



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-2022/P
PJK.....

cmh

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-note

gen cat

1 AN ACT ~~relating to~~; relating to: calculating child support.

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:

2 SECTION 1. 767.25 (1j) of the statutes is amended to read:

3 767.25 (1j) Except as provided in sub. (1m), the court shall determine child
4 support payments by using the ~~percentage standard established by the department~~
5 ~~under s. 49.22 (9) method under s. 767.251.~~

History: 1971 c. 157; 1977 c. 29, 105, 418; 1979 c. 32 ss. 50, 92 (4); 1979 c. 196; Stats. 1979 s. 767.25; 1981 c. 20; 1983 a. 27; 1985 a. 29; 1987 a. 27, 37, 355, 413; 1989 a. 31, 212; 1991 a. 39; 1993 a. 481; 1995 a. 27 ss. 7101, 7102, 9126 (19); 1995 a. 201, 279, 404; 1997 a. 27, 35, 191; s. 13.93 (2) (c).

6 SECTION 2. 767.25 (1m) (intro.) of the statutes is amended to read:

7 767.25 (1m) (intro.) Upon request by a party, the court may modify the amount
8 of child support payments determined under sub. (1j) ~~s. 767.251~~ if, after considering
9 the following factors, the court finds by the greater weight of the credible evidence

1 that use of the ~~percentage standard method~~ method under s. 767.251 is unfair to the child
2 or to any of the parties:

History: 1971 c. 157; 1977 c. 29, 105, 418; 1979 c. 32, ss. 50, 92 (4); 1979 c. 196; Stats. 1979 s. 767.25; 1981 c. 20; 1983 a. 27; 1985 a. 29; 1987 a. 27, 37, 355, 413; 1989 a. 31, 212; 1991 a. 39; 1993 a. 481; 1995 a. 27 ss. 710, 1102, 9126 (19); 1995 a. 201, 279, 404; 1997 a. 27, 35, 191; s. 13.93 (2) (c).

3 SECTION 3. 767.251 of the statutes is created to read:

4

767.251 Calculation of child support payments. (1) For the purpose of

5 determining child support payments under sub. (3), the court shall determine each
6 parent's gross monthly child support obligation as follows:

7 (a) If the combined gross monthly income of the parents is equal to or less than
8 \$4,000, the gross monthly child support obligation of each parent equals the
9 following percentage of that parent's gross monthly income:

- 10 1. If there is one minor child, 17%.
- 11 2. If there are 2 minor children, 25%.
- 12 3. If there are 3 minor children, 29%.
- 13 4. If there are 4 minor children, 31%.
- 14 5. If there are 5 or more minor children, 34%.

15 (b) If the combined gross monthly income of the parents is greater than \$4,000
16 but not greater than \$20,000, the gross monthly child support obligation of each
17 parent is calculated as follows:

- 18 1. The parents' combined gross monthly child support obligation for the first
19 \$4,000 of their combined gross monthly income equals the following amount:
- 20 a. If there is one minor child, \$680.
- 21 b. If there are 2 minor children, \$1,000.
- 22 c. If there are 3 minor children, \$1,160.
- 23 d. If there are 4 minor children, \$1,240.
- 24 e. If there are 5 or more minor children, \$1,360.

(CS) → GROSS MONTHLY

CHILD SUPPORT OBLIGATIONS.

1 2. The parents' combined gross monthly child support obligation for the amount
2 of their combined gross monthly income that exceeds \$4,000 equals the following
3 percentage of the difference between the parents' combined gross monthly income
4 and \$4,000:

- 5 a. If there is one minor child, 8.5%.
6 b. If there are 2 minor children, 12.5%.
7 c. If there are 3 minor children, 14.5%.
8 d. If there are 4 minor children, 15.5%.
9 e. If there are 5 or more minor children, 17%.

10 3. Determine each parent's percentage of their combined gross monthly income
11 by dividing that parent's gross monthly income by the parents' combined gross
12 monthly income.

13 4. The gross monthly child support obligation of each parent equals the
14 percentage determined under subd. 3. for that parent multiplied by the sum of the
15 applicable amounts under subds. 1. and 2.

16 (c) If the combined gross monthly income of the parents is greater than \$20,000,
17 the gross monthly child support obligation of each parent is calculated as follows:

18 1. The parents' combined gross monthly child support obligation equals the
19 following amount:

- 20 a. If there is one minor child, \$2,040.
21 b. If there are 2 minor children, \$3,000.
22 c. If there are 3 minor children, \$3,480.
23 d. If there are 4 minor children, \$3,720.
24 e. If there are 5 or more minor children, \$4,080.

1 2. Determine each parent's percentage of their combined gross monthly income
2 by dividing that parent's gross monthly income by the parents' combined gross
3 monthly income.

4 3. The gross monthly child support obligation of each parent equals the
5 percentage determined under subd. 2. for that parent multiplied by the applicable
6 amount under subd. 1.

7 (d) Notwithstanding par. (c), if the court determines by the greater weight of
8 the credible evidence that a greater amount of support than the applicable amount
9 under par. (c) 1. is appropriate under the circumstances of the case, the court may
10 increase the amount under par. (c) 1. by an amount that does not exceed the following
11 percentage of the difference between the parents' combined gross monthly income
12 and \$20,000:

- 13 1. If there is one minor child, 4%.
- 14 2. If there are 2 minor children, 6%.
- 15 3. If there are 3 minor children, 7%.
- 16 4. If there are 4 minor children, 8%.
- 17 5. If there are 5 or more minor children, 9%.

(CS) AMOUNT OF PHYSICAL PLACEMENT.

18 (2)(a) For the purpose of determining child support payments under sub. (3),
19 the court shall determine the amount of physical placement that a parent has on the
20 basis of the number of nights, out of a total of 365 nights a year, that the parent
21 provides overnight care for the child. In determining the number of overnight stays
22 under this paragraph, the court may count as equivalent to an overnight stay a
23 period of physical placement during which the child does not actually stay overnight
24 with the parent but that the court determines requires a comparable amount of care.
25 If the court counts a period of physical placement as equivalent to an overnight stay

1 with a parent, the court must make a corresponding reduction in the other parent's
2 number of overnight stays so that the total number of overnight stays in a year for
3 both parents in the aggregate equals 365.

4 (b) If each parent has physical placement of the child for at least 55 overnight
5 stays or the equivalent a year, the court shall determine each parent's percentage of
6 physical placement by dividing the number of overnight stays or the equivalent
7 determined for that parent under par. (a) by 365. The total of the percentages
8 calculated under this ~~subdivision~~ ^{paragraph} for both parents in the aggregate shall equal 100%.

9 **(3) AMOUNT OF PAYMENTS.**
The court shall determine child support payments as follows:

10 (a) If the court grants periods of physical placement to only one parent, or if the
11 court grants periods of physical placement to both parents but one parent has
12 physical placement of the child for fewer than 55 overnight stays or the equivalent
13 a year, the parent with less or no physical placement shall pay to the other parent
14 the gross monthly child support obligation determined for that payer parent under
15 sub. (1).

16 (b) If the court grants periods of physical placement to both parents and each
17 parent has physical placement of the child for at least 55 overnight stays or the
18 equivalent a year, the court shall determine child support payments in the following
19 manner:

20 1. Each parent's gross monthly child support obligation determined under sub.
21 (1) shall be multiplied by 1.4 and by that parent's percentage of physical placement
22 determined under sub. (2)(b). The product under this subdivision for each parent
23 is that parent's net monthly child support obligation.

24 2. Except as provided in subd. 3., the parent with the greater net monthly child
25 support obligation under subd. 1. shall pay as child support, to the parent with the

1 smaller net monthly child support obligation under subd. 1., the difference between
2 those net monthly child support obligations.

3 3. If the amount of child support that a parent is obligated to pay under subd.
4 2. is greater than his or her gross monthly child support obligation determined under
5 sub. (1), that parent shall pay as child support to the other parent the amount of his
6 or her gross monthly child support obligation determined under sub. (1).

7 (END)

D. note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2022/?dn

PJK.....

copy

1. This preliminary version of the draft includes only the formula that would be used to determine child support payments. It does not include reconciliations that will be required, definitions or any of the provisions related to serial families, underemployment, etc. I wanted you to take a look at the formula for accuracy before I drafted anything else. As you can see, the formula is extremely complicated. In my opinion, a table would be more understandable.

2. It may not be possible to simply get rid of the percentage standard. There are numerous provisions that require calculation of child support by use of the percentage standard that do not involve parents who are no longer together, such as child support to be paid by parents when a child is placed in foster care or another out-of-home placement. You will need to look at each section to determine whether you want to keep the percentage standard or use another method for determining child support. The formula in this version of the draft may not work in all, or even any, of the cases. In some of these provisions, you may want to simply delete the language related to the percentage standard. Please review the following sections and let me know how you want to address the use of the percentage standard:

in these sections

- (a) Section 46.10 (14). ✓
- (b) Section 48.30 (6). ✓
- (c) Section 48.31 (7). ✓
- (d) Section 48.33 (4m). ✓
- (e) Section 48.357 (5m). ✓
- (f) Section 48.363 (1). ✓
- (g) Section 301.12 (14). ✓
- (h) Section 938.30 (6). ✓
- (i) Section 938.31 (7). ✓
- (j) Section 938.33 (4m). ✓
- (k) Section 938.357 (5m). ✓
- (l) Section 938.363 (1). ✓
- (m) Section 948.22 (7) (bm). ✓

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: Pam.Kahler@legis.state.wi.us

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

LRB-2022/P1dn
PJK:cmh:lp

March 25, 1999

1. This preliminary version of the draft includes only the formula that would be used to determine child support payments. It does not include reconciliations that will be required, definitions or any of the provisions related to serial families, underemployment, etc. I wanted you to take a look at the formula for accuracy before I drafted anything else. As you can see, the formula is extremely complicated. In my opinion, a table would be more understandable.

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- (h) Section 938.30 (6).
- (i) Section 938.31 (7).
- (j) Section 938.33 (4m).
- (k) Section 938.357 (5m).
- (l) Section 938.363 (1).
- (m) Section 948.22 (7) (bm).

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: Pam.Kahler@legis.state.wi.us

Jan Raz

10120 West Forest Home Avenue
Hales Corners, WI 53130
Telephone: (414) 425-4866
Fax: (414) 425-8405
e mail jraz@execpc.com

September 20, 1999

Jim Emerson
C/O Senator Mary Lazich
Wisconsin State Capitol
P.O. Box 7882
Madison, WI 53707-7782

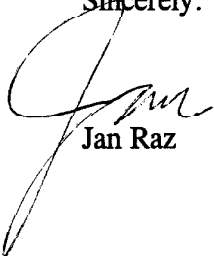
Re: LRB - 2022 - New Child Support Standard

Dear Jim:

Can you please forward the attached Virginia guideline to Ms. Kahler. This is another example of how a state has incorporated a similar approach to the one proposed in this draft.

If you or Ms. Kahler has any questions regarding the marked up comments please don't hesitate to contact me.

Sincerely:



Jan Raz

Code of Virginia

§ 20-108.2

Guideline for determination of child support

A. There shall be a rebuttable presumption in any judicial or administrative proceeding for child support under this title or Title 16.1 or 63.1, including cases involving split custody or shared custody, that the amount of the award which would result from the application of the guidelines set forth in this section is the correct amount of child support to be awarded. In order to rebut the presumption, the court shall make written findings in the order as set out in §20-108.1, which findings may be incorporated by reference, that the application of the guidelines would be unjust or inappropriate in a particular case as determined by relevant evidence pertaining to the factors set out in §§20-107.2 and 20-108.1. The Department of Social Services shall set child support at the amount resulting from computations using the guidelines set out in this section pursuant to the authority granted to it in Chapter 13 (§63.1-249 et seq.) of Title 63.1 and subject to the provisions of §63.1-264.2.

