy  
10 of the order under this paragraph shall place the order in the minor's medical record.

11 **SECTION 42.** 809.105 (13) of the statutes is amended to read:

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

21 **SECTION 43.** 895.037 (3) (a) of the statutes is amended to read:

22 895.037 **(3)** (a) A person who intentionally violates s. 48.375 (4) under  
23 circumstances in which the person knew or, in the exercise of reasonable care, should  
24 have known that the requirements of that subsection have not been complied with  
25 is liable to the minor on or for whom the abortion was performed or induced and to

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1 the minor's parent, guardian, and legal custodian for damages arising out of the  
2 performance or inducement of the abortion including, ~~but not limited to,~~ damages for  
3 personal injury and emotional and psychological distress.

4 **SECTION 44. Initial applicability.**

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

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

16 (END)