



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-4519/1
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1999 SENATE BILL 520

March 29, 2000 - Introduced by Senator GEORGE, cosponsored by Representative MUSSEY, by request of Jan Raz of Hales Corner. Referred to Committee on Judiciary and Consumer Affairs.

1 **AN ACT to repeal** 767.51 (4m), 767.51 (5) (intro.) and 767.51 (5d); **to renumber**
2 **and amend** 767.32 (2); **to amend** 46.10 (14) (b), 46.10 (14) (c) (intro.), 46.10
3 (14) (d), 46.247, 48.30 (6), 48.31 (7), 48.33 (4m) (intro.), 48.357 (5m), 48.363 (1),
4 301.12 (14) (b), 301.12 (14) (c) (intro.), 301.12 (14) (d), 301.12 (14) (g), 767.085
5 (2) (b), 767.085 (2m) (a) 2., 767.085 (2m) (b), 767.23 (1n), 767.23 (1n), 767.25 (1j),
6 767.25 (1m) (intro.), 767.25 (1n), 767.295 (2) (c), 767.295 (2) (c), 767.32 (1) (b)
7 2., 767.32 (1) (b) 4., 767.32 (1) (b) 4., 767.32 (1) (b) 5., 767.32 (2m), 767.32 (2m),
8 767.45 (7), 767.45 (7), 767.455 (6), 767.455 (6), 767.477 (2), 767.477 (2), 767.51
9 (4m), 767.51 (5) (intro.), 767.51 (5d), 767.62 (4) (d) 1., 767.62 (4) (e) (intro.),
10 767.62 (4) (f), 938.30 (6), 938.31 (7), 938.33 (4m) (intro.), 938.357 (5m), 938.363
11 (1), 948.22 (4) (b), 948.22 (7) (bm) and 948.22 (7) (bm); **to repeal and recreate**
12 49.22 (9) and 767.62 (4); and **to create** 13.84, 767.251, 767.32 (1) (b) 5., 767.32
13 (1) (b) 6., 767.32 (2) (b) and 767.325 (5r) of the statutes; **relating to:** calculating

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1 child support and creating committees to review the method of calculating child
2 support.

Analysis by the Legislative Reference Bureau

Under current law, in divorces, paternity actions and other actions affecting the family in which child support is ordered, including actions to revise child support, the court must determine child support payments by using the percentage standard established by administrative rule by the department of workforce development. The percentage standard is a percentage of the payer's gross monthly income. The percentage of income that the child support payer must pay varies with the number of children to be supported. A payer must pay 17% of his or her gross income for one child, 25% for two children, 29% for three children, 31% for four children and 34% for five or more children. Except in certain situations, the calculation of child support does not take into account the income of the payee or the amount of time that the payer cares for the child during periods of physical placement ordered by the court.

The rules provide for a special way of calculating child support for a shared-time payer. If the payer has physical placement of a child between 31% and 40% of the time, based on the number of times per year that the parent provides overnight care for the child, the rules provide for a specified reduction in the amount of child support that the payer would be required to pay by using the percentage standard alone. (For example, a payer with physical placement of a child for 37% of the time pays 76.69% of the amount that he or she would pay by using the percentage standard alone.) Also under the rules, if one parent has physical placement of a child between 41% and 59% of the time and the other parent has physical placement of the child for the remainder of the time, based on the number of times that each provides overnight care, the amount of child support that each parent would pay by using the percentage standard alone is calculated, reduced by a specified percentage depending on the amount of time each parent has physical placement of the child and compared with the other parent's similarly calculated and reduced amount of child support. (For example, a parent with physical placement of a child for 46% of the time would be obligated to pay 46.72% of the amount of child support that he or she would be obligated to pay by using the percentage standard alone while the other parent with physical placement for 54% of the time would be obligated to pay 20.08% of the amount calculated by using the percentage standard alone.) The parent with the larger calculated and reduced amount must pay the difference as child support to the other parent.

The rules also provide for a special way of calculating child support for a serial-family payer and for the imputation of income to a payer if the court determines that the payer has unproductive assets or has diverted income into assets to avoid paying child support. If a person who is already obligated to pay child support is later ordered to pay support for another child, from a later marriage or a paternity adjudication, for example, the amount of support that the person must pay under the later order is calculated by first reducing the payer's gross income by the

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amount under the first child support order and then applying the percentage standard to that reduced income amount. The income imputation involves multiplying the net value of the assets by the current six-month treasury bill rate or any other reasonable rate.

Under current law, a court is authorized, upon the request of a party, to modify the amount of child support that would be ordered by using the percentage standard. The court must find that use of the percentage standard is unfair to the child or either of the parties after considering a number of factors, such as the earning capacity of each parent, the desirability that the custodian remain in the home as a full-time parent and extraordinary travel expenses incurred in exercising physical placement rights.

This bill changes the method of determining the amount of child support to be paid in actions affecting the family, including actions to revise child support. Under the bill, the court must determine each parent's gross income and percentage of physical placement with the child. The bill specifies what the court must include in income, what the court must exclude from income and what the court must deduct from income in determining each parent's gross income. The bill allows the court to include in a parent's gross income wages that the court determines were paid to other family members for the purpose of diverting income. The court may impute income to a parent if the court determines that the parent has concealed or transferred assets for the purpose of avoiding child support; that the gross incomes of the parents will not adequately provide for the child and there are unproductive assets; or that a parent who is able to work is not working at least 40 hours per week and work is available in the parent's community. The court determines the percentage of physical placement that a parent has on the basis of the number of days, rather than overnights, that a parent cares for the child in a year. If both parents care for the child on the same day, the court determines the amount of time that each parent cares for the child on that day on a basis that reflects each parent's proportionate share of the total expenses incurred for the child by both parents on that day.

After the court determines each parent's gross income and percentage of physical placement, the court determines each parent's gross monthly child support obligation. How that obligation is determined depends on the combined gross monthly income of the two parents. If the combined gross monthly income of the two parents is equal to or less than \$4,000, each parent's gross monthly child support obligation is equal to the percentage standard under current law. That is, if there is one child, each parent's gross monthly child support obligation is 17% of his or her gross monthly income. If the combined gross monthly income of the two parents is greater than \$4,000, determining a parent's gross monthly child support obligation is a multi-step process. The court must first determine the combined gross monthly child support obligation of the two parents. For combined gross monthly incomes that do not exceed \$20,000, the combined gross monthly child support obligation of the two parents equals a specified amount, depending on the number of children, plus a specified percentage of the combined gross monthly income of the two parents above \$4,000. For combined gross monthly incomes that exceed \$20,000, the combined gross monthly child support obligation of the two parents equals a

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specified amount, depending on the number of children, plus a specified percentage of the combined gross monthly income of the two parents above \$20,000. The court must then determine what percentage each parent's gross monthly income is of the parents' combined gross monthly income. Each parent's gross monthly child support obligation is the same percentage of the parents' combined gross monthly child support obligation as that parent's gross monthly income is of the parents' combined gross monthly income. Just as under current law, a parent's gross monthly child support obligation is reduced if the parent is subject to another child support order or is otherwise legally obligated to support one or more other children. Under the bill, however, a parent's gross monthly child support obligation is reduced by a specified percentage, depending on the number of other children being supported, rather than by the amount of support being paid for the other children.

