

**2001 DRAFTING REQUEST**

**Bill**

Received: 09/26/2000

Received By: kahlepj

Wanted: As time permits

Identical to LRB:

For: Administration-Budget 6-8219

By/Representing: Blaine

This file may be shown to any legislator: NO

Drafter: kahlepj

May Contact:

Alt. Drafters:

Subject: Dom. Rel. - child support

Extra Copies: RJM

**Pre Topic:**

DOA:.....Blaine -

**Topic:**

Changes related to receipt and disbursement fee and a study on the cost of operating the receipt and disbursement system

**Instructions:**

See Attached

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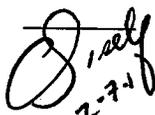
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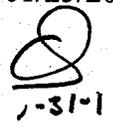
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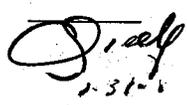
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*Handwritten signatures and dates:*  
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## STATUTORY MODIFICATIONS

Department of Workforce Development  
2001-2003 Biennial Budget Request

**DIN Number:** 5601-STAT#1

**Topic:** Increase Child-Support Receipt & Disbursement Fee

**Description of Change:**

Amend s.767.29 (1) (d) to increase the annual child-support receipt and disbursement fee by \$10, to \$35.

Create a second amendment to the provision, or alternative provision, specifying that "the department or its designee shall collect a fee specified by rule of the department," and striking other references to the "annual" fee, so that they refer only to "the fee." Provide an effective date for this revision that is one year later, or provide that it becomes effective upon promulgation of an administrative rule specifying a different fee or fee structure. (Provide that the \$35 annual fee is the fee unless the administrative rule specifies a different fee.) Create authority for the department to provide, by administrative rule, for the dollar amount of the annual fee, or to establish an alternative fee structure that could include either a maximum payment for persons subject to multiple support orders, or that could establish the fee as a percentage of the dollar amount of support collected from an individual. The percentage-based approach would apply to each transaction, and therefore would presumably not be characterized as an "annual" fee.

← why?

**Justification:**

Different perspectives exist on what level is appropriate for this fee. It has not been increased since it was converted to a state revenue source in 1997, despite steadily increasing program costs. S.20.445 (3) (a), DWD's GPR appropriation for general economic support functions, arguably establishes the expectation of regular increases in the child-support fee because it has not been increased to correspond with increasing child-support program costs, yet it provides that no moneys may be expended from it for child-support program costs unless the proceeds of the appropriation for fee revenues, s.20.445 (3) (ja), are insufficient. Establishing a mechanism for regular fee increases, subject to legislative oversight through the administrative rule process would allow more consistent implementation of this intent.

It could be argued that even doubling the fee would represent a fairly small charge to child-support payers to ensure that their payments are efficiently collected and distributed to their children, comparable to the cost to register a car. Some persons have to pay multiple fees, based on multiple child-support orders, and the total cost can be significant to low-income persons. However,

multiple orders do impose additional program costs. It could be further argued that it is appropriate that persons associated with these higher costs should bear a greater proportion of program costs.

To balance competing considerations regarding the appropriate level of the fee, DWD has a two-part proposal: 1) Initially raise the fee by \$10, to \$35 to produce \$463,400 in state funds annually, and 2) Authorize the Department to promulgate an administrative rule that would specify an alternative fee structure in the second fiscal year.

This two-part proposal has several advantages. A flat increase in the current fee is the easiest to implement to produce revenues in the first fiscal year. The \$35 fee would be less than the \$36 fee charged by Illinois. Over the long term, however, it makes sense to examine the advantages and disadvantages of alternative fee structures, such as establishing some cap for persons subject to multiple orders, or basing the CR&D fee on some percentage of the dollar amount collected from an individual. A percentage-based structure would have the advantage of providing some built-in growth corresponding to growth in program costs, because the proceeds would increase as the dollar volume of collections increases. In addition, it would be more equitable to individuals that only owe child support for a portion of a year, compared to the current flat fee, which must be paid regardless of whether or not support is owed for an entire year.

However, any alternative to a simple increase in the flat fee will require lead time for computer programming. As a result, providing the opportunity for more innovative approaches, subject to legislative oversight through the administrative rulemaking process, is appropriate but could not be implemented before the second year of the biennium.



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-0529/P1  
PJK...  
hnh  
& cjs

DOA:.....Blaine - Increasing receipt and disbursement fee and setting it by rule

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

SOON  
(9-26)  
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granting rule-making authority

1 AN ACT; relating to: the child support receipt and disbursement fee and.

the amount of the fee or

Analysis by the Legislative Reference Bureau

- ✓ HEALTH AND HUMAN SERVICES
- ✓ OTHER HEALTH AND HUMAN SERVICES

Under current law, a person who is ordered by a court to pay maintenance, child support, or family support must also pay an annual fee of \$25 to DWD to pay for DWD's costs associated with receiving and disbursing the maintenance, child support, or family support and maintaining a record of the receipts and disbursements. The bill increases the amount of the annual fee to \$35 for all fees payable in 2002. For all fees payable in 2003 and thereafter, DWD must specify by rule how the amount of the fee will be determined. The fee structure that DWD establishes may take into consideration the number of orders to which a payer is subject and may be based on a percentage of the total amount of maintenance, child support, or family support that a payer pays.

