

1977 Assembly Bill 100

Date published: October 15, 1977

CHAPTER 105, Laws of 1977

AN ACT to repeal 247.02, 247.03 (2), 247.055 to 247.066, 247.101, 247.11, 247.15, 247.18, 247.232, 247.33, 247.34, 247.37 (4) and 247.375; to renumber 247.03 (1) and (3) and 247.19; to renumber and amend 247.12, 247.24 (1) (c) and (2) and 247.32; to amend 59.42 (2) (b), 245.12 (1), 247.02 (1) (f) and (g) as renumbered, 247.045, 247.08 (1), 247.082, 247.10, 247.125, 247.14, 247.22 (1), 247.23 (1) and (2), 247.30, 247.37 (title) and (1) to (3), 247.38, 251.72 (1) and 801.05 (11); to repeal and recreate 247.05, 247.07, 247.081, 247.085, 247.09, 247.21, 247.24 (title) and (1) (a) and (b), 247.245, 247.25, 247.26 and 247.265; and to create 245.105, 247.02 (1) (i), (j) and (k), 247.03, 247.083, 247.12 (2), 247.19 (2), 247.24 (1) (c) and (d) and (1m), 247.255, 247.261, 247.262, 247.263, 247.27, 247.275, 247.305, 247.32 (3) and 632.895 of the statutes, relating to revision of laws applicable to actions affecting marriage.

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

SECTION 1. Purpose. (1) It is the intent of the legislature to emphasize the present and future needs of the parties to actions affecting marriage and of their children, if any; to move away from assigning blame for a marriage failure; and to promote the settlement of financial and custodial issues in a way which will meet the real needs of all concerned persons as nearly as possible.

(2) It is the intent of the legislature that a spouse who has been handicapped socially or economically by his or her contributions to a marriage shall be compensated

for such contributions at the termination of the marriage, insofar as this is possible, and may receive additional education where necessary to permit the spouse to become self-supporting at a standard of living reasonably comparable to that enjoyed during the marriage. It is further the intent of the legislature that the standard of living of any minor children of the parties be maintained at the level the children would have enjoyed had the marriage not ended, so that insofar as is possible, the children will not suffer economic hardship. It is the intent of the legislature to recognize children's needs for close contact with both parents, to encourage joint parental responsibility for the welfare of minor children and to promote expanded visitation.

(3) It is the intent of the legislature that maintenance payments shall have the same effect for tax purposes as did alimony as provided for in chapter 247, 1975 statutes.

(4) This act is not intended to make a divorce, annulment or legal separation easier to obtain. Its sole purpose is to promote an equitable and reasonable adjudication of the economic and custodial issues involved in marriage relationships.

SECTION 2. 59.42 (2) (b) of the statutes is amended to read:

59.42 (2) (b) All special proceedings independent of an action taken at the instance and for the benefit of one party without notice to or contest by any person adversely interested; and any proceeding under s. 245.10 or 245.105 for court permission to marry, \$4.

SECTION 3. 245.105 of the statutes is created to read:

245.105 Permission of court required for certain remarriages. (1) No Wisconsin resident having minor issue of a prior marriage not in his or her custody and which he or she is under obligation to support by any court order or judgment, may remarry, in this state or elsewhere, without the order of either the court of this state which granted the judgment or support order, or the court having divorce jurisdiction in the county of this state where the minor issue resides or where the marriage license application is made. No marriage license may be issued to any such resident except upon court order. The court, within 5 days after permission is sought by verified petition in a special proceeding, shall direct a court hearing to be held in the matter to allow the petitioner to submit proof of compliance with the previous court obligation. No such order may be granted, or hearing held, unless both parties to the intended marriage appear, and unless the person, agency, institution, welfare department or other entity having the legal or actual custody of the minor issue is given notice of the proceeding by personal service of a copy of the petition at least 5 days prior to the hearing, except that such appearance or notice may be waived by the party affected or by the court upon good cause shown. A 5-day notice of the hearing shall be given to the family court commissioner of the county where permission is sought, who shall attend the hearing, and to the family court commissioner of the court which granted the divorce order or judgment. If the divorce order or judgment was granted in a foreign court, service shall be made on the clerk of that court. Upon the hearing, if the petitioner submits proof of compliance with all such previous court obligations the court shall grant the order, a copy of which shall be filed in any previous marital court action of such petitioner in this state affected thereby; otherwise permission for a license shall be withheld until such proof is submitted, but any court order withholding such permission is an appealable order. Any hearing under this section may be waived by the court if the court is satisfied from an examination of the court records in the case and the family support records in the office of the clerk of court as well as from disclosure by the petitioner of all financial resources that the petitioner has complied with previous court orders or judgments applicable to the support of minor children. No county clerk in this state shall issue such license to any person required to comply with this section unless a certified copy of a court order permitting the marriage is filed with said county clerk.

(2) No nonresident of this state, having minor issue of a prior marriage not in his or her custody and which he or she is under obligation to support by order or judgment

of any court in this state or elsewhere, may marry in this state unless he or she has complied with the requirements of sub. (1).

(3) The requirements of subs. (1) and (2) shall establish a rebuttable statutory presumption that a remarriage by any parent who is obligated by court order or judgment to provide support for any child not in his or her custody may substantially affect that child's right of support. Such presumption may be overcome by sufficient contrary proof submitted to the court. Notwithstanding subs. (1) and (2), permission to remarry may likewise be granted to any petitioner who submits clear and convincing proof to the court that for reasonable cause he or she was not able to comply with a previous court obligation for child support.

(4) If a Wisconsin resident having such support obligations of a minor, as stated in sub. (1), wishes to marry in another state, the resident must, prior to such marriage, obtain permission of the court under sub. (1), except that in a hearing ordered or held by the court, the other party to the proposed marriage, if domiciled in another state, need not be present at the hearing. If such other party is not present at the hearing, the judge shall within 5 days send a copy of the order of permission to marry, stating the obligations of support, to such party not present.

(5) This section shall have extraterritorial effect outside the state; and s. 245.04 (1) and (2) are applicable hereto. Any marriage contracted without compliance with this section, where such compliance is required, shall be void, whether entered into in this state or elsewhere.

(6) This section shall not apply to any party described in sub. (1) or (2) who applies for a license to remarry the parent of the child or children whom that party is under court obligation to support, provided said party is not likewise under court obligation to support any other child.

(7) Any person who obtains a marriage license contrary to or in violation of this section, whether such license is obtained by misrepresentation or otherwise, or whether such marriage is entered into in this state or elsewhere, shall be fined not less than \$200 nor more than \$1,000, or imprisoned not more than one year in the county jail, or both.

(8) This section is independent of s. 245.10 and shall be enforced only when the provisions of s. 245.10 and utilization of the procedures thereunder are stayed or enjoined by the order of any court.

SECTION 4. 245.12 (1) of the statutes is amended to read:

245.12 (1) If ss. 245.02, 245.05, 245.06, 245.08, 245.09, and 245.10 or 245.105 where applicable, are complied with, and if there is no prohibition against or legal objection to the marriage, the county clerk shall issue a marriage license; but after the application for such license ~~said the~~ clerk shall, upon the sworn statement of either of the applicants, correct any erroneous, false or insufficient statement in such license or in the application therefor which shall come to ~~his the clerk's~~ attention prior to the marriage and shall show the corrected statement as soon as reasonably possible to the other applicant.

