

1999 ASSEMBLY BILL 380

June 10, 1999 – Introduced by Representative HUEBSCH, cosponsored by Senator GEORGE, by request of Director of State Courts. Referred to Committee on Judiciary and Personal Privacy.

1 **AN ACT to repeal** 48.065 (title), 48.065 (2) to (4), 753.175, 757.68 (2) (title), 757.68
2 (3), (4) and (5) (title), 757.69 (6), 757.695, 757.72 (title), 757.72 (2), 757.72 (3),
3 757.72 (4), 757.72 (6), 757.72 (7), 757.72 (8), 757.81 (2), 767.13 (title), 767.13 (2)
4 (title), 767.13 (2) (b), (3) and (4), 767.13 (5) (title) and (a) (title), 767.13 (5) (b)
5 (title), 767.13 (5) (c) (title), 767.13 (6), 767.13 (7) (title), 767.17 and 938.065; **to**
6 **renumber and amend** 48.065 (1), 757.68 (2), 757.68 (5), 757.69 (1) (g), 757.69
7 (3), 757.69 (4) and (5), 757.69 (7), 757.72 (1), 757.72 (5), 767.13 (1), 767.13 (2)
8 (a), 767.13 (5) (a), 767.13 (5) (b), 767.13 (5) (c) and 767.13 (7); **to amend** 13.24
9 (1), 19.01 (4) (c), 20.445 (3) (cb), 40.08 (9m), 46.03 (3), 48.06 (1) (a) 2., 48.208 (4),
10 48.21 (1) (a), 48.21 (1) (b), 48.21 (4) (intro.), 48.21 (7), 48.213 (1) (a), 48.213 (1)
11 (b), 48.213 (3) (intro.), 48.213 (6), 48.227 (4) (a), 48.30 (9), 48.32 (1), 48.32 (2) (a),
12 48.32 (6), 49.25 (8) (b), 49.852 (3), 49.854 (2) (c), 49.854 (3) (ag) 2., 49.854 (3) (ar),
13 49.854 (3) (b), 49.854 (5) (f), 49.854 (6) (c), 49.854 (7) (c), 49.854 (7m), 49.855 (3),
14 49.855 (4m) (b), 49.856 (4), 49.857 (2) (c) 1., 49.857 (3) (ac), 49.857 (3) (ar), 49.858

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1 (3), 51.10 (4m) (d), 51.20 (1) (c), 51.45 (12) (b) (intro.), 51.45 (12) (c) (intro.), 51.45
2 (12) (c) 1., 51.45 (13) (dm), 59.37, 59.53 (5) (a), 59.53 (5m) (a), 59.64 (1) (c) (title),
3 1. (intro.) and 2., 59.64 (1) (d) (intro.), 59.64 (1) (d) 1. (intro.), 59.64 (1) (e), 59.64
4 (1) (f), 59.64 (1) (g) 4., 59.79 (5), 63.03 (2) (z), 69.15 (3m) (a) 3. and 4., 75.43,
5 101.02 (5) (c), 103.005 (5) (c), 133.10 (1), 133.11 (1), 133.11 (3), 171.04 (1), 171.04
6 (2), 171.04 (3), 171.05, 171.06, 196.24 (2), 563.71 (1) (a), 563.71 (1) (c), 757.24,
7 757.30 (2), 757.68 (title), 757.69 (title), 757.69 (1) (b), 757.69 (1) (j), 757.69 (1)
8 (m), 757.69 (2) (intro.), 757.69 (2) (a), 757.70 (2), 757.81 (6), 757.85 (1) (a), 757.85
9 (1) (b), 757.85 (3), 757.85 (4), 757.85 (5), 757.87 (1), 757.89, 757.93 (1) (a), 757.93
10 (1) (b), 757.93 (2), 757.93 (4) (a), 757.95, 757.99, 765.11 (1), 765.11 (2), 765.16
11 (5), 767.045 (1) (c) (intro.), 767.081 (title), 767.081 (1), 767.081 (2) (a) (intro.),
12 767.081 (2) (b), 767.083 (2), 767.085 (1) (i), 767.085 (1) (j) (intro.), 767.085 (3),
13 767.087 (1) (b), 767.087 (1) (c), 767.087 (2), 767.11 (1) (c), 767.11 (5) (a), 767.11
14 (5) (b), 767.11 (5) (c), 767.11 (6), 767.11 (7), 767.11 (13), 767.115 (1) (a), 767.115
15 (1) (b), 767.115 (1m), 767.115 (2), 767.12 (1), 767.125, 767.14, 767.145 (1), 767.15
16 (1), 767.16, 767.23 (1) (intro.), 767.23 (1) (a), 767.23 (1) (am), 767.23 (1m), 767.23
17 (1n), 767.25 (4m) (f) 2., 767.265 (1), 767.265 (2h), 767.265 (2r), 767.267 (1),
18 767.267 (5), 767.27 (2), 767.29 (title), 767.29 (1) (c), 767.29 (1) (d) (intro.), 767.29
19 (1) (d) 2., 767.29 (1) (e), 767.29 (1m) (b), 767.29 (3) (a), 767.29 (3) (b), 767.293
20 (1), 767.293 (2), 767.293 (3), 767.32 (1) (a), 767.327 (2) (c), 767.33 (2), 767.37 (1)
21 (a), 767.37 (2), 767.45 (5) (b), 767.455 (5), 767.458 (1m), 767.46 (1), 767.463,
22 767.465 (2) (a), 767.51 (3m) (f) 2., 767.62 (2) (b), 767.62 (3) (b), 767.62 (4) (a),
23 767.62 (4) (b) 2., 767.62 (4) (b) 3. a., 767.62 (4) (b) 3. b., 767.62 (4) (b) 4. (intro.),
24 767.62 (4) (b) 4. c., 767.62 (4) (b) 5. a., 767.62 (4) (b) 6. b., 767.62 (4) (d) 1., 767.62
25 (4) (d) 2., 767.62 (4) (e) (intro.), 767.62 (4) (e) 14., 767.62 (4) (f), 769.102, 769.302,

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1 782.01 (3), 782.03, 782.28, 799.03, 799.05 (7) (intro.), 799.06 (1), 799.11 (3),
2 799.20 (4), 799.206 (1), (2) and (4), 799.207 (title), 799.207 (1) (a), 799.207 (1)
3 (b), 799.207 (1) (e), 799.207 (2) (intro.), 799.207 (3) (b), 799.209 (1) to (4), 799.21
4 (3) (b), 799.21 (4), 799.24 (1), 799.24 (3), 799.26 (1), 803.01 (3) (b) 1., 807.02,
5 807.04 (1), 807.09 (1), 812.30 (2), 813.025 (1), 813.12 (2) (a), 813.12 (2) (b),
6 813.12 (3) (a), 813.12 (3) (am), 813.12 (3) (c), 813.12 (3) (d), 813.12 (4) (a) (intro.),
7 813.12 (4) (a) 3., 813.12 (4) (am), 813.12 (4) (b), 813.12 (4m) (a) 2., 813.12 (4m)
8 (b) (intro.), 813.12 (4m) (b) 2., 813.12 (5) (c), 813.12 (6) (a), 813.12 (7m), 813.122
9 (3) (a), 813.122 (3) (b) (intro.), 813.122 (3) (bm), 813.122 (4) (a) (intro.), 813.122
10 (4) (a) 1., 813.122 (4) (a) 2., 813.122 (5m) (a) 2., 813.122 (5m) (b) (intro.), 813.122
11 (5m) (b) 2., 813.122 (9) (a), 813.123 (3) (a), 813.123 (3) (b) (intro.), 813.123 (4)
12 (a), 813.123 (8) (a), 813.125 (3) (a) (intro.), 813.125 (3) (a) 2., 813.125 (3) (c),
13 813.125 (4) (a) (intro.), 813.125 (4) (a) 2., 813.125 (4) (a) 3., 813.125 (4m) (a),
14 813.125 (4m) (c) 2., 813.125 (4m) (d) (intro.), 813.125 (4m) (d) 2., 813.125 (5)
15 (am), 814.615 (3), 814.68 (title), 814.68 (1) (intro.), 814.68 (1) (a), 814.68 (1) (b)
16 (intro.), 814.68 (1) (b) 1., 814.68 (2), 816.03 (1) (b), 816.035 (1) and (2), 818.02
17 (6), 879.61, 885.10, 885.12, 887.26 (7), 898.02, 898.04, 898.11, 906.15 (1), 906.15
18 (2) (d), 906.15 (3), 911.01 (1), 938.06 (1) (a) 2., 938.208 (4), 938.21 (1) (a), 938.21
19 (1) (b), 938.21 (2) (c), 938.21 (4) (intro.), 938.21 (4m), 938.21 (7), 938.24 (5),
20 938.245 (3), 938.30 (9), 938.32 (1) (a), 938.32 (1d), 938.32 (1g) (intro.), 938.32
21 (1m) (intro.) and (a), 938.32 (1t) (a) 1., 938.32 (1t) (a) 1m., 938.32 (1t) (a) 3.,
22 938.32 (1v), 938.32 (1x), 938.32 (2) (a), 938.32 (6), 940.203 (1) (b), 943.013 (1)
23 (b), 946.495, 967.07, 971.20 (3) (a), 973.20 (13) (c) 4., 977.05 (6) (b) 2., 979.05 (1),
24 979.05 (4), 979.05 (5), 979.05 (6), 979.06 (1), 979.06 (2), 979.06 (3), 979.06 (4)
25 (intro.), 979.06 (5), 979.08 (1), 979.08 (3) (intro.), 979.08 (6), 979.08 (7) and

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1 979.09; **to repeal and recreate** 17.16 (1), 757.68 (1), 757.69 (1) (intro.), 757.69
2 (1) (k), 979.05 (2) and 979.05 (3); and **to create** 757.001, 757.01 (4), 757.675
3 (title), 757.68 (5m), 757.68 (6), 757.68 (7), 757.69 (1) (g) 8. to 13., 757.69 (1m),
4 757.69 (2m) and 757.69 (8) of the statutes; **relating to:** powers, responsibilities
5 and appointment of court commissioners.

Analysis by the Legislative Reference Bureau

Current law establishes the powers and duties of family, juvenile, probate and part-time court commissioners. In addition, current law establishes how these court commissioners are appointed, who determines how many court commissioners shall be appointed and whether they are classified or unclassified within their respective counties. Currently, some of the powers of each of the different court commissioners are specified in the statutes related to their subject area, such as juvenile court commissioners' duties in chapter 48 and 938 of the statutes. Other duties of these court commissioners are specified in the general court statutes.

In supreme court order 97-10, the supreme court created chapter 75 of the supreme court rules. Those rules, effective January 1, 1999, create two types of court commissioners, circuit court commissioners (formerly included family, juvenile, small claims and probate court commissioners) and supplemental court commissioners (formerly part-time court commissioners). Under these rules, all circuit commissioners are appointed by the chief judge of their judicial administrative district. The powers of those circuit court commissioners are as specified by statute, except that the chief judge may, under the rules, authorize the powers that a specific circuit court commissioner may perform. Chapter 75 of the supreme court rules also authorizes the chief judge to allow a supplemental court commissioner to perform specific duties of a circuit court commissioner on a temporary basis.

This bill consolidates all of the powers and duties of court commissioners into one chapter of the statutes and codifies chapter 75 of the supreme court rules related to the appointment and authority of court commissioners. The bill creates two types of court commissioners, circuit court commissioners and supplemental court commissioners, and gives the chief judge of the judicial administrative district the power to appoint the circuit court commissioners. The bill does not change any of the powers and duties currently provided to court commissioners, but does specify that circuit court commissioners have, in addition to their own specified powers and

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duties, all of those powers and duties provided to supplemental court commissioners, as court commissioners have under current law.

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

1 **SECTION 1.** 13.24 (1) of the statutes is amended to read:

2 13.24 (1) After the service of the notice required by s. 13.23 either party may
3 proceed to take the depositions of witnesses before any judge, circuit or supplemental
4 court commissioner or a municipal judge in the district where the contest is pending,
5 upon giving 10 days' notice in writing to the opposite party of the time and place at
6 which and the officer before whom such depositions will be taken. No deposition
7 shall be taken after the last Monday preceding the day fixed by law for the meeting
8 of the legislature, except in case of sickness or unavoidable absence of witnesses.

9 **SECTION 2.** 17.16 (1) of the statutes is repealed and recreated to read:

10 17.16 (1) Removals from office at pleasure shall be made by order, a copy of
11 which shall be filed as provided by sub. (8), except that a copy of the order of removal
12 of a circuit court commissioner shall be filed in the office of the clerk of the circuit
13 court.

14 **SECTION 3.** 19.01 (4) (c) of the statutes is amended to read:

15 19.01 (4) (c) In the office of the clerk of the circuit court for any county: Of all
16 circuit and supplemental court commissioners, ~~of all family court commissioners~~, of
17 all municipal judges, and of all other judges or judicial officers elected or appointed
18 for that county, or whose jurisdiction is limited thereto;

19 **SECTION 4.** 20.445 (3) (cb) of the statutes is amended to read:

20 20.445 (3) (cb) *Child support collection—county administration.* The amounts
21 in the schedule for the county child support order revision programs under s. 49.23

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1 (1), for state incentive payments under s. 49.23 (2), for assistance to counties in
2 establishing paternity and obtaining child support and for payments to Milwaukee
3 County under s. 49.25 (8) (b) to fund an additional ~~family~~ circuit court commissioner
4 to assist in matters affecting the family.

5 **SECTION 5.** 40.08 (9m) of the statutes is amended to read:

6 **40.08 (9m) GUARDIANS.** An application for a benefit, a designation of a
7 beneficiary or any other document which has a long-term effect on a person's rights
8 and benefits under this chapter and which requires a signature may be signed and
9 filed by a guardian of the estate when accompanied by a photocopy or facsimile of an
10 order of guardianship issued by a circuit court judge or a register in probate or a
11 ~~probate~~ circuit court commissioner who is assigned the authority to issue such orders
12 under s. ~~757.72 (2) or (5)~~ 851.73 (1) (g).

13 **SECTION 6.** 46.03 (3) of the statutes is amended to read:

14 **46.03 (3) TRUSTEE DUTY.** Take and hold in trust, whenever it considers
15 acceptance advantageous, all property transferred to the state to be applied to any
16 specified purpose, use or benefit pertaining to any of the institutions under its control
17 or the inmates thereof, and apply the same in accordance with the trust; and when
18 ordered by the court, act as trustee of funds paid for the support of any child if
19 appointed by the court or ~~family~~ a circuit court commissioner under s. 767.475 (7).

20 **SECTION 7.** 48.06 (1) (a) 2. of the statutes is amended to read:

21 **48.06 (1) (a) 2.** The chief judge of the judicial administrative district shall
22 formulate written judicial policy governing intake and court services for child
23 welfare matters under this chapter and the department shall be charged with
24 executing the judicial policy. The chief judge shall direct and supervise the work of
25 all personnel of the court, except the work of the district attorney or corporation

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1 counsel assigned to the court. ~~The chief judge may delegate his or her supervisory~~
2 ~~functions under s. 48.065 (1).~~

3 **SECTION 8.** 48.065 (title) of the statutes is repealed.

4 **SECTION 9.** 48.065 (1) of the statutes is renumbered 757.68 (3m) and amended
5 to read:

6 757.68 **(3m)** The board of supervisors of any county may ~~authorize the chief~~
7 ~~judge of the judicial administrative district to appoint~~ establish one or more circuit
8 court commissioner positions on a part-time or full-time juvenile court
9 commissioners who basis to assist in matters affecting juveniles. A circuit court
10 commissioner under this subsection shall serve at the discretion of the chief judge.
11 ~~A juvenile court commissioner shall be licensed to practice law in this state and shall~~
12 ~~have been so licensed for at least 2 years immediately prior to appointment and shall~~
13 ~~have a demonstrated interest in the welfare of children and unborn children. The~~
14 ~~chief judge may assign law clerks, bailiffs and deputies to the court commissioner.~~
15 ~~The chief judge shall supervise juvenile court commissioners, law clerks, bailiffs and~~
16 ~~deputies, except that the chief judge may delegate any of those duties.~~

17 **SECTION 10.** 48.065 (2) to (4) of the statutes are repealed.

18 **SECTION 11.** 48.208 (4) of the statutes is amended to read:

19 48.208 **(4)** Probable cause exists to believe that the child, having been placed
20 in nonsecure custody by an intake worker under s. 48.207 (1) or by the judge or
21 juvenile a circuit court commissioner under s. 48.21 (4), has run away or committed
22 a delinquent act and no other suitable alternative exists.

23 **SECTION 12.** 48.21 (1) (a) of the statutes is amended to read:

24 48.21 **(1)** (a) If a child who has been taken into custody is not released under
25 s. 48.20, a hearing to determine whether the child shall continue to be held in custody

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1 under the criteria of ss. 48.205 to 48.209 shall be conducted by the judge or juvenile
2 a circuit court commissioner within 48 hours of the time the decision to hold the child
3 was made, excluding Saturdays, Sundays and legal holidays. By the time of the
4 hearing a petition under s. 48.25 shall be filed, except that no petition need be filed
5 where a child is taken into custody under s. 48.19 (1) (b) or (d) 2. or 7. or where the
6 child is a runaway from another state, in which case a written statement of the
7 reasons for holding a child in custody shall be substituted if the petition is not filed.
8 If no hearing has been held within 48 hours, excluding Saturdays, Sundays and legal
9 holidays, or if no petition or statement has been filed at the time of the hearing, the
10 child shall be released except as provided in par. (b). A parent not present at the
11 hearing shall be granted a rehearing upon request.

12 **SECTION 13.** 48.21 (1) (b) of the statutes is amended to read:

13 48.21 (1) (b) If no petition has been filed by the time of the hearing, a child may
14 be held in custody with approval of the judge or juvenile circuit court commissioner
15 for an additional 72 hours from the time of the hearing, excluding Saturdays,
16 Sundays and legal holidays, only if, as a result of the facts brought forth at the
17 hearing, the judge or juvenile circuit court commissioner determines that probable
18 cause exists to believe that the child is an imminent danger to himself or herself or
19 to others, that probable cause exists to believe that the parent, guardian or legal
20 custodian of the child or other responsible adult is neglecting, refusing, unable or
21 unavailable to provide adequate supervision and care or, if the child is an expectant
22 mother who was taken into custody under s. 48.19 (1) (cm) or (d) 8., that probable
23 cause exists to believe that there is a substantial risk that if the child expectant
24 mother is not held, the physical health of the unborn child, and of the child when
25 born, will be seriously affected or endangered by the child expectant mother's

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1 habitual lack of self-control in the use of alcohol beverages, controlled substances or
2 controlled substance analogs, exhibited to a severe degree, and to believe that the
3 child expectant mother is refusing or has refused to accept any alcohol or other drug
4 abuse services offered to her or is not making or has not made a good faith effort to
5 participate in any alcohol or other drug abuse services offered to her. The extension
6 may be granted only once for any petition. In the event of failure to file a petition
7 within the extension period provided for in this paragraph, the judge or juvenile
8 circuit court commissioner shall order the child's immediate release from custody.

9 **SECTION 14.** 48.21 (4) (intro.) of the statutes is amended to read:

10 48.21 (4) CONTINUATION OF CUSTODY. (intro.) If the judge or juvenile circuit court
11 commissioner finds that the child should be continued in custody under the criteria
12 of s. 48.205, he or she shall enter one of the following orders:

13 **SECTION 15.** 48.21 (7) of the statutes is amended to read:

14 48.21 (7) INFORMAL DISPOSITION. If the judge or juvenile circuit court
15 commissioner determines that the best interests of the child and the public are
16 served or, in the case of a child expectant mother who has been taken into custody
17 under s. 48.19 (1) (cm) or (d) 8., that the best interests of the unborn child and the
18 public are served, he or she may enter a consent decree under s. 48.32 or order the
19 petition dismissed and refer the matter to the intake worker for informal disposition
20 in accordance with s. 48.245.

21 **SECTION 16.** 48.213 (1) (a) of the statutes is amended to read:

22 48.213 (1) (a) If an adult expectant mother of an unborn child who has been
23 taken into custody is not released under s. 48.203, a hearing to determine whether
24 the adult expectant mother shall continue to be held in custody under the criteria of
25 s. 48.205 (1m) shall be conducted by the judge or juvenile a circuit court

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1 commissioner within 48 hours after the time that the decision to hold the adult
2 expectant mother was made, excluding Saturdays, Sundays and legal holidays. By
3 the time of the hearing a petition under s. 48.25 shall be filed, except that no petition
4 need be filed when an adult expectant mother is taken into custody under s. 48.193
5 (1) (b) or (d) 1. or 3., in which case a written statement of the reasons for holding the
6 adult expectant mother in custody shall be substituted if the petition is not filed. If
7 no hearing has been held within those 48 hours, excluding Saturdays, Sundays and
8 legal holidays, or if no petition or statement has been filed at the time of the hearing,
9 the adult expectant mother shall be released except as provided in par. (b).

10 **SECTION 17.** 48.213 (1) (b) of the statutes is amended to read:

11 48.213 (1) (b) If no petition has been filed by the time of the hearing, an adult
12 expectant mother of an unborn child may be held in custody with the approval of the
13 judge or ~~juvenile~~ circuit court commissioner for an additional 72 hours after the time
14 of the hearing, excluding Saturdays, Sundays and legal holidays, only if, as a result
15 of the facts brought forth at the hearing, the judge or ~~juvenile~~ circuit court
16 commissioner determines that probable cause exists to believe that there is a
17 substantial risk that if the adult expectant mother is not held, the physical health
18 of the unborn child, and of the child when born, will be seriously affected or
19 endangered by the adult expectant mother's habitual lack of self-control in the use
20 of alcohol beverages, controlled substances or controlled substance analogs,
21 exhibited to a severe degree, and to believe that the adult expectant mother is
22 refusing or has refused to accept any alcohol or other drug abuse services offered to
23 her or is not making or has not made a good faith effort to participate in any alcohol
24 or other drug abuse services offered to her. The extension may be granted only once
25 for any petition. In the event of failure to file a petition within the extension period

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1 provided for in this paragraph, the judge or juvenile circuit court commissioner shall
2 order the adult expectant mother's immediate release from custody.

3 **SECTION 18.** 48.213 (3) (intro.) of the statutes is amended to read:

4 48.213 (3) CONTINUATION OF CUSTODY. (intro.) If the judge or juvenile circuit
5 court commissioner finds that the adult expectant mother should be continued in
6 custody under the criteria of s. 48.205 (1m), the judge or juvenile circuit court
7 commissioner shall enter one of the following orders:

8 **SECTION 19.** 48.213 (6) of the statutes is amended to read:

9 48.213 (6) INFORMAL DISPOSITION. If the judge or juvenile circuit court
10 commissioner determines that the best interests of the unborn child and the public
11 are served, the judge or juvenile circuit court commissioner may enter a consent
12 decree under s. 48.32 or order the petition dismissed and refer the matter to the
13 intake worker for informal disposition in accordance with s. 48.245.

14 **SECTION 20.** 48.227 (4) (a) of the statutes is amended to read:

15 48.227 (4) (a) If the child's parent, guardian or legal custodian does not consent
16 to the temporary care and housing of the child at the runaway home as provided
17 under sub. (2) or (3), a hearing shall be held on the issue by the judge or juvenile a
18 circuit court commissioner within 24 hours of the time that the child entered the
19 runaway home, excluding Saturdays, Sundays and legal holidays. The intake
20 worker shall notify the child and the child's parent, guardian or legal custodian of
21 the time, place and purpose of the hearing.

22 **SECTION 21.** 48.30 (9) of the statutes is amended to read:

23 48.30 (9) If a circuit court commissioner conducts the plea hearing and accepts
24 an admission of the alleged facts in a petition brought under s. 48.13 or 48.133, the

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1 judge shall review the admission at the beginning of the dispositional hearing by
2 addressing the parties and making the inquiries set forth in sub. (8).

3 **SECTION 22.** 48.32 (1) of the statutes is amended to read:

4 48.32 (1) At any time after the filing of a petition for a proceeding relating to
5 s. 48.13 or 48.133 and before the entry of judgment, the judge or ~~juvenile~~ a circuit
6 court commissioner may suspend the proceedings and place the child or expectant
7 mother under supervision in the home or present placement of the child or expectant
8 mother. The court may establish terms and conditions applicable to the child and the
9 child's parent, guardian or legal custodian, to the child expectant mother and her
10 parent, guardian or legal custodian or to the adult expectant mother. The order
11 under this section shall be known as a consent decree and must be agreed to by the
12 child if 12 years of age or older, the parent, guardian or legal custodian, and the
13 person filing the petition under s. 48.25; by the child expectant mother, her parent,
14 guardian or legal custodian, the unborn child by the unborn child's guardian ad litem
15 and the person filing the petition under s. 48.25; or by the adult expectant mother,
16 the unborn child by the unborn child's guardian ad litem and the person filing the
17 petition under s. 48.25. The consent decree shall be reduced to writing and given to
18 the parties.

19 **SECTION 23.** 48.32 (2) (a) of the statutes is amended to read:

20 48.32 (2) (a) A consent decree shall remain in effect up to 6 months unless the
21 child, parent, guardian, legal custodian or expectant mother is discharged sooner by
22 the judge or ~~juvenile~~ circuit court commissioner.

23 **SECTION 24.** 48.32 (6) of the statutes is amended to read:

24 48.32 (6) The judge or ~~juvenile~~ circuit court commissioner shall inform the child
25 and the child's parent, guardian or legal custodian, or the adult expectant mother,

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1 in writing, of the right of the child or expectant mother to object to the continuation
2 of the consent decree under sub. (3) and the fact that the hearing under which the
3 child or expectant mother was placed on supervision may be continued to conclusion
4 as if the consent decree had never been entered.

5 **SECTION 25.** 49.25 (8) (b) of the statutes is amended to read:

6 49.25 (8) (b) From the appropriation under s. 20.445 (3) (cb), the department
7 shall provide funds to Milwaukee county to fund an additional family circuit court
8 commissioner to assist in matters affecting the family.

9 **SECTION 26.** 49.852 (3) of the statutes is amended to read:

10 49.852 (3) If a person has requested a hearing pursuant to sub. (2) (b), the
11 hearing shall be conducted before the circuit court that rendered the initial order to
12 pay support. The court shall schedule a hearing within 10 business days after
13 receiving a request for a hearing. ~~The family~~ A circuit court commissioner may
14 conduct the hearing. If the court determines that the person owes the amount
15 specified in the statewide support lien docket under s. 49.854 (2) (b), the department
16 of workforce development may direct the department of employe trust funds, the
17 retirement system of any 1st class city, any retirement system established under
18 chapter 201, laws of 1937, or the administrator of any other pension plan, whichever
19 is appropriate, to withhold the amount from any lump sum payment from a pension
20 plan that may be paid the person. If the court determines that the person does not
21 owe the amount specified in the statewide support lien docket under s. 49.854 (2) (b),
22 the department of workforce development may not direct the department of employe
23 trust funds, the retirement system of any 1st class city, any retirement system
24 established under chapter 201, laws of 1937, or the administrator of any other

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1 pension plan, whichever is appropriate, to withhold the amount from any lump sum
2 payment from a pension plan that may be paid the person.