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

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

1 SECTION 1. 20.445 (3) (ja) of the statutes is amended to read:

2 20.445 (3) (ja) *Child support state operations — fees.* All moneys received from  
 3 fees charged under s. 49.22 (8), from fees ordered under s. 767.29 (1) (d) 1., from fees  
 4 collected under s. 767.29 (1) (dm) 1m. <sup>2</sup> and from fees charged and incentive payments  
 5 and collections retained under s. 49.22 (7m), for costs associated with receiving and  
 6 disbursing support and support-related payments, including any contract costs, and  
 7 for administering the program under s. 49.22 and all other purposes specified in s.  
 8 49.22.

History: 1971 c. 125 ss. 156, 522 (1); 1971 c. 211, 215; 1971 c. 228 s. 44; 1971 c. 259; 1973 c. 90, 180, 243, 333; 1975 c. 39, 147, 224, 274, 344; 1975 c. 404 ss. 3, 10 (1); 1975 c. 405 ss. 3, 11 (1); 1977 c. 29, 48, 203, 418; 1979 c. 34 ss. 512 to 522, 2102 (25) (a); 1979 c. 189, 221, 309; 1979 c. 329 s. 25 (1); 1979 c. 350 ss. 3, 27 (6); 1979 c. 353, 355; 1981 c. 20, 36, 92, 93, 317, 325, 364; 1983 a. 8; 1983 a. 27 ss. 411 to 425; 1983 a. 98 ss. 1, 31; 1983 a. 192, 384, 388, 410; 1985 a. 17, 29, 153, 313, 332; 1987 a. 27; 1987 a. 38 ss. 2 to 4, 136; 1987 a. 399, 403; 1989 a. 31, 44, 64, 77, 254, 284, 359; 1991 a. 39 ss. 372c, 545r, 545t, 545v, 547, 548, 548g, 548m, 549, 549b, 549g, 549p; 1991 a. 85, 89, 269, 315; 1993 a. 16, 126, 243, 437, 491; 1995 a. 27 ss. 772mm, 772mn, 776p to 778b, 778L, 778n, 778q, 778v, 778z to 780m, 781m to 782p, 782u, 841, 842, 849, 850, 854, 855, 858c, 873 to 876, 878, 880, 890 to 896, 962 to 1014c, 9126 (19), 9130 (4); 1995 a. 113 s. 2t; 1995 a. 117, 201, 216, 225, 289; 1995 a. 404 ss. 4, 6 to 8, 10 to 17; 1997 a. 3; 1997 a. 27 ss. 610 to 642m, 722; 1997 a. 35, 38, 39, 105, 112, 191, 235, 236, 237, 252; 1999 a. 9 ss. 270, 458 to 478; 1999 a. 15, 32.

9 SECTION 2. 767.265 (1) of the statutes is amended to read:

10 767.265 (1) Each order for child support under this chapter, for maintenance  
 11 payments under s. 767.23 or 767.26, for family support under this chapter, for costs  
 12 ordered under s. 767.51 (3) or 767.62 (4), for support by a spouse under s. 767.02 (1)  
 13 (f), for maintenance payments under s. 767.02 (1) (g), or for the annual receiving and  
 14 disbursing fee under s. 767.29 (1) (d) 1., each order for a revision in a judgment or  
 15 order with respect to child support, maintenance, or family support payments under  
 16 s. 767.32, each stipulation approved by the court or the family court commissioner  
 17 for child support under this chapter, and each order for child or spousal support  
 18 entered under s. 948.22 (7) constitutes an assignment of all commissions, earnings,  
 19 salaries, wages, pension benefits, benefits under ch. 102 or 108, lottery prizes that  
 20 are payable in instalments, and other money due or to be due in the future to the  
 21 department or its designee. The assignment shall be for an amount sufficient to  
 22 ensure payment under the order or stipulation and to pay any arrearages due at a  
 23 periodic rate not to exceed 50% of the amount of support due under the order or

1 stipulation so long as the addition of the amount toward arrearages does not leave  
2 the party at an income below the poverty line established under 42 USC 9902 (2).

History: 1971 c. 110; 1975 c. 94 s. 91 (3); 1975 c. 199; 1977 c. 105; 1979 c. 32 ss. 50, 92 (4); 1979 c. 196, 221; Stats. 1979 s. 767.265; 1981 c. 20, 186; 1983 a. 27, 384; 1985 a. 29; 1987 a. 38 s. 136; 1987 a. 332 s. 64; 1987 a. 398, 403; 1989 a. 31, 56, 212, 336; 1991 a. 287; 1993 a. 16, 326, 389, 481; 1995 a. 27 s. 9130 (4); 1995 a. 279, 404; 1997 a. 27, 191; 1999 a. 9.

3 **SECTION 3. 767.265 (1m)** of the statutes is amended to read:

4 **767.265 (1m)** If a party's current obligation to pay maintenance, child support,  
5 spousal support, family support, or the annual receiving and disbursing fee  
6 terminates but the party has an arrearage in the payment of one or more of those  
7 payments, the assignment shall continue in effect, in an amount up to the amount  
8 of the assignment before the party's current obligation terminated, until the  
9 arrearage is paid in full.

