



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-2022/12
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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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1 **AN ACT** *to renumber and amend* 767.32 (2); *to amend* 46.10 (14) (b), 46.10 (14)
2 (c) (intro.), 46.10 (14) (d), 46.247, 48.30 (6), 48.31 (7), 48.33 (4m) (intro.), 48.357
3 (5m), 48.363 (1), 301.12 (14) (b), 301.12 (14) (c) (intro.), 301.12 (14) (d), 301.12
4 (14) (g), 767.085 (2) (b), 767.085 (2m) (a) 2., 767.085 (2m) (b), 767.23 (1n), 767.25
5 (1j), 767.25 (1m) (intro.), 767.25 (1n), 767.295 (2) (c), 767.32 (1) (b) 4., 767.32
6 (2m), 767.45 (7), 767.455 (6), 767.477 (2), 767.51 (4m), 767.51 (5) (intro.), 767.51
7 (5d), 767.62 (4) (d) 1., 767.62 (4) (c) (intro.), 767.62 (4) (f), 938.30 (6), 938.31 (7),
8 938.33 (4m) (intro.), 938.357 (5m), 938.363 (1), 948.22 (4) (b) and 948.22 (7)
9 (bm); *to repeal and recreate* 49.22 (9); and *to create* 767.251, 767.32 (1) (b)
10 5. and 767.32 (2) (b) of 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.

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

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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.

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:

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
21 amount of support that would be required by using the ~~percentage standard method~~
22 ~~under s. 767.251~~, the amount by which the court's order deviates from that amount,
23 its reasons for finding that use of the ~~percentage standard method under s. 767.251~~
24 is unfair to the child or the parent, its reasons for the amount of the modification and
25 the basis for the modification.

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

2 **46.247 Application of method of calculating child support standard for**
3 **certain children.** For purposes of determining child support under s. 46.10(14)(b),
4 the department shall promulgate rules related to the application of the ~~standard~~
5 ~~established by the department of workforce development under s. 49.22 (9) method~~
6 ~~under s. 767.251~~ to a child support obligation for the care and maintenance of a child
7 who is placed by a court order under s. 48.355 or 48.357 in a residential, nonmedical
8 facility. The rules shall take into account the needs of any person, including
9 dependent children other than the child, whom either parent is legally obligated to
10 support.

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

12 **48.30 (6)** If a petition is not contested, the court shall set a date for the
13 dispositional hearing which allows reasonable time for the parties to prepare but is
14 no more than 10 days after the plea hearing for a child who is held in secure custody
15 and no more than 30 days after the plea hearing for a child or an expectant mother
16 who is not held in secure custody. If it appears to the court that disposition of the case
17 may include placement of the child outside the child's home, the court shall order the
18 child's parent to provide a statement of income, assets, debts and living expenses to
19 the court or the designated agency under s. 48.33 (1) at least 5 days before the
20 scheduled date of the dispositional hearing or as otherwise ordered by the court. The
21 clerk of court shall provide, without charge, to any parent ordered to provide a
22 statement of income, assets, debts and living expenses a document setting forth the
23 ~~percentage standard established by the department of workforce development under~~
24 ~~s. 49.22 (9) method of calculating child support under s. 767.251~~ and the manner of
25 its application established by the department of health and family services under s.

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

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

4 48.31 (7) At the close of the fact-finding hearing, the court shall set a date for
5 the dispositional hearing which allows a reasonable time for the parties to prepare
6 but is no more than 10 days after the fact-finding hearing for a child in secure
7 custody and no more than 30 days after the fact-finding hearing for a child or
8 expectant mother who is not held in secure custody. If it appears to the court that
9 disposition of the case may include placement of the child outside the child's home,
10 the court shall order the child's parent to provide a statement of income, assets, debts
11 and living expenses to the court or the designated agency under s. 48.33 (1) at least
12 5 days before the scheduled date of the dispositional hearing or as otherwise ordered
13 by the court. The clerk of court shall provide, without charge, to any parent ordered
14 to provide a statement of income, assets, debts and living expenses a document
15 setting forth the ~~percentage standard established by the department of workforce~~
16 ~~development under s. 49.22 (9)~~ method of calculating child support under s. 767.251
17 and the manner of its application established by the department of health and family
18 services under s. 46.247 and listing the factors that a court may consider under s.
19 46.10 (14) (c). If all parties consent, the court may immediately proceed with a
20 dispositional hearing.

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

22 48.33 (4m) **SUPPORT RECOMMENDATIONS; INFORMATION TO PARENTS.** (intro.) In
23 making a recommendation for an amount of child support under sub. (4), the agency
24 shall consider the factors that the court considers under s. 46.10 (14) (c) for deviation
25 from the ~~percentage standard~~ method of calculating child support under s. 767.251.

1 Prior to the dispositional hearing under s. 48.335, the agency shall provide the child's
2 parent with all of the following:

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

4 **48.357 (5m)** If a proposed change in placement changes a child's placement
5 from a placement in the child's home to a placement outside the child's home, the
6 court shall order the child's parent to provide a statement of income, assets, debts
7 and living expenses to the court or the person or agency primarily responsible for
8 implementing the dispositional order by a date specified by the court. The clerk of
9 court shall provide, without charge, to any parent ordered to provide a statement of
10 income, assets, debts and living expenses a document setting forth the percentage
11 ~~standard established by the department of workforce development under s. 49.22 (9)~~
12 method of calculating child support under s. 767.251 and the manner of its
13 application established by the department of health and family services under s.
14 46.247 and listing the factors that a court may consider under s. 46.10 (14) (c). If the
15 child is placed outside the child's home, the court shall determine the liability of the
16 parent in the manner provided in s. 46.10 (14).

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

18 **48.363 (1)** A child, the child's parent, guardian or legal custodian, an expectant
19 mother, an unborn child by the unborn child's guardian ad litem, any person or
20 agency bound by a dispositional order or the district attorney or corporation counsel
21 in the county in which the dispositional order was entered may request a revision in
22 the order that does not involve a change in placement, including a revision with
23 respect to the amount of child support to be paid by a parent, or the court may on its
24 own motion propose such a revision. The request or court proposal shall set forth in
25 detail the nature of the proposed revision and what new information is available that

1 affects the advisability of the court's disposition. The request or court proposal shall
2 be submitted to the court. The court shall hold a hearing on the matter if the request
3 or court proposal indicates that new information is available which affects the
4 advisability of the court's dispositional order and prior to any revision of the
5 dispositional order, unless written waivers of objections to the revision are signed by
6 all parties entitled to receive notice and the court approves. If a hearing is held, the
7 court shall notify the child, the child's parent, guardian and legal custodian, all
8 parties bound by the dispositional order, the child's foster parent, treatment foster
9 parent or other physical custodian described in s. 48.62 (2), the district attorney or
10 corporation counsel in the county in which the dispositional order was entered, and,
11 if the child is the expectant mother of an unborn child under s. 48.133, the unborn
12 child by the unborn child's guardian ad litem or shall notify the adult expectant
13 mother, the unborn child through the unborn child's guardian ad litem, all parties
14 bound by the dispositional order and the district attorney or corporation counsel in
15 the county in which the dispositional order was entered, at least 3 days prior to the
16 hearing. A copy of the request or proposal shall be attached to the notice. If the
17 proposed revision is for a change in the amount of child support to be paid by a parent,
18 the court shall order the child's parent to provide a statement of income, assets, debts
19 and living expenses to the court and the person or agency primarily responsible for
20 implementing the dispositional order by a date specified by the court. The clerk of
21 court shall provide, without charge, to any parent ordered to provide a statement of
22 income, assets, debts and living expenses a document setting forth the percentage
23 ~~standard established by the department of workforce development under s. 49.22 (9)~~
24 method of calculating child support under s. 767.251 and the manner of its
25 application established by the department of health and family services under s.

