

May 1994 Spec. Sess.
Senate Bill 2

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1993 WISCONSIN ACT 481

AN ACT *to repeal* 46.25 (9) (c), 227.01 (13) (jo), 767.25 (1n) (a), 767.51 (5d) (a) and 818.02 (2); *to renumber* 632.72, 632.897 (1) (a) and 767.21 (1); *to renumber and amend* 46.10 (14), 48.33 (3), 48.33 (4), 48.36 (1), 48.363, 767.262 (4), 767.33 (1m) and 818.02 (1); *to consolidate, renumber and amend* 46.25 (9) (intro.) and (a), 767.25 (1n) (intro.) and (b) and 767.51 (5d) (intro.) and (b); *to amend* 20.921 (2) (a), 40.51 (8), 46.03 (18) (a), 46.03 (18) (b), 46.10 (1), 46.10 (2), 46.255 (1), (2), (3) and (4), 46.255 (4m) (b), 48.30 (6), 48.31 (7), 48.355 (2) (title), 48.355 (2) (b) 4, 49.19 (4) (h) 1. b., 59.39 (9m), 66.184, 69.15 (3) (b) 3, 102.27 (2) (a), 120.13 (2) (g), 185.981 (4t), 185.983 (1) (intro.), 565.30 (5m), 632.897 (10) (b), 757.69 (3) (g), 767.025 (title), 767.045 (4), 767.05 (5), 767.075 (2) (b), 767.08 (2) (b), 767.08 (2) (c), 767.085 (2) (b), 767.085 (2m) (a) 2, 767.13 (5) (b), 767.23 (1) (c), 767.23 (1) (f), 767.23 (1n), 767.24 (3) (e), 767.25 (1) (a), 767.25 (1j), 767.25 (4m) (b), 767.25 (6) (intro.), 767.25 (6) (a), 767.261, 767.265 (1), 767.265 (2r), 767.265 (3h), 767.265 (4), 767.265 (6) (a), 767.265 (6) (b), 767.265 (6) (c), 767.267 (1), 767.27 (2), 767.27 (4), 767.28, 767.29 (1), 767.295 (2) (c), 767.30 (1), 767.305, 767.32 (1) (a), 767.32 (1) (b) 4, 767.32 (1m), 767.32 (2), 767.32 (2s), 767.33 (1), 767.45 (1) (intro.), 767.45 (5m), 767.45 (7), 767.455 (3), 767.455 (5), 767.455 (5g) (form) 3, 767.455 (5g) (form) 7, 767.455 (5r) (form) 2, 767.455 (6), 767.458 (1) (intro.), 767.458 (1) (b), 767.458 (1) (d), 767.458 (1m), 767.458 (2), 767.458 (3), 767.46 (1), 767.46 (2) (intro.), 767.46 (2) (c), 767.46 (4), 767.46 (6), 767.465 (title), 767.465 (1) (title), 767.465 (2) (title) and (a), 767.465 (2m) (a), 767.465 (2m) (b), 767.465 (2m) (c), 767.465 (3) (intro.) and (c), 767.47 (5), 767.475 (1), 767.475 (6), 767.48 (1) (a), 767.50 (1), 767.51 (3m) (b), 767.51 (4), 767.51 (4m), 767.51 (5p) (intro.), 767.51 (5p) (a), 767.51 (6), 767.52 (1), 803.01 (3) (b) 1, 803.01 (3) (b) 2, 808.075 (4) (d) 11, 814.61 (1) (c), 814.61 (7) (c), 814.61 (12) (b) 3, 818.10, 818.20, 895.01 (1), 948.22 (7) (b) 1 and 2 and 977.05 (4) (i) 7; *to repeal and recreate* 20.921 (2) (a), 46.10 (2), 46.25 (9) (b), 48.33 (3) (intro.), 66.184, 102.27 (2) (a), 767.08 (2) (c), 767.305, 767.465 (1), 767.465 (2) (a), 767.475 (1) and 767.51 (6); and *to create* 46.10 (14) (b) to (f), 48.33 (3) (b), 48.33 (4) (b), 48.33 (4m), 48.335 (3r), 48.355 (2) (d), 48.357 (5m), 48.36 (1) (b), 48.363 (2), 49.493 (3) (d), 215.26 (8) (dm), 632.72 (2), 632.897 (1) (ac), 632.897 (1) (em), 632.897 (10) (a) 4 and 5, 632.897 (10) (am), 632.897 (10) (bf), 767.02 (1) (m), 767.025 (4), 767.045 (1) (c), 767.045 (1) (d), 767.13 (5) (c), 767.21 (1) (b), 767.23 (1) (L), 767.25 (1g), 767.25 (4m) (c), 767.25 (4m) (d), 767.25 (4m) (e), 767.262 (4) (b), 767.265 (7m), 767.267, 767.27 (2m), 767.29 (1m), 767.29 (4), 767.293, 767.32 (1r), 767.32 (2r), 767.32 (2w), 767.33 (1m) (b), 767.45 (1) (i), 767.459, 767.465 (2m), 767.51 (3m) (c), 767.51 (3m) (d), 767.51 (3m) (e), 767.51 (4g), 767.62, 808.075 (4) (d) 12, 808.075 (4) (d) 13 and 948.22 (7) (bm) of the statutes, **relating to:** ordering child support on the basis of a statement acknowledging paternity; requirements for parents, insurers and employers with respect to health care coverage for a child in actions affecting the family; a system for reporting child support liability and employment changes; allowing a court to require a payer of child support or maintenance to authorize periodic transfers from a deposit account; various changes in actions to determine paternity; information that a court may consider when determining child support payments; requiring the court to use the child support standard used in divorce actions when setting child support to be paid for children in foster care and other substitute care situations; allowing females to be arrested in all civil actions in which males can be arrested; establishing a child support arrearage by affidavit; authorizing the clerk of court to escrow overpayments of support or maintenance for disbursement in the month when due; adjusting a withholding assignment for child support or maintenance so that withholding frequency corresponds

to payroll period; expanding the authority of a family court commissioner in child support actions; guardians ad litem in actions to determine paternity; expressing child support in child support orders; tax intercept certifications; authorizing costs against a county if the child support payment record kept by the clerk of court is substantially incorrect; soliciting proposals for a centralized support collection and disbursement program; providing for a study; granting rule-making authority; providing an exemption from rule-making procedures; and providing a penalty.

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

SECTION 2. 20.921 (2) (a) of the statutes is amended to read:

20.921 (2) (a) Whenever it becomes necessary in pursuance of any federal or state law or court-ordered assignment of income under s. ~~46.10 (14) (e) or~~ 767.265 to make deductions from the salaries of state officers or employes, each state agency is responsible for making such deductions and paying over the total thereof for the purposes provided by the laws or orders under which they were made.

SECTION 3. 20.921 (2) (a) of the statutes, as affected by 1993 Wisconsin Act (this act), is repealed and recreated to read:

20.921 (2) (a) Whenever it becomes necessary in pursuance of any federal or state law or court-ordered assignment of income under s. 46.10 (14) (e), 767.23 (1) (L), 767.25 (4m) (c), ~~767.265 or~~ 767.51 (3m) (c) to make deductions from the salaries of state officers or employes, each state agency is responsible for making such deductions and paying over the total thereof for the purposes provided by the laws or orders under which they were made.

SECTION 4. 40.51 (8) of the statutes, as affected by 1993 Wisconsin Act 450, is amended to read:

40.51 (8) Every health care coverage plan offered by the state under sub. (6) shall comply with ss. 631.89, 631.90, 631.93 (2), ~~632.72 (2),~~ 632.87 (3) to (5), 632.895 (5m) and (8) to (10) and 632.896.

SECTION 5. 46.03 (18) (a) of the statutes is amended to read:

46.03 (18) (a) ~~The~~ Except as provided in s. 46.10 (14) (b) and (c), the department of health and social services shall establish a uniform system of fees for services provided or purchased by the department of health and social services, ~~or~~ a county department under s. 46.215, 46.22, 51.42 or 51.437, except for services relating to adoption, or services provided to courts, for provision of child support and paternity establishment services to recipients of aid to families with dependent children or for outreach, information and referral services, or where as determined by the department of health and social services, a fee is administratively unfeasible or would significantly prevent accomplishing the purpose of the service. A county department under s. 46.215, 46.22, 51.42 or 51.437 shall apply the fees which it collects under this program to cover the cost of such services. The department of health and social services shall report to the joint committee on

finance no later than March 1 of each year on the number of children placed for adoption by the department of health and social services during the previous year and the costs to the state for services relating to such adoptions.

SECTION 6. 46.03 (18) (b) of the statutes is amended to read:

46.03 (18) (b) ~~Any~~ Except as provided in s. 46.10 (14) (b) and (c), any person receiving services provided or purchased under par. (a) or the spouse of the person and, in the case of a minor, the parents of the person, and, in the case of a foreign child described in s. 48.839 (1) who became dependent on public funds for his or her primary support before an order granting his or her adoption, the resident of this state appointed guardian of the child by a foreign court who brought the child into this state for the purpose of adoption, shall be liable for the services in the amount of the fee established under par. (a). If a minor receives services without consent of a parent or guardian under s. 51.47, the department shall base the fee solely on the minor's ability to pay.

SECTION 7. 46.10 (1) of the statutes is amended to read:

46.10 (1) Liability and the collection and enforcement of such liability for the care, maintenance, services and supplies specified in this section is governed exclusively by this section, except in cases of child support ordered by a court under ~~ch. 48 or~~ s. 48.355 (2) (b) 4., 48.357 (5m) or 48.363 (2) or ch. 767.

SECTION 8. 46.10 (2) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

46.10 (2) ~~Except as provided in sub. subs. (2m) and (14) (b) and (c),~~ any person, including but not limited to a person admitted, committed or placed under s. 975.01, 1977 stats., s. 975.02, 1977 stats., and s. 975.17, 1977 stats., and ss. 48.34 (4m), 51.10, 51.13, 51.15, 51.20, 51.35 (3), 51.37 (5), 51.45 (10), (11), (12) and (13), 55.05, 55.06, 971.14 (2) and (5), 971.17 (1) and 975.06, receiving care, maintenance, services and supplies provided by any institution in this state including university of Wisconsin hospital and clinics, in which the state is chargeable with all or part of the person's care, maintenance, services and supplies, any person receiving care and services from a county department established under s. 51.42 or 51.437 or from a facility established under s. 49.175, and any person receiving treatment and services from a public or private agency under s. 971.17 (3) (d) or (4) (e) and the person's property and estate, including the homestead, and the spouse of the person, and the spouse's

property and estate, including the homestead, and, in the case of a minor child, the parents of the person, and their property and estates, including their homestead, and, in the case of a foreign child described in s. 48.839 (1) who became dependent on public funds for his or her primary support before an order granting his or her adoption, the resident of this state appointed guardian of the child by a foreign court who brought the child into this state for the purpose of adoption, and his or her property and estate, including his or her homestead, shall be liable for the cost of the care, maintenance, services and supplies in accordance with the fee schedule established by the department under s. 46.03 (18). If a spouse, widow or minor, or an incapacitated person may be lawfully dependent upon the property for their support, the court shall release all or such part of the property and estate from the charges that may be necessary to provide for those persons. The department shall make every reasonable effort to notify the liable persons as soon as possible after the beginning of the maintenance, but the notice or the receipt thereof is not a condition of liability.

SECTION 9. 46.10 (2) of the statutes, as affected by 1993 Wisconsin Acts 385 and (this act), is repealed and recreated to read:

46.10 (2) Except as provided in subs. (2m) and (14) (b) and (c), any person, including but not limited to a person admitted, committed or placed under s. 975.01, 1977 stats., s. 975.02, 1977 stats., and s. 975.17, 1977 stats., and ss. 48.34 (4m), 48.357 (4) and (5) (e), 48.366, 51.10, 51.13, 51.15, 51.20, 51.35 (3), 51.37 (5), 51.45 (10), (11), (12) and (13), 55.05, 55.06, 971.14 (2) and (5), 971.17 (1) and 975.06, receiving care, maintenance, services and supplies provided by any institution in this state including university of Wisconsin hospital and clinics, in which the state is chargeable with all or part of the person's care, maintenance, services and supplies, any person receiving care and services from a county department established under s. 51.42 or 51.437 or from a facility established under s. 49.175, and any person receiving treatment and services from a public or private agency under s. 971.17 (3) (d) or (4) (e) and the person's property and estate, including the homestead, and the spouse of the person, and the spouse's property and estate, including the homestead, and, in the case of a minor child, the parents of the person, and their property and estates, including their homestead, and, in the case of a foreign child described in s. 48.839 (1) who became dependent on public funds for his or her primary support before an order granting his or her adoption, the resident of this state appointed guardian of the child by a foreign court who brought the child into this state for the purpose of adoption, and his or her property and estate, including his or her homestead, shall be liable for the cost of the care, maintenance, services and supplies in accordance with the fee schedule established by the department under s. 46.03 (18). If a spouse, widow or minor, or an incapacitated person may be law-

fully dependent upon the property for their support, the court shall release all or such part of the property and estate from the charges that may be necessary to provide for those persons. The department shall make every reasonable effort to notify the liable persons as soon as possible after the beginning of the maintenance, but the notice or the receipt thereof is not a condition of liability.

SECTION 10. 46.10 (14) of the statutes, as affected by 1993 Wisconsin Act 446, is renumbered 46.10 (14) (a) and amended to read:

46.10 (14) (a) Liability Except as provided in pars. (b) and (c), liability of a person specified in sub. (2) or s. 46.03 (18) for inpatient care and maintenance of persons under 18 years of age at community mental health centers, a county mental health complex under s. 51.08, the centers for the developmentally disabled, Mendota mental health institute and Winnebago mental health institute or care and maintenance of persons under 18 years of age in residential, nonmedical facilities such as group homes, foster homes, treatment foster homes, child caring institutions and juvenile correctional institutions is determined in accordance with the cost-based fee established under s. 46.03 (18). The department shall bill the liable person up to any amount of liability not paid by an insurer under s. 632.89 (2) or (2m) or by other 3rd party benefits, subject to rules which include formulas governing ability to pay promulgated by the department under s. 46.03 (18). Any liability of the patient not payable by any other person terminates when the patient reaches age 18, unless the liable person has prevented payment by any act or omission.

SECTION 11. 46.10 (14) (b) to (f) of the statutes are created to read:

46.10 (14) (b) Except as provided in par. (c) and subject to par. (cm), liability of a parent specified in sub. (2) or s. 46.03 (18) for the care and maintenance of the parent's minor child who has been placed by a court order under s. 48.355 or 48.357 in a residential, nonmedical facility such as a group home, foster home, treatment foster home, child caring institution or juvenile correctional institution shall be determined by the court by using the percentage standard established by the department under s. 46.25 (9) (a) and by applying the percentage standard in the manner established by the department under s. 46.25 (9) (b).

(c) Upon request by a parent, the court may modify the amount of child support payments determined under par. (b), subject to par. (cm), if, after considering the following factors, the court finds by the greater weight of the credible evidence that the use of the percentage standard is unfair to the child or to either of the parents:

1. The needs of the child.
2. The physical, mental and emotional health needs of the child, including any costs for the child's health insurance provided by a parent.

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3. The standard of living and circumstances of the parents, including the needs of each parent to support himself or herself at a level equal to or greater than that established under 42 USC 9902 (2).

4. The financial resources of the parents.

5. The earning capacity of each parent, based on each parent's education, training and work experience and based on the availability of work in or near the parent's community.

