DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0235/1dn
PJK:...

date

This draft contains the following changes to the last version of 2009 LRB-4430:

1. I have deleted the treatment of s. 49.22 (2m) (am), (b), and (bc) from the draft.

2. I have added a cross-reference to proposed s. 767.804 to s. 767.80 (6m) and a cross-reference to proposed s. 891.407 to s. 938.396 (2g) (g).

3. I have added an effective date for the paternity determination in proposed s. 767.804 (1) (a) (intro.).

4. I have added cross-references to ss. 767.855 and 767.863 to s. 767.84 (1) (a) (intro.).

5. I have amended s. 767.855 and added those changes to the initial applicability provision.

6. I have accounted for 2009 Wisconsin Act 321, which affected s. 767.80 (5m), which is treated in this draft.

Do you want to amend s. 891.405 to say that the presumption applies if no other man is presumed to be the father under s. 891.407 [as well as under s. 891.41 (1)]?

Let me know if you want any other changes.

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0235/P1dn
PJK:jld:ph

October 14, 2010

This draft contains the following changes to the last version of 2009 LRB-4430:

1. I have deleted the treatment of s. 49.22 (2m) (am), (b), and (bc) from the draft.

2. I have added a cross-reference to proposed s. 767.804 in s. 767.80 (6m) and a cross-reference to proposed s. 891.407 in s. 938.396 (2g) (g).

3. I have added an effective date for the paternity determination in proposed s. 767.804 (1) (a) (intro.).

4. I have added exceptions to ss. 767.855 and 767.863 in s. 767.84 (1) (a) (intro.).

5. I have amended s. 767.855 and added those changes to the initial applicability provision.

6. I have accounted for 2009 Wisconsin Act 321, which affected s. 767.80 (5m), which is treated in this draft.

Do you want to amend s. 891.405 to say that the presumption under that section applies if no other man is presumed to be the father under s. 891.407 [as well as under s. 891.41 (1)]?

Let me know if you want any other changes.

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

LRB-0235

Kahler, Pam

From: Chesnik, Connie - DCF [Connie.Chesnik@wisconsin.gov]
Sent: Wednesday, December 15, 2010 4:13 PM
To: Kahler, Pam
Subject: RE: Admin paternity

Hi Pam,

I think we need language in our draft similar to s.767.89(3). I don't think we need it in the VPA lanaguage in 767.805 because that is a voluntary process initiated by both parents. Our process is more like the judicial process in the sense that the parties don't initiate the paternity establishment and I want to make sure their rights are the same as what they would have had in a judicial process. If the parties to a VPA can't agree on a name change, then they shouldn't be using the VPA process.

I have been trying to get the State Bar Family Law Section's comments on this draft for months. They now tell me that they met yesterday. I'm hoping to get their comments soon. Of course, that doesn't mean we will make changes to the draft. What is your schedule next week? If I can give them a few days to get their comments in, I'll hold off and confirm with you whether there should be any additional changes. Otherwise, we'll just make this one change and have it jacketed.

Thanks,

Connie

Connie M. Chesnik
Attorney
Department of Children and Families
ph: 608-267-7295
cell: 608-692-7379
fax: 608-261-6972
email: connie.chesnik@wisconsin.gov

From: Kahler, Pam [mailto:Pam.Kahler@legis.wisconsin.gov]
Sent: Wednesday, December 15, 2010 3:57 PM
To: Chesnik, Connie - DCF
Subject: RE: Admin paternity

Connie:

For no. 2, I agree that s. 767.84 (5) (b) covers that situation.
For no. 1, I'm not sure what you want. Do you want the order under s. 767.804 (3) to include a change in the child's name, similar to s. 767.89 (3m)? How does it work when paternity is based on voluntary acknowledgment? The order under s. 767.805 (4) does not include changing the child's name, either.

Pam

From: Chesnik, Connie - DCF [mailto:Connie.Chesnik@wisconsin.gov]
Sent: Wednesday, December 15, 2010 3:06 PM
To: Kahler, Pam
Subject: Admin paternity

Hi Pam,

I'm going over the administrative paternity draft one more time and want to check on two issues to see if we need to address them in the draft:

1. Name changes. 767.89(3m)(c) provides that s.786.36, the statutory provisions on changing names, doesn't apply in a paternity action. Do we need to add that cross reference to the administrative paternity provisions as well?

2. Our county agencies want to make sure that if someone objects to the tests and we have to start a paternity action, that any subsequent tests would have to be paid for by the requester and that they couldn't make the argument that subsequent tests were really the 1st set of tests under the paternity action. I think that's covered already because s.767.84(5)(b) already provides that prepayment is required for 2 or more tests even if the tests were oredered under s.49.225, the administrative subpoena provisions.

Thanks!

Connie

Connie M. Chesnik

Attorney
Department of Children and Families
ph: 608-267-7295
cell: 608-692-7379
fax: 608-261-6972
email: connie.chesnik@wisconsin.gov

Kahler, Pam

From: Chesnik, Connie - DCF [Connie.Chesnik@wisconsin.gov]
Sent: Friday, January 07, 2011 12:43 PM
To: Kahler, Pam
Subject: RE: Administrative paternity

Hi Pam,

Ok, I think we have a tentative deal:) The Family Law Section noted that it's not real clear how much time a party has to object to test results. They're supposed to object before the day we file the results with vital records. It's not clear that that is 10 days. They would actually like it to be 30 and we're willing to compromise at 15. Would you please make that one change and then we're ready to go.

Michael Blumenfeld, the lobbyist for the child support enforcement association, is setting up a meeting next week with Rep. Kestell as we'll need a Republican sponsor. Rep. Seidel is aware of that. If the draft is out by then, great, but either way we can still meet with him to discuss the proposal.

Thanks! Have a good weekend.

Connie

Connie M. Chesnik
Attorney
608-267-7295 (office)
608-692-7379 (cell)
connie.chesnik@wisconsin.gov

From: Kahler, Pam [Pam.Kahler@legis.wisconsin.gov]
Sent: Tuesday, January 04, 2011 3:51 PM
To: Chesnik, Connie - DCF
Subject: RE: Administrative paternity

Thanks for letting me know.

From: Chesnik, Connie - DCF [mailto:Connie.Chesnik@wisconsin.gov]
Sent: Tuesday, January 04, 2011 3:47 PM
To: Kahler, Pam
Subject: RE: Administrative paternity

Hi Pam,

I was able to negotiate with the Section on all but one of their issues. The Child Support Association isn't willing to compromise and I don't' think we can get the bill passed if we don't, so I'm working on it:) I hope to be in touch soon!