History: 1971 c. 110; 1975 c. 94 s. 91 (3); 1975 c. 199; 1977 c. 105; 1979 c. 32 ss. 50, 92 (4); 1979 c. 196, 221; Stats. 1979 s. 767.265; 1981 c. 20, 186; 1983 a. 27, 384; 1985 a. 29; 1987 a. 38 s. 136; 1987 a. 332 s. 64; 1987 a. 398, 403; 1989 a. 31, 56, 212, 336; 1991 a. 287; 1993 a. 16, 326, 389, 481; 1995 a. 27 s. 9130 (4); 1995 a. 279, 404; 1997 a. 27, 191, 1999 a. 9.

10 **SECTION 4. 767.265 (2h)** of the statutes is amended to read:

11 **767.265 (2h)** If a court-ordered assignment, including the assignment  
12 specified under sub. (1) for the payment of any arrearages due, does not require  
13 immediately effective withholding and a payer fails to make a required maintenance,  
14 child support, spousal support, family support, or annual receiving and disbursing  
15 fee payment within 10 days after its due date, within 20 days after the payment's due  
16 date the court, family court commissioner<sup>2</sup> or county child support agency under s.  
17 59.53 (5) shall cause the assignment to go into effect by providing notice of the  
18 assignment in the manner provided under sub. (2r) and shall send a notice by regular  
19 mail to the last-known address of the payer. The notice sent to the payer shall inform  
20 the payer that an assignment is in effect and that the payer may, within a 10-day  
21 period, by motion request a hearing on the issue of whether the assignment should  
22 remain in effect. The court or family court commissioner shall hold a hearing  
23 requested under this subsection within 10 working days after the date of the request.

1 If at the hearing the payer establishes that the assignment is not proper because of  
2 a mistake of fact, the court or family court commissioner may direct that the  
3 assignment be withdrawn. Either party may, within 15 working days after the date  
4 of a decision by a family court commissioner under this subsection, seek review of the  
5 decision by the court with jurisdiction over the action.

History: 1971 c. 110; 1975 c. 94 s. 91 (3); 1975 c. 199; 1977 c. 105; 1979 c. 32 ss. 50, 92 (4); 1979 c. 196, 221; Stats. 1979 s. 767.265; 1981 c. 20, 186; 1983 a. 27, 384; 1985 a. 29; 1987 a. 38 s. 136; 1987 a. 332 s. 64; 1987 a. 398, 403; 1989 a. 31, 56, 212, 336; 1991 a. 287; 1993 a. 16, 326, 389, 481; 1995 a. 27 s. 9130 (4); 1995 a. 279, 404; 1997 a. 27, 191; 1999 a. 9.

6 **SECTION 5. 767.265 (2r)** of the statutes is amended to read:

7 767.265 (2r) Upon entry of each order for child support, maintenance, family  
8 support, support by a spouse, or the annual receiving and disbursing fee, and upon  
9 approval of each stipulation for child support, unless the court finds that income  
10 withholding is likely to cause the payer irreparable harm or unless s. 767.267  
11 applies, the court, family court commissioner, or county child support agency under  
12 s. 59.53 (5) shall provide notice of the assignment by regular mail or by facsimile  
13 machine, as defined in s. 134.72 (1) (a), or other electronic means to the last-known  
14 address of the person from whom the payer receives or will receive money. The notice  
15 shall provide that the amount withheld may not exceed the maximum amount that  
16 is subject to garnishment under 15 USC 1673 (b) (2). If the department or its  
17 designee, whichever is appropriate, does not receive the money from the person  
18 notified, the court, family court commissioner, or county child support agency under  
19 s. 59.53 (5) shall provide notice of the assignment to any other person from whom the  
20 payer receives or will receive money. Notice under this subsection may be a notice  
21 of the court, a copy of the executed assignment, or a copy of that part of the court order  
22 directing payment.

History: 1971 c. 110; 1975 c. 94 s. 91 (3); 1975 c. 199; 1977 c. 105; 1979 c. 32 ss. 50, 92 (4); 1979 c. 196, 221; Stats. 1979 s. 767.265; 1981 c. 20, 186; 1983 a. 27, 384; 1985 a. 29; 1987 a. 38 s. 136; 1987 a. 332 s. 64; 1987 a. 398, 403; 1989 a. 31, 56, 212, 336; 1991 a. 287; 1993 a. 16, 326, 389, 481; 1995 a. 27 s. 9130 (4); 1995 a. 279, 404; 1997 a. 27, 191; 1999 a. 9.