6. The need and capacity of the child for education, including higher education.

7. The age of the child.

8. The financial resources and the earning ability of the child.

9. The needs of any person, including dependent children other than the child, whom either parent is legally obligated to support.

10. The best interests of the child, including, but not limited to, the impact on the child of expenditures by the family for improvement of any conditions in the home that would facilitate the reunification of the child with the child's family, if appropriate, and the importance of a placement that is the least restrictive of the rights of the child and the parents and the most appropriate for meeting the needs of the child and the family.

11. Any other factors that the court in each case determines are relevant.

(cm) 1. Except as provided in subd. 2, if a parent who is required to pay child support under par. (b) or (c) is receiving adoption assistance under s. 48.975 for the child for whom support is ordered, the amount of the child support payments determined under par. (b) or (c) may not exceed the amount of the adoption assistance payments.

2. Subdivision 1 does not apply if, after considering the factors under par. (c) 1. to 11, the court finds by the greater weight of the credible evidence that limiting the amount of the child support payments to the amount of the adoption assistance payments is unfair to the child or to either of the parents.

(d) If the court finds under par. (c) that use of the percentage standard is unfair to the minor child or either of the parents, the court shall state in writing or on the record the amount of support that would be required by using the percentage standard, the amount by which the court's order deviates from that amount, its reasons for finding that use of the percentage standard is unfair to the child or the parent, its reasons for the amount of the modification and the basis for the modification.

(e) 1. An order issued under s. 48.355 (2) (b) 4., 48.357 (5m) or 48.363 (2) for support determined under this subsection constitutes an assignment of all commissions, earnings, salaries, wages, pension benefits, benefits under ch. 102 or 108 and other money due or to be due in the future to the county department under s. 46.215, 46.22 or 46.23 in the county where the order was entered

or to the department, depending upon the placement of the child as specified by rules promulgated under subd. 5. The assignment shall be for an amount sufficient to ensure payment under the order.

2. Except as provided in subd. 3, for each payment made under the assignment, the person from whom the payer under the order receives money shall receive an amount equal to the person's necessary disbursements, not to exceed \$3, which shall be deducted from the money to be paid to the payer.

3. Benefits under ch. 108 may be assigned and withheld only in the manner provided in s. 108.13 (4). Any order to withhold benefits under ch. 108 shall be for an amount certain. When money is to be withheld from these benefits, no fee may be deducted from the amount withheld and no fine may be levied for failure to withhold the money.

4. No employer may use an assignment under this paragraph as a basis for the denial of employment to a person, the discharge of an employe or any disciplinary action against an employe. An employer who denies employment or discharges or disciplines an employe in violation of this subdivision may be fined not more than \$500 and may be required to make full restitution to the aggrieved person, including reinstatement and back pay. Except as provided in this subdivision, restitution shall be in accordance with s. 973.20. An aggrieved person may apply to the district attorney or to the department of industry, labor and human relations for enforcement of this subdivision.

5. The department shall promulgate rules for the operation and implementation of assignments under this paragraph.

(f) If the amount of the child support determined under this subsection is greater than the cost for the care and maintenance of the minor child in the residential, nonmedical facility, the assignee under par. (e) 1. shall expend or otherwise dispose of any funds that are collected in excess of the cost of such care and maintenance in a manner that the assignee determines will serve the best interests of the minor child.

SECTION 12. 46.25 (9) (intro.) and (a) of the statutes are consolidated, renumbered 46.25 (9) (a) and amended to read:

46.25 (9) (a) The department:—(a)—~~Shall adopt and publish shall promulgate rules that provide~~ a standard for courts to use in determining a child support obligation based upon a percentage of the gross income and assets of either or both parents. The rules shall provide for consideration of the income of each parent and the amount of physical placement with each parent in determining a child support obligation in cases in which a child has substantial periods of physical placement with each parent.

SECTION 13. 46.25 (9) (b) of the statutes is repealed and recreated to read:

46.25 (9) (b) For purposes of determining child support under s. 46.10 (14) (b), the department shall promulgate separate rules related to the application of the standard under par. (a) to a child support obligation for the care and maintenance of a child who is placed by a court order under s. 48.355 or 48.357 in a residential, nonmedical facility. The rules shall take into account the needs of any person, including dependent children other than the child, whom either parent is legally obligated to support.

SECTION 14. 46.25 (9) (c) of the statutes is repealed.

SECTION 15. 46.255 (1), (2), (3) and (4) of the statutes are amended to read:

46.255 (1) If a person obligated to provide child support or maintenance is delinquent in making court-ordered payments, or owes an outstanding amount that has been ordered by the court for past support, medical expenses or birth expenses, the clerk of circuit court, upon application of the county designee under s. 59.07 (97) or the department, shall certify the delinquent payment or outstanding amount to the department.

(2) At least annually, the department of health and social services shall provide to the department of revenue the certifications that it receives under sub. (1) and any certifications of delinquencies or outstanding amounts that it receives from another state because the obligor resides in this state.

(3) Receipt of a certification by the department of revenue shall constitute a lien, equal to the amount certified, on any state tax refunds or credits owed to the obligor. The lien shall be foreclosed by the department of revenue as a setoff under s. 71.93 (3), (6) and (7). When the department of revenue determines that the obligor is otherwise entitled to a state tax refund or credit, it shall notify the obligor that the state intends to reduce any state tax refund or credit due the obligor by the amount the obligor is delinquent under the support or maintenance order, by the outstanding amount for past support, medical expenses or birth expenses under the court order or by the amount due under s. 46.10 (4). The notice shall provide that within 20 days the obligor may request a hearing before the circuit court rendering the order. Within 10 days after receiving a request for hearing under this subsection, the court shall set the matter for hearing. Pending further order by the court or family court commissioner, the clerk of circuit court is prohibited from disbursing the obligor's state tax refund or credit. The family court commissioner may conduct the hearing. The sole issues at that hearing shall be whether the obligor owes the amount certified and, if not and it is a support or maintenance order, whether the money withheld from a tax refund or credit shall be paid to the obligor or held for future support or maintenance. An obligor may, within 20 days of receiving notice that the amount certified shall be withheld from his or her federal tax refund or credit, request a hearing under this subsection.

(4) The department of revenue shall send that portion of any state or federal tax refunds or credits withheld to the department of health and social services for distribution to the appropriate clerk of circuit court. The department of health and social services shall make a settlement at least annually with the department of revenue and with each ~~county~~ clerk of circuit court who has certified a delinquent obligation or outstanding amount for past support, medical expenses or birth expenses. The settlement shall state the amounts certified, the amounts deducted from tax refunds and credits and returned to the ~~county~~ clerk of circuit court and the administrative costs incurred by the department of revenue. The department of health and social services may charge the county whose clerk of circuit court certified the obligation or outstanding amount the related administrative costs incurred by the department of health and social services and the department of revenue.

SECTION 16. 46.255 (4m) (b) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

46.255 (4m) (b) The department may provide a certification that it receives under sub. (2) or (2m) to the department of administration. Upon receipt of the certification, the department of administration shall determine whether the obligor is a vendor or is receiving any other payments from this state, except for wages, retirement benefits or assistance under s. 45.352, 1971 stats., s. 45.351 (1), this chapter or ch. 49 or 108. If the department of administration determines that the obligor is a vendor or is receiving payments from this state, except for wages, retirement benefits or assistance under s. 45.352, 1971 stats., s. 45.351 (1), this chapter or ch. 49 or 108, it shall begin to withhold the amount certified from those payments and shall notify the obligor that the state intends to reduce any payments due the obligor by the amount the obligor is delinquent under the support or maintenance order, by the outstanding amount for past support, medical expenses or birth expenses under the court order or by the amount due under s. 46.10 (4). The notice shall provide that within 20 days after receipt of the notice the obligor may request a hearing before the circuit court rendering the order. An obligor may, within 20 days after receiving notice, request a hearing under this paragraph. Within 10 days after receiving a request for hearing under this paragraph, the court shall set the matter for hearing. The family court commissioner may conduct the hearing. Pending further order by the court or family court commissioner, the clerk of circuit court may not disburse the payments withheld from the obligor. The sole issues at the hearing are whether the obligor owes the amount certified and, if not and it is a support or maintenance order, whether the money withheld shall be paid to the obligor or held for future support or maintenance.

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SECTION 17. 48.30 (6) of the statutes is amended to read:

48.30 (6) If a petition is not contested, the court shall set a date for the dispositional hearing which allows reasonable time for the parties to prepare but is no more than 10 days from the plea hearing for the child who is held in secure custody and no more than 30 days from the plea hearing for a child who is not held in secure custody. If it appears to the court that disposition of the case may include placement of the child outside the child's home, the court shall order the child's parent to provide a statement of income, assets, debts and living expenses to the court or the designated agency under s. 48.33 (1) at least 5 days before the scheduled date of the dispositional hearing or as otherwise ordered by the court. The clerk of court shall provide, without charge, to any parent ordered to provide a statement of income, assets, debts and living expenses a document setting forth the percentage standard established by the department under s. 46.25 (9) and listing the factors that a court may consider under s. 46.10 (14) (c). If all parties consent the court may proceed immediately with the dispositional hearing. If a citation is not contested, the court may proceed immediately to enter a dispositional order.

SECTION 18. 48.31 (7) of the statutes is amended to read:

48.31 (7) At the close of the fact-finding hearing, the court shall set a date for the dispositional hearing which allows a reasonable time for the parties to prepare but is no more than 10 days from the fact-finding hearing for a child in secure custody and no more than 30 days from the fact-finding hearing for a child not held in secure custody. If it appears to the court that disposition of the case may include placement of the child outside the child's home, the court shall order the child's parent to provide a statement of income, assets, debts and living expenses to the court or the designated agency under s. 48.33 (1) at least 5 days before the scheduled date of the dispositional hearing or as otherwise ordered by the court. The clerk of court shall provide, without charge, to any parent ordered to provide a statement of income, assets, debts and living expenses a document setting forth the percentage standard established by the department under s. 46.25 (9) and listing the factors that a court may consider under s. 46.10 (14) (c). If all parties consent, the court may immediately proceed with a dispositional hearing.

SECTION 19. 48.33 (3) of the statutes is renumbered 48.33 (3) (intro.) and amended to read:

48.33 (3) CORRECTIONAL PLACEMENT REPORTS. (intro.) A report recommending transfer of the child's custody to the department for placement in a secured correctional facility shall be in writing and, in addition to the information specified under sub. (1) (a) to (d), shall include a all of the following:

(a) A description of any less restrictive alternatives that are available and that have been considered, and why they have been determined to be inappropriate.

SECTION 20. 48.33 (3) (intro.) of the statutes, as affected by 1993 Wisconsin Acts 385 and ... (this act), is repealed and recreated to read:

48.33 (3) CORRECTIONAL PLACEMENT REPORTS. (intro.) A report recommending placement of a child in a secured correctional facility shall be in writing and, in addition to the information specified under sub. (1) (a) to (d), shall include all of the following:

SECTION 21. 48.33 (3) (b) of the statutes is created to read:

48.33 (3) (b) A recommendation for an amount of child support to be paid by either or both of the child's parents or for referral to the county designee under s. 59.07 (97) for the establishment of child support.

SECTION 22. 48.33 (4) of the statutes, as affected by 1993 Wisconsin Act 446, is renumbered 48.33 (4) (intro.) and amended to read:

48.33 (4) OTHER OUT-OF-HOME PLACEMENTS. (intro.) A report recommending placement in a foster home, treatment foster home, group home or child caring institution shall be in writing and shall include a all of the following:

(a) A permanency plan prepared under s. 48.38.

SECTION 23. 48.33 (4) (b) of the statutes is created to read:

48.33 (4) (b) A recommendation for an amount of child support to be paid by either or both of the child's parents or for referral to the county designee under s. 59.07 (97) for the establishment of child support.

SECTION 24. 48.33 (4m) of the statutes is created to read:

48.33 (4m) SUPPORT RECOMMENDATIONS; INFORMATION TO PARENTS. In making a recommendation for an amount of child support under sub. (3) or (4), the agency shall consider the factors that the court considers under s. 46.10 (14) (c) for deviation from the percentage standard. Prior to the dispositional hearing under s. 48.335, the agency shall provide the child's parent with all of the following:

(a) A copy of its recommendation for child support.

(b) A written explanation of how the parent may request that the court modify the amount of child support under s. 46.10 (14) (c).

(c) A written explanation of how the parent may request a revision under s. 48.363 in the amount of child support ordered by the court under s. 48.355 (2) (b) 4.

SECTION 25. 48.335 (3r) of the statutes is created to read:

48.335 (3r) At hearings under this section, a parent of the child may present evidence relevant to the amount of child support to be paid by either or both parents.

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SECTION 26. 48.355 (2) (title) of the statutes is amended to read:

48.355 (2) (title) CONTENT OF ORDER; COPY TO PARENT.

SECTION 27. 48.355 (2) (b) 4. of the statutes is amended to read:

48.355 (2) (b) 4. A If the child is placed outside the child's home, a designation of the amount of support, if any, to be paid by the child's parent, guardian or trustee, specifying that the support obligation begins on the date of the placement, or a referral to the county designee under s. 59.07 (97) for establishment of child support.

SECTION 28. 48.355 (2) (d) of the statutes is created to read:

48.355 (2) (d) The court shall provide a copy of the dispositional order to the child's parent, guardian or trustee.

SECTION 29. 48.357 (5m) of the statutes is created to read:

48.357 (5m) If a proposed change in placement changes a child's placement from a placement in the child's home to a placement outside the child's home, the court shall order the child's parent to provide a statement of income, assets, debts and living expenses to the court or the person or agency primarily responsible for implementing the dispositional order by a date specified by the court. The clerk of court shall provide, without charge, to any parent ordered to provide a statement of income, assets, debts and living expenses a document setting forth the percentage standard established by the department under s. 46.25 (9) and listing the factors that a court may consider under s. 46.10 (14) (c). If the child is placed outside the child's home, the court shall determine the liability of the parent in the manner provided in s. 46.10 (14).

SECTION 30. 48.36 (1) of the statutes is renumbered 48.36 (1) (a) and amended to read:

48.36 (1) (a) If legal custody is transferred from the parent or guardian or the court otherwise designates an alternative placement for the child by a disposition made under s. 48.34 or 48.345 or by a change in placement under s. 48.357, the duty of the parent or guardian or, in the case of a transfer of guardianship and custody under s. 48.839 (4), the duty of the former guardian to provide support shall continue even though the legal custodian or the placement designee may provide the support. A copy of the order transferring custody or designating alternative placement for the child shall be submitted to the agency or person receiving custody or placement and the agency or person may apply to the court for an order to compel the parent or guardian to provide the support. Support payments for residential services, when purchased or otherwise funded or provided by the department, or a county department under s. 46.215, 46.22, 46.23, 51.42 or 51.437, shall be ~~subject to the payment provisions under ss. 46.03 (18) and determined under s. 46.10 (14).~~ However, if at the time the child is placed into those residential services a court order for support

~~already exists under s. 49.90 or ch. 767 the amount of parental payment to be applied to residential services shall not be less than the amount specified in that court order.~~

SECTION 31. 48.36 (1) (b) of the statutes is created to read:

48.36 (1) (b) In determining the amount of support under par. (a), the court may consider all relevant financial information or other information relevant to the parent's earning capacity, including information reported to the department, or the county child and spousal support agency, under s. 46.25 (2m). If the court has insufficient information with which to determine the amount of support, the court shall order the child's parent to furnish a statement of income, assets, debts and living expenses, if the parent has not already done so, to the court within 10 days after the court's order transferring custody or designating an alternative placement is entered or at such other time as ordered by the court.