SECTION 6. 247.02 of the statutes is repealed.

SECTION 6m. 247.02 (1) (i), (j) and (k) of the statutes are created to read:

247.02 (1) (i) To modify a judgment in an action affecting marriage granted in this state or elsewhere.

(j) For periodic family support payments.

(k) To seek court permission to remarry under s. 245.105.

SECTION 7. 247.03 (1) and (3) of the statutes are renumbered 247.02 (1) and (2), and 247.02 (1) (f) and (g), as renumbered, are amended to read:

247.02 (1) (f) For child support.

(g) For alimony maintenance payments.

SECTION 8. 247.03 (2) of the statutes is repealed.

SECTION 9. 247.03 of the statutes is created to read:

247.03 Annulment. No marriage may be annulled or held void except pursuant to judicial proceedings. No marriage may be annulled after the death of either party to the marriage. A court may annul a marriage entered into under the following circumstances:

(1) A party lacked capacity to consent to the marriage at the time the marriage was solemnized, either because of age, because of mental incapacity or infirmity or because of the influence of alcohol, drugs, or other incapacitating substances, or a party was induced to enter into a marriage by force or duress, or by fraud involving the essentials of marriage. Suit may be brought by either party, or by the legal representative of a party lacking the capacity to consent, no later than one year after the petitioner obtained knowledge of the described condition.

(2) A party lacks the physical capacity to consummate the marriage by sexual intercourse, and at the time the marriage was solemnized the other party did not know of the incapacity. Suit may be brought by either party no later than one year after the petitioner obtained knowledge of the incapacity.

(3) A party was 16 or 17 years of age and did not have the consent of his or her parent or guardian or judicial approval, or a party was under 16 years of age. Suit may be brought by the underaged party or a parent or guardian at any time prior to the party's attaining the age of 18 years, but a parent or guardian must bring suit within one year of obtaining knowledge of the marriage.

(4) The marriage is prohibited by the laws of this state. Suit may be brought by either party within 10 years of the marriage, except that the 10-year limitation shall not apply where the marriage is prohibited because either party has another spouse living at the time of the marriage and the impediment has not been removed under s. 245.24.

SECTION 10. 247.045 of the statutes is amended to read:

247.045 Guardian ad litem for minor children. In any action for an annulment, divorce, legal separation, or ~~otherwise other action~~ affecting marriage, when the court has reason for special concern as to the future welfare of the minor children, and in all actions affecting marriage where the custody of such children is contested, the court shall appoint a guardian ad litem to represent such children as to custody, support and visitation. The guardian ad litem shall be an advocate for the child and consider the factors under s. 247.24. If a guardian ad litem is appointed, the court shall direct either or both parties to pay the fee of the guardian ad litem, the amount of which fee shall be approved by the court. In the event of ~~indigency inability to pay~~ on the part of ~~either or both parties~~ the court, in its discretion, may direct that the fee of the guardian ad litem, in whole or in part, be paid by the county of venue, and may direct either party to reimburse the county, in whole or in part, for such payment.

SECTION 11. 247.05 of the statutes is repealed and recreated to read:

247.05 Procedures. (1) JURISDICTION. A court of this state having jurisdiction to hear actions affecting marriage may exercise jurisdiction as provided under ch. 801.

(1m) RESIDENCE. No action under s. 247.02 (1) (a) or (b) may be brought unless at least one of the parties has been a bona fide resident of the county in which the action is brought for not less than 30 days next preceding the commencement of the action, or unless the marriage has been contracted within this state within one year prior to the commencement of the action. No action under s. 247.02 (1) (c) or (d) may be brought unless at least one of the parties has been a bona fide resident of the county in which the action is brought for not less than 30 days next preceding the commencement of the action. No action under s. 247.02 (1) (c) may be brought unless at least one of the parties has been a bona fide resident of this state for not less than 6 months next preceding the commencement of the action.

(2) **ACTIONS FOR CUSTODY OF CHILDREN.** Subject to ch. 822, the question of a child's custody may be determined as an incident of any action affecting marriage or in an independent action for custody. The effect of any determination of a child's custody shall not be binding personally against any parent or guardian unless the parent or guardian has been made personally subject to the jurisdiction of the court in the action as provided under ch. 801.

(3) **PARTIES.** The party initiating an action affecting marriage shall be denominated the petitioner. The party responding to the action shall be denominated the respondent. All references to "plaintiff" in chs. 801 to 807 shall apply to the petitioner, and all references to "defendant" in chs. 801 to 807 shall apply to the respondent.

(4) **PETITION.** All references to a "complaint" in chs. 801 to 807 shall apply to petitions under s. 247.085.

(5) **TITLE OF ACTIONS.** An action affecting marriage under ch. 247.02 (1) (a) to (d) and (f) to (k) shall be entitled "In re the marriage of A.B. and C.D.". A child custody action shall be entitled "In re the custody of A.B.". In all other respects, the general provisions of chs. 801 and 802 respecting the content and form of the summons and pleadings shall apply.

SECTION 12. 247.055 to 247.066 of the statutes are repealed.

SECTION 13. 247.07 of the statutes is repealed and recreated to read:

247.07 Judgment of divorce or legal separation. A court of competent jurisdiction shall grant a judgment of divorce or legal separation if:

(1) The requirements of this chapter as to residence and marriage assessment counseling have been complied with;

(2) The court finds that the marriage is irretrievably broken under s. 247.12 (2); and

(3) To the extent it has jurisdiction to do so, the court has considered, approved or made provision for child custody, the support of any child of the marriage entitled to support, the maintenance of either spouse, the support of the family under s. 247.261 and the disposition of property.

SECTION 14. 247.08 (1) of the statutes is amended to read:

247.08 (1) If either spouse fails or refuses, without lawful or reasonable excuse, to provide for the support and maintenance of the other spouse or minor children, the other spouse may commence an action in any court having jurisdiction in actions for divorce to compel the spouse to provide such support and maintenance as may be legally required. The court, in such action, may shall, after consideration of the factors enumerated in ss. 247.25 and 247.26 where appropriate, determine and adjudge the amount, if any, the spouse should reasonably contribute to the support and maintenance of the other spouse or children and how such sum should be paid. The amount so ordered to be paid may be changed or modified by the court upon notice of motion or order to show cause by either spouse upon sufficient evidence. Such determination may be enforced by contempt proceedings, a wage assignment, or other enforcement mechanisms as provided under s. 247.30. In any such support action there shall be no filing fee, suit tax or other costs taxable to the other spouse, but after the action has been commenced and filed the court in its discretion may direct that any part of or all fees and costs incurred shall be paid by the spouse.

SECTION 15. 247.081 of the statutes is repealed and recreated to read:

247.081 Counseling for marriage assessment, divorce and separation. In every action for annulment, divorce or legal separation, the family court commissioner shall inform the parties of the availability of counseling for marriage assessment, divorce and separation and referral services offered by the family court commissioner or the family court conciliation department. In this section, "counseling for marriage assessment, divorce and separation" means counseling to explore the possibility of reconciliation, to enable the parties to adjust to the status of being unmarried persons, to prepare the

parties to live separate lives and to assist the parties in planning for the needs of their minor children, if any.

