



2011 SENATE BILL 534

February 29, 2012 - Introduced by Senator GALLOWAY, cosponsored by Representatives KAPENGA, BROOKS, THIESFELDT, CRAIG, KOOYENGA and PETERSEN. Referred to Committee on Judiciary, Utilities, Commerce, and Government Operations.

1 **AN ACT to amend** 767.215 (2) (b), 767.215 (5) (a) 2., 767.225 (1) (c), 767.225 (1)
2 (k), 767.225 (1) (L), 767.281 (2) (a) (intro.), 767.513 (2), 767.55 (1) and 767.55
3 (2) (am) (intro.); and **to create** 767.511 (4m) of the statutes; **relating to:**
4 ordering support for an adult disabled child.

Analysis by the Legislative Reference Bureau

Under current law, when a court enters a judgment of annulment, divorce, or legal separation, in addition to other specified circumstances, such as in a paternity action, the court must order either or both parents of a minor child to pay an amount that is reasonable or necessary to fulfill a duty to support the minor child. The court must order that support be paid until the child is age 18, or age 19 if the child is pursuing an accredited course of instruction leading to a high school diploma or its equivalent. The amount of support that must be paid is determined by using a percentage standard, which bases the amount on the payer's income and the number of children to be supported. This amount may be modified, however, if the court determines on the basis of a number of factors that using the percentage standard would be unfair to either parent or the child.

This bill authorizes a court, in the same actions and circumstances under which the court must order child support for a minor child, to order support for an adult disabled child of the parties, for a definite or indefinite time, regardless of whether the child is institutionalized. In addition, if the court orders support for a minor child of the parties who is disabled, the court may order that the support be paid for a definite or indefinite period after the child reaches the age at which support is

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normally no longer required, regardless of whether the child is institutionalized. In either case, the court must find that the child needs substantial care and supervision because of a physical or mental disability; that the child is not and will not in the future be capable of supporting himself or herself; and that the disability exists or existed, or the cause of the disability is known to exist or to have existed before the child's 18th birthday. The court must determine the support amount for an adult disabled child in the same way that the court determines support for a minor child and must designate the person to receive the support payments for an adult or minor disabled child, which person may be the disabled child if he or she is at least age 18.

Under the bill, a court or court commissioner may make a temporary order requiring either or both parents to make payments for the support of an adult disabled child during the pendency of an action in which the court may order child support for the adult disabled child. If a court orders child support for an adult disabled child, the bill requires the court to assign responsibility for and direct the manner of payment of health care expenses for the adult disabled child, which may include requiring a parent to obtain family coverage that includes coverage for the adult disabled child, if such coverage is available through the parent's employer. In addition, in an action in which a court may order or modify child support for an adult disabled child, the bill authorizes the court to require either or both parents to participate in an employment or training program. Under current law, a court is authorized or required to make these same orders when ordering child support for a minor child.

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

1 **SECTION 1.** 767.215 (2) (b) of the statutes is amended to read:

2 767.215 (2) (b) The name and birthdate of each minor child or adult disabled
3 child of the parties and each other child born to the wife during the marriage, and
4 whether the wife is pregnant.

5 **SECTION 2.** 767.215 (5) (a) 2. of the statutes is amended to read:

6 767.215 (5) (a) 2. The name, date of birth, and social security number of each
7 minor child or adult disabled child of the parties and of each child born to the wife
8 during the marriage.

9 **SECTION 3.** 767.225 (1) (c) of the statutes is amended to read:

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1 767.225 (1) (c) Subject to s. 767.85, requiring either party or both parties to
2 make payments for the support of minor children or adult disabled children, which
3 payment amounts must be expressed as a fixed sum unless the parties have
4 stipulated to expressing the amount as a percentage of the payer's income and the
5 requirements under s. 767.34 (2) (am) 1. to 3. are satisfied.

6 **SECTION 4.** 767.225 (1) (k) of the statutes is amended to read:

7 767.225 (1) (k) Subject to s. 767.85, requiring either party or both parties to
8 maintain minor children or adult disabled children as beneficiaries on a health
9 insurance policy or plan.

10 **SECTION 5.** 767.225 (1) (L) of the statutes is amended to read:

11 767.225 (1) (L) Requiring either party or both parties to execute an assignment
12 of income for payment of health care expenses of minor children or adult disabled
13 children.

