

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-5132/P2dn
RPN:jlg:lp

Thursday, May 21, 1998

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.

I have sent a copy to the director of state courts office.

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Senior Legislative Attorney
267-7511



State of Wisconsin
1997 - 1998 LEGISLATURE

LRB-5 1324*2

RPN:jg:fp

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** ~~to amend~~ 8 (3) and (4), 757.69 (1) (k), 757.69 (6), 757.72 (2), 757.72
2 (3), 757.72 (5), 757.72 (6), 757.72 (7), 767.16, 767.17 and 799.206; **to renumber**
3 813.125 (1) (a) and (b); **to renumber and amend 757.68** (2), 757.68 (5), **757.69**
4 (3), 757.69 (4) and (5), 757.69 (7) and 757.695; **to amend** 19.01 (4) (c), 20.445
5 (3) (cb), 46.03 (3), 48.065 (title), 48.065 (l), 48.065 (2) (intro.), 48.065 (3) (intro.),
6 48.065 (4), 48.208 (4), 48.21 (1) (a), 48.21 (1) (b), 48.21 (4) (intro.), 48.21 (7),
7 48.227 (4) (a), 48.30 (9), 48.32 (1), 48.32 (2) (a), 48.32 (6), 49.25 (8) (b), 49.852
8 (3), 49.854 (2) (c), 49.854 (3) (ag) 2., 49.854 (3) (ar), 49.854 (3) (b), 49.854 (5) (f),
9 49.854 (6) (c), 49.854 (7) (c), 49.854 (7m), 49.855 (3), 49.855 (4m) (b), 49.856 (4),
10 49.857 (2) (c) l., 49.857 (3) (ac), 49.857 (3) (ar), 49.858 (3), 51.10 (4m) (d), 51.20
11 (1) (c), 51.45 (12) (b) (intro.), 51.45 (12) (c) (intro.), 51.45 (12) (c) l., 51.45 (13)
12 (dm), **59.37**, **59.53** (5), 59.53 (5m) (a), 59.64 (1) (c), 59.64 (1) (d) (intro.), 59.64 (1)
13 (e), 59.64 (1) (f), 59.79 (5), 63.03 (2) (z), 69.15 (3m) (a) 3. and 4., 75.43, 101.02
14 (5) (c), 103.005 (5) (c), 133.10 (1), 133.11 (l), 171.04 (l), 171.05, 171.06, 196.24
15 (2), 563.71 (1) (a), 753.175, 757.23, 757.24, 757.30 (2), 757.68 (title), 757.69

1 (title), 757.69 (1) (b), 757.69 (1) (g), 757.69 (2) (intro.), 757.69 (2) (a), 757.70 (2),
2 757.72 (title), 757.72 (l), 757.72 (8), **757.81 (2)**, 765.11 (l), **765.11 (2)**, 765.16 (5),
3 767.045 (1) (c) (intro.), 767.081 (title), 767.081 (l), 767.083 (2), 767.085 (1) (i),
4 767.085 (1) (j) (intro.), 767.087 (1) (b), 767.087 (1) (c), 767.087 (2), **767.11 (1) (c)**,
5 **767.11 (5) (a)**, **767.11 (5) (b)**, **767.11 (6)**, 767.11 (13), 767.1315 (1) (a), 767.115 (1)
6 (b), 767.115 (lm), 767.115 (2), 767.125, 767.13 (title), 767.13 (l), 767.13 (2),
7 767.13 (4), 767.13 (5) (a), 767.13 (5) (b), 767.13 (5) (c), 767.13 (6), 767.13 (7),
8 767.15 (l), 767.23 (1) (intro.), 767.23 (1) (a), 767.23 (1) (am), 767.23 (lm), 767.23
9 (ln), 767.25 (4m) (f) **2.**, 767.265 (l), 767.265 (2h), 767.265 (2r), 767.267 (l),
10 767.267 (5), 767.27 (2), 767.29 (1) (c), 767.29 (1) (d) (intro.), 767.29 (1) (d) **2.**,
11 767.29 (1) (e), 767.29 (1m) (b), 767.29 (3) (a), 767.29 (3) (b), 767.293 (1), **767.293**
12 **(2)**, 767.293 (3), 767.32 (1) (a), 767.327 (2) (c), 767.33 (2), 767.37 (1) (a), 767.37
13 (2), 767.45 (5) (b), 767.455 (5), 767.458 (lm), 767.46 (l), **767.463**, **767.465 (2) (a)**,
14 767.51 (3m) (f) **2.**, 767.62 (2) (b), 767.62 (3) (b), 767.62 (4) (a), 767.62 (4) (b) **2.**,
15 767.62 (4) (b) 3. a., 767.62 (4) (b) 3. b., 767.62 (4) (b) 4. (intro.), 767.62 (4) (b) 4.
16 c., 767.62 (4) (b) 5. a., 767.62 (4) (b) 6. b., 767.62 (4) (d) l., 767.62 (4) (d) **2.**, 767.62
17 **(4) (e)** (intro.), 767.62 (4) (e) **14.**, 767.62 (4) (f), 769.102, 769.302, 782.01 (3),
18 782.03, 782.28, 799.05 (7) (intro.), 799.06 (l), 799.11 (3), 799.20 (4), 799.207
19 (title), 799.207 (1) (a), 799.207 (1) (b), 799.207 (1) (e), 799.207 (2) (intro.),
20 799.207 (3) (b), 799.209 (1) to (4), **799.21 (3) (b)**, 799.21 (4), 799.24 (l), 799.24
21 (3), 799.26 (l), 807.04 (1), 807.09 (1), 812.30 (2), 813.12 (2) (a), 813.12 (2) (b),
22 813.12 (3)(a), 813.12 (3) (am), 813.12 (3) (c), 813.12 (3) (d), 813.12 (4)(a)(intro.),
23 813.12 (4) (a) **3.**, 813.12 (4) (am), 813.12 (4)(b), 813.12 (4m) (a) **2.**, 813.12 (4m)
24 (b) (intro.), 813.12 (4m)(b) **2.**, 813.12 (5) (c), 813.12 (6) (a), 813.12 (7m), 813.125
25 (1) (intro.), **814.61 (12) (b) 3.**, 814.612 (2), 814.615 (3), 816.03 (1) (b), 816.035 (1)

1 and (2), 818.02 (6), 879.61, 885.10, 885.12, 887.26 (7), 898.02, 898.04, 898.11,
2 906.15 (1), 906.15 (2) (d), 906.15 (3), 911.01 (l), 938.065 (title), 938.065 (l),
3 938.065 (2) (intro.), 938.065 (3) (intro.), 938.065 (4), 938.208 (4), 938.21 (l),
4 938.21 (2)(c), 938.21 (4) (intro.), 938.21 (4m), 938.21 (7), 938.24 (5), 938.245 (3),
5 938.30 (9), 938.32 (1) (a), 938.32 (Id), 938.32 (lg) (intro.), 938.32 (lm) (intro.)
6 and (a), 938.32 (1t) (a) l., 938.32 (It) (a) lm., 938.32 (1t) (a) 3., 938.32 (lx),
7 938.32 (2) (a), 938.32 (6), 940.203 (1) (b), 943.013 (1) (b), 967.07, 971.20 (3) (a),
8 973.20 (13) (c) 4., 977.05 (6) (b) 2., 979.05 (l), 979.05 (4), 979.05 (5), 979.05 (6),
9 979.06 (1), 979.06 (2), 979.06 (3), 979.06 (4) (intro.), 979.06 (5), 979.08 (l),
10 979.08 (3) (intro.), 979.08 (6), 979.08 (7) and 979.09; **to repeal and recreate**
11 17.16 (l), 757.68(1), 757.69 (1) (intro.), 757.72(4), 814.68, 979.05 (2) and 979.05
12 (3); and **to create 753.36** (title), 757.68 (2m), 757.69 (2m), 813.122 (1) (e),
13 813.123 (1) (cm) and 813.125 (1) (bg) of the statutes; **relating to:** powers,
14 responsibilities and appointment of 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 as follows:

15 SECTION 1. 17.16 (1) of the statutes, as affected by 1996 Supreme Court Order
16 96-08, is repealed and recreated to read:

17 17.16 (1) Removals from office at pleasure shall be made by order, a copy of
18 which shall be filed as provided by sub. (8), except that a copy of the order of removal
19 of a circuit court commissioner shall be filed in the office of the clerk of the circuit
20 court.

1 **SECTION 2.** 19.01 (4) (c) of the statutes is amended to read:

2 19.01 (4) (c) In the office of the clerk of the circuit court for any county: Of all
3 court commissioners, ~~of all family court commissioners,~~ of all municipal judges, and
4 of all other judges or judicial officers elected or appointed for that county, or whose
5 jurisdiction is limited thereto;

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

7 20.445 (3) (cb) *Child support collection--county administration.* The amounts
8 in the schedule for the county child support order revision programs under s. 49.23
9 (1), for state incentive payments under s. 49.23 (2), for assistance to counties in
10 establishing paternity and obtaining child support and for payments to Milwaukee
11 County under s. 49.25 (8) (b) to fund an additional family circuit court commissioner
12 to assist in actions affecting the family.

13 **SECTION 4.** 46.03 (3) of the statutes is amended to read:

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

20 **SECTION 5.** 48.065 (title) of the statutes is amended to read:

21 48.065 (title) **Juvenile Circuit court commissioners in juvenile matters.**

22 **SECTION 6.** 48.065 (1) of the statutes is amended to read:

23 48.065 (1) The board of supervisors of any county may authorize the chief judge
24 of the judicial administrative district to appoint one or more circuit court
25 commissioners to assist the court part-time or full-time ~~juvenile court~~

1 ~~commissioners who shall serve at the discretion of the chief judge. A juvenile court~~
2 ~~commissioner shall be licensed to practice law in this state and shall have been so~~
3 ~~licensed for at least 2 years immediately prior to appointment and shall have a~~
4 ~~5 in matters affecting i u v e n i l e s. T h e~~
5 chief judge may assign law clerks, bailiffs and deputies to the court commissioner.
6 T h e c h i e f j u d g e s h a l l s u p e r v i s e & law clerks, bailiffs and
7 deputies, except that the chief judge may delegate any of those duties.

8 **SECTION 7.** 48.065 (2) (intro.) of the statutes is amended to read:

9 48.065 (2) (intro.) Under this chapter a juvenile circuit court commissioner, if
10 authorized to do so by a judge, may:

11 **SECTION 8.** 48.065 (3) (intro.) of the statutes is amended to read:

12 48.065 (3) (intro.) The juvenile circuit court commissioner may not:

13 **SECTION 9.** 48.065 (4) of the statutes is amended to read:

14 48.065 (4) When acting officially, the juvenile circuit court commissioner
15 assisting the court in iuvenile matters shall sit at the courthouse or the usual court
16 facility for juvenile matters. Any decision of the juvenile court commissioner shall be
17 reviewed by the judge upon the request of any interested party.

18 **SECTION 10.** 48.208 (4) of the statutes is amended to read:

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

23 **SECTION 11.** 48.21 (1) (a) of the statutes is amended to read:

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

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

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

13 **48.21 (1) (b)** If no petition has been filed by the time of the hearing, a child may
14 be held in custody with approval of the judge or ~~juvenile~~ circuit court commissioner
15 **for** an additional 72 hours from the time of the hearing, excluding Saturdays,
16 Sundays and legal holidays, only if, as a result of the facts brought forth at the
17 hearing, the judge or ~~juvenile~~ circuit court commissioner determines that probable
18 cause exists to believe that the child is an imminent danger to himself or herself or
19 to others, or that probable cause exists to believe that the parent, guardian or legal
20 custodian of the child or other responsible adult is neglecting, refusing, unable or
21 unavailable to provide adequate supervision and care. The extension may be
22 granted only once for any petition. In the event of failure to file a petition within the
23 extension period provided for in this paragraph, the judge or ~~juvenile~~ circuit court
24 commissioner shall order the child's immediate release from custody.

25 **SECTION 13.** 48.21 (4) (intro.) of the statutes is amended to read:

1 **48.21 (4) (intro.) CONTINUATION OF CUSTODY.** If the judge or ~~juvenile~~ circuit court
2 commissioner finds that the child should be continued in custody under the criteria
3 of s. 48.205, he or she shall enter one of the following orders:

4 **SECTION 14.** 48.21 (7) of the statutes is amended to read:

5 **48.21 (7) INFORMAL DISPOSITION.** If the judge or ~~juvenile~~ circuit court
6 commissioner determines that the best interests of the child and the public are
7 served, he or she may enter a consent decree under s. 48.32 or order the petition
8 dismissed and refer the matter to the intake worker for informal disposition in
9 accordance with s. 48.245.

10 **SECTION 15.** 48.227 (4) (a) of the statutes is amended to read:

11 **48.227 (4) (a)** If the child's parent, guardian or legal custodian does not consent
12 to the temporary care and housing of the child at the runaway home as provided
13 under sub. (2) or (3), a hearing shall be held on the issue by the judge or ~~juvenile~~
14 circuit court commissioner within 24 hours of the time that the child entered the
15 runaway home, excluding Saturdays, Sundays and legal holidays. The intake
16 worker shall notify the child and the child's parent, guardian or legal custodian of
17 the time, place and purpose of the hearing.

18 **SECTION 16.** 48.30 (9) of the statutes is amended to read:

19 **48.30 (9)** If a circuit court commissioner conducts the plea hearing and accepts
20 an admission of the alleged facts in a petition brought under s. 48.13, the judge shall
21 review the admission at the beginning of the dispositional hearing by addressing the
22 parties and making the inquiries set forth in sub. (8).

23 **SECTION 17.** 48.32 (1) of the statutes is amended to read:

24 **48.32 (1)** At any time after the filing of a petition for a proceeding relating to
25 s. 48.13 and before the entry of judgment, the judge or ~~juvenile~~ circuit court

1 commissioner may suspend the proceedings and place the child under supervision
2 in the child's own home or present placement, The court may establish terms and
3 conditions applicable to the parent, guardian or legal custodian, and to the child. The
4 order under this section shall be known as a consent decree and must be agreed to
5 by the child if 12 years of age or older; the parent, guardian or legal custodian; and
6 the person filing the petition under s. 48.25. The consent decree shall be reduced to
7 writing and given to the parties.

8 **SECTION 18.** 48.32 (2) (a) of the statutes is amended to read:

9 48.32 (2) (a) A consent decree shall remain in effect up to 6 months unless the
10 child, parent, guardian or legal custodian is discharged sooner by the judge or
11 juvenile circuit court commissioner.

12 **SECTION 19.** 48.32 (6) of the statutes is amended to read:

13 48.32 (6) The judge or juvenile circuit court commissioner shall inform the child
14 and the child's parent, guardian or legal custodian, in writing, of the child's right to
15 object to the continuation of the consent decree under sub. (3) and the fact that the
16 hearing under which the child was placed on supervision may be continued to
17 conclusion as if the consent decree had never been entered.

18 **SECTION 20.** 49.25 (8) (b) of the statutes is amended to read:

19 49.25 (8) (b) From the appropriation under s. 20.445 (3) (cb), the department
20 shall provide funds to Milwaukee county to fund an additional family circuit court
21 commissioner ~~to assist the court in matters affecting the family.~~

22 **SECTION 21.** 49.852 (3) of the statutes, as affected by 1997 Wisconsin Act 191,
23 is amended to read:

24 49.852 (3) If a person has requested a hearing pursuant to sub. (2) (b), the
25 hearing shall be conducted before the circuit court that rendered the initial order to

1 pay support. The court shall schedule a hearing within 10 business days after
2 receiving a request for a hearing. The family circuit court commissioner may conduct
3 the hearing. If the court determines that the person owes the amount specified in
4 the statewide support lien docket under s. 49.854 (2) (b), the department of workforce
5 development may direct the department of employe trust funds, the retirement
6 system of any 1st class city, any retirement system established under chapter 201,
7 laws of 1937, or the administrator of any other pension plan, whichever is
8 appropriate, to withhold the amount from any lump sum payment from a pension
9 plan that may be paid the person. If the court determines that the person does not
10 owe the amount specified in the statewide support lien docket under s. 49.854 (2) (b),
11 the department of workforce development may not direct the department of employe
12 trust funds, the retirement system of any 1st class city, any retirement system
13 established under chapter 201, laws of 1937, or the administrator of any other
14 pension plan, whichever is appropriate, to withhold the amount from any lump sum
15 payment from a pension plan that may be paid the person.

16 **SECTION 22;** 49.854 (2) (c) of the statutes, as affected by 1997 Wisconsin Act 191,
17 is amended to read:

18 *49.854 (2) (c) Updating the statewide support lien docket.* The department shall
19 update the statewide support lien docket in response to orders issued by a court or
20 family circuit court commissioner. The department shall periodically update the
21 statewide support lien docket to reflect changes in the amounts of the liens contained
22 in the docket.

23 **SECTION 23.** 49.854 (3) (ag) 2. of the statutes, as affected by 1997 Wisconsin Act
24 191, is amended to read:

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

13 **SECTION 24.** 49.854 (3) (ar) of the statutes, as affected by 1997 Wisconsin Act
14 191, is amended to read:

15 **49.854 (3) (ar) *Direct appeal.*** If the obligor has not requested a financial
16 records and court order review under par. (ag), the obligor may request a hearing
17 under this paragraph within 20 business days of the date of the notice under par. (a).
18 The obligor shall make the request in writing and shall mail or deliver a copy of the
19 request to the county child support agency. If a timely request for a hearing is made
20 under this paragraph, the court or ~~family~~ circuit court commissioner shall schedule
21 a hearing within **10** days after the date of the request. If, at the hearing, the obligor
22 establishes that the lien is not proper because of a mistake of fact, the court or ~~family~~
23 circuit court commissioner shall order the department to remove the lien from the
24 statewide support lien docket or adjust the amount of the delinquent obligation.

