



1997 ASSEMBLY BILL 195

March 20, 1997 - Introduced by Representatives HAHN, MUSSER, WARD, ALBERS, RYBA, GUNDERSON, NASS and OWENS. Referred to Committee on Children and Families.

1 **AN ACT to amend** 767.23 (1) (c), 767.23 (1) (e), 767.23 (1n), 767.25 (1) (a), 767.25
2 (1j), 767.261 (intro.), 767.32 (1) (b) 4., 767.32 (2) and 767.51 (4m); and **to create**
3 767.23 (1p), 767.25 (4c), 767.32 (2c) and 767.51 (5f) of the statutes; **relating to:**
4 modifying the amount of child support if a child is 16 or 17 years old and not in
5 school.

Analysis by the Legislative Reference Bureau

Under current law, a court must order one or both parties in the final judgment of a paternity action, annulment, divorce or legal separation to pay child support for any child of the parties who is less than 19 years old and pursuing an accredited course of instruction leading to the acquisition of a high school diploma or its equivalent. Additionally, in any action affecting the family, which includes all of the actions mentioned, a court or family court commissioner may order temporary child support during the pendency of the action. Unless the court determines that the amount of child support should be modified for any of various specified reasons, child support must be determined by using the percentage standard, originally established by the department of health and social services but now the responsibility of the department of industry, labor and job development. The percentage standard is a percentage of the payer's gross monthly income. The percentage of income required to be paid varies with the number of children to be supported.

This bill provides that, in a paternity action, annulment, divorce or legal separation, a court may reduce the amount of child support that would be required

ASSEMBLY BILL 195

by using the percentage standard, and may even require that no support be paid, for a child who is 16 or 17 years old and who is not enrolled in a school program or a high school equivalency program, including a home-based private educational program, unless the child has graduated from high school or has been granted a declaration of high school graduation equivalency. The authority to reduce the child support amount or to order that no child support be paid applies to both child support and family support, which is a combination of child support and maintenance (alimony), and to temporary orders during the pendency of an action as well as to final orders and revisions of final orders.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 767.23 (1) (c) of the statutes is amended to read:

2 767.23 (1) (c) ~~Requiring~~ Except as provided in sub. (1p), requiring either party
3 or both parties to make payments for the support of minor children, which payment
4 amounts may be expressed as a percentage of parental income or as a fixed sum, or
5 as a combination of both in the alternative by requiring payment of the greater or
6 lesser of either a percentage of parental income or a fixed sum.

7 **SECTION 2.** 767.23 (1) (e) of the statutes is amended to read:

8 767.23 (1) (e) ~~Requiring~~ Except as provided in sub. (1p), requiring either party
9 to pay family support under s. 767.261.

10 **SECTION 3.** 767.23 (1n) of the statutes is amended to read:

11 767.23 (1n) Before making any temporary order under sub. (1), the court or
12 family court commissioner shall consider those factors which the court is required
13 by this chapter to consider before entering a final judgment on the same subject
14 matter. ~~If~~ Except as provided in sub. (1p), if the court or family court commissioner
15 makes a temporary child support order that deviates from the amount of support that
16 would be required by using the percentage standard established by the department
17 under s. 49.22 (9), the court or family court commissioner shall comply with the

ASSEMBLY BILL 195

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

5 **SECTION 4.** 767.23 (1p) of the statutes is created to read:

6 767.23 (1p) The court or family court commissioner may reduce the amount of
7 child support that would be required by using the percentage standard established
8 by the department under s. 49.22 (9), and may require that no child support be paid,
9 for a child who is 16 or 17 years old and who is not enrolled in a school program or
10 a high school equivalency program, including a home-based private educational
11 program, as defined in s. 115.001 (3g), unless the child has graduated from high
12 school or been granted a declaration of high school equivalency. If, under this
13 subsection, the court or family court commissioner reduces the amount of child
14 support that would be required by using the percentage standard or requires that no
15 child support be paid, the court or family court commissioner shall state in writing
16 or on the record the reasons for the amount of the reduction or for the determination
17 that no child support be paid.

18 **SECTION 5.** 767.25 (1) (a) of the statutes is amended to read:

19 767.25 (1) (a) ~~Order~~ Except as provided in sub. (4c), order either or both parents
20 to pay an amount reasonable or necessary to fulfill a duty to support a child. The
21 support amount may be expressed as a percentage of parental income or as a fixed
22 sum, or as a combination of both in the alternative by requiring payment of the
23 greater or lesser of either a percentage of parental income or a fixed sum.