SECTION 32. 48.363 of the statutes is renumbered 48.363 (1) and amended to read:

48.363 (1) A child, the child's parent, guardian or legal custodian, any person or agency bound by a dispositional order or the district attorney or corporation counsel in the county in which the dispositional order was entered may request a revision in the order ~~which that~~ does not involve a change in placement, including a revision with respect to the amount of child support to be paid by a parent, or the court may on its own motion propose such a revision. The request or court proposal shall set forth in detail the nature of the proposed revision and what new information is available ~~which that~~ affects the advisability of the court's disposition. The request or court proposal shall be submitted to the court. The court shall hold a hearing on the matter if the request or court proposal indicates that new information is available which affects the advisability of the court's dispositional order and prior to any revision of the dispositional order, unless written waivers of objections to the revision are signed by all parties entitled to receive notice and the court approves. If a hearing is held, the court shall notify the parent, child, guardian and legal custodian, all parties bound by the dispositional order and the district attorney or corporation counsel in the county in which the dispositional order was entered at least 3 days prior to the hearing. A copy of the request or proposal shall be attached to the notice. If the proposed revision is for a change in the amount of child support to be paid by a parent, the court shall order the child's parent to provide a statement of income, assets, debts and living expenses to the court and the person or agency primarily responsible for implementing the dispositional order by a date specified by the court. The clerk of court shall provide, without charge, to any parent ordered to provide a statement of income, assets, debts and living expenses a document setting forth the percentage standard established by the department

under s. 46.25 (9) and listing the factors that a court may consider under s. 46.10 (14) (c). If all parties consent, the court may proceed immediately with the hearing. No revision may extend the effective period of the original order.

SECTION 33. 48.363 (2) of the statutes is created to read:

48.363 (2) If the court revises a dispositional order under sub. (1) with respect to the amount of child support to be paid by a parent for the care and maintenance of the parent's minor child who has been placed by a court order under this chapter in a residential, nonmedical facility, the court shall determine the liability of the parent in the manner provided in s. 46.10 (14).

SECTION 34. 49.19 (4) (h) 1. b. of the statutes is amended to read:

49.19 (4) (h) 1. b. Except as provided under sub. (5) (a) 1m, when any person applies for or receives aid under this section, any right of the parent or any dependent child to support or maintenance from any other person, including any right to unpaid amounts accrued at the time of application and any right to amounts accruing during the time aid is paid under this section, is assigned to the state. If a minor who is a beneficiary of aid under this section is also the beneficiary of support under a judgment or order that includes support for one or more children not receiving aid under this section, any support payment made under the judgment or order is assigned to the state in the amount that is the proportionate share of the minor receiving aid under this section, except as otherwise ordered by the court on the motion of a party.

SECTION 35. 49.493 (3) (d) of the statutes is created to read:

49.493 (3) (d) Impose on the department, as assignee of a person or a person's dependent who is covered under the uninsured health plan and who is eligible for medical assistance, requirements that are different from those imposed on any other agent or assignee of a person who is covered under the uninsured health plan.

SECTION 36. 59.39 (9m) of the statutes, as affected by 1993 Wisconsin Act 326, is amended to read:

59.39 (9m) Keep a record of all payments and arrearages in payments ordered by the court under ~~ss. 767.25 to 767.265, under s. 767.29 (1), or 767.51 or under ch. 769 s. 948.22 (7) or ch. 767 or 769 and directed under s. 767.29 (1) to be paid to the clerk~~ or ordered by a court in another county or jurisdiction but enforced or received by the clerk's court. If the department of health and social services operates a data system relating to those payments and arrearages, the clerk shall use that system to keep this record.

SECTION 37. 66.184 of the statutes, as affected by 1993 Wisconsin Act 450, is amended to read:

66.184 Self-insured health plans. If a city, including a 1st class city, or a village provides health care benefits under its home rule power to its officers and employees

on a self-insured basis, the self-insured plan shall comply with ss. ~~49.493 (3) (d), 631.89, 631.90, 631.93 (2), 632.87 (4) and (5), 632.895 (9) and (10) and, 632.896, 767.25 (4m) (d) and 767.51 (3m) (d).~~

SECTION 38. 66.184 of the statutes, as affected by 1993 Wisconsin Acts 246 and (this act), is repealed and recreated to read:

66.184 Self-insured health plans. If a city, including a 1st class city, or a village provides health care benefits under its home rule power, or if a town provides health care benefits, to its officers and employees on a self-insured basis, the self-insured plan shall comply with ss. 49.493 (3) (d), 631.89, 631.90, 631.93 (2), 632.87 (4) and (5), 632.895 (9) and (10), 632.896, 767.25 (4m) (d) and 767.51 (3m) (d).

SECTION 39. 69.15 (3) (b) 3. of the statutes is amended to read:

69.15 (3) (b) 3. Except as provided under par. (c), if the state registrar receives a statement acknowledging paternity on a form prescribed by the state registrar and signed by both parents, along with the fee under s. 69.22, the state registrar shall insert the name of the father under subd. 1. The state registrar shall mark the certificate to show that the form is on file. The form shall be available to the department or its designee under s. 59.07 (97) pursuant to the program responsibilities under s. 46.25 or to any other person with a direct and tangible interest in the record. The state registrar shall include on the form for the acknowledgment a notice of the information in ~~s. ss. 767.458 (1) (a) to (e) and 767.62.~~

SECTION 40. 102.27 (2) (a) of the statutes is amended to read:

102.27 (2) (a) A benefit under this chapter is assignable under s. ~~46.10 (14) (e) or 767.265 (1).~~

SECTION 41. 102.27 (2) (a) of the statutes, as affected by 1993 Wisconsin Act (this act), is repealed and recreated to read:

102.27 (2) (a) A benefit under this chapter is assignable under s. 46.10 (14) (e), 767.23 (1) (L), 767.25 (4m) (c), 767.265 (1) or 767.51 (3m) (c).

SECTION 42. 120.13 (2) (g) of the statutes, as affected by 1993 Wisconsin Act 450, is amended to read:

120.13 (2) (g) Every self-insured plan under par. (b) shall comply with ss. ~~49.493 (3) (d), 631.89, 631.90, 631.93 (2), 632.87 (4) and (5), 632.895 (9) and (10) and, 632.896, 767.25 (4m) (d) and 767.51 (3m) (d).~~

SECTION 43. 185.981 (4t) of the statutes, as affected by 1993 Wisconsin Act 450, is amended to read:

185.981 (4t) A sickness care plan operated by a cooperative association is subject to ss. 252.14, 631.89, ~~632.72 (2), 632.87 (2m), (3), (4) and (5) and, 632.895 (10) and 632.897 (10)~~ and ch. 155.

SECTION 44. 185.983 (1) (intro.) of the statutes, as affected by 1993 Wisconsin Act 450, is amended to read:

185.983 (1) (intro.) Every such voluntary nonprofit sickness care plan shall be exempt from chs. 600 to 646,

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with the exception of ss. 601.04, 601.13, 601.31, 601.41, 601.42, 601.43, 601.44, 601.45, 611.67, 619.04, 628.34 (10), 631.89, 631.93, 632.72 (2), 632.775, 632.79, 632.795, 632.87 (2m), (3), (4) and (5), 632.895 (5), (9) and (10) ~~and~~, 632.896 and 632.897 (10), subch. II of ch. 619 and chs. 609, 630, 635, 645 and 646, but the sponsoring association shall:

SECTION 45. 215.26 (8) (dm) of the statutes is created to read:

215.26 (8) (dm) An association may disclose information from its books and records as provided in s. 767.267 (5).

SECTION 46. 227.01 (13) (jo) of the statutes is repealed.

SECTION 47. 565.30 (5m) of the statutes is amended to read:

565.30 (5m) WITHHOLDING OF CHILD SUPPORT, SPOUSAL SUPPORT, MAINTENANCE OR FAMILY SUPPORT. The administrator shall report to the department of health and social services the name, address and social security number of each winner of a lottery prize that is payable in instalments. Upon receipt of the report, the department of health and social services shall certify to the administrator whether any payee named in the report is obligated to provide child support, spousal support, maintenance or family support under s. 767.02 (1) (f) or (g), 767.10, 767.23, 767.25, 767.26, 767.261, 767.465 (2m), 767.51 (3), 767.65 (24) or 948.22 (7) and the amount required to be withheld from the lottery prize under s. 767.265. The administrator shall withhold the certified amount from each payment made to the winner and remit the certified amount to the department of health and social services.

SECTION 48. 632.72 of the statutes is renumbered 632.72 (1).

SECTION 49. 632.72 (2) of the statutes is created to read:

632.72 (2) An insurer may not impose on the department of health and social services, as assignee of a person who is covered under the policy of health and disability insurance and who is eligible for medical benefits under s. 49.02 or 49.046 or for medical assistance under s. 49.45, 49.46, 49.465, 49.468 or 49.47, requirements that are different from those imposed on any other agent or assignee of a person who is covered under the policy of health and disability insurance.

SECTION 50. 632.897 (1) (a) of the statutes is renumbered 632.897 (1) (am).

SECTION 51. 632.897 (1) (ac) of the statutes is created to read:

632.897 (1) (ac) “Custodial parent” means the parent of a child who has been awarded physical placement with the child for more than 50% of the time.

SECTION 52. 632.897 (1) (em) of the statutes is created to read:

632.897 (1) (em) “Physical placement” has the meaning given in s. 767.001 (5).

SECTION 53. 632.897 (10) (a) 4. and 5. of the statutes are created to read:

632.897 (10) (a) 4. The fact that the child is a nonmarital child.

5. The fact that the child resides outside the insurer’s geographical service area.

SECTION 54. 632.897 (10) (am) of the statutes is created to read:

632.897 (10) (am) If a court orders an individual to provide coverage for health care expenses for a child of the individual and the individual is eligible for family coverage under a group policy or individual policy, the insurer shall do all of the following:

1. Provide family coverage under the group policy or individual policy for the individual’s child, if eligible for coverage, without regard to any enrollment period restrictions that may apply under the policy.

2. Provide family coverage under the group policy or individual policy for the individual’s child, if eligible for coverage, upon application by the individual, the child’s other parent, the department of health and social services or the county designee under s. 59.07 (97).

3. After the child is covered under the group policy or individual policy, and as long as the individual is eligible for family coverage under the policy, continue to provide coverage for the child unless the insurer receives satisfactory written evidence that the court order is no longer in effect or that the child has coverage under another group policy or individual policy that provides comparable health care coverage.

SECTION 55. 632.897 (10) (b) of the statutes is amended to read:

632.897 (10) (b) ~~Paragraph (a) does~~ Paragraphs (a) and (am) do not prohibit an insurer from determining the eligibility of a group member’s or insured’s child for coverage under the group policy or individual policy, or the premium for that coverage, based on factors that are not prohibited by par. (a) 1., ~~2 or 3~~ to 5 and that the insurer applies generally to determine the eligibility of children for coverage, and the premium for coverage, under the group policy or individual policy.

SECTION 56. 632.897 (10) (bf) of the statutes is created to read:

632.897 (10) (bf) If an insurer provides coverage under a group policy or an individual policy for a child of a group member or an insured who is not the custodial parent of the child, the insurer shall do all of the following:

1. Provide to the custodial parent of the child information related to the child’s enrollment.

2. Permit the custodial parent of the child, a health care provider that provides services to the child or the department of health and social services to submit claims

for covered services without the approval of the parent who is the group member or insured.

3. Pay claims directly to the health care provider, the custodial parent of the child or the department of health and social services, as appropriate.

SECTION 57. 757.69 (3) (g) of the statutes is amended to read:

757.69 (3) (g) Conduct Except as provided in s. 767.13 (5) (c), conduct a paternity proceeding according to the procedures set out in ch. 767 whenever a court commissioner is specifically authorized to do so.

SECTION 58. 767.02 (1) (m) of the statutes is created to read:

767.02 (1) (m) To enforce or revise an order for support entered under s. 48.355 (2) (b) 4., 48.357 (5m) or 48.363 (2).

SECTION 59. 767.025 (title) of the statutes is amended to read:

767.025 (title) Filing procedures and orders for enforcement or modification of judgments or orders in actions affecting the family.

SECTION 60. 767.025 (4) of the statutes is created to read:

767.025 (4) If a petition, motion or order to show cause for enforcement or modification of a child support, family support or maintenance order is filed and heard in a county other than the county in which the original judgment or order was rendered, any judgment or order enforcing or modifying the original judgment or order shall specify the clerk of circuit court to whom payments of support or maintenance are payable and the clerk of circuit court to whom payments of arrearages in support or maintenance, if any, are payable.

SECTION 61. 767.045 (1) (c) of the statutes is created to read:

767.045 (1) (c) The attorney responsible for support enforcement under s. 59.458 (1) may request that the court or family court commissioner appoint a guardian ad litem to bring an action or motion on behalf of a minor who is a nonmarital child whose paternity has not been adjudicated for the purpose of determining the paternity of the child, and the court or family court commissioner shall appoint a guardian ad litem, if any of the following applies:

1. Aid is provided under s. 49.19 or 49.45 on behalf of the child, but the state and its delegate under s. 46.25 (7) are barred by a statute of limitations from commencing an action under s. 767.45 on behalf of the child.

2. An application for legal services has been filed with the child support program under s. 46.25 on behalf of the child, but the state and its delegate under s. 46.25 (7) are barred by a statute of limitations from commencing an action under s. 767.45 on behalf of the child.

SECTION 62. 767.045 (1) (d) of the statutes is created to read:

767.045 (1) (d) A guardian ad litem appointed under par. (c) shall bring an action or motion for the determination of the child's paternity if the guardian ad litem determines that the determination of the child's paternity is in the child's best interest.

SECTION 63. 767.045 (4) of the statutes is amended to read:

767.045 (4) RESPONSIBILITIES. The guardian ad litem shall be an advocate for the best interests of a minor child as to paternity, legal custody, physical placement and support. The guardian ad litem shall function independently, in the same manner as an attorney for a party to the action, and shall consider, but shall not be bound by, the wishes of the minor child or the positions of others as to the best interests of the minor child. The guardian ad litem shall consider the factors under s. 767.24 (5) and custody studies under s. 767.11 (14). The guardian ad litem shall review and comment to the court on any mediation agreement and stipulation made under s. 767.11 (12). Unless the child otherwise requests, the guardian ad litem shall communicate to the court the wishes of the child as to the child's legal custody or physical placement under s. 767.24 (5) (b). The guardian ad litem has none of the rights or duties of a general guardian.

SECTION 64. 767.05 (5) of the statutes is amended to read:

767.05 (5) TITLE OF ACTIONS. An action affecting the family under s. 767.02 (1) (a) to (d) ~~and (f) or (g)~~ to (k) shall be entitled "In re the marriage of A.B. and C.D.". An action affecting the family under s. 767.02 (1) (f) or (m) shall be entitled "In re the support of A.B.". A child custody action shall be entitled "In re the custody of A.B.". In all other respects, the general provisions of chs. 801 and 802 respecting the content and form of the summons and pleadings shall apply.

SECTION 65. 767.075 (2) (b) of the statutes is amended to read:

767.075 (2) (b) Paragraph (a) does not apply to an attorney who is employed by the department of health and social services under s. 46.25 or a county under s. 59.07 (97), ~~including district attorneys and corporation counsels, who acts or 59.458 (1) to act~~ as the guardian ad litem of the minor child for the purpose of establishing paternity.

