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State of Wisconsin  
1997 - 1998 LEGISLATURE

LRB-5132/P1

RPN:km

D Note

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uj

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

~~check X-ref.  
if repeals, if any,  
and sections affected~~

repeal

1 **AN ACT to repeal** 757.68 (3) and (4), 757.69 (1) (k), 757.69 (6), 757.72 (5), 757.72  
2 (6), 757.72 (7), 767.17 and 799.206; **to renumber** 813.125 (1) (a) and (b); **to**  
3 **renumber and amend** 757.68 (2), 757.68 (5), 757.69 (3), 757.69 (4) and (5),  
4 757.69 (7) and 757.695; **to amend** 48.065 (1), 48.30 (9), 51.10 (4m) (d), 51.20 (1)  
5 (c), 51.45 (12) (b) (intro.), 51.45 (12) (c) (intro.), 51.45 (12) (c) l., 51.45 (13) (dm),  
6 59.37, 59.64 (1) (c), 59.64 (1) (d) (intro.), 59.64 (1) (e), 59.64 (1) (f), 59.64 (1) (g)  
7 4., 59.79 (5), 63.03 (2) (z), 75.43, 101.02 (5) (c), 103.005 (5) (c), 133.10 (1), 133.11  
8 (l), 171.04 (1), 171.05, 171.06, 196.24 (2), 757.23, 757.68 (title), 757.69 (title),  
9 757.69 (1) (b), 757.69 (1) (g), 757.69 (2) (intro.), 757.69 (2) (a), 757.70 (2), 757.81  
10 (2), 765.16 (5), 767.13 (title), 767.13 (1), 767.13 (2), 767.13 (4), 767.458 (1m),  
11 767.46 (1), 767.465 (2) (a), 782.01 (3), 782.03, 782.28, 799.05 (7) (intro.), 799.06  
12 (1), 799.11 (3), 799.20 (4), 799.207 (title), 799.207 (1) (a), 799.207 (1) (b), 799.207  
13 (1) (e), 799.207 (2) (intro.), 799.207 (3) (b), 799.209 (1) to (4), 799.21 (3) (b),  
14 799.21 (4), 799.24 (l), 799.24 (3), 799.26 (1), 807.04, 807.09 (l), 812.30 (2),  
15 813.12 (3) (d), 813.12 (4m) (a) 2., 813.125 (1) (intro.), 814.61 (12) (b) 3., 814.612

*repeal*

1 (2), 816.03 (1) (b), 816.035 (1) and (2), 879.61, 885.10, 885.12, 887.26 (7), 898.02,  
 2 898.04, 898.11, 906.15, 911.01 (1), 938.065 (1), 938.30 (9), 940.203 (1) (b),  
 3 943.013 (1) (b), 967.07, 971.20 (3) (a), 973.20 (13) (c) 4., 979.05 (1), 979.05 (4),  
 4 979.05 (5), 979.05 (6), 979.06 (1), 979.06 (2), 979.06 (3), 979.06 (4) (intro.),  
 5 979.06 (5), 979.08 (1), 979.08 (3) (intro.), 979.08 (6), 979.08 (7) and 979.09; to  
 6 **repeal and recreate** 17.16 (1), 757.68 (1), 757.69 (1) (intro.), 757.72 (4), 814.68,  
 7 979.05 (2) and 979.05 (3); and **to create** 753.36 (title), 757.68 (2m), 757.69 (2m),  
 8 813.122 (1) (e), 813.123 (1) (cm) and 813.125 (1) (bg) of the statutes; **relating**  
 9 to: powers, responsibilities and appointment of ~~judicial court commissioners~~  
 10 ~~and supplemental~~ court commissioners.

**Analysis by the Legislative Reference Bureau**

This is a preliminary draft. An analysis will be provided in a later version.

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

✓\*\*\*NOTE: I did not change s. 13.24 (1), thus allowing any court commissioner, including supplemental court commissioners and municipal court commissioners to take depositions of witnesses in contested election cases. OK?

11 **SECTION 1.** 17.16 (1) of the statutes, as affected by 1996 Supreme Court Order  
 12 96-08, is repealed and recreated to read:

13 17.16 (1) Removals from office at pleasure shall be made by order, a copy of  
 14 which shall be filed as provided by sub. (8), except that a copy of the order of removal  
 15 of a ~~judicial~~ <sup>circuit</sup> court commissioner shall be filed in the office of the clerk of the circuit  
 16 court.

17 **SECTION 2.** 48.065 (1) of the statutes is amended to read:

18 48.065 (1) The board of supervisors of any county may authorize the chief judge  
 19 of the judicial administrative district to appoint one or more ~~judicial~~ <sup>circuit</sup> court

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 16  
 Insert  
 2-16 17

*restore* *to assist the court*

1 ~~commissioners to serve as~~ *to assist the court* part-time or full-time juvenile court commissioners who  
 2 shall serve at the discretion of the chief judge. A juvenile court commissioner shall  
 3 be licensed to practice law in this state and shall have been so licensed for at least  
 4 2 years immediately prior to appointment and shall have a demonstrated interest in  
 5 the welfare of children. *in matters affecting juveniles* The chief judge may assign law clerks, bailiffs and deputies  
 6 to the court commissioner. The chief judge shall supervise ~~juvenile court~~  
 7 ~~commissioners~~, law clerks, bailiffs and deputies, except that the chief judge may  
 8 delegate any of those duties.

*Insert, 3-8*

SECTION 3. 48.30 (9) of the statutes is amended to read:

10 48.30 (9) If a ~~juvenile~~ *circuit* court commissioner conducts the plea hearing and  
 11 accepts an admission of the alleged facts in a petition brought under s. 48.13, the  
 12 judge shall review the admission at the beginning of the dispositional hearing by  
 13 addressing the parties and making the inquiries set forth in sub. (8).

*Insert 3-13*

*\*\*\*NOTE: I added "juvenile" to this section of the statutes to be consistent with the rest of this chapter.*

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

15 51.10 (4m) (d) If a patient admitted under par. (a) 1. has not signed a voluntary  
 16 admission application within 7 days after admission, the patient, the guardian ad  
 17 litem and the physician who signed the admission request shall appear before the  
 18 judge or ~~judicial~~ *circuit* court commissioner of the court assigned to exercise probate  
 19 jurisdiction for the county in which the facility is located to determine whether the  
 20 patient shall remain in the facility as a voluntary patient. If the judge or ~~judicial~~ *circuit*  
 21 court commissioner determines that the patient desires to leave the facility, the  
 22 facility shall discharge the patient. If the facility has reason to believe the patient

1 is eligible for commitment under s. 51.20, the facility may initiate procedures for  
2 involuntary commitment.

3 **SECTION 5.** 51.20 (1) (c) of the statutes is amended to read:

4 51.20 (1) (c) The petition shall contain the names and mailing addresses of the  
5 petitioners and their relation to the subject individual, and shall also contain the  
6 names and mailing addresses of the individual's spouse, adult children, parents or  
7 guardian, custodian, brothers, sisters, person in the place of a parent and person  
8 with whom the individual resides or lives. If this information is unknown to the  
9 petitioners or inapplicable, the petition shall so state. The petition may be filed in  
10 the court assigned to exercise probate jurisdiction for the county where the subject  
11 individual is present or the county of the individual's legal residence. If the judge of  
12 the court or a ~~judicial~~ <sup>circuit</sup> court commissioner who handles probate matters is not  
13 available, the petition may be filed and the hearing under sub. (7) may be held before  
14 a judge or ~~judicial~~ <sup>circuit</sup> court commissioner of any circuit court for the county. For the  
15 purposes of this chapter, duties to be performed by a court shall be carried out by the  
16 judge of the court or a ~~judicial~~ <sup>circuit</sup> court commissioner of the court who is an attorney and  
17 is designated by the judge to so act, in all matters prior to a final hearing under this  
18 section. The petition shall contain a clear and concise statement of the facts which  
19 constitute probable cause to believe the allegations of the petition. The petition shall  
20 be sworn to be true. If a petitioner is not a petitioner having personal knowledge as  
21 provided in par. (b), the petition shall contain a statement providing the basis for his  
22 or her belief.

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

24 51.45 (12) (b) (intro.) The physician, spouse, guardian or a relative of the person  
25 sought to be committed, or any other responsible person, may petition a ~~judicial~~ <sup>circuit</sup> court

1 commissioner or the circuit court of the county in which the person sought to be  
 2 committed resides or is present for commitment under this subsection. The petition  
 3 shall:

4 **SECTION 7.** 51.45 (12) (c) (intro.) of the statutes is amended to read:

5 51.45 (12) (c) (intro.) Upon receipt of a petition under par. (b), the ~~judicial~~ <sup>circuit</sup> court-  
 6 commissioner or court shall:

7 **SECTION 8.** 51.45 (12) (c) 1. of the statutes is amended to read:

8 51.45 (12) (c) 1. Determine whether the petition and supporting affidavits  
 9 sustain the grounds for commitment and dismiss the petition if the grounds for  
 10 commitment are not sustained thereby. If the grounds for commitment are sustained  
 11 by the petition and supporting affidavits, the court or ~~judicial~~ <sup>circuit</sup> court commissioner  
 12 shall issue an order temporarily committing the person to the custody of the county  
 13 department pending the outcome of the preliminary hearing under sub. (13) (d).

14 **SECTION 9.** 51.45 (13) (dm) of the statutes is amended to read:

15 51.45 (13) (dm) For the purposes of this section, duties to be performed by a  
 16 court shall be carried out by the judge of such court or a ~~judicial~~ <sup>circuit</sup> court commissioner  
 17 of such court who is an attorney and is designated by the judge to so act, in all matters  
 18 prior to a final hearing under this subsection.

19 **SECTION 10.** 59.37 of the statutes is amended to read:

20 **59.37 Service when no coroner.** Whenever there is a vacancy in the office  
 21 of coroner, or when the coroner is absent from the county, sick or unable to perform  
 22 the duties of that office, or for any reason, except the nonpayment of legal fees,  
 23 refuses to serve and execute legal process against the sheriff in any action  
 24 commenced in any court of record within the county for which the coroner was or  
 25 should have been elected, any judge of a court of record or ~~judicial~~ <sup>circuit</sup> court commissioner

1 of the county may, on proof of the vacancy, sickness, absence or refusal to serve and  
2 execute such process, by an order to be endorsed on such process and addressed to  
3 him or her, empower any citizen of the county in which such process is to be served  
4 and executed to serve and execute the same; and that order shall be sufficient  
5 authority to the person therein named to serve and execute such process with like  
6 powers, liabilities and fees as the coroner.

Insert 6  
6-6  
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SECTION 11. 59.64 (1) (c) of the statutes is amended to read:

(8) 59.64 (1) (c) **Of judicial officers.** ~~Court Judicial~~ <sup>Circuit</sup> and supplemental court  
9 commissioners shall, on or before the first Monday of November in each year, forward  
10 to the clerk of their respective counties a correct statement of all actions or  
11 proceedings had before them, during the immediately preceding year, in which the  
12 county became liable for costs, giving the names of the parties in each action or  
13 proceeding, the nature and result of the same, the amount of costs in detail in each  
14 case and what items, if any, have been paid and the amount thereof. The clerk shall  
15 file such statements in his or her office. Any such officer who neglects to make and  
16 return such statements within the time prescribed in this paragraph shall not  
17 receive any compensation from the county for any service rendered by him or her in  
18 any criminal case or proceeding during the year next preceding the time when the  
19 statement is required to be made and returned.

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

21 59.64 (1) (d) (intro.) **Of court officers; certification; audit by district attorney;**  
22 *waiver.* Fees of officers, in any action or proceeding before a ~~judicial~~ <sup>CIRCUIT</sup> or supplemental  
23 court commissioner, shall be certified to and allowed by the board in the following  
24 manner:

SECTION 13. 59.64 (1) (e) of the statutes is amended to read:

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1

59.64 (1) (e) Fees **for** statements and certificates. Every ~~judicial and~~ <sup>circuit or</sup> supplemental court commissioner shall receive from the treasurer \$1 per page for making statements and returns required by par. (c) and \$1 for making each certificate required by par. (d). All such statements and certificates shall be transmitted to the clerk by certified mail and for transmitting the statements and certificates the court commissioner shall receive \$1.

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SECTION 14. 59.64 (1) (f) of the statutes is amended to read:

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

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SECTION 15. 59.64 (1) (g) 4. of the statutes is amended to read:

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59.64 (1) (g) 4. Any judge or ~~judicial or supplemental~~ court commissioner, juror, witness, interpreter, attorney, guardian ad litem or recipient of transcript fees who makes, signs or endorses any such certificate or order which is untrue in respect to anything material, which he or she knows to be false, or which he or she does not have

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good reason to believe is true, shall be punished as provided in s. 946.12.

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\*\*\* I did not amend s. 59.64 (1)(g) 4, thus making all court commissioners, including municipal court commissioners, subject to penalties under s. 946.12. ok? =

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(NOTE:)

SECTION 16. 59.79 (5) of the statutes is amended to read:

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59.79 (5) **FEE FOR CERTAIN MARRIAGE CEREMONIES.** Enact an ordinance imposing

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a fee to be paid in advance to the clerk for each marriage ceremony performed by a

21

judge or a ~~judicial~~ <sup>circuit</sup> or supplemental court commissioner specified in s. 765.16 (5) in the courthouse, safety building or children's court center during hours when any office in those public buildings is open for the transaction of business. The amount of the fee shall be determined by the board.

25

SECTION 17. 63.03 (2) (z) of the statutes is amended to read:

Circuit

1 63.03 (2) (z) Full-time ~~Judicial~~ court commissioners under s. 757.68 (1). Any  
 2 person qualified and acting as a ~~judicial~~ court commissioner on August 1, 1978, shall  
 3 be considered a ~~judicial~~ <sup>Circuit</sup> court commissioner and shall continue in the classified  
 4 county civil service but any person appointed as a ~~judicial~~ court commissioner after  
 5 August 1, 1978, shall be in the unclassified (exempt) civil service.

\*\*\*\*NOTE: The last sentence is based on a sentence currently in section 757.68(1) of the statutes. Is this last sentence still necessary?

✓  
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 insert  
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SECTION 18. 75.43 of the statutes is amended to read:

7 **75.43 Election to receive deposit; costs.** The county may, at any time  
 8 within 20 days after receiving an answer showing that a deposit has been made by  
 9 any defendant or defendants as provided in s. 75.42, give notice to such defendant  
 10 or defendants that it elects to receive such deposit and that it will, at a time specified  
 11 in such notice, apply to the clerk of the circuit court, circuit judge or a ~~judicial~~ <sup>Circuit</sup> court  
 12 commissioner to adjust the costs and disbursements which said, defendant or  
 13 defendants ought to pay, and that upon the payment of the costs and disbursements  
 14 so adjudged the county will release to such, defendant or defendants all right, title  
 15 and claim which it has to the parcel or parcels of land on account of which ~~such~~  
 16 deposit is made by virtue of any deed made for the nonpayment of taxes; and unless  
 17 such costs are paid within 20 days after the same shall have been so adjusted the  
 18 clerk of the court shall, upon presentation of an affidavit showing the nonpayment  
 19 thereof, enter judgment therefor in favor of the county and against the defendant,  
 20 which shall be enforced as other money judgments.

SECTION 19. 101.02 (5) (c) of the statutes is amended to read:

21 101.02 (5) (c) In the discharge of his or her duties such agent shall have every  
 22 power of an inquisitorial nature granted in this subchapter to the department, the  
 23



1 same powers as a sunnlemental court commissioner with regard to the taking of  
2 depositions and all powers granted by law to a supplemental court commissioner  
3 relative to depositions.

4 **SECTION 20.** 103.005 (5) (c) of the statutes is amended to read:

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

10 **SECTION 21.** 133.10 (1) of the statutes is amended to read:

11 133.10 (1) The examination of any party, or if a corporation or limited liability  
12 company be a party, of the president, secretary, other principal officer or the general  
13 managing agent thereof, or of the person who was such president, secretary, officer  
14 or agent at the time of the occurrence of the facts made the subject of the  
15 examination, or of any person acting for another or for a corporation, limited liability  
16 company or partnership, other than as a witness on a trial, may be taken by  
17 deposition at the instance of the department of justice in any such action or  
18 proceeding at any time between the commencement thereof and final judgment.  
19 Such deposition shall be taken within the state before a judge at chambers or a  
20 ~~judge~~ <sup>circuit</sup> or supplemental court commissioner on previous notice to such party and  
21 any other adverse party or the attorney thereof of at least 5 days, and may be taken  
22 without the state.

23 **SECTION 22.** 133.11 (1) of the statutes is amended to read:

24 133.11 (1) Whenever the attorney general files with any ~~judicial~~ <sup>circuit</sup> or  
25 suonlemental court commissioner a statement that the attorney general has reason

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

8 **SECTION 23.** 171.04 (1) of the statutes is amended to read:

9 171.04 **(1)** If any property delivered to any forwarding merchant, wharfinger  
10 or warehouse keeper, for carriage or storage, is in a state of decay or manifestly liable  
11 to immediate damage and decay, the person in whose custody the property is, the  
12 person's agent or attorney, may make an affidavit of this fact, and present the  
13 affidavit to a circuit, judge or ~~judicial~~<sup>circuit</sup> court commissioner for the county in which the  
14 property is located, and the circuit judge or ~~judicial~~<sup>circuit</sup> court commissioner shall  
15 immediately make an order requiring the sheriff or any constable of the county to  
16 immediately inspect the property, and directing him or her, if it is found to be in a  
17 state of decay or manifestly liable to immediate damage or decay, to summarily sell  
18 the property without notice.

19 **SECTION 24.** 171.05 of the statutes is amended to read:

20 **171.05 Perishable property, held otherwise, how disposed of.** If any  
21 property is perishable or subject to decay by keeping, the person in whose custody  
22 the property is, the person's agent or attorney, may make an affidavit of this fact and  
23 present the affidavit to a circuit judge or ~~judicial~~<sup>circuit</sup> court commissioner for the county  
24 in which the property is located, and the judge or ~~judicial~~<sup>circuit</sup> court commissioner shall  
25 immediately make an order requiring the sheriff or any constable of the county to

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

22 **SECTION 25.** 171.06 of the statutes is amended to read:

23 **171.06 Unclaimed property, how disposed of.** When any property is not  
24 perishable or subject to decay and is not claimed and taken away within one year  
25 after it was received, it may be sold as follows: The person in whose custody the

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

1 SECTION 26. 196.24 (2) of the statutes is amended to read:

2 196.24 (2) In the discharge of his or her duties, an agent appointed under sub.  
3 (1) shall have any inquisitional power granted to the commission and the power of  
4 a supplemental court commissioner to take depositions under s. ~~757.69(3)~~ 753.36(2).

Insert 5  
13-5 6

(b).

5 SECTION 27. 753.36 (title) of the statutes is created to read:

6 753.36 (title) **Supplemental court commissioners.**

7 SECTION 28, 757.23 of the statutes, as affected by 1997 Wisconsin Act 27, is  
8 amended to read:

9 **757.23 Court commissioner, when disqualified.** A ~~municipal court~~  
10 ~~commissioner, a~~ court commissioner, or any judge acting as a court commissioner,  
11 shall not act or take part in the decision of, or make any order in any matter or  
12 proceeding in which he or she is a party, or in which his or her rights would be in any  
13 manner affected by his or her decision or order thereon, or in which he or she is  
14 interested, or in which his or her law partner, or any person connected with him or  
15 her as employer, employe or clerk, or in the law business in any manner, shall be  
16 interested or appear as a party, agent, attorney or counsel. Any ~~municipal court~~  
17 ~~commissioner,~~ court commissioner or judge, acting as a court commissioner, violating  
18 this section shall forfeit \$25 for each violation, and shall also be subject to removal  
19 from office.

Insert 20  
13-20 21

20 SECTION 29. 757.68 (title) of the statutes is amended to read:

21 757.68 (title) **Court ~~Judicial~~ Circuit court commissioners.**

22 SECTION 30. 757.68 (1) of the statutes is repealed and recreated to read:

23 757.68 (1) In every county organized for judicial purposes, the county board  
24 shall establish within the unclassified service the position of family court  
25

*The family court commissioner shall be a circuit court commissioner.*

*Notes*

1 commissioner and such additional ~~judicial~~<sup>circuit</sup> court commissioner positions as needed  
 2 for the efficient administration of judicial business within the circuit courts of the  
 3 county. The ~~positions of~~<sup>positions of</sup> family court commissioner and ~~judicial~~<sup>circuit</sup> court commissioners  
 4 may be full-time or part-time. Each ~~judicial~~<sup>circuit</sup> court commissioner shall take and file  
 5 the official oath in the office of the clerk of the circuit court of the county for which  
 6 appointed before performing any duty of the office. Chapter 75 of the supreme court  
 7 rules shall govern the qualifications for, and appointment, supervision, training,  
 8 evaluation and discipline of, ~~general~~<sup>circuit</sup> court commissioners.

