ASSEMBLY AMENDMENT 1,

TO 1995 SENATE BILL 422

May 1, 1996 – Offered by Representative AINSWORTH.

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

2   **1.** Page 1, line 8: before "considering" insert: "calculating child support on the

3 basis of both parents' incomes and, in certain situations, the amount of time spent

4 with the child,".

5   **2.** Page 1, line 9: delete "child support percentage standard" and substitute

6 "statutory method of calculating child support".

7   **3.** Page 6, line 6: before that line insert:

8 "**SECTION 3m.** 46.25 (9) (a) of the statutes is amended to read:

9   46.25 **(9)** (a) The department shall promulgate rules that provide a standard

10 for courts to use in determining a child support obligation based upon a percentage

11 of the gross income and assets of either or both parents. ~~The rules shall provide for~~

12 ~~consideration of the income of each parent and the amount of physical placement~~

13 ~~with each parent in determining a child support obligation in cases in which a child~~

14 ~~has substantial periods of physical placement with each parent.~~".

15   **4.** Page 7, line 4: before that line insert:

1 "**SECTION 7c.** 767.085 (2) (b) of the statutes is amended to read:

2 767.085 **(2)** (b) The clerk of court shall provide without charge, to each person

3 filing a petition requesting child support, a document setting forth the percentage

4 standard established by the department of health and social services under s. 46.25

5 (9) (a) and the method of calculating child support under s. 767.25 (1j) and listing the

6 factors which that a court may consider under s. 767.25 (1m).

7 **SECTION 7f.** 767.085 (2m) (a) 2. of the statutes is amended to read:

8 767.085 **(2m)** (a) 2. Shall be accompanied by a document, provided without

9 charge by the clerk of court, setting forth the percentage standard established by the

10 department of health and social services under s. 46.25 (9) (a) and the method of

11 calculating child support under s. 767.25 (1j) and listing the factors which that a

12 court may consider under s. 767.25 (1m).

13 **SECTION 7m.** 767.085 (2m) (b) of the statutes is amended to read:

14 767.085 **(2m)** (b) If service is by publication, notification regarding s. 948.31

15 may consist of references to the statute numbers and titles, and information relating

16 to the percentage standard, the method of calculating child support and the factors

17 need not be provided.".

18 **5.** Page 7, line 7: before that line insert:

19 "**SECTION 8c.** 767.23 (1n) of the statutes is amended to read:

20 767.23 **(1n)** Before making any temporary order under sub. (1), the court or

21 family court commissioner shall consider those factors which that the court is

22 required by this chapter to consider before entering a final judgment on the same

23 subject matter. If the court or family court commissioner makes a temporary child

24 support order that deviates from the amount of support that would be required by

1 using the ~~percentage standard established by the department of health and social~~

2 ~~services under s. 46.25 (9)~~ <u>method of calculating child support under s. 767.25 (1j)</u>,

3 the court or family court commissioner shall comply with the requirements of s.

4 767.25 (1n) <u>or 767.51 (5d), whichever is appropriate</u>. A temporary order under sub.

5 (1) may be based upon the written stipulation of the parties, subject to the approval

6 of the court or the family court commissioner. Temporary orders made by the family

7 court commissioner may be reviewed by the court as provided in s. 767.13 (6).

8   **SECTION 8f.** 767.25 (1) (a) of the statutes is amended to read:

9   767.25 **(1)** (a) ~~Order~~ <u>Except as provided in sub. (1j) (b) 3., order</u> either or both

10 parents to pay an amount reasonable or necessary to fulfill a duty to support a child.

11 The support amount may be expressed as a percentage of parental income or as a

12 fixed sum, or as a combination of both in the alternative by requiring payment of the

13 greater or lesser of either a percentage of parental income or a fixed sum.

14   **SECTION 8j.** 767.25 (1j) of the statutes is renumbered 767.25 (1j) (a) and

15 amended to read:

16   767.25 **(1j)** (a) Except as provided in sub. (1m), <u>if the court denies periods of</u>

17 <u>physical placement to one parent,</u> the court shall determine child support payments

18 by using the percentage standard established by the department of health and social

19 services under s. 46.25 (9) <u>(a)</u>.

20   **SECTION 8m.** 767.25 (1j) (b) of the statutes is created to read:

21   767.25 **(1j)** (b) Except as provided in sub. (1m), if the court grants periods of

22 physical placement to both parents but one parent has physical placement of the

23 child for less than 15% of the time, the court shall determine child support payments

24 in the following manner:

1   1. The gross child support obligation of each parent shall be calculated by using

2   the percentage standard established by the department of health and social services

3   under s. 46.25 (9) (a).

4   2. If the parent with the greater gross child support obligation under subd. 1.

5   has physical placement of the child for less than 15% of the time, that parent shall

6   pay as child support to the parent with the smaller gross child support obligation

7   under subd. 1., the difference between those gross child support obligations.

8   3. If the parent with the smaller gross child support obligation under subd. 1.

9   has physical placement of the child for less than 15% of the time, neither parent shall

10   be ordered to pay child support to the other parent.

11   **SECTION 8p.** 767.25 (1j) (c) of the statutes is created to read:

12   767.25 **(1j)** (c) Except as provided in sub. (1m), if the court grants periods of

13   physical placement to both parents and each parent has physical placement of the

14   child for at least 15% of the time, the court shall determine child support payments

15   in the following manner:

16   1. The gross child support obligation of each parent shall be calculated by using

17   the percentage standard established by the department of health and social services

18   under s. 46.25 (9) (a).

19   2. Each parent's gross child support obligation calculated under subd. 1. shall

20   be multiplied by that parent's percentage of time spent with the child or children,

21   based on the periods of physical placement granted to the parent.