23 **SECTION 6. 767.29 (1) (d)** of the statutes is amended to read:

1           767.29 (1) (d) For receiving and disbursing maintenance, child support, or  
 2 family support payments, and for maintaining the records required under par. (c),  
 3 the department or its designee shall collect an annual fee of \$25 \$35. The court or  
 4 family court commissioner shall order each party ordered to make payments to pay  
 5 the annual fee under this paragraph in each year for which payments are ordered.  
 6 In directing the manner of payment of the annual fee, the court or family court  
 7 commissioner shall order that the annual fee be withheld from income and sent to  
 8 the department or its designee, as provided under s. 767.265. All fees collected under  
 9 this paragraph shall be deposited in the appropriation account under s. 20.445 (3)  
 10 (ja). At the time of ordering the payment of an annual fee under this paragraph, the  
 11 court or family court commissioner shall notify each party ordered to make payments  
 12 of the requirement to pay the annual fee and of the amount of the annual fee. If the  
 13 annual fee under this paragraph is not paid when due, the department or its designee  
 14 may not deduct the annual fee from the maintenance or child or family support  
 15 payment, but may move the court for a remedial sanction under ch. 785.

History: 1971 c. 41 s. 12; Sup. Ct. Order, 67 Wis. 2d 585, 775 (1975); 1975 c. 82, 200; 1975 c. 401 s. 4; 1977 c. 105 s. 59; 1977 c. 271, 418, 447; 1979 c. 32 ss. 50, 92 (4); 1979 c. 257 s. 17; Stats. 1979 s. 767.29; 1981 c. 20 s. 2202 (20) (m); 1983 a. 27, 302; 1985 a. 29, 176; 1991 a. 39; 1993 a. 481; 1995 a. 27 ss. 7104tm, 9126 (19), 9130 (4); 1995 a. 77, 279, 289, 404; 1997 a. 27, 35, 105, 191, 252; 1999 a. 9.

16           **SECTION 7. 767.29 (1) (d) of the statutes, as affected by 2001 Wisconsin Act ....**  
 17 (this act), is renumbered 767.29 (1) (d) 1. and amended to read:

18           767.29 (1) (d) 1. For receiving and disbursing maintenance, child support, or  
 19 family support payments, and for maintaining the records required under par. (c),  
 20 the department or its designee shall collect ~~an annual fee of \$35~~ a fee in an amount  
 21 specified by the rule under subd. 2. The court or family court commissioner shall  
 22 order each party ordered to make payments to pay the annual fee under this  
 23 ~~paragraph~~ in each year for which payments are ordered. In directing the manner of  
 24 payment of the annual fee, the court or family court commissioner shall order that

subdivision

23

1 the annual fee be withheld from income and sent to the department or its designee,  
 2 as provided under s. 767.265. All fees collected under this paragraph shall be  
 3 deposited in the appropriation account under s. 20.445 (3) (ja). At the time of  
 4 ordering the payment of an annual the fee under this paragraph, the court or family  
 5 court commissioner shall notify each party ordered to make payments of the  
 6 requirement to pay the annual fee and of the amount of the annual fee. If the annual  
 7 fee under this paragraph is not paid when due, the department or its designee may  
 8 not deduct the annual fee from the maintenance or child or family support payment,  
 9 but may move the court for a remedial sanction under ch. 785.

sub-division

History: 1971 c. 41 s. 12; Sup. Ct. Order, 67 Wis. 2d 585, 775 (1975); 1975 c. 82, 200; 1975 c. 401 s. 4; 1977 c. 105 s. 59; 1977 c. 271, 418, 447; 1979 c. 32 ss. 50, 92 (4); 1979 c. 257 s. 17; Stats. 1979 s. 767.29; 1981 c. 20 s. 2202 (20) (m); 1983 a. 27, 302; 1985 a. 29, 176; 1991 a. 39; 1993 a. 481; 1995 a. 27 ss. 7104tm, 9126 (19), 9130 (4); 1995 a. 77, 279, 289, 404; 1997 a. 27, 35, 105, 191, 252; 1999 a. 9.

**SECTION 8. 767.29 (1) (d) 2. of the statutes is created to read:**

11 767.29 (1) (d) 2. The department shall by rule specify how to determine the  
 12 amount of the fee under subd. 1. The department may establish a fee structure that  
 13 takes into consideration the number of orders under which a payer is required to pay  
 14 maintenance or child or family support and may provide for calculating the fee as a  
 15 percentage of the amount of maintenance or child or family support that a payer pays  
 16 and for paying the fee on other than an annual basis.

the amount or

\*\*\*\*NOTE: I would rather leave the rule authorization as open-ended as possible to give DWD as much flexibility as possible. This provision could end after the first sentence. On the other hand, the second sentence could include more possibilities. The more detailed the language, however, the more limiting it is. The only reason to add more detail would be if DWD feels that it does not have the authority to be as creative as necessary under the language of the first sentence.

**SECTION 9358. Initial applicability; workforce development.**

**(1) RECEIPT AND DISBURSEMENT FEE.**

(a) *Increase.* The amendment of section 767.29 (1) (d) of the statutes first applies to receipt and disbursement fees that are payable in calendar year 2002.

1 (b) *By rule.* The treatment of sections 20.445 (3) (ja), 767.265 (1), (1m), (2h),  
2 and (2r), and 767.29 (1) (d) 2. of the statutes and the renumbering and amendment  
3 of section 767.29 (1) (d) of the statutes first apply to receipt and disbursement fees  
4 that are payable in calendar year 2003.