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

ASSEMBLY BILL 195**SECTION 6**

1 767.25 (1j) Except as provided in sub. (1m) or (4c), the court shall determine
2 child support payments by using the percentage standard established by the
3 department under s. 49.22 (9).

4 **SECTION 7.** 767.25 (4c) of the statutes is created to read:

5 767.25 (4c) The court may reduce the amount of child support that would be
6 required by using the percentage standard established by the department under s.
7 49.22 (9), and may require that no child support be paid, for any child who is 16 or
8 17 years old and who is not enrolled in a school program or a high school equivalency
9 program, including a home-based private educational program, as defined in s.
10 115.001 (3g), unless the child has graduated from high school or been granted a
11 declaration of high school equivalency. If, under this subsection, the court reduces
12 the amount of child support that would be required by using the percentage standard
13 or requires that no child support be paid, the court shall state in writing or on the
14 record the reasons for the amount of the reduction or for the determination that no
15 child support be paid.

16 **SECTION 8.** 767.261 (intro.) of the statutes is amended to read:

17 **767.261 Family support.** (intro.) The Subject to s. 767.25 (4c), the court may
18 make a financial order designated "family support" as a substitute for child support
19 orders under s. 767.25 and maintenance payment orders under s. 767.26. A party
20 ordered to pay family support under this section shall pay simple interest at the rate
21 of 1.5% per month on any amount unpaid, commencing the first day of the 2nd month
22 after the month in which the amount was due. Interest under this section is in lieu
23 of interest computed under s. 807.01 (4), 814.04 (4) or 815.05 (8) and is paid to the
24 clerk of court or support collection designee under s. 767.29. Except as provided in

ASSEMBLY BILL 195

1 s. 767.29 (1m), the clerk of court or support collection designee, whichever is
2 appropriate, shall apply all payments received for family support as follows:

3 **SECTION 9.** 767.32 (1) (b) 4. of the statutes is amended to read:

4 767.32 (1) (b) 4. A difference between the amount of child support ordered by
5 the court to be paid by the payer and the amount that the payer would have been
6 required to pay based on the percentage standard established by the department
7 under s. 49.22 (9) if the court did not use the percentage standard in determining the
8 child support payments and did not provide the information required under sub. (2c)
9 or s. 46.10 (14) (d), 767.25 (1n) or (4c) or 767.51 (5d) or (5f), whichever is appropriate.

10 **SECTION 10.** 767.32 (2) of the statutes is amended to read:

11 767.32 (2) Except as provided in sub. (2c), (2m) or (2r), if the court revises a
12 judgment or order with respect to child support payments, it shall do so by using the
13 percentage standard established by the department under s. 49.22 (9).

14 **SECTION 11.** 767.32 (2c) of the statutes is created to read:

15 767.32 (2c) If the court revises a judgment or order with respect to child
16 support payments the court may reduce the amount of child support that would be
17 required by using the percentage standard established by the department under s.
18 49.22 (9), and may require that no child support be paid, for a child who is 16 or 17
19 years old and who is not enrolled in a school program or a high school equivalency
20 program, including a home-based private educational program, as defined in s.
21 115.001 (3g), unless the child has graduated from high school or been granted a
22 declaration of high school equivalency. If, under this subsection, the court reduces
23 the amount of child support that would be required by using the percentage standard
24 or requires that no child support be paid, the court shall state in writing or on the

ASSEMBLY BILL 195**SECTION 11**

1 record the reasons for the amount of the reduction or for the determination that no
2 child support be paid.

3 **SECTION 12.** 767.51 (4m) of the statutes is amended to read:

4 767.51 (4m) Except as provided in sub. (5) or (5f), the court shall determine
5 child support payments by using the percentage standard established by the
6 department under s. 49.22 (9).

7 **SECTION 13.** 767.51 (5f) of the statutes is created to read:

8 767.51 (5f) The court may reduce the amount of child support that would be
9 required by using the percentage standard established by the department under s.
10 49.22 (9), and may require that no child support be paid, for any child who is 16 or
11 17 years old and who is not enrolled in a school program or a high school equivalency
12 program, including a home-based private educational program, as defined in s.
13 115.001 (3g), unless the child has graduated from high school or been granted a
14 declaration of high school equivalency. If, under this subsection, the court reduces
15 the amount of child support that would be required by using the percentage standard
16 or requires that no child support be paid, the court shall state in writing or on the
17 record the reasons for the amount of the reduction or for the determination that no
18 child support be paid.

19 **SECTION 14. Initial applicability.**

20 (1) This act first applies to temporary orders, final judgments and orders, and
21 revisions of judgments and orders, that are granted on the effective date of this
22 subsection.

23 (END)