

b1636/4 w/ b1703/2
became b1636/5;

~~b1636/5~~ b1636/5 w/ b1729/3

became b1938/1

↑
99 b 1729

1999 DRAFTING REQUEST

Senate Amendment (SA-SA(LRBb1636/4)-ASA1-AB133)

Received: 09/14/1999

Received By: kahlepj

Wanted: Soon

Identical to LRB:

For: Gary George (608) 266-2500

By/Representing: Dan Rossmiller

This file may be shown to any legislator: NO

Drafter: kahlepj

May Contact:

Alt. Drafters:

Subject: Dom. Rel. - cust. and plac.

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Miscellaneous changes to child custody and physical placement language

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1?	kahlepj	cmh /	km ⁹ / ₁₆	df km ⁹ / ₁₆			
		9/15					

FE Sent For:

<END>

Kahler, Pam

From: Rossmiller, Dan
Sent: Tuesday, September 14, 1999 4:20 PM
To: Kahler, Pam
Cc: Doty, Kelsie; Sklansky, Ron
Subject: Amendment to Family Law Changes in Budget

Pam:

Earlier, I faxed you a copy of the Department of Workforce Development's concerns with the budget language relating to paternity. In preparation for the resumption of the conference committee and in response to those concerns, on behalf of Senator George, I would like to request an amendment to the budget language making the following changes:

- 1) Amend **Sec. 3065 dg** (which creates s. 767.53(3), Stats.) to read: "Subject to s. 767.10, **any** records of any past proceeding, **subsequent to adjudication**, in which paternity was established, **and that are filed after the effective date of this subsection**, are open to public inspection."
- 2) Amend **Sec. 3065cv** and **Sec. 3065di** to substitute the word "filed" rather than "commenced" in repealed and recreated s. 767.51(4)(a); and the newly created s. 767.62 (4m)(a), Stats.

I would ask that the following change also be incorporated into the amendment:

Amend 767.24 (1m) PARENTING PLAN. So that the second sentence reads as follows:

"A party required to file a parenting plan under this subsection who does not timely file a parenting plan waives the right to object to the other party's parenting plan, **except for cause shown.**"

Please feel free to contact me if you have any questions (6-2500).

Legal Custody and Physical Placement of Children

Partially debits the provision to change child custody procedures and physical placement determinations. (Adopted by Conference Committee and in Senata, LFB Summary of Assembly and Senata budgets, under Workforce Development, #29)

DWD Position: Veto language in the following sections of LRBb1453/1

- Sec. 3064dj, page 18, lines 13, Sec. 3065cv, page 29, lines 21-25, and page 30, lines 1-10, and Sec. 3065di, page 32, lines 1-15:

Changes the liability for past support from the period after the birth of the child to the period after the commencement of an action in paternity actions and actions based on paternity acknowledgments. It is our understanding that it was the intention of the Family Law Section of the State Bar to have this language changed to the period after the filing of an action. There is a significant difference. An action is not formally commenced until after the papers have been served on the respondent, alleged father. If they try to avoid service, they delay their liability for support. The Bureau would not object to the language if it were changed to meet the Family Law Section's intent. However, as it is drafted, we recommend a veto to maintain current law.

- Sec. 3065ca, page 29, line 11 and Sec. 3065dh, page 31, line 19:

Would authorize the court in paternity actions and actions based on paternity acknowledgments to order either or both parents to contribute to birth expenses. Both state and federal law prohibit the recover of medical assistance costs from the recipient of medical assistance. Accordingly, a mother who is a medical assistance recipient, could not be ordered by the court to repay birth expenses paid by the state.

- Sec. 3065dg, page 31, line 1:

Would open the records of past paternity proceedings to public inspection. There has long been confusion as to whether the payment records of an adjudicated father in a paternity action retain their confidential status after paternity is adjudicated. We believe this amendment is intended to clarify this. However, by subjecting the records of past paternity proceedings to public inspection, the names of alleged fathers against whom actions had been commenced and subsequently dismissed, would become open records. This is exactly what the confidentiality provisions were designed to protect.

Also, this budget provision requires the court to establish temporary orders for legal custody and physical placement in paternity actions. Studies show that this provision would be a measurable deterrent to mothers to sign voluntary statements of paternity, or to cooperate with the efforts of the child support agencies to establish paternity through the legal process, thereby jeopardizing the state's compliance with federally required paternity establishment rates.