(1) In every action for divorce or legal separation, the family court commissioner shall require the petitioner and, if personally served within this state, the respondent to participate in such counseling which shall be provided either through the commissioner's efforts or the efforts of a family court conciliation department if it exists or through referrals of the parties to a suitable counseling source, including a county mental health or guidance clinic, a member of the clergy, or, if there are minor children of the parties' marriage, a child welfare agency licensed under ss. 48.66 to 48.73. No person so consulted may disclose any statement made by either party without the consent of that party.

(2) The family court commissioner shall arrange for such counseling on a voluntary basis for parties to an action for annulment who request such counseling and who are not required to participate in such counseling under sub. (1). Such counseling shall be provided as under sub. (1). No person consulted for counseling may disclose any statement made by either party without the consent of that party.

SECTION 16. 247.082 of the statutes is amended to read:

247.082 Suspension of proceedings to effect reconciliation. During the pendency of any action for divorce or legal separation, the court may, upon written stipulation of both parties that they desire to attempt a reconciliation, enter an order suspending any and all orders and proceedings for such period, not exceeding 90 days, as the court determines advisable so as to permit the parties to attempt a reconciliation without prejudice to their respective rights. During the period of suspension the parties may resume living together as husband and wife and their acts and conduct shall not constitute ~~condonation of prior misconduct or a defense to existing grounds for divorce or legal separation~~ an admission that the marriage is not irretrievably broken or a waiver of the ground that the parties have voluntarily lived apart continuously for 12 months or more immediately prior to the commencement of the action if such is the case. Suspension may be revoked upon motion of either party by order of the court. If the parties become reconciled, the court shall dismiss the action. If the parties are not reconciled after the period of suspension, the action shall proceed as though no reconciliation period was attempted.

SECTION 17. 247.083 of the statutes is created to read:

247.083 Requirements for trial: counseling information; waiting period. (1) **COUNSELING INFORMATION.** No petition for annulment, divorce or legal separation may be brought to trial until the family court commissioner has certified to the court that the parties have been informed of counseling and referral services available and the moving party has met the counseling requirement, if any, under s. 247.081. The certification by the family court commissioner shall be filed and entered in the court record.

(2) **WAITING PERIOD.** No petition for divorce or legal separation may be brought to trial until the happening of whichever of the following events occurs first:

(a) The expiration of 120 days after service of the summons and petition upon the respondent; or

(b) An order by the court, after consideration of the recommendation of the family court commissioner, directing an immediate hearing on the petition for the protection of the health or safety of either of the parties or of any child of the marriage or for other emergency reasons consistent with the policies of this chapter. The court shall upon granting such order specify the grounds therefor.

SECTION 18. 247.085 of the statutes is repealed and recreated to read:

247.085 Petition and response. (1) **CONTENTS.** In any action affecting marriage, the petition shall state:

(a) The name and birthdate of the parties, the social security numbers of the husband and wife and their occupations, the date and place of marriage and the facts relating to the residence of both parties.

(b) The name and birthdate of each minor child of the parties and each other child born to the wife during the marriage, and whether the wife is pregnant.

(c) That the marriage is irretrievably broken, or, alternatively, that both parties agree that the marriage is irretrievably broken.

(d) Whether or not an action for divorce or legal separation by either of the parties was or has been at any time commenced, or is pending in any other court or before any judge thereof, in this state or elsewhere, and if either party was previously married, and if so the manner in which such marriage was terminated, and if terminated by court judgment, the name of the court in which the judgment was granted and the time and place the judgment was granted, if known.

(e) Whether the parties have entered into any written agreements as to support, custody, and visitation of the children, maintenance of either party, and property division; and if so, the written agreement shall be attached.

(f) The relief requested. When the relief requested is a legal separation, the petition shall state the specific reason for requesting such relief.

(2) INITIATION OF ACTION. Either or both of the parties to the marriage may initiate the action.

(3) SERVICE. If only one party initiates the action, the other shall be served under ch. 801 and may serve a response or counterclaim within 20 days after the date of service, except that questions of jurisdiction may be raised at any time prior to judgment. Service shall be made upon the petitioner and upon the family court commissioner as provided in s. 247.14, and the original copy of the response shall be filed in court. If the parties together initiate the action, service shall be made upon the family court commissioner as provided in s. 247.14.

(4) DEFENSES ABOLISHED. Previously existing defenses to divorce and legal separation, including but not limited to condonation, connivance, collusion, recrimination, insanity, and lapse of time, are abolished.

SECTION 19. 247.09 of the statutes is repealed and recreated to read:

247.09 Power of court in divorce and legal separation actions. (1) When a party requests a legal separation rather than a decree of divorce, the court shall grant the decree in that form unless the other party requests a divorce, in which case the court shall hear and determine which decree shall be granted. A decree of separation shall provide that in case of a reconciliation at any time thereafter, the parties may apply for a revocation of the judgment. Upon such application the court shall make such orders as may be just and reasonable.

(2) By stipulation of both parties, or upon motion of either party not earlier than one year after entry of a decree of legal separation, the court shall convert the decree to a decree of divorce.

SECTION 20. 247.10 of the statutes is amended to read:

247.10 (title) Stipulation and property division. ~~No judgment of~~ The parties in an action for an annulment, divorce or legal separation shall be granted if it appears to the satisfaction of the court that the suit has been brought by collusion, and no judgment of divorce or legal separation shall be granted if it likewise appears that the plaintiff has procured or connived at the offense charged, or has condoned it; but the parties may, subject to the approval of the court, stipulate for a division of estate, for alimony maintenance payments, or for the support of children, for periodic family support payments under s. 247.261 or for custody and visitation, in case a divorce or legal separation is granted or a marriage annulled.

SECTION 21. 247.101 and 247.11 of the statutes are repealed.

SECTION 22. 247.12 of the statutes is renumbered 247.12 (1) and amended to read:

247.12 (1) (title) **PROCEEDINGS**. In actions affecting marriage, all hearings and trials to determine whether judgment shall be granted shall be before the court ~~except that actions for divorce or legal separation on the ground of adultery must be tried by a jury unless jury trial is waived~~. The testimony shall be taken by the reporter and shall be written out and filed with the record if so ordered by the court. Custody proceedings shall receive priority in being set for hearing.

SECTION 23. 247.12 (2) of the statutes is created to read:

247.12 (2) **IRRETRIEVABLE BREAKDOWN**. (a) If both of the parties by petition or otherwise have stated under oath or affirmation that the marriage is irretrievably broken, or if the parties have voluntarily lived apart continuously for 12 months or more immediately prior to commencement of the action and one party has so stated, the court, after hearing, shall make a finding that the marriage is irretrievably broken.

(b) If the parties have not voluntarily lived apart for at least 12 months immediately prior to commencement of the action and if only one party has stated under oath or affirmation that the marriage is irretrievably broken, the court shall consider all relevant factors, including the circumstances that gave rise to filing the petition and the prospect of reconciliation.