Thanks,

Connie

Connie M. Chesnik
Attorney
Department of Children and Families
ph: 608-267-7295
cell: 608-692-7379
fax: 608-261-6972
email: connie.chesnik@wisconsin.gov

From: Kahler, Pam [mailto:Pam.Kahler@legis.wisconsin.gov]

Sent: Tuesday, January 04, 2011 10:41 AM
To: Chesnik, Connie - DCF
Subject: Administrative paternity

Hi, Connie:

Are we still waiting for some comments from the State Bar, or do you want me to send the draft to editing?

Pam

Pamela J. Kahler
Legislative Attorney
Legislative Reference Bureau
608-266-2682

State of Wisconsin
2011 - 2012 LEGISLATURE

LRB-0235/~~P1~~ 1
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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

(in 1-7)

LPS-PRINT W/ LINE NUMBERS

regenerate

AN ACT ***to renumber and amend*** 49.141 (1) (i), 767.84 (1) (a) and 767.855; ***to amend*** 48.02 (13), 48.27 (5), 48.396 (2) (dm), 48.42 (4) (b) 2., 48.837 (4) (e), 48.91 (2), 49.225 (2) (a), 49.855 (3), 49.855 (4m) (b), 69.15 (3) (a) (intro.), 69.15 (3) (a) 3., 565.30 (5m) (a), 767.407 (1) (c) (intro.), 767.41 (1) (b), 767.41 (1m) (intro.), 767.44 (1), 767.511 (1) (intro.), 767.511 (5), 767.513 (2), 767.55 (1), 767.55 (2) (am) (intro.), 767.55 (3) (a) 1., 767.55 (3) (d), 767.55 (4) (b) (intro.), 767.59 (2s), 767.73 (1) (a), 767.75 (1) (b), 767.77 (1), 767.78 (1), 767.80 (1) (intro.), 767.80 (1) (c), 767.80 (5m), 767.80 (5m), 767.80 (6m), 767.82 (2), 767.82 (2m), 767.87 (8), 802.12 (3) (d) 1., 802.12 (3) (d) 3., 808.075 (4) (d) 9., 808.075 (4) (d) 10., 852.05 (2), 938.02 (13), 938.27 (5) and 938.396 (2g) (g); and ***to create*** 49.141 (1) (i) 3., 49.141 (1) (j) 6., 767.80 (1) (hm), 767.804, 767.84 (1) (a) 1., 767.84 (1) (a) 2., 767.84 (1) (a) 3., 767.855 (1), 767.855 (2), 769.201 (7m) and 891.407 of the statutes; **relating to:** presumption and conclusive determination of paternity

on basis of genetic test results and orders that may be granted on the basis of genetic test results.

Analysis by the Legislative Reference Bureau

Under current law, a man may be adjudicated to be a child's father in a paternity action. In addition, a man and a child's mother may sign and file with the state registrar a form called a statement acknowledging paternity. Both cases result in a conclusive determination that the man is the child's father, and the state registrar may change the child's birth certificate to show the man as the child's father and a court may enter orders for child support, legal custody, and physical placement rights with respect to the man. Current law also contains presumptions of paternity. There is a presumption (marriage presumption) that a man is the father of a child if he and the child's mother were married when the child was conceived or born or if he and child's mother married after the child was born but had a relationship during the time within which the child was conceived and no other man has been adjudicated to be the father or is presumed to be the father because he was married to the child's mother when the child was conceived or born. There is also a presumption (statement acknowledging paternity presumption) that a man is a child's father if he and the child's mother signed and filed a statement acknowledging paternity with the state registrar and no other man is presumed to be the child's father under the marriage presumption.

This bill creates another way for a man to be conclusively determined to be a child's father, with the same effect as a paternity judgment. Under the bill, a man is conclusively determined to be a child's father if all of the following are satisfied: 1) genetic tests are performed with respect to the child, the child's mother, and the man and the test results show that the man is not excluded as the father and the statistical probability that he is the father is 99 percent or higher; 2) both the mother and the man are at least 18 years old; 3) there is no marriage or statement acknowledging paternity presumption; and 4) the genetic tests were performed in response to a subpoena issued by a county child support agency (child support agency) requiring the parties to submit to the tests. If all of those requirements are satisfied, the child support agency must send notice to the parties advising of the test results, that an action may be commenced for orders related to child support, legal custody, and physical placement, and that the man may submit to the child support agency a written objection to the test results. If the man submits an objection, the child support agency must commence a paternity action on behalf of the state and the test results are admissible in the action. If the man does not submit an objection by the time specified in the notice, the child support agency must file with the state registrar a report of the test results, showing a conclusive determination of paternity. On the basis of the report, the state registrar must insert the name of the father on the child's original birth certificate if the father's name was omitted.

Under the bill, if genetic test results conclusively determine a man to be a child's father, an action may be brought for child support, legal custody, and physical

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and change the child's name upon the request of one or both of the parties

placement. The court may also require the man to pay or contribute to the reasonable expenses of the mother's pregnancy and require either the man or mother to pay or contribute to the other party's attorney fees. In addition, the bill creates a presumption that a man is a child's father if all of the requirements under the bill are satisfied for conclusively determining a man to be a child's father on the basis of genetic test results and no other man is presumed to be the child's father under the marriage or statement acknowledging paternity presumption.

The bill also makes other modifications related to genetic testing and paternity adjudications. Under current law, in a paternity action the court may require, and upon must require, the child, the child's mother, and any male for whom there is probable cause to believe that he had sexual relations with the mother during the possible time of the child's conception to submit to genetic tests. Under the bill, the court in a paternity action must require the child, the child's mother, and any male for whom there is probable cause to believe that he had sexual relations with the mother during the possible time of the child's conception to submit to genetic tests with the following exceptions:

1. Genetic tests are not required if the action will be dismissed or a default judgment will be entered because of the failure of a party to appear.

2. The court is not required to require any of the following persons to submit to genetic tests:

a. A person who was required by a child support agency to submit to a genetic test and who has done so.

b. The respondent in the action if he or she is deceased and genetic material is not available without undue hardship.

c. A male respondent who fails to appear if genetic test results with respect to another male show that the other male is not excluded as the father and that the statistical probability that he is the father is 99 percent or higher.

Current law includes an exception to the requirement to order genetic tests in a paternity action. If the court determines, upon the motion of a party or guardian ad litem, that a judicial determination of whether a male is the father of the child is not in the best interest of the child, the court may, with respect to the male, refuse to order genetic tests, if they haven't already been taken, and dismiss the action. The Wisconsin Supreme Court, in *Randy A.J. v. Norma I.J.*, 2004 WI 41, 270 Wis. 2d 384, 677 N.W. 2d 630, determined that the statute does not apply if genetic tests have already been performed. The bill removes the requirement that genetic tests must not have been performed and provides that, if the court determines that a judicial determination of whether a male is the father of the child is not in the best interest of the child, the court may not only refuse to order genetic tests but may also dismiss the action, regardless of whether genetic tests have been performed or what the results were of any genetic tests that have been performed.