3 **SECTION 27.** 49.854 (2) (c) of the statutes is amended to read:

4 49.854 (2) (c) *Updating the statewide support lien docket.* The department shall
5 update the statewide support lien docket in response to orders issued by a court or
6 family circuit court commissioner. The department shall periodically update the
7 statewide support lien docket to reflect changes in the amounts of the liens contained
8 in the docket.

9 **SECTION 28.** 49.854 (3) (ag) 2. of the statutes is amended to read:

10 49.854 (3) (ag) 2. If the obligor disagrees with the determination of the
11 department, the obligor may request a hearing with the court or a family circuit court
12 commissioner to review the department's determination. To request a hearing under
13 this subdivision, the obligor shall make the request within 5 business days of the date
14 of the department's determination under subd. 1. The obligor shall make the request
15 in writing and shall mail or deliver a copy of the request to the county child support
16 agency. If a timely request for a hearing is made under this subdivision, the court
17 or family circuit court commissioner shall hold the hearing within 15 business days
18 of the request. If, at the hearing, the obligor establishes that the lien is not proper
19 because of a mistake of fact, the court or family circuit court commissioner shall order
20 the department to remove the lien from the statewide support lien docket or adjust
21 the amount of the delinquent obligation.

22 **SECTION 29.** 49.854 (3) (ar) of the statutes is amended to read:

23 49.854 (3) (ar) *Direct appeal.* If the obligor has not requested a financial
24 records and court order review under par. (ag), the obligor may request a hearing
25 under this paragraph within 20 business days of the date of the notice under par. (a).

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1 The obligor shall make the request in writing and shall mail or deliver a copy of the
2 request to the county child support agency. If a timely request for a hearing is made
3 under this paragraph, the court or ~~family~~ circuit court commissioner shall schedule
4 a hearing within 10 days after the date of the request. If, at the hearing, the obligor
5 establishes that the lien is not proper because of a mistake of fact, the court or ~~family~~
6 circuit court commissioner shall order the department to remove the lien from the
7 statewide support lien docket or adjust the amount of the delinquent obligation.

8 **SECTION 30.** 49.854 (3) (b) of the statutes is amended to read:

9 49.854 **(3)** (b) *Appeal.* If a ~~family~~ circuit court commissioner conducts a hearing
10 under par. (ag) or (ar), the department or the obligor may, within 15 business days
11 after the date of the decision by the ~~family~~ circuit court commissioner, request review
12 of the decision by the court having jurisdiction over the action. The court conducting
13 the review may order that the lien be withdrawn from the statewide support lien
14 dockets or may order an adjustment of the amount of the delinquent obligation. If
15 no appeal is sought or if the court does not order the withdrawal of the lien, the
16 department may take appropriate actions to enforce the lien.

17 **SECTION 31.** 49.854 (5) (f) of the statutes is amended to read:

18 49.854 **(5)** (f) *Hearings.* A hearing requested under par. (d) 6. shall be
19 conducted before the circuit court rendering the order to pay support. Within 45
20 business days after receiving a request for hearing under par. (d) 6., the court shall
21 conduct the hearing. The ~~family~~ A circuit court commissioner may conduct the
22 hearing. The hearing shall be limited to a review of whether the account holder owes
23 the amount of support certified and whether any alternative payment arrangement
24 offered by the department or the county child support agency is reasonable. If the
25 court or ~~family~~ circuit court commissioner makes a written determination that an

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1 alternative payment arrangement offered by the department or county child support
2 agency is not reasonable, the court or family circuit court commissioner may order
3 an alternative payment arrangement. If the court or family circuit court
4 commissioner orders an alternative payment arrangement, the court or family
5 circuit court commissioner shall order the department to release all or a portion of
6 the funds. If the court or family circuit court commissioner determines that the
7 account holder does not owe support or owes less than the amount claimed by the
8 department, the court shall order the department to return the seized funds or the
9 excess of the seized funds over the amount of the delinquency to the account holder.
10 If a family circuit court commissioner conducts the hearing under this paragraph,
11 the department or the obligor may, within 15 business days after the date that the
12 family circuit court commissioner makes his or her decision, request review of the
13 decision by the court with jurisdiction over the action.

14 **SECTION 32.** 49.854 (6) (c) of the statutes is amended to read:

15 49.854 **(6)** (c) *Hearing.* If a hearing is requested under par. (b) 4., the court or
16 family circuit court commissioner shall schedule a hearing within 10 business days
17 after receiving the request under par. (b) 4. The hearing shall be limited to a review
18 of whether the obligor owes the amount of support owed that is stated in the notice
19 of seizure and whether any alternative payment arrangement offered by the
20 department or the county child support agency is reasonable. If the court or family
21 circuit court commissioner makes a written determination that an alternative
22 payment arrangement offered by the department or county child support agency is
23 not reasonable, the court or family circuit court commissioner may order an
24 alternative payment arrangement. If the court or family circuit court commissioner
25 orders an alternative payment arrangement, the court or family circuit court

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1 commissioner shall order the department to return the seized property within 15
2 business days. If the court or family circuit court commissioner determines that the
3 obligor does not owe support or owes less than the amount claimed by the
4 department, the court shall order the department to return the seized property
5 within 15 business days or specify the amount which may be retained by the
6 department after the sale of the seized property. If a family circuit court
7 commissioner conducts the hearing under this paragraph, the department or the
8 obligor may, within 15 business days after the date that the family circuit court
9 commissioner makes his or her decision, request review of the decision by the court
10 with jurisdiction over the action. The court reviewing the decision may order the
11 department to return the seized property or may authorize the sale of the property
12 by the department. If the department is ordered to return seized property under this
13 paragraph, the court shall instruct any state agency responsible for titling the
14 property that it may transfer title to the property without receiving instructions from
15 a court or the department under par. (a).

16 **SECTION 33.** 49.854 (7) (c) of the statutes is amended to read:

17 49.854 (7) (c) *Hearing.* If a hearing is requested under par. (b) 1. c., the court
18 or family circuit court commissioner shall schedule a hearing within 10 business
19 days after receiving the request under par. (b) 1. c. The hearing shall be limited to
20 a review of whether the obligor owes the amount of support owed that is stated in the
21 notice of intent under par. (b) and whether any alternative payment arrangement
22 offered by the department or the county child support agency is reasonable. If the
23 court or family circuit court commissioner makes a written determination that an
24 alternative payment arrangement offered by the department or county child support
25 agency is not reasonable, the court or family circuit court commissioner may order

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1 an alternative payment arrangement. If the court or family circuit court
2 commissioner orders an alternative payment arrangement, the court or family
3 circuit court commissioner shall order the department not to proceed with the levy.
4 If the court or family circuit court commissioner determines that the obligor does not
5 owe support or owes less than the amount claimed by the department, the court shall
6 order the department not to proceed with the levy or specify the amount that may
7 be retained by the department after the sale of the seized property. If a family circuit
8 court commissioner conducts the hearing under this paragraph, the department or
9 the obligor may, within 15 business days after the date that the family circuit court
10 commissioner makes his or her decision, request review of the decision by the court
11 with jurisdiction over the action. The court reviewing the decision may order the
12 department not to proceed with the levy of the property or may authorize the sale of
13 the property by the department.

14 **SECTION 34.** 49.854 (7m) of the statutes is amended to read:

15 49.854 (7m) JOINTLY HELD PROPERTY. A person, other than the obligor, who holds
16 a joint interest in property levied against under this section may request a hearing,
17 as provided in subs. (5) (d) 6m., (6) (b) 3m. or (7) (b) 1. d., to determine the proportion
18 of the value of the property that is attributable to his or her net contribution to the
19 property. If a hearing is requested under this subsection, the court or family circuit
20 court commissioner shall schedule a hearing within 10 days after receiving the
21 request. The hearing shall be limited to determining the proportion of the value of
22 the property that is attributable to the person's net contribution to the property. If
23 more than one person requests a hearing under this subsection, or if the obligor
24 requests a hearing under sub. (5) (f), (6) (c) or (7) (c), with respect to the same
25 property, the court or family circuit court commissioner may schedule the hearings

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1 together. The person requesting the hearing shall have the burden of proving his or
2 her net contribution by clear and convincing evidence. If the court determines that
3 a portion of the jointly held property is attributable to the contributions of the person,
4 the court shall direct the department or the county child support agency to pay the
5 person, from the net balance of the jointly held account or the net proceeds of the sale
6 of the jointly held real or personal property, the proportion of the gross value of the
7 account or real or personal property that is attributable to that person. If ~~the family~~
8 a circuit court commissioner conducts the hearing under this subsection, the person
9 may, within 15 business days after the date that the ~~family~~ circuit court
10 commissioner makes his or her decision, request review of the decision by the court
11 with jurisdiction over the action.

12 **SECTION 35.** 49.855 (3) of the statutes, as affected by 1997 Wisconsin Act 237,
13 section 210, is amended to read:

14 49.855 (3) Receipt of a certification by the department of revenue shall
15 constitute a lien, equal to the amount certified, on any state tax refunds or credits
16 owed to the obligor. The lien shall be foreclosed by the department of revenue as a
17 setoff under s. 71.93 (3), (6) and (7). When the department of revenue determines
18 that the obligor is otherwise entitled to a state tax refund or credit, it shall notify the
19 obligor that the state intends to reduce any state tax refund or credit due the obligor
20 by the amount the obligor is delinquent under the support or maintenance order, by
21 the outstanding amount for past support, medical expenses or birth expenses under
22 the court order or by the amount due under s. 46.10 (4) or 301.12 (4). The notice shall
23 provide that within 20 days the obligor may request a hearing before the circuit court
24 rendering the order. Within 10 days after receiving a request for hearing under this
25 subsection, the court shall set the matter for hearing. Pending further order by the

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1 court or family a circuit court commissioner, the department of workforce
2 development or its designee, whichever is appropriate, is prohibited from disbursing
3 the obligor's state tax refund or credit. ~~The family~~ A circuit court commissioner may
4 conduct the hearing. The sole issues at that hearing shall be whether the obligor
5 owes the amount certified and, if not and it is a support or maintenance order,
6 whether the money withheld from a tax refund or credit shall be paid to the obligor
7 or held for future support or maintenance. An obligor may, within 20 days of
8 receiving notice that the amount certified shall be withheld from his or her federal
9 tax refund or credit, request a hearing under this subsection.

10 **SECTION 36.** 49.855 (4m) (b) of the statutes, as affected by 1997 Wisconsin Act
11 237, section 212, is amended to read:

12 49.855 **(4m)** (b) The department of revenue may provide a certification that it
13 receives under sub. (1), (2m) or (2p) to the department of administration. Upon
14 receipt of the certification, the department of administration shall determine
15 whether the obligor is a vendor or is receiving any other payments from this state,
16 except for wages, retirement benefits or assistance under s. 45.352, 1971 stats., s.
17 45.351 (1), this chapter or ch. 46, 108 or 301. If the department of administration
18 determines that the obligor is a vendor or is receiving payments from this state,
19 except for wages, retirement benefits or assistance under s. 45.352, 1971 stats., s.
20 45.351 (1), this chapter or ch. 46, 108 or 301, it shall begin to withhold the amount
21 certified from those payments and shall notify the obligor that the state intends to
22 reduce any payments due the obligor by the amount the obligor is delinquent under
23 the support or maintenance order, by the outstanding amount for past support,
24 medical expenses or birth expenses under the court order or by the amount due under
25 s. 46.10 (4) or 301.12 (4). The notice shall provide that within 20 days after receipt

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1 of the notice the obligor may request a hearing before the circuit court rendering the
2 order. An obligor may, within 20 days after receiving notice, request a hearing under
3 this paragraph. Within 10 days after receiving a request for hearing under this
4 paragraph, the court shall set the matter for hearing. ~~The family~~ A circuit court
5 commissioner may conduct the hearing. Pending further order by the court or ~~family~~
6 circuit court commissioner, the department of workforce development or its designee,
7 whichever is appropriate, may not disburse the payments withheld from the obligor.
8 The sole issues at the hearing are whether the obligor owes the amount certified and,
9 if not and it is a support or maintenance order, whether the money withheld shall be
10 paid to the obligor or held for future support or maintenance.

11 **SECTION 37.** 49.856 (4) of the statutes is amended to read:

12 49.856 (4) If the obligor requests a hearing under sub. (3) (b), the circuit court
13 shall schedule a hearing within 10 business days after receiving the request. The
14 only issue at the hearing shall be whether the person owes the delinquent payment
15 or outstanding amount specified in the statewide support lien docket under s. 49.854
16 (2) (b). A ~~family~~ circuit court commissioner may conduct the hearing.

17 **SECTION 38.** 49.857 (2) (c) 1. of the statutes is amended to read:

18 49.857 (2) (c) 1. The system shall provide for adequate notice to an individual
19 who is delinquent in making court-ordered payments of support, an opportunity for
20 the individual to make alternative arrangements for paying the delinquent support,
21 an opportunity for the individual to request and obtain a hearing before a court or
22 ~~family~~ circuit court commissioner as provided in sub. (3) and prompt reinstatement
23 of the individual's license upon payment of the delinquent support or upon making
24 satisfactory alternative payment arrangements.

25 **SECTION 39.** 49.857 (3) (ac) of the statutes is amended to read:

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1 49.857 (3) (ac) 1. If an individual timely requests a hearing under par. (a) 5.,
2 the court shall schedule a hearing within 10 business days after receiving the
3 request. ~~The family~~ A circuit court commissioner may conduct the hearing. The only
4 issues at the hearing shall be whether the individual is delinquent in making
5 court-ordered payments of support and whether any alternative payment
6 arrangement offered by the department of workforce development or the county child
7 support agency is reasonable.

8 2. If at a hearing under subd. 1. the court or ~~family~~ circuit court commissioner
9 finds that the individual does not owe delinquent support, or if within 20 business
10 days after receiving a notice under par. (a) the individual pays the delinquent
11 amount in full or makes satisfactory alternative payment arrangements, the
12 department of workforce development shall may not place the individual's name on
13 a certification list.

14 3. If at a hearing under subd. 1. the court or ~~family~~ circuit court commissioner
15 makes a written determination that alternative payment arrangements proposed by
16 the department of workforce development or a child support agency are not
17 reasonable, the court or ~~family~~ circuit court commissioner may order for the
18 individual an alternative payment arrangement. If the court or ~~family~~ circuit court
19 commissioner orders an alternative payment arrangement, the department of
20 workforce development may not place the individual's name on a certification list.

21 **SECTION 40.** 49.857 (3) (ar) of the statutes is amended to read:

22 49.857 (3) (ar) 1. If an individual timely requests a hearing under par. (am) 5.,
23 the court shall schedule a hearing within 10 business days after receiving the
24 request. ~~The family~~ A circuit court commissioner may conduct the hearing. The only
25 issues at the hearing shall be whether the individual is delinquent in making

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1 court-ordered payments of support and whether any alternative payment
2 arrangement offered by the department of workforce development or the county child
3 support agency is reasonable.

4 2. If at a hearing under subd. 1. the court or family circuit court commissioner
5 finds that the individual does not owe delinquent support, or if within 20 business
6 days after receiving a notice under par. (am) the individual pays the delinquent
7 amount in full or makes satisfactory alternative payment arrangements, the
8 department of workforce development shall remove the individual's name from the
9 certification list.

10 3. If at a hearing under subd. 1. the court or family circuit court commissioner
11 makes a written determination that alternative payment arrangements proposed by
12 the department of workforce development or a child support agency are not
13 reasonable, the court or family circuit court commissioner may order for the
14 individual an alternative payment arrangement. If the court or family circuit court
15 commissioner orders an alternative payment arrangement, the department of
16 workforce development may not place the individual's name on a certification list.

17 **SECTION 41.** 49.858 (3) of the statutes is amended to read:

18 49.858 (3) REVIEW OF FAMILY CIRCUIT COURT COMMISSIONER DECISIONS. If a family
19 circuit court commissioner conducts a hearing in any administrative support
20 enforcement proceeding under s. 49.852, 49.856 or 49.857, the department of
21 workforce development or the obligor may, within 15 business days after the date
22 that the family circuit court commissioner makes his or her decision, request review
23 of the decision by the court with jurisdiction over the matter.

24 **SECTION 42.** 51.10 (4m) (d) of the statutes is amended to read:

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1 51.10 **(4m)** (d) If a patient admitted under par. (a) 1. has not signed a voluntary
2 admission application within 7 days after admission, the patient, the guardian ad
3 litem and the physician who signed the admission request shall appear before the
4 judge or a circuit court commissioner ~~of the court~~ assigned to exercise probate
5 jurisdiction for the county in which the facility is located to determine whether the
6 patient shall remain in the facility as a voluntary patient. If the judge or circuit court
7 commissioner determines that the patient desires to leave the facility, the facility
8 shall discharge the patient. If the facility has reason to believe the patient is eligible
9 for commitment under s. 51.20, the facility may initiate procedures for involuntary
10 commitment.

11 **SECTION 43.** 51.20 (1) (c) of the statutes is amended to read:

12 51.20 **(1)** (c) The petition shall contain the names and mailing addresses of the
13 petitioners and their relation to the subject individual, and shall also contain the
14 names and mailing addresses of the individual's spouse, adult children, parents or
15 guardian, custodian, brothers, sisters, person in the place of a parent and person
16 with whom the individual resides or lives. If this information is unknown to the
17 petitioners or inapplicable, the petition shall so state. The petition may be filed in
18 the court assigned to exercise probate jurisdiction for the county where the subject
19 individual is present or the county of the individual's legal residence. If the judge of
20 the court or a circuit court commissioner who handles probate matters is not
21 available, the petition may be filed and the hearing under sub. (7) may be held before
22 a judge or circuit court commissioner of any circuit court for the county. For the
23 purposes of this chapter, duties to be performed by a court shall be carried out by the
24 judge of the court or a circuit court commissioner of the court who is ~~an attorney and~~
25 is designated by the chief judge to so act, in all matters prior to a final hearing under

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1 this section. The petition shall contain a clear and concise statement of the facts
2 which constitute probable cause to believe the allegations of the petition. The
3 petition shall be sworn to be true. If a petitioner is not a petitioner having personal
4 knowledge as provided in par. (b), the petition shall contain a statement providing
5 the basis for his or her belief.

6 **SECTION 44.** 51.45 (12) (b) (intro.) of the statutes is amended to read:

7 51.45 (12) (b) (intro.) The physician, spouse, guardian or a relative of the person
8 sought to be committed, or any other responsible person, may petition a circuit court
9 commissioner or the circuit court of the county in which the person sought to be
10 committed resides or is present for commitment under this subsection. The petition
11 shall:

12 **SECTION 45.** 51.45 (12) (c) (intro.) of the statutes is amended to read:

13 51.45 (12) (c) (intro.) Upon receipt of a petition under par. (b), the circuit court
14 commissioner or court shall:

15 **SECTION 46.** 51.45 (12) (c) 1. of the statutes is amended to read:

16 51.45 (12) (c) 1. Determine whether the petition and supporting affidavits
17 sustain the grounds for commitment and dismiss the petition if the grounds for
18 commitment are not sustained thereby. If the grounds for commitment are sustained
19 by the petition and supporting affidavits, the court or circuit court commissioner
20 shall issue an order temporarily committing the person to the custody of the county
21 department pending the outcome of the preliminary hearing under sub. (13) (d).

22 **SECTION 47.** 51.45 (13) (dm) of the statutes is amended to read:

23 51.45 (13) (dm) For the purposes of this section, duties to be performed by a
24 court shall be carried out by the judge of such court or a circuit court commissioner

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1 of such court who is ~~an attorney and is~~ designated by the chief judge to so act, in all
2 matters prior to a final hearing under this subsection.

3 **SECTION 48.** 59.37 of the statutes is amended to read:

4 **59.37 Service when no coroner.** Whenever there is a vacancy in the office
5 of coroner, or when the coroner is absent from the county, sick or unable to perform
6 the duties of that office, or for any reason, except the nonpayment of legal fees,
7 refuses to serve and execute legal process against the sheriff in any action
8 commenced in any court of record within the county for which the coroner was or
9 should have been elected, any judge of a court of record or circuit court commissioner
10 of the county may, on proof of the vacancy, sickness, absence or refusal to serve and
11 execute such process, by an order to be endorsed on such process and addressed to
12 him or her, empower any citizen of the county in which such process is to be served
13 and executed to serve and execute the same; and that order shall be sufficient
14 authority to the person therein named to serve and execute such process with like
15 powers, liabilities and fees as the coroner.

16 **SECTION 49.** 59.53 (5) (a) of the statutes, as affected by 1997 Wisconsin Act 27,
17 is amended to read:

18 59.53 **(5)** (a) The board shall contract with the department of workforce
19 development to implement and administer the child and spousal support and
20 establishment of paternity and the medical support liability programs provided for
21 by Title IV of the federal social security act. The board may designate by board
22 resolution any office, officer, board, department or agency, except the clerk of circuit
23 court, as the county child support agency. The board or county child support agency
24 shall implement and administer the programs in accordance with the contract with
25 the department of workforce development. The attorneys responsible for support

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1 enforcement under sub. (6) (a), ~~family circuit court commissioner~~ commissioners and
2 all other county officials shall cooperate with the county and the department of
3 workforce development as necessary to provide the services required under the
4 programs. The county shall charge the fee established by the department of
5 workforce development under s. 49.22 for services provided under this paragraph to
6 persons not receiving benefits under s. 49.148 or 49.155 or assistance under s.
7 46.261, 49.19 or 49.47.

8 **SECTION 50.** 59.53 (5m) (a) of the statutes is amended to read:

9 59.53 **(5m)** (a) Subject to approval of the department of workforce development
10 under par. (am), designate by resolution any office, officer, board, department or
11 agency as the county support collection designee to receive and disburse child and
12 spousal support payments ordered by the court under s. 948.22 (7) and child and
13 family support payments and maintenance payments ordered by the court or ~~the~~
14 ~~family~~ a circuit court commissioner under ch. 767 or ordered by a court in another
15 county or jurisdiction but enforced or received by the court of the support collection
16 designee's county.

17 **SECTION 51.** 59.64 (1) (c) (title), 1. (intro.) and 2. of the statutes are amended
18 to read:

19 59.64 **(1)** (c) (title) *Of circuit and supplemental court commissioners.* 1. (intro.)
20 ~~Court~~ Circuit and supplemental court commissioners shall, on or before the first
21 Monday of November in each year, forward to the clerk of their respective counties
22 a correct statement of all actions or proceedings had before them, during the
23 immediately preceding year, in which the county became liable for costs. The
24 statement shall include all of the following:

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1 2. The clerk shall file the statements described in subd. 1. in his or her office.
2 Any circuit or supplemental court commissioner who neglects to make and return the
3 statements within the time prescribed in subd. 1. shall not receive any compensation
4 from the county for any service rendered by him or her in any criminal case or
5 proceeding during the year next preceding the time when the statement is required
6 to be made and returned.

7 **SECTION 52.** 59.64 (1) (d) (intro.) of the statutes is amended to read:

8 59.64 (1) (d) *Of court officers; certification; audit by district attorney; waiver.*
9 (intro.) Fees of officers, in any action or proceeding before a circuit or supplemental
10 court commissioner, shall be certified to and allowed by the board in the following
11 manner:

12 **SECTION 53.** 59.64 (1) (d) 1. (intro.) of the statutes is amended to read:

13 59.64 (1) (d) 1. (intro.) At least 10 days before the annual meeting of the board,
14 every circuit and supplemental court commissioner shall make and file with the clerk
15 a certified statement of all actions or proceedings had or tried before him or her
16 within the year next preceding the date of the statement in which the state was a
17 party and in which the county became liable for the fees of officers who appeared on
18 the part of either the state or a defendant. The statement shall include all of the
19 following:

20 **SECTION 54.** 59.64 (1) (e) of the statutes is amended to read:

21 59.64 (1) (e) *Fees for statements and certificates.* Every circuit or supplemental
22 court commissioner shall receive from the treasurer \$1 per page for making
23 statements and returns required by par. (c) and \$1 for making each certificate
24 required by par. (d). All such statements and certificates shall be transmitted to the

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1 clerk by certified mail and for transmitting the statements and certificates the circuit
2 or supplemental court commissioner shall receive \$1.

3 **SECTION 55.** 59.64 (1) (f) of the statutes is amended to read:

4 59.64 (1) (f) ~~Court~~ Circuit and supplemental court commissioners. The board
5 at any session thereof may as provided in par. (d) 2. examine and allow any
6 statement, account or claim of any circuit or supplemental court commissioner which
7 is on file with the clerk before the opening of the session of the board.

8 **SECTION 56.** 59.64 (1) (g) 4. of the statutes is amended to read:

9 59.64 (1) (g) 4. Any judge or circuit or supplemental court commissioner, juror,
10 witness, interpreter, attorney, guardian ad litem or recipient of transcript fees who
11 makes, signs or endorses any such certificate or order which is untrue in respect to
12 anything material, which he or she knows to be false, or which he or she does not have
13 good reason to believe is true, shall be punished as provided in s. 946.12.

14 **SECTION 57.** 59.79 (5) of the statutes is amended to read:

15 59.79 (5) FEE FOR CERTAIN MARRIAGE CEREMONIES. Enact an ordinance imposing
16 a fee to be paid in advance to the clerk for each marriage ceremony performed by a
17 judge or a circuit or supplemental court commissioner specified in s. 765.16 (5) in the
18 courthouse, safety building or children's court center during hours when any office
19 in those public buildings is open for the transaction of business. The amount of the
20 fee shall be determined by the board.

21 **SECTION 58.** 63.03 (2) (z) of the statutes is amended to read:

22 63.03 (2) (z) ~~Full-time~~ Circuit court commissioners under s. 757.68 (1)
23 employed on a full-time basis.

24 **SECTION 59.** 69.15 (3m) (a) 3. and 4. of the statutes are amended to read:

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1 69.15 (3m) (a) 3. Except as provided in subd. 4, the person rescinding the
2 statement files the document under subd. 2. before the day on which a court or family
3 circuit court commissioner makes an order in an action affecting the family involving
4 the man who signed the statement and the child who is the subject of the statement
5 or before 60 days elapse after the statement was filed, whichever occurs first.

6 4. If the person rescinding the statement was under age 18 when the statement
7 was filed, the person files the document under subd. 2. before the day on which a
8 court or family circuit court commissioner makes an order in an action affecting the
9 family involving the man who signed the statement as the father of the registrant
10 and the child who is the subject of the statement or before 60 days elapse after the
11 person attains age 18, whichever occurs first.

