

1 **AN ACT** *to create* 48.235 (1) (g) and 48.235 (5m) of the statutes; **relating to:** the role
 2 of a guardian ad litem appointed for a parent in a contested termination of parental
 3 rights proceeding involving a child found to be in need of protection or services.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This draft was prepared for the joint legislative council’s special committee on adoption and termination of parental rights (TPR) law.

Under current law, s. 48.235, stats., sets out the appointment procedure of a guardian ad litem (GAL) under ch. 48, and sets out the duties and responsibilities of a GAL in various types of proceedings.

This draft requires the court to appoint a GAL for a parent who is not competent to assist counsel or the court in protecting the parent’s rights in the proceeding. This draft also directs a GAL of such a parent, who is contesting the termination of his or her parental rights in a proceeding that involves a child in need of protection or services, to provide information to the court relating to the parent’s competency to participate in the proceeding, and shall also provide assistance to the court and to the parent’s defense counsel in protecting the parent’s rights.

4 **SECTION 1.** 48.235 (1) (g) of the statutes is created to read:

5 48.235 (1) (g) The court shall appoint a guardian ad litem for a parent who is the subject
 6 of a termination of parental rights proceeding, if any assessment or examination of a parent
 7 that is ordered under s. 48.295 (1) shows that the parent is not competent to assist his or her
 8 counsel or the court in protecting the parent’s rights in the proceeding.

NOTE: This provision requires a court, in a TPR proceeding, to appoint a GAL for a parent who is the subject of such a proceeding, if any assessment or examination of the parent shows that the parent is not competent to assist his or her counsel of the court in protecting the parent’s rights in the proceeding.

9 **SECTION 2.** 48.235 (5m) of the statutes is created to read:

1 48.235 **(5m)** MATTERS INVOLVING CONTESTED TERMINATION OF PARENTAL RIGHTS
2 PROCEEDINGS. (a) In any termination of parental rights proceeding involving a child who has
3 been found to be in need of protection or services and whose parent is contesting the
4 termination of his or her parental rights, a guardian ad litem for a parent who has been
5 appointed under sub. (1) (g) shall provide information to the court relating to the parent's
6 competency to participate in the proceeding, and shall also provide assistance to the court and
7 the parent's defense counsel in protecting the parent's rights in the proceeding.

8 (b) The guardian ad litem may not participate in the proceeding as a party, and may not
9 call witnesses, provide opening statements or closing arguments, or participate in any activity
10 at trial that is required to be performed by the parent's counsel.

NOTE: This provision requires the GAL for a parent to provide information to the court relating to the parent's competency to participate in the proceeding, and to also provide assistance to the court and to the parent's defense counsel in protecting the parent's rights in the proceeding. This provision also specifies that the GAL may not participate in the proceeding as a party, and may not call witnesses, provide opening statements or closing arguments, or participate in any activity at trial that is required to be performed by the parent's counsel.