For further information see the ***state and local*** 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:

SECTION 1. 48.02 (13) of the statutes is amended to read:

48.02 **(13)** "Parent" means a biological parent, a husband who has consented to the artificial insemination of his wife under s. 891.40, or a parent by adoption. If the child is a nonmarital child who is not adopted or whose parents do not subsequently intermarry under s. 767.803, "parent" includes a person conclusively determined from genetic test results to be the father under s. 767.804 or a person acknowledged under s. 767.805 or a substantially similar law of another state or adjudicated to be the biological father. "Parent" does not include any person whose parental rights have been terminated. For purposes of the application of s. 48.028 and the federal Indian Child Welfare Act, 25 USC 1901 to 1963, "parent" means a biological parent, an Indian husband who has consented to the artificial insemination of his wife under s. 891.40, or an Indian person who has lawfully adopted an Indian child, including an adoption under tribal law or custom, and includes, in the case of a nonmarital child who is not adopted or whose parents do not subsequently intermarry under s. 767.803, a person conclusively determined from genetic test results to be the father under s. 767.804, a person acknowledged under s. 767.805, a substantially similar law of another state, or tribal law or custom to be the biological father, or a person adjudicated to be the biological father, but does not include any person whose parental rights have been terminated.

SECTION 2. 48.27 (5) of the statutes is amended to read:

48.27 **(5)** Subject to sub. (3) (b), the court shall make every reasonable effort to identify and notify any person who has filed a declaration of paternal interest under s. 48.025, <u>any person conclusively determined from genetic test results to be the father under s. 767.804 (1),</u> any person who has acknowledged paternity of the child under s. 767.805 (1), and any person who has been adjudged to be the father of the child in a judicial proceeding unless the person's parental rights have been terminated.

SECTION 3. 48.396 (2) (dm) of the statutes is amended to read:

48.396 **(2)** (dm) Upon request of a court having jurisdiction over actions affecting the family, an attorney responsible for support enforcement under s. 59.53 (6) (a) or a party to a paternity proceeding under subch. IX of ch. 767, the party's attorney or the guardian ad litem for the child who is the subject of that proceeding to review or be provided with information from the records of the court assigned to exercise jurisdiction under this chapter and ch. 938 relating to the paternity of a child for the purpose of determining the paternity of the child or for the purpose of rebutting the presumption of paternity under s. 891.405<u>, 891.407,</u> or 891.41 (1), the court assigned to exercise jurisdiction under this chapter and ch. 938 shall open for inspection by the requester its records relating to the paternity of the child or disclose to the requester those records.

SECTION 4. 48.42 (4) (b) 2. of the statutes is amended to read:

48.42 **(4)** (b) 2. If the child is a nonmarital child who is not adopted or whose parents do not subsequently intermarry under s. 767.803 and paternity has not been <u>conclusively determined from genetic test results under s. 767.804,</u> acknowledged under s. 767.805 or a substantially similar law of another state<u>,</u> or adjudicated, the

court may, as provided in s. 48.422 (6) (b), order publication of a notice under subd. 4.

SECTION 5. 48.837 (4) (e) of the statutes is amended to read:

48.837 **(4)** (e) Shall, before hearing the petitions under subs. (2) and (3), ascertain whether the paternity of a nonmarital child who is not adopted or whose parents do not subsequently intermarry under s. 767.803 has been conclusively determined from genetic test results under s. 767.804, acknowledged under s. 767.805 or a substantially similar law of another state, or adjudicated in this state or another jurisdiction. If the child's paternity has not been conclusively determined from genetic test results, acknowledged, or adjudicated, the court shall attempt to ascertain the paternity of the child and shall determine the rights of any person who may be the father of the child as provided under s. 48.423. The court may not proceed with the hearing on the petitions under this section unless the parental rights of the nonpetitioning parent, whether known or unknown, have been terminated.

SECTION 6. 48.91 (2) of the statutes is amended to read:

48.91 **(2)** In an adoption proceeding for a nonmarital child who is not adopted or whose parents do not subsequently intermarry under s. 767.803, the court shall establish whether the child's paternity has been conclusively determined from genetic test results under s. 767.804, acknowledged under s. 767.805 or a substantially similar law of another state, or adjudicated in this state or in another jurisdiction. If the child's paternity has not been conclusively determined from genetic test results, acknowledged, or adjudicated, the court shall attempt to ascertain the paternity of the child and shall determine the rights of any person who may be the father of the child as provided under s. 48.423. The court may not proceed

with the hearing on the petition for adoption unless the parental rights of the nonpetitioning parent, whether known or unknown, have been terminated.

SECTION 7. 49.141 (1) (i) of the statutes is renumbered 49.141(1) (i) (intro.) and amended to read:

49.141 **(1)** (i) (intro.) "Nonmarital coparent" means, with respect to an individual and a dependent child, a parent who is not married to the individual, who resides with the dependent child~~,~~ and who is ~~either an~~ one of the following:

1. An adjudicated parent ~~or a.~~

2. A parent who has signed and filed with the state registrar under s. 69.15 (3) (b) 3. a statement acknowledging paternity.

SECTION 8. 49.141 (1) (i) 3. of the statutes is created to read:

49.141 **(1)** (i) 3. A parent who has been conclusively determined from genetic test results to be the father under s. 767.804.

SECTION 9. 49.141 (1) (j) 6. of the statutes is created to read:

49.141 **(1)** (j) 6. A man who has been conclusively determined from genetic test results to be the father under s. 767.804.

SECTION 10. 49.225 (2) (a) of the statutes is amended to read:

49.225 **(2)** (a) A county child support agency under s. 59.53 (5) may require, by subpoena in substantially the form authorized under s. 885.02 or by other means, a child, the child's mother, and a male alleged, or alleging himself, to be the child's father to submit to genetic tests if there is probable cause to believe that the male had sexual intercourse with the child's mother during a possible time of the child's conception. Probable cause of sexual intercourse during a possible time of conception may be established by a sufficient affidavit of the child's mother ~~or~~, the male alleged,

or alleging himself, to be the child's father, or the county child support agency under s. 59.53 (5) based on information provided by the child's mother.

