



State of Wisconsin  
2019 - 2020 LEGISLATURE

LRBs0178/2  
EAW:ahc

**ASSEMBLY SUBSTITUTE AMENDMENT ,  
TO ASSEMBLY BILL 566**

1     **AN ACT to amend** 48.195 (2) (d) 6., 48.235 (4) (a) 3., 48.235 (4m) (a) 3., 48.29 (1),  
2           48.29 (3), 48.30 (2), 48.31 (1), 48.31 (2), 48.31 (4), 48.368 (1), 48.38 (5) (c) 6. b.,  
3           48.40 (1r), 48.415 (1) (a) 1., 48.415 (3) (a), 48.415 (5) (intro.), 48.415 (10) (a),  
4           48.415 (10) (b), 48.417 (1) (intro.), 48.417 (1) (a), 48.417 (1) (b), 48.417 (1) (c),  
5           48.417 (1) (d), 48.417 (2) (intro.), 48.417 (3), 48.417 (4), 48.42 (1) (intro.), 48.42  
6           (1g) (a) (intro.), 48.42 (1g) (b), 48.42 (1g) (c), 48.42 (1m) (a), 48.42 (1m) (b), 48.42  
7           (1m) (c), 48.42 (2) (intro.), 48.42 (2) (bm) (intro.), 48.42 (2g) (a), 48.42 (2g) (ag),  
8           48.42 (2m), 48.42 (4) (title), 48.42 (4) (a), 48.42 (4) (b) 3., 48.42 (4) (b) 4. (intro.),  
9           48.422 (title), 48.422 (1), 48.422 (2), 48.422 (3), 48.422 (4), 48.422 (6) (b), 48.422  
10          (7) (intro.), 48.422 (7) (a), 48.422 (7) (bm), 48.422 (7) (br), 48.422 (8), 48.422 (9)  
11          (a), 48.423 (2) (intro.), 48.424 (1) (intro.), 48.424 (4) (intro.), 48.424 (4) (b),  
12          48.425 (1) (am) 2., 48.425 (1) (cm), 48.425 (1m), 48.425 (3), 48.427 (2), 48.43 (1)  
13          (intro.), 48.46 (2), 48.46 (3), 48.83 (1), 48.835 (3) (title), 48.835 (3) (a), 48.837 (3),

1 48.837 (4) (e), 48.837 (5), 48.837 (6) (a), 48.837 (6) (b), 48.837 (6) (br), 48.837 (6)  
2 (d), 938.23 (3) and 938.23 (4); and **to create** 48.23 (2) (bm), 48.29 (1d) and 48.42  
3 (1d) of the statutes; **relating to:** a motion to terminate parental rights.

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

4 **SECTION 1.** 48.195 (2) (d) 6. of the statutes is amended to read:

5 48.195 (2) (d) 6. A court conducting proceedings under s. 48.21, proceedings  
6 relating to a petition under s. 48.13 (2m) or 48.42 (1) or a motion under s. 48.42 (1d),  
7 or dispositional proceedings under subch. VI or VIII relating to the child, the county  
8 corporation counsel, district attorney, or agency legal counsel representing the  
9 interests of the public in those proceedings, or the guardian ad litem representing  
10 the interests of the child in those proceedings.

11 **SECTION 2.** 48.23 (2) (bm) of the statutes is created to read:

12 48.23 (2) (bm) If a motion to terminate parental rights is filed under s. 48.42  
13 (1d) in a proceeding involving a child or juvenile alleged to be in need of protection  
14 or services under s. 48.13 or 938.13, any parent who appears before the court shall  
15 be represented by counsel as provided under par. (b), beginning with the filing of the  
16 motion under s. 48.42 (1d).

17 **SECTION 3.** 48.235 (4) (a) 3. of the statutes is amended to read:

18 48.235 (4) (a) 3. Petition or file a motion for termination of parental rights or  
19 any other matter specified under s. 48.14.

20 **SECTION 4.** 48.235 (4m) (a) 3. of the statutes is amended to read:

21 48.235 (4m) (a) 3. Petition or file a motion for termination of parental rights  
22 or any other matter specified under s. 48.14 after the child is born.

23 **SECTION 5.** 48.29 (1) of the statutes is amended to read:

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

11          **SECTION 6.** 48.29 (1d) of the statutes is created to read:

12          48.29 (1d) The child, the child's parent, guardian or legal custodian, the  
13          expectant mother, or the unborn child's guardian ad litem may request substitution  
14          of the judge under sub. (1) after the plea hearing in a proceeding if all of the following  
15          apply:

16               (a) A motion to terminate parental rights is filed under s. 48.42 (1d) in the  
17          proceeding.

18               (b) There has not been a prior request for substitution under sub. (1) in the  
19          proceeding.

20               (c) The request is filed before or during the hearing on the motion to terminate  
21          parental rights under s. 48.422 (1).

22          **SECTION 7.** 48.29 (3) of the statutes is amended to read:

23          48.29 (3) Subsections (1) ~~and~~ to (1m) do not apply in any proceeding under s.  
24          48.375 (7). For proceedings under s. 48.375 (7), the minor may select the judge whom

1 she wishes to be assigned to the proceeding and that judge shall be assigned to the  
2 proceeding.

3 **SECTION 8.** 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's guardian ad litem; or the adult expectant mother and the unborn child's  
8 guardian ad litem; shall be advised of the rights specified in s. 48.243 and shall be  
9 informed that a request for a jury trial or for a substitution of judge under s. 48.29  
10 must be made before the end of the plea hearing or is waived, except as provided in  
11 s. 48.29 (1d). Nonpetitioning parties, including the child, shall be granted a  
12 continuance of the plea hearing if they wish to consult with an attorney on the  
13 request for a jury trial or substitution of a judge.

14 **SECTION 9.** 48.31 (1) of the statutes is amended to read:

15 48.31 (1) In this section, "fact-finding hearing" means a hearing to determine  
16 if the allegations in a petition under s. 48.13 or 48.133 or a petition or motion to  
17 terminate parental rights are proved by clear and convincing evidence. In the case  
18 of a petition or motion to terminate parental rights to an Indian child, "fact-finding  
19 hearing" means a hearing to determine if the allegations in the petition, other than  
20 the allegations under s. 48.42 (1) (e) relating to serious emotional or physical  
21 damage, are proved by clear and convincing evidence and if the allegations under s.  
22 48.42 (1) (e) relating to serious emotional or physical damage are proved beyond a  
23 reasonable doubt as provided in s. 48.028 (4) (e) 1., unless partial summary judgment  
24 on the grounds for termination of parental rights is granted.