1 SECTION 25. 49.854 (3) (b) of the statutes, as affected by 1997 Wisconsin Act
2 191, is amended to read:

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

11 SECTION 26. 49.854 (5) (f) of the statutes, as affected by 1997 Wisconsin Act 191,
12 is amended to read:

13 **49.854 (5) (f) Hearings.** A hearing requested under par. (d) 6. shall be
14 conducted before the circuit court rendering the order to pay support. Within 45
15 business days after receiving a request for hearing under par. (d) 6., the court shall
16 conduct the hearing. The family circuit court commissioner may conduct the
17 hearing. The hearing shall be limited to a review of whether the account holder owes
18 the amount of support certified and whether any alternative payment arrangement
19 offered by the department or the county child support agency is reasonable. If the
20 court or family circuit, court commissioner makes a written determination that an
21 alternative payment arrangement offered by the department or county child support
22 agency is not reasonable, the court or family circuit court commissioner may order
23 an alternative payment arrangement. If the court or family circuit court
24 commissioner orders an alternative payment arrangement, the court or family
25 circuit court commissioner shall order the department to release all or a portion of

1 the funds. If the court or family circuit court commissioner determines that the
2 account holder does not owe support or owes less than the amount claimed by the
3 department, the court shall order the department to return the seized funds or the
4 excess of the seized funds over the amount of the delinquency to the account holder.
5 If a family circuit court commissioner conducts the hearing under this paragraph,
6 the department or the obligor may, within 15 business days after the date that the
7 family circuit court commissioner makes his or her decision, request review of the
8 decision by the court with jurisdiction over the action.

9 SECTION 27.49.854 (6) (c) of the statutes, as affected by 1997 Wisconsin Act 191,
10 is amended to read:

11 **49.854 (6) (c) Hearing.** If a hearing is requested under par. (b) 4., the court or
12 family circuit court commissioner shall schedule a hearing within 10 business days
13 after receiving the request under par. (b) 4. The hearing shall be limited to a review
14 of whether the obligor owes the amount of support owed that is stated in the notice
15 of seizure and whether any alternative payment arrangement offered by the
16 department or the county child support agency is reasonable. If the court or family
17 circuit court commissioner makes a written determination that an alternative
18 payment arrangement offered by the department or county child support agency is
19 not reasonable, the court or family circuit court commissioner may order an
20 alternative payment arrangement. If the court or family circuit court commissioner
21 orders an alternative payment arrangement, the court or family circuit court
22 commissioner shall order the department to return the seized property within 15
23 business days. If the court or family circuit court commissioner determines that the
24 obligor does not owe support or owes less than the amount claimed by the
25 department, the court shall order the department to return the seized property

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

12 **SECTION 28.** 49.854 (7) (c) of the statutes, as affected by 1997 Wisconsin Act 191,
13 is amended to read:

14 **49.854 (7) (c) Hearing.** If a hearing is requested under par. (b) 1. c., the court
15 or ~~family circuit~~ court commissioner shall schedule a hearing within 10 business
16 days after receiving the request under par. (b) 1. c. The hearing shall be limited to
17 a review of whether the obligor owes the amount of support owed that is stated in the
18 notice of intent under par. (b) and whether any alternative payment arrangement
19 offered by the department or the county child support agency is reasonable. If the
20 court or ~~family circuit~~ court commissioner makes a written determination that an
21 alternative payment arrangement offered by the department or county child support
22 agency is not reasonable, the court or ~~family circuit~~ court commissioner may order
23 an alternative payment arrangement. If the court or ~~family circuit~~ court
24 commissioner orders an alternative payment arrangement, the court or ~~family~~
25 ~~circuit~~ court commissioner shall order the department not to proceed with the levy.

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

11 **SECTION 29.** 49.854 (7m) of the statutes, as affected by 1997 Wisconsin Act 191,
12 is amended to read:

13 **49.854 (7m) JOINTLY HELD PROPERTY.** A person, other than the obligor, who holds
14 a joint interest in property levied against under this section may request a hearing,
15 as provided in subs. (5) (d) 6m., (6) (b) 3m. or (7) (b) 1. d., to determine the proportion
16 of the value of the property that is attributable to his or her net contribution to the
17 property. If a hearing is requested under this subsection, the court or family circuit
18 court commissioner shall schedule a hearing within 10 days after receiving the
19 request. The hearing shall be limited to determining the proportion of the value of
20 the property that is attributable to the person's net contribution to the property. If
21 more than one person requests a hearing under this subsection, or if the obligor
22 requests a hearing under sub. (5) (f), (6) (c) or (7) (c), with respect to the same
23 property, the court or family circuit court commissioner may schedule the hearings
24 together. The person requesting the hearing shall have the burden of proving his or
25 her net contribution by clear and convincing evidence. If the court determines that

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

10 **SECTION 30.** 49.855 (3) of the statutes, as affected by 1997 Wisconsin Act 35,
11 is amended to read:

12 49.855 (3) Receipt of a certification by the department of revenue shall
13 constitute a lien, equal to the amount certified, on any state tax refunds or credits
14 owed to the obligor. The lien shall be foreclosed by the department of revenue as a
15 **setoff** under s. 71.93 (3), (6) and (7). When the department of revenue determines
16 that the obligor is otherwise entitled to a state tax refund or credit, it shall notify the
17 obligor that the state intends to reduce any state tax refund or credit due the obligor
18 by the amount the obligor is delinquent under the support or maintenance order, by
19 the outstanding amount for past support, medical expenses or birth expenses under
20 the court order or by the amount due under s. 46.10 (4). The notice shall provide that
21 within 20 days the obligor may request a hearing before the circuit court rendering
22 the order. Within 10 days after receiving a request for hearing under this subsection,
23 the court shall set the matter for hearing. Pending further order by the court or
24 ~~family~~ circuit court commissioner, the clerk of circuit court or county support
25 collection designee under s. 59.53 (5m) is prohibited from disbursing the obligor's

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

8 **SECTION 31.** 49.855 (4m) (b) of the statutes, as affected by 1997 Wisconsin Act
9 35, is amended to read:

10 49.855 **(4m)** (b) The department of revenue may provide a certification that it
11 receives under sub. (2) or **(2m)** to the department of administration. Upon receipt
12 of the certification, the department of administration shall determine whether the
13 obligor is a vendor or is receiving any other payments from this state, except for
14 wages, retirement benefits or assistance under s. 45.352, 1971 stats., s. 45.351 (1),
15 this chapter or ch. 46 or 108. If the department of administration determines that
16 the obligor is a vendor or is receiving payments from this state, except for wages,
17 retirement benefits or assistance under s. 45.352, 1971 stats., s. 45.351 (l), this
18 chapter or ch. 46 or 108, it shall begin to withhold the amount certified from those
19 payments and shall notify the obligor that the state intends to reduce any payments
20 due the obligor by the amount the obligor is delinquent under the support or
21 maintenance order, by the outstanding amount for past support, medical expenses
22 or birth expenses under the court order or by the amount due under s. 46.10 (4). The
23 notice shall provide that within 20 days after receipt of the notice the obligor may
24 request a hearing before the circuit court rendering the order. An obligor may, within
25 20 days after receiving notice, request a hearing under this paragraph. Within 10

1 days after receiving a request for hearing under this paragraph, the court shall set
2 the matter for hearing. The ~~family circuit~~ court commissioner may conduct the
3 hearing. Pending further order by the court or ~~family circuit~~ court commissioner, the
4 clerk of circuit court or county support collection designee under s. 59.53 (5m) may
5 not disburse the payments withheld from the obligor. The sole issues at the hearing
6 are whether the obligor owes the amount certified and, if not and it is a support or
7 maintenance order, whether the money withheld shall be paid to the obligor or held
8 for future support or maintenance.

9 SECTION 32. 49.856 (4) of the statutes, as affected by 1997 Wisconsin Act 191,
10 is amended to read:

11 49.856 (4) If the obligor requests a hearing under sub. (3) (b), the circuit court
12 shall schedule a hearing within 10 business days after receiving the request. The
13 only issue at the hearing shall be whether the person owes the delinquent payment
14 or outstanding amount specified in the statewide support lien docket under s. 49.854
15 (2) (b). A ~~family circuit~~ court commissioner may conduct the hearing.

16 SECTION 33. 49.857 (2) (c) 1. of the statutes, as affected by 1997 Wisconsin Act
17 191, is amended to read:

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

1 **SECTION 34.** 49.857 (3) (ac) of the statutes, as affected by 1997 Wisconsin Act
2 191, is amended to read:

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

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

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

23 **SECTION 35.** 49.857 (3) (ar) of the statutes, as affected by 1997 Wisconsin Act
24 191, is amended to read:

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

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

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

21 **SECTION 36.** 49.858 (3) of the statutes, as affected by 1997 Wisconsin Act 191,
22 is amended to read:

23 49.858 (3) **REVIEW OF FAMILY COURT COMMISSIONER DECISIONS.** If a ~~family circuit~~
24 court commissioner conducts a hearing in any administrative support enforcement
25 proceeding under s. 49.852, 49.856 or 49.857, the department of workforce

1 development **or** the obligor may, within 15 business days after the date that the
2 ~~family circuit~~ court commissioner makes his or her decision, request review of the
3 decision by the court with jurisdiction over the matter.

4 **SECTION 37.** 51.10 (4m) (d) of the statutes is amended to read:

5 51.10 (4m) (d) If a patient admitted under par. (a) 1. has not signed a voluntary
6 admission application within 7 days after admission, the patient, the guardian ad
7 litem and the physician who signed the admission request shall appear before the
8 judge or circuit court commissioner ~~of the court~~ assigned to exercise probate
9 jurisdiction for the county in which the facility is located to determine whether the
10 patient shall remain in the facility as a voluntary patient. If the judge or circuit court
11 commissioner determines that the patient desires to leave the facility, the facility
12 shall discharge the patient. If the facility has reason to believe the patient is eligible
13 for commitment under s. 5 1.20, the facility may initiate procedures for involuntary
14 commitment.

15 **SECTION 38.** 51.20 (1) (c) of the statutes is amended to read:

16 51.20 (1) (c) The petition shall contain the names and mailing addresses of the
17 petitioners and their relation to the subject individual, and shall also contain the
18 names and mailing addresses of the individual's spouse, adult children, parents or
19 guardian, custodian, brothers, sisters, person in the place of a parent and person
20 with whom the individual resides or lives. If this information is unknown to the
21 petitioners or inapplicable, the petition shall so state. The petition may be filed in
22 the court assigned to exercise probate jurisdiction for the county where the subject
23 individual is present or the county of the individual's legal residence. If the judge of
24 the court or a circuit court commissioner who handles probate matters is not
25 available, the petition may be filed and the hearing under sub. (7) may be held before

1 a judge or Circuit court commissioner of any circuit court for the county. e
2 purposes of this chapter, duties to be performed by a court shall be carried out by the
3 judge of the court or a circuit court commissioner ~~of the court who is an attorney and~~
4 ~~is designated by the judge to so act, in all matters prior to a final hearing under this~~
5 ~~section.~~ The petition shall contain a clear and concise statement of the facts which
6 constitute probable cause to believe the allegations of the petition. The petition shall
7 be sworn to be true. If a petitioner is not a petitioner having personal knowledge as
8 provided in par. (b), the petition shall contain a statement providing the basis for his
9 or her belief.

10 **SECTION 39.** 51.45 (12) (b) (intro.) of the statutes is amended to read:

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

16 **SECTION 40.** 51.45 (12) (c) (intro.) of the statutes is amended to read:

17 51.45 (12) (c) (intro.) Upon receipt of a petition under par. (b), the circuit court
18 commissioner or court shall:

19 **SECTION 41,** 51.45 (12) (c) 1. of the statutes is amended to read:

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

1 **SECTION 42.** 51.45 (13) (dm) of the statutes is amended to read:

2 51.45 (13) (dm) For the purposes of this section, duties to be performed by a
3 court shall be carried out by the judge of such court or a circuit court commissioner
4 ~~of such court who is an attorney and is designated by the judge to so act, in all matters~~
5 ~~prior to a final hearing under this subsection.~~

6 **SECTION 43.** 59.37 of the statutes is amended to read:

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

19 **SECTION 44.** 59.53 (5) of the statutes, as affected by 1997 Wisconsin Act 41, is
20 amended to read:

21 59.53 (5) **CHILD AND SPOUSAL SUPPORT; PATERNITY PROGRAM; MEDICAL SUPPORT**
22 **LIABILITY PROGRAM.** The board shall contract with the department of workforce
23 development to implement and administer the child and spousal support and
24 establishment of paternity and the medical support liability programs provided for
25 by Title IV of the federal social security act. The board may designate by board

1 resolution any office, officer, board, department or agency, except the clerk of circuit
2 court, as the county child support agency. The board or county child support agency
3 shall implement and administer the programs in accordance with the contract with
4 the department of workforce development. The attorneys responsible for support
5 enforcement under sub. (6) (a), ~~family circuit~~ court commissioner and all other
6 county officials shall cooperate with the county and the department of workforce
7 development as necessary to provide the services required under the programs. The
8 county shall charge the fee established by the department of workforce development
9 under s. 49.22 for services provided under this subsection to persons not receiving
10 benefits under s. 49.148 or 49.155 or assistance under s. 46.261, 49.19 or 49.47.

11 **SECTION 45.** 59.53 (5m) (a) of the statutes, as affected by 1997 Wisconsin Act
12 191, is amended to read:

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

21 **SECTION 46.** 59.64 (1) (c) of the statutes is amended to read:

22 **59.64 (1) (c) *Of judicial officers.*** ~~Court~~ Circuit and sunnlemental court
23 commissioners shall, on or before the first Monday of November in each year, forward
24 to the clerk of their respective counties a correct statement of all actions or
25 proceedings had before them, during the immediately preceding year, in which the

1 county became liable for costs, giving the names of the parties in each action or
2 proceeding, the nature and result of the same, the amount of costs in detail in each
3 case and what items, if any, have been paid and the amount thereof. The clerk shall
4 file such statements in his or her office. Any such officer who neglects to make and
5 return such statements within the time prescribed in this paragraph shall not
6 receive any compensation from the county for any service rendered by him or her in
7 any criminal case or proceeding during the year next preceding the time when the
8 statement is required to be made and returned.

9 SECTION 47. 59.64 (1) (d) (intro.) of the statutes is amended to read:

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

14 SECTION 48. 59.64 (1) (e) of the statutes is amended to read:

15 **59.64 (1) (e) Fees for statements and certificates.** Every circuit or sunnlemental
16 court commissioner shall receive from the treasurer \$1 per page for making
17 statements and returns required by par. (c) and \$1 for making each certificate
18 required by par. (d). All such statements and certificates shall be transmitted to the
19 clerk by certified mail and for transmitting the statements and certificates the court
20 commissioner shall receive \$1.

21 SECTION 49. 59.64 (1) (f) of the statutes is amended to read:

22 **59.64 (1) (f) Court commissioners.** The board at any session thereof may as
23 provided in par. (d) 2. examine and allow any statement, account or claim of any
24 circuit or sunnlemental court commissioner which is on file with the clerk before the
25 opening of the session of the board.

****NOTE: 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?

1 **SECTION 50.** 59.79 (5) of the statutes is amended to read:

2 **59.79 (5) FEE FOR CERTAIN MARRIAGE CEREMONIES.** Enact an ordinance imposing
3 a fee to be paid in advance to the clerk for each marriage ceremony performed by a
4 judge or a circuit or supplemental court commissioner specified in s. 765.16 (5) in the
5 courthouse, safety building or children's court center during hours when any office
6 in those 'public buildings is open for the transaction of business. The amount of the
7 fee shall be determined by the board.

8 **SECTION 51.** 63.03 (2) (z) of the statutes is amended to read:

9 63.03 (2) (z) ~~Full-time~~ Circuit court commissioners under s. 757.68 (1). Any
10 person aualified and acting: as a court commissioner on August 1, 1978. shall be
11 considered a circuit court commissioner and shall continue in the classified county
12 civil service but any person appointed as a court commissioner after August 1,1978,
13 shall be in the unclassified (exempt) civil service.

14 **SECTION 52.** 69.15 (3m) (a) 3. and 4. of the statutes, as affected by 1997
15 Wisconsin Act 191, are amended to read:

16 **69.15 (3m) (a) 3.** Except as provided in subd. 4, the person rescinding the
17 statement files the document under subd. 2. before the day on which a court or&m-i&
18 circuit court commissioner makes an order in an action affecting the family involving
19 the man who signed the statement and the child who is the subject of the statement
20 or before 60 days elapse after the statement was filed, whichever occurs first.

21 4. If the person rescinding the statement was under age 18 when the statement
22 was filed, the person files the document under subd. 2. before the day on which a
23 court or ~~family~~ circuit court commissioner makes an order in an action affecting the

1 family involving the man who signed the statement as the father of the registrant
2 and the child who is the subject of the statement or before 60 days elapse after the
3 person attains age 18, whichever occurs first.

4 **SECTION 53.** 75.43 of the statutes is amended to read:

5 **75.43 Election to receive deposit;** costs. The county may, at any time
6 within 20 days after receiving an answer showing that a deposit has been made by
7 any defendant or defendants as provided in s. 75.42, give notice to such defendant
8 or defendants that it elects to receive such deposit and that it will, at a time specified
9 in such notice, apply to the clerk of the circuit court, circuit judge or a circuit court
10 commissioner to adjust the costs and disbursements which said defendant or
11 defendants ought to pay, and that upon the payment of the costs and disbursements
12 so adjudged the county will release to such defendant or defendants all right, title
13 and claim which it has to the parcel or parcels of land on account of which ~~such~~
14 deposit is made by virtue of any deed made for the nonpayment of taxes; and unless
15 such costs are paid within 20 days after the same shall have been so adjusted the
16 clerk of the court shall, upon presentation of an affidavit showing the nonpayment
17 thereof, enter judgment therefor in favor of the county and against the defendant,
18 which shall be enforced as other money judgments.

19 **SECTION 54.** 101.02 (5) (c) of the statutes is amended to read:

20 101.02 (5) (c) In the discharge of his or her duties such agent shall have every
21 power of an inquisitorial nature granted in this subchapter to the department, the
22 same powers as a supplemental court commissioner with regard to the taking of
23 depositions and all powers granted by law to a supplemental court commissioner
24 relative to depositions.

25 **SECTION 55.** 103.005 (5) (c) of the statutes is amended to read:

1 103.005 (5) (c) In the discharge of his or her duties such agent shall have every
2 power of an inquisitorial nature granted in chs. 103 to 106 to the department, the
3 same powers as a supplemental court commissioner with regard to the taking of
4 depositions and all powers granted by law to a supplemental court commissioner
5 relative to depositions.

6 **SECTION 56.** 133.10 (1) of the statutes is amended to read:

7 133.10 (1) The examination of any party, or if a corporation or limited liability
8 company be a party, of the president, secretary, other principal officer or the general
9 managing agent thereof, or of the person who was such president, secretary, officer
10 or agent at the time of the occurrence of the facts made the subject of the
11 examination, or of any person acting for another or for a corporation, limited liability
12 company or partnership, other than as a witness on a trial, may be taken by
13 deposition at the instance of the department of justice in any such action or
14 proceeding at any time between the commencement thereof and final judgment.
15 Such deposition shall be taken within the state before a judge at chambers or a circuit
16 or supplemental court commissioner on previous notice to such party and any other
17 adverse party or the attorney thereof of at least 5 days, and may be taken without
18 the state.

19 **SECTION 57.** 133.11 (1) of the statutes is amended to read:

20 **133.11 (1)** Whenever the attorney general files with any circuit or
21 supplemental court commissioner a statement that the attorney general has reason
22 to believe and does believe that a violation of this chapter has occurred, the
23 commissioner shall issue a subpoena or a subpoena requiring the production of
24 materials as requested by the department of justice. Mileage or witness fees are not
25 required to be paid in advance but claims for such mileage and fees duly verified and

1 approved by the department of justice shall be audited and paid out of the state
2 treasury and charged to the appropriation provided by s. 20.455 (1) (d), and shall be
3 at the same rates as witnesses in the circuit court.

4 **SECTION 58.** 171.04 (1) of the statutes is amended to read:

5 171.04 (1) If any property delivered to any forwarding merchant, wharfinger
6 or warehouse keeper, for carriage or storage, is in a state of decay or manifestly liable
7 to immediate damage and decay, the person in whose custody the property is, the
8 person's agent or attorney, may make an affidavit of this fact, and present the
9 affidavit to a circuit judge or circuit court commissioner for the county in which the
10 property is located, and the circuit judge or circuit court commissioner shall
11 immediately make an order requiring the sheriff or any constable of the county to
12 immediately inspect the property, and directing him or her, if it is found to be in a
13 state of decay or manifestly liable to immediate damage or decay, to summarily sell
14 the property without notice.

15 **SECTION 59.** 171.05 of the statutes is amended to read:

16 171.05 **Perishable property, held otherwise, how disposed of.** If any
17 property is perishable or subject to decay by keeping, the person in whose custody
18 the property is, the person's agent or attorney, may make an affidavit of this fact and
19 present the affidavit to a circuit judge or circuit court commissioner for the county
20 in which the property is located, and the judge or circuit court commissioner shall
21 immediately make an order requiring the sheriff or any constable of the county to
22 immediately inspect the property, and if it is found to be perishable or subject to
23 decay by keeping, to make and return an affidavit of this fact. Upon the return of
24 this affidavit, the judge or commissioner making the order shall immediately issue
25 an order requiring the sheriff or constable to sell the property at public auction,

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

18 SECTION 60. 171.06 of the statutes is amended to read:

19 **171.06 Unclaimed property, how disposed of.** When any property is not
20 perishable or subject to decay and is not claimed and taken away within one year
21 after it was received, it may be sold as follows: The person in whose custody the
22 property is, or the person's agent or attorney, may make an affidavit of the facts and
23 present the same to a judge or circuit court commissioner of the county in which the
24 property is located and such judge or circuit court commissioner shall immediately
25 issue an order requiring the sheriff or any constable of the county to sell the property

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

22 **SECTION 61.** 196.24 (2) of the statutes is amended to read:

23 196.24 **(2)** In the discharge of his or her duties, an agent appointed under sub.
24 (1) shall have any inquisitional power granted to the commission and the power of

1 a sunnlemental court commissioner to take depositions under s. ~~757.69(3)~~ 753.36(2)
2 (b).

3 SECTION 62. 563.71 (1) (a) of the statutes is amended to read:

4 563.71 (1) (a) Whenever the attorney general files with a circuit or
5 supplemental court commissioner a statement that the attorney general believes
6 that a violation of this chapter has occurred, the commissioner shall issue a subpoena
7 for any person requested or named by the attorney general. Mileage and witness fees
8 need not be paid in advance, but only verified claims for mileage and fees which are
9 approved by the attorney general shall be paid out of the state treasury and charged
10 to the appropriation under s. 20.455 (1) (d) and shall be the same rates as those paid
11 witnesses in circuit court.

12 SECTION 63. 753.175 of the statutes is amended to read:

13 **753.175 Fees; where paid.** Any fee received by a judge of a court as a circuit
14 or sunnlemental court commissioner shall be paid into the county treasury except
15 that any amount payable under s. 814.68 (1) to a reporter shall be paid to such
16 reporter.

17 SECTION 64. 753.36 (title) of the statutes is created to read:

18 753.36 (title) **Supplemental court commissioners.**

19 SECTION 65. 757.23 of the statutes, as affected by 1997 Wisconsin Act 27, is
20 amended to read:

21 **757.23 Court commissioner, when disqualified.** A ~~municipal court~~
22 ~~commissioner, a~~ court commissioner, or any judge acting as a court commissioner,
23 shall not act or take part in the decision of, or make any order in any matter or
24 proceeding in which he or she is a party, or in which his or her rights would be in any
25 manner affected by his or her decision or order thereon, or in which he or she is

1 interested, or in which his or her law partner, or any person connected with him or
2 her as employer, employe or clerk, ~~or in the law business in any manner~~, shall be
3 interested or appear as a party, agent, attorney or counsel. Any ~~municipal court~~
4 ~~commissioner~~, court commissioner or judge, acting as a court commissioner, violating
5 this section shall forfeit \$25 for each violation, and shall also be subject to removal
6 from office.

7 **SECTION 66.** 757.24 of the statutes is amended to read:

8 **757.24 Liability of judicial officers.** Circuit judges and circuit court
9 commissioners shall be held personally liable to any party injured for any wilful
10 violation of the law in granting injunctions and appointing receivers, or for refusing
11 to hear motions to dissolve injunctions and to discharge receivers if the motions are
12 made in accordance with law or such rules as are promulgated by the supreme court.

13 **SECTION 67.** 757.30 (2) of the statutes is amended to read:

14 757.30 (2) Every person who appears as agent, representative or attorney, for
15 or on behalf of any other person, or any firm, partnership, association or corporation
16 in any action or proceeding in or before any court of record, circuit or supplemental
17 court commissioner, or judicial tribunal of the United States, or of any state, or who
18 otherwise, in or out of court, for compensation or pecuniary reward gives professional
19 legal advice not incidental to his or her usual or ordinary business, or renders any
20 legal service for any other person, 'or any firm, partnership, association or
21 corporation, shall be deemed to be practicing law within the meaning of this section.

22 **SECTION 68.** 757.68 (title) of the statutes is amended to read:

23 757.63 (title) ~~Court~~ Circuit court commissioners.

24 **SECTION 69.** 757.68 (1) of the statutes is repealed and recreated to read:

1 757.68 (1) In every county organized for judicial purposes, the county board
2 shall establish within the unclassified service the position of family court
3 commissioner and such additional circuit court commissioner positions as needed for
4 the efficient administration of judicial business within the circuit courts of the
5 county. The family court commissioner shall be a circuit court commissioner. The
6 family court commissioner and circuit court commissioners may be full-time or
7 part-time. Each circuit court commissioner shall take and file the official oath in the
8 office of the clerk of the circuit court of the county for which appointed before
9 performing any duty of the office. Chapter 75 of the supreme court rules shall govern
10 the qualifications for, and appointment, supervision, training, evaluation and
11 discipline of, circuit court commissioners.

12 **SECTION 70.** 757.68 (2) of the statutes is renumbered 753.36 (1) and amended
13 to read:

14 753.36 (1) (title) ~~PART-TIME COURT COMMISSIONERS~~. In each county the circuit
15 judges shall appoint ~~such~~ the number of ~~part-time~~ supplemental court
16 commissioners as the proper transaction of business requires ~~subject to the following~~
17 ~~exception, except that~~ in counties having a population of 200,000 or more each judge
18 may appoint not more than 2 ~~such~~ supplemental commissioners and ~~in counties~~
19 ~~having a population of less than 200,000 each judge shall, as nearly as possible,~~
20 ~~appoint an equal number of commissioners within the county.~~ In all counties the
21 appointments shall be subject to the approval of a majority of the circuit judges for
22 the county. Appointments shall be in writing and shall be filed in the office of the
23 clerk of the circuit court. All court commissioners appointed after May 16, 1978,
24 other than official court reporters acting under s. 814.68 (1) (b) performing duties or
25 exercising powers specified for court reporters, shall be attorneys licensed to practice

1 in this state. The appointing judge may remove, at will and without cause, any
2 supplemental court commissioner appointed by the judge or the judge's predecessor
3 in office. Unless he or she is so removed, the term of each supplemental court
4 commissioner shall continue until the expiration of the term of the appointing judge
5 ~~and until the successor to the commissioner is appointed and qualified.~~ Each
6 supplemental court commissioner shall take and file the official oath in the office of
7 clerk of the circuit court of the county for which appointed before performing any
8 duty of the office.

9 **SECTION 71.** 757.68 (2m) of the statutes is created to read:

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

14 **SECTION 72.** 757.68 (3) and (4) of the statutes are repealed.

15 **SECTION 73.** 757.68 (5) **of the statutes is renumbered** 753.36 (6) and amended
16 to read:

17 753.36 (6) (title) ~~Fees. — Part-time~~ Supplemental court commissioners
18 appointed under sub. ~~(2)~~ **(1)** shall collect the fees prescribed in s. 814.68 (1).

19 **SECTION 74.** 757.69 (title) of the statutes is amended to read:

20 757.69 (title) **Powers and duties of circuit court commissioners,**

21 **SECTION 75.** 757.69 **(1)** (intro.) of the statutes is repealed and recreated to read:

22 757.69 (1) (intro.) An order under SCR 75.02 appointing a circuit court
23 commissioner shall confer all the powers and duties of a circuit court commissioner
24 allowed under state law or shall specify the duties that a circuit court commissioner
25 may perform, including the following:

1 **SECTION 76.** 757.69 (1) (b) of the statutes is amended to read:

2 757.69 (1) (b) In criminal matters issue summonses, arrest warrants or search
3 warrants ~~and~~, conduct initial appearances of persons arrested ~~and~~, set bail ~~to the~~
4 ~~same extent as a judge. At the initial appearance, the court commissioner shall,~~
5 ~~when necessary,~~ inform the defendant in accordance with s. 970.02 (1). ~~If the~~
6 ~~defendant appears or claims to be unable to afford counsel, the court commissioner,~~
7 ~~in accordance with s. 970.02 (6), may and~~ refer the person to the authority for
8 indigency determinations specified under s. 977.07 (1). ~~If the~~ ~~it commissioner is~~
9 ~~a full-time~~ A circuit court commissioner, ~~he or she~~ may conduct the preliminary
10 examination and arraignment ~~to the same extent as a judge~~ and, with the consent
11 of both the state and the defendant, ~~may~~ accept a guilty plea. If a court refers a
12 disputed restitution issue under s. 973.20 (13) (c) 4., the circuit court commissioner
13 shall conduct the hearing on the matter in accordance with s. 973.20 (13) (c) 4.

14 **SECTION 77.** 757.69 (1) (g) of the statutes is amended to read:

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

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

6 **SECTION 78.** 757.69 (1) (k) of the statutes is repealed.

7 **SECTION 79.** 757.69 (2) (intro.) of the statutes is amended to read:

8 757.69 (2) (intro.) A judge may refer to a circuit court commissioner appointed
9 under ~~s. 48.065, 757.68, 757.72, 767.13 or 938.065~~ **SCR 75.02** cases in which:

10 **SECTION 80.** 757.69 (2) (a) of the statutes is amended to read:

11 757.69 (2) (a) The trial of an issue of fact requires the examination of an
12 account, in which case the circuit court commissioner may be directed to report upon
13 any specific question of fact involved therein.

14 **SECTION 81.** 757.69 (2m) of the statutes is created to read:

15 757.69 **(2m)** Circuit court commissioners may exercise, under their own
16 authority, all of the powers listed under s. 753.36 (2).

17 **SECTION 82.** 757.69 (3) of the statutes is renumbered 753.36 (2), and 753.36 (2)
18 (intro.) and (g), as renumbered, is amended to read:

19 753.36 (2) (intro.) ~~Court~~ Supplemental court commissioners ~~appointed under~~
20 ~~s. 48.065, 757.68, 757.72, 767.13 or 938.065~~ may, under their own authority:

21 (g) Except as provided in s. 767.13 (5) (c), conduct a paternity proceeding
22 according to the procedures set out in ch. 767 whenever a circuit court commissioner
23 is specifically authorized to do so.

24 **SECTION 83.** 757.69 (4) and (5) of the statutes are renumbered 753.36 (3) and
25 (4) and amended to read:

1 753.36 (3) In addition to the duties expressly set forth in sub. ~~(3)~~ (2) (a) to (c),
2 a supplemental court commissioner may perform other ministerial duties as
3 required by a court.

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

6 **SECTION 84.** 757.69 (6) of the statutes is repealed.

7 **SECTION 85.** 757.69 (7) of the statutes is renumbered 753.36 (5) and amended
8 to read:

9 753.36 (5) A supplemental court commissioner shall refer to a court of record
10 for appropriate action every alleged showing of contempt in the carrying out of the
11 lawful decisions of the supplemental court commissioner.

12 **SECTION 86.** 757.695 of the statutes is renumbered 799.08, and 799.08 (intro.),
13 as renumbered, is amended to read:

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

20 **SECTION 87.** 757.70 (2) of the statutes is amended to read:

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

1 SECTION 88. 757.72 (title) of the statutes is amended to read:

2 757.72 (title) **Office Position of probate court commissioner.**

3 SECTION 89. 757.72 (1) of the statutes is amended to read:

4 757.72 (1) In counties having a population of 500,000 or more, there is created
5 in the classified civil service the-~~&Gee-~~ court commissioner
6 ~~position to assist in probate matters.~~ a population of at least
7 100,000 but not more than 500,000, the county board may create ~~the office of probate~~
8 a circuit court commissioner ~~to assist in probate matters, which~~ may be in
9 the classified civil service.

10 SECTION 90. 757.72 (2) of the statutes is repealed.

11 SECTION 91. 757.72 (3) of the statutes is repealed.

12 SECTION 92. 757.72 (4) of the statutes is repealed and recreated to read:

13 757.72 (4) Circuit court commissioners assisting in probate matters shall be,
14 appointed under SCR 75.02 (2) and are subject to chapter 75 of the supreme court
15 rules.

16 SECTION 93. 757.72 (5) of the statutes is repealed.

17 SECTION 94. 757.72 (6) of the statutes is repealed.

18 SECTION 95. 757.72 (7) of the statutes is repealed.

19 SECTION 96. 757.72 (8) of the statutes is amended to read:

20 757.72 (8) The ~~probate circuit~~ circuit court commissioners assisting in nrobate
21 matters may administer oaths, take depositions and testimony, and certify and
22 report the depositions and testimony, take and certify acknowledgments, allow
23 accounts and fix the amount and approve the sufficiency of bonds.

24 SECTION 97. 757.81 (2) of the statutes is amended to read:

1 757.81 (2) "Court commissioner" means a circuit court commissioner appointed
2 under ~~s. 757.68, a family court commissioner under s. 767.13, a juvenile court~~
3 ~~commissioner under s. 48.065 or 938.065 and a probate court commissioner under~~
4 ~~s. 757.72~~ SCR 75.02 (1) or a supplemental court commissioner authorized under SCR
5 75.02 (2) to perform duties specified under SCR 75.03 on a temporary or occasional
6 basis.

7 **SECTION 98.** 765.11 (1) of the statutes is amended to read:

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

1 wherein the application is pending, and by mailing a copy thereof to the nonresident
2 at the address contained in the application.

3 SECTION 99. 765.11 (2) of the statutes is amended to read:

4 765.11 (2) If, upon hearing, the court finds that the statements in the
5 application are wilfully false or insufficient, or that either or both of said parties are
6 not competent in law to marry, the court shall make an order refusing the marriage
7 license, and shall immediately report such matter to the district attorney. If said
8 falseness or insufficiency is due merely to inadvertence, then the court shall permit
9 the parties to amend the application so as to make the statements therein true and
10 sufficient, and upon application being so amended, the marriage license shall be
11 issued. If any party is unable to supply any of the information required in the
12 application, the court may, if satisfied that such inability is not due to wilfulness or
13 negligence, order the marriage license to be issued notwithstanding such
14 insufficiency. The costs and disbursements of the proceedings under this section
15 shall rest in the discretion of the court, but none shall be taxed against any district
16 attorney or ~~family circuit~~ court commissioner acting in good faith.

