

### 2001 DRAFTING REQUEST

#### Bill

Received: **09/26/2000**

Wanted: **As time permits**

For: **Administration-Budget 6-8219**

This file may be shown to any legislator: **NO**

May Contact:

Subject: **Dom. Rel. - child support**

Received By: **kahlepj**

Identical to LRB:

By/Representing: **Blaine**

Drafter: **kahlepj**

Alt. Drafters:

Extra Copies:

LRB-0532

This file became a  
part of 01-0529

Keep In 01-0529 File

#### Pre Topic:

DOA:.....Blaine -

#### Topic:

Collecting delinquent receipt and disbursement fees through tax intercept and changing the initial applicability of continuing an assignment for delinquent receipt and disbursement fees

#### Instructions:

See Attached

save

#### 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>
/?	kahlepj 09/29/2000	hhagen 10/04/2000		_____			State
/P1			rschluet 10/05/2000	_____	lrb_docadmin 10/05/2000		State
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**<END>**

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/?	kahlepj 09/29/2000	hhagen 10/04/2000					State
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FE Sent For:

7/11/6  
7/16/RS  
11/6  
<END>

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May Contact:

Alt. Drafters:

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Extra Copies:

**Pre Topic:**

DOA:.....Blaine -

**Topic:**

Changing the initial applicability of continuing an assignment of receipt and disbursement fees

**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	181 nmh 10/3/00 181 10/4 jld	 10/5/00	 10/5/00 JF			

FE Sent For:

<END>

## STATUTORY MODIFICATIONS

99-0536

Department of Workforce Development  
2001-2003 Biennial Budget Request

**DIN Number:** 5601-Stat#3

**Topic:** Collection of Receipt & Disbursement Fee Debts

### Description of Changes:

1. Amend 1999 Wis. Act 9, Sections 9357 (3) and/or 9457 to provide the earliest legally permissible effective date, perhaps by providing that s.767.265 (1m) applies generally whenever a party's current obligation to pay maintenance, child support, spousal support, family support, or the receiving and disbursing fee terminates but the party has an arrearage in the payment of one or more of those payments, regardless of the original date on which the obligation to pay those payments was originally incurred.
2. Amend s.49.855 to permit the Department to collect receipt and disbursement debts through state tax offset.

### Justification:

1997 Wisconsin Act 27 created under s.767.20 (1) (d) a fee "for receiving and disbursing maintenance, child support or family support payments, and for maintaining [records of the amounts received and disbursed]."

1997 Wisconsin Act 9 amended this provision to add, "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." S.767.265 is the statute authorizing child support, maintenance payments, or family support to be withheld from income or certain other moneys otherwise payable to the person liable for the child support, maintenance, or family support.

1999 Act 9 created s.767.265 (1m) to provide, "If a party's current obligation to pay maintenance, child support, spousal support or family support terminates but the party has an arrearage in the payment of one or more of those payments, the assignment shall continue in effect...until the arrearage is paid in full..." Act 9 also amended the provision to include a reference to the annual receiving and disbursing fee as one of the types of payments for which an assignment shall continue in effect until the arrearage is paid. However, the initial applicability section of the bill, Section 9357 (3) provided that the amendment of s.767.265 (1m) would first apply to annual receiving and disbursing fees that are ordered on the effective date of the subsection. Section 9457 of the bill provided that the effective date of the amendment of s.767.265 (1m) and Section 9357 (3) was

Jan. 1, 2000. As a result, the assignment for arrearages of the receipt and disbursement fee, permitting them to be withheld from income, continues after the party's obligation to pay support ends only if the order was established after Jan. 1, 2000. DWD estimates that if this option were available for fee arrearages tied to orders established at an earlier date, it would allow the collection of about \$115,900 in additional revenues each year.

Section 9357, and/or section 9457, of 1999 Wisconsin Act 9 needs to be amended to provide that s.767.265 (1m), as amended by 1999 Wisconsin Act 9, applies to arrearages existing or accruing on the effective date of the paragraph provided in 1999 Wisconsin Act 9, or applies generally regardless of when the order on which the arrearages are based was entered.

The change described at point 2. above, amending s.49.855 to permit DWD to collect receipt and disbursement debts through state tax offset will provide another tool to increase collections of receipt and disbursement fees owed.



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-05327

PJK

hmk

djd

DOA:.....Blaine - Changing the initial applicability of continuing an assignment of receipt and disbursement fees

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

SOON  
(9-29)  
D-note

do not  
get cut

1 AN ACT relating to: the budget.

Insert A

Analysis by the Legislative Reference Bureau

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

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

3 20.445 (3) (ja) *Child support state operations — fees.* All moneys received from

4 fees charged under s. 49.22 (8), from fees ordered under s. 767.29 (1) (d), from fees

5 collected under s. 767.29 (1) (dm) 1m. and, from fees charged and incentive payments

6 and collections retained under s. 49.22 (7m), and from delinquent fees withheld

7 under s. 49.855, for costs associated with receiving and disbursing support and

8 support-related payments, including any contract costs, and for administering the

9 program under s. 49.22 and all other purposes specified in s. 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.

Insert 1-9

365; 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, 124, 243, 437, 491; 1995 a. 27 ss. 772mm, 772nn, 776p to 778b, 778l, 778n, 778q, 778v, 778z to 780m, 781m to 782p, 782y, 841, 842, 849, 880, 854, 855, 858c, 873 to 876, 878, 880, 890 to 896, 962 to 1014c, 9126 (19), 9130 (4); 1995 a. 113 s. 2; 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, 104, 112, 191, 235, 236, 237, 252; 1999 a. 9 ss. 270, 458 to 478; 1999 a. 15, 32.

1 **SECTION 2.** 49.855 (1) of the statutes is amended to read:

2 49.855 (1) If a person obligated to provide child support, family support, or  
 3 maintenance or to pay the receiving and disbursing fee under s. 767.29 (1) (d) is  
 4 delinquent in making court-ordered payments, or owes an outstanding amount that  
 5 has been ordered by the court for past support, medical expenses, or birth expenses,  
 6 upon application under s. 59.53 (5) the department of workforce development shall  
 7 certify the delinquent payment or outstanding amount to the department of revenue  
 8 and, at least annually, shall provide to the department of revenue any certifications  
 9 of delinquencies or outstanding amounts that it receives from another state because  
 10 the obligor resides in this state.

History: 1981 c. 20, 391; 1983 a. 27; 1987 a. 27; 1987 a. 342 s. 17; 1987 a. 421; 1989 a. 31; 1989 a. 56 s. 259; 1991 a. 39; 1993 a. 16, 481; 1995 a. 27 s. 9126 (19); 1995 a. 201, 227, 279; 1995 a. 404 ss. 50 to 59; Stats. 1995 s. 49.855; 1997 a. 3, 27, 35, 237, 252; 1999 a. 9, 32.

