



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-2022/P4

PJK:cmh:kjf

vmis run

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-1000

Regenerate
↓

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

1 (9); and **to create** 13.83 (4), 767.251, 767.32 (1) (b) 4m., 767.32 (1) (b) 5. and
2 767.32 (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:

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

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

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

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

15 SECTION 2. 46.10 (14) (b) of the statutes is amended to read:

16 46.10 (14) (b) Except as provided in par. (c) and subject to par. (cm), liability
17 of a parent specified in sub. (2) or s. 46.03 (18) for the care and maintenance of the
18 parent's minor child who has been placed by a court order under s. 48.355 or 48.357
19 in a residential, nonmedical facility such as a group home, foster home, treatment
20 foster home or child caring institution shall be determined by the court by using the

Smart 2-14

Propose the next version

1 percentage standard established by the department of workforce development under
2 ~~s. 49.22 (9) method of calculating child support under s. 767.251~~ and by applying the
3 percentage standard method in the manner established by the department under s.
4 46.247.

5 **SECTION 3.** 46.10 (14) (c) (intro.) of the statutes is amended to read:

6 46.10 (14) (c) (intro.) Upon request by a parent, the court may modify the
7 amount of child support payments determined under par. (b), subject to par. (cm), if,
8 after considering the following factors, the court finds by the greater weight of the
9 credible evidence that ~~the use of the percentage standard method of calculating child~~
10 support under s. 767.251 is unfair to the child or to either of the parents:

11 **SECTION 4.** 46.10 (14) (d) of the statutes is amended to read:

12 46.10 (14) (d) If the court finds under par. (c) that use of the percentage
13 ~~standard method of calculating child support under s. 767.251~~ is unfair to the minor
14 child or either of the parents, the court shall state in writing or on the record the
15 amount of support that would be required by using the ~~percentage standard method~~
16 under s. 767.251, the amount by which the court's order deviates from that amount,
17 its reasons for finding that use of the ~~percentage standard method under s. 767.251~~
18 is unfair to the child or the parent, its reasons for the amount of the modification and
19 the basis for the modification.

20 **SECTION 5.** 46.247 of the statutes is amended to read:

21 **46.247 Application of method of calculating child support standard for**
22 **certain children.** For purposes of determining child support under s. 46.10(14)(b),
23 the department shall promulgate rules related to the application of the ~~standard~~
24 ~~established by the department of workforce development under s. 49.22 (9) method~~
25 under s. 767.251 to a child support obligation for the care and maintenance of a child

1 who is placed by a court order under s. 48.355 or 48.357 in a residential, nonmedical
2 facility. The rules shall take into account the needs of any person, including
3 dependent children other than the child, whom either parent is legally obligated to
4 support.

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

6 48.30 (6) If a petition is not contested, the court shall set a date for the
7 dispositional hearing which allows reasonable time for the parties to prepare but is
8 no more than 10 days after the plea hearing for a child who is held in secure custody
9 and no more than 30 days after the plea hearing for a child or an expectant mother
10 who is not held in secure custody. If it appears to the court that disposition of the case
11 may include placement of the child outside the child's home, the court shall order the
12 child's parent to provide a statement of income, assets, debts and living expenses to
13 the court or the designated agency under s. 48.33 (1) at least 5 days before the
14 scheduled date of the dispositional hearing or as otherwise ordered by the court. The
15 clerk of court shall provide, without charge, to any parent ordered to provide a
16 statement of income, assets, debts and living expenses a document setting forth the
17 ~~percentage standard established by the department of workforce development under~~
18 s. 49.22 (9) method of calculating child support under s. 767.251 and the manner of
19 its application established by the department of health and family services under s.
20 46.247 and listing the factors that a court may consider under s. 46.10 (14) (c). If all
21 parties consent the court may proceed immediately with the dispositional hearing.

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

23 48.31 (7) At the close of the fact-finding hearing, the court shall set a date for
24 the dispositional hearing which allows a reasonable time for the parties to prepare
25 but is no more than 10 days after the fact-finding hearing for a child in secure

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

15 **SECTION 8.** 48.33 (4m) (intro.) of the statutes is amended to read:

16 48.33 (4m) SUPPORT RECOMMENDATIONS; INFORMATION TO PARENTS. (intro.) In
17 making a recommendation for an amount of child support under sub. (4), the agency
18 shall consider the factors that the court considers under s. 46.10 (14) (c) for deviation
19 from the ~~percentage standard~~ method of calculating child support under s. 767.251.
20 Prior to the dispositional hearing under s. 48.335, the agency shall provide the child's
21 parent with all of the following:

22 **SECTION 9.** 48.357 (5m) of the statutes is amended to read:

23 48.357 (5m) If a proposed change in placement changes a child's placement
24 from a placement in the child's home to a placement outside the child's home, the
25 court shall order the child's parent to provide a statement of income, assets, debts

1 and living expenses to the court or the person or agency primarily responsible for
2 implementing the dispositional order by a date specified by the court. The clerk of
3 court shall provide, without charge, to any parent ordered to provide a statement of
4 income, assets, debts and living expenses a document setting forth the ~~percentage~~
5 ~~standard established by the department of workforce development under s. 49.22 (9)~~
6 method of calculating child support under s. 767.251 and the manner of its
7 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 the
9 child is placed outside the child's home, the court shall determine the liability of the
10 parent in the manner provided in s. 46.10 (14).

11 **SECTION 10.** 48.363 (1) of the statutes is amended to read:

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

1 court shall notify the child, the child's parent, guardian and legal custodian, all
2 parties bound by the dispositional order, the child's foster parent, treatment foster
3 parent or other physical custodian described in s. 48.62 (2), the district attorney or
4 corporation counsel in the county in which the dispositional order was entered, and,
5 if the child is the expectant mother of an unborn child under s. 48.133, the unborn
6 child by the unborn child's guardian ad litem or shall notify the adult expectant
7 mother, the unborn child through the unborn child's guardian ad litem, all parties
8 bound by the dispositional order and the district attorney or corporation counsel in
9 the county in which the dispositional order was entered, at least 3 days prior to the
10 hearing. A copy of the request or proposal shall be attached to the notice. If the
11 proposed revision is for a change in the amount of child support to be paid by a parent,
12 the court shall order the child's parent to provide a statement of income, assets, debts
13 and living expenses to the court and the person or agency primarily responsible for
14 implementing the dispositional order by a date specified by the court. The clerk of
15 court shall provide, without charge, to any parent ordered to provide a statement of
16 income, assets, debts and living expenses a document setting forth the ~~percentage~~
17 ~~standard established by the department of workforce development under s. 49.22 (9)~~
18 method of calculating child support under s. 767.251 and the manner of its
19 application established by the department of health and family services under s.
20 46.247 and listing the factors that a court may consider under s. 46.10 (14) (c). If all
21 parties consent, the court may proceed immediately with the hearing. No revision
22 may extend the effective period of the original order.