12 **SECTION 60.** 75.43 of the statutes is amended to read:

13 **75.43 Election to receive deposit; costs.** The county may, at any time
14 within 20 days after receiving an answer showing that a deposit has been made by
15 any defendant or defendants as provided in s. 75.42, give notice to such defendant
16 or defendants that it elects to receive such deposit and that it will, at a time specified
17 in such notice, apply to the clerk of the circuit court, circuit judge or a circuit court
18 commissioner to adjust the costs and disbursements which said defendant or
19 defendants ought to pay, and that upon the payment of the costs and disbursements
20 so adjudged the county will release to such defendant or defendants all right, title
21 and claim which it has to the parcel or parcels of land on account of which such the
22 deposit is made by virtue of any deed made for the nonpayment of taxes; and unless
23 such the costs are paid within 20 days after the same shall have been so adjusted the
24 clerk of the court shall, upon presentation of an affidavit showing the nonpayment

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1 thereof, enter judgment therefor in favor of the county and against the defendant,
2 which shall be enforced as other money judgments.

3 **SECTION 61.** 101.02 (5) (c) of the statutes is amended to read:

4 101.02 (5) (c) In the discharge of his or her duties such agent shall have every
5 power of an inquisitorial nature granted in this subchapter to the department, the
6 same powers as a supplemental court commissioner with regard to the taking of
7 depositions and all powers granted by law to a supplemental court commissioner
8 relative to depositions.

9 **SECTION 62.** 103.005 (5) (c) of the statutes is amended to read:

10 103.005 (5) (c) In the discharge of his or her duties such agent shall have every
11 power of an inquisitorial nature granted in chs. 103 to 106 to the department, the
12 same powers as a supplemental court commissioner with regard to the taking of
13 depositions and all powers granted by law to a supplemental court commissioner
14 relative to depositions.

15 **SECTION 63.** 133.10 (1) of the statutes is amended to read:

16 133.10 (1) The examination of any party, or if a corporation or limited liability
17 company be a party, of the president, secretary, other principal officer or the general
18 managing agent thereof, or of the person who was such president, secretary, officer
19 or agent at the time of the occurrence of the facts made the subject of the
20 examination, or of any person acting for another or for a corporation, limited liability
21 company or partnership, other than as a witness on a trial, may be taken by
22 deposition at the instance of the department of justice in any such action or
23 proceeding at any time between the commencement thereof and final judgment.
24 Such deposition shall be taken within the state before a judge at chambers or a
25 supplemental court commissioner on previous notice to such party and any other

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1 adverse party or the attorney thereof of at least 5 days, and may be taken without
2 the state.

3 **SECTION 64.** 133.11 (1) of the statutes is amended to read:

4 133.11 (1) Whenever the attorney general files with any supplemental court
5 commissioner a statement that the attorney general has reason to believe and does
6 believe that a violation of this chapter has occurred, the commissioner shall issue a
7 subpoena or a subpoena requiring the production of materials as requested by the
8 department of justice. Mileage or witness fees are not required to be paid in advance
9 but claims for such mileage and fees duly verified and approved by the department
10 of justice shall be audited and paid out of the state treasury and charged to the
11 appropriation provided by s. 20.455 (1) (d), and shall be at the same rates as
12 witnesses in the circuit court.

13 **SECTION 65.** 133.11 (3) of the statutes is amended to read:

14 133.11 (3) The supplemental court commissioner shall be entitled to the fees
15 as provided in s. 814.68 (1). All such fees and all other costs and expenses incident
16 to the inquiry shall be paid out of the appropriation provided by s. 20.455 (1) (d).

17 **SECTION 66.** 171.04 (1) of the statutes is amended to read:

18 171.04 (1) If any property delivered to any forwarding merchant, wharfinger
19 or warehouse keeper, for carriage or storage, is in a state of decay or manifestly liable
20 to immediate damage and decay, the person in whose custody the property is, the
21 person's agent or attorney, may make an affidavit of this fact, and present the
22 affidavit to a circuit judge or supplemental court commissioner for the county in
23 which the property is located, and the circuit judge or supplemental court
24 commissioner shall immediately make an order requiring the sheriff or any
25 constable of the county to immediately inspect the property, and directing him or her,

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1 if it is found to be in a state of decay or manifestly liable to immediate damage or
2 decay, to summarily sell the property without notice.

3 **SECTION 67.** 171.04 (2) of the statutes is amended to read:

4 171.04 (2) If the sheriff or constable, upon inspection, finds the property to be
5 in a state of decay, or manifestly liable to immediate damage or decay, the sheriff or
6 constable shall attach to the order his or her affidavit stating such fact, and shall
7 make an inventory of the property, and shall summarily sell the property without
8 notice, and shall make full return of the sheriff's or constable's execution of the order
9 to the judge or supplemental court commissioner who issued the same, together with
10 the sheriff's or constable's affidavit, inventory and the proceeds of said sale, after
11 deducting the sheriff's or constable's fees therefrom.

12 **SECTION 68.** 171.04 (3) of the statutes is amended to read:

13 171.04 (3) From the proceeds of such sale, the judge or supplemental court
14 commissioner shall pay all legal charges that have been incurred in relation to the
15 property, or a ratable proportion of each charge if the proceeds of the sale are not
16 sufficient to pay all the charges; and the balance, if any, the judge or supplemental
17 court commissioner shall immediately pay over to the treasurer of the judge's or
18 commissioner's county, with a copy of all the proceedings in the matter. The county
19 treasurer shall file the copy in his or her office.

20 **SECTION 69.** 171.05 of the statutes is amended to read:

21 **171.05 Perishable property, held otherwise, how disposed of.** If any
22 property is perishable or subject to decay by keeping, the person in whose custody
23 the property is, the person's agent or attorney, may make an affidavit of this fact and
24 present the affidavit to a circuit judge or supplemental court commissioner for the
25 county in which the property is located, and the judge or supplemental court

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1 commissioner shall immediately make an order requiring the sheriff or any
2 constable of the county to immediately inspect the property, and if it is found to be
3 perishable or subject to decay by keeping, to make and return an affidavit of this fact.
4 Upon the return of this affidavit, the judge or supplemental court commissioner
5 making the order shall immediately issue an order requiring the sheriff or constable
6 to sell the property at public auction, giving notice of the time and place of the sale
7 by publication of a class 1 notice, under ch. 985, and serving upon the consignor, the
8 consignee and the custodian of the property, if they are known, a copy of the notice
9 by mail. The sheriff or constable shall, at the time and place fixed by the notice,
10 unless the property has been otherwise lawfully disposed of, sell the property at
11 public auction, and shall make full return of his or her execution of the order, and
12 return the same with an inventory of the property and the proceeds of the sale, after
13 deducting his or her fees, to the judge or supplemental court commissioner making
14 the order. From the proceeds of the sale, the judge or supplemental court
15 commissioner shall pay all legal charges that have been incurred in relation to the
16 property, or a ratable proportion of each charge, if the proceeds of the sale are not
17 sufficient to pay all the charges; and the balance, if any, the judge or supplemental
18 court commissioner shall immediately pay over to the treasurer of the county, with
19 a copy of all the proceedings in the matter. The county treasurer shall file the copy
20 in his or her office. The person in whose custody the property is when the proceedings
21 for the sale were commenced, shall immediately notify the consignor and consignee
22 of the sale, in writing which shall be served by leaving a copy with the consignor and
23 consignee personally or by mail.

24 **SECTION 70.** 171.06 of the statutes is amended to read:

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1 **171.06 Unclaimed property, how disposed of.** When any property is not
2 perishable or subject to decay and is not claimed and taken away within one year
3 after it was received, it may be sold as follows: The person in whose custody the
4 property is, or the person's agent or attorney, may make an affidavit of the facts and
5 present the same to a judge or supplemental court commissioner of the county in
6 which the property is located and such judge or supplemental court commissioner
7 shall immediately issue an order requiring the sheriff or any constable of the county
8 to sell the property at public auction, giving 60 days' notice of the time and place of
9 the sale to the consignor, the consignee and the custodian of the property. This notice
10 shall be in writing and served personally or by mail upon the persons whose names
11 and residences are known. If the name or residence of any of the persons is unknown
12 and cannot be ascertained with reasonable diligence, the sheriff or constable shall
13 make an affidavit of this fact and shall publish a class 3 notice, under ch. 985, in the
14 county. At the time and place of the sale the sheriff or constable shall sell the property
15 at public auction and shall make a full return of the sheriff's or constable's
16 proceedings under the order to the judge or supplemental court commissioner
17 issuing the order, together with proof of service or publication of the notice of the sale,
18 and an inventory of the property sold and the proceeds of the sale after deducting the
19 sheriff's or constable's fees. From the proceeds of the sale the judge or supplemental
20 court commissioner shall pay all legal charges that have been incurred in relation
21 to the property, including the charges of the person in whose custody the property
22 was when the proceedings were begun, or a ratable proportion of each charge if the
23 proceeds of the sale are not sufficient to pay all of the charges; and the balance, if any,
24 the. The judge or supplemental court commissioner shall immediately pay any
25 balance remaining over to the treasurer of his or her county, with a copy of all

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1 proceedings in the matter. The county treasurer shall file the copy in his or her office.
2 The person in whose custody the property is when any proceeding for the sale is
3 commenced, shall immediately notify the consignor and consignee of the sale, in
4 writing, and served by leaving a copy thereof with the consignor and consignee,
5 personally or by mail.

6 **SECTION 71.** 196.24 (2) of the statutes is amended to read:

7 196.24 (2) In the discharge of his or her duties, an agent appointed under sub.
8 (1) shall have any inquisitional power granted to the commission and the power of
9 a supplemental court commissioner to take depositions under s. ~~757.69 (3)~~ 757.675
10 (2) (b).

11 **SECTION 72.** 563.71 (1) (a) of the statutes is amended to read:

12 563.71 (1) (a) Whenever the attorney general files with a circuit or
13 supplemental court commissioner a statement that the attorney general believes
14 that a violation of this chapter has occurred, the commissioner shall issue a subpoena
15 for any person requested or named by the attorney general. Mileage and witness fees
16 need not be paid in advance, but only verified claims for mileage and fees which are
17 approved by the attorney general shall be paid out of the state treasury and charged
18 to the appropriation under s. 20.455 (1) (d) and shall be the same rates as those paid
19 witnesses in circuit court.

20 **SECTION 73.** 563.71 (1) (c) of the statutes is amended to read:

21 563.71 (1) (c) The supplemental court commissioner shall be entitled to the fees
22 under s. 814.68 (1). All such fees and all other costs and expenses incident to such
23 inquiry shall be paid out of the appropriation under s. 20.455 (1) (d).

24 **SECTION 74.** 753.175 of the statutes is repealed.

25 **SECTION 75.** 757.001 of the statutes is created to read:

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1 **757.001 Definitions.** In this chapter:

2 **(1)** “Circuit court commissioner” means a person appointed under SCR 75.02
3 (1) and a supplemental court commissioner authorized under SCR 75.02 (3) to the
4 limited extent of that authorization.

5 **(2)** “Supplemental court commissioner” means a person appointed under s.
6 757.675 (1).

7 **SECTION 76.** 757.01 (4) of the statutes is created to read:

8 757.01 **(4)** To exercise any of the powers and duties of a circuit court
9 commissioner.

10 **SECTION 77.** 757.24 of the statutes is amended to read:

11 **757.24 Liability of judicial officers.** Circuit judges and circuit and
12 supplemental court commissioners shall be held personally liable to any party
13 injured for any wilful violation of the law in granting injunctions and appointing
14 receivers, or for refusing to hear motions to dissolve injunctions and to discharge
15 receivers if the motions are made in accordance with law or such rules as are
16 promulgated by the supreme court.

17 **SECTION 78.** 757.30 (2) of the statutes is amended to read:

18 757.30 **(2)** Every person who appears as agent, representative or attorney, for
19 or on behalf of any other person, or any firm, partnership, association or corporation
20 in any action or proceeding in or before any court of record, circuit or supplemental
21 court commissioner, or judicial tribunal of the United States, or of any state, or who
22 otherwise, in or out of court, for compensation or pecuniary reward gives professional
23 legal advice not incidental to his or her usual or ordinary business, or renders any
24 legal service for any other person, or any firm, partnership, association or
25 corporation, shall be deemed to be practicing law within the meaning of this section.

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1 **SECTION 79.** 757.675 (title) of the statutes is created to read:

2 **757.675 (title) Supplemental court commissioners.**

3 **SECTION 80.** 757.68 (title) of the statutes is amended to read:

4 **757.68 (title) Court Circuit court commissioners.**

5 **SECTION 81.** 757.68 (1) of the statutes is repealed and recreated to read:

6 **757.68 (1)** Subject to subs. (2m) to (5m), in every county organized for judicial
7 purposes, the county board shall establish the number of circuit court commissioner
8 positions necessary for the efficient administration of judicial business within the
9 circuit courts of the county. The circuit court commissioners may be employed on a
10 full-time or part-time basis. Chapter 75 of the supreme court rules shall govern the
11 qualifications for, and appointment, supervision, training, evaluation and discipline
12 of, circuit court commissioners. Any person qualified and acting as a judicial court
13 commissioner on August 1, 1978, shall be considered a circuit court commissioner
14 and shall continue in the classified county civil service but any person appointed as
15 a court commissioner after August 1, 1978, shall be in the unclassified civil service.
16 Each circuit court commissioner shall take and file the official oath in the office of
17 the clerk of the circuit court of the county for which appointed before performing any
18 duty of the office.

19 **SECTION 82.** 757.68 (2) (title) of the statutes is repealed.

20 **SECTION 83.** 757.68 (2) of the statutes is renumbered 757.675 (1) and amended
21 to read:

22 **757.675 (1)** In each county the circuit judges shall appoint such number of
23 ~~part-time~~ supplemental court commissioners as the proper transaction of business
24 requires ~~subject to the following exception:, except that~~ in counties having a
25 population of 200,000 or more each judge may appoint not more than 2 such

ASSEMBLY BILL 380**SECTION 83**

1 supplemental court commissioners and in counties having a population of less than
2 200,000 each judge shall, as nearly as possible, appoint an equal number of
3 supplemental court commissioners within the county. In all counties the
4 appointments shall be subject to the approval of a majority of the circuit judges for
5 the county. Appointments shall be in writing and shall be filed in the office of the
6 clerk of the circuit court. All supplemental court commissioners appointed after May
7 16, 1978, ~~other than official court reporters acting under s. 814.68 (1) (b) performing~~
8 ~~duties or exercising powers specified for court reporters,~~ shall be attorneys licensed
9 to practice in this state. The appointing judge may remove, at will and without cause,
10 any supplemental court commissioner appointed by the judge or the judge's
11 predecessor in office. Unless he or she is so removed, the term of each supplemental
12 court commissioner shall continue until the expiration of the term of the appointing
13 judge and until the successor of the commissioner is appointed and qualified. Each
14 supplemental court commissioner shall take and file the official oath in the office of
15 clerk of the circuit court of the county for which appointed before performing any
16 duty of the office.

17 **SECTION 84.** 757.68 (3), (4) and (5) (title) of the statutes are repealed.

18 **SECTION 85.** 757.68 (5) of the statutes is renumbered 757.675 (6) and amended
19 to read:

20 757.675 (6) ~~Part-time~~ Supplemental court commissioners appointed under
21 sub. ~~(2)~~ (1) shall collect the fees prescribed in s. 814.68 (1).

22 **SECTION 86.** 757.68 (5m) of the statutes is created to read:

23 757.68 (5m) In counties having a population of 500,000 or more, the county
24 board shall establish at least one circuit court commissioner position on a full-time
25 basis to assist in small claims matters under ch. 799. In counties having a population

ASSEMBLY BILL 380**SECTION 86**

1 of less than 500,000, the county board may establish one or more circuit court
2 commissioner positions on a part-time or full-time basis to assist in small claims
3 matters under ch. 799.

4 **SECTION 87.** 757.68 (6) of the statutes is created to read:

5 757.68 (6) The county board shall set the salary of persons appointed as circuit
6 court commissioners. The county board shall furnish circuit court commissioners
7 with necessary office space, furnishings, supplies and services.

8 **SECTION 88.** 757.68 (7) of the statutes is created to read:

9 757.68 (7) The chief judge of the judicial administrative district may assign law
10 clerks, bailiffs and deputies to a circuit court commissioner. The chief judge shall
11 supervise those law clerks, bailiffs and deputies assigned to the court, except that the
12 chief judge may delegate that authority.

13 **SECTION 89.** 757.69 (title) of the statutes is amended to read:

14 **757.69 (title) Powers and duties of circuit court commissioners.**

15 **SECTION 90.** 757.69 (1) (intro.) of the statutes is repealed and recreated to read:

16 757.69 (1) (intro.) A circuit court commissioner may:

17 **SECTION 91.** 757.69 (1) (b) of the statutes is amended to read:

18 757.69 (1) (b) In criminal matters issue summonses, arrest warrants or search
19 warrants ~~and, determine probable cause to support a warrantless arrest,~~ conduct
20 initial appearances of persons arrested ~~and, set bail to the same extent as a judge.~~
21 ~~At the initial appearance, the court commissioner shall, when necessary, inform the~~
22 ~~defendant in accordance with s. 970.02 (1). If the defendant appears or claims to be~~
23 ~~unable to afford counsel, the court commissioner, in accordance with s. 970.02 (6),~~
24 ~~may and refer the person to the authority for indigency determinations specified~~
25 ~~under s. 977.07 (1). If the court commissioner is a full-time A circuit court~~

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1 commissioner, ~~he or she~~ employed on a full-time basis may conduct the preliminary
2 examination and arraignment ~~to the same extent as a judge~~ and, with the consent
3 of both the state and the defendant, ~~may~~ accept a guilty plea. If a court refers a
4 disputed restitution issue under s. 973.20 (13) (c) 4., the circuit court commissioner
5 shall conduct the hearing on the matter in accordance with s. 973.20 (13) (c) 4.

6 **SECTION 92.** 757.69 (1) (g) of the statutes is renumbered 757.69 (1) (g) (intro.)
7 and amended to read:

8 757.69 (1) (g) (intro.) When assigned to the assist a court assigned jurisdiction
9 ~~under chs. 48 and 938, a court commissioner may, under ch. 48 or 938, issue in~~
10 juvenile matters:

11 1. Issue summonses and warrants, ~~order.~~

12 2. Order the release or detention of children or expectant mothers of unborn
13 children taken into custody, ~~conduct.~~

14 3. Conduct detention and shelter care hearings, ~~conduct.~~

15 4. Conduct preliminary appearances, ~~conduct.~~

16 5. Conduct uncontested proceedings under ~~ss. s.~~ 48.13, 48.133, 938.12, 938.13
17 and or 938.18, ~~enter.~~

18 6. Enter into consent decrees ~~and exercise.~~

19 7. Exercise the powers and perform the duties specified in par. (j) or (m),
20 whichever is applicable, in proceedings under s. 813.122 or 813.125 in which the
21 respondent is a child. ~~Contested waiver hearings under s. 938.18 and dispositional~~
22 ~~hearings under ss. 48.335 and 938.335 shall be conducted by a judge. When acting~~
23 ~~in an official capacity and assigned to the children's court center, a court~~
24 ~~commissioner shall sit at the children's court center or such other facility designated~~
25 ~~by the chief judge. Any decision by the commissioner shall be reviewed by the judge~~

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1 ~~of the branch of court to which the case has been assigned, upon motion of any party.~~
2 ~~Any determination, order or ruling by the commissioner may be certified to the~~
3 ~~branch of court to which such case has been assigned upon a motion of any party for~~
4 ~~a hearing de novo.~~

5 **SECTION 93.** 757.69 (1) (g) 8. to 13. of the statutes are created to read:

6 757.69 (1) (g) 8. Conduct hearings under s. 48.21 or 938.21 and thereafter order
7 a child or juvenile held in or released from custody.

8 9. Conduct hearings under s. 48.213 and thereafter order an adult expectant
9 mother of an unborn child to be held in or released from custody.

10 10. Conduct plea hearings.

11 11. Conduct prehearing conferences.

12 12. Issue orders requiring compliance with deferred prosecution agreements.

13 13. Conduct all proceedings on petitions or citations under s. 938.125.

14 **SECTION 94.** 757.69 (1) (j) of the statutes is amended to read:

15 757.69 (1) (j) Hold hearings, make findings and issue temporary restraining
16 orders under s. 813.122 or 813.123.

17 **SECTION 95.** 757.69 (1) (k) of the statutes is repealed and recreated to read:

18 757.69 (1) (k) Administer oaths, take, certify and report depositions and
19 testimony, take and certify acknowledgments, allow accounts and fix the amount and
20 approve the sufficiency of bonds.

21 **SECTION 96.** 757.69 (1) (m) of the statutes is amended to read:

22 757.69 (1) (m) Hold hearings, make findings and issue temporary restraining
23 orders and injunctions under s. 813.12 or 813.125.

24 **SECTION 97.** 757.69 (1m) of the statutes is created to read:

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1 757.69 (1m) Circuit court commissioners assigned to assist a court in juvenile
2 matters shall sit at the children's court center, the usual court facility for juvenile
3 matters or such other facility designated by the chief judge of the judicial
4 administrative district. Those commissioners may not do any of the following:

5 (a) Conduct fact-finding or dispositional hearings except on petitions or
6 citations under s. 938.125 and except as provided in sub. (1) (g) 5.

7 (b) Make dispositions other than approving consent decrees, ordering
8 compliance with deferred prosecution agreements and ordering dispositions in
9 uncontested proceedings under s. 48.13, 48.133, 938.12 or 938.13.

10 (c) Conduct hearings for the termination of parental rights or for adoptions.

11 (d) Make changes in placements of children, of juveniles or of the expectant
12 mothers of unborn children, or revisions or extensions of dispositional orders, except
13 pursuant to petitions or citations under s. 938.125 and in uncontested proceedings
14 under s. 48.13, 48.133, 938.12 or 938.13.

15 (e) Conduct hearings, make findings or issue orders in proceedings under s.
16 48.977 or 48.978.

17 (f) Conduct waiver hearings under s. 938.18, except as provided in sub. (1) (g)
18 5.

19 (g) Make any dispositional order under s. 938.34 (4d), (4h) or (4m).

20 **SECTION 98.** 757.69 (2) (intro.) of the statutes is amended to read:

21 757.69 (2) (intro.) A judge may refer to a circuit court commissioner appointed
22 under s. ~~48.065, 757.68, 757.72, 767.13 or 938.065~~ cases in which:

23 **SECTION 99.** 757.69 (2) (a) of the statutes is amended to read:

ASSEMBLY BILL 380**SECTION 99**

1 757.69 (2) (a) The trial of an issue of fact requires the examination of an
2 account, in which case the circuit court commissioner may be directed to report upon
3 any specific question of fact involved therein.

4 **SECTION 100.** 757.69 (2m) of the statutes is created to read:

5 757.69 (2m) Circuit court commissioners may exercise, under their own
6 authority, all of the powers listed under s. 757.675 (2) to (5).

7 **SECTION 101.** 757.69 (3) of the statutes is renumbered 757.675 (2), and 757.675
8 (2) (intro.) and (g), as renumbered, are amended to read:

9 757.675 (2) (intro.) ~~Court Supplemental court commissioners appointed under~~
10 ~~s. 48.065, 757.68, 757.72, 767.13 or 938.065~~ may, under their own authority:

11 (g) Except as provided in s. ~~767.13 (5) (e)~~ 757.69 (1) (p) 3., conduct a paternity
12 proceeding according to the procedures set out in ch. 767 whenever a circuit court
13 commissioner is specifically authorized to do so.

14 **SECTION 102.** 757.69 (4) and (5) of the statutes are renumbered 757.675 (3) and
15 (4) and amended to read:

16 757.675 (3) In addition to the duties expressly set forth in sub. (3) (2) (a) to (e)
17 (i), a supplemental court commissioner may perform other ministerial duties as
18 required by a court.

19 (4) A supplemental court commissioner may transfer to a court any matter in
20 which it appears that justice would be better served by such a transfer.

21 **SECTION 103.** 757.69 (6) of the statutes is repealed.

22 **SECTION 104.** 757.69 (7) of the statutes is renumbered 757.675 (5) and amended
23 to read:

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1 757.675 (5) A supplemental court commissioner shall refer to a court of record
2 for appropriate action every alleged showing of contempt in the carrying out of the
3 lawful decisions of the supplemental court commissioner.

4 **SECTION 105.** 757.69 (8) of the statutes is created to read:

5 757.69 (8) Any decision of a circuit court commissioner shall be reviewed by the
6 judge of the branch of court to which the case has been assigned, upon motion of any
7 party. Any determination, order or ruling by a circuit court commissioner may be
8 certified to the branch of court to which the case has been assigned, upon a motion
9 of any party for a hearing de novo.

10 **SECTION 106.** 757.695 of the statutes is repealed.

11 **SECTION 107.** 757.70 (2) of the statutes is amended to read:

12 757.70 (2) All hearings before a circuit or supplemental court commissioner
13 shall be held in the county courthouse or other court facilities provided by law. This
14 provision does not apply to nontestimonial proceedings, supplementary hearings on
15 the present financial status of a debtor under s. 757.69 (3) 757.675 (2) (h) or
16 depositions taken before a circuit or supplemental court commissioner.

17 **SECTION 108.** 757.72 (title) of the statutes is repealed.

18 **SECTION 109.** 757.72 (1) of the statutes is renumbered 757.68 (4m) and
19 amended to read:

20 757.68 (4m) In counties having a population of 500,000 or more, there is
21 created in the classified civil service a circuit court commissioner position to
22 supervise the office of probate court commissioner and to assist the court in probate
23 matters. In counties having a population of at least 100,000 but not more than
24 500,000, the county board may create a circuit court commissioner position to
25 supervise the office of probate court commissioner ~~which~~ and to assist in probate

ASSEMBLY BILL 380**SECTION 109**

1 matters. That position may be in the classified civil service. If the chief judge
2 delegates that authority to a judge assigned to probate jurisdiction, that judge may
3 assign to the circuit court commissioner any matters over which the judge has
4 jurisdiction, and the circuit court commissioner may determine such matters and
5 may sign any order or certificate required by that determination.

6 **SECTION 110.** 757.72 (2) of the statutes is repealed.

7 **SECTION 111.** 757.72 (3) of the statutes is repealed.

8 **SECTION 112.** 757.72 (4) of the statutes is repealed.

9 **SECTION 113.** 757.72 (5) of the statutes is renumbered 851.73 (1) (g) and
10 amended to read:

11 851.73 (1) (g) ~~The register in probate of a county shall~~ Shall have the duties and
12 powers of a circuit court commissioner assigned to assist in probate matters and shall
13 act in that capacity when designated to do so by a judge assigned probate jurisdiction.

14 **SECTION 114.** 757.72 (6) of the statutes is repealed.

15 **SECTION 115.** 757.72 (7) of the statutes is repealed.

16 **SECTION 116.** 757.72 (8) of the statutes is repealed.

17 **SECTION 117.** 757.81 (2) of the statutes is repealed.

18 **SECTION 118.** 757.81 (6) of the statutes is amended to read:

19 757.81 (6) “Permanent disability” means a physical or mental incapacity which
20 impairs the ability of a judge or circuit or supplemental court commissioner to
21 substantially perform the duties of his or her judicial office and which is or is likely
22 to be of a permanent or continuing nature.

23 **SECTION 119.** 757.85 (1) (a) of the statutes is amended to read:

24 757.85 (1) (a) The commission shall investigate any possible misconduct or
25 permanent disability of a judge or circuit or supplemental court commissioner.