1 46.247 and listing the factors that a court may consider under s. 46.10 (14) (c). If all
2 parties consent, the court may proceed immediately with the hearing. No revision
3 may extend the effective period of the original order.

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

5 49.22 (9) The department shall prepare and make available to judges and other
6 court personnel forms, tables, computer software and instruction manuals or other
7 publications to aid in the calculation of child support by using the method under s.
8 767.251.

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

10 301.12 (14) (b) Except as provided in par. (c) and subject to par. (cm), liability
11 of a parent specified in sub. (2) or s. 301.03 (18) for the care and maintenance of the
12 parent's minor child who has been placed by a court order under s. 938.183, 938.355
13 or 938.357 in a residential, nonmedical facility such as a group home, foster home,
14 treatment foster home, child caring institution or juvenile correctional institution
15 shall be determined by the court by using the ~~percentage standard established by the~~
16 ~~department of workforce development under s. 49.22 (9) method of calculating child~~
17 support under s. 767.251 and by applying the ~~percentage standard~~ method in the
18 manner established by the department under par. (g).

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

20 301.12 (14) (c) (intro.) Upon request by a parent, the court may modify the
21 amount of child support payments determined under par. (b), subject to par. (cm), if,
22 after considering the following factors, the court finds by the greater weight of the
23 credible evidence that ~~the use of the percentage standard~~ method of calculating child
24 support under s. 767.251 is unfair to the child or to either of the parents:

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

1 301.12 (14) (d) If the court finds under par. (c) that use of the percentage
2 ~~standard method of calculating child support under s. 767.251~~ is unfair to the minor
3 child or either of the parents, the court shall state in writing or on the record the
4 amount of support that would be required by using the ~~percentage standard method~~
5 ~~under s. 767.251~~, the amount by which the court's order deviates from that amount,
6 the court's reasons for finding that use of the ~~percentage standard method under s.~~
7 ~~767.251~~ is unfair to the child or the parent, the court's reasons for the amount of the
8 modification and the basis for the modification.

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

10 301.12 (14) (g) For purposes of determining child support under par. (b), the
11 department shall promulgate rules related to the application of the ~~standard~~
12 ~~established by the department of workforce development under s. 49.22 (9) method~~
13 ~~under s. 767.251~~ to a child support obligation for the care and maintenance of a child
14 who is placed by a court order under s. 938.183, 938.355 or 938.357 in a residential,
15 nonmedical facility. The rules shall take into account the needs of any person,
16 including dependent children other than the child, whom either parent is legally
17 obligated to support.

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

19 767.085 (2) (b) The clerk of court shall provide without charge, to each person
20 filing a petition requesting child support, a document setting forth the percentage
21 ~~standard established by the department under s. 49.22 (9) method of calculating~~
22 ~~child support under s. 767.251~~ and listing the factors which a court may consider
23 under s. 767.25 (1m).

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

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

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

6 767.085 (2m) (b) If service is by publication, notification regarding s. 948.31
7 may consist of references to the statute numbers and titles, and information relating
8 to the ~~percentage standard method of calculating child support~~ and the factors need
9 not be provided.

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

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

22 **SECTION 19.** 767.25 (1j) of the statutes is amended to read:

23 767.25 (1j) Except as provided in sub. (1m), the court shall determine child
24 support payments by using the ~~percentage standard established by the department~~
25 ~~under s. 49.22 (9) method under s. 767.251~~.

1 **SECTION 20.** 767.25 (1m) (intro.) of the statutes is amended to read:

2 767.25 (1m) (intro.) Upon request by a party, the court may modify the amount
3 of child support payments determined under ~~sub. (1)~~ s. 767.251 if, after considering
4 the following factors, the court finds by the greater weight of the credible evidence
5 that use of the ~~percentage standard method under s. 767.251~~ is unfair to the child
6 or to any of the parties:

7 **SECTION 21.** 767.25 (1n) of the statutes is amended to read:

8 767.25 (1n) If the court finds under sub. (1m) that use of the ~~percentage~~
9 ~~standard method of calculating child support under s. 767.251~~ is unfair to the child
10 or the requesting party, the court shall state in writing or on the record the amount
11 of support that would be required by using the ~~percentage standard method under~~
12 s. 767.251, the amount by which the court's order deviates from that amount, its
13 reasons for finding that use of the ~~percentage standard method under s. 767.251~~ is
14 unfair to the child or the party, its reasons for the amount of the modification and the
15 basis for the modification.

16 **SECTION 22.** 767.251 of the statutes is created to read:

17 **767.251 Calculation of child support payments. (1) GROSS INCOME.** For
18 purposes of determining a parent's gross income under this section, all of the
19 following apply:

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

- 21 1. All income considered gross income for federal income tax purposes.
- 22 2. Net proceeds from worker's compensation or other personal injury awards
23 intended to replace income.
- 24 3. Income continuation benefits.

1 4. Voluntary deferred compensation or employe contributions to a
2 profit-sharing or pension account.

3 5. Military allowances and veterans benefits.

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

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

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

10 1. Any maintenance paid to the other parent or to a former spouse.

11 2. If the parent is self-employed, one-half of the parent's unemployment tax.

12 3. Business expenses that the court considers necessary for the production of
13 income but that are not allowed as deductions for expenses for tax purposes.

14 4. ^{on}One-time capital gain income from the sale of individual passive
15 investments.

16 5. ^{on}One-time capital gain income from the sale of the family home.

17 (d) If the court determines that a party has encumbered, concealed, damaged,
18 destroyed, transferred or otherwise disposed of property for the purpose of avoiding
19 payment of child support, or that child support based on the gross incomes of the
20 parties will not adequately provide for the child and that the parties have
21 nonproductive assets, the court may impute income to one or both parents from such
22 property or assets by multiplying the value of the property or asset by the current
23 6-month treasury bill interest rate and including the amount obtained in the gross
24 income of the parent.

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1 (e) If the court determines that a parent is underemployed, the court may
2 impute to that parent a gross income that is greater than the parent's actual gross
3 income. The court shall base the imputed gross income on the parent's educational
4 attainment and work experience and the availability of work in the parent's
5 community.

6 (f) The court may impute to a parent one-half of the parent's total ~~household~~^{marital}
7 income if all of the following apply:

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

11 (2) GROSS MONTHLY CHILD SUPPORT OBLIGATIONS. For the purpose of determining
12 child support payments under sub. (4), the court shall determine each parent's gross
13 monthly child support obligation as follows:

14 (a) If the combined gross monthly income of the parents is equal to or less than
15 \$4,000, the gross monthly child support obligation of each parent equals the
16 following percentage of that parent's gross monthly income:

- 17 1. If there is one minor child, 17%.
- 18 2. If there are 2 minor children, 25%.
- 19 3. If there are 3 minor children, 29%.
- 20 4. If there are 4 minor children, 31%.
- 21 5. If there are 5 or more minor children, 34%.

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

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

3 a. If there is one minor child, \$680 plus 8.5% of the parents' combined gross
4 monthly income in excess of \$4,000.

5 b. If there are 2 minor children, \$1,000 plus 12.5% of the parents' combined
6 gross monthly income in excess of \$4,000.

7 c. If there are 3 minor children, \$1,160 plus 14.5% of the parents' combined
8 gross monthly income in excess of \$4,000.

9 d. If there are 4 minor children, \$1,240 plus 15.5% of the parents' combined
10 gross monthly income in excess of \$4,000.

11 e. If there are 5 or more minor children, \$1,360 plus 17% of the parents'
12 combined gross monthly income in excess of \$4,000.

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

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

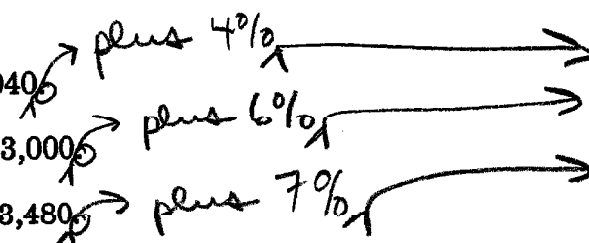
19 (c) If the combined gross monthly income of the parents is greater than \$20,000,
20 the gross monthly child support obligation of each parent is calculated as follows:

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

23 a. If there is one minor child, \$2,040

24 b. If there are 2 minor children, \$3,000

25 c. If there are 3 minor children, \$3,480



of the parents' combined gross monthly income in excess of \$20,000

of the parents' combined gross income in excess of

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d. If there are 4 minor children, \$3,720

plus 8%

e. If there are 5 or more minor children, \$4,080

plus 9%

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 amount under subd. 1.

~~(d) Notwithstanding par. (c), if the court determines by the greater weight of the credible evidence that a greater amount of support than the applicable amount under par. (c) 1. is appropriate under the circumstances of the case, the court may increase the amount under par. (c) 1. by an amount not exceeding the following percentage of the parents' combined gross monthly income in excess of \$20,000:~~

- ~~1. If there is one minor child, 4%.~~
- ~~2. If there are 2 minor children, 6%.~~
- ~~3. If there are 3 minor children, 7%.~~
- ~~4. If there are 4 minor children, 8%.~~
- ~~5. If there are 5 or more minor children, 9%.~~

(3) AMOUNT OF PHYSICAL PLACEMENT. (a) For the purpose of determining child support payments under sub. (4), the court shall determine the amount of physical placement that a parent has on the basis of the number of ^{days} ~~rights~~ out of a total of 365 ^{days in} ~~rights~~ a year, that the parent provides ~~with~~ care for the child. ~~Under~~ ^{determining}

~~the number of ~~rights~~ under this paragraph, the court may count as equivalent to an overnight stay a period of physical placement during which the child does not actually stay overnight with the parent but that the court determines~~

Insert 14-27

1 requires a comparable amount of care. If the court counts a period of physical
2 placement as equivalent to an overnight stay with a parent, the court must make a
3 corresponding reduction in the other parent's number of overnight stays so that the
4 total number of overnight stays in a year for both parents in the aggregate equals
5 365.

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

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

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

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

23 1. Each parent's gross monthly child support obligation determined under sub.
24 (2) shall be multiplied by 1.4 and by the other parent's percentage of physical

1 placement determined under sub. (3) (b). The product under this subdivision for each
2 parent is that parent's net monthly child support obligation.

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

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

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

13 (2). *allocate between the parents, or assign to one parent.*

14 (5) ASSIGNMENT OF CERTAIN EXPENSES. Upon the request of a ^{parent} ~~party~~, the court may
15 ~~require a party to pay~~ ^{insert 16-16} an expense that benefits the child regardless of the
16 child's placement. The court shall assume that each parent is responsible for
17 payment of the expense in the same ^{percentage} ~~proportion~~ as the parent's ~~gross child support~~
18 ~~obligation bears to the parents' combined gross child support obligation and shall~~
19 ~~allocate a corresponding increase and decrease in each parent's gross child support~~
20 ~~obligation to compensate for the court's assignment of the expense to the~~
21 ~~parent.~~ *insert 16-21*

22 (6) SPLIT PLACEMENT. If there is more than one child ~~and each parent has~~
23 ~~placement of at least one child for a greater amount of time than the other parent,~~
24 ~~the court shall determine the amount of child support that each parent is required~~
25 ~~to pay to the other parent under sub. (4) (a) or (b) 2. or 3. and shall order the parent~~

percentage of physical placement with the child

→ child support

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only

1 who is required to pay the greater amount to pay the difference in the amounts to the
2 other parent.

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

- 9 (a) If the number of other children being supported is one, 90%.
10 (b) If the number of other children being supported is two, 85%.
11 (c) If the number of other children being supported is three, 80%.
12 (d) If the number of other children being supported is four or more, 75%.

13 SECTION 23. 767.295 (2) (c) of the statutes is amended to read:

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

1 **SECTION 24.** 767.32 (1) (b) 4. of the statutes is amended to read:

2 767.32 (1) (b) 4. ~~A- If the action in which the court most recently ordered child~~
3 ~~support, including a revision of a child support order under this section, was~~
4 ~~commenced before the effective date of this subdivision [revisor inserts date], a~~
5 ~~difference between the amount of child support ordered by the court to be paid by the~~
6 ~~payer and the amount that the payer would have been required to pay based on the~~
7 ~~percentage standard established by the department under s. 49.22 (9) if the court did~~
8 ~~not use the percentage standard in determining the child support payments and did~~
9 ~~not provide the information required under s. 46.10 (14) (d), 301.12 (14) (d), 767.25~~
10 ~~(1n), 767.51 (5d) or 767.62 (4) (f), whichever is appropriate.~~

Insert 18-10

11 **SECTION 25.** 767.32 (1) (b) 5. of the statutes is created to read:

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

21 **SECTION 26.** 767.32 (2) of the statutes is renumbered 767.32 (2) (a) and
22 amended to read:

23 767.32 (2) (a) Except as provided in sub. (2m) or (2r), if the court revises a
24 judgment or order with respect to child support payments, it shall do so by using the

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

3 **SECTION 27.** 767.32 (2) (b) of the statutes is created to read:

4 767.32 (2) (b) In determining the amount of physical placement that each
5 parent has for purposes of calculating child support under s. 767.251 (2), the court
6 shall use the actual time that a child regularly spends with each parent, regardless
7 of the allocation of physical placement between the parents under a physical
8 placement order.

9 **SECTION 28.** 767.32 (2m) of the statutes is amended to read:

10 767.32 (2m) Upon request by a party, the court may modify the amount of
11 revised child support payments determined under sub. (2) if, after considering the
12 factors listed in s. 767.25 (1m), 767.51 (5) or 767.62 (4) (e), as appropriate, the court
13 finds, by the greater weight of the credible evidence, that the use of the percentage
14 standard method of calculating child support under s. 767.251 is unfair to the child
15 or to any of the parties.

16 **SECTION 29.** 767.45 (7) of the statutes is amended to read:

17 767.45 (7) The clerk of court shall provide without charge, to each person
18 bringing an action under this section, except to the state under sub. (1) (g) or (6m),
19 a document setting forth the ~~percentage standard established by the department~~
20 ~~under s. 49.22 (9) method of calculating child support under s. 767.251~~ and listing
21 the factors which a court may consider under s. 767.51 (5).