23 **SECTION 11.** 49.22 (9) of the statutes is repealed and recreated to read:

24 49.22 (9) The department shall prepare and make available to judges and other
25 court personnel forms, tables, computer software and instruction manuals or other

1 publications to aid in the calculation of child support by using the method under s.
2 767.251.

3 **SECTION 12.** 301.12 (14) (b) of the statutes is amended to read:

4 301.12 (14) (b) Except as provided in par. (c) and subject to par. (cm), liability
5 of a parent specified in sub. (2) or s. 301.03 (18) for the care and maintenance of the
6 parent's minor child who has been placed by a court order under s. 938.183, 938.355
7 or 938.357 in a residential, nonmedical facility such as a group home, foster home,
8 treatment foster home, child caring institution or juvenile correctional institution
9 shall be determined by the court by using the ~~percentage standard established by the~~
10 ~~department of workforce development under s. 49.22 (9)~~ method of calculating child
11 support under s. 767.251 and by applying the ~~percentage standard~~ method in the
12 manner established by the department under par. (g).

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

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

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

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

1 767.251 is unfair to the child or the parent, the court's reasons for the amount of the
2 modification and the basis for the modification.

3 **SECTION 15.** 301.12 (14) (g) of the statutes is amended to read:

4 301.12 (14) (g) For purposes of determining child support under par. (b), the
5 department shall promulgate rules related to the application of the standard
6 established by the department of workforce development under s. 49.22 (9) method
7 under s. 767.251 to a child support obligation for the care and maintenance of a child
8 who is placed by a court order under s. 938.183, 938.355 or 938.357 in a residential,
9 nonmedical facility. The rules shall take into account the needs of any person,
10 including dependent children other than the child, whom either parent is legally
11 obligated to support.

12 **SECTION 16.** 767.085 (2) (b) of the statutes is amended to read:

13 767.085 (2) (b) The clerk of court shall provide without charge, to each person
14 filing a petition requesting child support, a document setting forth the percentage
15 standard established by the department under s. 49.22 (9) method of calculating
16 child support under s. 767.251 and listing the factors which a court may consider
17 under s. 767.25 (1m).

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

19 767.085 (2m) (a) 2. Shall be accompanied by a document, provided without
20 charge by the clerk of court, setting forth the percentage standard established by the
21 department under s. 49.22 (9) method of calculating child support under s. 767.251
22 and listing the factors which a court may consider under s. 767.25 (1m).

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

24 767.085 (2m) (b) If service is by publication, notification regarding s. 948.31
25 may consist of references to the statute numbers and titles, and information relating

1 to the ~~percentage standard~~ method of calculating child support and the factors need
2 not be provided.

3 **SECTION 19.** 767.23 (1n) of the statutes is amended to read:

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

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

16 767.25 (1j) Except as provided in sub. (1m), the court shall determine child
17 support payments by using the ~~percentage standard established by the department~~
18 ~~under s. 49.22 (9)~~ method under s. 767.251.

19 **SECTION 21.** 767.25 (1m) (intro.) of the statutes is amended to read:

20 767.25 (1m) (intro.) Upon request by a party, the court may modify the amount
21 of child support payments determined under ~~sub. (1j)~~ s. 767.251 if, after considering
22 the following factors, the court finds by the greater weight of the credible evidence
23 that use of the ~~percentage standard~~ method under s. 767.251 is unfair to the child
24 or to any of the parties:

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

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

9 SECTION 23. 767.251 of the statutes is created to read:

10 **767.251 Calculation of child support payments. (1) GROSS INCOME.** For
11 purposes of determining a parent's gross income under this section, all of the
12 following apply:

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

- 14 1. ^{personal} All income considered gross income for federal income tax purposes.
- 15 2. Net proceeds from worker's compensation or other personal injury awards
- 16 intended to replace income.
- 17 3. Income continuation benefits.
- 18 4. Voluntary deferred compensation or employe contributions to a
- 19 profit-sharing or pension account.
- 20 5. Military allowances and veterans benefits.
- 21 6. Undistributed income from a closely held corporation ~~in which the parent~~
- 22 ~~has a sufficient interest to exercise control or to access the earnings of the business.~~

23 d (3) The court may include as income wages paid by the parent to a member of
24 the parent's household that the court determines were paid for the purpose of
25 diverting income to avoid paying child support.

(see next page)

Subject to par. (b),

Insert 11-22

Insert 11-21

Insert 12-7

(b) The court shall exclude from income all

of the following:

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

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

that the parent pays

2. If the parent is self-employed, one-half of the ~~business~~ unemployment tax.

4 ~~3~~ Business expenses that the court considers necessary for the production of

income that are not allowed as deductions for expenses for tax purposes, but

1. Onetime capital gain income from the sale of individual passive investments.

2. Onetime capital gain income from the sale of the family home.

long term

to FC. please add imputer

8 ~~7~~ 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. appropriate

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

move to here
Insert 12-3

Insert 12-7 on previous page

Insert 12-25

1 (1) ³ GROSS MONTHLY CHILD SUPPORT OBLIGATIONS. For the purpose of determining
2 child support payments under sub. (4), the court shall determine each parent's gross
3 monthly child support obligation as follows:

4 (a) If the combined gross monthly income of the ² parents is equal to or less than
5 \$4,000, the gross monthly child support obligation of each parent equals the
6 following percentage of that parent's gross monthly income:

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

12 (b) If the combined gross monthly income of the ² parents is greater than \$4,000
13 but not greater than \$20,000, the gross monthly child support obligation of each
14 parent is calculated as follows:

15 1. The ~~parents~~ combined gross monthly child support obligation ^{of the 2 parents} equals the
16 following amount:

17 a. If there is one minor child, \$680 plus 8.5% of the ~~parents~~ combined gross
18 monthly income ^{of the 2 parents} in excess of \$4,000.

19 b. If there are 2 minor children, \$1,000 plus 12.5% of the ~~parents~~ combined
20 gross monthly income ^{of the 2 parents} in excess of \$4,000.

21 c. If there are 3 minor children, \$1,160 plus 14.5% of the ~~parents~~ combined
22 gross monthly income ^{of the 2 parents} in excess of \$4,000.