9 SECTION 31. 757.68 (2) of the statutes is renumbered 753.36 (1) and amended  
 10 to read:

11 753.36 (1) (title) ~~PART-TIME COURT COMMISSIONERS~~. In each county the circuit  
 12 judges shall appoint ~~such~~ the number of ~~pa&-&me~~ supplemental court  
 13 commissioners as the proper transaction of business requires ~~subject to the following~~  
 14 ~~exception: except that~~ in counties having a population of 200,000 or more each judge  
 15 may appoint not more than 2 ~~such~~ supplemental commissioners and ~~in counties~~  
 16 ~~having a population of less than 200,000 each judge shall, as nearly as possible,~~  
 17 ~~appoint an equal number of commissioners within the county.~~ In all counties the  
 18 appointments shall be subject to the approval of a majority of the circuit judges for  
 19 the county Appointments shall be in writing and shall be filed in the office of the  
 20 clerk of the circuit court. All court commissioners appointed after May 16, 1978,  
 21 other than official court reporters acting under s. 814.68 (1) (b) performing duties or  
 22 exercising powers specified for court reporters, shall be attorneys licensed to practice  
 23 in this state. The appointing judge may remove, at will and without cause, any  
 24 supplemental court commissioner appointed by the judge or the judge's predecessor  
 25 in office. Unless he or she is so removed, the term of each supplemental court

1 commissioner shall continue until the expiration of the term of the appointing judge  
2 ~~and until the successor of the commissioner is appointed and qualified.~~ Each  
3 supplemental court commissioner shall take and file the official oath in the office of  
4 clerk of the circuit court of the county for which appointed before performing any  
5 duty of the office.

6 **SECTION 32.** 757.68 (2m) of the statutes is created to read:

7 757.68 **(2m)** In counties having a population of 500,000 or more, at least one  
8 full-time ~~judicial~~<sup>circuit</sup> court commissioner position shall be established to assist in the  
9 administration of actions under ch. 799. The county board shall set the salary of a  
10 person appointed to be a full-time ~~judicial~~<sup>circuit</sup> court commissioner under this subsection.

11 **SECTION 33.** 757.68 (3) and (4) of the statutes are repealed.

12 **SECTION 34.** 757.68 (5) of the statutes is renumbered 753.36 (6) and amended  
13 to read:

14 753.36 (6) (title) ~~FEES. Part-time~~ Supplemental court commissioners  
15 appointed under sub. ~~(2)~~ (1) shall collect the fees prescribed in s. 814.68 (1).

16 **SECTION 35.** 757.69 (title) of the statutes is amended to read:

17 757.69 (title) **Powers and duties of ~~judicial~~<sup>circuit</sup> court commissioners.**

18 **SECTION 36.** 757.69 (1) (intro.) of the statutes is repealed and recreated to read:

19 757.69 **(1)** (intro.) An order under SCR 75.02 appointing a ~~judicial~~<sup>circuit</sup> court  
20 commissioner shall confer all the powers and duties of a ~~judicial~~<sup>circuit</sup> court commissioner  
21 allowed under state law or shall specify the duties that a ~~judicial~~<sup>circuit</sup> court commissioner  
22 may perform, including the following:

23 **SECTION 37.** 757.69 (1) (b) of the statutes is amended to read:

24 757.69 **(1)** (b) In criminal matters issue summonses, arrest warrants or search  
25 warrants ~~and~~, conduct initial appearances of persons arrested ~~and~~, set bail ~~to the~~

1 ~~same extent as a judge. At the initial appearance, the court commissioner shall,~~  
2 ~~when necessary, inform the defendant in accordance with s. 970.02 (1). If the~~  
3 ~~defendant appears or claims to be unable to afford counsel, the court commissioner,~~  
4 ~~in accordance with s. 970.02 (6), may and~~ refer the person to the authority for  
5 indigency determinations specified under s. 977.07 (1). ~~If the court commissioner is~~  
6 ~~a full-time A judicial~~ <sup>circuit</sup> court commissioner, ~~he or she~~ may conduct the preliminary  
7 examination and arraignment ~~to the same extent as a judge~~ and, with the consent  
8 of both the state and the defendant, ~~may~~ accept a guilty plea. If a court refers a  
9 disputed restitution issue under s. 973.20 (13) (c) 4., the ~~judicial~~ <sup>circuit</sup> court commissioner  
10 shall conduct the hearing on the matter in accordance with s. 973.20 (13) (c) 4.

11 SECTION 38. 757.69 (1) (g) of the statutes is amended to read:

12 757.69 (1) (g) When assigned to the court assigned jurisdiction under chs. 48  
13 and 938, a ~~judicial~~ <sup>circuit</sup> court commissioner may, under ch. 48 or 938, issue summonses  
14 and warrants, order the release or detention of children apprehended, conduct  
15 detention and shelter care hearings, conduct preliminary appearances, conduct  
16 uncontested proceedings under ss. 48.13, 938.12, 938.13 and 938.18, enter into  
17 consent decrees and exercise the powers and perform the duties specified in par. (j)  
18 or (m), whichever is applicable, in proceedings under s. 813.122 or 813.125 in which  
19 the respondent is a child. Contested waiver hearings under s. 938.18 and  
20 dispositional hearings under ss. 48.335 and 938.335 shall be conducted by a judge.  
21 When acting in an official capacity and assigned to the children's court center, a  
22 ~~judicial~~ <sup>circuit</sup> court commissioner shall sit at the children's court center or such other  
23 facility designated by the chief judge. Any decision by the commissioner shall be  
24 reviewed by the judge of the branch of court to which the case has been assigned,  
25 upon motion of any party. Any determination, order or ruling by the commissioner



1 may be certified to the branch of court to which such case has been assigned upon a  
2 motion of any party for a hearing de novo.

3 **SECTION 39.** 757.69 (1) (k) of the statutes is repealed.

4 **SECTION 40.** 757.69 (2) (intro.) of the statutes is amended to read:

5 757.69 (2) (intro.) A judge may refer to a ~~judicial~~<sup>circuit</sup> court commissioner appointed  
6 under ~~s. 48.065, 757.68, 757.72, 767.13 or 938.065~~ SCR 75.02 cases in which:

7 **SECTION 41.** 757.69 (2) (a) of the statutes is amended to read:

8 757.69 (2) (a) The trial of an issue of fact requires the examination of an  
9 account, in which case the ~~judicial~~<sup>circuit</sup> court commissioner may be directed to report upon  
10 any specific question of fact involved therein.

11 **SECTION 42.** 757.69 (2m) of the statutes is created to read:

12 **757.69 (2m)** ~~Judicial~~<sup>Circuit</sup> court commissioners ~~have~~<sup>may exercise, under their own authority,</sup> all of the powers listed under  
13 s. 753.36 (2).

14 **SECTION 43.** 757.69 (3) of the statutes is renumbered 753.36 (2), and 753.36 (2)  
15 (intro.) and (g), as renumbered, is amended to read:

16 753.36 (2) (intro.) ~~Court Supplemental court~~ court commissioners appointed under  
17 ~~s. 48.065, 757.68, 757.72, 767.13 or 938.065~~ may<sup>2</sup> under their own authority:

18 (g) Except as provided in s. 767.13 (5) (c), conduct a paternity proceeding  
19 according to the procedures set out in ch. 767 whenever a ~~judicial~~<sup>circuit</sup> court commissioner  
20 is specifically authorized to do so.

21 **SECTION 44.** 757.69 (4) and (5) of the statutes are renumbered 753.36 (3) and  
22 (4) and amended to read:

23 753.36 (3) In addition to the duties expressly set forth in sub. ~~(3)~~ (2) (a) to (c),  
24 a supplemental court commissioner may perform other ministerial duties as  
25 required by a court.

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

3 SECTION 45. 757.69 (6) of the statutes is repealed.

4 SECTION 46. 757.69 (7) of the statutes is renumbered 753.36 (5) and amended  
5 to read:

6 753.36 (5) A supplemental court commissioner shall refer to a court of record  
7 for appropriate action every alleged showing of contempt in the carrying out of the  
8 lawful decisions of the sunplemental court commissioner.

9 SECTION 47. 757.695 of the statutes is renumbered 799.08, and 799.08 (intro.),  
10 as renumbered, is amended to read:

11 799.08 (title) ~~Court~~ Judicial ~~court~~ commissioners; small claims  
12 matters. (intro.) If a ~~A judicial~~ circuit court commissioner has been appointed under s.  
13 ~~757.68~~ (1) (b) authorized to assist in the administration of ~~small claims matters~~, the  
14 ~~commissioner~~ matters under this chanter shall conduct the hearings and  
15 proceedings as prescribed by ~~ch. 799~~ this chanter and ~~shall have the following~~  
16 ~~additional duties and authority may:~~

17 SECTION 48. 757.70 (2) of the statutes is amended to read:

18 757.70 (2) All hearings before a circuit or supplemental court commissioner shall be held in the county  
19 courthouse or other court facilities provided by law. This provision does not apply to  
20 nontestimonial proceedings, supplementary hearings on the present financial status  
21 of a debtor under s. ~~757.69~~ (3) 753.36 (2) (h) or depositions taken before a circuit or supplemental  
22 commissioner.

23 SECTION 49. 757.72 (4) of the statutes is repealed and recreated to read:

24 757.72 (4) Circuit Probate court commissioners shall be assisting in probate matters judicial court commissioners,  
25 appointed under SCR 75.02 (2) and are subject to Chapter 75 of the supreme court rules shall govern

Insert 22  
18-22  
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restore

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~~the qualifications for, and supervision, training, evaluation and discipline of, judicial court commissioners.~~

3 SECTION 50. 757.72 (5) of the statutes is repealed.

~~\*\*\*\*NOTE: SCR 75.02 (3) grants the powers given in this subsection, so the subsection is repealed.~~

4 SECTION 51. 757.72 (6) of the statutes is repealed.

5 SECTION 52. 757.72 (7) of the statutes is repealed.

insert  
19-5

6 SECTION 53. 757.81 (2) of the statutes is amended to read.

7

757.81 (2) "Court commissioner" means a ~~judicial~~ <sup>circuit</sup> court commissioner ~~annointed~~ under s. 757.68, a family court commissioner under s. 767.13, a juvenile court commissioner under s. 48.065 or 938.065 and a probate court commissioner under s. 757.73 SCR 75.02 (1) or a supplemental court commissioner authorized under SCR 75.02 (2) to perform duties specified under SCR 75.03 on a temporary or occasional basis.

insert  
19-12

13 SECTION 54. 765.16 (5) of the statutes is amended to read:

14

765.16 (5) Any ~~family court commissioner appointed under s. 767.13 or~~ <sup>circuit</sup> ~~judicial~~ court commissioner annointed under SCR 75.02 (1) or sunnplemental court commissioner appointed under s. 757.68 753.36 (1).

insert  
19-16

17 SECTION 55. 767.13 (title) of the statutes is amended to read:

18 767.13 (title) **Family court commissioner >**  
19 **assistants.**

20 SECTION 56. 767.13 (1) of the statutes is amended to read:

21 767.13 (1) COUNTIES OTHER THAN MILWAUKEE. (a) *Appointment.* In each county,  
22 except in a county having a population of 500,000 or more, the <sup>✓</sup> ~~circuit judges for the~~  
23 ~~county, subject to the approval of the chief judge of the judicial administrative~~

1 district, shall, ~~by order filed in the office of the clerk of the circuit court on or before~~  
 2 ~~the first Monday of July of each year, appoint some reputable attorney of recognized~~  
 3 ~~ability and standing at the bar a judicial court commissioner under SCR 75.02 to~~  
 4 ~~serve as the family court commissioner for the county.~~ *in the position of circuit*

5 (b) Powers; civil service; oath; temporary appointment; assistants. ~~The family~~  
 6 ~~court commissioner, by virtue of the office and to the extent required for the~~  
 7 ~~performance of the duties, has the powers of a court commissioner. The family court~~  
 8 ~~commissioner is in addition to the maximum number of court commissioners~~  
 9 ~~permitted by s. 757.68. The office of the family court commissioner, or any assistant~~  
 10 ~~family court commissioner, may be placed under a county civil service system by~~ *Strike → position of of*  
 11 ~~resolution of the county board., Before entering upon the discharge of the duties the~~ *family/circuit*  
 12 ~~family court commissioner shall take and file the official oath. The person appointed~~ *assisting the family court commissioner*  
 13 ~~shall continue to act until a successor is appointed and qualified, except that in the~~  
 14 ~~event of disability or extended absence the judges may appoint another reputable~~

15 ~~attorney to act as temporary family court commissioner. The county board may~~  
 16 ~~provide that one or more judicial court commissioners be appointed to serve as~~  
 17 ~~assistant family court commissioners shall be appointed by the circuit judges for the~~

18 ~~county, subject to the approval of the chief judge of the judicial administrative~~ *shall*  
 19 ~~district. An assistant family court commissioner shall have the same qualifications~~ *appoint one or more to assist the family court commissioner*  
 20 ~~as the commissioner and shall take and file the official oath.~~ *and the following subsection*

21 ~~SECTION 57. 767.13 (2) of the statutes is amended to read:~~ *Are the changes in this paragraph consistent with your request?*

NOTE:

22 767.13 (2) MILWAUKEE COUNTY. (a) Appointment; assistants; civil service. In  
 23 counties having a population of 500,000 or more, there is created in the classified civil  
 24 service the office of family court commissioner and such additional assistant family  
 25 court commissioners as the county board shall determine and authorize, *all of whom* shall

1 be ~~judicial~~ <sup>Circuit</sup> court commissioners appointed from the membership of the bar residing  
 2 in the county by the chief judge of the judicial administrative district under ~~ss. 63.01~~  
 3 to 63.17 **SCR 75.02 (1)**.

4 (b) (title) ~~Oath; powers; salary; Salary; unavailability; duties.~~ Before entering  
 5 upon the performance of their duties, the family court commissioner and assistant  
 6 family court commissioners shall ~~take and file the official oath.~~ <sup>any circuit</sup> The family court  
 7 commissioner and ~~assistant family~~ court commissioners shall, by virtue of their  
 8 respective positions and to the extent required for the performance of their duties,  
 9 each have the powers of a <sup>assisting the family court commissioner</sup> court commissioner. They shall receive such salary as may  
 10 be fixed by the county board, shall perform their duties under the direction of the  
 11 chief judge of the judicial administrative district or a designee and shall be furnished  
 12 with quarters and necessary office furnishings and supplies. The county board shall  
 13 provide them their necessary stenographic and investigational service. When the  
 14 family court commissioner is unavailable, ~~any assistant family~~ <sup>a circuit</sup> court commissioner  
 15 shall perform all the duties and have all the powers of the family court commissioner  
 16 as directed by the commissioner or by the chief judge of the judicial administrative  
 17 district or other judge as the chief judge may designate. In addition to the duties of  
 18 the family court commissioner under this chapter, the family court commissioner  
 19 shall perform other duties as the chief judge of the judicial administrative district,  
 20 or other judge as the chief judge may designate, directs.

21 **SECTION 58. 767.13 (4) of the statutes is amended to read:**

22 767.13 (4) RETIRED JUDGES. In any county one or more retired or former judges  
 23 or retired family ~~judicial~~ <sup>circuit</sup> court commissioners may be appointed as temporary or  
 24 temporary assistant family ~~court~~ <sup>circuit</sup> court commissioners by a ~~majority of the judges of the~~  
 25 county subject to the approval of the chief judge of the judicial administrative

*to assist the family court commissioner*  
~~district. The temporary or temporary assistant family court~~ *commissioner*

district. The temporary or temporary assistant family court commissioners shall be compensated by the county.

Insert 22-2  
Insert 22-3 4

SECTION 59. 767.17 of the statutes is repealed.

SECTION 60. 767.458 (1m) of the statutes is amended to read:

767.458 (1m) In an action to establish the paternity of a child who was born to a woman while she was married, where a man other than the woman's husband alleges that he, not the husband, is the child's father, a party may allege that a judicial determination that a man other than the husband is the father is not in the best interest of the child. If the court or a ~~supplemental~~ *circuit or* court commissioner under s. ~~757.69 (3)~~ 753.36 (2) (g) determines that a judicial determination of whether a man other than the husband is the father is not in the best interest of the child, no genetic tests may be ordered and the action shall be dismissed.

SECTION 61. 767.46 (1) of the statutes is amended to read:

767.46 (1) A pretrial hearing shall be held before the court or a ~~supplemental~~ *circuit or* court commissioner under s. ~~757.69 (3)~~ 753.36 (2) (g). A record or minutes of the proceeding shall be kept. At the pretrial hearing the parties may present and cross-examine witnesses, request genetic tests and present other evidence relevant to the determination of paternity.

Insert 22-1819

SECTION 62. 767.465 (2) (a) of the statutes is amended to read:

767.465 (2) (a) Except as provided in sub. (2m), if a respondent is the alleged father and fails to appear at the first appearance, unless the first appearance is not required under s. 767.457 (2), scheduled genetic test, pretrial hearing or trial, the court shall enter an order adjudicating the respondent to be the father and appropriate orders for support, legal custody and physical placement. The orders shall be either served on the respondent or mailed by regular, registered or certified

1 mail, to the last-known address of the respondent. The orders shall take effect 30  
 2 days after service or 30 days after the date on which the orders were mailed unless,  
 3 within that time, the respondent presents to the court or a <sup>circuit or</sup> sunnlemental court  
 4 commissioner under s. ~~757.69 (3)~~ <sup>753.36 (2)</sup> (g) evidence of good cause for failure  
 5 to appear or failure to have undergone a genetic test.

6 **SECTION 63. 782.01 (3)** of the statutes is amended to read:

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

12 **SECTION 64. 782.03** of the statutes is amended to read:

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

24 **SECTION 65. 782.28** of the statutes is amended to read:

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**782.28** (title) **Transfer from ~~judicial~~ or ~~supplemental~~ court commissioner.** If the writ is returnable before a ~~judicial~~ <sup>Circuit</sup> or ~~supplemental~~ <sup>Circuit</sup> court commissioner, either party may make a request for transfer to the court in which the matter is filed. Upon receipt of such request the ~~judicial~~ <sup>Circuit</sup> or ~~supplemental~~ <sup>Circuit</sup> court commissioner shall forthwith transmit all papers and records in the proceedings to the court.

**SECTION 66.** 799.05 (7) ~~(intro.)~~ of the statutes is amended to read:

<sup>(Title)</sup> 799.05 (7) ~~FORM: COURT COMMISSIONER.~~ <sup>Circuit</sup> (intro.) Except as provided in s. 799.22

(4) (b) 3., in counties ~~establishing at least one part-time or full-time court commissioner position under s. 757.68 (1) (b) in which a judicial~~ <sup>Circuit</sup> court commissioner is authorized to assist in the administration of matters under this chapter, the summons shall be substantially in the following form:

**SECTION 67.** 799.06 (1) of the statutes is amended to read:

**799.06 (1) PLEADINGS.** All pleadings except the initial complaint may be oral.

Any circuit court may by rule require written pleadings and any judge or ~~judicial~~ <sup>Circuit</sup> court commissioner may require written pleadings in a particular case.

**SECTION 68.** 799.11 (3) of the statutes is amended to read:

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

**SECTION 69.** 799.20 (4) of the statutes is amended to read:



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 court commissioner shall make sufficient inquiry of the defendant to determine  
 4 whether the defendant claims a defense to the action. If it appears to the court or  
 5 ~~judicial~~<sup>circuit</sup> court commissioner that the defendant claims a defense to the action, the  
 6 court or ~~judicial~~<sup>circuit</sup> 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 70.** 799.206 of the statutes is repealed.

10          **SECTION 71.** 799.207 (title) of the statutes is amended to read:

11          799.207 (title) **Proceedings before** ~~judicial~~<sup>circuit</sup> **court commissioner.**

12          **SECTION 72.** 799.207 (1) (a) of the statutes is amended to read:

13          799.207 (1) (a) Any ~~judicial~~<sup>circuit</sup> court commissioner assigned to assist in the  
 14 administration of small claims may hold a conference with the parties or their  
 15 attorneys or both on the return date, examine pleadings and identify issues.

16          **SECTION 73.** 799.207 (1) (b) of the statutes is amended to read:

17          799.207 (1) (b) ~~Except~~ as provided in par. (e), a decision shall be rendered by  
 18 the ~~judicial~~<sup>circuit</sup> court commissioner on the return date if there is time available for a  
 19 hearing, the parties do not intend to call witnesses, and the parties agree to such a  
 20 hearing. If for any of the reasons stated in this paragraph, the matter cannot be  
 21 heard on the return date, an adjourned date shall be set.

22          **SECTION 74.** 799.207 (1) (e) of the statutes is amended to read:

23          799.207 (1) (e) If the ~~judicial~~<sup>circuit</sup> court commissioner cannot reach a decision on the  
 24 return or adjourned date, the commissioner shall mail the decision to each party  
 25 within 30 days of the date of the hearing.

1 SECTION 75. 799.207 (2) (intro.) of the statutes is amended to read:

2 799.207 (2) (intro.) The ~~judicial~~ <sup>circuit</sup> court commissioner's decision shall become a  
3 judgment 11 days after rendering, if oral, and 16 days after mailing, if written, except  
4 that:

5 SECTION 76. 799.207 (3) (b) of the statutes is amended to read:

6 799.207 (3) (b) The ~~judicial~~ <sup>circuit</sup> court commissioner shall give each of the parties  
7 a form and instructions which shall be used for giving notice of an election to have  
8 the matter heard by the court.

9 SECTION 77. 799.209 (1) to (4) of the statute are amended to read:

10 799.209 (1) The court or ~~judicial~~ <sup>circuit</sup> court commissioner shall conduct the  
11 proceeding informally, allowing each party to present arguments and proofs and to  
12 examine witnesses to the extent reasonably required for full and true disclosure of  
13 the facts.

14 (2) The proceedings shall not be governed by the common law or statutory rules  
15 of evidence except those relating to privileges under ch. 905 or to admissibility under  
16 s. 901.05. The court or ~~judicial~~ <sup>circuit</sup> court commissioner shall admit all other evidence  
17 having reasonable probative value, but may exclude irrelevant or repetitious  
18 evidence or arguments. An essential finding of fact may not be based solely on a  
19 declarant's oral hearsay statement unless it would be admissible under the rules of  
20 evidence.

