



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb1636/3
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LFB:.....Doty – Legislative Fiscal Child custody and physical placement

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

SOON
(7-29)
D-note
changes on pp 34 + 35

- 1 At the locations indicated, amend the substitute amendment as follows:
- 2 1. Page 414, line 21: after that line insert:
- 3 "SECTION 645L. 20.921 (2) (a) of the statutes is amended to read:
- 4 20.921 (2) (a) Whenever it becomes necessary in pursuance of any federal or
- 5 state law or court-ordered assignment of income under s. 46.10 (14) (e), 301.12 (14)
- 6 (e), 767.23 (1) (L), 767.25 (4m) (c), or 767.265, ~~767.51 (3m) (e) or 767.62 (4) (b) 3.~~ to
- 7 make deductions from the salaries of state officers or employes or employes of the
- 8 University of Wisconsin Hospitals and Clinics Authority, the state agency or
- 9 authority by which the officers or employes are employed is responsible for making

1 such deductions and paying over the total thereof for the purposes provided by the
2 laws or orders under which they were made.”

3 **2.** Page 785, line 13: after that line insert:

4 “SECTION 1617r. 66.184 of the statutes is amended to read:

5 **66.184 Self-insured health plans.** If a city, including a 1st class city, or a
6 village provides health care benefits under its home rule power, or if a town provides
7 health care benefits, to its officers and employes on a self-insured basis, the
8 self-insured plan shall comply with ss. 49.493 (3) (d), 631.89, 631.90, 631.93 (2),
9 632.746 (10) (a) 2. and (b) 2., 632.747 (3), 632.85, 632.853, 632.855, 632.87 (4) and (5),
10 632.895 (9) to (13), 632.896, and 767.25 (4m) (d), ~~767.51 (3m) (d) and 767.62 (4) (b)~~
11 ~~4.”~~.

12 **3.** Page 1079, line 11: after that line insert:

13 “SECTION 2002c. 102.27 (2) (a) of the statutes, as affected by 1999 Wisconsin
14 Act (this act), is amended to read:

15 102.27 (2) (a) A benefit under this chapter is assignable under s. 46.10 (14) (e),
16 301.12 (14) (e), 767.23 (1) (L), 767.25 (4m) (c), or 767.265 (1) or (2m), ~~767.51 (3m) (e)~~
17 ~~or 767.62 (4) (b) 3.”~~.

18 **4.** Page 1121, line 18: after that line insert:

19 “SECTION 2124r. 120.13 (2) (g) of the statutes is amended to read:

20 120.13 (2) (g) Every self-insured plan under par. (b) shall comply with ss.
21 49.493 (3) (d), 631.89, 631.90, 631.93 (2), 632.746 (10) (a) 2. and (b) 2., 632.747 (3),
22 632.85, 632.853, 632.855, 632.87 (4) and (5), 632.895 (9) to (13), 632.896, and 767.25
23 ~~(4m) (d), 767.51 (3m) (d) and 767.62 (4) (b) 4.”~~.

24 **5.** Page 1402, line 19: after that line insert:

1 **“SECTION 3025r.** 565.30 (5m) of the statutes is amended to read:

2 **565.30 (5m) WITHHOLDING OF CHILD SUPPORT, SPOUSAL SUPPORT, MAINTENANCE OR**
3 **FAMILY SUPPORT.** The administrator shall report to the department of workforce
4 development the name, address and social security number of each winner of a
5 lottery prize that is payable in instalments. Upon receipt of the report, the
6 department of workforce development shall certify to the administrator whether any
7 payee named in the report is obligated to provide child support, spousal support,
8 maintenance or family support under s. 767.02 (1) (f) or (g), 767.10, 767.23, 767.25,
9 767.26, 767.261, 767.458 (3), 767.465 (2m), 767.477, 767.51 (3), 767.62 (4) (a) or
10 948.22 (7) or ch. 769 and the amount required to be withheld from the lottery prize
11 under s. 767.265. The administrator shall withhold the certified amount from each
12 payment made to the winner and remit the certified amount to the department of
13 workforce development.”.

14 **6.** Page 1406, line 3: after that line insert:

15 **“SECTION 3044L.** 632.897 (10) (a) 3. of the statutes is amended to read:

16 **632.897 (10) (a) 3.** The fact that the group member or insured does not claim
17 the child as an exemption for federal income tax purposes under 26 USC 151 (c) (1)
18 (B), or as an exemption for state income tax purposes under s. 71.07 (8) (b) or under
19 the laws of another state, if a court order under s. 767.25 (4m), ~~767.51 (3m) or 767.62~~
20 ~~(4) (b)~~ or the laws of another state assigns responsibility for the child’s health care
21 expenses to the group member or insured.”.

22 **7.** Page 1409, line 4: after that line insert:

23 **“SECTION 3051n.** 767.045 (1) (a) 2. of the statutes is amended to read:

1 767.045 (1) (a) 2. ~~The~~ Except as provided in par. (am), the legal custody or
2 physical placement of the child is contested.

3 **SECTION 3051no.** 767.045 (1) (am) of the statutes is created to read:

4 767.045 (1) (am) The court is not required to appoint a guardian ad litem under
5 par. (a) 2. if all of the following apply:

6 1. Legal custody or physical placement is contested in an action to modify legal
7 custody or physical placement under s. 767.325 or 767.327.

8 2. The modification sought would not substantially alter the amount of time
9 that a parent may spend with his or her child.

10 3. The court determines any of the following:

11 a. That the appointment of a guardian ad litem will not assist the court in the
12 determination regarding legal custody or physical placement because the facts or
13 circumstances of the case make the likely determination clear.

14 b. That a party seeks the appointment of a guardian ad litem solely for a tactical
15 purpose, or for the sole purpose of delay, and not for a purpose that is in the best
16 interest of the child.

17 **SECTION 3051p.** 767.045 (1) (e) of the statutes is created to read:

18 767.045 (1) (e) Nothing in this subsection prohibits the court from making a
19 temporary order under s. 767.23 that concerns the child before a guardian ad litem
20 is appointed or before the guardian ad litem has made a recommendation to the
21 court, if the court determines that the temporary order is in the best interest of the
22 child.

23 **SECTION 3051r.** 767.078 (1) (a) 1. of the statutes is amended to read:

1 767.078 (1) (a) 1. Is an action for modification of a child support order under
2 s. 767.32 or an action in which an order for child support is required under s. 767.25
3 (1), 767.51 (3) or 767.62 (4) (a).”.

4 **8.** Page 1409, line 12: after that line insert:

5 “**SECTION 3054c.** 767.078 (2) of the statutes is amended to read:

6 767.078 (2) Subsection (1) does not limit the authority of a court to issue an
7 order, other than an order under sub. (1), regarding employment of a parent in an
8 action for modification of a child support order under s. 767.32 or an action in which
9 an order for child support is required under s. 767.25 (1), 767.51 (3) or 767.62 (4) (a).

10 **SECTION 3054cd.** 767.11 (12) (b) of the statutes is amended to read:

11 767.11 (12) (b) If after mediation under this section the parties do not reach
12 agreement on legal custody or periods of physical placement, the parties or the
13 mediator shall so notify the court. ~~The Except as provided in s. 767.045 (1) (am), the~~
14 ~~court shall promptly appoint a guardian ad litem under s. 767.045. After the~~
15 ~~appointment~~ Regardless of whether the court appoints a guardian ad litem, the court
16 shall, if appropriate, refer the matter for a legal custody or physical placement study
17 under sub. (14). If the parties come to agreement on legal custody or physical
18 placement after the matter has been referred for a study, the study shall be
19 terminated. The parties may return to mediation at any time before any trial of or
20 final hearing on legal custody or periods of physical placement. If the parties return
21 to mediation, the county shall collect any applicable fee under s. 814.615.

22 **SECTION 3054ce.** 767.115 (title) of the statutes is amended to read:

23 **767.115 (title) Educational program in action programs and classes in**
24 **actions affecting the family.**

1 **SECTION 3054cf.** 767.115 (4) of the statutes is created to read:

2 767.115 (4) (a) At any time during the pendency of a divorce or paternity action,
3 the court or family court commissioner may order the parties to attend a class that
4 is approved by the court or family court commissioner and that addresses such issues
5 as child development, family dynamics, how parental separation affects a child's
6 development and what parents can do to make raising a child in a separated
7 situation less stressful for the child.

8 (b) The court or family court commissioner may not require the parties to
9 attend a class under this subsection as a condition to the granting of the final
10 judgment or order in the divorce or paternity action, however, the court or family
11 court commissioner may refuse to hear a custody or physical placement motion of a
12 party who refuses to attend a class ordered under this subsection.

13 (c) 1. Except as provided in subd. 2., the parties shall be responsible for any cost
14 of attending the class.

15 2. If the court or family court commissioner finds that a party is indigent, any
16 costs that would be the responsibility of that party shall be paid by the county.

17 **SECTION 3054cg.** 767.23 (1) (a) of the statutes is amended to read:

18 767.23 (1) (a) ~~Upon~~ Subject to s. 767.477, upon request of one party, granting
19 legal custody of the minor children to the parties jointly, to one party solely or to a
20 relative or agency specified under s. 767.24 (3). ~~The, in a manner consistent with s.~~
21 767.24, except that the court or family court commissioner may order joint sole legal
22 custody without the agreement of the other party and without the findings required
23 under s. 767.24 (2) (b) 2. This order may not have a binding effect on a final custody
24 determination.

25 **SECTION 3054ch.** 767.23 (1) (am) of the statutes is amended to read:

1 767.23 (1) (am) ~~Upon~~ Subject to s. 767.477, upon the request of a party,
2 granting periods of physical placement to a party in a manner consistent with s.
3 767.24. The court or family court commissioner shall make a determination under
4 this paragraph within 30 days after the request for a temporary order regarding
5 periods of physical placement is filed.

6 **SECTION 3054ci.** 767.23 (1) (c) of the statutes is amended to read:

7 767.23 (1) (c) ~~Requiring~~ Subject to s. 767.477, requiring either party or both
8 parties to make payments for the support of minor children, which payment amounts
9 may be expressed as a percentage of parental income or as a fixed sum, or as a
10 combination of both in the alternative by requiring payment of the greater or lesser
11 of either a percentage of parental income or a fixed sum.

12 **SECTION 3054cj.** 767.23 (1) (k) of the statutes is amended to read:

13 767.23 (1) (k) ~~Requiring~~ Subject to s. 767.477, requiring either party or both
14 parties to maintain minor children as beneficiaries on a health insurance policy or
15 plan.

16 **SECTION 3054ck.** 767.23 (1n) of the statutes is amended to read:

17 767.23 (1n) Before making any temporary order under sub. (1), the court or
18 family court commissioner shall consider those factors ~~which~~ that the court is
19 required by this chapter to consider before entering a final judgment on the same
20 subject matter. In making a determination under sub. (1) (a) or (am), the court or
21 family court commissioner shall consider the factors under s. 767.24 (5). If the court
22 or family court commissioner makes a temporary child support order that deviates
23 from the amount of support that would be required by using the percentage standard
24 established by the department under s. 49.22 (9), the court or family court
25 commissioner shall comply with the requirements of s. 767.25 (1n). A temporary

1 order under sub. (1) may be based upon the written stipulation of the parties, subject
2 to the approval of the court or the family court commissioner. Temporary orders
3 made by the family court commissioner may be reviewed by the court as provided in
4 s. 767.13 (6).

5 **SECTION 3054cL.** 767.24 (1) of the statutes is amended to read:

6 767.24 (1) GENERAL PROVISIONS. In rendering a judgment of annulment, divorce
7 ~~or~~, legal separation or paternity, or in rendering a judgment in an action under s.
8 767.02 (1) (e) or 767.62 (3), the court shall make such provisions as it deems just and
9 reasonable concerning the legal custody and physical placement of any minor child
10 of the parties, as provided in this section.

11 **SECTION 3054cm.** 767.24 (1m) of the statutes is created to read:

12 767.24 (1m) PARENTING PLAN. In an action for annulment, divorce or legal
13 separation, an action to determine paternity or an action under s. 767.02 (1) (e) or
14 767.62 (3) in which legal custody or physical placement is contested, a party seeking
15 sole or joint legal custody or periods of physical placement shall file a parenting plan
16 with the court before any pretrial conference. A party required to file a parenting
17 plan under this subsection who does not timely file a parenting plan waives the right
18 to object to the other party's parenting plan. A parenting plan shall provide
19 information about the following questions:

20 (a) What legal custody or physical placement the parent is seeking.

21 (b) Where the parent lives currently and where the parent intends to live
22 during the next 2 years.

23 (c) Where the parent works and the hours of employment.

24 (d) Who will provide any necessary child care when the parent cannot and who
25 will pay for the child care.

- 1 (e) Where the child will go to school.
- 2 (f) What doctor or health care facility will provide medical care for the child.
- 3 (g) How the child's medical expenses will be paid.
- 4 (h) What the child's religious commitment will be, if any.
- 5 (i) Who will make decisions about the child's education, medical care, choice of
- 6 child care providers and extracurricular activities.
- 7 (j) How the holidays will be divided.
- 8 (k) What the child's summer schedule will be.
- 9 (L) Whether and how the child will be able to contact the other parent when
- 10 the child has physical placement with the parent providing the parenting plan.
- 11 (m) How the parent proposes to resolve disagreements related to matters over
- 12 which the court orders joint decision making.
- 13 (n) What child support, family support, maintenance or other income transfer
- 14 there will be.

15 **SECTION 3054cn.** 767.24 (2) (a) of the statutes is amended to read:

16 767.24 (2) (a) Subject to ~~par. (b)~~ pars. (am), (b) and (c), based on the best interest

17 of the child and after considering the factors under sub. (5), the court may give joint

18 legal custody or sole legal custody of a minor child.

19 **SECTION 3054co.** 767.24 (2) (am) of the statutes is created to read:

20 767.24 (2) (am) The court shall presume that joint legal custody is in the best

21 interest of the child.

22 **SECTION 3054cp.** 767.24 (2) (b) of the statutes is amended to read:

23 767.24 (2) (b) The court may give joint sole legal custody only if it finds that

24 doing so is in the child's best interest and that either of the following applies:

- 25 1. Both parties agree to joint sole legal custody with the same party.

1 2. The parties do not agree to joint sole legal custody with the same party, but
2 at least one party requests joint sole legal custody and the court specifically finds all
3 2 or more of the following:

4 a. ~~Both parties are~~ One party is not capable of performing parental duties and
5 responsibilities and or does not wish to have an active role in raising the child.

6 b. ~~No~~ One or more conditions exist at that time ~~which~~ that would substantially
7 interfere with the exercise of joint legal custody.