11 **SECTION 3.** 49.855 (3) of the statutes is amended to read:

12 49.855 (3) Receipt of a certification by the department of revenue shall  
 13 constitute a lien, equal to the amount certified, on any state tax refunds or credits  
 14 owed to the obligor. The lien shall be foreclosed by the department of revenue as a  
 15 setoff under s. 71.93 (3), (6), and (7). When the department of revenue determines  
 16 that the obligor is otherwise entitled to a state tax refund or credit, it shall notify the  
 17 obligor that the state intends to reduce any state tax refund or credit due the obligor  
 18 by the amount the obligor is delinquent under the support ~~or~~ maintenance, or  
 19 receiving and disbursing fee order, by the outstanding amount for past support,  
 20 medical expenses, or birth expenses under the court order, or by the amount due  
 21 under s. 46.10 (4) or 301.12 (4). The notice shall provide that within 20 days the  
 22 obligor may request a hearing before the circuit court rendering the order. Within  
 23 10 days after receiving a request for hearing under this subsection, the court shall

1 set the matter for hearing. Pending further order by the court or family court  
 2 commissioner, the department of workforce development or its designee, whichever  
 3 is appropriate, is prohibited from disbursing the obligor's state tax refund or credit.  
 4 The family court commissioner may conduct the hearing. The sole issues at that  
 5 hearing shall be whether the obligor owes the amount certified and, if not and it is  
 6 a support or maintenance order, whether the money withheld from a tax refund or  
 7 credit shall be paid to the obligor or held for future support or maintenance. An  
 8 obligor may, within 20 days of receiving notice that the amount certified shall be  
 9 withheld from his or her federal tax refund or credit, request a hearing under this  
 10 subsection.

History: 1981 c. 20, 391; 1983 a. 27; 1987 a. 27; 1987 a. 312 s. 17; 1987 a. 421; 1989 a. 31; 1989 a. 56 s. 259; 1991 a. 39; 1993 a. 16, 481; 1995 a. 27 s. 9126 (19); 1995 a. 201, 227, 279; 1995 a. 404 ss. 50 to 59; Stats. 1995 s. 49.855; 1997 a. 3, 27, 35, 237, 252; 1999 a. 9, 32.

\*\*\*NOTE: Do you want to provide that, if the court finds that the obligor is not delinquent in paying the fee, the tax refund may be held for paying future fees? Somehow, it does not seem to be in the same category as child support or maintenance.

11 **SECTION 4.** 49.855 (4) of the statutes is amended to read:  
 12 49.855 (4) The department of revenue shall send that portion of any state or  
 13 federal tax refunds or credits withheld for delinquent child support or maintenance,  
 14 or receiving and disbursing fees or past support, medical expenses, or birth expenses  
 15 to the department of workforce development or its designee for distribution to the  
 16 obligee. The department of workforce development shall make a settlement at least  
 17 annually with the department of revenue. The settlement shall state the amounts  
 18 certified, the amounts deducted from tax refunds and credits, and the administrative  
 19 costs incurred by the department of revenue.

History: 1981 c. 20, 391; 1983 a. 27; 1987 a. 27; 1987 a. 312 s. 17; 1987 a. 421; 1989 a. 31; 1989 a. 56 s. 259; 1991 a. 39; 1993 a. 16, 481; 1995 a. 27 s. 9126 (19); 1995 a. 201, 227, 279; 1995 a. 404 ss. 50 to 59; Stats. 1995 s. 49.855; 1997 a. 3, 27, 35, 237, 252; 1999 a. 9, 32.

20 **SECTION 5.** 49.855 (4m) (b) of the statutes is amended to read:  
 21 49.855 (4m) (b) The department of revenue may provide a certification that it  
 22 receives under sub. (1), (2m) or (2p) to the department of administration. Upon

1 receipt of the certification, the department of administration shall determine  
2 whether the obligor is a vendor or is receiving any other payments from this state,  
3 except for wages, retirement benefits, or assistance under s. 45.352, 1971 stats., s.  
4 45.351 (1), this chapter, or ch. 46, 108, or 301. If the department of administration  
5 determines that the obligor is a vendor or is receiving payments from this state,  
6 except for wages, retirement benefits, or assistance under s. 45.352, 1971 stats., s.  
7 45.351 (1), this chapter, or ch. 46, 108, or 301, it shall begin to withhold the amount  
8 certified from those payments and shall notify the obligor that the state intends to  
9 reduce any payments due the obligor by the amount the obligor is delinquent under  
10 the support or, maintenance, or receiving and disbursing fee order, by the  
11 outstanding amount for past support, medical expenses, or birth expenses under the  
12 court order, or by the amount due under s. 46.10 (4) or 301.12 (4). The notice shall  
13 provide that within 20 days after receipt of the notice the obligor may request a  
14 hearing before the circuit court rendering the order. An obligor may, within 20 days  
15 after receiving notice, request a hearing under this paragraph. Within 10 days after  
16 receiving a request for hearing under this paragraph, the court shall set the matter  
17 for hearing. The family court commissioner may conduct the hearing. Pending  
18 further order by the court or family court commissioner, the department of workforce  
19 development or its designee, whichever is appropriate, may not disburse the  
20 payments withheld from the obligor. The sole issues at the hearing are whether the  
21 obligor owes the amount certified and, if not and it is a support or maintenance order,  
22 whether the money withheld shall be paid to the obligor or held for future support  
23 or maintenance.

History: 1981 c. 20, 391; 1983 a. 27; 1987 a. 27; 1987 a. 312 s. 17; 1987 a. 421; 1989 a. 31; 1989 a. 56 s. 259; 1991 a. 39; 1993 a. 16, 481; 1995 a. 27 s. 9126 (19); 1995 a. 201, 227, 279; 1995 a. 404 ss. 50 to 59; Stats. 1995 s. 49.855; 1997 a. 3, 27, 35, 237, 252; 1999 a. 9, 32.

\*\*\*\*NOTE: Same question as in note after s. 49.855 (3).

1 SECTION 6. 49.855 (4<sup>m</sup>) (c) of the statutes is amended to read:

2 49.855 (4m) (c) Except as provided by order of the court after hearing under  
3 par. (b), the department of administration shall continue withholding until the  
4 amount certified is recovered in full. The department of administration shall  
5 transfer the amounts withheld under this paragraph to the department of workforce  
6 development or its designee, the department of health and family services, or the  
7 department of corrections, whichever is appropriate. The department of workforce  
8 development or its designee shall distribute amounts withheld for delinquent child  
9 or family support or maintenance or past support, medical expenses, or birth  
10 expenses to the obligee and shall deposit amounts withheld for delinquent receiving  
11 and disbursing fees in the appropriation account under s. 20.445 (3) (ia).

History: 1981 c. 20, 391; 1983 a. 27; 1987 a. 27; 1987 a. 312 s. 17; 1987 a. 421; 1989 a. 31; 1989 a. 56 s. 259; 1991 a. 39; 1993 a. 16, 481; 1995 a. 27 s. 9126 (19); 1995 a. 201, 227, 279; 1995 a. 404 ss. 50 to 59; Stats. 1995 s. 49, 855; 1997 a. 3, 27, 35, 237, 252; 1999 a. 9, 32.