23 d. If there are 4 minor children, \$1,240 plus 15.5% of the ~~parents~~ combined
24 gross monthly income ^{of the 2 parents} in excess of \$4,000.

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

3 2. Determine each parent's percentage of ~~their~~ ^{the} combined gross monthly income
4 by dividing that parent's gross monthly income by the ~~parents~~ combined gross
5 monthly income.

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

9 (c) If the combined gross monthly income of the ² parents is greater than \$20,000,
10 the gross monthly child support obligation of each parent is calculated as follows:

11 1. The ~~parents~~ combined gross monthly child support obligation equals the
12 following amount:

13 a. If there is one minor child, \$2,040 plus 4% of the ~~parents~~ combined gross
14 monthly income in excess of \$20,000.

15 b. If there are 2 minor children, \$3,000 plus 6% of the ~~parents~~ combined gross
16 monthly income in excess of \$20,000.

17 c. If there are 3 minor children, \$3,480 plus 7% of the ~~parents~~ combined gross
18 monthly income in excess of \$20,000.

19 d. If there are 4 minor children, \$3,720 plus 8% of the ~~parents~~ combined gross
20 monthly income in excess of \$20,000.

21 e. If there are 5 or more minor children, \$4,080 plus 9% of the ~~parents~~ combined
22 gross monthly income in excess of \$20,000.

23 2. Determine each parent's percentage of ~~their~~ ^{the} combined gross monthly income,
24 by dividing that parent's gross monthly income by the ~~parents~~ combined gross
25 monthly income.

of the 2 parents

of the 2 parents

Insert 15-3

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

4 ~~2~~ (4) AMOUNT OF PHYSICAL PLACEMENT. (a) For the purpose of determining child
5 support payments under sub. (4), the court shall determine the amount of physical
6 placement that a parent has on the basis of the number of days, out of a total of 365
7 days in a year, that the parent provides care for the child.

8 (b) Notwithstanding par. (a), in determining the amount of time that a parent
9 provides care for the child, if both parents provide ~~care for the child~~ care for the
10 child in the same 24-hour period, the court shall apportion the physical placement
11 hours of that day between the parents not on the basis of the number of hours that
12 each parent cares for the child but on the basis ~~of the number of hours that each parent~~
13 ~~spends~~ ^{Insert 15-13} in caring for the child on that day. The court shall make any adjustments
14 necessary to ensure that the total number of days in a year that the parents have
15 physical placement of the child equals 365.

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

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

21 (a) If the court grants periods of physical placement to only one parent, or if the
22 court grants periods of physical placement to both parents but one parent has
23 physical placement of the child for fewer than 55 days in a year, the parent with less
24 or no physical placement shall pay to the other parent the gross monthly child
25 support obligation determined for that payer parent under sub. (3). ³

1 (b) If the court grants periods of physical placement to both parents and each
2 parent has physical placement of the child for at least 55 days in a year, the court
3 shall determine child support payments in the following manner:

4 J 1. Each parent's gross monthly child support obligation determined under sub.
5 (4) shall be multiplied by 1.4 and by the other parent's percentage of physical
6 placement determined under sub. (4) (R). The product under this subdivision for each
7 parent is that parent's net monthly child support obligation.

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

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

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

18 (4).

19 (5) ASSIGNMENT OF CERTAIN EXPENSES. Upon the request of a parent, the court
20 may allocate between the parents, or assign to one parent, an expense that benefits
21 the child regardless of the child's placement, such as school tuition, books, uninsured
22 medical expenses, school activities, musical instruments or music lessons. The court
23 shall assume that each parent is responsible for payment of the expense in the same
24 percentage as the parent's percentage of physical placement with the child. If the
25 court assigns an expense under this subsection to one parent, the court shall increase

1 or decrease, as necessary, the amount of child support that a parent is required to pay
2 to the other parent under sub. (4) (a) or (b) 2. or 3. to compensate for the court's
3 assignment of the expense.

4 ~~5~~ ⁵ SPLIT PLACEMENT. If there is more than one child, if the amount of physical
5 placement that a parent has with one or more of the children is not the same as the
6 amount that the parent has with one or more of the other children and if the court
7 determines that each parent is required to pay child support to the other parent
8 under sub. (4) (a) or (b) 2. or 3., the court shall ~~order~~ ^{require only} the parent who is required to
9 pay the greater amount to pay ^{child support, and to pay} only the difference in the amounts ^{to} to the other parent.

10 (7) OTHER CHILD SUPPORT OBLIGATIONS. If a parent who is obligated to pay child
11 support to the other parent under sub. (4) (a) or (b) is subject to another child support
12 order or is supporting one or more children from a current marriage or remarriage,
13 the court shall reduce the amount of child support that the parent is required to pay
14 by multiplying the amount determined under sub. (4) (a) or (b) 2. or 3. by the
15 following percentage:
16 (a) If the number of other children being supported is one, 90%.
17 (b) If the number of other children being supported is two, 85%.
18 (c) If the number of other children being supported is three, 80%.
19 (d) If the number of other children being supported is four or more, 75%.

20 SECTION 24. 767.295 (2) (c) of the statutes is amended to read:
21 767.295 (2) (c) If the court enters an order under par. (a), it shall order the
22 parent to pay child support equal to the amount determined by applying the
23 ~~percentage standard established under s. 49.22 (9) method under s. 767.251~~ to the
24 income a person would earn by working 40 hours per week for the federal minimum
25 hourly wage under 29 USC 206 (a) (1) or equal to the amount of child support that

1 the parent was ordered to pay in the most recent determination of support under this
2 chapter. The child support obligation ordered under this paragraph continues until
3 the parent makes timely payment in full for 3 consecutive months or until the person
4 participates in the program under s. 49.36 for 16 weeks, whichever comes first. The
5 court shall provide in its order that the parent must make child support payments
6 calculated under s. 767.25 (1j) ~~or (1m) or 767.251, 767.51 (4m) or (5) or 767.62 (4) (d)~~
7 1. or (e) after the obligation to make payments ordered under this paragraph ceases.

8 **SECTION 25.** 767.32 (1) (b) 2. of the statutes is amended to read:

9 767.32 (1) (b) 2. ~~Unless the amount of child support is expressed in the~~
10 ~~judgment or order as a percentage of parental income, the~~ The expiration of 33
11 months after the date of the entry of the last child support order, including a revision
12 of a child support order under this section, if the amount of child support under the
13 revised order will exceed the amount under the last order by at least 10% of the
14 amount under the last order or by at least \$40 per month.