22 **SECTION 30.** 767.455 (6) of the statutes is amended to read:

23 767.455 (6) DOCUMENT. The summons served on the respondent shall be
24 accompanied by a document, provided without charge by the clerk of court, setting
25 forth the ~~percentage standard established by the department under s. 49.22 (9)~~

1 method of calculating child support under s. 767.251 and listing the factors which a
2 court may consider under s. 767.51 (5).

3 **SECTION 31.** 767.477 (2) of the statutes is amended to read:

4 767.477 (2) Before making any temporary order under sub. (1), the court shall
5 consider those factors that the court is required under s. 767.51 to consider when
6 granting a final judgment on the same subject matter. If the court makes a
7 temporary child support order that deviates from the amount of support that would
8 be required by using the ~~percentage standard established by the department under~~
9 ~~s. 49.22 (9)~~ method of calculating child support under s. 767.251, the court shall
10 comply with the requirements of s. 767.51 (5d).

11 **SECTION 32.** 767.51 (4m) of the statutes is amended to read:

12 767.51 (4m) Except as provided in sub. (5), the court shall determine child
13 support payments by using the ~~percentage standard established by the department~~
14 ~~under s. 49.22 (9)~~ method under s. 767.251.

15 **SECTION 33.** 767.51 (5) (intro.) of the statutes is amended to read:

16 767.51 (5) (intro.) Upon request by a party, the court may modify the amount
17 of child support payments determined under sub. (4m) if, after considering the
18 following factors, the court finds by the greater weight of the credible evidence that
19 use of the ~~percentage standard~~ method under s. 767.251 is unfair to the child or to
20 the requesting party:

21 **SECTION 34.** 767.51 (5d) of the statutes is amended to read:

22 767.51 (5d) If the court finds under sub. (5) that use of the ~~percentage standard~~
23 method of calculating child support under s. 767.251 is unfair to the child or the
24 requesting party, the court shall state in writing or on the record the amount of
25 support that would be required by using the ~~percentage standard~~ method under s.

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

5 **SECTION 35.** 767.62 (4) (d) 1. of the statutes is amended to read:

6 767.62 (4) (d) 1. Except as provided in par. (e), the court or family court
7 commissioner shall determine child support payments under par. (a) by using the
8 ~~percentage standard established by the department under s. 49.22 (9)~~ method under
9 s. 767.251.

10 **SECTION 36.** 767.62 (4) (e) (intro.) of the statutes is amended to read:

11 767.62 (4) (e) (intro.) Upon request by a party, the court or family court
12 commissioner may modify the amount of child support payments determined under
13 par. (d) if, after considering the following factors, the court or family court
14 commissioner finds by the greater weight of the credible evidence that use of the
15 ~~percentage standard~~ method of calculating child support under s. 767.251 is unfair
16 to the child or to the requesting party:

17 **SECTION 37.** 767.62 (4) (f) of the statutes is amended to read:

18 767.62 (4) (f) If the court or family court commissioner finds under par. (e) that
19 use of the ~~percentage standard~~ method of calculating child support under s. 767.251
20 is unfair to the child or the requesting party, the court or family court commissioner
21 shall state in writing or on the record the amount of support that would be required
22 by using the ~~percentage standard~~ method under s. 767.251, the amount by which the
23 court's or family court commissioner's order deviates from that amount, the reasons
24 for finding that use of the ~~percentage standard~~ method under s. 767.251 is unfair to

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

3 **SECTION 38.** 938.30 (6) of the statutes is amended to read:

4 938.30 (6) If a petition is not contested, the court shall set a date for the
5 dispositional hearing which allows reasonable time for the parties to prepare but is
6 no more than 10 days from the plea hearing for a juvenile who is held in secure
7 custody and no more than 30 days from the plea hearing for a juvenile who is not held
8 in secure custody. If it appears to the court that disposition of the case may include
9 placement of the juvenile outside the juvenile's home, the court shall order the
10 juvenile's parent to provide a statement of income, assets, debts and living expenses
11 to the court or the designated agency under s. 938.33 (1) at least 5 days before the
12 scheduled date of the dispositional hearing or as otherwise ordered by the court. The
13 clerk of court shall provide, without charge, to any parent ordered to provide a
14 statement of income, assets, debts and living expenses a document setting forth the
15 ~~percentage standard established by the department of workforce development under~~
16 ~~s. 49.22 (9) method of calculating child support under s. 767.251~~ and listing the
17 factors that a court may consider under s. 301.12 (14) (c). If all parties consent the
18 court may proceed immediately with the dispositional hearing. If a citation is not
19 contested, the court may proceed immediately to enter a dispositional order.

20 **SECTION 39.** 938.31 (7) of the statutes is amended to read:

21 938.31 (7) At the close of the fact-finding hearing, the court shall set a date for
22 the dispositional hearing which allows a reasonable time for the parties to prepare
23 but is no more than 10 days after the fact-finding hearing for a juvenile in secure
24 custody and no more than 30 days after the fact-finding hearing for a juvenile not
25 held in secure custody. If it appears to the court that disposition of the case may

1 include placement of the juvenile outside the juvenile's home, the court shall order
2 the juvenile's parent to provide a statement of income, assets, debts and living
3 expenses to the court or the designated agency under s. 938.33 (1) at least 5 days
4 before the scheduled date of the dispositional hearing or as otherwise ordered by the
5 court. The clerk of court shall provide, without charge, to any parent ordered to
6 provide a statement of income, assets, debts and living expenses a document setting
7 forth the ~~percentage standard established by the department of workforce~~
8 ~~development under s. 49.22 (9) method of calculating child support under s. 767.251~~
9 and listing the factors that a court may consider under s. 301.12 (14) (c). If all parties
10 consent, the court may immediately proceed with a dispositional hearing.

11 **SECTION 40.** 938.33 (4m) (intro.) of the statutes is amended to read:

12 938.33 (4m) SUPPORT RECOMMENDATIONS; INFORMATION TO PARENTS. (intro.) In
13 making a recommendation for an amount of child support under sub. (3) or (4), the
14 agency shall consider the factors that the court considers under s. 301.12 (14) (c) for
15 deviation from the ~~percentage standard~~ method of calculating child support under
16 s. 767.251. At or before the dispositional hearing under s. 938.335, the agency shall
17 provide the juvenile's parent with all of the following:

18 **SECTION 41.** 938.357 (5m) of the statutes is amended to read:

19 938.357 (5m) If a proposed change in placement changes a juvenile's placement
20 from a placement in the juvenile's home to a placement outside the juvenile's home,
21 the court shall order the juvenile's parent to provide a statement of income, assets,
22 debts and living expenses to the court or the person or agency primarily responsible
23 for implementing the dispositional order by a date specified by the court. The clerk
24 of court shall provide, without charge, to any parent ordered to provide a statement
25 of income, assets, debts and living expenses a document setting forth the ~~percentage~~

1 standard established by the department of workforce development under s. 49.22 (9)
2 method of calculating child support under s. 767.251 and listing the factors that a
3 court may consider under s. 301.12 (14) (c). If the juvenile is placed outside the
4 juvenile's home, the court shall determine the liability of the parent in the manner
5 provided in s. 301.12 (14).