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

49.855 **(3)** Receipt of a certification by the department of revenue shall constitute a lien, equal to the amount certified, on any state tax refunds or credits owed to the obligor. The lien shall be foreclosed by the department of revenue as a setoff under s. 71.93 (3), (6), and (7). When the department of revenue determines that the obligor is otherwise entitled to a state tax refund or credit, it shall notify the obligor that the state intends to reduce any state tax refund or credit due the obligor by the amount the obligor is delinquent under the support, maintenance, or receiving and disbursing fee order or obligation, by the outstanding amount for past support, medical expenses, or birth expenses under the court order, or by the amount due under s. 46.10 (4), 49.345 (4), or 301.12 (4). The notice shall provide that within 20 days the obligor may request a hearing before the circuit court rendering the order under which the obligation arose. Within 10 days after receiving a request for hearing under this subsection, the court shall set the matter for hearing. Pending further order by the court or a circuit court commissioner, the department of children and families or its designee, whichever is appropriate, is prohibited from disbursing the obligor's state tax refund or credit. A circuit court commissioner may conduct the hearing. The sole issues at that hearing shall be whether the obligor owes the amount certified and, if not and it is a support or maintenance order, whether the money withheld from a tax refund or credit shall be paid to the obligor or held for future support or maintenance, except that the obligor's ability to pay shall also be an issue at the hearing if the obligation relates to an order under s. 767.804 (3) (d) 1., 767.805 (4) (d) 1., or 767.89 (3) (e) 1. and the order specifies that the court found

that the obligor's income was at or below the poverty line established under 42 USC 9902 (2).

SECTION 12. 49.855 (4m) (b) of the statutes is amended to read:

49.855 **(4m)** (b) The department of revenue may provide a certification that it receives under sub. (1), (2m), (2p), or (2r) to the department of administration. Upon receipt of the certification, the department of administration shall determine whether the obligor is a vendor or is receiving any other payments from this state, except for wages, retirement benefits, or assistance under s. 45.352, 1971 stats., s. 45.40 (1m), this chapter, or ch. 46, 108, or 301. If the department of administration determines that the obligor is a vendor or is receiving payments from this state, except for wages, retirement benefits, or assistance under s. 45.352, 1971 stats., s. 45.40 (1m), this chapter, or ch. 46, 108, or 301, it shall begin to withhold the amount certified from those payments and shall notify the obligor that the state intends to reduce any payments due the obligor by the amount the obligor is delinquent under the support, maintenance, or receiving and disbursing fee order or obligation, by the outstanding amount for past support, medical expenses, or birth expenses under the court order, or by the amount due under s. 46.10 (4), 49.345 (4), or 301.12 (4). The notice shall provide that within 20 days after receipt of the notice the obligor may request a hearing before the circuit court rendering the order under which the obligation arose. An obligor may, within 20 days after receiving notice, request a hearing under this paragraph. Within 10 days after receiving a request for hearing under this paragraph, the court shall set the matter for hearing. A circuit court commissioner may conduct the hearing. Pending further order by the court or circuit court commissioner, the department of children and families or its designee, whichever is appropriate, may not disburse the payments withheld from the obligor.

The sole issues at the hearing are whether the obligor owes the amount certified and, if not and it is a support or maintenance order, whether the money withheld shall be paid to the obligor or held for future support or maintenance, except that the obligor's ability to pay is also an issue at the hearing if the obligation relates to an order under s. 767.804 (3) (d) 1., 767.805 (4) (d) 1., or 767.89 (3) (e) 1. and the order specifies that the court found that the obligor's income was at or below the poverty line established under 42 USC 9902 (2).

SECTION 13. 69.15 (3) (a) (intro.) of the statutes is amended to read:

69.15 **(3)** (a) (intro.) If the state registrar receives an order under sub. (1) ~~which~~ that establishes paternity or determines that the man whose name appears on a registrant's birth certificate is not the father of the registrant, or a report under s. 767.804 (1) (c) that shows a conclusive determination of paternity, the state registrar shall do the following, as appropriate:

SECTION 14. 69.15 (3) (a) 3. of the statutes is amended to read:

69.15 **(3)** (a) 3. Except as provided under subd. 4., insert the name of the adjudicated or conclusively determined father on the original birth certificate if the name of the father was omitted on the original certificate.

SECTION 15. 565.30 (5m) (a) of the statutes is amended to read:

565.30 **(5m)** (a) The administrator shall report to the department of children and families the name, address, and social security number of each winner of a lottery prize that is payable in installments and the name, address, and social security number or federal income tax number of the person who has been assigned a lottery prize that is payable in installments. Upon receipt of the report, the department of children and families shall certify to the administrator whether any payee or assignee named in the report is obligated to provide child support, spousal

support, maintenance, or family support under s. 767.001 (1) (f) or (g), 767.225, 767.34, 767.511, 767.531, 767.56, 767.804 (3), 767.805 (4), 767.85, 767.863 (3), 767.89 (3), 767.893 (2m), or 948.22 (7) or ch. 769 and the amount required to be withheld from the lottery prize under s. 767.75. Subject to par. (b), the administrator shall withhold the certified amount from each payment made to the winner or assignee and remit the certified amount to the department of children and families.

SECTION 16. 767.407 (1) (c) (intro.) of the statutes is amended to read:

767.407 **(1)** (c) (intro.) The attorney responsible for support enforcement under s. 59.53 (6) (a) may request that the court appoint a guardian ad litem to bring an action or motion on behalf of a minor who is a nonmarital child whose paternity has not been conclusively determined from genetic test results under s. 767.804, acknowledged under s. 767.805 (1) or a substantially similar law of another state, or adjudicated for the purpose of determining the paternity of the child, and the court shall appoint a guardian ad litem, if any of the following applies:

SECTION 17. 767.41 (1) (b) of the statutes is amended to read:

767.41 **(1)** (b) In rendering a judgment of annulment, divorce, legal separation, or paternity, or in rendering a judgment in an action under s. 767.001 (1) (e), 767.501, 767.804 (2), or 767.805 (3), the court shall make such provisions as it deems just and reasonable concerning the legal custody and physical placement of any minor child of the parties, as provided in this section.