1. If the court finds no reasonable prospect of reconciliation, it shall make a finding that the marriage is irretrievably broken; or

2. If the court finds that there is a reasonable prospect of reconciliation, it shall continue the matter for further hearing not fewer than 30 nor more than 60 days later, or as soon thereafter as the matter may be reached on the court's calendar, and may suggest to the parties that they seek counseling. The court, at the request of either party or on its own motion, may order counseling. At the adjourned hearing, if either party states under oath or affirmation that the marriage is irretrievably broken, the court shall make a finding whether the marriage is irretrievably broken.

SECTION 24. 247.125 of the statutes is amended to read:

247.125 Order for appearance of litigants. Unless nonresidence in the state is shown by competent evidence, ~~or unless service is by publication~~, or the court shall for other good cause otherwise order, both parties in actions affecting marriage shall be required to appear upon the trial. An order of the court or family court commissioner to that effect shall accordingly be procured by the moving party seeking the judgment, and shall be served upon the opposite nonmoving party personally before the trial.

SECTION 25. 247.14 of the statutes is amended to read:

247.14 Service on and appearance by family court commissioner. In any action affecting marriage, ~~the plaintiff and defendant~~ each party shall, either within 20 days after making service on the opposite party of any petition or pleading or before filing such petition or pleading in court, serve a copy of the same upon the family court commissioner of the county in which the action is begun, whether such action is contested or not. No judgment in any such action shall be granted unless this section is complied with, ~~or unless the parties have responded to the family court commissioner's inquiries under s. 247.15~~ except when otherwise ordered by the court. Such commissioner ~~shall may~~ appear in the action ~~when the defendant fails to answer or withdraws his answer before trial; also, when the defendant interposes a counterclaim and the plaintiff thereupon neither supports his complaint nor opposes the counterclaim by proof~~ an action under this chapter when appropriate; and shall appear when otherwise requested by the court.

SECTION 26. 247.15 of the statutes is repealed.

SECTION 27. 247.18 of the statutes is repealed.

SECTION 28. 247.19 of the statutes is renumbered 247.19 (1).

SECTION 29. 247.19 (2) of the statutes is created to read:

247.19 (2) The court may on its own motion, or on motion of any party to an action affecting marriage, exclude from the courtroom all persons other than the parties, their attorneys and any guardians ad litem.

SECTION 30. 247.21 of the statutes is repealed and recreated to read:

247.21 Full faith and credit; comity. (1) ACTIONS IN COURTS OF OTHER STATES. Full faith and credit shall be given in all courts of this state to a judgment in any action affecting marriage, except an action relating to child custody, by a court of competent jurisdiction in another state, territory or possession of the United States, when both spouses personally appear or when the respondent has been personally served.

(2) ACTIONS IN COURTS OF FOREIGN COUNTRIES. Any court of this state may recognize a judgment in any action affecting marriage involving Wisconsin domiciliaries, except an action relating to child custody, by a court of competent jurisdiction in a foreign country, in accordance with the principles of international comity.

(3) CHILD CUSTODY ACTIONS. All matters relating to the effect of the judgment of another court concerning child custody shall be governed by ch. 822.

SECTION 31. 247.22 (1) of the statutes is amended to read:

247.22 (1) A divorce obtained in another jurisdiction shall be of no force or effect in this state, if the court in such other jurisdiction lacks subject matter jurisdiction to hear the case because both parties to the marriage were domiciled in this state at the time the proceeding for the divorce was commenced.

SECTION 32. 247.23 (1) and (2) of the statutes are amended to read:

247.23 (1) Except as provided in ch. 822, in every action affecting marriage, the court or family court commissioner may, during the pendency thereof, make such temporary orders concerning the care, custody and suitable maintenance of the minor children, requiring either party to pay such sums for the support of the other party and enabling the other party to carry on or ~~defend~~ respond to the action, and requiring either party or both to pay such sums for the support of the minor children, to order temporary family support under s. 247.261 or wage assignments under s. 247.265 and in relation to the persons or property of the parties as in its discretion shall be deemed just and reasonable in light of all circumstances, including the incomes and estates of the parties, factors set forth in ss. 247.25 and 247.26; may require counseling of either party; and may prohibit either spouse from imposing any restraint on the personal liberty of the other. The award of custody of a child under this subsection shall give to the custodian: ~~a)~~ the power and duty to authorize necessary medical, surgical, hospital, dental, institutional or psychiatric care for such child where there is no existing guardian for the child appointed under ch. 48 or 880; and ~~b)~~ the right to give or withhold consent for such child to marry under s. 245.02 (2), in addition to the consent of the parents or guardian of such child required therein. Any such order may be based upon the written stipulation of the parties, subject to the approval of the family court commissioner or the court.

(2) Notice of motion for an order or order to show cause under sub. (1) may be served at the time the action is commenced or at any time thereafter and shall be accompanied by an affidavit stating the basis for the request for relief. ~~If the action is commenced by service of a summons without the complaint, the relief sought shall be based upon an affidavit of the party seeking the relief the affidavit shall not set forth any of the grounds for divorce or any details which form the basis for such grounds, but shall state only that it is necessary and for the best interests of the affiant and any minor children of the parties that the relief specified in the affidavit be granted.~~

SECTION 33. 247.232 of the statutes is repealed.

SECTION 34. 247.24 (title) and (1) (a) and (b) of the statutes are repealed and recreated to read:

247.24 (title) Judgment; care, custody and education of children. (1) In rendering a judgment of annulment, divorce or legal separation, or in rendering a judgment in an action under s. 247.02 (1) (e), the court shall make such provisions as it deems just and reasonable concerning the care, custody and education of the minor children of the parties, if any, according to the following provisions:

(a) The court may give the care and custody of such children to one of the parties to the action.

(b) The court may give the care and custody of such children to the parties jointly if the parties so agree and if the court finds that a joint custody arrangement would be in the best interest of the child or children. Joint custody under this paragraph means that both parties have equal rights and responsibilities to the minor child and neither party's rights are superior.

SECTION 35. 247.24 (1) (c) of the statutes is renumbered 247.245 (4) and amended to read:

247.245 (4) Grant The court may grant reasonable visitation privileges to a grandparent or greatgrandparent of any minor child upon the grandparent's or greatgrandparent's petition to the court with notice to the parties if the court determines that it is in the best interests and welfare of the child and issue any necessary order to enforce the same.

SECTION 36. 247.24 (1) (c) and (d) of the statutes are created to read:

247.24 (1) (c) If the interest of any child demands it, and if the court finds either that the parents are unable to care for such children adequately or are not fit and proper persons to have the care and custody of such children, the court may declare any such child a dependent and give the care and custody of such child to a relative of the child, as defined in ch. 48; to a county agency specified in s. 48.56 (1); to a licensed child welfare agency; or to the department of health and social services. The charges for such care shall be pursuant to the procedure under s. 48.27.

(d) The award of custody of a child under this section shall give to the custodian the power and duty to authorize necessary medical, surgical, hospital, dental, institutional or psychiatric care for the child where there is no existing guardian for the child appointed under ch. 48 or 880; and the right to give or withhold consent for the child to marry under s. 245.02 (2), in addition to the consent of the parents or guardian of the child required therein.