6 SECTION 42. 938.363 (1) of the statutes is amended to read:

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

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

13 **SECTION 43.** 948.22 (4) (b) of the statutes is amended to read:

14 948.22 (4) (b) For a person not subject to a court order requiring child,
15 grandchild or spousal support payments, when the person knows or reasonably
16 should have known that he or she has a dependent, failure to provide support equal
17 to at least the amount established by ~~rule by the department of workforce~~
18 ~~development under s. 49.22 (9) the method of calculating child support under s.~~
19 767.251 or causing a spouse, grandchild or child to become a dependent person, or
20 continue to be a dependent person, as defined in s. 49.01 (2).

21 **SECTION 44.** 948.22 (7) (bm) of the statutes is amended to read:

22 948.22 (7) (bm) Upon request, the court may modify the amount of child or
23 spousal support payments determined under par. (b) 2. if, after considering the
24 factors listed in s. 767.25 (1m) or 767.51 (5), regardless of the fact that the action is
25 not one for a determination of paternity or an action specified in s. 767.25 (1), the

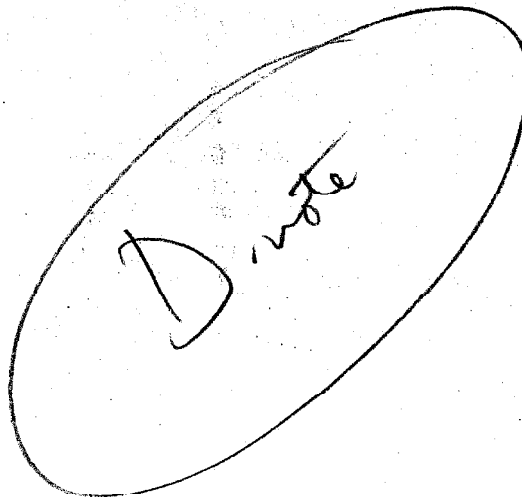
1 court finds, by the greater weight of the credible evidence, that the use of the
2 ~~percentage standard method of calculating child support under s. 767.251~~ is unfair
3 to the child or to either of the child's parents.

4 **SECTION 45. Initial applicability.**

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

8

(END)



A handwritten note consisting of the word "D" followed by "note" in cursive script, enclosed within a hand-drawn oval.

Kahler, Pam

From: jraz [jraz@execpc.com]
Sent: Wednesday, October 06, 1999 9:47 AM
To: Emerson, James
Cc: Pam.Kahler@legis.state.wi.us
Subject: Re: LRB 2022/p2dn new child support standard

To: Pam Kahler and Jim Emerson

The following is a response to your September 29, 1999 comments regarding this draft.

By a copy of this e mail to Senator Lazich's office I ask her office to authorize you to proceed with the making the changes noted in this response.

If you have any further questions please call me.

Jan Raz
10120 West Forest Home Ave
Hales Corners, WI 53130
Tel. 414 425-4866
Fax. 414 425-8405
e-mail jraz@execpc.com

1. In light of the confusion about the proposes language, please consider replacing the entire section 22 (767.251) with the format and language attached below. Does this make this method easier to understand and apply?

2. The revised language for section 22 below changes the term "household income" to "marital income".

d-note, not defined - stated in other "covered"

✓ 3. The scenarios you describe are the correct intended results. The intent is to try to provide the same support entitlement to all children regardless of their birth order or order of child support obligations. In your scenario under the present method if the non primary placement parent has a \$1000 per month income the first child would be entitled to \$170 per month the next child only \$141. Under the new method both children would be entitled to \$153 per month.

✓ 4. I don't see any significance of 767.32(1)(b) 4. ? Rather than revising this provision, can we repeal this provision and replace it with?

parent consistently fails to exercise phys place & new method results in that parent paying higher amount?

"If the existing child support award was define based on a parent assuming physical placement of the child, but the parent consistently fails to exercise the agreed upon placement responsibility for the child, and the child support order defined by the application of the method of calculating child support under s. 767.251 based on the actual periods of placement the parent cares for the child exceeds 15 percent of, or more than \$60 each month difference from, the current order."

767.32(1)(b) 2. (?)

✓ 5. Revise 767.32(2) to delete the portion that reads "Unless the amount of child support is expressed in the judgement or order as a percentage of parental income". Revise to read:

"The expiration of 33 months from the date entry of the last child support order, including a revision of a child support order under this section and the child support order defined by the application of the method of calculating child support under s. 767.251 exceeds 10 percent of, or more than \$40 each month difference from, the current order."

(33 months & new method results in higher amount)

767.32(1)(b)

(The last part of this provision is consistent with DWD policy as defined in publication PES- 861(R. 02/99).)

✓ 6. The March 1995 revision of the HSS 80 standard had no delay date so I don't think we need a delay date for this method.

7. Your last draft excluded the following income provisions. Maintenance received, Unemployment compensation, Tax free income. Was this intentional? I put them back in.

included in (1)(a)!

too vague??

I also redefined placement from overnights to days. This more correctly reflects the economic expenditures of children. Parents don't spend money on kids when they are asleep.

Section 22: Replace entire section with the following:

767.251 Calculation of child support payments

(1) Determining the child support payments of a parent. For the purpose of determining child support payments the court shall first determine each parent's monthly gross income, the combined monthly gross income of both parents, the portion of the 365 days per year each parent assumes placement of the child, and the number of other children the parent is supporting. The court shall then determine the child support obligation of each parent and child support payments as follows:

(a) The court shall determine each parent's gross monthly child support obligation as follows:

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

1. If there is one minor child, 17%.
2. If there are 2 minor children, 25%.
3. If there are 3 minor children, 29%.
4. If there are 4 minor children, 31%.
5. If there are 5 or more minor children, 34%.

(2) If the combined gross monthly income of both parents is greater than \$4,000 but not greater than \$20,000, the court shall first determine the combined gross monthly child support obligation of both parents and then allocate the obligation of each parent based on each parent's percentage of the combined gross income of both parents.

possibly something else

The combined gross monthly child support obligation of both parents equals the following amount plus the respective percentage of the combined gross monthly income of both parents in excess of \$4,000:

- a. If there is one minor child, \$680 plus 8.5%.
- b. If there are 2 minor children, \$1,000 plus 12.5%.
- c. If there are 3 minor children, \$1,160 plus 14.5%.
- d. If there are 4 minor children, \$1,240 plus 15.5%.
- e. If there are 5 or more minor children, \$1,360 plus 17%.

similar?

(3) If the combined gross monthly income of both parents is greater than \$20,000, the court shall define the combined gross monthly child support obligation of both parents and then allocate the obligation of each parent based on each parent's percentage of the combined gross income of both parents.

The combined gross monthly child support obligation of both parents equals the following amount plus the respective percentage of the combined gross monthly income of both parents in excess of \$20,000:

- a. If there is one minor child, \$2,040 plus 4%.
- b. If there are 2 minor children, \$3,000 plus 6%.
- c. If there are 3 minor children, \$3,480 plus 7%.
- d. If there are 4 minor children, \$3,720 plus 8%.
- e. If there are 5 or more minor children, \$4,080 plus 9%.

(b) Except as provided in subd. (4), if the court grants periods of physical placement to a parent for less than 55 days per year, this parent shall pay his or her child support obligation as a child support payment to the other parent, or third party or agency, if placed with a third party or agency. The parent who has primary placement of the child is expected to share his or her child support obligation directly with the child.