SECTION 18. 767.41 (1m) (intro.) of the statutes is amended to read:

767.41 **(1m)** PARENTING PLAN. (intro.) Unless the court orders otherwise, in an action for annulment, divorce, or legal separation, an action to determine paternity, or an action under s. 767.001 (1) (e), 767.501, 767.804 (2), or 767.805 (3), in which legal custody or physical placement is contested, a party seeking sole or joint legal

custody or periods of physical placement shall file a parenting plan with the court if the court waives the requirement to attend mediation under s. 767.405 (8) (b) or if the parties attend mediation and the mediator notifies the court under s. 767.405 (12) (b) that the parties have not reached an agreement. Unless the court orders otherwise, the parenting plan shall be filed within 60 days after the court waives the mediation requirement or the mediator notifies the court that no agreement has been reached. Except for cause shown, a party required to file a parenting plan under this subsection who does not timely file a parenting plan waives the right to object to the other party's parenting plan. A parenting plan shall provide information about the following questions:

SECTION 19. 767.44 (1) of the statutes is amended to read:

767.44 **(1)** WHEN PROHIBITED. Notwithstanding ss. 767.225 (1) (am), 767.41 (1), (4), and (5), 767.804 (3) (a), 767.805 (4) (a), and 767.89 (3) and except as provided in sub. (2), in an action under this chapter that affects a minor child, a court may not grant to the child's parent visitation or physical placement rights with the child if the parent has been convicted under s. 940.01 of the first-degree intentional homicide, or under s. 940.05 of the 2nd-degree intentional homicide, of the child's other parent, and the conviction has not been reversed, set aside, or vacated.

SECTION 20. 767.511 (1) (intro.) of the statutes is amended to read:

767.511 **(1)** WHEN ORDERED. (intro.) When the court approves a stipulation for child support under s. 767.34, enters a judgment of annulment, divorce, or legal separation, or enters an order or a judgment in a paternity action or in an action under s. 767.001 (1) (f) or (j), 767.501, 767.804 (2), or 767.805 (3), the court shall do all of the following:

SECTION 21. 767.511 (5) of the statutes is amended to read:

767.511 **(5)** LIABILITY FOR PAST SUPPORT. Subject to ss. 767.804 (4), 767.805 (4m), and 767.89 (4), liability for past support is limited to the period after the birth of the child.

SECTION 22. 767.513 (2) of the statutes is amended to read:

767.513 **(2)** RESPONSIBILITY AND PAYMENT. In addition to ordering child support for a child under s. 767.511 (1), the court shall specifically assign responsibility for and direct the manner of payment of the child's health care expenses. In assigning responsibility for a child's health care expenses, the court shall consider whether a child is covered under a parent's health insurance policy or plan at the time the court approves a stipulation for child support under s. 767.34, enters a judgment of annulment, divorce, or legal separation, or enters an order or a judgment in a paternity action or in an action under s. 767.001 (1) (f) or (j), 767.501, 767.804 (2), or 767.805 (3), the availability of health insurance to each parent through an employer or other organization, the extent of coverage available to a child, and the costs to the parent for the coverage of the child. A parent may be required to initiate or continue health care insurance coverage for a child under this section. If a parent is required to do so, he or she shall provide copies of necessary program or policy identification to the custodial parent and is liable for any health care costs for which he or she receives direct payment from an insurer. This section shall not be construed to limit the authority of the court to enter or modify support orders containing provisions for payment of medical expenses, medical costs, or insurance premiums that are in addition to and not inconsistent with this section.

SECTION 23. 767.55 (1) of the statutes is amended to read:

767.55 **(1)** GENERALLY. In an action for modification of a child support order under s. 767.59 or an action in which an order for child support is required under s.

767.511 (1), 767.804 (3), 767.805 (4), or 767.89 (3), the court may order either or both parents of the child to seek employment or participate in an employment or training program.

SECTION 24. 767.55 (2) (am) (intro.) of the statutes is amended to read:

767.55 **(2)** (am) (intro.) In an action for modification of a child support order under s. 767.59, an action in which an order for child support is required under s. 767.511 (1), 767.804 (3), 767.805 (4), or 767.89 (3), or a contempt of court proceeding to enforce a child support or family support order in a county that contracts under s. 49.36 (2), the court may order a parent who is not a custodial parent to register for a work experience and job training program under s. 49.36 if all of the following conditions are met:

SECTION 25. 767.55 (3) (a) 1. of the statutes is amended to read:

767.55 **(3)** (a) 1. Is an action for modification of a child support order under s. 767.59 or an action in which an order for child support is required under s. 767.511 (1), 767.804 (3), 767.805 (4), or 767.89 (3).

SECTION 26. 767.55 (3) (d) of the statutes is amended to read:

767.55 **(3)** (d) Paragraph (b) does not limit the authority of a court to issue an order, other than an order under par. (b), regarding employment of a parent in an action for modification of a child support order under s. 767.59 or an action in which an order for child support is required under s. 767.511 (1), 767.804 (3), 767.805 (4), or 767.89 (3).

SECTION 27. 767.55 (4) (b) (intro.) of the statutes is amended to read:

767.55 **(4)** (b) (intro.) In an action for revision of a judgment or order providing for child support under s. 767.59 or an action in which an order for child support is

required under s. 767.511 (1), 767.804 (3), 767.805 (4), or 767.89 (3), the court shall order an unemployed teenage parent to do one or more of the following:

SECTION 28. 767.59 (2s) of the statutes is amended to read:

767.59 **(2s)** STIPULATION FOR REVISION OF SUPPORT. In an action under sub. (1c), the court may not approve a stipulation for the revision of a judgment or order with respect to an amount of child support or family support unless the stipulation provides for payment of an amount of child support or family support that is determined in the manner required under s. 46.10 (14), 49.345 (14), 301.12 (14), 767.511, 767.804 (3), 767.805 (4), or 767.89, whichever is appropriate.

SECTION 29. 767.73 (1) (a) of the statutes is amended to read:

767.73 **(1)** (a) In this subsection, "support payment" means a payment ordered for support under s. 767.521, support under s. 767.501, child support or family support under s. 767.225, child support under s. 767.511, family support under s. 767.531, revised child or family support under s. 767.59, child support under s. 767.863 (3), child support under s. 767.85, child support under s. 767.89, child support under s. 767.804 (3), child support under s. 767.805 (4), child support under ch. 769, or child support under s. 948.22 (7).

SECTION 30. 767.75 (1) (b) of the statutes is amended to read:

767.75 **(1)** (b) "Payment order" means an order for child support under this chapter, for maintenance payments under s. 767.225 or 767.56, for family support under this chapter, for costs ordered under s. 767.804 (3), 767.805 (4), or 767.89 (3), for support by a spouse under s. 767.001 (1) (f), or for maintenance payments under s. 767.001 (1) (g); an order for or obligation to pay the annual receiving and disbursing fee under s. 767.57 (1e) (a); an order for a revision in a judgment or order with respect to child support, maintenance, or family support payments under s.

767.59; a stipulation approved by the court for child support under this chapter; and an order for child or spousal support entered under s. 948.22 (7).