8 c. The parties will not be able to cooperate in the future decision making
9 required under an award of joint legal custody. In making this finding the court shall
10 consider, along with any other pertinent items, any reasons offered by a party
11 objecting to joint legal custody. Evidence that either party engaged in abuse, as
12 defined in s. 813.122 (1) (a), of the child, as defined in s. 48.02 (2), or evidence of
13 interspousal battery, as described under s. 940.19 or 940.20 (1m), or domestic abuse,
14 as defined in s. 813.12 (1) (a), creates a rebuttable presumption that the parties will
15 not be able to cooperate in the future decision making required. ~~This presumption~~
16 ~~may be rebutted by clear and convincing evidence that the abuse will not interfere~~
17 ~~with the parties' ability to cooperate in the future decision making required.~~

18 **SECTION 3054cq.** 767.24 (2) (c) of the statutes is created to read:

19 767.24 (2) (c) The court may not give sole legal custody to a parent who refuses
20 to cooperate with the other parent if the court finds that the refusal to cooperate is
21 unreasonable.

22 **SECTION 3054cr.** 767.24 (4) (a) of the statutes is renumbered 767.24 (4) (a) 1.
23 and amended to read:

1 767.24 (4) (a) 1. Except as provided under par. (b), if the court orders sole or
2 joint legal custody under sub. (2), the court shall allocate periods of physical
3 placement between the parties in accordance with this subsection.

4 2. In determining the allocation of periods of physical placement, the court
5 shall consider each case on the basis of the factors in sub. (5). The court shall set a
6 placement schedule that allows the child to have regularly occurring, meaningful
7 periods of physical placement with each parent and that maximizes the amount of
8 time the child may spend with each parent, taking into account geographic
9 separation and accommodations for different households.

10 **SECTION 3054cs.** 767.24 (4) (a) 3. of the statutes is created to read:

11 767.24 (4) (a) 3. Notwithstanding subd. 2. and sub. (5), the court shall presume
12 that any proposal submitted to the court with respect to periods of physical
13 placement that has been voluntarily agreed to by the parties is in the child's best
14 interest.

15 **SECTION 3054ct.** 767.24 (4) (c) of the statutes is amended to read:

16 767.24 (4) (c) No court may deny periods of physical placement for failure to
17 meet, or grant periods of physical placement for meeting, any financial obligation to
18 the child or, if the parties were married, to the former spouse.

19 **SECTION 3054cu.** 767.24 (5) (intro.) of the statutes is amended to read:

20 767.24 (5) FACTORS IN CUSTODY AND PHYSICAL PLACEMENT DETERMINATIONS.
21 (intro.) In determining legal custody and periods of physical placement, the court
22 shall consider all facts relevant to the best interest of the child. The court may not
23 prefer one parent or potential custodian over the other on the basis of the sex or race
24 of the parent or potential custodian. ~~The court shall consider reports of appropriate~~
25 ~~professionals if admitted into evidence when legal custody or physical placement is~~

1 ~~contested.~~ The court shall consider the following factors in making its
2 determination:

3 **SECTION 3054cv.** 767.24 (5) (a) of the statutes is amended to read:

4 767.24 (5) (a) The wishes of the child's parent or parents, as shown by any
5 stipulation between the parties, any proposed parenting plan or any legal custody
6 or physical placement proposal submitted to the court at trial.

7 **SECTION 3054cw.** 767.24 (5) (bm) of the statutes is created to read:

8 767.24 (5) (bm) The right of the child to spend the same amount of time or
9 substantial periods of time with each parent.

10 **SECTION 3054cx.** 767.24 (5) (cm) of the statutes is created to read:

11 767.24 (5) (cm) The amount and quality of time that each parent roles has spent
12 with the child in the past, any necessary changes to the parents' custodial roles and
13 any reasonable life-style changes that a parent proposes to make to be able to spend
14 time with the child in the future.

15 **SECTION 3054cy.** 767.24 (5) (dm) of the statutes is created to read:

16 767.24 (5) (dm) The age of the child and the child's developmental and
17 educational needs at different ages.

18 **SECTION 3054cz.** 767.24 (5) (em) of the statutes is created to read:

19 767.24 (5) (em) The need for regularly occurring and meaningful periods of
20 physical placement to provide predictability and stability for the child.

21 **SECTION 3054d.** 767.24 (5) (fm) of the statutes is created to read:

22 767.24 (5) (fm) The cooperation and communication between the parties and
23 whether either party unreasonably refuses to cooperate or communicate with the
24 other party.

25 **SECTION 3054dc.** 767.24 (5) (g) of the statutes is amended to read:

1 767.24 (5) (g) Whether each party can support the other party's relationship
2 with the child, including encouraging and facilitating frequent and continuing
3 contact with the child, or whether one party is likely to unreasonably interfere with
4 the child's continuing relationship with the other party.

5 **SECTION 3054dd.** 767.24 (5) (jm) of the statutes is created to read:

6 767.24 (5) (jm) The reports of appropriate professionals if admitted into
7 evidence.

8 **SECTION 3054de.** 767.242 of the statutes is created to read:

9 **767.242 Enforcement of physical placement orders. (1) DEFINITIONS.** In
10 this section:

11 (a) "Petitioner" means the parent filing a petition under this section, regardless
12 of whether that parent was the petitioner in the action in which periods of physical
13 placement were awarded under s. 767.24.

14 (b) "Respondent" means the parent upon whom a petition under this section is
15 served, regardless of whether that parent was the respondent in the action in which
16 periods of physical placement were awarded under s. 767.24.

17 **(2) WHO MAY FILE.** A parent who has been awarded periods of physical
18 placement under s. 767.24 may file a petition under sub. (3) if any of the following
19 applies:

20 (a) The parent has had one or more periods of physical placement denied by the
21 other parent.

22 (b) The parent has had one or more periods of physical placement substantially
23 interfered with by the other parent.

24 (c) The parent has incurred a financial loss or expenses as a result of the other
25 parent's intentional failure to exercise one or more periods of physical placement

1 under an order allocating specific times for the exercise of periods of physical
2 placement.

3 (3) PETITION. (a) The petition shall allege facts sufficient to show the following:

4 1. The name of the petitioner and that the petitioner has been awarded periods
5 of physical placement.

6 2. The name of the respondent.

7 3. That the criteria in sub. (2) apply.

8 (b) The petition shall request the imposition of a remedy or any combination
9 of remedies under sub. (5) (b) and (c). This paragraph does not prohibit a judge or
10 family court commissioner from imposing a remedy under sub. (5) (b) or (c) if the
11 remedy was not requested in the petition.

12 (c) A judge or family court commissioner shall accept any legible petition for
13 an order under this section.

14 (d) The petition shall be filed under the principal action under which the
15 periods of physical placement were awarded.

16 (e) A petition under this section is a motion for remedial sanction for purposes
17 of s. 785.03 (1) (a).

18 (4) SERVICE ON RESPONDENT; RESPONSE. Upon the filing of a petition under sub.
19 (3), the petitioner shall serve a copy of the petition upon the respondent by personal
20 service in the same manner as a summons is served under s. 801.11. The respondent
21 may respond to the petition either in writing before or at the hearing under sub. (5)
22 (a) or orally at that hearing.

23 (5) HEARING; REMEDIES. (a) A judge or family court commissioner shall hold a
24 hearing on the petition no later than 30 days after the petition has been served,
25 unless the time is extended by mutual agreement of the parties or upon the motion

1 of a guardian ad litem and the approval of the judge or family court commissioner.
2 The judge or family court commissioner may, on his or her own motion or the motion
3 of any party, order that a guardian ad litem be appointed for the child prior to the
4 hearing.

5 (b) If, at the conclusion of the hearing, the judge or family court commissioner
6 finds that the respondent has intentionally and unreasonably denied the petitioner
7 one or more periods of physical placement or that the respondent has intentionally
8 and unreasonably interfered with one or more of the petitioner's periods of physical
9 placement, the court or family court commissioner:

10 1. Shall do all of the following:

11 a. Issue an order granting additional periods of physical placement to replace
12 those denied or interfered with.

13 b. Award the petitioner a reasonable amount for the cost of maintaining an
14 action under this section and for attorney fees.

15 2. May do one or more of the following:

16 a. If the underlying order or judgment relating to periods of physical placement
17 does not provide for specific times for the exercise of periods of physical placement,
18 issue an order specifying the times for the exercise of periods of physical placement.

19 b. Find the respondent in contempt of court under ch. 785.

20 c. Grant an injunction ordering the respondent to strictly comply with the
21 judgment or order relating to the award of physical placement. In determining
22 whether to issue an injunction, the judge or family court commissioner shall consider
23 whether alternative remedies requested by the petitioner would be as effective in
24 obtaining compliance with the order or judgment relating to physical placement.

1 (c) If, at the conclusion of the hearing, the judge or family court commissioner
2 finds that the petitioner has incurred a financial loss or expenses as a result of the
3 respondent's failure, intentionally and unreasonably and without adequate notice to
4 the petitioner, to exercise one or more periods of physical placement under an order
5 allocating specific times for the exercise of periods of physical placement, the judge
6 or family court commissioner may issue an order requiring the respondent to pay to
7 the petitioner a sum of money sufficient to compensate the petitioner for the financial
8 loss or expenses.

9 (d) Except as provided in par. (b) 1. a. and 2. a., the judge or family court
10 commissioner may not modify an order of legal custody or physical placement in an
11 action under this section.

12 (e) An injunction issued under par. (b) 2. c. is effective according to its terms,
13 for the period of time that the petitioner requests, but not more than 2 years.

14 **(6) ENFORCEMENT ASSISTANCE.** (a) If an injunction is issued under sub. (5) (b)
15 2. c., upon request by the petitioner the judge or family court commissioner shall
16 order the sheriff to assist the petitioner in executing or serving the injunction.

17 (b) Within 24 hours after a request by the petitioner, the clerk of the circuit
18 court shall send a copy of an injunction issued under sub. (5) (b) 2. c. to the sheriff
19 or to any other local law enforcement agency that is the central repository for orders
20 and that has jurisdiction over the respondent's residence. If the respondent does not
21 reside in this state, the clerk shall send a copy of the injunction to the sheriff of the
22 county in which the circuit court is located.

23 (c) The sheriff or other appropriate local law enforcement agency under par. (b)
24 shall make available to other law enforcement agencies, through a verification
25 system, information on the existence and status of any injunction issued under sub.

1 (5) (b) 2. c. The information need not be maintained after the injunction is no longer
2 in effect.

3 (7) ARREST. A law enforcement officer may arrest and take a person into custody
4 if all of the following apply:

5 (a) A petitioner under this section presents the law enforcement officer with a
6 copy of an injunction issued under sub. (5) (b) 2. c. or the law enforcement officer
7 determines that such an injunction exists through communication with appropriate
8 authorities.

9 (b) The law enforcement officer has probable cause to believe that the person
10 has violated the injunction issued under sub. (5) (b) 2. c.

11 (8) PENALTY. Whoever intentionally violates an injunction issued under sub.
12 (5) (b) 2. c. may be fined not more than \$10,000 or imprisoned for not more than 2
13 years or both.

14 **SECTION 3054df.** 767.25 (1) (intro.) of the statutes is amended to read:

15 767.25 (1) (intro.) Whenever the court approves a stipulation for child support
16 under s. 767.10, enters a judgment of annulment, divorce or legal separation, or
17 enters an order or a judgment in a paternity action or in an action under s. 767.02
18 (1) (f) or (j) ~~or~~, 767.08 or 767.62 (3), the court shall do all of the following:

19 **SECTION 3054dg.** 767.25 (1m) (b) of the statutes is amended to read:

20 767.25 (1m) (b) The financial resources of both parents as ~~determined under~~
21 ~~s. 767.255.~~

22 **SECTION 3054dh.** 767.25 (1m) (c) of the statutes is amended to read:

23 767.25 (1m) (c) ~~The~~ If the parties were married, the standard of living the child
24 would have enjoyed had the marriage not ended in annulment, divorce or legal
25 separation.

1 **SECTION 3054di.** 767.25 (4m) (b) of the statutes is amended to read:

2 767.25 (4m) (b) In addition to ordering child support for a child under sub. (1),
3 the court shall specifically assign responsibility for and direct the manner of
4 payment of the child's health care expenses. In assigning responsibility for a child's
5 health care expenses, the court shall consider whether a child is covered under a
6 parent's health insurance policy or plan at the time the court approves a stipulation
7 for child support under s. 767.10, enters a judgment of annulment, divorce or legal
8 separation, or enters an order or a judgment in a paternity action or in an action
9 under s. 767.02 (1) (f) or (j) ~~or~~, 767.08 or 767.62 (3), the availability of health
10 insurance to each parent through an employer or other organization, the extent of
11 coverage available to a child and the costs to the parent for the coverage of the child.
12 A parent may be required to initiate or continue health care insurance coverage for
13 a child under this subsection. If a parent is required to do so, he or she shall provide
14 copies of necessary program or policy identification to the custodial parent and is
15 liable for any health care costs for which he or she receives direct payment from an
16 insurer. This subsection shall not be construed to limit the authority of the court to
17 enter or modify support orders containing provisions for payment of medical
18 expenses, medical costs, or insurance premiums which are in addition to and not
19 inconsistent with this subsection.

20 **SECTION 3054dj.** 767.25 (5) of the statutes is amended to read:

21 767.25 (5) ~~Liability~~ Subject to ss. 767.51 (4) and 767.62 (4m), liability for past
22 support shall be limited to the period after the birth of the child.

23 **SECTION 3054dk.** 767.25 (6) (intro.) of the statutes, as affected by 1997
24 Wisconsin Act 191, section 398, is amended to read:

1 767.25 (6) (intro.) A party ordered to pay child support under this section shall
2 pay simple interest at the rate of ~~1.5%~~ 1% per month on any amount in arrears that
3 is equal to or greater than the amount of child support due in one month. If the party
4 no longer has a current obligation to pay child support, interest at the rate of ~~1.5%~~
5 1% per month shall accrue on the total amount of child support in arrears, if any.
6 Interest under this subsection is in lieu of interest computed under s. 807.01 (4),
7 814.04 (4) or 815.05 (8) and is paid to the department or its designee under s. 767.29.
8 Except as provided in s. 767.29 (1m), the department or its designee, whichever is
9 appropriate, shall apply all payments received for child support as follows:

10 **SECTION 3054dL.** 767.253 of the statutes is amended to read:

11 **767.253 Seek-work orders.** In an action for modification of a child support
12 order under s. 767.32 or an action in which an order for child support is required
13 under s. 767.25 (1), 767.51 (3) or 767.62 (4) ~~(a)~~, the court may order either or both
14 parents of the child to seek employment or participate in an employment or training
15 program.