After determining each parent's gross monthly child support obligation, the court determines which parent pays support to the other parent and the amount of support to be paid. If the court grants a parent fewer than 55 days of physical placement in a year, that parent pays the amount of his or her gross monthly child support obligation to the other parent. If the court grants at least 55 days of physical placement to each parent, the court multiplies each parent's gross monthly child support obligation by 1.4 and by the other parent's percentage of physical placement. The resulting amount is each parent's net monthly child support obligation. The parent with the larger net monthly child support obligation pays to the other parent the difference between the two net monthly child support obligations. As under current law, the court may upon request modify the amount of support that would be determined by using the method of calculating child support that is provided for in the bill, after considering the same factors as under current law and upon finding that use of the new method is unfair to the child or either of the parties.

The bill also makes a couple of changes related to revisions of child support orders. Under current law, the court may revise the amount of child support under an order only if the court finds that there has been a substantial change in circumstances. The court must use the percentage standard in revising the amount. The bill requires the new method of calculating child support to be used in a revision. Current law specifies a number of situations that constitute rebuttable presumptions of a substantial change in circumstances sufficient to justify a revision. Among those situations is the expiration of 33 months since the date of entry of the last support order, including a revision, unless the order is expressed as a percentage of income rather than as a specific amount. The bill changes this provision so that the expiration of 33 months since the date of entry of the last support order, including a revision, constitutes a rebuttable presumption of a substantial change in circumstances, regardless of how the order is expressed, if the amount of child support calculated by using the new method exceeds the amount under the last order by at least 10% of the amount under the last order or by at least \$40 per month. The bill also adds a new situation that constitutes a rebuttable presumption of a substantial change in circumstances: if the amount of child support last ordered was based on the amount of physical placement awarded to the parties, the payer has consistently failed to exercise his or her physical placement rights and

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the amount of child support under a revised order, using the new method and based on the actual amount of physical placement that the payer has in the past exercised, exceeds the amount under the last order by at least 15% of the amount under the last order or by at least \$60 per month. Additionally, the bill requires a court to delay, until at least 30 days after an order modifying child support is signed, a decision on a parent's motion to modify physical placement if the court determines that the parent is seeking the physical placement modification in response to a motion to modify child support. The delay does not apply, however, if the parent seeking the physical placement modification presents any credible evidence that the current allocation of physical placement will cause irreparable harm to the child.

The bill requires the department of workforce development to prepare and make available to judges and other court personnel computer software, as well as tables and instruction manuals, to help with the calculation of child support by the new method provided in the bill.

Finally, federal law requires each state to review, and revise if appropriate, its child support guidelines at least once every four years to ensure that they result in the determination of appropriate child support amounts. The bill requires the joint legislative council to create a child support review committee by April 1, 2002, and by April 1 every four years after that, to review the adequacy for supporting children of the new method of calculating child support provided in the bill. The committee must be composed of representatives of the judicial, executive and legislative branches of state government, of the state bar and of advocates for children, child support payers and child support payees. Each committee created must report its findings and legislative recommendations to the joint legislative council and to the federal department of health and human 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.** 13.84 of the statutes is created to read:
2 **13.84 Child support review committee.** (1) By April 1, 2002, and by April
3 1 every 4 years thereafter, the joint legislative council shall create a child support
4 review committee to review the adequacy to support children of the method of
5 calculating child support under s. 767.251. The committee shall consider current
6 research and economic and case data, as well as any other relevant resources, on the
7 cost of, and expenditures that are necessary for, raising children.

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1 **(2)** The committee shall be composed of representatives of the state's judicial
2 branch, legislative branch, executive branch and state bar, and of advocates for
3 children, child support payers and child support payees.

4 **(3)** No later than January 1, 2003, and no later than January 1 every 4 years
5 thereafter, the committee shall report its findings and legislative and other
6 recommendations to the joint legislative council and to the federal department of
7 health and human services.

8 **SECTION 2.** 46.10 (14) (b) of the statutes is amended to read:

9 46.10 **(14)** (b) Except as provided in par. (c) and subject to par. (cm), liability
10 of a parent specified in sub. (2) or s. 46.03 (18) for the care and maintenance of the
11 parent's minor child who has been placed by a court order under s. 48.355 or 48.357
12 in a residential, nonmedical facility such as a group home, foster home, treatment
13 foster home or child caring institution shall be determined by the court by using the
14 ~~percentage standard established by the department of workforce development under~~
15 ~~s. 49.22 (9) method of calculating child support under s. 767.251~~ and by applying the
16 ~~percentage standard method~~ in the manner established by the department under s.
17 46.247.

18 **SECTION 3.** 46.10 (14) (c) (intro.) of the statutes is amended to read:

19 46.10 **(14)** (c) (intro.) Upon request by a parent, the court may modify the
20 amount of child support payments determined under par. (b), subject to par. (cm), if,
21 after considering the following factors, the court finds by the greater weight of the
22 credible evidence that ~~the use of the percentage standard~~ method of calculating child
23 support under s. 767.251 is unfair to the child or to either of the parents:

24 **SECTION 4.** 46.10 (14) (d) of the statutes is amended to read:

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1 46.10 (14) (d) If the court finds under par. (c) that use of the percentage
2 standard method of calculating child support under s. 767.251 is unfair to the minor
3 child or either of the parents, the court shall state in writing or on the record the
4 amount of support that would be required by using the ~~percentage standard~~ method
5 under s. 767.251, the amount by which the court's order deviates from that amount,
6 its reasons for finding that use of the ~~percentage standard~~ method under s. 767.251
7 is unfair to the child or the parent, its reasons for the amount of the modification and
8 the basis for the modification.

9 **SECTION 5.** 46.247 of the statutes is amended to read:

10 **46.247 Application of method of calculating child support standard for**
11 **certain children.** For purposes of determining child support under s. 46.10 (14) (b),
12 the department shall promulgate rules related to the application of the ~~standard~~
13 ~~established by the department of workforce development under s. 49.22 (9)~~ method
14 under s. 767.251 to a child support obligation for the care and maintenance of a child
15 who is placed by a court order under s. 48.355 or 48.357 in a residential, nonmedical
16 facility. The rules shall take into account the needs of any person, including
17 dependent children other than the child, whom either parent is legally obligated to
18 support.

19 **SECTION 6.** 48.30 (6) of the statutes is amended to read:

20 48.30 (6) If a petition is not contested, the court shall set a date for the
21 dispositional hearing which allows reasonable time for the parties to prepare but is
22 no more than 10 days after the plea hearing for a child who is held in secure custody
23 and no more than 30 days after the plea hearing for a child or an expectant mother
24 who is not held in secure custody. If it appears to the court that disposition of the case
25 may include placement of the child outside the child's home, the court shall order the

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1 child's parent to provide a statement of income, assets, debts and living expenses to
2 the court or the designated agency under s. 48.33 (1) at least 5 days before the
3 scheduled date of the dispositional hearing or as otherwise ordered by the court. The
4 clerk of court shall provide, without charge, to any parent ordered to provide a
5 statement of income, assets, debts and living expenses a document setting forth the
6 ~~percentage standard established by the department of workforce development under~~
7 ~~s. 49.22 (9) method of calculating child support under s. 767.251~~ and the manner of
8 its application established by the department of health and family services under s.
9 46.247 and listing the factors that a court may consider under s. 46.10 (14) (c). If all
10 parties consent the court may proceed immediately with the dispositional hearing.

11 **SECTION 7.** 48.31 (7) of the statutes is amended to read:

12 48.31 (7) At the close of the fact-finding hearing, the court shall set a date for
13 the dispositional hearing which allows a reasonable time for the parties to prepare
14 but is no more than 10 days after the fact-finding hearing for a child in secure
15 custody and no more than 30 days after the fact-finding hearing for a child or
16 expectant mother who is not held in secure custody. If it appears to the court that
17 disposition of the case may include placement of the child outside the child's home,
18 the court shall order the child's parent to provide a statement of income, assets, debts
19 and living expenses to the court or the designated agency under s. 48.33 (1) at least
20 5 days before the scheduled date of the dispositional hearing or as otherwise ordered
21 by the court. The clerk of court shall provide, without charge, to any parent ordered
22 to provide a statement of income, assets, debts and living expenses a document
23 setting forth the ~~percentage standard established by the department of workforce~~
24 ~~development under s. 49.22 (9) method of calculating child support under s. 767.251~~
25 and the manner of its application established by the department of health and family

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1 services under s. 46.247 and listing the factors that a court may consider under s.
2 46.10 (14) (c). If all parties consent, the court may immediately proceed with a
3 dispositional hearing.

4 **SECTION 8.** 48.33 (4m) (intro.) of the statutes is amended to read:

5 48.33 (4m) SUPPORT RECOMMENDATIONS; INFORMATION TO PARENTS. (intro.) In
6 making a recommendation for an amount of child support under sub. (4), the agency
7 shall consider the factors that the court considers under s. 46.10 (14) (c) for deviation
8 from the ~~percentage standard~~ method of calculating child support under s. 767.251.
9 Prior to the dispositional hearing under s. 48.335, the agency shall provide the child's
10 parent with all of the following:

11 **SECTION 9.** 48.357 (5m) of the statutes is amended to read:

12 48.357 (5m) If a proposed change in placement changes a child's placement
13 from a placement in the child's home to a placement outside the child's home, the
14 court shall order the child's parent to provide a statement of income, assets, debts
15 and living expenses to the court or the person or agency primarily responsible for
16 implementing the dispositional order by a date specified by the court. The clerk of
17 court shall provide, without charge, to any parent ordered to provide a statement of
18 income, assets, debts and living expenses a document setting forth the ~~percentage~~
19 ~~standard established by the department of workforce development under s. 49.22 (9)~~
20 method of calculating child support under s. 767.251 and the manner of its
21 application established by the department of health and family services under s.
22 46.247 and listing the factors that a court may consider under s. 46.10 (14) (c). If the
23 child is placed outside the child's home, the court shall determine the liability of the
24 parent in the manner provided in s. 46.10 (14).

25 **SECTION 10.** 48.363 (1) of the statutes is amended to read:

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1 48.363 (1) A child, the child’s parent, guardian or legal custodian, an expectant
2 mother, an unborn child by the unborn child’s guardian ad litem, any person or
3 agency bound by a dispositional order or the district attorney or corporation counsel
4 in the county in which the dispositional order was entered may request a revision in
5 the order that does not involve a change in placement, including a revision with
6 respect to the amount of child support to be paid by a parent, or the court may on its
7 own motion propose such a revision. The request or court proposal shall set forth in
8 detail the nature of the proposed revision and what new information is available that
9 affects the advisability of the court’s disposition. The request or court proposal shall
10 be submitted to the court. The court shall hold a hearing on the matter if the request
11 or court proposal indicates that new information is available which affects the
12 advisability of the court’s dispositional order and prior to any revision of the
13 dispositional order, unless written waivers of objections to the revision are signed by
14 all parties entitled to receive notice and the court approves. If a hearing is held, the
15 court shall notify the child, the child’s parent, guardian and legal custodian, all
16 parties bound by the dispositional order, the child’s foster parent, treatment foster
17 parent or other physical custodian described in s. 48.62 (2), the district attorney or
18 corporation counsel in the county in which the dispositional order was entered, and,
19 if the child is the expectant mother of an unborn child under s. 48.133, the unborn
20 child by the unborn child’s guardian ad litem or shall notify the adult expectant
21 mother, the unborn child through the unborn child’s guardian ad litem, all parties
22 bound by the dispositional order and the district attorney or corporation counsel in
23 the county in which the dispositional order was entered, at least 3 days prior to the
24 hearing. A copy of the request or proposal shall be attached to the notice. If the
25 proposed revision is for a change in the amount of child support to be paid by a parent,

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1 the court shall order the child's parent to provide a statement of income, assets, debts
2 and living expenses to the court and the person or agency primarily responsible for
3 implementing the dispositional order by a date specified by the court. The clerk of
4 court shall provide, without charge, to any parent ordered to provide a statement of
5 income, assets, debts and living expenses a document setting forth the percentage
6 ~~standard established by the department of workforce development under s. 49.22 (9)~~
7 method of calculating child support under s. 767.251 and the manner of its
8 application established by the department of health and family services under s.
9 46.247 and listing the factors that a court may consider under s. 46.10 (14) (c). If all
10 parties consent, the court may proceed immediately with the hearing. No revision
11 may extend the effective period of the original order.

12 **SECTION 11.** 49.22 (9) of the statutes is repealed and recreated to read:

13 49.22 (9) The department shall prepare and make available to judges and other
14 court personnel forms, tables, computer software and instruction manuals or other
15 publications to aid in the calculation of child support by using the method under s.
16 767.251.

17 **SECTION 12.** 301.12 (14) (b) of the statutes is amended to read:

18 301.12 (14) (b) Except as provided in par. (c) and subject to par. (cm), liability
19 of a parent specified in sub. (2) or s. 301.03 (18) for the care and maintenance of the
20 parent's minor child who has been placed by a court order under s. 938.183, 938.355
21 or 938.357 in a residential, nonmedical facility such as a group home, foster home,
22 treatment foster home, child caring institution or juvenile correctional institution
23 shall be determined by the court by using the ~~percentage standard established by the~~
24 ~~department of workforce development under s. 49.22 (9)~~ method of calculating child

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1 support under s. 767.251 and by applying the ~~percentage standard~~ method in the
2 manner established by the department under par. (g).

3 **SECTION 13.** 301.12 (14) (c) (intro.) of the statutes is amended to read:

4 301.12 (14) (c) (intro.) Upon request by a parent, the court may modify the
5 amount of child support payments determined under par. (b), subject to par. (cm), if,
6 after considering the following factors, the court finds by the greater weight of the
7 credible evidence that the use of the ~~percentage standard~~ method of calculating child
8 support under s. 767.251 is unfair to the child or to either of the parents:

9 **SECTION 14.** 301.12 (14) (d) of the statutes is amended to read:

10 301.12 (14) (d) If the court finds under par. (c) that use of the ~~percentage~~
11 ~~standard~~ method of calculating child support under s. 767.251 is unfair to the minor
12 child or either of the parents, the court shall state in writing or on the record the
13 amount of support that would be required by using the ~~percentage standard~~ method
14 under s. 767.251, the amount by which the court's order deviates from that amount,
15 the court's reasons for finding that use of the ~~percentage standard~~ method under s.
16 767.251 is unfair to the child or the parent, the court's reasons for the amount of the
17 modification and the basis for the modification.

18 **SECTION 15.** 301.12 (14) (g) of the statutes is amended to read:

19 301.12 (14) (g) For purposes of determining child support under par. (b), the
20 department shall promulgate rules related to the application of the ~~standard~~
21 ~~established by the department of workforce development under s. 49.22 (9)~~ method
22 under s. 767.251 to a child support obligation for the care and maintenance of a child
23 who is placed by a court order under s. 938.183, 938.355 or 938.357 in a residential,
24 nonmedical facility. The rules shall take into account the needs of any person,

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1 including dependent children other than the child, whom either parent is legally
2 obligated to support.

3 **SECTION 16.** 767.085 (2) (b) of the statutes is amended to read:

4 767.085 (2) (b) The clerk of court shall provide without charge, to each person
5 filing a petition requesting child support, a document setting forth the ~~percentage~~
6 ~~standard established by the department under s. 49.22 (9) method of calculating~~
7 child support under s. 767.251 and listing the factors which a court may consider
8 under s. 767.25 (1m).

9 **SECTION 17.** 767.085 (2m) (a) 2. of the statutes is amended to read:

10 767.085 (2m) (a) 2. Shall be accompanied by a document, provided without
11 charge by the clerk of court, setting forth the ~~percentage standard established by the~~
12 ~~department under s. 49.22 (9) method of calculating child support under s. 767.251~~
13 and listing the factors which a court may consider under s. 767.25 (1m).

14 **SECTION 18.** 767.085 (2m) (b) of the statutes is amended to read:

15 767.085 (2m) (b) If service is by publication, notification regarding s. 948.31
16 may consist of references to the statute numbers and titles, and information relating
17 to the ~~percentage standard method of calculating child support~~ and the factors need
18 not be provided.

19 **SECTION 19.** 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 the court is required
22 by this chapter to consider before entering a final judgment on the same subject
23 matter. If the court or family court commissioner makes a temporary child support
24 order that deviates from the amount of support that would be required by using the
25 ~~percentage standard established by the department under s. 49.22 (9) method of~~

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1 calculating child support under s. 767.251, the court or family court commissioner
2 shall comply with the requirements of s. 767.25 (1n). A temporary order under sub.
3 (1) may be based upon the written stipulation of the parties, subject to the approval
4 of the court or the family court commissioner. Temporary orders made by the family
5 court commissioner may be reviewed by the court as provided in s. 767.13 (6).

6 **SECTION 20.** 767.23 (1n) of the statutes, as affected by 1999 Wisconsin Act 9,
7 is amended to read:

8 767.23 (1n) Before making any temporary order under sub. (1), the court or
9 family court commissioner shall consider those factors that the court is required by
10 this chapter to consider before entering a final judgment on the same subject matter.
11 In making a determination under sub. (1) (a) or (am), the court or family court
12 commissioner shall consider the factors under s. 767.24 (5). If the court or family
13 court commissioner makes a temporary child support order that deviates from the
14 amount of support that would be required by using the ~~percentage standard~~
15 ~~established by the department under s. 49.22 (9)~~ method of calculating child support
16 under s. 767.251, the court or family court commissioner shall comply with the
17 requirements of s. 767.25 (1n). A temporary order under sub. (1) may be based upon
18 the written stipulation of the parties, subject to the approval of the court or the family
19 court commissioner. Temporary orders made by the family court commissioner may
20 be reviewed by the court as provided in s. 767.13 (6).

21 **SECTION 21.** 767.25 (1j) of the statutes is amended to read:

22 767.25 (1j) Except as provided in sub. (1m), the court shall determine child
23 support payments by using the ~~percentage standard established by the department~~
24 ~~under s. 49.22 (9)~~ method under s. 767.251.

25 **SECTION 22.** 767.25 (1m) (intro.) of the statutes is amended to read:

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1 767.25 **(1m)** (intro.) Upon request by a party, the court may modify the amount
2 of child support payments determined under sub. ~~(1j)~~ s. 767.251 if, after considering
3 the following factors, the court finds by the greater weight of the credible evidence
4 that use of the ~~percentage standard~~ method under s. 767.251 is unfair to the child
5 or to any of the parties:

6 **SECTION 23.** 767.25 (1n) of the statutes is amended to read:

7 767.25 **(1n)** If the court finds under sub. (1m) that use of the ~~percentage~~
8 ~~standard~~ method of calculating child support under s. 767.251 is unfair to the child
9 or the requesting party, the court shall state in writing or on the record the amount
10 of support that would be required by using the ~~percentage standard~~ method under
11 s. 767.251, the amount by which the court's order deviates from that amount, its
12 reasons for finding that use of the ~~percentage standard~~ method under s. 767.251 is
13 unfair to the child or the party, its reasons for the amount of the modification and the
14 basis for the modification.

15 **SECTION 24.** 767.251 of the statutes is created to read:

16 **767.251 Calculation of child support payments. (1) GROSS INCOME.** For
17 purposes of determining a parent's gross income under this section, all of the
18 following apply:

19 (a) The court shall include as income all of the following:

20 1. Subject to par. (b), all personal income considered gross income for federal
21 income tax purposes.

22 2. Net proceeds from worker's compensation or other personal injury awards
23 intended to replace income.

24 3. Income continuation benefits.

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1 4. Voluntary deferred compensation or employe contributions to a
2 profit-sharing or pension account.

3 5. Military allowances and veterans benefits.

4 6. Undistributed income from a closely held corporation if all of the following
5 apply:

6 a. The parent has a majority interest in the corporation.

7 b. The parent may exercise control over, or access the earnings of, the
8 corporation.

9 7. Tax-exempt interest.

10 (b) The court shall exclude from income all of the following:

11 1. Onetime long-term capital gain income from the sale of individual passive
12 investments.

13 2. Onetime capital gain income from the sale of the family home.

14 (c) The court shall deduct from income all of the following:

15 1. Any maintenance paid to the other parent or to a former spouse.

16 2. If the parent is self-employed, one-half of the unemployment tax that the
17 parent pays.

18 3. Business expenses that are allowed as deductions for expenses for tax
19 purposes.

20 4. Business expenses that are not allowed as deductions for expenses for tax
21 purposes but that the court considers necessary for the production of income.

22 (d) The court may include as income wages paid by the parent to a member of
23 the parent's household that the court determines were paid for the purpose of
24 diverting income to avoid paying child support.

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1 (e) If the court determines that a party has encumbered, concealed, damaged,
2 destroyed, transferred or otherwise disposed of property for the purpose of avoiding
3 payment of child support, or that child support based on the gross incomes of the
4 parties will not adequately provide for the child and that the parties have
5 nonproductive assets, the court may impute income to one or both parents from such
6 property or assets by multiplying the value of the property or asset by the current
7 6-month treasury bill interest rate and including the amount obtained in the gross
8 income of the appropriate parent.

9 (f) If the court determines that a parent is able and available to work, that
10 employment opportunities exist in the parent's community for which the parent is
11 qualified and that the parent is not working at least 40 hours per week, the court may
12 impute to the parent a gross income based on a 40-hour work week, the parent's
13 educational attainment and work experience and the type of employment
14 opportunities in the parent's community for which the parent is qualified.

15 **(2) AMOUNT OF PHYSICAL PLACEMENT.** (a) For the purpose of determining child
16 support payments under sub. (4), the court shall determine the amount of physical
17 placement that a parent has on the basis of the number of days, or amount of time,
18 out of a total of 365 days in a year, that the parent provides care for the child.

19 (b) Notwithstanding par. (a), if both parents provide care for the child in the
20 same 24-hour period, the court shall determine the amount of time that each parent
21 provides care for the child on that day not on the basis of the number of hours that
22 each parent cares for the child but on a basis that reflects each parent's proportionate
23 share of the total expenses incurred by the 2 parents in caring for the child on that
24 day.

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1 (c) After making any adjustments necessary to ensure that the total number
2 of days in a year that the parents have physical placement of the child equals 365,
3 the court shall determine the percentage of the 365 days in a year that each parent
4 has physical placement of the child, and shall make any adjustments necessary to
5 ensure that the total of those percentages equals 100%.

6 **(3) GROSS MONTHLY CHILD SUPPORT OBLIGATIONS.** For the purpose of determining
7 child support payments under sub. (4), the court shall determine each parent's gross
8 monthly child support obligation as follows:

9 (a) If the combined gross monthly income of the 2 parents is equal to or less than
10 \$4,000, the gross monthly child support obligation of each parent equals the
11 following percentage of that parent's gross monthly income:

- 12 1. If there is one minor child, 17%.
- 13 2. If there are 2 minor children, 25%.
- 14 3. If there are 3 minor children, 29%.
- 15 4. If there are 4 minor children, 31%.
- 16 5. If there are 5 or more minor children, 34%.

17 (b) If the combined gross monthly income of the 2 parents is greater than \$4,000
18 but not greater than \$20,000, the gross monthly child support obligation of each
19 parent is calculated as follows:

20 1. The combined gross monthly child support obligation of the 2 parents equals
21 the following amount:

22 a. If there is one minor child, \$680 plus 8.5% of the combined gross monthly
23 income of the 2 parents in excess of \$4,000.

24 b. If there are 2 minor children, \$1,000 plus 12.5% of the combined gross
25 monthly income of the 2 parents in excess of \$4,000.

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1 c. If there are 3 minor children, \$1,160 plus 14.5% of the combined gross
2 monthly income of the 2 parents in excess of \$4,000.

3 d. If there are 4 minor children, \$1,240 plus 15.5% of the combined gross
4 monthly income of the 2 parents in excess of \$4,000.

5 e. If there are 5 or more minor children, \$1,360 plus 17% of the combined gross
6 monthly income of the 2 parents in excess of \$4,000.

7 2. Determine each parent's percentage of the combined gross monthly income
8 of the 2 parents by dividing that parent's gross monthly income by the combined
9 gross monthly income of the 2 parents.

10 3. The gross monthly child support obligation of each parent equals the
11 percentage determined under subd. 2. for that parent multiplied by the applicable
12 amount under subd. 1.

13 (c) If the combined gross monthly income of the 2 parents is greater than
14 \$20,000, the gross monthly child support obligation of each parent is calculated as
15 follows:

16 1. The combined gross monthly child support obligation of the 2 parents equals
17 the following amount:

18 a. If there is one minor child, \$2,040 plus 4% of the combined gross monthly
19 income of the 2 parents in excess of \$20,000.

20 b. If there are 2 minor children, \$3,000 plus 6% of the combined gross monthly
21 income of the 2 parents in excess of \$20,000.

22 c. If there are 3 minor children, \$3,480 plus 7% of the combined gross monthly
23 income of the 2 parents in excess of \$20,000.

24 d. If there are 4 minor children, \$3,720 plus 8% of the combined gross monthly
25 income of the 2 parents in excess of \$20,000.

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1 e. If there are 5 or more minor children, \$4,080 plus 9% of the combined gross
2 monthly income of the 2 parents in excess of \$20,000.

3 2. Determine each parent's percentage of the combined gross monthly income
4 of the 2 parents by dividing that parent's gross monthly income by the combined
5 gross monthly income of the 2 parents.

6 3. The gross monthly child support obligation of each parent equals the
7 percentage determined under subd. 2. for that parent multiplied by the applicable
8 amount under subd. 1.

9 (d) Notwithstanding pars. (a), (b) and (c), if a parent is subject to another child
10 support order or is otherwise legally obligated to support one or more other children,
11 that parent's gross monthly child support obligation is the amount determined for
12 that parent under par. (a), (b) or (c), reduced by the following percentage:

13 1. If the number of other children the parent is obligated to support is one, 90%.

14 2. If the number of other children the parent is obligated to support is 2, 85%.

15 3. If the number of other children the parent is obligated to support is 3, 80%.

16 4. If the number of other children the parent is obligated to support is 4 or more,
17 75%.

18 **(4) AMOUNT OF PAYMENTS.** The court shall determine child support payments
19 as follows:

20 (a) If the court grants periods of physical placement to only one parent, or if the
21 court grants periods of physical placement to both parents but one parent has
22 physical placement of the child for fewer than 55 days in a year, the parent with less
23 or no physical placement shall pay to the other parent the gross monthly child
24 support obligation determined for that payer parent under sub. (3).

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1 (b) If the court grants periods of physical placement to both parents and each
2 parent has physical placement of the child for at least 55 days in a year, the court
3 shall determine child support payments in the following manner:

4 1. Each parent's gross monthly child support obligation determined under sub.
5 (3) shall be multiplied by 1.4 and by the other parent's percentage of physical
6 placement determined under sub. (2) (c). The product under this subdivision for each
7 parent is that parent's net monthly child support obligation.

8 2. Except as provided in subd. 3., the parent with the greater net monthly child
9 support obligation under subd. 1. shall pay as child support, to the parent with the
10 smaller net monthly child support obligation under subd. 1., the difference between
11 those net monthly child support obligations.

12 3. If the amount of child support that a parent is obligated to pay under subd.
13 2. is greater than his or her gross monthly child support obligation determined under
14 sub. (3), that parent shall pay as child support to the other parent the amount of his
15 or her gross monthly child support obligation determined under sub. (3).

16 (c) If a child is placed outside his or her home in a residential, nonmedical
17 facility, the child support obligation of each parent shall be as determined under sub.
18 (3).

19 **(5) SPLIT PLACEMENT.** If there is more than one child, if the amount of physical
20 placement that a parent has with one or more of the children is not the same as the
21 amount that the parent has with one or more of the other children and if the court
22 determines that each parent is required to pay child support to the other parent
23 under sub. (4) (a) or (b) 2. or 3., the court shall require only the parent who is required
24 to pay the greater amount to pay child support, and to pay only the difference in the
25 amounts, to the other parent.

SENATE BILL 520**SECTION 25**

1 **SECTION 25.** 767.295 (2) (c) of the statutes is amended to read:

2 767.295 (2) (c) If the court enters an order under par. (a), it shall order the
3 parent to pay child support equal to the amount determined by applying the
4 ~~percentage standard established under s. 49.22 (9)~~ method under s. 767.251 to the
5 income a person would earn by working 40 hours per week for the federal minimum
6 hourly wage under 29 USC 206 (a) (1) or equal to the amount of child support that
7 the parent was ordered to pay in the most recent determination of support under this
8 chapter. The child support obligation ordered under this paragraph continues until
9 the parent makes timely payment in full for 3 consecutive months or until the person
10 participates in the program under s. 49.36 for 16 weeks, whichever comes first. The
11 court shall provide in its order that the parent must make child support payments
12 calculated under s. 767.25 ~~(1j) or (1m)~~ or 767.251, 767.51 (4m) or (5) or 767.62 (4) (d)
13 1. or (e) after the obligation to make payments ordered under this paragraph ceases.

14 **SECTION 26.** 767.295 (2) (c) of the statutes, as affected by 1999 Wisconsin Act
15 9, is amended to read:

16 767.295 (2) (c) If the court enters an order under par. (a), it shall order the
17 parent to pay child support equal to the amount determined by applying the
18 ~~percentage standard established under s. 49.22 (9)~~ method under s. 767.251 to the
19 income a person would earn by working 40 hours per week for the federal minimum
20 hourly wage under 29 USC 206 (a) (1) or equal to the amount of child support that
21 the parent was ordered to pay in the most recent determination of support under this
22 chapter. The child support obligation ordered under this paragraph continues until
23 the parent makes timely payment in full for 3 consecutive months or until the person
24 participates in the program under s. 49.36 for 16 weeks, whichever comes first. The
25 court shall provide in its order that the parent must make child support payments

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1 calculated under s. 767.25 ~~(1j) or (1m)~~ or 767.251 after the obligation to make
2 payments ordered under this paragraph ceases.

3 **SECTION 27.** 767.32 (1) (b) 2. of the statutes is amended to read:

4 767.32 (1) (b) 2. ~~Unless the amount of child support is expressed in the~~
5 ~~judgment or order as a percentage of parental income, the~~ The expiration of 33
6 months after the date of the entry of the last child support order, including a revision
7 of a child support order under this section, if the amount of child support under the
8 revised order by using the method of calculating child support under s. 767.251 will
9 differ from the amount under the last order by at least 10% of the amount under the
10 last order or by at least \$40 per month.

11 **SECTION 28.** 767.32 (1) (b) 4. of the statutes is amended to read:

12 767.32 (1) (b) 4. ~~A~~ If the action in which the court most recently ordered child
13 support, including a revision of a child support order under this section, was
14 commenced before the effective date of this subdivision [revisor inserts date], a
15 difference between the amount of child support ordered by the court to be paid by the
16 payer and the amount that the payer would have been required to pay based on the
17 percentage standard established by the department under s. 49.22 (9) if the court did
18 not use the percentage standard in determining the child support payments and did
19 not provide the information required under s. 46.10 (14) (d), 301.12 (14) (d), 767.25
20 (1n), 767.51 (5d) or 767.62 (4) (f), whichever is appropriate.

21 **SECTION 29.** 767.32 (1) (b) 4. of the statutes, as affected by 1999 Wisconsin Act
22 9, is amended to read:

23 767.32 (1) (b) 4. ~~A~~ If the action in which the court most recently ordered child
24 support, including a revision of a child support order under this section, was
25 commenced before the effective date of this subdivision [revisor inserts date], a

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1 difference between the amount of child support ordered by the court to be paid by the
2 payer and the amount that the payer would have been required to pay based on the
3 percentage standard established by the department under s. 49.22 (9) if the court did
4 not use the percentage standard in determining the child support payments and did
5 not provide the information required under s. 46.10 (14) (d), 301.12 (14) (d) or 767.25
6 (1n), whichever is appropriate.

7 **SECTION 30.** 767.32 (1) (b) 5. of the statutes is created to read:

8 767.32 (1) (b) 5. If the action in which the court most recently ordered child
9 support, including a revision of a child support order under this section, was
10 commenced on or after the effective date of this subdivision [revisor inserts date],
11 a difference between the amount of child support ordered by the court to be paid by
12 the payer and the amount that the payer would have been required to pay based on
13 the method of calculating child support under s. 767.251 if the court did not use that
14 method in determining the child support payments and did not provide the
15 information required under s. 46.10 (14) (d), 301.12 (14) (d), 767.25 (1n), 767.51 (5d)
16 or 767.62 (4) (f), whichever is appropriate.

17 **SECTION 31.** 767.32 (1) (b) 5. of the statutes, as created by 1999 Wisconsin Act
18 (this act), is amended to read:

19 767.32 (1) (b) 5. If the action in which the court most recently ordered child
20 support, including a revision of a child support order under this section, was
21 commenced on or after the effective date of this subdivision [revisor inserts date],
22 a difference between the amount of child support ordered by the court to be paid by
23 the payer and the amount that the payer would have been required to pay based on
24 the method of calculating child support under s. 767.251 if the court did not use that
25 method in determining the child support payments and did not provide the

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1 information required under s. 46.10 (14) (d), 301.12 (14) (d), or 767.25 (1n),~~767.51~~
2 ~~(5d) or 767.62 (4) (f)~~, whichever is appropriate.

3 **SECTION 32.** 767.32 (1) (b) 6. of the statutes is created to read:

4 767.32 (1) (b) 6. The amount of child support last ordered by the court was
5 based on the amount of physical placement awarded to the parties and the payer has
6 consistently failed to exercise his or her periods of physical placement, if the amount
7 of child support under the revised order, based on the actual amount of physical
8 placement that the payer has in the past exercised, will differ from the amount under
9 the last order by at least 15% of the amount under the last order or by at least \$60
10 per month.

11 **SECTION 33.** 767.32 (2) of the statutes is renumbered 767.32 (2) (a) and
12 amended to read:

13 767.32 (2) (a) Except as provided in sub. (2m) or (2r), if the court revises a
14 judgment or order with respect to child support payments, it shall do so by using the
15 percentage standard established by the department under s. 49.22 (9) method under
16 s. 767.251.

17 **SECTION 34.** 767.32 (2) (b) of the statutes is created to read:

18 767.32 (2) (b) In determining the amount of physical placement that each
19 parent has for purposes of calculating child support under s. 767.251, the court shall
20 use the actual time that a child regularly spends with each parent, regardless of the
21 allocation of physical placement between the parents under a physical placement
22 order.

23 **SECTION 35.** 767.32 (2m) of the statutes is amended to read:

24 767.32 (2m) Upon request by a party, the court may modify the amount of
25 revised child support payments determined under sub. (2) if, after considering the

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1 factors listed in s. 767.25 (1m), 767.51 (5) or 767.62 (4) (e), as appropriate, the court
2 finds, by the greater weight of the credible evidence, that the use of the percentage
3 standard method of calculating child support under s. 767.251 is unfair to the child
4 or to any of the parties.

5 **SECTION 36.** 767.32 (2m) of the statutes, as affected by 1999 Wisconsin Act 9,
6 is amended to read:

7 767.32 (2m) Upon request by a party, the court may modify the amount of
8 revised child support payments determined under sub. (2) if, after considering the
9 factors listed in s. 767.25 (1m), the court finds, by the greater weight of the credible
10 evidence, that the use of the ~~percentage standard~~ method of calculating child support
11 under s. 767.251 is unfair to the child or to any of the parties.

12 **SECTION 37.** 767.325 (5r) of the statutes is created to read:

13 767.325 (5r) DELAY IF MODIFICATION SOUGHT IN RESPONSE TO CHILD SUPPORT
14 MODIFICATION. (a) Except as provided in par. (b), if the court determines that a
15 petition, motion or order to show cause to modify a physical placement order is filed
16 under this section in response to a petition, motion or order to show cause filed under
17 s. 767.32 to revise a judgment or order with respect to an amount of child support,
18 the court may not hear or make a determination on the petition, motion or order to
19 show cause filed under this section until at least 30 days after the signing of the order
20 related to the petition, motion or order to show cause to revise child support.

21 (b) The delay requirement under par. (a) does not apply if the party seeking to
22 modify the physical placement order presents any credible evidence that the current
23 allocation of physical placement will cause irreparable harm to the child.

24 **SECTION 38.** 767.45 (7) of the statutes is amended to read:

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1 767.45 (7) The clerk of court shall provide without charge, to each person
2 bringing an action under this section, except to the state under sub. (1) (g) or (6m),
3 a document setting forth the ~~percentage standard established by the department~~
4 ~~under s. 49.22 (9) method of calculating child support under s. 767.251~~ and listing
5 the factors which a court may consider under s. 767.51 (5).

6 **SECTION 39.** 767.45 (7) of the statutes, as affected by 1999 Wisconsin Act 9, is
7 amended to read:

8 767.45 (7) The clerk of court shall provide without charge, to each person
9 bringing an action under this section, except to the state under sub. (1) (g) or (6m),
10 a document setting forth the ~~percentage standard established by the department~~
11 ~~under s. 49.22 (9) method of calculating child support under s. 767.251~~ and listing
12 the factors which a court may consider under s. 767.25 (1m).

13 **SECTION 40.** 767.455 (6) of the statutes is amended to read:

14 767.455 (6) DOCUMENT. The summons served on the respondent shall be
15 accompanied by a document, provided without charge by the clerk of court, setting
16 forth the ~~percentage standard established by the department under s. 49.22 (9)~~
17 ~~method of calculating child support under s. 767.251~~ and listing the factors which a
18 court may consider under s. 767.51 (5).