12 SECTION 7. 767.265 (1m) of the statutes is amended to read:

13 767.265 (1m) If a party's current obligation to pay maintenance, child support,  
14 spousal support, family support, or the annual receiving and disbursing fee  
15 terminates but the party has an arrearage in the payment of one or more of those  
16 payments, ~~the~~ any assignment under sub. (1) shall continue in effect, in an amount  
17 up to the amount of the assignment before the party's current obligation terminated,  
18 until the 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.

19 (END)

Insert 5-18

D-note

INSERT A

HEALTH AND HUMAN SERVICES

OTHER HEALTH AND HUMAN SERVICES

Under current law, if a person <sup>of</sup> owes an outstanding amount for past child or family support, <sup>of</sup> medical expenses, or birth expenses, or is delinquent in making court-ordered child or family support or maintenance payments, the amount that the person owes may be withheld from any income tax refund or credit to ~~which~~ the person ~~is entitled~~. Also under current law, a person who is obligated to pay child or family support or maintenance must pay an annual fee of \$25 to DWD, or its designee, to pay administrative costs associated with receiving and disbursing the support or maintenance. The bill provides that, if a person who must pay the receiving and disbursing fee is delinquent in making those payments, the delinquent amount may be withheld from any income tax refund or credit to ~~which~~ the person ~~is entitled~~ upon certification of the delinquency by DWD to DOR. Before the refund or credit may be withheld, however, the person is entitled to a hearing, before the court that issued the order for payment of the receiving and disbursing fee, on whether the person owes the amount that DWD certified to DOR.

Under current law, maintenance and child or family support are collected through wage assignment. The annual receiving and disbursing fee that a person who is obligated to pay maintenance or child or family support must pay to DWD or its designee is also collected through wage assignment if payment of the fee was ordered on or after January 1, 2000. (The annual receiving and disbursing fee is ordered at the same time that a person is ordered to pay maintenance or support, and the obligation to pay the fee continues for as long as the person is obligated to pay maintenance or support.) Annual receiving and disbursing fees ordered before January 1, 2000, are paid by the person in the same manner as the person pays any other bill. Current law provides that, if a person's obligation to pay maintenance, child or family support, or the annual receiving and disbursing fee terminates, but the person has an arrearage in one or more of those payments, the wage assignment shall continue, up to the amount of the assignment before the obligation terminated, until the arrearage is paid in full. ~~This provision applies only~~ to arrearages in annual receiving and disbursing fees ordered on or after January 1, 2000, because only those fees are paid through wage assignment. The bill broadens the provision's application to arrearages in any annual receiving and disbursing fees, regardless of when ordered. The bill provides that, if there is an arrearage after an obligation to pay maintenance, child or family support, or the annual receiving and disbursing fee terminates, any assignment, whether of maintenance, child or family support, or the annual receiving and disbursing fee, continues until the arrearage is paid in full. Thus, if a person was ordered before January 1, 2000, to pay maintenance and the annual receiving and disbursing fee and has an arrearage in the annual receiving and disbursing fee when his or her obligation to pay maintenance and, consequently, the annual receiving and disbursing fee ends, the maintenance assignment is continued until the arrearage in the annual receiving and disbursing fee is paid in full.

*this provision applies only to those fees*

*owed*

*With respect*

*State*

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

(END OF INSERT A)

2001-2002 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0532/?ins  
PJK.....

INSERT 1-9

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

20.445 (3) (kp) *Delinquent support and maintenance payments.* All moneys received from the department of revenue and the department of administration under s. 49.855, except for moneys appropriated under par. (kq), for child support, maintenance, medical expenses or birth expenses, to be distributed in accordance with state law and federal regulations.

**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 1014a, 9126 (19), 9130 (4); 1995 a. 113 s. 2r; 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.

SECTION 2. 20.445 (3) (kq) of the statutes is created to read:

20.445 (3) (kq) *Delinquent receiving and disbursing fees.* All moneys received from the department of revenue and the department of administration under s. 49.855 in withheld delinquent receiving and disbursing fees, for costs associated with receiving and disbursing support and support related payments, including any contract costs.

\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

\*\*\*NOTE: Are the purposes in this appropriation sufficient, or do you also want the purposes related to administering the program under s. 49.22? (See s. 20.445 (3) (ja).)

(END OF INSERT 1-9)

Insert 5-18

Section # 1999 Wisconsin Act 9, section  
9357 (3), is amended to read:

[1999 Wisconsin Act 9] Section 9357 ~~1~~ ~~2~~ ~~3~~ ~~4~~ ~~5~~ ~~6~~ ~~7~~ ~~8~~ ~~9~~ ~~10~~ ~~11~~ ~~12~~ ~~13~~ ~~14~~ ~~15~~ ~~16~~ ~~17~~ ~~18~~ ~~19~~ ~~20~~ ~~21~~ ~~22~~ ~~23~~ ~~24~~ ~~25~~ ~~26~~ ~~27~~ ~~28~~ ~~29~~ ~~30~~ ~~31~~ ~~32~~ ~~33~~ ~~34~~ ~~35~~ ~~36~~ ~~37~~ ~~38~~ ~~39~~ ~~40~~ ~~41~~ ~~42~~ ~~43~~ ~~44~~ ~~45~~ ~~46~~ ~~47~~ ~~48~~ ~~49~~ ~~50~~ ~~51~~ ~~52~~ ~~53~~ ~~54~~ ~~55~~ ~~56~~ ~~57~~ ~~58~~ ~~59~~ ~~60~~ ~~61~~ ~~62~~ ~~63~~ ~~64~~ ~~65~~ ~~66~~ ~~67~~ ~~68~~ ~~69~~ ~~70~~ ~~71~~ ~~72~~ ~~73~~ ~~74~~ ~~75~~ ~~76~~ ~~77~~ ~~78~~ ~~79~~ ~~80~~ ~~81~~ ~~82~~ ~~83~~ ~~84~~ ~~85~~ ~~86~~ ~~87~~ ~~88~~ ~~89~~ ~~90~~ ~~91~~ ~~92~~ ~~93~~ ~~94~~ ~~95~~ ~~96~~ ~~97~~ ~~98~~ ~~99~~ ~~100~~ ~~101~~ ~~102~~ ~~103~~ ~~104~~ ~~105~~ ~~106~~ ~~107~~ ~~108~~ ~~109~~ ~~110~~ ~~111~~ ~~112~~ ~~113~~ ~~114~~ ~~115~~ ~~116~~ ~~117~~ ~~118~~ ~~119~~ ~~120~~ ~~121~~ ~~122~~ ~~123~~ ~~124~~ ~~125~~ ~~126~~ ~~127~~ ~~128~~ ~~129~~ ~~130~~ ~~131~~ ~~132~~ ~~133~~ ~~134~~ 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no 41

(8) Assignment of receiving and disbursing fees. The treatment of sections 767.265(1), (2h) (by Section 3059), and (2r), and 767.29(1)(d)(intro.), 1, and 2, of the statutes and the amendment of section 767.265(1m) of the statutes first apply to annual receiving and disbursing fees that are ordered on the effective date of this subsection.

applies

(end of insert 5-18)

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

LRB-0532/7dn  
PJK.....