15 **SECTION 26.** 767.32 (1) (b) 4. of the statutes is repealed.

16 **SECTION 27.** 767.32 (1) (b) 4m. of the statutes is created to read:

17 767.32 (1) (b) 4m. The amount of child support last ordered by the court was
18 based on the amount of physical placement awarded to the parties and the payer has
19 consistently failed to exercise his or her periods of physical placement, if the amount
20 of child support under the revised order, based on the actual amount of physical
21 placement that the payer has in the past exercised, will exceed the amount under the
22 last order by at least 15% of the amount under the last order or by at least \$60 per
23 month.

24 **SECTION 28.** 767.32 (1) (b) 5. of the statutes is created to read:

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

10 **SECTION 29.** 767.32 (2) of the statutes is renumbered 767.32 (2) (a) and
11 amended to read:

12 767.32 (2) (a) Except as provided in sub. (2m) or (2r), if the court revises a
13 judgment or order with respect to child support payments, it shall do so by using the
14 ~~percentage standard established by the department under s. 49.22 (9)~~ method under
15 s. 767.251.

16 **SECTION 30.** 767.32 (2) (b) of the statutes is created to read:

17 767.32 (2) (b) In determining the amount of physical placement that each
18 parent has for purposes of calculating child support under s. 767.251 ~~the~~ the court
19 shall use the actual time that a child regularly spends with each parent, regardless
20 of the allocation of physical placement between the parents under a physical
21 placement order.

22 **SECTION 31.** 767.32 (2m) of the statutes is amended to read:

23 767.32 (2m) Upon request by a party, the court may modify the amount of
24 revised child support payments determined under sub. (2) if, after considering the
25 factors listed in s. 767.25 (1m), 767.51 (5) or 767.62 (4) (e), as appropriate, the court

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

4 **SECTION 32.** 767.45 (7) of the statutes is amended to read:

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

10 **SECTION 33.** 767.455 (6) of the statutes is amended to read:

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

16 **SECTION 34.** 767.477 (2) of the statutes is amended to read:

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

24 **SECTION 35.** 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.~~

4 **SECTION 36.** 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:

10 **SECTION 37.** 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.

19 **SECTION 38.** 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
22 ~~percentage standard established by the department under s. 49.22 (9) method under~~
23 ~~s. 767.251.~~

24 **SECTION 39.** 767.62 (4) (e) (intro.) of the statutes is amended to read:

1 767.62 (4) (e) (intro.) Upon request by a party, the court or family court
2 commissioner may modify the amount of child support payments determined under
3 par. (d) if, after considering the following factors, the court or family court
4 commissioner finds by the greater weight of the credible evidence that use of the
5 ~~percentage standard method of calculating child support under s. 767.251~~ is unfair
6 to the child or to the requesting party:

7 **SECTION 40.** 767.62 (4) (f) of the statutes is amended to read:

8 767.62 (4) (f) If the court or family court commissioner finds under par. (e) that
9 use of the ~~percentage standard method of calculating child support under s. 767.251~~
10 is unfair to the child or the requesting party, the court or family court commissioner
11 shall state in writing or on the record the amount of support that would be required
12 by using the ~~percentage standard method under s. 767.251~~, the amount by which the
13 court's or family court commissioner's order deviates from that amount, the reasons
14 for finding that use of the ~~percentage standard method under s. 767.251~~ is unfair to
15 the child or the party, the reasons for the amount of the modification and the basis
16 for the modification.

17 **SECTION 41.** 938.30 (6) of the statutes is amended to read:

18 938.30 (6) If a petition is not contested, the court shall set a date for the
19 dispositional hearing which allows reasonable time for the parties to prepare but is
20 no more than 10 days from the plea hearing for a juvenile who is held in secure
21 custody and no more than 30 days from the plea hearing for a juvenile who is not held
22 in secure custody. If it appears to the court that disposition of the case may include
23 placement of the juvenile outside the juvenile's home, the court shall order the
24 juvenile's parent to provide a statement of income, assets, debts and living expenses
25 to the court or the designated agency under s. 938.33 (1) at least 5 days before the

1 scheduled date of the dispositional hearing or as otherwise ordered by the court. The
2 clerk of court shall provide, without charge, to any parent ordered to provide a
3 statement of income, assets, debts and living expenses a document setting forth the
4 ~~percentage standard established by the department of workforce development under~~
5 ~~s. 49.22 (9) method of calculating child support under s. 767.251~~ and listing the
6 factors that a court may consider under s. 301.12 (14) (c). If all parties consent the
7 court may proceed immediately with the dispositional hearing. If a citation is not
8 contested, the court may proceed immediately to enter a dispositional order.

9 **SECTION 42.** 938.31 (7) of the statutes is amended to read:

10 938.31 (7) At the close of the fact-finding hearing, the court shall set a date for
11 the dispositional hearing which allows a reasonable time for the parties to prepare
12 but is no more than 10 days after the fact-finding hearing for a juvenile in secure
13 custody and no more than 30 days after the fact-finding hearing for a juvenile not
14 held in secure custody. If it appears to the court that disposition of the case may
15 include placement of the juvenile outside the juvenile's home, the court shall order
16 the juvenile's parent to provide a statement of income, assets, debts and living
17 expenses to the court or the designated agency under s. 938.33 (1) at least 5 days
18 before the scheduled date of the dispositional hearing or as otherwise ordered by the
19 court. The clerk of court shall provide, without charge, to any parent ordered to
20 provide a statement of income, assets, debts and living expenses a document setting
21 forth the ~~percentage standard established by the department of workforce~~
22 ~~development under s. 49.22 (9) method of calculating child support under s. 767.251~~
23 and listing the factors that a court may consider under s. 301.12 (14) (c). If all parties
24 consent, the court may immediately proceed with a dispositional hearing.

25 **SECTION 43.** 938.33 (4m) (intro.) of the statutes is amended to read:

1 938.33 (4m) SUPPORT RECOMMENDATIONS; INFORMATION TO PARENTS. (intro.) In
2 making a recommendation for an amount of child support under sub. (3) or (4), the
3 agency shall consider the factors that the court considers under s. 301.12 (14) (c) for
4 deviation from the ~~percentage standard~~ method of calculating child support under
5 s. 767.251. At or before the dispositional hearing under s. 938.335, the agency shall
6 provide the juvenile's parent with all of the following:

7 **SECTION 44.** 938.357 (5m) of the statutes is amended to read:

8 938.357 (5m) If a proposed change in placement changes a juvenile's placement
9 from a placement in the juvenile's home to a placement outside the juvenile's home,
10 the court shall order the juvenile's parent to provide a statement of income, assets,
11 debts and living expenses to the court or the person or agency primarily responsible
12 for implementing the dispositional order by a date specified by the court. The clerk
13 of court shall provide, without charge, to any parent ordered to provide a statement
14 of income, assets, debts and living expenses a document setting forth the ~~percentage~~
15 ~~standard established by the department of workforce development under s. 49.22 (9)~~
16 method of calculating child support under s. 767.251 and listing the factors that a
17 court may consider under s. 301.12 (14) (c). If the juvenile is placed outside the
18 juvenile's home, the court shall determine the liability of the parent in the manner
19 provided in s. 301.12 (14).

20 **SECTION 45.** 938.363 (1) of the statutes is amended to read:

21 938.363 (1) A juvenile, the juvenile's parent, guardian or legal custodian, any
22 person or agency bound by a dispositional order or the district attorney or
23 corporation counsel in the county in which the dispositional order was entered may
24 request a revision in the order that does not involve a change in placement, including
25 a revision with respect to the amount of child support to be paid by a parent, or the

1 court may on its own motion propose such a revision. The request or court proposal
2 shall set forth in detail the nature of the proposed revision and what new information
3 is available that affects the advisability of the court's disposition. The request or
4 court proposal shall be submitted to the court. The court shall hold a hearing on the
5 matter if the request or court proposal indicates that new information is available
6 which affects the advisability of the court's dispositional order and prior to any
7 revision of the dispositional order, unless written waivers of objections to the revision
8 are signed by all parties entitled to receive notice and the court approves. If a hearing
9 is held, the court shall notify the juvenile, the juvenile's parent, guardian and legal
10 custodian, all parties bound by the dispositional order, the juvenile's foster parent,
11 treatment foster parent or other physical custodian described in s. 48.62 (2), and the
12 district attorney or corporation counsel in the county in which the dispositional order
13 was entered at least 3 days prior to the hearing. A copy of the request or proposal
14 shall be attached to the notice. If the proposed revision is for a change in the amount
15 of child support to be paid by a parent, the court shall order the juvenile's parent to
16 provide a statement of income, assets, debts and living expenses to the court and the
17 person or agency primarily responsible for implementing the dispositional order by
18 a date specified by the court. The clerk of court shall provide, without charge, to any
19 parent ordered to provide a statement of income, assets, debts and living expenses
20 a document setting forth the ~~percentage standard established by the department of~~
21 ~~workforce development under s. 49.22 (9)~~ method of calculating child support under
22 s. 767.251 and listing the factors that a court may consider under s. 46.10 (14) (c).
23 If all parties consent, the court may proceed immediately with the hearing. No
24 revision may extend the effective period of the original order, or revise an original

1 order under s. 938.34 (3) (f) or (6) (am) to impose more than 30 days of detention,
2 nonsecure custody or inpatient treatment on a juvenile.

3 **SECTION 46.** 948.22 (4) (b) of the statutes is amended to read:

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

11 **SECTION 47.** 948.22 (7) (bm) of the statutes is amended to read:

12 948.22 (7) (bm) Upon request, the court may modify the amount of child or
13 spousal support payments determined under par. (b) 2. if, after considering the
14 factors listed in s. 767.25 (1m) or 767.51 (5), regardless of the fact that the action is
15 not one for a determination of paternity or an action specified in s. 767.25 (1), the
16 court finds, by the greater weight of the credible evidence, that ~~the use of the~~
17 ~~percentage standard~~ method of calculating child support under s. 767.251 is unfair
18 to the child or to either of the child's parents.

19 **SECTION 48. Initial applicability.**

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

23 (END)

J-note

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2022/P4ins
PK:cmh:kjf

✓
INSERT 2-14

***NOTE: I reviewed the requirement under 45 CFR 302.56 for the review of the state's child support guidelines. I could not find any requirement, or even mention, of sending a report to the federal department of health and human services, or any other federal agency. Is this requirement mentioned elsewhere? It probably would be a good idea, however, to make sure that the department of workforce development (DWD) receives a copy of each report. DWD is still charged with establishing and enforcing child support orders under ch. 49.

(END OF INSERT 2-14)

INSERT 11-21

1 ✓ if all of the following apply:

- 2 a. The parent has a majority interest in the corporation.
- 3 b. The parent may exercise control over, or access the earnings of, the
- 4 corporation.

(END OF INSERT 11-21)

INSERT 11-22

5 ✕ 7. Tax-exempt interest.

(END OF INSERT 11-22)

INSERT 12-3

6 ✕ 3. Business expenses that ^{are} allowed as deductions for expenses for tax purposes.


(END OF INSERT 12-3)

INSERT 12-25

7 ✕ (f) If the court determines that a parent is able and available to work, that

8 employment opportunities exist in the parent's community for which the parent is

9 qualified and that the parent is not working at least 40 hours per week, the court may



1 impute to the parent a gross income based on a 40-hour work week, the parent's
2 educational attainment and work experience and the type of employment
3 opportunities in the parent's community for which the parent is qualified.

4 ~~CX~~ (2) AMOUNT OF PHYSICAL PLACEMENT. (a) For the purpose of determining child
5 support payments under sub. (4), the court shall determine the amount of physical
6 placement that a parent has on the basis of the number of days, or amount of time,
7 out of a total of 365 days in a year, that the parent provides care for the child.

8 ~~CX~~ (b) Notwithstanding par. (a), if both parents provide care for the child in the
9 same 24-hour period, the court shall determine the amount of time that each parent
10 provides care for the child on that day not on the basis of the number of hours that
11 each parent cares for the child but on a basis that reflects each parent's proportionate
12 share of the total expenses incurred by the 2 parents in caring for the child on that
13 day.

14 ~~CX~~ (c) After making any adjustments necessary to ensure that the total number
15 of days in a year that the parents have physical placement of the child equals 365,
16 the court shall determine the percentage of the 365 days in a year that each parent
17 has physical placement of the child, and shall make any adjustments necessary to
18 ensure that the total of those percentages equals 100%.

****NOTE: I changed the wording of this subsection somewhat. I think it now more
clearly states the basis on which the court determines physical placement.