B. For purposes of application of the guideline, a basic child support obligation shall be computed using the schedule set out below. For combined monthly gross income amounts falling between amounts shown in the schedule, basic child support obligation amounts shall be extrapolated. However, where the combined monthly gross income is less than \$599, the presumptive child support obligation shall be \$65 per month. "Number of children" means the number of children for whom the parents share joint legal responsibility and for whom support is being sought.

SCHEDULE OF MONTHLY BASIC CHILD SUPPORT OBLIGATIONS

COMBINED MONTHLY GROSS INCOME	ONE CHILD	TWO CHILDREN	THREE CHILDREN	FOUR CHILDREN	FIVE CHILDREN	SIX CHILDREN
0-599	65	65	65	65	65	65
600	110	111	113	114	115	116
650	138	140	142	143	145	146
700	153	169	170	172	174	176
750	160	197	199	202	204	206
800	168	226	228	231	233	236
850	175	254	257	260	263	266
900	182	281	286	289	292	295
950	189	292	315	318	322	325
1000	196	304	344	348	351	355
1050	203	315	373	377	381	385
1100	210	326	402	406	410	415
1150	217	337	422	435	440	445
1200	225	348	436	465	470	475
1250	232	360	451	497	502	507
1300	241	373	467	526	536	542
1350	249	386	483	545	570	576
1400	257	398	499	563	605	611
1450	265	411	515	581	633	645
1500	274	426	533	602	656	680
1550	282	436	547	617	672	714
1600	289	447	560	632	689	737
1650	295	458	573	647	705	754
1700	302	468	587	662	721	772
1750	309	479	600	676	738	789
1800	315	488	612	690	752	805

1850	321	497	623	702	766	819
1900	326	506	634	714	779	834
1950	332	514	645	727	793	848
2000	338	523	655	739	806	862
2050	343	532	666	751	819	877
2100	349	540	677	763	833	891
2150	355	549	688	776	846	905
2200	360	558	699	788	860	920
2250	366	567	710	800	873	934
2300	371	575	721	812	886	948
2350	377	584	732	825	900	963
2400	383	593	743	837	913	977
2450	388	601	754	849	927	991
2500	394	610	765	862	940	1006
2550	399	619	776	874	954	1020
2600	405	627	787	886	967	1034
2650	410	635	797	897	979	1048
2700	415	643	806	908	991	1060
2750	420	651	816	919	1003	1073
2800	425	658	826	930	1015	1085
2850	430	667	836	941	1027	1098
2900	435	675	846	953	1039	1112
2950	440	683	856	964	1052	1125
3000	445	691	866	975	1064	1138
3050	450	699	876	987	1076	1152
3100	456	707	886	998	1089	1165
3150	461	715	896	1010	1101	1178
3200	466	723	906	1021	1114	1191
3250	471	732	917	1032	1126	1205
3300	476	740	927	1044	1139	1218
3350	481	748	937	1055	1151	1231
3400	486	756	947	1067	1164	1245
3450	492	764	957	1078	1176	1258
3500	497	772	967	1089	1189	1271
3550	502	780	977	1101	1201	1285
3600	507	788	987	1112	1213	1298
3650	512	797	997	1124	1226	1311
3700	518	806	1009	1137	1240	1326
3750	524	815	1020	1150	1254	1342
3800	530	824	1032	1163	1268	1357
3850	536	834	1043	1176	1283	1372
3900	542	843	1055	1189	1297	1387
3950	547	852	1066	1202	1311	1402
4000	553	861	1078	1214	1325	1417
4050	559	871	1089	1227	1339	1432
4100	565	880	1101	1240	1353	1448
4150	571	889	1112	1253	1367	1463
4200	577	898	1124	1266	1382	1478
4250	583	907	1135	1279	1396	1493
4300	589	917	1147	1292	1410	1508
4350	594	926	1158	1305	1424	1523
4400	600	935	1170	1318	1438	1538
4450	606	944	1181	1331	1452	1553
4500	612	954	1193	1344	1467	1569
4550	618	963	1204	1357	1481	1584
4600	624	972	1216	1370	1495	1599
4650	630	981	1227	1383	1509	1614
4700	635	989	1237	1395	1522	1627
4750	641	997	1247	1406	1534	1641
4800	646	1005	1257	1417	1546	1654
4850	651	1013	1267	1428	1558	1667
4900	656	1021	1277	1439	1570	1679
4950	661	1028	1286	1450	1582	1692

5000	666	1036	1295	1460	1593	1704
5050	671	1043	1305	1471	1605	1716
5100	675	1051	1314	1481	1616	1728
5150	680	1058	1323	1492	1628	1741
5200	685	1066	1333	1502	1640	1753
5250	690	1073	1342	1513	1651	1765
5300	695	1081	1351	1524	1663	1778
5350	700	1088	1361	1534	1674	1790
5400	705	1096	1370	1545	1686	1802
5450	710	1103	1379	1555	1697	1815
5500	714	1111	1389	1566	1709	1827
5550	719	1118	1398	1576	1720	1839
5600	724	1126	1407	1587	1732	1851
5650	729	1133	1417	1598	1743	1864
5700	734	1141	1426	1608	1755	1876
5750	739	1148	1435	1619	1766	1888
5800	744	1156	1445	1629	1778	1901
5850	749	1163	1454	1640	1790	1913
5900	753	1171	1463	1650	1801	1925
5950	758	1178	1473	1661	1813	1937
6000	763	1186	1482	1672	1824	1950
6050	768	1193	1491	1682	1836	1962
6100	773	1201	1501	1693	1847	1974
6150	778	1208	1510	1703	1859	1987
6200	783	1216	1519	1714	1870	1999
6250	788	1223	1529	1724	1882	2011
6300	792	1231	1538	1735	1893	2023
6350	797	1238	1547	1745	1905	2036
6400	802	1246	1557	1756	1916	2048
6450	807	1253	1566	1767	1928	2060
6500	812	1261	1575	1777	1940	2073
6550	816	1267	1583	1786	1949	2083
6600	820	1272	1590	1794	1957	2092
6650	823	1277	1597	1801	1965	2100
6700	827	1283	1604	1809	1974	2109
6750	830	1288	1610	1817	1982	2118
6800	834	1293	1617	1824	1990	2127
6850	837	1299	1624	1832	1999	2136
6900	841	1304	1631	1839	2007	2145
6950	845	1309	1637	1847	2016	2154
7000	848	1315	1644	1855	2024	2163
7050	852	1320	1651	1862	2032	2172
7100	855	1325	1658	1870	2041	2181
7150	859	1331	1665	1878	2049	2190
7200	862	1336	1671	1885	2057	2199
7250	866	1341	1678	1893	2066	2207
7300	870	1347	1685	1900	2074	2216
7350	873	1352	1692	1908	2082	2225
7400	877	1358	1698	1916	2091	2234
7450	880	1363	1705	1923	2099	2243
7500	884	1368	1712	1931	2108	2252
7550	887	1374	1719	1938	2116	2261
7600	891	1379	1725	1946	2124	2270
7650	895	1384	1732	1954	2133	2279
7700	898	1390	1739	1961	2141	2288
7750	902	1395	1746	1969	2149	2297
7800	905	1400	1753	1977	2158	2305
7850	908	1405	1758	1983	2164	2313
7900	910	1409	1764	1989	2171	2320
7950	913	1414	1770	1995	2178	2328
8000	916	1418	1776	2001	2185	2335
8050	918	1423	1781	2007	2192	2343
8100	921	1428	1787	2014	2198	2350

8150	924	1432	1793	2020	2205	2357
8200	927	1437	1799	2026	2212	2365
8250	929	1441	1804	2032	2219	2372
8300	932	1446	1810	2038	2226	2380
8350	935	1450	1816	2045	2232	2387
8400	937	1455	1822	2051	2239	2395
8450	940	1459	1827	2057	2246	2402
8500	943	1464	1833	2063	2253	2410
8550	945	1468	1839	2069	2260	2417
8600	948	1473	1845	2076	2266	2425
8650	951	1478	1850	2082	2273	2432
8700	954	1482	1856	2088	2280	2440
8750	956	1487	1862	2094	2287	2447
8800	959	1491	1868	2100	2294	2455
8850	962	1496	1873	2107	2300	2462
8900	964	1500	1879	2113	2307	2470
8950	967	1505	1885	2119	2314	2477
9000	970	1509	1891	2125	2321	2484
9050	973	1514	1896	2131	2328	2492
9100	975	1517	1901	2137	2334	2498
9150	977	1521	1905	2141	2339	2503
9200	979	1524	1909	2146	2344	2509
9250	982	1527	1914	2151	2349	2514
9300	984	1531	1918	2156	2354	2520
9350	986	1534	1922	2160	2359	2525
9400	988	1537	1926	2165	2365	2531
9450	990	1541	1930	2170	2370	2536
9500	993	1544	1935	2175	2375	2541
9550	995	1547	1939	2179	2380	2547
9600	997	1551	1943	2184	2385	2552
9650	999	1554	1947	2189	2390	2558
9700	1001	1557	1951	2194	2396	2563
9750	1003	1561	1956	2198	2401	2569
9800	1006	1564	1960	2203	2406	2574
9850	1008	1567	1964	2208	2411	2580
9900	1010	1571	1968	2213	2416	2585
9950	1012	1574	1972	2218	2421	2590
10000	1014	1577	1977	2222	2427	2596

For gross monthly income between \$10,000 and \$20,000, add the amount of child support for \$10,000 to the following percentages of gross income above \$10,000:

ONE CHILD	TWO CHILDREN	THREE CHILDREN	FOUR CHILDREN	FIVE CHILDREN	SIX CHILDREN
3.1%	5.1%	6.8%	7.8%	8.8%	9.5%

For gross monthly income between \$20,000 and \$50,000, add the amount of child support for \$20,000 to the following percentages of gross income above \$20,000:

ONE CHILD	TWO CHILDREN	THREE CHILDREN	FOUR CHILDREN	FIVE CHILDREN	SIX CHILDREN
2%	3.5%	5%	6%	6.9%	7.8%

For gross monthly income over \$50,000, add the amount of child support for \$50,000 to the following percentages of gross income above \$50,000:

ONE CHILD	TWO CHILDREN	THREE CHILDREN	FOUR CHILDREN	FIVE CHILDREN	SIX CHILDREN
1%	2%	3%	4%	5%	6%

C. For purposes of this section, "gross income" means all income from all sources, and shall include, but not be limited to, income from salaries, wages, commissions, royalties, bonuses, dividends, severance pay, pensions, interest, trust income, annuities, capital gains, social security benefits except as listed below, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, veterans' benefits, spousal support, rental income, gifts, prizes or awards.

If a parent's gross income includes disability insurance benefits, it shall also include any amounts paid to or for the child who is the subject of the order and derived by the child from the parent's entitlement to disability insurance benefits. To the extent that such derivative benefits are included in a parent's gross income, that parent shall be entitled to a credit against his or her ongoing basic child support obligation for any such amounts, and, if the amount of the credit exceeds the parent's basic child support obligations, the credit may be used to reduce arrearages.

Gross income shall be subject to deduction of reasonable business expenses for persons with income from self-employment, a partnership, or a closely held business. "Gross income" shall not include benefits from public assistance programs as defined in §63.1-87, federal supplemental security income benefits, or child support received. For purposes of this subsection, spousal support included in gross income shall be limited to spousal support paid pursuant to a pre-existing order or written agreement and spousal support shall be deducted from the gross income of the payor when paid pursuant to a pre-existing order or written agreement between the parties to the present proceeding.

In cases in which retroactive liability for support is being determined, the court or administrative agency may use the gross monthly income of the parties averaged over the period of retroactivity.

D. Any extraordinary medical and dental expenses for treatment of the child or children shall be added to the basic child support obligation. For purposes of this section, extraordinary medical and dental expenses are uninsured expenses in excess of \$100 for a single illness or condition and shall include but not be limited to eyeglasses, prescription medication, prostheses, and mental health services whether provided by a social worker, psychologist, psychiatrist, or counselor.