16 **SECTION 3054dm.** 767.254 (2) (intro.) of the statutes is amended to read:

17 767.254 (2) (intro.) In an action for revision of a judgment or order providing
18 for child support under s. 767.32 or an action in which an order for child support is
19 required under s. 767.25 (1), 767.51 (3) or 767.62 (4) ~~(a)~~, the court shall order an
20 unemployed teenage parent to do one or more of the following:

21 **SECTION 3054dn.** 767.261 (intro.) of the statutes, as affected by 1997 Wisconsin
22 Act 191, section 403, is amended to read:

23 **767.261 Family support.** (intro.) The court may make a financial order
24 designated “family support” as a substitute for child support orders under s. 767.25
25 and maintenance payment orders under s. 767.26. A party ordered to pay family

1 support under this section shall pay simple interest at the rate of ~~1.5%~~ 1% per month
2 on any amount in arrears that is equal to or greater than the amount of child support
3 due in one month. If the party no longer has a current obligation to pay child support,
4 interest at the rate of ~~1.5%~~ 1% per month shall accrue on the total amount of child
5 support in arrears, if any. Interest under this section is in lieu of interest computed
6 under s. 807.01 (4), 814.04 (4) or 815.05 (8) and is paid to the department or its
7 designee under s. 767.29. Except as provided in s. 767.29 (1m), the department or
8 its designee, whichever is appropriate, shall apply all payments received for family
9 support as follows.”

10 **9.** Page 1410, line 5: after that line insert:

11 “**SECTION 3055c.** 767.265 (1) of the statutes, as affected by 1997 Wisconsin Act
12 191, section 411, is amended to read:

13 767.265 (1) Each order for child support under this chapter, for maintenance
14 payments under s. 767.23 or 767.26, for family support under this chapter, for costs
15 ordered under s. 767.51 (3) or 767.62 (4) (a), for support by a spouse under s. 767.02
16 (1) (f), for maintenance payments under s. 767.02 (1) (g) or for the annual receiving
17 and disbursing fee under s. 767.29 (1) (d), each order for a revision in a judgment or
18 order with respect to child support, maintenance or family support payments under
19 s. 767.32, each stipulation approved by the court or the family court commissioner
20 for child support under this chapter and each order for child or spousal support
21 entered under s. 948.22 (7) constitutes an assignment of all commissions, earnings,
22 salaries, wages, pension benefits, benefits under ch. 102 or 108, lottery prizes that
23 are payable in instalments and other money due or to be due in the future to the
24 department or its designee. The assignment shall be for an amount sufficient to

1 ensure payment under the order or stipulation and to pay any arrearages due at a
2 periodic rate not to exceed 50% of the amount of support due under the order or
3 stipulation so long as the addition of the amount toward arrearages does not leave
4 the party at an income below the poverty line established under 42 USC 9902 (2).”.

5 **10.** Page 1413, line 24: after that line insert:

6 “**SECTION 3061c.** 767.265 (3h) of the statutes, as affected by 1997 Wisconsin Act
7 191, section 415, is amended to read:

8 767.265 (3h) A person who receives notice of assignment under this section or
9 s. 767.23 (1) (L), or 767.25 (4m) (c), ~~767.51 (3m) (e) or 767.62 (4) (b) 3.~~ or similar laws
10 of another state shall withhold the amount specified in the notice from any money
11 that person pays to the payer later than one week after receipt of notice of
12 assignment. Within 5 days after the day the person pays money to the payer, the
13 person shall send the amount withheld to the department or its designee, whichever
14 is appropriate, or, in the case of an amount ordered withheld for health care
15 expenses, to the appropriate health care insurer, provider or plan. With each
16 payment sent to the department or its designee, the person from whom the payer
17 receives money shall report to the department or its designee the payer’s gross
18 income or other gross amount from which the payment was withheld. Except as
19 provided in sub. (3m), for each payment sent to the department or its designee, the
20 person from whom the payer receives money shall receive an amount equal to the
21 person’s necessary disbursements, not to exceed \$3, which shall be deducted from the
22 money to be paid to the payer. Section 241.09 does not apply to assignments under
23 this section.

24 **SECTION 3061cd.** 767.265 (4) of the statutes is amended to read:

1 767.265 (4) A withholding assignment or order under this section or s. 767.23
2 (1) (L), or 767.25 (4m) (c), ~~767.51 (3m) (e) or 767.62 (4) (b) 3.~~ has priority over any other
3 assignment, garnishment or similar legal process under state law.

4 **SECTION 3061ce.** 767.265 (6) (a) of the statutes, as affected by 1997 Wisconsin
5 Act 191, section 420, is amended to read:

6 767.265 (6) (a) Except as provided in sub. (3m), if after receipt of notice of
7 assignment the person from whom the payer receives money fails to withhold the
8 money or send the money to the department or its designee or the appropriate health
9 care insurer, provider or plan as provided in this section or s. 767.23 (1) (L), or 767.25
10 (4m) (c), ~~767.51 (3m) (e) or 767.62 (4) (b) 3.~~, the person may be proceeded against
11 under the principal action under ch. 785 for contempt of court or may be proceeded
12 against under ch. 778 and be required to forfeit not less than \$50 nor more than an
13 amount, if the amount exceeds \$50, that is equal to 1% of the amount not withheld
14 or sent.

15 **SECTION 3061cf.** 767.265 (6) (b) of the statutes, as affected by 1997 Wisconsin
16 Act 191, section 422, is amended to read:

17 767.265 (6) (b) If an employer who receives an assignment under this section
18 or s. 767.23 (1) (L), or 767.25 (4m) (c), ~~767.51 (3m) (e) or 767.62 (4) (b) 3.~~ fails to notify
19 the department or its designee, whichever is appropriate, within 10 days after an
20 employe is terminated or otherwise temporarily or permanently leaves employment,
21 the employer may be proceeded against under the principal action under ch. 785 for
22 contempt of court.

23 **SECTION 3061cg.** 767.265 (6) (c) of the statutes is amended to read:

24 767.265 (6) (c) No employer may use an assignment under this section or s.
25 767.23 (1) (L), or 767.25 (4m) (c), ~~767.51 (3m) (e) or 767.62 (4) (b) 3.~~ as a basis for the

1 denial of employment to a person, the discharge of an employe or any disciplinary
2 action against an employe. An employer who denies employment or discharges or
3 disciplines an employe in violation of this paragraph may be fined not more than
4 \$500 and may be required to make full restitution to the aggrieved person, including
5 reinstatement and back pay. Except as provided in this paragraph, restitution shall
6 be in accordance with s. 973.20. An aggrieved person may apply to the district
7 attorney or to the department for enforcement of this paragraph.

8 **SECTION 3061ch.** 767.267 (1) of the statutes, as affected by 1997 Wisconsin Act
9 27, is amended to read:

10 767.267 (1) If the court or the family court commissioner determines that
11 income withholding under s. 767.265 is inapplicable, ineffective or insufficient to
12 ensure payment under an order or stipulation specified in s. 767.265 (1), or that
13 income withholding under s. 767.25 (4m) (c) ~~or 767.51 (3m) (e)~~ is inapplicable,
14 ineffective or insufficient to ensure payment of a child's health care expenses,
15 including payment of health insurance premiums, ordered under s. 767.25 (4m) or
16 767.51 (3m), the court or family court commissioner may require the payer to identify
17 or establish a deposit account, owned in whole or in part by the payer, that allows for
18 periodic transfers of funds and to file with the financial institution at which the
19 account is located an authorization for transfer from the account to the department
20 or its designee, whichever is appropriate. The authorization shall be provided on a
21 standard form approved by the court and shall specify the frequency and the amount
22 of transfer, sufficient to meet the payer's obligation under the order or stipulation,
23 as required by the court or family court commissioner. The authorization shall
24 include the payer's consent for the financial institution or an officer, employe or agent
25 of the financial institution to disclose information to the court, family court

1 commissioner, county child support agency under s. 59.53 (5), department or
2 department's designee regarding the account for which the payer has executed the
3 authorization for transfer.”

4 **11.** Page 1415, line 19: after that line insert:

5 “**SECTION 3065c.** 767.29 (1m) (intro.) of the statutes, as affected by 1997
6 Wisconsin Act 191, section 427, is amended to read:

7 767.29 (1m) (intro.) Notwithstanding ss. 767.25 (6), and 767.261, ~~767.51 (5p)~~
8 ~~and 767.62 (4) (g)~~, if the department or its designee receives support or maintenance
9 money that exceeds the amount due in the month in which it is received and that the
10 department or its designee determines is for support or maintenance due in a
11 succeeding month, the department or its designee may hold the amount of
12 overpayment that does not exceed the amount due in the next month for
13 disbursement in the next month if any of the following applies:

14 **SECTION 3065cd.** 767.295 (2) (a) (intro.) of the statutes is amended to read:

15 767.295 (2) (a) (intro.) In an action for modification of a child support order
16 under s. 767.32, an action in which an order for child support is required under s.
17 767.25 (1), 767.51 (3) or 767.62 (4) ~~(a)~~ or a contempt of court proceeding to enforce a
18 child support or family support order in a county that contracts under s. 49.36 (2),
19 the court may order a parent who is not a custodial parent to register for a work
20 experience and job training program under s. 49.36 if all of the following conditions
21 are met:

22 **SECTION 3065ce.** 767.295 (2) (c) of the statutes is amended to read:

23 767.295 (2) (c) If the court enters an order under par. (a), it shall order the
24 parent to pay child support equal to the amount determined by applying the

1 percentage standard established under s. 49.22 (9) to the income a person would earn
2 by working 40 hours per week for the federal minimum hourly wage under 29 USC
3 206 (a) (1) or equal to the amount of child support that the parent was ordered to pay
4 in the most recent determination of support under this chapter. The child support
5 obligation ordered under this paragraph continues until the parent makes timely
6 payment in full for 3 consecutive months or until the person participates in the
7 program under s. 49.36 for 16 weeks, whichever comes first. The court shall provide
8 in its order that the parent must make child support payments calculated under s.
9 767.25 (1j) or (1m), ~~767.51 (4m) or (5) or 767.62 (4) (d) 1. or (e)~~ after the obligation to
10 make payments ordered under this paragraph ceases.

11 **SECTION 3065cf.** 767.303 (1) of the statutes is amended to read:

12 767.303 (1) If a person fails to pay a payment ordered for support under s.
13 767.077, support under s. 767.08, child support or family support under s. 767.23,
14 child support under s. 767.25, family support under s. 767.261, revised child or
15 family support under s. 767.32, child support under s. 767.458 (3), child support
16 under s. 767.458 (3), child support under s. 767.51, child support under s. 767.62 (4)
17 (a), child support under ch. 769 or child support under s. 948.22 (7), the payment is
18 90 or more days past due and the court finds that the person has the ability to pay
19 the amount ordered, the court may suspend the person's operating privilege, as
20 defined in s. 340.01 (40), until the person pays all arrearages in full or makes
21 payment arrangements that are satisfactory to the court, except that the suspension
22 period may not exceed 5 years. If otherwise eligible, the person is eligible for an
23 occupational license under s. 343.10 at any time.

24 **SECTION 3065cg.** 767.303 (1) of the statutes, as affected by 1997 Wisconsin Act
25 84, is amended to read:

1 767.303 (1) If a person fails to pay a payment ordered for support under s.
2 767.077, support under s. 767.08, child support or family support under s. 767.23,
3 child support under s. 767.25, family support under s. 767.261, revised child or
4 family support under s. 767.32, child support under s. 767.458 (3), child support
5 under s. 767.477, child support under s. 767.51, child support under s. 767.62 (4) (a),
6 child support under ch. 769 or child support under s. 948.22 (7), the payment is 90
7 or more days past due and the court finds that the person has the ability to pay the
8 amount ordered, the court may suspend the person's operating privilege, as defined
9 in s. 340.01 (40), until the person pays all arrearages in full or makes payment
10 arrangements that are satisfactory to the court, except that the suspension period
11 may not exceed 2 years. If otherwise eligible, the person is eligible for an
12 occupational license under s. 343.10 at any time.

13 **SECTION 3065ch.** 767.32 (1) (b) 4. of the statutes is amended to read:

14 767.32 (1) (b) 4. A difference between the amount of child support ordered by
15 the court to be paid by the payer and the amount that the payer would have been
16 required to pay based on the percentage standard established by the department
17 under s. 49.22 (9) if the court did not use the percentage standard in determining the
18 child support payments and did not provide the information required under s. 46.10
19 (14) (d), 301.12 (14) (d), or 767.25 (1n), ~~767.51 (5d) or 767.62 (4) (f)~~, whichever is
20 appropriate.

21 **SECTION 3065ci.** 767.32 (2m) of the statutes is amended to read:

22 767.32 (2m) Upon request by a party, the court may modify the amount of
23 revised child support payments determined under sub. (2) if, after considering the
24 factors listed in s. 767.25 (1m), ~~767.51 (5) or 767.62 (4) (e)~~, as appropriate, the court

1 finds, by the greater weight of the credible evidence, that the use of the percentage
2 standard is unfair to the child or to any of the parties.

3 **SECTION 3065cj.** 767.325 (2m) of the statutes is created to read:

4 **767.325 (2m) MODIFICATION OF PERIODS OF PHYSICAL PLACEMENT FOR FAILURE TO**
5 **EXERCISE PHYSICAL PLACEMENT.** Notwithstanding subs. (1) and (2), upon petition,
6 motion or order to show cause by a party, a court may modify an order of physical
7 placement at any time with respect to periods of physical placement if it finds that
8 a parent has repeatedly and unreasonably failed to exercise periods of physical
9 placement awarded under an order of physical placement that allocates specific
10 times for the exercise of periods of physical placement.

11 **SECTION 3065ck.** 767.325 (5m) of the statutes is created to read:

12 **767.325 (5m) FACTORS TO CONSIDER.** In all actions to modify legal custody or
13 physical placement orders, the court shall consider the factors under s. 767.24 (5) and
14 shall make its determination in a manner consistent with s. 767.24.

15 **SECTION 3065cL.** 767.325 (6m) of the statutes is created to read:

16 **767.325 (6m) PARENTING PLAN.** In any action to modify a legal custody or
17 physical placement order under sub. (1), the court may require the party seeking the
18 modification to file with the court a parenting plan under s. 767.24 (1m) before any
19 hearing is held.

20 **SECTION 3065cm.** 767.327 (4) of the statutes is amended to read:

21 **767.327 (4) GUARDIAN AD LITEM; PROMPT HEARING.** After a petition, motion or
22 order to show cause is filed under sub. (3), the court shall appoint a guardian ad litem,
23 unless s. 767.045 (1) (am) applies, and shall hold a hearing as soon as possible.

24 **SECTION 3065cn.** 767.327 (5m) of the statutes is created to read:

1 767.327 (5m) DISCRETIONARY FACTORS TO CONSIDER. In making a determination
2 under sub. (3), the court may consider the child's adjustment to the home, school,
3 religion and community.

4 **SECTION 3065co.** 767.45 (7) of the statutes is amended to read:

5 767.45 (7) The clerk of court shall provide without charge, to each person
6 bringing an action under this section, except to the state under sub. (1) (g) or (6m),
7 a document setting forth the percentage standard established by the department
8 under s. 49.22 (9) and listing the factors which a court may consider under s. ~~767.51~~
9 ~~(5)~~ 767.25 (1m).

