



## 1995 ASSEMBLY BILL 100

February 6, 1995 - Introduced by Representatives LADWIG, OWENS, GUNDERSON, GOETSCH, DOBYNS, WARD, WALKER, SCHNEIDERS, LEHMAN, KAUFERT, OLSEN, FREESE, F. LASEE, ALBERS, SILBAUGH, DUFF, PLACHE, SPRINGER and LINTON, cosponsored by Senators PETAK, RUDE and PANZER. Referred to Committee on Children and Families.

1     **AN ACT to amend** 46.255 (1), 46.255 (3), 46.255 (4), 46.255 (4m) (b), 46.255 (4m)  
2           (c), 46.255 (5) and (6), 59.39 (9m), 767.025 (3), 767.025 (4), 767.25 (4m) (c) 1.,  
3           767.25 (6) (intro.), 767.25 (6) (a), 767.261 (intro.), 767.261 (1), 767.262 (4) (b),  
4           767.263, 767.265 (1), 767.265 (2r), 767.265 (3h), 767.265 (6) (a), 767.265 (6) (b),  
5           767.265 (7), 767.267 (1), 767.267 (2), 767.267 (5), 767.29 (title), 767.29 (1),  
6           767.29 (1m) (intro.), 767.29 (1m) (d), 767.29 (2), 767.32 (1r), 767.51 (3m) (c) 1.,  
7           767.51 (5p) (intro.), 767.51 (5p) (a) and 814.61 (12) (b) (intro.); **to repeal and**  
8           **recreate** 767.265 (3h), 767.265 (6) (a), 767.265 (6) (b) and 767.267 (1); and **to**  
9           **create** 59.07 (97m), 767.001 (7) and 814.612 of the statutes; **relating to:**  
10          receipt and disbursement of child and spousal support payments.

---

### *Analysis by the Legislative Reference Bureau*

Under current law, all payments of child or family support and maintenance (spousal support) must be made through the clerk of circuit court. Such payments are made by employers of obligors through income withholding or by the obligors themselves if income withholding is inappropriate, such as for a self-employed obligor. The clerk of court disburses the payments received from the employers and the obligors to the obligees of the support or maintenance and keeps a record of the payments and arrearages in payments. Obligor are required to pay an annual fee of up to \$25 to the clerk of court for these services.

This bill permits a county board to pass a resolution that designates any office, officer, board, department or agency as the county support collection designee to receive and disburse child and family support and maintenance payments. Any such

entity so designated is also required to keep a record of payments and arrearages in payments, and collects an annual fee of up to \$25 from each obligor for these services.

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:***

1           **SECTION 1.** 46.255 (1) of the statutes is amended to read:

2           46.255 (1) If a person obligated to provide child support or maintenance is  
3 delinquent in making court-ordered payments, or owes an outstanding amount that  
4 has been ordered by the court for past support, medical expenses or birth expenses,  
5 the clerk of circuit court or county support collection designee under s. 59.07 (97m),  
6 whichever is appropriate, upon application of the county designee under s. 59.07 (97)  
7 or the department, shall certify the delinquent payment or outstanding amount to  
8 the department.

9           **SECTION 2.** 46.255 (3) of the statutes is amended to read:

10          46.255 (3) Receipt of a certification by the department of revenue shall  
11 constitute a lien, equal to the amount certified, on any state tax refunds or credits  
12 owed to the obligor. The lien shall be foreclosed by the department of revenue as a  
13 setoff under s. 71.93 (3), (6) and (7). When the department of revenue determines  
14 that the obligor is otherwise entitled to a state tax refund or credit, it shall notify the  
15 obligor that the state intends to reduce any state tax refund or credit due the obligor  
16 by the amount the obligor is delinquent under the support or maintenance order, by  
17 the outstanding amount for past support, medical expenses or birth expenses under  
18 the court order or by the amount due under s. 46.10 (4). The notice shall provide that  
19 within 20 days the obligor may request a hearing before the circuit court rendering  
20 the order. Within 10 days after receiving a request for hearing under this subsection,

1 the court shall set the matter for hearing. Pending further order by the court or  
2 family court commissioner, the clerk of circuit court or county support collection  
3 designee under s. 59.07 (97m) is prohibited from disbursing the obligor's state tax  
4 refund or credit. The family court commissioner may conduct the hearing. The sole  
5 issues at that hearing shall be whether the obligor owes the amount certified and,  
6 if not and it is a support or maintenance order, whether the money withheld from a  
7 tax refund or credit shall be paid to the obligor or held for future support or  
8 maintenance. An obligor may, within 20 days of receiving notice that the amount  
9 certified shall be withheld from his or her federal tax refund or credit, request a  
10 hearing under this subsection.