E. Any costs for health care coverage as defined in §63.1-250, when actually being paid by a parent, to the extent such costs are directly allocable to the child or children, and which are the extra costs of covering the child or children beyond whatever coverage the parent providing the coverage would otherwise have, shall be added to the basic child support obligation.

F. Any child-care costs incurred on behalf of the child or children due to employment of the custodial parent shall be added to the basic child support obligation. Child-care costs shall not exceed the amount required to provide quality care from a licensed source. When requested by the noncustodial parent, the court may require the custodial parent to present documentation to verify the costs incurred for child care under this subsection. Where appropriate, the court shall consider the willingness and availability of the noncustodial parent to provide child care personally in determining whether child-care costs are necessary or excessive.

G. 1. Sole custody support. The sole custody total monthly child support obligation shall be established by adding (i) the monthly basic child support obligation, as determined from the schedule contained in subsection B of this section, (ii) all extraordinary medical expenses, (iii) costs for health care coverage to the extent allowable by subsection E, and (iv) work-related child-care costs and taking into consideration all the factors set forth in subsection B of §20-108.1. The total monthly child support

obligation shall be divided between the parents in the same proportion as their monthly gross incomes bear to their monthly combined gross income. The monthly obligation of each parent shall be computed by multiplying each parent's percentage of the parents' monthly combined gross income by the total monthly child support obligation.

However, the monthly obligation of the noncustodial parent shall be reduced by the cost for health care coverage to the extent allowable by subsection E when paid directly by the noncustodial parent.

2. Split custody support. In cases involving split custody, the amount of child support to be paid shall be the difference between the amounts owed by each parent as a noncustodial parent, computed in accordance with subdivision 1 of this subsection, with the noncustodial parent owing the larger amount paying the difference to the other parent.

For the purpose of this section and §20-108.1, split custody shall be limited to those situations where each parent has physical custody of a child or children born of the parents, born of either parent and adopted by the other parent or adopted by both parents. For the purposes of calculating a child support obligation where split custody exists, a separate family unit exists for each parent, and child support for that family unit shall be calculated upon the number of children in that family unit who are born of the parents, born of either parent and adopted by the other parent or adopted by both parents. Where split custody exists, a parent is a custodial parent to the children in that parent's family unit and is a noncustodial parent to the children in the other parent's family unit.

3. Shared custody support.

(a) Where a party has custody or visitation of a child or children for more than ninety days of the year, as such days are defined in subdivision G 3 (c), a shared custody child support amount based on the ratio in which the parents share the custody and visitation of any child or children shall be calculated in accordance with this subdivision. The presumptive support to be paid shall be the shared custody support amount, unless a party affirmatively shows that the sole custody support amount calculated as provided in subdivision G 1 is less than the shared custody support amount. If so, the lesser amount shall be the support to be paid. For the purposes of this subsection, the following shall apply:

(i) Income share. "Income share" means a parent's percentage of the combined monthly gross income of both parents. The income share of a parent is that parent's gross income divided by the combined gross incomes of the parties.

(ii) Custody share. "Custody share" means the number of days that a parent has physical custody, whether by sole custody, joint legal or joint residential custody, or visitation, of a shared child per year divided by the number of days in the year. The actual or anticipated "custody share" of the parent who has or will have fewer days of physical custody shall be calculated for a one-year period. The "custody share" of the other parent shall be presumed to be the number of days in the year less the number of days calculated as the first parent's "custody share." For purposes of this calculation, the year may begin on such date as is determined in the discretion of the court, and the day may begin at such time as is determined in the discretion of the court. For purposes of this calculation, a day shall be as defined in subdivision G 3 (c).

(iii) Shared support need. "Shared support need" means the presumptive guideline amount of needed support for the shared child or children calculated pursuant to subsection B of this section, for the combined gross income of the parties and the number of shared children, multiplied by 1.4.

(iv) Sole custody support. "Sole custody support" means the support amount determined in accordance with subdivision G 1.


(b) Support to be paid. The shared support need of the shared child or children shall be calculated pursuant to subdivision G 3 (a) (iii). This amount shall then be multiplied by the other parent's custody share. To that sum for each parent shall be added the other parent's cost of health care coverage to the extent allowable by subsection E, plus the other parent's work-related child-care costs to the extent allowable by subsection F. This total for each parent shall be multiplied by that parent's income share. The support amounts thereby calculated that each parent owes the other shall be subtracted one from the other and the difference shall be the shared custody support one parent owes to the other, with the payor parent being the one whose shared support is the larger. Any extraordinary medical and dental expenses, to the extent allowable by subsection D, shall be shared directly by the parents in accordance with their income shares, and shall not be adjusted by the custody share, and this amount shall be added to the shared custody support amount as calculated herein.

(c) Definition of a day. For the purposes of this section, "day" means a period of twenty-four hours; however, where the parent who has the fewer number of overnight periods during the year has an overnight period with a child, but has physical custody of the shared child for less than twenty-four hours during such overnight period, there is a presumption that each parent shall be allocated one-half of a day of custody for that period.

(d) Minimum standards. Any calculation under this subdivision shall not create or reduce a support obligation to an amount which seriously impairs the custodial parent's ability to maintain minimal adequate housing and provide other basic necessities for the child. If the gross income of the payee is equal to or less than 150 percent of the federal poverty level promulgated by the U.S. Department of Health and Human Services from time to time, there shall be a presumption that the sole custody guideline calculation shall apply.

(e) Support modification. When there has been an award of child support based on the shared custody formula and one parent consistently fails to exercise custody or visitation in accordance with the parent's custody share upon which the award was based, there shall be a rebuttable presumption that the support award should be modified.

H. The Secretary of Health and Human Resources shall ensure that the guideline set out in this section is reviewed by July 1, 1990, and every four years thereafter, by a panel which includes representatives of the courts, the executive branch, the General Assembly, the bar, custodial and noncustodial parents and child advocates. The panel shall determine the adequacy of the guideline for the determination of appropriate awards for the support of children by considering current research and data on the cost of and expenditures necessary for rearing children, and any other resources it deems relevant to such review. The panel shall report its findings to the General Assembly before it next convenes following such review.

 [Go to \(previous section\) or \(next section\) or \(General Assembly Home\)](#)

VA

22VAC40-880-230. Child support guideline.

A. The department is required to use the Schedule of Monthly Basic Child Support Obligations and procedures in §20-108.2 of the Code of Virginia in calculating the amount of administrative child support obligations. Section 20-108.2 of the Code of Virginia is incorporated by reference.

B. The department shall call this schedule the child support scale.

C. The department shall use the scale in establishing Administrative Support Orders except when a default obligation is established as defined in 22VAC40-880-200 C.

D. The total child support obligation will be divided between both parents in the same proportion as their individual gross incomes bear to their combined gross income.

E. The department shall consider the following factors in calculating the amount of the obligation:

1. The absent parent and custodial parent's gross monthly income from all sources with the exception noted in subsection F of this section;

2. The number of children for whom the absent parent and custodial parent share joint legal responsibility;

3. Extraordinary medical and dental expenses which are defined in §20-108.2 of the Code of Virginia;

4. The custodial parent's work related child care expenses; and

5. Any costs for health insurance coverage as defined in §63.1-250 of the Code of Virginia when actually paid by a parent for the child or children subject to that order.


F. The department may not include benefits from public assistance programs as defined in §63.1-87 of the Code of Virginia, Supplemental Security Income, or child support received in calculating the combined gross income.

Statutory Authority

§§63.1-25, 63.1-249 and 63.1-274.10 of the Code of Virginia.

Historical Notes

Derived from VR615-70-17 §4.7; eff. February 28, 1990; amended, Virginia Register Volume 6, Issue 26, eff. October 24, 1990; Volume 7, Issue 15, eff. July 1, 1991; Volume 8, Issue 4, eff. July 1, 1992; Volume 8, Issue 19, eff. July 15, 1992.

 [Go to \(previous section\) or \(next section\) or \(General Assembly Home\)](#)



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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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1 AN ACT to amend 767.25 (1j) and 767.25 (1m) (intro.); and to create 767.251 of
2 the statutes; relating to: calculating child support.

Analysis by the Legislative Reference Bureau

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

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

3 SECTION 1. 767.25 (1j) of the statutes is amended to read:

4 767.25 (1j) Except as provided in sub. (1m), the court shall determine child
5 support payments by using the ~~percentage standard established by the department~~
6 ~~under s. 49.22 (9)~~ method under s. 767.251.

7 SECTION 2. 767.25 (1m) (intro.) of the statutes is amended to read:

8 767.25 (1m) (intro.) Upon request by a party, the court may modify the amount
9 of child support payments determined under ~~sub. (1j)~~ s. 767.251 if, after considering
10 the following factors, the court finds by the greater weight of the credible evidence

1 that use of the ~~percentage standard~~ method under s. 767.251 is unfair to the child
2 or to any of the parties:

3 SECTION 3. 767.251 of the statutes is created to read

4 **767.251 Calculation of child support payments.** ~~(*)~~ GROSS MONTHLY CHILD

5 SUPPORT OBLIGATIONS. For the purpose of determining child support payments under

6 sub. ~~(*)~~⁴, the court shall determine each parent's gross monthly child support

7 obligation as follows:

8 (a) If the combined gross monthly income of the parents is equal to or less than
9 \$4,000, the gross monthly child support obligation of each parent equals the
10 following percentage of that parent's gross monthly income:

- 11 1. If there is one minor child, 17%.
- 12 2. If there are 2 minor children, 25%.
- 13 3. If there are 3 minor children, 29%.
- 14 4. If there are 4 minor children, 31%.
- 15 5. If there are 5 or more minor children, 34%.

16 (b) If the combined gross monthly income of the parents is greater than \$4,000
17 but not greater than \$20,000, the gross monthly child support obligation of each
18 parent is calculated as follows:

19 1. The parents' combined gross monthly child support obligation for the first
20 \$4,000 of their combined gross monthly income equals the following amount:

- 21 a. If there is one minor child, \$680.
- 22 b. If there are 2 minor children, \$1,000.
- 23 c. If there are 3 minor children, \$1,160.
- 24 d. If there are 4 minor children, \$1,240.
- 25 e. If there are 5 or more minor children, \$1,360.

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The parents' combined gross monthly child support obligation ~~of the amount~~
~~of their combined gross monthly income which exceeds \$4,000~~ equals the following
percentage of the ~~difference~~ ~~between the parents' combined gross monthly income~~
~~and \$4,000~~ amount $\$680$ plus

- a. If there is one minor child, 8.5% $\$1,000$ plus
 - b. If there are 2 minor children, 12.5% $\$1,160$ plus
 - c. If there are 3 minor children, 14.5% $\$1,240$ plus
 - d. If there are 4 minor children, 15.5% $\$1,360$ plus
 - e. If there are 5 or more minor children, 17%
- of the parents' combined gross monthly income in excess of \$4,000

2. Determine each parent's percentage of their combined gross monthly income by dividing that parent's gross monthly income by the parents' combined gross monthly income.

3. The gross monthly child support obligation of each parent equals the percentage determined under subd. 2 for that parent multiplied by the applicable amounts under ~~subd. 1~~ \rightarrow subd. 1

(c) If the combined gross monthly income of the parents is greater than \$20,000, the gross monthly child support obligation of each parent is calculated as follows:

1. The parents' combined gross monthly child support obligation equals the following amount:
 - a. If there is one minor child, \$2,040.
 - b. If there are 2 minor children, \$3,000.
 - c. If there are 3 minor children, \$3,480.
 - d. If there are 4 minor children, \$3,720.
 - e. If there are 5 or more minor children, \$4,080.

1 2. Determine each parent's percentage of their combined gross monthly income
2 by dividing that parent's gross monthly income by the parents' combined gross
3 monthly income.

4 3. The gross monthly child support obligation of each parent equals the
5 percentage determined under subd. 2. for that parent multiplied by the applicable
6 amount under subd. 1.