SECTION 31. 767.77 (1) of the statutes is amended to read:

767.77 **(1)** DEFINITION. In this section, "payment obligation" means an obligation to pay support under s. 48.355 (2) (b) 4., 48.357 (5m) (a), 48.363 (2), 938.183 (4), 938.355 (2) (b) 4., 938.357 (5m) (a), or 938.363 (2), support or maintenance under s. 767.501, child support, family support, or maintenance under s. 767.225, child support under s. 767.511, maintenance under s. 767.56, family support under s. 767.531, attorney fees under s. 767.241, child support or a child's health care expenses under s. 767.85, paternity obligations under s. 767.804 (3), 767.805 (4), 767.863 (3), or 767.89, support arrearages under s. 767.71, or child or spousal support under s. 948.22 (7).

SECTION 32. 767.78 (1) of the statutes is amended to read:

767.78 **(1)** DEFINITION. In this section, "financial obligation" means an obligation for payment incurred under s. 48.355 (2) (b) 4., 48.357 (5m) (a), 48.363 (2), 767.225, 767.241, 767.511, 767.531, 767.56, 767.61, 767.71, 767.804 (3), 767.805 (4), 767.85, 767.863 (3), 767.89, 938.183 (4), 938.355 (2) (b) 4., 938.357 (5m) (a), or 938.363 (2).

SECTION 33. 767.80 (1) (intro.) of the statutes is amended to read:

767.80 **(1)** WHO MAY BRING ACTION OR FILE MOTION. (intro.) The following persons may bring an action or file a motion, including an action or motion for declaratory judgment, for the purpose of determining the paternity of a child, or for the purpose of rebutting the presumption of paternity under s. 891.405, 891.407, or 891.41 (1):

SECTION 34. 767.80 (1) (c) of the statutes is amended to read:

767.80 **(1)** (c) Unless s. 767.804 (1) or 767.805 (1) applies, a male presumed to be the child's father under s. 891.405, 891.407, or 891.41 (1).

SECTION 35. 767.80 (1) (hm) of the statutes is created to read:

767.80 **(1)** (hm) The state as provided under s. 767.804 (1) (d).

SECTION 36. 767.80 (5m) of the statutes is amended to read:

767.80 **(5m)** APPLICABLE PROCEDURE; EXCEPTIONS. Except as provided in ss. 767.804, 767.805, 767.863 (3), 767.85, 767.893 (2) and (2m), and 769.401, unless a male is presumed the child's father under s. 891.41 (1), is adjudicated the child's father either under s. 767.89 or by final order or judgment of a court of competent jurisdiction in another state, is conclusively determined to be the child's father from genetic test results under s. 767.804, or has acknowledged himself to be the child's father under s. 767.805 (1) or a substantially similar law of another state, no order or temporary order may be entered for child support, legal custody, or physical placement until the male is adjudicated the father using the procedure set forth in this subchapter, except s. 767.804 or 767.805. Except as provided in ss. 767.804, 767.805, 767.85, and 769.401, the exclusive procedure for establishment of child support obligations, legal custody, or physical placement rights for a male who is not presumed the child's father under s. 891.41 (1), adjudicated the father, conclusively determined to be the child's father from genetic test results under s. 767.804, or acknowledged under s. 767.805 (1) or a substantially similar law of another state to be the father is by an action under this subchapter, except s. 767.804 or 767.805, or under s. 769.701. No person may waive the use of this procedure. If a presumption under s. 891.41 (1) exists, a party denying paternity has the burden of rebutting the presumption.

SECTION 37. 767.80 (5m) of the statutes, as affected by 2009 Wisconsin Act 321, is amended to read:

767.80 **(5m)** APPLICABLE PROCEDURE; EXCEPTIONS. Except as provided in ss. 767.804, 767.805, 767.863 (3), 767.85, 767.893 (2) and (2m), and 769.401, unless a male is presumed the child's father under s. 891.41 (1), is adjudicated the child's father either under s. 767.89 or by final order or judgment of a court of competent jurisdiction in another state, is conclusively determined to be the child's father from genetic test results under s. 767.804, or has acknowledged himself to be the child's father under s. 767.805 (1) or a substantially similar law of another state, no order or temporary order may be entered for child support, legal custody, or physical placement until the male is adjudicated the father using the procedure set forth in this subchapter, except s. 767.804 or 767.805. Except as provided in ss. 767.804, 767.805, 767.85, and 769.401, the exclusive procedure for establishment of child support obligations, legal custody, or physical placement rights for a male who is not presumed the child's father under s. 891.41 (1), adjudicated the father, conclusively determined to be the child's father from genetic test results under s. 767.804, or acknowledged under s. 767.805 (1) or a substantially similar law of another state to be the father is by an action under this subchapter, except s. 767.804 or 767.805, or under s. 769.402. No person may waive the use of this procedure. If a presumption under s. 891.41 (1) exists, a party denying paternity has the burden of rebutting the presumption.

SECTION 38. 767.80 (6m) of the statutes is amended to read:

767.80 **(6m)** WHEN ACTION MUST BE COMMENCED. The attorney designated under sub. (6) (a) shall commence an action under this section on behalf of the state within 6 months after receiving notification under s. 69.03 (15) that no father is named on

the birth certificate of a child who is a resident of the county if paternity has not been conclusively determined from genetic test results under s. 767.804, acknowledged under s. 767.805 (1) or a substantially similar law of another state, or adjudicated, except in situations under s. 69.14 (1) (g) and (h) and as provided by the department by rule.

SECTION 39. 767.804 of the statutes is created to read:

767.804 Genetic test results. (1) CONCLUSIVE DETERMINATION OF PATERNITY. (a) If genetic tests have been performed with respect to a child, the child's mother, and a male alleged, or alleging himself, to be the child's father, the test results constitute a conclusive determination of paternity, which shall be effective on the date on which the report under par. (c) is submitted to the state registrar and which shall be of the same effect as a judgment of paternity, if all of the following apply:

1. Both the child's mother and the male are over the age of 18 years.

2. The genetic tests were performed under s. 49.225.

3. The test results show that the male is not excluded as the father and that the statistical probability of the male's parentage is 99.0 percent or higher.

4. No other male is presumed to be the father under s. 891.405 or 891.41 (1).

(b) If the county child support agency under s. 59.53 (5) receives genetic test results described in par. (a) 3. and the requirements under par. (a) are satisfied, at least 10 days before filing the report under par. (c) the county child support agency shall send notice to the parties by regular mail at their last-known addresses. The notice shall advise the parties of all of the following:

Insert 19-22

1. The test results.

2. That the report under par. (c) will be filed with the state registrar on a specified date.

Insert 19-25

3. That an action affecting the family concerning custody, child support, or physical placement rights may be brought with respect to the parties.