11 **SECTION 3.** 46.255 (4) of the statutes is amended to read:

12 46.255 (4) The department of revenue shall send that portion of any state or  
13 federal tax refunds or credits withheld to the department of health and social  
14 services for distribution to the appropriate clerk of circuit court or county support  
15 collection designee under s. 59.07 (97m). The department of health and social  
16 services shall make a settlement at least annually with the department of revenue  
17 and with each clerk of circuit court or county support collection designee under s.  
18 59.07 (97m) who has certified a delinquent obligation or outstanding amount for past  
19 support, medical expenses or birth expenses. The settlement shall state the amounts  
20 certified, the amounts deducted from tax refunds and credits and returned to the  
21 clerk of circuit court or county support collection designee under s. 59.07 (97m) and  
22 the administrative costs incurred by the department of revenue. The department of  
23 health and social services may charge the county whose clerk of circuit court or  
24 support collection designee under s. 59.07 (97m) certified the obligation or

1 outstanding amount the related administrative costs incurred by the department of  
2 health and social services and the department of revenue.

3 **SECTION 4.** 46.255 (4m) (b) of the statutes is amended to read:

4 46.255 (4m) (b) The department may provide a certification that it receives  
5 under sub. (2) or (2m) to the department of administration. Upon receipt of the  
6 certification, the department of administration shall determine whether the obligor  
7 is a vendor or is receiving any other payments from this state, except for wages,  
8 retirement benefits or assistance under s. 45.352, 1971 stats., s. 45.351 (1), this  
9 chapter or ch. 49 or 108. If the department of administration determines that the  
10 obligor is a vendor or is receiving payments from this state, except for wages,  
11 retirement benefits or assistance under s. 45.352, 1971 stats., s. 45.351 (1), this  
12 chapter or ch. 49 or 108, it shall begin to withhold the amount certified from those  
13 payments and shall notify the obligor that the state intends to reduce any payments  
14 due the obligor by the amount the obligor is delinquent under the support or  
15 maintenance order, by the outstanding amount for past support, medical expenses  
16 or birth expenses under the court order or by the amount due under s. 46.10 (4). The  
17 notice shall provide that within 20 days after receipt of the notice the obligor may  
18 request a hearing before the circuit court rendering the order. An obligor may, within  
19 20 days after receiving notice, request a hearing under this paragraph. Within 10  
20 days after receiving a request for hearing under this paragraph, the court shall set  
21 the matter for hearing. The family court commissioner may conduct the hearing.  
22 Pending further order by the court or family court commissioner, the clerk of circuit  
23 court or county support collection designee under s. 59.07 (97m) may not disburse the  
24 payments withheld from the obligor. The sole issues at the hearing are whether the  
25 obligor owes the amount certified and, if not and it is a support or maintenance order,

1 whether the money withheld shall be paid to the obligor or held for future support  
2 or maintenance.

3 **SECTION 5.** 46.255 (4m) (c) of the statutes is amended to read:

4 46.255 **(4m)** (c) Except as provided by order of the court after hearing under  
5 par. (b), the department of administration shall continue withholding until the  
6 amount certified is recovered in full. The department of administration shall  
7 transfer the amounts withheld under this paragraph to the department of health and  
8 social services for distribution to the appropriate clerk of court or county support  
9 collection designee under s. 59.07 (97m).

10 **SECTION 6.** 46.255 (5) and (6) of the statutes are amended to read:

11 46.255 **(5)** Certification of an obligation to the department of health and social  
12 services does not deprive any party of the right to collect the obligation or to prosecute  
13 the obligor. The clerk of court or county support collection designee under s. 59.07  
14 (97m), whichever is appropriate, shall immediately notify the department of any  
15 collection of an obligation that has been certified. The department shall correct the  
16 certified obligation according to the amount the county has collected and report the  
17 correction to the department of revenue.

18 **(6)** If the state implements the child and spousal support and paternity  
19 program under s. 59.07 (97), the state may act under this section in place of the  
20 county designee under ~~this section~~ s. 59.07 (97).

21 **SECTION 7.** 59.07 (97m) of the statutes is created to read:

22 **59.07 (97m)** RECEIPT AND DISBURSEMENT OF CHILD AND SPOUSAL SUPPORT  
23 PAYMENTS. (a) Designate by resolution any office, officer, board, department or  
24 agency as the county support collection designee to receive and disburse child and  
25 spousal support payments ordered by the court under s. 948.22 (7) and child and

1 family support payments and maintenance payments ordered by the court or the  
2 family court commissioner under ch. 767 or ordered by a court in another county or  
3 jurisdiction but enforced or received by the court of the support collection designee's  
4 county.

5 (b) Any office, officer, board, department or agency designated under par. (a)  
6 shall do all of the following:

7 1. Keep a record of all payments received and disbursed and of arrearages in  
8 payments. If the department of health and social services operates a data system  
9 relating to those payments and arrearages, the county support collection designee  
10 shall use that system to keep this record.

11 2. Cooperate with the department of health and social services with respect to  
12 the child and spousal support and establishment of paternity and medical liability  
13 support program under sub. (97) and s. 46.25, and provide that department with any  
14 information from the record under subd. 1. that it requires to administer that  
15 program.

16 **SECTION 8.** 59.39 (9m) of the statutes is amended to read:

17 59.39 (9m) ~~Keep~~ Except in counties that have designated a county support  
18 collection designee under s. 59.07 (97m), keep a record of all payments and  
19 arrearages in payments ordered by the court under s. 948.22 (7) or ch. 767 or 769 and  
20 directed under s. 767.29 (1) to be paid to the clerk or county support collection  
21 designee or ordered by a court in another county or jurisdiction but enforced or  
22 received by the ~~clerk's court~~ of the clerk's county. If the department of health and  
23 social services operates a data system relating to those payments and arrearages, the  
24 clerk shall use that system to keep this record.

25 **SECTION 9.** 767.001 (7) of the statutes is created to read:

1           767.001 (7) "Support collection designee" means the county support collection  
2           designee under s. 59.07 (97m).

3           **SECTION 10.** 767.025 (3) of the statutes is amended to read:

4           767.025 (3) Except as provided in s. 769.316 (3), if an enforcement or  
5           modification petition, motion or order to show cause is filed in a county other than  
6           the county in which the original judgment or order was rendered under sub. (2) (a),  
7           the clerk of court or support collection designee, whichever is appropriate, from the  
8           ~~court~~ county that rendered the original judgment or order shall send a copy of any  
9           payment records associated with the original judgment or order of child support,  
10          family support or maintenance to the clerk of court in the county in which the  
11          petition, motion or order to show cause is filed.

12          **SECTION 11.** 767.025 (4) of the statutes is amended to read:

13          767.025 (4) If a petition, motion or order to show cause for enforcement or  
14          modification of a child support, family support or maintenance order is filed and  
15          heard in a county other than the county in which the original judgment or order was  
16          rendered, any judgment or order enforcing or modifying the original judgment or  
17          order shall specify the clerk of circuit court or support collection designee to whom  
18          payments of support or maintenance are payable and the clerk of circuit court or  
19          support collection designee to whom payments of arrearages in support or  
20          maintenance, if any, are payable.

21          **SECTION 12.** 767.25 (4m) (c) 1. of the statutes, as created by 1993 Wisconsin Act  
22          481, is amended to read:

23          767.25 (4m) (c) 1. In directing the manner of payment of a child's health care  
24          expenses, the court may order that payment, including payment for health insurance  
25          premiums, be withheld from income and sent to the appropriate health care insurer,

1 provider or plan, as provided in s. 767.265 (3h), or sent to the clerk of court or support  
2 collection designee, whichever is appropriate, for disbursement to the person for  
3 whom the payment has been awarded if that person is not a health care insurer,  
4 provider or plan. If the court orders income withholding and assignment for the  
5 payment of health care expenses, the court shall send notice of assignment in the  
6 manner provided under s. 767.265 (2r) and may include the notice of assignment  
7 under this subdivision with a notice of assignment under s. 767.265. The clerk of  
8 court shall keep a record of all moneys received and disbursed by the clerk for health  
9 care expenses that are directed to be paid to the clerk and the support collection  
10 designee shall keep a record of all moneys received and disbursed by the support  
11 collection designee for health care expenses that are directed to be paid to the support  
12 collection designee.

13 **SECTION 13.** 767.25 (6) (intro.) of the statutes is amended to read:

14 767.25 (6) (intro.) A party ordered to pay child support under this section shall  
15 pay simple interest at the rate of 1.5% per month on any amount unpaid,  
16 commencing the first day of the 2nd month after the month in which the amount was  
17 due. Interest under this subsection is in lieu of interest computed under s. 807.01  
18 (4), 814.04 (4) or 815.05 (8) and is paid to the clerk of court or support collection  
19 designee under s. 767.29. Except as provided in s. 767.29 (1m), the clerk of court or  
20 support collection designee, whichever is appropriate, shall apply all payments  
21 received for child support as follows:

22 **SECTION 14.** 767.25 (6) (a) of the statutes is amended to read:

23 767.25 (6) (a) First, to payment of child support due within the calendar month  
24 during which the payment is withheld from income under s. 767.265 or under similar  
25 laws of another state. If payment is not made through income withholding, the clerk



1 or support collection designee, whichever is appropriate, shall first apply child  
2 support payments received to payment of child support due within the calendar  
3 month during which the payment is received.