25 **SECTION 10.** 48.31 (2) of the statutes is amended to read:

1           48.31 (2) The hearing shall be to the court unless the child, the child's parent,  
2 guardian, or legal custodian, the unborn child's guardian ad litem, or the expectant  
3 mother of the unborn child exercises the right to a jury trial by demanding a jury trial  
4 at any time before or during the plea hearing. If a jury trial is demanded in a  
5 proceeding under s. 48.13 or 48.133, the jury shall consist of 6 persons, unless a  
6 motion is filed under s. 48.42 (1d). If a jury trial is demanded in a proceeding under  
7 s. 48.42, including on a motion filed under s. 48.42 (1d), the jury shall consist of 12  
8 persons unless the parties agree to a lesser number. Chapters 756 and 805 shall  
9 govern the selection of jurors. If the hearing involves a child victim or witness, as  
10 defined in s. 950.02, the court may order that a deposition be taken by audiovisual  
11 means and allow the use of a recorded deposition under s. 967.04 (7) to (10) and, with  
12 the district attorney, shall comply with s. 971.105. At the conclusion of the hearing,  
13 the court or jury shall make a determination of the facts, except that in a case alleging  
14 a child or an unborn child to be in need of protection or services under s. 48.13 or  
15 48.133, the court shall make the determination under s. 48.13 (intro.) or 48.133  
16 relating to whether the child or unborn child is in need of protection or services that  
17 can be ordered by the court. If the court finds that the child or unborn child is not  
18 within the jurisdiction of the court or, in a case alleging a child or an unborn child  
19 to be in need of protection or services under s. 48.13 or 48.133, that the child or  
20 unborn child is not in need of protection or services that can be ordered by the court,  
21 or if the court or jury finds that the facts alleged in the petition, or in a motion to  
22 terminate parental rights under s. 48.42 (1d), have not been proved, the court shall  
23 dismiss the petition or motion with prejudice.

24           **SECTION 11.** 48.31 (4) of the statutes is amended to read:

1           48.31 (4) The court or jury shall make findings of fact and the court shall make  
2 conclusions of law relating to the allegations of a petition filed under s. 48.13, 48.133  
3 or 48.42 (1) or a motion to terminate parental rights under s. 48.42 (1d), except that  
4 the court shall make findings of fact relating to whether the child or unborn child is  
5 in need of protection or services which can be ordered by the court. In cases alleging  
6 a child to be in need of protection or services under s. 48.13 (11), the court may not  
7 find that the child is suffering emotional damage unless a licensed physician  
8 specializing in psychiatry or a licensed psychologist appointed by the court to  
9 examine the child has testified at the hearing that in his or her opinion the condition  
10 exists, and adequate opportunity for the cross-examination of the physician or  
11 psychologist has been afforded. The judge may use the written reports if the right  
12 to have testimony presented is voluntarily, knowingly and intelligently waived by  
13 the guardian ad litem or legal counsel for the child and the parent or guardian. In  
14 cases alleging a child to be in need of protection or services under s. 48.13 (11m) or  
15 an unborn child to be in need of protection or services under s. 48.133, the court may  
16 not find that the child or the expectant mother of the unborn child is in need of  
17 treatment and education for needs and problems related to the use or abuse of alcohol  
18 beverages, controlled substances or controlled substance analogs and its medical,  
19 personal, family or social effects unless an assessment for alcohol and other drug  
20 abuse that conforms to the criteria specified under s. 48.547 (4) has been conducted  
21 by an approved treatment facility.

22           **SECTION 12.** 48.368 (1) of the statutes is amended to read:

23           48.368 (1) If a petition or motion for termination of parental rights is filed  
24 under s. 48.41 ~~or 48.415~~ 48.42 or an appeal from a judgment terminating or denying  
25 termination of parental rights is filed during the year in which a dispositional order

1 under s. 48.355, an extension order under s. 48.365, a voluntary agreement for  
2 placement of the child under s. 48.63, or a guardianship order under ch. 880, 2003  
3 stats., or s. 48.977 or ch. 54 is in effect, the dispositional or extension order, voluntary  
4 agreement, or guardianship order shall remain in effect until all proceedings related  
5 to the filing of the petition or motion for termination of parental rights or an appeal  
6 are concluded.

7 **SECTION 13.** 48.38 (5) (c) 6. b. of the statutes is amended to read:

8 48.38 (5) (c) 6. b. Having a petition or motion for the involuntary termination  
9 of parental rights filed on behalf of the child.

10 **SECTION 14.** 48.40 (1r) of the statutes is amended to read:

11 48.40 (1r) “Parent” has the meaning given in s. 48.02 (13), except that for  
12 purposes of filing a petition or motion seeking the involuntary termination of  
13 parental rights under s. 48.415 to a nonmarital child who is not adopted or whose  
14 parents do not subsequently intermarry under s. 767.803 and whose paternity has  
15 not been established, of finding grounds under s. 48.415 for the involuntary  
16 termination of parental rights to such a child, and of terminating the parental rights  
17 to such a child on a ground specified in s. 48.415, “parent” includes a person who may  
18 be the parent of such a child.

19 **SECTION 15.** 48.415 (1) (a) 1. of the statutes is amended to read:

20 48.415 (1) (a) 1. That the child has been left without provision for the child’s  
21 care or support, the petitioner or movant has investigated the circumstances  
22 surrounding the matter and for 60 days the petitioner or movant has been unable to  
23 find either parent.

24 **SECTION 16.** 48.415 (3) (a) of the statutes is amended to read:

1           48.415 (3) (a) The parent is presently, and for a cumulative total period of at  
2           least 2 years within the 5 years immediately prior to the filing of the petition or  
3           motion to terminate parental rights has been, an inpatient at one or more hospitals  
4           as defined in s. 50.33 (2) (a), (b) or (c), licensed treatment facilities as defined in s.  
5           51.01 (2) or state treatment facilities as defined in s. 51.01 (15) on account of mental  
6           illness as defined in s. 51.01 (13) (a) or (b), developmental disability as defined in s.  
7           55.01 (2), or other like incapacities, as defined in s. 55.01 (5);

8           **SECTION 17.** 48.415 (5) (intro.) of the statutes is amended to read:

9           48.415 (5) CHILD ABUSE. (intro.) Child abuse, which shall be established by  
10          proving that the parent has exhibited a pattern of physically or sexually abusive  
11          behavior which is a substantial threat to the health of the child who is the subject  
12          of the petition or motion to terminate parental rights and proving either of the  
13          following:

14          **SECTION 18.** 48.415 (10) (a) of the statutes is amended to read:

15          48.415 (10) (a) That the child who is the subject of the petition or motion to  
16          terminate parental rights has been adjudged to be in need of protection or services  
17          under s. 48.13 (2), (3) or (10); or that the child who is the subject of the petition or  
18          motion was born after the filing of a petition or motion under this subsection whose  
19          subject is a sibling of the child.