21 (3) The court or ~~judicial~~ <sup>circuit</sup> court commissioner may conduct questioning of the  
22 witnesses and shall endeavor to ensure that the claims or defenses of all parties are  
23 fairly presented to the court or ~~judicial~~ <sup>circuit</sup> court commissioner.

24 (4) The court or ~~judicial~~ <sup>circuit</sup> court commissioner shall establish the order of trial  
25 and the procedure to be followed in the presentation of evidence and arguments in

1 an appropriate manner consistent with the ends of justice and the prompt resolution  
2 of the dispute on its merits according to the substantive law.

3 **SECTION 78.** 799.21 (3) (b) of the statutes is amended to read:

4 799.21 (3) (b) In counties ~~establishing a court one part-time or full-time court~~  
5 ~~commissioner position under s. 757.68 (1) (b) in which judicial~~ <sup>circuit</sup> court commissioners  
6 are authorized to assist in the administration of matters under this chapter, except  
7 in eviction actions which shall be governed by par. (a), demand for trial by jury shall  
8 be made at the time a demand for trial is filed. If the party requesting a trial does  
9 not request a jury trial, any other party may request a jury trial by filing the request  
10 with the court and mailing copies to all other parties within 15 days from the date  
11 of mailing of the demand for trial or the date on which personal notice of demand is  
12 given, whichever is applicable. If no party demands a trial by jury, the right to trial  
13 by jury is waived forever. The fees prescribed in ss. 814.61 (4) and 814.62 (3) (e) shall  
14 be paid when the demand for a trial by jury is filed.

15 **SECTION 79.** 799.21 (4) of the statutes is amended to read:

16 799.21 (4) **JURY PROCEDURE.** If there is a demand for a trial by jury, the judge  
17 or ~~judicial~~ <sup>circuit</sup> court commissioner shall place the case on the trial calendar and a jury  
18 of 6 persons shall be chosen as provided in s. 345.43 (3) (b). The parties shall proceed  
19 as if the action had originally been begun as a proceeding under chs. 801 to 807,  
20 except that the court is not required to provide the jury with one complete set of  
21 written instructions under s. 805.13 (4) and the requirements for appearance by the  
22 parties shall be governed by s. 799.06 (2).

23 **SECTION 80.** 799.24 (1) of the statutes, as affected by 1997 Wisconsin Act 27,  
24 is amended to read:

1           799.24 (1) ENTRY OF JUDGMENT OR ORDER; NOTICE OF ENTRY THEREOF. When a  
2 judgment or an order is rendered, the judge, ~~judicial~~ <sup>Circuit</sup> court commissioner or clerk of  
3 circuit court shall immediately enter it in the court record and note the date thereof  
4 which shall be the date of entry of judgment or order. The clerk of circuit court, except  
5 in municipal and county forfeiture actions, shall mail a notice of entry of judgment  
6 to the parties or their attorneys at their last-known address within 5 days of its  
7 entry. Upon payment of the exact amount of the fee prescribed in s. 814.62 (3) (c),  
8 the clerk of circuit court shall enter the judgment in the judgment and lien docket.

9           **SECTION 81.** 799.24 (3) of the statutes is amended to read:

10           799.24 (3) STIPULATED DISMISSAL. Prior to the entry of judgment, upon  
11 stipulation of the parties to a schedule for compliance with the stipulation, the court  
12 or ~~judicial~~ <sup>Circuit</sup> court commissioner may enter a stipulated judgment of dismissal in lieu  
13 thereof. Any such judgment may be vacated without notice to the obligated party,  
14 and the unsatisfied portion thereof entered, upon application by the prevailing party  
15 and proof by affidavit of noncompliance with the terms of the stipulation.

16           **SECTION 82.** 799.26 (1) of the statutes is amended to read:

17           799.26 (1) When a judgment for money damages is entered under this chapter,  
18 the court or ~~judicial~~ <sup>Circuit</sup> court commissioner shall order the judgment debtor to execute  
19 under penalty of contempt a disclosure statement and to mail or deliver that  
20 statement to the judgment creditor or to the clerk of circuit court in the county where  
21 the judgment is entered within 15 days of entry of judgment unless the judgment is  
22 sooner satisfied. The statement shall disclose, as of the date of judgment, the debtor's  
23 name, residence address, employers and their addresses, any real property interests  
24 owned by the debtor, cash on hand, financial institutions in which the judgment  
25 debtor has funds on deposit, whether the debtor's earnings are totally exempt from

1 garnishment under s. 812.34 (2) (b), and such other information as required by the  
2 schedules adopted under sub. (3).

3 SECTION 83. 807.04<sup>(1)</sup> of the statute & amended to read:

*"5 affected by 1997 Wisconsin Act 133"*

4 **807.04** ~~Proceedings, where held, restriction as to making orders~~  
5 ~~Except as provided under sub. (2), all~~ *plain* trials, and all hearings at which oral testimony is to be presented, shall be held in  
6 open court. The court may make any order which a judge or court commissioner has  
7 power to make. ~~Court commissioners shall have the powers provided in ch 753 or~~  
8 ~~by other statute.~~

*plain* (circled)  
*NO P* (circled)  
*plain* (circled)  
*NO P* (circled)

9 SECTION 84. 807.09 (1) of the statutes is amended to read:

10 807.09 (1) A circuit judge of the circuit court of any county may appoint and  
11 remove at any time, any retired or former circuit or county court judge to act, in  
12 matters referred by the judge and in conciliation matters. When a matter for  
13 conciliation is referred for such purpose, the conciliator shall have full authority to  
14 hear, determine and report findings to the court. Such conciliators may be appointed  
15 ~~judicial~~ *circuit* court commissioners as provided in s. 757.68 under SCR 75.02 (1).

16 SECTION 85. 812.30 (2) of the statutes is amended to read:

17 812.30 (2) "Court" includes a ~~judicial~~ *circuit* court commissioner assigned to preside  
18 at a proceeding under this subchapter.

19 SECTION 86. 813.12 (3) (d) of the statutes is amended to read:

20 813.12 (3) (d) The judge or ~~family~~ *circuit* court commissioner shall advise the  
21 petitioner of the right to serve the respondent the petition by published notice if with  
22 due diligence the respondent cannot be served as provided under s. 801.11 (1) (a) or  
23 (b). The clerk of circuit court shall assist the petitioner with the preparation of the  
24 notice and filing of the affidavit of printing.

25 SECTION 87. 813.12 (4m) (a) 2. of the statutes is amended to read:

*insert 29-18*

*insert 29-24*

1 813.12 (4m) (a) 2. Except as provided in par. (ag), require the respondent to  
 2 surrender any firearms that he or she owns or has in his or her possession to the  
 3 sheriff of the county in which the action under this section was commenced, to the  
 4 sheriff of the county in which the respondent resides or to another person designated  
 5 by the respondent and approved by the judge or family court commissioner. The  
 6 judge or ~~family~~ <sup>circuit</sup> court commissioner shall approve the person designated by the  
 7 respondent unless the judge or ~~family~~ <sup>circuit</sup> court commissioner finds that the person is  
 8 inappropriate and places the reasons for the finding on the record. If a firearm is  
 9 surrendered to a person designated by the respondent and approved by the judge or  
 10 ~~family~~ <sup>circuit</sup> court commissioner, the judge or ~~family~~ <sup>circuit</sup> court commissioner shall inform the  
 11 person to whom the firearm is surrendered of the requirements and penalties under  
 12 s. 941.29 (4).

Insert  
30-12

13 SECTION 88. 813.122 (1) (e) of the statutes is created to read:

14 813.122 (1) (e) "Court commissioner" means a ~~judicial~~ <sup>circuit</sup> court commissioner  
 15 ~~acting as a family court commissioner.~~

16 SECTION 89. 813.123 (1) (cm) of the statutes is created to read:

17 813.123 (1) (cm) "Court commissioner" means a ~~judicial~~ <sup>circuit</sup> court commissioner  
 18 ~~acting as a family court commissioner.~~

19 SECTION 90. 813.125 (1) (intro.) of the statutes is amended to read:

20 813.125 (1) (title) ~~DEFINITION~~ **DEFINITIONS.** (intro.) In this section,  
 21 ~~"harassment":~~

22 (a) "Harassment" means any of the following:

23 SECTION 91. 813.125 (1) (a) and (b) of the statutes are renumbered 813.125 (1)

24 (a) 1. and 2.

25 SECTION 92. 813.125 (1) (bg) of the statutes is created to read:

① 813.125 (1) (bg) "Court commissioner" means a ~~judicial~~<sup>4 circuit</sup> court commissioner  
② ~~acting as a family court commissioner.~~

3 SECTION 93. 814.61 (12) (b) 3. of the statutes is amended to read:

④ 814.61 (12) (b) 3. The clerk may apply to the court or ~~family~~<sup>circuit</sup> court commissioner  
5 for an assignment relating to the annual fee in accordance with s. 767.265 or for an  
6 account transfer relating to the annual fee in accordance with s. 767.267.

7 SECTION 94. 814.612 (2) of the statutes is amended to read:

⑧ 814.612 (2) The support collection designee may apply to the court or ~~family~~<sup>circuit</sup>  
⑨ court commissioner for an assignment relating to the annual fee in accordance with  
10 s. 767.265.

Insert  
31-10

11 SECTION 95. 814.68 of the statutes is repealed and recreated to read:

12 **814.68 Fees of supplemental court commissioners.** Supplemental court  
13 commissioners shall collect reasonable fees or per diem compensation established by  
14 rule under s. 753.35.

15 SECTION 96. 816.03 (1) (b) of the statutes is amended to read:

⑩ 816.03 (1) (b) A ~~judicial~~<sup>circuit</sup> or supplemental court commissioner upon application  
17 of a judgment creditor shall order any judgment debtor to appear before the court  
18 commissioner and answer concerning the judgment debtor's property at a time and  
19 place specified in the order, within said county, in lieu of the procedure set forth in  
20 par. (a).

21 SECTION 97. 816.035 (1) and (2) of the statutes are amended to read:

⑪ 816.035 (1) An order under s. 816.03 (1) issued by a ~~judicial~~<sup>circuit</sup> or supplemental  
23 court commissioner shall be served in the same manner as the service of a summons  
24 under s. 801.11. The return on the order shall be made to the commissioner who

1 issued the order. The commissioner shall file the order and the return with the clerk  
2 of the court in which the judgment involved is entered.

3 (2) Upon issuance of the order, the ~~judicial~~<sup>Circuit</sup> or supplemental court commissioner  
shall collect the fee prescribed in s. 814.68 (2) for attendance upon the examination.

4  
5 **SECTION 98. 879.61** of the statutes is amended to read:

6 879.61 **Discovery proceedings.** Any personal representative or any person  
7 interested who suspects that any other person has concealed, stolen, conveyed or  
8 disposed of property of the estate; or is indebted to the decedent; possesses, controls  
9 or has knowledge of concealed property of the decedent; possesses, controls or has  
10 knowledge of writings which contain evidence of or tend to disclose the right, title,  
11 interest or claim of the decedent to any property; or possesses, controls or has  
12 knowledge of any will of the decedent, may file a petition in the court so stating. The  
13 court upon such notice as it ~~directs~~, may order the other person to appear before the  
14 court or a ~~judicial~~<sup>Circuit</sup> or supplemental court commissioner for disclosure, may subpoena  
15 witnesses and compel the production of evidence and may make any order in relation  
16 to the matter as is just and proper.

17 **SECTION 99. 885.10** of the statutes is amended to read:

18 **885.10 Witness for indigent respondent or defendant.** Upon satisfactory  
19 proof of the financial inability of the respondent or defendant to procure the  
20 attendance of witnesses for his or her defense, the judge or ~~judicial~~<sup>Circuit</sup> court  
21 commissioner, in any paternity proceeding or criminal action or proceeding, or in any  
22 other case in which the respondent or defendant is represented by the state public  
23 defender or by assigned counsel under s. 977.08, to be tried or heard before him or  
24 her, may direct the witnesses to be subpoenaed as he or she determines is proper and  
25 necessary, upon the respondent's or defendant's oath or affidavit or that of the

insert  
32-c/5



1 respondent's or defendant's attorney. Witnesses so subpoenaed shall be paid their  
2 fees in the manner that witnesses for the state therein are paid. Determination of  
3 indigency, in full or in part, under s. 977.07 is proof of the respondent's or defendant's  
4 financial inability to procure the attendance of witnesses for his or her defense.

5 **SECTION 100.** 885.12 of the statutes is amended to read:

6 **885.12 Coercing witnesses before officers and boards.** If any person,  
7 without reasonable excuse, fails to attend as a witness, or to testify as lawfully  
8 required before any arbitrator, coroner, medical examiner, board, commission,  
9 commissioner, examiner, committee, or other officer or person authorized to take  
10 testimony, or to produce a book or paper which the person was lawfully directed to  
11 bring, or to subscribe the person's deposition when-correctly reduced to writing, any  
12 judge of a court of record or a ~~judicial~~ <sup>circuit</sup> court commissioner in the county where the  
13 person was obliged to attend may, upon sworn proof of the facts, issue an attachment  
14 for the person, and unless the person shall purge the contempt and go and testify or  
15 do such other act as required by law, may commit the person to close confinement in  
16 the county jail until the person shall so testify or do such act, or be discharged  
17 according to law. The sheriff of the county shall execute the commitment.

18 **SECTION 101. 887.26 (7)** of the statutes is amended to read:

19 887.26 (7) **FEES.** The persons who take depositions and the witness shall be  
20 entitled to the fees allowed ~~by~~ <sup>supplemental</sup> court commissioners under s. 814.68 (~~1~~) and witnesses  
21 for similar service by the law of this state, or such as may be prescribed by the law  
22 of the state or country where taken.

23 **SECTION 102.** 898.02 of the statutes is amended to read:

24 **898.02 Notice to plaintiff.** The person shall cause notice to be given to the  
25 plaintiff in the action, the plaintiff's agent or attorney, in writing, that at a time and

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place specified in the notice the person will apply to the circuit judge or ~~judicial~~<sup>circuit</sup> court commissioner of the county in which the person is so confined for the purpose of obtaining a discharge from imprisonment.

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**SECTION 103.** 898.04 of the statutes is amended to read:

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**898.04 Prisoner to be examined.** At the time and place specified in the notice the person shall be taken, under the custody of the jailer, the sheriff or the sheriff's deputy, before the circuit judge or ~~judicial~~<sup>circuit</sup> court commissioner, who shall examine the prisoner on oath concerning his or her estate and effects and the disposal thereof and the prisoner's ability to pay the judgment for which he or she is committed; and who shall also hear any other legal and pertinent evidence that may be produced by the debtor or the creditor.

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→ **\*\*\* NOTE:** Should this section include supplemental court commissioners?

12

**SECTION 104.** 898.11 of the statutes is amended to read:

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**898.11 Inability to pay fees.** If the prisoner is unable to pay in whole or in part the fees of the circuit judge or ~~judicial~~<sup>circuit</sup> court commissioner in the proceedings, the proceedings shall continue without charge to the prisoner.

14

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16

**SECTION 105.** 906.15 of the statutes is amended to read:

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**906.15 Exclusion of witnesses.** At the request of a party the judge or ~~court commissioner~~ shall order witnesses excluded so that they cannot hear the testimony of other witnesses, and the judge or ~~court commissioner~~ may make the order of his or her own motion. This section does not authorize exclusion of (1) a party who is a natural person, or (2) an officer or employe of a party which is not a natural person designated as its representative by its attorney, or (3) a person whose presence is shown by a party to be essential to the presentation of the party's cause. The judge or ~~court commissioner~~ may direct that all such excluded and non-excluded witnesses

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1 be kept separate until called and may prevent them from communicating with one  
2 another until they have been examined or the hearing is ended.

\*\*\*\*NOTE: I removed the term "court commissioner" because of the meaning of  
"judge" in s. 911.01 (1), as amended in this draft.

insert  
35-2

3 SECTION 106. 911.01 (1) of the statutes is amended to read:

4 911.01 (1) COURTS AND COURT COMMISSIONERS. Chapters 901 to 911 apply to the  
5 courts of the state of Wisconsin, including municipal courts, ~~family court~~  
6 ~~commissioners~~, and court commissioners<sup>3</sup> in the proceedings and to the extent  
7 hereinafter set forth except as provided in s. 972.11. The word "judge" in chs. 901 to  
8 911 means judge of a court of record, municipal judge, family ~~judicial~~ <sup>circuit</sup> court  
9 commissioner, and municipal court commissioner.

insert  
35-9

\*\*\*Note: should supplemental court commissioners?  
*This subsection include*

10 SECTION 107. 938.065 (1) of the statutes is amended to read:

11 938.065 (1) The board of supervisors of any county may ~~authorize the chief~~  
12 ~~judge of the judicial administrative district to appoint~~ establish one or more  
13 ~~part-time or full-time positions of juvenile court commissioners who shall serve at~~  
14 ~~the discretion of the judicial court commissioners appointed by the chief judge. A~~  
15 ~~juvenile court commissioner shall be licensed to practice law in this state and shall~~  
16 ~~have been so licensed for at least 2 years immediately prior to appointment and shall~~  
17 commissioner positions to assist in matters affecting juveniles  
~~have a demonstrated interest in the welfare of juveniles under SCR 15.02(1).~~ The  
18 chief judge may assign law clerks, bailiffs and deputies to the juvenile court  
19 commissioner. The chief judge shall supervise ~~juvenile court~~ ~~commissioners~~, law  
20 clerks, bailiffs and deputies, except that the chief judge may delegate any of those  
21 duties.

insert  
35-2

22 SECTION 108. 998.30 (9) of the statutes is amended to read:

1

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

insert  
36-4

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SECTION 109. 940.203 (1) (b) of the statutes is amended to read:

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940.203 (1) (b) "Judge" means a supreme court justice, court of appeals judge, circuit court judge, municipal judge, temporary or permanent reserve judge or ~~juvenile, probate, family or other judicial~~ <sup>circuit</sup> supplemental or municipal court commissioner.

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SECTION 110. 943.013 (1) (b) of the statutes is amended to read:

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943.013 (1) (b) "Judge" means a supreme court justice, court of appeals judge, circuit court judge, municipal judge, temporary or permanent reserve judge or

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14

~~juvenile, probate, family or other judicial~~ <sup>circuit</sup> supplemental or municipal court commissioner.

15

SECTION 111. 967.07 of the statutes is amended to read:

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**967.07 Court Judicial court commissioners.** A ~~judicial~~ <sup>cm-l,</sup> court commissioner may exercise powers or perform duties specified for a judge if such action is permitted under s. 757.69.

19

SECTION 112. 971.20 (3) (a) of the statutes is amended to read:

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971.20 (3) (a) In this subsection, "judge" includes a ~~judicial~~ <sup>Circuit</sup> court commissioner who is assigned to conduct the preliminary examination.

22

SECTION 113. 973.20 (13) (c) 4. of the statutes is amended to read:

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24

973.20 (13) (c) 4. Refer the disputed restitution issues to a ~~judicial~~ <sup>circuit</sup> court commissioner or other appropriate referee, who shall conduct a hearing on the matter and submit the record thereof, together with proposed findings of fact and

25

1 conclusions of law, to the court within 60 days of the date of referral. Within 30 days  
2 after the referee's report is filed, the court shall determine the amount of restitution  
3 on the basis of the record submitted by the referee and incorporate it into the  
4 sentence or probation order imposed. The judge may direct that hearings under this  
5 subdivision be recorded either by audio recorder or by a court reporter. A transcript  
6 is not required unless ordered by the judge.

Insert  
37-6  
7

SECTION 114. 979.05 (1) of the statutes is amended to read:

~~judicial~~  
Circuit

8

979.05 (1) An inquest shall be conducted by a circuit judge or a ~~judicial~~ court  
9 commissioner.

10

SECTION 115. 979.05 (2) of the statutes, as affected by 1996 Supreme Court  
11 Order 96-08, is repealed and recreated to read:

12

979.05 (2) The inquest shall be conducted before a jury unless the district  
13 attorney, coroner or medical examiner requests that the inquest be conducted before

14

the judge or ~~judicial~~ <sup>Circuit</sup> court commissioner only. If the inquest is to be conducted before  
15 a jury, a sufficient number of names of prospective jurors shall be selected from the

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prospective juror list for the county in which the inquest is to be held by the clerk of  
17 circuit court in the manner provided in s. 756.06. The judge or ~~judicial~~ <sup>Circuit</sup> court

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commissioner conducting the inquest shall summon the prospective jurors to appear  
19 before the judge or ~~judicial~~ <sup>Circuit</sup> court commissioner at the time fixed in the summons.

20

The summons may be served by mail, or by personal service if the judge, ~~judicial~~ <sup>Circuit</sup> court  
21 commissioner or district attorney determines personal service to be appropriate. The

22

summons shall be in the form used to summon petit jurors in the circuit courts of the  
23 county. Any person who fails to appear when summoned as an inquest juror is

24

subject to a forfeiture of not more than \$40. The inquest jury shall consist of 6 jurors.

25

If 6 jurors do not remain from the number originally summoned after establishment

(1) of qualifications, the judge or ~~judicial~~ <sup>circuit</sup> court commissioner conducting the inquest  
 2 may require the clerk of the circuit court to select sufficient additional jurors' names.  
 3 Those persons shall be summoned forthwith by the sheriff of the county.