10 **SECTION 3065cp.** 767.455 (6) of the statutes is amended to read:

11 767.455 (6) DOCUMENT. The summons served on the respondent shall be
12 accompanied by a document, provided without charge by the clerk of court, setting
13 forth the percentage standard established by the department under s. 49.22 (9) and
14 listing the factors which a court may consider under s. ~~767.51 (5)~~ 767.25 (1m).

15 **SECTION 3065cq.** 767.477 (1) of the statutes is amended to read:

16 767.477 (1) At any time during the pendency of an action to establish the
17 paternity of a child, if genetic tests show that the alleged father is not excluded and
18 that the statistical probability of the alleged father's parentage is 99.0% or higher,
19 on the motion of a party, the court shall make an appropriate temporary order orders
20 for the payment of child support and ~~may make a temporary order~~, assigning
21 responsibility for and directing the manner of payment of the child's health care
22 expenses and for the custody and physical placement of the child.

23 **SECTION 3065cr.** 767.477 (2) of the statutes is amended to read:

24 767.477 (2) Before making any temporary order under sub. (1), the court shall
25 consider those factors that the court is required ~~under s. 767.51~~ to consider when

1 granting a final judgment on the same subject matter. If the court makes a
2 temporary child support order that deviates from the amount of support that would
3 be required by using the percentage standard established by the department under
4 s. 49.22 (9), the court shall comply with the requirements of s. ~~767.51 (5d)~~ 767.25 (1n).

5 **SECTION 3065cs.** 767.51 (3) of the statutes is repealed and recreated to read:

6 767.51 (3) A judgment or order determining paternity shall contain all of the
7 following provisions:

8 (a) An adjudication of the paternity of the child.

9 (b) Orders for the legal custody of and periods of physical placement with the
10 child, determined in accordance with s. 767.24.

11 (c) An order requiring either or both of the parents to contribute to the support
12 of any child of the parties who is less than 18 years old, or any child of the parties who
13 is less than 19 years old if the child is pursuing an accredited course of instruction
14 leading to the acquisition of a high school diploma or its equivalent, determined in
15 accordance with s. 767.25.

16 (d) A determination as to which parent, if eligible, shall have the right to claim
17 the child as an exemption for federal tax purposes under 26 USC 151 (c) (1) (B), or
18 as an exemption for state tax purposes under s. 71.07 (8) (b).

19 (e) An order requiring the father to pay or contribute to the reasonable expenses
20 of the mother's pregnancy and the child's birth, based on the father's ability to pay
21 or contribute to those expenses.

22 (f) An order requiring either or both parties to pay or contribute to the costs of
23 the guardian ad litem fees, genetic tests as provided in s. 767.48 (5) and other costs.

24 (g) An order requiring either party to pay or contribute to the attorney fees of
25 the other party.

1 **SECTION 3065ct.** 767.51 (3m) of the statutes, as affected by 1997 Wisconsin Act
2 27, is repealed.

3 **SECTION 3065cu.** 767.51 (3r) of the statutes is repealed.

4 **SECTION 3065cv.** 767.51 (4) of the statutes is repealed and recreated to read:

5 767.51 (4) (a) Subject to par. (b), liability for past support of the child shall be
6 limited to support for the period after the day on which the action is commenced
7 under s. 767.45, unless a party shows, to the satisfaction of the court, all of the
8 following:

9 1. That he or she was induced to delay commencing the action by any of the
10 following:

11 a. Duress or threats.

12 b. Actions, promises or representations by the other party upon which the party
13 relied.

14 c. Actions taken by the other party to evade paternity proceedings.

15 2. That, after the inducement ceased to operate, he or she did not unreasonably
16 delay in commencing the action.

17 (b) In no event may liability for past support of the child be imposed for any
18 period before the birth of the child.

19 **SECTION 3065cw.** 767.51 (4g) of the statutes is repealed.

20 **SECTION 3065cx.** 767.51 (4m) of the statutes is repealed.

21 **SECTION 3065cy.** 767.51 (5) of the statutes is repealed.

22 **SECTION 3065d.** 767.51 (5d) of the statutes is repealed.

23 **SECTION 3065dd.** 767.51 (5p) of the statutes, as affected by 1997 Wisconsin Act
24 191, is repealed.

25 **SECTION 3065de.** 767.53 (intro.) of the statutes is amended to read:

1 **767.53 Paternity hearings and records; confidentiality.** (intro.) Any
2 hearing, discovery proceeding or trial relating to paternity determination shall be
3 closed to any person other than those necessary to the action or proceeding. Any
4 record of ~~the~~ pending proceedings shall be placed in a closed file, except that:

5 **SECTION 3065df.** 767.53 (1) (intro.) of the statutes is amended to read:

6 767.53 (1) (intro.) Access to the record of any pending ~~or past~~ proceeding
7 involving the paternity of the same child shall be allowed to all of the following:

8 **SECTION 3065dg.** 767.53 (3) of the statutes is created to read:

9 767.53 (3) Subject to s. 767.19, the records of any past proceeding in which
10 paternity was established are open to public inspection.

11 **SECTION 3065dh.** 767.62 (4) of the statutes, as affected by 1997 Wisconsin Act
12 191, is repealed and recreated to read:

13 767.62 (4) **ORDERS WHEN PATERNITY ACKNOWLEDGED.** In an action under sub. (3)
14 (a), if the persons who signed and filed the statement acknowledging paternity as
15 parents of the child had notice of the hearing, the court or family court commissioner
16 shall make an order that contains all of the following provisions:

17 (a) Orders for the legal custody of and periods of physical placement with the
18 child, determined in accordance with s. 767.24.

19 (b) An order requiring either or both of the parents to contribute to the support
20 of any child of the parties who is less than 18 years old, or any child of the parties who
21 is less than 19 years old if the child is pursuing an accredited course of instruction
22 leading to the acquisition of a high school diploma or its equivalent, determined in
23 accordance with s. 767.25.

1 (c) A determination as to which parent, if eligible, shall have the right to claim
2 the child as an exemption for federal tax purposes under 26 USC 151 (c) (1) (B), or
3 as an exemption for state tax purposes under s. 71.07 (8) (b).

4 (d) An order requiring the father to pay or contribute to the reasonable
5 expenses of the mother's pregnancy and the child's birth, based on the father's ability
6 to pay or contribute to those expenses.

7 (e) An order requiring either or both parties to pay or contribute to the costs
8 of the guardian ad litem fees and other costs.

9 (f) An order requiring either party to pay or contribute to the attorney fees of
10 the other party.

11 **SECTION 3065di.** 767.62 (4m) of the statutes is created to read:

12 767.62 (4m) LIABILITY FOR PAST SUPPORT. (a) Subject to par. (b), liability for past
13 support of the child shall be limited to support for the period after the day on which
14 the action is commenced under sub. (3) (a), unless a party shows, to the satisfaction
15 of the court, all of the following:

16 1. That he or she was induced to delay commencing the action by any of the
17 following:

18 a. Duress or threats.

19 b. Actions, promises or representations by the other party upon which the party
20 relied.

21 c. Actions taken by the other party to evade proceedings under sub. (3) (a).

22 2. That, after the inducement ceased to operate, he or she did not unreasonably
23 delay in commencing the action.

24 (b) In no event may liability for past support of the child be imposed for any
25 period before the birth of the child.”.

1 **12.** Page 1425, line 7: after that line insert:

2 “SECTION 3085c. 802.12 (3) (d) 1. of the statutes is amended to read:

3 802.12 (3) (d) 1. Custody and physical placement under s. 767.24, 767.458 (3),
4 767.51 (3) or 767.62 (4) (a).

5 SECTION 3085d. 802.12 (3) (d) 3. of the statutes is amended to read:

6 802.12 (3) (d) 3. Child support under s. 767.25, 767.458 (3), 767.51 or 767.62
7 (4) (a).”.

8 **13.** Page 1426, line 12: after that line insert:

9 “SECTION 3087c. 808.075 (4) (d) 11. of the statutes is amended to read:

10 808.075 (4) (d) 11. Enforcement or modification of assignments under s. 767.25
11 (4m), or 767.265, ~~767.51 (3m) or 767.62 (4) (b) 3.~~”.

12 **14.** Page 1439, line 11: after that line insert:

13 “SECTION 3197c. 948.22 (7) (bm) of the statutes is amended to read:

14 948.22 (7) (bm) Upon request, the court may modify the amount of child or
15 spousal support payments determined under par. (b) 2. if, after considering the
16 factors listed in s. 767.25 (1m) ~~or 767.51 (5)~~, regardless of the fact that the action is
17 not one for a determination of paternity or an action specified in s. 767.25 (1), the
18 court finds, by the greater weight of the credible evidence, that the use of the
19 percentage standard is unfair to the child or to either of the child’s parents.”.

20 **15.** Page 1566, line 17: after that line insert:

21 “(4y) STUDY ON THE GUARDIAN AD LITEM SYSTEM.

22 (a) The joint legislative council is requested to establish a committee to study
23 reforming the guardian ad litem system as it applies to actions affecting the family.

24 The committee shall include legislators, attorneys, judges, court commissioners,

1 mental health professionals and other individuals representing the public interest.

2 The study shall include an examination of at least all of the following:

3 1. The appointment of guardians ad litem, including whether the appointment
4 of a guardian ad litem should be required in every case in which legal custody or
5 physical placement of a child is contested and whether professionals with specialized
6 training and expertise in the emotional and developmental phases and needs of
7 children, such as child psychologists, child psychiatrists and child therapists, should
8 be appointed to act as guardians ad litem.

9 2. The role of the guardian ad litem.

10 3. Supervision of guardians ad litem.

11 4. Training of guardians ad litem.

12 5. Compensation of guardians ad litem.

13 (b) If a committee is established, the committee shall prepare a report with its
14 recommendations and shall petition the supreme court to consider rules for the
15 reform of the guardian ad litem system on the basis of the recommendations.”

16 **16.** Page 1603, line 18: after that line insert:

17 “(9yo) CUSTODY AND PHYSICAL PLACEMENT IN ACTIONS AFFECTING THE FAMILY. The
18 treatment of sections 20.921 (2) (a), 66.184, 102.27 (2) (a) (by SECTION 2002c), 120.13
19 (2) (g), 565.30 (5m), 632.897 (10) (a) 3., 767.045 (1) (a) 2., (am) and (e), 767.078 (1) (a)

20 1. and (2), 767.11 (12) (b), 767.115 (title) and (4), 767.23 (1) (a), (am), (c) and (k)

21 ~~767.23~~ (1n), 767.24 (1) ~~and~~ (1m), ~~767.24~~ (2) (a), (am), (b) and (c), (4) (c) and (5) (intro.),

22 (a), (cm), (dm), (em), (fm), (g) and (jm), 767.242, 767.25 (1) (intro.), (1m) (b) and (c),

23 (4m) (b), (5) and (6) (intro.), 767.253, 767.254 (2) (intro.), 767.261 (intro.), 767.265 (1)

24 (by SECTION 3055c), (3h), (4) and (6) (a), (b) and (c), 767.267 (1), 767.29 (1m) (intro.),

1 767.295 (2) (a) (intro.) and (c), 767.303 (1) (by SECTION 3065cf), 767.32 (1) (b) 4. and
 2 (2m), 767.325 (2m), (5m) and (6m), 767.327 (4) and (5m), 767.45 (7), 767.455 (6),
 3 767.477 (1) and (2), 767.51 (3), (3m), (3r), (4), (4g), (4m), (5), (5d) and (5p), 767.53
 4 (intro.), (1) (intro.) and (3), 767.62 (4) and (4m), 802.12 (3) (d) 1. and 3., 808.075 (4)
 5 (d) 11. and 948.22 (7) (bm) of the statutes, the renumbering and amendment of
 6 section 767.24 (4) (a) of the statutes and the creation of section 767.24 (4) (a) 3. of the
 7 statutes first apply to actions affecting the family, including actions to enforce or
 8 modify a judgment or order in an action affecting the family previously granted, that
 9 are commenced on the effective date of this subsection.”

10 **17.** Page 1617, line 6: after that line insert:

11 “(7yo) CUSTODY AND PHYSICAL PLACEMENT IN ACTIONS AFFECTING THE FAMILY.

12 (a) The treatment of sections 20.921 (2) (a), 66.184, 102.27 (2) (a) (by SECTION
 13 2002c), 120.13 (2) (g), 565.30 (5m), 632.897 (10) (a) 3., 767.045 (1) (a) 2., (am) and (e),
 14 767.078 (1) (a) 1. and (2), 767.11 (12) (b), 767.115 (title) and (4), 767.23 (1) (a), (am),
 15 (c) and (k) ^{and} ~~and~~ (1n), 767.24 (1) ^{and} ~~and~~ (1m), ~~and~~ (2) (a), (am), (b) and (c), (4) (c)
 16 and (5) (intro.), (a), (cm), (dm), (em), (fm), (g) and (jm), 767.242, 767.25 (1) (intro.),
 17 (1m) (b) and (c), (4m) (b), (5) and (6) (intro.), 767.253, 767.254 (2) (intro.), 767.261
 18 (intro.), 767.265 (1) (by SECTION 3055c), (3h), (4) and (6) (a), (b) and (c), 767.267 (1),
 19 767.29 (1m) (intro.), 767.295 (2) (a) (intro.) and (c), 767.303 (1) (by SECTION 3065cf),
 20 767.32 (1) (b) 4. and (2m), 767.325 (2m), (5m) and (6m), 767.327 (4) and (5m), 767.45
 21 (7), 767.455 (6), 767.477 (1) and (2), 767.51 (3), (3m), (3r), (4), (4g), (4m), (5), (5d) and
 22 (5p), 767.53 (intro.), (1) (intro.) and (3), 767.62 (4) and (4m), 802.12 (3) (d) 1. and 3.,
 23 808.075 (4) (d) 11. and 948.22 (7) (bm) of the statutes, the renumbering and
 24 amendment of section 767.24 (4) (a) of the statutes and the creation of section 767.24

1 (4) (a) 3. of the statutes and SECTION 9357 (9yo) of this act take effect on the first day
2 of the 7th month beginning after publication.

3 (b) The treatment of section 767.303 (1) (by SECTION 3065cg) of the statutes
4 takes effect on the date stated in the notice published by the secretary of
5 transportation in the Wisconsin Administrative Register under section 85.515 of the
6 statutes, or on May 1, 2000, whichever is earlier.”

7

(END)

D-note

(Kelsie:

This redraft makes some technical
corrections in the initial applicability
and effective date provisions.