20          **SECTION 19.** 48.415 (10) (b) of the statutes is amended to read:

21          48.415 (10) (b) That, within 3 years prior to the date the court adjudged the  
22          child to be in need of protection or services as specified in par. (a) or, in the case of  
23          a child born after the filing of a petition or motion to terminate parental rights as  
24          specified in par. (a), within 3 years prior to the date of birth of the child, a court has  
25          ordered the termination of parental rights with respect to another child of the person



1 whose parental rights are sought to be terminated on one or more of the grounds  
2 specified in this section.

3 **SECTION 20.** 48.417 (1) (intro.) of the statutes is amended to read:

4 48.417 (1) FILING OR JOINING IN PETITION OR MOTION; WHEN REQUIRED. (intro.)  
5 Subject to sub. (2), an agency or the district attorney, corporation counsel, or other  
6 appropriate official designated under s. 48.09 shall file a petition under s. 48.42 (1)  
7 or a motion under s. 48.42 (1d) to terminate the parental rights of a parent or the  
8 parents of a child, or, if a petition under s. 48.42 (1) or motion under s. 48.42 (1d) to  
9 terminate those parental rights has already been filed, the agency, district attorney,  
10 corporation counsel or other appropriate official shall join in the petition or motion,  
11 if any of the following circumstances apply:

12 **SECTION 21.** 48.417 (1) (a) of the statutes is amended to read:

13 48.417 (1) (a) The child has been placed outside of his or her home, as described  
14 in s. 48.365 (1) or 938.365 (1), in a foster home, group home, nonsecured residential  
15 care center for children and youth, or shelter care facility for 15 of the most recent  
16 22 months, not including any period during which the child was a runaway from the  
17 out-of-home placement or was residing in a trial reunification home. If the  
18 circumstances specified in this paragraph apply, the petition or motion to terminate  
19 parental rights shall be filed or joined in by the last day of the 15th month, as  
20 described in this paragraph, for which the child was placed outside of his or her home.

21 **SECTION 22.** 48.417 (1) (b) of the statutes is amended to read:

22 48.417 (1) (b) A court of competent jurisdiction has found under s. 48.13 (2) or  
23 under a law of any other state or a federal law that is comparable to s. 48.13 (2) that  
24 the child was abandoned when he or she was under one year of age or has found that  
25 the parent abandoned the child when the child was under one year of age in violation

1 of s. 948.20 or in violation of the law of any other state or federal law, if that violation  
2 would be a violation of s. 948.20 if committed in this state. If the circumstances  
3 specified in this paragraph apply, the petition or motion to terminate parental rights  
4 shall be filed or joined in within 60 days after the date on which the court of  
5 competent jurisdiction found that the child was abandoned as described in this  
6 paragraph.

7 **SECTION 23.** 48.417 (1) (c) of the statutes is amended to read:

8 48.417 (1) (c) A court of competent jurisdiction has found that the parent has  
9 committed, has aided or abetted the commission of, or has solicited, conspired, or  
10 attempted to commit, a violation of s. 940.01, 940.02, 940.03, or 940.05 or a violation  
11 of the law of any other state or federal law, if that violation would be a violation of  
12 s. 940.01, 940.02, 940.03, or 940.05 if committed in this state, and that the victim of  
13 that violation is a child of the parent. If the circumstances specified in this paragraph  
14 apply, the petition or motion to terminate parental rights shall be filed or joined in  
15 within 60 days after the date on which the court assigned to exercise jurisdiction  
16 under this chapter determines, based on a finding that a circumstance specified in  
17 this paragraph applies, that reasonable efforts to make it possible for the child to  
18 return safely to his or her home are not required.

19 **SECTION 24.** 48.417 (1) (d) of the statutes is amended to read:

20 48.417 (1) (d) A court of competent jurisdiction has found that the parent has  
21 committed a violation of s. 940.19 (3), 1999 stats., a violation of s. 940.19 (2), (4), or  
22 (5), 940.225 (1) or (2), 948.02 (1) or (2), 948.025, 948.03 (2) (a), (3) (a), or (5) (a) 1., 2.,  
23 or 3., 948.051, or 948.085, a violation of s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies,  
24 or a violation of the law of any other state or federal law, if that violation would be  
25 a violation listed under this paragraph if committed in this state, and that the

1 violation resulted in great bodily harm, as defined in s. 939.22 (14), or in substantial  
2 bodily harm, as defined in s. 939.22 (38), to the child or another child of the parent.  
3 If the circumstances specified in this paragraph apply, the petition or motion to  
4 terminate parental rights shall be filed or joined in within 60 days after the date on  
5 which the court assigned to exercise jurisdiction under this chapter determines,  
6 based on a finding that a circumstance specified in this paragraph applies, that  
7 reasonable efforts to make it possible for the child to return safely to his or her home  
8 are not required.

9 **SECTION 25.** 48.417 (2) (intro.) of the statutes is amended to read:

10 48.417 (2) FILING OR JOINING IN PETITION OR MOTION; WHEN NOT REQUIRED. (intro.)  
11 Notwithstanding that any of the circumstances specified in sub. (1) (a), (b), (c) or (d)  
12 may apply, an agency or the district attorney, corporation counsel or other  
13 appropriate official designated under s. 48.09 need not file a petition under s. 48.42  
14 (1) or motion under s. 48.42 (1d) to terminate the parental rights of a parent or the  
15 parents of a child, or, if a petition ~~under s. 48.42 (1)~~ or motion to terminate those  
16 parental rights has already been filed, the agency, district attorney, corporation  
17 counsel or other appropriate official need not join in the petition, if any of the  
18 following circumstances apply:

19 **SECTION 26.** 48.417 (3) of the statutes is amended to read:

20 48.417 (3) CONCURRENT ADOPTION EFFORTS REQUIRED. If a petition or motion to  
21 terminate parental rights is filed or joined in as required under sub. (1), the agency  
22 primarily responsible for providing services to the child under a court order shall,  
23 during the pendency of the proceeding on the petition or motion, work with the  
24 agency identified in the report under s. 48.425 (1) (f) that would be responsible for

1 accomplishing the adoption of the child in processing and approving a qualified  
2 family for the adoption of the child.

