



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-1963/P2
SWB:ah&kjf

DOA:.....Rice, BB0328 - Eliminate birth cost recovery

FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau

COURTS AND PROCEDURE

DOMESTIC RELATIONS

1. Elimination of birth cost recovery

This bill eliminates the requirement that a court include in a judgment or order relating to paternity an order for a father to pay for a portion of pregnancy and birth expenses. Under current law, a court is required to include in a paternity order an order for the father to repay a portion of pregnancy and birth expenses, taking into account the father's income and ability to pay. This bill eliminates orders relating to pregnancy and birth expenses. The bill also expressly prohibits the state from seeking recovery of birth expenses. Under current law, if the mother of a child was enrolled in a health maintenance organization or other prepaid health care plan under the Medical Assistance program at the time of the child's birth, the state could seek to recover from the father the birth expenses incurred by the health maintenance organization or other prepaid health care plan.

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. 49.45 (19) (a) of the statutes is amended to read:

49.45 (19) (a) As Except as provided in par. (c), as a condition of eligibility for medical assistance, a person shall, notwithstanding other provisions of the statutes, be deemed to have assigned to the state, by applying for or receiving medical assistance, any rights to medical support or other payment of medical expenses from any other person, including rights to unpaid amounts accrued at the time of application for medical assistance as well as any rights to support accruing during the time for which medical assistance is paid.

SECTION 2. 49.45 (19) (c) of the statutes is amended to read:

49.45 (19) (c) ~~If the mother of a child was enrolled in a health maintenance organization or other prepaid health care plan under medical assistance at the time of the child's birth, The state may not seek recovery of birth expenses that may be recovered by the state under this subsection are the birth expenses incurred by the health maintenance organization or other prepaid health care plan.~~

SECTION 3. 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, or 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. 767.805 (4) (d) 1. or 767.89 (3) (e) 1.~~ regarding birth expenses 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 \(2\)](#).

***NOTE: This is reconciled s. 49.855 (3). This SECTION has been affected by drafts with the following LRB numbers: -1963/p1 and -1932/p2.

SECTION 4. 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, or 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. 767.805 (4) (d) 1. or 767.89 (3) (e) 1. regarding birth expenses~~ 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 5. 767.805 (4) (d) of the statutes is repealed.

SECTION 6. 767.89 (3) (e) of the statutes is repealed.

SECTION 9319. Initial applicability; Health Services.

(1) **ELIMINATION OF BIRTH COST RECOVERY.** The treatment of ss. 49.45 (19) (a) and (c), 49.855 (3) (with respect to the elimination of statutory reference to court authority to issue new orders for birth expenses) and (4m) (b), 767.805 (4) (d), and 767.89 (3) (e) first applies to an order or judgment relating to paternity issued on the effective date of this subsection.

(END)