PJK

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

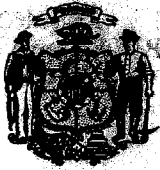
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July 29, 1999

Kelsie:

This redraft makes some technical corrections in the initial applicability and effective date provisions.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: Pam.Kahler@legis.state.wi.us



State of Wisconsin
1999 - 2000 LEGISLATURE

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LFB:.....Doty - Legislative Fiscal Child custody and physical placement

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

*✓
D-note
today (Wed)
See pp 34-35 &
D-note on p. 36*

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 414, line 21: after that line insert:

3 "SECTION 645L. 20.921 (2) (a) of the statutes is amended to read:

4 20.921 (2) (a) Whenever it becomes necessary in pursuance of any federal or
5 state law or court-ordered assignment of income under s. 46.10 (14) (e), 301.12 (14)
6 (e), 767.23 (1) (L), 767.25 (4m) (c), or 767.265, ~~767.51 (3m) (c) or 767.62 (4) (b) 3.~~ to
7 make deductions from the salaries of state officers or employes or employes of the
8 University of Wisconsin Hospitals and Clinics Authority, the state agency or
9 authority by which the officers or employes are employed is responsible for making

1 such deductions and paying over the total thereof for the purposes provided by the
2 laws or orders under which they were made.”

3 **2.** Page 785, line 13: after that line insert:

4 “SECTION 1617r. 66.184 of the statutes is amended to read:

5 **66.184 Self-insured health plans.** If a city, including a 1st class city, or a
6 village provides health care benefits under its home rule power, or if a town provides
7 health care benefits, to its officers and employes on a self-insured basis, the
8 self-insured plan shall comply with ss. 49.493 (3) (d), 631.89, 631.90, 631.93 (2),
9 632.746 (10) (a) 2. and (b) 2., 632.747 (3), 632.85, 632.853, 632.855, 632.87 (4) and (5),
10 632.895 (9) to (13), 632.896, and 767.25 (4m) (d), ~~767.51 (3m) (d) and 767.62 (4) (b)~~
11 ~~4.”~~

12 **3.** Page 1079, line 11: after that line insert:

13 “SECTION 2002c. 102.27 (2) (a) of the statutes, as affected by 1999 Wisconsin
14 Act (this act), is amended to read:

15 102.27 (2) (a) A benefit under this chapter is assignable under s. 46.10 (14) (e),
16 301.12 (14) (e), 767.23 (1) (L), 767.25 (4m) (c), or 767.265 (1) or (2m), ~~767.51 (3m) (e)~~
17 ~~or 767.62 (4) (b) 3.”~~

18 **4.** Page 1121, line 18: after that line insert:

19 “SECTION 2124r. 120.13 (2) (g) of the statutes is amended to read:

20 120.13 (2) (g) Every self-insured plan under par. (b) shall comply with ss.
21 49.493 (3) (d), 631.89, 631.90, 631.93 (2), 632.746 (10) (a) 2. and (b) 2., 632.747 (3),
22 632.85, 632.853, 632.855, 632.87 (4) and (5), 632.895 (9) to (13), 632.896, and 767.25
23 (4m) (d), ~~767.51 (3m) (d) and 767.62 (4) (b) 4.”~~

24 **5.** Page 1402, line 19: after that line insert:

1 "SECTION 3025r. 565.30 (5m) of the statutes is amended to read:

2 565.30 (5m) WITHHOLDING OF CHILD SUPPORT, SPOUSAL SUPPORT, MAINTENANCE OR
3 FAMILY SUPPORT. The administrator shall report to the department of workforce
4 development the name, address and social security number of each winner of a
5 lottery prize that is payable in instalments. Upon receipt of the report, the
6 department of workforce development shall certify to the administrator whether any
7 payee named in the report is obligated to provide child support, spousal support,
8 maintenance or family support under s. 767.02 (1) (f) or (g), 767.10, 767.23, 767.25,
9 767.26, 767.261, 767.458 (3), 767.465 (2m), 767.477, 767.51 (3), 767.62 (4) (a) or
10 948.22 (7) or ch. 769 and the amount required to be withheld from the lottery prize
11 under s. 767.265. The administrator shall withhold the certified amount from each
12 payment made to the winner and remit the certified amount to the department of
13 workforce development."

14 6. Page 1406, line 3: after that line insert:

15 "SECTION 3044L. 632.897 (10) (a) 3. of the statutes is amended to read:

16 632.897 (10) (a) 3. The fact that the group member or insured does not claim
17 the child as an exemption for federal income tax purposes under 26 USC 151 (c) (1)
18 (B), or as an exemption for state income tax purposes under s. 71.07 (8) (b) or under
19 the laws of another state, if a court order under s. 767.25 (4m), ~~767.51 (3m)~~ or ~~767.62~~
20 ~~(4) (b)~~ or the laws of another state assigns responsibility for the child's health care
21 expenses to the group member or insured."

22 7. Page 1409, line 4: after that line insert:

23 "SECTION 3051n. 767.045 (1) (a) 2. of the statutes is amended to read:

1 767.045 (1) (a) 2. ~~The Except as provided in par (am), the legal custody or~~
2 physical placement of the child is contested.

3 **SECTION 3051n.** 767.045 (1) (am) of the statutes is created to read:

4 767.045 (1) (am) The court is not required to appoint a guardian ad litem under
5 par. (a) 2. if all of the following apply:

6 1. Legal custody or physical placement is contested in an action to modify legal
7 custody or physical placement under s. 767.325 or 767.327.

8 2. The modification sought would not substantially alter the amount of time
9 that a parent may spend with his or her child.

10 3. The court determines any of the following:

11 a. That the appointment of a guardian ad litem will not assist the court in the
12 determination regarding legal custody or physical placement because the facts or
13 circumstances of the case make the likely determination clear.

14 b. That a party seeks the appointment of a guardian ad litem solely for a tactical
15 purpose, or for the sole purpose of delay, and not for a purpose that is in the best
16 interest of the child.

17 **SECTION 3051p.** 767.045 (1) (e) of the statutes is created to read:

18 767.045 (1) (e) Nothing in this subsection prohibits the court from making a
19 temporary order under s. 767.23 that concerns the child before a guardian ad litem
20 is appointed or before the guardian ad litem has made a recommendation to the
21 court, if the court determines that the temporary order is in the best interest of the
22 child.

23 **SECTION 3051r.** 767.078 (1) (a) 1. of the statutes is amended to read:

1 767.078 (1) (a) 1. Is an action for modification of a child support order under
2 s. 767.32 or an action in which an order for child support is required under s. 767.25
3 (1), 767.51 (3) or 767.62 (4) (a).?

4 **8.** Page 1409, line 12: after that line insert:

5 **"SECTION 3054c.** 767.078 (2) of the statutes is amended to read:

6 767.078 (2) Subsection (1) does not limit the authority of a court to issue an
7 order, other than an order under sub. (1), regarding employment of a parent in an
8 action for modification of a child support order under s. 767.32 or an action in which
9 an order for child support is required under s. 767.25 (1), 767.51 (3) or 767.62 (4) (a).

10 **SECTION 3054cd.** 767.11 (12) (b) of the statutes is amended to read:

11 767.11 (12) (b) If after mediation under this section the parties do not reach
12 agreement on legal custody or periods of physical placement, the parties or the
13 mediator shall so notify the court. The Except as provided in s. 767.045 (1) (am), the
14 court shall promptly appoint a guardian ad litem under s. 767.045. After the
15 appointment Regardless of whether the court appoints a guardian ad litem, the court
16 shall, if appropriate, refer the matter for a legal custody or physical placement study
17 under sub. (14). If the parties come to agreement on legal custody or physical
18 placement after the matter has been referred for a study, the study shall be
19 terminated. The parties may return to mediation at any time before any trial of or
20 final hearing on legal custody or periods of physical placement. If the parties return
21 to mediation, the county shall collect any applicable fee under s. 814.615.

22 **SECTION 3054ce.** 767.115 (title) of the statutes is amended to read:

23 767.115 (title) **Educational program in action programs and classes in**
24 **actions affecting the family.**

1 **SECTION 3054cf.** 767.115 (4) of the statutes is created to read:

2 767.115 (4) (a) At any time during the pendency of a divorce or paternity action,
3 the court or family court commissioner may order the parties to attend a class that
4 is approved by the court or family court commissioner and that addresses such issues
5 as child development, family dynamics, how parental separation affects a child's
6 development and what parents can do to make raising a child in a separated
7 situation less stressful for the child.

8 (b) The court or family court commissioner may not require the parties to
9 attend a class under this subsection as a condition to the granting of the final
10 judgment or order in the divorce or paternity action, however, the court or family
11 court commissioner may refuse to hear a custody or physical placement motion of a
12 party who refuses to attend a class ordered under this subsection.

13 (c) 1. Except as provided in subd. 2., the parties shall be responsible for any cost
14 of attending the class.

15 2. If the court or family court commissioner finds that a party is indigent, any
16 costs that would be the responsibility of that party shall be paid by the county.

17 **SECTION 3054cg.** 767.23 (1) (a) of the statutes is amended to read:

18 767.23 (1) (a) ~~Upon~~ Subject to s. 767.477, upon request of one party, granting
19 legal custody of the minor children to the parties jointly, to one party solely or to a
20 relative or agency specified under s. 767.24 (3). ~~The, in a manner consistent with s.~~
21 767.24, except that the court or family court commissioner may order joint sole legal
22 custody without the agreement of the other party and without the findings required
23 under s. 767.24 (2) (b) 2. This order may not have a binding effect on a final custody
24 determination.

25 **SECTION 3054ch.** 767.23 (1) (am) of the statutes is amended to read:

1 767.23 (1) (am) Upon Subject to s. 767.477, upon the request of a party,
2 granting periods of physical placement to a party in a manner consistent with s.
3 767.24. The court or family court commissioner shall make a determination under
4 this paragraph within 30 days after the request for a temporary order regarding
5 periods of physical placement is filed.

6 **SECTION 3054ci.** 767.23 (1) (c) of the statutes is amended to read:

7 767.23 (1) (c) Requiring Subject to s. 767.477, requiring either party or both
8 parties to make payments for the support of minor children, which payment amounts
9 may be expressed as a percentage of parental income or as a fixed sum, or as a
10 combination of both in the alternative by requiring payment of the greater or lesser
11 of either a percentage of parental income or a fixed sum.

12 **SECTION 3054cj.** 767.23 (1) (k) of the statutes is amended to read:

13 767.23 (1) (k) Requiring Subject to s. 767.477, requiring either party or both
14 parties to maintain minor children as beneficiaries on a health insurance policy or
15 plan.

16 **SECTION 3054ck.** 767.23 (1n) of the statutes is amended to read:

17 767.23 (1n) Before making any temporary order under sub. (1), the court or
18 family court commissioner shall consider those factors ~~which~~ that the court is
19 required by this chapter to consider before entering a final judgment on the same
20 subject matter. In making a determination under sub. (1) (a) or (am), the court or
21 family court commissioner shall consider the factors under s. 767.24 (5). If the court
22 or family court commissioner makes a temporary child support order that deviates
23 from the amount of support that would be required by using the percentage standard
24 established by the department under s. 49.22 (9), the court or family court
25 commissioner shall comply with the requirements of s. 767.25 (1n). A temporary

1 order under sub. (1) may be based upon the written stipulation of the parties, subject
2 to the approval of the court or the family court commissioner. Temporary orders
3 made by the family court commissioner may be reviewed by the court as provided in
4 s. 767.13 (6).

5 **SECTION 3054cL.** 767.24 (1) of the statutes is amended to read:

6 **767.24 (1) GENERAL PROVISIONS.** In rendering a judgment of annulment, divorce
7 or legal separation or paternity, or in rendering a judgment in an action under s.
8 767.02 (1) (e) or 767.62 (3), the court shall make such provisions as it deems just and
9 reasonable concerning the legal custody and physical placement of any minor child
10 of the parties, as provided in this section.

11 **SECTION 3054cm.** 767.24 (1m) of the statutes is created to read:

12 **767.24 (1m) PARENTING PLAN.** In an action for annulment, divorce or legal
13 separation, an action to determine paternity or an action under s. 767.02 (1) (e) or
14 767.62 (3) in which legal custody or physical placement is contested, a party seeking
15 sole or joint legal custody or periods of physical placement shall file a parenting plan
16 with the court before any pretrial conference. A party required to file a parenting
17 plan under this subsection who does not timely file a parenting plan waives the right
18 to object to the other party's parenting plan. A parenting plan shall provide
19 information about the following questions:

20 (a) What legal custody or physical placement the parent is seeking.

21 (b) Where the parent lives currently and where the parent intends to live
22 during the next 2 years.

23 (c) Where the parent works and the hours of employment.

24 (d) Who will provide any necessary child care when the parent cannot and who
25 will pay for the child care.

- 1 (e) Where the child will go to school.
- 2 (f) What doctor or health care facility will provide medical care for the child.
- 3 (g) How the child's medical expenses will be paid.
- 4 (h) What the child's religious commitment will be, if any.
- 5 (i) Who will make decisions about the child's education, medical care, choice of
- 6 child care providers and extracurricular activities.
- 7 (j) How the holidays will be divided.
- 8 (k) What the child's summer schedule will be.
- 9 (L) Whether and how the child will be able to contact the other parent when
- 10 the child has physical placement with the parent providing the parenting plan.
- 11 (m) How the parent proposes to resolve disagreements related to matters over
- 12 which the court orders joint decision making.
- 13 (n) What child support, family support, maintenance or other income transfer
- 14 there will be.

15 **SECTION 3054cn.** 767.24 (2) (a) of the statutes is amended to read:

16 767.24 (2) (a) Subject to par. (b) pars. (am), (b) and (c), based on the best interest

17 of the child and after considering the factors under sub. (5), the court may give joint

18 legal custody or sole legal custody of a minor child.

19 **SECTION 3054co.** 767.24 (2) (am) of the statutes is created to read:

20 767.24 (2) (am) The court shall presume that joint legal custody is in the best

21 interest of the child.

22 **SECTION 3054cp.** 767.24 (2) (b) of the statutes is amended to read:

23 767.24 (2) (b) The court may give joint sole legal custody only if it finds that

24 doing so is in the child's best interest and that either of the following applies:

- 25 1. Both parties agree to joint sole legal custody with the same party.

1 2. The parties do not agree to ~~joint sole legal custody with the same party~~, but
2 at least one party requests joint sole legal custody and the court specifically finds all
3 2 or more of the following:

4 a. ~~Both parties are~~ One party is not capable of performing parental duties and
5 responsibilities and or does not wish to have an active role in raising the child.

6 b. ~~No~~ One or more conditions exist at that time ~~which that~~ would substantially
7 interfere with the exercise of joint legal custody.

8 c. The parties will not be able to cooperate in the future decision making
9 required under an award of joint legal custody. In making this finding the court shall
10 consider, along with any other pertinent items, any reasons offered by a party
11 objecting to joint legal custody. Evidence that either party engaged in abuse, as
12 defined in s. 813.122 (1) (a), of the child, as defined in s. 48.02 (2), or evidence of
13 interspousal battery, as described under s. 940.19 or 940.20 (1m), or domestic abuse,
14 as defined in s. 813.12 (1) (a), creates a rebuttable presumption that the parties will
15 not be able to cooperate in the future decision making required. ~~This presumption~~
16 ~~may be rebutted by clear and convincing evidence that the abuse will not interfere~~
17 ~~with the parties' ability to cooperate in the future decision making required.~~

18 **SECTION 3054cq.** 767.24 (2) (c) of the statutes is created to read:

19 767.24 (2) (c) The court may not give sole legal custody to a parent who refuses
20 to cooperate with the other parent if the court finds that the refusal to cooperate is
21 unreasonable.