3 **SECTION 27.** 48.417 (4) of the statutes is amended to read:

4 48.417 (4) NOTICE TO DEPARTMENT. If a petition or motion to terminate parental  
5 rights is filed or joined in as required under sub. (1), the person who filed or joined  
6 in the petition or motion shall notify the department of that filing or joinder.

7 **SECTION 28.** 48.42 (1) (intro.) of the statutes is amended to read:

8 48.42 (1) PETITION. (intro.) ~~A~~ Except as provided under sub. (1d), a proceeding  
9 for the termination of parental rights shall be initiated by petition which may be filed  
10 by the child's parent, an agency or a person authorized to file a petition under s. 48.25  
11 or 48.835. The petition shall be entitled "In the interest of ..... (child's name), a  
12 person under the age of 18" and shall set forth with specificity:

13 **SECTION 29.** 48.42 (1d) of the statutes is created to read:

14 48.42 (1d) MOTION TO TERMINATE PARENTAL RIGHTS IF CHILD OR JUVENILE ALLEGED  
15 TO BE IN NEED OF PROTECTION OR SERVICES. If there is an open proceeding under s. 48.13  
16 or 938.13 for the child, the termination of parental rights may be initiated by filing  
17 a motion in that open proceeding. A motion under this subsection may be filed by the  
18 child's parent, an agency, or a person authorized to file a petition under s. 48.25 or  
19 48.835, who is a party to the open proceeding, and shall set forth with specificity the  
20 information required in sub. (1) (c) and (e). A motion filed under this subsection is  
21 subject to the procedures of this subchapter.

22 **SECTION 30.** 48.42 (1g) (a) (intro.) of the statutes is amended to read:

23 48.42 (1g) (a) (intro.) Except as provided in par. (c), if the petition or motion to  
24 terminate parental rights is filed by a person or agency other than the district  
25 attorney, corporation counsel, or other appropriate official under s. 48.09; if the

1 petition or motion seeks to terminate the parental rights of a person who may be the  
2 father of a nonmarital child who is under one year of age at the time the petition or  
3 motion is filed, who is not adopted or whose parents do not subsequently intermarry  
4 under s. 767.803, and whose paternity has not been established; and if the mother  
5 of the child has voluntarily consented to or seeks to voluntarily consent to the  
6 termination of her parental rights to the child, the petitioner or movant may file with  
7 the petition or motion an affidavit signed by the mother that includes all of the  
8 following:

9 **SECTION 31.** 48.42 (1g) (b) of the statutes is amended to read:

10 48.42 (1g) (b) The petitioner or movant shall notify any man identified in the  
11 affidavit under par. (a) as an alleged father of his right to file a declaration of paternal  
12 interest under s. 48.025 before the birth of the child, within 14 days after the birth  
13 of the child, or within 21 days after the date on which the notice is mailed, whichever  
14 is later; of the birth date or anticipated birth date of the child; and of the  
15 consequences of filing or not filing a declaration of paternal interest. The petitioner  
16 or movant shall include with the notice a copy of the form required to file a  
17 declaration of paternal interest under s. 48.025. The notice shall be sent by certified  
18 mail to the last-known address of the alleged father.

19 **SECTION 32.** 48.42 (1g) (c) of the statutes is amended to read:

20 48.42 (1g) (c) If an affidavit under par. (a) is not filed with the petition or  
21 motion, notice shall be given to an alleged father under sub. (2).

22 **SECTION 33.** 48.42 (1m) (a) of the statutes is amended to read:

23 48.42 (1m) (a) If the petition filed under sub. (1) or motion filed under sub. (1d)  
24 includes a statement of the grounds for involuntary termination of parental rights  
25 under sub. (1) (c) 2., the petitioner or movant may, at the time the petition under sub.

1 (1) or motion under sub. (1d) is filed, also petition the court for a temporary order and  
2 an injunction prohibiting the person whose parental rights are sought to be  
3 terminated from visiting or contacting the child who is the subject of the petition  
4 under ~~sub. (1)~~ or motion. Any petition under this paragraph shall allege facts  
5 sufficient to show that prohibiting visitation or contact would be in the best interests  
6 of the child.

7 **SECTION 34.** 48.42 (1m) (b) of the statutes is amended to read:

8 48.42 **(1m)** (b) Subject to par. (e), the court may issue the temporary order ex  
9 parte or may refuse to issue the temporary order and hold a hearing on whether to  
10 issue an injunction. The temporary order is in effect until a hearing is held on the  
11 issuance of an injunction. The court shall hold a hearing on the issuance of an  
12 injunction on or before the date of the hearing on the petition or motion to terminate  
13 parental rights under s. 48.422 (1).

14 **SECTION 35.** 48.42 (1m) (c) of the statutes is amended to read:

15 48.42 **(1m)** (c) Notwithstanding any other order under s. 48.355 (3), the court,  
16 subject to par. (e), may grant an injunction prohibiting the respondent from visiting  
17 or contacting the child if the court determines that the prohibition would be in the  
18 best interests of the child. An injunction under this subsection is effective according  
19 to its terms but may not remain in effect beyond the date the court dismisses the  
20 petition or motion for termination of parental rights under s. 48.427 (2) or issues an  
21 order terminating parental rights under s. 48.427 (3).

22 **SECTION 36.** 48.42 (2) (intro.) of the statutes is amended to read:

23 48.42 **(2)** WHO MUST BE SUMMONED. (intro.) Except as provided in sub. (2m), the  
24 petitioner or movant shall cause the summons and petition or motion to terminate  
25 parental rights to be served upon the following persons:

1           **SECTION 37.** 48.42 (2) (bm) (intro.) of the statutes is amended to read:

2           48.42 **(2)** (bm) (intro.) If the child is a nonmarital child who is under one year  
3 of age at the time the petition or motion to terminate parental rights is filed and who  
4 is not adopted or whose parents do not subsequently intermarry under s. 767.803 and  
5 whose paternity has not been established and if an affidavit under sub. (1g) (a) is filed  
6 with the petition or motion to terminate parental rights:

7           **SECTION 38.** 48.42 (2g) (a) of the statutes is amended to read:

8           48.42 **(2g)** (a) In addition to causing the summons and petition or motion to  
9 terminate parental rights to be served as required under sub. (2), the petitioner or  
10 movant shall also notify any foster parent or other physical custodian described in  
11 s. 48.62 (2) of the child of all hearings on the petition or motion. The first notice to  
12 any foster parent or other physical custodian described in s. 48.62 (2) shall be  
13 written, shall have a copy of the petition or motion attached to it, shall state the  
14 nature, location, date, and time of the initial hearing and shall be mailed to the  
15 last-known address of the foster parent or other physical custodian described in s.  
16 48.62 (2). Thereafter, notice of hearings may be given by telephone at least 72 hours  
17 before the time of the hearing. The person giving telephone notice shall place in the  
18 case file a signed statement of the time notice was given and the person to whom he  
19 or she spoke.