14 **SECTION 6.** 767.281 (2) (a) (intro.) of the statutes is amended to read:

15 767.281 (2) (a) (intro.) Except as provided in ch. 769, if the petition, motion, or
16 order to show cause is for enforcement or modification of a child support, family
17 support, or maintenance order, the petition, motion, or order to show cause shall be
18 filed in the county in which the original judgment or order was rendered or in the
19 county where the minor children or disabled adult children reside unless any of the
20 following applies:

21 **SECTION 7.** 767.511 (4m) of the statutes is created to read:

22 767.511 (4m) SUPPORT FOR DISABLED CHILD. (a) In this subsection, "disabled
23 child" means a child of the parties, regardless of age and regardless of whether the
24 child is institutionalized, who satisfies all of the following criteria:

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1 1. The child requires substantial care and personal supervision because of a
2 mental or physical disability.

3 2. The child is not, and will not in the future be, capable of supporting himself
4 or herself.

5 3. The child's disability exists or existed, or the cause of the disability is known
6 to exist or to have existed, on or before the child's 18th birthday.

7 (b) Notwithstanding sub. (4), if the court orders child support under sub. (1) for
8 a disabled child who is under the applicable maximum age specified in sub. (4), the
9 court may require that the support be paid for a definite or indefinite period after the
10 child reaches the maximum applicable age under sub. (4).

11 (c) Notwithstanding sub. (4), in the circumstances specified in sub. (1) (intro.),
12 the court may order either or both parties to provide, for a definite or indefinite
13 period, for the support of a disabled child who is over the maximum applicable age
14 under sub. (4). If child support is ordered under this paragraph, the amount of the
15 payments shall be determined in the manner provided in this section.

16 (d) Whenever the court orders child support for a disabled child, the court shall
17 do all of the following:

18 1. Designate a parent of the child, another person who has physical custody or
19 guardianship of the child under a court order, or the child directly if he or she is at
20 least 18 years of age, to receive the support payments.

21 2. Make any other orders regarding the rights or duties of the parents with
22 respect to the child that the court determines advisable.

23 **SECTION 8.** 767.513 (2) of the statutes is amended to read:

24 767.513 (2) RESPONSIBILITY AND PAYMENT. In addition to ordering child support
25 for a child under s. 767.511 (1) or (4m), the court shall specifically assign

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1 responsibility for and direct the manner of payment of the child's health care
2 expenses. In assigning responsibility for a child's health care expenses, the court
3 shall consider whether a child is covered under a parent's health insurance policy or
4 plan at the time the court approves a stipulation for child support under s. 767.34,
5 enters a judgment of annulment, divorce, or legal separation, or enters an order or
6 a judgment in a paternity action or in an action under s. 767.001 (1) (f) or (j), 767.501,
7 or 767.805 (3), the availability of health insurance to each parent through an
8 employer or other organization, the extent of coverage available to a child, and the
9 costs to the parent for the coverage of the child. A parent may be required to initiate
10 or continue health care insurance coverage for a child under this section. If a parent
11 is required to do so, he or she shall provide copies of necessary program or policy
12 identification to the custodial parent and is liable for any health care costs for which
13 he or she receives direct payment from an insurer. This section shall not be construed
14 to limit the authority of the court to enter or modify support orders containing
15 provisions for payment of medical expenses, medical costs, or insurance premiums
16 that are in addition to and not inconsistent with this section.

17 **SECTION 9.** 767.55 (1) of the statutes is amended to read:

18 767.55 (1) **GENERALLY.** In an action for modification of a child support order
19 under s. 767.59 or an action in which an order for child support is required under s.
20 767.511 (1), 767.805 (4), or 767.89 (3) or authorized under s. 767.511 (4m), the court
21 may order either or both parents of the child to seek employment or participate in
22 an employment or training program.

23 **SECTION 10.** 767.55 (2) (am) (intro.) of the statutes is amended to read:

24 767.55 (2) (am) (intro.) In an action for modification of a child support order
25 under s. 767.59, an action in which an order for child support is required under s.

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1 767.511 (1), 767.805 (4), or 767.89 (3) or authorized under s. 767.511 (4m), or a
2 contempt of court proceeding to enforce a child support or family support order in a
3 county that contracts under s. 49.36 (2), the court may order a parent who is not a
4 custodial parent to register for a work experience and job training program under s.
5 49.36 if all of the following conditions are met:

6 **SECTION 11. Nonstatutory provisions.**

7 (1) SUBSTANTIAL CHANGE IN CIRCUMSTANCES. The creation of section 767.511 (4m)
8 of the statutes by this act constitutes a substantial change in circumstances on which
9 may be based a revision under section 767.59 of a judgment or order with respect to
10 child or family support for a disabled child.

11 **SECTION 12. Initial applicability.**

12 (1) This act first applies to actions or proceedings, including actions or
13 proceedings to modify a judgment or order previously granted, that are commenced
14 on the effective date of this subsection.

15 (END)