



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-4982/2
SWB:cjs&amn

2021 SENATE BILL 665

November 2, 2021 - Introduced by Senators JOHNSON, AGARD, ROYS, ERPENBACH, LARSON, RINGHAND, SMITH and CARPENTER, cosponsored by Representatives STUBBS, BALDEH, CABRERA, HONG, ANDERSON, ANDRACA, BROSTOFF, CONLEY, EMERSON, HAYWOOD, HEBL, HESSELBEIN, B. MEYERS, NEUBAUER, OHNSTAD, POPE, SHANKLAND, SHELTON, SINICKI, SNODGRASS, SPREITZER, SUBECK, VINING and VRUWINK. Referred to Committee on Government Operations, Legal Review and Consumer Protection.

1 **AN ACT** *to amend* 49.45 (19) (a), 49.45 (19) (c), 767.804 (3) (d) 1., 767.805 (4) (d)
2 1. and 767.89 (3) (e) 1.; and *to create* 49.22 (9m) of the statutes; **relating to:**
3 eliminating recovery by the state for birth expenses paid through the Medical
4 Assistance program.

Analysis by the Legislative Reference Bureau

This bill prohibits the state from seeking recovery of birth expenses paid by the state through the Medical Assistance program on behalf of an unmarried person who gave birth and was a Medical Assistance recipient at the time of the birth. The bill also prohibits a court from including in a judgment or order relating to paternity an order for a father to pay for the recovery of such expenses paid by the state under the Medical Assistance program. Under current law, a court is required to include in a paternity order an order for the father to repay a portion of pregnancy and birth expenses, taking into account the father's income and ability to pay. Also under current law, a person applying for Medical Assistance, as a condition of eligibility for Medical Assistance, is deemed to have assigned to the state any rights to medical support or other payment of medical expenses from any other person, which includes the right to recovery of birth expenses. Further, under current law, if the mother of a child was enrolled in a health maintenance organization or other prepaid health care plan under the Medical Assistance program at the time of the child's birth, the state could seek to recover from the father the birth expenses incurred by the health maintenance organization or other prepaid health care plan. This bill prohibits the

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state from seeking recovery of these expenses and prohibits a court from ordering recovery of these expenses on behalf of the state.

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

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

1 **SECTION 1.** 49.22 (9m) of the statutes is created to read:

2 49.22 **(9m)** Neither the department nor its designee may seek recovery from
3 an alleged father of pregnancy or birth expenses paid by the state under the Medical
4 Assistance program on behalf of an unmarried person who gave birth and who was
5 a recipient of Medical Assistance at the time of the birth.

6 **SECTION 2.** 49.45 (19) (a) of the statutes is amended to read:

7 49.45 **(19)** (a) As Except as provided in par. (c), as a condition of eligibility for
8 medical assistance, a person shall, notwithstanding other provisions of the statutes,
9 be deemed to have assigned to the state, by applying for or receiving medical
10 assistance, any rights to medical support or other payment of medical expenses from
11 any other person, including rights to unpaid amounts accrued at the time of
12 application for medical assistance as well as any rights to support accruing during
13 the time for which medical assistance is paid.

14 **SECTION 3.** 49.45 (19) (c) of the statutes is amended to read:

15 49.45 **(19)** (c) ~~If the mother of a child was enrolled in a health maintenance~~
16 ~~organization or other prepaid health care plan under medical assistance at the time~~
17 ~~of the child's birth, The state may not seek recovery of birth expenses that may be~~
18 ~~recovered by the state under this subsection are the birth expenses incurred by the~~
19 ~~health maintenance organization or other prepaid health care plan.~~

20 **SECTION 4.** 767.804 (3) (d) 1. of the statutes is amended to read:

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1 767.804 (3) (d) 1. An order establishing the amount of the father's obligation
2 to pay or contribute to the reasonable expenses of the mother's pregnancy and the
3 child's birth, except that the court may not order a father to pay expenses under this
4 section for the recovery of expenses paid by the state under the Medical Assistance
5 program on behalf of an unmarried person who gave birth and who was a recipient
6 of Medical Assistance at the time of the birth. The amount established may not
7 exceed one-half of the total actual and reasonable pregnancy and birth expenses.
8 The order also shall specify the court's findings as to whether the father's income is
9 at or below the poverty line established under 42 USC 9902 (2), and shall specify
10 whether periodic payments are due on the obligation, based on the father's ability
11 to pay or contribute to those expenses.

12 **SECTION 5.** 767.805 (4) (d) 1. of the statutes is amended to read:

13 767.805 (4) (d) 1. An order establishing the amount of the father's obligation
14 to pay or contribute to the reasonable expenses of the mother's pregnancy and the
15 child's birth, except that the court may not order a father to pay expenses under this
16 section for the recovery of expenses paid by the state under the Medical Assistance
17 program on behalf of an unmarried person who gave birth and who was a recipient
18 of Medical Assistance at the time of the birth. The amount established may not
19 exceed one-half of the total actual and reasonable pregnancy and birth expenses.
20 The order also shall specify the court's findings as to whether the father's income is
21 at or below the poverty line established under 42 USC 9902 (2), and shall specify
22 whether periodic payments are due on the obligation, based on the father's ability
23 to pay or contribute to those expenses.

24 **SECTION 6.** 767.89 (3) (e) 1. of the statutes is amended to read:

