



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2005 Senate Bill 123

**Senate Amendment 1 and
Assembly Amendment 1**

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Senate Amendment 1 does the following:

1. Items 1. and 7. to 13. of Senate Amendment 1 reconcile the bill with changes made to ch. 767 provisions by 2005 Wisconsin Act 25.
2. Items 2., 3., and 6. of the amendment were suggested by the Department of Workforce Development (DWD). 1997 Wisconsin Act 191 amended provisions in ch. 767 to provide that certain notices would be sent by either the court, the family court commissioner, or the child support agency. However, corresponding changes were not consistently made throughout ch. 767. These items of the amendment revise current language in the affected provisions to reflect the 1997 changes and current practice.
3. Items 4. and 18. of the amendment delete the provision of the bill that authorizes the court to determine amounts owed for previously ordered specific expenses related to the support of the child and add those amounts to any other arrearage of record for purposes of determining interest on child support in arrears. This change was requested by Legal Action of Wisconsin, Inc.
4. Items 14. and 19. of the amendment delete reference to “the income a person would earn by working 40 hours per week for the federal minimum wage under 29 U.S.C. s. 206 (a) (1)” in current statutory language concerning a court ordering a noncustodial parent to pay child support in connection with the children first program. According to DWD, the language is antiquated and inconsistent with use of the percentage standard, which provides a specific formula for setting support in low-income cases.
5. Items 16. and 20. of the amendment make a technical change to reflect provisions elsewhere in the bill regarding when genetic tests are to be ordered.

6. Item 17. of the amendment removes SEC. 213 of the bill, which creates a new provision specifying that the section of the statutes relating to moving a child's residence within or outside the state does not apply to paternity actions. (Item 15 of the amendment makes a corresponding change.) The provision in the bill removed by the amendment codifies an unpublished court of appeals decision (which has no precedential effect). Not all counties follow that decision. Therefore, a request was made to remove the provision, which will leave the statute silent on the matter.

7. Item 21. of the amendment revises the general effective date of the proposal from July 1, 2006 until January 1, 2007.

Assembly Amendment 1 deletes provisions in the bill requiring genetic tests in most paternity cases (not including default, voluntary paternity acknowledgements, and certain deceased father cases). Recent reductions in federal funding to child support programs included a reduction in federal reimbursement for genetic testing from 90% to 66%. (According to DWD: "In Milwaukee County, which has half the state's caseload, alleged fathers are typically not ordered to reimburse the county for tests if they did not request them. As a result, this provision [requiring genetic tests in most cases] creates an unfunded mandate for the counties.")

Legislative History

Senate Amendment 1 was introduced and adopted by the Senate Committee on Judiciary, Corrections and Privacy by a vote of Ayes, 5; Noes, 0. The bill, as amended, was recommended by the committee for passage by a vote of Ayes, 5; Noes, 0. The Senate adopted the amendment on a voice vote and passed the bill on a voice vote.

Assembly Amendment 1 was offered by Representative Kestell. The Assembly Committee on Family Law recommended adoption of Assembly Amendment 1 by a vote of Ayes, 6; Noes, 0. The committee recommended concurrence in the proposal, as amended, by a vote of Ayes, 6; Noes, 0.

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