4 **SECTION 15.** 767.261 (intro.) of the statutes is amended to read:

5 **767.261 Family support.** (intro.) The court may make a financial order  
6 designated "family support" as a substitute for child support orders under s. 767.25  
7 and maintenance payment orders under s. 767.26. A party ordered to pay family  
8 support under this section shall pay simple interest at the rate of 1.5% per month on  
9 any amount unpaid, commencing the first day of the 2nd month after the month in  
10 which the amount was due. Interest under this section is in lieu of interest computed  
11 under s. 807.01 (4), 814.04 (4) or 815.05 (8) and is paid to the clerk of court or support  
12 collection designee under s. 767.29. Except as provided in s. 767.29 (1m), the clerk  
13 of court or support collection designee, whichever is appropriate, shall apply all  
14 payments received for family support as follows:

15 **SECTION 16.** 767.261 (1) of the statutes is amended to read:

16 767.261 (1) First, to payment of family support due within the calendar month  
17 during which the payment is withheld from income under s. 767.265 or under similar  
18 laws of another state. If payment is not made through income withholding, the clerk  
19 or support collection designee, whichever is appropriate, shall first apply family  
20 support payments received to payment of family support due within the calendar  
21 month during which the payment is received.

22 **SECTION 17.** 767.262 (4) (b) of the statutes is amended to read:

23 767.262 (4) (b) The court may order payment of costs under this section by a  
24 county in an action in which the court finds that the record of payments and  
25 arrearages kept by the clerk of court under s. 59.39 (9m) or the support collection

1 designee under s. 59.07 (97m) (b) 1. is substantially incorrect and that the clerk of  
2 court or support collection designee has failed to correct the record within 30 days  
3 after having received information that the court determines is sufficient for making  
4 the correction.

5 **SECTION 18.** 767.263 of the statutes is amended to read:

6 **767.263 Notice of change of employer; change of address; change in**  
7 **ability to pay.** Each order for child support, family support or maintenance  
8 payments shall include an order that the payer and payee notify the clerk of court  
9 or support collection designee, whichever is appropriate, of any change of address  
10 within 10 days of such change. Each order for child support, family support or  
11 maintenance payments shall also include an order that the payer notify the clerk of  
12 court or support collection designee, within 10 days, of any change of employer and  
13 of any substantial change in the amount of his or her income such that his or her  
14 ability to pay child support, family support or maintenance is affected. The order  
15 shall also include a statement that clarifies that notification of any substantial  
16 change in the amount of the payer's income will not result in a change of the order  
17 unless a revision of the order is sought.

18 **SECTION 19.** 767.265 (1) of the statutes is amended to read:

19 **767.265 (1)** Each order for child support under this chapter, for maintenance  
20 payments under s. 767.23 or 767.26, for family support under this chapter, for costs  
21 ordered under s. 767.51 (3), for support by a spouse under s. 767.02 (1) (f) or for  
22 maintenance payments under s. 767.02 (1) (g), each order for a revision in a judgment  
23 or order with respect to child support, maintenance or family support payments  
24 under s. 767.32, each stipulation approved by the court or the family court  
25 commissioner for child support under this chapter and each order for child or spousal

1 support entered under s. 948.22 (7) constitutes an assignment of all commissions,  
2 earnings, salaries, wages, pension benefits, benefits under ch. 102 or 108, lottery  
3 prizes that are payable in instalments and other money due or to be due in the future  
4 to the clerk of the court or support collection designee of the county where the action  
5 is filed. The assignment shall be for an amount sufficient to ensure payment under  
6 the order or stipulation and to pay any arrearages due at a periodic rate not to exceed  
7 50% of the amount of support due under the order or stipulation so long as the  
8 addition of the amount toward arrearages does not leave the party at an income  
9 below the poverty line established under 42 USC 9902 (2).

10 **SECTION 20.** 767.265 (2r) of the statutes is amended to read:

11 767.265 (2r) Upon entry of each order for child support, maintenance, family  
12 support or support by a spouse and upon approval of each stipulation for child  
13 support, unless the court finds that income withholding is likely to cause the payer  
14 irreparable harm or unless s. 767.267 applies, the court shall provide notice of the  
15 assignment by regular mail to the last-known address of the person from whom the  
16 payer receives or will receive money. If the clerk of court or support collection  
17 designee, whichever is appropriate, does not receive the money from the person  
18 notified, the court shall provide notice of the assignment to any other person from  
19 whom the payer receives or will receive money. Notice under this subsection may be  
20 a notice of the court, a copy of the executed assignment or a copy of that part of the  
21 court order directing payment.

22 **SECTION 21.** 767.265 (3h) of the statutes is amended to read:

23 767.265 (3h) A person who receives notice of assignment under this section or  
24 similar laws of another state shall withhold the amount specified in the notice from  
25 any money that person pays to the payer later than one week after receipt of notice

1 of assignment. Within 5 days after the day the person pays money to the payer, the  
2 person shall send the amount withheld to the clerk of court or support collection  
3 designee, whichever is appropriate, of the jurisdiction providing notice or, in the case  
4 of an amount ordered withheld for health care expenses, to the appropriate health  
5 care insurer, provider or plan. Except as provided in sub. (3m), for each payment the  
6 person from whom the payer receives money shall receive an amount equal to the  
7 person's necessary disbursements, not to exceed \$3, which shall be deducted from the  
8 money to be paid to the payer. Section 241.09 does not apply to assignments under  
9 this section.

10 **SECTION 22.** 767.265 (3h) of the statutes, as affected by 1993 Wisconsin Act 481  
11 and 1995 Wisconsin Act .... (this act), is repealed and recreated to read:

12 767.265 (3h) A person who receives notice of assignment under this section or  
13 s. 767.23 (1) (L), 767.25 (4m) (c) or 767.51 (3m) (c) or similar laws of another state  
14 shall withhold the amount specified in the notice from any money that person pays  
15 to the payer later than one week after receipt of notice of assignment. Within 5 days  
16 after the day the person pays money to the payer, the person shall send the amount  
17 withheld to the clerk of court or support collection designee, whichever is  
18 appropriate, of the jurisdiction providing notice or, in the case of an amount ordered  
19 withheld for health care expenses, to the appropriate health care insurer, provider  
20 or plan. Except as provided in sub. (3m), for each payment sent to the clerk of court  
21 or support collection designee, the person from whom the payer receives money shall  
22 receive an amount equal to the person's necessary disbursements, not to exceed \$3,  
23 which shall be deducted from the money to be paid to the payer. Section 241.09 does  
24 not apply to assignments under this section.

25 **SECTION 23.** 767.265 (6) (a) of the statutes is amended to read:

1           767.265 (6) (a) Except as provided in sub. (3m), if after receipt of notice of  
2 assignment the person from whom the payer receives money fails to withhold the  
3 money or send the money to the clerk of court or support collection designee as  
4 provided in this section, the person may be proceeded against under the principal  
5 action under ch. 785 for contempt of court or may be proceeded against under ch. 778  
6 and be required to forfeit not less than \$50 nor more than an amount, if the amount  
7 exceeds \$50, that is equal to 1% of the amount not withheld or sent.

8           **SECTION 24.** 767.265 (6) (a) of the statutes, as affected by 1993 Wisconsin Act  
9 481 and 1995 Wisconsin Act .... (this act), is repealed and recreated to read:

10           767.265 (6) (a) Except as provided in sub. (3m), if after receipt of notice of  
11 assignment the person from whom the payer receives money fails to withhold the  
12 money or send the money to the clerk of court or support collection designee or the  
13 appropriate health care insurer, provider or plan as provided in this section or s.  
14 767.23 (1) (L), 767.25 (4m) (c) or 767.51 (3m) (c), the person may be proceeded against  
15 under the principal action under ch. 785 for contempt of court or may be proceeded  
16 against under ch. 778 and be required to forfeit not less than \$50 nor more than an  
17 amount, if the amount exceeds \$50, that is equal to 1% of the amount not withheld  
18 or sent.

19           **SECTION 25.** 767.265 (6) (b) of the statutes is amended to read:

20           767.265 (6) (b) If an employer who receives an assignment under this section  
21 fails to notify the clerk of court or support collection designee, whichever is  
22 appropriate, within 10 days after an employe is terminated or otherwise temporarily  
23 or permanently leaves employment, the employer may be proceeded against under  
24 the principal action under ch. 785 for contempt of court.

1           **SECTION 26.** 767.265 (6) (b) of the statutes, as affected by 1993 Wisconsin Act  
2 481 and 1995 Wisconsin Act .... (this act), is repealed and recreated to read:

3           767.265 **(6)** (b) If an employer who receives an assignment under this section  
4 or s. 767.23 (1) (L), 767.25 (4m) (c) or 767.51 (3m) (c) fails to notify the clerk of court  
5 or support collection designee, whichever is appropriate, within 10 days after an  
6 employe is terminated or otherwise temporarily or permanently leaves employment,  
7 the employer may be proceeded against under the principal action under ch. 785 for  
8 contempt of court.