SECTION 66. 767.08 (2) (b) of the statutes is amended to read:

767.08 (2) (b) The court in the action shall, as provided under s. 767.25 or 767.26, determine and adjudge the amount, if any, the person should reasonably contribute to the support and maintenance of the spouse or child and how the sum should be paid. This amount may be expressed as a percentage of the person's income or as a fixed sum, or as a combination of both in the alternative by requiring payment of the greater or lesser of either a percentage of the person's income or a fixed sum. The

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amount so ordered to be paid may be changed or modified by the court upon notice of motion or order to show cause by either party upon sufficient evidence.

SECTION 67. 767.08 (2) (c) of the statutes is amended to read:

767.08 (2) (c) The determination may be enforced by contempt proceedings, ~~an assignment of income under s. 767.265,~~ or other enforcement mechanisms as provided under s. 767.30.

SECTION 68. 767.08 (2) (c) of the statutes, as affected by 1993 Wisconsin Act (this act), is repealed and recreated to read:

767.08 (2) (c) The determination may be enforced by contempt proceedings, an account transfer under s. 767.267 or other enforcement mechanisms as provided under s. 767.30.

SECTION 69. 767.085 (2) (b) of the statutes is amended to read:

767.085 (2) (b) The clerk of court shall provide without charge, to each person filing a petition requesting child support, a document setting forth the percentage standard established by the department of health and social services under s. 46.25 (9) (a) and listing the factors which a court may consider under s. 767.25 (1m).

SECTION 70. 767.085 (2m) (a) 2. of the statutes is amended to read:

767.085 (2m) (a) 2. Shall be accompanied by a document, provided without charge by the clerk of court, setting forth the percentage standard established by the department of health and social services under s. 46.25 (9) (a) and listing the factors which a court may consider under s. 767.25 (1m).

SECTION 71. 767.13 (5) (b) of the statutes is amended to read:

767.13 (5) (b) (title) *Enforcement or revision; maintenance, custody, physical placement and visitation.* On authority delegated by a judge, which may be by a standard order, a family court commissioner may conduct hearings and enter judgments in actions for enforcement of, or revision of judgment for, maintenance, ~~child support,~~ custody, physical placement or visitation.

SECTION 72. 767.13 (5) (c) of the statutes is created to read:

767.13 (5) (c) *Establishment, enforcement or revision; paternity and support.* Except when otherwise ordered by a judge, a family court commissioner may conduct hearings and enter orders and judgments in actions to establish paternity, in actions to establish or enforce a child support or a family support obligation and in actions to revise orders or judgments for child support or family support.

SECTION 73. 767.21 (1) of the statutes is renumbered 767.21 (1) (a).

SECTION 74. 767.21 (1) (b) of the statutes is created to read:

767.21 (1) (b) Full faith and credit shall be given in all courts of this state to a determination of paternity made by any other state, whether established through voluntary acknowledgment or an administrative or judicial process.

SECTION 75. 767.23 (1) (c) of the statutes is amended to read:

767.23 (1) (c) Requiring either party or both parties to make payments for the support of minor children, which payment amounts may be expressed as a percentage of parental income or as a fixed sum, or as a combination of both in the alternative by requiring payment of the greater or lesser of either a percentage of parental income or a fixed sum.

SECTION 76. 767.23 (1) (f) of the statutes is amended to read:

767.23 (1) (f) Requiring either party to execute an assignment of income under s. 767.265 or an authorization for transfer under s. 767.267.

SECTION 77. 767.23 (1) (L) of the statutes is created to read:

767.23 (1) (L) Requiring either party or both parties to execute an assignment of income for payment of health care expenses of minor children.

SECTION 78. 767.23 (1n) of the statutes is amended to read:

767.23 (1n) Before making any temporary order under sub. (1), the court or family court commissioner shall consider those factors which the court is required by this chapter to consider before entering a final judgment on the same subject matter. If the court or family court commissioner makes a temporary child support order that deviates from the amount of support that would be required by using the percentage standard established by the department of health and social services under s. 46.25 (9) (a), the court or family court commissioner shall comply with the requirements of s. 767.25 (1n) (b). A temporary order under sub. (1) may be based upon the written stipulation of the parties, subject to the approval of the court or the family court commissioner. Temporary orders made by the family court commissioner may be reviewed by the court as provided in s. 767.13 (6).

SECTION 79. 767.24 (3) (e) of the statutes is amended to read:

767.24 (3) (e) The charges for care furnished to a child whose custody is transferred under this subsection shall be pursuant to the procedure under s. 48.36 (1) except as provided in s. 767.29 (3).

SECTION 80. 767.25 (1) (a) of the statutes is amended to read:

767.25 (1) (a) Order either or both parents to pay an amount reasonable or necessary to fulfill a duty to support a child. The support amount may be expressed as a percentage of parental income or as a fixed sum, or as a combination of both in the alternative by requiring pay-

ment of the greater or lesser of either a percentage of parental income or a fixed sum.

SECTION 81. 767.25 (1g) of the statutes is created to read:

767.25 (1g) In determining child support payments, the court may consider all relevant financial information or other information relevant to the parent's earning capacity, including information reported to the department of health and social services, or the county child and spousal support agency, under s. 46.25 (2m).

SECTION 82. 767.25 (1j) of the statutes is amended to read:

767.25 (1j) Except as provided in sub. (1m), the court shall determine child support payments by using the percentage standard established by the department of health and social services under s. 46.25 (9) (a).

SECTION 83. 767.25 (1n) (intro.) and (b) of the statutes are consolidated, renumbered 767.25 (1n) and amended to read:

767.25 (1n) If the court finds under sub. (1m) that use of the percentage standard is unfair to the child or the requesting party, the court: ~~(b) Shall~~ shall state in writing or on the record the amount of support that would be required by using the percentage standard, the amount by which the court's order deviates from that amount, its reasons for finding that use of the percentage standard is unfair to the child or the party, its reasons for the amount of the modification and the basis for the modification.

SECTION 84. 767.25 (1n) (a) of the statutes is repealed.

SECTION 85. 767.25 (4m) (b) of the statutes is amended to read:

767.25 (4m) (b) In addition to ordering child support for a child under sub. (1), the court shall specifically assign responsibility for and direct the manner of payment of the child's health care expenses. In making this assignment assigning responsibility for a child's health care expenses, the court shall consider whether ~~or not~~ a child is covered under a parent's health insurance policy or plan at the time the court approves a stipulation for child support under s. 767.10, enters a judgment of annulment, divorce or legal separation, or enters an order or a judgment in an action under s. 767.02 (1) (f) or (j) or 767.08, the availability of health insurance to each parent through an employer or other organization, the extent of coverage available to a child and the costs to the parent for the coverage of the child. A parent may be required to initiate or continue health care insurance coverage for a child under this ~~paragraph~~ subsection. If a parent is required to do so, he or she shall provide copies of necessary program or policy identification to the custodial parent and is liable for any health care costs for which he or she receives direct payment from an insurer. This ~~paragraph~~ subsection shall not be construed to limit the authority of the court to enter or modify support orders containing provisions for payment of medical expenses,

medical costs, or insurance premiums which are in addition to and not inconsistent with this ~~paragraph~~ subsection.

SECTION 86. 767.25 (4m) (c) of the statutes is created to read:

767.25 (4m) (c) 1. In directing the manner of payment of a child's health care expenses, the court may order that payment, including payment for health insurance premiums, be withheld from income and sent to the appropriate health care insurer, provider or plan, as provided in s. 767.265 (3h), or sent to the clerk of court for disbursement to the person for whom the payment has been awarded if that person is not a health care insurer, provider or plan. If the court orders income withholding and assignment for the payment of health care expenses, the court shall send notice of assignment in the manner provided under s. 767.265 (2r) and may include the notice of assignment under this subdivision with a notice of assignment under s. 767.265. The clerk of court shall keep a record of all moneys received and disbursed by the clerk for health care expenses that are directed to be paid to the clerk.

2. If the court orders a parent to initiate or continue health insurance coverage for a child under a health insurance policy that is available to the parent through an employer or other organization but the court does not specify the manner in which payment of the health insurance premiums shall be made, the clerk of court may provide notice of assignment in the manner provided under s. 767.265 (2r) for the withholding from income of the amount necessary to pay the health insurance premiums. The notice of assignment under this subdivision may be sent with or included as part of any other notice of assignment under s. 767.265, if appropriate. A person who receives notice of assignment under this subdivision shall send the withheld health insurance premiums to the appropriate health care insurer, provider or plan, as provided in s. 767.265 (3h).

SECTION 87. 767.25 (4m) (d) of the statutes is created to read:

767.25 (4m) (d) If the court orders a parent to provide coverage of the health care expenses of the parent's child and the parent is eligible for family coverage of health care expenses under a health benefit plan that is provided by an employer on an insured or on a self-insured basis, the employer shall do all of the following:

1. Permit the parent to obtain family coverage of health care expenses for the child, if eligible for coverage, without regard to any enrollment period or waiting period restrictions that may apply.

2. Provide family coverage of health care expenses for the child, if eligible for coverage, upon application by the parent, the child's other parent, the department of health and social services or the county designee under s. 59.07 (97).

3. After the child has coverage under the employer's health benefit plan, and as long as the parent is eligible for family coverage under the employer's health benefit plan, continue to provide coverage for the child unless the employer receives satisfactory written evidence that the court order is no longer in effect or that the child has coverage of health care expenses under another health insurance policy or health benefit plan that provides comparable coverage of health care expenses.

SECTION 88. 767.25 (4m) (e) of the statutes is created to read:

767.25 (4m) (e) 1. If a parent who has been ordered by a court to provide coverage of the health care expenses of a child who is eligible for medical assistance under ss. 49.45 to 49.47 receives payment from a 3rd party for the cost of services provided to the child but does not pay the health care provider for the services or reimburse the department of health and social services or any other person who paid for the services on behalf of the child, the department of health and social services may obtain a judgment against the parent for the amount of the 3rd party payment.

2. Section 767.265 (4) applies to a garnishment based on a judgment obtained under subd. 1.

SECTION 89. 767.25 (6) (intro.) of the statutes is amended to read:

767.25 (6) (intro.) A party ordered to pay child support under this section shall pay simple interest at the rate of 1.5% per month on any amount unpaid, commencing the first day of the 2nd month after the month in which the amount was due. Interest under this subsection is in lieu of interest computed under s. 807.01 (4), 814.04 (4) or 815.05 (8) and is paid to the clerk of court under s. 767.29. The Except as provided in s. 767.29 (1m), the clerk of court shall apply all payments received for child support as follows:

SECTION 90. 767.25 (6) (a) of the statutes is amended to read:

767.25 (6) (a) First, to payment of child support due within the calendar month during which the payment is withheld from income under s. 767.265 or under similar laws of another state. If payment is not made through income withholding, the clerk shall first apply child support payments received to payment of child support due within the calendar month during which the payment is received.

SECTION 91. 767.261 of the statutes is amended to read:

767.261 Family support. The court may make a financial order designated "family support" as a substitute for child support orders under s. 767.25 and maintenance payment orders under s. 767.26. A party ordered to pay family support under this section shall pay simple interest at the rate of 1.5% per month on any amount unpaid, commencing the first day of the 2nd month after the month in which the amount was due. Interest under

this section is in lieu of interest computed under s. 807.01 (4), 814.04 (4) or 815.05 (8) and is paid to the clerk of court under s. 767.29. ~~The Except as provided in s. 767.29 (1m), the~~ clerk of court shall apply all payments received for ~~child~~ family support as follows:

(1) First, to payment of family support due within the calendar month during which the payment is withheld from income under s. 767.265 or under similar laws of another state. If payment is not made through income withholding, the clerk shall first apply family support payments received to payment of ~~child~~ family support due within the calendar month during which the payment is received.

(2) Second, to payment of unpaid ~~child~~ family support due before the payment is received.

(3) Third, to payment of interest accruing on unpaid ~~child~~ family support.

SECTION 92. 767.262 (4) of the statutes is renumbered 767.262 (4) (a) and amended to read:

767.262 (4) (a) ~~No Except as provided in par. (b), no~~ court may order payment of costs under this section by the state or any county which may be a party to the action.

SECTION 93. 767.262 (4) (b) of the statutes is created to read:

767.262 (4) (b) The court may order payment of costs under this section by a county in an action in which the court finds that the record of payments and arrearages kept by the clerk of court under s. 59.39 (9m) is substantially incorrect and that the clerk of court has failed to correct the record within 30 days after having received information that the court determines is sufficient for making the correction.

SECTION 94. 767.265 (1) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

767.265 (1) Each order for child support under this chapter, for maintenance payments under s. 767.23 or 767.26, for family support under this chapter, for costs ordered under s. 767.51 (3), for support by a spouse under s. 767.02 (1) (f) or for maintenance payments under s. 767.02 (1) (g), each order for a revision in a judgment or order with respect to child support, maintenance or family support payments under s. 767.32, each ~~court approved~~ stipulation approved by the court or the family court commissioner for child support under this chapter and each order for child or spousal support entered under s. 948.22 (7) constitutes an assignment of all commissions, earnings, salaries, wages, pension benefits, benefits under ch. 102 or 108, lottery prizes that are payable in instalments and other money due or to be due in the future to the clerk of the court where the action is filed. The assignment shall be for an amount sufficient to ensure payment under the order or stipulation and to pay any arrearages due at a periodic rate not to exceed 50% of the amount of support due under the order or stipulation so long as the addition of the amount toward arrear-

ages does not leave the party at an income below the poverty line established under 42 USC 9902 (2).

SECTION 95. 767.265 (2r) of the statutes is amended to read:

767.265 (2r) Upon entry of each order for child support, maintenance, family support or support by a spouse and upon approval of each stipulation for child support, unless the court finds that income withholding is likely to cause the payer irreparable harm or unless s. 767.267 applies, the court shall provide notice of the assignment by regular mail to the last-known address of the person from whom the payer receives or will receive money. If the clerk of court does not receive the money from the person notified, the court shall provide notice of the assignment to any other person from whom the payer receives or will receive money. Notice under this subsection may be a notice of the court, a copy of the executed assignment or a copy of that part of the court order directing payment.

SECTION 96. 767.265 (3h) of the statutes is amended to read:

767.265 (3h) A person who receives notice of assignment under this section or s. 767.23 (1) (L), 767.25 (4m) (c) or 767.51 (3m) (c) or similar laws of another state shall withhold the amount specified in the notice from any money that person pays to the payer later than one week after receipt of notice of assignment. Within 5 days after the day the person pays money to the payer, the person shall send the amount withheld to the clerk of court of the jurisdiction providing notice or, in the case of an amount ordered withheld for health care ~~payments~~ expenses, to the appropriate health care insurer, provider or plan. Except as provided in sub. (3m), for each payment sent to the clerk of court, the person from whom the payer receives money shall receive an amount equal to the person's necessary disbursements, not to exceed \$3, which shall be deducted from the money to be paid to the payer. Section 241.09 does not apply to assignments under this section.

SECTION 97. 767.265 (4) of the statutes is amended to read:

767.265 (4) A withholding assignment or order under this section or s. 767.23 (1) (L), 767.25 (4m) (c) or 767.51 (3m) (c) has priority over any other assignment, garnishment or similar legal process under state law.

SECTION 98. 767.265 (6) (a) of the statutes, as affected by 1993 Wisconsin Act 389, is amended to read:

767.265 (6) (a) Except as provided in sub. (3m), if after receipt of notice of assignment the person from whom the payer receives money fails to withhold the money or send the money to the clerk of court or the appropriate health care insurer, provider or plan as provided in this section or s. 767.23 (1) (L), 767.25 (4m) (c) or 767.51 (3m) (c), the person may be proceeded against under the principal action under ch. 785 for contempt of court or may be proceeded against under ch. 778 and be

required to forfeit not less than \$50 nor more than an amount, if the amount exceeds \$50, that is equal to 1% of the amount not withheld or sent.