4 **SECTION 116.** 979.05 (3) of the statutes, as affected by 1996 Supreme Court  
 5 Order 96-08, is repealed and recreated to read:

(6) 979.05 (3) The judge or ~~judicial~~ <sup>circuit</sup> court commissioner shall examine on oath or  
 7 affirmation each person who is called as a juror to discover whether the juror is  
 8 related by blood or marriage to the decedent, any member of the decedent's family,  
 9 the district attorney, any other attorney appearing in the case, any members of the  
 10 office of the district attorney or any other attorney appearing in the case or has  
 11 expressed or formed any opinion regarding the matters being inquired into or is  
 12 aware of or has any bias or prejudice concerning the matters being inquired into in  
 13 the inquest. If any prospective juror is found to be not indifferent or is found to have  
 14 formed an opinion which cannot be laid aside, that juror shall be excused. The judge  
 (15) or ~~judicial~~ <sup>circuit</sup> court commissioner may select one or more alternate jurors if the inquest  
 16 is likely to be protracted. This subsection does not limit the right of the district  
 (17) attorney to supplement the judge's or ~~judicial~~ <sup>circuit</sup> court commissioner's examination of  
 18 any prospective jurors as to qualifications.

19 **SECTION 117.** 979.05 (4) of the statutes is amended to read: 4

(20) 979.05 (4) When 6 jurors have been selected, the judge or ~~judicial~~ <sup>circuit</sup> court  
 21 commissioner shall administer to them an oath or affirmation which shall be  
 22 substantially in the following form:

23 You do solemnly swear (affirm) that you will diligently inquire and determine  
 24 on behalf of this state when, and in what manner and by what means, the person  
 25 known as . . . . . who is now dead came to his or her death and that you will return

1 a true verdict thereon according to your knowledge, according to the evidence  
2 presented and according to the instructions given to you by the . . . (judge) (~~judicial~~ <sup>Circuit</sup>  
3 court commissioner).

4 SECTION 118. 979.05 (5) of the statutes is amended to read:

5 979.05 (5) Prior to the submission of evidence to the jury, the judge or ~~judicial~~ <sup>Circuit</sup>  
6 court commissioner may instruct the jury on its duties and on the substantive law  
7 regarding the issues which may be inquired into before the jury. The district attorney  
8 may, at any time during the course of the inquest, make statements to the jury.  
9 relating to procedural or evidentiary matters he or she and the judge or ~~judicial~~ <sup>Circuit</sup> court  
10 commissioner deem appropriate. Section 972.12 applies to the conduct of the inquest  
11 jury.

12 SECTION 119. 979.05 (6) of the statutes is amended to read:

13 979.05 (6) The judge or ~~judicial~~ <sup>Circuit</sup> court commissioner conducting the inquest  
14 may order that proceedings be secret if the district attorney so requests or concurs.

15 SECTION 120. 979.06 (1) of the statutes is amended to read:

16 979.06 (1) The judge or ~~judicial~~ <sup>Circuit</sup> court commissioner may issue subpoenas for  
17 witnesses at the request of the coroner or medical examiner and shall issue  
18 subpoenas for witnesses requested by the district attorney. Subpoenas are  
19 returnable at the time and place stated therein. Persons who are served with a  
20 subpoena may be compelled to attend proceedings in the manner provided in s.  
21 885.12.

22 SECTION 121. 979.06 (2) of the statutes is amended to read:

23 979.06 (2) The judge or ~~judicial~~ <sup>Circuit</sup> court commissioner conducting the inquest and  
24 the district attorney may require by subpoena the attendance of one or more expert  
25 witnesses, including physicians, surgeons and pathologists, for the purposes of

1 conducting an examination of the body and all relevant and material scientific and  
 2 medical tests connected with the examination and testifying as to the results of the  
 3 examination and tests. The expert witnesses so subpoenaed shall receive reasonable  
 4 fees determined by the district attorney and the judge or ~~judicial~~<sup>circuit</sup> court commissioner  
 5 conducting the inquest.

6 SECTION 122. 979.06 (3) of the statutes is amended to read:

7 979.06 (3) Any witness examined at an inquest may have counsel present  
 8 during the examination of that witness. The counsel may not examine or  
 9 cross-examine his or her client, cross-examine or call other witnesses or argue  
 10 before the judge or ~~judicial~~<sup>circuit</sup> court commissioner holding the inquest.

11 SECTION 123. 979.06 (4) (intro.) of the statutes is amended to read:

12 979.06 (4) (intro.) The judge or ~~judicial~~<sup>circuit</sup> court commissioner shall administer  
 13 an oath or affirmation to each witness which shall be substantially in the following  
 14 form:

15 SECTION 124. 979.06 (5) of the statutes is amended to read:

16 979.06 (5) The judge or ~~judicial~~<sup>circuit</sup> court commissioner conducting the inquest  
 17 shall cause the testimony given by all witnesses to be reduced to writing or recorded  
 18 and may employ stenographers to take and transcribe all of the testimony. The  
 19 stenographer shall receive reimbursement at a reasonable rate for each appearance  
 20 and transcription at rates in accordance with the customary charges in the area for  
 21 similar services.

22 SECTION 125. 979.08 (1) of the statutes is amended to read:

23 979.08 (1) When the evidence is concluded and the testimony closed, the judge  
 24 or ~~judicial~~<sup>circuit</sup> court commissioner shall instruct the jury on its duties and on the  
 25 substantive law regarding the issues inquired into before the jury. The district



1 attorney shall prepare a written set of appropriate requested instructions and shall  
2 submit them to the judge or ~~judicial~~ <sup>circuit</sup> court commissioner who, together with the  
3 district attorney, shall compile the final set of instructions which shall be given. The  
4 instructions shall include those criminal offenses for which the judge or ~~judicial~~ <sup>circuit</sup> court  
5 commissioner believes a reasonable jury might return a verdict based upon a finding  
6 of probable cause.

7 **SECTION 126.** 979.08 (3) (intro.) of the statutes is amended to read:

8 979.08 (3) (intro.) The jury shall retire to consider its verdict after hearing all  
9 of the testimony and evidence, making all necessary inquiries and having been  
10 instructed in the law. The judge or ~~judicial~~ <sup>circuit</sup> court commissioner shall provide the jury  
11 with one complete set of written instructions providing the substantive law to be  
12 applied to the issues to be decided. The verdict shall be in a form which permits the  
13 following findings:

14 **SECTION 127.** 979.08 (6) of the statutes is amended to read:

15 979.08 (6) Any verdict so rendered, after being validated and signed by the  
16 judge or ~~judicial~~ <sup>circuit</sup> court commissioner, together with the record of the inquest, shall  
17 be delivered to the district attorney for consideration. After considering the verdict  
18 and record, the district attorney may deliver the entire inquest record or any part  
19 thereof to the coroner or medical examiner for safekeeping.

20 **SECTION 128.** 979.08 (7) of the statutes is amended to read:

21 979.08 (7) The record of a secret inquest proceeding shall not be open for  
22 inspection unless so ordered by the judge or ~~judicial~~ <sup>circuit</sup> court commissioner conducting  
23 the inquest upon petition by the district attorney.

24 **SECTION 129.** 979.09 of the statutes is amended to read:

① **979.09 Burial of body.** If any judge or ~~judicial~~ <sup>circuit</sup> court commissioner conducts  
 2 an inquest as to the death of a stranger or of a person whose identity is unknown or  
 3 whose body is unclaimed or if the district attorney determines that no inquest into  
 4 the death of such a person is necessary and the circuit judge has not ordered an  
 5 inquest under s. 979.04 (2), the coroner or medical examiner shall cause the body to  
 6 be decently buried or cremated and shall certify to all the charges incurred in taking  
 7 any inquest by him or her and to the expenses of burial or cremation of the dead body.  
 8 The charges and expenses shall be audited by the county board of the proper county  
 9 and paid out of the county treasury.

10 SECTION 130. Initial applicability.

11 (1) This act ifstapplies to actions commenced on the effective date of this  
12 subsection.

13 SECTION 131. Effective date.

14 (1) This act takes effect on January 1, ~~1999~~ <sup>2000</sup>.

15 (END) ✓

D-NOTE  
↓

(insert 2-16)

**SECTION 1.** 19.01 (4) (c) of the statutes is amended to read:

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

History: History: 1971 c. 154; 1977 c. 29 s. 1649; 1977 c. 187 ss. 26, 135, 1977 c. 305 s. 64; 1977 c. 449; Sup. Ct. Order, eff. 1-1-80; 1979 c. 110 s. 60 (13); 1983 a. 6, 192; 1983 a. 538 s. 271; 1989 a. 31; 1991 a. 39, 316; 1993 a. 399.

**SECTION 2.** 20.445 (3) (cb) of the statutes is amended to read:

**20.445 (3) (cb) Child support collection-county administration.** The amounts in the schedule for the county child support order revision programs under s. 49.23 (l), for state incentive payments under s. 49.23 (2), for assistance to counties in establishing paternity and obtaining child support and for payments to Milwaukee County under s. 49.25 (8) (b) to fund an additional family circuit court commissioner to assist in actions affecting the family.

History: History: 1971 c. 125 ss. 156, 522 (1); 1971 c. 211, 215; 1971 c. 228 s. 44; 1971 c. 259; 1973 c. 90, 180, 243, 333; 1975 c. 39, 147, 224, 274, 344; 1975 c. 404 ss. 3, 10 (1); 1975 c. 405 ss. 3, 11 (1); 1977 c. 29, 48, 203, 418; 1979 c. 34 ss. 512 to 522, 2102 (25) (a); 1979 c. 189, 221, 309; 1979 c. 329 s. 25 (1); 1979 c. 350 ss. 3, 27 (6); 1979 c. 353, 355; 1981 c. 20, 36, 92, 93, 317, 325, 364; 1983 a. 8; 1983 a. 27 ss. 411 to 425; 1983 a. 98 ss. 1, 31; 1983 a. 192, 384, 388, 410; 1985 a. 17, 29, 153, 313, 332; 1987 a. 27; 1987 a. 38 ss. 2 to 4, 136; 1987 a. 399, 403; 1989 a. 31, 44, 64, 77, 254, 284, 359; 1991 a. 39 ss. 372c, 545r, 545t, 545v, 547, 548, 548g, 548m, 549, 549b, 549g, 549p; legl. a. 85, 89, 269, 315; 1993 a. 16, 126, 243, 437, 491; 1995 a. 27 ss. 772mm, 772mn, 776p to 778b, 778L, 778n, 778q, 778v, 778z to 780m, 781m to 782p, 782u, 841, 842, 849, 850, 854, 855, 858c, 873 to 876, 878, 880, 890 to 896, 962 to 1014c, 9126 (19), 9130 (4); 1995 a. 113 s. 2r; 1995 a. 117, 201, 216, 225, 289; 1995 a. 404 ss. 4, 6 to 8, 10 to 17, 1997 a. 3; 1997 a. 27 ss. 610 to 642m, 722; 1997 a. 35, 38, 39.

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

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

History: History: 1971 c. 270 s. 104; 1973 c. 90; 1973 c. 284 ss. 2, 32, 1973 c. 333, 1975 c. 39, 82; 1975 c. 189 s. 99 (1), (2); 1975 c. 224, 377, 413, 422; 1977 c. 29, 193; 1977 c. 196 s. 131; 1977 c. 203, 205, 271, 354; 1977 c. 418 ss. 287 to 289m, 924 (18) (d); 1977 c. 447, 449; 1979 c. 32 s. 92 (1); 1979 c. 34; 1979 c. 175 s. 46; 1979 c. 221, 331, 352; 1981 c. 20, 81; 1981 c. 314 s. 144; 1981 c. 390; 1983 a. 27, 193; 1983 a. 435 s. 7, 1983 a. 447, 474; 1983 a. 532 s. 36; 1985 a. 19, 29, 120, 176, 234, 285, 328, 331; 1985

a. 332 s. 251 (3); 1987 a. 3, 5, 27, 161, 186, 307, 339, 385, 399, 403, 413; 1989 a. 31 ss. 938m to 951, 2909g, 2909i; 1989 a. 56, 105, 107, 122, 1991 a. 39, 277; 1993 a. 16 ss. 851 to 859, 3072d; 1993 a. 98, 377, 385, 446, 481; 1995 a. 27 ss. 2026m to 2038b, 9126 (19); 1995 a. 77, 201, 225, 352, 370, 404, 448; 1997 a. 3, 27.

**SECTION 4. 48.065 (title) of the statutes is amended to read:**

48.065 (title) Juvenile Circuit court commissioners in juvenile matters.

History: History: 1977 c. 354,449; 1979 c. 300, 331, 355, 359; 1981 c. 314; 1987 a. 151, 1989 a. 56; 1991 a. 39; 1993 a. 318,377; 1995 a. 77,275.

(insert 3-8)

**SECTION 5. 48.065 (2) (intro.) of the statutes is amended to read:**

48.065 (2) (intro.) Under this chapter a juvenile circuit court commissioner, if authorized to do so by a judge, may:

History: History: 1977 c. 354,449; 1979 c. 300, 331, 355, 359; 1981 c. 314; 1987 a. 151; 1989 a. 56; 1991 a. 39; 1993 a. 318,377; 1995 a. 77,275.

**SECTION 6. 48.065 (3) (intro.) of the statutes is amended to read:**

48.065 (3) (intro.) The juvenile circuit court commissioner may not:

History: History: 1977 c. 354,449; 1979 c. 300, 331, 355, 359; 1981 c. 314; 1987 a. 151; 1989 a. 56; 1991 a. 39, 1993 a. 318,377; 1995 a. 77,275.

**SECTION 7. 48.065 (4) of the statutes is amended to read:**

48.065 (4) When acting officially, the juvenile circuit court commissioner assisting the court in juvenile matters shall sit at the courthouse or the usual court facility for juvenile matters. Any decision of the juvenile court commissioner shall be reviewed by the judge upon the request of any interested party.

History: History: 1977 c. 354,449; 1979 c. 300, 331, 355, 359; 1981 c. 314; 1987 a. 151; 1989 a. 56; 1991 a. 39; 1993 a. 318,377; 1995 a. 77,275.

**SECTION 8. 48.208 (4) of the statutes is amended to read:**

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

History: History: 1977 c. 354; 1979 c. 300; 1985 a. 176; 1993 a. 16, 377, 385, 491; 1995 a. 27,77.

**SECTION 9. 48.21 (1) (a) of the statutes is amended to read:**

48.21 (1) (a) If a child who has been taken into custody is not released under s. 48.20, a hearing to determine whether the child shall continue to be held in custody under the criteria of ss. 48.205 to 48.209 shall be conducted by the judge or juvenile

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

History: History: 1977 c. 354,447; 1979 c. 300; 1983 a. 399; 1985 a. 311; 1993 a. 98; 1995 a. 27, 77, 275; 1997 a. 35.

**SECTION 10. 48.21 (1) (b)** of the statutes is amended to read:

**48.21 (1) (b)** If no petition has been filed by the time of the hearing, a child may be held in custody with approval of the judge or ~~juvenile~~circuit court commissioner for an additional 72 hours from the time of the hearing, excluding Saturdays, Sundays and legal holidays, only if, as a result of the facts brought forth at the hearing, the judge or ~~juvenile~~circuit court commissioner determines that probable cause exists to believe that the child is an imminent danger to himself or herself or to others, or that probable cause exists to believe that the parent, guardian or legal custodian of the child or other responsible adult is neglecting, refusing, unable or unavailable to provide adequate supervision and care. The extension may be granted only once for any petition. In the event of failure to file a petition within the extension period provided for in this paragraph, the judge or ~~juvenile~~circuit court commissioner shall order the child's immediate release from custody.

History: History: 1977 c. 354,447; 1979 c. 300; 1983 a. 399; 1985 a. 311; 1993 a. 98; 1995 a. 27, 77, 275; 1997 a. 35.

**SECTION 11 . 48.21 (4) (intro.)** of the statutes is amended to read:

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

History: History: 1977 c. 354,447; 1979 c. 300,1983 a. 399; 1985 a. 311; 1993 a. 98; 1995 a. 27, 77, 275; 1997 a. 35.

**SECTION 12. 48.21 (7)** of the statutes is amended to read:

48.21 (7) **INFORMAL DISPOSITION.** If the judge or juvenile circuit court commissioner determines that the best interests of the child and the public are served, he or she may enter a consent decree under s. 48.32 or order the petition dismissed and refer the matter to the intake worker for informal disposition in accordance with s. 48.245.

History: History: 1977 c. 354,447; 1979 c. 300; 1983 a. 399; 1985 a. 311; 1993 a. 98; 1995 a. 27, 77, 275; 1997 a. 35.

**SECTION 13. 48.227 (4) (a)** of the statutes is amended to read:

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

(end ins 3-8)

History: History: 1977 c. 354; 1979 c. 300; 1985 a. 176; 1995 a. 77.

**SECTION 14. 48.32 (1)** of the statutes is amended to read:

48.32 (1) At any time after the filing of a petition for a proceeding relating to s. 48.13 and before the entry of judgment, the judge or juvenile circuit court commissioner may suspend the proceedings and place the child under supervision in the child's own home or present placement. The court may establish terms and conditions applicable to the parent, guardian or legal custodian, and to the child. The order under this section shall be known as a consent decree and must be agreed to

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by the child if 12 years of age or older; the parent, guardian or legal custodian; and the person filing the petition under s. 48.25. The consent decree shall be reduced to writing and given to the parties.

History: History: 1977 c. 354; 1985 a. 311; 1987 a. 27, 285, 339; 1991 a. 213, 253, 315; 1993 a. 98; 1995 a. 24, 77, 448.

**SECTION 15.** 48.32 (2) (a) of the statutes is amended to read:

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

History: History: 1977 c. 354; 1985 a. 311; 1987 a. 27, 285, 339; 1991 a. 213, 253, 315; 1993 a. 98; 1995 a. 24, 77, 448.

**SECTION 16.** 48.32 (6) of the statutes is amended to read:

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

History: History: 1977 c. 354; 1985 a. 311; 1987 a. 27, 285, 339; 1991 a. 213, 253, 315; 1993 a. 98; 1995 a. 24, 77, 448.

**SECTION 17.** 49.25 (8) (b) of the statutes is amended to read:

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

History: History: 1991 a. 39; 1993 a. 16; 1995 a. 27 ss. 2895 to 2898b, 9126 (19); 1995 a. 289,404; 1997 a. 27.

**SECTION 18.** 49.852 (3) of the statutes, as affected by 1997 Wisconsin Act 191, is amended to read:

49.852(3) If a person has requested a hearing pursuant to sub. (2) (b), the hearing shall be conducted before the circuit court that rendered the initial order to pay support. The court shall schedule a hearing within 10 business days after receiving a request for a hearing. The family circuit court commissioner may conduct the



hearing. If the court determines that the person owes the amount specified in the statewide support lien docket under s. 49.854 (2) (b), the department of workforce development may direct the department of employe trust funds, the retirement system of any 1st class city, any retirement system established under chapter 201, laws of 1937, or the administrator of any other pension plan, whichever is appropriate, to withhold the amount from any lump sum payment from a pension plan that may be paid the person. If the court determines that the person does not owe the amount specified in the statewide support lien docket under s. 49.854 (2) (b), the department of workforce development may not direct the department of employe trust funds, the retirement system of any 1st class city, any retirement system established under chapter 201, laws of 1937, or the administrator of any other pension plan, whichever is appropriate, to withhold the amount from any lump sum payment from a pension plan that may be paid the person.

History: 1997 a. 191.

**SECTION 19.** 49.854 (2) (c) of the statutes, as affected by 1997 Wisconsin Act 191,

is amended to read:

49.854(2)(c) <sup>mk</sup> <sup>③</sup> *Updating the statewide support lien docket.* The department shall update the statewide support lien docket in response to orders issued by a court or ~~family~~ circuit court commissioner. The department shall periodically update the statewide support lien docket to reflect changes in the amounts of the liens contained in the docket.

History: 1997 a. 191.

**SECTION 20.** 49.854 (3) (ag) 2. of the statutes, as affected by 1997 Wisconsin Act

191, is amended to read:

49.854(3)(ag) <sup>mk</sup> <sup>③</sup> 2. If the obligor disagrees with the determination of the department, the obligor may request a hearing with the court or a ~~family~~ circuit court commissioner to review





the department's determination. To request a hearing under this subdivision, the obligor shall make the request within 5 business days of the date of the department's determination under subd. 1. The obligor shall make the request in writing and shall mail or deliver a copy of the request to the county child support agency. If a timely request for a hearing is made under this subdivision, the court or ~~family~~<sup>✓</sup> family circuit court commissioner shall hold the hearing within 15 business days of the request. If, at the hearing, the obligor establishes that the lien is not proper because of a mistake of fact, the court or ~~family~~<sup>✓</sup> family circuit court commissioner shall order the department to remove the lien from the statewide support lien docket or adjust the amount of the delinquent obligation.

History: 1997 a. 191.

**SECTION 21.** 49.854 (3) (ar) of the statutes, as affected by 1997 Wisconsin Act

191, is amended to read:

49.854 <sup>f-4, 4-3</sup> (3) (ar) *Direct upped.* If the obligor has not requested a financial records and court order review under par. (ag), the obligor may request a hearing under this paragraph within 20 business days of the date of the notice under par. (a). The obligor shall make the request in writing and shall mail or deliver a copy of the request to the county child support agency. If a timely request for a hearing is made under this paragraph, the court or ~~family~~<sup>✓</sup> family circuit court commissioner shall schedule a hearing within 10 days after the date of the request. If, at the hearing, the obligor establishes that the lien is not proper because of a mistake of fact, the court or ~~family~~<sup>✓</sup> family circuit court commissioner shall order the department to remove the lien from the statewide support lien docket or adjust the amount of the delinquent obligation.

History: 1997 a. 191.

**SECTION 22.** 49.854 (3) (b) of the statutes, as affected by 1997 Wisconsin Act

191, is amended to read:



49.854 (3) <sup>mk</sup> (3)

family <sup>✓</sup>circuit court commissioner conducts a hearing under par. (ag) or (ar), the department or the obligor may, within 15 business days after the date of the decision by the family <sup>✓</sup>circuit court commissioner, request review of the decision by the court having jurisdiction over the action. The court conducting the review may order that the lien be withdrawn from the statewide support lien dockets or may order an adjustment of the amount of the delinquent obligation. If no appeal is sought or if the court does not order the withdrawal of the lien, the department may take appropriate actions to enforce the lien.