5

(END)

→  
Insert 7-4

D - [Signature]

Insert 7-4

Nonstat File Sequence: **FFF**

LRB -0529, PI  
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**EFFECTIVE DATE**

1. In the component bar: For the action phrase, execute: ... create → action: → \*NS: → effdate  
For the text, execute: ..... create → text: → \*NS: → effdateA
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed.

**SECTION #** \_\_\_\_\_ . Effective date.

( #1 ) ( ) ..... This act takes effect  
on .....

1. In the component bar: For the action phrase, execute: .. create → action: → \*NS: → effdateE  
For the text, execute: ..... create → text: → \*NS: → effdate
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed.

**SECTION #** \_\_\_\_\_ . Effective dates; .....

..... This act takes effect on the day after publication, except as follows:  
( #1 ) ( ) ..... The treatment of  
sections .....  
of the statutes takes effect on .....

1. In the component bar: For the budget action phrase, execute:..create → action: → \*NS: → 94XX  
For the text, execute: ..... create → text: → \*NS: → effdate
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed. Below, for the budget, fill in the 9400 department code.

**SECTION 94 5 B** . Effective dates; *workforce* .....

*development.* .....  
( #1 ) *VM* *Receipt and disbursement fee.* The treatment of  
sections *20.445(3)(ja), 767.265(1), (1m), (2h), and (2r),*  
of the statutes takes effect on *January 1, 2003.* .....

*and 767.29(1)(d) 2. of the statutes and the renumbering and amendment  
of section 767.29(1)(d)*

*(end of ins. 7-4)*

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

LRB-0529/dn →PI

PJK.....

hmb

Dated

Robert:

1. Since I am amending s. 767.29 in this draft, do you want me to clean up the section a bit by repealing s. 767.29 (1) (f), which is now obsolete?

2. Especially note the initial applicability provisions in this draft. DWD may do it differently, but I'm pretty sure the receipt and disbursement fee used to be paid to the clerk of court at the beginning of each year, so that a person ordered to pay child support in, say, March would not pay the fee for the first time until the following January. If it works the same way, now that DWD has taken over receipt and disbursement, requiring payment of a new amount starting with a new year makes sense. It may not work, however, if the fees are not paid annually under the new fee structure that DWD establishes by rule.

3. Note also the sentence in s. 767.29 (1) (d) that requires the court or family court commissioner to order a party to pay the fee *in each year* for which payments are ordered. This language might not make sense under some fee structures. Since we don't know what the fee structure will be, we might have to wait until the rule is promulgated to determine if amending the sentence is necessary.

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**

LRB-0529/P1dn

PJK:hmh:jf

October 2, 2000

Robert:

1. Since I am amending s. 767.29 in this draft, do you want me to clean up the section a bit by repealing s. 767.29 (1) (f), which is now obsolete?

2. Especially note the initial applicability provisions in this draft. DWD may do it differently, but I'm pretty sure the receipt and disbursement fee used to be paid to the clerk of court at the beginning of each year, so that a person ordered to pay child support in, say, March would not pay the fee for the first time until the following January. If it works the same way, now that DWD has taken over receipt and disbursement, requiring payment of a new amount starting with a new year makes sense. It may not work, however, if the fees are not paid annually under the new fee structure that DWD establishes by rule.

3. Note also the sentence in s. 767.29 (1) (d) that requires the court or family court commissioner to order a party to pay the fee *in each year* for which payments are ordered. This language might not make sense under some fee structures. Since we don't know what the fee structure will be, we might have to wait until the rule is promulgated to determine if amending the sentence is necessary.

Pamela J. Kahler  
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Phone: (608) 266-2682  
E-mail: pam.kahler@legis.state.wi.us



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-0529/P  
PJK:hmh&cjs:jf

P2

*pm is over*

DOA:.....Blaine -- Increasing receipt and disbursement fee and setting it by rule

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

*SOON (10-5) D-note*

*do not get cut*

- 1 AN ACT *^*; relating to: the child support receipt and disbursement fee and
- 2 granting rule-making authority.

*Analysis by the Legislative Reference Bureau*

**HEALTH AND HUMAN SERVICES**

**OTHER HEALTH AND HUMAN SERVICES**

Under current law, a person who is ordered by a court to pay maintenance, child support, or family support must also pay an annual fee of \$25 to DWD to pay for DWD's costs associated with receiving and disbursing the maintenance, child support, or family support and maintaining a record of the receipts and disbursements. The bill increases the amount of the annual fee to \$35 for ~~the~~ fees payable in 2002. For ~~the~~ fees payable in 2003 and thereafter, DWD must specify by rule the amount of the fee or how the amount of the fee will be determined. The fee structure that DWD establishes may take into consideration the number of orders to which a payer is subject and may be based on a percentage of the total amount of maintenance, child support, or family support that a payer pays.