7 (d) Notwithstanding par. (c), if the court determines by the greater weight of
8 the credible evidence that a greater amount of support than the applicable amount
9 under par. (c) 1. is appropriate under the circumstances of the case, the court may
10 increase the amount under par. (c) 1. by an amount ~~that is not to exceed~~ the following
11 percentage of ~~the difference between~~ the parents' combined gross monthly income

12 ~~not~~ \$20,000:

- 13 1. If there is one minor child, 4%.
- 14 2. If there are 2 minor children, 6%.
- 15 3. If there are 3 minor children, 7%.
- 16 4. If there are 4 minor children, 8%.
- 17 5. If there are 5 or more minor children, 9%.

18 (3) AMOUNT OF PHYSICAL PLACEMENT. (a) For the purpose of determining child
19 support payments under sub. (4), the court shall determine the amount of physical
20 placement that a parent has on the basis of the number of nights, out of a total of 365
21 nights a year, that the parent provides overnight care for the child. In determining
22 the number of overnight stays under this paragraph, the court may count as
23 equivalent to an overnight stay a period of physical placement during which the child
24 does not actually stay overnight with the parent but that the court determines
25 requires a comparable amount of care. If the court counts a period of physical

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1 placement as equivalent to an overnight stay with a parent, the court must make a
2 corresponding reduction in the other parent's number of overnight stays so that the
3 total number of overnight stays in a year for both parents in the aggregate equals
4 365.

5 (b) If each parent has physical placement of the child for at least 55 overnight
6 stays or the equivalent a year, the court shall determine each parent's percentage of
7 physical placement by dividing the number of overnight stays or the equivalent
8 determined for that parent under par. (a) by 365. The total of the percentages
9 calculated under this paragraph for both parents in the aggregate shall equal 100%.

10 (4) AMOUNT OF PAYMENTS. The court shall determine child support payments
11 as follows:

12 (a) If the court grants periods of physical placement to only one parent, or if the
13 court grants periods of physical placement to both parents but one parent has
14 physical placement of the child for fewer than 55 overnight stays or the equivalent
15 a year, the parent with less or no physical placement shall pay to the other parent
16 the gross monthly child support obligation determined for that payer parent under
17 sub. (1).²

18 (b) If the court grants periods of physical placement to both parents and each
19 parent has physical placement of the child for at least 55 overnight stays or the
20 equivalent a year, the court shall determine child support payments in the following
21 manner:

22 1. Each parent's gross monthly child support obligation determined under sub.
23 (1) shall be multiplied by 1.4 and by ~~the~~ parent's percentage of physical placement
24 determined under sub. (1) (b).³ The product under this subdivision for each parent
25 is that parent's net monthly child support obligation.

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1 2. Except as provided in subd. 3., the parent with the greater net monthly child
 2 support obligation under subd. 1. shall pay as child support, to the parent with the
 3 smaller net monthly child support obligation under subd. 1., the difference between
 4 those net monthly child support obligations.

5 3. If the amount of child support that a parent is obligated to pay under subd.
 6 2. is greater than his or her gross monthly child support obligation determined under
 7 subd. (~~1~~)², that parent shall pay as child support to the other parent the amount of his
 8 or her gross monthly child support obligation determined under subd. (~~1~~)².

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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1 **AN ACT to amend** 767.25 (1j) and 767.25 (1m) (intro.); and **to create** 767.251 of
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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:

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3 **SECTION 1.** 767.25 (1j) of the statutes is amended to read:

4 767.25 (1j) Except as provided in sub. (1m), the court shall determine child
5 support payments by using the ~~percentage standard established by the department~~
6 ~~under s. 49.22 (9)~~ method under s. 767.251.

7 **SECTION 2.** 767.25 (1m) (intro.) of the statutes is amended to read:

8 767.25 (1m) (intro.) Upon request by a party, the court may modify the amount
9 of child support payments determined under ~~sub. (1j)~~ s. 767.251 if, after considering
10 the following factors, the court finds by the greater weight of the credible evidence

1 that use of the ~~percentage standard~~ method under s. 767.251 is unfair to the child
2 or to any of the parties:

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3 SECTION 3. 767.251 of the statutes is created to read:
4 **767.251 Calculation of child support payments.** ~~(*)~~ GROSS MONTHLY CHILD

5 SUPPORT OBLIGATIONS. For the purpose of determining child support payments under
6 sub. ~~(a)~~⁴, the court shall determine each parent's gross monthly child support
7 obligation as follows:

8 (a) If the combined gross monthly income of the parents is equal to or less than
9 \$4,000, the gross monthly child support obligation of each parent equals the
10 following percentage of that parent's gross monthly income:

- 11 1. If there is one minor child, 17%.
- 12 2. If there are 2 minor children, 25%.
- 13 3. If there are 3 minor children, 29%.
- 14 4. If there are 4 minor children, 31%.
- 15 5. If there are 5 or more minor children, 34%.

16 (b) If the combined gross monthly income of the parents is greater than \$4,000
17 but not greater than \$20,000, the gross monthly child support obligation of each
18 parent is calculated as follows:

19 1. The parents' combined gross monthly child support obligation for the first
20 \$4,000 of their combined gross monthly income equals the following amount:

- 21 a. If there is one minor child, \$680.
- 22 b. If there are 2 minor children, \$1,000.
- 23 c. If there are 3 minor children, \$1,160.
- 24 d. If there are 4 minor children, \$1,240.
- 25 e. If there are 5 or more minor children, \$1,360.

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The parents' combined gross monthly child support obligation ~~for the amount~~
~~of their combined gross monthly income that exceeds \$4,000~~ equals the following
 percentage of the difference between the parents' combined gross monthly income
 and \$4,000.

- a. If there is one minor child, 8.5%
\$1,000 plus
- b. If there are 2 minor children, 12.5%
\$1,160 plus
- c. If there are 3 minor children, 14.5%
\$1,240 plus
- d. If there are 4 minor children, 15.5%
\$1,360 plus
- e. If there are 5 or more minor children, 17%
\$1,360 plus

of the parents' combined gross monthly income in excess of \$4,000

Determine each parent's percentage of their combined gross monthly income by dividing that parent's gross monthly income by the parents' combined gross monthly income.

The gross monthly child support obligation of each parent equals the percentage determined under subd. 2 for that parent multiplied by the applicable amount under ~~subd. 1 and 2~~ subd. 1.

(c) If the combined gross monthly income of the parents is greater than \$20,000, the gross monthly child support obligation of each parent is calculated as follows:

- 1. The parents' combined gross monthly child support obligation equals the following amount:
 - a. If there is one minor child, \$2,040.
 - b. If there are 2 minor children, \$3,000.
 - c. If there are 3 minor children, \$3,480.
 - d. If there are 4 minor children, \$3,720.
 - e. If there are 5 or more minor children, \$4,080.

1 2. Determine each parent's percentage of their combined gross monthly income
2 by dividing that parent's gross monthly income by the parents' combined gross
3 monthly income.

4 3. The gross monthly child support obligation of each parent equals the
5 percentage determined under subd. 2. for that parent multiplied by the applicable
6 amount under subd. 1.

7 (d) Notwithstanding par. (c), if the court determines by the greater weight of
8 the credible evidence that a greater amount of support than the applicable amount
9 under par. (c) 1. is appropriate under the circumstances of the case, the court may
10 increase the amount under par. (c) 1. by an amount ~~the difference between~~ the following
11 percentage of ~~the difference between~~ the parents' combined gross monthly income

12 ~~not~~ \$20,000:

- 13 1. If there is one minor child, 4%.
- 14 2. If there are 2 minor children, 6%.
- 15 3. If there are 3 minor children, 7%.
- 16 4. If there are 4 minor children, 8%.
- 17 5. If there are 5 or more minor children, 9%.

18 ³ ⁶ AMOUNT OF PHYSICAL PLACEMENT. (a) For the purpose of determining child
19 support payments under sub. ⁴ (4), the court shall determine the amount of physical
20 placement that a parent has on the basis of the number of nights, out of a total of 365
21 nights a year, that the parent provides overnight care for the child. In determining
22 the number of overnight stays under this paragraph, the court may count as
23 equivalent to an overnight stay a period of physical placement during which the child
24 does not actually stay overnight with the parent but that the court determines
25 requires a comparable amount of care. If the court counts a period of physical

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1 placement as equivalent to an overnight stay with a parent, the court must make a
2 corresponding reduction in the other parent's number of overnight stays so that the
3 total number of overnight stays in a year for both parents in the aggregate equals
4 365.

5 (b) If each parent has physical placement of the child for at least 55 overnight
6 stays or the equivalent a year, the court shall determine each parent's percentage of
7 physical placement by dividing the number of overnight stays or the equivalent
8 determined for that parent under par. (a) by 365. The total of the percentages
9 calculated under this paragraph for both parents in the aggregate shall equal 100%.

10 (4) AMOUNT OF PAYMENTS. The court shall determine child support payments
11 as follows:

12 (a) If the court grants periods of physical placement to only one parent, or if the
13 court grants periods of physical placement to both parents but one parent has
14 physical placement of the child for fewer than 55 overnight stays or the equivalent
15 a year, the parent with less or no physical placement shall pay to the other parent
16 the gross monthly child support obligation determined for that payer parent under
17 sub. (1).

18 (b) If the court grants periods of physical placement to both parents and each
19 parent has physical placement of the child for at least 55 overnight stays or the
20 equivalent a year, the court shall determine child support payments in the following
21 manner:

22 1. Each parent's gross monthly child support obligation determined under sub.
23 (1) shall be multiplied by 1.4 and by ~~the~~ parent's percentage of physical placement
24 determined under sub. (1) (b). The product under this subdivision for each parent
25 is that parent's net monthly child support obligation.

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1 2. Except as provided in subd. 3., the parent with the greater net monthly child
2 support obligation under subd. 1. shall pay as child support, to the parent with the
3 smaller net monthly child support obligation under subd. 1., the difference between
4 those net monthly child support obligations.

5 3. If the amount of child support that a parent is obligated to pay under subd.
6 2. is greater than his or her gross monthly child support obligation determined under
7 sub. (4), that parent shall pay as child support to the other parent the amount of his
8 or her gross monthly child support obligation determined under sub. (4).

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1 SECTION 1. 46.10 (14) (b) of the statutes is amended to read:

2 46.10 (14) (b) Except as provided in par. (c) and subject to par. (cm), liability
3 of a parent specified in sub. (2) or s. 46.03 (18) for the care and maintenance of the
4 parent's minor child who has been placed by a court order under s. 48.355 or 48.357
5 in a residential, nonmedical facility such as a group home, foster home, treatment
6 foster home or child caring institution shall be determined by the court by using the
7 ~~percentage standard established by the department of workforce development under~~
8 ~~s. 49.22 (9) method of calculating child support under s. 767.251~~ and by applying the
9 ~~percentage standard method~~ in the manner established by the department under s.
10 46.247.

History: 1971 c. 125; 1971 c. 213 s. 5; 1973 c. 90 ss. 223, 223m, 560 (3); 1973 c. 198, 333; 1975 c. 39 ss. 347 to 350, 734; 1975 c. 41, 94; 1975 c. 189 s. 99 (2); 1975 c. 198, 199, 224; 1975 c. 413 s. 18; 1975 c. 428; 1975 c. 430 ss. 6, 80; 1977 c. 29, 203; 1977 c. 418 ss. 294 to 295, 924 (50), 929 (18); 1977 c. 428; 1977 c. 447 s. 206; 1977 c. 449 ss. 75, 497; 1979 c. 34; 1979 c. 102 ss. 236 (4), 237; 1979 c. 117, 221, 331; 1981 c. 20 ss. 755 to 758, 2202 (20) (i), (n); 1981 c. 81; 1983 a. 27 ss. 955m, 2202 (20); 1985 a. 29, 176, 281, 332; 1987 a. 307; 1989 a. 31, 56, 96, 212; 1991 a. 39, 221, 315, 316; 1993 a. 16, 27, 385, 437, 446, 479, 481; 1995 a. 27 ss. 2054, 2055, 9130 (4); 1995 a. 77, 224, 404; 1997 a. 3, 27, 35, 237, 308.

