

**1999 DRAFTING REQUEST**

**Bill**

Received: **04/14/99**

Received By: **nelsorp1**

Wanted: **As time permits**

Identical to LRB:

For: **Brian Burke (608) 266-8535**

By/Representing: **Debbie**

This file may be shown to any legislator: **NO**

Drafter: **nelsorp1**

May Contact:

Alt. Drafters: **kahlepj**

Subject: **Courts - civil procedure  
Dom. Rel. - divorce**

Extra Copies:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Personal jurisdiction in divorce actions


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**Instructions:**

See Attached 97-4956

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>		<u>Required</u>
/?	nelsorp1 05/24/99	jgeller 05/24/99		_____			
/1			mclark 05/28/99	_____	lrb_docadmin 05/28/99	lrb_docadmin 06/11/99	

FE Sent For:

<END>

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/?	nelsorp1	1 9/24 jlg	MRC 5/28	MRC/JF 5/28			

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<END>

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# Memorandum

**To:** Robert Nelson - LRB

**From:** Senator Brian Burke

**Date:** 04/14/99

**Re:** Bill Drafting Request – jurisdiction in divorces

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Please redraft 1997 SB 518 with one modification (see enclosed materials).

If you have any questions, please contact Debbie from my office at 6-8535.

Thank you for your assistance.

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State of Wisconsin  
1997 - 1998 LEGISLATURE

LRB-4956/P1  
RPN & PJK;jlg:km

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

1 **AN ACT to amend 801.07 (5) of the statutes; relating to: jurisdiction in divorces.**

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***Analysis by the Legislative Reference Bureau***

In *Mendez v. Hernandez-Mendez*, 213 Wis. 2d 217 (Wis. App. 1997), the court of appeals held that although the petitioner in the divorce action commenced in Wisconsin obtained personal service on the respondent who lived in Mexico, the court lacked the grounds for personal jurisdiction. The court found that the respondent had never been in Wisconsin and had no contacts with Wisconsin, so there were no minimum contacts necessary to obtain personal jurisdiction over the respondent, and dismissed the petition for a divorce.

This bill overrules that decision by providing that a court may determine if a divorce may be granted between parties when the respondent has been properly served without requiring the court to have personal jurisdiction over the respondent.

---

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

2 **SECTION 1.** 801.07 (5) of the statutes is amended to read:

3 801.07 (5) When the action is an action affecting the family under s. 767.02 (1)

4 (a) to (d) and when the residence requirements of s. 767.05 (1m) have been met, a

5 court having subject matter jurisdiction may exercise jurisdiction quasi in rem to

1 determine questions of status if the respondent has been served under s. 801.11 (1).  
2 Notwithstanding s. 801.11 (intro.), the court need not have grounds for personal  
3 jurisdiction under s. 801.05 to exercise personal jurisdiction over a respondent in  
4 order to make a determination of the status of a marriage under this subsection.

5

(END)

Strike

9  
~~1997~~ ~~SENATE~~ ~~BILL~~ ~~518~~

~~March 19, 1998 - Introduced by Senator BURKE, cosponsored by Representative BOCK. Referred to Committee on Judiciary, Campaign Finance Reform and Consumer Affairs.~~

Regen

1 AN ACT to amend 801.07 (5) of the statutes; relating to: jurisdiction in divorces.

***Analysis by the Legislative Reference Bureau***

In *Mendez v. Hernandez-Mendez*, 213 Wis. 2d 217 (Wis. App. 1997), the court of appeals held that although the petitioner in the divorce action commenced in Wisconsin obtained personal service on the respondent who lived in Mexico, the court lacked the grounds for personal jurisdiction. The court found that the respondent had never been in Wisconsin and had no contacts with Wisconsin, so there were no minimum contacts necessary to obtain personal jurisdiction over the respondent, and dismissed the petition for a divorce.

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PROOF W/STATS.  
2  
3  
4  
5

**SENATE BILL 518**

**SECTION 1**

PROOF  
w/STATS.

1 determine questions of status if the respondent has been served under s. 801.11 (1).  
2 Notwithstanding s. 801.11 (intro.), the court need not have grounds for personal  
3 jurisdiction under s. 801.05 in order to make a determination of the status of a  
4 marriage under this subsection.

(END)

5



**SUBMITTAL  
FORM**

**LEGISLATIVE REFERENCE BUREAU**  
**Legal Section Telephone: 266-3561**  
**5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and **sign** on the appropriate line(s) below.

**Date:** 5/28/99

**To:** Senator Burke

**Relating to LRB drafting number:** LRB-2914

**Topic**

Personal jurisdiction in divorce actions

**Subject(s)**

Courts - civil procedure, Dom. Rel. - divorce

1. **JACKET** the draft for introduction \_\_\_\_\_



in the **Senate**  or the **Assembly** \_\_\_\_\_ (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached \_\_\_\_\_.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction \_\_\_\_\_.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Robert P. Nelson, Senior Legislative Attorney  
Telephone: (608) 267-7511