PI  
hmk  
+  
jld

Deadline

Robert:

1. Notice that s. 49.855 (3) provides that DOR will foreclose the lien created by certification of the delinquent amount as a setoff under s. 71.93 (3), (6), and (7).<sup>✓</sup> Section 71.93 (3), (6), and (7) does not seem to include the types of amounts certified under s. 49.855 unless they have been submitted by an agency of another state or have been reduced to a judgment (see the definition of "debt"). I have never heard that this is a problem for intercepting delinquent amounts under s. 49.855, however.

2. I amended s. 767.265 (1m)<sup>✓</sup> to say "any assignment under sub. (1)" because receiving and disbursing fees ordered before January 1, 2000, would not be subject to an assignment. Any delinquency in receiving and disbursing fees ordered before January 1, 2000, would have to be collected under s. 767.265 (1m) by continuation of an otherwise terminated assignment for support or maintenance.

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E-mail: pam.kahler@legis.state.wi.us

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

LRB-0532/P1dn  
PJK:hmh&jld:rs

October 5, 2000

Robert:

1. Notice that s. 49.855 (3) provides that DOR will foreclose the lien created by certification of the delinquent amount as a setoff under s. 71.93 (3), (6), and (7). Section 71.93 (3), (6), and (7) does not seem to include the types of amounts certified under s. 49.855 unless they have been submitted by an agency of another state or have been reduced to a judgment (see the definition of "debt"). I have never heard that this is a problem for intercepting delinquent amounts under s. 49.855, however.
2. I amended s. 767.265 (1m) to say "any assignment under sub. (1)" because receiving and disbursing fees ordered before January 1, 2000, would not be subject to an assignment. Any delinquency in receiving and disbursing fees ordered before January 1, 2000, would have to be collected under s. 767.265 (1m) by continuation of an otherwise terminated assignment for support or maintenance.

Pamela J. Kahler  
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01-0532

**Kahler, Pam**

**From:** Blaine, Robert  
**Sent:** Friday, October 06, 2000 11:41 AM  
**To:** Kahler, Pam  
**Subject:** RE: LRB Draft: 01-0532/P1 Collecting delinquent receipt and disbursement fees through tax intercept and changing the initial applicability of continuing an assignment for delinquent receipt and disbursement fees

aahhh -- good point about the PR-S. Your approach does seem appropriate.

With that said, I think we may still want to work with DWD to see if this can be simplified (I'm not much of an idea man on this front). One administrative problem we've run into is that, with the growing complexity of CS appropriations, we (meaning DOA) is not confident that DWD has been using these appropriations appropriately (no pun intended). Personally, I'm concerned that an additional appropriation (whether numeric or alpha) may only make things worse. Since DWD did not suggest a new alpha, perhaps they have an alternative suggestion for how to handle it.

Thanks,  
Robert

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

**From:** Kahler, Pam  
**Sent:** Friday, October 06, 2000 11:30 AM  
**To:** Blaine, Robert  
**Subject:** RE: LRB Draft: 01-0532/P1 Collecting delinquent receipt and disbursement fees through tax intercept and changing the initial applicability of continuing an assignment for delinquent receipt and disbursement fees

Hi, Robert:

Question no. 1: This language is new. It did not come from any previous drafts.

Question no. 2: You know, I started out with an amendment to s. 20.445 (3) (ja) but then discovered s. 20.445 (3) (kp), which deals with all of the other tax-intercepted funds. I realized that because these tax-intercepted funds are coming from another agency (either DOR or DOA) they needed to be shown in a PR-S, rather than a straight PR, appropriation account. Section 20.445 (3) (ja) is appropriate for moneys coming from the payers, rather than from another state agency. But I'm open to other treatments! I also wanted to keep the tax-intercepted fees separate from the other tax-intercepted funds because those funds are distributed out to payees, while the fees are kept and used by the agency for administrative costs.

Question (comment) no. 3: I don't really think it would be appropriate to hold those fees either, but I thought I would ask.

Question (comment) no. 4: Yes, the obligee would be DWD. I think this is okay since the language of s. 767.29 (1) (d) definitely requires that the fee be paid to DWD. The court must order that the fee be withheld from income and sent to DWD. I could add, as in Section 7., "or for deposit in the appropriation account under s. 20.445 (3) (kq)."

Question (comment) no. 5: Same comment as for no. 3.

Question no. 6: Excellent catch! It should be (kq). As I mentioned, I did have the fees go into (ja) at first, and when I changed my mind about the way to handle the appropriation, I forgot to change this cross-reference. Thanks!

I will not make any changes to this draft until I hear from you.

Pam

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

**From:** Blaine, Robert  
**Sent:** Friday, October 06, 2000 10:30 AM  
**To:** Kahler, Pam  
**Cc:** Mansfield, Mark  
**Subject:** RE: LRB Draft: 01-0532/P1 Collecting delinquent receipt and disbursement fees through tax intercept and changing the initial applicability of continuing an assignment for delinquent receipt and disbursement fees

I've sent a copy of the draft to DWD for their comments. I thought I'd offer a few comments & questions, since I'm having to learn some of these issues as I go along. Bear with me if my comments are suggestive of a person who

hasn't ever worked on a statutory draft before, and for whom child support issues are still somewhat of an enigma. I will pass along any comments from DWD when I receive them.

First -- did any of this language already exist in previous drafts? I know DWD pursued a number of statutory modifications through their own bill, though the bill was not taken up. I'm curious if any of this language is new or revised over previous drafts, that is, if such drafts exist.

**Section 2.** Is it necessary to create a new alpha? Why can't we use or modify s. 20.445 (3) (ja), which is where all CR&D fees are currently deposited. My understanding is that DWD already receives some delinquent R&D payments (which go into (ja)), they just can't use tax intercept to get them. I don't see this new alpha (kq) referenced in other parts of the draft, so in terms of other portions of the statutes, I don't see that they require us to make a distinction.

In the event that a new alpha is required, I think the language you have drafted is appropriate and sufficient.

**Section 4** I don't believe the administration would support holding refunds that were inappropriately held in the first place in lieu of future fees. I will be interested, however, to hear the department's feedback on this.

**Section 5** I'm assuming that the language "the department of revenue shall send [the fees to DWD] . . . for distribution to the obligee," that DWD is the obligee? That is, the R&D payment is owed to the department and is not distributed to the recipients of child support payments. By including this in a section which discusses the collection of delinquent support & maintenance, I initially was concerned that the language drafted would send the R&D payment to the child support recipient.

**Section 6** Same comment as with section 4.

**Section 7** If we are creating a new alpha for delinquent R&D fees (i.e., (3) (kq)), shouldn't the reference in this section be (kq) and not (ja)?

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

**From:** Schlueter, Ron  
**Sent:** Thursday, October 05, 2000 11:26 AM  
**To:** Blaine, Robert  
**Cc:** Kraus, Jennifer; Currier, Dawn; Hanaman, Cathlene; Haugen, Caroline  
**Subject:** LRB Draft: 01-0532/P1 Collecting delinquent receipt and disbursement fees through tax intercept and changing the initial applicability of continuing an assignment for delinquent receipt and disbursement fees

Following is the PDF version of draft 01-0532/P1.