History: 1997 a 191.

**SECTION 23.** 49.854 (5) (f) of the statutes, as affected by 1997 Wisconsin Act 191, is amended to read:

49.854 (5) <sup>mk</sup> (5)

family <sup>✓</sup>circuit court commissioner may conduct the hearings h a l l be limited to a review of whether the account holder owes the amount of support certified and whether any alternative payment arrangement offered by the department or the county child support agency is reasonable. If the court or family <sup>✓</sup>circuit court commissioner makes a written determination that an alternative payment arrangement offered by the department or county child support agency is not reasonable, the court or family <sup>✓</sup>circuit court commissioner may order an alternative payment arrangement. If the court or family <sup>✓</sup>circuit court commissioner orders an alternative payment arrangement, the court or family <sup>✓</sup>circuit court commissioner shall order the department to release all or a portion of the funds. If the court or family <sup>✓</sup>circuit court commissioner determines that the account holder



does not owe support or owes less than the amount claimed by the department, the court shall order the department to return the seized funds or the excess of the seized funds over the amount of the delinquency to the account holder. If a ~~family~~<sup>✓</sup>circuit court commissioner conducts the hearing under this paragraph, the department or the obligor may, within 15 business days after the date that the ~~family~~<sup>✓</sup>circuit court commissioner makes his or her decision, request review of the decision by the court with jurisdiction over the action.

History: 1997 a. 191.

**SECTION 24.** 49.854 (6) (c) of the statutes, as affected by 1997 Wisconsin Act 191,

is amended to read:

49.854 ~~(6)~~<sup>mk③</sup>(c) *Hearing.* If a hearing is requested under par. (b) 4., the court or ~~family~~<sup>✓</sup>circuit court commissioner shall schedule a hearing within 10 business days after receiving the request under par. (b) 4. The hearing shall be limited to a review of whether the obligor owes the amount of support owed that is stated in the notice of seizure and whether any alternative payment arrangement offered by the department or the county child support agency is reasonable. If the court or ~~family~~<sup>✓</sup>circuit court commissioner makes a written determination that an alternative payment arrangement offered by the department or county child support agency is not reasonable, the court or ~~family~~<sup>✓</sup>circuit court commissioner may order an alternative payment arrangement. If the court or ~~family~~<sup>✓</sup>circuit court commissioner orders an alternative payment arrangement, the court or ~~family~~<sup>✓</sup>circuit court commissioner shall order the department to return the seized property within 15 business days. If the court or ~~family~~<sup>✓</sup>circuit court commissioner determines that the obligor does not owe support or owes less than the amount claimed by the department, the court shall order the department to return the seized property within 15 business days or specify



the amount which may be retained by the department after the sale of the seized property. If a ~~family~~ family ~~circuit~~ circuit court commissioner conducts the hearing under this paragraph, the department or the obligor may, within 15 business days after the date that the ~~family~~ family ~~circuit~~ circuit court commissioner makes his or her decision, request review of the decision by the court with jurisdiction over the action. The court reviewing the decision may order the department to return the seized property or may authorize the sale of the property by the department. If the department is ordered to return seized property under this paragraph, the court shall instruct any state agency responsible for titling the property that it may transfer title to the property without receiving instructions from a court or the department under par. (a).

History: 1997 a. 191.

**SECTION 25. 49.854 (7) (c) of the statutes, as affected by 1997 Wisconsin Act 191,**

is amended to read:

49.854(7)(c) <sup>mk 3</sup> *Hearing*. If a hearing is requested under par. (b) 1. c., the court or ~~family~~ family ~~circuit~~ circuit court commissioner shall schedule a hearing within 10 business days after receiving the request under par. (b) 1. c. The hearing shall be limited to a review of whether the obligor owes the amount of support owed that is stated in the notice of intent under par. (b) and whether any alternative payment arrangement offered by the department or the county child support agency is reasonable. If the court or ~~family~~ family ~~circuit~~ circuit court commissioner makes a written determination that an alternative payment arrangement offered by the department or county child support agency is not reasonable, the court or ~~family~~ family ~~circuit~~ circuit court commissioner may order an alternative payment arrangement. If the court or ~~family~~ family ~~circuit~~ circuit court commissioner orders an alternative payment arrangement, the court or ~~family~~ family ~~circuit~~ circuit court commissioner shall order the department not to proceed with the levy. If the court



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

History: 1997 a. 191.

**SECTION 27.** 49.855 (3) of the statutes, as affected by 1997 Wisconsin Act 35, is amended to read:

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



~~family~~ family ~~circuit~~ circuit court commissioner, the clerk of circuit court or county support collection designee under s. 59.53 (5m) is prohibited from disbursing the obligor's state tax refund or credit. The ~~family~~ family ~~circuit~~ circuit court commissioner may conduct the hearing. The sole issues at that hearing shall be whether the obligor owes the amount certified and, if not and it is a support or maintenance order, whether the money withheld from a tax refund or credit shall be paid to the obligor or held for future support or maintenance. An obligor may, within 20 days of receiving notice that the amount certified shall be withheld from his or her federal tax refund or credit, request a hearing under this subsection.

History: 1997 a. 35.

**SECTION 28.** 49.855 (4m) (b) of the statutes, as affected by 1997 Wisconsin Act 35, is amended to read:

49.855 (4m) (b) The department of revenue may provide a certification that it receives under sub. (2) or (2m) to the department of administration. Upon receipt of the certification, the department of administration shall determine whether the obligor is a vendor or is receiving any other payments from this state, except for wages, retirement benefits or assistance under s. 45.352, 1971 stats., s. 45.351 (1), this chapter or ch. 46 or 108. If the department of administration determines that the obligor is a vendor or is receiving payments from this state, except for wages, retirement benefits or assistance under s. 45.352, 1971 stats., s. 45.351 (1), this chapter or ch. 46 or 108, it shall begin to withhold the amount certified from those payments and shall notify the obligor that the state intends to reduce any payments due the obligor by the amount the obligor is delinquent under the support or maintenance order, by the outstanding amount for past support, medical expenses or birth expenses under the court order or by the amount due under s. 46.10 (4). The



or ~~family circuit~~ court commissioner determines that the obligor does not owe support or owes less than the amount claimed by the department, the court shall order the department not to proceed with the levy or specify the amount that may be retained by the department after the sale of the seized property. If a ~~family circuit~~ court commissioner conducts the hearing under this paragraph, the department or the obligor may, within 15 business days after the date that the ~~family circuit~~ court commissioner makes his or her decision, request review of the decision by the court with jurisdiction over the action. The court reviewing the decision may order the department not to proceed with the levy of the property or may authorize the sale of the property by the department.

History: 1997 a. 191.

**SECTION 26. 49.854 (7m)** of the statutes, as affected by 1997 Wisconsin Act 191, is amended to read:

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



notice shall provide that within 20 days after receipt of the notice the obligor may request a hearing before the circuit court rendering the order. An obligor may, within 20 days after receiving notice, request a hearing under this paragraph. Within 10 days after receiving a request for hearing under this paragraph, the court shall set the matter for hearing. The ~~family circuit~~<sup>✓</sup> court commissioner may conduct the hearing. Pending further order by the court or ~~family circuit~~<sup>✓</sup> court commissioner, the clerk of circuit court or county support collection designee under s. 59.53 (5m) may not disburse the payments withheld from the obligor. The sole issues at the hearing are whether the obligor owes the amount certified and, if not and it is a support or maintenance order, whether the money withheld shall be paid to the obligor or held for future support or maintenance.

History: 1997 a. 35.

**SECTION 29.** 49.856 (4) of the statutes, as affected by 1997 Wisconsin Act 191, is amended to read:

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

History: 1997 a. 191.

**SECTION 30.** 49.857 (2) (c) 1. of the statutes, as affected by 1997 Wisconsin Act 191, is amended to read:

49.857 (c) 1. <sup>(2) ← ⊙</sup> The system shall provide for adequate notice to an individual who is delinquent in making court-ordered payments of support, an opportunity for the individual to make alternative arrangements for paying the delinquent support, an opportunity for the individual to request and obtain a hearing before a court or ~~family~~<sup>✓</sup>





circuit court commissioner as provided in sub. (3) and prompt reinstatement of the individual's license upon payment of the delinquent support or upon making satisfactory alternative payment arrangements.

History: 1997 a. 191.

**SECTION 31.** 49.857 (3) (ac) of the statutes, as affected by 1997 Wisconsin Act

191, is amended to read:

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

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

3. If at a hearing under subd. 1. the court or ~~family circuit~~ commissioner makes a written determination that alternative payment arrangements proposed by the department of workforce development or a child support agency are not reasonable, the court or ~~family circuit~~ court commissioner may order for the individual an alternative payment arrangement. If the court or ~~family circuit~~ court



commissioner orders an alternative payment arrangement, the department of workforce development may not place the individual's name on a certification list.

History: 1997 a. 191.

**SECTION 32. 49.857 (3) (ar)** of the statutes, as affected by 1997 Wisconsin Act 191, is amended to read:

49.857 (3) (ar) 1. If an individual timely requests a hearing under par. (am) 5., the court shall schedule a hearing within 10 business days after receiving the request. The family circu~~it~~ <sup>✓</sup> court ~~commissidnery~~ may conduct the hearings a t t h e hearing shall be whether the individual is delinquent in making court-ordered payments of support and whether any alternative payment arrangement offered by the department of workforce development or the county child support agency is reasonable.

2. If at a hearing under subd. 1. the court or family circu~~it~~ <sup>✓</sup> court commissioner finds that the individual does not owe delinquent support, or if within 20 business days after receiving a notice under par. (am) the individual pays the delinquent amount in full or makes satisfactory alternative payment arrangements, the department of workforce development shall remove the individual's name from the certification list.

3. If at a hearing under subd. 1. the court or family circu~~it~~ <sup>✓</sup> court commissioner makes a written determination that alternative payment arrangements proposed by the department of workforce development or a child support agency are not reasonable, the court or family circu~~it~~ <sup>✓</sup> court commissioner may order for the individual an alternative payment arrangement. If the court or family circu~~it~~ <sup>✓</sup> court



commissioner orders an alternative payment arrangement, the department of workforce development may not place the individual's name on a certification list.

History: 1997 a. 191.

**SECTION 33.** 49.858 (3) of the statutes, as affected by 1997 Wisconsin Act 191, is amended to read:

49.858<sub>λ</sub> **(3)** REVIEW OF FAMILY COURT COMMISSIONER DECISIONS. If a ~~family~~ family circuit<sup>✓</sup> court commissioner conducts a hearing in any administrative support enforcement proceeding under s. 49.852, 49.856 or 49.857, the department of workforce development or the obligor may, within 15 business days after the date that the ~~family~~ family circuit<sup>✓</sup> court commissioner makes his or her decision, request review of the decision by the court with jurisdiction over the matter.

(end ins 3-13)

History: 1997 a. 191.

(insert 6-6)

**SECTION 34.** 59.53 (5) of the statutes, as affected by 1997 Wisconsin Act 41, is amended to read:

59.53 **(5)** CHILD AND SPOUSAL SUPPORT; PATERNITY PROGRAM; MEDICAL SUPPORT LIABILITY PROGRAM. The board shall contract with the department of workforce development to implement and administer the child and spousal support and establishment of paternity and the medical support liability programs provided for by Title IV of the federal social security act. The board may designate by board resolution any ~~office~~, officer, board, department or agency, except the clerk of circuit court, as the county child support agency. The board or county child support agency shall implement and administer the programs in accordance with the contract with the department of workforce development. The attorneys responsible for support enforcement under sub. (6) (a), ~~family~~ family circuit<sup>✓</sup> court commissioner and all other

county officials shall cooperate with the county and the department of workforce development as necessary to provide the services required under the programs. The county shall charge the fee established by the department of workforce development under s. 49.22 for services provided under this subsection to persons not receiving benefits under s. 49.148 or 49.155 or assistance under s. 46.261, 49.19 or 49.47.

History: 1997 a. 41.

**SECTION 35.** 59.53 (5m) (a) of the statutes, as affected by 1997 Wisconsin Act 191, is amended to read:

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

History: 1997 a. 191.

(insert 8-5)

**SECTION 36.** 69.15 (3m) (a) 3. and 4. of the statutes, as affected by 1997 Wisconsin Act 191, are amended to read:

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

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

History: 1997 a. 191.

(insert 13-5)

**SECTION 37.** 563.71 (1) (a) of the statutes is amended to read:

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

History: History: 1973 c. 156; Sup. Ct. Order, 67 W (2d) 585,753 (1975); 1977 c. 29 s. 1656 (27); 1977 c. 187 s. 135; 1977 c. 273; 1977 c. 323 s. 16; 1977 c. 426; 1979 c. 34, 1981 c. 317 s. 2202; 1991 a. 269 s. 782kd; Stats. 1991 s. 563.71.

**SECTION 38.** 753.175 of the statutes is amended to read:

**753.175 Fees; where paid.** Any fee received by a judge of a court as a circuit or supplemental <sup>✓</sup> court commissioner shall be paid into the county treasury except that any amount payable under s. 814.68 (1) to a reporter shall be paid to such reporter.

(end ins 13-5)

History: History: 1977 c. 187 ss. 92, 135; 1977 c. 323 s. 16; Stats. 1977 s. 753.175; 1981 c. 317 s. 2202.

**SECTION 39.** 757.24 of the statutes is amended to read:

< INS  
13-20

↓

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

History: History: 1911 c. 187 s. 96, 1977 c. 449; Stats. 1977 s. 151.24.

**SECTION 40.** 757.30 (2) of the statutes is amended to read:

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

(end ins 13-20)

History: History: 1911 c. 26; 1911 c. 187 s. 96; Stats. 1977 s. 757.30; 1979 c. 98; 1991 a. 32, 39; 1993 a. 490

(insert 18-22)

**SECTION 41.** 757.72 (title) of the statutes is amended to read:

757.72 (title) ~~AA~~ **Office Position of probate court commissioner.**

History: History: 1977 c. 323,449.

**SECTION 42.** 757.72 (1) of the statutes is amended to read:

757.72 (1) In counties having a population of 500,000 or more, there is created in the classified civil service ~~the office of probate~~ a circuit court commissioner position to assist in probate matters. In counties having a population of at least 100,000 but not more than 500,000, the county board may create ~~the office of probate~~

a circuit court commissioner <sup>✓</sup>position to assist in probate matters, which may be in the classified civil service.

History: History: 1977 c. 323,449.

**SECTION 43.** 757.72 (2) of the statutes is repealed.

**SECTION 44.** 757.72 (3) of the statutes is repealed.

(insert 19-5)

**SECTION 45.** 757.72 (8) of the statutes is amended to read:

757.72 (8) The probate circuit <sup>✓</sup> court commissioners assisting in probate matters <sup>✓</sup> may administer oaths, take depositions and testimony, and certify and report the depositions and testimony, take and certify acknowledgments, allow accounts and fix the amount and approve the sufficiency of bonds.

History: History: 1977 c. 323,449.

(insert 19-12)

**SECTION 46.** 765.11 (1) of the statutes is amended to read:

765.11 (1) If any parent, grandparent, child, or natural guardian of a minor applicant for a marriage license, any brother, sister or guardian of either of the applicants for a marriage license, either of the applicants, the district attorney or the ~~family~~ <sup>✓</sup>circuit court commissioner believes that the statements of the application are false or insufficient, or that the applicants or either of them are incompetent to marry, that person may file with the court having probate jurisdiction in the county in which the marriage license is applied for, a petition under oath, setting forth the grounds of objection to the marriage and asking for an order requiring the parties making such application to show cause why the marriage license should not be refused. Whereupon, the court, if satisfied that the grounds of objection are prima

facie valid, shall issue an order to show cause as aforesaid, returnable as the court directs, but not more than 14 days after the date of the order, which shall be served forthwith upon the applicants for the marriage license residing in the state, and upon the clerk before whom the application has been made, and shall operate as a stay upon the issuance of the marriage license until further ordered; if either or both of the applicants are nonresidents of the state the order shall be served forthwith upon the nonresident by publication of a class 1 notice, under ch. 985, in the county wherein the application is pending, and by mailing a copy thereof to the nonresident at the address contained in the application.

**History:** History: 1979 c. 32 s. 48; 1979 c. 176; Stats. 1979 s. 765.11; 1981 c. 20 ss. 1777v, 2200.

**SECTION 47. 765.11 (2)** of the statutes is amended to read:

765.11 (2) If, upon hearing, the court finds that the statements in the application are wilfully false or insufficient, or that either or both of said parties are not competent in law to marry, the court shall make an order refusing the marriage license, and shall immediately report such matter to the district attorney. If said falseness or insufficiency is due merely to inadvertence, then the court shall permit the parties to amend the application so as to make the statements therein true and sufficient, and upon application being so amended, the marriage license shall be issued. If any party is unable to supply any of the information required in the application, the court may, if satisfied that such inability is not due to wilfulness or negligence, order the marriage license to be issued notwithstanding such insufficiency. The costs and disbursements of the proceedings under this section shall rest in the discretion of the court, but none shall be taxed against any district attorney or ~~family~~ family circuit court commissioner acting in good faith.

**History:** History: 1979 c. 32 s. 48; 1979 c. 176; Stats. 1979 s. 765.11; 1981 c. 20 ss. 1777v, 2200.



(insert 19-16)

**SECTION 48.** 767.045 (1) (c) <sup>(intro.)</sup> of the statutes, as affected by 1997 Wisconsin Act 191, is amended to read:

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

History: 1997 a. 191.

**SECTION 49.** 767.081 (title) of the statutes is amended to read:

767.081 (title) **Information from** <sup>✓</sup> ~~the office of the family court commissioner.~~

History: History: 1977 c. 105, 271, 447, 449; 1979 c. 32 s. 50, 1987 a. 355.

**SECTION 50.** 767.081 (1) of the statutes is amended to read:

767.081 (1) Upon the filing of an action affecting the family, the family court commissioner shall inform the parties of any services, including referral services, offered by ~~the family court commissioner~~ <sup>✓</sup> his or her office and by the director of family court counseling services under s. 767.11.

History: History: 1977 c. 105, 271, 447, 449; 1979 c. 32 s. 50; 1987 a. 355.

**SECTION 51.** 767.083 (2) of the statutes is amended to read:

767.083 (2) An order by the court, after consideration of the recommendation of the ~~family~~ <sup>✓</sup> circuit court commissioner, directing an immediate hearing on the petition for the protection of the health or safety of either of the parties or of any child

of the marriage or for other emergency reasons consistent with the policies of this chapter. The court shall upon granting such order specify the grounds therefor.

History: History: 1977 c. 105; 1979 c. 32 ss. 50, 92 (4); 1979 c. 196; Stats. 1979 s. 767.083; 1987 a. 355.

**SECTION 52. 767.085 (1) (i) of the statutes is amended to read:**

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

History: History: 1971 c. 220, 1977 c. 105; 1979 c. 32 ss. 50.92 (4); 1979 c. 196; 1979 c. 352 s. 39; Stats. 1979 s. 767.085, 1985 a. 29; 1987 a. 332 s. 64; 1987 a. 355,403; 1989 a. 31, 56, 132; 1993 a. 78,481; 1995 a. 27 s. 9126 (19); 1995 a. 201,404.

**SECTION 53. 767.085 (1) (j) (intro.) of the statutes is amended to read:**

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

History: History: 1971 c. 220; 1977 c. 105; 1979 c. 32 ss. 50.92 (4); 1979 c. 196; 1979 c. 352 s. 39; Stats. 1979 s. 767.085, 1985 a. 29; 1987 a. 332 s. 64.1987 a. 355,403; 1989 a. 31, 56, 132; 1993 a. 78,481; 1995 a. 27 s. 9126 (19); 1995 a. 201,404.

**SECTION 54. 767.087 (1) (b) of the statutes is amended to read:**

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

History: History: 1993 a. 78

**SECTION 55. 767.087 (1) (c) of the statutes is amended to read:**

767.087 (1) (c) Unless the action is one under s. 767.02 (1) (g) or (h), without the consent of the other party or an order of the court or ~~family~~ family court commissioner, establishing a residence with a minor child of the parties outside the state or more than 150 miles from the residence of the other party within the state, removing a minor child of the parties from the state for more than 90 consecutive days or concealing a minor child of the parties from the other party.

History: History: 1993 a. 78.

**SECTION 56.** 767.087 (2) of the statutes is amended to read:

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

History: History: 1993 a. 78.

**SECTION 57.** 767.11 (1) (c) of the statutes is amended to read:

767.11 (1) (c) A county or counties may designate a ~~the~~ the family court commissioner as the director under par. (a) or (b).

History: History: 1987 a. 355; 1989 a. 56; 1991 a. 269; Sup. Ct. Order No. 93-03, 179 W (2d) xv; 1995 a. 275,343.

**SECTION 58.** 767.11 (5) (a) of the statutes is amended to read:

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

History: History: 1987 a. 355; 1989 a. 56; 1991 a. 269; Sup. Ct. Order No. 93-03.179 W (2d) xv; 1995 a. 275,343.

**SECTION 59.** 767.11 (5) (b) of the statutes is amended to read:

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

History: History: 1987 a. 355; 1989 a. 56; 1991 a. 269; Sup. Ct. Order No. 93-03, 179 W (2d) xv; 1995 a. 275,343.