ASSEMBLY BILL 380**SECTION 119**

1 Misconduct constitutes cause under article VII, section 11, of the constitution.
2 Except as provided in par. (b), judges, circuit or supplemental court commissioners,
3 clerks, court reporters, court employes and attorneys shall comply with requests by
4 the commission for information, documents and other materials relating to an
5 investigation under this section.

6 **SECTION 120.** 757.85 (1) (b) of the statutes is amended to read:

7 757.85 (1) (b) The judge or circuit or supplemental court commissioner who is
8 under investigation is not subject to the request procedure under par. (a) but is
9 subject to the subpoena procedure under sub. (2).

10 **SECTION 121.** 757.85 (3) of the statutes is amended to read:

11 757.85 (3) The commission may notify a judge or circuit or supplemental court
12 commissioner that the commission is investigating possible misconduct by or
13 permanent disability of the judge or circuit or supplemental court commissioner.
14 Before finding probable cause, the commission shall notify the judge or circuit or
15 supplemental court commissioner of the substance of the complaint or petition and
16 afford the judge or circuit or supplemental court commissioner a reasonable
17 opportunity to respond. If the judge or circuit or supplemental court commissioner
18 responds, the commission shall consider the response before it finds probable cause.

19 **SECTION 122.** 757.85 (4) of the statutes is amended to read:

20 757.85 (4) The commission may require a judge or circuit or supplemental court
21 commissioner who is under investigation for permanent disability to submit to a
22 medical examination arranged by the commission.

23 **SECTION 123.** 757.85 (5) of the statutes is amended to read:

24 757.85 (5) The commission shall, upon a finding of probable cause that a judge
25 or circuit or supplemental court commissioner has engaged or is engaging in

ASSEMBLY BILL 380**SECTION 123**

1 misconduct, file a formal complaint with the supreme court. Upon a finding of
2 probable cause that a judge or circuit or supplemental court commissioner has a
3 permanent disability, the commission shall file a petition with the supreme court.
4 If the commission requests a jury under s. 757.87 (1), the request shall be attached
5 to the formal complaint or the petition.

6 **SECTION 124.** 757.87 (1) of the statutes is amended to read:

7 757.87 (1) After the commission has found probable cause that a judge or
8 circuit or supplemental court commissioner has engaged in misconduct or has a
9 permanent disability, and before the commission files a formal complaint or a
10 petition under s. 757.85 (5), the commission may, by a majority of its total
11 membership not disqualified from voting, request a jury hearing. If a jury is not
12 requested, the matter shall be heard by a panel constituted under sub. (3). The vote
13 of each member on the question of a jury request shall be recorded and shall be
14 available for public inspection under s. 19.35 after the formal complaint or the
15 petition is filed.

16 **SECTION 125.** 757.89 of the statutes is amended to read:

17 **757.89 Hearing.** A record shall be kept of any hearing on a formal complaint
18 or a petition. The allegations of the complaint or petition must be proven to a
19 reasonable certainty by evidence that is clear, satisfactory and convincing. The
20 hearing shall be held in the county where the judge or circuit or supplemental court
21 commissioner resides unless the presiding judge changes venue for cause shown or
22 unless the parties otherwise agree. If the hearing is by a panel, the panel shall make
23 findings of fact, conclusions of law and recommendations regarding appropriate
24 discipline for misconduct or appropriate action for permanent disability and file the
25 findings, conclusions and recommendations with the supreme court. If a jury

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1 hearing is requested under s. 757.87 (1), the presiding judge shall instruct the jury
2 regarding the law applicable to judicial misconduct or permanent disability, as
3 appropriate. The presiding judge shall file the jury verdict and his or her
4 recommendations regarding appropriate discipline for misconduct or appropriate
5 action for permanent disability with the supreme court.

6 **SECTION 126.** 757.93 (1) (a) of the statutes is amended to read:

7 757.93 (1) (a) All proceedings under ss. 757.81 to 757.99 relating to misconduct
8 or permanent disability prior to the filing of a petition or formal complaint by the
9 commission are confidential unless a judge or circuit or supplemental court
10 commissioner waives the right to confidentiality in writing to the commission. Any
11 such waiver does not affect the confidentiality of the identity of a person providing
12 information under par. (b).

13 **SECTION 127.** 757.93 (1) (b) of the statutes is amended to read:

14 757.93 (1) (b) Any person who provides information to the commission
15 concerning possible misconduct or permanent disability may request that the
16 commission not disclose his or her identity to the judge or circuit or supplemental
17 court commissioner prior to the filing of a petition or a formal complaint by the
18 commission.

19 **SECTION 128.** 757.93 (2) of the statutes is amended to read:

20 757.93 (2) If prior to the filing of a formal complaint or a petition an
21 investigation of possible misconduct or permanent disability becomes known to the
22 public, the commission may issue statements in order to confirm the pendency of the
23 investigation, to clarify the procedural aspects of the disciplinary proceedings, to
24 explain the right of the judge or circuit or supplemental court commissioner to a fair
25 hearing without prejudgment, to state that the judge or circuit or supplemental court

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1 commissioner denies the allegations, to state that an investigation has been
2 completed and no probable cause was found or to correct public misinformation.

3 **SECTION 129.** 757.93 (4) (a) of the statutes is amended to read:

4 757.93 (4) (a) Referring to the director of state courts information relating to
5 an alleged delay or an alleged temporary disability of a judge or circuit or
6 supplemental court commissioner.

7 **SECTION 130.** 757.95 of the statutes is amended to read:

8 **757.95 Temporary suspension by supreme court.** The supreme court may,
9 following the filing of a formal complaint or a petition by the commission, prohibit
10 a judge or circuit or supplemental court commissioner from exercising the powers of
11 a judge or circuit or supplemental court commissioner pending final determination
12 of the proceedings.

13 **SECTION 131.** 757.99 of the statutes is amended to read:

14 **757.99 Attorney fees.** A judge or circuit or supplemental court commissioner
15 against whom a petition alleging permanent disability is filed by the commission
16 shall be reimbursed for reasonable attorney fees if the judge or circuit or
17 supplemental court commissioner is found not to have a permanent disability. A
18 judge or circuit or supplemental court commissioner against whom a formal
19 complaint alleging misconduct is filed by the commission and who is found not to
20 have engaged in misconduct may be reimbursed for reasonable attorney fees. Any
21 judge or circuit or supplemental court commissioner seeking recovery of attorney
22 fees authorized or required under this section shall file a claim with the claims board
23 under s. 16.53.

24 **SECTION 132.** 765.11 (1) of the statutes is amended to read:

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1 765.11 (1) If any parent, grandparent, child, or natural guardian of a minor
2 applicant for a marriage license, any brother, sister or guardian of either of the
3 applicants for a marriage license, either of the applicants, the district attorney or ~~the~~
4 ~~family~~ a circuit court commissioner believes that the statements of the application
5 are false or insufficient, or that the applicants or either of them are incompetent to
6 marry, that person may file with the court having probate jurisdiction in the county
7 in which the marriage license is applied for, a petition under oath, setting forth the
8 grounds of objection to the marriage and asking for an order requiring the parties
9 making such application to show cause why the marriage license should not be
10 refused. Whereupon, the court, if satisfied that the grounds of objection are prima
11 facie valid, shall issue an order to show cause as aforesaid, returnable as the court
12 directs, but not more than 14 days after the date of the order, which shall be served
13 forthwith upon the applicants for the marriage license residing in the state, and upon
14 the clerk before whom the application has been made, and shall operate as a stay
15 upon the issuance of the marriage license until further ordered; if either or both of
16 the applicants are nonresidents of the state the order shall be served forthwith upon
17 the nonresident by publication of a class 1 notice, under ch. 985, in the county
18 wherein the application is pending, and by mailing a copy thereof to the nonresident
19 at the address contained in the application.

20 **SECTION 133.** 765.11 (2) of the statutes is amended to read:

21 765.11 (2) If, upon hearing, the court finds that the statements in the
22 application are wilfully false or insufficient, or that either or both of said parties are
23 not competent in law to marry, the court shall make an order refusing the marriage
24 license, and shall immediately report such matter to the district attorney. If said
25 falseness or insufficiency is due merely to inadvertence, then the court shall permit

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1 the parties to amend the application so as to make the statements therein true and
2 sufficient, and upon application being so amended, the marriage license shall be
3 issued. If any party is unable to supply any of the information required in the
4 application, the court may, if satisfied that such inability is not due to wilfulness or
5 negligence, order the marriage license to be issued notwithstanding such
6 insufficiency. The costs and disbursements of the proceedings under this section
7 shall rest in the discretion of the court, but none shall be taxed against any district
8 attorney or family circuit court commissioner acting in good faith.

9 **SECTION 134.** 765.16 (5) of the statutes is amended to read:

10 765.16 (5) Any ~~family court commissioner appointed under s. 767.13 or circuit~~
11 court commissioner appointed under SCR 75.02 (1) or supplemental court
12 commissioner appointed under s. ~~757.68~~ 757.675 (1).

13 **SECTION 135.** 767.045 (1) (c) (intro.) of the statutes is amended to read:

14 767.045 (1) (c) (intro.) The attorney responsible for support enforcement under
15 s. 59.53 (6) (a) may request that the court or family a circuit court commissioner
16 appoint a guardian ad litem to bring an action or motion on behalf of a minor who
17 is a nonmarital child whose paternity has not been acknowledged under s. 767.62 (1)
18 or a substantially similar law of another state or adjudicated for the purpose of
19 determining the paternity of the child, and the court or family circuit court
20 commissioner shall appoint a guardian ad litem, if any of the following applies:

21 **SECTION 136.** 767.081 (title) of the statutes is amended to read:

22 **767.081 (title) Information from the office of family court commissioner.**

23 **SECTION 137.** 767.081 (1) of the statutes is amended to read:

24 767.081 (1) Upon the filing of an action affecting the family, the office of family
25 court commissioner shall inform the parties of any services, including referral

ASSEMBLY BILL 380**SECTION 137**

1 services, offered by the office of family court commissioner and by the director of
2 family court counseling services under s. 767.11.

3 **SECTION 138.** 767.081 (2) (a) (intro.) of the statutes is amended to read:

4 767.081 (2) (a) (intro.) ~~The family~~ A circuit court commissioner shall, with or
5 without charge, provide the party with written information on the following, as
6 appropriate to the action commenced:

7 **SECTION 139.** 767.081 (2) (b) of the statutes is amended to read:

8 767.081 (2) (b) ~~The family~~ A circuit court commissioner shall provide a party,
9 for inspection or purchase, with a copy of the statutory provisions in this chapter
10 generally pertinent to the action.

11 **SECTION 140.** 767.083 (2) of the statutes is amended to read:

12 767.083 (2) An order by the court, after consideration of the recommendation
13 of ~~the family~~ a circuit court commissioner, directing an immediate hearing on the
14 petition for the protection of the health or safety of either of the parties or of any child
15 of the marriage or for other emergency reasons consistent with the policies of this
16 chapter. The court shall upon granting such order specify the grounds therefor.

17 **SECTION 141.** 767.085 (1) (i) of the statutes is amended to read:

18 767.085 (1) (i) If the action is one under s. 767.02 (1) (a), (b), (c), (d), (h) or (i),
19 that during the pendency of the action, without the consent of the other party or an
20 order of the court or ~~family~~ a circuit court commissioner, the parties are prohibited
21 from, and may be held in contempt of court for, encumbering, concealing, damaging,
22 destroying, transferring or otherwise disposing of property owned by either or both
23 of the parties, except in the usual course of business, in order to secure necessities
24 or in order to pay reasonable costs and expenses of the action, including attorney fees.

25 **SECTION 142.** 767.085 (1) (j) (intro.) of the statutes is amended to read:

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1 767.085 (1) (j) (intro.) Unless the action is one under s. 767.02 (1) (g) or (h), that
2 during the pendency of the action, the parties are prohibited from, and may be held
3 in contempt of court for, doing any of the following without the consent of the other
4 party or an order of the court or family a circuit court commissioner:

5 **SECTION 143.** 767.085 (3) of the statutes is amended to read:

6 767.085 (3) SERVICE. If only one party initiates the action, the other shall be
7 served under ch. 801 and may serve a response or counterclaim within 20 days after
8 the date of service, except that questions of jurisdiction may be raised at any time
9 prior to judgment. Service shall be made upon the petitioner and upon the family
10 circuit court commissioner as provided in s. 767.14, and the original copy of the
11 response shall be filed in court. If the parties together initiate the action with a joint
12 petition, service of summons is not required.

13 **SECTION 144.** 767.087 (1) (b) of the statutes is amended to read:

14 767.087 (1) (b) If the action is one under s. 767.02 (1) (a), (b), (c), (d), (h) or (i),
15 encumbering, concealing, damaging, destroying, transferring or otherwise disposing
16 of property owned by either or both of the parties, without the consent of the other
17 party or an order of the court or family a circuit court commissioner, except in the
18 usual course of business, in order to secure necessities or in order to pay reasonable
19 costs and expenses of the action, including attorney fees.

20 **SECTION 145.** 767.087 (1) (c) of the statutes is amended to read:

21 767.087 (1) (c) Unless the action is one under s. 767.02 (1) (g) or (h), without
22 the consent of the other party or an order of the court or family a circuit court
23 commissioner, establishing a residence with a minor child of the parties outside the
24 state or more than 150 miles from the residence of the other party within the state,

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1 removing a minor child of the parties from the state for more than 90 consecutive
2 days or concealing a minor child of the parties from the other party.

3 **SECTION 146.** 767.087 (2) of the statutes is amended to read:

4 767.087 (2) The prohibitions under sub. (1) shall apply until the action is
5 dismissed, until a final judgment in the action is entered or until the court or ~~family~~
6 a circuit court commissioner orders otherwise.

7 **SECTION 147.** 767.11 (1) (c) of the statutes is amended to read:

8 767.11 (1) (c) A county or counties may designate a the supervisor of the office
9 of family court commissioner as the director under par. (a) or (b).

10 **SECTION 148.** 767.11 (5) (a) of the statutes is amended to read:

11 767.11 (5) (a) In any action affecting the family, including a revision of
12 judgment or order under s. 767.32 or 767.325, in which it appears that legal custody
13 or physical placement is contested, the court or ~~family~~ circuit court commissioner
14 shall refer the parties to the director of family court counseling services for possible
15 mediation of those contested issues. The court or ~~the family~~ circuit court
16 commissioner shall inform the parties that the confidentiality of communications in
17 mediation is waived if the parties stipulate under sub. (14) (c) that the person who
18 provided mediation to the parties may also conduct the legal custody or physical
19 placement study under sub. (14).

20 **SECTION 149.** 767.11 (5) (b) of the statutes is amended to read:

21 767.11 (5) (b) If both parties to any action affecting the family wish to have joint
22 legal custody of a child, either party may request that the court or ~~family~~ circuit court
23 commissioner ~~to~~ refer the parties to the director of family court counseling services
24 for assistance in resolving any problem relating to joint legal custody and physical
25 placement of the child. Upon request, the court shall so refer the parties.

ASSEMBLY BILL 380**SECTION 150**

1 **SECTION 150.** 767.11 (5) (c) of the statutes is amended to read:

2 767.11 (5) (c) A person who is awarded periods of physical placement, a child
3 of such a person, a person with visitation rights or a person with physical custody of
4 a child may notify the family a circuit court commissioner of any problem he or she
5 has relating to any of these matters. Upon notification, the family circuit court
6 commissioner may refer any person involved in the matter to the director of family
7 court counseling services for assistance in resolving the problem.

8 **SECTION 151.** 767.11 (6) of the statutes is amended to read:

9 767.11 (6) ACTION UPON REFERRAL. Whenever a court or family circuit court
10 commissioner refers a party to the director of family court counseling services for
11 possible mediation, the director shall assign a mediator to the case. The mediator
12 shall provide mediation if he or she determines it is appropriate. If the mediator
13 determines mediation is not appropriate, he or she shall so notify the court.
14 Whenever a court or family circuit court commissioner refers a party to the director
15 of family court counseling services for any other family court counseling service, the
16 director shall take appropriate action to provide the service.

17 **SECTION 152.** 767.11 (7) of the statutes is amended to read:

18 767.11 (7) PRIVATE MEDIATOR. The parties to any action affecting the family may,
19 at their own expense, receive mediation services from a mediator other than one who
20 provides services under sub. (3). Parties who receive services from such a mediator
21 shall sign and file with the director of family court counseling services and with the
22 court or family circuit court commissioner a written notice stating the mediator's
23 name and the date of the first meeting with the mediator.

24 **SECTION 153.** 767.11 (13) of the statutes is amended to read:

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1 767.11 (13) POWERS OF COURT OR FAMILY CIRCUIT COURT COMMISSIONER. Except as
2 provided in sub. (8), referring parties to mediation under this section does not affect
3 the power of the court or family a circuit court commissioner to make any necessary
4 order relating to the parties during the course of the mediation.

5 **SECTION 154.** 767.115 (1) (a) of the statutes is amended to read:

6 767.115 (1) (a) At any time during the pendency of an action affecting the
7 family in which a minor child is involved and in which the court or family circuit court
8 commissioner determines that it is appropriate and in the best interest of the child,
9 the court or family circuit court commissioner, on its own motion, may order the
10 parties to attend a program specified by the court or family circuit court
11 commissioner concerning the effects on a child of a dissolution of the marriage.

12 **SECTION 155.** 767.115 (1) (b) of the statutes is amended to read:

13 767.115 (1) (b) At any time during the pendency of an action to determine the
14 paternity of a child, or an action affecting the family for which the underlying action
15 was an action to determine the paternity of a child, if the court or family circuit court
16 commissioner determines that it is appropriate and in the best interest of the child,
17 the court or family circuit court commissioner, on its own motion, may order either
18 or both of the parties to attend a program specified by the court or family circuit court
19 commissioner providing training in parenting or coparenting skills, or both.

20 **SECTION 156.** 767.115 (1m) of the statutes is amended to read:

21 767.115 (1m) A program under sub. (1) shall be educational rather than
22 therapeutic in nature and may not exceed a total of 4 hours in length. The parties
23 shall be responsible for the cost, if any, of attendance at the program. The court or
24 family circuit court commissioner may specifically assign responsibility for payment

ASSEMBLY BILL 380**SECTION 156**

1 of any cost. No facts or information obtained in the course of the program, and no
2 report resulting from the program, is admissible in any action or proceeding.

3 **SECTION 157.** 767.115 (2) of the statutes is amended to read:

4 767.115 (2) Notwithstanding s. 767.07, the court or family circuit court
5 commissioner may require the parties to attend a program under sub. (1) as a
6 condition to the granting of a final judgment or order in the action affecting the
7 family that is pending before the court or family circuit court commissioner.

8 **SECTION 158.** 767.12 (1) of the statutes is amended to read:

9 767.12 (1) PROCEEDINGS. In actions affecting the family, all hearings and trials
10 to determine whether judgment shall be granted, except hearings under s. ~~767.13(5)~~
11 757.69 (1) (p) 3., shall be before the court. The testimony shall be taken by the
12 reporter and shall be written out and filed with the record if so ordered by the court.
13 Custody proceedings shall receive priority in being set for hearing.

14 **SECTION 159.** 767.125 of the statutes is amended to read:

15 **767.125 Order for appearance of litigants.** Unless nonresidence in the
16 state is shown by competent evidence, service is by publication, or the court shall for
17 other good cause otherwise order, both parties in actions affecting the family shall
18 be required to appear upon the trial. An order of the court or family a circuit court
19 commissioner to that effect shall accordingly be procured by the moving party, and
20 shall be served upon the nonmoving party before the trial. In the case of a joint
21 petition the order is not required.

22 **SECTION 160.** 767.13 (title) of the statutes is repealed.

23 **SECTION 161.** 767.13 (1) of the statutes is renumbered 757.68 (2m) (a) and
24 amended to read:

ASSEMBLY BILL 380**SECTION 161**

1 757.68 (2m) (a) *Counties other than Milwaukee.* 1. ‘Appointment.’ In each
2 county, except in a county having a population of 500,000 or more, the circuit judges
3 ~~for the county, subject to the approval of the chief judge of the judicial administrative~~
4 ~~district, shall, by order filed in the office of the clerk of the circuit court on or before~~
5 ~~the first Monday of July of each year, appoint some reputable attorney of recognized~~
6 ~~ability and standing at the bar as the a circuit court commissioner to supervise the~~
7 ~~office of family court commissioner for the county.~~

8 2. ‘Powers; civil service; oath; temporary appointment; assistants.’ The family
9 ~~court commissioner, by virtue of the office and to the extent required for the~~
10 ~~performance of the duties, has the powers of a court commissioner. The circuit court~~
11 ~~commissioner appointed to supervise the office of family court commissioner is in~~
12 ~~addition to the maximum number of circuit court commissioners permitted by s.~~
13 ~~757.68 (1). The circuit court commissioner supervising the office of the family court~~
14 ~~commissioner, or any assistant circuit court commissioner assisting in family~~
15 ~~matters, may be placed under a county civil service system by resolution of the county~~
16 ~~board. Before entering upon the discharge of the duties the family court~~
17 ~~commissioner shall take and file the official oath. The person appointed shall~~
18 ~~continue to act until a successor is appointed and qualified, except that in the event~~
19 ~~of disability or extended absence the judges may appoint another reputable attorney~~
20 ~~to act as temporary family court commissioner. The county board may provide that~~
21 ~~one or more assistant family court commissioners shall be appointed by the circuit~~
22 ~~judges for the county, subject to the approval of the chief judge of the judicial~~
23 ~~administrative district. An assistant family court commissioner shall have the same~~
24 ~~qualifications as the commissioner and shall take and file the official oath.~~

25 **SECTION 162.** 767.13 (2) (title) of the statutes is repealed.

ASSEMBLY BILL 380**SECTION 163**

1 **SECTION 163.** 767.13 (2) (a) of the statutes is renumbered 757.68 (2m) (b) and
2 amended to read:

3 757.68 **(2m)** (b) ~~Appointment; assistants; civil service Milwaukee County.~~ In
4 counties having a population of 500,000 or more, there is created in the classified civil
5 service a circuit court commissioner position to supervise the office of family court
6 commissioner and such additional ~~assistant family~~ circuit court commissioners
7 commissioner positions as the county board shall determine and authorize, ~~who,~~
8 Circuit court commissioners shall be appointed ~~from the membership of the bar~~
9 ~~residing in the county~~ to these positions by the chief judge of the judicial
10 administrative district under ~~ss. 63.01 to 63.17~~ SCR 75.02 (1).

11 **SECTION 164.** 767.13 (2) (b), (3) and (4) of the statutes are repealed.

12 **SECTION 165.** 767.13 (5) (title) and (a) (title) of the statutes are repealed.

13 **SECTION 166.** 767.13 (5) (a) of the statutes is renumbered 757.69 (1) (p) and
14 amended to read:

15 757.69 **(1)** (p) ~~On authority delegated by a judge, which may be by a standard~~
16 ~~order, and with the approval of the chief judge of the judicial administrative district,~~
17 ~~a family~~ When assigned to assist in matters affecting the family:

18 1. A circuit court commissioner may preside at any hearing held to determine
19 whether a judgment of divorce shall be granted, if both parties state that the
20 marriage is irretrievably broken and that all material issues, including but not
21 limited to division of property or estate, legal custody, physical placement, child
22 support, spousal maintenance and family support, are resolved or if one party does
23 not participate in the action for divorce. ~~The family~~ A circuit court commissioner may
24 grant and enter judgment in any action over which he or she presides under this
25 paragraph subdivision unless the judgment modifies an agreement between the

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1 parties on material issues. If the family circuit court commissioner does not approve
2 an agreement between the parties on material issues, the action shall be certified to
3 the court for trial.

4 **SECTION 167.** 767.13 (5) (b) (title) of the statutes is repealed.

5 **SECTION 168.** 767.13 (5) (b) of the statutes is renumbered 757.69 (1) (p) 2. and
6 amended to read:

7 757.69 (1) (p) 2. ~~On authority delegated by a judge, which may be by a standard~~
8 ~~order, a family~~ A circuit court commissioner may conduct hearings and enter
9 judgments in actions for enforcement of, or revision of judgment for, maintenance,
10 custody, physical placement or visitation.

11 **SECTION 169.** 767.13 (5) (c) (title) of the statutes is repealed.

12 **SECTION 170.** 767.13 (5) (c) of the statutes is renumbered 757.69 (1) (p) 3. and
13 amended to read:

14 757.69 (1) (p) 3. ~~Except when otherwise ordered by a judge, a family~~ prohibited
15 by the chief judge of the judicial administrative district, a circuit court commissioner
16 may conduct hearings and enter orders and judgments in actions to establish
17 paternity, in actions to establish or enforce a child support or a family support
18 obligation and in actions to revise orders or judgments for child support or family
19 support.

20 **SECTION 171.** 767.13 (6) of the statutes is repealed.

21 **SECTION 172.** 767.13 (7) (title) of the statutes is repealed.

22 **SECTION 173.** 767.13 (7) of the statutes is renumbered 757.69 (1) (p) 4. and
23 amended to read:

ASSEMBLY BILL 380**SECTION 173**

1 757.69 (1) (p) 4. ~~Each family~~ A circuit court commissioner shall cooperate with
2 the county and the department to ensure that all dependent children receive
3 reasonable and necessary child support.

4 **SECTION 174.** 767.14 of the statutes is amended to read:

5 **767.14 Service on office of family court commissioner and appearance**
6 **by family circuit court commissioner.** In any action affecting the family, each
7 party shall, either within 20 days after making service on the opposite party of any
8 petition or pleading or before filing such petition or pleading in court, serve a copy
9 of the same upon the circuit court commissioner supervising the office of family court
10 commissioner of the county in which the action is begun, whether such action is
11 contested or not. No judgment in any such action shall be granted unless this section
12 is complied with except when otherwise ordered by the court. Such A circuit court
13 commissioner assisting in matters affecting the family may appear in an action
14 under this chapter when appropriate; and shall appear when requested by the court.

15 **SECTION 175.** 767.145 (1) of the statutes is amended to read:

16 767.145 (1) After the expiration of the period specified by the statute, the court
17 may in its discretion, upon petition and without notice, extend the time within which
18 service shall be made upon the circuit court commissioner supervising the office of
19 family court commissioner.

20 **SECTION 176.** 767.15 (1) of the statutes is amended to read:

21 767.15 (1) In any action affecting the family in which either party is a recipient
22 of benefits under ss. 49.141 to 49.161 or aid under s. 46.261, 49.19 or 49.45, each party
23 shall, either within 20 days after making service on the opposite party of any motion
24 or pleading requesting the court or family circuit court commissioner to order, or to
25 modify a previous order, relating to child support, maintenance or family support, or

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1 before filing the motion or pleading in court, serve a copy of the motion or pleading
2 upon the county child support agency under s. 59.53 (5) of the county in which the
3 action is begun.

4 **SECTION 177.** 767.16 of the statutes is amended to read:

5 **767.16 Family Circuit court commissioner or law partner; when**
6 **interested; procedure.** Neither a family circuit court commissioner assisting in
7 matters affecting the family nor a partner may appear in any action affecting the
8 family in any court held in the county in which the family circuit court commissioner
9 is acting, except when authorized to appear by s. 767.14. In case the circuit court
10 commissioner or a partner shall be in any way interested in such action, the
11 presiding judge shall appoint some reputable attorney to perform the services
12 enjoined upon such family the circuit court commissioner and such. The appointed
13 attorney, ~~so appointed,~~ shall take and file the oath and receive the compensation
14 provided by law.

15 **SECTION 178.** 767.17 of the statutes is repealed.

16 **SECTION 179.** 767.23 (1) (intro.) of the statutes is amended to read:

17 767.23 (1) (intro.) Except as provided in ch. 822, in every action affecting the
18 family, the court or family circuit court commissioner may, during the pendency
19 thereof, make just and reasonable temporary orders concerning the following
20 matters:

21 **SECTION 180.** 767.23 (1) (a) of the statutes is amended to read:

22 767.23 (1) (a) Upon request of one party, granting legal custody of the minor
23 children to the parties jointly, to one party solely or to a relative or agency specified
24 under s. 767.24 (3). The court or family circuit court commissioner may order joint
25 legal custody without the agreement of the other party and without the findings

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1 required under s. 767.24 (2) (b) 2. This order may not have a binding effect on a final
2 custody determination.

3 **SECTION 181.** 767.23 (1) (am) of the statutes is amended to read:

4 767.23 (1) (am) Upon the request of a party, granting periods of physical
5 placement to a party. The court or family circuit court commissioner shall make a
6 determination under this paragraph within 30 days after the request for a temporary
7 order regarding periods of physical placement is filed.

8 **SECTION 182.** 767.23 (1m) of the statutes is amended to read:

9 767.23 (1m) If a family circuit court commissioner believes that a temporary
10 restraining order or injunction under s. 813.12 is appropriate in an action, the circuit
11 court commissioner shall inform the parties of their right to seek the order or
12 injunction and the procedure to follow. On a motion for such a restraining order or
13 injunction, the family circuit court commissioner shall submit the motion to the court
14 within 5 working days.

15 **SECTION 183.** 767.23 (1n) of the statutes is amended to read:

16 767.23 (1n) Before making any temporary order under sub. (1), the court or
17 family circuit court commissioner shall consider those factors which the court is
18 required by this chapter to consider before entering a final judgment on the same
19 subject matter. If the court or family circuit court commissioner makes a temporary
20 child support order that deviates from the amount of support that would be required
21 by using the percentage standard established by the department under s. 49.22 (9),
22 the court or family circuit court commissioner shall comply with the requirements
23 of s. 767.25 (1n). A temporary order under sub. (1) may be based upon the written
24 stipulation of the parties, subject to the approval of the court or ~~the~~ family circuit

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1 court commissioner. Temporary orders made by ~~the family~~ a circuit court
2 commissioner may be reviewed by the court as ~~provided in s. 767.13 (6)~~.

3 **SECTION 184.** 767.25 (4m) (f) 2. of the statutes is amended to read:

4 767.25 **(4m)** (f) 2. The notice provided to the parent shall inform the parent that
5 coverage for the child under the new employer's health benefit plan will be in effect
6 upon the employer's receipt of the notice. The notice shall inform the parent that he
7 or she may, within 10 business days after receiving the notice, by motion request a
8 hearing before the court on the issue of whether the order to provide coverage of the
9 child's health care expenses should remain in effect. A motion under this subdivision
10 may be heard by a ~~family~~ circuit court commissioner. If the parent requests a hearing
11 and the court or ~~family~~ circuit court commissioner determines that the order to
12 provide coverage of the child's health care expenses should not remain in effect, the
13 court shall provide notice to the employer that the order is no longer in effect.

14 **SECTION 185.** 767.265 (1) of the statutes, as affected by 1997 Wisconsin Act 191,
15 section 411, is amended to read:

16 767.265 **(1)** Each order for child support under this chapter, for maintenance
17 payments under s. 767.23 or 767.26, for family support under this chapter, for costs
18 ordered under s. 767.51 (3) or 767.62 (4) (a), for support by a spouse under s. 767.02
19 (1) (f) or for maintenance payments under s. 767.02 (1) (g), each order for a revision
20 in a judgment or order with respect to child support, maintenance or family support
21 payments under s. 767.32, each stipulation approved by the court or ~~the family~~ a
22 circuit court commissioner for child support under this chapter and each order for
23 child or spousal support entered under s. 948.22 (7) constitutes an assignment of all
24 commissions, earnings, salaries, wages, pension benefits, benefits under ch. 102 or
25 108, lottery prizes that are payable in instalments and other money due or to be due

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1 in the future to the department or its designee. The assignment shall be for an
2 amount sufficient to ensure payment under the order or stipulation and to pay any
3 arrearages due at a periodic rate not to exceed 50% of the amount of support due
4 under the order or stipulation so long as the addition of the amount toward
5 arrearages does not leave the party at an income below the poverty line established
6 under 42 USC 9902 (2).

7 **SECTION 186.** 767.265 (2h) of the statutes is amended to read:

8 767.265 (2h) If a court-ordered assignment does not require immediately
9 effective withholding and a payer fails to make a required maintenance, child
10 support, spousal support or family support payment within 10 days after its due
11 date, within 20 days after the payment's due date the court or family circuit court
12 commissioner shall cause the assignment to go into effect by providing notice of the
13 assignment in the manner provided under sub. (2r) and shall send a notice by regular
14 mail to the last-known address of the payer. The notice sent to the payer shall inform
15 the payer that an assignment is in effect and that the payer may, within a 10-day
16 period, by motion request a hearing on the issue of whether the assignment should
17 remain in effect. The court or family circuit court commissioner shall hold a hearing
18 requested under this subsection within 10 working days after the date of the request.
19 If at the hearing the payer establishes that the assignment is not proper because of
20 a mistake of fact, the court or family circuit court commissioner may direct that the
21 assignment be withdrawn. Either party may, within 15 working days after the date
22 of a decision by a family circuit court commissioner under this subsection, seek
23 review of the decision by the court with jurisdiction over the action.

24 **SECTION 187.** 767.265 (2r) of the statutes, as affected by 1997 Wisconsin Act
25 191, section 414, is amended to read:

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1 767.265 (2r) Upon entry of each order for child support, maintenance, family
2 support or support by a spouse and upon approval of each stipulation for child
3 support, unless the court finds that income withholding is likely to cause the payer
4 irreparable harm or unless s. 767.267 applies, the court, family circuit court
5 commissioner or county child support agency under s. 59.53 (5) shall provide notice
6 of the assignment by regular mail or by facsimile machine, as defined in s. 134.72 (1)
7 (a), or other electronic means to the last-known address of the person from whom the
8 payer receives or will receive money. The notice shall provide that the amount
9 withheld may not exceed the maximum amount that is subject to garnishment under
10 15 USC 1673 (b) (2). If the department or its designee, whichever is appropriate, does
11 not receive the money from the person notified, the court, family circuit court
12 commissioner or county child support agency under s. 59.53 (5) shall provide notice
13 of the assignment to any other person from whom the payer receives or will receive
14 money. Notice under this subsection may be a notice of the court, a copy of the
15 executed assignment or a copy of that part of the court order directing payment.

16 **SECTION 188.** 767.267 (1) of the statutes, as affected by 1997 Wisconsin Act 27,
17 is amended to read:

18 767.267 (1) If the court or the family circuit court commissioner determines
19 that income withholding under s. 767.265 is inapplicable, ineffective or insufficient
20 to ensure payment under an order or stipulation specified in s. 767.265 (1), or that
21 income withholding under s. 767.25 (4m) (c) or 767.51 (3m) (c) is inapplicable,
22 ineffective or insufficient to ensure payment of a child's health care expenses,
23 including payment of health insurance premiums, ordered under s. 767.25 (4m) or
24 767.51 (3m), the court or family circuit court commissioner may require the payer to
25 identify or establish a deposit account, owned in whole or in part by the payer, that

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1 allows for periodic transfers of funds and to file with the financial institution at
2 which the account is located an authorization for transfer from the account to the
3 department or its designee, whichever is appropriate. The authorization shall be
4 provided on a standard form approved by the court and shall specify the frequency
5 and the amount of transfer, sufficient to meet the payer's obligation under the order
6 or stipulation, as required by the court or family circuit court commissioner. The
7 authorization shall include the payer's consent for the financial institution or an
8 officer, employe or agent of the financial institution to disclose information to the
9 court, family circuit court commissioner, county child support agency under s. 59.53
10 (5), department or department's designee regarding the account for which the payer
11 has executed the authorization for transfer.

12 **SECTION 189.** 767.267 (5) of the statutes, as affected by 1997 Wisconsin Act 27,
13 is amended to read:

14 767.267 (5) A financial institution or an officer, employe or agent of a financial
15 institution may disclose information to the court, family circuit court commissioner,
16 county child support agency under s. 59.53 (5), department or department's designee
17 concerning an account for which a payer has executed an authorization for transfer
18 under sub. (1).

19 **SECTION 190.** 767.27 (2) of the statutes is amended to read:

20 767.27 (2) Except as provided in sub. (2m), disclosure forms required under this
21 section shall be filed within 90 days after the service of summons or the filing of a
22 joint petition or at such other time as ordered by the court or family circuit court
23 commissioner. Information contained on such forms shall be updated on the record
24 to the date of hearing.

25 **SECTION 191.** 767.29 (title) of the statutes is amended to read:

ASSEMBLY BILL 380**SECTION 191**

1 **767.29** (title) **Maintenance, child support and family support**
2 **payments, receipt and disbursement; family circuit court commissioner,**
3 **fees and compensation.**

4 **SECTION 192.** 767.29 (1) (c) of the statutes, as affected by 1997 Wisconsin Act
5 27, is amended to read:

6 767.29 (1) (c) Except as provided in sub. (1m), the department or its designee
7 shall disburse the money received under the judgment or order in the manner
8 required by federal regulations and take receipts therefor, unless the department or
9 its designee is unable to disburse the moneys because they were paid by check or
10 other draft drawn upon an account containing insufficient funds. All moneys
11 received or disbursed under this section shall be entered in a record kept by the
12 department or its designee, whichever is appropriate, which shall be open to
13 inspection by the parties to the action, their attorneys and the family circuit court
14 commissioner.

15 **SECTION 193.** 767.29 (1) (d) (intro.) of the statutes, as created by 1997 Wisconsin
16 Act 27, is amended to read:

17 767.29 (1) (d) (intro.) For receiving and disbursing maintenance, child support
18 or family support payments, and for maintaining the records required under par. (c),
19 the department or its designee shall collect an annual fee of \$25 to be paid by each
20 party ordered to make payments. The court or family circuit court commissioner
21 shall order each party ordered to make payments to pay the annual fee under this
22 paragraph at the time of, and in addition to, the first payment to the department or
23 its designee in each year for which payments are ordered. All fees collected under
24 this paragraph shall be deposited in the appropriation account under s. 20.445 (3)
25 (ja). At the time of ordering the payment of an annual fee under this paragraph, the

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1 court or ~~family~~ circuit court commissioner shall notify each party ordered to make
2 payments of the requirement to pay the annual fee and of the amount of the annual
3 fee. If the annual fee under this section is not paid when due, the department or its
4 designee may not deduct the annual fee from the maintenance or child or family
5 support payment, but may do any of the following:

6 **SECTION 194.** 767.29 (1) (d) 2. of the statutes, as created by 1997 Wisconsin Act
7 27, is amended to read:

8 767.29 (1) (d) 2. Apply to the court or ~~family~~ a circuit court commissioner for
9 an assignment relating to the annual fee in accordance with s. 767.265.

10 **SECTION 195.** 767.29 (1) (e) of the statutes, as affected by 1997 Wisconsin Act
11 27, is amended to read:

12 767.29 (1) (e) If the maintenance, child support or family support payments
13 adjudged or ordered to be paid are not paid to the department or its designee at the
14 time provided in the judgment or order, the county child support agency under s.
15 59.53 (5) or ~~the family~~ a circuit court commissioner of the county shall take such
16 proceedings as he or she considers advisable to secure the payment of the sum
17 including enforcement by contempt proceedings under ch. 785 or by other means.
18 Copies of any order issued to compel the payment shall be mailed to counsel who
19 represented each party when the maintenance, child support or family support
20 payments were awarded. In case any fees of officers in any of the proceedings,
21 including the compensation of the ~~family~~ circuit court commissioner at the rate of \$50
22 per day unless the commissioner is on a salaried basis, is not collected from the
23 person proceeded against, the fees shall be paid out of the county treasury upon the
24 order of the presiding judge and the certificate of the department.

25 **SECTION 196.** 767.29 (1m) (b) of the statutes is amended to read:

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1 767.29 **(1m)** (b) The court or the family circuit court commissioner has ordered
2 that overpayments of child support, family support or maintenance that do not
3 exceed the amount of support or maintenance due in the next month may be held for
4 disbursement in the next month.

5 **SECTION 197.** 767.29 (3) (a) of the statutes is amended to read:

6 767.29 **(3)** (a) If maintenance payments or support money, or both, is ordered
7 to be paid for the benefit of any person, who is committed by court order to an
8 institution or is in confinement, or whose legal custody is vested by court order under
9 ch. 48 or 938 in an agency, department or relative, the court or family a circuit court
10 commissioner may order such maintenance payments or support money to be paid
11 to the relative or agency, institution, welfare department or other entity having the
12 legal or actual custody of said person, and to be used for the latter's care and
13 maintenance, without the appointment of a guardian under ch. 880.

14 **SECTION 198.** 767.29 (3) (b) of the statutes is amended to read:

15 767.29 **(3)** (b) If a child who is the beneficiary of support under a judgment or
16 order is placed by court order in a child caring institution, juvenile correctional
17 institution or state mental institution, the right of the child to support during the
18 period of the child's confinement, including any right to unpaid support accruing
19 during that period, is assigned to the state. If the judgment or order providing for
20 the support of a child who is placed in a child caring institution, juvenile correctional
21 institution or state mental institution includes support for one or more other
22 children, the support that is assigned to the state shall be the proportionate share
23 of the child placed in the institution, except as otherwise ordered by the court or
24 family circuit court commissioner on the motion of a party.

25 **SECTION 199.** 767.293 (1) of the statutes is amended to read:

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1 767.293 (1) If an order for child support under this chapter or s. 948.22 (7), an
2 order for family support under this chapter or a stipulation approved by the court or
3 ~~the family circuit~~ court commissioner for child support under this chapter requires
4 a payer to pay child or family support in an amount that is expressed as a percentage
5 of parental income, the payee, including the state or a county child support agency
6 under s. 59.53 (5) if the state is a real party in interest under s. 767.075 (1), may
7 establish an arrearage by filing an affidavit in the action in which the order for the
8 payment of support was entered or the stipulation for support was approved. The
9 affidavit shall state the amount of the arrearage and the facts supporting a
10 reasonable basis on which the arrearage was determined and may state the payer's
11 current income and the facts supporting a reasonable basis on which the payer's
12 current income was determined. Not later than 60 days after filing the affidavit, the
13 payee shall serve the affidavit on the payer in the manner provided in s. 801.11 (1)
14 (a) or (b) or by sending the affidavit by registered or certified mail to the last-known
15 address of the payer. After the payee files a proof of service on the payer, the court
16 shall send a notice to the payer by regular, registered or certified mail to the payer's
17 last-known address. The notice shall provide that, unless the payer requests a
18 hearing to dispute the arrearage or the amount of the arrearage not later than 20
19 days after the date of the notice, the court or ~~family circuit~~ court commissioner may
20 enter an order against the payer in the amount stated in the affidavit and may
21 provide notice of assignment under s. 767.265. The notice shall include the mailing
22 address to which the request for hearing must be mailed or delivered in order to
23 schedule a hearing under sub. (2).

24 **SECTION 200.** 767.293 (2) of the statutes is amended to read:

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1 767.293 (2) If the payer makes a timely request for a hearing, the court or
2 family circuit court commissioner shall hold a hearing on the issue of the amount of
3 the arrearage, if any. If the court or family circuit court commissioner determines
4 after hearing that an arrearage exists, the court or family circuit court commissioner
5 shall enter an order establishing an arrearage in the amount determined by the court
6 or family circuit court commissioner and may send notice of assignment under s.
7 767.265.

8 **SECTION 201.** 767.293 (3) of the statutes is amended to read:

9 767.293 (3) If the court or family circuit court commissioner sends the notice
10 under sub. (1) and the payer fails to make a timely request for a hearing, the court
11 or family circuit court commissioner, if the affidavit demonstrates to the satisfaction
12 of the court or family circuit court commissioner that an arrearage exists, shall enter
13 an order establishing an arrearage in the amount determined by the court or family
14 circuit court commissioner and may send notice of assignment under s. 767.265. The
15 court or family circuit court commissioner shall send the order to the payer's
16 last-known address and shall inform the payer whether an assignment is in effect
17 and that the payer may, within a 10-day period, by motion request a hearing on the
18 issue of whether the order should be vacated or the assignment should be withdrawn.

19 **SECTION 202.** 767.32 (1) (a) of the statutes is amended to read:

20 767.32 (1) (a) After a judgment or order providing for child support under this
21 chapter or s. 48.355 (2) (b) 4., 48.357 (5m), 48.363 (2), 938.183 (4), 938.355 (2) (b) 4.,
22 938.357 (5m), 938.363 (2) or 948.22 (7), maintenance payments under s. 767.26 or
23 family support payments under this chapter, or for the appointment of trustees
24 under s. 767.31, the court may, from time to time, on the petition, motion or order to
25 show cause of either of the parties, or upon the petition, motion or order to show cause

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1 of the department, a county department under s. 46.215, 46.22 or 46.23 or a county
2 child support agency under s. 59.53 (5) if an assignment has been made under s.
3 46.261, 48.57 (3m) (b) 2. or (3n) (b) 2., 49.19 (4) (h) or 49.45 (19) or if either party or
4 their minor children receive aid under s. 48.57 (3m) or (3n) or ch. 49, and upon notice
5 to the office of family court commissioner, revise and alter such judgment or order
6 respecting the amount of such maintenance or child support and the payment
7 thereof, and also respecting the appropriation and payment of the principal and
8 income of the property so held in trust, and may make any judgment or order
9 respecting any of the matters that such court might have made in the original action,
10 except that a judgment or order that waives maintenance payments for either party
11 shall not thereafter be revised or altered in that respect nor shall the provisions of
12 a judgment or order with respect to final division of property be subject to revision
13 or modification. A revision, under this section, of a judgment or order with respect
14 to an amount of child or family support may be made only upon a finding of a
15 substantial change in circumstances. In any action under this section to revise a
16 judgment or order with respect to maintenance payments, a substantial change in
17 the cost of living by either party or as measured by the federal bureau of labor
18 statistics may be sufficient to justify a revision of judgment or order with respect to
19 the amount of maintenance, except that a change in an obligor's cost of living is not
20 in itself sufficient if payments are expressed as a percentage of income.

21 **SECTION 203.** 767.327 (2) (c) of the statutes is amended to read:

22 767.327 (2) (c) Upon receipt of a copy of a notice of objection under par. (a), the
23 court or family circuit court commissioner shall promptly refer the parents for
24 mediation or other family court counseling services under s. 767.11 and may appoint
25 a guardian ad litem. Unless the parents agree to extend the time period, if mediation

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1 or counseling services do not resolve the dispute within 30 days after referral, the
2 matter shall proceed under subs. (3) to (5).

3 **SECTION 204.** 767.33 (2) of the statutes is amended to read:

4 767.33 (2) An adjustment under sub. (1) may be made only if the party receiving
5 payments applies to the family a circuit court commissioner for the adjustment. If
6 the order specifies the date on which the annual adjustment becomes effective, the
7 application to the family circuit court commissioner must be made at least 20 days
8 before the effective date of the adjustment. The family circuit court commissioner,
9 upon application by the party receiving payments, shall send a notice by certified
10 mail to the last-known address of the obligor. The notice shall be postmarked no
11 later than 10 days after the date on which the application was filed and shall inform
12 the obligor that an adjustment in payments will become effective on the date
13 specified in the order or, if no date is specified in the order, 10 days after the date on
14 which the notice is sent. The obligor may, after receipt of notice and before the
15 effective date of the adjustment, request a hearing on the issue of whether the
16 adjustment should take effect, in which case the adjustment shall be held in
17 abeyance pending the outcome of the hearing. The family circuit court commissioner
18 shall hold a hearing requested under this subsection within 10 working days after
19 the request. If at the hearing the obligor establishes that extraordinary
20 circumstances beyond his or her control prevent fulfillment of the adjusted child
21 support obligation, the family circuit court commissioner may direct that all or part
22 of the adjustment not take effect until the obligor is able to fulfill the adjusted
23 obligation. If at the hearing the obligor does not establish that extraordinary
24 circumstances beyond his or her control prevent fulfillment of the adjusted
25 obligation, the adjustment shall take effect as of the date it would have become

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1 effective had no hearing been requested. Either party may, within 15 working days
2 of the date of the decision by the family circuit court commissioner under this
3 subsection, seek review of the decision by the court with jurisdiction over the action.

4 **SECTION 205.** 767.37 (1) (a) of the statutes is amended to read:

5 767.37 (1) (a) In any action affecting the family, if the court orders maintenance
6 payments or other allowances for a party or children or retains jurisdiction in such
7 matters, the written judgment shall include a provision that disobedience of the
8 court order with respect to the same is punishable under ch. 785 by commitment to
9 the county jail or house of correction until such judgment is complied with and the
10 costs and expenses of the proceedings are paid or until the party committed is
11 otherwise discharged, according to law. The written judgment in any action affecting
12 the family shall include the social security numbers of the parties and of any child
13 of the parties. The findings of fact and conclusions of law and the written judgment
14 shall be drafted by the attorney for the moving party, and shall be submitted to the
15 court and filed with the clerk of the court within 30 days after judgment is granted;
16 but if the respondent has been represented by counsel, the findings, conclusions and
17 judgment shall first be submitted to respondent's counsel for approval and if the
18 family circuit court commissioner has appeared at the trial of the action, such papers
19 shall also be sent to the family circuit court commissioner for approval. After any
20 necessary approvals are obtained, the findings of fact, conclusions of law and
21 judgment shall be submitted to the court. Final stipulations of the parties may be
22 appended to the judgment and incorporated by reference therein.

23 **SECTION 206.** 767.37 (2) of the statutes is amended to read:

24 767.37 (2) So far as a judgment of divorce affects the marital status of the
25 parties the court has the power to vacate or modify the judgment for sufficient cause

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1 shown, upon its own motion, or upon the application of both parties to the action, at
2 any time within 6 months from the granting of such judgment. No such judgment
3 shall be vacated or modified without service of notice of motion on the office of family
4 court commissioner. The court may direct ~~the family~~ a circuit court commissioner or
5 appoint some other attorney, to bring appropriate proceedings for the vacation of the
6 judgment. The compensation of the family circuit court commissioner when not on
7 a salaried basis or other attorney for performing such services shall be at the rate of
8 \$50 per day, which shall be paid out of the county treasury upon order of the presiding
9 judge and the certificate of the clerk of the court. If the judgment is vacated it shall
10 restore the parties to the marital relation that existed before the granting of such
11 judgment. If after vacation of the judgment either of the parties brings an action in
12 this state for divorce against the other the court may order the petitioner in such
13 action to reimburse the county the amount paid by it to the family circuit court
14 commissioner or other attorney in connection with such vacation proceedings.
15 Whenever a judgment of divorce is set aside under this subsection, the court shall
16 order the record in the action impounded without regard to s. 767.19; and thereafter
17 neither the record nor any part of the record shall be offered or admitted into evidence
18 in any action or proceeding except by special order of the court of jurisdiction upon
19 good cause shown in any paternity proceedings under this chapter or by special order
20 of any court of record upon a showing of necessity to clear title to real estate.

21 **SECTION 207.** 767.45 (5) (b) of the statutes is amended to read:

22 767.45 (5) (b) An action under this section may be joined with any other action
23 for child support and shall be governed by the procedures specified in s. 767.05
24 relating to child support, except that the title of the action shall be “In re the
25 paternity of A.B.” The petition shall state the name and date of birth of the child if

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SECTION 207

1 born or that the mother is pregnant if the child is unborn, the name of any alleged
 2 father, whether or not an action by any of the parties to determine the paternity of
 3 the child or rebut the presumption of paternity to the child has at any time been
 4 commenced, or is pending before any judge or circuit court commissioner, in this state
 5 or elsewhere. If a paternity judgment has been rendered, or if a paternity action has
 6 been dismissed, the petition shall state the court which rendered the judgment or
 7 dismissed the action, and the date and the place the judgment was granted if known.
 8 The petition shall also give notice of a party’s right to request a genetic test under
 9 s. 49.225 or 767.48.

10 **SECTION 208.** 767.455 (5) of the statutes is amended to read:

11 767.455 (5) FORM. The summons shall be in substantially the following form:

12 STATE OF WISCONSIN, CIRCUIT COURT:COUNTY

13 _____
 14 In re the Paternity of A. B.

15 STATE OF WISCONSIN

16 and

17 C. D.

18 Address

19 City, State Zip Code

File No. ...

20 , Petitioners

21 vs.

S U M M O N S

22 E. F.

23 Address

.... (Case Classification Type):

.... (Code No.)

24 City, State Zip Code

25 , Respondent

ASSEMBLY BILL 380

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THE STATE OF WISCONSIN, To the Respondent:

You have been sued. claims that you are the father of the child, born on (date), in (city) (county) (state). You must appear to answer this claim of paternity. Your court appearance is:

Date:

Time:

Room:

Judge or Family Circuit Court Commissioner:

Address:

If you do not appear, the court will enter a default judgment finding you to be the father. A default judgment will take effect 30 days after it is served on or mailed to you, unless within those 30 days you present to the court evidence of good cause for failure to appear. If you plan to be represented by an attorney, you should contact the attorney prior to the court appearance listed above. If you are unable to afford an attorney, the court will appoint one for you only upon the blood tests showing that you are not excluded as the father and the probability of your being the father is less than 99.0%. Appearance is not required if you complete the attached waiver of first appearance statement and send it to the court at least 10 days prior to the date of your scheduled appearance in this summons.

Dated:, (year)

Signed:....

G. H., Clerk of Circuit Court

or

Petitioner's Attorney

ASSEMBLY BILL 380**SECTION 208**

1 State Bar No.:

2 Address:

3 City, State Zip Code:

4 Phone No.:

5 **SECTION 209.** 767.458 (1m) of the statutes is amended to read:

6 767.458 **(1m)** In an action to establish the paternity of a child who was born
7 to a woman while she was married, where a man other than the woman's husband
8 alleges that he, not the husband, is the child's father, a party may allege that a
9 judicial determination that a man other than the husband is the father is not in the
10 best interest of the child. If the court or a circuit or supplemental court commissioner
11 under s. ~~757.69 (3)~~ 757.675 (2) (g) determines that a judicial determination of
12 whether a man other than the husband is the father is not in the best interest of the
13 child, no genetic tests may be ordered and the action shall be dismissed.