SECTION 99. 767.265 (6) (b) of the statutes is amended to read:

767.265 (6) (b) If an employer who receives an assignment under this section or s. 767.23 (1) (L), 767.25 (4m) (c) or 767.51 (3m) (c) fails to notify the clerk of court within 10 days after an employe is terminated or otherwise temporarily or permanently leaves employment, the employer may be proceeded against under the principal action under ch. 785 for contempt of court.

SECTION 100. 767.265 (6) (c) of the statutes is amended to read:

767.265 (6) (c) No employer may use an assignment under this section or s. 767.23 (1) (L), 767.25 (4m) (c) or 767.51 (3m) (c) as a basis for the denial of employment to a person, the discharge of an employe or any disciplinary action against an employe. An employer who denies employment or discharges or disciplines an employe in violation of this paragraph may be fined not more than \$500 and may be required to make full restitution to the aggrieved person, including reinstatement and back pay. Except as provided in this paragraph, restitution shall be in accordance with s. 973.20. An aggrieved person may apply to the district attorney or to the department of industry, labor and human relations for enforcement of this paragraph.

SECTION 101. 767.265 (7m) of the statutes is created to read:

767.265 (7m) (a) In this subsection, "payroll period" has the meaning given in s. 71.63 (5).

(b) If after an assignment is in effect the payer's employer changes its payroll period, or the payer changes employers and the new employer's payroll period is different from the former employer's payroll period, the clerk of court may, unless otherwise ordered by a judge, amend the withholding assignment or order so that all of the following apply:

1. The withholding frequency corresponds to the new payroll period.
2. The amounts to be withheld reflect the adjustment to the withholding frequency.

(c) The clerk of court shall provide notice of the amended withholding assignment or order by regular mail to the payer's employer and to the payer.

SECTION 102. 767.267 of the statutes is created to read:

767.267 Account transfers. (1) If the court or the family court commissioner determines that income withholding under s. 767.265 is inapplicable, ineffective or insufficient to ensure payment under an order or stipulation specified in s. 767.265 (1), the court or family court commissioner may require the payer to identify or establish a deposit account, owned in whole or in part by the payer, that allows for periodic transfers of funds and to

file with the financial institution at which the account is located an authorization for transfer from the account to the clerk of court. The authorization shall be provided on a standard form approved by the court and shall specify the frequency and the amount of transfer, sufficient to meet the payer's obligation under the order or stipulation, as required by the court or family court commissioner. The authorization shall include the payer's consent for the financial institution or an officer, employe or agent of the financial institution to disclose information to the court, family court commissioner or clerk of court regarding the account for which the payer has executed the authorization for transfer.

(2) A financial institution that receives an authorization for transfer under sub. (1) shall transfer the amounts as specified in the authorization or shall transfer the amount available for transfer if at a time of transfer that amount is less than the amount specified in the authorization. The financial institution may accomplish the transfer by any lawful means, including payment by check, subject to the terms of the account. The financial institution may deduct from the payer's account for each transfer its usual fee for such fund transfers. If the account is closed or if no funds are available at a time of transfer, the financial institution shall notify the clerk of court within 10 days after the date on which the funds should have been transferred.

(3) An authorization for transfer under sub. (1) has priority over any other authorization for transfer and over an assignment, garnishment or similar legal process under state law or the laws of another state.

(4) An authorization for transfer under sub. (1) may not be revoked except by court order.

(5) A financial institution or an officer, employe or agent of a financial institution may disclose information to the court, family court commissioner or clerk of court concerning an account for which a payer has executed an authorization for transfer under sub. (1).

(6) No financial institution or officer, employe or agent of a financial institution is liable to an account owner for any sum transferred, or for any information disclosed, in compliance with this section.

SECTION 103. 767.267 (1) of the statutes, as created by 1993 Wisconsin Act (this act), is amended to read:

767.267 (1) If the court or the family court commissioner determines that income withholding under s. 767.265 is inapplicable, ineffective or insufficient to ensure payment under an order or stipulation specified in s. 767.265 (1), or that income withholding under s. 767.25 (4m) (c) or 767.51 (3m) (c) is inapplicable, ineffective or insufficient to ensure payment of a child's health care expenses, including payment of health insurance premiums, ordered under s. 767.25 (4m) or 767.51 (3m), the court or family court commissioner may require the payer to identify or establish a deposit account, owned in whole or in part by the payer, that

allows for periodic transfers of funds and to file with the financial institution at which the account is located an authorization for transfer from the account to the clerk of court. The authorization shall be provided on a standard form approved by the court and shall specify the frequency and the amount of transfer, sufficient to meet the payer's obligation under the order or stipulation, as required by the court or family court commissioner. The authorization shall include the payer's consent for the financial institution or an officer, employe or agent of the financial institution to disclose information to the court, family court commissioner or clerk of court regarding the account for which the payer has executed the authorization for transfer.

SECTION 104. 767.27 (2) of the statutes is amended to read:

767.27 (2) Disclosure Except as provided in sub. (2m), disclosure forms required under this section shall be filed within 90 days after the service of summons or the filing of a joint petition or at such other time as ordered by the court or family court commissioner. Information contained on such forms shall be updated on the record to the date of hearing.

SECTION 105. 767.27 (2m) of the statutes is created to read:

767.27 (2m) In every action in which the court has ordered a party to pay child support under s. 767.25 or 767.51 or family support under s. 767.261 and the circumstances specified in s. 767.075 (1) apply, the court shall require the party who is ordered to pay the support to annually furnish the disclosure form required under this section and may require that party to annually furnish a copy of his or her most recently filed state and federal income tax returns to the designee under s. 59.07 (97) for the county in which the order was entered. In any action in which the court has ordered a party to pay child support under s. 767.25 or 767.51 or family support under s. 767.261, the court may require the party who is ordered to pay the support to annually furnish the disclosure form required under this section and a copy of his or her most recently filed state and federal income tax returns to the party for whom the support has been awarded. A party who fails to furnish the information as required by the court under this subsection may be proceeded against for contempt of court under ch. 785.

SECTION 106. 767.27 (4) of the statutes is amended to read:

767.27 (4) Failure by either party timely to file a complete disclosure statement as required by this section shall authorize the court to accept as accurate any information provided in the statement of the other party as accurate or obtained under s. 46.25 (2m) by the department of health and social services or the county child and spousal support agency.

SECTION 107. 767.28 of the statutes is amended to read:

767.28 Maintenance, legal custody and support when divorce or separation denied. In a judgment in an action for divorce or legal separation, although such divorce or legal separation is denied, the court may make such order for the legal custody of and periods of physical placement with any of the minor children and for the maintenance of either spouse and support of such children by either spouse out of property or income, as the nature of the case may render just and reasonable. If the court orders child support under this section, the court shall determine the child support payments in a manner consistent with s. 767.25, regardless of the fact that the court has not entered a judgment of divorce or legal separation.

SECTION 108. 767.29 (1) of the statutes is amended to read:

767.29 (1) All orders or judgments providing for temporary or permanent maintenance, child support or family support payments shall direct the payment of all such sums to the clerk of the court for the use of the person for whom the same has been awarded. A party securing an order for temporary maintenance, child support or family support payments shall forthwith file the order, together with all pleadings in the action, with the clerk of the court. ~~The Except as provided in sub. (1m), the~~ clerk shall disburse the money so received under the judgment or order within 15 days and take receipts therefor, unless the clerk is unable to disburse the moneys because they were paid by check or other draft drawn upon an account containing insufficient funds. All moneys received or disbursed under this section shall be entered in a record kept by the clerk, which shall be open to inspection by the department of health and social services for the administration of the child and spousal support and establishment of paternity program under s. 46.25, the parties to the action and their attorneys, and the family court commissioner. If the maintenance, child support or family support payments adjudged or ordered to be paid shall not be paid to the clerk at the time provided in the judgment or order, the clerk or the family court commissioner of the county shall take such proceedings as either of them deems advisable to secure the payment of the sum including enforcement by contempt proceedings under ch. 785 or by other means. Copies of any order issued to compel the payment shall be mailed to counsel who represented each party when the maintenance, child support or family support payments were awarded. In case any fees of officers in any of the proceedings, including the compensation of the family court commissioner at the rate of \$50 per day unless the commissioner is on a salaried basis, is not collected from the person proceeded against, the fees shall be paid out of the county treasury upon the order of the presiding judge and the certificate of the clerk of the court.

SECTION 109. 767.29 (1m) of the statutes is created to read:

767.29 (1m) Notwithstanding ss. 767.25 (6), 767.261 and 767.51 (5p), if the clerk of court receives support or maintenance money that exceeds the amount due in the month in which it is received and that the clerk determines is for support or maintenance due in a succeeding month, the clerk may hold the amount of overpayment that does not exceed the amount due in the next month for disbursement in the next month if any of the following applies:

(a) The payee or the payer requests that the overpayment be held until the month when it is due.

(b) The court or the family court commissioner has ordered that overpayments of child support, family support or maintenance that do not exceed the amount of support or maintenance due in the next month may be held for disbursement in the next month.

(c) The party entitled to the support or maintenance money has applied for or is receiving aid to families with dependent children and there is an assignment to the state under s. 49.19 (4) (h) 1. b. of the party's right to the support or maintenance money.

(d) The clerk determines that the overpayment should be held until the month when it is due.

SECTION 110. 767.29 (4) of the statutes is created to read:

767.29 (4) If an order or judgment providing for the support of one or more children not receiving aid under s. 49.19 includes support for a minor who is the beneficiary of aid under s. 49.19, any support payment made under the order or judgment is assigned to the state under s. 49.19 (4) (h) 1. b. in the amount that is the proportionate share of the minor receiving aid under s. 49.19, except as otherwise ordered by the court on the motion of a party.

SECTION 111. 767.293 of the statutes is created to read:

767.293 Affidavit for certain arrearages. (1) If an order for child support under this chapter or s. 948.22 (7), an order for family support under this chapter or a stipulation approved by the court or the family court commissioner for child support under this chapter requires a payer to pay child or family support in an amount that is expressed as a percentage of parental income, the payee, including the state or its designee under s. 59.07 (97) if the state is a real party in interest under s. 767.075 (1), may establish an arrearage by filing an affidavit in the action in which the order for the payment of support was entered or the stipulation for support was approved. The affidavit shall state the amount of the arrearage and the facts supporting a reasonable basis on which the arrearage was determined and may state the payer's current income and the facts supporting a reasonable basis on which the payer's current income was determined. Not later than 60 days after filing the affidavit, the payee shall serve the affidavit on the payer in the manner provided in s. 801.11 (1) (a) or (b) or by sending the affidavit by registered or certified mail to the last-known address of the

payer. After the payee files a proof of service on the payer, the court shall send a notice to the payer by regular, registered or certified mail to the payer's last-known address. The notice shall provide that, unless the payer requests a hearing to dispute the arrearage or the amount of the arrearage not later than 20 days after the date of the notice, the court or family court commissioner may enter an order against the payer in the amount stated in the affidavit and may provide notice of assignment under s. 767.265. The notice shall include the mailing address to which the request for hearing must be mailed or delivered in order to schedule a hearing under sub. (2).

(2) If the payer makes a timely request for a hearing, the court or family court commissioner shall hold a hearing on the issue of the amount of the arrearage, if any. If the court or family court commissioner determines after hearing that an arrearage exists, the court or family court commissioner shall enter an order establishing an arrearage in the amount determined by the court or family court commissioner and may send notice of assignment under s. 767.265.

(3) If the court or family court commissioner sends the notice under sub. (1) and the payer fails to make a timely request for a hearing, the court or family court commissioner, if the affidavit demonstrates to the satisfaction of the court or family court commissioner that an arrearage exists, shall enter an order establishing an arrearage in the amount determined by the court or family court commissioner and may send notice of assignment under s. 767.265. The court or family court commissioner shall send the order to the payer's last-known address and shall inform the payer whether an assignment is in effect and that the payer may, within a 10-day period, by motion request a hearing on the issue of whether the order should be vacated or the assignment should be withdrawn.

(4) An assignment under sub. (2) or (3) shall replace any assignment in effect for the order or stipulation on which the arrearage is based. An assignment under sub. (2) or (3) shall be for an amount sufficient to ensure payment under the order or stipulation on which the arrearage is based and to pay the arrearage determined under sub. (2) or (3), together with any arrearages due before the proceeding under this section, at a periodic rate not to exceed 50% of the amount of support due under the order or stipulation on which the arrearage determined under sub. (2) or (3) is based, except that the total amount withheld under the assignment may not leave the payer at an income below the poverty line established under 42 USC 9902 (2).

(5) The determination of an arrearage under this section may be enforced under s. 767.30 or 767.305.

(6) Section 814.025 applies to the filing of an affidavit under this section.

SECTION 112. 767.295 (2) (c) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

767.295 (2) (c) If the court enters an order under par. (a), it shall order the parent to pay child support equal to the amount determined by applying the percentage standard established under s. 46.25 (9) (a) to the income a person would earn by working 40 hours per week for the federal minimum hourly wage under 29 USC 206 (a) (1) or equal to the amount of child support that the parent was ordered to pay in the most recent determination of support under this chapter. The child support obligation ordered under this paragraph continues until the parent makes timely payment in full for 3 consecutive months or until the person participates in the program under s. 46.253 for 16 weeks, whichever comes first. The court shall provide in its order that the parent must make child support payments calculated under s. 767.25 (1j) or (1m) or 767.51 (4m) or (5) after the obligation to make payments ordered under this paragraph ceases.

SECTION 113. 767.30 (1) of the statutes is amended to read:

767.30 (1) If the court orders any payment for support under s. 48.355 (2) (b) 4., 48.357 (5m) or 48.363 (2), support or maintenance under s. 767.08, child support, family support or maintenance under s. 767.23, child support under s. 767.25, maintenance under s. 767.26, family support under s. 767.261, attorney fees under s. 767.262, paternity obligations under s. 767.51, support arrearages under s. 767.293 or child or spousal support under s. 948.22 (7), the court may provide that any payment be paid in the amounts and at the times as it considers expedient.

SECTION 114. 767.305 of the statutes is amended to read:

767.305 Enforcement; contempt proceedings. In all cases where a party has incurred a financial obligation under s. 48.355 (2) (b) 4., 48.357 (5m), 48.363 (2), 767.23, 767.25, 767.255, 767.26, 767.261 or 767.262 and has failed within a reasonable time or as ordered by the court to satisfy such obligation, and where the wage assignment proceeding under s. 767.265 is inapplicable, impractical or unfeasible, the court may on its own initiative, and shall on the application of the receiving party, issue an order requiring the payer to show cause at some reasonable time therein specified why he or she should not be punished for such misconduct as provided in ch. 785.

SECTION 115. 767.305 of the statutes, as affected by 1993 Wisconsin Act ... (this act), is repealed and recreated to read:

767.305 Enforcement; contempt proceedings. In all cases where a party has incurred a financial obligation under s. 48.355 (2) (b) 4., 48.357 (5m), 48.363 (2), 767.23, 767.25, 767.255, 767.26, 767.261, 767.262 or 767.293 and has failed within a reasonable time or as ordered by the court to satisfy such obligation, and where the wage assignment proceeding under s. 767.265 and the account transfer under s. 767.267 are inapplicable,

impractical or unfeasible, the court may on its own initiative, and shall on the application of the receiving party, issue an order requiring the payer to show cause at some reasonable time therein specified why he or she should not be punished for such misconduct as provided in ch. 785.