**SECTION 60.** 767.11 (6) of the statutes is amended to read:

767.11 (6) **ACTION UPON REFERRAL.** Whenever a court or ~~family circuit~~<sup>✓</sup> court commissioner refers a party to the director of family court counseling services for possible mediation, the director shall assign a mediator to the case. The mediator shall provide mediation if he or she determines it is appropriate. If the mediator determines mediation is not appropriate, he or she shall so notify the court. Whenever a court or ~~family circuit~~<sup>✓</sup> court commissioner refers a party to the director of family court counseling services for any other family court counseling service, the director shall take appropriate action to provide the service.

History: History: 1987 a. 355; 1989 a. 56; 1991 a. 269; Sup. Ct. Order No. 93-03, 179 W (2d) xv; 1995 a. 275,343.

**SECTION 61.** 767.11 (13) of the statutes is amended to read:

767.11 (13) (title) **POWERS OF COURT OR ~~FAMILY CIRCUIT~~<sup>✓</sup> COURT COMMISSIONER.** Except as provided in sub. (8), referring parties to mediation under this section does not affect the power of the court or ~~family circuit~~<sup>✓</sup> court commissioner to make any necessary order relating to the parties during the course of the mediation.

History: History: 1987 a. 355; 1989 a. 56; 1991 a. 269; Sup. Ct. Order No. 93-03, 179 W (2d) xv; 1995 a. 275,343

**SECTION 62.** 767.115 (1) (a) of the statutes, as affected by 1997 Wisconsin Act 45, is amended to read:

767.115 (1) (a) At any time during the pendency of an action affecting the family in which a minor child is involved and in which the court or ~~family circuit~~<sup>✓</sup> court

commissioner determines that it is appropriate and in the best interest of the child, the court or ~~family~~ family circuit court commissioner, on its own motion, may order the parties to attend a program specified by the court or ~~family~~ family circuit court commissioner concerning the effects on a child of a dissolution of the marriage.

History: 1997 a. 45.

**SECTION 63.** 767.115 (1) (b) of the statutes, as affected by 1997 Wisconsin Act 45, is amended to read:

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

History: 1997 a. 45.

**SECTION 64.** 767.115 (1m) of the statutes, as affected by 1997 Wisconsin Act 45, is amended to read:

**767.115 (1m)** A program under sub. (1) shall be educational rather than therapeutic in nature and may not exceed a total of 4 hours in length. The parties shall be responsible for the cost, if any, of attendance at the program. The court or ~~family~~ family circuit court commissioner may specifically assign responsibility for payment of any cost. No facts or information obtained in the course of the program, and no report resulting from the program, is admissible in any action or proceeding.

History: 1997 a. 45.

**SECTION 65.** 767.115 (2) of the statutes is amended to read:

767.115 (2) Notwithstanding s. 767.07, the court or ~~family~~ family circuit court commissioner may require the parties to attend a program under sub. (1) as a

condition to the granting of a final judgment or order in the action affecting the family that is pending before the court or ~~family~~<sup>✓</sup>circuit court commissioner.

History: History: 1993 a. 225; 1997 a. 45.

**SECTION 66.** 767.125 of the statutes is amended to read:

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

History: History: 1977 c. 105; 1979 c. 32 s. 50; 1979 c. 196; 1979 c. 352 s. 39; Stats 1979 s. 767.125.

(insert 22-2)

**SECTION 67.** 767.13 (5) (a) of the statutes is amended to read:

767.13 (5) (a) Divorce. On authority delegated by a judge, which may be by a standard order, and with the approval of the chief judge of the judicial administrative district, a ~~family~~<sup>✓</sup>circuit court commissioner may preside at any hearing held to determine whether a judgment of divorce shall be granted, if both parties state that the marriage is irretrievably broken and that all material issues, including but not limited to division of property or estate, legal custody, physical placement, child support, spousal maintenance and family support, are resolved or if one party does not participate in the action for divorce. The ~~family~~<sup>✓</sup>circuit court commissioner may grant and enter judgment in any action over which he or she presides under this paragraph unless the judgment modifies an agreement between the parties on material issues. If the ~~family~~<sup>✓</sup>circuit court commissioner does not approve an

agreement between the parties on material issues, the action shall be certified to the court for trial.

History: History: 1975 c. 39,199; 1977 c. 187 s. 135; 1977 c. 273; 1977 c. 323 s. 16; 1977 c. 449; 1979 c. 32 s. 50; 1979 c. 96,196; Stats. 1979 s. 767.13; 1983 a. 436; 1985 a. 29; 1987 a. 27, 355; Sup. Ct. Order, 158 W (2d) xxv (1990); 1993 a. 481; 1995 a. 27 s. 9126 (19); 1995 a. 404.

**SECTION 68. 767.13 (5) (b) of the statutes is amended to read:**

**767.13 (5) (b) *Enforcement or revision; maintenance, custody, physical placement and visitation.*** On authority delegated by a judge, which may be by a standard order, a ~~family circuit~~<sup>✓</sup> court commissioner may conduct hearings and enter judgments in actions for enforcement of, or revision of judgment for, maintenance, custody, physical placement or visitation.

History: History: 1975 c. 39,199; 1977 c. 187 s. 135; 1977 c. 273; 1977 c. 323 s. 16; 1977 c. 449, 1979 c. 32 s. 50; 1979 c. 96,196; Stats. 1979 s. 767.13; 1983 a. 436; 1985 a. 29; 1987 a. 27,355; Sup. Ct. Order, 158 W (2d) xxv (1990); 1993 a. 481; 1995 a. 27 s. 9126 (19); 1995 a. 404.

**SECTION 69. 767.13 (5) (c) of the statutes is amended to read:**

**767.13 (5) (c) *Establishment, enforcement or revision; paternity and support.*** Except when otherwise ordered by a judge, a ~~family circuit~~<sup>✓</sup> court commissioner may conduct hearings and enter orders and judgments in actions to establish paternity, in actions to establish or enforce a child support or a ~~family circuit~~<sup>✓</sup> support obligation and in actions to revise orders or judgments for child support or family support.

History: History: 1975 c. 39,199; 1977 c. 187 s. 135; 1977 c. 213; 1977 c. 323 s. 16; 1977 c. 449; 1979 c. 32 s. 50; 1979 c. 96,196; Stats. 1979 s. 767.13, 1983 a. 436; 1985 a. 29; 1987 a. 27, 355; Sup. Ct. Order, 158 W (2d) xxv (1990); 1993 a. 481; 1995 a. 27 s. 9126 (19); 1995 a. 404.

**SECTION 70. 767.13 (6) of the statutes is amended to read:**

**767.13 (6) REVIEW OF THE DECISIONS OF THE ~~FAMILY CIRCUIT~~<sup>✓</sup> COURT COMMISSIONER.** Upon the motion of any party any decision of the ~~family circuit~~<sup>✓</sup> court commissioner shall be reviewed by the judge of the branch of the court to which the case has been assigned. Upon the motion of any party any such review shall include a new hearing on the subject of the decision, order or ruling.

History: History: 1975 c. 39,199; 1977 c. 187 s. 135; 1977 c. 213; 1977 c. 323 s. 16; 1977 c. 449; 1979 c. 32 s. 50; 1979 c. 96, 196; Stats. 1979 s. 767.13; 1983 a. 436, 1985 a. 29; 1987 a. 27, 355; Sup. Ct. Order, 158 W (2d) xxv (1990); 1993 a. 481; 1995 a. 27 s. 9126 (19), 1995 a. 404.

**SECTION 71. 767.13 (7) of the statutes is amended to read:**

767.13 (7) **COOPERATION:** Each family circuit court commissioner shall cooperate with the county and the department to ensure that all dependent children receive reasonable and necessary child support.

History: History: 1975 c. 39,199; 1977 c. 187 s. 135; 1977 c. 273; 1977 c. 323 s. 16, 1977 c. 449; 1979 c. 32s. 50; 1979 c. 96,196; Stats. 1979 s 767.13; 1983 a. 436; 1985 a. 29; 1987 a. 27,355; Sup. Ct. Order, 158 W (2d) xxv (1990), 1993 a. 481; 1995 a. 27 s. 9126 (19); 1995 a. 404.

**SECTION 72.** 767.15 (1) of the statutes, as affected by 1997 Wisconsin Act 27, is amended to read:

767.15 (1) In any action affecting the family in which either party is a recipient of benefits under ss. 49.141 to 49.161 or aid under s. 46.261, 49.19 or 49.45, each party shall, either within 20 days after making service on the opposite party of any motion or pleading requesting the court or family circuit court commissioner to order, or to modify a previous order, relating to child support, maintenance or family support, or before filing the motion or pleading in court, serve a copy of the motion or pleading upon the county child support agency under s. 59.53 (5) of the county in which the action is begun.

History: 1997 a. 27.

**SECTION 73.** 767.16 of the statutes is repealed.

(insert 22-3)

**SECTION 74.** 767.23 (1) (intro.) of the statutes is amended to read:

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

History: History: 1971 c. 149; 1971 c. 211 s. 126; 1971 c. 220,307; 1975 c. 283; Sup. Ct. Or&r, 73 W (2d) xxxi (1976); 1977 c. 105; 1979 c 32 ss. 50, 92 (4); 1979 c. 111, 196; 1979 c. 352 s 39; Stats. 1979 s. 767.23, 1983 a. 27, 1983 a. 204 s. 22; 1983 a. 447, 1985 a. 29 s. 3202 (9), 1987 a 355, 364, 413; 1989 a 212; 1991 a. 39; 1993 a. 78,481, 490.1995 a 27 ss 7100h, 9126 (19); 1995 a. 70,404.

**SECTION 75.** 767.23 (1) (a) of the statutes is amended to read:



767.23 (1) (a) Upon request of one party, granting legal custody of the minor children to the parties jointly, to one party solely or to a relative or agency specified under s. 767.24 (3). The court or ~~family~~ circuit court commissioner may order joint legal custody without the agreement of the other party and without the findings required under s. 767.24 (2) (b) 2. This order may not have a binding effect on a final custody determination.

History: History: 1971 c. 149; 1971 c. 211 s. 126; 1971 c. 220,307; 1975 c. 283; Sup. Ct. Order, 73 W (2d) xxxi (1976); 1977 c. 105; 1979 c 32 ss. 50, 92 (4); 1979 c 111, 196; 1979 c. 352 s 39; Stats. 1979 s. 767.23; 1983 a. 27; 1983 a. 204 s. 22; 1983 a 447; 1985 a. 29 s. 3202 (9); 1987 a. 355, 364, 413; 1989 a. 212; 1991 a. 39; 1993 a. 78,481, 490; 1995 a. 27 ss. 7100h, 9126 (19); 1995 a. 70,404.

**SECTION 76.** 767.23 (1) (am) of the statutes is amended to read:

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

History: History: 1971 c. 149; 1971 c. 211 s 126; 1971 c. 220,307; 1975 c. 283; Sup. Ct Order, 73 W (2d) xxxi (1976); 1977 c. 105; 1979 c. 32 ss. 50, 92 (4); 1979 c. 111, 196; 1979 c. 352s. 39; Stats. 1979 s. 767.23; 1983 a. 27; 1983 a. 204s. 22; 1983a.447; 1985 a. 29s. 3202 (9); 1987 a. 355, 364, 413; 1989 a. 212; 1991 a. 39, 1993 a. 78, 481, 490; 1995 a. 27 ss. 7100h, 9126 (19); 1995 a. 70,404.

**SECTION 77.** 767.23 (1m) of the statutes is amended to read:

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

History: History: 1971 c. 149; 1971 c. 211 s. 126; 1971 c. 220,307; 1975 c. 283; Sup. Ct. Order, 73 W (2d) xxxi (1976); 1977 c. 105; 1979 c. 32 ss. 50,92 (4); 1979 c. 111, 196; 1979 c 352 s. 39; Stats. 1979 s. 767.23; 1983 a. 27; 1983 a. 204 s. 22; 1983 a 447; 1985 a. 29 s 3202 (9); 1987 a. 355364,413; 1989 a. 212; 1991 a. 39; 1993 a. 78,481, 490; 1995 a. 27 ss. 7100h, 9126 (19); 1995 a. 70,404.

**SECTION 78.** 767.23 (In) of the statutes is amended to read:

767.23 (1n) Before making any temporary order under sub. (l), the court or ~~family~~ circuit court commissioner shall consider those factors which the court is required by this chapter to consider before entering a final judgment on the same

subject matter. If the court or ~~family~~<sup>✓</sup>circuit court commissioner makes a temporary child support order that deviates from the amount of support that would be required by using the percentage standard established by the department under s. 49.22 (9), the court or ~~family~~<sup>✓</sup>circuit court commissioner shall comply with the requirements of s. 767.25 (In). A temporary order under sub. (1) may be based upon the written stipulation of the parties, subject to the approval of the court or the ~~family~~<sup>✓</sup>circuit court commissioner. Temporary orders made by the ~~family~~<sup>✓</sup>circuit court commissioner may be reviewed by the court as provided in s. 767.13 (6).

History: History: 1971 c. 149; 1971 c. 211 s. 126; 1971 c. 220,307; 1975 c. 283; Sup. Ct. Order, 73 W (2d) xxxi (1976); 1977 c. 105; 1979 c. 32 ss. 50,92 (4), 1979 c. 111, 196; 1979 c. 352 s. 39; Stats. 1979 s. 767.23, 1983 a. 27; 1983 a. 204 s. 22; 1983 a. 447; 1985 a. 29 s. 3202 (9); 1987 a. 355, 364, 413; 1989 a. 212; 1991 a. 39; 1993 a. 78,481, 490; 1995 a. 27 ss. 7100h, 9126 (19); 1995 a. 70,404.

**SECTION 79. 767.25 (4m) (f) 2.** of the statutes, as affected by 1997 Wisconsin Act

191, is amended to read:

<sup>③</sup>  
767.25 (4m)(f)2.

The notice provided to the parent shall inform the parent that coverage for the child under the new employer's health benefit plan will be in effect upon the employer's receipt of the notice. The notice shall inform the parent that he or she may, within 10 business days after receiving the notice, by motion request a hearing before the court on the issue of whether the order to provide coverage of the child's health care expenses should remain in effect. A motion under this subdivision may be heard by a ~~family circuit court commissioner~~<sup>✓</sup> requests a hearing and the court or ~~family circuit~~<sup>✓</sup> court commissioner determines that the order to provide coverage of the child's health care expenses should not remain in effect, the court shall provide notice to the employer that the order is no longer in effect.

History: 1997 a. 191.

**SECTION 80. 767.265 (1)** of the statutes, as affected by 1997 Wisconsin Act 191,

is amended to read:

767.265 (1) Each order for child support under this chapter, for maintenance payments under s. 767.23 or 767.26, for family support under this chapter, for costs ordered under s. 767.51 (3) or 767.62 (4) (a), for support by a spouse under s. 767.02 (1) (f) or for maintenance payments under s. 767.02 (1) (g), each order for a revision in a judgment or order with respect to child support, maintenance or family support payments under s. 767.32, each stipulation approved by the court or the ~~family~~ circuit court commissioner for child support under this chapter and each order for child or spousal support entered under s. 948.22 (7) constitutes an assignment of all commissions, earnings, salaries, wages, pension benefits, benefits under ch. 102 or 108, lottery prizes that are payable in instalments and other money due or to be due in the future to the department or its designee. The assignment shall be for an amount sufficient to ensure payment under the order or stipulation and to pay any arrearages due at a periodic rate not to exceed 50% of the amount of support due under the order or stipulation so long as the addition of the amount toward arrearages does not leave the party at an income below the poverty line established under 42 USC 9902 (2).

History: 1997 a. 191.

**SECTION 81.** 767.265 (2h) of the statutes, as affected by 1997 Wisconsin Act 191, is amended to read:

767.265 (2h) If a court-ordered assignment does not require immediately effective withholding and a payer fails to make a required maintenance, child support, spousal support or family support payment within 10 days after its due date, within 20 days after the payment's due date the court or ~~family~~ circuit court commissioner shall cause the assignment to go into effect by providing notice of the assignment in the manner provided under sub. (2r) and shall send a notice by regular

mail to the last-known address of the payer. The notice sent to the payer shall inform the payer that an assignment is in effect and that the payer may, within a 10-day period, by motion request a hearing on the issue of whether the assignment should remain in effect. The court or ~~family circuit~~<sup>✓</sup> court commissioner shall hold a hearing requested under this subsection within 10 working days after the date of the request. If at the hearing the payer establishes that the assignment is not proper because of a mistake of fact, the court or ~~family circuit~~<sup>✓</sup> court commissioner may direct that the assignment be withdrawn. Either party may, within 15 working days after the date of a decision by a ~~family circuit~~<sup>✓</sup> court commissioner under this subsection, seek review of the decision by the court with jurisdiction over the action.

History: 1997 a. 191.

**SECTION 82.** 767.265 (2r) of the statutes, as affected by 1997 Wisconsin Act 191, is amended to read:

767.265 (2r) Upon entry of each order for child support, maintenance, family support or support by a spouse and upon approval of each stipulation for child support, unless the court finds that income withholding is likely to cause the payer irreparable harm or unless s. 767.267 applies, the court, ~~family circuit~~<sup>✓</sup> court commissioner or county child support agency under s. 59.53 (5) shall provide notice of the assignment by regular mail or by facsimile machine, as defined in s. 134.72 (1) (a), or other electronic means to the last-known address of the person from whom the payer receives or will receive money. The notice shall provide that the amount withheld may not exceed the maximum amount that is subject to garnishment under 15 USC 1673 (b) (2). If the department or its designee, whichever is appropriate, does not receive the money from the person notified, the court, ~~family circuit~~<sup>✓</sup> court commissioner or county child support agency under s. 59.53 (5) shall provide notice

of the assignment to any other person from whom the payer receives or will receive money. Notice under this subsection may be a notice of the court, a copy of the executed assignment or a copy of that part of the court order directing payment.

History: 1997 a 191.

**SECTION 83.** 767.267 (1) of the statutes, as affected by 1997 Wisconsin Act 27, is amended to read:

767.267 (1) If the court or the ~~family circuit~~<sup>✓</sup> court commissioner determines that income withholding under s. 767.265 is inapplicable, ineffective or insufficient to ensure payment under an order or stipulation specified in s. 767.265 (l), or that income withholding under s. 767.25 (4m) (c) or 767.51 (3m) (c) is inapplicable, ineffective or insufficient to ensure payment of a child's health care expenses, including payment of health insurance premiums, ordered under s. 767.25 (4m) or 767.51 (3m), the court or ~~family circuit~~<sup>✓</sup> court commissioner may require the payer to identify or establish a deposit account, owned in whole or in part by the payer, that allows for periodic transfers of funds and to file with the financial institution at which the account is located an authorization for transfer from the account to the department or its designee, whichever is appropriate. The authorization shall be provided on a standard form approved by the court and shall specify the frequency and the amount of transfer, sufficient to meet the payer's obligation under the order or stipulation, as required by the court or ~~family circuit~~<sup>✓</sup> court commissioner. The authorization shall include the payer's consent for the financial institution or an officer, employee or agent of the financial institution to disclose information to the court, ~~family circuit~~<sup>✓</sup> commissioner, county child support agency under s. 59.53

(5), department or department's designee regarding the account for which the payer has executed the authorization for transfer.

History: 1997 a. 27.

**SECTION 84.** 767.267 (5) of the statutes, as affected by 1997 Wisconsin Act 27, is amended to read:

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

History: 1997 a. 27.

**SECTION 85.** 767.27 (2) of the statutes is amended to read:

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

History: History: 1977 c. 105; 1979 c. 32 ss. 50.92 (4); 1979 c. 196; 1979 c. 352 s. 39; Stats 1979 s. 767.27; 1985 a. 29, 1987 a. 413; 1993 a. 112.481; 1995 a. 27 s. 9126 (19); 1995 a. 201.404; 1997 a. 27.35.

**SECTION 86.** 767.29 (1) (c) of the statutes, as affected by 1997 Wisconsin Act 27, is amended to read:

(c) Except as provided in sub. (1m), the department or its designee shall disburse the money received under the judgment or order in the manner required by federal regulations and take receipts therefor, unless the department or its designee is unable to disburse the moneys because they were paid by check or other draft drawn upon an account containing insufficient funds. All moneys received or disbursed under this section shall be entered in a record kept by the department or

its designee, whichever is appropriate, which shall be open to inspection by the parties to the action, their attorneys and the ~~family~~<sup>✓</sup> circuit court commissioner.

History: 1997 a. 21.

**SECTION 87.** 767.29 (1) (d) (intro.) of the statutes, as affected by 1997 Wisconsin Act 27, is amended to read:

767.29 (1) (d) <sup>(intro.)</sup> For receiving and disbursing maintenance, child support or family support payments, and for maintaining the records required under par. (c), the department or its designee shall collect an annual fee of \$25 to be paid by each party ordered to make payments. The court or ~~family~~<sup>✓</sup> circuit court commissioner shall order each party ordered to make payments to pay the annual fee under this paragraph at the time of, and in addition to, the first payment to the department or its designee in each year for which payments are ordered. All fees collected under this paragraph shall be deposited in the appropriation account under s. 20.445 (3) (ja). At the time of ordering the payment of an annual fee under this paragraph, the court or ~~family~~<sup>✓</sup> circuit court commissioner shall notify each party ordered to make payments of the requirement to pay the annual fee and of the amount of the annual fee. If the annual fee under this section is not paid when due, the department or its designee may not deduct the annual fee from the maintenance or child or family support payment, but may do any of the following:

History: 1991 a. 27.

**SECTION 88.** 767.29 (1) (d) 2. of the statutes, as affected by 1997 Wisconsin Act

27, is amended to read:

<sup>Ⓟ</sup> 767.29 (1) (d) 2. Apply to the court or ~~family~~<sup>✓</sup> circuit court commissioner for an assignment relating to the annual fee in accordance with s. 767.265.