14 **SECTION 210.** 767.46 (1) of the statutes is amended to read:

15 767.46 **(1)** A pretrial hearing shall be held before the court or a circuit or
16 supplemental court commissioner under s. ~~757.69 (3)~~ 757.675 (2) (g). A record or
17 minutes of the proceeding shall be kept. At the pretrial hearing the parties may
18 present and cross-examine witnesses, request genetic tests and present other
19 evidence relevant to the determination of paternity.

20 **SECTION 211.** 767.463 of the statutes is amended to read:

21 **767.463 Dismissal if adjudication not in child's best interest.** Except as
22 provided in s. 767.458 (1m), at any time in an action to establish the paternity of a
23 child, upon the motion of a party or guardian ad litem, the court or circuit or
24 supplemental court commissioner under s. ~~757.69 (3)~~ 757.675 (2) (g) may, with
25 respect to a man, refuse to order genetic tests, if genetic tests have not yet been taken,

ASSEMBLY BILL 380**SECTION 211**

1 and dismiss the action if the court or circuit or supplemental court commissioner
2 determines that a judicial determination of whether the man is the father of the child
3 is not in the best interest of the child.

4 **SECTION 212.** 767.465 (2) (a) of the statutes is amended to read:

5 767.465 **(2)** (a) Except as provided in sub. (2m), if a respondent is the alleged
6 father and fails to appear at the first appearance, unless the first appearance is not
7 required under s. 767.457 (2), scheduled court–ordered genetic test, pretrial hearing
8 or trial, the court shall enter an order adjudicating the respondent to be the father
9 and appropriate orders for support, legal custody and physical placement. The
10 orders shall be either served on the respondent or mailed by regular, registered or
11 certified mail, to the last–known address of the respondent. The orders shall take
12 effect 30 days after service or 30 days after the date on which the orders were mailed
13 unless, within that time, the respondent presents to the court or a circuit or
14 supplemental court commissioner under s. ~~757.69 (3) (g)~~ 757.675 (2) (g) evidence of
15 good cause for failure to appear or failure to have undergone a court–ordered genetic
16 test.

17 **SECTION 213.** 767.51 (3m) (f) 2. of the statutes is amended to read:

18 767.51 **(3m)** (f) 2. The notice provided to the parent shall inform the parent that
19 coverage for the child under the new employer’s health benefit plan will be in effect
20 upon the employer’s receipt of the notice. The notice shall inform the parent that he
21 or she may, within 10 business days after receiving the notice, by motion request a
22 hearing before the court on the issue of whether the order to provide coverage of the
23 child’s health care expenses should remain in effect. A motion under this subdivision
24 may be heard by a family circuit court commissioner. If the parent requests a hearing
25 and the court or family circuit court commissioner determines that the order to

ASSEMBLY BILL 380**SECTION 213**

1 provide coverage of the child's health care expenses should not remain in effect, the
2 court shall provide notice to the employer that the order is no longer in effect.

3 **SECTION 214.** 767.62 (2) (b) of the statutes is amended to read:

4 767.62 (2) (b) If a statement acknowledging paternity is timely rescinded as
5 provided in s. 69.15 (3m), a court or family circuit court commissioner may not enter
6 an order specified in sub. (4) with respect to the man who signed the statement as
7 the father of the child unless the man is adjudicated the child's father using the
8 procedures set forth in ss. 767.45 to 767.60.

9 **SECTION 215.** 767.62 (3) (b) of the statutes is amended to read:

10 767.62 (3) (b) Except as provided in s. 767.045, in an action specified in par. (a)
11 the court or family a circuit court commissioner may appoint a guardian ad litem for
12 the child and shall appoint a guardian ad litem for a party who is a minor, unless the
13 minor party is represented by an attorney.

14 **SECTION 216.** 767.62 (4) (a) of the statutes is amended to read:

15 767.62 (4) (a) In an action under sub. (3) (a), if the persons who signed and filed
16 the statement acknowledging paternity as parents of the child had notice of the
17 hearing, the court or family a circuit court commissioner may make an order that
18 contains any provision directed against the appropriate party to the proceeding
19 concerning the duty of support, the legal custody or guardianship of the child, periods
20 of physical placement, the furnishing of bond or other security for the payment of
21 amounts under the order or any other matter in the best interest of the child. Unless
22 the court orders otherwise, if there is no presumption of paternity under s. 891.41
23 (1) the mother shall have sole legal custody of the child. The court or family circuit
24 court commissioner shall order either party or both to pay for the support of any child
25 of the parties who is less than 18 years old, or any child of the parties who is less than

ASSEMBLY BILL 380**SECTION 216**

1 19 years old if the child is pursuing an accredited course of instruction leading to the
2 acquisition of a high school diploma or its equivalent. The order may direct the father
3 to pay or contribute to the reasonable expenses of the mother's pregnancy and
4 confinement during pregnancy and may direct either party to pay or contribute to
5 the costs of attorney fees or other costs.

6 **SECTION 217.** 767.62 (4) (b) 2. of the statutes is amended to read:

7 767.62 (4) (b) 2. In addition to ordering child support for a child under par. (a),
8 the court or family circuit court commissioner shall specifically assign responsibility
9 for and direct the manner of payment of the child's health care expenses. In
10 assigning responsibility for a child's health care expenses, the court or family circuit
11 court commissioner shall consider whether a child is covered under a parent's health
12 insurance policy or plan at the time the court enters an order under this paragraph,
13 the availability of health insurance to each parent through an employer or other
14 organization, the extent of coverage available to a child and the costs to the parent
15 for the coverage of the child. A parent may be required to initiate or continue health
16 care insurance coverage for a child under this subdivision. If a parent is required to
17 do so, he or she shall provide copies of necessary program or policy identification to
18 the other parent and is liable for any health care costs for which he or she receives
19 direct payment from an insurer. This paragraph may not be construed to limit the
20 authority of the court or family circuit court commissioner to enter or modify support
21 orders containing provisions for payment of medical expenses, medical costs, or
22 insurance premiums that are in addition to and not inconsistent with this
23 paragraph.

24 **SECTION 218.** 767.62 (4) (b) 3. a. of the statutes, as affected by 1997 Wisconsin
25 Act 191, section 489, is amended to read:

ASSEMBLY BILL 380**SECTION 218**

1 767.62 (4) (b) 3. a. In directing the manner of payment of a child's health care
2 expenses, the court or family circuit court commissioner may order that payment,
3 including payment for health insurance premiums, be withheld from income and
4 sent to the appropriate health care insurer, provider or plan, as provided in s. 767.265
5 (3h), or sent to the department or its designee, whichever is appropriate, for
6 disbursement to the person for whom the payment has been awarded if that person
7 is not a health care insurer, provider or plan. If the court or family circuit court
8 commissioner orders income withholding and assignment for the payment of health
9 care expenses, the court or family circuit court commissioner shall send notice of
10 assignment in the manner provided under s. 767.265 (2r) and may include that notice
11 of assignment with a notice of assignment under s. 767.265. The department or its
12 designee, whichever is appropriate, shall keep a record of all moneys received and
13 disbursed by the department or its designee for health care expenses that are
14 directed to be paid to the department or its designee.

15 **SECTION 219.** 767.62 (4) (b) 3. b. of the statutes is amended to read:

16 767.62 (4) (b) 3. b. If the court or family circuit court commissioner orders a
17 parent to initiate or continue health insurance coverage for a child under a health
18 insurance policy that is available to the parent through an employer or other
19 organization but the court or family circuit court commissioner does not specify the
20 manner in which payment of the health insurance premiums shall be made, the clerk
21 of court may provide notice of assignment in the manner provided under s. 767.265
22 (2r) for the withholding from income of the amount necessary to pay the health
23 insurance premiums. That notice of assignment may be sent with or included as part
24 of any other notice of assignment under s. 767.265, if appropriate. A person who
25 receives the notice of assignment shall send the withheld health insurance

ASSEMBLY BILL 380**SECTION 219**

1 premiums to the appropriate health care insurer, provider or plan, as provided in s.
2 767.265 (3h).

3 **SECTION 220.** 767.62 (4) (b) 4. (intro.) of the statutes is amended to read:

4 767.62 (4) (b) 4. (intro.) If the court or family circuit court commissioner orders
5 a parent to provide coverage of the health care expenses of the parent's child and the
6 parent is eligible for family coverage of health care expenses under a health benefit
7 plan that is provided by an employer on an insured or on a self-insured basis, the
8 employer shall do all of the following:

9 **SECTION 221.** 767.62 (4) (b) 4. c. of the statutes is amended to read:

10 767.62 (4) (b) 4. c. After the child has coverage under the employer's health
11 benefit plan, and as long as the parent is eligible for family coverage under the
12 employer's health benefit plan, continue to provide coverage for the child unless the
13 employer receives satisfactory written evidence that the order of the court or family
14 circuit court commissioner is no longer in effect or that the child has coverage of
15 health care expenses under another health insurance policy or health benefit plan
16 that provides comparable coverage of health care expenses.

17 **SECTION 222.** 767.62 (4) (b) 5. a. of the statutes is amended to read:

18 767.62 (4) (b) 5. a. If a parent who has been ordered by a court or family circuit
19 court commissioner to provide coverage of the health care expenses of a child who is
20 eligible for medical assistance under subch. IV of ch. 49 receives payment from a 3rd
21 party for the cost of services provided to the child but does not pay the health care
22 provider for the services or reimburse the department or any other person who paid
23 for the services on behalf of the child, the department may obtain a judgment against
24 the parent for the amount of the 3rd party payment.

25 **SECTION 223.** 767.62 (4) (b) 6. b. of the statutes is amended to read:

ASSEMBLY BILL 380**SECTION 223**

1 767.62 (4) (b) 6. b. The notice provided to the parent shall inform the parent
2 that coverage for the child under the new employer's health benefit plan will be in
3 effect upon the employer's receipt of the notice. The notice shall inform the parent
4 that he or she may, within 10 business days after receiving the notice, by motion
5 request a hearing before the court on the issue of whether the order to provide
6 coverage of the child's health care expenses should remain in effect. A motion under
7 this subd. 6. b. may be heard by a family circuit court commissioner. If the parent
8 requests a hearing and the court or family circuit court commissioner determines
9 that the order to provide coverage of the child's health care expenses should not
10 remain in effect, the court shall provide notice to the employer that the order is no
11 longer in effect.

12 **SECTION 224.** 767.62 (4) (d) 1. of the statutes is amended to read:

13 767.62 (4) (d) 1. Except as provided in par. (e), the court or family circuit court
14 commissioner shall determine child support payments under par. (a) by using the
15 percentage standard established by the department under s. 49.22 (9).

16 **SECTION 225.** 767.62 (4) (d) 2. of the statutes is amended to read:

17 767.62 (4) (d) 2. In determining child support payments under par. (a), the
18 court or family circuit court commissioner may consider all relevant financial
19 information or other information relevant to the parent's earning capacity, including
20 information reported under s. 49.22 (2m) to the department or the county child
21 support agency under s. 59.53 (5).

22 **SECTION 226.** 767.62 (4) (e) (intro.) of the statutes is amended to read:

23 767.62 (4) (e) (intro.) Upon request by a party, the court or family circuit court
24 commissioner may modify the amount of child support payments determined under
25 par. (d) if, after considering the following factors, the court or family circuit court

ASSEMBLY BILL 380**SECTION 226**

1 commissioner finds by the greater weight of the credible evidence that use of the
2 percentage standard is unfair to the child or to the requesting party:

3 **SECTION 227.** 767.62 (4) (e) 14. of the statutes is amended to read:

4 767.62 (4) (e) 14. Any other factors that the court or family circuit court
5 commissioner in each case determines are relevant to the best interests of the child.

6 **SECTION 228.** 767.62 (4) (f) of the statutes is amended to read:

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

15 **SECTION 229.** 769.102 of the statutes is amended to read:

16 **769.102 Tribunal of this state.** The courts and circuit and supplemental
17 court commissioners are the tribunal of this state.

18 **SECTION 230.** 769.302 of the statutes is amended to read:

19 **769.302 Action by minor parent.** A minor parent, or a guardian or other
20 legal representative of a minor parent, may maintain a proceeding on behalf of or for
21 the benefit of the minor's child. Notwithstanding s. 767.045 (1) or 803.01 (3), the
22 court may appoint a guardian ad litem for the minor's child, but the court need not
23 appoint a guardian ad litem for a minor parent who maintains such a proceeding
24 unless the proceeding is one for the determination of parentage, in which case the
25 court or a family circuit court commissioner shall appoint a guardian ad litem for a

ASSEMBLY BILL 380**SECTION 230**

1 minor parent within this state who maintains such a proceeding or for a minor within
2 this state who is alleged to be a parent, as provided in s. 767.475 (1).

3 **SECTION 231.** 782.01 (3) of the statutes is amended to read:

4 782.01 (3) In this chapter, unless the context requires otherwise, judge includes
5 the supreme court, the court of appeals and circuit courts and each justice and judge
6 thereof and circuit and supplemental court commissioners; and prisoner includes
7 every person restrained of personal liberty; and imprisoned includes every such
8 restraint, and respondent means the person on whom the writ is to be served.

9 **SECTION 232.** 782.03 of the statutes is amended to read:

10 **782.03 Petition for writ.** Application for the writ shall be by petition, signed
11 either by the prisoner or by some person in his or her behalf, and may be made to the
12 supreme court, the court of appeals or the circuit court of the county, or to any justice
13 or judge of the supreme court, court of appeals or circuit court or to any circuit or
14 supplemental court commissioner, within the county where the prisoner is detained;
15 or if there is no judge within the county, or for any cause he or she is incapable of
16 acting, or has refused to grant the writ, then to some judge residing in an adjoining
17 county; but every application, made by or on behalf of a person sentenced to the state
18 prisons, must contain a copy of any motion made under s. 974.06 and shall indicate
19 the disposition of the motion and the court in which the disposition was made. If no
20 motion was made, the petition shall so state.

21 **SECTION 233.** 782.28 of the statutes is amended to read:

22 **782.28** (title) **Transfer from circuit court commissioner.** If the writ is
23 returnable before a circuit court commissioner, either party may make a request for
24 transfer to the court in which the matter is filed. Upon receipt of such request the

ASSEMBLY BILL 380**SECTION 233**

1 circuit court commissioner shall forthwith transmit all papers and records in the
2 proceedings to the court.

3 **SECTION 234.** 799.03 of the statutes is amended to read:

4 **799.03 Definition.** In this chapter unless otherwise designated, “court”
5 means circuit court and “court” does not mean circuit court commissioner.

6 **SECTION 235.** 799.05 (7) (intro.) of the statutes is amended to read:

7 799.05 (7) (title) FORM; CIRCUIT COURT COMMISSIONER. (intro.) Except as
8 provided in s. 799.22 (4) (b) 3., in counties ~~establishing at least one part-time or~~
9 ~~full-time court commissioner position under s. 757.68 (1) (b)~~ in which a circuit court
10 commissioner is assigned to assist in small claims matters, the summons shall be
11 substantially in the following form:

12 **SECTION 236.** 799.06 (1) of the statutes is amended to read:

13 799.06 (1) PLEADINGS. All pleadings except the initial complaint may be oral.
14 Any circuit court may by rule require written pleadings and any judge or circuit court
15 commissioner may require written pleadings in a particular case.

16 **SECTION 237.** 799.11 (3) of the statutes is amended to read:

17 799.11 (3) When, in any action under this chapter, it appears from the return
18 of service of the summons or otherwise that the county in which the action is pending
19 is not a proper place of trial and that another county would be a proper place of trial,
20 the court or circuit court commissioner shall, on motion of a party or its own motion,
21 transfer the action to that county unless the defendant appears and waives the
22 improper venue. The clerk of the court to which the action is transferred shall issue
23 a new notice of return date upon payment of the fee required by s. 814.61 (2) (a).

24 **SECTION 238.** 799.20 (4) of the statutes is amended to read:

ASSEMBLY BILL 380**SECTION 238**

1 799.20 (4) INQUIRY OF DEFENDANT WHO APPEARS ON RETURN DATE. If the defendant
2 appears on the return date of the summons or any adjourned date thereof, the court
3 or circuit court commissioner shall make sufficient inquiry of the defendant to
4 determine whether the defendant claims a defense to the action. If it appears to the
5 court or circuit court commissioner that the defendant claims a defense to the action,
6 the court or circuit court commissioner shall schedule a trial of all the issues involved
7 in the action, unless the parties stipulate otherwise or the action is subject to
8 immediate dismissal.

9 **SECTION 239.** 799.206 (1), (2) and (4) of the statutes are amended to read:

10 799.206 (1) In counties establishing ~~at least one part-time or full-time~~ a circuit
11 court commissioner position under s. 757.68 (1) ~~(b)~~ (5m), all actions and proceedings
12 commenced under this chapter shall be returnable before a circuit court
13 commissioner appointed under s. 757.68 (1) and SCR chapter 75. In any other
14 county, a circuit court commissioner may conduct return date proceedings if
15 delegated such authority under s. 757.69 (1) (d).

16 (2) Judgment on failure to appear may be entered by the circuit court
17 commissioner or the clerk upon the return date as provided in s. 799.22.

18 (4) Except as provided in sub. (3), the circuit court commissioner shall hear all
19 matters using the procedures set forth in s. 799.207.

20 **SECTION 240.** 799.207 (title) of the statutes is amended to read:

21 **799.207 (title) Proceedings before circuit court commissioner.**

22 **SECTION 241.** 799.207 (1) (a) of the statutes is amended to read:

23 799.207 (1) (a) Any circuit court commissioner assigned to assist in the
24 ~~administration of small claims~~ matters may hold a conference with the parties or
25 their attorneys or both on the return date, examine pleadings and identify issues.

ASSEMBLY BILL 380**SECTION 242**

1 **SECTION 242.** 799.207 (1) (b) of the statutes is amended to read:

2 799.207 (1) (b) Except as provided in par. (e), a decision shall be rendered by
3 the circuit court commissioner on the return date if there is time available for a
4 hearing, the parties do not intend to call witnesses, and the parties agree to such a
5 hearing. If for any of the reasons stated in this paragraph, the matter cannot be
6 heard on the return date, an adjourned date shall be set.

7 **SECTION 243.** 799.207 (1) (e) of the statutes is amended to read:

8 799.207 (1) (e) If the circuit court commissioner cannot reach a decision on the
9 return or adjourned date, the commissioner shall mail the decision to each party
10 within 30 days of the date of the hearing.

11 **SECTION 244.** 799.207 (2) (intro.) of the statutes is amended to read:

12 799.207 (2) (intro.) The circuit court commissioner's decision shall become a
13 judgment 11 days after rendering, if oral, and 16 days after mailing, if written, except
14 that:

15 **SECTION 245.** 799.207 (3) (b) of the statutes is amended to read:

16 799.207 (3) (b) The circuit court commissioner shall give each of the parties a
17 form and instructions which shall be used for giving notice of an election to have the
18 matter heard by the court.

19 **SECTION 246.** 799.209 (1) to (4) of the statutes are amended to read:

20 **799.209 (1)** The court or circuit court commissioner shall conduct the
21 proceeding informally, allowing each party to present arguments and proofs and to
22 examine witnesses to the extent reasonably required for full and true disclosure of
23 the facts.

24 **(2)** The proceedings shall not be governed by the common law or statutory rules
25 of evidence except those relating to privileges under ch. 905 or to admissibility under

ASSEMBLY BILL 380**SECTION 246**

1 s. 901.05. The court or circuit court commissioner shall admit all other evidence
2 having reasonable probative value, but may exclude irrelevant or repetitious
3 evidence or arguments. An essential finding of fact may not be based solely on a
4 declarant's oral hearsay statement unless it would be admissible under the rules of
5 evidence.

6 (3) The court or circuit court commissioner may conduct questioning of the
7 witnesses and shall endeavor to ensure that the claims or defenses of all parties are
8 fairly presented to the court or circuit court commissioner.

9 (4) The court or circuit court commissioner shall establish the order of trial and
10 the procedure to be followed in the presentation of evidence and arguments in an
11 appropriate manner consistent with the ends of justice and the prompt resolution of
12 the dispute on its merits according to the substantive law.

13 **SECTION 247.** 799.21 (3) (b) of the statutes is amended to read:

14 799.21 (3) (b) In counties ~~establishing at least one part-time or full-time court~~
15 ~~commissioner position under s. 757.68 (1) (b) in which a circuit court commissioner~~
16 is assigned to assist in small claims matters, except in eviction actions which shall
17 be governed by par. (a), demand for trial by jury shall be made at the time a demand
18 for trial is filed. If the party requesting a trial does not request a jury trial, any other
19 party may request a jury trial by filing the request with the court and mailing copies
20 to all other parties within 15 days from the date of mailing of the demand for trial
21 or the date on which personal notice of demand is given, whichever is applicable. If
22 no party demands a trial by jury, the right to trial by jury is waived forever. The fees
23 prescribed in ss. 814.61 (4) and 814.62 (3) (e) shall be paid when the demand for a
24 trial by jury is filed.

25 **SECTION 248.** 799.21 (4) of the statutes is amended to read:

ASSEMBLY BILL 380**SECTION 248**

1 799.21 **(4)** JURY PROCEDURE. If there is a demand for a trial by jury, the judge
2 or circuit court commissioner shall place the case on the trial calendar and a jury of
3 6 persons shall be chosen as provided in s. 345.43 (3) (b). The parties shall proceed
4 as if the action had originally been begun as a proceeding under chs. 801 to 807,
5 except that the court is not required to provide the jury with one complete set of
6 written instructions under s. 805.13 (4) and the requirements for appearance by the
7 parties shall be governed by s. 799.06 (2).

8 **SECTION 249.** 799.24 (1) of the statutes is amended to read:

9 799.24 **(1)** ENTRY OF JUDGMENT OR ORDER; NOTICE OF ENTRY THEREOF. When a
10 judgment or an order is rendered, the judge, circuit court commissioner or clerk of
11 circuit court shall immediately enter it in the court record and note the date thereof
12 which shall be the date of entry of judgment or order. The clerk of circuit court, except
13 in municipal and county forfeiture actions, shall mail a notice of entry of judgment
14 to the parties or their attorneys at their last-known address within 5 days of its
15 entry. Upon payment of the exact amount of the fee prescribed in s. 814.62 (3) (c),
16 the clerk of circuit court shall enter the judgment in the judgment and lien docket.

17 **SECTION 250.** 799.24 (3) of the statutes is amended to read:

18 799.24 **(3)** STIPULATED DISMISSAL. Prior to the entry of judgment, upon
19 stipulation of the parties to a schedule for compliance with the stipulation, the court
20 or circuit court commissioner may enter a stipulated judgment of dismissal in lieu
21 thereof. Any such judgment may be vacated without notice to the obligated party,
22 and the unsatisfied portion thereof entered, upon application by the prevailing party
23 and proof by affidavit of noncompliance with the terms of the stipulation.

24 **SECTION 251.** 799.26 (1) of the statutes is amended to read:

ASSEMBLY BILL 380**SECTION 251**

1 799.26 (1) When a judgment for money damages is entered under this chapter,
2 the court or circuit court commissioner shall order the judgment debtor to execute
3 under penalty of contempt a disclosure statement and to mail or deliver that
4 statement to the judgment creditor or to the clerk of circuit court in the county where
5 the judgment is entered within 15 days of entry of judgment unless the judgment is
6 sooner satisfied. The statement shall disclose, as of the date of judgment, the debtor's
7 name, residence address, employers and their addresses, any real property interests
8 owned by the debtor, cash on hand, financial institutions in which the judgment
9 debtor has funds on deposit, whether the debtor's earnings are totally exempt from
10 garnishment under s. 812.34 (2) (b), and such other information as required by the
11 schedules adopted under sub. (3).

12 **SECTION 252.** 803.01 (3) (b) 1. of the statutes is amended to read:

13 803.01 (3) (b) 1. The guardian ad litem shall be appointed by a circuit court of
14 the county where the action is to be commenced or is pending, except that the
15 guardian ad litem shall be appointed by a family circuit court commissioner of the
16 county in actions to establish paternity that are before the family circuit court
17 commissioner.

18 **SECTION 253.** 807.02 of the statutes is amended to read:

19 **807.02 Motions, where heard; stay of proceedings.** Except as provided in
20 s. 807.13 or when the parties stipulate otherwise and the court approves, motions in
21 actions or proceedings in the circuit court must be heard within the circuit where the
22 action is triable. Orders out of court, not requiring notice, may be made by the
23 presiding judge of the court in any part of the state. No order to stay proceedings
24 after a verdict, report or finding in any circuit court may be made by a circuit or

ASSEMBLY BILL 380**SECTION 253**

1 supplemental court commissioner. No stay of proceedings for more than 20 days may
2 be granted except upon previous notice to the adverse party.

3 **SECTION 254.** 807.04 (1) of the statutes, as affected by 1997 Wisconsin Act 133,
4 is amended to read:

5 807.04 (1) Except as provided under sub. (2), all trials, and all hearings at
6 which oral testimony is to be presented, shall be held in open court. The court may
7 make any order which a judge or a circuit or supplemental court commissioner has
8 power to make. ~~Court commissioners shall have the powers provided in ch. 753 or~~
9 ~~by other statute.~~

10 **SECTION 255.** 807.09 (1) of the statutes is amended to read:

11 807.09 (1) A circuit judge of the circuit court of any county may appoint and
12 remove at any time, any retired or former circuit or county court judge to act, in
13 matters referred by the judge and in conciliation matters. When a matter for
14 conciliation is referred for such purpose, the conciliator shall have full authority to
15 hear, determine and report findings to the court. Such conciliators may be appointed
16 circuit court commissioners ~~as provided in s. 757.68~~ under SCR 75.02 (1).

17 **SECTION 256.** 812.30 (2) of the statutes is amended to read:

18 812.30 (2) “Court” includes a circuit court commissioner assigned to preside at
19 a proceeding under this subchapter.

20 **SECTION 257.** 813.025 (1) of the statutes is amended to read:

21 813.025 (1) No circuit or supplemental court commissioner shall may issue any
22 injunction or order suspending or restraining the enforcement or execution of any
23 statute of the state or of any order of an administrative officer, board, department,
24 commission or other state agency purporting to be made pursuant to the statutes of
25 the state. If so issued ~~such,~~ the injunction or order shall be void.

ASSEMBLY BILL 380**SECTION 258**

1 **SECTION 258.** 813.12 (2) (a) of the statutes is amended to read:

2 813.12 (2) (a) No action under this section may be commenced by complaint and
3 summons. An action under this section may be commenced only by a petition
4 described under sub. (5) (a). The action commences with service of the petition upon
5 the respondent if a copy of the petition is filed before service or promptly after service.
6 If the judge or family a circuit court commissioner extends the time for a hearing
7 under sub. (3) (c) and the petitioner files an affidavit with the court stating that
8 personal service by the sheriff or a private server under s. 801.11 (1) (a) or (b) was
9 unsuccessful because the respondent is avoiding service by concealment or
10 otherwise, the petitioner may serve the respondent by publication of the petition as
11 a class 1 notice, under ch. 985, and by mailing if the respondent's post-office address
12 is known or can with due diligence be ascertained. The mailing may be omitted if the
13 post-office address cannot be ascertained with due diligence.