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

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

1           **SECTION 1.** 20.445 (3) (ja) of the statutes is amended to read:

2           20.445 (3) (ja) *Child support state operations — fees.* All moneys received from  
3 fees charged under s. 49.22 (8), from fees ordered under s. 767.29 (1) (d) 1., from fees  
4 collected under s. 767.29 (1) (dm) 1m., and from fees charged and incentive payments  
5 and collections retained under s. 49.22 (7m), for costs associated with receiving and  
6 disbursing support and support-related payments, including any contract costs, and  
7 for administering the program under s. 49.22 and all other purposes specified in s.  
8 49.22.

9           **SECTION 2.** 767.265 (1) of the statutes is amended to read:

10          767.265 (1) Each order for child support under this chapter, for maintenance  
11 payments under s. 767.23 or 767.26, for family support under this chapter, for costs  
12 ordered under s. 767.51 (3) or 767.62 (4), for support by a spouse under s. 767.02 (1)  
13 (f), for maintenance payments under s. 767.02 (1) (g), or for the ~~annual~~ receiving and  
14 disbursing fee under s. 767.29 (1) (d) 1., each order for a revision in a judgment or  
15 order with respect to child support, maintenance, or family support payments under  
16 s. 767.32, each stipulation approved by the court or the family court commissioner  
17 for child support under this chapter, and each order for child or spousal support  
18 entered under s. 948.22 (7) constitutes an assignment of all commissions, earnings,  
19 salaries, wages, pension benefits, benefits under ch. 102 or 108, lottery prizes that  
20 are payable in instalments, and other money due or to be due in the future to the  
21 department or its designee. The assignment shall be for an amount sufficient to  
22 ensure payment under the order or stipulation and to pay any arrearages due at a  
23 periodic rate not to exceed 50% of the amount of support due under the order or  
24 stipulation so long as the addition of the amount toward arrearages does not leave  
25 the party at an income below the poverty line established under 42 USC 9902 (2).

1           **SECTION 3.** 767.265 (1m) of the statutes is amended to read:

2           **767.265 (1m)** If a party's current obligation to pay maintenance, child support,  
3 spousal support, family support, or the annual receiving and disbursing fee  
4 terminates but the party has an arrearage in the payment of one or more of those  
5 payments, the assignment shall continue in effect, in an amount up to the amount  
6 of the assignment before the party's current obligation terminated, until the  
7 arrearage is paid in full.

8           **SECTION 4.** 767.265 (2h) of the statutes is amended to read:

9           **767.265 (2h)** If a court-ordered assignment, including the assignment  
10 specified under sub. (1) for the payment of any arrearages due, does not require  
11 immediately effective withholding and a payer fails to make a required maintenance,  
12 child support, spousal support, family support, or annual receiving and disbursing  
13 fee payment within 10 days after its due date, within 20 days after the payment's due  
14 date the court, family court commissioner, or county child support agency under s.  
15 59.53 (5) shall cause the assignment to go into effect by providing notice of the  
16 assignment in the manner provided under sub. (2r) and shall send a notice by regular  
17 mail to the last-known address of the payer. The notice sent to the payer shall inform  
18 the payer that an assignment is in effect and that the payer may, within a 10-day  
19 period, by motion request a hearing on the issue of whether the assignment should  
20 remain in effect. The court or family court commissioner shall hold a hearing  
21 requested under this subsection within 10 working days after the date of the request.  
22 If at the hearing the payer establishes that the assignment is not proper because of  
23 a mistake of fact, the court or family court commissioner may direct that the  
24 assignment be withdrawn. Either party may, within 15 working days after the date

1 of a decision by a family court commissioner under this subsection, seek review of the  
2 decision by the court with jurisdiction over the action.

3 SECTION 5. 767.265 (2r) of the statutes is amended to read:

4 767.265 (2r) Upon entry of each order for child support, maintenance, family  
5 support, support by a spouse, or the annual receiving and disbursing fee, and upon  
6 approval of each stipulation for child support, unless the court finds that income  
7 withholding is likely to cause the payer irreparable harm or unless s. 767.267  
8 applies, the court, family court commissioner, or county child support agency under  
9 s. 59.53 (5) shall provide notice of the assignment by regular mail or by facsimile  
10 machine, as defined in s. 134.72 (1) (a), or other electronic means to the last-known  
11 address of the person from whom the payer receives or will receive money. The notice  
12 shall provide that the amount withheld may not exceed the maximum amount that  
13 is subject to garnishment under 15 USC 1673 (b) (2). If the department or its  
14 designee, whichever is appropriate, does not receive the money from the person  
15 notified, the court, family court commissioner, or county child support agency under  
16 s. 59.53 (5) shall provide notice of the assignment to any other person from whom the  
17 payer receives or will receive money. Notice under this subsection may be a notice  
18 of the court, a copy of the executed assignment, or a copy of that part of the court order  
19 directing payment.