SECTION 37. 247.24 (1m) of the statutes is created to read:

247.24 (1m) In making a custody determination, the court shall consider all facts in the best interest of the child and shall not prefer one potential custodian over the other on the basis of the sex of the custodian. The court shall consider reports of appropriate professionals where admitted into evidence when custody is contested. The court may consider the wishes of the child as to his or her custodian. The court shall consider the following factors in making its determination:

(a) The wishes of the child's parent or parents as to custody;

(b) The interaction and interrelationship of the child with his or her parent or parents, siblings, and any other person who may significantly affect the child's best interest;

(c) The child's adjustment to the home, school, religion and community;

(d) The mental and physical health of the parties, the minor children and other persons living in a proposed custodial household;

(e) The availability of public or private child care services; and

(f) Such other factors as the court may in each individual case determine to be relevant.

SECTION 38. 247.24 (2) of the statutes is renumbered 247.32 (2) and amended to read:

247.32 (2) Whenever the welfare of any such child will be promoted thereby, the court granting such judgment shall always have the power to change the care and custody of any such child, either by giving it to or taking it from ~~such any~~ parent, relative or agency, ~~provided that no.~~ No order changing the custody of any child shall be entered until after notice of such application has been given the parents of such child, if they can be found, and also to the relative or agency that then has the custody of such child. The court may order custody transferred to the department of health and social services only in those cases where the department agrees to accept custody. ~~The award of custody of a child under this section shall give to the custodian; a) the power and duty to authorize necessary medical, surgical, hospital, dental, institutional or psychiatric care for such child where there is no existing guardian for the child appointed under ch. 48 or 880; and b) the right to give or withhold consent for such child to marry under s. 245.02 (2), in addition to the consent of the parents or guardian of such child required therein. Any modification of a custody order which removes a child from the care of a parent having custody of the child shall be based on a finding that such removal is necessary to the child's best interest as shown by substantial evidence supporting a change in custody under s. 247.24 (1m).~~

SECTION 39. 247.245 of the statutes is repealed and recreated to read:

247.245 Visitation. (1) A parent is entitled to reasonable visitation rights unless the court finds, after a hearing, that visitation would endanger the child's physical, mental or emotional health.

(2) The court may modify an order granting or denying visitation rights whenever modification would serve the best interest of the child; but the court shall not terminate a parent's visitation rights unless it finds that the visitation would endanger the child's physical, mental or emotional health.

(3) Visitation may not be denied for failure to meet financial obligations to the child or former spouse, nor shall visitation be granted for meeting such obligations.

(5) A parent denied visitation rights under this section may not have or exercise the rights of a parent or guardian under s. 118.125 with regard to the pupil records of the child as to whom visitation rights are denied.

(6) Whenever the court grants visitation rights to a parent, it shall order the child's custodian to obtain written approval of the parent having visitation rights or permission of the court in order to establish legal residence outside this state or to remove the child from this state for a period of time exceeding 90 days. Such court permission may be granted only after notice to the parent having visitation rights and after opportunity for hearing. Violation of a court order under this subsection may be deemed a change of circumstances under s. 247.32, allowing the court to modify the judgment with respect to custody, child support and visitation rights so as to permit withholding of a portion of the support payments to defray the added expense to the parent with visitation rights of exercising such rights or to modify a custody order.

(7) Any person whose visitation rights are violated or interfered with may notify the family court commissioner of such fact. The family court commissioner shall refer the matter for investigation by the department of family conciliation or, if such department does not exist within the county, to another appropriate social service agency.

SECTION 40. 247.25 of the statutes is repealed and recreated to read:

247.25 Child support. (1) Upon every judgment of annulment, divorce or legal separation, or in rendering a judgment in an action under s. 247.02 (1) (f) or (j), the court may order either or both parents to pay an amount reasonable or necessary for support of a child, after considering:

(a) The financial resources of the child.

- (b) The financial resources of both parents as determined under s. 247.255.
 - (c) The standard of living the child would have enjoyed had the marriage not ended in annulment, divorce or legal separation.
 - (d) The desirability that the custodian remain in the home as a full-time parent.
 - (e) The cost of day care if the custodian works outside the home, or the value of custodial services performed by the custodian if the custodian remains in the home.
 - (f) The physical and emotional health needs of the child.
 - (g) The child's educational needs.
 - (h) The tax consequences to each party.
 - (i) Such other factors as the court may in each individual case determine to be relevant.
- (2) The court may protect and promote the best interests of the minor children by setting aside a portion of the child support which either party is ordered to pay in a separate fund or trust for the support, education and welfare of such children.

SECTION 41. 247.255 of the statutes is created to read:

247.255 Property division. Upon every judgment of annulment, divorce or legal separation, or in rendering a judgment in an action under s. 247.02 (1) (h), the court shall divide the property of the parties and divest and transfer the title of any such property accordingly. A certified copy of the portion of the judgment which affects title to real estate shall be recorded in the office of the register of deeds of the county in which the lands so affected are situated. The court may protect and promote the best interests of the children by setting aside a portion of the property of the parties in a separate fund or trust for the support, maintenance, education and general welfare of any minor children of the parties. Any property inherited by either party prior to or during the course of the marriage shall remain the property of such party and may not be subjected to a property division under this section except upon a finding that refusal to divide such property will create a hardship on the other party or on the children of the marriage, and in that event the court may divest the party of such property in a fair and equitable manner. The court shall presume that all other property except inherited property is to be divided equally between the parties, but may alter this distribution without regard to marital misconduct after considering:

- (1) The length of the marriage.
- (2) The property brought to the marriage by each party.
- (3) The contribution of each party to the marriage, giving appropriate economic value to each party's contribution in homemaking and child care services.
- (4) The age and physical and emotional health of the parties.
- (5) The contribution by one party to the education, training or increased earning power of the other.
- (6) The earning capacity of each party, including educational background, training, employment skills, work experience, length of absence from the job market, custodial responsibilities for children and the time and expense necessary to acquire sufficient education or training to enable the party to become self-supporting at a standard of living reasonably comparable to that enjoyed during the marriage.
- (7) The desirability of awarding the family home or the right to live therein for a reasonable period to the party having custody of any children.
- (8) The amount and duration of an order under s. 247.26 granting maintenance payments to either party, any order for periodic family support payments under s. 247.261 and whether the property division is in lieu of such payments.
- (9) Other economic circumstances of each party, including pension benefits, vested or unvested, and future interests.

(10) The tax consequences to each party.

(11) Any written agreement made by the parties before or during the marriage concerning any arrangement for property distribution; such agreements shall be binding upon the court except that no such agreement shall be binding where the terms of the agreement are inequitable as to either party. The court shall presume any such agreement to be equitable as to both parties.

(12) Such other factors as the court may in each individual case determine to be relevant.

SECTION 42. 247.26 of the statutes is repealed and recreated to read:

247.26 Maintenance payments. (1) Upon every judgment of annulment, divorce or legal separation, or in rendering a judgment in an action under s. 247.02 (1) (g) or (j), the court may grant an order requiring maintenance payments to either party for a limited or indefinite length of time after considering:

(a) The length of the marriage.

(b) The age and physical and emotional health of the parties.

(c) The distribution of property made under s. 247.255.

(d) The educational level of each party at the time of marriage and at the time the action is commenced.

(e) The earning capacity of the party seeking maintenance, including educational background, training, employment skills, work experience, length of absence from the job market, custodial responsibilities for children and the time and expense necessary to acquire sufficient education or training to enable the party to find appropriate employment.