20           **SECTION 39.** 48.42 (2g) (ag) of the statutes is amended to read:

21           48.42 **(2g)** (ag) In the case of an involuntary termination of parental rights to  
22 a child whom the petitioner or movant knows or has reason to know is an Indian  
23 child, the petitioner or movant shall cause the summons and petition or motion to be  
24 served on the Indian child's parent and Indian custodian in the manner specified in  
25 s. 48.028 (4) (a). In like manner, the petitioner or movant shall also notify the Indian

1 child's tribe of all hearings on the petition or motion. The first notice to an Indian  
2 child's tribe shall be written, shall have a copy of the petition or motion attached to  
3 it, and shall state the nature, location, date, and time of the initial hearing. No  
4 hearing may be held on the petition or motion until at least 10 days after receipt of  
5 notice of the hearing by the Indian child's parent, Indian custodian, and tribe or, if  
6 the identity or location of the Indian child's parent, Indian custodian, or tribe cannot  
7 be determined, until at least 15 days after receipt of the notice by the U.S. secretary  
8 of the interior. On request of the Indian child's parent, Indian custodian, or tribe, the  
9 court shall grant a continuance of up to 20 additional days to enable the requester  
10 to prepare for the hearing.

11 **SECTION 40.** 48.42 (2m) of the statutes is amended to read:

12 48.42 **(2m)** NOTICE NOT REQUIRED. (a) *Parent as a result of sexual assault.*  
13 Except as provided in this paragraph, notice is not required to be given to a person  
14 who may be the father of a child conceived as a result of a sexual assault in violation  
15 of s. 940.225 (1), (2) or (3), 948.02 (1) or (2), 948.025, or 948.085 if a physician attests  
16 to his or her belief that a sexual assault as specified in this paragraph has occurred  
17 or if the person who may be the father of the child has been convicted of sexual assault  
18 as specified in this paragraph for conduct which may have led to the child's  
19 conception. A person who under this paragraph is not given notice does not have  
20 standing to appear and contest a petition or motion for the termination of his  
21 parental rights, present evidence relevant to the issue of disposition, or make  
22 alternative dispositional recommendations. This paragraph does not apply to a  
23 person who may be the father of a child conceived as a result of a sexual assault in  
24 violation of s. 948.02 (1) or (2) if that person was under 18 years of age at the time  
25 of the sexual assault.



1 (b) *Parent of nonmarital child.* A person who may be the father of a nonmarital  
2 child who is not adopted or whose parents do not subsequently intermarry under s.  
3 767.803 and whose paternity has not been established, by virtue of the fact that he  
4 has engaged in sexual intercourse with the mother of the child, is considered to be  
5 on notice that a pregnancy and a termination of parental rights proceeding  
6 concerning the child may occur, and has the duty to protect his own rights and  
7 interests. He is therefore entitled to actual notice of such a proceeding only as  
8 provided in sub. (2) (b) or (bm). A person who is not entitled to notice under sub. (2)  
9 (b) or (bm) does not have standing to appear and contest a petition or motion for the  
10 termination of his parental rights, present evidence relevant to the issue of  
11 disposition, or make alternative dispositional recommendations.

12 **SECTION 41.** 48.42 (4) (title) of the statutes is amended to read:

13 48.42 (4) (title) MANNER OF SERVING SUMMONS AND PETITION OR MOTION TO  
14 TERMINATE PARENTAL RIGHTS.

15 **SECTION 42.** 48.42 (4) (a) of the statutes is amended to read:

16 48.42 (4) (a) *Personal service.* Except as provided in this paragraph, par. (b),  
17 and sub. (2g) (ag), a copy of the summons and petition or motion to terminate  
18 parental rights shall be served personally upon the parties specified in sub. (2), if  
19 known, at least 7 days before the date of the hearing. Service of summons is not  
20 required if the party submits to the jurisdiction of the court. Service upon parties  
21 who are not natural persons and upon persons under a disability shall be as  
22 prescribed in s. 801.11.

23 **SECTION 43.** 48.42 (4) (b) 3. of the statutes is amended to read:

24 48.42 (4) (b) 3. At the time the petition or motion to terminate parental rights  
25 is filed, the petitioner or movant may move the court for an order waiving the

1 requirement of constructive notice to a person who, although his identity is  
2 unknown, may be the father of a nonmarital child.

3 **SECTION 44.** 48.42 (4) (b) 4. (intro.) of the statutes is amended to read:

4 48.42 (4) (b) 4. (intro.) A notice published under this subsection shall be  
5 published as a class 1 notice under ch. 985. In determining which newspaper is likely  
6 to give notice as required under s. 985.02 (1), the petitioner, movant, or court shall  
7 consider the residence of the party, if known, or the residence of the relatives of the  
8 party, if known, or the last-known location of the party. If the party's post-office  
9 address is known or can, with due diligence, be ascertained, a copy of the summons  
10 and petition or motion to terminate parental rights shall be mailed to the party upon  
11 or immediately prior to the first publication. The mailing may be omitted if the  
12 petitioner or movant shows that the post-office address cannot be obtained with due  
13 diligence. Except as provided in subd. 5., the notice shall include the date, place and  
14 circuit court branch for the hearing, the court file number, the name, address and  
15 telephone number of the petitioner's or movant's attorney and information the court  
16 determines to be necessary to give effective notice to the party or parties. Such  
17 information shall include the following, if known:

18 **SECTION 45.** 48.422 (title) of the statutes is amended to read:

19 **48.422 (title) Hearing on the petition or motion to terminate parental**  
20 **rights.**

21 **SECTION 46.** 48.422 (1) of the statutes is amended to read:

22 48.422 (1) Except as provided in s. 48.42 (2g) (ag), the hearing on the petition  
23 or motion to terminate parental rights shall be held within 30 days after the petition  
24 or motion is filed. At the hearing on the petition or motion to terminate parental

1 rights the court shall determine whether any party wishes to contest the petition or  
2 motion and inform the parties of their rights under sub. (4) and s. 48.423.