14 **SECTION 259.** 813.12 (2) (b) of the statutes is amended to read:

15 813.12 (2) (b) A petition may be filed in conjunction with an action affecting the
16 family commenced under ch. 767, but commencement of an action affecting the
17 family or any other action is not necessary for the filing of a petition or the issuance
18 of a temporary restraining order or an injunction. A judge or family circuit court
19 commissioner may not make findings or issue orders under s. 767.23 or 767.24 while
20 granting relief requested only under this section. Section 813.06 does not apply to
21 an action under this section. The respondent may respond to the petition either in
22 writing before or at the hearing on the issuance of the injunction or orally at that
23 hearing.

24 **SECTION 260.** 813.12 (3) (a) of the statutes is amended to read:

ASSEMBLY BILL 380**SECTION 260**

1 813.12 (3) (a) A judge or family circuit court commissioner shall issue a
2 temporary restraining order ordering the respondent to refrain from committing acts
3 of domestic abuse against the petitioner, to avoid the petitioner’s residence, except
4 as provided in par. (am), or any premises temporarily occupied by the petitioner or
5 both, or to avoid contacting or causing any person other than a party’s attorney to
6 contact the petitioner unless the petitioner consents in writing, or any combination
7 of these remedies requested in the petition, if all of the following occur:

8 1. The petitioner submits to the judge or family circuit court commissioner a
9 petition alleging the elements set forth under sub. (5) (a).

10 2. The judge or family circuit court commissioner finds reasonable grounds to
11 believe that the respondent has engaged in, or based on prior conduct of the
12 petitioner and the respondent may engage in, domestic abuse of the petitioner. In
13 determining whether to issue a temporary restraining order, the judge or family
14 circuit court commissioner shall consider the potential danger posed to the petitioner
15 and the pattern of abusive conduct of the respondent but may not base his or her
16 decision solely on the length of time since the last domestic abuse or the length of time
17 since the relationship ended. The judge or family circuit court commissioner may
18 grant only the remedies requested or approved by the petitioner.

19 **SECTION 261.** 813.12 (3) (am) of the statutes is amended to read:

20 813.12 (3) (am) If the petitioner and the respondent are not married, the
21 respondent owns the premises where the petitioner resides and the petitioner has
22 no legal interest in the premises, in lieu of ordering the respondent to avoid the
23 petitioner’s residence under par. (a) the judge or family circuit court commissioner
24 may order the respondent to avoid the premises for a reasonable time until the

ASSEMBLY BILL 380**SECTION 261**

1 petitioner relocates and shall order the respondent to avoid the new residence for the
2 duration of the order.

3 **SECTION 262.** 813.12 (3) (c) of the statutes is amended to read:

4 813.12 (3) (c) The temporary restraining order is in effect until a hearing is held
5 on issuance of an injunction under sub. (4). The temporary restraining order is not
6 voided if the respondent is admitted into a dwelling that the order directs him or her
7 to avoid. A judge or family circuit court commissioner shall hold a hearing on
8 issuance of an injunction within 7 days after the temporary restraining order is
9 issued, unless the time is extended upon the written consent of the parties or
10 extended once for 14 days upon a finding that the respondent has not been served
11 with a copy of the temporary restraining order although the petitioner has exercised
12 due diligence.

13 **SECTION 263.** 813.12 (3) (d) of the statutes is amended to read:

14 813.12 (3) (d) The judge or circuit court commissioner shall advise the
15 petitioner of the right to serve the respondent the petition by published notice if with
16 due diligence the respondent cannot be served as provided under s. 801.11 (1) (a) or
17 (b). The clerk of circuit court shall assist the petitioner with the preparation of the
18 notice and filing of the affidavit of printing.

19 **SECTION 264.** 813.12 (4) (a) (intro.) of the statutes is amended to read:

20 813.12 (4) (a) (intro.) A judge or family circuit court commissioner may grant
21 an injunction ordering the respondent to refrain from committing acts of domestic
22 abuse against the petitioner, to avoid the petitioner's residence, except as provided
23 in par. (am), or any premises temporarily occupied by the petitioner or both, or to
24 avoid contacting or causing any person other than a party's attorney to contact the

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1 petitioner unless the petitioner consents to that contact in writing, or any
2 combination of these remedies requested in the petition, if all of the following occur:

3 **SECTION 265.** 813.12 (4) (a) 3. of the statutes is amended to read:

4 813.12 (4) (a) 3. After hearing, the judge or family circuit court commissioner
5 finds reasonable grounds to believe that the respondent has engaged in, or based
6 upon prior conduct of the petitioner and the respondent may engage in, domestic
7 abuse of the petitioner. In determining whether to issue an injunction, the judge or
8 family circuit court commissioner shall consider the potential danger posed to the
9 petitioner and the pattern of abusive conduct of the respondent but may not base his
10 or her decision solely on the length of time since the last domestic abuse or the length
11 of time since the relationship ended. The judge or family circuit court commissioner
12 may grant only the remedies requested by the petitioner.

13 **SECTION 266.** 813.12 (4) (am) of the statutes is amended to read:

14 813.12 (4) (am) If the petitioner and the respondent are not married, the
15 respondent owns the premises where the petitioner resides and the petitioner has
16 no legal interest in the premises, in lieu of ordering the respondent to avoid the
17 petitioner's residence under par. (a) the judge or family circuit court commissioner
18 may order the respondent to avoid the premises for a reasonable time until the
19 petitioner relocates and shall order the respondent to avoid the new residence for the
20 duration of the order.

21 **SECTION 267.** 813.12 (4) (b) of the statutes is amended to read:

22 813.12 (4) (b) The judge or family circuit court commissioner may enter an
23 injunction only against the respondent named in the petition. No injunction may be
24 issued under this subsection under the same case number against the person
25 petitioning for the injunction. The judge or family circuit court commissioner may

ASSEMBLY BILL 380**SECTION 267**

1 not modify an order restraining the respondent based solely on the request of the
2 respondent.

3 **SECTION 268.** 813.12 (4m) (a) 2. of the statutes is amended to read:

4 813.12 **(4m)** (a) 2. Except as provided in par. (ag), require the respondent to
5 surrender any firearms that he or she owns or has in his or her possession to the
6 sheriff of the county in which the action under this section was commenced, to the
7 sheriff of the county in which the respondent resides or to another person designated
8 by the respondent and approved by the judge or family circuit court commissioner.
9 The judge or circuit court commissioner shall approve the person designated by the
10 respondent unless the judge or circuit court commissioner finds that the person is
11 inappropriate and places the reasons for the finding on the record. If a firearm is
12 surrendered to a person designated by the respondent and approved by the judge or
13 family circuit court commissioner, the judge or family circuit court commissioner
14 shall inform the person to whom the firearm is surrendered of the requirements and
15 penalties under s. 941.29 (4).

16 **SECTION 269.** 813.12 (4m) (b) (intro.) of the statutes is amended to read:

17 813.12 **(4m)** (b) (intro.) A firearm surrendered under par. (a) 2. may not be
18 returned to the respondent until a judge or family circuit court commissioner
19 determines all of the following:

20 **SECTION 270.** 813.12 (4m) (b) 2. of the statutes is amended to read:

21 813.12 **(4m)** (b) 2. That the person is not prohibited from possessing a firearm
22 under any state or federal law or by the order of any federal court or state court, other
23 than an order from which the judge or family circuit court commissioner is competent
24 to grant relief.

25 **SECTION 271.** 813.12 (5) (c) of the statutes is amended to read:

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1 813.12 (5) (c) A judge or family circuit court commissioner shall accept any
2 legible petition for a temporary restraining order or injunction.

3 **SECTION 272.** 813.12 (6) (a) of the statutes is amended to read:

4 813.12 (6) (a) If an order is issued under this section, upon request by the
5 petitioner the court or family circuit court commissioner shall order the sheriff to
6 accompany the petitioner and assist in placing him or her in physical possession of
7 his or her residence or to otherwise assist in executing or serving the temporary
8 restraining order or injunction. The petitioner may, at the petitioner's expense, use
9 a private process server to serve papers on the respondent.

10 **SECTION 273.** 813.12 (7m) of the statutes is amended to read:

11 813.12 (7m) TRANSCRIPTS. The judge or family circuit court commissioner shall
12 record the temporary restraining order or injunction hearing upon the request of the
13 petitioner.

14 **SECTION 274.** 813.122 (3) (a) of the statutes is amended to read:

15 813.122 (3) (a) Procedure for an action under this section is in 2 parts. First,
16 if the petitioner requests a temporary restraining order, the court or circuit court
17 commissioner shall issue or refuse to issue that order. Second, the court shall hold
18 a hearing under sub. (5) on whether to issue an injunction, which is the final relief.
19 If the court or circuit court commissioner issues a temporary restraining order, the
20 order shall set forth the date for the hearing on an injunction. If the court or circuit
21 court commissioner does not issue a temporary restraining order, the date for the
22 hearing shall be set upon motion by either party.

23 **SECTION 275.** 813.122 (3) (b) (intro.) of the statutes is amended to read:

24 813.122 (3) (b) (intro.) The court or circuit court commissioner, on its or his or
25 her own motion or the motion of any party, may order one or more of the following:

ASSEMBLY BILL 380**SECTION 276**

1 **SECTION 276.** 813.122 (3) (bm) of the statutes is amended to read:

2 813.122 **(3)** (bm) The court or circuit court commissioner shall appoint a
3 guardian ad litem if the respondent is a parent of the child.

4 **SECTION 277.** 813.122 (4) (a) (intro.) of the statutes is amended to read:

5 813.122 **(4)** (a) (intro.) A judge or circuit court commissioner shall issue a
6 temporary restraining order ordering the respondent to avoid the child victim's
7 residence or any premises temporarily occupied by the child victim or both, and to
8 avoid contacting or causing any person other than a party's attorney to contact the
9 child victim unless the petitioner consents in writing and the judge or circuit court
10 commissioner agrees that the contact is in the best interests of the child victim, if all
11 of the following occur:

12 **SECTION 278.** 813.122 (4) (a) 1. of the statutes is amended to read:

13 813.122 **(4)** (a) 1. The petitioner submits to the judge or circuit court
14 commissioner a petition alleging the elements set forth under sub. (6) (a).

15 **SECTION 279.** 813.122 (4) (a) 2. of the statutes is amended to read:

16 813.122 **(4)** (a) 2. The judge or circuit court commissioner finds reasonable
17 grounds to believe that the respondent has engaged in, or based on prior conduct of
18 the child victim and the respondent may engage in, abuse of the child victim.

19 **SECTION 280.** 813.122 (5m) (a) 2. of the statutes is amended to read:

20 813.122 **(5m)** (a) 2. Except as provided in par. (ag), require the respondent to
21 surrender any firearms that he or she owns or has in his or her possession to the
22 sheriff of the county in which the action under this section was commenced, to the
23 sheriff of the county in which the respondent resides or to another person designated
24 by the respondent and approved by the judge or circuit court commissioner. The
25 judge or circuit court commissioner shall approve the person designated by the

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1 respondent unless the judge or circuit court commissioner finds that the person is
2 inappropriate and places the reasons for the finding on the record. If a firearm is
3 surrendered to a person designated by the respondent and approved by the judge or
4 circuit court commissioner, the judge or circuit court commissioner shall inform the
5 person to whom the firearm is surrendered of the requirements and penalties under
6 s. 941.29 (4).

7 **SECTION 281.** 813.122 (5m) (b) (intro.) of the statutes is amended to read:

8 813.122 (5m) (b) (intro.) A firearm surrendered under par. (a) 2. may not be
9 returned to the respondent until a judge or circuit court commissioner determines
10 all of the following:

11 **SECTION 282.** 813.122 (5m) (b) 2. of the statutes is amended to read:

12 813.122 (5m) (b) 2. That the person is not prohibited from possessing a firearm
13 under any state or federal law or by the order of any federal court or state court, other
14 than an order from which the judge or circuit court commissioner is competent to
15 grant relief.

16 **SECTION 283.** 813.122 (9) (a) of the statutes is amended to read:

17 813.122 (9) (a) If an order is issued under this section, upon request by the
18 petitioner, the court or circuit court commissioner, as applicable, shall order the
19 sheriff to assist in executing or serving the temporary restraining order or
20 injunction.

21 **SECTION 284.** 813.123 (3) (a) of the statutes is amended to read:

22 813.123 (3) (a) Procedure for an action under this section is in 2 parts. First,
23 if the petitioner requests a temporary restraining order, the court or circuit court
24 commissioner shall issue or refuse to issue that order. Second, the court shall hold
25 a hearing under sub. (5) on whether to issue an injunction, which is the final relief.

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1 If the court or circuit court commissioner issues a temporary restraining order, the
2 order shall set forth the date for the hearing on an injunction. If the court or circuit
3 court commissioner does not issue a temporary restraining order, the date for the
4 hearing shall be set upon motion by either party.

5 **SECTION 285.** 813.123 (3) (b) (intro.) of the statutes is amended to read:

6 813.123 (3) (b) (intro.) The court or circuit court commissioner, on its or his or
7 her own motion or the motion of any party, may order one or more of the following:

8 **SECTION 286.** 813.123 (4) (a) of the statutes is amended to read:

9 813.123 (4) (a) Unless the vulnerable adult, guardian or guardian ad litem
10 consents in writing and the judge or circuit court commissioner agrees that the
11 contact is in the best interests of the vulnerable adult, a judge or circuit court
12 commissioner shall issue a temporary restraining order ordering the respondent to
13 avoid interference with an investigation of the vulnerable adult under s. 55.043, the
14 delivery of protective services to the vulnerable adult under s. 55.05 or a protective
15 placement of the vulnerable adult under s. 55.06 if all of the following occur:

16 1. The petitioner submits to the judge or circuit court commissioner a petition
17 alleging the elements set forth under sub. (6).

18 2. The judge or circuit court commissioner finds reasonable grounds to believe
19 that the respondent has interfered with, or based on prior conduct of the respondent
20 may interfere with, an investigation of the vulnerable adult under s. 55.043, the
21 delivery of protective services to the vulnerable adult under s. 55.05 or a protective
22 placement of the vulnerable adult under s. 55.06.

23 **SECTION 287.** 813.123 (8) (a) of the statutes is amended to read:

ASSEMBLY BILL 380**SECTION 287**

1 813.123 **(8)** (a) If an order is issued under this section, upon request by the
2 petitioner, the court or circuit court commissioner shall order the sheriff to assist in
3 executing or serving the temporary restraining order or injunction.

4 **SECTION 288.** 813.125 (3) (a) (intro.) of the statutes is amended to read:

5 813.125 **(3)** (a) (intro.) A judge or circuit court commissioner may issue a
6 temporary restraining order ordering the respondent to cease or avoid the
7 harassment of another person, if all of the following occur:

8 **SECTION 289.** 813.125 (3) (a) 2. of the statutes is amended to read:

9 813.125 **(3)** (a) 2. The judge or circuit court commissioner finds reasonable
10 grounds to believe that the respondent has violated s. 947.013.

11 **SECTION 290.** 813.125 (3) (c) of the statutes is amended to read:

12 813.125 **(3)** (c) The temporary restraining order is in effect until a hearing is
13 held on issuance of an injunction under sub. (4). A judge or circuit court
14 commissioner shall hold a hearing on issuance of an injunction within 7 days after
15 the temporary restraining order is issued, unless the time is extended upon the
16 written consent of the parties or extended once for 7 days upon a finding that the
17 respondent has not been served with a copy of the temporary restraining order
18 although the petitioner has exercised due diligence.

19 **SECTION 291.** 813.125 (4) (a) (intro.) of the statutes is amended to read:

20 813.125 **(4)** (a) (intro.) A judge or circuit court commissioner may grant an
21 injunction ordering the respondent to cease or avoid the harassment of another
22 person, if all of the following occur:

23 **SECTION 292.** 813.125 (4) (a) 2. of the statutes is amended to read:

24 813.125 **(4)** (a) 2. The petitioner serves upon the respondent a copy of a
25 restraining order obtained under sub. (3) and notice of the time for the hearing on

ASSEMBLY BILL 380**SECTION 292**

1 the issuance of the injunction under sub. (3) (c). The restraining order or notice of
2 hearing served under this subdivision shall inform the respondent that, if the judge
3 or circuit court commissioner issues an injunction, the judge or circuit court
4 commissioner may also order the respondent not to possess a firearm while the
5 injunction is in effect.

6 **SECTION 293.** 813.125 (4) (a) 3. of the statutes is amended to read:

7 813.125 (4) (a) 3. After hearing, the judge or circuit court commissioner finds
8 reasonable grounds to believe that the respondent has violated s. 947.013.

9 **SECTION 294.** 813.125 (4m) (a) of the statutes is amended to read:

10 813.125 (4m) (a) If a judge or circuit court commissioner issues an injunction
11 under sub. (4) and the judge or circuit court commissioner determines, based on clear
12 and convincing evidence presented at the hearing on the issuance of the injunction,
13 that the respondent may use a firearm to cause physical harm to another or to
14 endanger public safety, the judge or circuit court commissioner may prohibit the
15 respondent from possessing a firearm.

16 **SECTION 295.** 813.125 (4m) (c) 2. of the statutes is amended to read:

17 813.125 (4m) (c) 2. Except as provided in par. (cg), require the respondent to
18 surrender any firearms that he or she owns or has in his or her possession to the
19 sheriff of the county in which the action under this section was commenced, to the
20 sheriff of the county in which the respondent resides or to another person designated
21 by the respondent and approved by the judge or circuit court commissioner. The
22 judge or circuit court commissioner shall approve the person designated by the
23 respondent unless the judge or circuit court commissioner finds that the person is
24 inappropriate and places the reasons for the finding on the record. If a firearm is
25 surrendered to a person designated by the respondent and approved by the judge or

ASSEMBLY BILL 380**SECTION 295**

1 circuit court commissioner, the judge or circuit court commissioner shall inform the
2 person to whom the firearm is surrendered of the requirements and penalties under
3 s. 941.29 (4).

4 **SECTION 296.** 813.125 (4m) (d) (intro.) of the statutes is amended to read:

5 813.125 (4m) (d) (intro.) A firearm surrendered under par. (c) 2. may not be
6 returned to the respondent until a judge or circuit court commissioner determines
7 all of the following:

8 **SECTION 297.** 813.125 (4m) (d) 2. of the statutes is amended to read:

9 813.125 (4m) (d) 2. That the person is not prohibited from possessing a firearm
10 under any state or federal law or by the order of any federal court or state court, other
11 than an order from which the judge or circuit court commissioner is competent to
12 grant relief.

13 **SECTION 298.** 813.125 (5) (am) of the statutes is amended to read:

14 813.125 (5) (am) The petition shall inform the respondent that, if the judge or
15 circuit court commissioner issues an injunction, the judge or circuit court
16 commissioner may also order the respondent not to possess a firearm while the
17 injunction is in effect.

18 **SECTION 299.** 814.615 (3) of the statutes is amended to read:

19 814.615 (3) The court or ~~family~~ a circuit court commissioner shall direct either
20 or both parties to pay any applicable fee under this section. If either or both parties
21 are unable to pay, the court shall grant a separate judgment for the amount of the
22 fees in favor of the county and against the party or parties responsible for the fees.

23 **SECTION 300.** 814.68 (title) of the statutes is amended to read:

24 **814.68 (title) Fees of supplemental court commissioners.**

25 **SECTION 301.** 814.68 (1) (intro.) of the statutes is amended to read:

ASSEMBLY BILL 380**SECTION 301**

1 814.68 (1) ~~PART-TIME~~ SUPPLEMENTAL COURT COMMISSIONERS. (intro.) A ~~part-time~~
2 supplemental court commissioner appointed under s. ~~757.68 (2)~~ 757.675 (1) shall
3 collect the following fees:

4 **SECTION 302.** 814.68 (1) (a) of the statutes is amended to read:

5 814.68 (1) (a) A fee of \$1 for each decision, signing or filing of a document or
6 other ministerial act required by law performed by a ~~part-time~~ supplemental court
7 commissioner. This paragraph does not apply to testimonial proceedings or
8 depositions taken before a supplemental court commissioner.

9 **SECTION 303.** 814.68 (1) (b) (intro.) of the statutes is amended to read:

10 814.68 (1) (b) (intro.) For the following duties performed by a ~~part-time~~
11 supplemental court commissioner held in the county courthouse or other court
12 facilities provided by law, reasonable compensation as fixed by the court but not more
13 than the hourly equivalent of the salary of a judge of the court:

14 **SECTION 304.** 814.68 (1) (b) 1. of the statutes is amended to read:

15 814.68 (1) (b) 1. Every attendance upon the hearing of any motion for an order
16 which a supplemental court commissioner is authorized to grant and for attendance
17 upon any motion or an official act to be done by the supplemental court commissioner.

18 **SECTION 305.** 814.68 (2). of the statutes is amended to read:

19 814.68 (2) **SUPPLEMENTARY EXAMINATIONS.** For attendance upon an examination
20 under ch. 816, a supplemental court commissioner shall collect a fee of \$15 to be paid
21 upon the issuance of the order under s. 816.03 (1). The fee shall be returned in any
22 case where it appears by affidavit filed that the order was not served upon the
23 judgment debtor. This fee is the only fee a supplemental court commissioner is
24 entitled to for proceedings under ch. 816.

25 **SECTION 306.** 816.03 (1) (b) of the statutes is amended to read:

ASSEMBLY BILL 380**SECTION 306**

1 816.03 (1) (b) A supplemental court commissioner upon application of a
2 judgment creditor shall order any judgment debtor to appear before the court
3 commissioner and answer concerning the judgment debtor's property at a time and
4 place specified in the order, within said county, in lieu of the procedure set forth in
5 par. (a).

6 **SECTION 307.** 816.035 (1) and (2) of the statutes are amended to read:

7 816.035 (1) An order under s. 816.03 (1) issued by a supplemental court
8 commissioner shall be served in the same manner as the service of a summons under
9 s. 801.11. The return on the order shall be made to the commissioner who issued the
10 order. The commissioner shall file the order and the return with the clerk of the court
11 in which the judgment involved is entered.

12 (2) Upon issuance of the order, the supplemental court commissioner shall
13 collect the fee prescribed in s. 814.68 (2) for attendance upon the examination.

14 **SECTION 308.** 818.02 (6) of the statutes is amended to read:

15 818.02 (6) In a proceeding to determine paternity or to establish or revise a
16 child support or maintenance obligation, if the court or family a circuit court
17 commissioner finds that the petitioner cannot effect service of process upon the
18 respondent despite due diligence on the part of the petitioner or after the respondent
19 is personally served but fails to appear on the return date, on the date set for the
20 pretrial hearing or on the date set for the trial.

21 **SECTION 309.** 879.61 of the statutes is amended to read:

22 **879.61 Discovery proceedings.** Any personal representative or any person
23 interested who suspects that any other person has concealed, stolen, conveyed or
24 disposed of property of the estate; or is indebted to the decedent; possesses, controls
25 or has knowledge of concealed property of the decedent; possesses, controls or has

ASSEMBLY BILL 380**SECTION 309**

1 knowledge of writings which contain evidence of or tend to disclose the right, title,
2 interest or claim of the decedent to any property; or possesses, controls or has
3 knowledge of any will of the decedent, may file a petition in the court so stating. The
4 court upon such notice as it directs, may order the other person to appear before the
5 court or a circuit court commissioner for disclosure, may subpoena witnesses and
6 compel the production of evidence and may make any order in relation to the matter
7 as is just and proper.

8 **SECTION 310.** 885.10 of the statutes is amended to read:

9 **885.10 Witness for indigent respondent or defendant.** Upon satisfactory
10 proof of the financial inability of the respondent or defendant to procure the
11 attendance of witnesses for his or her defense, the judge or supplemental court
12 commissioner, in any paternity proceeding or criminal action or proceeding, or in any
13 other case in which the respondent or defendant is represented by the state public
14 defender or by assigned counsel under s. 977.08, to be tried or heard before him or
15 her, may direct the witnesses to be subpoenaed as he or she determines is proper and
16 necessary, upon the respondent's or defendant's oath or affidavit or that of the
17 respondent's or defendant's attorney. Witnesses so subpoenaed shall be paid their
18 fees in the manner that witnesses for the state therein are paid. Determination of
19 indigency, in full or in part, under s. 977.07 is proof of the respondent's or defendant's
20 financial inability to procure the attendance of witnesses for his or her defense.

21 **SECTION 311.** 885.12 of the statutes is amended to read:

22 **885.12 Coercing witnesses before officers and boards.** If any person,
23 without reasonable excuse, fails to attend as a witness, or to testify as lawfully
24 required before any arbitrator, coroner, medical examiner, board, commission,
25 commissioner, examiner, committee, or other officer or person authorized to take

ASSEMBLY BILL 380**SECTION 311**

1 testimony, or to produce a book or paper which the person was lawfully directed to
2 bring, or to subscribe the person's deposition when correctly reduced to writing, any
3 judge of a court of record or a circuit court commissioner in the county where the
4 person was obliged to attend may, upon sworn proof of the facts, issue an attachment
5 for the person, and unless the person shall purge the contempt and go and testify or
6 do such other act as required by law, may commit the person to close confinement in
7 the county jail until the person shall so testify or do such act, or be discharged
8 according to law. The sheriff of the county shall execute the commitment.

9 **SECTION 312.** 887.26 (7) of the statutes is amended to read:

10 887.26 (7) FEES. The persons who take depositions and the witness shall be
11 entitled to the fees allowed supplemental court commissioners under s. 814.68 (1)
12 and witnesses for similar service by the law of this state, or such as may be prescribed
13 by the law of the state or country where taken.

14 **SECTION 313.** 898.02 of the statutes is amended to read:

15 **898.02 Notice to plaintiff.** The person shall cause notice to be given to the
16 plaintiff in the action, the plaintiff's agent or attorney, in writing, that at a time and
17 place specified in the notice the person will apply to the circuit judge or circuit court
18 commissioner of the county in which the person is so confined for the purpose of
19 obtaining a discharge from imprisonment.

20 **SECTION 314.** 898.04 of the statutes is amended to read:

21 **898.04 Prisoner to be examined.** At the time and place specified in the
22 notice the person shall be taken, under the custody of the jailer, the sheriff or the
23 sheriff's deputy, before the circuit judge or circuit court commissioner, who shall
24 examine the prisoner on oath concerning his or her estate and effects and the
25 disposal thereof and the prisoner's ability to pay the judgment for which he or she

ASSEMBLY BILL 380**SECTION 314**

1 is committed; and who shall also hear any other legal and pertinent evidence that
2 may be produced by the debtor or the creditor.

3 **SECTION 315.** 898.11 of the statutes is amended to read:

4 **898.11 Inability to pay fees.** If the prisoner is unable to pay in whole or in
5 part the fees of the circuit judge ~~or court commissioner~~ in the proceedings, the
6 proceedings shall continue without charge to the prisoner.