✓ (2) Determining gross income of a parent:

For purposes of determining a parent's gross income under this section, all of the following apply:

- ✓ (a) The court shall include as income of a parent all of the following:
- 1. All income considered gross income for federal income tax purposes.
 - 2. Net proceeds from worker's compensation or other personal injury awards intended to replace income.
 - 3. Income continuation benefits.
 - 4. Voluntary deferred compensation or employee contributions to a profit-sharing or pension account.
 - 5. Military allowances and veterans benefits.
 - 6. The parent's portion of undistributed income from a closely held corporation in which the parent has a sufficient interest to exercise control or to access the earnings of the business.
 - 7. Maintenance received.
 - 8. Unemployment compensation.
 - 9. Tax free income.

any other income?

*not include or deduct?
why would it be included?
does it come under (a)?
D-note*

- ✓ (b) The court shall not include as income of a parent all of the following:
- 1. Any maintenance paid to the other parent or to a former spouse.
 - 2. If the parent is self-employed, one-half of the parent's unemployment tax.
 - 3. Business expenses that the court considers necessary for the production of income but that are not allowed as deductions for expenses for tax purposes.
 - 4. One-time capital gain income from the sale of individual passive investments.
 - 5. One-time capital gain income from the sale of the family home.
 - 6. Any child support payments received.

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

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

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

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

1. The parent has physical placement of the child for at least 55 days per year and one half of the marital income of this parents is significantly higher than the individual income of the other parent.
2. One half of the parent's marital income is greater than that parents' individual income.

what if less than 3 hours?
not counted or counted but
straight up?

(3) Determining periods of placement of a parent:

In determining the number of days per year each parent has placement of the child, the court shall consider a day as a 24 hour period during which a parent has placement of the child. If a parent has placement of the child for more than three hours of a day but less than 24 hours, the court shall allocate a portions of the day a parent has placement for the child to reflect the portion of expenses incurred by the parents for the care of the child during that day. The court shall then adjust the days for each parent so the total equals 365. The percentage of the 365 days each year a parent has placement is that parent's "placement share".

impossible to do -
the it cannot know -
a parent cannot know -
in advance who
will spend what
what on
any
for

(4) Determining child support payments in special circumstances

If the following circumstances apply, the court shall determine child support payments as follows:

what if not "special
circumstances"?
leaves out (4)(a)
D-note

(a) SHARED PHYSICAL PLACEMENT. If the court grants periods of physical placement to both parents and each parent has physical placement of the child for at least 56 days a year, the court shall determine child support payments in the following manner:

1. Each parent's gross monthly child support obligation determined under sub. (2) shall be multiplied by 1.4 and by the other parent's "placement share" determined under sub. (3). The product under this subdivision for each parent is that parent's net monthly child support obligation.

is this
whole day?
24 hours?
how many days is the following:
Fri from 5 pm
Sat
Sun until 5 pm
1, 2, 3??

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

why give it a name when
used only once?

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

4. If requested to do so by a party, the court may allocate the responsibility for the payment of certain child related expenses (school tuition, books, uninsured medical, school activities, instruments etc.), which are paid for by one parent but which benefits the child during placement periods with both parents. Each parent shall be responsible to pay a portion of these expenses in proportion to each parent's "placement share". If the court allocates responsibility for these expenses to a parent, the court shall adjust the child support award determined under subd. 2. for these expenses by adding to or subtracting from the paying parent's his or her portion of these expenses.

I don't get this -
can it order one or
both to pay?
sounds like directing at
to divide between
parents in proportion to
"placement share"
& if so, would an
adjustment be
necessary?
could be possible try to
describe what he wants
or what is current
language where
it gets wrong?
(5)

(b) SPLIT PLACEMENT. If there is more than one child and each parent has placement of the each child for a different amount of time, the court shall determine the amount of child support that each parent is required to pay to the other parent under sub. (1) or sub.(4)(a), and taking into consideration the factors defined under sub.(4)(c). The parent who is required to pay the greater amount shall pay as child support the difference in the amounts to the other parent.

make up (6)

(c) OBLIGATIONS TO OTHER CHILDREN. If a parent who is obligated to pay

child support under this section is supporting one or more natural or adopted children from a current marriage, or by another child support order, the court shall reduce the amount of child support that the parent is required to pay by multiplying the amount determined under sub. (1) or sub.(4)(a) or (4)(b) by the following percentage:

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

----- Original Message -----

From: Emerson, James <James.Emerson@legis.state.wi.us>

To: <jraz@execpc.com>

Sent: Wednesday, September 29, 1999 4:49 PM

> Dear Jan:

>

> I am sending down to you the latest draft from Pam Kahler. I do not have
> the draft in an electronic form, so I am sending it via U.S. Mail. Pam
has

> several questions in the Drafter's Note page. Once you receive the draft
> will you please address the questions and copy our office your reply.

>

> If you have any questions or comments, please contact Senator Lazich's
> office at 1-800-334-1442..

>

> Sincerely,

>

> Jim Emerson

> Senator Lazich's Office

>

FROM : CPS INC.

ADJUSTMENT

An adjustment or a modification is a legal change of the child support order. Usually this happens because changes in circumstances require an adjustment.

The adjustment may increase or decrease the child support amount. It may also order one of the parents to carry health insurance for the child.

After a review is done, a change does not have to be made if:

- The order conforms to the percentage guidelines and provides for health insurance.
 - The noncustodial parent cannot be located.
 - The change in the child support would be less than 10 percent of the current order or the difference is less than \$40 each month.
- If both parents in the case agree to the change, the child support agency would submit this agreement to the court. If the parents cannot agree on the change, the court will decide whether the change is appropriate.

REVIEW

When a state agency asks for a review. This may be done when the child does not live with either parent (for example, the child is in Foster Care), or the family takes part in Wisconsin Works (W-2).

Upon request, the county or tribal child support agency may do a review more often than every three years if there has been an unusual change in circumstances (for example, the noncustodial parent's employer closes down).

A review would not be done in cases when:

- There is no obligation that exists or should exist to provide current support.
- "Good cause" for non-cooperation has been found for the custodial parent in the case or a determination is pending (unless the custodial parent asks for a review).
- The order is in another jurisdiction.
- The whereabouts of the noncustodial parent is unknown.
- All dependents have died.
- The paying parent has died.
- All children are emancipated (or at least 18 years old).

Both parents will receive a notice before a review is done

REVIEW

A review is a procedure to look at an existing child support order. The review is done by the county or tribal child support agency upon the request of either parent.

Every three years, the child support agency will notify both parents of their right to ask for a review of their child support order.

If a review is requested, the child support agency will look at two things.

1. Does the ordered amount of child support follow Wisconsin's percentage of income standard guidelines?

2. Does the child court order include an order to provide health insurance for the child if the insurance is available at a reasonable cost?

If both of the above items are in the order, the child support agency will not ask the court to change the order. If the order does not include these two provisions, the child support agency may ask the court to change the order.

A review is done when:

- When either parent asks for a review, and the order has not been reviewed for three years. If it has been less than 3 years since the last review, the child support agency may not have to review the case.

When a court orders a review.

DWD PUBLICATION
PES 861 (R 02/99)

jraz

From: jraz <jraz@execpc.com>
To: Emerson, James <James.Emerson@legis.state.wi.us>
Cc: <Pam.Kahler@legis.state.wi.us>
Sent: Wednesday, October 06, 1999 9:47 AM
Subject: Re: LRB 2022/p2dn new child support standard

PAM KAHLER
FAX 608 264-8522
TOA

To: Pam Kahler and Jim Emerson

The following is a response to your September 29, 1999 comments regarding this draft.