11 SECTION 2. 46.10 (14) (c) (intro.) of the statutes is amended to read:

12 46.10 (14) (c) (intro.) Upon request by a parent, the court may modify the
13 amount of child support payments determined under par. (b), subject to par. (cm), if,
14 after considering the following factors, the court finds by the greater weight of the
15 credible evidence that ~~the use of the percentage standard method of calculating child~~
16 ~~support under s. 767.251~~ is unfair to the child or to either of the parents:

History: 1971 c. 125; 1971 c. 213 s. 5; 1973 c. 90 ss. 223, 223m, 560 (3); 1973 c. 198, 333; 1975 c. 39 ss. 347 to 350, 734; 1975 c. 41, 94; 1975 c. 189 s. 99 (2); 1975 c. 198, 199, 224; 1975 c. 413 s. 18; 1975 c. 428; 1975 c. 430 ss. 6, 80; 1977 c. 29, 203; 1977 c. 418 ss. 294 to 295, 924 (50), 929 (18); 1977 c. 428; 1977 c. 447 s. 206; 1977 c. 449 ss. 75, 497; 1979 c. 34; 1979 c. 102 ss. 236 (4), 237; 1979 c. 117, 221, 331; 1981 c. 20 ss. 755 to 758, 2202 (20) (i), (n); 1981 c. 81; 1983 a. 27 ss. 955m, 2202 (20); 1985 a. 29, 176, 281, 332; 1987 a. 307; 1989 a. 31, 56, 96, 212; 1991 a. 39, 221, 315, 316; 1993 a. 16, 27, 385, 437, 446, 479, 481; 1995 a. 27 ss. 2054, 2055, 9130 (4); 1995 a. 77, 224, 404; 1997 a. 3, 27, 35, 237, 308.

17 SECTION 3. 46.10 (14) (d) of the statutes is amended to read:

18 46.10 (14) (d) If the court finds under par. (c) that use of the percentage
19 ~~standard method of calculating child support under s. 767.251~~ is unfair to the minor
20 child or either of the parents, the court shall state in writing or on the record the



1 amount of support that would be required by using the ~~percentage standard method~~
 2 under s. 767.251, the amount by which the court's order deviates from that amount,
 3 its reasons for finding that use of the ~~percentage standard method under s. 767.251~~
 4 is unfair to the child or the parent, its reasons for the amount of the modification and
 5 the basis for the modification.

History: 1971 c. 125; 1971 c. 213 s. 5; 1973 c. 90 ss. 223, 223m, 560 (3); 1973 c. 198, 333; 1975 c. 39 ss. 347 to 350, 734; 1975 c. 41, 94; 1975 c. 189 s. 99 (2); 1975 c. 198, 199, 224; 1975 c. 413 s. 18; 1975 c. 428; 1975 c. 430 ss. 6, 80; 1977 c. 29, 203; 1977 c. 418 ss. 294 to 295, 924 (50), 929 (18); 1977 c. 428; 1977 c. 447 s. 206; 1977 c. 449 ss. 75, 497; 1979 c. 34; 1979 c. 102 ss. 236 (4), 237; 1979 c. 117, 221, 331; 1981 c. 20 ss. 755 to 758, 2202 (20) (i), (m); 1981 c. 81; 1983 a. 27 ss. 955m, 2202 (20); 1985 a. 29, 176, 281, 332; 1987 a. 307; 1989 a. 31, 56, 96, 212; 1991 a. 39, 221, 315, 316; 1993 a. 16, 27, 385, 437, 446, 479, 481; 1995 a. 27 ss. 2054, 2055, 9130 (4); 1995 a. 77, 224, 404; 1997 a. 3, 27, 35, 237, 308.

6 **SECTION 4.** 46.247 of the statutes is amended to read:

7 **46.247 Application of method of calculating child support standard for**
 8 **certain children.** For purposes of determining child support under s. 46.10 (14) (b),
 9 the department shall promulgate rules related to the application of the ~~standard~~
 10 ~~established by the department of workforce development under s. 49.22 (9) method~~
 11 under s. 767.251 to a child support obligation for the care and maintenance of a child
 12 who is placed by a court order under s. 48.355 or 48.357 in a residential, nonmedical
 13 facility. The rules shall take into account the needs of any person, including
 14 dependent children other than the child, whom either parent is legally obligated to
 15 support.

History: 1995 a. 404 s. 47; 1997 a. 3, 27, 237.

16 **SECTION 5.** 48.30 (6) of the statutes is amended to read:

17 **48.30 (6)** If a petition is not contested, the court shall set a date for the
 18 dispositional hearing which allows reasonable time for the parties to prepare but is
 19 no more than 10 days after the plea hearing for a child who is held in secure custody
 20 and no more than 30 days after the plea hearing for a child or an expectant mother
 21 who is not held in secure custody. If it appears to the court that disposition of the case
 22 may include placement of the child outside the child's home, the court shall order the
 23 child's parent to provide a statement of income, assets, debts and living expenses to

1 the court or the designated agency under s. 48.33 (1) at least 5 days before the
 2 scheduled date of the dispositional hearing or as otherwise ordered by the court. The
 3 clerk of court shall provide, without charge, to any parent ordered to provide a
 4 statement of income, assets, debts and living expenses a document setting forth the
 5 ~~percentage standard established by the department of workforce development under~~
 6 ~~s. 49.22 (9)~~ ^{extend striking} method of calculating child support under s. 767.251 and the manner of
 7 its application established by the department of health and family services under s.
 8 46.247 and listing the factors that a court may consider under s. 46.10 (14) (c). If all
 9 parties consent the court may proceed immediately with the dispositional hearing.

History: 1977 c. 354, 355, 447; 1979 c. 300, 331, 355, 359; 1985 a. 321, 332; 1987 a. 151; 1987 a. 403 s. 256; Sup. Ct. Order, 158 W (2d) xvii (1990); 1993 a. 163, 474, 481; 1995 a. 77, 225, 404, 417; 1997 a. 3, 252, 292.

SECTION 6. 48.31 (7) of the statutes is amended to read:

11 48.31 (7) At the close of the fact-finding hearing, the court shall set a date for
 12 the dispositional hearing which allows a reasonable time for the parties to prepare
 13 but is no more than 10 days after the fact-finding hearing for a child in secure
 14 custody and no more than 30 days after the fact-finding hearing for a child or
 15 expectant mother who is not held in secure custody. If it appears to the court that
 16 disposition of the case may include placement of the child outside the child's home,
 17 the court shall order the child's parent to provide a statement of income, assets, debts
 18 and living expenses to the court or the designated agency under s. 48.33 (1) at least
 19 5 days before the scheduled date of the dispositional hearing or as otherwise ordered
 20 by the court. The clerk of court shall provide, without charge, to any parent ordered
 21 to provide a statement of income, assets, debts and living expenses a document
 22 setting forth the ~~percentage standard established by the department of workforce~~
 23 ~~development under s. 49.22 (9)~~ method of calculating child support under s. 767.251
 24 and the manner of its application established by the department of health and family



1 services under s. 46.247 and listing the factors that a court may consider under s.
2 46.10 (14) (c). If all parties consent, the court may immediately proceed with a
3 dispositional hearing.

History: 1977 c. 354, 447; 1979 c. 32 s. 92 (13); 1979 c. 300, 331, 355, 357, 359; 1983 a. 197; 1985 a. 262 s. 8; 1987 a. 339; 1993 a. 481; 1995 a. 77, 275, 404, 448; 1997 a. 3, 35, 292.

4 **SECTION 7. 48.33 (4m) (intro.) of the statutes is amended to read:**

5 **48.33 (4m) SUPPORT RECOMMENDATIONS; INFORMATION TO PARENTS. (intro.)** In
6 making a recommendation for an amount of child support under sub. (4), the agency
7 shall consider the factors that the court considers under s. 46.10 (14) (c) for deviation
8 from the ~~percentage standard~~ method of calculating child support under s. 767.251.
9 Prior to the dispositional hearing under s. 48.335, the agency shall provide the child's
10 parent with all of the following:

History: 1977 c. 354; 1979 c. 300; 1983 a. 399; 1987 a. 27, 339; 1989 a. 31, 41, 107; 1993 a. 377, 385, 446, 481; 1995 a. 27, 77, 201; 1997 a. 27, 292.

11 **SECTION 8. 48.357 (5m) of the statutes is amended to read:**

12 **48.357 (5m)** If a proposed change in placement changes a child's placement
13 from a placement in the child's home to a placement outside the child's home, the
14 court shall order the child's parent to provide a statement of income, assets, debts
15 and living expenses to the court or the person or agency primarily responsible for
16 implementing the dispositional order by a date specified by the court. The clerk of
17 court shall provide, without charge, to any parent ordered to provide a statement of
18 income, assets, debts and living expenses a document setting forth the ~~percentage~~
19 ~~standard established by the department of workforce development under s. 49.22 (9)~~
20 method of calculating child support under s. 767.251 and the manner of its
21 application established by the department of health and family services under s.
22 46.247 and listing the factors that a court may consider under s. 46.10 (14) (c). If the




1 child is placed outside the child's home, the court shall determine the liability of the
2 parent in the manner provided in s. 46.10 (14).

3 History: 1977 c. 354; 1979 c. 300; 1987 a. 27; 1989 a. 31, 107; 1993 a. 16, 385, 395, 446, 481, 491; 1995 a. 27, 77, 275, 404; 1997 a. 3, 35, 80, 237, 292.

3 **SECTION 9. 48.363 (1) of the statutes is amended to read:**

4 48.363 (1) A child, the child's parent, guardian or legal custodian, an expectant
5 mother, an unborn child by the unborn child's guardian ad litem, any person or
6 agency bound by a dispositional order or the district attorney or corporation counsel
7 in the county in which the dispositional order was entered may request a revision in
8 the order that does not involve a change in placement, including a revision with
9 respect to the amount of child support to be paid by a parent, or the court may on its
10 own motion propose such a revision. The request or court proposal shall set forth in
11 detail the nature of the proposed revision and what new information is available that
12 affects the advisability of the court's disposition. The request or court proposal shall
13 be submitted to the court. The court shall hold a hearing on the matter if the request
14 or court proposal indicates that new information is available which affects the
15 advisability of the court's dispositional order and prior to any revision of the
16 dispositional order, unless written waivers of objections to the revision are signed by
17 all parties entitled to receive notice and the court approves. If a hearing is held, the
18 court shall notify the child, the child's parent, guardian and legal custodian, all
19 parties bound by the dispositional order, the child's foster parent, treatment foster
20 parent or other physical custodian described in s. 48.62 (2), the district attorney or
21 corporation counsel in the county in which the dispositional order was entered, and,
22 if the child is the expectant mother of an unborn child under s. 48.133, the unborn
23 child by the unborn child's guardian ad litem or shall notify the adult expectant
24 mother, the unborn child through the unborn child's guardian ad litem, all parties



1 bound by the dispositional order and the district attorney or corporation counsel in
2 the county in which the dispositional order was entered, at least 3 days prior to the
3 hearing. A copy of the request or proposal shall be attached to the notice. If the
4 proposed revision is for a change in the amount of child support to be paid by a parent,
5 the court shall order the child's parent to provide a statement of income, assets, debts
6 and living expenses to the court and the person or agency primarily responsible for
7 implementing the dispositional order by a date specified by the court. The clerk of
8 court shall provide, without charge, to any parent ordered to provide a statement of
9 income, assets, debts and living expenses a document setting forth the percentage
10 ~~standard established by the department of workforce development under s. 49.22 (9)~~
11 method of calculating child support under s. 767.251 and the manner of its
12 application established by the department of health and family services under s.
13 46.247 and listing the factors that a court may consider under s. 46.10 (14) (c). If all
14 parties consent, the court may proceed immediately with the hearing. No revision
15 may extend the effective period of the original order.

History: 1977 c. 354; 1979 c. 300; 1985 a. 172; 1993 a. 481; 1995 a. 275, 404; 1997 a. 3, 80, 237, 292.