SECTION 116. 767.32 (1) (a) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

767.32 (1) (a) After a judgment or order providing for child support under this chapter or s. 48.355 (2) (b) 4., 48.357 (5m), 48.363 (2) or 948.22 (7), maintenance payments under s. 767.26 or family support payments under this chapter, or for the appointment of trustees under s. 767.31, the court may, from time to time, on the petition, motion or order to show cause of either of the parties, or upon the petition, motion or order to show cause of the department of health and social services, a county department under s. 46.215, 46.22 or 46.23 or a child support program designee under s. 59.07 (97) if an assignment has been made under s. 49.19 (4) (h) or 49.45 (19) or if either party or their minor children receive aid under ch. 49, and upon notice to the family court commissioner, revise and alter such judgment or order respecting the amount of such maintenance or child support and the payment thereof, and also respecting the appropriation and payment of the principal and income of the property so held in trust, and may make any judgment or order respecting any of the matters that such court might have made in the original action, except that a judgment or order that waives maintenance payments for either party shall not thereafter be revised or altered in that respect nor shall the provisions of a judgment or order with respect to final division of property be subject to revision or modification. A revision, under this section, of a judgment or order with respect to an amount of child or family support may be made only upon a finding of a substantial change in circumstances. In any action under this section to revise a judgment or order with respect to maintenance payments, a substantial change in the cost of living by either party or as measured by the federal bureau of labor statistics may be sufficient to justify a revision of judgment or order with respect to the amount of maintenance, except that a change in an obligor's cost of living is not in itself sufficient if payments are expressed as a percentage of income.

SECTION 117. 767.32 (1) (b) 4. of the statutes, as created by 1993 Wisconsin Act 16, is amended to read:

767.32 (1) (b) 4. A difference between the amount of child support ordered by the court to be paid by the payer and the amount that the payer would have been required to pay based on the percentage standard established by the department of health and social services under s. 46.25 (9) ~~(a)~~ if the court did not use the percentage standard in determining the child support payments and did not provide the information required under s. ~~46.10 (14)~~

~~(d), 46.10 (14) (d), 767.25 (1n) (b) or 767.51 (5d) (b)~~, whichever is appropriate.

SECTION 118. 767.32 (1m) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

767.32 (1m) In an action under sub. (1) to revise a judgment or order with respect to child support, maintenance payments or family support payments, the court may not revise the amount of child support, maintenance payments or family support payments due, or an amount of arrearages in child support, maintenance payments or family support payments that has accrued, prior to the date that notice of the action is given to the respondent, except to correct previous errors in calculations.

SECTION 119. 767.32 (1r) of the statutes is created to read:

767.32 (1r) In an action under sub. (1) to revise a judgment or order with respect to child support or family support, the court may not grant credit to the payer against support due prior to the date on which the action is commenced for payments made by the payer on behalf of the child other than payments made to the clerk of court under s. 767.265 or 767.29 or as otherwise ordered by the court.

SECTION 120. 767.32 (2) of the statutes is amended to read:

767.32 (2) Except as provided in sub. (2m) or (2r), if the court revises a judgment or order with respect to child support payments, it shall do so by using the percentage standard established by the department of health and social services under s. 46.25 (9) ~~(a)~~.

SECTION 121. 767.32 (2r) of the statutes is created to read:

767.32 (2r) If the court revises a judgment or order providing for child support that was entered under s. 48.355 (2) (b) 4., 48.357 (5m) or 48.363 (2), the court shall determine child support in the manner provided in s. 46.10 (14).

SECTION 122. 767.32 (2s) of the statutes, as created by 1993 Wisconsin Act 16, is amended to read:

767.32 (2s) In an action under sub. (1), the court may not approve a stipulation for the revision of a judgment or order with respect to an amount of child support or family support unless the stipulation provides for payment of an amount of child support or family support that is determined in the manner required under s. 46.10 (14), 767.25 or 767.51, whichever is appropriate.

SECTION 123. 767.32 (2w) of the statutes is created to read:

767.32 (2w) A revision of a judgment or order with respect to child support, family support or maintenance payments has the effect of modifying the original judgment or order with respect to such payments to the extent of the revision from the date on which the order revising such payments is effective. The child support, family support or maintenance payments modified by the order

City, State Zip Code
, Respondent

THE STATE OF WISCONSIN, To the Respondent:

You have been sued. claims that you are the father of the child, born on (date), in (city) (county) (state). You must appear to answer this claim of paternity. Your court appearance is:

Date:
Time:
Room:
Judge or Family Court Commissioner:
Address:

If you do not appear, the court will enter a default judgment finding you to be the father. A default judgment will take effect 30 days after it is served on or mailed to you, unless within those 30 days you present to the court or a family court commissioner evidence of good cause for failure to appear. If you plan to be represented by an attorney, you should contact the attorney prior to the court appearance listed above. If you are unable to afford an attorney, the court will appoint one for you subject to certain limitations. Appearance is not required if you complete the attached waiver of first appearance statement and send it to the court at least 10 days prior to the date of your scheduled appearance in this summons.

Dated:, 19 ..
Signed:.....
G. H., Clerk of Circuit Court
or
Petitioner's Attorney
State Bar No.:
Address:
City, State Zip Code:
Phone No.:

SECTION 133. 767.455 (5g) (form) 3 of the statutes is amended to read:

767.455 (5g) (form) 3. You may request blood tests which will indicate the probability that you are or are not the father of the child. The court or family court commissioner will order blood tests on request by you, the state or any other party. Any person who refuses to take court-ordered blood tests may be punished for contempt of court.

SECTION 134. 767.455 (5g) (form) 7 of the statutes is amended to read:

767.455 (5g) (form) 7. If you fail to appear at any stage of the proceeding, including a scheduled blood test, the court will enter a default judgment finding you to be the father. A default judgment will take effect 30 days after it is served on or mailed to you at your address on file with the court, unless within those 30 days you present to the court or a family court commissioner evidence of good cause for your failure to appear or your failure to have undergone a blood test. You need not appear at the time and place specified in the summons if you complete the attached waiver of first appearance statement and deliver it to the court by the date specified in the waiver of first appearance statement.

SECTION 135. 767.455 (5r) (form) 2 of the statutes is amended to read:

767.455 (5r) (form) 2. I understand that I will be notified by the court of all future stages in the proceeding and

agree to appear at those stages. If I fail to appear at any stage, including a scheduled blood test, the court will enter a default judgment finding me to be the father. A default judgment will take effect 30 days after it is served on or mailed to me, unless within those 30 days I present to the court or a family court commissioner evidence of good cause for my failure to appear or my failure to have undergone a blood test.

SECTION 136. 767.455 (6) of the statutes is amended to read:

767.455 (6) DOCUMENT. The summons served on the respondent shall be accompanied by a document, provided without charge by the clerk of court, setting forth the percentage standard established by the department of health and social services under s. 46.25 (9) (a) and listing the factors which a court may consider under s. 767.51 (5).

SECTION 137. 767.458 (1) (intro.) of the statutes is amended to read:

767.458 (1) (intro.) At the first court appearance where the respondent is present, the court or family court commissioner shall inform the parties of the following:

SECTION 138. 767.458 (1) (b) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

767.458 (1) (b) If the respondent is unable to afford counsel due to indigency, and the petitioner is represented by a government attorney under s. 767.45 (1) (g) or (6) or the action is commenced on behalf of the child

by an attorney appointed under s. 767.045 (1) (c), counsel shall be appointed for the respondent as provided in s. 767.52 and ch. 977, unless the respondent knowingly and voluntarily waives the appointment of counsel;

SECTION 139. 767.458 (1) (d) of the statutes is amended to read:

767.458 (1) (d) Except as provided under sub. (1m), the court or family court commissioner will order blood tests upon the request of any party; and

SECTION 140. 767.458 (1m) of the statutes is amended to read:

767.458 (1m) In an action to establish the paternity of a child who was born to a woman while she was married, where a man other than the woman's husband alleges that he, not the husband, is the child's father, a party may allege that a judicial determination that a man other than the husband is the father is not in the best interest of the child. If the judge or court commissioner under s. 757.69 (3) (g) determines that a judicial determination of whether a man other than the husband is the father is not in the best interest of the child, no blood tests may be ordered and the action shall be dismissed.

SECTION 141. 767.458 (2) of the statutes is amended to read:

767.458 (2) At the first appearance, if it appears from a sufficient petition or affidavit of the child's mother that there is probable cause to believe that any of the males named has had sexual intercourse with the mother during a possible time of the child's conception, the court or family court commissioner may, or upon the request of any party shall, order any of the named persons to submit to blood tests. The tests shall be conducted in accordance with s. 767.48.

SECTION 142. 767.458 (3) of the statutes is amended to read:

767.458 (3) At the first appearance, if a statement acknowledging paternity under s. 69.15 (3) (b) 1. or 3. is on file, the court or family court commissioner may enter an order for child support, legal custody or physical placement and, if the respondent who filed the statement does not dispute his paternity, may enter a judgment of paternity.

SECTION 143. 767.459 of the statutes is created to read:

767.459 Appearance on behalf of deceased respondent. The personal representative or an attorney may appear for a deceased respondent who is the alleged father whenever an appearance by the respondent is required.

SECTION 144. 767.46 (1) of the statutes is amended to read:

767.46 (1) A pretrial hearing shall be held before a judge, family court commissioner or the court or a court commissioner under s. 757.69 (3) (g). A record or minutes of the proceeding shall be kept. At the pretrial hearing the parties may present and cross-examine witnesses,

request blood tests and present other evidence relevant to the determination of paternity.

SECTION 145. 767.46 (2) (intro.) of the statutes is amended to read:

767.46 (2) (intro.) On the basis of the information produced at the pretrial hearing, the judge or family court commissioner conducting the hearing shall evaluate the probability of determining the existence or nonexistence of paternity in a trial and shall so advise the parties. On the basis of the evaluation, the judge or family court commissioner may make an appropriate recommendation for settlement to the parties. This recommendation may include any of the following:

SECTION 146. 767.46 (2) (c) of the statutes is amended to read:

767.46 (2) (c) If the alleged father voluntarily acknowledges paternity of the child, that he agree to the duty of support, the legal custody of the child, periods of physical placement of the child and other matters as determined to be in the best interests of the child by the judge or family court commissioner.

SECTION 147. 767.46 (4) of the statutes is amended to read:

767.46 (4) If a party or the guardian ad litem refuses to accept a recommendation made under this section and blood tests have not yet been taken, the court shall require the appropriate parties to submit to blood tests. After the blood tests have been taken the judge or family court commissioner shall make an appropriate final recommendation.

SECTION 148. 767.46 (6) of the statutes is amended to read:

767.46 (6) The informal hearing may be terminated and the action set for trial if the judge or family court commissioner conducting the hearing finds it unlikely that all parties would accept a recommendation in this section.

SECTION 149. 767.465 (title) of the statutes is amended to read:

767.465 (title) Default and stipulated judgments.

SECTION 150. 767.465 (1) of the statutes, as affected by 1993 Wisconsin Act (this act), is repealed and re-created to read:

767.465 (1) JUDGMENT WHEN PETITIONER FAILS TO APPEAR OR IS UNABLE TO PROCEED. If a petitioner, other than the state, fails to appear and plead on the date set for the pretrial hearing or the date set for the trial or if the state is the petitioner and is unable to proceed on the date set for the pretrial hearing or the date set for the trial, the court may enter a judgment for the respondent dismissing the action, on the motion of the respondent or upon its own motion.

SECTION 151. 767.465 (1) (title) of the statutes is amended to read:

767.465 (1) (title) JUDGMENT WHEN PETITIONER FAILS TO APPEAR OR IS UNABLE TO PROCEED.

SECTION 152. 767.465 (2) (title) and (a) of the statutes are amended to read:

767.465 (2) (title) JUDGMENT WHEN RESPONDENT FAILS TO APPEAR. (a) If Except as provided in sub. (2m), if a respondent is the alleged father and fails to appear at the first appearance, unless the first appearance is not required under s. 767.457 (2), scheduled blood test, pre-trial hearing or trial, the court or family court commissioner shall enter an order adjudicating the respondent to be the father and appropriate orders for support, legal custody and physical placement. The orders shall be either served on the respondent or mailed by regular, registered or certified mail, to the last-known address of the respondent. The orders shall take effect 30 days after service or 30 days after the date on which the orders were mailed unless, within that time, the respondent presents to the court or court commissioner evidence of good cause for failure to appear or failure to have undergone a blood test.

SECTION 153. 767.465 (2) (a) of the statutes, as affected by 1993 Wisconsin Act (this act), is repealed and recreated to read:

767.465 (2) (a) Except as provided in sub. (2m), if a respondent is the alleged father and fails to appear at the first appearance, unless the first appearance is not required under s. 767.457 (2), scheduled blood test, pre-trial hearing or trial, the court shall enter an order adjudicating the respondent to be the father and appropriate orders for support, legal custody and physical placement. The orders shall be either served on the respondent or mailed by regular, registered or certified mail, to the last-known address of the respondent. The orders shall take effect 30 days after service or 30 days after the date on which the orders were mailed unless, within that time, the respondent presents to the court or court commissioner under s. 757.69 (3) (g) evidence of good cause for failure to appear or failure to have undergone a blood test.

SECTION 154. 767.465 (2m) of the statutes is created to read:

767.465 (2m) JUDGMENT UPON STIPULATION. (a) At any time after service of the summons and petition, a respondent who is the alleged father may, with or without appearance in court and subject to the approval of the court or family court commissioner, in writing acknowledge that he has read and understands the notice under s. 767.455 (5g) and stipulate that he is the father of the child and for child support payments, legal custody and physical placement. The court or family court commissioner may not approve a stipulation for child support unless it provides for payment of child support determined in a manner consistent with s. 767.25 or 767.51.

(b) If the respondent timely files a completed waiver of first appearance statement under s. 767.455 (5r), as provided in s. 767.457 (2), and files the acknowledgment and stipulation in conjunction with the waiver of first appearance statement or before the scheduled pretrial

hearing, the respondent need not appear in court in the proceeding unless required to do so by the judge or family court commissioner.

(c) If the court or family court commissioner approves the stipulation, the court or family court commissioner shall enter an order adjudicating the respondent to be the father as well as appropriate orders for support, legal custody and physical placement. The orders shall either be served on the respondent or mailed by regular, registered or certified mail to the last-known address of the respondent. The orders shall take effect upon entry if the respondent has so stipulated. If the respondent has not so stipulated, the orders shall take effect 30 days after service or 30 days after the date on which the orders were mailed unless, within that time, the respondent presents to the court or family court commissioner evidence of good cause why the orders should not take effect.

SECTION 155. 767.465 (2m) (a) of the statutes, as created by 1993 Wisconsin Act (this act), is amended to read:

767.465 (2m) (a) At any time after service of the summons and petition, a respondent who is the alleged father may, with or without appearance in court and subject to the approval of the court ~~or family court commissioner~~, in writing acknowledge that he has read and understands the notice under s. 767.455 (5g) and stipulate that he is the father of the child and for child support payments, legal custody and physical placement. The court ~~or family court commissioner~~ may not approve a stipulation for child support unless it provides for payment of child support determined in a manner consistent with s. 767.25 or 767.51.