By a copy of this e mail to Senator Lazich's office I ask her office to authorize you to proceed with the making the changes noted in this response.

If you have any further questions please call me.

Jan Raz
10120 West Forest Home Ave
Hales Corners, WI 53130
Tel. 414 425-4866
Fax. 414 425-8405
e-mail jraz@execpc.com

ATTACHED IS COPY OF PES-861 (R.02/99)
FOR YOUR INFORMATION. THIS WAS
REFERRED TO IN 10/6/99 E MAIL TO YOU

JAN RAZ

Kahler, Pam

From: Jan Raz [jraz@execpc.com]
Sent: Friday, November 05, 1999 10:03 AM
To: James.Emerson@legis.state.wi.us
Cc: Pam.Kahler@legis.state.wi.us
Subject: Re: LRB 2022/p2dn new child support standard

To: Pam Kahler and Jim Emerson

In addition to my 10/6/99 response to your September 29, 1999 comments regarding this draft can you please add a provision to read:

"The Joint Legislative Council shall establish a study committee which shall review the adequacy of the method of calculating child support under s. 767. by considering current research and data on the cost of and expenditures necessary for rearing children, and any other resource it deems relevant to such review. The panel shall report its findings to the Joint Legislative council and the US Department of Health and Human Services no later than January 1, 2003 and every four years thereafter. The panel shall include representatives from the judicial branch, legislative branch and executive branch, the state bar, and child, payer parent and payee parent advocates."

By a copy of this e mail to Senator Lazich's office I ask her office to authorize you to proceed with making the changes noted in this response.

If you have any further questions please call me.

Jan Raz
10120 West Forest Home Ave
Hales Corners, WI 53130
Tel. 414 425-4866
Fax. 414 425-8405
e-mail jraz@execpc.com

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2022/P3ins
PJK:cmh:kjf

INSERT 2-1

1 SECTION 1. 13.83 (4) of the statutes is created to read:

2 13.83 (4) CHILD SUPPORT COMMITTEE. (a) The joint legislative council shall in
3 each biennium create a child support study committee to study the adequacy ~~for~~ ^{to}
4 support ~~the~~ children of the method of calculating child support under s. 767.251. The
5 committee shall consider current research and data, as well as any other relevant
6 resources, on the cost of, and expenditures that are necessary for, rearing children.

7 (b) The committee shall be composed of representatives of the state's judicial
8 branch, legislative branch, executive branch and state bar, and of advocates for
9 children, child support payers and child support payees.

10 (c) No later than January 1, 2003, and every 4 years thereafter, the committee
11 shall report its findings and legislative and other recommendations to the joint
12 legislative council and to the federal department of health and human services.

(END OF INSERT 2-1)

INSERT 14-2²

13 (b) Notwithstanding par. (a), in determining the amount of time that a parent
14 provides care for the child, if both parents provide more than 3 hours of care for the
15 child in the same 24-hour period, the court shall apportion the physical placement
16 hours of that day between the parents not on the basis of the number of hours that
17 each parent cares for the child but on the basis of the expenses incurred by each
18 parent in caring for the child on that day. The court shall make any adjustments
19 necessary to ensure that the total number of days in a year that the parents have
20 physical placement of the child equals 365.

1 (c) The court shall then determine the percentage of the 365 days in a year that
2 each parent has physical placement of the child, and shall make any adjustments
3 necessary to ensure that the total of those percentages equals 100%.

(END OF INSERT 14-23)

INSERT 16-16

4 ^{with}, such as school tuition, books, uninsured medical expenses, school activities, musical
5 instruments or music lessons

(END OF INSERT 16-16)

INSERT 16-21

6 ^{with} If the court assigns an expense under this subsection to one parent, the court shall
7 increase or decrease, as necessary, the amount of child support that a parent is
8 required to pay to the other parent under sub. (4) (a) or (b) 2. or 3. to compensate for
9 the court's assignment of the expense.

(END OF INSERT 16-21)

INSERT 16-24

10 ^{with}, if the amount of physical placement that a parent has with one or more of the
11 children is not the same as the amount that the parent has with one or more of the
12 other children and if the court determines that

(END OF INSERT 16-24)

INSERT 18-10

13 SECTION 2. 767.32 (1) (b) 2. of the statutes is amended to read:
14 767.32 (1) (b) 2. ~~Unless the amount of child support is expressed in the~~
15 ~~judgment or order as a percentage of parental income, the~~ The expiration of 33



1 months after the date of the entry of the last child support order, including a revision
 2 of a child support order under this section, if the amount of child support under the
 3 revised order will exceed the amount under the last order by at least 10% of the
 4 amount under the last order or by at least \$40 per month.

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. 30; 1993 a. 16, 481, 491; 1995 a. 27 s. 9126 (19); 1995 a. 77, 901, 925, 979, 989, 404, 417; 1997 a. 27, 35, 105, 191, 237, 273.

5 **SECTION 3.** 767.32 (1) (b) ~~4.~~ of the statutes is repealed.

6 **SECTION 4.** 767.32 (1) (b) ~~4.~~^{m.} of the statutes is created to read:

7 767.32 (1) (b) 4m. The amount of child support last ordered by the court was
 8 based on the amount of physical placement awarded to the parties and the payer has
 9 consistently failed to exercise his or her periods of physical placement, if the amount
 10 of child support under the revised order, based on the actual amount of physical
 11 placement that the payer has in the past exercised, will exceed the amount under the
 12 last order by at least 15% of the amount under the last order or by at least \$60 per
 13 month.

(END OF INSERT 18-10)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2022/P3dn
PJK:cmh:kjf

e

the proposed changes

1. I did not see that the rearrangement of the subsections made using the method under s. 767.251 any easier, so I did not rearrange them. In the future, ~~it~~ would be much easier to follow if the draft were marked up rather than retyped. That way I would not have to hunt for provisions and compare them word-for-word with the draft to determine what, if anything, has been changed.

2. I changed "household income" in s. 767.251 (1) (f) to "marital income", but the term is undefined. I guess it means at the very least that the parent has remarried.

3. I assumed that the reference in comment number 4. to s. 767.32 (2) 4. was supposed to be a reference to s. 767.32 (1) (b) 4. That is the section I repealed. New s. 767.32 (1) (b) 4m. is created in this draft, based on the language proposed in comment number 4.

4. I assumed that the reference in comment number 5. to s. 767.32 (2) was supposed to be a reference to s. 767.32 (1) (b) 2.

5. The last draft, and this draft, do not include "maintenance" or "unemployment compensation" as separate items of gross income because they are both "income considered gross income for federal income tax purposes" under s. 767.251 (1) (a). I did not include "tax-free income" because it is too vague. Could you please provide a few examples that could be included?

6. For determining amount of physical placement, I redrafted s. 767.251 (3) along the lines of the proposed language, but I'm not at all sure I interpreted it correctly. In fact, I'm not at all sure, from the proposed language, how the court is supposed to determine a parent's amount of physical placement. I don't know how a court is going to be able to determine in advance how much money each parent will spend on the child on days when both have physical placement. What happens if a parent has physical placement with the child for fewer than 3 hours? Is that time totally disregarded? Is that time counted but on the basis of time, rather than expenditures? Instead of days, does the court actually look at the number of *hours* that a parent cares for the child?