17 SECTION 100. 765.16 (5) of the statutes is amended to read:

18 **765.16 (5) Any ~~family court commissioner~~ ~~appointed under s. 767.13 or circuit~~**
19 **court commissioner appointed under SCR 75.02 (1) or supplemental** court
20 **commissioner appointed under s. ~~757.68~~ 753.36(1).**

21 SECTION 101. 767.045 (1) (c) (intro.) of the statutes, as affected by 1997
22 Wisconsin Act 191, is amended to read:

23 767.045 (1) (c) (intro.) The attorney responsible for support enforcement under
24 s. 59.53 (6) (a) may request that the court or ~~family circuit~~ court commissioner
25 appoint a guardian ad litem to bring an action or motion on behalf of a minor who

1 is a nonmarital child whose paternity has not been acknowledged under s. 767.62 (1)
2 or a substantially similar law of another state or adjudicated for the purpose of
3 determining the paternity of the child, and the court or ~~family circuit~~ court
4 commissioner shall appoint a guardian ad litem, if any of the following applies:

5 SECTION 102. 767.081 (title) of the statutes is amended to read:

6 767.081 (title) **Information from the office of the family court**
7 **commissioner.**

8 SECTION 103. 767.081 (1) of the statutes is amended to read:

9 767.081 (1) Upon the filing of an action affecting the family, the family court
10 commissioner shall inform the parties of any services, including referral services,
11 offered by ~~the family court commissioner~~ his or her office and by the director of family
12 court counseling services under s. 767.11.

13 SECTION 104. 767.083 (2) of the statutes is amended to read:

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

19 SECTION 105. 767.085 (1) (i) of the statutes is amended to read: -

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

1 of the parties, except in the usual course of business, in order to secure necessities
2 or in order to pay reasonable costs and expenses of the action, including attorney fees.

3 **SECTION 106.** 767.085 (1) (j) (intro.) of the statutes is amended to read:

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

8 **SECTION 107.** 767.087 (1) (b) of the statutes is amended to read:

9 767.087 (1) (b) If the action is one under s. 767.02 (1) (a), (b), (c), (d), (h) or (i),
10 encumbering, concealing, damaging, destroying, transferring or otherwise disposing
11 of property owned by either or both of the parties, without the consent of the other
12 party or an order of the court or ~~family circuit~~ court commissioner, except in the usual
13 course of business, in order to secure necessities or in order to pay reasonable costs
14 and expenses of the action, including attorney fees.

15 **SECTION 108. 767.087 (1) (c)** of the statutes is amended to read:

16 767.087 (1) (c) Unless the action is one under s. 767.02 (1) (g) or (h), without
17 the consent of the other party or an order of the court or ~~family circuit~~ court
18 commissioner, establishing a residence with a minor child of the parties outside the
19 state or more than 150 miles from the residence of the other party within the state,
20 removing a minor child of the parties from the state for more than 90 consecutive
21 days or concealing a minor child of the parties from the other party.

22 **SECTION 109.** 767.087 (2) of the statutes is amended to read:

23 767.087 (2) The prohibitions under sub. (1) shall apply until the action is
24 dismissed, until a final judgment in the action is entered or until the court or ~~family~~
25 ~~circuit~~ court commissioner orders otherwise.

1 SECTION 110. 767.11 (1) (c) of the statutes is amended to read:

2 767.11 (1) (c) A county or counties may designate ~~a~~ the family court
3 commissioner as the director under par. (a) or (b).

4 SECTION 111. 767.11 (5) (a) of the statutes is amended to read:

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

14 SECTION 112. 767.11 (5) (b) of the statutes is amended to read:

15 767.11 (5) (b) If both parties to any action affecting the family wish to have joint
16 legal custody of a child, either party may request the court or ~~family circuit~~ court
17 commissioner to refer the parties to the director of family court counseling services
18 for assistance in resolving any problem relating to joint legal custody and physical
19 placement of the child. Upon request, the court shall so refer the parties.

20 SECTION 113. 767.11 (6) of the statutes is amended to read:

21 767.11 (6) ACTION UPON REFERRAL. Whenever a court or ~~family circuit~~ court
22 commissioner refers a party to the director of family court counseling services for
23 possible mediation, the director shall assign a mediator to the case. The mediator
24 shall provide mediation if he or she determines it is appropriate. If the mediator
25 determines mediation is not appropriate, he or she shall so notify the court.

1 Whenever a court or family circuit court commissioner refers a party to the director
2 of family court counseling services for any other family court counseling service, the
3 director shall take appropriate action to provide the service.

4 **SECTION 114. 767.11 (13)** of the statutes is amended to read:

5 767.11 (13) (title) **POWERS OF COURT OR FAMILY CIRCUIT COURT COMMISSIONER.**

6 Except as provided in sub. (8), referring parties to mediation under this section does
7 not affect the power of the court or family circuit court commissioner to make any
8 necessary order relating to the parties during the course of the mediation.

9 **SECTION 115. 767.115 (1) (a)** of the statutes, as affected by 1997 Wisconsin Act
10 45, is amended to read:

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

17 **SECTION 116. 767.115 (1) (b)** of the statutes, as affected by 1997 Wisconsin Act
18 45, is amended to read:

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

1 **SECTION 117.** 767.115 (1m) of the statutes, as affected by 1997 Wisconsin Act
2 45, is amended to read:

3 767.115 (1m) A program under sub. (1) shall be educational rather than
4 therapeutic in nature and may not exceed a total of 4 hours in length. The parties
5 shall be responsible for the cost, if any, of attendance at the program. The court or
6 ~~family circuit~~ court commissioner may specifically assign responsibility for payment
7 of any cost. No facts or information obtained in the course of the program, and no
8 report resulting from the program, is admissible in any action or proceeding.

9 **SECTION 118.** 767.115 (2) of the statutes is amended to read:

10 767.115 (2) Notwithstanding s. 767.07, the court or ~~family circuit~~ court
11 commissioner may require the parties to attend a program under sub. (1) as a
12 condition to the granting of a final judgment or order in the action affecting the
13 family that is pending before the court or ~~family circuit~~ court commissioner.

14 **SECTION 119.** 767.125 of the statutes is amended to read:

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

22 **SECTION 120.** 767.13 (title) of the statutes is amended to read:

23 7 6 7 . 1 3 (t i t l e) **F a m i l y c o u r t c o m m i s s i o n e r)**
24 **assistants.**

25 **SECTION 121.** 767.13 (1) of the statutes is amended to read:

1 **767.13 (1) COUNTIES OTHER THAN MILWAUKEE.** (a) **Appointment.** In each county,
2 except in a county having a population of 500,000 or more, the ~~circuit judges for the~~
3 ~~county, subject to the approval of the~~ chief judge of the judicial administrative
4 ~~district?shall, by order filed in the office of the clerk of the circuit court on or before~~
5 ~~the first Monday of July, each year, appoint some reputable attorney of recognized~~
6 ~~ability and standing at the bar a circuit court commissioner under SCR 75.02 to serve~~
7 as ~~the~~ in the position of family court commissioner for the county.

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

****NOTE: Are the changes in this paragraph and the following subsection consistent with your request?

1 SECTION 122. 767.13 (2) of the statutes is amended to read:

2 767.13 (2) MILWAUKEE COUNTY. (a) *Appointment; assistants; civil service.* In
3 counties having a population of 500,000 or more, there is created in the classified civil
4 service the ~~office position~~ of family court commissioner and such additional ~~assistant~~
5 ~~family circuit~~ court commissioners as the county board shall determine and
6 authorize, w-ho ~~all of whom~~ shall be ~~circuit court commissioners~~ appointed ~~from the~~
7 ~~membership of the bar residing in the county~~ by the chief judge of the judicial
8 administrative district under ~~ss. 63.01 to 63.17~~ SCR 75.02 (1).

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

1 the family court commissioner under this chapter, the family court commissioner
2 shall perform other duties as the chief judge of the judicial administrative district,
3 or other judge as the chief judge may designate, directs.

4 SECTION 123. 767.13 (4) of the statutes is amended to read:

5 **767.13 (4) RETIRED JUDGES..** In any county one or more retired or former judges
6 or retired family circuit court commissioners may be appointed as temporary ~~or~~
7 ~~temporary assistant family circuit~~ court commissioners by a ~~majority of the judges~~
8 ~~of the county subject to the approval of~~ the chief judge of the judicial administrative
9 district ~~to assist the family court commissioner.~~ r a r y ~~or temporary~~
10 ~~assis~~ family circuit court commissioners shall be compensated by the county.

11 SECTION 124. 767.13 (5) (a) of the statutes is amended to read:

12 **767.13 (5) (a) Divorce.** On authority delegated by a judge, which may be by a
13 standard order, and with the approval of the chief judge of the judicial administrative
14 district, a family circuit court commissioner may preside at any hearing held to
15 determine whether a judgment of divorce shall be granted, if both parties state that
16 the marriage is irretrievably broken and that all material issues, including but not
17 limited to division of property or estate, legal custody, physical placement, child
18 support, spousal maintenance and family support, are resolved or if one party does
19 not participate in the action for divorce. The family circuit court commissioner may
20 grant and enter judgment in any action over which he or she presides under this
21 paragraph unless the judgment modifies an agreement between the parties on
22 material issues. If the family circuit court commissioner does not approve an
23 agreement between the parties on material issues, the action shall be certified to the
24 court for trial.

25 SECTION 125. 767.13 (5) (b) of the statutes is amended to read:

1 **767.13 (5) (b) Enforcement or revision; maintenance, custody, physical**
2 **placement and visitation.** On authority delegated by a judge, which may be by a
3 standard order, a family circuit court commissioner may conduct hearings and enter
4 judgments in actions for enforcement of, or revision of judgment for, maintenance,
5 custody, physical placement or visitation.

6 **SECTION 126.** 767.13 (5) (c) of the statutes is amended to read:

7 **767.13 (5) (c) Establishment, enforcement or revision; paternity and support.**

8 Except when otherwise ordered by a judge, a family circuit court commissioner may
9 conduct hearings and enter orders and judgments in actions to establish paternity,
10 in actions to establish or enforce a child support or a family circuit support obligation
11 and in actions to revise orders or judgments for child support or family support.

12 **SECTION 127.** 767.13 (6) of the statutes is amended to read:

13 **767.13 (6) REVIEW OF THE DECISIONS OF THE ~~FAMILY CIRCUIT~~ COURT COMMISSIONER.**

14 Upon the motion of any party any decision of the family circuit court commissioner
15 shall be reviewed by the judge of the branch of the court to which the case has been
16 assigned. Upon the motion of any party any such review shall include a new hearing
17 on the subject of the decision, order or ruling.

18 **SECTION 128.** 767.13 (7) of the statutes is amended to read:

19 **767.13 (7) COOPERATION.** Each family circuit court commissioner shall

20 cooperate with the county and the department to ensure that all dependent children
21 receive reasonable and necessary child support.

22 **SECTION 129.** 767.15 (1) of the statutes, as affected by 1997 Wisconsin Act 27,
23 is amended to read:

24 **767.15 (1)** In any action affecting the family in which either party is a recipient
25 of benefits under ss. 49.141 to 49.161 or aid under s. 46.261, 49.19 or 49.45, each party

1 shall, either within 20 days after making service on the opposite party of any motion
2 or pleading requesting the court or ~~family circuit~~ court commissioner to order, or to
3 modify a previous order, relating to child support, maintenance or family support, or
4 before filing the motion or pleading in court, serve a copy of the motion or pleading
5 upon the county child support agency under s. 59.53 (5) of the county in which the
6 action is begun.

7 **SECTION 130.** 767.16 of the statutes is repealed.

8 **SECTION 131.** 767.17 of the statutes is repealed.

9 **SECTION 132.** 767.23 (1) (intro.) of the statutes is amended to read:

10 767.23 (1) (intro.) Except as provided in ch. 822, in every action affecting the
11 family, the court or ~~family circuit~~ court commissioner may, during the pendency
12 thereof, make just and reasonable temporary orders concerning the following
13 matters:

14 **SECTION 133.** 767.23 (1) (a) of the statutes is amended to read:

15 767.23 (1) (a) Upon request of one party, granting legal custody of the minor
16 children to the parties jointly, to one party solely or to a relative or agency specified
17 under s. 767.24 (3). The court or ~~family circuit~~ court commissioner may order joint
18 legal custody without the agreement of the other party and without the findings
19 required under s. 767.24 (2) (b) 2. This order may not have a binding effect on a final
20 custody determination.

21 **SECTION 134.** 767.23 (1) (am) of the statutes is amended to read:

22 767.23 (1) (am) Upon the request of a party, granting periods of physical
23 placement to a party. The court or ~~family circuit~~ court commissioner shall make a
24 determination under this paragraph within 30 days after the request for a temporary
25 order regarding periods of physical placement is filed.

1 **SECTION 135.** 767.23 (1m) of the statutes is amended to read:

2 767.23 (1m) If a ~~family circuit~~ court commissioner believes that a temporary
3 restraining order or injunction under s. 813.12 is appropriate in an action, the ~~circuit~~
4 court commissioner shall inform the parties of their right to seek the order or
5 injunction and the procedure to follow. On a motion for such a restraining order or
6 injunction, the ~~family circuit~~ court commissioner shall submit the motion to the court
7 within 5 working days.

8 **SECTION 136.** 767.23 (1n) of the statutes is amended to read:

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

20 **SECTION 137.** 767.25 (4m) (f) 2. of the statutes, as affected by 1997 Wisconsin
21 Act 191, is amended to read:

22 767.25 (4m) (f) 2. The notice provided to the parent shall inform the parent that
23 coverage for the child under the new employer's health benefit plan will be in effect
24 upon the employer's receipt of the notice. The notice shall inform the parent that he
25 or she may, within 10 business days after receiving the notice, by motion request a

1 hearing before the court on the issue of whether the order to provide coverage of the
2 child's health care expenses should remain in effect. A motion under this subdivision
3 may be heard by a ~~family circuit court commissioner~~ requests a hearing
4 and the court or ~~family circuit court commissioner~~ determines that the order to
5 provide coverage of the child's health care expenses should not remain in effect, the
6 court shall provide notice to the employer that the order is no longer in effect.

7 **SECTION 138.** 767.265 (1) of the statutes, as affected by 1997 Wisconsin Act 191,
8 is amended to read:

9 767.265 (1) Each order for child support under this chapter, for maintenance
10 payments under s. 767.23 or 767.26, for family support under this chapter, for costs
11 ordered under s. 767.51 (3) or 767.62 (4) (a), for support by a spouse under s. 767.02
12 (1) (f) or for maintenance payments under s. 767.02 (1) (g), each order for a revision
13 in a judgment or order with respect to child support, maintenance or family support
14 payments under s. 767.32, each stipulation approved by the court or the ~~family~~
15 circuit court commissioner for child support under this chapter and each order for
16 child or spousal support entered under s. 948.22 (7) constitutes an assignment of all
17 commissions, earnings, salaries, wages, pension benefits, benefits under ch. 102 or
18 108, lottery prizes that are payable in instalments and other money due or to be due
19 in the future to the department or its designee. The assignment shall be for an
20 amount sufficient to ensure payment under the order or stipulation and to pay any
21 arrearages due at a periodic rate not to exceed 50% of the amount of support due
22 under the order or stipulation so long as the addition of the amount toward
23 arrearages does not leave the party at an income below the poverty line established
24 under 42 USC 9902 (2).

1 **SECTION 139.** 767.265 (2h) of the statutes, as affected by 1997 Wisconsin Act
2 191, is amended to read:

3 767.265 (2h) If a court-ordered assignment does not require immediately
4 effective withholding and a payer fails to make a required maintenance, child
5 support, spousal support or family support payment within 10 days after its due
6 date, within 20 days after the payment's due date the court or ~~family circuit~~ court
7 commissioner shall cause the assignment to go into effect by providing notice of the
8 assignment in the manner provided under sub. (2r) and shall send a notice by regular
9 mail to the last-known address of the payer. The notice sent to the payer shall inform
10 the payer that an assignment is in effect and that the payer may, within a 10-day
11 period, by motion request a hearing on the issue of whether the assignment should
12 remain in effect. The court or ~~family circuit~~ court commissioner shall hold a hearing
13 requested under this subsection within 10 working days after the date of the request.
14 If at the hearing the payer establishes that the assignment is not proper because of
15 a mistake of fact, the court or ~~family circuit~~ court commissioner may direct that the
16 assignment be withdrawn. Either party may, within 15 working days after the date
17 of a decision by a ~~family circuit~~ court commissioner under this subsection, seek
18 review of the decision by the court with jurisdiction over the action.

19 **SECTION 140.** 767.265 (2r) of the statutes, as affected by 1997 Wisconsin Act
20 191, is amended to read:

21 767.265 (2r) Upon entry of each order for child support, maintenance, family
22 support or support by a spouse and upon approval of each stipulation for child
23 support, unless the court finds that income withholding is likely to cause the payer
24 irreparable harm or unless s. 767.267 applies, the court, ~~family circuit~~ court
25 commissioner or county child support agency under s. 59.53 (5) shall provide notice

1 of the assignment by regular mail or by facsimile machine, as defined in s. 134.72 (1)
2 (a), or other electronic means to the last-known address of the person from whom the
3 payer receives or will receive money. The notice shall provide that the amount
4 withheld may not exceed the maximum amount that is subject to garnishment under
5 15 USC 1673 (b) (2). If the department or its designee, whichever is appropriate, does
6 not receive the money from the person notified, the court, ~~family circuit~~ court
7 commissioner or county child support agency under s. 59.53 (5) shall provide notice
8 of the assignment to any other person from whom the payer receives or will receive
9 money. Notice under this subsection may be a notice of the court, a copy of the
10 executed assignment or a copy of that part of the court order directing payment.