16 **SECTION 10.** 49.22 (9) of the statutes is repealed and recreated to read:

17 49.22 (9) The department shall prepare and make available to judges and other
18 court personnel forms, tables, computer software and instruction manuals or other
19 publications to aid in the calculation of child support by using the method under s.
20 767.251.

21 **SECTION 11.** 301.12 (14) (b) of the statutes is amended to read:

22 301.12 (14) (b) Except as provided in par. (c) and subject to par. (cm), liability
23 of a parent specified in sub. (2) or s. 301.03 (18) for the care and maintenance of the
24 parent's minor child who has been placed by a court order under s. 938.183, 938.355



1 or 938.357 in a residential, nonmedical facility such as a group home, foster home,
2 treatment foster home, child caring institution or juvenile correctional institution
3 shall be determined by the court by using the ~~percentage standard established by the~~
4 ~~department of workforce development under s. 49.22 (9) method of calculating child~~
5 support under s. 767.251 and by applying the ~~percentage standard~~ method in the
6 manner established by the department under par. (g).

History: 1995 a. 27 ss. 6361, 9126 (19); 1995 a. 77; 1997 a. 237.

7 **SECTION 12.** 301.12 (14) (c) (intro.) of the statutes is amended to read:

8 301.12 (14) (c) (intro.) Upon request by a parent, the court may modify the
9 amount of child support payments determined under par. (b), subject to par. (cm), if,
10 after considering the following factors, the court finds by the greater weight of the
11 credible evidence that ~~the~~ ^{strike} use of the ~~percentage standard~~ method of calculating child
12 support under s. 767.251 is unfair to the child or to either of the parents:

History: 1995 a. 27 ss. 6361, 9126 (19); 1995 a. 77; 1997 a. 237.

13 **SECTION 13.** 301.12 (14) (d) of the statutes is amended to read:

14 301.12 (14) (d) If the court finds under par. (c) that use of the ~~percentage~~
15 ~~standard~~ method of calculating child support under s. 767.251 is unfair to the minor
16 child or either of the parents, the court shall state in writing or on the record the
17 amount of support that would be required by using the ~~percentage standard~~ method
18 under s. 767.251, the amount by which the court's order deviates from that amount,
19 the court's reasons for finding that use of the ~~percentage standard~~ method under s.
20 767.251 is unfair to the child or the parent, the court's reasons for the amount of the
21 modification and the basis for the modification.

History: 1995 a. 27 ss. 6361, 9126 (19); 1995 a. 77; 1997 a. 237.

22 **SECTION 14.** 301.12 (14) (g) of the statutes is amended to read:

23 301.12 (14) (g) For purposes of determining child support under par. (b), the
24 department shall promulgate rules related to the application of the ~~standard~~



1 ~~established by the department of workforce development under s. 49.22 (9) method~~
2 ~~under s. 767.251~~ to a child support obligation for the care and maintenance of a child
3 who is placed by a court order under s. 938.183, 938.355 or 938.357 in a residential,
4 nonmedical facility. The rules shall take into account the needs of any person,
5 including dependent children other than the child, whom either parent is legally
6 obligated to support.

7 History: 1995 a. 27 ss. 6361, 9126 (19); 1995 a. 77; 1997 a. 237.

SECTION 15. 767.085 (2) (b) of the statutes is amended to read:

8 767.085 (2) (b) The clerk of court shall provide without charge, to each person
9 filing a petition requesting child support, a document setting forth the ~~percentage~~
10 ~~standard established by the department under s. 49.22 (9) method of calculating~~
11 ~~child support under s. 767.251~~ and listing the factors which a court may consider
12 under s. 767.25 (1m).

13 History: 1971 c. 220; 1977 c. 105; 1979 c. 32 ss. 50, 92 (4); 1979 c. 196; 1979 c. 352 s. 39; Stats. 1979 s. 767.085; 1985 a. 29; 1987 a. 332 s. 64; 1987 a. 355, 403; 1989 a. 31, 56, 132; 1993 a. 78, 481; 1995 a. 27 s. 9126 (19); 1995 a. 201, 404; 1997 a. 191.

SECTION 16. 767.085 (2m) (a) 2. of the statutes is amended to read:

14 767.085 (2m) (a) 2. Shall be accompanied by a document, provided without
15 charge by the clerk of court, setting forth the ~~percentage standard established by the~~
16 ~~department under s. 49.22 (9) method of calculating child support under s. 767.251~~
17 and listing the factors which a court may consider under s. 767.25 (1m).

18 History: 1971 c. 220; 1977 c. 105; 1979 c. 32 ss. 50, 92 (4); 1979 c. 196; 1979 c. 352 s. 39; Stats. 1979 s. 767.085; 1985 a. 29; 1987 a. 332 s. 64; 1987 a. 355, 403; 1989 a. 31, 56, 132; 1993 a. 78, 481; 1995 a. 27 s. 9126 (19); 1995 a. 201, 404; 1997 a. 191.

SECTION 17. 767.085 (2m) (b) of the statutes is amended to read:

19 767.085 (2m) (b) If service is by publication, notification regarding s. 948.31
20 may consist of references to the statute numbers and titles, and information relating
21 to the ~~percentage standard~~ method of calculating child support and the factors need
22 not be provided.

23 History: 1971 c. 220; 1977 c. 105; 1979 c. 32 ss. 50, 92 (4); 1979 c. 196; 1979 c. 352 s. 39; Stats. 1979 s. 767.085; 1985 a. 29; 1987 a. 332 s. 64; 1987 a. 355, 403; 1989 a. 31, 56, 132; 1993 a. 78, 481; 1995 a. 27 s. 9126 (19); 1995 a. 201, 404; 1997 a. 191.

SECTION 18. 767.23 (1n) of the statutes is amended to read:



1 **767.23 (1n)** Before making any temporary order under sub. (1), the court or
 2 family court commissioner shall consider those factors which the court is required
 3 by this chapter to consider before entering a final judgment on the same subject
 4 matter. If the court or family court commissioner makes a temporary child support
 5 order that deviates from the amount of support that would be required by using the
 6 ~~percentage standard established by the department under s. 49.22 (9)~~ method of
 7 calculating child support under s. 767.251, the court or family court commissioner
 8 shall comply with the requirements of s. 767.25 (1n). A temporary order under sub.
 9 (1) may be based upon the written stipulation of the parties, subject to the approval
 10 of the court or the family court commissioner. Temporary orders made by the family
 11 court commissioner may be reviewed by the court as provided in s. 767.13 (6).

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

(END OF INSERT 1-3)

INSERT 2-2

12 **SECTION 19.** 767.25 (1n) of the statutes is amended to read:
 13 **767.25 (1n)** If the court finds under sub. (1m) that use of the ~~percentage~~
 14 ~~standard~~ method of calculating child support under s. 767.251 is unfair to the child
 15 or the requesting party, the court shall state in writing or on the record the amount
 16 of support that would be required by using the ~~percentage standard~~ method under
 17 s. 767.251, the amount by which the court's order deviates from that amount, its
 18 reasons for finding that use of the ~~percentage standard~~ method under s. 767.251 is



1 unfair to the child or the party, its reasons for the amount of the modification and the
2 basis for the modification.

History: 1971 c. 157; 1977 c. 29, 105, 418; 1979 c. 32 ss. 50, 92 (4); 1979 c. 196; Stats. 1979 s. 767.25; 1981 c. 20; 1983 a. 27; 1985 a. 29; 1987 a. 27, 37, 355, 413; 1989 a. 31, 212; 1991 a. 39; 1993 a. 481; 1995 a. 27 ss. 7101, 7102, 9126 (19); 1995 a. 201, 279, 404; 1997 a. 27, 35, 191; s. 13.93 (2) (c).

(END OF INSERT 2-2)

INSERT 2-4

3 ^{wo} (1) **GROSS INCOME.** For purposes of determining a parent's gross income under
4 this section, all of the following apply:

5 (a) The court shall include as income all of the following:

- 6 1. All income considered gross income for federal income tax purposes.
- 7 2. Net proceeds from worker's compensation or other personal injury awards
- 8 intended to replace income.
- 9 3. Income continuation benefits.
- 10 4. Voluntary deferred compensation or employe contributions to a
- 11 profit-sharing or pension account.

12 5. Military allowances and veterans benefits.

13 6. Undistributed income from a closely held corporation in which the parent
14 has a sufficient interest to exercise control or to access the earnings of the business.

15 (b) The court may include as income wages paid by the parent to a member of
16 the parent's household that the court determines were paid for the purpose of
17 diverting income to avoid paying child support.

18 (c) The court shall deduct from income all of the following:

- 19 1. Any maintenance paid to the other parent or to a former spouse.
- 20 2. If the parent is self-employed, one-half of the parent's unemployment tax.
- 21 3. Business expenses that the court considers necessary for the production of
- 22 income but that are not allowed as deductions for expenses for tax purposes.



1 4. One-time capital gain income from the sale of individual passive
2 investments.

3 5. One-time capital gain income from the sale of the family home.

4 (d) If the court determines that a party has encumbered, concealed, damaged,
5 destroyed, transferred or otherwise disposed of property for the purpose of avoiding
6 payment of child support, or that child support based on the gross incomes of the
7 parties will not adequately provide for the child and that the parties have
8 nonproductive assets, the court may impute income to one or both parents from such
9 property or assets by multiplying the value of the property or asset by the current
10 6-month treasury bill interest rate and including the amount obtained in the gross
11 income of the parent.

12 (e) If the court determines that a parent is underemployed, the court may
13 impute to that parent a gross income that is greater than the parent's actual gross
14 income. The court shall base the imputed gross income on the parent's educational
15 attainment and work experience and the availability of work in the parent's
16 community.

17 (f) The court may impute to a parent one-half of the parent's total household
18 income if all of the following apply:

- 19 1. The parent is living in a new household.
20 2. The parent has physical placement of the child at least 50% of the time.
21 3. The total economic circumstances of the child warrant imputing the income.

(END OF INSERT 2-4)

INSERT 6-8

1 (c) If a child is placed outside his or her home in a residential, nonmedical
2 facility, the child support obligation of each parent shall be as determined under sub.
3 (2).

4 (5) ASSIGNMENT OF CERTAIN EXPENSES. Upon the request of a party, the court may
5 require a parent to pay all of an expense that benefits the child regardless of the
6 child's placement. The court shall assume that each parent is responsible for
7 payment of the expense in the same proportion as the parent's gross child support
8 obligation bears to the parents' combined gross child support obligation and shall
9 make a corresponding increase and decrease in each parent's gross child support
10 obligation to compensate for the court's assignment of the total expense to one
11 parent.

12 (6) SPLIT PLACEMENT. If there is more than one child and each parent has
13 placement of at least one child for a greater amount of time than the other parent,
14 the court shall determine the amount of child support that each parent is required
15 to pay to the other parent under sub. (4) (a) or (b) 2. or 3. and shall order the parent
16 who is required to pay the greater amount to pay the difference in the amounts to the
17 other parent.

18 (7) OTHER CHILD SUPPORT OBLIGATIONS. If a parent who is obligated to pay child
19 support to the other parent under sub. (4) (a) or (b) is subject to another child support
20 order or is supporting one or more children from a current marriage or remarriage,
21 the court shall reduce the amount of child support that the parent is required to pay
22 by multiplying the amount determined under sub. (4) (a) or (b) 2. or 3. by the
23 following percentage:

- 1 (a) If the number of other children being supported is one, 90%.
- 2 (b) If the number of other children being supported is two, 85%.
- 3 (c) If the number of other children being supported is three, 80%.
- 4 (d) If the number of other children being supported is four or more, 75%.