20 SECTION 6. 767.29 (1) (d) of the statutes is amended to read:

21 767.29 (1) (d) For receiving and disbursing maintenance, child support, or  
22 family support payments, and for maintaining the records required under par. (c),  
23 the department or its designee shall collect an annual fee of \$25 \$35. The court or  
24 family court commissioner shall order each party ordered to make payments to pay  
25 the annual fee under this paragraph in each year for which payments are ordered.

in 2002, a

and, beginning in 2003,  
a fee in an amount  
specified by rule under subd. 2

1 In directing the manner of payment of the annual fee, the court or family court  
 2 commissioner shall order that the annual fee be withheld from income and sent to  
 3 the department or its designee, as provided under s. 767.265. All fees collected under  
 4 this paragraph shall be deposited in the appropriation account under s. 20.445 (3)  
 5 (ja). At the time of ordering the payment of an annual fee under this paragraph, the  
 6 court or family court commissioner shall notify each party ordered to make payments  
 7 of the requirement to pay the annual fee and of the amount of the annual fee. If the  
 8 annual fee under this paragraph is not paid when due, the department or its designee  
 9 may not deduct the annual fee from the maintenance or child or family support  
 10 payment, but may move the court for a remedial sanction under ch. 785.

11 SECTION 7. 767.29 (1) (d) of the statutes, ~~as affected by 2001 Wisconsin Act~~

12 ~~(this act)~~ is renumbered 767.29 (1) (d) 1. and amended to read:

13 767.29 (1) (d) 1. For receiving and disbursing maintenance, child support, or  
 14 family support payments, and for maintaining the records required under par. (c),  
 15 the department or its designee shall collect an annual fee of \$35 a fee in an amount  
 16 specified by the rule under subd. 2. The court or family court commissioner shall

Insert S-17

17 order each party ordered to make payments to pay the annual fee under this  
 18 paragraph subdivision in each year for which payments are ordered. In directing the  
 19 manner of payment of the annual fee, the court or family court commissioner shall  
 20 order that the annual fee be withheld from income and sent to the department or its  
 21 designee, as provided under s. 767.265. All fees collected under this paragraph  
 22 subdivision shall be deposited in the appropriation account under s. 20.445 (3) (ja).  
 23 At the time of ordering the payment of ~~an annual~~ the fee under this paragraph  
 24 subdivision, the court or family court commissioner shall notify each party ordered  
 25 to make payments of the requirement to pay the annual fee and of the amount of the

1 annual fee. If the annual fee under this paragraph subdivision is not paid when due,  
2 the department or its designee may not deduct the annual fee from the maintenance  
3 or child or family support payment, but may move the court for a remedial sanction  
4 under ch. 785.

5 SECTION 8. 767.29 (1) (d) 2. of the statutes is created to read:

6 767.29 (1) (d) 2. The department shall by rule specify the amount or how to  
7 determine the amount of the fee ~~under subd. 2.~~ The department may establish a fee  
8 structure that takes into consideration the number of orders under which a payer is  
9 required to pay maintenance or child or family support and may provide for  
10 calculating the fee as a percentage of the amount of maintenance or child or family  
11 support that a payer pays and for paying the fee on other than an annual basis.

\*\*\*NOTE: I would rather leave the rule authorization as open-ended as possible to give DWD as much flexibility as possible. This provision could end after the first sentence. On the other hand, the second sentence could include more possibilities. The more detailed the language, however, the more limiting it is. The only reason to add more detail would be if DWD feels that it does not have the authority to be as creative as necessary under the language of the first sentence.

For fees under subd. 1. that are payable in 2003 and thereafter,

12 SECTION 9358. Initial applicability; workforce development.

13 (1) RECEIPT AND DISBURSEMENT FEE.

14 (a) Increase. The amendment of section 767.29 (1) (d) of the statutes first  
15 applies to receipt and disbursement fees that are payable in calendar year 2002.

16 (b) By rule. The treatment of sections 20.445 (3) (ja), 767.265 (1), (1m), (2h),  
17 and (2r), and 767.29 (1) (d) 2. of the statutes and the renumbering and amendment  
18 of section 767.29 (1) (d) of the statutes first apply to receipt and disbursement fees  
19 that are payable in calendar year 2003.

20 SECTION 9458. Effective dates; workforce development.

21 (1) RECEIPT AND DISBURSEMENT FEE. The treatment of sections 20.445 (3) (ja),  
22 767.265 (1), (1m), (2h), and (2r), and 767.29 (1) (d) 2. of the statutes and the

1 renumbering and amendment of section 767.29 (1) (d) of the statutes take effect on

2 January 1, 2003

3

(END)

*D - note*

2001-2002 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0529/P1ins  
TJK:hmh&cjs:jf

*Insert 5-17*

SECTION 1. 767.29 (1) (d) of the statutes is renumbered 767.29 (1) (d) 1. and amended to read:

767.29 (1) (d) 1. For receiving and disbursing maintenance, child support, or family support payments, and for maintaining the records required under par. (c), the department or its designee shall collect an annual, in 2002, a fee of \$25 \$35 and, beginning in 2003, a fee in an amount specified by rule under subd. 2. The court or

family court commissioner shall order each party ordered to make payments to pay the annual fee under this paragraph in each year for which payments are ordered. In directing the manner of payment of the annual fee, the court or family court commissioner shall order that the annual fee be withheld from income and sent to the department or its designee, as provided under s. 767.265. All fees collected under this paragraph shall be deposited in the appropriation account under s. 20.445 (3) (ja). At the time of ordering the payment of an annual fee under this paragraph, the court or family court commissioner shall notify each party ordered to make payments of the requirement to pay the annual fee and of the amount of the annual fee. If the annual fee under this paragraph is not paid when due, the department or its designee may not deduct the annual fee from the maintenance or child or family support payment, but may move the court for a remedial sanction under ch. 785.