11 **SECTION 141.** 767.267 (1) of the statutes, as affected by 1997 Wisconsin Act 27,
12 is amended to read:

13 767.267 (1) If the court or the ~~family circuit~~ court commissioner determines
14 that income withholding under s. 767.265 is inapplicable, ineffective or insufficient
15 to ensure payment under an order or stipulation specified in s. 767.265 (1), or that
16 income withholding under s. 767.25 (4m) (c) or 767.51 (3m) (c) is inapplicable,
17 ineffective or insufficient to ensure payment of a child's health care expenses,
18 including payment of health insurance premiums, ordered under s. 767.25 (4m) or
19 **767.51 (3m)**, the court or ~~family circuit~~ court commissioner may require the payer to
20 identify or establish a deposit account, owned in whole or in part by the payer, that
21 allows for periodic transfers of funds and to file with the financial institution at
22 which the account is located an authorization for transfer from the account to the
23 department or its designee, whichever is appropriate. The authorization shall be
24 provided on a standard form approved by the court and shall specify the frequency
25 and the amount of transfer, sufficient to meet the payer's obligation under the order

1 or stipulation, as required by the court or ~~family circuit~~ court commissioner. e
2 authorization shall include the payer's consent for the financial institution or an
3 officer, employe or agent of the financial institution to disclose information to the
4 court, ~~family circuit~~ court commissioner, county child support agency under s. 59.53
5 (5), department or department's designee regarding the account for which the payer
6 has executed the authorization for transfer.

7 **SECTION 142.** 767.267 (5) of the statutes, as affected by 1997 Wisconsin Act 27,
8 is amended to read:

9 767.267 (5) A financial institution or an officer, employe or agent of a financial
10 institution may disclose information to the court, ~~family circuit~~ court commissioner,
11 county child support agency under s. 59.53 (5), department or department's designee
12 concerning an account for which a payer has executed an authorization for transfer
13 under sub. (1).

14 **SECTION 143.** 767.27 (2) of the statutes is amended to read:

15 767.27 (2) Except as provided in sub. (2m), disclosure forms required under this
16 section shall be filed within 90 days after the service of summons or the filing of a
17 joint petition or at such other time as ordered by the court or ~~family circuit~~ court
18 commissioner. Information contained on such forms shall be updated on the record
19 to the date of hearing.

20 **SECTION 144.** 767.29 (1) (c) of the statutes, as affected by 1997 Wisconsin Act
21 27, is amended to read:

22 767.29 (1) (c) Except as provided in sub. (1m), the department or its designee
23 shall disburse the money received under the judgment or order in the manner
24 required by federal regulations and take receipts therefor, unless the department or
25 its designee is unable to disburse the moneys because they were paid by check or

1 other draft drawn upon an account containing insufficient funds. All moneys
2 received or disbursed under this section shall be entered in a record kept by the
3 department or its designee, whichever is appropriate, which shall be open to
4 inspection by the parties to the action, their attorneys and the ~~family circuit~~ court
5 commissioner.

6 SECTION 145. 767.29 (1) (d) (intro.) of the statutes, as affected by 1997
7 Wisconsin Act 27, is amended to read:

8 767.29 (1) (d) (intro.) For receiving and disbursing maintenance, child support
9 or family support payments, and for maintaining the records required under par. (c),
10 the department or its designee shall collect an annual fee of \$25 to be paid by each
11 party ordered to make payments. The court or ~~family circuit~~ court commissioner
12 shall order each party ordered to make payments to pay the annual fee under this
13 paragraph at the time of, and in addition to, the first payment to the department or
14 its designee in each year for which payments are ordered. All fees collected under
15 this paragraph shall be deposited in the appropriation account under s. 20.445 (3)
16 (ja). At the time of ordering the payment of an annual fee under this paragraph, the
17 court or ~~family circuit~~ court commissioner shall notify each party ordered to make
18 payments of the requirement to pay the annual fee and of the amount of the annual
19 fee. If the annual fee under this section is not paid when due, the department or its
20 designee may not deduct the annual fee from the maintenance or child or family
21 support payment, but may do any of the following:

22 SECTION 146. 767.29 (1) (d) 2. of the statutes, as affected by 1997 Wisconsin Act
23 27, is amended to read:

24 767.29 (1) (d) 2. Apply to the court or ~~family circuit~~ court commissioner for an
25 assignment relating to the annual fee in accordance with s. 767.265.

1 **SECTION 147.** 767.29 (1) (e) of the statutes, as affected by 1997 Wisconsin Act
2 27, is amended to read:

3 767.29 (1) (e) If the maintenance, child support or family support payments
4 adjudged or ordered to be paid are not paid to the department or its designee at the
5 time provided in the judgment or order, the county child support agency under s.
6 59.53 (5) or the ~~family circuit~~ court commissioner of the county shall take such
7 proceedings as he or she considers advisable to secure the payment of the sum
8 including enforcement by contempt proceedings under ch. 785 or by other means.
9 Copies of any order issued to compel the payment shall be mailed to counsel who
10 represented each party when the maintenance, child support or family support
11 payments were awarded. In case any fees of officers in any of the proceedings,
12 including the compensation of the ~~family circuit~~ court commissioner at the rate of \$50
13 per day unless the commissioner is on a salaried basis, is not collected from the
14 person proceeded against, the fees shall be paid out of the county treasury upon the
15 order of the presiding judge and the certificate of the department.

16 **SECTION 148.** 767.29 (1m) (b) of the statutes is amended to read:

17 767.29 (1m) (b) The court or the ~~family circuit~~ court commissioner has ordered
18 that overpayments of child support, family support or maintenance that do not
19 exceed the amount of support or maintenance due in the next month may be held for
20 disbursement in the next month.

21 **SECTION 149.** 767.29 (3) (a) of the statutes, as affected by 1997 Wisconsin Act
22 191, is amended to read:

23 767.29 (3) (a) If maintenance payments or support money, or both, is ordered
24 to be paid for the benefit of any person, who is committed by court order to an
25 institution or is in confinement, or whose legal custody is vested by court order under

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

6 **SECTION 150.** 767.29 (3) (b) of the statutes, as affected by 1997 Wisconsin Act
7 191, is amended to read:

8 767.29 (3) (b) If a child who is the beneficiary of support under a judgment or
9 order is placed by court order in a child caring institution, juvenile correctional
10 institution or state mental institution, the right of the child to support during the
11 period of the child's confinement, including any right to unpaid support accruing
12 during that period, is assigned to the state. If the judgment or order providing for
13 the support of a child who is placed in a child caring institution, juvenile correctional
14 institution or state mental institution includes support for one or more other
15 children, the support that is **assigned to the state shall be the** proportionate share
16 of the child placed in the institution, except as otherwise ordered by the court or
17 ~~family circuit~~ court commissioner on the motion of a party,

18 **SECTION 151.** 767.293 (1) of the statutes, as affected by 1997 Wisconsin Act 27,
19 is amended to read:

20 767.293 (1) If an order for child support under this chapter or s. 948.22 (7), an
21 order for family support under this chapter or a stipulation approved by the court or
22 the ~~family circuit~~ court commissioner for child **support** under this chapter requires
23 a payer to pay child or family support in an amount that is expressed as a percentage
24 of parental income, the payee, including the state or a county child support agency
25 under s. 59.53 (5) if the state is a real party in interest under s. 767.075 (l), may

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

18 SECTION 152. 767.293 (2) of the statutes is amended to read:

19 767.293 (2) If the payer makes a timely request for a hearing, the court or
20 family circuit, court commissioner shall hold a hearing on the issue of the amount of
21 the arrearage, if any. If the court or family circuit court commissioner determines
22 after hearing that an arrearage exists, the court or family court commissioner shall
23 enter an order establishing an arrearage in the amount determined by the court or
24 family circuit court commissioner and may send notice of assignment under s.
25 767.265.

1 **SECTION 153.** 767.293 (3) of the statutes is amended to read:

2 767.293 (3) If the court or ~~family circuit~~ court commissioner sends the notice
3 under sub. (1) and the payer fails to make a timely request for a hearing, the court
4 or ~~family circuit~~ court commissioner, if the affidavit demonstrates to the satisfaction
5 of the court or ~~family circuit~~ court commissioner that an arrearage exists, shall enter
6 an order establishing an arrearage in the amount determined by the court or ~~family~~
7 ~~circuit~~ court commissioner and may send notice of assignment under s. 767.265. The
8 court or ~~family circuit~~ court commissioner shall send the order to the payer's
9 last-known address and shall inform the payer whether an assignment is in effect
10 and that the payer may, within a 10-day period, by motion request a hearing on the
11 issue of whether the order should be vacated or the assignment should be withdrawn.

12 **SECTION 154.** 767.32 (1) (a) of the statutes, as affected by 1997 Wisconsin Acts
13 27 and 105, is amended to read:

14 767.32 (1) (a) After a judgment or order providing for child support under this
15 chapter or s. 48.355 (2) (b) 4., 48.357 (5m), 48.363 (2), 938.183(4), 938.355 (2) (b) 4.,
16 938.357 (5m), 938.363 (2) or 948.22 (7), maintenance payments under s. 767.26 or
17 family support payments under this chapter, or for the appointment of trustees
18 under s. 767.31, the court may, from time to time, on the petition, motion or order to
19 show cause of either of the parties, or upon the petition, motion or order to show cause
20 of the department, a county department under s. 46.215, 46.22 or 46.23 or a county
21 child support agency under s. 59.53 (5) if an assignment has been made under s.
22 46.261, 48.57 (3m) (b) 2. or (3n) (b) 2., 49.19 (4) (h) or 49.45 (19) or if either party or
23 their minor children receive aid under s. 48.57 (3m) or (3n) or ch. 49, and upon notice
24 to the ~~family circuit~~ court commissioner, revise and alter such judgment or order
25 respecting the amount of such maintenance or child support and the payment

1 thereof, and also respecting the appropriation and payment of the principal and
2 income of the property so held in trust, and may make any judgment or order
3 respecting any of the matters that such court might have made in the original action,
4 except that a judgment or order that waives maintenance payments for either party
5 shall not thereafter be revised or altered in that respect nor shall the provisions of
6 a judgment or order with respect to final division of property be subject to revision
7 or modification. A revision, under this section, of a judgment or order with respect
8 to an amount of child or family support may be made only upon a finding of a
9 substantial change in circumstances. In any action under this section to revise a
10 judgment or order with respect to maintenance payments, a substantial change in
11 the cost of living by either party or as measured by the federal bureau of labor
12 statistics may be sufficient to justify a revision of judgment or order with respect to
13 the amount of maintenance, except that a change in an obligor's cost of living is not
14 in itself sufficient if payments are expressed as a percentage of income.

15 **SECTION 155.** 767.327 (2) (c) of the statutes is amended to read:

16 767.327 (2) (c) Upon receipt of a copy of a notice of objection under par. (a), the
17 court or ~~family circuit~~ court commissioner shall promptly refer the parents for
18 mediation or other family court counseling services under s. 767.11 and may appoint
19 a guardian ad litem. Unless the parents agree to extend the time period, if mediation
20 or counseling services do not resolve the dispute within 30 days after referral, the
21 matter shall proceed under subs. (3) to (5).

22 **SECTION 156.** 767.33 (2) of the statutes is amended to read:

23 767.33 (2) An adjustment under sub. (1) may be made only if the party receiving
24 payments applies to the ~~family circuit~~ court commissioner for the adjustment. e
25 order specifies the date on which the annual adjustment becomes effective, the

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

23 **SECTION 157.** 767.37 (1) (a) of the statutes, as affected by 1997 Wisconsin Act
24 191, is amended to read:

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

19 SECTION 158. 767.37 (2) of the statutes is amended to read:

20 767.37 (2) So far as a judgment of divorce affects the marital status of the
21 parties the court has the power to vacate or modify the judgment for sufficient cause
22 shown, upon its own motion, or upon the application of both parties to the action, at
23 any time within 6 months from the granting of such judgment. No such judgment
24 shall be vacated or modified without service of notice of motion on the ~~family circuit~~
25 court commissioner. The court may direct the ~~family circuit~~ court commissioner or

1 appoint some other attorney, to bring appropriate proceedings for the vacation of the
2 judgment. The compensation of the family circuit court commissioner when not on
3 a salaried basis or other attorney for performing such services shall be at the rate of
4 \$50 per day, which shall be paid out of the county treasury upon order of the presiding
5 judge and the certificate of the clerk of the court. If the judgment is vacated it shall
6 restore the parties to the marital relation that existed before the granting of such
7 judgment. If after vacation of the judgment either of the parties brings an action in
8 this state for divorce against the other the court may order the petitioner in such
9 action to reimburse the county the amount paid by it to the family court
10 commissioner or other attorney in connection with such vacation proceedings.
11 Whenever a judgment of divorce is set aside under this subsection, the court shall
12 order the record in the action impounded without regard to s. 767.19; and thereafter
13 neither the record nor any part of the record shall be offered or admitted into evidence
14 in any action or proceeding except by special order of the court of jurisdiction upon
15 good cause shown in any paternity proceedings under this chapter or by special order
16 of any court of record upon a showing of necessity to clear title to real estate.

17 **SECTION 159.** 767.45 (5) (b) of the statutes is amended to read:

18 767.45 (5) (b) An action under this section may be joined with any other action
19 for child support and shall be governed by the procedures specified in s. 767.05
20 relating to child support, except that the title of the action shall be "In re the
21 paternity of A.B." The petition shall state the name and date of birth of the child if
22 born or that the mother is pregnant if the child is unborn, the name of any alleged
23 father, whether or not an action by any of the parties to determine the paternity of
24 the child or rebut the presumption of paternity to the child has at any time been
25 commenced, or is pending before any judge or circuit court commissioner, in this state

1 or elsewhere. If a paternity judgment has been rendered, or if a paternity action has
2 been dismissed, the petition shall state the court which rendered the judgment or
3 dismissed the action, and the date and the place the judgment was granted if known.
4 The petition shall also give notice of a party's right to request a genetic test under
5 s. 49.225 or 767.48.

6 **SECTION 160.** 767.455 (5) of the statutes is amended to read:

7 767.455 (5) **FORM.** The summons shall be in substantially the following form:

8 STATE OF **WISCONSIN**, CIRCUIT COURT: . . . COUNTY

9

10 In re the Paternity of A. B.

11 **STATE OF WISCONSIN**

12 and

13 C. D.

14 Address

15 City, State Zip Code

File No. . . .

16 , Petitioners

17 vs.

SUMMONS

18 E. F.

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

20 City, State Zip Code

21 , Respondent

22

23 **THE STATE OF WISCONSIN, To the Respondent:**

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

4 Date:
5 Time:
6 Room:
7 Judge or ~~Family Circuit~~ Court Commissioner:
8 Address:

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

19 Dated: 19 ..
20 Signed:
21 G. H., Clerk of Circuit Court
22 or
23 Petitioner's Attorney
24 State Bar No.:
25 Address:

1 City, State Zip Code:

2 Phone No.:

3 **SECTION 161. 767.458** (1m) of the statutes is amended to read:

4 767.458 **(1m)** In an action to establish the paternity of a child who was born
5 to a woman while she was married, where a man other than the woman's husband
6 alleges that he, not the husband, is the child's father, a party may allege that a
7 judicial determination that a man other than the husband is the father is not in the
8 best interest of the child. If the court or a circuit or sunnlemental court commissioner
9 under s. ~~757.69(3)~~ 753.36(2) (g) determines that a judicial determination of whether
10 a man other than the husband is the father is not in the best interest of the child, no
11 genetic tests may be ordered and the action shall be dismissed.

12 **SECTION 162. 767.46** (1) of the statutes is amended to read:

13 767.46 **(1)** A pretrial hearing shall be held before the court or a circuit or
14 sunnlemental court commissioner under s. ~~757.69(3)~~ 753.36(2) (g). A record or
15 minutes of the proceeding shall be kept. At the pretrial hearing the parties may
16 present and cross-examine witnesses, request genetic tests and present other
17 evidence relevant to the determination of paternity.

18 **SECTION 163. 767.463** of the statutes, as created by 1997 Wisconsin Act 191,
19 is amended to read:

20 **767.463 Dismissal if adjudication not in child's best interest.** Except as
21 provided in s. 767.458 (1m), at any time in an action to establish the paternity of a
22 child, upon the motion of a party or guardian ad litem, the court or supplemental
23 court commissioner under s. ~~757.69(3)~~ 753.36(2) (g) may, with respect to a man,
24 refuse to order genetic tests, if genetic tests have not yet been taken, and dismiss the
25 action if the court or sunnlemental court commissioner determines that a judicial

1 determination of whether the man is the father of the child is not in the best interest
2 of the child.

3 **SECTION 164.** 767.465 (2) (a) of the statutes is amended to read:

4 767.465 (2) (a) Except as provided in sub. (2m), if a respondent is the alleged
5 father and fails to appear at the first appearance, unless the first appearance is not
6 required under s. 767.457 (2), scheduled genetic test, pretrial hearing or trial, the
7 court shall enter an order adjudicating the respondent to be the father and
8 appropriate orders for support, legal custody and physical placement. The orders
9 shall be either served on the respondent or mailed by regular, registered or certified
10 mail, to the last-known address of the respondent. The orders shall take effect 30
11 days after service or 30 days after the date on which the orders were mailed unless,
12 within that time, the respondent presents to the court or a circuit or supplemental
13 court commissioner under s. ~~757.69 (3)~~ 753.36 (2) (g) evidence of good cause for
14 failure to appear or failure to have undergone a genetic test.