22   3. The net child support obligation of each parent shall be calculated by

23   subtracting the product determined under subd. 2. for the parent from the gross child

24   support obligation of that parent calculated under subd. 1.

1   4. The parent with the greater net child support obligation under subd. 3. shall

2   pay as child support, to the parent with the smaller net child support obligation

3   under subd. 3., the difference between those net child support obligations.".

4   **6.** Page 8, line 5: before that line insert:

5   "SECTION **13m.** 767.25 (1m) (ej) of the statutes is repealed.".

6   **7.** Page 8, line 9: strike through "percentage standard" and insert thereafter

7   "method of calculating child support under sub. (1j)".

8   **8.** Page 12, line 20: before that line insert:

9   "SECTION **18c.** 767.32 (1) (b) 4. of the statutes is amended to read:

10   767.32 **(1)** (b) 4. ~~A~~ If the judgment or order was entered under s. 48.355 (2) (b)

11   4., 48.357 (5m) or 48.363 (2), a difference between the amount of child support

12   ordered by the court to be paid by the payer and the amount that the payer would

13   have been required to pay based on the percentage standard established by the

14   department of health and social services under s. 46.25 (9) if the court did not use the

15   percentage standard in determining the child support payments and did not provide

16   the information required under s. 46.10 (14) (d)~~, 767.25 (1n) or 767.51 (5d), whichever~~

17   ~~is appropriate~~.

18   SECTION **18f.** 767.32 (1) (b) 5. of the statutes is created to read:

19   767.32 **(1)** (b) 5. If the judgment or order was entered under this chapter or s.

20   948.22 (7), a difference between the amount of child support ordered by the court to

21   be paid by the payer and the amount that the payer would have been required to pay

22   based on the method of calculating child support under s. 767.25 (1j) if the court did

23   not use that method in determining the child support payments and did not provide

1 the information required under s. 767.25 (1n) or 767.51 (5d), whichever is

2 appropriate.

3 **SECTION 18j.** 767.32 (2) of the statutes is amended to read:

4 767.32 **(2)** Except as provided in sub. (2m) or (2r), if the court revises a judgment

5 or order with respect to child support payments, it shall do so by using the ~~percentage~~

6 ~~standard established by the department of health and social services under s. 46.25~~

7 ~~(9)~~ method of calculating child support under s. 767.25 (1j).

8 **SECTION 18m.** 767.32 (2m) of the statutes is amended to read:

9 767.32 **(2m)** Upon request by a party, the court may modify the amount of

10 revised child support payments determined under sub. (2) if, after considering the

11 factors listed in s. 767.25 (1m) or 767.51 (5), as appropriate, the court finds, by the

12 greater weight of the credible evidence, that the use of the ~~percentage standard~~

13 method of calculating child support under s. 767.25 (1j) is unfair to the child or to any

14 of the parties.".

15 **9.** Page 13, line 4: before that line insert:

16 "**SECTION 19m.** 767.45 (7) of the statutes is amended to read:

17 767.45 **(7)** The clerk of court shall provide without charge, to each person

18 bringing an action under this section, except to the state under sub. (1) (g) or (6m),

19 a document setting forth the percentage standard established by the department of

20 health and social services under s. 46.25 (9) (a) and the method of calculating child

21 support under s. 767.25 (1j) and listing the factors ~~which~~ that a court may consider

22 under s. 767.51 (5).

23 **SECTION 19r.** 767.455 (6) of the statutes is amended to read:

1   767.455 **(6)** DOCUMENT. The summons served on the respondent shall be

2   accompanied by a document, provided without charge by the clerk of court, setting

3   forth the percentage standard established by the department of health and social

4   services under s. 46.25 (9) <u>(a) and the method of calculating child support under s.</u>

5   <u>767.25 (1j)</u> and listing the factors ~~which~~ <u>that</u> a court may consider under s. 767.51

6   (5).".

7   **10.** Page 15, line 3: before that line insert:

8   "**SECTION 23m.** 767.51 (4m) of the statutes is amended to read:

9   767.51 **(4m)** Except as provided in sub. (5), the court shall determine child

10   support payments by using the ~~percentage standard established by the department~~

11   ~~of health and social services under s. 46.25 (9)~~ <u>method of calculating child support</u>

12   <u>under s. 767.25 (1j)</u>.".

13   **11.** Page 16, line 5: strike through "percentage standard" and insert

14   thereafter "<u>method of calculating child support under s. 767.25 (1j)</u>".

15   **12.** Page 16, line 17: before that line insert:

16   "**SECTION 29m.** 948.22 (7) (bm) of the statutes is amended to read:

17   948.22 **(7)** (bm) Upon request, the court may modify the amount of child or

18   spousal support payments determined under par. (b) 2. if, after considering the

19   factors listed in s. 767.25 (1m) or 767.51 (5), regardless of the fact that the action is

20   not one for a determination of paternity or an action specified in s. 767.25 (1), the

21   court finds, by the greater weight of the credible evidence, that the use of the

22   percentage standard is unfair to the child or to either of the child's parents.

23   948.22 **(7)** (bm) Upon request, the court may modify the amount of child or

24   spousal support payments determined under par. (b) 2. if, after considering the

1   factors listed in s. 767.25 (1m) or 767.51 (5), regardless of the fact that the action is

2   not one for a determination of paternity or an action specified in s. 767.25 (1), the

3   court finds, by the greater weight of the credible evidence, that the use of the

4   ~~percentage standard~~ <u>method of calculating child support under s. 767.25 (1j)</u> is

5   unfair to the child or to either of the child's parents.".

6   **(END)**