4. That the father may object to the test results by submitting an objection in writing to the county child support agency no later than the day before the report under par. (c) is to be filed, and that, if the father submits an objection, the state will commence a paternity action.

date specified in subd. 2.

(c) 1. If the male does not timely submit an objection under par. (b) 4., the county child support agency shall file with the state registrar a report showing the names, dates, and birth places of the child and the father, the social security numbers of the mother, father, and child, and the maiden name of the mother on a form prescribed by the state registrar, along with the fee set forth in s. 69.22 (5), if any, which the county child support agency shall collect.

2. The department shall pay, and may not require the county or county child support agency to reimburse the department for the cost of a fee for inserting the father's name on a birth certificate under s. 69.15 (3) (a) 3. if the county child support agency is unable to collect the fee.

(d) If the male timely submits an objection under par. (b) 4., the county child support agency shall commence an action under s. 767.80 (1) on behalf of the state. The genetic test results described in par. (a) are admissible in an action commenced under this paragraph.

(2) ACTIONS. Unless sub. (1) (d) applies, an action affecting the family concerning custody, child support, or physical placement rights may be brought under this subsection with respect to a child's mother and a male who, along with the child, were the subjects of genetic tests, the results of which constitute a conclusive

determination of paternity under sub. (1). Except as provided in s. 767.407, in an action under this subsection the court may appoint a guardian ad litem for the child.

(3) ORDERS. In an action under sub. (2), if the child's mother and the male had notice of the hearing, the court shall make an order that contains all of the following provisions:

(a) Orders for the legal custody of and periods of physical placement with the child, determined in accordance with s. 767.41.

(b) An order requiring either or both of the parents to contribute to the support of any child of the parties who is less than 18 years old, or any child of the parties who is less than 19 years old if the child is pursuing an accredited course of instruction leading to the acquisition of a high school diploma or its equivalent, determined in accordance with s. 767.511.

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

(d) 1. An order establishing the amount of the father's obligation to pay or contribute to the reasonable expenses of the mother's pregnancy and the child's birth. The amount established may not exceed one-half of the total actual and reasonable pregnancy and birth expenses. The order also shall specify the court's findings as to whether the father's income is at or below the poverty line established under 42 USC 9902 (2), and shall specify whether periodic payments are due on the obligation, based on the father's ability to pay or contribute to those expenses.

2. If the order does not require periodic payments because the father has no present ability to pay or contribute to the expenses, the court may modify the

judgment or order at a later date to require periodic payments if the father has the ability to pay at that time.

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

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

Insert 22-6

(4) LIABILITY FOR PAST SUPPORT. (a) Subject to par. (b), liability for past support of the child shall be limited to support for the period after the day on which the petition, motion, or order to show cause requesting support is filed in the action for support under sub. (2), unless a party shows, to the satisfaction of the court, all of the following:

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

a. Duress or threats.

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

c. Actions taken by the other party to evade proceedings under sub. (2).

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

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

SECTION 40. 767.82 (2) of the statutes is amended to read:

767.82 **(2)** PRESUMPTION. Presumption of paternity shall be as provided in ss. 891.39, 891.405, 891.407, and 891.41 (1).

SECTION 41. 767.82 (2m) of the statutes is amended to read:

767.82 **(2m)** CUSTODY PENDING COURT ORDER. If there is no presumption of paternity under s. 891.41 (1) or if paternity is conclusively determined from genetic test results under s. 767.804 (1) or acknowledged under s. 767.805 (1), the mother shall have sole legal custody of the child until the court orders otherwise.

SECTION 42. 767.84 (1) (a) of the statutes is renumbered 767.84 (1) (a) (intro.) and amended to read:

767.84 **(1)** (a) (intro.) ~~The~~ Except as provided in ss. 767.855 and 767.863, and except in actions to which s. 767.893 applies, the court ~~may, and upon request of a party~~ shall~~,~~ require the child, mother, any male for whom there is probable cause to believe that he had sexual intercourse with the mother during a possible time of the child's conception, or any male witness who testifies or will testify about his sexual relations with the mother at a possible time of conception to submit to genetic tests. Probable cause of sexual intercourse during a possible time of conception may be established by a sufficient petition or affidavit of the child's mother or an alleged father, filed with the court, or after an examination under oath of a party or witness, when the court determines that an examination is necessary. The court is not required to order a ~~person who has undergone a genetic test under s. 49.225 to submit to another~~ genetic test under this paragraph ~~unless a party requests additional tests under sub. (2).~~ with respect to any of the following:

SECTION 43. 767.84 (1) (a) 1. of the statutes is created to read:

767.84 **(1)** (a) 1. A person who has undergone a genetic test under s. 49.225, unless a party requests additional tests under sub. (2).

SECTION 44. 767.84 (1) (a) 2. of the statutes is created to read:

767.84 **(1)** (a) 2. A deceased respondent if genetic material is not available without undue hardship as provided in s. 767.865 (2).

SECTION 45. 767.84 (1) (a) 3. of the statutes is created to read:

767.84 **(1)** (a) 3. a. Except as provided in subd. 3. b., a male respondent who fails to appear, if genetic test results with respect to another man show that the other man is not excluded as the father and that the statistical probability of the other man's parentage is 99.0 percent or higher creating a presumption of the other man's paternity.

b. Subdivision 3. a. does not apply if the presumption of the other man's paternity is rebutted.

SECTION 46. 767.855 of the statutes is renumbered 767.855 (intro.) and amended to read:

767.855 Dismissal if adjudication not in child's best interest. (intro.) Except as provided in s. 767.863 (1m), at any time in an action to establish the paternity of a child, upon the motion of a party or guardian ad litem, the court or supplemental court commissioner under s. 757.675 (2) (g) may, with respect to a male, ~~refuse to order genetic tests, if genetic tests have not yet been taken, and dismiss the action~~ do any of the following if the court or supplemental court commissioner determines that a judicial determination of whether the male is the father of the child is not in the best interest of the child~~.~~:

SECTION 47. 767.855 (1) of the statutes is created to read:

767.855 **(1)** Refuse to order genetic tests.

SECTION 48. 767.855 (2) of the statutes is created to read:

767.855 **(2)** Dismiss the action, regardless of whether genetic tests have been performed or what the results of the tests, if performed, were.

SECTION 49. 767.87 (8) of the statutes is amended to read:

767.87 **(8)** BURDEN OF PROOF. The party bringing an action for the purpose of determining paternity or for the purpose of declaring the nonexistence of paternity presumed under s. 891.405, 891.407, or 891.41 (1) shall have the burden of proving the issues involved by clear and satisfactory preponderance of the evidence.