History: 1971 c. 41 s. 12; Sup. Ct. Order, 67 Wis. 2d 585, 775 (1975); 1975 c. 82, 200; 1975 c. 401 s. 4; 1977 c. 105 s. 59; 1977 c. 271, 418, 447; 1979 c. 32 ss. 50, 92 (4); 1979 c. 257 s. 17; Stats. 1979 s. 767.29; 1981 c. 20 s. 2202 (20) (m); 1983 a. 27, 302; 1985 a. 29, 176; 1991 a. 39; 1993 a. 481; 1995 a. 27 ss. 7104tm, 9126 (19), 9130 (4); 1995 a. 77, 279, 289, 404; 1997 a. 27, 35, 105, 191, 252; 1999 a. 9.

*(end of ins. 5-17)*

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

LRB-0529/P2dn  
PJK:hmh&cjs:jf

*Pamela J. Kahler*

Robert:

I redrafted this draft to show you how I think the two different fee amounts should be shown. As we discussed, judges may need to know as early as January 1, 2002, how fees will be calculated for 2003, since the fees currently are ordered for payment in the following year (although this may change with the rules that DWD promulgates). Therefore, I think the best way to ensure that the rules are promulgated in time is to give in-text applicability so that s. 767.29 (1) (d) is amended only once, obviating the need to have a delayed effective date for a second amending, and the directive to promulgate rules occurs immediately upon passage of the budget. Let me know if you want to require submission of the proposed rules to the legislative council by a certain time.

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**

LRB-0529/P2dn  
PJK:hmh&cjs:rs

October 6, 2000

Robert:

I redrafted this draft to show you how I think the two different fee amounts should be shown. As we discussed, judges may need to know as early as January 1, 2002, how fees will be calculated for 2003, since the fees currently are ordered for payment in the following year (although this may change with the rules that DWD promulgates). Therefore, I think the best way to ensure that the rules are promulgated in-time is to give in-text applicability so that s. 767.29 (1) (d) is amended only once, obviating the need to have a delayed effective date for a second amending, and the directive to promulgate rules occurs immediately upon passage of the budget. Let me know if you want to require submission of the proposed rules to the legislative council by a certain time.

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

**Kahler, Pam**

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**From:** Kahler, Pam  
**Sent:** Tuesday, October 10, 2000 9:40 AM  
**To:** Blaine, Robert  
**Subject:** RE: CR&D fee increase stat language draft

Hi, Robert:

In answer to your questions on this draft:

1. This version of the draft is intended to correct the timing problem. Since DWD would be aware that they need to have a rule ready by January 1, 2002, they could begin working on it before the budget passes and, hopefully, get it through the legislature in time for January 1, 2002. If there is any doubt, we could authorize emergency rule making, which speeds up the process, although Rick Champagne, who used to draft in the rules chapter, did mention to me recently in another context that rules for setting fees proceed faster than other rules because the process is simplified. I could verify this if you wish.

2. Yes, this would commit the department to promulgating a rule, but a quick rule could be promulgated, keeping the fee at \$35 until amended.

I will wait to hear from Mark. Let me know if you want me to do anything related to this in the meantime.

-----Original Message-----

**From:** Blaine, Robert  
**Sent:** Tuesday, October 10, 2000 8:25 AM  
**To:** Kahler, Pam  
**Cc:** Mansfield, Mark  
**Subject:** CR&D fee increase stat language draft

I was looking over the most recent draft of this stat language request, namely Section 7. Two questions:

1. In an original conversation, you expressed concern that if a new rule were effective in 2003, then that might not give the department much time to complete such a rule, since judges would need the rule in 2002 to assign fees in 2003. Is this still an issue, in your opinion?

2. This would essentially commit the department to creating a rule, correct? That is, if they were not able to get a rule drafted in time for a 2003 effective date, they could not revert back to the \$35 fee?

At one time, I had been given the impression by DWD that they wanted to explore creating a rule but be able to fall back on the \$35 fee if they are unable to do so. Now the message I am getting is that they definitely plan on creating a rule, but they need some flexibility in doing so. I've asked Mark Mansfield to clarify the request directly to you so that we are all on the same page.

Thanks,  
Robert

State Budget Office  
Wisconsin Department of Administration  
(608) 266-8219  
[robert.blaine@doa.state.wi.us](mailto:robert.blaine@doa.state.wi.us)

**Kahler, Pam**

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Robert

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Wisconsin Department of Administration  
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**Kahler, Pam**

**From:** Blaine, Robert  
**Sent:** Wednesday, November 01, 2000 4:40 PM  
**To:** Kahler, Pam  
**Subject:** draft #0529/P2

Pam --

529  
We had our briefing with Secretary Lightbourn on child support issues, and it looks like we will need to revise the CR&D fee draft. He did not approve setting the fee through administrative rule. Thus, we will need to revise sections 6 & 7, which authorized the department to promulgate a rule.

only change is then \$25 → \$35