22 **SECTION 3054cr.** 767.24 (4) (a) of the statutes is renumbered 767.24 (4) (a) 1.
23 and amended to read:

1 767.24 (4) (a) 1. Except as provided under par. (b), if the court orders sole or
2 joint legal custody under sub. (2), the court shall allocate periods of physical
3 placement between the parties in accordance with this subsection.

4 2. In determining the allocation of periods of physical placement, the court
5 shall consider each case on the basis of the factors in sub. (5). The court shall set a
6 placement schedule that allows the child to have regularly occurring, meaningful
7 periods of physical placement with each parent and that maximizes the amount of
8 time the child may spend with each parent, taking into account geographic
9 separation and accommodations for different households.

10 **SECTION 3054cs.** 767.24 (4) (a) 3. of the statutes is created to read:

11 767.24 (4) (a) 3. Notwithstanding subd. 2. and sub. (5), the court shall presume
12 that any proposal submitted to the court with respect to periods of physical
13 placement that has been voluntarily agreed to by the parties is in the child's best
14 interest.

15 **SECTION 3054ct.** 767.24 (4) (c) of the statutes is amended to read:

16 767.24 (4) (c) No court may deny periods of physical placement for failure to
17 meet, or grant periods of physical placement for meeting, any financial obligation to
18 the child or, if the parties were married, to the former spouse.

19 **SECTION 3054cu.** 767.24 (5) (intro.) of the statutes is amended to read:

20 767.24 (5) FACTORS IN CUSTODY AND PHYSICAL PLACEMENT DETERMINATIONS.
21 (intro.) In determining legal custody and periods of physical placement, the court
22 shall consider all facts relevant to the best interest of the child. The court may not
23 prefer one parent or potential custodian over the other on the basis of the sex or race
24 of the parent or potential custodian. ~~The court shall consider reports of appropriate~~
25 ~~professionals if admitted into evidence when legal custody or physical placement is~~

1 ~~contested.~~ The court shall consider the following factors in making its
2 determination:

3 **SECTION 3054cv.** 767.24 (5) (a) of the statutes is amended to read:

4 767.24 (5) (a) The wishes of the child's parent or parents, as shown by any
5 stipulation between the parties, any proposed parenting plan or any legal custody
6 or physical placement proposal submitted to the court at trial.

7 **SECTION 3054cw.** 767.24 (5) (bm) of the statutes is created to read:

8 767.24 (5) (bm) The right of the child to spend the same amount of time or
9 substantial periods of time with each parent.

10 **SECTION 3054cx.** 767.24 (5) (cm) of the statutes is created to read:

11 767.24 (5) (cm) The amount and quality of time that each parent roles has spent
12 with the child in the past, any necessary changes to the parents' custodial roles and
13 any reasonable life-style changes that a parent proposes to make to be able to spend
14 time with the child in the future.

15 **SECTION 3054cy.** 767.24 (5) (dm) of the statutes is created to read:

16 767.24 (5) (dm) The age of the child and the child's developmental and
17 educational needs at different ages.

18 **SECTION 3054cz.** 767.24 (5) (em) of the statutes is created to read:

19 767.24 (5) (em) The need for regularly occurring and meaningful periods of
20 physical placement to provide predictability and stability for the child.

21 **SECTION 3054d.** 767.24 (5) (fm) of the statutes is created to read:

22 767.24 (5) (fm) The cooperation and communication between the parties and
23 whether either party unreasonably refuses to cooperate or communicate with the
24 other party.

25 **SECTION 3054dc.** 767.24 (5) (g) of the statutes is amended to read:

1 **767.24 (5) (g) Whether each party can support the other party's relationship**
2 **with the child, including encouraging and facilitating frequent and continuing**
3 **contact with the child, or whether one party is likely to unreasonably interfere with**
4 **the child's continuing relationship with the other party.**

5 **SECTION 3054dd. 767.24 (5) (jm) of the statutes is created to read:**

6 **767.24 (5) (jm) The reports of appropriate professionals, if admitted into**
7 **evidence.**

8 **SECTION 3054de. 767.242 of the statutes is created to read:**

9 **767.242 Enforcement of physical placement orders. (1) DEFINITIONS. In**
10 **this section:**

11 **(a) "Petitioner" means the parent filing a petition under this section, regardless**
12 **of whether that parent was the petitioner in the action in which periods of physical**
13 **placement were awarded under s. 767.24.**

14 **(b) "Respondent" means the parent upon whom a petition under this section is**
15 **served, regardless of whether that parent was the respondent in the action in which**
16 **periods of physical placement were awarded under s. 767.24.**

17 **(2) WHO MAY FILE. A parent who has been awarded periods of physical**
18 **placement under s. 767.24 may file a petition under sub. (3) if any of the following**
19 **applies:**

20 **(a) The parent has had one or more periods of physical placement denied by the**
21 **other parent.**

22 **(b) The parent has had one or more periods of physical placement substantially**
23 **interfered with by the other parent.**

24 **(c) The parent has incurred a financial loss or expenses as a result of the other**
25 **parent's intentional failure to exercise one or more periods of physical placement**

1 under an order allocating specific times for the exercise of periods of physical
2 placement.

3 (3) PETITION. (a) The petition shall allege facts sufficient to show the following:

4 1. The name of the petitioner and that the petitioner has been awarded periods
5 of physical placement.

6 2. The name of the respondent.

7 3. That the criteria in sub. (2) apply.

8 (b) The petition shall request the imposition of a remedy or any combination
9 of remedies under sub. (5) (b) and (c). This paragraph does not prohibit a judge or
10 family court commissioner from imposing a remedy under sub. (5) (b) or (c) if the
11 remedy was not requested in the petition.

12 (c) A judge or family court commissioner shall accept any legible petition for
13 an order under this section.

14 (d) The petition shall be filed under the principal action under which the
15 periods of physical placement were awarded.

16 (e) A petition under this section is a motion for remedial sanction for purposes
17 of s. 785.03 (1) (a).

18 (4) SERVICE ON RESPONDENT; RESPONSE. Upon the filing of a petition under sub.
19 (3), the petitioner shall serve a copy of the petition upon the respondent by personal
20 service in the same manner as a summons is served under s. 801.11. The respondent
21 may respond to the petition either in writing before or at the hearing under sub. (5)
22 (a) or orally at that hearing.

23 (5) HEARING; REMEDIES. (a) A judge or family court commissioner shall hold a
24 hearing on the petition no later than 30 days after the petition has been served,
25 unless the time is extended by mutual agreement of the parties or upon the motion

1 of a guardian ad litem and the approval of the judge or family court commissioner.
2 The judge or family court commissioner may, on his or her own motion or the motion
3 of any party, order that a guardian ad litem be appointed for the child prior to the
4 hearing.

5 (b) If, at the conclusion of the hearing, the judge or family court commissioner
6 finds that the respondent has intentionally and unreasonably denied the petitioner
7 one or more periods of physical placement or that the respondent has intentionally
8 and unreasonably interfered with one or more of the petitioner's periods of physical
9 placement, the court or family court commissioner:

10 1. Shall do all of the following:

11 a. Issue an order granting additional periods of physical placement to replace
12 those denied or interfered with.

13 b. Award the petitioner a reasonable amount for the cost of maintaining an
14 action under this section and for attorney fees.

15 2. May do one or more of the following:

16 a. If the underlying order or judgment relating to periods of physical placement
17 does not provide for specific times for the exercise of periods of physical placement,
18 issue an order specifying the times for the exercise of periods of physical placement.

19 b. Find the respondent in contempt of court under ch. 785.

20 c. Grant an injunction ordering the respondent to strictly comply with the
21 judgment or order relating to the award of physical placement. In determining
22 whether to issue an injunction, the judge or family court commissioner shall consider
23 whether alternative remedies requested by the petitioner would be as effective in
24 obtaining compliance with the order or judgment relating to physical placement.

1 (c) If, at the conclusion of the hearing, the judge or family court commissioner
2 finds that the petitioner has incurred a financial loss or expenses as a result of the
3 respondent's failure, intentionally and unreasonably and without adequate notice to
4 the petitioner, to exercise one or more periods of physical placement under an order
5 allocating specific times for the exercise of periods of physical placement, the judge
6 or family court commissioner may issue an order requiring the respondent to pay to
7 the petitioner a sum of money sufficient to compensate the petitioner for the financial
8 loss or expenses.

9 (d) Except as provided in par. (b) 1. a. and 2. a., the judge or family court
10 commissioner may not modify an order of legal custody or physical placement in an
11 action under this section.

12 (e) An injunction issued under par. (b) 2. c. is effective according to its terms,
13 for the period of time that the petitioner requests, but not more than 2 years.

14 (6) ENFORCEMENT ASSISTANCE. (a) If an injunction is issued under sub. (5) (b)
15 2. c., upon request by the petitioner the judge or family court commissioner shall
16 order the sheriff to assist the petitioner in executing or serving the injunction.

17 (b) Within 24 hours after a request by the petitioner, the clerk of the circuit
18 court shall send a copy of an injunction issued under sub. (5) (b) 2. c. to the sheriff
19 or to any other local law enforcement agency that is the central repository for orders
20 and that has jurisdiction over the respondent's residence. If the respondent does not
21 reside in this state, the clerk shall send a copy of the injunction to the sheriff of the
22 county in which the circuit court is located.

23 (c) The sheriff or other appropriate local law enforcement agency under par. (b)
24 shall make available to other law enforcement agencies, through a verification
25 system, information on the existence and status of any injunction issued under sub.

1 (5) (b) 2. c. The information need not be maintained after the injunction is no longer
2 in effect.

3 (7) ARREST. A law enforcement officer may arrest and take a person into custody
4 if all of the following apply:

5 (a) A petitioner under this section presents the law enforcement officer with a
6 copy of an injunction issued under sub. (5) (b) 2. c. or the law enforcement officer
7 determines that such an injunction exists through communication with appropriate
8 authorities.

9 (b) The law enforcement officer has probable cause to believe that the person
10 has violated the injunction issued under sub. (5) (b) 2. c.

11 (8) PENALTY. Whoever intentionally violates an injunction issued under sub.
12 (5) (b) 2. c. may be fined not more than \$10,000 or imprisoned for not more than 2
13 years or both.

14 SECTION 3054df. 767.25 (1) (intro.) of the statutes is amended to read:

15 767.25 (1) (intro.) Whenever the court approves a stipulation for child support
16 under s. 767.10, enters a judgment of annulment, divorce or legal separation, or
17 enters an order or a judgment in a paternity action or in an action under s. 767.02
18 (1) (f) or (j) ~~or~~, 767.08 or 767.62 (3), the court shall do all of the following:

19 SECTION 3054dg. 767.25 (1m) (b) of the statutes is amended to read:

20 767.25 (1m) (b) The financial resources of both parents ~~as determined under~~
21 ~~s. 767.255.~~

22 SECTION 3054dh. 767.25 (1m) (c) of the statutes is amended to read:

23 767.25 (1m) (c) ~~The~~ If the parties were married, the standard of living the child
24 would have enjoyed had the marriage not ended in annulment, divorce or legal
25 separation.

1 **SECTION 3054di.** 767.25 (4m) (b) of the statutes is amended to read:

2 767.25 (4m) (b) In addition to ordering child support for a child under sub. (1),
3 the court shall specifically assign responsibility for and direct the manner of
4 payment of the child's health care expenses. In assigning responsibility for a child's
5 health care expenses, the court shall consider whether a child is covered under a
6 parent's health insurance policy or plan at the time the court approves a stipulation
7 for child support under s. 767.10, enters a judgment of annulment, divorce or legal
8 separation, or enters an order or a judgment in a paternity action or in an action
9 under s. 767.02 (1) (f) or (j) or, 767.08 or 767.62 (3), the availability of health
10 insurance to each parent through an employer or other organization, the extent of
11 coverage available to a child and the costs to the parent for the coverage of the child.
12 A parent may be required to initiate or continue health care insurance coverage for
13 a child under this subsection. If a parent is required to do so, he or she shall provide
14 copies of necessary program or policy identification to the custodial parent and is
15 liable for any health care costs for which he or she receives direct payment from an
16 insurer. This subsection shall not be construed to limit the authority of the court to
17 enter or modify support orders containing provisions for payment of medical
18 expenses, medical costs, or insurance premiums which are in addition to and not
19 inconsistent with this subsection.

20 **SECTION 3054dj.** 767.25 (5) of the statutes is amended to read:

21 767.25 (5) Liability Subject to ss. 767.51 (4) and 767.62 (4m), liability for past
22 support shall be limited to the period after the birth of the child.

23 **SECTION 3054dk.** 767.25 (6) (intro.) of the statutes, as affected by 1997
24 Wisconsin Act 191, section 398, is amended to read:

1 **767.25 (6) (intro.)** A party ordered to pay child support under this section shall
2 pay simple interest at the rate of ~~1.5%~~ **1%** per month on any amount in arrears that
3 is equal to or greater than the amount of child support due in one month. If the party
4 no longer has a current obligation to pay child support, interest at the rate of ~~1.5%~~
5 **1%** per month shall accrue on the total amount of child support in arrears, if any.
6 Interest under this subsection is in lieu of interest computed under s. 807.01 (4),
7 814.04 (4) or 815.05 (8) and is paid to the department or its designee under s. 767.29.
8 Except as provided in s. 767.29 (1m), the department or its designee, whichever is
9 appropriate, shall apply all payments received for child support as follows:

10 **SECTION 3054dL.** 767.253 of the statutes is amended to read:

11 ~~767.253~~ **Seek-work orders.** In an action for modification of a child support
12 order under s. 767.32 or an action in which an order for child support is required
13 under s. 767.25 (1), 767.51 (3) or 767.62 (4) (a), the court may order either or both
14 parents of the child to seek employment or participate in an employment or training
15 program.

16 **SECTION 3054dm.** 767.254 (2) (intro.) of the statutes is amended to read:

17 **767.254 (2) (intro.)** In an action for revision of a judgment or order providing
18 for child support under s. 767.32 or an action in which an order for child support is
19 required under s. 767.25 (1), 767.51 (3) or 767.62 (4) (a), the court shall order an
20 unemployed teenage parent to do one or more of the following:

21 **SECTION 3054dn.** 767.261 (intro.) of the statutes, as affected by 1997 Wisconsin
22 Act 191, section 403, is amended to read:

23 **767.261 Family support.** (intro.) The court may make a financial order
24 designated "family support" as a substitute for child support orders under s. 767.25
25 and maintenance payment orders under s. 767.26. A party ordered to pay family

1 support under this section shall pay simple interest at the rate of ~~1.5%~~ 1% per month
2 on any amount in arrears that is equal to or greater than the amount of child support
3 due in one month. If the party no longer has a current obligation to pay child support,
4 interest at the rate of ~~1.5%~~ 1% per month shall accrue on the total amount of child
5 support in arrears, if any. Interest under this section is in lieu of interest computed
6 under s. 807.01 (4), 814.04 (4) or 815.05 (8) and is paid to the department or its
7 designee under s. 767.29. Except as provided in s. 767.29 (1m), the department or
8 its designee, whichever is appropriate, shall apply all payments received for family
9 support as follows:".

