



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2005 Wisconsin Act 304
[2005 Senate Bill 369]

**Father's Obligation for Birth
Expenses**

Under *prior law*, in a paternity judgment or order, a court had no authority to set an obligation to pay expenses relating to the mother's pregnancy and the child's birth if the father had no ability to pay at the time of the judgment, even if payments were held in abeyance.

2005 Wisconsin Act 304 provides that in a judgment or order determining paternity, including a voluntary acknowledgment of paternity, the court must establish the amount of the father's obligation to pay or contribute to expenses of the mother's pregnancy and the child's birth, and requires the court to set the father's obligation at not more than one-half of the total actual and reasonable pregnancy and birth expenses. Under the Act, the court must specify in the judgment or order whether periodic payments are due on the obligation, based on the father's ability to pay, and provides that, if the court does not require periodic payments because the father does not have the present ability to pay, the court may modify the judgment or order at a later date to require periodic payments if the father has the ability to pay at that time.

The Act also requires the father's ability to pay to be considered at a hearing to object to a tax refund intercept of child support payments if the obligation relates to an order for payment of the mother's pregnancy and birth expenses, and the order specifies that the court found that the father's income was at or below the federal poverty line at the time the paternity judgment was entered. As under prior law, the father may also challenge whether he owes the amount of support certified.

Effective Date: Act 304 takes effect on April 21, 2006.

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This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.