15 **SECTION 165.** 767.51 (3m) (f) 2. of the statutes, as created by 1997 Wisconsin
16 Act 191, is amended to read:

17 **767.51 (3m) (f) 2.** The notice provided to the parent shall inform the parent that
18 coverage for the child under the new employer's health benefit plan will be in effect
19 upon the employer's receipt of the notice. The notice shall inform the parent that he
20 or she may, within 10 business days ^{after} receiving the notice, by motion request a
21 hearing before the court on the issue of whether the order to provide coverage of the
22 child's health care expenses should remain in effect. A motion under this subdivision
23 may be heard by a ~~family circuit court commissioner~~ family circuit court commissioner requests a hearing
24 and the court or ~~family circuit~~ family circuit court commissioner determines that the order to

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

3 **SECTION 166.** 767.62 (2) (b) of the statutes, as affected by 1997 Wisconsin Act
4 191, is amended to read:

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

10 **SECTION 167.** 767.62 (3) (b) of the statutes, as affected by 1997 Wisconsin Act
11 191, is amended to read:

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

16 **SECTION 168.** 767.62 (4) (a) of the statutes, as affected by 1997 Wisconsin Act
17 191, is amended to read:

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

1 (1) the mother shall have sole legal custody of the child. The court or family circuit
2 court commissioner shall order either party or both to pay for the support of any child
3 of the parties who is less than 18 years old, or any child of the parties who is less than
4 19 years old if the child is pursuing an accredited course of instruction leading to the
5 acquisition of a high school diploma or its equivalent. The order may direct the father
6 to pay or contribute to the reasonable expenses of the mother's pregnancy and
7 confinement during pregnancy and may direct either party to pay or contribute to
8 the costs of attorney fees or other costs.

9 **SECTION 169.** 767.62 (4) (b) 2. of the statutes, as affected by 1997 Wisconsin Act
10 191, is amended to read:

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

1 insurance premiums that are in addition to and not inconsistent with this
2 paragraph.

3 **SECTION 170.** 767.62 (4) (b) 3. a. of the statutes, as affected by 1997 Wisconsin
4 Act 191, is amended to read:

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

19 **SECTION 171.** 767.62 (4) (b) 3. b. of the statutes, as affected by 1997 Wisconsin
20 Act 191, is amended to read:

21 767.62 (4) (b) 3. b. If the court or ~~family circuit~~ court commissioner orders a
22 parent to initiate or continue health insurance coverage for a child under a health
23 insurance policy that is available to the parent through an employer or other
24 organization but the court or ~~family circuit~~ court commissioner does not specify the
25 manner in which payment of the health insurance premiums shall be made, the clerk

1 of court may provide notice of assignment in the manner provided under s. 767.265
2 (2r) for the withholding from income of the amount necessary to pay the health
3 insurance premiums. That notice of assignment may be sent with or included as part
4 of any other notice of assignment under s. 767.265, if appropriate. A person who
5 receives the notice of assignment shall send the withheld health insurance
6 premiums to the appropriate health care insurer, provider or plan, as provided in s.
7 767.265 (3h).

8 **SECTION 172.** 767.62 (4) (b) 4. (intro.) of the statutes, as affected by 1997
9 Wisconsin Act 191, is amended to read:

10 767.62 (4) (b) 4. (intro.) If the court or family circuit court commissioner orders
11 a parent to provide coverage of the health care expenses of the parent's child and the
12 parent is eligible for family coverage of health care expenses under a health benefit
13 plan that is provided by an employer on an insured or on a self-insured basis, the
14 employer shall do all of the following:

15 **SECTION 173.** 767.62 (4) (b) 4. c. of the statutes, as affected by 1997 Wisconsin
16 Act 191, is amended to read:

17 767.62 (4) (b) 4. c. After the child has coverage under the employer's health
18 benefit plan, and as long as the parent is eligible for family coverage under the
19 employer's health benefit plan, continue to provide coverage for the child unless the
20 employer receives satisfactory written evidence that the order of the court or family
21 circuit court commissioner is no longer in effect or that the child has coverage of
22 health care expenses under another health insurance policy or health benefit plan
23 that provides comparable coverage of health care expenses.

24 **SECTION 174.** 767.62 (4) (b) 5. a. of the statutes, as affected by 1997 Wisconsin
25 Act 191, is amended to read:

1 767.62 (4) (b) 5. a. If a parent who has been ordered by a court or family circuit
2 court commissioner to provide coverage of the health care expenses of a child who is
3 eligible for medical assistance under subch. IV of ch. 49 receives payment from a 3rd
4 party for the cost of services provided to the child but does not pay the health care
5 provider for the services or reimburse the department or any other person who paid
6 for the services on behalf of the child, the department may obtain a judgment against
7 the parent for the amount of the 3rd party payment.

8 **SECTION 175.** 767.62 (4) (b) 6. b. of the statutes, as affected by 1997 Wisconsin
9 Act 191, is amended to read:

10 767.62 (4) (b) 6. b. The notice provided to the parent shall inform the parent
11 that coverage for the child under the new employer's health benefit plan will be in
12 effect upon the employer's receipt of the notice. The notice shall inform the parent
13 that he or she may, within 10 business days after receiving the notice, by motion
14 request a hearing before the court on the issue of whether the order to provide
15 coverage of the child's health care expenses should remain in effect. A motion under
16 this subd. 6. b. may be heard by a ~~family circuit court commissioner~~. r e n t
17 requests a hearing and the court or family circuit court commissioner determines
18 that the order to provide coverage of the child's health care expenses should not
19 remain in effect, the court shall provide notice to the employer that the order is no
20 longer in effect.

21 **SECTION 176.** 767.62 (4) (d) 1. of the statutes, as affected by 1997 Wisconsin Act
22 191, is amended to read:

23 767.62 **(4)(d)** 1. Except as provided in par. (e), the court or family circuit court
24 commissioner shall determine child support payments under par. (a) by using the
25 percentage standard established by the department under s. 49.22 (9).

1 **SECTION 177.** 767.62 (4) (d) 2. of the statutes, as affected by 1997 Wisconsin Act
2 191, is amended to read:

3 767.62 (4) (d) 2. In determining child support payments under par. (a), the
4 court or ~~family~~ circuit court commissioner may consider all relevant financial
5 information or other information relevant to the parent's earning capacity, including
6 information reported under s. 49.22 (2m) to the department or the county child
7 support agency under s. 59.53 (5).

8 **SECTION 178.** 767.62 (4) (e) (intro.) of the statutes, as affected by 1997
9 Wisconsin Act 191, is amended to read:

10 767.62 (4) (e) (intro.) Upon request by a party, the court or ~~family~~ circuit court
11 commissioner may modify the amount of child support payments determined under
12 par. (d) if, after considering the following factors, the court or ~~family~~ circuit court
13 commissioner finds by the greater weight of the credible evidence that use of the
14 percentage standard is unfair to the child or to the requesting party:

15 **SECTION 179.** 767.62 (4) (e) 14. of the statutes, as affected by 1997 Wisconsin
16 Act 191, is amended to read:

17 767.62 (4) (e) 14. Any other factors that the court or ~~family~~ circuit court
18 commissioner in each case determines are relevant to the best interests of the child.

19 **SECTION 180.** 767.62 (4) (f) of the statutes, as affected by 1997 Wisconsin Act
20 191, is amended to read:

21 767.62 (4) (f) If the court or ~~family~~ circuit court commissioner finds under par.
22 (e) that use of the percentage standard is unfair to the child or the requesting party,
23 the court or ~~family~~ circuit court commissioner shall state in writing or on the record
24 the amount of support that would be required by using the percentage standard, the
25 amount by which the court's or ~~family~~ circuit court commissioner's order deviates

1 from that amount, the reasons for finding that use of the percentage standard is
2 unfair to the child or the party, the reasons for the amount of the modification and
3 the basis for the modification.

4 SECTION 181. 769.102 of the statutes is amended to read:

5 **769.102 Tribunal of this state.** The courts and circuit and supplemental
6 court commissioners are the tribunal of this state.

7 SECTION 182. 769.302 of the statutes is amended to read:

8 **769.302 Action by minor parent.** A minor parent, or a guardian or other
9 legal representative of a minor parent, may maintain a proceeding on behalf of or for
10 the benefit of the minor's child. Notwithstanding s. 767.045 (1) or 803.01 (3), the
11 court may appoint a guardian ad litem for the minor's child, but the court need not
12 appoint a guardian ad litem for a minor parent who maintains such a proceeding
13 unless the proceeding is one for the determination of parentage, in which case the
14 court or a family circuit court commissioner shall appoint a guardian ad litem for a
15 minor parent within this state who maintains such a proceeding or for a minor within
16 this state who is alleged to be a parent, as provided in s. 767.475 (1).

17 SECTION 183. 782.01 (3) of the statutes is amended to read:

18 **782.01 (3)** In this chapter, unless the context requires otherwise, judge includes
19 the supreme court, the court of appeals and circuit courts and each justice and judge
20 thereof and circuit and supplemental court commissioners; and prisoner includes
21 every person restrained of personal liberty; and imprisoned includes every such
22 restraint, and respondent means the person on whom the writ is to be served.

23 SECTION 184. 782.03 of the statutes is amended to read:

24 **782.03 Petition for writ.** Application for the writ shall be by petition, signed
25 either by the prisoner or by some person in his or her behalf, and may be made to the

1 supreme court, the court of appeals or the circuit court of the county, or to any justice
2 or judge of the supreme court, court of appeals or circuit court or to any circuit or
3 supplemental court commissioner, within the county where the prisoner is detained;
4 or if there is no judge within the county, or for any cause he or she is incapable of
5 acting, or has refused to grant the writ, then to some judge residing in an adjoining
6 county; but every application, made by or on behalf of a person sentenced to the state
7 prisons, must contain a copy of any motion made under s. 974.06 and shall indicate
8 the disposition of the motion and the court in which the disposition was made. If no
9 motion was made, the petition shall so state.

10 **SECTION 185.** 782.28 of the statutes is amended to read:

11 782.28 (title) **Transfer from circuit or supplemental court**
12 **commissioner.** If the writ is returnable before a circuit or supplemental court
13 commissioner, either party may make a request for transfer to the court in which the
14 matter is filed. Upon receipt of such request the circuit or supplemental court
15 commissioner shall forthwith transmit all papers and records in the proceedings to
16 the court.

17 **SECTION 186.** 799.05 (7) (intro.) of the statutes is amended to read:

18 799.05 (7) (title) **FORM; CIRCUIT COURT COMMISSIONER.** (intro.) Except as
19 provided in s. 799.22 (4) (b) 3., in counties ~~establishing at least one part-time or~~
20 ~~full-time court commissioner position under s. 757.68 (1) (b)~~ in which a circuit court
21 commissioner to assist in the administration of matters under this
22 chapter, the summons shall be substantially in the following form:

23 **SECTION 187.** 799.06 (1) of the statutes is amended to read:

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

4 **SECTION 188. 799.11 (3)** of the statutes is amended to read:

5 **799.11 (3)** When, in any action under this chapter, it appears from the return
6 of service of the summons or otherwise that the county in which the action is pending
7 is not a proper place of trial and that another county would be a proper place of trial,
8 the court or circuit court commissioner shall, on motion of a party or its own motion,
9 transfer the action to that county unless the defendant appears and waives the
10 improper venue. The clerk of the court to which the action is transferred shall issue
11 a new notice of return date upon payment of the fee required by s. 814.61 (2) (a).

12 **SECTION 189. 799.20 (4)** of the statutes is amended to read:

13 **799.20 (4) INQUIRY OF DEFENDANT WHO APPEARS ON RETURN DATE.** If the defendant
14 appears on the return date of the summons or any adjourned date thereof, the court
15 or court commissioner shall make **sufficient** inquiry of the defendant to determine
16 whether the defendant claims a defense to the action. If it appears to the court or
17 circuit court commissioner that the defendant claims a defense to the action, the
18 court or circuit court commissioner shall schedule a trial of all the issues involved in
19 the action, unless the parties stipulate otherwise or the action is subject to
20 immediate dismissal.

21 **SECTION 190. 799.206** of the statutes is repealed.

22 **SECTION 191. 799.207** (title) of the statutes is amended to read:

23 799.207 (title) **Proceedings before circuit court commissioner.**

24 **SECTION 192. 799.207 (1) (a)** of the statutes is amended to read:

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

4 **SECTION 193.** 799.207 (1) (b) of the statutes is amended to read:

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

10 **SECTION 194.** 799.207 (1) (e) of the statutes is amended to read:

11 799.207 (1) (e) If the circuit court commissioner cannot reach a decision on the
12 return or adjourned date, the commissioner shall mail the decision to each party
13 within 30 days of the date of the hearing.

14 **SECTION 195.** 799.207 (2) (intro.) of the statutes is amended to read:

15 799.207 (2) (intro.) The circuit court commissioner's decision shall become a
16 judgment 11 days after rendering, if oral, and 16 days after mailing, if written, except
17 that:

18 **SECTION 196.** 799.207 (3) (b) of the statutes is amended to read:

19 799.207 (3) (b) The circuit court commissioner shall give each of the parties a
20 form and instructions which shall be used for giving notice of an election to have the
21 matter heard by the court.

22 **SECTION 197.** 799.209 (1) to (4) of the statutes are amended to read:

23 799.209 (1) The court or circuit court commissioner shall conduct the
24 proceeding informally, allowing each party to present arguments and proofs and to a

1 examine witnesses to the extent reasonably required for full and true disclosure of
2 the facts.

3 (2) The proceedings shall not be governed by the common law or statutory rules
4 of evidence except those relating to privileges under ch. 905 or to admissibility under
5 s. 901.05. The court or circuit court commissioner shall admit all other evidence
6 having reasonable probative value, but may exclude irrelevant or repetitious
7 evidence or arguments. An essential finding of fact may not be based solely on a
8 declarant's oral hearsay statement unless it would be admissible under the rules of
9 evidence.

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

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

17 **SECTION 198. 799.21 (3) (b)** of the statutes is amended to read:

18 **799.21 (3) (b)** In counties ~~establishing at least one part-time or full-time court~~
19 ~~commissioner position under s. 757.68 (1) (b)~~ in which circuit court commissioners
20 are authorized to assist in the administration of matters under this chapter, except
21 in eviction actions which shall be governed by par. (a), demand for trial by jury shall
22 be made at the time a demand for trial is filed. If the party requesting a trial does
23 not request a jury trial, any other party may request a jury trial by filing the request
24 with the court and mailing copies to all other parties within 15 days from the date
25 of mailing of the demand for trial or the date on which personal notice of demand is

1 given, whichever is applicable. If no party demands a trial by jury, the right to trial
2 by jury is waived forever. The fees prescribed in ss. 814.61 (4) and 814.62 (3) (e) shall
3 be paid when the demand for a trial by jury is filed.

4 SECTION 199. 799.21 (4) of the statutes is amended to read:

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

12 SECTION ZOO. 799.24 (1) of the statutes, as affected by 1997 Wisconsin Act 27,
13 is amended to read:

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

22 SECTION 201. 799.24 (3) of the statutes is amended to read:

23 799.24 (3) STIPULATED DISMISSAL. Prior to the entry of judgment, upon
24 stipulation of the parties to a schedule for compliance with the stipulation, the court
25 or circuit court commissioner may enter a stipulated judgment of dismissal in lieu

1 thereof. Any such judgment may be vacated without notice to the obligated party,
2 and the unsatisfied portion thereof entered, upon application by the prevailing party
3 and proof by affidavit of noncompliance with the terms of the stipulation.

4 SECTION 202. 799.26 (1) of the statutes is amended to read:

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

16 SECTION 203. 807.04 (1) of the statutes, as affected by 1997 Wisconsin Act 133,
17 is amended to read:

18 807.04 (1) Except as provided under sub. (2), all trials, and all hearings at
19 which oral testimony is to be presented, shall be held in open court. The court may
20 make any order which a judge or court commissioner has power to make. ~~Court~~
21 ~~commissioners shall have the powers provided in ch. 753 or by other statute.~~

22 SECTION 204. 807.09 (1) of the statutes is amended to read:

23 807.09 (1) A circuit judge of the circuit court of any county may appoint and
24 remove at any time, any retired or former circuit or county court judge to act, in
25 matters referred by the judge and in conciliation matters. When a matter for

1 conciliation is referred for such purpose, the conciliator shall have full authority to
2 hear, determine and report findings to the court. Such conciliators may be appointed
3 circuit court commissioners as provided in s. 757.68 under SCR 75.02(1).

4 **SECTION 205.** 812.30 (2) of the statutes is amended to read:

5 812.30 (2) "Court" includes a circuit court commissioner assigned to preside at
6 a proceeding under this subchapter.

7 **SECTION 206.** 813.12 (2) (a) of the statutes is amended to read:

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

20 **SECTION 207.** 813.12 (2) (b) of the statutes is amended to read:

21 813.12 (2) (b) A petition may be filed in conjunction with an action affecting the
22 family commenced under ch. 767, but commencement of an action affecting the
23 family or any other action is not necessary for the filing of a petition or the issuance
24 of a temporary restraining order or an injunction. A judge or family circuit court
25 commissioner may not make findings or issue orders under s. 767.23 or 767.24 while

1 granting relief requested only under this section. Section 813.06 does not apply to
2 an action under this section. The respondent may respond to the petition either in
3 writing before or at the hearing on the issuance of the injunction or orally at that
4 hearing.