3 **SECTION 47.** 48.422 (2) of the statutes is amended to read:

4 48.422 (2) Except as provided in s. 48.42 (2g) (ag), if the petition or motion to  
5 terminate parental rights is contested the court shall set a date for a fact-finding  
6 hearing to be held within 45 days after the hearing on the petition or motion, unless  
7 all of the necessary parties agree to commence with the hearing on the merits  
8 immediately.

9 **SECTION 48.** 48.422 (3) of the statutes is amended to read:

10 48.422 (3) If the petition or motion to terminate parental rights is not contested  
11 the court shall hear testimony in support of the allegations in the petition or motion,  
12 including testimony as required in sub. (7).

13 **SECTION 49.** 48.422 (4) of the statutes is amended to read:

14 48.422 (4) Any party who is necessary to the proceeding or whose rights may  
15 be affected by an order terminating parental rights shall be granted a jury trial upon  
16 request if the request is made before the end of the initial hearing on the petition or  
17 motion to terminate parental rights.

18 **SECTION 50.** 48.422 (6) (b) of the statutes is amended to read:

19 48.422 (6) (b) If the court determines that an unknown person may be the  
20 father of the child and notice to that person has not been waived under s. 48.42 (4)  
21 (b) 3., the court shall determine whether constructive notice will substantially  
22 increase the likelihood of notice to that person. If the court does determine that it  
23 would substantially increase the likelihood of notice and the petitioner or movant  
24 has not already caused the notice to be published or the court determines that the  
25 publication used was not sufficient, the court shall adjourn the hearing for a period

1 not to exceed 30 days and shall order constructive notice under s. 48.42 (4) (b). If the  
2 court determines that constructive notice will not substantially increase the  
3 likelihood of notice to that person, the court shall order that the hearing proceed.

4 **SECTION 51.** 48.422 (7) (intro.) of the statutes is amended to read:

5 48.422 (7) (intro.) Before accepting an admission of the alleged facts in a  
6 petition or motion to terminate parental rights, the court shall:

7 **SECTION 52.** 48.422 (7) (a) of the statutes is amended to read:

8 48.422 (7) (a) Address the parties present and determine that the admission  
9 is made voluntarily with understanding of the nature of the acts alleged in the  
10 petition or motion to terminate parental rights and the potential dispositions.

11 **SECTION 53.** 48.422 (7) (bm) of the statutes is amended to read:

12 48.422 (7) (bm) Establish whether a proposed adoptive parent of the child has  
13 been identified. If a proposed adoptive parent of the child has been identified and  
14 the proposed adoptive parent is not a relative of the child, the court shall order the  
15 petitioner or movant to submit a report to the court containing the information  
16 specified in s. 48.913 (7). The court shall review the report to determine whether any  
17 payments or agreement to make payments set forth in the report are coercive to the  
18 birth parent of the child or to an alleged to presumed father of the child or are  
19 impermissible under s. 48.913 (4). Making any payment to or on behalf of the birth  
20 parent of the child, an alleged or presumed father of the child or the child conditional  
21 in any part upon transfer or surrender of the child or the termination of parental  
22 rights or the finalization of the adoption creates a rebuttable presumption of  
23 coercion. Upon a finding of coercion, the court shall dismiss the petition or motion  
24 to terminate parental rights or amend the agreement to delete any coercive  
25 conditions, if the parties agree to the amendment. Upon a finding that payments

1 which are impermissible under s. 48.913 (4) have been made, the court may dismiss  
2 the petition and may refer the matter to the district attorney for prosecution under  
3 s. 948.24 (1). This paragraph does not apply if the petition or motion was filed with  
4 a petition for adoptive placement under s. 48.837 (2).

5 **SECTION 54.** 48.422 (7) (br) of the statutes is amended to read:

6 48.422 (7) (br) Establish whether any person has coerced a birth parent or any  
7 alleged or presumed father of the child in violation of s. 48.63 (3) (b) 5. Upon a finding  
8 of coercion, the court shall dismiss the petition or motion to terminate parental  
9 rights.

10 **SECTION 55.** 48.422 (8) of the statutes is amended to read:

11 48.422 (8) If the petition or motion for termination of parental rights is filed  
12 by an agency enumerated in s. 48.069 (1) or (2), the court shall order the agency to  
13 file a report with the court as provided in s. 48.425 (1), except that, if the child is an  
14 Indian child, the court may order the agency or request the tribal child welfare  
15 department of the Indian child's tribe to file that report.

16 **SECTION 56.** 48.422 (9) (a) of the statutes is amended to read:

17 48.422 (9) (a) If a petition or motion for termination of the rights of a birth  
18 parent, as defined under s. 48.432 (1) (am), is filed by a person other than an agency  
19 enumerated under s. 48.069 (1) or (2) or if the court waives the report required under  
20 s. 48.425, the court shall order any parent whose rights may be terminated to file  
21 with the court the information specified under s. 48.425 (1) (am).

22 **SECTION 57.** 48.423 (2) (intro.) of the statutes is amended to read:

23 48.423 (2) RIGHTS OF OUT-OF-STATE FATHERS. (intro.) A person who may be the  
24 father of a nonmarital child who is not adopted or whose parents do not subsequently  
25 intermarry under s. 767.803 and whose paternity has not been established may

1 contest the petition or motion to terminate parental rights, present evidence relevant  
2 to the issue of disposition, and make alternative dispositional recommendations if  
3 the person appears at the hearing, establishes paternity under sub. (1), and proves  
4 all of the following by a preponderance of the evidence:

5 **SECTION 58.** 48.424 (1) (intro.) of the statutes is amended to read:

6 48.424 (1) (intro.) The purpose of the fact-finding hearing is to determine in  
7 cases in which the petition or motion was contested at the hearing on the petition or  
8 motion to terminate parental rights under s. 48.422 all of the following:

9 **SECTION 59.** 48.424 (4) (intro.) of the statutes is amended to read:

10 48.424 (4) (intro.) If grounds for the termination of parental rights are found  
11 by the court or jury, the court shall find the parent unfit. A finding of unfitness shall  
12 not preclude a dismissal of a petition or motion to terminate parental rights under  
13 s. 48.427 (2). Except as provided in s. 48.23 (2) (b) 3., the court shall then proceed  
14 immediately to hear evidence and motions related to the dispositions enumerated in  
15 s. 48.427. Except as provided in s. 48.42 (2g) (ag), the court may delay making the  
16 disposition and set a date for a dispositional hearing no later than 45 days after the  
17 fact-finding hearing if any of the following apply:

18 **SECTION 60.** 48.424 (4) (b) of the statutes is amended to read:

19 48.424 (4) (b) The court has not yet received a report to the court on the history  
20 of the child as provided in s. 48.425 and the court now orders an agency enumerated  
21 in s. 48.069 (1) or (2) to file that report with the court, or, in the case of an Indian child,  
22 now orders that agency or requests the tribal child welfare department of the Indian  
23 child's tribe to file such a report, before the court makes the disposition on the  
24 petition or motion to terminate parental rights.