7. In general, unless I thought a proposed language change actually changed the meaning, I did not change the language of the P2 version. I was not sure what to make of the proposed change to s. 767.251 (1) (c), however, so I did not change it (changing "deducted" to "not included"). Part of the problem is that some of the items in the list are received by a person and some are paid by a person. It doesn't make any sense to

Because a marriage before six months after a divorce is void, this provision could not apply in an original divorce action.

I

say that something that someone pays is not included in income. Do you want the items that are *paid* to be *deducted* from income and the items that are *received* to be *not included* in income? If not, what do you want?

8. I'm not sure why the recommendations of the legislative council study committee are to be sent to a federal agency. There is only one other instance in the statutes like that. See s. 196.497 (11m) (f). In that other instance, as report is sent to, among other persons, the federal department of energy in response to the federal department of energy selecting a site in the state for disposal of radioactive waste.

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

(no 91)

Why would a report on the adequacy of a state statute ^{for} calculating child support be sent to the federal department of health and human services?

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

LRB-2022/P3dn
PJK:cmh:mrc

November 11, 1999

1. I did not see that the rearrangement of the subsections made using the method under s. 767.251 any easier, so I did not rearrange them. In the future, the proposed changes would be much easier to follow if the draft were marked up rather than retyped. That way I would not have to hunt for provisions and compare them word-for-word with the draft to determine what, if anything, has been changed.

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“deducted” to “not included”). Part of the problem is that some of the items in the list are received by a person and some are paid by a person. It doesn’t make any sense to say that something that someone pays is not included in income. Do you want the items that are *paid* to be *deducted* from income and the items that are *received* to be *not included* in income? If not, what do you want?

8. I’m not sure why the recommendations of the legislative council study committee are to be sent to a federal agency. There is only one other instance in the statutes like that. See s. 196.497 (11m) (f). In that other instance, as report is sent to, among other persons, the federal department of energy in response to the federal department of energy selecting a site in the state for disposal of radioactive waste.

Why would a report on the adequacy of a state statute for calculating child support be sent to the federal department of health and human services?

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

Kahler, Pam

From: Jan Raz [jraz@execpc.com]
Sent: Wednesday, November 17, 1999 11:53 AM
To: Pam.Kahler@legis.state.wi.us
Cc: James.Emerson@legis.state.wi.us
Subject: lrb 2022/p3dn

To Pam Kahler

The following is a response to your drafters notes of 11/11/99

Jan Raz
10120 West Forest Home Ave
Hales Corners, WI 53130
Tel. 414 425-4866
Fax. 414 425-8405
e-mail jraz@execpc.com

1. Lets discuss this comment last.

✓ 2. Your understanding of the term marital income and it's application is correct.

✓ However after discussing this issue further with other's, please delete on page 12 this entire (f) provision, at this time.

Also please change the first sentence of provision e on page 12 to read

✓ (e) If the court determines that a parent is capable of working, is available to work, employment opportunities exist in the parents community and the parent is not working a full 40 hours per week, the court may impute to one or both parents a gross income based on a full 40 hour work week.

3. Your dealing with this was correct.

4. Your dealing with this was correct.

✓ 5. Please add as income on page 11

Tax exempt interest (from what, for example)

X Maintenance received. (It is important to specifically discuss how to treat maintenance since this is very often a pertinent issue in child support cases and there is case law which is contradictory to the way it is being defined in this bill.) cite case law (could say, including maintenance received)

Also on page 11

✓ line 14 add the word "personal" before the word "gross".

✓ line 22 change the word "sufficient" to "majority". (make exercise control or access to earnings additional criterion)

✓ 6. To avoid this confusion, delete on page 15 line 9 delete "more than 3 hours of".

11/17/1999

on a basis that reflects the expenses? of total expenses incurred by both together

✓ Also on line 12 before the word "of" add "which reflects the portion"

✓ 7. On page 12 line 1 Change (c) to read "The court shall not include as income of a parent, and deduct from a parents' income if applicable, all of the following."

does not work - gotten each one

also on page 12 add

6. Business expenses that are allowed as deductions for tax purposes. (Please rearrange so the two business expenses items are together)

8. This section is in response to the federal requirement defined in 45CFR302.56

The results of the review committee findings must be sent to the federal agency that is charged with enforcing this requirement.

On Page 2, Section 1 is basically okay.

Use the word "REVIEW COMMITTEE" in the title and in place of "study committee" throughout the text.

Add the word "case" before data on line 7 page 2.

TITLE 45--PUBLIC WELFARE AND HUMAN SERVICES PART 302--STATE PLAN REQUIREMENTS- Sec. 302.56 Guidelines for setting child support awards.

(e) The State must review, and revise, if appropriate, the guidelines established under paragraph (a) of this section at least once every four years to ensure that their application results in the determination of appropriate child support award amounts.

(h) As part of the review of a State's guidelines required under paragraph (e) of this section, a State must consider economic data on the cost of raising children and analyze case data, gathered through sampling or other methods, on the application of, and deviations from, the guidelines. The analysis of the data must be used in the State's review of the guidelines to ensure that deviations from the guidelines are limited.

Response to Item 1. There are different ways to achieve similar results. I will try to work with your wording but ask you to make the following modifications. Unless you see a major problem with the following please follow this structural format for section 23.

765.251 Calculation of child support payments.

ADD the following introductory/orientation sentence. For the purpose of determining child support payments under this section the court shall first determine each parent's monthly gross income, the combined monthly gross income of both parents, the number of children to be supported under this order, the portion of the 365 days per year each parent assumes placement of the child, and the number of other children each parent is supporting.

surplusage

need to
do
this
out -
with
propos
need to
specify
that
it
is
in
fulfill
of req.
under
fed req

unnec.
surplusage
(1) acts as
a "definition"

(1) GROSS INCOME (Your page 11 line 10 to page 12 line 25 with changes noted above.)

✓ Switch item b and c.

✓ (2) AMOUNT OF PHYSICAL PLACEMENT (Your page 15 line 4 to line 18 with changes noted above.)

✓ (3) GROSS MONTHLY CHILD SUPPORT OBLIGATION (Your page 13 line 1 to page 15 line 3 with changes noted above.)

both read are confused!

no

←

To avoid confusion between "parent's" and "parents" income please use the word the "combined gross monthly income of both parents" in place of "parents' combined gross monthly income"

In light of provision of (6) add except as provided in sub. (6)

where?

(4) AMOUNT OF PAYMENTS.

(a) (Your page 15 line 19 to line 25)

Change to read

Except as provided in subd. (4)(b), (5), if the court grants periods of physical placement to a parent for less than 55 days per year, this parent shall pay his or her child support obligation as a child support payment to the other parent, or third party or agency, if placed with a third party or agency. The parent who has primary placement of the child is expected to share his or her child support obligation directly with the child.

no de but unrec (wait! see below)

what is unacceptable w/ current language? (c)

done
even
pay
what
then!
etc. →

(b)(Your page 16 line 1 to page 17 line 3 with changes noted above.)

After taking to others, please delete this entire provision (5) on page 16 line 19 to page 17 line 3, at this time.

(5) SPLIT PLACEMENT (Your page 17 line 4 to line 9 with changes noted above.)

(6) OBLIGATIONS TO OTHER CHILDREN (Your page 17 line 10 to line 19 with following changes)

line 14 change "(4)(a) or (b)2. Or 3" to "(3)". These percentages should be applied to the gross obligation of each parent.

reduce gas! then get them

calculation under (4)?

in (2) (will be (3)) make subj + (6) (was (7))

e-mail draft to J. Ray