History: 1997 a. 27.

**SECTION 89.** 767.29 (1) (e) of the statutes, as affected by 1997 Wisconsin Act 27, is amended to read:

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

History: 1997 a. 27.

**SECTION 90. 767.29 (1m) (b)** of the statutes is amended to read:

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

History: History: 1971 c. 41 s. 12; Sup. Ct. Order, 67 W (2d) 585,775 (1975); 1975 c. 82,200; 1975 c. 401 s. 4; 1977 c. 105 s. 59; 1977 c. 271, 418, 447, 1979 c. 32 ss. 50, 92 (4); 1979 c. 257 s. 17; Stats. 1979 s. 767.29; 1981 c. 20 s 2202 (20) (m); 1983 a. 27,302; 1985 a. 29,176; 1991 a. 39; 1993 a. 481; 1995 a. 27 ss. 7104~~tm~~, 9126 (19), 9130 (4); 1995 a. 77, 279, 289, 404; 1997 a. 27, 35, s. 13.93 (2) (c).

**SECTION 91. 767.29 (3) (a)** of the statutes, as affected by 1997 Wisconsin Act 191, is amended to read:

767.29 (3) (a) If maintenance payments or support money, or both, is ordered to be paid for the benefit of any person, who is committed by court order to an institution or is in confinement, or whose legal custody is vested by court order under



ch. 48 or 938 in an agency, department or relative, the court or ~~family circuit~~ court commissioner may order such maintenance payments or support money to be paid to the relative or agency, institution, welfare department or other entity having the legal or actual custody of said person, and to be used for the latter's care and maintenance, without the appointment of a guardian under ch. 880.

**History:** ~~History:~~ 1971 c. 41 s. 12; Sup. Ct. Order, 67 W (2d) 585,775 (1975); 1975 c. 82,200; 1975 c. 401 s. 4; 1977 c. 105 s 59; 1977 c. 271, 418, 447; 1979 c 32 ss. 50, 92 (4); 1979 c. 257 s. 17; Stats. 1979 s. 767.29; 1981 c. 20 s. 2202 (20) (m); 1983 a. 27,302; 1985 a. 29,176; 1991 a. 39; 1993 a. 481; 1995 a. 27 ss. 7104m, 9126 (19), 9130 (4); 1995 a. 77, 279, 289, 404; 1997 a. 27, 35; s. 13.93 (2) (c).

**SECTION 92. 767.29 (3) (b)** of the statutes, as affected by 1997 Wisconsin Act 191, is amended to read:

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

History: 1997 a. 191.

**SECTION 93. 767.293 (1)** of the statutes, as affected by 1997 Wisconsin Act 27, is amended to read:

767.293 (1) If an order for child support under this chapter or s. 948.22 (7), an order for family support under this chapter or a stipulation approved by the court or the ~~family circuit~~ court commissioner for child support under this chapter requires a payer to pay child or family support in an amount that is expressed as a percentage

of parental income, the payee, including the state or a county child support agency under s. 59.53 (5) if the state is a real party in interest under s. 767.075 (1), may establish an arrearage by filing an affidavit in the action in which the order for the payment of support was entered or the stipulation for support was approved. The affidavit shall state the amount of the arrearage and the facts supporting a reasonable basis on which the arrearage was determined and may state the payer's current income and the facts supporting a reasonable basis on which the payer's current income was determined. Not later than 60 days after filing the affidavit, the payee shall serve the affidavit on the payer in the manner provided in s. 801.11 (1) (a) or (b) or by sending the affidavit by registered or certified mail to the last-known address of the payer. After the payee files a proof of service on the payer, the court shall send a notice to the payer by regular, registered or certified mail to the payer's last-known address. The notice shall provide that, unless the payer requests a hearing to dispute the arrearage or the amount of the arrearage not later than 20 days after the date of the notice, the court or ~~family circuit~~<sup>✓</sup> court commissioner may enter an order against the payer in the amount stated in the affidavit and may provide notice of assignment under s. 767.265. The notice shall include the mailing address to which the request for hearing must be mailed or delivered in order to schedule a hearing under sub. (2).

History: 1997 a. 27.

**SECTION 94.** 767.293 (2) of the statutes is amended to read:

767.293 (2) If the payer makes a timely request for a hearing, the court or ~~family circuit~~<sup>✓</sup> court commissioner shall hold a hearing on the issue of the amount of the arrearage, if any. If the court or ~~family circuit~~<sup>✓</sup> court commissioner determines after hearing that an arrearage exists, the court or family court commissioner shall

enter an order establishing an arrearage in the amount determined by the court or ~~family circuit~~ court commissioner and may send notice of assignment under s. 767.265.

History: History: 1993 a. 481; 1995 a. 201; 1997 a. 27.

**SECTION 95. 767.293 (3)** of the statutes is amended to read:

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

History: History: 1993 a. 481, 1995 a. 201; 1997 a. 27.

**SECTION 96. 767.32 (1) (a)** of the statutes, as affected by 1997 Wisconsin Acts 27 and 105, is amended to read:

767.32 (1) (a) After a judgment or order providing for child support under this chapter or s. 48.355 (2) (b) 4., 48.357 (5m), 48.363 (2), 938.183 (4), 938.355 (2) (b) 4., 938.357 (5m), 938.363 (2) or 948.22 (7), maintenance payments under s. 767.26 or family support payments under this chapter, or for the appointment of trustees under s. 767.31, the court may, from time to time, on the petition, motion or order to show cause of either of the parties, or upon the petition, motion or order to show cause of the department, a county department under s. 46.215, 46.22 or 46.23 or a county child support agency under s. 59.53 (5) if an assignment has been made under s.

46.261, 48.57 (3m) (b) 2. or (3n) (b) 2., 49.19 (4) (h) or 49.45 (19) or if either party or their minor children receive aid under s. 48.57 (3m) or (3n) or ch. 49, and upon notice to the ~~family circuit~~<sup>✓</sup> court commissioner, revise and alter such judgment or order respecting the amount of such maintenance or child support and the payment thereof, and also respecting the appropriation and payment of the principal and income of the property so held in trust, and may make any judgment or order respecting any of the matters that such court might have made in the original action, except that a judgment or order that waives maintenance payments for either party shall not thereafter be revised or altered in that respect nor shall the provisions of a judgment or order with respect to final division of property be subject to revision or modification. A revision, under this section, of a judgment or order with respect to an amount of child or family support may be made only upon a finding of a substantial change in circumstances. In any action under this section to revise a judgment or order with respect to maintenance payments, a substantial change in the cost of living by either party or as measured by the federal bureau of labor statistics may be sufficient to justify a revision of judgment or order with respect to the amount of maintenance, except that a change in an obligor's cost of living is not in itself sufficient if payments are expressed as a percentage of income.

History: 1997 a. 105.

**SECTION 97. 767.327 (2)(c)** of the statutes is amended to read:

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

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

**History:** History: 1987 a. 355, 364; 1991 a. 32, 269; 1995 a. 70.

**SECTION 98. 767.33 (2)** of the statutes is amended to read:

767.33 (2) An adjustment under sub. (1) may be made only if the party receiving payments applies to the ~~family circuit~~<sup>✓</sup> court commissioner for the adjustment. If the order specifies the date on which the annual adjustment becomes effective, the application to the ~~family circuit~~<sup>✓</sup> court commissioner must be made at least 20 days before the effective date of the adjustment. The ~~family circuit~~<sup>✓</sup> court commissioner, upon application by the party receiving payments, shall send a notice by certified mail to the last-known address of the obligor. The notice shall be postmarked no later than 10 days after the date on which the application was filed and shall inform the obligor that an adjustment in payments will become effective on the date specified in the order or, if no date is specified in the order, 10 days after the date on which the notice is sent. The obligor may, after receipt of notice and before the effective date of the adjustment, request a hearing on the issue of whether the adjustment should take effect, in which case the adjustment shall be held in abeyance pending the outcome of the hearing. The ~~family circuit~~<sup>✓</sup> court commissioner shall hold a hearing requested under this subsection within 10 working days after the request. If at the hearing the obligor establishes that extraordinary circumstances beyond his or her control prevent fulfillment of the adjusted child support obligation, the ~~family circuit~~<sup>✓</sup> court commissioner may direct that all or part of the adjustment not take effect until the obligor is able to fulfill the adjusted obligation. If at the hearing the obligor does not establish that extraordinary circumstances beyond his or her control prevent fulfillment of the adjusted

obligation, the adjustment shall take effect as of the date it would have become effective had no hearing been requested. Either party may, within 15 working days of the date of the decision by the ~~family circuit~~<sup>✓</sup> court commissioner under this subsection, seek review of the decision by the court with jurisdiction over the action.

History: History: 1981 c. 20; 1983 a. 27; 1993 a. 481; 1995 a. 27 s. 9126 (19); 1995 a. 404; 1997 a. 27.

**SECTION 99. 767.37 (1) (a)** of the statutes, as affected by 1997 Wisconsin Act 191, is amended to read:

767.37 (1) (a) In any action affecting the family, if the court orders maintenance payments or other allowances for a party or children or retains jurisdiction in such matters, the written judgment shall include a provision that disobedience of the court order with respect to the same is punishable under ch. 785 by commitment to the county jail or house of correction until such judgment is complied with and the costs and expenses of the proceedings are paid or until the party committed is otherwise discharged, according to law. The written judgment in any action affecting the family shall include the social security numbers of the parties and of any child of the parties. The findings of fact and conclusions of law and the written judgment shall be drafted by the attorney for the moving party, and shall be submitted to the court and filed with the clerk of the court within 30 days after judgment is granted; but if the respondent has been represented by counsel, the findings, conclusions and judgment shall first be submitted to respondent's counsel for approval and if the ~~family circuit~~<sup>✓</sup> court commissioner has appeared at the trial of the action, such papers shall also be sent to the ~~family circuit~~<sup>✓</sup> court commissioner for approval. n y necessary approvals are obtained, the findings of fact, conclusions of law and

judgment shall be submitted to the court. Final stipulations of the parties may be appended to the judgment and incorporated by reference therein.

History: 1997 a. 191.

**SECTION 100. 767.37 (2)** of the statutes is amended to read:

767.37 (2) So far as a judgment of divorce affects the marital status of the parties the court has the power to vacate or modify the judgment for sufficient cause shown, upon its own motion, or upon the application of both parties to the action, at any time within 6 months from the granting of such judgment. No such judgment shall be vacated or modified without service of notice of motion on the ~~family~~<sup>✓</sup> circuit court commissioner. The court may direct the ~~family~~<sup>✓</sup> circuit court commissioner or appoint some other attorney, to bring appropriate proceedings for the vacation of the judgment. The compensation of the ~~family~~<sup>✓</sup> circuit court commissioner when not on a salaried basis or other attorney for performing such services shall be at the rate of \$50 per day, which shall be paid out of the county treasury upon order of the presiding judge and the certificate of the clerk of the court. If the judgment is vacated it shall restore the parties to the marital relation that existed before the granting of such judgment. If after vacation of the judgment either of the parties brings an action in this state for divorce against the other the court may order the petitioner in such action to reimburse the county the amount paid by it to the family court commissioner or other attorney in connection with such vacation proceedings. Whenever a judgment of divorce is set aside under this subsection, the court shall order the record in the action impounded without regard to s. 767.19; and thereafter neither the record nor any part of the record shall be offered or admitted into evidence in any action or proceeding except by special order of the court of jurisdiction upon

good cause shown in any paternity proceedings under this chapter or by special order of any court of record upon a showing of necessity to clear title to real estate.

History: History: 1971 c. 220, 1975 c. 41, 199, 200; 1975 c. 401 s. 4; 1975 c. 421; 1977 c. 105.1979 c. 32 ss. 50, 92 (4); 1979 c. 175 ss. 41.53, 1979c. 196; 1979 c. 257 s. 17; 1979 c. 352 ss. 23, 39; 1979 c. 355 s. 241; Stats. 1979 s. 767.37.

**SECTION 101. 767.45 (5) (b) of the statutes is amended to read:**

767.45 (5) (b) An action under this section may be joined with any other action for child support and shall be governed by the procedures specified in s. 767.05 relating to child support, except that the title of the action shall be "In re the paternity of A.B." The petition shall state the name and date of birth of the child if born or that the mother is pregnant if the child is unborn, the name of any alleged father, whether or not an action by any of the parties to determine the paternity of the child or rebut the presumption of paternity to the child has at any time been commenced, or is pending before any judge or circuit court commissioner, in this state or elsewhere. If a paternity judgment has been rendered, or if a paternity action has been dismissed, the petition shall state the court which rendered the judgment or dismissed the action, and the date and the place the judgment was granted if known. The petition shall also give notice of a party's right to request a genetic test under s. 49.225 or 767.48.

History: 1997 a. 191.

**SECTION 102. 767.455 (5) of the statutes is amended to read:**

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

STATE OF WISCONSIN, CIRCUIT COURT: . . .COUNTY

\_\_\_\_\_  
In re the Paternity of A. B.

STATE OF WISCONSIN

and

C. D.

WPO -  
use format  
of attached  
sheet



Address

City, State Zip Code

File No. . . .

, Petitioners

vs.

S U M M O N S

E. F.

Address . . . . (Case Classification Type): . . . . (Code No.)

City, State Zip Code

, Respondent

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: .....

.....

R o o m : .....

.....

Judge or ~~Family~~ <sup>✓</sup> 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 KUP see attached sheet

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.

WFO-TO  
for max, see  
attached  
sheet

Dated: . . . . . 19 . .

Signed: . . . . .

G. H., Clerk of Circuit Court

or

Petitioner's Attorney

State Bar No.: . . . . .

Address: . . . . .

City, State Zip Code: . . . . .

Phone No.: . . . . .

**History: History:** 1979 c. 352; 1981 c. 314; 1983 a. 447; 1985 a. 29; 1987 a. 27,413; Sup. ct. Order, 171 w (2d) xix (1992); 1993 a. 16,481; 1995 a. 27 ss. 7112, 7113b, 9126 (19); 1995 a. 100, 404, 417; 1997 a. 35.

(insert 22-18)

**SECTION 103. 767.463** of the statutes, as created by 1997 Wisconsin Act 191, is amended to read:

**767.463 Dismissal if adjudication not in child's best interest.** Except as provided in s. 767.458 (1m), at any time in an action to establish the paternity of a child, upon the motion of a party or guardian ad litem, the court or supplemental

court commissioner under s. ~~757.69 (3)~~ <sup>↓</sup> ~~(g)~~ 753.36 (2) ~~(h)~~ <sup>plain</sup> may, with respect to a man, refuse to order genetic tests, if genetic tests have not yet been taken, and dismiss the action if the court or <sup>supplemental</sup> court commissioner determines that a judicial determination of whether the man is the father of the child is not in the best interest of the child.

SECTION 104. 767.51 (3m) (f) 2. of the statutes, as created by 1997 Wisconsin

Act 191, is amended to read:

767.51 (3m) (f) <sup>ⓑ</sup>

2. The notice provided to the parent shall inform the parent that coverage for the child under the new employer's health benefit plan will be in effect upon the employer's receipt of the notice. The notice shall inform the parent that he or she may, within 10 business days after receiving the notice, by motion request a hearing before the court on the issue of whether the order to provide coverage of the child's health care expenses should remain in effect. A motion under this subdivision may be heard by a ~~family circuit court commissioner~~ <sup>family circuit</sup> ~~requests a hearing and~~ the court or ~~family circuit~~ <sup>family circuit</sup> court commissioner determines that the order to provide coverage of the child's health care expenses should not remain in effect, the court shall provide notice to the employer that the order is no longer in effect.

History: 1997 a. 191.

~~(insert 23-5)~~

SECTION 105. 767.62 (2) (b) of the statutes, as affected by 1997 Wisconsin Act

191, is amended to read:

767.62 (2) (b) <sup>ⓑ</sup>

(b) If a statement acknowledging paternity is timely rescinded as provided in s. 69.15 (3m), a court or ~~family circuit~~ <sup>family circuit</sup> court commissioner may not enter an order specified in sub. (4) with respect to the man who signed the statement as the father



INS  
23-5

of the child unless the man is adjudicated the child's father using the procedures set forth in ss. 767.45 to 767.60.

History: 1997 a. 191.

SECTION 106. 767.62 (3) (b) of the statutes, as affected by 1997 Wisconsin Act

191, is amended to read:

767.62(3)

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

History: 1997 a. 191.

SECTION 107. 767.62 (4) (a) of the statutes, as affected by 1997 Wisconsin Act

191, is amended to read:

767.62

(4) ~~ORDERS WHEN PATERNITY ACKNOWLEDGED~~

(a) In an action under sub. (3) (a), if the persons who signed and filed the statement acknowledging paternity as parents of the child had notice of the hearing, the court or ~~family~~ family circuit court commissioner may make an order that contains any provision directed against the appropriate party to the proceeding concerning the duty of support, the legal custody or guardianship of the child, periods of physical placement, the furnishing of bond or other security for the payment of amounts under the order or any other matter in the best interest of the child. Unless the court orders otherwise, if there is no presumption of paternity under s. 891.41 (1) the mother shall have sole legal custody of the child. The court or ~~family~~ family circuit court commissioner shall order either party or both to pay for the support of any child of the parties who is less than 18 years old, or any child of the parties who is less than 19 years old if the child is pursuing an accredited course of instruction leading to the acquisition of a high school diploma or its equivalent. The order may direct the father to pay or contribute to the

reasonable expenses of the mother's pregnancy and confinement during pregnancy and may direct either party to pay or contribute to the costs of attorney fees or other costs.

History: 1997 a. 191.

**SECTION 108.** 767.62 (4) (b) 2. of the statutes, as affected by 1997 Wisconsin Act 191, is amended to read:

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

History: 1997 a. 191.

**SECTION 109.** 767.62 (4) (b) 3. a. of the statutes, as affected by 1997 Wisconsin Act 191, is amended to read:

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

History: 1997 a. 191

**SECTION 110.** 767.62 (4) (b) 3. b. of the statutes, as affected by 1997 Wisconsin

Act 191, is amended to read:

<sup>③</sup>  
~~767.62 (4) (b) 3.~~  
 b. If the court or ~~family circuit~~<sup>✓</sup> court commissioner orders a parent to initiate or continue health insurance coverage for a child under a health insurance policy that is available to the parent through an employer or other organization but the court or ~~family circuit~~<sup>✓</sup> court commissioner does not specify the manner in which payment of the health insurance premiums shall be made, the clerk of court may provide notice of assignment in the manner provided under s. 767.265 (2r) for the withholding from income of the amount necessary to pay the health insurance premiums. That notice of assignment may be sent with or included as part of any

other notice of assignment under s. 767.265, if appropriate. A person who receives the notice of assignment shall send the withheld health insurance premiums to the appropriate health care insurer, provider or plan, as provided in s. 767.265 (3h).

History: 1997 a. 191.

**SECTION 111.** 767.62 (4) (b) 4. (intro.) of the statutes, as affected by 1997

Wisconsin Act 191, is amended to read:

767.62(4)(b)  
A

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

History: 1997 a. 191.

**SECTION 112.** 767.62 (4) (b) 4. c. of the statutes, as affected by 1997 Wisconsin

Act 191, is amended to read:

767.62(4)(b)4.c.  
A

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

History: 1997 a. 191.

**SECTION 113.** 767.62 (4) (b) 5. a. of the statutes, as affected by 1997 Wisconsin

Act 191, is amended to read:

767.62(4)(b)5.  
A

5. a. If a parent who has been ordered by a court or family circuit court commissioner to provide coverage of the health care expenses of a child who is eligible for medical assistance under subch. IV of ch. 49 receives payment from a 3rd party

for the cost of services provided to the child but does not pay the health care provider for the services or reimburse the department or any other person who paid for the services on behalf of the child, the department may obtain a judgment against the parent for the amount of the 3rd party payment.

History: 1997 a. 191.

**SECTION 114.** 767.62 (4) (b) 6. b. of the statutes, as affected by 1997 Wisconsin

Act 191, is amended to read:

③  
767.62(4)(b)6.

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

History: 1997 a. 191.

**SECTION 115.** 767.62 (4) (d) 1. of the statutes, as affected by 1997 Wisconsin Act

191, is amended to read:

767.62(4) ← ③  
(d) 1.

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

History: 1997 a. 191.

**SECTION 116.** 767.62 (4) (d) 2. of the statutes, as affected by 1997 Wisconsin Act

191, is amended to read:



767.62(4)(d) <sup>ⓑ</sup>

2. In determining child support payments under par. (a), the court or ~~family~~ <sup>✓</sup> family circuit court commissioner may consider all relevant financial information or other information relevant to the parent's earning capacity, including information reported under s. 49.22 (2m) to the department or the county child support agency under s. 59.53 (5).

History: 1997 a. 191.

**SECTION 117.** 767.62 (4) (e) (intro.) of the statutes, as affected by 1997 Wisconsin Act 191, is amended to read:

767.62(4)(e) <sup>ⓑ</sup> (intro.) Upon request by a party, the court or ~~family~~ <sup>✓</sup> family circuit court commissioner may modify the amount of child support payments determined under par. (d) if, after considering the following factors, the court or ~~family~~ <sup>✓</sup> family circuit court commissioner finds by the greater weight of the credible evidence that use of the percentage standard is unfair to the child or to the requesting party:

History: 1997 a. 191.

**SECTION 118.** 767.62 (4) (e) 14. of the statutes, as affected by 1997 Wisconsin Act 191, is amended to read:

767.62(4)(e) <sup>ⓑ</sup> 14. Any other factors that the court or ~~family~~ <sup>✓</sup> family circuit court commissioner in each case determines are relevant to the best interests of the child.

History: 1997 a. 191.