SECTION 156. 767.465 (2m) (b) of the statutes, as created by 1993 Wisconsin Act (this act), is amended to read:

767.465 (2m) (b) If the respondent timely files a completed waiver of first appearance statement under s. 767.455 (5r), as provided in s. 767.457 (2), and files the acknowledgment and stipulation in conjunction with the waiver of first appearance statement or before the scheduled pretrial hearing, the respondent need not appear in court in the proceeding unless required to do so by the ~~judge or family court commissioner~~.

SECTION 157. 767.465 (2m) (c) of the statutes, as created by 1993 Wisconsin Act (this act), is amended to read:

767.465 (2m) (c) If the court ~~or family court commissioner~~ approves the stipulation, the court ~~or family court commissioner~~ shall enter an order adjudicating the respondent to be the father as well as appropriate orders for support, legal custody and physical placement. The orders shall either be served on the respondent or mailed by regular, registered or certified mail to the last-known address of the respondent. The orders shall take effect upon entry if the respondent has so stipulated. If the

respondent has not so stipulated, the orders shall take effect 30 days after service or 30 days after the date on which the orders were mailed unless, within that time, the respondent presents to the court ~~or family court commissioner~~ evidence of good cause why the orders should not take effect.

SECTION 158. 767.465 (3) (intro.) and (c) of the statutes are amended to read:

767.465 (3) MOTION TO REOPEN. (intro.) A default judgment, or a judgment upon stipulation unless each party appeared personally before the court at least one time during the proceeding, that is rendered under this section ~~which~~ and that adjudicates a person to be the father of a child may be reopened:

(c) Within one year after the judgment upon motion or petition, except that a respondent may not reopen more than one default judgment or more than one such stipulated judgment on a particular case under this paragraph.

SECTION 159. 767.47 (5) of the statutes is amended to read:

767.47 (5) Except as provided in sub. (6), upon refusal of any witness, including a party, to testify under oath or produce evidence, the court ~~or family court commissioner~~ may order the witness to testify under oath and produce evidence concerning all relevant facts. The refusal of a witness, including a witness who has immunity under sub. (4), to obey an order to testify or produce evidence is a contempt of the court.

SECTION 160. 767.475 (1) of the statutes is amended to read:

767.475 (1) ~~The~~ Except as provided in s. 767.045 (1) (c), the court or family court commissioner may appoint a guardian ad litem for the child and shall appoint a guardian ad litem for a minor parent or minor who is alleged to be a parent in a paternity proceeding unless the minor parent or the minor alleged to be the parent is represented by an attorney.

SECTION 161. 767.475 (1) of the statutes, as affected by 1993 Wisconsin Act (this act), is repealed and recreated to read:

767.475 (1) Except as provided in s. 767.045 (1) (c), the court may appoint a guardian ad litem for the child and shall appoint a guardian ad litem for a minor parent or minor who is alleged to be a parent in a paternity proceeding unless the minor parent or the minor alleged to be the parent is represented by an attorney.

SECTION 162. 767.475 (6) of the statutes is amended to read:

767.475 (6) ~~The alleged father~~ respondent in a paternity action may be arrested as provided in s. 818.02 (1) ~~(f) (6).~~

SECTION 163. 767.48 (1) (a) of the statutes is amended to read:

767.48 (1) (a) The court ~~or family court commissioner~~ may, and upon request of a party shall, require the child, mother, any male for whom there is probable cause

to believe that he had sexual intercourse with the mother during a possible time of the child's conception, or any male witness who testifies or will testify about his sexual relations with the mother at a possible time of conception to submit to blood tests. Probable cause of sexual intercourse during a possible time of conception may be established by a sufficient petition or affidavit of the child's mother filed with the court, or after an examination under oath of a complainant or witness, when the court ~~or family court commissioner~~ determines such an examination is necessary.

SECTION 164. 767.50 (1) of the statutes is amended to read:

767.50 (1) The trial shall be divided into 2 parts. The first part shall deal with the determination of paternity. The 2nd part shall deal with child support, legal custody, periods of physical placement and related issues. At the first part of the trial, the main issue shall be whether the alleged or presumed father is or is not the father of the mother's child, but if the child was born to the mother while she was the lawful wife of a specified man there shall first be determined, as provided in s. 891.39, the prior issue of whether the husband was not the father of the child. The first part of the trial shall be by jury only if the defendant verbally requests a jury trial either at the initial appearance or pretrial hearing or requests a jury trial in writing prior to the pretrial hearing. The court may direct, and if requested by either party, before the introduction of any testimony in the party's behalf, shall direct the jury, in cases where there is a jury, to find a special verdict as to any of the issues specified in this section except that the court shall make all the findings enumerated in s. 767.51 (2) to (5). If the mother is dead, becomes insane, cannot be found within the jurisdiction or fails to commence or pursue the action, the proceeding does not abate if any of the persons under s. 767.45 (1) makes a motion to continue. The testimony of the mother taken at the pretrial hearing may in any such case be read in evidence if it is competent, relevant and material. The issues of child support, custody and visitation and related issues shall be determined by the court either immediately after the first part of the trial or at a later hearing before the court ~~or a family court commissioner~~.

SECTION 165. 767.51 (3m) (b) of the statutes is amended to read:

767.51 (3m) (b) In addition to ordering child support for a child under sub. (3), the court shall specifically assign responsibility for and direct the manner of payment of the child's health care expenses. In making this assignment assigning responsibility for a child's health care expenses, the court shall consider whether ~~or not~~ a child is covered under a parent's health insurance policy or plan at the time the court enters a paternity judgment under this paragraph, the availability of health insurance to each parent through an employer or other organization, the extent of coverage available to a child and the costs

to the parent for the coverage of the child. A parent may be required to initiate or continue health care insurance coverage for a child under this ~~paragraph subsection~~. If a parent is required to do so, he or she shall provide copies of necessary program or policy identification to the custodial parent and is liable for any health care costs for which he or she receives direct payment from an insurer. This ~~paragraph subsection~~ shall not be construed to limit the authority of the court to enter or modify support orders containing provisions for payment of medical expenses, medical costs, or insurance premiums which are in addition to and not inconsistent with this ~~paragraph subsection~~.

SECTION 166. 767.51 (3m) (c) of the statutes is created to read:

767.51 (3m) (c) 1. In directing the manner of payment of a child's health care expenses, the court may order that payment, including payment for health insurance premiums, be withheld from income and sent to the appropriate health care insurer, provider or plan, as provided in s. 767.265 (3h), or sent to the clerk of court for disbursement to the person for whom the payment has been awarded if that person is not a health care insurer, provider or plan. If the court orders income withholding and assignment for the payment of health care expenses, the court shall send notice of assignment in the manner provided under s. 767.265 (2r) and may include the notice of assignment under this subdivision with a notice of assignment under s. 767.265. The clerk of court shall keep a record of all moneys received and disbursed by the clerk for health care expenses that are directed to be paid to the clerk.

2. If the court orders a parent to initiate or continue health insurance coverage for a child under a health insurance policy that is available to the parent through an employer or other organization but the court does not specify the manner in which payment of the health insurance premiums shall be made, the clerk of court may provide notice of assignment in the manner provided under s. 767.265 (2r) for the withholding from income of the amount necessary to pay the health insurance premiums. The notice of assignment under this subdivision may be sent with or included as part of any other notice of assignment under s. 767.265, if appropriate. A person who receives notice of assignment under this subdivision shall send the withheld health insurance premiums to the appropriate health care insurer, provider or plan, as provided in s. 767.265 (3h).

SECTION 167. 767.51 (3m) (d) of the statutes is created to read:

767.51 (3m) (d) If the court orders a parent to provide coverage of the health care expenses of the parent's child and the parent is eligible for family coverage of health care expenses under a health benefit plan that is provided by an employer on an insured or on a self-insured basis, the employer shall do all of the following:

1. Permit the parent to obtain family coverage of health care expenses for the child, if eligible for coverage, without regard to any enrollment period or waiting period restrictions that may apply.

2. Provide family coverage of health care expenses for the child, if eligible for coverage, upon application by the parent, the child's other parent, the department of health and social services or the county designee under s. 59.07 (97).

3. After the child has coverage under the employer's health benefit plan, and as long as the parent is eligible for family coverage under the employer's health benefit plan, continue to provide coverage for the child unless the employer receives satisfactory written evidence that the court order is no longer in effect or that the child has coverage of health care expenses under another health insurance policy or health benefit plan that provides comparable coverage of health care expenses.

SECTION 168. 767.51 (3m) (e) of the statutes is created to read:

767.51 (3m) (e) 1. If a parent who has been ordered by a court to provide coverage of the health care expenses of a child who is eligible for medical assistance under ss. 49.45 to 49.47 receives payment from a 3rd party for the cost of services provided to the child but does not pay the health care provider for the services or reimburse the department of health and social services or any other person who paid for the services on behalf of the child, the department of health and social services may obtain a judgment against the parent for the amount of the 3rd party payment.

2. Section 767.265 (4) applies to a garnishment based on a judgment obtained under subd. 1.

SECTION 169. 767.51 (4) of the statutes is amended to read:

767.51 (4) Support judgments or orders ordinarily shall be for periodic payments which may vary in amount if appropriate. The payment amount may be expressed as a percentage of the parent's income or as a fixed sum, or as a combination of both in the alternative by requiring payment of the greater or lesser of either a percentage of the parent's income or a fixed sum. The father's liability for past support of the child shall be limited to support for the period after the birth of the child.

SECTION 170. 767.51 (4g) of the statutes is created to read:

767.51 (4g) In determining child support payments, the court may consider all relevant financial information or other information relevant to the parent's earning capacity, including information reported to the department of health and social services, or the county child and spousal support agency, under s. 46.25 (2m).

SECTION 171. 767.51 (4m) of the statutes is amended to read:

767.51 (4m) Except as provided in sub. (5), the court shall determine child support payments by using the per-

centage standard established by the department of health and social services under s. 46.25 (9) (a).

SECTION 172. 767.51 (5d) (intro.) and (b) of the statutes are consolidated, renumbered 767.51 (5d) and amended to read:

767.51 (5d) If the court finds under sub. (5) that use of the percentage standard is unfair to the child or the requesting party, the court: ~~(b) Shall shall~~ state in writing or on the record the amount of support that would be required by using the percentage standard, the amount by which the court's order deviates from that amount, its reasons for finding that use of the percentage standard is unfair to the child or the party, its reasons for the amount of the modification and the basis for the modification.

SECTION 173. 767.51 (5d) (a) of the statutes is repealed.

SECTION 174. 767.51 (5p) (intro.) of the statutes is amended to read:

767.51 (5p) (intro.) A party ordered to pay child support under this section shall pay simple interest at the rate of 1.5% per month on any amount unpaid, commencing the first day of the 2nd month after the month in which the amount was due. Interest under this subsection is in lieu of interest computed under s. 807.01 (4), 814.04 (4) or 815.05 (8) and is paid to the clerk of court under s. 767.29. The Except as provided in s. 767.29 (1m), the clerk of court shall apply all payments received for child support as follows:

SECTION 175. 767.51 (5p) (a) of the statutes is amended to read:

767.51 (5p) (a) First, to payment of child support due within the calendar month during which the payment is withheld from income under s. 767.265 or under similar laws of another state. If payment is not made through income withholding, the clerk shall first apply child support payments received to payment of child support due within the calendar month during which the payment is received.

SECTION 176. 767.51 (6) of the statutes is amended to read:

767.51 (6) Sections 767.24, 767.245, 767.263, 767.265, 767.29, 767.293, 767.30, 767.305, 767.31, 767.32 and 767.325, where applicable, shall apply to a judgment or order under this section.

SECTION 177. 767.51 (6) of the statutes, as affected by 1993 Wisconsin Act (this act), is repealed and recreated to read:

767.51 (6) Sections 767.24, 767.245, 767.263, 767.265, 767.267, 767.29, 767.293, 767.30, 767.305, 767.31, 767.32 and 767.325, where applicable, shall apply to a judgment or order under this section.

SECTION 178. 767.52 (1) of the statutes is amended to read:

767.52 (1) At the pretrial hearing, at the trial and in any further proceedings in any paternity action, any party may be represented by counsel. If the respondent is indi-

gent and the state is the petitioner under s. 767.45 (1) (g) ~~or~~, the petitioner is represented by a government attorney as provided in s. 767.45 (6) or the action is commenced on behalf of the child by an attorney appointed under s. 767.045 (1) (c), counsel shall be appointed for the respondent as provided in ch. 977, unless the respondent knowingly and voluntarily waives the appointment of counsel.

SECTION 179. 767.62 of the statutes is created to read:

767.62 Orders when paternity acknowledged. (1)

In an action affecting the family that seeks to establish an obligation for the support of a child, the court or family court commissioner may enter a child support order against a man who has signed and filed with the state registrar under s. 69.15 (3) (b) 3. a statement acknowledging paternity that includes notice of the provisions of this section and who has notice of the hearing. The court shall determine child support under this subsection in the manner provided in s. 767.51 (4m) to (5d).

(3) Within one year after signing the statement or one year after attaining the age of 18, whichever is later, a person who has signed a statement acknowledging paternity that is filed as specified in sub. (1) may request that the court or family court commissioner order blood tests. Upon such a request, the court or family court commissioner shall require the appropriate parties to submit to blood tests. If the results of the blood tests exclude as the father of the child the man who signed the statement, the court shall dismiss any action for child support under this section, or shall vacate any order for child support entered under this section, with respect to the man. This subsection does not apply if, before a request for blood tests under this subsection, the man who signed the statement acknowledging paternity is determined to be the father of the child after the performance of blood tests.

SECTION 180. 803.01 (3) (b) 1. of the statutes is amended to read:

803.01 (3) (b) 1. The guardian ad litem shall be appointed by a circuit court of the county where the action is to be commenced or is pending, except that the guardian ad litem shall be appointed by a family court commissioner of the county in actions to establish paternity that are before the family court commissioner.

SECTION 181. 803.01 (3) (b) 2. of the statutes is amended to read:

803.01 (3) (b) 2. When the plaintiff is a minor 14 years of age or over, upon the plaintiff's application or upon the state's application under s. 767.045 (1) (c); or if the plaintiff is under that age or is mentally incompetent, upon application of the plaintiff's guardian or of a relative or friend or upon application of the state under s. 767.045 (1) (c). If the application is made by a relative ~~or~~ friend or the state, notice thereof must first be given to the guardian if the plaintiff has one in this state; if the plaintiff has none, then to the person with whom the

minor or mentally incompetent resides or who has the minor or mentally incompetent in custody.

SECTION 182. 808.075 (4) (d) 11. of the statutes is amended to read:

808.075 (4) (d) 11. Enforcement or modification of assignments under s. 767.25 (4m), 767.265 or 767.51 (3m).

SECTION 183. 808.075 (4) (d) 12. of the statutes is created to read:

808.075 (4) (d) 12. Enforcement or modification of account transfers under s. 767.267.

SECTION 184. 808.075 (4) (d) 13. of the statutes is created to read:

808.075 (4) (d) 13. Determination of arrearages under s. 767.293.

SECTION 185. 814.61 (1) (c) of the statutes, as affected by 1993 Wisconsin Act 326, is amended to read:

814.61 (1) (c) Paragraphs (a) and (b) do not apply to any action to determine paternity brought by the state or its delegate under s. 767.45 (1) (g) or (h) or commenced on behalf of the child by an attorney appointed under s. 767.045 (1) (c) or to an action under ch. 769.