(f) The feasibility that the party seeking maintenance can become self-supporting at a standard of living reasonably comparable to that enjoyed during the marriage, and, if so, the length of time necessary to achieve this goal.

(g) The tax consequences to each party.

(h) Any mutual agreement made by the parties before or during the marriage, according to the terms of which one party has made financial or service contributions to the other with the expectation of reciprocation or other compensation in the future, where such repayment has not been made, or any mutual agreement made by the parties before or during the marriage concerning any arrangement for the financial support of the parties.

(i) Such other factors as the court may in each individual case determine to be relevant.

SECTION 43. 247.261 to 247.263 of the statutes are created to read:

247.261 Family support. The court may make a financial order designated "family support" as a substitute for child support orders under s. 247.25 and maintenance payment orders under s. 247.26.

247.262 Award of attorney's fees. The court, after considering the financial resources of both parties, may order either party to pay a reasonable amount for the cost to the other party of maintaining or responding to an action affecting marriage and for attorney's fees to either party, including sums for legal services rendered and costs incurred prior to the commencement of the proceeding or after entry of judgment. The court may order that the amount be paid directly to the attorney, who may enforce the order in his or her name. The court may not order payment of costs under this section by the state or any county which may be a party to the action.

247.263 Notice of change of employer and change of address. Each order for child support or maintenance payments shall include an order that the payer and payee notify the clerk of court of any change of employer or change of address within 10 days of such change.

SECTION 44. 247.265 of the statutes is repealed and recreated to read:

247.265 Wage assignment. (1) Each order for child support under s. 247.23 or 247.25, for maintenance payments under s. 247.23 or 247.26, for family support under s. 247.261, for support by a spouse under s. 247.02 (1) (f) or for maintenance payments under s. 247.02 (1) (g) shall include an order directing the payer to assign such salary due or to be due in the future from his or her employer or successor employers to the clerk of the court where judgment was granted, as will be sufficient to meet the maintenance payments, child support payments or family support payments imposed by the court for the support of the spouse or minor children or both. The wage assignment shall take effect upon application of the person receiving payments which states that the payer has failed to make in full a payment as established by the court within 20 days of the date the payment was due, and when the requirement of sub. (2) has been satisfied, or, at the court's discretion, may take effect immediately.

(2) The family court commissioner, upon application of the person receiving payments, shall send a notice by certified mail to the last-known address of any payer who has failed to make a required maintenance payment or child support payment within 20 days of its due date. The notice shall be postmarked no later than 10 days after the date on which the application was filed and shall inform the recipient that the wage assignment shall go into effect 10 days after the date on which the notice was sent. The payer may, within that 10-day period, request a hearing on the issue of whether the wage assignment should take effect, in which case the wage assignment shall be held in abeyance pending the outcome of the hearing. The family court commissioner shall hold a hearing requested under this section within 10 working days after the date of the request. If at the hearing the payer establishes that extraordinary circumstances prevented fulfillment of the maintenance payment or child support obligation and that such circumstances are beyond the control of the payer, the family court commissioner may direct that the wage assignment be delayed until such time, within 12 months, as another month's payment is missed. If such a delay is granted, the wage assignment shall, upon application, go into effect if, within the following 12 months, the payer fails to make in full any payment within 20 days of its due date. Either party may, within 15 working days of the date of the decision by the family court commissioner under this section, appeal to the court which issued the original support or maintenance order.

(3) An assignment made under this section shall be binding upon the employer and successor employers one week after service upon the employer of a true copy of the assignment signed by the employe and annexed to a copy of the order, by personal service or by registered or certified mail, until further order of the court. For each payment the employer shall receive \$1 which shall be deducted from the money to be paid the employe. Section 241.09 shall not apply to assignments under this section. The employer may not use such assignments as a basis for the discharge of an employe or for any disciplinary action against the employe. An employer who discharges or disciplines an employe in violation of this subsection may be fined not more than \$200 and may be required to make full restitution to the aggrieved employe, including reinstatement and back pay. Compliance by an employer with the order operates as a discharge of the employer's liability to the employe as to that portion of the employe's wages so affected.

SECTION 45. 247.27 and 247.275 of the statutes are created to read:

247.27 Disclosure of assets required. (1) In any action affecting marriage, except an action to affirm marriage under s. 247.02 (1) (a), the court shall require each party to furnish, on such standard forms as the court may require, full disclosure of all assets owned in full or in part by either party separately or by the parties jointly. Such disclosure may be made by each party individually or by the parties jointly. Assets required to be disclosed shall include, but shall not be limited to, real estate, savings accounts, stocks and bonds, mortgages and notes, life insurance, interest in a partnership or corporation, tangible personal property, income from employment, future interests whether vested or nonvested, and any other financial interest or source.

The court shall also require each party to furnish, on the same standard form, information pertaining to all debts and liabilities of the parties. The form used shall contain a statement in conspicuous print that complete disclosure of assets and debts is required by law and deliberate failure to provide complete disclosure constitutes perjury. The court may on its own initiative and shall at the request of either party require the parties to furnish copies of all state and federal income tax returns filed by them for the past 2 years, and may require copies of such returns for prior years.

(2) Disclosure forms required under this section shall be filed no earlier than 60 days prior to final hearing and no later than 30 days prior to such hearing. Information contained on such forms shall be updated to the date of hearing on the record.

(3) Information disclosed under this section shall be confidential and may not be made available to any person for any purpose other than the adjudication, appeal, modification or enforcement of judgment of an action affecting marriage of the disclosing parties.

(4) Failure by either party timely to file a complete disclosure statement as required by this section shall authorize the court to accept the statement of the other party as accurate.

(5) If any party deliberately or negligently fails to disclose information required by sub. (1) and in consequence thereof any asset or assets with a fair market value of \$500 or more is omitted from the final distribution of property, the party aggrieved by such nondisclosure may at any time petition the court granting the annulment, divorce or legal separation to declare the creation of a constructive trust as to all undisclosed assets, for the benefit of the parties and their minor or dependent children, if any, with the party in whose name the assets are held declared the constructive trustee, said trust to include such terms and conditions as the court may determine. The court shall grant the petition upon a finding of a failure to disclose such assets as required under sub. (1).

247.275 Disposition of assets prior to action. In any action affecting marriage, except an action to affirm marriage under s. 247.02 (1) (a), any asset with a fair market value of \$500 or more which would be considered part of the estate of either or both of the parties if owned by either or both of them at the time of the action, but which was transferred for inadequate consideration, wasted, given away or otherwise unaccounted for by one of the parties within one year prior to the filing of the petition or the length of the marriage, whichever is shorter, shall be rebuttably presumed to be part of the estate for the purposes of s. 247.255 and shall be subject to the disclosure requirement of s. 247.27. Transfers which resulted in an exchange of assets of substantially equivalent value need not be specifically disclosed where such assets are otherwise identified in the statement of net worth.