25 **SECTION 61.** 48.425 (1) (am) 2. of the statutes is amended to read:

1           48.425 (1) (am) 2. A report of any medical examination which either birth  
2           parent had within one year before the date of the petition or motion to terminate  
3           parental rights.

4           **SECTION 62.** 48.425 (1) (cm) of the statutes is amended to read:

5           48.425 (1) (cm) If the petition or motion is seeking the involuntary termination  
6           of parental rights to an Indian child, specific information showing that continued  
7           custody of the child by the parent or Indian custodian is likely to result in serious  
8           emotional or physical damage to the child under s. 48.028 (4) (e) 1. and, if the Indian  
9           child has previously been adjudged to be in need of protection or services, specific  
10          information showing that active efforts under s. 48.028 (4) (e) 2. have been made to  
11          prevent the breakup of the Indian child's family and that those efforts have proved  
12          unsuccessful.

13          **SECTION 63.** 48.425 (1m) of the statutes is amended to read:

14          48.425 (1m) The agency required under sub. (1) to file the report shall prepare  
15          the medical record within 60 days after the date of the petition or motion for the  
16          termination of parental rights.

17          **SECTION 64.** 48.425 (3) of the statutes is amended to read:

18          48.425 (3) The court may order a report as specified under this section to be  
19          prepared by an agency in those cases where the petition or motion to terminate  
20          parental rights is filed by someone other than an agency.

21          **SECTION 65.** 48.427 (2) of the statutes is amended to read:

22          48.427 (2) The court may dismiss the petition or motion to terminate parental  
23          rights if it finds that the evidence does not warrant the termination of parental  
24          rights.

25          **SECTION 66.** 48.43 (1) (intro.) of the statutes is amended to read:

1           48.43 (1) (intro.) The court shall enter a judgment setting forth its findings and  
2 disposition in accordance with s. 48.426 in an order implementing the disposition  
3 chosen. If the court dismisses the petition or motion to terminate parental rights  
4 under s. 48.427 (2), the order shall contain the reasons for dismissal. If the  
5 disposition is for the termination of parental rights under s. 48.427 (3), the order  
6 shall contain all of the following:

7           **SECTION 67.** 48.46 (2) of the statutes is amended to read:

8           48.46 (2) A parent who has consented to the termination of his or her parental  
9 rights under s. 48.41 or who did not contest the petition or motion initiating the  
10 proceeding in which his or her parental rights were terminated termination of  
11 parental rights proceeding may move the court for relief from the judgment on any  
12 of the grounds specified in s. 806.07 (1) (a), (b), (c), (d) or (f). Any such motion for relief  
13 shall be filed within 30 days after the entry of the judgment or order terminating  
14 parental rights, unless the parent files a timely notice of intent to pursue relief from  
15 the judgment under s. 808.04 (7m), in which case the motion for relief shall be filed  
16 within the time permitted by s. 809.107 (5). A motion for relief under this subsection  
17 does not affect the finality or suspend the operation of the judgment or order  
18 terminating parental rights. A parent who has consented to the termination of his  
19 or her parental rights to an Indian child under s. 48.41 (2) (e) may also move for relief  
20 from the judgment under s. 48.028 (5) (c) or (6). ~~Motions~~ A motion for relief under  
21 this subsection or s. 48.028 (5) (c) or (6) and appeals to the court of appeals shall be  
22 the exclusive remedies for such a parent to obtain a new hearing in a termination of  
23 parental rights proceeding.

24           **SECTION 68.** 48.46 (3) of the statutes is amended to read:



1           48.46 (3) An adoptive parent who has been granted adoption of a child under  
2 s. 48.91 (3) may not petition the court for a rehearing under sub. (1) or move the court  
3 under s. 806.07 for relief from the order granting adoption. A petition or motion for  
4 termination of parental rights under s. 48.42 and an appeal to the court of appeals  
5 shall be the exclusive remedies for an adoptive parent who wishes to end his or her  
6 parental relationship with his or her adopted child.

7           **SECTION 69.** 48.83 (1) of the statutes is amended to read:

8           48.83 (1) Except as provided in s. 48.028 (3) (b), the court of the county where  
9 the proposed adoptive parent or child resides or the court of the county where a  
10 petition or motion for termination of parental rights to the child was filed or granted  
11 under subch. VIII, upon the filing with that court of a petition for adoption or for the  
12 adoptive placement of a child, has jurisdiction over the child until the petition for  
13 adoption is withdrawn, denied, or granted. Venue in a proceeding for adoption or  
14 adoptive placement of a child shall be in the county where the proposed adoptive  
15 parent or child resides at the time the petition for adoption is filed or in the county  
16 where a petition or motion for termination of parental rights to the child was filed  
17 or granted under subch. VIII. The court may transfer the case to a court in the county  
18 in which the proposed adoptive parents reside.

19           **SECTION 70.** 48.835 (3) (title) of the statutes is amended to read:

20           48.835 (3) (title) PETITION OR MOTION FOR TERMINATION OF PARENTAL RIGHTS  
21 REQUIRED; EXCEPTION.

22           **SECTION 71.** 48.835 (3) (a) of the statutes is amended to read:

23           48.835 (3) (a) If the child's parent has not filed a petition or motion for the  
24 termination of parental rights under s. 48.42, the relative with whom the child is

1 placed shall file a petition for the termination of the parents' rights at the same time  
2 the petition for adoption is filed, except as provided under par. (b).

3 **SECTION 72.** 48.837 (3) of the statutes is amended to read:

4 48.837 (3) PETITION OR MOTION FOR TERMINATION OF PARENTAL RIGHTS REQUIRED.