(END OF INSERT 12-25)

INSERT 15-3

19 ~~CX~~ (d) Notwithstanding pars. (a), (b) and (c), if a parent is subject to another child
20 support order or is supporting one or more children from a current marriage or
21 remarriage, that parent's gross monthly child support obligation is the amount



1 determined for that parent under par. (a), (b) or (c), reduced by the following
2 percentage:

- 3 ~~4~~ 1. If the number of other children being supported is one, 90%.
- 4 ~~4~~ 2. If the number of other children being supported is 2, 85%.
- 5 ~~4~~ 3. If the number of other children being supported is 3, 80%.
- 6 ~~4~~ 4. If the number of other children being supported is 4 or more, 75%.

****NOTE: This was formerly s. 767.251 (7). Because the reduction in this provision applies to a parent's gross child support obligation under s. 767.251 (3) (which was sub. (2) in the /P3 version), it seemed more appropriate to include it right in that subsection. That way, conceptually, the reduction occurs before the court gets to sub. (4), under which the court compares the gross child support obligations of the parents to determine which parent pays the other parent. The court should be using the reduced obligation in the comparison.

(END OF INSERT 15-3)

INSERT 15-13

7 that reflects each parent's proportionate share of the total expenses incurred by the
8 2 parents

(END OF INSERT 15-13)

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

LRB-2022/P4dn
PJK:cmh:kjf

DATE

Please note that there are a few embedded **** Notes in the draft.

*no
space*
CS

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/P4dn
PJK:cmh:mrc

November 19, 1999

Please note that there are a few embedded ****NOTES in the draft.

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

Kahler, Pam

From: Emerson, James
Sent: Tuesday, November 30, 1999 4:13 PM
To: Kahler, Pam
Subject: FW: LRB-2022 (child support)

Pam:

Jan contacted me today, and asked if I could forward this on to you. In general, Jan seems pleased with the draft.

Jim

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

From: Jan Raz [<mailto:jraz@execpc.com>] <<mailto:jraz@execpc.com>>
Sent: Monday, November 22, 1999 3:19 PM
To: Emerson, James
Subject: Re: LRB-2022 (child support)

Hi Jim

Thanks for forwarding this draft to me.

I have reviewed it and find it very acceptable. The following is a response to this draft and Pam Kahler's notes.

1. Section 1. The provisions are fine the way they are except the committee should be created every other biennium, not each biennium.
2. Note on page 14. This wording is okay.
4. Note on page 16. This change is okay (actually very good change).
5. Section 26. do not delete this provision but rather use the provision in section 24 of the P2 draft.

Please forward this to the LRB and ask them to prepare the ready for introduction draft.

Thanks for all your help.

Jan Raz

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

From: Emerson, James <James.Emerson@legis.state.wi.us <<mailto:James.Emerson@legis.state.wi.us>>>
To: <jraz@execpc.com <<mailto:jraz@execpc.com>>>
Sent: Friday, November 19, 1999 4:39 PM
Subject: FW: LRB-2022 (child support)

> Jan:
>
> Here are the drafts from Pam. They are in Adobe Acrobat format. If you
are
> unable to open them, let me know and I will cut and paste you copies.
>
> Jim
>
> -----Original Message-----
> **From:** Kahler, Pam
> **Sent:** Friday, November 19, 1999 4:19 PM
> **To:** Emerson, James
> **Subject:** LRB-2022 (child support)
>

> Jim:
> Here is the child support draft by e-mail, so that you can e-mail it
> to Jan Raz.
>
>
> <<99-2022/P4>> <<99-2022/P4dn>>
>
> ++++++
> Pamela J. Kahler
> Legislative Attorney
> Legislative Reference Bureau
> (608) 266-2682
>
>
>



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-2022/

PJK:cmh:mrc

rm is n

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

*inserts
and
autoreferences*

recreate ↓

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

1 (9); and **to create** 13.83 (4), 767.251, 767.32 (1) (b) 4m., 767.32 (1) (b) 5. and
2 767.32 (2) (b) of the statutes; **relating to:** calculating child support

and creating committees to review the method of

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version, probably the next version.

Insert A

calculating child support

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

Insert 2-4

~~SECTION 13.83 (4) of the statutes is created to read:~~
~~13.84 CHILD SUPPORT REVIEW COMMITTEE.~~ (a) The joint legislative council

5 shall ~~under section 13.84~~ create a child support review committee to review the
6 adequacy to support children of the method of calculating child support under s.
7 767.251. The committee shall consider current research and economic and case data,
8 as well as any other relevant resources, on the cost of, and expenditures that are
9 necessary for, raising children.

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

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

no later than January 1

***NOTE: I reviewed the requirement under 45 CFR 302.56 for the review of the state's child support guidelines. I could not find any requirement, or even mention, of sending a report to the federal department of health and human services, or any other federal agency. Is this requirement mentioned elsewhere? It probably would be a good idea, however, to make sure that the department of workforce development (DWD) receives a copy of each report. DWD is still charged with establishing and enforcing child support orders under ch. 49.

16 SECTION 2. 46.10 (14) (b) of the statutes is amended to read:

1 46.10 (14) (b) Except as provided in par. (c) and subject to par. (cm), liability
2 of a parent specified in sub. (2) or s. 46.03 (18) for the care and maintenance of the
3 parent's minor child who has been placed by a court order under s. 48.355 or 48.357
4 in a residential, nonmedical facility such as a group home, foster home, treatment
5 foster home or child caring institution shall be determined by the court by using the
6 ~~percentage standard established by the department of workforce development under~~
7 ~~s. 49.22 (9) method of calculating child support under s. 767.251~~ and by applying the
8 ~~percentage standard method~~ in the manner established by the department under s.
9 46.247.

10 **SECTION 3.** 46.10 (14) (c) (intro.) of the statutes is amended to read:

11 46.10 (14) (c) (intro.) Upon request by a parent, the court may modify the
12 amount of child support payments determined under par. (b), subject to par. (cm), if,
13 after considering the following factors, the court finds by the greater weight of the
14 credible evidence that ~~the use of the percentage standard method of calculating child~~
15 ~~support under s. 767.251~~ is unfair to the child or to either of the parents:

16 **SECTION 4.** 46.10 (14) (d) of the statutes is amended to read:

17 46.10 (14) (d) If the court finds under par. (c) that use of the ~~percentage~~
18 ~~standard method of calculating child support under s. 767.251~~ is unfair to the minor
19 child or either of the parents, the court shall state in writing or on the record the
20 amount of support that would be required by using the ~~percentage standard method~~
21 ~~under s. 767.251~~, the amount by which the court's order deviates from that amount,
22 its reasons for finding that use of the ~~percentage standard method under s. 767.251~~
23 is unfair to the child or the parent, its reasons for the amount of the modification and
24 the basis for the modification.