9           **SECTION 27.** 767.265 (7) of the statutes is amended to read:

10          767.265 **(7)** A person who receives more than one notice of assignment under  
11 sub. (3h) may send all money withheld to the clerk of court or support collection  
12 designee, whichever is appropriate, in a combined payment, accompanied by any  
13 information the clerk of court or support collection designee requires.

14          **SECTION 28.** 767.267 (1) of the statutes is amended to read:

15          767.267 **(1)** If the court or the family court commissioner determines that  
16 income withholding under s. 767.265 is inapplicable, ineffective or insufficient to  
17 ensure payment under an order or stipulation specified in s. 767.265 (1), the court  
18 or family court commissioner may require the payer to identify or establish a deposit  
19 account, owned in whole or in part by the payer, that allows for periodic transfers of  
20 funds and to file with the financial institution at which the account is located an  
21 authorization for transfer from the account to the clerk of court or support collection  
22 designee, whichever is appropriate. The authorization shall be provided on a  
23 standard form approved by the court and shall specify the frequency and the amount  
24 of transfer, sufficient to meet the payer's obligation under the order or stipulation,  
25 as required by the court or family court commissioner. The authorization shall

1 include the payer's consent for the financial institution or an officer, employe or agent  
2 of the financial institution to disclose information to the court, family court  
3 commissioner or, clerk of court or support collection designee regarding the account  
4 for which the payer has executed the authorization for transfer.

5 **SECTION 29.** 767.267 (1) of the statutes, as affected by 1993 Wisconsin Act 481,  
6 section 103, and 1995 Wisconsin Act .... (this act), is repealed and recreated to read:

7 767.267 (1) If the court or the family court commissioner determines that  
8 income withholding under s. 767.265 is inapplicable, ineffective or insufficient to  
9 ensure payment under an order or stipulation specified in s. 767.265 (1), or that  
10 income withholding under s. 767.25 (4m) (c) or 767.51 (3m) (c) is inapplicable,  
11 ineffective or insufficient to ensure payment of a child's health care expenses,  
12 including payment of health insurance premiums, ordered under s. 767.25 (4m) or  
13 767.51 (3m), the court or family court commissioner may require the payer to identify  
14 or establish a deposit account, owned in whole or in part by the payer, that allows for  
15 periodic transfers of funds and to file with the financial institution at which the  
16 account is located an authorization for transfer from the account to the clerk of court  
17 or support collection designee, whichever is appropriate. The authorization shall be  
18 provided on a standard form approved by the court and shall specify the frequency  
19 and the amount of transfer, sufficient to meet the payer's obligation under the order  
20 or stipulation, as required by the court or family court commissioner. The  
21 authorization shall include the payer's consent for the financial institution or an  
22 officer, employe or agent of the financial institution to disclose information to the  
23 court, family court commissioner, clerk of court or support collection designee  
24 regarding the account for which the payer has executed the authorization for  
25 transfer.

1           **SECTION 30.** 767.267 (2) of the statutes is amended to read:

2           767.267 (2) A financial institution that receives an authorization for transfer  
3 under sub. (1) shall transfer the amounts as specified in the authorization or shall  
4 transfer the amount available for transfer if at a time of transfer that amount is less  
5 than the amount specified in the authorization. The financial institution may  
6 accomplish the transfer by any lawful means, including payment by check, subject  
7 to the terms of the account. The financial institution may deduct from the payer's  
8 account for each transfer its usual fee for such fund transfers. If the account is closed  
9 or if no funds are available at a time of transfer, the financial institution shall notify  
10 the clerk of court or support collection designee, whichever is appropriate, within 10  
11 days after the date on which the funds should have been transferred.

12           **SECTION 31.** 767.267 (5) of the statutes is amended to read:

13           767.267 (5) A financial institution or an officer, employe or agent of a financial  
14 institution may disclose information to the court, family court commissioner ~~or~~, clerk  
15 of court or support collection designee concerning an account for which a payer has  
16 executed an authorization for transfer under sub. (1).