SECTION 186. 814.61 (7) (c) of the statutes, as affected by 1993 Wisconsin Act 326, is amended to read:

814.61 (7) (c) Paragraphs (a) and (b) do not apply to a petition or motion filed by the state or its delegate in connection with an action to determine paternity under s. 767.45 (1) (g), to a petition or motion filed by an attorney appointed under s. 767.045 (1) (c) in connection with an action to determine paternity when the circumstances specified in s. 767.045 (1) (c) 1. or 2. apply or to a petition or motion filed in an action under ch. 769.

SECTION 187. 814.61 (12) (b) 3. of the statutes is amended to read:

814.61 (12) (b) 3. The clerk may apply to the court or court commissioner for an assignment relating to the annual fee in accordance with s. 767.265 or for an account transfer relating to the annual fee in accordance with s. 767.267.

SECTION 188. 818.02 (1) of the statutes is renumbered 818.02, and 818.02 (4) and (6), as renumbered, are amended to read:

818.02 (4) ~~Paragraphs (a) and (e) Subsections (1) and (3)~~ do not apply to any security agreement under which the plaintiff claims a purchase money security interest as defined in ch. 409.

(6) In a proceeding to determine paternity or to establish or revise a child support or maintenance obligation, if the court or family court commissioner finds that the petitioner cannot effect service of process upon the respondent despite due diligence on the part of the petitioner or after the respondent is personally served but fails to appear on the return date, on the date set for the pretrial hearing or on the date set for the trial.

SECTION 189. 818.02 (2) of the statutes is repealed.

SECTION 190. 818.10 of the statutes is amended to read:

818.10 Bail, how given. The defendant may give a bail bond executed by 2 or more sufficient sureties, stating their places of residence and occupations, to the effect that the defendant shall, at all times, be amenable to the process of the court during the pendency of the action and to such as may be issued to enforce the judgment therein, or if the defendant is arrested for the cause mentioned in s. 818.02 ~~(4)-(e)~~ (3), a bond executed by sufficient sureties, to the effect that they are bound in a sum double the value of the property.

SECTION 191. 818.20 of the statutes is amended to read:

818.20 Surrender of principal. At any time before a failure to comply with their bond the sureties may surrender the defendant in their exoneration or he may surrender himself to the sheriff of the county where he was arrested. A certified copy of the bail bond shall be delivered to the sheriff, who shall detain the defendant in his custody, as upon an order of arrest, and shall, in writing, acknowledge the surrender. Upon the production of a copy of the bond and the sheriff's certificate a judge may, upon 8 days' notice to the plaintiff, order that the bail be exonerated. But this section shall not apply to the arrest for the causes mentioned in s. 818.02 ~~(4)-(e)~~ (3).

SECTION 192. 895.01 (1) of the statutes is amended to read:

895.01 (1) In addition to the causes of action ~~which~~ that survive at common law, the following shall also survive: causes of action to determine paternity, for the recovery of personal property or the unlawful withholding or conversion of personal property, for the recovery of the possession of real estate and for the unlawful withholding of the possession of real estate, for assault and battery, false imprisonment, invasion of privacy, violation of s. 968.31 (2m) or other damage to the person, for all damage done to the property rights or interests of another, for goods taken and carried away, for damages done to real or personal estate, equitable actions to set aside conveyances of real estate, to compel a reconveyance of real estate, or to quiet the title to real estate, and for a specific performance of contracts relating to real estate. Causes of action for wrongful death shall survive the death of the wrongdoer whether or not the death of the wrongdoer occurred before or after the death of the injured person.

SECTION 193. 948.22 (7) (b) 1. and 2. of the statutes are amended to read:

948.22 (7) (b) 1. If a court order requiring the defendant to pay child, grandchild or spousal support exists, order the defendant to pay the amount required including any amount necessary to meet a past legal obligation for support ~~and, if appropriate, modify that order.~~

2. If no court order described under subd. 1 exists, enter such an order ~~and do so, for orders for child or spousal support, after considering s. 767.25.~~ For orders for child or spousal support, the court shall determine the amount of support in the manner required under s. 767.25 or 767.51, regardless of the fact that the action is not one for a determination of paternity or an action specified in s. 767.25 (1).

SECTION 194. 948.22 (7) (bm) of the statutes is created to read:

948.22 (7) (bm) Upon request, the court may modify the amount of child or spousal support payments determined under par. (b) 2. if, after considering the factors listed in s. 767.25 (1m) or 767.51 (5), regardless of the fact that the action is not one for a determination of paternity or an action specified in s. 767.25 (1), the court finds, by the greater weight of the credible evidence, that the use of the percentage standard is unfair to the child or to either of the child's parents.

SECTION 195. 977.05 (4) (i) 7. of the statutes is amended to read:

977.05 (4) (i) 7. Cases involving paternity determinations under ch. 767 ~~where in which~~ the state is the petitioner under s. 767.45 (1) (g) or ~~where the petitioner is represented by the district attorney, corporation counsel or other state or county attorneys under s. 767.45 (6) in which the action is commenced on behalf of the child by an attorney appointed under s. 767.045 (1) (c).~~

SECTION 9126. Nonstatutory provisions; health and social services.

(1) CHILD SUPPORT AND EMPLOYMENT REPORTING SYSTEM. The department of health and social services, after consultation with the department of revenue and the department of industry, labor and human relations, shall submit to the department of administration proposed statutory changes to create and implement a system for reporting child support liability and employment changes. The system shall be designed to ensure that clerks of court are notified of changes in the employment of payers of child support and to reduce the time between a change in the employment of a payer of child support and the issuance to the new employer of a notice of income assignment. The system shall be designed so that payers of child support, rather than employers, provide any information necessary for the operation of the system.

(2x) RULES ON CHILD SUPPORT. The department of health and social services shall submit proposed rules required under section 46.25 (9) (a) of the statutes, as affected by this act, to the legislative council staff for review under section 227.15 (1) of the statutes no later than July 1, 1994.

(2z) EMERGENCY RULES. Using the procedure under section 227.24 of the statutes, the department of health and social services shall promulgate rules required under

section 46.25 (9) (b) of the statutes, as affected by this act, for the period before the effective date of the rules, but not to exceed the period authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) and (3) of the statutes, the department is not required to make a finding of emergency.

(3c) CENTRALIZED SUPPORT COLLECTION AND DISBURSEMENT PROGRAM. The department of health and social services may solicit proposals from private vendors to provide services related to the centralized receipt and disbursement of child support and family support payments. Any proposed program of centralized receipt and disbursement of support payments must be approved by the department of administration before it is implemented.

SECTION 9137. Nonstatutory provisions; legislature.

(1x) STUDY ON CHILD SUPPORT, CUSTODY AND PATERNITY ISSUES.

(a) The joint legislative council is requested to study issues related to actions affecting the family, including the following issues:

1. Presumptions in favor of joint legal custody and equal periods of physical placement; and requiring a court to consider legal custody and periods of physical placement when determining child support.

2. Equitable methods of determining child support in paternity matters; due process considerations in paternity matters, including voluntary acknowledgments of paternity; and alternative ways to comply with federal requirements related to paternity matters, including voluntary acknowledgments of paternity.

(b) The joint legislative council is requested to report its findings, conclusions and recommendations by March 1, 1995, to the legislature in the manner provided under section 13.172 (2) of the statutes.

SECTION 9310. Initial applicability; circuit courts.

(1) FAMILY COURT COMMISSIONER AUTHORITY. The treatment of sections 757.69 (3) (g), 767.13 (5) (b) and (c), 767.455 (3), (5), (5g) (form) 3 and 7 and (5r) (form) 2, 767.458 (1) (intro.) and (d), (1m), (2) and (3), 767.46 (1), (2) (intro.) and (c), (4) and (6), 767.47 (5), 767.48 (1) (a) and 767.50 (1) of the statutes, the amendment of section 767.465 (2m) (a), (b) and (c) of the statutes and the repeal and recreation of sections 767.465 (1) and (2) (a) and 767.475 (1) of the statutes first apply to actions to establish paternity, actions to establish or enforce a child support or a family support obligation or actions to revise orders or judgments for child support or family support that are commenced on the effective date of this subsection.

(2) CIVIL ARREST. The treatment of sections 767.475 (6) and 818.02 (1) (f) and (2) of the statutes first applies to actions and proceedings commenced on the effective date of this subsection.

(3) SURVIVAL OF PATERNITY ACTIONS. The treatment of section 895.01 (1) of the statutes first applies to causes of action existing on the effective date of this subsection.

SECTION 9326. Initial applicability; health and social services.

(2) REVISIONS OF CHILD SUPPORT JUDGMENTS OR ORDERS. The treatment of section 767.32 (1m) and (1r) of the statutes first applies to arrearages existing, and child support, maintenance payments and family support payments past due, on the effective date of this subsection, regardless of when the judgment or order under which the arrearages accrued, or the child support, maintenance payments or family support payments are owed, was entered.

(2j) EXPRESSING CHILD SUPPORT. The treatment of sections 767.08 (2) (b), 767.23 (1) (c), 767.25 (1) (a), 767.33 (1m) and 767.51 (4) of the statutes and the creation of section 767.33 (1m) (b) of the statutes first apply to orders for support that are in effect on the effective date of this subsection, regardless of when the order was entered.

(3) CHILD SUPPORT IN SUBSTITUTE CARE.

(a) The treatment of sections 46.03 (18) (a) and (b), 46.10 (2) and (14) and 48.36 (1) of the statutes and the creation of sections 46.10 (14) (b) to (d) and (f) and 48.36 (1) (b) of the statutes first apply to orders for support that are issued under section 48.355 (2) (b) 4., 48.357 (5m) or 48.363 (2) of the statutes on the effective date of this paragraph.

(am) The creation of section 46.10 (14) (e) 1. to 4. of the statutes first applies to orders for support that are issued under section 48.355 (2) (b) 4., 48.357 (5m) or 48.363 (2) of the statutes on the effective date of this paragraph.

(b) The treatment of section 48.30 (6) of the statutes first applies to cases under section 48.12 or 48.13 of the statutes in which a plea hearing is held on the effective date of this paragraph.

(c) The treatment of section 48.31 (7) of the statutes first applies to cases under section 48.12 or 48.13 of the statutes in which a fact-finding hearing is held on the effective date of this paragraph.

(d) The treatment of section 48.33 (3), (4) and (4m) of the statutes and the creation of section 48.33 (3) (b) and (4) (b) of the statutes first apply to reports ordered at plea hearings or fact-finding hearings, in cases under section 48.12 or 48.13 of the statutes, that are held on the effective date of this paragraph.

(e) The treatment of section 48.335 (3r) of the statutes first applies to dispositional hearings, in cases under section 48.12 or 48.13 of the statutes, that are held on the effective date of this paragraph.

(f) The treatment of section 48.355 (2) (title), (b) 4. and (d) of the statutes first applies to dispositional orders in cases under section 48.12 or 48.13 of the statutes in

which a dispositional hearing is held on the effective date of this paragraph.

(g) The treatment of section 48.357 (5m) of the statutes first applies to changes in placement that are requested or proposed on the effective date of this paragraph.

(h) The renumbering and amendment of section 48.363 of the statutes first applies to revisions of dispositional orders that are requested or proposed on the effective date of this paragraph.

(i) The creation of section 48.363 (2) of the statutes first applies to revision orders that are issued on the effective date of this paragraph.

(4) APPLICATION OF CHILD SUPPORT PAYMENTS. The treatment of section 767.25 (6) (a) of the statutes first applies to child support payments received on the effective date of this subsection.

(5) ASSIGNMENT TO STATE. The treatment of sections 49.19 (4) (h) 1. b. and 767.29 (4) of the statutes first applies to support payments made on the effective date of this subsection, regardless of when the judgment or order under which the payments are made was entered.

(6) ANNUAL DISCLOSURE FORMS. The treatment of section 767.27 (2) and (2m) of the statutes first applies to persons who, on the effective date of this subsection, are obligated by court order or judgment to pay child support or family support.

(7) AFFIDAVIT PROCEDURE TO ESTABLISH SUPPORT ARREARAGES. The treatment of sections 767.293, 767.30 (1) (with respect to support arrearages under section 767.293 of the statutes, as affected by this act) and 808.075 (4) (d) 13. of the statutes and the amendment of sections 767.305 (with respect to support arrearages under section 767.293 of the statutes, as affected by this act) and 767.51 (6) of the statutes first apply to arrearages existing on the effective date of this subsection.

(8q) TAX INTERCEPT CERTIFICATION. The treatment of section 46.255 (1), (2), (3), (4) and (4m) (b) of the statutes first applies to outstanding amounts ordered for past support, medical expenses or birth expenses existing on the effective date of this subsection regardless of when the judgment or order under which the amount is owed was entered.

SECTION 9400. Effective dates; general statement. Except as otherwise provided in SECTIONS 9410 to 9459 of this act, this act takes effect on the day after publication.

SECTION 9410. Effective dates; circuit courts.

(1) FAMILY COURT COMMISSIONER AUTHORITY. The treatment of sections 757.69 (3) (g), 767.13 (5) (b) and (c), 767.455 (3), (5), (5g) (form) 3 and 7 and (5r) (form) 2, 767.458 (1) (intro.) and (d), (1m), (2) and (3), 767.46 (1), (2) (intro.) and (c), (4) and (6), 767.47 (5), 767.48 (1) (a) and 767.50 (1) of the statutes, the amendment of section 767.465 (2m) (a), (b) and (c) of the statutes, the

repeal and recreation of sections 767.465 (1) and (2) (a) and 767.475 (1) of the statutes and SECTION 9310 (1) of this act take effect on the first day of the 7th month beginning after publication.

SECTION 9426. Effective dates; health and social services.

(2) SUPPORT PAYMENTS FROM DEPOSIT ACCOUNTS. The treatment of sections 215.26 (8) (dm), 767.23 (1) (f), 767.265 (2r), 808.075 (4) (d) 12 and 814.61 (12) (b) 3. of the statutes, the creation of section 767.267 of the statutes and the repeal and recreation of sections 767.08 (2) (c), 767.305 and 767.51 (6) of the statutes take effect on the first day of the 7th month beginning after publication.

(3) ASSIGNMENT FOR CHILD SUPPORT IN SUBSTITUTE CARE. The treatment of section 46.10 (14) (e) 1. to 4. of the statutes, the amendment of sections 20.921 (2) (a) and 102.27 (2) (a) of the statutes and SECTION 9326 (3) (am) of this act take effect on the first day of the 13th month beginning after publication.

(4) OVERPAYMENTS OF SUPPORT OR MAINTENANCE. The treatment of sections 767.25 (6) (intro.), 767.261 (intro.), 767.29 (1) and (1m) and 767.51 (5p) (intro.) of the statutes takes effect on the first day of the 3rd month beginning after publication.

(5m) WITHHOLDING FOR CHILD'S MEDICAL EXPENSES. The treatment of sections 767.23 (1) (L), 767.25 (4m) (b) and (c), 767.265 (3h), (4) and (6) (a), (b) and (c), 767.51 (3m) (b) and (c) and 808.075 (4) (d) 11. of the statutes, the amendment of section 767.267 (1) of the statutes and the repeal and recreation of sections 20.921 (2) (a) and 102.27 (2) (a) of the statutes take effect on January 1, 1996.

(6) PLACEMENT OF CHILD IN CORRECTIONAL FACILITY. The repeal and recreation of sections 46.10 (2) and 48.33 (3) (intro.) of the statutes takes effect on July 1, 1995.

SECTION 9459. Effective dates; other.

(1) TOWN PROVIDING HEALTH CARE BENEFITS. The repeal and recreation of section 66.184 of the statutes takes effect on January 1, 1995.