25 **SECTION 5.** 46.247 of the statutes is amended to read:

1 **46.247 Application of method of calculating child support standard for**
2 **certain children.** For purposes of determining child support under s. 46.10 (14) (b),
3 the department shall promulgate rules related to the application of the ~~standard~~
4 ~~established by the department of workforce development under s. 49.22 (9) method~~
5 ~~under s. 767.251~~ to a child support obligation for the care and maintenance of a child
6 who is placed by a court order under s. 48.355 or 48.357 in a residential, nonmedical
7 facility. The rules shall take into account the needs of any person, including
8 dependent children other than the child, whom either parent is legally obligated to
9 support.

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

11 **48.30 (6)** If a petition is not contested, the court shall set a date for the
12 dispositional hearing which allows reasonable time for the parties to prepare but is
13 no more than 10 days after the plea hearing for a child who is held in secure custody
14 and no more than 30 days after the plea hearing for a child or an expectant mother
15 who is not held in secure custody. If it appears to the court that disposition of the case
16 may include placement of the child outside the child's home, the court shall order the
17 child's parent to provide a statement of income, assets, debts and living expenses to
18 the court or the designated agency under s. 48.33 (1) at least 5 days before the
19 scheduled date of the dispositional hearing or as otherwise ordered by the court. The
20 clerk of court shall provide, without charge, to any parent ordered to provide a
21 statement of income, assets, debts and living expenses a document setting forth the
22 ~~percentage standard established by the department of workforce development under~~
23 ~~s. 49.22 (9) method of calculating child support under s. 767.251~~ and the manner of
24 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 7.** 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 8.** 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 9.** 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 10.** 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 11.** 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 12.** 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 13.** 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 14.** 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 15.** 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 16.** 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 17.** 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 18.** 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 19.** 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 20.** 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~~.

Insert 10-21
→

1 **SECTION 21.** 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. (1j)~~ 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 22.** 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 23.** 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. Subject to par. (b), all personal income considered gross income for federal
22 income tax purposes.

23 2. Net proceeds from worker's compensation or other personal injury awards
24 intended to replace income.

25 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 if all of the following
5 apply:

6 a. The parent has a majority interest in the corporation.

7 b. The parent may exercise control over, or access the earnings of, the
8 corporation.

9 7. Tax-exempt interest.

10 (b) The court shall exclude from income all of the following:

11 1. Onetime long-term capital gain income from the sale of individual passive
12 investments.

13 2. Onetime capital gain income from the sale of the family home.

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

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

16 2. If the parent is self-employed, one-half of the unemployment tax that the
17 parent pays.

18 3. Business expenses that are allowed as deductions for expenses for tax
19 purposes.

20 4. Business expenses that are not allowed as deductions for expenses for tax
21 purposes but that the court considers necessary for the production of income.

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

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

9 (f) If the court determines that a parent is able and available to work, that
10 employment opportunities exist in the parent's community for which the parent is
11 qualified and that the parent is not working at least 40 hours per week, the court may
12 impute to the parent a gross income based on a 40-hour work week, the parent's
13 educational attainment and work experience and the type of employment
14 opportunities in the parent's community for which the parent is qualified.

15 **(2) AMOUNT OF PHYSICAL PLACEMENT.** (a) For the purpose of determining child
16 support payments under sub. (4), the court shall determine the amount of physical
17 placement that a parent has on the basis of the number of days, or amount of time,
18 out of a total of 365 days in a year, that the parent provides care for the child.

19 (b) Notwithstanding par. (a), if both parents provide care for the child in the
20 same 24-hour period, the court shall determine the amount of time that each parent
21 provides care for the child on that day not on the basis of the number of hours that
22 each parent cares for the child but on a basis that reflects each parent's proportionate
23 share of the total expenses incurred by the 2 parents in caring for the child on that
24 day.

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

→ ***** NOTE: I changed the wording of this subsection somewhat. I think it now more clearly states the basis on which the court determines physical placement.*

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

9 (a) If the combined gross monthly income of the 2 parents is equal to or less than
10 \$4,000, the gross monthly child support obligation of each parent equals the
11 following percentage of that parent's gross monthly income:

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

17 (b) If the combined gross monthly income of the 2 parents is greater than \$4,000
18 but not greater than \$20,000, the gross monthly child support obligation of each
19 parent is calculated as follows:

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

- 22 a. If there is one minor child, \$680 plus 8.5% of the combined gross monthly
23 income of the 2 parents in excess of \$4,000.

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

3 c. If there are 3 minor children, \$1,160 plus 14.5% of the combined gross
4 monthly income of the 2 parents in excess of \$4,000.

5 d. If there are 4 minor children, \$1,240 plus 15.5% of the combined gross
6 monthly income of the 2 parents in excess of \$4,000.

7 e. If there are 5 or more minor children, \$1,360 plus 17% of the combined gross
8 monthly income of the 2 parents in excess of \$4,000.

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

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

15 (c) If the combined gross monthly income of the 2 parents is greater than
16 \$20,000, the gross monthly child support obligation of each parent is calculated as
17 follows:

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

20 a. If there is one minor child, \$2,040 plus 4% of the combined gross monthly
21 income of the 2 parents in excess of \$20,000.

22 b. If there are 2 minor children, \$3,000 plus 6% of the combined gross monthly
23 income of the 2 parents in excess of \$20,000.

24 c. If there are 3 minor children, \$3,480 plus 7% of the combined gross monthly
25 income of the 2 parents in excess of \$20,000.

1 d. If there are 4 minor children, \$3,720 plus 8% of the combined gross monthly
2 income of the 2 parents in excess of \$20,000.

3 e. If there are 5 or more minor children, \$4,080 plus 9% of the combined gross
4 monthly income of the 2 parents in excess of \$20,000.

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

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

11 (d) Notwithstanding pars. (a), (b) and (c), if a parent is subject to another child
12 support order or is ~~supporting~~ ^{otherwise legally obligated to support} one or more children ~~from a current marriage or~~
13 ~~remarriage~~ ^{other}, that parent's gross monthly child support obligation is the amount
14 determined for that parent under par. (a), (b) or (c), reduced by the following
15 percentage:

- 16 1. If the number of other children ~~being supported~~ is one, 90%.
- 17 2. If the number of other children ~~being supported~~ is 2, 85%.
- 18 3. If the number of other children ~~being supported~~ is 3, 80%.
- 19 4. If the number of other children ~~being supported~~ is 4 or more, 75%.