5 **SECTION 208.** 813.12 (3) (a) of the statutes is amended to read:

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

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

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

24 **SECTION 209.** 813.12 (3) (am) of the statutes is amended to read:

1 813.12 (3) (am) If the petitioner and the respondent are not married, the
2 respondent owns the premises where the petitioner resides and the petitioner has
3 no legal interest in the premises, in lieu of ordering the respondent to avoid the
4 petitioner's residence under par. (a) the judge or ~~family~~ circuit court commissioner
5 may order the respondent to avoid the premises for a reasonable time until the
6 petitioner relocates and shall order the respondent to avoid the new residence for the
7 duration of the order.

8 **SECTION 210.** 813.12 (3) (c) of the statutes is amended to read:

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

18 **SECTION 211.** 813.12 (3) (d) of the statutes is amended to read:

19 813.12 (3) (d) The judge or circuit court commissioner shall advise the
20 petitioner of the right to serve the respondent the petition by published notice if with
21 due diligence the respondent cannot be served as provided under s. 801.11 (1) (a) or
22 (b). The clerk of circuit court shall assist the petitioner with the preparation of the
23 notice and filing of the affidavit of printing.

24 **SECTION 212.** 813.12 (4) (a) (intro.) of the statutes is amended to read:

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

8 **SECTION 213.** 813.12 (4) (a) 3. of the statutes is amended to read:

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

18 **SECTION 214.** 813.12 (4) (am) of the statutes is amended to read:

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

1 **SECTION 215.** 813.12 (4) (b) of the statutes is amended to read:

2 813.12 (4) (b) The judge or ~~family circuit~~ court commissioner may enter an
3 injunction only against the respondent named in the petition. No injunction may be
4 issued under this subsection under the same case number against the person
5 petitioning for the injunction. The judge or ~~family circuit~~ court commissioner may
6 not modify an order restraining the respondent based solely on the request of the
7 respondent.

8 **SECTION 216.** 813.12 (4m) (a) 2. of the statutes is amended to read:

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

21 **SECTION 217.** 813.12 (4m) (b) (intro.) of the statutes is amended to read:

22 813.12 (~~4m~~) (b) (intro.) A firearm surrendered under par. (a) 2. may not be
23 returned to the respondent until a judge or ~~family circuit~~ court commissioner
24 determines all of the following:

25 **SECTION 218.** 813.12 (4m) (b) 2. of the statutes is amended to read:

1 813.12 (4m) (b) 2. That the person is not prohibited from possessing a firearm
2 under any state or federal law or by the order of any federal court or state court, other
3 than an order from which the judge or family circuit court commissioner is competent
4 to grant relief.

5 **SECTION 219.** 813.12 (5) (c) of the statutes is amended to read:

6 813.12 (5) (c) A judge or family circuit court commissioner shall accept any
7 legible petition for a temporary restraining order or injunction.

8 **SECTION 220.** 813.12 (6) (a) of the statutes is amended to read:

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

15 **SECTION 221.** 813.12 (7m) of the statutes is amended to read:

16 813.12 (7m) **TRANSCRIPTS.** The judge or family circuit court commissioner shall
17 record the temporary restraining order or injunction hearing upon the request of the
18 petitioner.

19 **SECTION 222.** 813.122 (1) (e) of the statutes is created to read:

20 813.122 (1) (e) "Court commissioner" means a circuit court commissioner.

21 **SECTION 223.** 813.123 (1) (cm) of the statutes is created to read:

22 813.123 (1) (cm) "Court commissioner" means a circuit court commissioner.

23 **SECTION 224.** 813.125 (1) (intro.) of the statutes is amended to read:

24 813.125 (1) (title) ~~DEFINITION~~ DEFINITIONS. (intro.) In this section,
25 ~~"harassment";~~

1 (a) “Harassment” means any of the following:

2 SECTION 225. 813.125 (1) (a) and (b) of the statutes are renumbered 813.125
3 (1) (a) 1. and 2.

4 SECTION 226. 813.125 (1) (bg) of the statutes is created to read:

5 813.125 (1) (bg) “Court commissioner” means a circuit court commissioner.

6 SECTION 227. 814.61 (12) (b) 3. of the statutes is amended to read:

7 814.61 (12) (b) 3. The clerk may apply to the court or circuit court commissioner
8 for an assignment relating to the annual fee in accordance with s. 767.265 or for an
9 account transfer relating to the annual fee in accordance with s. 767.267.

10 SECTION 228. 814.612 (2) of the statutes is amended to read:

11 814.612 (2) The support collection designee may apply to the court or circuit
12 court commissioner for an assignment relating to the annual fee in accordance with
13 s. 767.265.

14 SECTION 229. 814.615 (3) of the statutes is amended to read:

15 814.615 (3) The court or ~~family~~ circuit court commissioner shall direct either
16 or both parties to pay any applicable fee under this section. If either or both parties
17 are unable to pay, the court shall grant a separate judgment for the amount of the
18 fees in favor of the county and against the party or parties responsible for the fees.

19 SECTION 230. 814.68 of the statutes is repealed and recreated to read:

20 **814.68 Fees of supplemental court commissioners.** Supplemental court
21 commissioners shall collect reasonable fees or per diem compensation established by
22 rule under s. 753.35.

23 SECTION 231. 816.03 (1) (b) of the statutes is amended to read:

24 816.03 (1) (b) A circuit or supplemental court commissioner upon application
25 of a judgment creditor shall order any judgment debtor to appear before the court

1 commissioner and answer concerning the judgment debtor's property at a time and
2 place specified in the order, within said county, in lieu of the procedure set forth in
3 par. (a).

4 **SECTION 232.** 816.035 (1) and (2) of the statutes are amended to read:

5 816.035 (1) An order under s. 816.03 (1) issued by a circuit or supplemental
6 court commissioner shall be served in the same manner as the service of a summons
7 under s. 801.11. The return on the order shall be made to the commissioner who
8 issued the order. The commissioner shall file the order and the return with the clerk
9 of the court in which the judgment involved is entered.

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

12 **SECTION 233.** 818.02 (6) of the statutes is amended to read:

13 818.02 (6) In a proceeding to determine paternity or to establish or revise a
14 child support or maintenance obligation, if the court or ~~family~~ circuit court
15 commissioner finds that the petitioner cannot effect service of process upon the
16 respondent despite due diligence on the part of the petitioner or after the respondent
17 is personally served but fails to appear on the return date, on the date set for the
18 pretrial hearing or on the date set for the trial.

19 **SECTION 234.** 879.61 of the statutes is amended to read:

20 **879.61 Discovery proceedings.** Any personal representative or any person
21 interested who suspects that any other person has concealed, stolen, conveyed or
22 disposed of property of the estate; or is indebted to the decedent; possesses, controls
23 or has knowledge of concealed property of the decedent; possesses, controls or has
24 knowledge of writings which contain evidence of or tend to disclose the right, title,
25 interest or claim of the decedent to any property; or possesses, controls or has

1 knowledge of any will of the decedent, may file a petition in the court so stating. The
2 court upon such notice as it directs, may order the other person to appear before the
3 court or a circuit or supplemental court commissioner for disclosure, may subpoena
4 witnesses and compel the production of evidence and may make any order in relation
5 to the matter as is just and proper.

6 **SECTION 235.** 885.10 of the statutes is amended to read:

7 885.10 **Witness for indigent respondent or defendant.** Upon satisfactory
8 proof of the financial inability of the respondent or defendant to procure the
9 attendance of witnesses for his or her defense, the judge or circuit court
10 commissioner, in any paternity proceeding or criminal action or proceeding, or in any
11 other case in which the **respondent** or defendant is represented by the state public
12 defender or by assigned counsel under s. 977.08, to be tried or heard before him or
13 her, may direct the witnesses to be subpoenaed as he or she determines is proper and
14 necessary, upon the respondent's or defendant's oath or affidavit or that of the
15 respondent's or defendant's attorney. Witnesses so subpoenaed shall be paid their
16 fees in the manner that witnesses for the state therein are paid. Determination of
17 **indigency**, in full or in part, under s. 977.07 is proof of the respondent's or defendant's
18 financial inability to procure the attendance of witnesses for his or her defense.

19 **SECTION 236.** 885.12 of the statutes is amended to read:

20 **885.12 Coercing witnesses before officers and boards.** If any person,
21 without reasonable excuse, fails to attend as a witness, or to testify as lawfully
22 required before any arbitrator, coroner, medical examiner, board, commission,
23 commissioner, examiner, committee, or other officer or person authorized to take
24 testimony, or to produce a book or paper which the person was lawfully directed to
25 bring, or to subscribe the person's deposition when correctly reduced to writing, any

1 judge of a court of record or a circuit court commissioner in the county where the
2 person was obliged to attend may, upon sworn proof of the facts, issue an attachment
3 for the person, and unless the person shall purge the contempt and go and testify or
4 do such other act as required by law, may commit the person to close confinement in
5 the county jail until the person shall so testify or do such act, or be discharged
6 according to law. The sheriff of the county shall execute the commitment.

7 **SECTION 237.** 887.26 (7) of the statutes is amended to read:

8 887.26 (7) **FEES.** The persons who take depositions and the witness shall be
9 entitled to the fees allowed supplemental court commissioners under s. 814.68 (~~1~~)
10 and witnesses for similar service by the law of this state, or such as may be prescribed
11 by the law of the state or country where taken.

12 **SECTION 238.** 898.02 of the statutes is amended to read:

13 **898.02 Notice to plaintiff.** The person shall cause notice to be given to the
14 plaintiff in the action, the plaintiff's agent or attorney, in writing, that at a time and
15 place specified in the notice the person will apply to the circuit judge or circuit court
16 commissioner of the county in which the person is so confined for the purpose of
17 obtaining a discharge from imprisonment.

18 **SECTION 239.** 898.04 of the statutes is amended to read:

19 **898.04 Prisoner to be examined.** At the time and place specified in the
20 notice the person shall be taken, under the custody of the jailer, the sheriff or the
21 sheriff's deputy, before the circuit judge or circuit court commissioner, who shall
22 examine the prisoner on oath concerning his or her estate and effects and the
23 disposal thereof and the prisoner's ability to pay the judgment for which he or she
24 is committed; and who shall also hear any other legal and pertinent evidence that
25 may be produced by the debtor or the creditor.

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

1 **SECTION 240.** 898.11 of the statutes is amended to read:

2 **898.11 Inability to pay fees.** If the prisoner is unable to pay in whole or in
3 part the fees of the circuit judge or circuit court commissioner in the proceedings, the
4 proceedings shall continue without charge to the prisoner.

5 **SECTION 241.** 906.15 (1) of the statutes, as affected by 1997 Wisconsin Act 181,
6 is amended to read:

7 **906.15 (1)** At the request of a party, the judge or court commissioner shall order
8 witnesses excluded so that they cannot hear the testimony of other witnesses. The
9 judge ~~or court commissioner~~ may also make the order of his or her own motion.

10 **SECTION 242.** **906.15 (2) (d)** of the statutes, as affected by 1997 Wisconsin Act
11 **181**, is amended to read:

12 906.15 (2) (d) A victim, as defined in s. 950.02 (4), in a criminal case or a victim,
13 as defined in s. 938.02 (20m), in a delinquency proceeding under ch. 938, unless the
14 judge ~~or court commissioner~~ finds that exclusion of the victim is necessary to provide
15 a fair trial for the defendant or a fair fact-finding hearing for the juvenile. The
16 presence of a victim during the testimony of other witnesses may not by itself be a
17 basis for a finding that exclusion of the victim is necessary to provide a fair trial for
18 the defendant or a fair fact-finding hearing for the juvenile.

19 **SECTION 243.** 906.15 (3) of the statutes, as affected by 1997 Wisconsin Act 181,
20 is amended to read:

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

1 **SECTION 244.** 911.01 (1) of the statutes is amended to read:

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

 ****NOTE: Should this subsection include supplemental court commissioners?

8 **SECTION 245.** 938.065 (title) of the statutes is amended to read:

9 938.065 (title) **Juvenile Circuit court commissioners in matters**
10 **affecting juveniles.**

11 **SECTION 246.** 938.065 (1) of the statutes is amended to read:

12 938.065 (1) The board of supervisors of any county may ~~authorize the chief~~
13 ~~judge of the judicial administrative district to appoint~~ establish one or more
14 part-time or full-time juvenile circuit court 3
15 ~~discretion of the chief judge. A juvenile court commissioner shall be licensed to~~
16 ~~practice law in this state and shall have been so licensed for at least 2 years~~
17 ~~immediately prior to appointment and shall have a demonstrated interest in the~~
18 ~~welfare of juveniles~~ commissioner positions to assist in matters affecting juveniles.

19 The chief judge may assign law clerks, bailiffs and deputies to the juvenile court
20 commissioner. The chief judge shall supervise ~~juvenile court commissioners~~, law
21 clerks, bailiffs and deputies, except that the chief judge may delegate any of those
22 duties.

23 **SECTION 247.** 938.065 (2) (intro.) of the statutes is amended to read:

1 938.065 (2) (intro.) Under this chapter a ~~juvenile circuit~~ court commissioner,
2 if authorized to do so by a judge, may do any of the following:

3 SECTION 248. 938.065 (3) (intro.) of the statutes is amended to read:

4 938.065 (3) (intro.) The ~~juvenile circuit~~ court commissioner may not do any of
5 the following:

6 SECTION 249. 938.065 (4) of the statutes is amended to read:

7 938.065 (4) When acting officially, ~~the juvenile circuit~~ court commissioner shall
8 sit at the courthouse or the usual court facility for ~~juvenile circuit~~ delinquency
9 matters. Any decision of the ~~juvenile circuit~~ court commissioner shall be reviewed
10 by the judge upon the request of any interested party.

11 SECTION 250. 938.208 (4) of the statutes is amended to read:

12 938.208 (4) Probable cause exists to believe that the juvenile, having been
13 placed in nonsecure custody by an intake worker under s. 938.207 or by the judge or
14 ~~juvenile circuit~~ court commissioner under s. 938.21 (4), has run away or committed
15 a delinquent act and no other suitable alternative exists.

16 SECTION 251. 938.21 (1) of the statutes is amended to read:

17 938.21 (1) HEARING; WHEN HELD. (a) If a juvenile who has been taken into
18 custody is not released under s. 938.20, a hearing to determine whether the juvenile
19 shall continue to be held in custody under the criteria of ss. 938.205 to 938.209 shall
20 be conducted by the judge or ~~juvenile circuit~~ court commissioner within 24 hours
21 after the end of the day that the decision to hold the juvenile was made, excluding
22 Saturdays, Sundays and legal holidays. By the time of the hearing a petition under
23 s. 938.25 shall be filed, except that no petition need be filed where a juvenile is taken
24 into custody under s. 938.19 (1) (b) or(d) 2., 6. or 7. or where the juvenile is a runaway
25 from another state, in which case a written statement of the reasons for holding a

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

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

17 **SECTION 252. 938.21 (2)(c)** of the statutes is amended to read:

18 **938.21 (2)(c)** Prior to the commencement of the hearing, the juvenile shall be
19 informed by the judge or ~~juvenile circuit~~ court commissioner of the allegations that
20 have been or may be made, the nature and possible consequences of this hearing as
21 compared to possible future hearings, the provisions of s. 938.18 if applicable, the
22 right to counsel under s. 938.23 regardless of ability to pay if the juvenile is not yet
23 represented by counsel, the right to remain silent, the fact that the silence may not
24 be adversely considered by the judge or ~~juvenile circuit~~ court commissioner, the right
25 to confront and cross-examine witnesses and the right to present witnesses.

1 **SECTION 253.** 938.21 (4) (intro.) of the statutes is amended to read:

2 **938.21 (4)** (intro.) If the judge or juvenile circuit court commissioner finds that
3 the juvenile should be continued in custody under the criteria of s. 938.205, he or she
4 shall enter one of the following orders:

5 **SECTION 254.** 938.21 (4m) of the statutes is amended to read:

6 **938.21 (4m) ELECTRONIC MONITORING.** The judge or juvenile circuit court
7 commissioner may include in an order under sub. (4) (a) or (b) a condition that the
8 juvenile be monitored by an electronic monitoring system.

9 **SECTION 255.** 938.21 (7) of the statutes is amended to read:

10 **938.2 1 (7) DEFERRED PROSECUTION.** If the judge or juvenile circuit court
11 commissioner determines that the best interests of the juvenile and the public are
12 served, he or she may enter a consent decree under s. 938.32 or order the petition
13 dismissed and refer the matter to the intake worker for deferred prosecution in
14 accordance with s. 938.245.

15 **SECTION 256.** 938.24 (5) of the statutes, as affected by 1997 Wisconsin Act 181,
16 is amended to read:

17 **938.24 (5)** The intake worker shall request that a petition be filed, enter into
18 a deferred prosecution agreement or close the case within 40 days or sooner of receipt
19 of referral information. Before entering into a deferred prosecution agreement, the
20 intake worker shall comply with s. 938.245 (1m), if applicable. If the case is closed
21 or a deferred prosecution agreement is entered into, the district attorney, corporation
22 counsel or other official under s. 938.09 shall receive written notice of such action.
23 If the case is closed, the known victims of the juvenile's alleged act shall receive notice
24 as provided under sub. (5m), if applicable. In addition, if a deferred prosecution
25 agreement is entered into placing a juvenile in a youth village program as described

1 in s. 118.42, the judge or ~~juvenile~~ juvenile circuit court commissioner shall receive written
2 notice of such action and, on receipt of that notice, shall enter an order requiring
3 compliance with that agreement. A notice of deferred prosecution of an alleged
4 delinquency case shall include a summary of the facts surrounding the allegation
5 and a list of prior intake referrals and dispositions. If a law enforcement officer has
6 made a recommendation concerning the juvenile, the intake worker shall forward
7 this recommendation to the district attorney under s. 938.09. Notwithstanding the
8 requirements of this section, the district attorney may initiate a delinquency petition
9 under s. 938.25 within 20 days after notice that the case has been closed or that a
10 deferred prosecution agreement has been entered into. The judge shall grant
11 appropriate relief as provided in s. 938.315 (3) with respect to any such petition
12 which is not referred or filed within the time limits specified within this subsection.
13 Failure to object if a petition is not referred or filed within a time limit specified in
14 this subsection waives that time limit.