<< File: 01-0532/P1 >> << File: 01-0532/P1dn >>

Finally, regarding the R&D debts draft, I've been giving some thought to whether we do need a new alpha appropriation to record the tax-offset CR&D fees. I will defer to the experts as to whether it is necessary to distinguish between fees coming from individuals / payers, and fees being deposited from DOR via tax offset. However, I do know that DWD currently receives a fee for processing tax offset collections, and that fee is deposited in 20.445 (3) (ja) (perhaps inappropriately). One could interpret the language under this section, in my opinion, in such a way that any fees the department collects through its efforts to enforce child support orders should / could be deposited in this appropriation. 532

The department would prefer keeping all of the R&D fee collections in one appropriation and would rather amend 20.445 (3) (ja) to allow them to use the appropriation as such. If this legally is a problem, let me know.



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-0532/1  
PJK:hmh&jld:rs

P2  
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DOA.....Blaine - Collecting delinquent receipt and disbursement fees through tax intercept and changing the initial applicability of continuing an assignment for delinquent receipt and disbursement fees

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

SOON  
(11-3)

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you cost

1 AN ACT relating to: the budget.

*Analysis by the Legislative Reference Bureau*

**HEALTH AND HUMAN SERVICES**

**OTHER HEALTH AND HUMAN SERVICES**

Under current law, if a person owes an outstanding amount for past child or family support or for medical or birth expenses, or is delinquent in making court-ordered child or family support or maintenance payments, the amount that the person owes may be withheld from any state income tax refund or credit owed to the person. Also under current law, a person who is obligated to pay child or family support or maintenance must pay an annual fee of \$25 to DWD, or its designee, ~~for~~ administrative costs associated with receiving and disbursing the support or maintenance. The bill provides that, if a person who must pay the receiving and disbursing fee is delinquent in making those payments, the delinquent amount may be withheld from any income tax refund or credit owed to the person upon certification of the delinquency by DWD to DOR. Before the refund or credit may be withheld, however, the person is entitled to a hearing ~~with the court that issued the order for payment of the receiving and disbursing fee~~, on whether ~~the person~~ owes the amount that DWD certified to DOR.

for

court

he or she

Under current law, maintenance and child or family support are collected through wage assignment. The annual receiving and disbursing fee that a person who is obligated to pay maintenance or child or family support must pay to DWD or its designee is also collected through wage assignment if payment of the fee was ordered on or after January 1, 2000. (The annual receiving and disbursing fee is ordered at the same time that a person is ordered to pay maintenance or support, and the obligation to pay the fee continues for as long as the person is obligated to pay maintenance or support.) Annual receiving and disbursing fees ordered before January 1, 2000, are paid by the person in the same manner as the person pays any other ~~fee~~. Current law provides that, if a person's obligation to pay maintenance, child or family support, or the annual receiving and disbursing fee terminates, but the person has an arrearage in one or more of those payments, the wage assignment shall continue, up to the amount of the assignment before the obligation terminated, until the arrearage is paid in full. With respect to arrearages in annual receiving and disbursing fees, this provision applies only to those fees ordered on or after January 1, 2000, because only those fees are paid through wage assignment. The bill broadens the provision's application to arrearages in any annual receiving and disbursing fees, regardless of when ordered. The bill provides that, if there is an arrearage after an obligation to pay maintenance, child or family support, or the annual receiving and disbursing fee terminates, any assignment, whether of maintenance, child or family support, or the annual receiving and disbursing fee, continues until the arrearage is paid in full. Thus, if a person was ordered before January 1, 2000, to pay maintenance and the annual receiving and disbursing fee and has an arrearage in the annual receiving and disbursing fee when his or her obligation to pay maintenance and, consequently, the annual receiving and disbursing fee ends, the maintenance assignment is continued until the arrearage in the annual receiving and disbursing fee is paid in full.

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) (kp) of the statutes is amended to read:
- 2           20.445 (3) (kp) *Delinquent support and maintenance payments.* All moneys
- 3 received from the department of revenue and the department of administration
- 4 under s. 49.855, except for moneys appropriated under par. (kq), for child support,
- 5 maintenance, medical expenses or birth expenses, to be distributed in accordance
- 6 with state law and federal regulations.

Insert 2-6 →

1 SECTION 2. 20.445 (3) (~~ka~~) of the statutes is created to read:

2 20.445 (3) (~~ka~~) *Delinquent receiving and disbursing fees.* All moneys received  
3 from the department of revenue and the department of administration under s.  
4 49.855 in withheld delinquent receiving and disbursing fees, for costs associated  
5 with receiving and disbursing support and support-related payments, including any  
6 contract costs.

\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

\*\*\*NOTE: Are the purposes in this appropriation sufficient, or do you also want the purposes related to administering the program under s. 49.22? (See s. 20.445 (3) (ja).)

7 SECTION 3. 49.855 (1) of the statutes is amended to read:

8 49.855 (1) If a person obligated to provide child support, family support, or  
9 maintenance or to pay the receiving and disbursing fee under s. 767.29 (1) (d) is  
10 delinquent in making court-ordered payments, or owes an outstanding amount that  
11 has been ordered by the court for past support, medical expenses, or birth expenses,  
12 upon application under s. 59.53 (5) the department of workforce development shall  
13 certify the delinquent payment or outstanding amount to the department of revenue  
14 and, at least annually, shall provide to the department of revenue any certifications  
15 of delinquencies or outstanding amounts that it receives from another state because  
16 the obligor resides in this state.

17 SECTION 4. 49.855 (3) of the statutes is amended to read:

18 49.855 (3) Receipt of a certification by the department of revenue shall  
19 constitute a lien, equal to the amount certified, on any state tax refunds or credits  
20 owed to the obligor. The lien shall be foreclosed by the department of revenue as a  
21 setoff under s. 71.93 (3), (6), and (7). When the department of revenue determines  
22 that the obligor is otherwise entitled to a state tax refund or credit, it shall notify the

1 obligor that the state intends to reduce any state tax refund or credit due the obligor  
2 by the amount the obligor is delinquent under the support ~~or~~ maintenance, or  
3 receiving and disbursing fee order, by the outstanding amount for past support,  
4 medical expenses, or birth expenses under the court order, or by the amount due  
5 under s. 46.10 (4) or 301.12 (4). The notice shall provide that within 20 days the  
6 obligor may request a hearing before the circuit court rendering the order. Within  
7 10 days after receiving a request for hearing under this subsection, the court shall  
8 set the matter for hearing. Pending further order by the court or family court  
9 commissioner, the department of workforce development or its designee, whichever  
10 is appropriate, is prohibited from disbursing the obligor's state tax refund or credit.  
11 The family court commissioner may conduct the hearing. The sole issues at that  
12 hearing shall be whether the obligor owes the amount certified and, if not and it is  
13 a support or maintenance order, whether the money withheld from a tax refund or  
14 credit shall be paid to the obligor or held for future support or maintenance. An  
15 obligor may, within 20 days of receiving notice that the amount certified shall be  
16 withheld from his or her federal tax refund or credit, request a hearing under this  
17 subsection.