10 **9.** Page 1410, line 5: after that line insert:

11 "SECTION 3055c. 767.265 (1) of the statutes, as affected by 1997 Wisconsin Act
12 191, section 411, is amended to read:

13 767.265 (1) Each order for child support under this chapter, for maintenance
14 payments under s. 767.23 or 767.26, for family support under this chapter, for costs
15 ordered under s. 767.51 (3) or 767.62 (4) (a), for support by a spouse under s. 767.02
16 (1) (f), for maintenance payments under s. 767.02 (1) (g) or for the annual receiving
17 and disbursing fee under s. 767.29 (1) (d), each order for a revision in a judgment or
18 order with respect to child support, maintenance or family support payments under
19 s. 767.32, each stipulation approved by the court or the family court commissioner
20 for child support under this chapter and each order for child or spousal support
21 entered under s. 948.22 (7) constitutes an assignment of all commissions, earnings,
22 salaries, wages, pension benefits, benefits under ch. 102 or 108, lottery prizes that
23 are payable in instalments and other money due or to be due in the future to the
24 department or its designee. The assignment shall be for an amount sufficient to

1 ensure payment under the order or stipulation and to pay any arrearages due at a
2 periodic rate not to exceed 50% of the amount of support due under the order or
3 stipulation so long as the addition of the amount toward arrearages does not leave
4 the party at an income below the poverty line established under 42 USC 9902 (2).”.

5 **10.** Page 1413, line 24: after that line insert:

6 “**SECTION 3061c.** 767.265 (3h) of the statutes, as affected by 1997 Wisconsin Act
7 191, section 415, is amended to read:

8 **767.265 (3h)** A person who receives notice of assignment under this section or
9 s. 767.23 (1) (L), or 767.25 (4m) (c), 767.51 (3m) (e) or 767.62 (4) (b) 3, or similar laws
10 of another state shall withhold the amount specified in the notice from any money
11 that person pays to the payer later than one week after receipt of notice of
12 assignment. Within 5 days after the day the person pays money to the payer, the
13 person shall send the amount withheld to the department or its designee, whichever
14 is appropriate, or, in the case of an amount ordered withheld for health care
15 expenses, to the appropriate health care insurer, provider or plan. With each
16 payment sent to the department or its designee, the person from whom the payer
17 receives money shall report to the department or its designee the payer’s gross
18 income or other gross amount from which the payment was withheld. Except as
19 provided in sub. (3m), for each payment sent to the department or its designee, the
20 person from whom the payer receives money shall receive an amount equal to the
21 person’s necessary disbursements, not to exceed \$3, which shall be deducted from the
22 money to be paid to the payer. Section 241.09 does not apply to assignments under
23 this section.

24 **SECTION 3061cd.** 767.265 (4) of the statutes is amended to read:

1 767.265 (4) A withholding assignment or order under this section or s. 767.23
2 (1) (L), or 767.25 (4m) (c), 767.51 (3m) (e) or 767.62 (4) (b) 3. has priority over any other
3 assignment, garnishment or similar legal process under state law.

4 **SECTION 3061c.** 767.265 (6) (a) of the statutes, as affected by 1997 Wisconsin
5 Act 191, section 420, is amended to read:

6 767.265 (6) (a) Except as provided in sub. (3m), if after receipt of notice of
7 assignment the person from whom the payer receives money fails to withhold the
8 money or send the money to the department or its designee or the appropriate health
9 care insurer, provider or plan as provided in this section or s. 767.23 (1) (L), or 767.25
10 (4m) (c), 767.51 (3m) (e) or 767.62 (4) (b) 3., the person may be proceeded against
11 under the principal action under ch. 785 for contempt of court or may be proceeded
12 against under ch. 778 and be required to forfeit not less than \$50 nor more than an
13 amount, if the amount exceeds \$50, that is equal to 1% of the amount not withheld
14 or sent.

15 **SECTION 3061cf.** 767.265 (6) (b) of the statutes, as affected by 1997 Wisconsin
16 Act 191, section 422, is amended to read:

17 767.265 (6) (b) If an employer who receives an assignment under this section
18 or s. 767.23 (1) (L), or 767.25 (4m) (c), 767.51 (3m) (e) or 767.62 (4) (b) 3. fails to notify
19 the department or its designee, whichever is appropriate, within 10 days after an
20 employee is terminated or otherwise temporarily or permanently leaves employment,
21 the employer may be proceeded against under the principal action under ch. 785 for
22 contempt of court.

23 **SECTION 3061cg.** 767.265 (6) (c) of the statutes is amended to read:

24 767.265 (6) (c) No employer may use an assignment under this section or s.
25 767.23 (1) (L), or 767.25 (4m) (c), 767.51 (3m) (e) or 767.62 (4) (b) 3. as a basis for the

1 denial of employment to a person, the discharge of an employe or any disciplinary
2 action against an employe. An employer who denies employment or discharges or
3 disciplines an employe in violation of this paragraph may be fined not more than
4 \$500 and may be required to make full restitution to the aggrieved person, including
5 reinstatement and back pay. Except as provided in this paragraph, restitution shall
6 be in accordance with s. 973.20. An aggrieved person may apply to the district
7 attorney or to the department for enforcement of this paragraph.

8 **SECTION 3061ch. 767.267 (1)** of the statutes, as affected by 1997 Wisconsin Act
9 27, is amended to read:

10 **767.267 (1)** If the court or the family court commissioner determines that
11 income withholding under s. 767.265 is inapplicable, ineffective or insufficient to
12 ensure payment under an order or stipulation specified in s. 767.265 (1), or that
13 income withholding under s. 767.25 (4m) (c) or ~~767.51 (3m) (e)~~ is inapplicable,
14 ineffective or insufficient to ensure payment of a child's health care expenses,
15 including payment of health insurance premiums, ordered under s. 767.25 (4m) or
16 767.51 (3m), the court or family court commissioner may require the payer to identify
17 or establish a deposit account, owned in whole or in part by the payer, that allows for
18 periodic transfers of funds and to file with the financial institution at which the
19 account is located an authorization for transfer from the account to the department
20 or its designee, whichever is appropriate. The authorization shall be provided on a
21 standard form approved by the court and shall specify the frequency and the amount
22 of transfer, sufficient to meet the payer's obligation under the order or stipulation,
23 as required by the court or family court commissioner. The authorization shall
24 include the payer's consent for the financial institution or an officer, employe or agent
25 of the financial institution to disclose information to the court, family court

1 commissioner, county child support agency under s. 59.53 (5), department or
2 department's designee regarding the account for which the payer has executed the
3 authorization for transfer."

4 **11.** Page 1415, line 19: after that line insert:

5 "SECTION 3065c. 767.29 (1m) (intro.) of the statutes, as affected by 1997
6 Wisconsin Act 191, section 427, is amended to read:

7 767.29 (1m) (intro.) Notwithstanding ss. 767.25 (6), and 767.261, ~~767.51 (5p)~~
8 and 767.62 (4) (g), if the department or its designee receives support or maintenance
9 money that exceeds the amount due in the month in which it is received and that the
10 department or its designee determines is for support or maintenance due in a
11 succeeding month, the department or its designee may hold the amount of
12 overpayment that does not exceed the amount due in the next month for
13 disbursement in the next month if any of the following applies:

14 **SECTION 3065cd.** 767.295 (2) (a) (intro.) of the statutes is amended to read:

15 767.295 (2) (a) (intro.) In an action for modification of a child support order
16 under s. 767.32, an action in which an order for child support is required under s.
17 767.25 (1), 767.51 (3) or 767.62 (4) (a) or a contempt of court proceeding to enforce a
18 child support or family support order in a county that contracts under s. 49.36 (2),
19 the court may order a parent who is not a custodial parent to register for a work
20 experience and job training program under s. 49.36 if all of the following conditions
21 are met:

22 **SECTION 3065ce.** 767.295 (2) (c) of the statutes is amended to read:

23 767.295 (2) (c) If the court enters an order under par. (a), it shall order the
24 parent to pay child support equal to the amount determined by applying the

1 percentage standard established under s. 49.22 (9) to the income a person would earn
2 by working 40 hours per week for the federal minimum hourly wage under 29 USC
3 206 (a) (1) or equal to the amount of child support that the parent was ordered to pay
4 in the most recent determination of support under this chapter. The child support
5 obligation ordered under this paragraph continues until the parent makes timely
6 payment in full for 3 consecutive months or until the person participates in the
7 program under s. 49.36 for 16 weeks, whichever comes first. The court shall provide
8 in its order that the parent must make child support payments calculated under s.
9 767.25 (1j) or (1m), 767.51 (4m) or (5) or 767.62 (4) (d) 1. or (e) after the obligation to
10 make payments ordered under this paragraph ceases.

11 **SECTION 3065cf.** 767.303 (1) of the statutes is amended to read:

12 **767.303 (1)** If a person fails to pay a payment ordered for support under s.
13 767.077, support under s. 767.08, child support or family support under s. 767.23,
14 child support under s. 767.25, family support under s. 767.261, revised child or
15 family support under s. 767.32, child support under s. 767.458 (3), child support
16 under s. 767.458 (3), child support under s. 767.51, child support under s. 767.62 (4)
17 (a), child support under ch. 769 or child support under s. 948.22 (7), the payment is
18 90 or more days past due and the court finds that the person has the ability to pay
19 the amount ordered, the court may suspend the person's operating privilege, as
20 defined in s. 340.01 (40), until the person pays all arrearages in full or makes
21 payment arrangements that are satisfactory to the court, except that the suspension
22 period may not exceed 5 years. If otherwise eligible, the person is eligible for an
23 occupational license under s. 343.10 at any time.

24 **SECTION 3065cg.** 767.303 (1) of the statutes, as affected by 1997 Wisconsin Act
25 84, is amended to read:

1 767.303 (1) If a person fails to pay a payment ordered for support under s.
2 767.077, support under s. 767.08, child support or family support under s. 767.23,
3 child support under s. 767.25, family support under s. 767.261, revised child or
4 family support under s. 767.32, child support under s. 767.458 (3), child support
5 under s. 767.477, child support under s. 767.51, child support under s. 767.62 (4) (a),
6 child support under ch. 769 or child support under s. 948.22 (7), the payment is 90
7 or more days past due and the court finds that the person has the ability to pay the
8 amount ordered, the court may suspend the person's operating privilege, as defined
9 in s. 340.01 (40), until the person pays all arrearages in full or makes payment
10 arrangements that are satisfactory to the court, except that the suspension period
11 may not exceed 2 years. If otherwise eligible, the person is eligible for an
12 occupational license under s. 343.10 at any time.

13 **SECTION 3065ch.** 767.32 (1) (b) 4. of the statutes is amended to read:

14 767.32 (1) (b) 4. A difference between the amount of child support ordered by
15 the court to be paid by the payer and the amount that the payer would have been
16 required to pay based on the percentage standard established by the department
17 under s. 49.22 (9) if the court did not use the percentage standard in determining the
18 child support payments and did not provide the information required under s. 46.10
19 (14) (d), 301.12 (14) (d), or 767.25 (1n), ~~767.51 (5d) or 767.62 (4) (f)~~, whichever is
20 appropriate.

21 **SECTION 3065ci.** 767.32 (2m) of the statutes is amended to read:

22 767.32 (2m) Upon request by a party, the court may modify the amount of
23 revised child support payments determined under sub. (2) if, after considering the
24 factors listed in s. 767.25 (1m), ~~767.51 (5) or 767.62 (4) (e)~~, as appropriate, the court

1 finds, by the greater weight of the credible evidence, that the use of the percentage
2 standard is unfair to the child or to any of the parties.

3 **SECTION 3065cj.** 767.325 (2m) of the statutes is created to read:

4 **767.325 (2m) MODIFICATION OF PERIODS OF PHYSICAL PLACEMENT FOR FAILURE TO**
5 **EXERCISE PHYSICAL PLACEMENT.** Notwithstanding subs. (1) and (2), upon petition,
6 motion or order to show cause by a party, a court may modify an order of physical
7 placement at any time with respect to periods of physical placement if it finds that
8 a parent has repeatedly and unreasonably failed to exercise periods of physical
9 placement awarded under an order of physical placement that allocates specific
10 times for the exercise of periods of physical placement.

11 **SECTION 3065ck.** 767.325 (5m) of the statutes is created to read:

12 **767.325 (5m) FACTORS TO CONSIDER.** In all actions to modify legal custody or
13 physical placement orders, the court shall consider the factors under s. 767.24 (5) and
14 shall make its determination in a manner consistent with s. 767.24.

15 **SECTION 3065cL.** 767.325 (6m) of the statutes is created to read:

16 **767.325 (6m) PARENTING PLAN.** In any action to modify a legal custody or
17 physical placement order under sub. (1), the court may require the party seeking the
18 modification to file with the court a parenting plan under s. 767.24 (1m) before any
19 hearing is held.

20 **SECTION 3065cm.** 767.327 (4) of the statutes is amended to read:

21 **767.327 (4) GUARDIAN AD LITEM; PROMPT HEARING.** After a petition, motion or
22 order to show cause is filed under sub. (3), the court shall appoint a guardian ad litem,
23 unless s. 767.045 (1) (am) applies, and shall hold a hearing as soon as possible.

24 **SECTION 3065cn.** 767.327 (5m) of the statutes is created to read:

1 **767.327 (5m) DISCRETIONARY FACTORS TO CONSIDER.** In making a determination
2 under sub. (3), the court may consider the child's adjustment to the home, school,
3 religion and community.

4 **SECTION 3065co. 767.45 (7) of the statutes is amended to read:**

5 **767.45 (7)** The clerk of court shall provide without charge, to each person
6 bringing an action under this section, except to the state under sub. (1) (g) or (6m),
7 a document setting forth the percentage standard established by the department
8 under s. 49.22 (9) and listing the factors which a court may consider under s. ~~767.51~~
9 (5) 767.25 (1m).

10 **SECTION 3065cp. 767.455 (6) of the statutes is amended to read:**

11 **767.455 (6) DOCUMENT.** The summons served on the respondent shall be
12 accompanied by a document, provided without charge by the clerk of court, setting
13 forth the percentage standard established by the department under s. 49.22 (9) and
14 listing the factors which a court may consider under s. ~~767.51 (5)~~ 767.25 (1m).