SECTION 46. 247.30 of the statutes is amended to read:

247.30 (title) Enforcement of maintenance payment and child support orders. In all cases where ~~alimony or other allowance shall be adjudged to either party or for the support or education of the children~~ child support payments under s. 247.25, maintenance payments under s. 247.26, family support payments under s. 247.261 or attorney's fees under s. 247.262 are ordered, the court may provide that the same shall be paid in such sums and at such times as shall be deemed expedient, and may impose the same as a charge upon any specific real estate of the party liable or may require sufficient security to be given for payment according to the judgment; and upon neglect or refusal to give such security or upon the failure to pay such ~~alimony or allowance payments or fees~~ the court may enforce the payment thereof, including past due payments, by execution ~~or~~, under s. 295.02, by money judgment for past due payments, by satisfaction under s. 811.23 out of any property attached under ch. 811 or otherwise as in other cases. No such judgment shall become effectual as a charge upon specific real estate until the judgment or a certified copy thereof is recorded in the office of the register of deeds in the county in which the real estate is situated.

SECTION 47. 247.305 of the statutes is created to read:

247.305 Enforcement; contempt proceedings. In all cases where a party has incurred a financial obligation under s. 247.25, 247.255, 247.26, 247.261 or 247.262 and has failed within a reasonable time or as ordered by the court to satisfy such obligation, and where the wage assignment proceeding under s. 247.265 is inapplicable, impractical or unfeasible, the court may on its own initiative, and shall on the application of the receiving party, issue an order requiring the payer to show cause at some reasonable time therein specified why he or she should not be punished for such misconduct as provided in s. 295.02.

SECTION 48. 247.32 of the statutes is renumbered 247.32 (1) and amended to read:

247.32 (1) After a judgment providing for ~~alimony or other allowance for a spouse and children, or either of them, child support under s. 247.25, maintenance payments under s. 247.26 or family support payments under s. 247.261,~~ or for the appointment of trustees ~~as aforesaid under s. 247.31~~ the court may, from time to time, on the petition of either of the parties and upon notice to the family court commissioner, revise and alter such judgment respecting the amount of such ~~alimony or allowance maintenance or child support~~ and the payment thereof, and also respecting the appropriation and payment of the principal and income of the property so held in trust, and may make any judgment respecting any of the said matters which such court might have made in the original action, except that a judgment which ~~either fails to provide alimony waives maintenance payments for either party or provides alimony for either party for a limited period only under s. 247.26~~ shall not thereafter be revised or altered in ~~either that~~ respect nor shall the provisions of a judgment with respect to final division of property be subject to revision or modification. Any change in child support because of alleged change in circumstances shall take into consideration each parent's earning capacity and total economic circumstances. In any action under this section, a substantial change in the cost of living by either party or as measured by the federal bureau of labor statistics may be sufficient to justify a revision of judgment.

SECTION 49. 247.32 (3) of the statutes is created to read:

247.32 (3) After a final judgment requiring maintenance payments has been rendered and the payee has remarried, the court shall, on application of the payer with notice to the payee and upon proof of remarriage, vacate the order requiring such payments.

SECTION 50. 247.33 and 247.34 of the statutes are repealed.

SECTION 51. 247.37 (title) and (1) to (3) of the statutes is amended to read:

247.37 (title) Effect of judgment. (1) (a) ~~When a judgment of divorce is granted it shall not be effective so far as it affects the marital status of the parties until the expiration of 6 months from the date of the granting of such judgment, except that it shall immediately bar the parties from cohabitation together and except that it may be reviewed on appeal during said period. But in case either party dies within said period, such judgment, unless vacated or reversed, shall be deemed to have entirely severed the marriage relation immediately before such death. The written judgment shall include the substance of the preceding language; and if~~ In any action affecting marriage, if the court orders ~~alimony maintenance payments~~ or other allowances for a party or children or retains jurisdiction in such matters, the written judgment shall include a provision that disobedience of the court order with respect to the same is punishable under s. 295.02 by commitment to the county jail or house of correction until such judgment is complied with and the costs and expenses of the proceedings are paid or until the party committed is otherwise discharged, according to law. The findings of fact and conclusions of law and the written judgment shall be drafted by the attorney for the ~~prevailing moving~~ party, and shall be submitted to the court and filed with the clerk of the court within 30 days after judgment is granted; but if the ~~action has been uncontested respondent has been represented by counsel, they~~ the findings, conclusions and judgment shall first be submitted to opposing respondent's counsel, if any, for

approval and if the family court commissioner has appeared ~~in~~ at the trial of the action, such ~~original papers, together with copies thereof,~~ shall also be sent to the family court commissioner for ~~examination before submission of the same~~ approval. After any necessary approvals are obtained, the findings of fact, conclusions of law and judgment shall be submitted to the court. Final stipulations of the parties may be appended to the judgment and incorporated by reference therein.

(b) When a judgment of divorce is granted, the written judgment of divorce shall state, in a separate paragraph, that where either party to the marriage being so dissolved is obligated under such judgment or by other judgment or court order to support any minor issue of the marriage not in his or her custody, he or she is prohibited by s. 245.10 or 245.105 from marrying again in this state or elsewhere after such judgment becomes final unless permission to marry is granted by order of either the court of this state which granted such judgment or support order, or the court having divorce jurisdiction in the county of this state where such minor issue resides or where the marriage license application is made.

(c) At the time of filing any judgment for a an annulment, divorce or legal separation, the attorney for the ~~prevailing~~ moving party shall present to the clerk of court 2 true copies thereof in addition to the original judgment, and until such copies are presented the clerk may refuse to accept such judgment for filing. After the judgment is filed, the clerk shall mail a copy forthwith to each party to the action at ~~his last known~~ the last-known address, and the court record shall show such mailing.

(2) So far as ~~said~~ a judgment of divorce affects the marital status of the parties the court has the power to vacate or modify the same for sufficient cause shown, upon its own motion, or upon the application of ~~either party~~ both parties to the action, at any time within 6 months from the granting of such judgment, ~~provided both parties are then living.~~ But no such judgment shall be vacated or modified without service of notice of motion, ~~or order to show cause~~ on the family court commissioner, ~~and on the parties to the action if they are found.~~ The court may direct the family court commissioner or appoint some other attorney, to bring appropriate proceedings for the vacation of ~~said~~ the judgment. The compensation of the family court commissioner when not on a salaried basis or other attorney for performing such services shall be at the rate of \$50 per day, which shall be paid out of the county treasury upon order of the presiding judge and the certificate of the clerk of the court. If the judgment is vacated it shall restore the parties to the marital relation that existed before the granting of such judgment. If after vacation of the judgment either of the parties shall bring an action in this state for divorce against the other the court may order the ~~plaintiff~~ petitioner in such action to reimburse the county the amount paid by it to the family court commissioner or other attorney in connection with such vacation proceedings. Whenever a judgment of divorce is set aside ~~pursuant to~~ under this subsection, the court shall order the record in the action impounded without regard to s. 247.19; and thereafter neither the record nor any part thereof shall be offered or admitted into evidence in any action or proceeding except by special order of the court of jurisdiction upon good cause shown in any paternity proceedings under ss. 52.21 to 52.45 or by special order of any court of record upon a showing of necessity to clear title to real estate.