~~NOTE: Do you want to provide that, if the court finds that the obligor is not delinquent in paying the fee, the tax refund may be held for paying future fees? Somehow, it does not seem to be in the same category as child support or maintenance.~~

18 SECTION 5. 49.855 (4) of the statutes is amended to read:

19 49.855 (4) The department of revenue shall send that portion of any state or  
20 federal tax refunds or credits withheld for delinquent child support ~~or~~ maintenance,  
21 or receiving and disbursing fees or past support, medical expenses, or birth expenses  
22 to the department of workforce development or its designee for distribution to the  
23 obligee. The department of workforce development shall make a settlement at least

Insert 5-3

1 annually with the department of revenue. The settlement shall state the amounts  
2 certified, the amounts deducted from tax refunds and credits, and the administrative  
3 costs incurred by the department of revenue.

4 SECTION 6. 49.855 (4m) (b) of the statutes is amended to read:

5 49.855 (4m) (b) The department of revenue may provide a certification that it  
6 receives under sub. (1), (2m), or (2p) to the department of administration. Upon  
7 receipt of the certification, the department of administration shall determine  
8 whether the obligor is a vendor or is receiving any other payments from this state,  
9 except for wages, retirement benefits, or assistance under s. 45.352, 1971 stats., s.  
10 45.351 (1), this chapter, or ch. 46, 108, or 301. If the department of administration  
11 determines that the obligor is a vendor or is receiving payments from this state,  
12 except for wages, retirement benefits, or assistance under s. 45.352, 1971 stats., s.  
13 45.351 (1), this chapter, or ch. 46, 108, or 301, it shall begin to withhold the amount  
14 certified from those payments and shall notify the obligor that the state intends to  
15 reduce any payments due the obligor by the amount the obligor is delinquent under  
16 the support or maintenance, or receiving and disbursing fee order, by the  
17 outstanding amount for past support, medical expenses, or birth expenses under the  
18 court order, or by the amount due under s. 46.10 (4) or 301.12 (4). The notice shall  
19 provide that within 20 days after receipt of the notice the obligor may request a  
20 hearing before the circuit court rendering the order. An obligor may, within 20 days  
21 after receiving notice, request a hearing under this paragraph. Within 10 days after  
22 receiving a request for hearing under this paragraph, the court shall set the matter  
23 for hearing. The family court commissioner may conduct the hearing. Pending  
24 further order by the court or family court commissioner, the department of workforce  
25 development or its designee, whichever is appropriate, may not disburse the

1 payments withheld from the obligor. The sole issues at the hearing are whether the  
2 obligor owes the amount certified and, if not and it is a support or maintenance order,  
3 whether the money withheld shall be paid to the obligor or held for future support  
4 or maintenance.

\*\*\*NOTE: Same question as in note after s. 49.855 (3).

5 SECTION 7. 49.855 (4m) (c) of the statutes is amended to read:

6 49.855 (4m) (c) Except as provided by order of the court after hearing under  
7 par. (b), the department of administration shall continue withholding until the  
8 amount certified is recovered in full. The department of administration shall  
9 transfer the amounts withheld under this paragraph to the department of workforce  
10 development or its designee, the department of health and family services, or the  
11 department of corrections, whichever is appropriate. The department of workforce  
12 development or its designee shall <sup>deposit</sup> distribute amounts withheld for delinquent child  
13 or family support <sup>or</sup> maintenance <sup>or</sup> past support, medical expenses, or birth  
14 expenses to the obligee ~~the obligor or the obligee~~  
15 ~~in the appropriation account under s. 20.445 (3)~~ in the appropriation account under s. 20.445 (3)

receiving and disbursing fees

16 SECTION 8. 767.265 (1m) of the statutes is amended to read:

17 767.265 (1m) If a party's current obligation to pay maintenance, child support,  
18 spousal support, family support, or the annual receiving and disbursing fee  
19 terminates but the party has an arrearage in the payment of one or more of those  
20 payments, the any assignment under sub. (1) shall continue in effect, in an amount  
21 up to the amount of the assignment before the party's current obligation terminated,  
22 until the arrearage is paid in full.

23 SECTION 9. 1999 Wisconsin Act 9, section 9357 (3), is amended to read:

1           [1999 Wisconsin Act 9] Section 9357 (3) ASSIGNMENT OF RECEIVING AND  
2           DISBURSING FEES. The treatment of sections 767.265 (1), (2h) (by SECTION 3059) and  
3           (2r) and 767.29 (1) (d) (intro.), 1. and 2. ~~of the statutes and the amendment of section~~  
4           ~~767.265 (1m)~~ of the statutes first ~~apply~~ applies to annual receiving and disbursing  
5           fees that are ordered on the effective date of this subsection.

6

(END)

2001-2002 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0532/P2ins  
PJK:hmh&jld:rs

INSERT 2-6

<sup>X</sup>  
SECTION 1. 20.445 (3) (ja) of the statutes is amended to read:

20.445 (3) (ja) *Child support state operations — fees.* All moneys received from fees charged under s. 49.22 (8), from fees ordered under s. 767.29 (1) (d), from fees collected under s. 767.29 (1) (dm) 1m. ~~and~~, from fees charged and incentive payments and collections retained under s. 49.22 (7m), and from the <sup>✓</sup>department of revenue under s. 49.855 that were withheld for unpaid fees ordered under s. 767.29 (1) (d), for costs associated with receiving and disbursing support and support-related payments, including any contract costs, and for administering the program under s. 49.22 and all other purposes specified in s. 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.

SECTION 2. 20.445 (3) (kp) of the statutes is amended to read:

20.445 (3) (kp) *Delinquent support ~~and~~, maintenance, and fee payments.* All moneys received from ~~the department of revenue and the department of administration under s. 49.855 that were withheld~~ for child support, family support, maintenance, medical expenses, or birth expenses, to be distributed in accordance with state law and federal regulations, and that were withheld for unpaid fees ordered under s. 767.29 (1) (d), for costs associated with receiving and disbursing support and support-related payments, including any contract costs.

**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.

\*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

<sup>X</sup>  
SECTION 3. 20.445 (3) (r) of the statutes is amended to read:

20.445 (3) (r) *Support receipt and disbursement program; payments.* From the support collections trust fund, all moneys received under s. 49.854, except for moneys received under s. 49.854 (11) (b), all moneys received under ss. 767.265 and 767.29 for child or family support, maintenance, spousal support, health care expenses, or birth expenses, and all other moneys received under judgments or orders in actions affecting the family, as defined in s. 767.02 (1), and all moneys received under s. 49.855 that were withheld for delinquent child support, family support, or maintenance or outstanding court-ordered amounts for past support, medical expenses, or birth expenses, for disbursement to the persons for whom the payments are awarded, for returning seized funds under s. 49.854 (5) (f) and, if assigned under s. 46.261, 48.57 (3m) (b) 2. or (3n) (b) 2., 49.145 (2) (s), 49.19 (4) (h) 1. b. or 49.775 (2) (bm), for transfer to the appropriation account under par. (k). Estimated disbursements under this paragraph shall not be included in the schedule under s. 20.005.