19 **SECTION 41.** 767.455 (6) of the statutes, as affected by 1999 Wisconsin Act 9,
20 is amended to read:

21 767.455 (6) DOCUMENT. The summons served on the respondent shall be
22 accompanied by a document, provided without charge by the clerk of court, setting
23 forth the ~~percentage standard established by the department under s. 49.22 (9)~~
24 ~~method of calculating child support under s. 767.251~~ and listing the factors which a
25 court may consider under s. 767.25 (1m).

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1 **SECTION 42.** 767.477 (2) of the statutes is amended to read:

2 767.477 (2) Before making any temporary order under sub. (1), the court shall
3 consider those factors that the court is required under s. 767.51 to consider when
4 granting a final judgment on the same subject matter. If the court makes a
5 temporary child support order that deviates from the amount of support that would
6 be required by using the ~~percentage standard established by the department under~~
7 ~~s. 49.22 (9) method of calculating child support under s. 767.251~~, the court shall
8 comply with the requirements of s. 767.51 (5d).

9 **SECTION 43.** 767.477 (2) of the statutes, as affected by 1999 Wisconsin Act 9,
10 is amended to read:

11 767.477 (2) Before making any temporary order under sub. (1), the court shall
12 consider those factors that the court is required to consider when granting a final
13 judgment on the same subject matter. If the court makes a temporary child support
14 order that deviates from the amount of support that would be required by using the
15 ~~percentage standard established by the department under s. 49.22 (9) method of~~
16 ~~calculating child support under s. 767.251~~, the court shall comply with the
17 requirements of s. 767.25 (1n).

18 **SECTION 44.** 767.51 (4m) of the statutes is amended to read:

19 767.51 (4m) Except as provided in sub. (5), the court shall determine child
20 support payments by using the ~~percentage standard established by the department~~
21 ~~under s. 49.22 (9) method under s. 767.251~~.

22 **SECTION 45.** 767.51 (4m) of the statutes, as affected by 1999 Wisconsin Acts 9
23 and (this act), is repealed.

24 **SECTION 46.** 767.51 (5) (intro.) of the statutes is amended to read:

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1 767.51 (5) (intro.) Upon request by a party, the court may modify the amount
2 of child support payments determined under sub. (4m) if, after considering the
3 following factors, the court finds by the greater weight of the credible evidence that
4 use of the ~~percentage standard~~ method under s. 767.251 is unfair to the child or to
5 the requesting party:

6 **SECTION 47.** 767.51 (5) (intro.) of the statutes, as affected by 1999 Wisconsin
7 Acts 9 and (this act), is repealed.

8 **SECTION 48.** 767.51 (5d) of the statutes is amended to read:

9 767.51 (5d) If the court finds under sub. (5) that use of the ~~percentage standard~~
10 method of calculating child support under s. 767.251 is unfair to the child or the
11 requesting party, the court shall state in writing or on the record the amount of
12 support that would be required by using the ~~percentage standard~~ method under s.
13 767.251, the amount by which the court's order deviates from that amount, its
14 reasons for finding that use of the ~~percentage standard~~ method under s. 767.251 is
15 unfair to the child or the party, its reasons for the amount of the modification and the
16 basis for the modification.

17 **SECTION 49.** 767.51 (5d) of the statutes, as affected by 1999 Wisconsin Acts 9
18 and (this act), is repealed.

19 **SECTION 50.** 767.62 (4) of the statutes, as affected by 1999 Wisconsin Acts 9 and
20 (this act), is repealed and recreated to read:

21 767.62 (4) **ORDERS WHEN PATERNITY ACKNOWLEDGED.** In an action under sub. (3)
22 (a), if the persons who signed and filed the statement acknowledging paternity as
23 parents of the child had notice of the hearing, the court or family court commissioner
24 shall make an order that contains all of the following provisions:

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1 (a) Orders for the legal custody of and periods of physical placement with the
2 child, determined in accordance with s. 767.24.

3 (b) An order requiring either or both of the parents to contribute to the support
4 of any child of the parties who is less than 18 years old, or any child of the parties who
5 is less than 19 years old if the child is pursuing an accredited course of instruction
6 leading to the acquisition of a high school diploma or its equivalent, determined in
7 accordance with s. 767.25.

8 (c) A determination as to which parent, if eligible, shall have the right to claim
9 the child as an exemption for federal tax purposes under 26 USC 151 (c) (1) (B), or
10 as an exemption for state tax purposes under s. 71.07 (8) (b).

11 (d) An order requiring the father to pay or contribute to the reasonable
12 expenses of the mother's pregnancy and the child's birth, based on the father's ability
13 to pay or contribute to those expenses.

14 (e) An order requiring either or both parties to pay or contribute to the costs
15 of the guardian ad litem fees and other costs.

16 (f) An order requiring either party to pay or contribute to the attorney fees of
17 the other party.

18 **SECTION 51.** 767.62 (4) (d) 1. of the statutes is amended to read:

19 767.62 (4) (d) 1. Except as provided in par. (e), the court or family court
20 commissioner shall determine child support payments under par. (a) by using the
21 percentage standard established by the department under s. 49.22 (9) method under
22 s. 767.251.

23 **SECTION 52.** 767.62 (4) (e) (intro.) of the statutes is amended to read:

24 767.62 (4) (e) (intro.) Upon request by a party, the court or family court
25 commissioner may modify the amount of child support payments determined under

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1 par. (d) if, after considering the following factors, the court or family court
2 commissioner finds by the greater weight of the credible evidence that use of the
3 ~~percentage standard~~ method of calculating child support under s. 767.251 is unfair
4 to the child or to the requesting party:

5 **SECTION 53.** 767.62 (4) (f) of the statutes is amended to read:

6 767.62 (4) (f) If the court or family court commissioner finds under par. (e) that
7 use of the ~~percentage standard~~ method of calculating child support under s. 767.251
8 is unfair to the child or the requesting party, the court or family court commissioner
9 shall state in writing or on the record the amount of support that would be required
10 by using the ~~percentage standard~~ method under s. 767.251, the amount by which the
11 court's or family court commissioner's order deviates from that amount, the reasons
12 for finding that use of the ~~percentage standard~~ method under s. 767.251 is unfair to
13 the child or the party, the reasons for the amount of the modification and the basis
14 for the modification.

15 **SECTION 54.** 938.30 (6) of the statutes is amended to read:

16 938.30 (6) If a petition is not contested, the court shall set a date for the
17 dispositional hearing which allows reasonable time for the parties to prepare but is
18 no more than 10 days from the plea hearing for a juvenile who is held in secure
19 custody and no more than 30 days from the plea hearing for a juvenile who is not held
20 in secure custody. If it appears to the court that disposition of the case may include
21 placement of the juvenile outside the juvenile's home, the court shall order the
22 juvenile's parent to provide a statement of income, assets, debts and living expenses
23 to the court or the designated agency under s. 938.33 (1) at least 5 days before the
24 scheduled date of the dispositional hearing or as otherwise ordered by the court. The
25 clerk of court shall provide, without charge, to any parent ordered to provide a

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1 statement of income, assets, debts and living expenses a document setting forth the
2 ~~percentage standard established by the department of workforce development under~~
3 ~~s. 49.22 (9) method of calculating child support under s. 767.251~~ and listing the
4 factors that a court may consider under s. 301.12 (14) (c). If all parties consent the
5 court may proceed immediately with the dispositional hearing. If a citation is not
6 contested, the court may proceed immediately to enter a dispositional order.