5 **SECTION 1. 767.295 (2) (c) of the statutes is amended to read:**

6 767.295 (2) (c) If the court enters an order under par. (a), it shall order the
 7 parent to pay child support equal to the amount determined by applying the
 8 ~~percentage standard established under s. 49.22 (9) method under s. 767.251~~ to the
 9 income a person would earn by working 40 hours per week for the federal minimum
 10 hourly wage under 29 USC 206 (a) (1) or equal to the amount of child support that
 11 the parent was ordered to pay in the most recent determination of support under this
 12 chapter. The child support obligation ordered under this paragraph continues until
 13 the parent makes timely payment in full for 3 consecutive months or until the person
 14 participates in the program under s. 49.36 for 16 weeks, whichever comes first. The
 15 court shall provide in its order that the parent must make child support payments
 16 calculated under s. 767.25 (1j) ~~or (1m) or 767.251~~, 767.51 (4m) or (5) or 767.62 (4) (d)
 17 1. or (e) after the obligation to make payments ordered under this paragraph ceases.

History: 1987 a. 413; 1993 a. 16, 481; 1995 a. 27 ss. 7105 ~~to~~ 7109, 9130 (4); 1995 a. 404; 1997 a. 191.

18 **SECTION 2. 767.32 (1) (b) 4. of the statutes is amended to read:**

19 767.32 (1) (b) 4. ~~A~~ ^{extend striking} If the action in which the court most recently ordered child
 20 support, including a revision of a child support order under this section, was
 21 commenced before the effective date of this subdivision ... [revisor inserts date], a
 22 difference between the amount of child support ordered by the court to be paid by the
 23 payer and the amount that the payer would have been required to pay based on the
 24 percentage standard established by the department under s. 49.22 (9) if the court did



1 not use the percentage standard in determining the child support payments and did
2 not provide the information required under s. 46.10 (14) (d), 301.12 (14) (d), 767.25
3 (1n), 767.51 (5d) or 767.62 (4) (f), whichever is appropriate.

History: 1971 c. 220; 1977 c. 105 ss. 38, 48, 49; 1977 c. 418; 1979 c. 32 ss. 50, 92 (4); Stats. 1979 s. 767.32; 1981 c. 20 s. 2202 (20) (m); 1981 c. 314 s. 146; 1983 a. 27; 1985 a. 176; 1987 a. 27, 355, 413; 1989 a. 212; 1991 a. 39; 1993 a. 16, 481, 491; 1995 a. 27 s. 9126 (19); 1995 a. 77, 201, 225, 279, 289, 404, 417; 1997 a. 27, 35, 105, 191, 237, 273.

4 **SECTION 3.** 767.32 (1) (b) 5. of the statutes is created to read:

5 767.32 (1) (b) 5. If the action in which the court most recently ordered child
6 support, including a revision of a child support order under this section, was
7 commenced on or after the effective date of this subdivision ... [revisor inserts date],
8 a difference between the amount of child support ordered by the court to be paid by
9 the payer and the amount that the payer would have been required to pay based on
10 the method of calculating child support under s. 767.251 if the court did not use that
11 method in determining the child support payments and did not provide the
12 information required under s. 46.10 (14) (d), 301.12 (14) (d), 767.25 (1n), 767.51 (5d)
13 or 767.62 (4) (f), whichever is appropriate.

14 **SECTION 4.** 767.32 (2) of the statutes is renumbered 767.32 (2) (a) and amended
15 to read:

16 767.32 (2) (a) Except as provided in sub. (2m) or (2r), if the court revises a
17 judgment or order with respect to child support payments, it shall do so by using the
18 ~~percentage standard established by the department under s. 49.22 (9) method under~~
19 s. 767.251.

History: 1971 c. 220; 1977 c. 105 ss. 38, 48, 49; 1977 c. 418; 1979 c. 32 ss. 50, 92 (4); Stats. 1979 s. 767.32; 1981 c. 20 s. 2202 (20) (m); 1981 c. 314 s. 146; 1983 a. 27; 1985 a. 176; 1987 a. 27, 355, 413; 1989 a. 212; 1991 a. 39; 1993 a. 16, 481, 491; 1995 a. 27 s. 9126 (19); 1995 a. 77, 201, 225, 279, 289, 404, 417; 1997 a. 27, 35, 105, 191, 237, 273.

20 **SECTION 5.** 767.32 (2) (b) of the statutes is created to read:

21 767.32 (2) (b) In determining the amount of physical placement that each
22 parent has for purposes of calculating child support under s. 767.251 (2), the court
23 shall use the actual time that a child regularly spends with each parent, regardless

1 provide the information required under s. 46.10 (14) (d), 301.12 (14) (d), 767.25 (1n),
2 767.51 (5d) or 767.62 (4) (f), whichever is appropriate.

History: 1971 c. 220; 1977 c. 105 ss. 38, 48, 49; 1977 c. 418; 1979 c. 32 ss. 50, 92 (4); Stats. 1979 s. 767.32; 1981 c. 20 s. 2202 (20) (m); 1981 c. 314 s. 146; 1983 a. 27; 1985 a. 176; 1987 a. 27, 355, 413; 1989 a. 212; 1991 a. 39; 1993 a. 16, 481, 491; 1995 a. 27 s. 9126 (19); 1995 a. 77, 201, 225, 279, 289, 404, 417; 1997 a. 27, 35, 105, 191, 237, 273.

3 **SECTION 3.** 767.32 (2) of the statutes is renumbered 767.32 (2) (a) and amended
4 to read:

5 767.32 (2) (a) Except as provided in sub. (2m) or (2r), if the court revises a
6 judgment or order with respect to child support payments, it shall do so by using the
7 percentage standard established by the department under s. 49.22 (9) method under
8 s. 767.251.

History: 1971 c. 220; 1977 c. 105 ss. 38, 48, 49; 1977 c. 418; 1979 c. 32 ss. 50, 92 (4); Stats. 1979 s. 767.32; 1981 c. 20 s. 2202 (20) (m); 1981 c. 314 s. 146; 1983 a. 27; 1985 a. 176; 1987 a. 27, 355, 413; 1989 a. 212; 1991 a. 39; 1993 a. 16, 481, 491; 1995 a. 27 s. 9126 (19); 1995 a. 77, 201, 225, 279, 289, 404, 417; 1997 a. 27, 35, 105, 191, 237, 273.

9 **SECTION 4.** 767.32 (2) (b) of the statutes is created to read:

10 767.32 (2) (b) In determining the amount of physical placement that each
11 parent has for purposes of calculating child support under s. 767.251 (2), the court
12 shall use the actual time that a child regularly spends with each parent, regardless
13 of the allocation of physical placement between the parents under a physical
14 placement order.

15 **SECTION 5.** 767.32 (2m) of the statutes is amended to read:

16 767.32 (2m) Upon request by a party, the court may modify the amount of
17 revised child support payments determined under sub. (2) if, after considering the
18 factors listed in s. 767.25 (1m), 767.51 (5) or 767.62 (4) (e), as appropriate, the court
19 finds, by the greater weight of the credible evidence, that ~~the use of the percentage~~
20 ~~standard method of calculating child support under s. 767.251~~ is unfair to the child
21 or to any of the parties.

History: 1971 c. 220; 1977 c. 105 ss. 38, 48, 49; 1977 c. 418; 1979 c. 32 ss. 50, 92 (4); Stats. 1979 s. 767.32; 1981 c. 20 s. 2202 (20) (m); 1981 c. 314 s. 146; 1983 a. 27; 1985 a. 176; 1987 a. 27, 355, 413; 1989 a. 212; 1991 a. 39; 1993 a. 16, 481, 491; 1995 a. 27 s. 9126 (19); 1995 a. 77, 201, 225, 279, 289, 404, 417; 1997 a. 27, 35, 105, 191, 237, 273.

22 **SECTION 6.** 767.45 (7) of the statutes is amended to read:



1 **767.45 (7)** The clerk of court shall provide without charge, to each person
 2 bringing an action under this section, except to the state under sub. (1) (g) or (6m),
 3 a document setting forth the ~~percentage standard established by the department~~
 4 ~~under s. 49.22 (9)~~ method of calculating child support under s. 767.251 and listing
 5 the factors which a court may consider under s. 767.51 (5).

History: 1979 c. 352; 1981 c. 20 s. 2202 (20) (m); 1983 a. 447; 1985 a. 29; 1987 a. 27, 355, 399, 413; 1989 a. 31, 212; 1993 a. 326, 481; 1995 a. 27 s. 9126 (19); 1995 a. 68, 100, 201, 275, 404; 1997 a. 191.

6 **SECTION 7.** 767.455 (6) of the statutes is amended to read:

7 **767.455 (6) DOCUMENT.** The summons served on the respondent shall be
 8 accompanied by a document, provided without charge by the clerk of court, setting
 9 forth the ~~percentage standard established by the department under s. 49.22 (9)~~
 10 method of calculating child support under s. 767.251 and listing the factors which a
 11 court may consider under s. 767.51 (5).

History: 1979 c. 352; 1981 c. 314; 1983 a. 447; 1985 a. 29; 1987 a. 27, 413; Sup. Ct. Order, 171 W (2d) xix (1992); 1993 a. 16, 481; 1995 a. 27 ss. 7112, 7113b, 9126 (19); 1995 a. 100, 404, 417; 1997 a. 35, 191, 250.

12 **SECTION 8.** 767.477 (2) of the statutes is amended to read:

13 **767.477 (2)** Before making any temporary order under sub. (1), the court shall
 14 consider those factors that the court is required under s. 767.51 to consider when
 15 granting a final judgment on the same subject matter. If the court makes a
 16 temporary child support order that deviates from the amount of support that would
 17 be required by using the ~~percentage standard established by the department under~~
 18 ~~s. 49.22 (9)~~ method of calculating child support under s. 767.251, the court shall
 19 comply with the requirements of s. 767.51 (5d).

History: 1997 a. 191.

20 **SECTION 9.** 767.51 (4m) of the statutes is amended to read:



1 **767.51 (4m)** Except as provided in sub. (5), the court shall determine child
2 support payments by using the ~~percentage standard established by the department~~
3 ~~under s. 49.22 (9) method under s. 767.251.~~

History: 1979 c. 352; 1983 a. 27, 192, 447; 1985 a. 29; 1985 a. 315 s. 22; 1987 a. 27, 37, 355, 413; 1989 a. 212; 1991 a. 39; 1993 a. 481; 1995 a. 27 ss. 7115, 7116, 9126 (19); 1995 a. 100, 201, 279, 375, 404; 1997 a. 27, 35, 191; s. 13.93 (2) (c).

4 **SECTION 10. 767.51 (5)** (intro.) of the statutes is amended to read:

5 **767.51 (5)** (intro.) Upon request by a party, the court may modify the amount
6 of child support payments determined under sub. (4m) if, after considering the
7 following factors, the court finds by the greater weight of the credible evidence that
8 use of the ~~percentage standard~~ method under s. 767.251 is unfair to the child or to
9 the requesting party:

History: 1979 c. 352; 1983 a. 27, 192, 447; 1985 a. 29; 1985 a. 315 s. 22; 1987 a. 27, 37, 355, 413; 1989 a. 212; 1991 a. 39; 1993 a. 481; 1995 a. 27 ss. 7115, 7116, 9126 (19); 1995 a. 100, 201, 279, 375, 404; 1997 a. 27, 35, 191; s. 13.93 (2) (c).

10 **SECTION 11. 767.51 (5d)** of the statutes is amended to read:

11 **767.51 (5d)** If the court finds under sub. (5) that use of the ~~percentage standard~~
12 ~~method of calculating child support under s. 767.251~~ is unfair to the child or the
13 requesting party, the court shall state in writing or on the record the amount of
14 support that would be required by using the ~~percentage standard~~ method under s.
15 767.251, the amount by which the court's order deviates from that amount, its
16 reasons for finding that use of the ~~percentage standard~~ method under s. 767.251 is
17 unfair to the child or the party, its reasons for the amount of the modification and the
18 basis for the modification.

History: 1979 c. 352; 1983 a. 27, 192, 447; 1985 a. 29; 1985 a. 315 s. 22; 1987 a. 27, 37, 355, 413; 1989 a. 212; 1991 a. 39; 1993 a. 481; 1995 a. 27 ss. 7115, 7116, 9126 (19); 1995 a. 100, 201, 279, 375, 404; 1997 a. 27, 35, 191; s. 13.93 (2) (c).