From the Department of Revenue

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, 192, 191, 235, 236, 237, 252; 1999 a. 9 ss. 270, 458 to 478; 1999 a. 15, 32.

**SECTION 4. 25.68 (4) of the statutes is created to read:**

25.68 (4) All moneys received from the department of revenue under s. 49.855 that were withheld for delinquent child support, family support, or maintenance or outstanding court-ordered amounts for past support, medical expenses, or birth expenses.

(END OF INSERT 2-6)

**INSERT 5-3**

\*\*\*NOTE: I'm confused about the last sentence of this subsection. Is DOR able to withhold amounts from a person's federal tax refund?



*Ins. 5-3 contd.*

**SECTION 5.** 49.855 (4)<sup>✓</sup> of the statutes is amended to read:

49.855 (4) The department of revenue shall send that the portion of any state or federal tax refunds or credits withheld for delinquent child or family support or maintenance or past support, medical expenses, or birth expenses to the department of workforce development or its designee for ~~distribution to the obligee~~ deposit in the support collections trust fund under s. 25.68<sup>✓</sup> and shall send the portion of any state or federal tax refunds or credits withheld for delinquent receiving and disbursing fees to the department of workforce development or its designee for deposit in the appropriation account under s. 20.445 (3) (ja)<sup>✓</sup>. The department of workforce development shall make a settlement at least annually with the department of revenue. The settlement shall state the amounts certified, the amounts deducted from tax refunds and credits, and the administrative costs incurred by the department of revenue.

**History:** 1981 c. 20, 391; 1983 a. 27; 1987 a. 27; 1987 a. 312 s. 17; 1987 a. 421; 1989 a. 31; 1989 a. 56 s. 259; 1991 a. 39; 1993 a. 16, 481; 1995 a. 27 s. 9126 (19); 1995 a. 201, 227, 279; 1995 a. 404 ss. 50 to 59; Stats. 1995 s. 49.855; 1997 a. 3, 27, 35, 237, 252; 1999 a. 9, 32.<sup>✓</sup>  
\*\*\*\*NOTE: Same comment as after s. 49.855 (3).

(END OF INSERT 5-3)



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-0532/P2  
PJK:hmh&jld:jf

DOA:.....Blaine - Collecting delinquent receipt and disbursement fees through tax intercept and changing the initial applicability of continuing an assignment for delinquent receipt and disbursement fees

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

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*Analysis by the Legislative Reference Bureau*

**HEALTH AND HUMAN SERVICES**

**OTHER HEALTH AND HUMAN SERVICES**

Under current law, if a person owes an outstanding amount for past child or family support or for medical or birth expenses, or is delinquent in making court-ordered child or family support or maintenance payments, the amount that the person owes may be withheld from any state income tax refund or credit owed to the person. Also under current law, a person who is obligated to pay child or family support or maintenance must pay an annual fee of \$25 to DWD, or its designee, for administrative costs associated with receiving and disbursing the support or maintenance. The bill provides that, if a person who must pay the receiving and disbursing fee is delinquent in making those payments, the delinquent amount may be withheld from any income tax refund or credit owed to the person upon certification of the delinquency by DWD to DOR. Before the refund or credit may be withheld, however, the person is entitled to a court hearing on whether he or she owes the amount that DWD certified to DOR.

Under current law, maintenance and child or family support are collected through wage assignment. The annual receiving and disbursing fee that a person

who is obligated to pay maintenance or child or family support must pay to DWD or its designee is also collected through wage assignment if payment of the fee was ordered on or after January 1, 2000. (The annual receiving and disbursing fee is ordered at the same time that a person is ordered to pay maintenance or support, and the obligation to pay the fee continues for as long as the person is obligated to pay maintenance or support.) Annual receiving and disbursing fees ordered before January 1, 2000, are paid by the person in the same manner as the person pays any other obligation. Current law provides that, if a person's obligation to pay maintenance, child or family support, or the annual receiving and disbursing fee terminates, but the person has an arrearage in one or more of those payments, the wage assignment shall continue, up to the amount of the assignment before the obligation terminated, until the arrearage is paid in full. With respect to arrearages in annual receiving and disbursing fees, this provision applies only to those fees ordered on or after January 1, 2000, because only those fees are paid through wage assignment. The bill broadens the provision's application to arrearages in any annual receiving and disbursing fees, regardless of when ordered. The bill provides that, if there is an arrearage after an obligation to pay maintenance, child or family support, or the annual receiving and disbursing fee terminates, any assignment, whether of maintenance, child or family support, or the annual receiving and disbursing fee, continues until the arrearage is paid in full. Thus, if a person was ordered before January 1, 2000, to pay maintenance and the annual receiving and disbursing fee and has an arrearage in the annual receiving and disbursing fee when his or her obligation to pay maintenance and, consequently, the annual receiving and disbursing fee ends, the maintenance assignment is continued until the arrearage in the annual receiving and disbursing fee is paid in full.

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

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*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), 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), and from the department of revenue  
6 under s. 49.855 that were withheld for unpaid fees ordered under s. 767.29 (1) (d),  
7 for costs associated with receiving and disbursing support and support-related

1 payments, including any contract costs, and for administering the program under s.  
2 49.22 and all other purposes specified in s. 49.22.

3 SECTION 2. 20.445 (3) (kp) of the statutes is amended to read:

4 20.445 (3) (kp) *Delinquent support and, maintenance, and fee payments.* All  
5 moneys received from ~~the department of revenue and the department of~~  
6 administration under s. 49.855 that were withheld for child support, family support,  
7 maintenance, medical expenses, or birth expenses, to be distributed in accordance  
8 with state law and federal regulations, and that were withheld for unpaid fees  
9 ordered under s. 767.29 (1) (d), for costs associated with receiving and disbursing  
10 support and support-related payments, including any contract costs.

\*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

11 SECTION 3. 20.445 (3) (r) of the statutes is amended to read:

12 20.445 (3) (r) *Support receipt and disbursement program; payments.* From the  
13 support collections trust fund, all moneys received under s. 49.854, except for moneys  
14 received under s. 49.854 (11) (b), all moneys received under ss. 767.265 and 767.29  
15 for child or family support, maintenance, spousal support, health care expenses, or  
16 birth expenses, ~~and~~ all other moneys received under judgments or orders in actions  
17 affecting the family, as defined in s. 767.02 (1), and all moneys received from the  
18 department of revenue under s. 49.855 that were withheld for delinquent child  
19 support, family support, or maintenance or outstanding court-ordered amounts for  
20 past support, medical expenses, or birth expenses, for disbursement to the persons  
21 for whom the payments are awarded, for returning seized funds under s. 49.854 (5)  
22 (f), and, if assigned under s. 46.261, 48.57 (3m) (b) 2. or (3n) (b) 2., 49.145 (2) (s), 49.19  
23 (4) (h) 1. b., or 49.775 (2) (bm), for transfer to the appropriation account under par.