SECTION 50. 769.201 (7m) of the statutes is created to read:

769.201 **(7m)** The individual was conclusively determined from genetic test results to be the father under s. 767.804.

SECTION 51. 802.12 (3) (d) 1. of the statutes is amended to read:

802.12 **(3)** (d) 1. Custody and physical placement under s. 767.41, 767.804 (3), 767.805 (4), 767.863 (3), or 767.89 (3).

SECTION 52. 802.12 (3) (d) 3. of the statutes is amended to read:

802.12 **(3)** (d) 3. Child support under s. 767.511, 767.804 (3), 767.805 (4), 767.863 (3), or 767.89 (3).

SECTION 53. 808.075 (4) (d) 9. of the statutes is amended to read:

808.075 **(4)** (d) 9. Enforcement of payments under s. 767.77, 767.804 (3), 767.805 (4), or 767.89.

SECTION 54. 808.075 (4) (d) 10. of the statutes is amended to read:

808.075 **(4)** (d) 10. Enforcement of orders under s. ~~s.~~ 767.78, 767.804 (3), 767.805 (4), or 767.89.

SECTION 55. 852.05 (2) of the statutes is amended to read:

852.05 **(2)** Property of a child born to unmarried parents passes in accordance with s. 852.01 except that the father or the father's kindred can inherit only if the father has been adjudicated to be the father in a paternity proceeding under ch. 767 or by final order or judgment of a court of competent jurisdiction in another state or

has been determined to be the father under s. 767.804 or 767.805 or a substantially similar law of another state.

SECTION 56. 891.407 of the statutes is created to read:

891.407 Presumption of paternity based on genetic test results. A man is presumed to be the natural father of a child if the man has been conclusively determined from genetic test results to be the father under s. 767.804 and no other man is presumed to be the father under s. 891.405 or 891.41 (1).

SECTION 57. 938.02 (13) of the statutes is amended to read:

938.02 **(13)** "Parent" means a biological parent, a husband who has consented to the artificial insemination of his wife under s. 891.40, or a parent by adoption. If the juvenile is a nonmarital child who is not adopted or whose parents do not subsequently intermarry under s. 767.803, "parent" includes a person conclusively determined from genetic test results to be the father under s. 767.804 or a person acknowledged under s. 767.805 or a substantially similar law of another state or adjudicated to be the biological father. "Parent" does not include any person whose parental rights have been terminated. For purposes of the application of s. 938.028 and the federal Indian Child Welfare Act, 25 USC 1901 to 1963, "parent" means a biological parent, an Indian husband who has consented to the artificial insemination of his wife under s. 891.40, or an Indian person who has lawfully adopted an Indian juvenile, including an adoption under tribal law or custom, and includes, in the case of a nonmarital child who is not adopted or whose parents do not subsequently intermarry under s. 767.803, a person conclusively determined from genetic test results to be the father under s. 767.804, a person acknowledged under s. 767.805, a substantially similar law of another state, or tribal law or custom

to be the biological father, or a person adjudicated to be the biological father, but does not include any person whose parental rights have been terminated.

SECTION 58. 938.27 (5) of the statutes is amended to read:

938.27 **(5)** NOTICE TO BIOLOGICAL FATHERS. Subject to sub. (3) (b), the court shall make reasonable efforts to identify and notify any person who has filed a declaration of paternal interest under s. 48.025, <u>any person conclusively determined from genetic test results to be the father under s. 767.804 (1),</u> any person who has acknowledged paternity of the child under s. 767.805 (1), and any person who has been adjudged to be the father of the juvenile in a judicial proceeding unless the person's parental rights have been terminated.

SECTION 59. 938.396 (2g) (g) of the statutes is amended to read:

938.396 **(2g)** (g) *Paternity of juvenile.* Upon request of a court having jurisdiction over actions affecting the family, an attorney responsible for support enforcement under s. 59.53 (6) (a) or a party to a paternity proceeding under subch. IX of ch. 767, the party's attorney or the guardian ad litem for the juvenile who is the subject of that proceeding to review or be provided with information from the records of the court assigned to exercise jurisdiction under this chapter and ch. 48 relating to the paternity of a juvenile for the purpose of determining the paternity of the juvenile or for the purpose of rebutting the presumption of paternity under s. 891.405<u>, 891.407,</u> or 891.41, the court assigned to exercise jurisdiction under this chapter and ch. 48 shall open for inspection by the requester its records relating to the paternity of the juvenile or disclose to the requester those records.

SECTION 60. Initial applicability.

(1) PATERNITY DETERMINATION OR PRESUMPTION BASED ON GENETIC TEST RESULTS. The treatment of section 767.804 of the statutes first applies to genetic tests that are performed on the effective date of this subsection.

(2) GENETIC TESTS IN PATERNITY ACTIONS. The renumbering and amendment of sections 767.84 (1) (a) and 767.855 of the statutes and the creation of sections 767.84 (1) (a) 1., 2., and 3. and 767.855 (1) and (2) of the statutes first apply to paternity actions commenced on the effective date of this subsection.

SECTION 61. Effective dates. This act takes effect on the first day of the 6th month beginning after publication, except as follows:

(1) The treatment of section 767.80 (5m) (by SECTION 37) of the statutes takes effect on the date stated in the notice published in the Wisconsin Administrative Register under section 769.904 of the statutes.

(END)

INSERT 19-22

must be sent at least 15 days in advance of the date on which the county child support agency intends to file the report under par. (c) and

(END OF INSERT 19-22)

INSERT 19-25

if the father does not timely object under subd. 4., and the date on which the report will be filed

(END OF INSERT 19-25)

INSERT 22-6

(3m) CHANGE OF CHILD'S NAME. (a) Upon the request of both parents, the court shall include in the order under sub. (3) an order changing the name of the child to a name agreed upon by the parents.

(b) Except as provided in par. (a), the court may include an order changing the surname of the child to a surname that consists of the surnames of both parents separated by a hyphen or, if one or both parents have more than one surname, of one of the surnames of each parent separated by a hyphen, if all of the following apply:

1. Only one parent requests that the child's name be changed, or both parents request that the child's name be changed but each parent requests a different name change.

2. The court finds that such a name change is in the child's best interest.

(c) Section 786.36 does not apply to a name change under this subsection.

(END OF INSERT 22-6)

2-2

Sara(?) from Rep Kestell's office

transfer DCF draft (11-0235)

to Kestell and jacket it

for the Assembly

Please jacket

LRB-0235/1
for the Assembly
and send to
Rep. Kestell's Office