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

20 **767.62 (4) (d) 1.** Except as provided in par. (e), the court or family court
21 commissioner shall determine child support payments under par. (a) by using the



1 ~~percentage standard established by the department under s. 49.22 (9) method under~~
2 ~~s. 767.251.~~

3 History: 1993 a. 481; 1995 a. 100; 1997 a. 191.

SECTION 13. 767.62 (4) (e) (intro.) of the statutes is amended to read:

4 767.62 (4) (e) (intro.) Upon request by a party, the court or family court
5 commissioner may modify the amount of child support payments determined under
6 par. (d) if, after considering the following factors, the court or family court
7 commissioner finds by the greater weight of the credible evidence that use of the
8 ~~percentage standard~~ method of calculating child support under s. 767.251 is unfair
9 to the child or to the requesting party:

10 History: 1993 a. 481; 1995 a. 100; 1997 a. 191.

SECTION 14. 767.62 (4) (f) of the statutes is amended to read:

11 767.62 (4) (f) If the court or family court commissioner finds under par. (e) that
12 use of the ~~percentage standard~~ method of calculating child support under s. 767.251
13 is unfair to the child or the requesting party, the court or family court commissioner
14 shall state in writing or on the record the amount of support that would be required
15 by using the ~~percentage standard~~ method under s. 767.251, the amount by which the
16 court's or family court commissioner's order deviates from that amount, the reasons
17 for finding that use of the ~~percentage standard~~ method under s. 767.251 is unfair to
18 the child or the party, the reasons for the amount of the modification and the basis
19 for the modification.

20 History: 1993 a. 481; 1995 a. 100; 1997 a. 191.

SECTION 15. 938.30 (6) of the statutes is amended to read:

21 938.30 (6) If a petition is not contested, the court shall set a date for the
22 dispositional hearing which allows reasonable time for the parties to prepare but is
23 no more than 10 days from the plea hearing for a juvenile who is held in secure
24 custody and no more than 30 days from the plea hearing for a juvenile who is not held



1 in secure custody. If it appears to the court that disposition of the case may include
 2 placement of the juvenile outside the juvenile's home, the court shall order the
 3 juvenile's parent to provide a statement of income, assets, debts and living expenses
 4 to the court or the designated agency under s. 938.33 (1) at least 5 days before the
 5 scheduled date of the dispositional hearing or as otherwise ordered by the court. The
 6 clerk of court shall provide, without charge, to any parent ordered to provide a
 7 statement of income, assets, debts and living expenses a document setting forth the
 8 ~~percentage standard established by the department of workforce development under~~
 9 ~~s. 49.22 (9)~~ method of calculating child support under s. 767.251 and listing the
 10 factors that a court may consider under s. 301.12 (14) (c). If all parties consent the
 11 court may proceed immediately with the dispositional hearing. If a citation is not
 12 contested, the court may proceed immediately to enter a dispositional order.

NOTE: NOTE: Sub. (6) is shown as affected by two acts of the 1997 legislature and as merged by the revisor under s. 13.93 (2) (c).NOTE:

History: 1995 a. 27 s. 9126 (19); 1995 a. 77; 1997 a. 27, 35, 181, 237, 252; s. 13.93 (2) (c).

13 **SECTION 16. 938.31 (7) of the statutes is amended to read:**

14 **938.31 (7)** At the close of the fact-finding hearing, the court shall set a date for
 15 the dispositional hearing which allows a reasonable time for the parties to prepare
 16 but is no more than 10 days after the fact-finding hearing for a juvenile in secure
 17 custody and no more than 30 days after the fact-finding hearing for a juvenile not
 18 held in secure custody. If it appears to the court that disposition of the case may
 19 include placement of the juvenile outside the juvenile's home, the court shall order
 20 the juvenile's parent to provide a statement of income, assets, debts and living
 21 expenses to the court or the designated agency under s. 938.33 (1) at least 5 days
 22 before the scheduled date of the dispositional hearing or as otherwise ordered by the
 23 court. The clerk of court shall provide, without charge, to any parent ordered to
 24 provide a statement of income, assets, debts and living expenses a document setting



1 ~~forth the percentage standard established by the department of workforce~~
 2 ~~development under s. 49.22 (9) method of calculating child support under s. 767.251~~ ✓
 3 and listing the factors that a court may consider under s. 301.12 (14) (c). If all parties
 4 consent, the court may immediately proceed with a dispositional hearing.

NOTE: NOTE: Sub. (7) is shown as affected by two acts of the 1997 legislature and as merged by the revisor under s. 13.93 (2) (c).NOTE:
 History: 1995 a. 27 s. 9126 (19); 1995 a. 77; 1997 a. 27, 35, 181, 237, 252; s. 13.93 (2) (c).

5 **SECTION 17. 938.33 (4m) (intro.)** of the statutes is amended to read:

6 **938.33 (4m) SUPPORT RECOMMENDATIONS; INFORMATION TO PARENTS. (intro.)** In
 7 making a recommendation for an amount of child support under sub. (3) or (4), the
 8 agency shall consider the factors that the court considers under s. 301.12 (14) (c) for
 9 deviation from the ~~percentage standard~~ method of calculating child support under
 10 s. 767.251. ✓ At or before the dispositional hearing under s. 938.335, the agency shall
 11 provide the juvenile's parent with all of the following:

History: 1995 a. 77, 417; 1997 a. 27, 35, 237, 252.

12 **SECTION 18. 938.357 (5m)** of the statutes is amended to read:

13 **938.357 (5m)** If a proposed change in placement changes a juvenile's placement
 14 from a placement in the juvenile's home to a placement outside the juvenile's home,
 15 the court shall order the juvenile's parent to provide a statement of income, assets,
 16 debts and living expenses to the court or the person or agency primarily responsible
 17 for implementing the dispositional order by a date specified by the court. The clerk
 18 of court shall provide, without charge, to any parent ordered to provide a statement
 19 of income, assets, debts and living expenses a document setting forth the ~~percentage~~
 20 ~~standard established by the department of workforce development under s. 49.22 (9)~~
 21 method of calculating child support under s. 767.251 ✓ and listing the factors that a
 22 court may consider under s. 301.12 (14) (c). If the juvenile is placed outside the




1 juvenile's home, the court shall determine the liability of the parent in the manner
2 provided in s. 301.12 (14).

3 History: 1995 a. 27 s. 9126 (19); 1995 a. 77, 275, 352; 1997 a. 27, 35, 80, 205, 237.

3 SECTION 19. 938.363 (1) of the statutes is amended to read:

4 938.363 (1) A juvenile, the juvenile's parent, guardian or legal custodian, any
5 person or agency bound by a dispositional order or the district attorney or
6 corporation counsel in the county in which the dispositional order was entered may
7 request a revision in the order that does not involve a change in placement, including
8 a revision with respect to the amount of child support to be paid by a parent, or the
9 court may on its own motion propose such a revision. The request or court proposal
10 shall set forth in detail the nature of the proposed revision and what new information
11 is available that affects the advisability of the court's disposition. The request or
12 court proposal shall be submitted to the court. The court shall hold a hearing on the
13 matter if the request or court proposal indicates that new information is available
14 which affects the advisability of the court's dispositional order and prior to any
15 revision of the dispositional order, unless written waivers of objections to the revision
16 are signed by all parties entitled to receive notice and the court approves. If a hearing
17 is held, the court shall notify the juvenile, the juvenile's parent, guardian and legal
18 custodian, all parties bound by the dispositional order, the juvenile's foster parent,
19 treatment foster parent or other physical custodian described in s. 48.62 (2), and the
20 district attorney or corporation counsel in the county in which the dispositional order
21 was entered at least 3 days prior to the hearing. A copy of the request or proposal
22 shall be attached to the notice. If the proposed revision is for a change in the amount
23 of child support to be paid by a parent, the court shall order the juvenile's parent to
24 provide a statement of income, assets, debts and living expenses to the court and the



1 person or agency primarily responsible for implementing the dispositional order by
 2 a date specified by the court. The clerk of court shall provide, without charge, to any
 3 parent ordered to provide a statement of income, assets, debts and living expenses
 4 a document setting forth the ~~percentage standard established by the department of~~
 5 ~~workforce development under s. 49.22 (9)~~ method of calculating child support under
 6 s. 767.251 and listing the factors that a court may consider under s. 46.10 (14) (c).
 7 If all parties consent, the court may proceed immediately with the hearing. No
 8 revision may extend the effective period of the original order, or revise an original
 9 order under s. 938.34 (3) (f) or (6) (am) to impose more than 30 days of detention,
 10 nonsecure custody or inpatient treatment on a juvenile.

History: 1995 a. 27 s. 9126 (19); 1995 a. 77, 275; 1997 a. 35, 80, 237, 252.

11 **SECTION 20.** 948.22 (4) (b) of the statutes is amended to read:

12 948.22 (4) (b) For a person not subject to a court order requiring child,
 13 grandchild or spousal support payments, when the person knows or reasonably
 14 should have known that he or she has a dependent, failure to provide support equal
 15 to at least the amount established by ~~rule by the department of workforce~~
 16 ~~development under s. 49.22 (9)~~ the method of calculating child support under s.
 17 767.251 or causing a spouse, grandchild or child to become a dependent person, or
 18 continue to be a dependent person, as defined in s. 49.01 (2).

History: 1985 a. 29, 56; 1987 a. 332 s. 33; Stats. 1987 s. 948.22; 1989 a. 31, 212; 1993 a. 274, 481; 1995 a. 289; 1997 a. 35, 191, 252.

19 **SECTION 21.** 948.22 (7) (bm) of the statutes is amended to read:

20 948.22 (7) (bm) Upon request, the court may modify the amount of child or
 21 spousal support payments determined under par. (b) 2. if, after considering the
 22 factors listed in s. 767.25 (1m) or 767.51 (5), regardless of the fact that the action is
 23 not one for a determination of paternity or an action specified in s. 767.25 (1), the
 24 court finds, by the greater weight of the credible evidence, that ~~the~~ ^{strike} use of the

24



1 ~~percentage standard~~ method of calculating child support under s. 767.251 is unfair ✓
2 to the child or to either of the child's parents.

3 History: 1985 a. 29, 56; 1987 a. 332 s. 33; Stats. 1987 s. 948.22; 1989 a. 31, 212; 1993 a. 274, 481; 1995 a. 289; 1997 a. 35, 191, 252.

3 **SECTION 22. Initial applicability.**

4 (1) This act first applies to actions or proceedings, including actions or
5 proceedings to enforce or modify a judgment or order previously granted, that are
6 commenced on the effective date of this subsection.

(END OF INSERT 6-8) ✓

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

LRB-2022/P2dn
PJK:cmh:lp

JAK

1. I was not always certain of the meaning intended by the proposed language. You will just have to review the language in this draft and revise where necessary.

2. You will need to be more specific in describing the "new household" in s. 767.251 (1)(f). Is marriage required? If not, do you want to limit the application of the provision to certain types of relationships between household members? If so, what types of relationships?

3. You may want some changes to s. 767.251 (7). Since s. 767.251 is used to calculate child support for both original orders and modifications to orders, the way in which s. 767.251 (7) is drafted could have unintended results. For example, an original child support order may be granted in a divorce. The parent ordered to pay child support may remarry and have another child. Any order for modification of the original order would be reduced by the applicable percentage under s. 767.251 (7) because of the later-born child from the second marriage. If the parent paying child support to the first spouse then divorces the second spouse, the child support order in the second divorce would also be reduced because of the order in the first divorce. Is this the intention, that each order could be reduced because of the other order, regardless of which came first?

4. Notice the transition to the new method in s. 767.32 (1) (b) 4. and 5. Is this what you want?

5. Do you want the "Other provisions to consider" in the materials provided to me to be included in this draft?

6. Do you want a delayed effective date?

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: Pam.Kahler@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2022/P2dn
PJK:cmh:kjf

September 29, 1999

1. I was not always certain of the meaning intended by the proposed language. You will just have to review the language in this draft and revise where necessary.

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Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: Pam.Kahler@legis.state.wi.us