



State of Wisconsin  
2021 - 2022 LEGISLATURE

LRB-1664/1  
SWB:amn

## 2021 ASSEMBLY BILL 101

February 18, 2021 - Introduced by Representatives BROOKS, BRANDTJEN, MURPHY, MURSAU, TUSLER and WICHGERS, cosponsored by Senators JACQUE and BALLWEG. Referred to Committee on Family Law.

1     **AN ACT** *to repeal* 767.41 (1m) (g) and 767.41 (1m) (n); *to amend* 767.405 (8) (c)  
2             and 767.41 (1m) (intro.); and *to create* 767.405 (8) (d) and 767.41 (1m) (cm) of  
3             the statutes; **relating to:** proposed parenting plans in certain actions affecting  
4             the family.

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### *Analysis by the Legislative Reference Bureau*

This bill makes changes to procedures relating to submission of parenting plans in certain actions affecting the family.

Under current law, in any action affecting the family in which legal custody or physical placement is contested, the parties are required to attend at least one session of mediation, unless a court finds that attending mediation will cause undue hardship or would endanger the health or safety of one of the parties and waives the mediation requirement. If after the initial session the mediator notifies the court that no agreement has been reached, or if mediation has been waived, the parties must each file a parenting plan with the court within 60 days.

The bill requires parties who are directed to participate in an initial mediation session to submit their proposed parenting plans to family court services or the assigned mediator at least 10 days before the initial mediation session. The parties may, but are not required to, exchange proposed parenting plans before the initial mediation session. Proposed parenting plans may be submitted and exchanged electronically. The bill maintains the requirement for the parties to each file a parenting plan with the court if no agreement is reached in mediation or if mediation was waived.

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Under current law, a parenting plan must provide certain information, including what legal custody or physical placement the parent is seeking, where the parent lives currently and intends to live during the next two years, where the parent works and the hours of employment, who will provide necessary child care and who will pay for it, a proposed summer and holiday placement schedule, whether and how the child may contact the other parent, what child support, family support, maintenance, or other income transfer there will be, and how the child's medical expenses will be paid. The bill removes any requirement to include information about what child support, family support, maintenance, or other income transfer there will be, or how the child's medical expenses will be paid, but adds a requirement that proposed parenting plans include, with specific detail, what proposed variable costs are expected to be incurred by or on behalf of the child.

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

1           **SECTION 1.** 767.405 (8) (c) of the statutes is amended to read:

2           767.405 (8) (c) The initial session under par. (a) shall be a screening and  
3 evaluation mediation session to determine whether mediation is appropriate and  
4 whether both parties wish to continue in mediation. At the initial session, the  
5 mediator shall ~~review~~ discuss with each of the parties ~~the nonfinancial provisions~~  
6 ~~that must be~~ information included in the proposed parenting plan plans under s.  
7 767.41 (1m).

8           **SECTION 2.** 767.405 (8) (d) of the statutes is created to read:

9           767.405 (8) (d) At least 10 days before the initial mediation session, each party  
10 shall submit a proposed parenting plan containing all the information required  
11 under s. 767.41 (1m) to the director of family court services for the county in which  
12 the action is pending or the assigned mediator. The parties may exchange proposed  
13 parenting plans before the initial mediation session. For purposes of the exchange  
14 and submission under this paragraph, a party may provide a copy of the party's  
15 proposed parenting plan electronically.

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1           **SECTION 3.** 767.41 (1m) (intro.) of the statutes is amended to read:

2           767.41 **(1m)** PARENTING PLAN. (intro.) Unless the court orders otherwise, in an  
3           action for annulment, divorce, or legal separation, an action to determine paternity,  
4           or an action under s. 767.001 (1) (e), 767.501, 767.804 (2), or 767.805 (3), in which  
5           legal custody or physical placement is contested, a party seeking sole or joint legal  
6           custody or periods of physical placement shall file a proposed parenting plan with the  
7           court if the court waives the requirement to attend mediation under s. 767.405 (8)  
8           (b) or if the parties attend have attended mediation and the mediator notifies the  
9           court under s. 767.405 (12) (b) that the parties have not reached an agreement.  
10          Unless the court orders otherwise, the proposed parenting plan shall be filed within  
11          60 days after the court waives the mediation requirement or the mediator notifies  
12          the court that no agreement has been reached. Except for cause shown, a party  
13          required to file a proposed parenting plan under this subsection who does not timely  
14          file a proposed parenting plan waives the right to object to the other party's parenting  
15          plan. A proposed parenting plan shall provide information about the following  
16          questions:

17          **SECTION 3.** 767.41 (1m) (cm) of the statutes is created to read:

18          767.41 **(1m)** (cm) With specific detail, what proposed variable costs are  
19          expected to be incurred by or on behalf of the child.

20          **SECTION 4.** 767.41 (1m) (g) of the statutes is repealed.

21          **SECTION 5.** 767.41 (1m) (n) of the statutes is repealed.

22          **SECTION 6. Initial applicability.**

23          (1) This act first applies to actions filed on the effective date of this subsection.

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(END)