17           **SECTION 32.** 767.29 (title) of the statutes is amended to read:

18           **767.29** (title) **Maintenance, child support and family support**  
19 **payments, ~~clerk of court, receipt and disbursement; family court~~**  
20 **commissioner, fees and compensation.**

21           **SECTION 33.** 767.29 (1) of the statutes is amended to read:

22           767.29 (1) All orders or judgments providing for temporary or permanent  
23 maintenance, child support or family support payments shall direct the payment of  
24 all such sums to the clerk of the court, or support collection designee in a county that  
25 has designated a support collection designee under s. 59.07 (97m), for the use of the



1 person for whom the same has been awarded. A party securing an order for  
2 temporary maintenance, child support or family support payments shall forthwith  
3 file the order, together with all pleadings in the action, with the clerk of the court or  
4 support collection designee. Except as provided in sub. (1m), the clerk or support  
5 collection designee shall disburse the money so received under the judgment or order  
6 within 15 days and take receipts therefor, unless the clerk or support collection  
7 designee is unable to disburse the moneys because they were paid by check or other  
8 draft drawn upon an account containing insufficient funds. All moneys received or  
9 disbursed under this section shall be entered in a record kept by the clerk or support  
10 collection designee, whichever is appropriate, which shall be open to inspection by  
11 the department of health and social services for the administration of the child and  
12 spousal support and establishment of paternity program under s. 46.25, the parties  
13 to the action and their attorneys, and the family court commissioner. If the  
14 maintenance, child support or family support payments adjudged or ordered to be  
15 paid shall not be paid to the clerk or support collection designee at the time provided  
16 in the judgment or order, the clerk or support collection designee or the family court  
17 commissioner of the county shall take such proceedings as ~~either of them deems~~ he  
18 or she considers advisable to secure the payment of the sum including enforcement  
19 by contempt proceedings under ch. 785 or by other means. Copies of any order issued  
20 to compel the payment shall be mailed to counsel who represented each party when  
21 the maintenance, child support or family support payments were awarded. In case  
22 any fees of officers in any of the proceedings, including the compensation of the  
23 family court commissioner at the rate of \$50 per day unless the commissioner is on  
24 a salaried basis, is not collected from the person proceeded against, the fees shall be

1 paid out of the county treasury upon the order of the presiding judge and the  
2 certificate of the clerk of the court or support collection designee.

3 **SECTION 34.** 767.29 (1m) (intro.) of the statutes is amended to read:

4 767.29 (1m) (intro.) Notwithstanding ss. 767.25 (6), 767.261 and 767.51 (5p),  
5 if the clerk of court or support collection designee receives support or maintenance  
6 money that exceeds the amount due in the month in which it is received and that the  
7 clerk or support collection designee determines is for support or maintenance due in  
8 a succeeding month, the clerk or support collection designee may hold the amount  
9 of overpayment that does not exceed the amount due in the next month for  
10 disbursement in the next month if any of the following applies:

11 **SECTION 35.** 767.29 (1m) (d) of the statutes is amended to read:

12 767.29 (1m) (d) The clerk or support collection designee determines that the  
13 overpayment should be held until the month when it is due.

14 **SECTION 36.** 767.29 (2) of the statutes is amended to read:

15 767.29 (2) If any party entitled to maintenance payments or support money,  
16 or both, is receiving public assistance under ch. 49, the party may assign the party's  
17 right thereto to the county department under s. 46.215, 46.22 or 46.23 granting such  
18 assistance. Such assignment shall be approved by order of the court granting the  
19 maintenance payments or support money, and may be terminated in like manner;  
20 except that it shall not be terminated in cases where there is any delinquency in the  
21 amount of maintenance payments and support money previously ordered or  
22 adjudged to be paid to the assignee without the written consent of the assignee or  
23 upon notice to the assignee and hearing. When an assignment of maintenance  
24 payments or support money, or both, has been approved by the order, the assignee  
25 shall be deemed a real party in interest within s. 803.01 but solely for the purpose

1 of securing payment of unpaid maintenance payments or support money adjudged  
2 or ordered to be paid, by participating in proceedings to secure the payment thereof.  
3 Notwithstanding assignment under this subsection, and without further order of the  
4 court, the clerk of court or support collection designee, upon receiving notice that a  
5 party or a minor child of the parties is receiving aid under s. 49.19, shall forward all  
6 support assigned under s. 49.19 (4) (h) 1. or 49.45 (19) to the department.

7 **SECTION 37.** 767.32 (1r) of the statutes is amended to read:

8 767.32 (1r) In an action under sub. (1) to revise a judgment or order with  
9 respect to child support or family support, the court may not grant credit to the payer  
10 against support due prior to the date on which the action is commenced for payments  
11 made by the payer on behalf of the child other than payments made to the clerk of  
12 court or support collection designee under s. 767.265 or 767.29 or as otherwise  
13 ordered by the court.

