

**2005 DRAFTING REQUEST****Senate Amendment (SA-SB369)**Received: **01/20/2006**Received By: **pkahler**Wanted: **Soon**

Identical to LRB:

For: **Carol Roessler (608) 266-5300**By/Representing: **Jennifer Stegall**This file may be shown to any legislator: **NO**Drafter: **pkahler**

May Contact:

Addl. Drafters:

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

Extra Copies:

Submit via email: **YES**Requester's email: **Sen.Roessler@legis.state.wi.us**

Carbon copy (CC:) to:

**Pre Topic:**

No specific pre topic given

**Topic:**

Issue of ability to pay if father's income below poverty

**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>
/?	pkahler 01/20/2006	jdye 01/23/2006		_____			
/1			jfrantze 01/23/2006	_____	sbasford 01/23/2006	sbasford 01/23/2006	

FE Sent For:

&lt;END&gt;

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/?	pkahler	1/23/06		J Self			

FE Sent For:

<END>

1-20

Jennings (Sen Roessler)

needs some amend to SB 369

as amend to AB 751

(companion bills)

amend adds father's ability to pay  
as an issue if determined  
that his income is below pov. line

→ (in hearing on tax refund intercept)



State of Wisconsin  
2005 - 2006 LEGISLATURE

2122/1  
LRBa2064/1

PJK/jd/pg  
Stays

SENATE  
ASSEMBLY AMENDMENT,  
TO 2005 ASSEMBLY BILL 751

SOM  
(in 1-20)

SENATE

369

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

2 1. Page 2, line 1: before that line insert:

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

4 49.855 (3) Receipt of a certification by the department of revenue shall

5 constitute a lien, equal to the amount certified, on any state tax refunds or credits

6 owed to the obligor. The lien shall be foreclosed by the department of revenue as a

7 setoff under s. 71.93 (3), (6), and (7). When the department of revenue determines

8 that the obligor is otherwise entitled to a state tax refund or credit, it shall notify the

9 obligor that the state intends to reduce any state tax refund or credit due the obligor

10 by the amount the obligor is delinquent under the support, maintenance, or receiving

11 and disbursing fee order or obligation, by the outstanding amount for past support,

12 medical expenses, or birth expenses under the court order, or by the amount due

13 under s. 46.10 (4) or 301.12 (4). The notice shall provide that within 20 days the

1 obligor may request a hearing before the circuit court rendering the order under  
2 which the obligation arose. Within 10 days after receiving a request for hearing  
3 under this subsection, the court shall set the matter for hearing. Pending further  
4 order by the court or a circuit court commissioner, the department of workforce  
5 development or its designee, whichever is appropriate, is prohibited from disbursing  
6 the obligor's state tax refund or credit. A circuit court commissioner may conduct the  
7 hearing. The sole issues at that hearing shall be whether the obligor owes the  
8 amount certified and, if not and it is a support or maintenance order, whether the  
9 money withheld from a tax refund or credit shall be paid to the obligor or held for  
10 future support or maintenance, except that the obligor's ability to pay shall also be  
11 an issue at the hearing if the obligation relates to an order under s. 767.51 (3) (e) 1.  
12 or 767.62 (4) (d) 1. and the order specifies that the court found that the obligor's  
13 income was at or below the poverty line established under 42 USC 9902 (2).

14 **SECTION 1h.** 49.855 (4m) (b) of the statutes is amended to read:

15 49.855 (4m) (b) The department of revenue may provide a certification that it  
16 receives under sub. (1), (2m), or (2p) to the department of administration. Upon  
17 receipt of the certification, the department of administration shall determine  
18 whether the obligor is a vendor or is receiving any other payments from this state,  
19 except for wages, retirement benefits, or assistance under s. 45.352, 1971 stats., s.  
20 45.40 (1), this chapter, or ch. 46, 108, or 301. If the department of administration  
21 determines that the obligor is a vendor or is receiving payments from this state,  
22 except for wages, retirement benefits, or assistance under s. 45.352, 1971 stats., s.  
23 45.40 (1), this chapter, or ch. 46, 108, or 301, it shall begin to withhold the amount  
24 certified from those payments and shall notify the obligor that the state intends to  
25 reduce any payments due the obligor by the amount the obligor is delinquent under

1 the support, maintenance, or receiving and disbursing fee order or obligation, by the  
2 outstanding amount for past support, medical expenses, or birth expenses under the  
3 court order, or by the amount due under s. 46.10 (4) or 301.12 (4). The notice shall  
4 provide that within 20 days after receipt of the notice the obligor may request a  
5 hearing before the circuit court rendering the order under which the obligation arose.  
6 An obligor may, within 20 days after receiving notice, request a hearing under this  
7 paragraph. Within 10 days after receiving a request for hearing under this  
8 paragraph, the court shall set the matter for hearing. A circuit court commissioner  
9 may conduct the hearing. Pending further order by the court or circuit court  
10 commissioner, the department of workforce development or its designee, whichever  
11 is appropriate, may not disburse the payments withheld from the obligor. The sole  
12 issues at the hearing are whether the obligor owes the amount certified and, if not  
13 and it is a support or maintenance order, whether the money withheld shall be paid  
14 to the obligor or held for future support or maintenance, except that the obligor's  
15 ability to pay is also an issue at the hearing if the obligation relates to an order under  
16 s. 767.51 (3) (e) 1. or 767.62 (4) (d) 1. and the order specifies that the court found that  
17 the obligor's income was at or below the poverty line established under 42 USC 9902  
18 (2)."

19 **2.** Page 2, line 1: delete <sup>✓</sup>“SECTION 1” and substitute “SECTION 1s”.

20 **3.** Page 2, line 7: on lines 7 and 20, after “specify” insert “the court's findings  
21 as to whether the father's income is at or below the poverty line established under  
22 42 USC 9902 (2), and shall specify”.

23 (END)