5 The petition under sub. (2) shall be filed with a petition or motion under s. 48.42 for  
6 the voluntary consent to the termination of any existing rights of the petitioning  
7 parent or parents.

8 **SECTION 73.** 48.837 (4) (e) of the statutes is amended to read:

9 48.837 (4) (e) Shall, before hearing the ~~petitions~~ petition under subs. ~~sub.~~ (2)  
10 and petition or motion under sub. (3), ascertain whether the paternity of a  
11 nonmarital child who is not adopted or whose parents do not subsequently  
12 intermarry under s. 767.803 has been acknowledged under s. 767.805 or a  
13 substantially similar law of another state or adjudicated in this state or another  
14 jurisdiction. If the child's paternity has not been acknowledged or adjudicated, the  
15 court shall attempt to ascertain the paternity of the child and shall determine the  
16 rights of any person who may be the father of the child as provided under s. 48.423.  
17 The court may not proceed with the hearing on the ~~petitions~~ or motion under this  
18 section unless the parental rights of the nonpetitioning parent, whether known or  
19 unknown, have been terminated.

20 **SECTION 74.** 48.837 (5) of the statutes is amended to read:

21 48.837 (5) ATTENDANCE AT HEARING. The child, if he or she is 12 years of age or  
22 over, and each petitioner shall attend the hearing on the petition under sub. (2). The  
23 child, if he or she is 12 years of age or over, and each parent having custody of the child  
24 shall attend the hearing on the petition or motion under sub. (3). If the parent who  
25 has custody of the child consents and the court approves, the proposed adoptive

1 parents may be present at the hearing on the petition or motion under sub. (3). The  
2 court may, for good cause, waive the requirement that the child attend either of the  
3 hearings.

4 **SECTION 75.** 48.837 (6) (a) of the statutes is amended to read:

5 48.837 (6) (a) The court shall hold the hearing on the petition under sub. (2)  
6 before the hearing on the petition or motion required under sub. (3).

7 **SECTION 76.** 48.837 (6) (b) of the statutes is amended to read:

8 48.837 (6) (b) At the beginning of the hearing held under sub. (2), the court shall  
9 review the report that is submitted under s. 48.913 (6). The court shall determine  
10 whether any payments or the conditions specified in any agreement to make  
11 payments are coercive to the birth parent of the child or to an alleged or presumed  
12 father of the child or are impermissible under s. 48.913 (4). Making any payment to  
13 or on behalf of the birth parent of the child, an alleged or presumed father of the child  
14 or the child conditional in any part upon transfer or surrender of the child or the  
15 termination of parental rights or the finalization of the adoption creates a rebuttable  
16 presumption of coercion. Upon a finding of coercion, the court shall dismiss the  
17 ~~petitions~~ petition under subs. ~~sub.~~ sub. (2) and petition or motion under sub. (3) or amend  
18 the agreement to delete any coercive conditions, if the parties agree to the  
19 amendment. Upon a finding that payments which are impermissible under s. 48.913  
20 (4) have been made, the court may dismiss the petition under sub. (2) and may refer  
21 the matter to the district attorney for prosecution under s. 948.24 (1).

22 **SECTION 77.** 48.837 (6) (br) of the statutes is amended to read:

23 48.837 (6) (br) At the hearing on the petition under sub. (2), the court shall  
24 determine whether any person has coerced a birth parent or any alleged or presumed  
25 father of the child in violation of sub. (1r) (e). Upon a finding of coercion, the court

1 shall dismiss the ~~petitions~~ petition under ~~subs.~~ sub. (2) and the petition or motion  
2 under sub. (3).

3 **SECTION 78.** 48.837 (6) (d) of the statutes is amended to read:

4 48.837 (6) (d) If the proposed placement is approved, the court shall proceed  
5 immediately to a hearing on the petition or motion required under sub. (3). If the  
6 parental rights of the parent are terminated, the court shall appoint as guardian of  
7 the child the department, a county department under s. 48.57 (1) (e) or (hm), or a  
8 child welfare agency licensed to accept guardianship under s. 48.61 (5). If the child  
9 has not been placed with the proposed adoptive parent or parents under sub. (1r) or  
10 (4) (d), the court shall order the child to be placed with the proposed adoptive parent  
11 or parents. If the child has been placed with the proposed adoptive parent or parents  
12 under sub. (1r) or (4) (d), the court shall order the child to be maintained in that  
13 placement.

14 **SECTION 79.** 938.23 (3) of the statutes is amended to read:

15 938.23 (3) POWER OF THE COURT TO APPOINT COUNSEL. Except as provided in this  
16 subsection, at any time, upon request or on its own motion, the court may appoint  
17 counsel for the juvenile or any party, unless the juvenile or the party has or wishes  
18 to retain counsel of his or her own choosing. ~~Except as provided in sub. (2g), the court~~  
19 ~~may not appoint counsel for any party other than the juvenile in a proceeding under~~  
20 ~~s. 938.13.~~

21 **SECTION 80.** 938.23 (4) of the statutes is amended to read:

22 938.23 (4) PROVIDING COUNSEL. If a juvenile has a right to be represented by  
23 counsel or is provided counsel at the discretion of the court under this section and  
24 counsel is not knowingly and voluntarily waived, the court shall refer the juvenile  
25 to the state public defender and counsel shall be appointed by the state public

1 defender under s. 977.08 without a determination of indigency. ~~In any situation~~  
2 ~~under sub. (2g) in which~~ If a parent 18 years of age or over is entitled to  
3 representation by counsel; counsel is not knowingly and voluntarily waived; and it  
4 appears that the parent is unable to afford counsel in full, or the parent so indicates;  
5 the court shall refer the parent to the authority for indigency determinations  
6 specified under s. 977.07 (1). In any other situation under this section in which a  
7 person has a right to be represented by counsel or is provided counsel at the  
8 discretion of the court, competent and independent counsel shall be provided and  
9 reimbursed in any manner suitable to the court regardless of the person's ability to  
10 pay, except that the court may not order a person who files a petition under s. 813.122  
11 or 813.125 to reimburse counsel for the juvenile who is named as the respondent in  
12 that petition.

13 **SECTION 81. Initial applicability.**

14 (1) This act first applies to a motion to terminate parental rights filed in a  
15 proceeding for which a petition is filed under s. 48.25 or 938.25 on the effective date  
16 of this subsection.

17 (END)