15 **SECTION 3065cq. 767.477 (1) of the statutes is amended to read:**

16 **767.477 (1)** At any time during the pendency of an action to establish the
17 paternity of a child, if genetic tests show that the alleged father is not excluded and
18 that the statistical probability of the alleged father's parentage is 99.0% or higher,
19 on the motion of a party, the court shall make ~~an appropriate temporary order~~ orders
20 for the payment of child support ~~and may make a temporary order~~, assigning
21 responsibility for and directing the manner of payment of the child's health care
22 expenses and for the custody and physical placement of the child.

23 **SECTION 3065cr. 767.477 (2) of the statutes is amended to read:**

24 **767.477 (2)** Before making any temporary order under sub. (1), the court shall
25 consider those factors that the court is required ~~under s. 767.51~~ to consider when

1 granting a final judgment on the same subject matter. If the court makes a
2 temporary child support order that deviates from the amount of support that would
3 be required by using the percentage standard established by the department under
4 s. 49.22(9), the court shall comply with the requirements of s. ~~767.51(5d)~~ 767.25(1n).

5 **SECTION 3065cs.** 767.51 (3) of the statutes is repealed and recreated to read:

6 **767.51 (3)** A judgment or order determining paternity shall contain all of the
7 following provisions:

8 (a) An adjudication of the paternity of the child.

9 (b) Orders for the legal custody of and periods of physical placement with the
10 child, determined in accordance with s. 767.24.

11 (c) An order requiring either or both of the parents to contribute to the support
12 of any child of the parties who is less than 18 years old, or any child of the parties who
13 is less than 19 years old if the child is pursuing an accredited course of instruction
14 leading to the acquisition of a high school diploma or its equivalent, determined in
15 accordance with s. 767.25.

16 (d) A determination as to which parent, if eligible, shall have the right to claim
17 the child as an exemption for federal tax purposes under 26 USC 151 (c) (1) (B), or
18 as an exemption for state tax purposes under s. 71.07 (8) (b).

19 (e) An order requiring the father to pay or contribute to the reasonable expenses
20 of the mother's pregnancy and the child's birth, based on the father's ability to pay
21 or contribute to those expenses.

22 (f) An order requiring either or both parties to pay or contribute to the costs of
23 the guardian ad litem fees, genetic tests as provided in s. 767.48 (5) and other costs.

24 (g) An order requiring either party to pay or contribute to the attorney fees of
25 the other party.

1 **SECTION 3065et.** 767.51(3m) of the statutes, as affected by 1997 Wisconsin Act
2 27, is repealed.

3 **SECTION 3065cu.** 767.51(3r) of the statutes is repealed.

4 **SECTION 3065cv.** 767.51(4) of the statutes is repealed and recreated to read:
5 767.51(4)(a) Subject to par. (b), liability for past support of the child shall be
6 limited to support for the period after the day on which the action is commenced
7 under s. 767.45, unless a party shows, to the satisfaction of the court, all of the
8 following:

9 1. That he or she was induced to delay commencing the action by any of the
10 following:

11 a. Duress or threats.

12 b. Actions, promises or representations by the other party upon which the party
13 relied.

14 c. Actions taken by the other party to evade paternity proceedings.

15 2. That, after the inducement ceased to operate, he or she did not unreasonably
16 delay in commencing the action.

17 (b) In no event may liability for past support of the child be imposed for any
18 period before the birth of the child.

19 **SECTION 3065cw.** 767.51(4g) of the statutes is repealed.

20 **SECTION 3065cx.** 767.51(4m) of the statutes is repealed.

21 **SECTION 3065cy.** 767.51(5) of the statutes is repealed.

22 **SECTION 3065d.** 767.51(5d) of the statutes is repealed.

23 **SECTION 3065dd.** 767.51(5p) of the statutes, as affected by 1997 Wisconsin Act
24 191, is repealed.

25 **SECTION 3065de.** 767.53(intro.) of the statutes is amended to read:

1 **767.53 Paternity hearings and records; confidentiality.** (intro.) Any
2 hearing, discovery proceeding or trial relating to paternity determination shall be
3 closed to any person other than those necessary to the action or proceeding. Any
4 record of the pending proceedings shall be placed in a closed file, except that:

5 **SECTION 3065df.** 767.53 (1) (intro.) of the statutes is amended to read:

6 767.53 (1) (intro.) Access to the record of any pending or past proceeding
7 involving the paternity of the same child shall be allowed to all of the following:

8 **SECTION 3065dg.** 767.53 (3) of the statutes is created to read:

9 767.53 (3) Subject to s. 767.19, the records of any past proceeding in which
10 paternity was established are open to public inspection.

11 **SECTION 3065dh.** 767.62 (4) of the statutes, as affected by 1997 Wisconsin Act
12 191, is repealed and recreated to read:

13 767.62 (4) **ORDERS WHEN PATERNITY ACKNOWLEDGED.** In an action under sub. (3)
14 (a), if the persons who signed and filed the statement acknowledging paternity as
15 parents of the child had notice of the hearing, the court or family court commissioner
16 shall make an order that contains all of the following provisions:

17 (a) Orders for the legal custody of and periods of physical placement with the
18 child, determined in accordance with s. 767.24.

19 (b) An order requiring either or both of the parents to contribute to the support
20 of any child of the parties who is less than 18 years old, or any child of the parties who
21 is less than 19 years old if the child is pursuing an accredited course of instruction
22 leading to the acquisition of a high school diploma or its equivalent, determined in
23 accordance with s. 767.25.

1 (c) A determination as to which parent, if eligible, shall have the right to claim
2 the child as an exemption for federal tax purposes under 26 USC 151 (e) (1) (B), or
3 as an exemption for state tax purposes under s. 71.07 (8) (b).

4 (d) An order requiring the father to pay or contribute to the reasonable
5 expenses of the mother's pregnancy and the child's birth, based on the father's ability
6 to pay or contribute to those expenses.

7 (e) An order requiring either or both parties to pay or contribute to the costs
8 of the guardian ad litem fees and other costs.

9 (f) An order requiring either party to pay or contribute to the attorney fees of
10 the other party.

11 **SECTION 3065di. 767.62 (4m)** of the statutes is created to read:

12 **767.62 (4m) LIABILITY FOR PAST SUPPORT.** (a) Subject to par. (b), liability for past
13 support of the child shall be limited to support for the period after the day on which
14 the action is commenced under sub. (3) (a), unless a party shows, to the satisfaction
15 of the court, all of the following:

16 1. That he or she was induced to delay commencing the action by any of the
17 following:

18 a. Duress or threats.

19 b. Actions, promises or representations by the other party upon which the party
20 relied.

21 c. Actions taken by the other party to evade proceedings under sub. (3) (a).

22 2. That, after the inducement ceased to operate, he or she did not unreasonably
23 delay in commencing the action.

24 (b) In no event may liability for past support of the child be imposed for any
25 period before the birth of the child."

1 **12.** Page 1425, line 7: after that line insert:

2 "SECTION 3085c. 802.12 (3) (d) 1. of the statutes is amended to read:

3 802.12 (3) (d) 1. Custody and physical placement under s. 767.24, 767.458 (3),
4 767.51 (3) or 767.62 (4) (a).

5 "SECTION 3085d. 802.12 (3) (d) 3. of the statutes is amended to read:

6 802.12 (3) (d) 3. Child support under s. 767.25, 767.458 (3), 767.51 or 767.62
7 (4) (a)."

8 **13.** Page 1426, line 12: after that line insert:

9 "SECTION 3087c. 808.075 (4) (d) 11. of the statutes is amended to read:

10 808.075 (4) (d) 11. Enforcement or modification of assignments under s. 767.25
11 (4m), or 767.265, 767.51 (3m) or 767.62 (4) (b) 3."

12 **14.** Page 1439, line 11: after that line insert:

13 "SECTION 3197c. 948.22 (7) (bm) of the statutes is amended to read:

14 948.22 (7) (bm) Upon request, the court may modify the amount of child or
15 spousal support payments determined under par. (b) 2. if, after considering the
16 factors listed in s. 767.25 (1m) or 767.51 (5), regardless of the fact that the action is
17 not one for a determination of paternity or an action specified in s. 767.25 (1), the
18 court finds, by the greater weight of the credible evidence, that the use of the
19 percentage standard is unfair to the child or to either of the child's parents."

20 **15.** Page 1566, line 17: after that line insert:

21 "(4y) STUDY ON THE GUARDIAN AD LITEM SYSTEM.

22 (a) The joint legislative council is requested to establish a committee to study
23 reforming the guardian ad litem system as it applies to actions affecting the family.

24 The committee shall include legislators, attorneys, judges, court commissioners,

1 mental health professionals and other individuals representing the public interest.

2 The study shall include an examination of at least all of the following:

3 1. The appointment of guardians ad litem, including whether the appointment
4 of a guardian ad litem should be required in every case in which legal custody or
5 physical placement of a child is contested and whether professionals with specialized
6 training and expertise in the emotional and developmental phases and needs of
7 children, such as child psychologists, child psychiatrists and child therapists, should
8 be appointed to act as guardians ad litem.

9 2. The role of the guardian ad litem.

10 3. Supervision of guardians ad litem.

11 4. Training of guardians ad litem.

12 5. Compensation of guardians ad litem.

13 (b) If a committee is established, the committee shall prepare a report with its
14 recommendations and shall petition the supreme court to consider rules for the
15 reform of the guardian ad litem system on the basis of the recommendations."

16 16. Page 1603, line 18: after that line insert:

17

"(9yo) CUSTODY AND PHYSICAL PLACEMENT IN ACTIONS AFFECTING THE FAMILY. The
18 treatment of sections 20.921 (2) (a), 66.184, 102.27 (2) (a) (by SECTION 2002c), 120.13
19 (2) (g), 565.30 (5m), 632.897 (10) (a) 3., 767.045 (1) (a) 2., (am) and (e), 767.078 (1) (a)
20 1. and (2), 767.11 (12) (b), 767.115 (title) and (4), 767.23 (1) (a), (am), (c) and (k) and
21 (1n), 767.24 (1), (1m), (2) (a), (am), (b) and (c), (4) (c) and (5) (intro.), (a), (cm), (dm),
22 (em), (fm), (g) and (jm), 767.242, 767.25 (1) (intro.), (1m) (b) and (c), (4m) (b) (5) ~~em~~
23 ~~767.253, 767.254 (2) (intro.), 767.261 (1) (a) 1., 767.265 (1) (by SECTION~~
24 3055c), (3h), (4) and (6) (a), (b) and (c), 767.267 (1), 767.29 (1m) (intro.), 767.295 (2)

(a)
(b)
and

~~767.253, 767.254 (2) (intro.), 767.261 (1) (a) 1., 767.265 (1) (by SECTION~~
F keep

1 (a) (intro.) and (c), 767.303 (1) (by SECTION 3065cf), 767.32 (1) (b) 4. and (2m), 767.325
 2 (2m), (5m) and (6m), 767.327 (4) and (5m), 767.45 (7), 767.455 (6), 767.477 (1) and
 3 (2), 767.51 (3), (3m), (3r), (4), (4g), (4m), (5), (5d) and (5p), 767.53 (intro.), (1) (intro.)
 4 and (3), 767.62 (4) and (4m), 802.12 (3) (d) 1. and 3., 808.075 (4) (d) 11. and 948.22
 5 (7) (bm) of the statutes, the renumbering and amendment of section 767.24 (4) (a) of
 6 the statutes and the creation of section 767.24 (4) (a) 3. of the statutes first apply to
 7 actions affecting the family, including actions to enforce or modify a judgment or
 8 order in an action affecting the family previously granted, that are commenced on
 9 the effective date of this ~~subsection~~ ^{paragraph}.

Insert 35-9

9 ^{keep per} paragraph

10 **17.** Page 1617, line 6: after that line insert:

11 "(7yo) CUSTODY AND PHYSICAL PLACEMENT IN ACTIONS AFFECTING THE FAMILY.

12 (a) The treatment of sections 20.921 (2) (a), 66.184, 102.27 (2) (a) (by SECTION
 13 2002c), 120.13 (2) (g), 565.30 (5m), 632.897 (10) (a) 3., 767.045 (1) (a) 2., (am) and (e),
 14 767.078 (1) (a) 1. and (2), 767.11 (12) (b), 767.115 (title) and (4), 767.23 (1) (a), (am),
 15 (c) and (k) and (1n), 767.24 (1), (1m), (2) (a), (am), (b) and (c), (4) (c) and (5) (intro.),
 16 (a), ^(bm) (cm), (dm), (em), (fm), (g) and (jm), 767.242, 767.25 (1) (intro.), (1m) (b) and (c),
 17 (4m) (b), (5) and (6) (intro.), 767.253, 767.254 (2) (intro.), 767.261 (intro.), 767.265 (1)
 18 (by SECTION 3055c), (3h), (4) and (6) (a), (b) and (c), 767.267 (1), 767.29 (1m) (intro.),
 19 767.295 (2) (a) (intro.) and (c), 767.303 (1) (by SECTION 3065cf), 767.32 (1) (b) 4. and
 20 (2m), 767.325 (2m), (5m) and (6m), 767.327 (4) and (5m), 767.45 (7), 767.455 (6),
 21 767.477 (1) and (2), 767.51 (3), (3m), (3r); (4), (4g), (4m), (5), (5d) and (5p), 767.53
 22 (intro.), (1) (intro.) and (3), 767.62 (4) and (4m), 802.12 (3) (d) 1. and 3., 808.075 (4)
 23 (d) 11. and 948.22 (7) (bm) of the statutes, the renumbering and amendment of
 24 section 767.24 (4) (a) of the statutes and the creation of section 767.24 (4) (a) 3. of the

1 statutes and SECTION 9357 (9yo) of this act take effect on the first day of the 7th month
2 beginning after publication.

3 (b) The treatment of section 767.303 (1) (by SECTION 3065cg) of the statutes
4 takes effect on the date stated in the notice published by the secretary of
5 transportation in the Wisconsin Administrative Register under section 85.515 of the
6 statutes, or on May 1, 2000, whichever is earlier."

7 (END)

D-note

cm 1

Kelsie:

This redraft incorporates the changes we discussed previously (adds s. 767.24 (5)(bm) to both initial applicability and effective date provisions and applies the change in interest rate to existing arrearages, as well as to newly accruing ones).

PJK

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb1636/4ins
PJK:kg&cmh:km

INSERT 35-9

(b) The treatment of sections 767.25 (6) (intro.) and 767.261 (intro.) of the statutes first applies to arrearages existing or accruing on the effective date of this paragraph, regardless of when the order on which the arrearages are based was entered.".

(end of ins. 35-9)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBb1636/4dn
PJK:cmh:kjf

September 15, 1999

Kelsie:

This redraft incorporates the changes we discussed previously (adds s. 767.24 (5) (bm) to both initial applicability and effective date provisions and applies the change in interest rate to existing arrearages, as well as to newly accruing ones).

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: Pam.Kahler@legis.state.wi.us