7 **SECTION 55.** 938.31 (7) of the statutes is amended to read:

8 938.31 (7) At the close of the fact-finding hearing, the court shall set a date for
9 the dispositional hearing which allows a reasonable time for the parties to prepare
10 but is no more than 10 days after the fact-finding hearing for a juvenile in secure
11 custody and no more than 30 days after the fact-finding hearing for a juvenile not
12 held in secure custody. If it appears to the court that disposition of the case may
13 include placement of the juvenile outside the juvenile's home, the court shall order
14 the juvenile's parent to provide a statement of income, assets, debts and living
15 expenses to the court or the designated agency under s. 938.33 (1) at least 5 days
16 before the scheduled date of the dispositional hearing or as otherwise ordered by the
17 court. The clerk of court shall provide, without charge, to any parent ordered to
18 provide a statement of income, assets, debts and living expenses a document setting
19 forth the ~~percentage standard established by the department of workforce~~
20 ~~development under s. 49.22 (9) method of calculating child support under s. 767.251~~
21 and listing the factors that a court may consider under s. 301.12 (14) (c). If all parties
22 consent, the court may immediately proceed with a dispositional hearing.

23 **SECTION 56.** 938.33 (4m) (intro.) of the statutes is amended to read:

24 938.33 (4m) SUPPORT RECOMMENDATIONS; INFORMATION TO PARENTS. (intro.) In
25 making a recommendation for an amount of child support under sub. (3) or (4), the

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1 agency shall consider the factors that the court considers under s. 301.12 (14) (c) for
2 deviation from the ~~percentage standard~~ method of calculating child support under
3 s. 767.251. At or before the dispositional hearing under s. 938.335, the agency shall
4 provide the juvenile's parent with all of the following:

5 **SECTION 57.** 938.357 (5m) of the statutes is amended to read:

6 938.357 **(5m)** If a proposed change in placement changes a juvenile's placement
7 from a placement in the juvenile's home to a placement outside the juvenile's home,
8 the court shall order the juvenile's parent to provide a statement of income, assets,
9 debts and living expenses to the court or the person or agency primarily responsible
10 for implementing the dispositional order by a date specified by the court. The clerk
11 of court shall provide, without charge, to any parent ordered to provide a statement
12 of income, assets, debts and living expenses a document setting forth the ~~percentage~~
13 ~~standard established by the department of workforce development under s. 49.22 (9)~~
14 method of calculating child support under s. 767.251 and listing the factors that a
15 court may consider under s. 301.12 (14) (c). If the juvenile is placed outside the
16 juvenile's home, the court shall determine the liability of the parent in the manner
17 provided in s. 301.12 (14).

18 **SECTION 58.** 938.363 (1) of the statutes is amended to read:

19 938.363 **(1)** A juvenile, the juvenile's parent, guardian or legal custodian, any
20 person or agency bound by a dispositional order or the district attorney or
21 corporation counsel in the county in which the dispositional order was entered may
22 request a revision in the order that does not involve a change in placement, including
23 a revision with respect to the amount of child support to be paid by a parent, or the
24 court may on its own motion propose such a revision. The request or court proposal
25 shall set forth in detail the nature of the proposed revision and what new information

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1 is available that affects the advisability of the court's disposition. The request or
2 court proposal shall be submitted to the court. The court shall hold a hearing on the
3 matter if the request or court proposal indicates that new information is available
4 which affects the advisability of the court's dispositional order and prior to any
5 revision of the dispositional order, unless written waivers of objections to the revision
6 are signed by all parties entitled to receive notice and the court approves. If a hearing
7 is held, the court shall notify the juvenile, the juvenile's parent, guardian and legal
8 custodian, all parties bound by the dispositional order, the juvenile's foster parent,
9 treatment foster parent or other physical custodian described in s. 48.62 (2), and the
10 district attorney or corporation counsel in the county in which the dispositional order
11 was entered at least 3 days prior to the hearing. A copy of the request or proposal
12 shall be attached to the notice. If the proposed revision is for a change in the amount
13 of child support to be paid by a parent, the court shall order the juvenile's parent to
14 provide a statement of income, assets, debts and living expenses to the court and the
15 person or agency primarily responsible for implementing the dispositional order by
16 a date specified by the court. The clerk of court shall provide, without charge, to any
17 parent ordered to provide a statement of income, assets, debts and living expenses
18 a document setting forth the ~~percentage standard established by the department of~~
19 ~~workforce development under s. 49.22 (9)~~ method of calculating child support under
20 s. 767.251 and listing the factors that a court may consider under s. 46.10 (14) (c).
21 If all parties consent, the court may proceed immediately with the hearing. No
22 revision may extend the effective period of the original order, or revise an original
23 order under s. 938.34 (3) (f) or (6) (am) to impose more than 30 days of detention,
24 nonsecure custody or inpatient treatment on a juvenile.

25 **SECTION 59.** 948.22 (4) (b) of the statutes is amended to read:

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1 948.22 (4) (b) For a person not subject to a court order requiring child,
2 grandchild or spousal support payments, when the person knows or reasonably
3 should have known that he or she has a dependent, failure to provide support equal
4 to at least the amount established by ~~rule by the department of workforce~~
5 ~~development under s. 49.22 (9) the method of calculating child support under s.~~
6 767.251 or causing a spouse, grandchild or child to become a dependent person, or
7 continue to be a dependent person, as defined in s. 49.01 (2).

8 **SECTION 60.** 948.22 (7) (bm) of the statutes is amended to read:

9 948.22 (7) (bm) Upon request, the court may modify the amount of child or
10 spousal support payments determined under par. (b) 2. if, after considering the
11 factors listed in s. 767.25 (1m) or 767.51 (5), regardless of the fact that the action is
12 not one for a determination of paternity or an action specified in s. 767.25 (1), the
13 court finds, by the greater weight of the credible evidence, that ~~the use of the~~
14 ~~percentage standard~~ method of calculating child support under s. 767.251 is unfair
15 to the child or to either of the child's parents.

16 **SECTION 61.** 948.22 (7) (bm) of the statutes, as affected by 1999 Wisconsin Act
17 9, is amended to read:

18 948.22 (7) (bm) Upon request, the court may modify the amount of child or
19 spousal support payments determined under par. (b) 2. if, after considering the
20 factors listed in s. 767.25 (1m), regardless of the fact that the action is ~~not one for a~~
21 ~~determination of paternity or an action specified in s. 767.25 (1), the court finds, by~~
22 the greater weight of the credible evidence, that ~~the use of the percentage standard~~
23 method of calculating child support under s. 767.251 is unfair to the child or to either
24 of the child's parents.

25 **SECTION 62. Initial applicability.**

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1 (1) This act first applies to actions or proceedings, including actions or
2 proceedings to enforce or modify a judgment or order previously granted, that are
3 commenced on the effective date of this subsection.

4 **SECTION 63. Effective dates.** This act takes effect on the day after publication,
5 except as follows:

6 (1) The treatment of sections 767.23 (1n) (by SECTION 20), 767.295 (2) (c) (by
7 SECTION 26), 767.32 (1) (b) 4. (by SECTION 29) and (2m) (by SECTION 36), 767.45 (7) (by
8 SECTION 39), 767.455 (6) (by SECTION 41), 767.477 (2) (by SECTION 43) and 948.22 (7)
9 (bm) (by SECTION 61), the repeal of section 767.51 (4m), (5) (intro.) and (5d) of the
10 statutes, the amendment of section 767.32 (1) (b) 5. of the statutes and the repeal and
11 recreation of section 767.62 (4) of the statutes take effect on May 1, 2000.

12 (END)