The parent is obligated to support

****NOTE: This was formerly s. 767.251 (7). Because the reduction in this provision applies to a parent's gross child support obligation under s. 767.251 (3) (which was sub. (2) in the P3 version), it seemed more appropriate to include it right in that subsection. That way, conceptually, the reduction occurs before the court gets to sub. (4), under which the court compares the gross child support obligations of the parents to determine which parent pays the other parent. The court should be using the reduced obligation in the comparison.

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

1 (a) If the court grants periods of physical placement to only one parent, or if the
2 court grants periods of physical placement to both parents but one parent has
3 physical placement of the child for fewer than 55 days in a year, the parent with less
4 or no physical placement shall pay to the other parent the gross monthly child
5 support obligation determined for that payer parent under sub. (3).

6 (b) If the court grants periods of physical placement to both parents and each
7 parent has physical placement of the child for at least 55 days in a year, the court
8 shall determine child support payments in the following manner:

9 1. Each parent's gross monthly child support obligation determined under sub.
10 (3) shall be multiplied by 1.4 and by the other parent's percentage of physical
11 placement determined under sub. (2)(c). The product under this subdivision for each
12 parent is that parent's net monthly child support obligation.

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

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

21 (c) If a child is placed outside his or her home in a residential, nonmedical
22 facility, the child support obligation of each parent shall be as determined under sub.
23 (3).

24 (5) SPLIT PLACEMENT. If there is more than one child, if the amount of physical
25 placement that a parent has with one or more of the children is not the same as the

1 amount that the parent has with one or more of the other children and if the court
2 determines that each parent is required to pay child support to the other parent
3 under sub. (4) (a) or (b) 2. or 3., the court shall require only the parent who is required
4 to pay the greater amount to pay child support, and to pay only the difference in the
5 amounts, to the other parent.

6 SECTION 24. 767.295 (2) (c) of the statutes is amended to read:

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

Insert 18-18

19 SECTION 25. 767.32 (1) (b) 2. of the statutes is amended to read:

20 767.32 (1) (b) 2. ~~Unless the amount of child support is expressed in the~~
21 ~~judgment or order as a percentage of parental income, the~~ The expiration of 33
22 months after the date of the entry of the last child support order, including a revision
23 of a child support order under this section, if the amount of child support under the
24 revised order will exceed the amount under the last order by at least 10% of the
25 amount under the last order or by at least \$40 per month.

by using the method of calculating
child support under s. 767.251

Insert 19-1

1 ~~SECTION 26. 767.32 (1) (b) 4. of the statutes is repealed~~

2 SECTION 27. 767.32 (1) (b) ~~4a~~⁶ of the statutes is created to read:

3 767.32 (1) (b) ~~4a~~⁶ The amount of child support last ordered by the court was
4 based on the amount of physical placement awarded to the parties and the payer has
5 consistently failed to exercise his or her periods of physical placement, if the amount
6 of child support under the revised order, based on the actual amount of physical
7 placement that the payer has in the past exercised, will exceed the amount under the
8 last order by at least 15% of the amount under the last order or by at least \$60 per
9 month.

10 SECTION 28. 767.32 (1) (b) 5. of the statutes is created to read:

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

move text

20 ~~Insert 19-19~~ SECTION 29. 767.32 (2) of the statutes is renumbered 767.32 (2) (a) and

21 amended to read:

22 767.32 (2) (a) Except as provided in sub. (2m) or (2r), if the court revises a
23 judgment or order with respect to child support payments, it shall do so by using the
24 ~~percentage standard established by the department under s. 49.22 (9) method under~~
25 s. 767.251.

1 **SECTION 30.** 767.32 (2) (b) of the statutes is created to read:

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

7 **SECTION 31.** 767.32 (2m) of the statutes is amended to read:

8 767.32 (2m) Upon request by a party, the court may modify the amount of
9 revised child support payments determined under sub. (2) if, after considering the
10 factors listed in s. 767.25 (1m), 767.51 (5) or 767.62 (4) (e), as appropriate, the court
11 finds, by the greater weight of the credible evidence, that ~~the use of the percentage~~
12 standard method of calculating child support under s. 767.251 is unfair to the child
13 or to any of the parties.

14 **SECTION 32.** 767.45 (7) of the statutes is amended to read:

15 767.45 (7) The clerk of court shall provide without charge, to each person
16 bringing an action under this section, except to the state under sub. (1) (g) or (6m),
17 a document setting forth the ~~percentage standard established by the department~~
18 under s. 49.22 (9) method of calculating child support under s. 767.251 and listing
19 the factors which a court may consider under s. 767.51 (5).

20 **SECTION 33.** 767.455 (6) of the statutes is amended to read:

21 767.455 (6) DOCUMENT. The summons served on the respondent shall be
22 accompanied by a document, provided without charge by the clerk of court, setting
23 forth the ~~percentage standard established by the department under s. 49.22 (9)~~
24 method of calculating child support under s. 767.251 and listing the factors which a
25 court may consider under s. 767.51 (5).

Insert 20-13 →
Insert 20-17 →
Insert 20-25 →

1 SECTION 34. 767.477 (2) of the statutes is amended to read:

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

Insert 21-8

9 SECTION 35. 767.51 (4m) of the statutes is amended to read:

10 767.51 (4m) Except as provided in sub. (5), the court shall determine child
11 support payments by using the ~~percentage standard established by the department~~
12 under s. 49.22 (9) method under s. 767.251.

13 SECTION 36. 767.51 (5) (intro.) of the statutes is amended to read: *9 and ... (this act)*

14 767.51 (5) (intro.) Upon request by a party, the court may modify the amount
15 of child support payments determined under sub. (4m) if, after considering the
16 following factors, the court finds by the greater weight of the credible evidence that
17 use of the ~~percentage standard~~ method under s. 767.251 is unfair to the child or to
18 the requesting party:

19 SECTION 37. 767.51 (5d) of the statutes is amended to read: *SECTION # . RP, 767.51 (4m), as affected by 1999 Wisconsin Acts 9 and ... (this act)*

20 767.51 (5d) If the court finds under sub. (5) that use of the ~~percentage standard~~
21 method of calculating child support under s. 767.251 is unfair to the child or the
22 requesting party, the court shall state in writing or on the record the amount of
23 support that would be required by using the ~~percentage standard~~ method under s.
24 767.251, the amount by which the court's order deviates from that amount, its
25 reasons for finding that use of the ~~percentage standard~~ method under s. 767.251 is