14 **SECTION 38.** 767.51 (3m) (c) 1. of the statutes, as created by 1993 Wisconsin Act  
15 481, is amended to read:

16 767.51 (3m) (c) 1. In directing the manner of payment of a child's health care  
17 expenses, the court may order that payment, including payment for health insurance  
18 premiums, be withheld from income and sent to the appropriate health care insurer,  
19 provider or plan, as provided in s. 767.265 (3h), or sent to the clerk of court or support  
20 collection designee, whichever is appropriate, for disbursement to the person for  
21 whom the payment has been awarded if that person is not a health care insurer,  
22 provider or plan. If the court orders income withholding and assignment for the  
23 payment of health care expenses, the court shall send notice of assignment in the  
24 manner provided under s. 767.265 (2r) and may include the notice of assignment  
25 under this subdivision with a notice of assignment under s. 767.265. The clerk of

1 court shall keep a record of all moneys received and disbursed by the clerk for health  
2 care expenses that are directed to be paid to the clerk and the support collection  
3 designee shall keep a record of all moneys received and disbursed by the support  
4 collection designee for health care expenses that are directed to be paid to the support  
5 collection designee.

6 **SECTION 39.** 767.51 (5p) (intro.) of the statutes is amended to read:

7 767.51 (5p) (intro.) A party ordered to pay child support under this section  
8 shall pay simple interest at the rate of 1.5% per month on any amount unpaid,  
9 commencing the first day of the 2nd month after the month in which the amount was  
10 due. Interest under this subsection is in lieu of interest computed under s. 807.01  
11 (4), 814.04 (4) or 815.05 (8) and is paid to the clerk of court or support collection  
12 designee under s. 767.29. Except as provided in s. 767.29 (1m), the clerk of court or  
13 support collection designee, whichever is appropriate, shall apply all payments  
14 received for child support as follows:

15 **SECTION 40.** 767.51 (5p) (a) of the statutes is amended to read:

16 767.51 (5p) (a) First, to payment of child support due within the calendar  
17 month during which the payment is withheld from income under s. 767.265 or under  
18 similar laws of another state. If payment is not made through income withholding,  
19 the clerk or support collection designee, whichever is appropriate, shall first apply  
20 child support payments received to payment of child support due within the calendar  
21 month during which the payment is received.

22 **SECTION 41.** 814.61 (12) (b) (intro.) of the statutes is amended to read:

23 814.61 (12) (b) *Maintenance payments and support.* (intro.) ~~For~~ Except in  
24 counties that have designated a county support collection designee under s. 59.07  
25 (97m), for receiving and disbursing money deposited as payment for maintenance

1 payments, child support or family support payments, under interim or final orders  
2 in an action affecting the family, and for maintaining the records required under s.  
3 59.39 (9m), an annual fee of up to \$25 to be paid by each party ordered to make  
4 payments. The Except in counties that have designated a county support collection  
5 designee under s. 59.07 (97m), the court shall order each party ordered to make  
6 payments to pay the annual fee under this paragraph at the time of, and in addition  
7 to, the first payment to the clerk in each year for which payments are ordered. At  
8 the time of ordering the payment of an annual fee under this paragraph, the court  
9 shall notify each party ordered to make payments of the requirement to pay the  
10 annual fee and of the amount of the annual fee. If the annual fee under this  
11 paragraph is not paid when due, the clerk shall may not deduct the annual fee from  
12 the maintenance or support payment, but:

13 **SECTION 42.** 814.612 of the statutes is created to read:

14 **814.612 Fees of designee for receiving and disbursing support.** In a  
15 county that has designated a county support collection designee under s. 59.07  
16 (97m), the support collection designee, for receiving and disbursing money deposited  
17 as payment for maintenance payments, child support or family support payments,  
18 under interim or final orders in an action affecting the family, and for maintaining  
19 the records required under s. 59.07 (97m) (b) 1., shall collect an annual fee of up to  
20 \$25 to be paid by each party ordered to make payments. In such a county, the court  
21 shall order each party ordered to make payments to pay the annual fee under this  
22 section at the time of, and in addition to, the first payment to the support collection  
23 designee in each year for which payments are ordered. At the time of ordering the  
24 payment of an annual fee under this section, the court shall notify each party ordered  
25 to make payments of the requirement to pay the annual fee and of the amount of the

1 annual fee. If the annual fee under this section is not paid when due, the support  
2 collection designee may not deduct the annual fee from the maintenance or support  
3 payment, but:

4 (1) The support collection designee has standing to move the court for a  
5 remedial sanction under ch. 785.

6 (2) The support collection designee may apply to the court or court  
7 commissioner for an assignment relating to the annual fee in accordance with s.  
8 767.265.

9 **SECTION 43. Effective date.** This act takes effect on the day after publication,  
10 except as follows:

11 (1) The treatment of sections 767.25 (4m) (c) 1. and 767.51 (3m) (c) 1. of the  
12 statutes and the repeal and recreation of sections 767.265 (3h) and (6) (a) and (b) and  
13 767.267 (1) of the statutes take effect on January 1, 1996.

14 (END)