**SECTION 119.** 767.62 (4) (f) of the statutes, as affected by 1997 Wisconsin Act 191, is amended to read:

767.62(4)(f) <sup>ⓑ</sup> If the court or ~~family~~ <sup>✓</sup> family circuit court commissioner finds under par. (e) that use of the percentage standard is unfair to the child or the requesting party, the court or ~~family~~ <sup>✓</sup> family circuit court commissioner shall state in writing or on the record the amount of support that would be required by using the percentage standard, the amount by which the court's or family circuit <sup>✓</sup> court commissioner's order deviates from that amount, the reasons for finding that use of the percentage standard is unfair to the



service by the sheriff or a private server under s. 801.11 (1) (a) or(b) was unsuccessful because the respondent is avoiding service by concealment or otherwise, the petitioner may serve the respondent by publication of the petition as a class 1 notice, under ch. 985, and by mailing if the respondent's post-office address is known or can with due diligence be ascertained. The mailing may be omitted if the post-office address cannot be ascertained with due diligence.

History: History: 1983 a. 204,540; 1985 a. 29,135; 1989 a. 193; 1993 a. 319; 1995 a. 71,306.

**SECTION 123.** 813.12 (2) (b) of the statutes is amended to read:

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

History: History: 1983 a. 204,540; 1985 a. 29,135; 1989 a. 193; 1993 a. 319; 1995 a. 71,306.

**SECTION 124.** 813.12 (3) (a) of the statutes is amended to read:

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

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

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

History: History: 1983 a 204, 540; 1985 a. 29, 135; 1989 a. 193; 1993 a. 319; 1995 a. 71, 306.

**SECTION 125. 813.12 (3) (am)** of the statutes is amended to read:

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

History: History: 1983 a. 204,540; 1985 a 29, 135; 1989 a. 193; 1993 a. 319; 1995 a. 71,306.

**SECTION 126. 813.12 (3) (c)** of the statutes is amended to read:

813.12 (3) (c) The temporary restraining order is in effect until a hearing is held on issuance of an injunction under sub. (4). The temporary restraining order is not voided if the respondent is admitted into a dwelling that the order directs him or her to avoid. A judge or ~~family~~ family circuit commissioner shall hold a hearing on

issuance of an injunction within 7 days after the temporary restraining order is issued, unless the time is extended upon the written consent of the parties or extended once for 14 days upon a finding that the respondent has not been served with a copy of the temporary restraining order although the petitioner has exercised due diligence.

History: History: 1983 a 204,540; 1985 a. 29, 135; 1989 a. 193; 1993 a 319; 1995 a. 71,306.

(insert 29-4)

**SECTION 127.** 813.12 (4) (a) (intro.) of the statutes is amended to read:

813.12 (4) (a) (intro.) A judge or ~~family circuit~~<sup>✓</sup> commissioner may grant an injunction ordering the respondent to refrain from committing acts of domestic abuse against the petitioner, to avoid the petitioner's residence, except as provided in par. (am), or any premises temporarily occupied by the petitioner or both, or to avoid contacting or causing any person other than a party's attorney to contact the petitioner unless the petitioner consents to that contact in writing, or any combination of these remedies requested in the petition, if all of the following occur:

History: History: 1983 a. 204,540; 1985 a. 29,135; 1989 a. 193; 1993 a. 319; 1995 a. 71,306.

**SECTION 128.** 813.12 (4) (a) 3. of the statutes is amended to read:

813.12 (4) (a) 3. After hearing, the judge or ~~family circuit~~<sup>✓</sup> court commissioner finds reasonable grounds to believe that the respondent has engaged in, or based upon prior conduct of the petitioner and the respondent may engage in, domestic abuse of the petitioner. In determining whether to issue an injunction, the judge or ~~family circuit~~<sup>✓</sup> court commissioner shall consider the potential danger posed to the petitioner and the pattern of abusive conduct of the respondent but may not base his or her decision solely on the length of time since the last domestic abuse or the length

of time since the relationship ended. The judge or family circuit court commissioner may grant only the remedies requested by the petitioner.

History: History: 1983 a. 204, 540, 1985 a. 29,135; 1989 a. 193; 1993 a. 319; 1995 a. 71,306.

**SECTION 129.** 813.12 (4) (am) of the statutes is amended to read:

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

History: History: 1983 a. 204,540; 1985 a. 29,135; 1989 a. 193; 1993 a. 319; 1995 a. 71,306.

**SECTION 130.** 813.12 (4) (b) of the statutes is amended to read:

813.12 (4) (b) The judge or family circuit court commissioner may enter an injunction only against the respondent named in the petition. No injunction may be issued under this subsection under the same case number against the person petitioning for the injunction. The judge or family circuit court commissioner may not modify an order restraining the respondent based solely on the request of the respondent.

History: History: 1983 a. 204,540; 1985 a. 29,135; 1989 a. 193; 1993 a. 319; 1995 a. 71,306

(insert 30-12)

**SECTION 131.** 813.12 (4m) (b) (intro.) of the statutes is amended to read:

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

History: History: 1983 a. 204,540; 1985 a. 29,135; 1989 a. 193; 1993 a. 319, 1995 a. 71,306.

**SECTION 132.** 813.12 (4m) (b) 2. of the statutes is amended to read:

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

History: History: 1983 a. 204, 540; 1985 a. 29,135; 1989 a. 193; 1993 a. 319; 1995 a. 71,306.

**SECTION 133.** 813.12 (5) (c) of the statutes is amended to read:

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

History: History: 1983 a. 204,540; 1985 a. 29, 135; 1989 a. 193; 1993 a. 319; 1995 a. 71,306.

**SECTION 134.** 813.12 (6) (a) of the statutes is amended to read:

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

History: History: 1983 a. 204,540; 1985 a. 29,135; 1989 a. 193; 1993 a. 319; 1995 a. 71,306.

**SECTION 135.** 813.12 (7m) of the statutes is amended to read:

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

History: History: 1983 a. 204,540; 1985 a. 29,135; 1989 a. 193; 1993 a. 319; 1995 a. 71,306.

(insert 3 l-10)

**SECTION 136.** 814.615 (3) of the statutes is amended to read:

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

History: History: 1987 a. 355; 1991 a. 269.

(insert 32-4)

**SECTION 137.** 818.02 (6) of the statutes is amended to read:

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

History: History: Sup. Ct. Order, 67 W (2d) 585,758 (1975); Stats. 1975 s. 809.02; Sup. Ct. Order, 83 W (2d) xiiiv ((1978); Stats 1977 s. 818 02; 1979 c. 352; 1983 a. 447, 1985 a. 29; 1989 a 121; 1993 a 481,486; 1995 a 448.

(insert 35-2)

**SECTION 138.** 906.15 (1) of the statutes, as affected by 1997 Wisconsin Act 181, is amended to read:

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

History: 1997 a. 181.

**SECTION 139.** 906.15 (2) (d) of the statutes, as affected by 1997 Wisconsin Act 181, is amended to read:



906.15 (2) (d) A victim, as defined in s. 959.02 (4), in a criminal case or a victim, as defined in s. 938.02 (20m), in a delinquency proceeding under ch. 938, unless the judge ~~or court commissioner~~ finds that exclusion of the victim is necessary to provide a fair trial for the defendant or a fair fact-finding hearing for the juvenile. The presence of a victim during the testimony of other witnesses may not by itself be a basis for a finding that exclusion of the victim is necessary to provide a fair trial for the defendant or a fair fact-finding hearing for the juvenile.

History: 1997 a. 181.

**SECTION 140.** 906.15 (3) of the statutes, as affected by 1997 Wisconsin Act 181, is amended to read:

The 906.15

~~g e or court commissioner~~ (3)d g e ~~or court commissioner~~ direct that all excluded and non-excluded witnesses be kept separate until called and may prevent them from communicating with one another until they have been examined or the hearing is ended.

History: 1997 a. 181

(insert 35-9)

**SECTION 141.** 938.065 (title) of the statutes is amended to read:

938.065 (title) <sup>AA</sup> Juvenile Circuit court commissioners in matters affecting iuveniles.

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History: History: 1995 a. 77,352; 1997 a. 35.

(insert 35-21)

**SECTION 142.** 938.065 (2) (intro.) of the statutes is amended to read:

938.065 (2) (intro.) Under this chapter a juvenile circuit court commissioner, if authorized to do so by a judge, may do any of the following:

History: History: 1995 a. 17,352; 1997 a. 35.

**SECTION 143.** 938.065 (3) (intro.) of the statutes is amended to read:

938.065 (3) (intro.) The ~~juvenile circuit~~ court commissioner may not do any of the following:

History: History: 1995 a. 77,352; 1991 a. 35.

**SECTION 144.** 938.065 (4) of the statutes is amended to read:

938.065 (4) When acting officially, the ~~juvenile circuit~~ court commissioner shall sit at the courthouse or the usual court facility for ~~juvenile circuit~~ delinquency matters. Any decision of the ~~juvenile circuit~~ court commissioner shall be reviewed by the judge upon the request of any interested party.

History: History: 1995 a. 77,352; 1997 a. 35.

**SECTION 145.** 938.208 (4) of the statutes is amended to read:

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

History: History: 1995 a. 77, 352.

**SECTION 146.** 938.21 (1) of the statutes is amended to read:

938.21 (1) **HEARING, WHEN HELD.** (a) If a juvenile who has been taken into custody is not released under s. 938.20, a hearing to determine whether the juvenile shall continue to be held in custody under the criteria of ss. 938.205 to 938.209 shall be conducted by the judge or ~~juvenile circuit~~ court commissioner within 24 hours after the end of the day that the decision to hold the juvenile was made, excluding Saturdays, Sundays and legal holidays. By the time of the hearing a petition under s. 938.25 shall be filed, except that no petition need be filed where a juvenile is taken into custody under s. 938.19 (1) (b) or(d) 2., 6. or 7. or where the juvenile is a runaway from another state, in which case a written statement of the reasons for holding a juvenile in custody shall be substituted if the petition is not filed. If no hearing has

been held within 24 hours or if no petition or statement has been filed at the time of the hearing, the juvenile shall be released except as provided in par. (b). A parent not present at the hearing shall be granted a rehearing upon request.

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

History: History: 1995 a. 77,275; 1997 a. 35.

**SECTION 147. 938.21 (2) (c)** of the statutes is amended to read:

938.21 (2) (c) Prior to the commencement of the hearing, the juvenile shall be informed by the judge or ~~juvenile circuit~~<sup>✓</sup> court commissioner of the allegations that have been or may be made, the nature and possible consequences of this hearing as compared to possible future hearings, the provisions of s. 938.18 if applicable, the right to counsel under s. 938.23 regardless of ability to pay if the juvenile is not yet represented by counsel, the right to remain silent, the fact that the silence may not

be adversely considered by the judge or ~~juvenile circuit~~ <sup>✓</sup> court commissioner, ~~the~~ t  
to confront and cross-examine witnesses and the right to present witnesses.

History: History: 1995 a. 77,275; 1997 a. 35.

**SECTION 148.** 938.21 (4) (intro.) of the statutes is amended to read:

938.21 (4) (intro.) <sup>✓</sup> If the judge or ~~juvenile circuit~~ <sup>✓</sup> court commissioner finds that  
the juvenile should be continued in custody under the criteria of s. 938.205, he or she  
shall enter one of the following orders:

History: History: 1995 a. 77,275; 1997 a. 35.

**SECTION 149.** 938.21 (4m) of the statutes is amended to read:

938.21 (4m) **ELECTRONIC MONITORING.** The judge or ~~juvenile circuit~~ <sup>✓</sup> court  
commissioner may include in an order under sub. (4) (a) or (b) a condition that the  
juvenile be monitored by an electronic monitoring system.

History: History: 1995 a. 77,275; 1997 a. 35.

**SECTION 150.** 938.21 (7) of the statutes is amended to read:

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

History: History: 1995 a. 77,275; 1997 a. 35.

**SECTION 151.** 938.24 (5) of the statutes, as affected by 1997 Wisconsin Act 181,  
is amended to read:

938.24 (5) The intake worker shall request that a petition be filed, enter into  
a deferred prosecution agreement or close the case within 40 days or sooner of receipt  
of referral information. Before entering into a deferred prosecution agreement, the  
intake worker shall comply with s. 938.245 (1m), if applicable. If the case is closed  
or a deferred prosecution agreement is entered into, the district attorney, corporation

counsel or other official under s. 938.09 shall receive written notice of such action. If the case is closed, the known victims of the juvenile's alleged act shall receive notice as provided under sub. (5m), if applicable. In addition, if a deferred prosecution agreement is entered into placing a juvenile in a youth village program as described in s. 118.42, the judge or ~~juvenile circuit~~<sup>✓</sup> court commissioner shall receive written notice of such action and, on receipt of that notice, shall enter an order requiring compliance with that agreement. A notice of deferred prosecution of an alleged delinquency case shall include a summary of the facts surrounding the allegation and a list of prior intake referrals and dispositions. If a law enforcement officer has made a recommendation concerning the juvenile, the intake worker shall forward this recommendation to the district attorney under s. 938.09. Notwithstanding the requirements of this section, the district attorney may initiate a delinquency petition under s. 938.25 within 20 days after notice that the case has been closed or that a deferred prosecution agreement has been entered into. The judge shall grant appropriate relief as provided in s. 938.315 (3) with respect to any such petition which is not referred or filed within the time limits specified within this subsection. Failure to object if a petition is not referred or filed within a time limit specified in this subsection waives that time limit.

History: 1997 a. 181.

**SECTION 152.** 938.245 (3) of the statutes is amended to read:

938.245 (3) The obligations imposed under a deferred prosecution agreement and its effective date shall be set forth in writing. If the deferred prosecution agreement places the juvenile in a youth village program under sub. (2) (a) 9., the judge or ~~juvenile circuit~~<sup>✓</sup> court commissioner shall receive written notice that a deferred prosecution agreement has been entered into and, on receipt of that notice,

shall enter an order requiring compliance with that agreement. The juvenile and a parent, guardian and legal custodian shall receive a copy of the agreement and order, as shall any agency providing services under the agreement.

History: History: 1995 a. 77, 352, 448.

(insert 36-4)

**SECTION 153.** 938.32 (1) (a) of the statutes is amended to read:

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

History: History: 1995 a. 77, 352, 448

**SECTION 154.** 938.32 (ld) of the statutes is amended to read:

938.32 **(1d)** If the petition alleges that the juvenile has committed an act that would constitute a misdemeanor if committed by an adult, if the chief judge of the judicial administrative district has approved under s. 973.11 (2) a volunteers in probation program established in the juvenile's county of residence and if the judge or juvenile circuit court commissioner determines that volunteer supervision under

that volunteers in probation program will likely benefit the juvenile and the community, the judge or juvenile circuit court commissioner may establish as a condition under sub. (1) that the juvenile be placed with that volunteers in probation program under such conditions as the judge or juvenile circuit court commissioner determines are reasonable and appropriate. These conditions may include, but need not be limited to, any of the following:

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

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

History: History: 1995 a. 77, 352, 448.

**SECTION 155.** 938.32 (lg) (intro.) of the statutes is amended to read:

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

History: History: 1995 a. 77, 352, 448.

**SECTION 156.** 938.32 (1m) (intro.) of the statutes is amended to read:

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

History: History: 1995 a. 77, 352, 448.

**SECTION 157.** 938.32 (1m) (intro.) and (a) of the statutes ~~is~~ <sup>are</sup> amended to read:

938.32 (1m) The judge or ~~juvenile circuit~~<sup>✓</sup> court commissioner may establish as a condition under sub. (1) that the juvenile be placed in a teen court program if all of the following conditions apply:

(a) The chief judge of the judicial administrative district has approved a teen court program established in the juvenile's county of residence and the judge or ~~juvenile circuit~~<sup>✓</sup> court commissioner determines that participation in the teen court program will likely benefit the juvenile and the community.

History: History: 1995 a. 77, 352, 448.

**SECTION 158.** 938.32 (1t) (a) 1. of the statutes, as affected by 1997 Wisconsin Act 183 and 205, is amended to read:

938.32 (1t) (a) 1. Subject to subd. 3., if the petition alleges that the juvenile committed a delinquent act that has resulted in damage to the property of another, or in actual physical injury to another excluding pain and suffering, the judge or ~~juvenile circuit~~<sup>✓</sup> court commissioner may require the juvenile as a condition of the consent decree, to repair the damage to property or to make reasonable restitution for the damage or injury, either in the form of cash payments or, if the victim agrees, the performance of services for the victim, or both, if the judge or ~~juvenile circuit~~<sup>✓</sup> court commissioner, after taking into consideration the well-being and needs of the victim, considers it beneficial to the well-being and behavior of the juvenile. Any consent decree that includes a condition of restitution by a juvenile shall include a finding that the juvenile alone is financially able to pay or physically able to perform the services, may allow up to the date of the expiration of the consent decree for the payment or for the completion of the services and may include a schedule for the performance and completion of the services. Objection by the juvenile to the amount



of damages claimed shall entitle the juvenile to a hearing on the question of damages before the amount of restitution is made part of the consent decree.

INSA

History: 1997 a. 183.

SECTION 159. 938.32 (1t) (a) 3. of the statutes, as affected by 1997 Wisconsin

Act 183, is amended to read:

938.32(1t)(a)3

Under this paragraph, a judge or juvenile circuit court commissioner may not order a juvenile who is under 14 years of age to make more than \$250 in restitution or to perform more than 40 total hours of services for the victim as restitution.

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History: 1997 a. 183.

SECTION 160. 938.32 (1t) (a) 1m. of the statutes, as affected by 1997 Wisconsin

Act 205, is amended to read:

938.32 (1t) (a) 1m. If the petition alleges that the juvenile has committed a delinquent act that has resulted in damage to the property of another, or in actual physical injury to another excluding pain and suffering, the judge or juvenile circuit court commissioner may require a parent who has custody, as defined in s. 895.035 (1), of the juvenile, as a condition of the consent decree, to make reasonable restitution for the damage or injury. Except for recovery for retail theft under s. 943.51, the maximum amount of any restitution ordered under this subdivision for damage or injury resulting from any one act of a juvenile or from the same act committed by 2 or more juveniles in the custody of the same parent may not exceed the amount specified in s. 799.01 (1) (d). Any consent decree that includes a condition of restitution by a parent who has custody of the juvenile shall include a finding that the parent who has custody of the juvenile is financially able to pay the amount ordered and may allow up to the date of the expiration of the consent decree for the payment. Objection by the parent to the amount of damages claimed shall entitle the

parent to a hearing on the question of damages before the amount of restitution is made part of the consent decree. Any recovery under this subdivision shall be reduced by the amount recovered as restitution for the same act under subd. 1.

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History: 1997 a. 205.

**SECTION 161.** 938.32 (lx) of the statutes is amended to read:

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

History: History: 1995 a. 77, 352,448.

**SECTION 162.** 938.32 (2) (a) of the statutes is amended to read:

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

History: History: 1995 a. 77, 352, 448.

**SECTION 163.** 938.32 (6) of the statutes is amended to read:

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

History: History: 1995 a. 77, 352,448.

(insert 37-6)

**SECTION 164.** 977.05 (6) (b) 2. of the statutes is amended to read:

977.05 (6) (b) 2. The judge or ~~family circuit~~<sup>✓</sup> commissioner before whom the proceedings shall be held certifies to the state public defender that the person will not be incarcerated if he or she is found in contempt of court.

History: History: 1977 c. 29; 1979 c. 34, 352, 356; 1981 c. 20, 27, 289; 1983 a. 377, 1987 a. 27; 1989 a. 12, 31, 56, 334; 1991 a. 263,269; 1993 a. 318, 437, 451, 479, 481; 1995 a 27, 77; 1997 a. 35.

~~767.455 (3) RETURN DATE. Every summons shall specify a return date and time before the a family court commissioner. The clerk of the court shall set the date and hour at which the summons is returnable.~~

SECTION 8. 767.455 (5) of the statutes is amended to read:

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

STATE OF WISCONSIN,

CIRCUIT COURT: . . . COUNTY

In re the Paternity of A. B.

STATE OF WISCONSIN

and \_\_\_\_\_

C. D.

Address

City, State Zip Code

File No. . . .

, Petitioners

vs.

S U M M O N S

E. F.

Address

.... (Case Classification Type):

.... (Code No.)

City, State Zip Code

, Respondent

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: .....

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Time: .....

Room: .....

Judge of Family <sup>Circuit</sup> Court Commissioner: .....

plain

Address: .....

If you do not appear, the ~~family~~ court ~~commissioner~~ 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 ~~family~~ court ~~commissioner~~ 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 ~~family~~ court ~~commissioner~~ 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 ~~family~~ court ~~commissioner~~ at least 10 days prior to the date of your scheduled appearance in this summons.

Dated: ..... 19..

Signed: . . . . .

G. H., Clerk of Circuit Court

or

Petitioner's Attorney

State Bar No.: . . . . .

Address: . . . . .

City, State Zip Code: . . . . .

Phone No.: . . . . .

SECTION 9. 767.455 (5g) (form) 2. of the statutes is amended to read:

**DRAFTERS NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-5132/P2dn

RPN:jlg:km

As agreed at our last meeting with the director of state courts staff, I have changed the title to "circuit court commissioners" wherever possible, leaving the position of probate and family court commissioners.

This draft does not include all of the changes in all of the bills that have passed in the recent floor periods, so the bill will have to be revised after the bills have been signed into law and the revisor of statutes has added them to the statutes.

I made numerous decisions about what commissioners should have what powers, so review this draft carefully to see if it meets your intent.

~~Attached is a list of hits from the statutory base which I used when drafting.~~

*I have sent a copy to the director of state courts office.*

Robert P. Nelson  
Senior Legislative Attorney  
267-7511