(3) When a judgment of divorce is granted it shall be effective immediately except as provided in s. 245.03 (2). Every judge who grants a judgment of divorce shall inform the parties appearing in court that the judgment, ~~so far as it affects the marital status of the parties except to bar cohabitation, will not become~~ is effective until ~~6 months from the date when such judgment is granted; and where either party to the marriage being so dissolved is obligated under such judgment or by other judgment or court order to support any minor issue of the marriage not in the party's custody, the judge shall inform the party that the party is prohibited from marrying again in this state or elsewhere unless permission to marry is granted by order of either the court of this state which granted such judgment or support order, or the court having divorce~~

~~jurisdiction in the county of this state where such minor issue resides or where the marriage license application is made immediately except as provided in s. 245.03 (2).~~

SECTION 53m. 247.37 (4) of the statutes is repealed.

SECTION 54. 247.375 of the statutes is repealed.

SECTION 55. 247.38 of the statutes is amended to read:

247.38 Judgment revoked on remarriage. When a judgment of divorce has been granted and the parties shall afterwards intermarry, the court, upon their joint application and upon satisfactory proof of such marriage, ~~may~~ shall revoke all judgments and any orders of divorce, ~~alimony and subsistence~~ which will not affect the right of ~~third 3rd~~ persons and order the record impounded without regard to s. 247.19; and thereafter neither the record nor any part thereof shall be offered or admitted into evidence in any action or proceeding except by special order of the court of jurisdiction upon good cause shown in any paternity proceedings under ss. 52.21 to 52.45 or by special order of any court of record upon a showing of necessity to clear title to real estate. ~~After a final judgment of divorce has been rendered, the court, upon the application of the party paying alimony, on notice to, and on proof of the marriage, after such final judgment, of the party receiving such alimony, shall by order modify such final judgment and any orders made with respect thereto, by annulling the provisions of such final judgment or orders, or of both, directing layment of such alimony.~~

SECTION 56. 251.72 (1) of the statutes is amended to read:

251.72 (1) In actions affecting marriage pending in this court, no allowance for suit money, counsel fees or disbursements in this court, nor for temporary ~~alimony or~~ maintenance of ~~either~~ payments to the spouse or the children during the pendency of the appeal will be made in this court.

SECTION 57. 632.895 of the statutes is created to read:

632.895 Conversion privileges for insured former spouse required. (1) No policy of accident and health insurance providing coverage of hospital or medical expense on either an expense incurred basis or other than an expense incurred basis, which in addition to covering the insured also provides coverage to the spouse of the insured, may contain a provision for termination of coverage for a spouse covered under the policy solely as a result of a break in the marital relationship except by reason of an entry of a valid decree of divorce between the parties.

(2) Every such policy which contains a provision for termination of coverage of the spouse upon divorce shall contain a provision to the effect that upon the entry of a valid decree of divorce between the insured parties the divorced spouse shall be entitled to have issued to him or her, without evidence of insurability, upon application made to the company within 60 days following the entry of such decree, and upon the payment of the appropriate premium, an individual policy of accident and health insurance. Such policy shall provide the coverage then being issued by the insurer which is most nearly similar to such terminated coverages. Any and all probationary or waiting periods set forth in such policy shall be considered as being met to the extent coverage was in force under the prior policy.

SECTION 58. 801.05 (11) of the statutes is amended to read:

801.05 (11) (title) MARITAL ACTIONS. In any action ~~to determine a question of status under s. 247.05 (1), (2) and (3), or in an independent action for support, alimony or property division affecting marriage in which a personal claim is asserted against the respondent~~ commenced in the county in which the plaintiff petitioner resides at the commencement of the action when the defendant respondent resided in this state in the marital relationship with the plaintiff petitioner for not less than 6 consecutive months within the 6 years next preceding the commencement of the action, and after the ~~defendant respondent~~ left the state the plaintiff petitioner continued to reside in this state, and the ~~defendant cannot be served under s. 247.06 but respondent is served under s. 247.062 (1)~~ personally under s. 801.11. The effect of any

determination of a child's custody shall not be binding personally against any parent or guardian unless the parent or guardian has been made personally subject to the jurisdiction of the court in the action as provided under ch. 801 or has been notified under s. 822.05 as provided in s. 822.12.

SECTION 59. Change of terminology. Wherever the word "alimony" appears in the following sections of the statutes, the term "maintenance payments" is substituted: 45.37 (9) (g), 49.47 (4) (c) 1, 59.395, 59.42 (10) (b), 69.52 (2), 71.09 (7) (a) 1, 247.29, 247.39 and 898.14 (2).

SECTION 60. Cross reference changes. In the sections listed in column A below, the cross references in column B are changed to the cross references in column C.

A	B	C
statute sections	Old cross references	New cross references
52.055 (2m)	247.03	247.02
59.39 (9m)	247.26, 247.265	247.25 to 247.265
247.36	247.26	247.255 or 247.26

SECTION 61. Wage assignments in pending or granted annulments, legal separations and divorces. (1) The court shall order a wage assignment, upon application of the person receiving payments, in any action affecting marriage commenced prior to the effective date of this act which includes an order for child support, alimony or periodic payments, when the requirements of subs. (2) and (3) have been met.

(2) The person receiving payments may make application to the family court commissioner which states that the payer has failed to make in full a payment as established by the court within 20 days of the date the payment was due. Such application shall be made within 6 months from the date of the last missed payment.

(3) The family court commissioner, upon application of the person receiving payments, shall send a notice by certified mail to the last-known address of any payer who has failed to make a required payment within 20 days of its due date. The notice shall be postmarked no later than 10 days after the date on which the application was filed and shall inform the recipient that a wage assignment shall be ordered, to take effect 10 days after the date on which the notice was sent. The payer may, within that 10-day period, request a hearing on the issue of whether the wage assignment should be ordered, in which case the wage assignment shall be held in abeyance pending the outcome of the hearing. The family court commissioner shall hold a hearing requested under this section within 10 working days after the date of the request. If at the hearing the payer establishes that extraordinary circumstances prevented fulfillment of the support obligation and that such circumstances are beyond the control of the payer, the family court commissioner may direct that the wage assignment be delayed until such time, within 12 months, as another month's payment is missed. If such a delay is granted, the wage assignment shall, upon application, be ordered if, within the following 12 months, the payer fails to make in full any payment within 20 days of its due date. Either party may, within 15 working days of the date of the decision by the family court commissioner under this section, appeal to the court which issued the original support or maintenance order.

(4) An assignment made under this section shall be binding upon the employer and successor employers one week after service upon the employer of a true copy of the assignment signed by the employe and annexed to a copy of the order, by personal service or by registered or certified mail, until further order of the court. For each payment the employer shall receive \$1 which he shall deduct from the money to be paid the employe. Section 241.09 of the statutes shall not apply to assignments under this section. The employer may not use such assignments as a basis for the discharge of an employe or for any disciplinary action against the employe. An employer who discharges or disciplines an employe in violation of this subsection may be fined not more than \$200 and may be required to make full restitution to the aggrieved employe, including reinstatement and back pay. Compliance by an employer with the order

operates as a discharge of the employer's liability to the employe as to that portion of the employe's wages so affected.

SECTION 62. Effective date. (1) This act applies to all actions affecting marriage, and to all actions for modification or enforcement of previously entered orders in actions affecting marriage, which are commenced on and after the effective date of this act.

(2) This act shall take effect on the first day of the 4th month after its publication.