~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

SENATE AMENDMENT ,

TO SENATE AMENDMENT (LRBb1636/4),

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

Thurs. am.
D-note

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

2 1. Page 8, line 16: delete "A party" and substitute "Except for cause shown, a
3 party".

4 2. Page 30, line 6: delete "action is commenced" and substitute "petition in the
5 action under s. 767.45 is filed".

6 3. Page 30, line 7: delete "under s. 767.45".

7 4. Page 31, line 9: delete lines 9 and 10 and substitute:

8 "767.53 (3) Subject to s. 767.19, any record of any past proceeding in which
9 paternity was established that is filed after the effective date of this subsection

1 [revisor inserts date], and that relates to a post-adjudication issue is open to the
2 public.”.

3 5. Page 32, line 14: delete “action is commenced” and substitute “petition,
4 motion or order to show cause requesting support is filed in the action for support”.

5 (END)

S-note

PJK / CMH

Dan:

① Let me know if you want any changes to
this amendment.

PJK

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

LRBb1729/1dn
PJK:cmh:km

September 16, 1999

Dan:

Let me know if you want any changes to this amendment.

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



rm is new

**SENATE AMENDMENT ,
TO SENATE AMENDMENT (LRBb1636/4),
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 133**

*SOON
(Thurs.)
D-note*

Insert 1-3

- 1 At the locations indicated, amend the amendment as follows:
- 2 **1.** Page 8, line 16: delete "A party" and substitute "Except for cause shown, a
- 3 party".
- 4 **2.** Page 30, line 6: delete "action is commenced" and substitute "petition in the
- 5 action under s. 767.45 is filed".
- 6 **3.** Page 30, line 7: delete "under s. 767.45".
- 7 **4.** Page 31, line 9: delete lines 9 and 10 and substitute:
- 8 "767.53 (3) Subject to s. 767.19, any record of any past proceeding in which
- 9 paternity was established that is filed after the effective date of this subsection
- 10 [revisor inserts date], and that relates to a post-adjudication issue is open to the
- 11 public.".

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb1729/2ins
PJK:cmh:km

INSERT 1-3

1. Page 28, line 14: after that line insert:

“SECTION 3065cpm. 767.475 (2m) of the statutes is created to read:

767.475 (2m) If there is no presumption of paternity under s. 891.41 (1), the mother shall have sole legal custody of the child until the court orders otherwise.”.

(END OF INSERT 1-3)

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

LRBb1729/2dn
PJK:cmh:km

DATE

Dan:

✓
This provision did not really seem appropriate in s. 767.477 (because there may not be a temporary order in every case) or in s. 767.51 (because that section relates to the final judgment, not the situation before a final judgment). One problem with this provision is that it only applies in a paternity action. What if no action has been commenced? From your example, though, it sounds as if such a "technicality" would not matter.

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

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

LRBb1729/2dn
PJK:cmh:hmh

September 16, 1999

Dan:

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Pamela J. Kahler
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State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb1729/3
PJK:cmh/hmh
EWL
V mis deen

**SENATE AMENDMENT ,
TO SENATE AMENDMENT (LRBb1636/4),
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 133**

*today
(Mon - 9-20)*

- 1 At the locations indicated, amend the amendment as follows:
- 2 **1.** Page 8, line 16: delete "A party" and substitute "Except for cause shown, a
- 3 party".
- 4 **2.** Page 28, line 14: after that line insert:
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- 6 767.475 (2m) If there is no presumption of paternity under s. 891.41 (1), the
- 7 mother shall have sole legal custody of the child until the court orders otherwise."
- 8 **3.** Page 30, line 6: delete "action is commenced" and substitute "petition in the
- 9 action under s. 767.45 is filed".
- 10 **4.** Page 30, line 7: delete "under s. 767.45".

**1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBb1729/3ins
PJK:cmh:hmh

INSERT 2-5

"767.53 (3) Subject to s. 767.19, a record of a past proceeding is open to public inspection if all of the following apply:

- (a) Paternity was established in the proceeding.
- (b) The record is filed after the effective date of this paragraph [revisor inserts date].
- (c) The record relates to a post-adjudication issue."

(END OF INSERT 2-5)

**SENATE AMENDMENT ,
TO SENATE AMENDMENT (LRBb1636/4),
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 133**

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

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3 party".

4 **2.** Page 28, line 14: after that line insert:

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