7 **SECTION 316.** 906.15 (1) of the statutes is amended to read:

8 906.15 (1) At the request of a party, the judge or a circuit court commissioner
9 shall order witnesses excluded so that they cannot hear the testimony of other
10 witnesses. The judge or circuit court commissioner may also make the order of his
11 or her own motion.

12 **SECTION 317.** 906.15 (2) (d) of the statutes is amended to read:

13 906.15 (2) (d) A victim, as defined in s. 950.02 (4), in a criminal case or a victim,
14 as defined in s. 938.02 (20m), in a delinquency proceeding under ch. 938, unless the
15 judge or circuit court commissioner finds that exclusion of the victim is necessary to
16 provide a fair trial for the defendant or a fair fact-finding hearing for the juvenile.
17 The presence of a victim during the testimony of other witnesses may not by itself
18 be a basis for a finding that exclusion of the victim is necessary to provide a fair trial
19 for the defendant or a fair fact-finding hearing for the juvenile.

20 **SECTION 318.** 906.15 (3) of the statutes is amended to read:

21 906.15 (3) The judge or circuit court commissioner may direct that all excluded
22 and non-excluded witnesses be kept separate until called and may prevent them
23 from communicating with one another until they have been examined or the hearing
24 is ended.

25 **SECTION 319.** 911.01 (1) of the statutes is amended to read:

ASSEMBLY BILL 380**SECTION 319**

1 911.01 (1) COURTS AND COURT COMMISSIONERS. Chapters 901 to 911 apply to the
2 courts of the state of Wisconsin, including municipal courts, ~~family court~~
3 ~~commissioners~~, and circuit, supplemental and municipal court commissioners, in the
4 proceedings and to the extent hereinafter set forth except as provided in s. 972.11.
5 The word “judge” in chs. 901 to 911 means judge of a court of record, municipal judge,
6 ~~family or circuit, supplemental or municipal~~ court commissioner, ~~and court~~
7 ~~commissioner~~.

8 **SECTION 320.** 938.06 (1) (a) 2. of the statutes is amended to read:

9 938.06 (1) (a) 2. The chief judge of the judicial administrative district shall
10 formulate written judicial policy governing intake and court services for juvenile
11 matters under this chapter and the director shall be charged with executing the
12 judicial policy. The chief judge shall direct and supervise the work of all personnel
13 of the court, except the work of the district attorney or corporation counsel assigned
14 to the court. The chief judge may delegate his or her supervisory functions ~~under s.~~
15 ~~938.065 (1)~~.

16 **SECTION 321.** 938.065 of the statutes is repealed.

17 **SECTION 322.** 938.208 (4) of the statutes is amended to read:

18 938.208 (4) Probable cause exists to believe that the juvenile, having been
19 placed in nonsecure custody by an intake worker under s. 938.207 or by the judge or
20 juvenile circuit court commissioner under s. 938.21 (4), has run away or committed
21 a delinquent act and no other suitable alternative exists.

22 **SECTION 323.** 938.21 (1) (a) of the statutes is amended to read:

23 938.21 (1) (a) If a juvenile who has been taken into custody is not released
24 under s. 938.20, a hearing to determine whether the juvenile shall continue to be held
25 in custody under the criteria of ss. 938.205 to 938.209 (1) shall be conducted by the

ASSEMBLY BILL 380**SECTION 323**

1 judge or juvenile a circuit court commissioner within 24 hours after the end of the
2 day that the decision to hold the juvenile was made, excluding Saturdays, Sundays
3 and legal holidays. By the time of the hearing a petition under s. 938.25 shall be filed,
4 except that no petition need be filed where a juvenile is taken into custody under s.
5 938.19 (1) (b) or (d) 2., 6. or 7. or where the juvenile is a runaway from another state,
6 in which case a written statement of the reasons for holding a juvenile in custody
7 shall be substituted if the petition is not filed. If no hearing has been held within 24
8 hours or if no petition or statement has been filed at the time of the hearing, the
9 juvenile shall be released except as provided in par. (b). A parent not present at the
10 hearing shall be granted a rehearing upon request.

11 **SECTION 324.** 938.21 (1) (b) of the statutes is amended to read:

12 938.21 (1) (b) If no petition has been filed by the time of the hearing, a juvenile
13 may be held in custody with the approval of the judge or juvenile circuit court
14 commissioner for an additional 48 hours from the time of the hearing only if, as a
15 result of the facts brought forth at the hearing, the judge or juvenile circuit court
16 commissioner determines that probable cause exists to believe that the juvenile is
17 an imminent danger to himself or herself or to others, or that probable cause exists
18 to believe that the parent, guardian or legal custodian of the juvenile or other
19 responsible adult is neglecting, refusing, unable or unavailable to provide adequate
20 supervision and care. The extension may be granted only once for any petition. In
21 the event of failure to file a petition within the 48-hour extension period provided
22 for in this paragraph, the judge or juvenile circuit court commissioner shall order the
23 juvenile's immediate release from custody.

24 **SECTION 325.** 938.21 (2) (c) of the statutes is amended to read:

ASSEMBLY BILL 380**SECTION 325**

1 938.21 (2) (c) Prior to the commencement of the hearing, the juvenile shall be
2 informed by the judge or juvenile circuit court commissioner of the allegations that
3 have been or may be made, the nature and possible consequences of this hearing as
4 compared to possible future hearings, the provisions of s. 938.18 if applicable, the
5 right to counsel under s. 938.23 regardless of ability to pay if the juvenile is not yet
6 represented by counsel, the right to remain silent, the fact that the silence may not
7 be adversely considered by the judge or juvenile circuit court commissioner, the right
8 to confront and cross-examine witnesses and the right to present witnesses.

9 **SECTION 326.** 938.21 (4) (intro.) of the statutes is amended to read:

10 938.21 (4) (intro.) If the judge or juvenile circuit court commissioner finds that
11 the juvenile should be continued in custody under the criteria of s. 938.205, he or she
12 shall enter one of the following orders:

13 **SECTION 327.** 938.21 (4m) of the statutes is amended to read:

14 938.21 (4m) ELECTRONIC MONITORING. The judge or juvenile circuit court
15 commissioner may include in an order under sub. (4) (a) or (b) a condition that the
16 juvenile be monitored by an electronic monitoring system.

17 **SECTION 328.** 938.21 (7) of the statutes is amended to read:

18 938.21 (7) DEFERRED PROSECUTION. If the judge or juvenile circuit court
19 commissioner determines that the best interests of the juvenile and the public are
20 served, he or she may enter a consent decree under s. 938.32 or order the petition
21 dismissed and refer the matter to the intake worker for deferred prosecution in
22 accordance with s. 938.245.

23 **SECTION 329.** 938.24 (5) of the statutes is amended to read:

24 938.24 (5) The intake worker shall request that a petition be filed, enter into
25 a deferred prosecution agreement or close the case within 40 days or sooner of receipt

ASSEMBLY BILL 380**SECTION 329**

1 of referral information. Before entering into a deferred prosecution agreement, the
2 intake worker shall comply with s. 938.245 (1m), if applicable. If the case is closed
3 or a deferred prosecution agreement is entered into, the district attorney, corporation
4 counsel or other official under s. 938.09 shall receive written notice of such action.
5 If the case is closed, the known victims of the juvenile's alleged act shall receive notice
6 as provided under sub. (5m), if applicable. In addition, if a deferred prosecution
7 agreement is entered into placing a juvenile in a youth village program as described
8 in s. 118.42, the judge or juvenile circuit court commissioner shall receive written
9 notice of such action and, on receipt of that notice, shall enter an order requiring
10 compliance with that agreement. A notice of deferred prosecution of an alleged
11 delinquency case shall include a summary of the facts surrounding the allegation
12 and a list of prior intake referrals and dispositions. If a law enforcement officer has
13 made a recommendation concerning the juvenile, the intake worker shall forward
14 this recommendation to the district attorney under s. 938.09. Notwithstanding the
15 requirements of this section, the district attorney may initiate a delinquency petition
16 under s. 938.25 within 20 days after notice that the case has been closed or that a
17 deferred prosecution agreement has been entered into. The judge shall grant
18 appropriate relief as provided in s. 938.315 (3) with respect to any such petition
19 which is not referred or filed within the time limits specified within this subsection.
20 Failure to object if a petition is not referred or filed within a time limit specified in
21 this subsection waives that time limit.

22 **SECTION 330.** 938.245 (3) of the statutes is amended to read:

23 938.245 (3) The obligations imposed under a deferred prosecution agreement
24 and its effective date shall be set forth in writing. If the deferred prosecution
25 agreement places the juvenile in a youth village program under sub. (2) (a) 9., the

ASSEMBLY BILL 380**SECTION 330**

1 judge or juvenile circuit court commissioner shall receive written notice that a
2 deferred prosecution agreement has been entered into and, on receipt of that notice,
3 shall enter an order requiring compliance with that agreement. The juvenile and a
4 parent, guardian and legal custodian shall receive a copy of the agreement and order,
5 as shall any agency providing services under the agreement.

6 **SECTION 331.** 938.30 (9) of the statutes is amended to read:

7 938.30 (9) If a circuit court commissioner conducts the plea hearing and accepts
8 an admission of the alleged facts in a petition brought under s. 938.12 or 938.13, the
9 judge shall review the admission at the beginning of the dispositional hearing by
10 addressing the parties and making the inquires set forth in sub. (8).

11 **SECTION 332.** 938.32 (1) (a) of the statutes is amended to read:

12 938.32 (1) (a) At any time after the filing of a petition for a proceeding relating
13 to s. 938.12 or 938.13 and before the entry of judgment, the judge or juvenile circuit
14 court commissioner may suspend the proceedings and place the juvenile under
15 supervision in the juvenile's own home or present placement or in a youth village
16 program as described in s. 118.42. The court may establish terms and conditions
17 applicable to the parent, guardian or legal custodian, and to the juvenile, including
18 any of the conditions specified in subs. (1d), (1g), (1m), (1t), (1v) and (1x). The order
19 under this section shall be known as a consent decree and must be agreed to by the
20 juvenile; the parent, guardian or legal custodian; and the person filing the petition
21 under s. 938.25. If the consent decree includes any conditions specified in sub. (1g),
22 the consent decree shall include provisions for payment of the services as specified
23 in s. 938.361. The consent decree shall be reduced to writing and given to the parties.

24 **SECTION 333.** 938.32 (1d) of the statutes is amended to read:

ASSEMBLY BILL 380**SECTION 333**

1 938.32 (1d) If the petition alleges that the juvenile has committed an act that
2 would constitute a misdemeanor if committed by an adult, if the chief judge of the
3 judicial administrative district has approved under s. 973.11 (2) a volunteers in
4 probation program established in the juvenile's county of residence and if the judge
5 or juvenile circuit court commissioner determines that volunteer supervision under
6 that volunteers in probation program will likely benefit the juvenile and the
7 community, the judge or juvenile circuit court commissioner may establish as a
8 condition under sub. (1) that the juvenile be placed with that volunteers in probation
9 program under such conditions as the judge or juvenile circuit court commissioner
10 determines are reasonable and appropriate. These conditions may include, but need
11 not be limited to, any of the following:

12 (a) A directive to a volunteer to provide for the juvenile a role model, informal
13 counseling, general monitoring and monitoring of the conditions established by the
14 judge or juvenile circuit court commissioner, or any combination of these functions.

15 (b) Any other conditions that the judge or juvenile circuit court commissioner
16 may establish under this section.

17 **SECTION 334.** 938.32 (1g) (intro.) of the statutes is amended to read:

18 938.32 (1g) (intro.) If the petition alleges that the juvenile committed a
19 violation specified under ch. 961 and if the multidisciplinary screen conducted under
20 s. 938.24 (2) shows that the juvenile is at risk of having needs and problems related
21 to the use of alcohol beverages, controlled substances or controlled substance analogs
22 and its medical, personal, family and social effects, the judge or juvenile circuit court
23 commissioner may establish as a condition under sub. (1) any of the following:

24 **SECTION 335.** 938.32 (1m) (intro.) and (a) of the statutes are amended to read:

ASSEMBLY BILL 380**SECTION 335**

1 938.32 **(1m)** The judge or juvenile circuit court commissioner may establish as
2 a condition under sub. (1) that the juvenile be placed in a teen court program if all
3 of the following conditions apply:

4 (a) The chief judge of the judicial administrative district has approved a teen
5 court program established in the juvenile's county of residence and the judge or
6 juvenile circuit court commissioner determines that participation in the teen court
7 program will likely benefit the juvenile and the community.

8 **SECTION 336.** 938.32 (1t) (a) 1. of the statutes is amended to read:

9 938.32 **(1t)** (a) 1. Subject to subd. 3., if the petition alleges that the juvenile
10 committed a delinquent act that has resulted in damage to the property of another,
11 or in actual physical injury to another excluding pain and suffering, the judge or
12 juvenile circuit court commissioner may require the juvenile as a condition of the
13 consent decree, to repair the damage to property or to make reasonable restitution
14 for the damage or injury, either in the form of cash payments or, if the victim agrees,
15 the performance of services for the victim, or both, if the judge or juvenile circuit court
16 commissioner, after taking into consideration the well-being and needs of the victim,
17 considers it beneficial to the well-being and behavior of the juvenile. Any consent
18 decree that includes a condition of restitution by a juvenile shall include a finding
19 that the juvenile alone is financially able to pay or physically able to perform the
20 services, may allow up to the date of the expiration of the consent decree for the
21 payment or for the completion of the services and may include a schedule for the
22 performance and completion of the services. Objection by the juvenile to the amount
23 of damages claimed shall entitle the juvenile to a hearing on the question of damages
24 before the amount of restitution is made part of the consent decree. Any recovery

ASSEMBLY BILL 380**SECTION 336**

1 under this subdivision shall be reduced by the amount recovered as restitution for
2 the same act under subd. 1m.

3 **SECTION 337.** 938.32 (1t) (a) 1m. of the statutes is amended to read:

4 938.32 **(1t)** (a) 1m. If the petition alleges that the juvenile has committed a
5 delinquent act that has resulted in damage to the property of another, or in actual
6 physical injury to another excluding pain and suffering, the judge or juvenile circuit
7 court commissioner may require a parent who has custody, as defined in s. 895.035
8 (1), of the juvenile, as a condition of the consent decree, to make reasonable
9 restitution for the damage or injury. Except for recovery for retail theft under s.
10 943.51, the maximum amount of any restitution ordered under this subdivision for
11 damage or injury resulting from any one act of a juvenile or from the same act
12 committed by 2 or more juveniles in the custody of the same parent may not exceed
13 the amount specified in s. 799.01 (1) (d). Any consent decree that includes a condition
14 of restitution by a parent who has custody of the juvenile shall include a finding that
15 the parent who has custody of the juvenile is financially able to pay the amount
16 ordered and may allow up to the date of the expiration of the consent decree for the
17 payment. Objection by the parent to the amount of damages claimed shall entitle the
18 parent to a hearing on the question of damages before the amount of restitution is
19 made part of the consent decree. Any recovery under this subdivision shall be
20 reduced by the amount recovered as restitution for the same act under subd. 1.

21 **SECTION 338.** 938.32 (1t) (a) 3. of the statutes is amended to read:

22 938.32 **(1t)** (a) 3. Under this paragraph, a judge or juvenile circuit court
23 commissioner may not order a juvenile who is under 14 years of age to make more
24 than \$250 in restitution or to perform more than 40 total hours of services for the
25 victim as restitution.

ASSEMBLY BILL 380**SECTION 339**

1 **SECTION 339.** 938.32 (1v) of the statutes is amended to read:

2 938.32 (1v) If the petition alleges that the juvenile is in need of protection or
3 services under s. 938.13 (6), the judge or juvenile circuit court commissioner may
4 establish as a condition under sub. (1) that the juvenile's parent, guardian or legal
5 custodian attend school with the juvenile.

6 **SECTION 340.** 938.32 (1x) of the statutes is amended to read:

7 938.32 (1x) If the petition alleges that the juvenile violated s. 943.017 and the
8 juvenile has attained the minimum age at which a juvenile may be adjudicated
9 delinquent, the judge or juvenile circuit court commissioner may require, as a
10 condition of the consent decree, that the juvenile participate for not less than 10
11 hours nor more than 100 hours in a supervised work program under s. 938.34 (5g)
12 or perform not less than 10 hours nor more than 100 hours of other community
13 service work, except that if the juvenile has not attained 14 years of age the
14 maximum number of hours is 40.

15 **SECTION 341.** 938.32 (2) (a) of the statutes is amended to read:

16 938.32 (2) (a) A consent decree shall remain in effect for up to one year unless
17 the juvenile, parent, guardian or legal custodian is discharged sooner by the judge
18 or juvenile circuit court commissioner.

19 **SECTION 342.** 938.32 (6) of the statutes is amended to read:

20 938.32 (6) The judge or juvenile circuit court commissioner shall inform the
21 juvenile and the juvenile's parent, guardian or legal custodian, in writing, of the
22 juvenile's right to object to the continuation of the consent decree under sub. (3) and
23 of the fact that the hearing under which the juvenile was placed on supervision may
24 be continued to conclusion as if the consent decree had never been entered.

25 **SECTION 343.** 940.203 (1) (b) of the statutes is amended to read:

ASSEMBLY BILL 380**SECTION 343**

1 940.203 (1) (b) “Judge” means a supreme court justice, court of appeals judge,
2 circuit court judge, municipal judge, temporary or permanent reserve judge or
3 ~~juvenile, probate, family or other~~ circuit, supplemental or municipal court
4 commissioner.

5 **SECTION 344.** 943.013 (1) (b) of the statutes is amended to read:

6 943.013 (1) (b) “Judge” means a supreme court justice, court of appeals judge,
7 circuit court judge, municipal judge, temporary or permanent reserve judge or
8 ~~juvenile, probate, family or other~~ circuit, supplemental or municipal court
9 commissioner.

10 **SECTION 345.** 946.495 of the statutes is amended to read:

11 **946.495 Violation of nonsecure custody order.** If a person has been placed
12 in nonsecure custody by an intake worker under s. 938.207 or by a judge or ~~juvenile~~
13 circuit court commissioner under s. 938.21 (4) and the person is alleged to be
14 delinquent under s. 938.12, alleged to be in need of protection or services under s.
15 938.13 (12) or has been taken into custody for committing an act that is a violation
16 of a state or federal criminal law, the person is guilty of a Class A misdemeanor if he
17 or she intentionally fails to comply with the conditions of his or her placement in
18 nonsecure custody.

19 **SECTION 346.** 967.07 of the statutes is amended to read:

20 **967.07 ~~Court~~ Circuit court commissioners.** A circuit court commissioner
21 may exercise powers or perform duties specified for a judge if such action is permitted
22 under s. 757.69.

23 **SECTION 347.** 971.20 (3) (a) of the statutes is amended to read:

24 971.20 (3) (a) In this subsection, “judge” includes a circuit court commissioner
25 who is assigned to conduct the preliminary examination.

ASSEMBLY BILL 380**SECTION 348**

1 **SECTION 348.** 973.20 (13) (c) 4. of the statutes is amended to read:

2 973.20 **(13)** (c) 4. Refer the disputed restitution issues to a circuit court
3 commissioner or other appropriate referee, who shall conduct a hearing on the
4 matter and submit the record thereof, together with proposed findings of fact and
5 conclusions of law, to the court within 60 days of the date of referral. Within 30 days
6 after the referee's report is filed, the court shall determine the amount of restitution
7 on the basis of the record submitted by the referee and incorporate it into the
8 sentence or probation order imposed. The judge may direct that hearings under this
9 subdivision be recorded either by audio recorder or by a court reporter. A transcript
10 is not required unless ordered by the judge.

11 **SECTION 349.** 977.05 (6) (b) 2. of the statutes is amended to read:

12 977.05 **(6)** (b) 2. The judge or family circuit court commissioner before whom
13 the proceedings shall be held certifies to the state public defender that the person will
14 not be incarcerated if he or she is found in contempt of court.

15 **SECTION 350.** 979.05 (1) of the statutes is amended to read:

16 979.05 **(1)** An inquest shall be conducted by a circuit judge or a circuit court
17 commissioner.

18 **SECTION 351.** 979.05 (2) of the statutes is repealed and recreated to read:

19 979.05 **(2)** The inquest shall be conducted before a jury unless the district
20 attorney, coroner or medical examiner requests that the inquest be conducted before
21 the judge or circuit court commissioner only. If the inquest is to be conducted before
22 a jury, a sufficient number of names of prospective jurors shall be selected from the
23 prospective juror list for the county in which the inquest is to be held by the clerk of
24 circuit court in the manner provided in s. 756.06. The judge or circuit court
25 commissioner conducting the inquest shall summon the prospective jurors to appear

ASSEMBLY BILL 380**SECTION 351**

1 before the judge or circuit court commissioner at the time fixed in the summons. The
2 summons may be served by mail, or by personal service if the judge, circuit court
3 commissioner or district attorney determines personal service to be appropriate. The
4 summons shall be in the form used to summon petit jurors in the circuit courts of the
5 county. Any person who fails to appear when summoned as an inquest juror is
6 subject to a forfeiture of not more than \$40. The inquest jury shall consist of 6 jurors.
7 If 6 jurors do not remain from the number originally summoned after establishment
8 of qualifications, the judge or circuit court commissioner conducting the inquest may
9 require the clerk of the circuit court to select sufficient additional jurors' names.
10 Those persons shall be summoned forthwith by the sheriff of the county.

11 **SECTION 352.** 979.05 (3) of the statutes is repealed and recreated to read:

12 979.05 (3) The judge or circuit court commissioner shall examine on oath or
13 affirmation each person who is called as a juror to discover whether the juror is
14 related by blood or marriage to the decedent, any member of the decedent's family,
15 the district attorney, any other attorney appearing in the case, any members of the
16 office of the district attorney or any other attorney appearing in the case or has
17 expressed or formed any opinion regarding the matters being inquired into or is
18 aware of or has any bias or prejudice concerning the matters being inquired into in
19 the inquest. If any prospective juror is found to be not indifferent or is found to have
20 formed an opinion which cannot be laid aside, that juror shall be excused. The judge
21 or circuit court commissioner may select one or more alternate jurors if the inquest
22 is likely to be protracted. This subsection does not limit the right of the district
23 attorney to supplement the judge's or circuit court commissioner's examination of
24 any prospective jurors as to qualifications.

25 **SECTION 353.** 979.05 (4) of the statutes is amended to read:

ASSEMBLY BILL 380**SECTION 353**

1 979.05 (4) When 6 jurors have been selected, the judge or circuit court
2 commissioner shall administer to them an oath or affirmation which shall be
3 substantially in the following form:

4 You do solemnly swear (affirm) that you will diligently inquire and determine
5 on behalf of this state when, and in what manner and by what means, the person
6 known as who is now dead came to his or her death and that you will return
7 a true verdict thereon according to your knowledge, according to the evidence
8 presented and according to the instructions given to you by the (judge) (circuit
9 court commissioner).

10 **SECTION 354.** 979.05 (5) of the statutes is amended to read:

11 979.05 (5) Prior to the submission of evidence to the jury, the judge or circuit
12 court commissioner may instruct the jury on its duties and on the substantive law
13 regarding the issues which may be inquired into before the jury. The district attorney
14 may, at any time during the course of the inquest, make statements to the jury
15 relating to procedural or evidentiary matters he or she and the judge or circuit court
16 commissioner deem appropriate. Section 972.12 applies to the conduct of the inquest
17 jury.

18 **SECTION 355.** 979.05 (6) of the statutes is amended to read:

19 979.05 (6) The judge or circuit court commissioner conducting the inquest may
20 order that proceedings be secret if the district attorney so requests or concurs.

21 **SECTION 356.** 979.06 (1) of the statutes is amended to read:

22 979.06 (1) The judge or circuit court commissioner may issue subpoenas for
23 witnesses at the request of the coroner or medical examiner and shall issue
24 subpoenas for witnesses requested by the district attorney. Subpoenas are
25 returnable at the time and place stated therein. Persons who are served with a

ASSEMBLY BILL 380**SECTION 356**

1 subpoena may be compelled to attend proceedings in the manner provided in s.
2 885.12.

3 **SECTION 357.** 979.06 (2) of the statutes is amended to read:

4 979.06 (2) The judge or circuit court commissioner conducting the inquest and
5 the district attorney may require by subpoena the attendance of one or more expert
6 witnesses, including physicians, surgeons and pathologists, for the purposes of
7 conducting an examination of the body and all relevant and material scientific and
8 medical tests connected with the examination and testifying as to the results of the
9 examination and tests. The expert witnesses so subpoenaed shall receive reasonable
10 fees determined by the district attorney and the judge or circuit court commissioner
11 conducting the inquest.

12 **SECTION 358.** 979.06 (3) of the statutes is amended to read:

13 979.06 (3) Any witness examined at an inquest may have counsel present
14 during the examination of that witness. The counsel may not examine or
15 cross-examine his or her client, cross-examine or call other witnesses or argue
16 before the judge or circuit court commissioner holding the inquest.

17 **SECTION 359.** 979.06 (4) (intro.) of the statutes is amended to read:

18 979.06 (4) (intro.) The judge or circuit court commissioner shall administer an
19 oath or affirmation to each witness which shall be substantially in the following
20 form:

21 **SECTION 360.** 979.06 (5) of the statutes is amended to read:

22 979.06 (5) The judge or circuit court commissioner conducting the inquest shall
23 cause the testimony given by all witnesses to be reduced to writing or recorded and
24 may employ stenographers to take and transcribe all of the testimony. The
25 stenographer shall receive reimbursement at a reasonable rate for each appearance

ASSEMBLY BILL 380**SECTION 360**

1 and transcription at rates in accordance with the customary charges in the area for
2 similar services.

3 **SECTION 361.** 979.08 (1) of the statutes is amended to read:

4 979.08 (1) When the evidence is concluded and the testimony closed, the judge
5 or circuit court commissioner shall instruct the jury on its duties and on the
6 substantive law regarding the issues inquired into before the jury. The district
7 attorney shall prepare a written set of appropriate requested instructions and shall
8 submit them to the judge or circuit court commissioner who, together with the
9 district attorney, shall compile the final set of instructions which shall be given. The
10 instructions shall include those criminal offenses for which the judge or circuit court
11 commissioner believes a reasonable jury might return a verdict based upon a finding
12 of probable cause.

13 **SECTION 362.** 979.08 (3) (intro.) of the statutes is amended to read:

14 979.08 (3) (intro.) The jury shall retire to consider its verdict after hearing all
15 of the testimony and evidence, making all necessary inquiries and having been
16 instructed in the law. The judge or circuit court commissioner shall provide the jury
17 with one complete set of written instructions providing the substantive law to be
18 applied to the issues to be decided. The verdict shall be in a form which permits the
19 following findings:

20 **SECTION 363.** 979.08 (6) of the statutes is amended to read:

21 979.08 (6) Any verdict so rendered, after being validated and signed by the
22 judge or circuit court commissioner, together with the record of the inquest, shall be
23 delivered to the district attorney for consideration. After considering the verdict and
24 record, the district attorney may deliver the entire inquest record or any part thereof
25 to the coroner or medical examiner for safekeeping.