15 **SECTION 257.** 938.245 (3) of the statutes is amended to read:

16 938.245 (3) The obligations imposed under a deferred prosecution agreement
17 and its effective date shall be set forth in writing. If the deferred prosecution
18 agreement places the juvenile in a youth village program under sub. (2) (a) 9., the
19 judge or ~~juvenile~~ juvenile circuit court commissioner shall receive written notice that a
20 deferred prosecution agreement has been entered into and, on receipt of that notice,
21 shall enter an order requiring compliance with that agreement. The juvenile and a
22 parent, guardian and legal custodian shall receive a copy of the agreement and order,
23 as shall any agency providing services under the agreement.

24 **SECTION 258.** 938.30 (9) of the statutes is amended to read:

1 938.30 (9) If a circuit court commissioner conducts the plea hearing and accepts
2 an admission of the alleged facts in a petition brought under s. 938.12 or 938.13, the
3 judge shall review the admission. at the beginning of the dispositional hearing by
4 addressing the parties and making the inquires set forth in sub. (8).

5 **SECTION 259.** 938.32 (1) (a) of the statutes is amended to read:

6 938.32 (1) (a) At any time after the filing of a petition for a proceeding relating
7 to s. 938.12 or 938.13 and before the entry of judgment, the judge or ~~juvenile~~ circuit
8 court commissioner may suspend the proceedings and place the juvenile under
9 supervision in the juvenile's own home or present placement or in a youth village
10 program as described in s. 118.42. The court may establish terms and conditions
11 applicable to the parent, guardian or legal custodian, and to the juvenile, including
12 any of the conditions specified in subs. (1d), (lg), (lm), (1t) and (lx). The order under
13 this section shall be known as a consent decree and must be agreed to by the juvenile;
14 the parent, guardian or legal custodian; and the person filing the petition under s.
15 938.25. If the consent decree includes any **conditions specified in sub. (lg), the**
16 consent decree shall include provisions for payment of the services as specified in s.
17 938.361. The consent decree shall be reduced to writing and given to the parties.

18 **SECTION 260.** 938.32 (1d) of the statutes is amended to read:

19 938.32 (1d) If the petition alleges that the juvenile has committed an act that
20 would constitute a misdemeanor if committed by an adult, if the chief judge of the
21 judicial administrative district has approved under s. 973.11 (2) a volunteers in
22 probation program established in the juvenile's county of residence and if the judge
23 or ~~juvenile~~ circuit court commissioner determines that volunteer supervision under
24 that volunteers in probation program will likely benefit the juvenile and the
25 community, the judge or ~~juvenile~~ circuit court commissioner may establish as a

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

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

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

10 SECTION 261. 938.32 (lg) (intro.) of the statutes is amended to read:

11 938.32 (lg) (intro.) If the petition alleges that the juvenile committed a
12 violation specified under ch. 961 and if the multidisciplinary screen conducted under
13 s. 938.24 (2) shows that the juvenile is at risk of having needs and problems related
14 to the use of alcohol beverages, controlled substances or controlled substance analogs
15 and its medical, personal, family and social effects, the judge or ~~juvenile circuit~~ court
16 commissioner may establish as a condition under sub. (1) any of the following:

17 SECTION 262. 938.32 (lm) (intro.) and (a) of the statutes are amended to read:

18 938.32 (lm) The judge or ~~juvenile circuit~~ court commissioner may establish as
19 a condition under sub. (1) that the juvenile be placed in a teen court program if all
20 of the following conditions apply:

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

1 SECTION 263. 938.32 (1t) (al 1. of the statutes, as affected by 1997 Wisconsin
2 Acts 183 and 205, is amended to read:

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

1 9 SECTION 264. 938.32 (1t) (a) lm. of the statutes, as affected by 1997 Wisconsin
20 Act 205, is amended to read:

21 938.32 (1t) (a) lm. If the petition alleges that the juvenile has committed a
22 delinquent act that has resulted in damage to the property of another, or in actual
23 physical injury to another excluding pain and suffering, the judge or ~~juvenile circuit~~
24 court commissioner may require a parent who has custody, as defined in s. 895.035
25 (1), of the juvenile, as a condition of the consent decree, to make reasonable

1 restitution for the damage or injury. Except for recovery for retail theft under s.
2 943.51, the maximum amount of any restitution ordered under this subdivision for
3 damage or injury resulting from any one act of a juvenile or from the same act
4 committed by 2 or more juveniles in the custody of the same parent may not exceed
5 the amount specified in s. 799.01 (1) (d). Any consent decree that includes a condition
6 of restitution by a parent who has custody of the juvenile shall include a finding that
7 the parent who has custody of the juvenile is financially able to pay the amount
8 ordered and may allow up to the date of the expiration of the consent decree for the
9 payment. Objection by the parent to the amount of damages claimed shall entitle the
10 parent to a hearing on the question of damages before the amount of restitution is
11 made part of the consent decree. Any recovery under this subdivision shall be
12 reduced by the amount recovered as restitution for the same act under subd. 1.

13 **SECTION 265.** 938.32 (1t) (a) 3. of the statutes, as affected by 1997 Wisconsin
14 Act 183, is amended to read:

15 **938.32 (1t) (a) 3.** Under this paragraph, a judge or ~~juvenile~~ juvenile circuit court
16 commissioner may not order a juvenile who is under 14 years of age to make more
17 than \$250 in restitution or to perform more than 40 total hours of services for the
18 victim as restitution.

19 **SECTION 266.** 938.32 (lx) of the statutes is amended to read:

20 **938.32 (lx)** If the petition alleges that the juvenile violated s. 943.017 and the
21 juvenile has attained the minimum age at which a juvenile may be adjudicated
22 delinquent, the judge or ~~juvenile~~ juvenile circuit court commissioner may require, as a
23 condition of the consent decree, that the juvenile participate for not less than 10
24 hours nor more than 100 hours in a supervised work program under s. 938.34 (5g)
25 or perform not less than 10 hours nor more than 100 hours of other community

1 service work, except that if the juvenile has not attained 14 years of age the
2 maximum number of hours is 40.

3 **SECTION 267.** 938.32 (2) (a) of the statutes is amended to read:

4 938.32 (2) (a) A consent decree shall remain in effect for up to one year unless
5 the juvenile, parent, guardian or legal custodian is discharged sooner by the judge
6 or ~~juvenile circuit~~ court commissioner.

7 **SECTION 268.** 938.32 (6) of the statutes is amended to read:

8 938.32 (6) The judge or ~~juvenile circuit~~ court commissioner shall inform the
9 juvenile and the juvenile's parent, guardian or legal custodian, in writing, of the
10 juvenile's right to object to the continuation of the consent decree under sub. (3) and
11 of the fact that the hearing under which the juvenile was placed on supervision may
12 be continued to conclusion as if the consent decree had never been entered.

13 **SECTION 269.** 940.203 (1) (b) of the statutes is amended to read:

14 940.203 (1) (b) "Judge" means a supreme court justice, court of appeals judge,
15 circuit court judge, municipal judge, temporary or permanent reserve judge or
16 ~~juvenile, probate, family or other circuit, supplemental or municipal~~ court
17 commissioner.

18 **SECTION 270.** 943.013 (1) (b) of the statutes is amended to read:

19 943.013 (1) (b) "Judge" means a supreme court justice, court of appeals judge,
20 circuit court judge, municipal judge, temporary or permanent reserve-judge or
21 ~~juvenile, probate, family or other circuit, supplemental or municipal~~ court
22 commissioner.

23 **SECTION 271.** 967.07 of the statutes is amended to read:

1 **967.07 Court Judicial court commissioners.** A circuit court commissioner
2 may exercise powers or perform duties specified for a judge if such action is permitted
3 under s. 757.69.

4 **SECTION 272.** 971.20 (3) (a) of the statutes is amended to read:

5 971.20 (3) (a) In this subsection, "judge" includes a circuit court commissioner
6 who is assigned to conduct the preliminary examination.

7 **SECTION 273.** 973.20 (13) (c) 4. of the statutes is amended to read:

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

17 **SECTION 274.** 977.05 (6) (b) 2. of the statutes is amended to read:

18 977.05 (6) (b) 2. The judge or ~~family~~ circuit court commissioner before whom
19 the proceedings shall be held certifies to the state public defender that the person will
20 not be incarcerated if he or she is found in contempt of court.

21 **SECTION 275.** 979.05 (1) of the statutes is amended to read:

22 979.05 **(1)** An inquest shall be conducted by a circuit judge or a circuit court
23 commissioner.

24 **SECTION 276.** 979.05 (2) of the statutes, as affected by 1996 Supreme Court
25 Order 96-08, is repealed and recreated to read:

1 979.05 (2) The inquest shall be conducted before a jury unless the district
2 attorney, coroner or medical examiner requests that the inquest be conducted before
3 the judge or circuit court commissioner only. If the inquest is to be conducted before
4 a jury, a sufficient number of names of prospective jurors shall be selected from the
5 prospective juror list for the county in which the inquest is to be held by the clerk of
6 circuit court in the manner provided in s. 756.06. The judge or circuit court
7 commissioner conducting the inquest shall summon the prospective jurors to appear
8 before the judge or circuit court commissioner at the time fixed in the summons. The
9 summons may be served by mail, or by personal service if the judge, circuit court
10 commissioner or district attorney determines personal service to be appropriate. The
11 summons shall be in the form used to summon petit jurors in the circuit courts of the
12 county. Any person who fails to appear when summoned as an inquest juror is
13 subject to a forfeiture of not more than \$40. The inquest jury shall consist of 6 jurors.
14 If 6 jurors do not remain from the number originally summoned after establishment
15 of qualifications, the judge or circuit court commissioner conducting the inquest may
16 require the clerk of the circuit court to select sufficient additional jurors' names.
17 Those persons shall be summoned forthwith by the sheriff of the county.

18 **SECTION 277.** 979.05 (3) of the statutes, as affected by 1996 Supreme Court
19 Order 96-08, is repealed and recreated to read:

20 979.05 (3) The judge or circuit court commissioner shall examine on oath or
21 affirmation each person who is called as a juror to discover whether the juror is
22 related by blood or marriage to the decedent, any member of the decedent's family,
23 the district attorney, any other attorney appearing in the case, any members of the
24 office of the district attorney or any other attorney appearing in the case or has
25 expressed or formed any opinion regarding the matters being inquired into or is

1 aware of or has any bias or prejudice concerning the matters being inquired into in
2 the inquest. If any prospective juror is found to be not indifferent or is found to have
3 formed an opinion which cannot be laid aside, that juror shall be excused. The judge
4 or circuit court commissioner may select one or more alternate jurors if the inquest
5 is likely to be protracted. This subsection does not limit the right of the district
6 attorney to supplement the judge's or circuit court commissioner's examination of
7 any prospective jurors as to qualifications.

8 **SECTION 278.** 979.05 (4) of the statutes is amended to read:

9 979.05 (4) When 6 jurors have been selected, the judge or circuit court
10 commissioner shall administer to them an oath or affirmation which shall be
11 substantially in the following form:

12 You do solemnly swear (affirm> that you will diligently inquire and determine
13 on behalf of this state when, and in what manner and by what means, the person
14 known as who is now dead came to his or her death and that you will return
15 a true verdict thereon according to your knowledge, according to the evidence
16 presented and according to the instructions given to you by the (judge) (circuit
17 court commissioner).

18 **SECTION 279.** 979.05 (5) of the statutes is amended to read:

19 979.05 (5) Prior to the submission of evidence to the jury, the judge or circuit
20 court commissioner may instruct the jury on its duties and on the substantive law
21 regarding the issues which may be inquired into before the jury. The district attorney
22 may, at any time during the course of the inquest, make statements to the jury
23 relating to procedural or evidentiary matters he or she and the judge or circuit court
24 commissioner deem appropriate. Section 972.12 applies to the conduct of the inquest
25 jury.

1 SECTION 280, 979.05 (6) of the statutes is amended to read:

2 979.05 (6) The judge or circuit court commissioner conducting the inquest may
3 order that proceedings be secret if the district attorney so requests or concurs.

4 SECTION 281. 979.06 (1) of the statutes is amended to read:

5 979.06 (1) The judge or circuit court commissioner may issue subpoenas for
6 witnesses at the request of the coroner or medical examiner and shall issue
7 subpoenas for witnesses requested by the district attorney. Subpoenas are
8 returnable at the time and place stated therein. Persons who are served with a
9 subpoena may be compelled to attend proceedings in the manner provided in s.
10 885.12.

11 SECTION 282. 979.06 (2) of the statutes is amended to read:

12 979.06 (2) The judge or circuit court commissioner conducting the inquest and
13 the district attorney may require by subpoena the attendance of one or more expert
14 witnesses, including physicians, surgeons and pathologists, for the purposes of
15 conducting an examination of the **body and all relevant and material scientific and**
16 medical tests connected with the examination and testifying as to the results of the
17 examination and tests. The expert witnesses so subpoenaed shall receive reasonable
18 fees determined by the district attorney and the judge or circuit court commissioner
19 conducting the inquest.

20 SECTION 283. 979.06 (3) of the statutes is amended to read:

21 979.06 (3) Any witness examined at an inquest may have counsel present
22 during the examination of that witness. The counsel may not examine or
23 cross-examine his or her client, cross-examine or call other witnesses or argue
24 before the judge or circuit court commissioner holding the inquest.

25 SECTION 284. 979.06 (4) (intro.) of the statutes is amended to read:

1 979.06 (4) (intro.) The judge or circuit court commissioner shall administer an
2 oath or affirmation to each witness which shall be substantially in the following
3 form:

4 **SECTION 285.** 979.06 (5) of the statutes is amended to read:

5 979.06 (5) The judge or circuit court commissioner conducting the inquest shall
6 cause the testimony given by all witnesses to be reduced to writing or recorded and
7 may employ stenographers to take and transcribe all of the testimony. The
8 stenographer shall receive reimbursement at a reasonable rate for each appearance
9 and transcription at rates in accordance with the customary charges in the area for
10 similar services.

11 **SECTION 286.** 979.08 (1) of the statutes is amended to read:

12 979.08 (1) When the evidence is concluded and the testimony closed, the judge
13 or circuit court commissioner shall instruct the jury on its duties and on the
14 substantive law regarding the issues inquired into before the jury. The district
15 attorney shall prepare a written set of appropriate requested instructions and shall
16 submit them to the judge or circuit court commissioner who, together with the
17 district attorney, shall compile the final set of instructions which shall be given. The
18 instructions shall include those criminal offenses for which the judge or circuit court
19 commissioner believes a reasonable jury might return a verdict based upon a finding
20 of probable cause.

21 **SECTION 287.** 979.08 (3) (intro.) of the statutes is amended to read:

22 979.08 (3) (intro.) The jury shall retire to consider its verdict after hearing all
23 of the testimony and evidence, making all necessary inquiries and having been
24 instructed in the law. The judge or circuit court commissioner shall provide the jury
25 with one complete set of written instructions providing the substantive law to be

1 applied to the issues to be decided. The verdict shall be in a form which permits the
2 following findings:

3 **SECTION 288.** 979.08 (6) of the statutes is amended to read:

4 979.08 (6) Any verdict so rendered, after being validated and signed by the
5 judge or circuit court commissioner, together with the record of the inquest, shall be
6 delivered to the district attorney for consideration. After considering the verdict and
7 record, the district attorney may deliver the entire inquest record or any part thereof
8 to the coroner or medical examiner for safekeeping.

9 **SECTION 289.** 979.08 (7) of the statutes is amended to read:

10 979.08 (7) The record of a secret inquest proceeding shall not be open for
11 inspection unless so ordered by the judge or circuit court commissioner conducting
12 the inquest upon petition by the district attorney

13 **SECTION 290.** 979.09 of the statutes is amended to read:

14 **979.09 Burial of body.** If any judge or circuit court commissioner conducts
15 an inquest as to the death of a stranger or of a person whose identity is unknown or
16 whose body is unclaimed or if the district attorney determines that no inquest into
17 the death of such a person is necessary and the circuit judge has not ordered an
18 inquest under s. 979.04 (2), the coroner or medical examiner shall cause the body to
19 be decently buried or cremated and shall certify to all the charges incurred in taking
20 any inquest by him or her and to the expenses of burial or cremation of the dead body.
21 The charges and expenses shall be audited by the county board of the proper county
22 and paid out of the county treasury.

23 **SECTION 291. Initial applicability.**

24 (1) This act first applies to actions commenced on the effective date of this
25 subsection,



Insert 102-11 ✓

Section #. 938.06 (1) (a) 2. of the statutes is amended to read:

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

History: 1995 a. 77; 1997 a. 27, 205, 239.

2/3/99 Met with Cheryl
Gervasi & Bill Mann,
of VSCTs, and went
over -0137/P3. Want
to get rid of "the circuit
court comm" and replace
with "a circuit ct. comm."
to make sure not referring
to one particular one (such as
"the family" court comm) unless
referring to one particular one
in context of statute.
Made other changes. Ready
for LC w/analyses