**SECTION 3**

1 (k). Estimated disbursements under this paragraph shall not be included in the  
2 schedule under s. 20.005.

3 **SECTION 4.** 25.68 (4) of the statutes is created to read:

4 25.68 (4) All moneys received from the department of revenue under s. 49.855  
5 that were withheld for delinquent child support, family support, or maintenance or  
6 outstanding court-ordered amounts for past support, medical expenses, or birth  
7 expenses.

8 **SECTION 5.** 49.855 (1) of the statutes is amended to read:

9 49.855 (1) If a person obligated to provide child support, family support, or  
10 maintenance or to pay the receiving and disbursing fee under s. 767.29 (1) (d) is  
11 delinquent in making court-ordered payments, or owes an outstanding amount that  
12 has been ordered by the court for past support, medical expenses, or birth expenses,  
13 upon application under s. 59.53 (5) the department of workforce development shall  
14 certify the delinquent payment or outstanding amount to the department of revenue  
15 and, at least annually, shall provide to the department of revenue any certifications  
16 of delinquencies or outstanding amounts that it receives from another state because  
17 the obligor resides in this state.

18 **SECTION 6.** 49.855 (3) of the statutes is amended to read:

19 49.855 (3) Receipt of a certification by the department of revenue shall  
20 constitute a lien, equal to the amount certified, on any state tax refunds or credits  
21 owed to the obligor. The lien shall be foreclosed by the department of revenue as a  
22 setoff under s. 71.93 (3), (6), and (7). When the department of revenue determines  
23 that the obligor is otherwise entitled to a state tax refund or credit, it shall notify the  
24 obligor that the state intends to reduce any state tax refund or credit due the obligor  
25 by the amount the obligor is delinquent under the support ~~or~~, maintenance, or

1 receiving and disbursing fee order, by the outstanding amount for past support,  
2 medical expenses, or birth expenses under the court order, or by the amount due  
3 under s. 46.10 (4) or 301.12 (4). The notice shall provide that within 20 days the  
4 obligor may request a hearing before the circuit court rendering the order. Within  
5 10 days after receiving a request for hearing under this subsection, the court shall  
6 set the matter for hearing. Pending further order by the court or family court  
7 commissioner, the department of workforce development or its designee, whichever  
8 is appropriate, is prohibited from disbursing the obligor's state tax refund or credit.  
9 The family court commissioner may conduct the hearing. The sole issues at that  
10 hearing shall be whether the obligor owes the amount certified and, if not and it is  
11 a support or maintenance order, whether the money withheld from a tax refund or  
12 credit shall be paid to the obligor or held for future support or maintenance. An  
13 obligor may, within 20 days of receiving notice that the amount certified shall be  
14 withheld from his or her federal tax refund or credit, request a hearing under this  
15 subsection.

\*\*\*\*NOTE: I'm confused about the last sentence of this subsection. Is DOR able to withhold amounts from a person's federal tax refund?

16 **SECTION 7.** 49.855 (4) of the statutes is amended to read:

17 49.855 (4) The department of revenue shall send ~~that~~ the portion of any state  
18 or federal tax refunds or credits withheld for delinquent child or family support or  
19 maintenance or past support, medical expenses, or birth expenses to the department  
20 of workforce development or its designee for ~~distribution to the obligee~~ deposit in the  
21 support collections trust fund under s. 25.68 and shall send the portion of any state  
22 or federal tax refunds or credits withheld for delinquent receiving and disbursing  
23 fees to the department of workforce development or its designee for deposit in the

1 appropriation account under s. 20.445 (3) (ja). The department of workforce  
2 development shall make a settlement at least annually with the department of  
3 revenue. The settlement shall state the amounts certified, the amounts deducted  
4 from tax refunds and credits, and the administrative costs incurred by the  
5 department of revenue.

\*\*\*NOTE: Same comment as after s. 49.855 (3).

6 **SECTION 8.** 49.855 (4m) (b) of the statutes is amended to read:

7 49.855 (4m) (b) The department of revenue may provide a certification that it  
8 receives under sub. (1), (2m), or (2p) to the department of administration. Upon  
9 receipt of the certification, the department of administration shall determine  
10 whether the obligor is a vendor or is receiving any other payments from this state,  
11 except for wages, retirement benefits, or assistance under s. 45.352, 1971 stats., s.  
12 45.351 (1), this chapter, or ch. 46, 108, or 301. If the department of administration  
13 determines that the obligor is a vendor or is receiving payments from this state,  
14 except for wages, retirement benefits, or assistance under s. 45.352, 1971 stats., s.  
15 45.351 (1), this chapter, or ch. 46, 108, or 301, it shall begin to withhold the amount  
16 certified from those payments and shall notify the obligor that the state intends to  
17 reduce any payments due the obligor by the amount the obligor is delinquent under  
18 the support ~~or~~, maintenance, or receiving and disbursing fee order, by the  
19 outstanding amount for past support, medical expenses, or birth expenses under the  
20 court order, or by the amount due under s. 46.10 (4) or 301.12 (4). The notice shall  
21 provide that within 20 days after receipt of the notice the obligor may request a  
22 hearing before the circuit court rendering the order. An obligor may, within 20 days  
23 after receiving notice, request a hearing under this paragraph. Within 10 days after  
24 receiving a request for hearing under this paragraph, the court shall set the matter

1 for hearing. The family court commissioner may conduct the hearing. Pending  
2 further order by the court or family court commissioner, the department of workforce  
3 development or its designee, whichever is appropriate, may not disburse the  
4 payments withheld from the obligor. The sole issues at the hearing are whether the  
5 obligor owes the amount certified and, if not and it is a support or maintenance order,  
6 whether the money withheld shall be paid to the obligor or held for future support  
7 or maintenance.

8 **SECTION 9.** 49.855 (4m) (c) of the statutes is amended to read:

9 49.855 (4m) (c) Except as provided by order of the court after hearing under  
10 par. (b), the department of administration shall continue withholding until the  
11 amount certified is recovered in full. The department of administration shall  
12 transfer the amounts withheld under this paragraph to the department of workforce  
13 development or its designee, the department of health and family services, or the  
14 department of corrections, whichever is appropriate. The department of workforce  
15 development or its designee shall ~~distribute~~ deposit amounts withheld for  
16 delinquent child or family support ~~or, maintenance, or receiving and disbursing fees~~  
17 or past support, medical expenses, or birth expenses ~~to the obligee in the~~  
18 appropriation account under s. 20.445 (3) (kp).

19 **SECTION 10.** 767.265 (1m) of the statutes is amended to read:

20 767.265 (1m) If a party's current obligation to pay maintenance, child support,  
21 spousal support, family support, or the annual receiving and disbursing fee  
22 terminates but the party has an arrearage in the payment of one or more of those  
23 payments, ~~the~~ any assignment under sub. (1) shall continue in effect, in an amount  
24 up to the amount of the assignment before the party's current obligation terminated,  
25 until the arrearage is paid in full.

