

**1999 DRAFTING REQUEST**

**Bill**

Received: **10/7/98**

Received By: **kahlepj**

Wanted: **Soon**

Identical to LRB:

For: **Administration-Budget 6-8219**

By/Representing: **Sajna**

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

Drafter: **kahlepj**

May Contact:

Alt. Drafters:

Subject: **Dom. Rel. - child support**

Extra Copies:

**Topic:**

DOA:.....Sajna - Collect receipt and disbursement fee by income assignment

**Instructions:**

See Attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kahlepj 11/6/98	gilfokm 11/20/98		_____			State
/P1			hhagen 11/23/98	_____	gretskl 11/23/98		State
/P2	kahlepj 12/11/98	gilfokm 12/23/98	jfrantze 12/23/98	_____	lrb_docadmin 12/23/98		State
/1	kahlepj 01/26/99	gilfokm 01/26/99	jfrantze 01/27/99	_____	lrb_docadmin 01/27/99		

FE Sent For:

<END>

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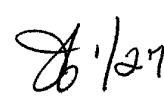

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*6/2/98* *8/1/98*  
*12/23*  
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Received: 10/7/98

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Drafter: **kahlepj**

May Contact:

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Subject: **Dom. Rel. - child support**

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DOA:.....Sajna - Collect receipt and disbursement fee by income assignment

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See Attached

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1?	kahlepj	1/11-20 KMG	# 11/23	# 11/23 CH			

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DEPARTMENT OF WORKFORCE DEVELOPMENT  
FY 1999-2001 BIENNIAL BUDGET  
STATUTORY LANGUAGE PROPOSAL FORMAT

**Division:** DES Bureau of Child Support  
**Appropriation:**  
**Issue:** Income Withholding  
**Contact:** Susan Pfeiffer 267-0926  
Connie Chesnik 267-7295

**PROBLEM**

Under current law, the Receipt and Disbursement Fee can only be enforced by income withholding if the Clerk of Court applies to the Court for an income assignment. Child support orders constitute an assignment by operation of law.

Under current law, a child support agency can administratively increase a withholding order by 50% of the current support amount to cover payments on arrearages. It is unclear whether such an order would continue to be valid after the current support ends or whether a child support agency could administratively establish an order for withholding on arrears after the current support ends. Even if it could be argued that they could, the law would not provide for an order greater than 50%.

**PROPOSED CHANGE**

*by order*

*ED  
January 1,  
2000*

① Amend s.767.265(1) to create an assignment by operation of law to collect the R & D fee under s.767.29.

② Amend s. 767.265(1) to provide that if current child support has ended, income withholding shall continue in the same amount until all arrearages and other balances, including balances under s.767.29, are paid in full.

**EXPLANATORY NOTE**

Counties would not lose the use of a very effective enforcement tool once the current support ends. As long as the obligor remains employed, income withholding could be used without the need to go back for another court order.

**FISCAL IMPACT**

See attached fiscal estimate.

**DESIRED EFFECTIVE DATE**

The date after the publication of the enacted budget bill.



## Legislative Item - Fiscal Estimate

Session: 1999 - 2000

### CHILD SUPPORT - GENERAL

Lead Agency: **Workforce Development**  
Legislative  
Liaison Due Date:  
DOA Due Date:

#### Description

In Wisconsin child support payers are required to pay a \$25 fee for receipt and disbursement (R&D) of child support operations. This \$25 fee is often not paid. This amendment is to allow the state to collect this fee by income withholding, something that cannot now be done.

#### Assignment Information

Assignment Type: **Fiscal Estimate**  
Local Government Costs: None  
Other depts. preparing F.E.: None  
Amendment Number:  
(if applicable)

#### Fiscal Estimate

This amendment will result in the state collecting an estimated \$575,000 per from noncustodial parents that is not now collected. There are currently 436,000 IV-D child support cases in Wisconsin of which approximately 200,000 regularly pay their receipt and disbursement (R&D) \$25.00 fee. This leaves 236,000 that do not pay this fee, many of whom are many years in arrears and from whom the fees is unlikely to ever be collected. It is estimated that, given the option of collecting these fees by income withholding, that ten percent will pay this fee, or have it collected from them, resulting in:

$236,000 (.10) = 23,600$ ,  $23,600(\$25) = \$575,000$  being collected that is not now collected..

#### Subject

CHILD SUPPORT - **Fiscal Effect**

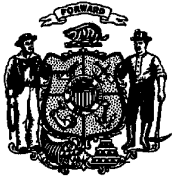
**State:** The state will collect \$575,000 that would not otherwise be collected.

**State Costs:** None

**Local Costs:** None

**Local Revenues:** None

**Local Government**



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-0536  
PJK.../.....  
KMG

P1

DOA:.....Sajna – Collect receipt and disbursement fee by income assignment  
FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

SOV  
(11-6)

do not  
you cut

1 AN ACT <sup>do not you cut</sup>; relating to: collecting the receipt and disbursement fee by income  
2 assignment and the assignment amount for support arrearages

*Analysis by the Legislative Reference Bureau*  
**HEALTH AND HUMAN SERVICES**  
**OTHER HEALTH AND HUMAN SERVICES**

Insert A →

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

3 SECTION 1. 767.265 (1) of the statutes, as affected by 1997 Wisconsin Act 191,  
4 section 411, is amended to read:

5 767.265 (1) Each order for child support under this chapter, for maintenance  
6 payments under s. 767.23 or 767.26, for family support under this chapter, for costs  
7 ordered under s. 767.51 (3) or 767.62 (4) (a), for support by a spouse under s. 767.02

LEPO:  
PNOY  
w/NOTE version  
in state.

Proof of Note version in state

Plaintiff → Department or its designee

1 (1) (f) or for maintenance payments under s. 767.02 (1) (g), each order for a revision  
 2 in a judgment or order with respect to child support, maintenance or family support  
 3 payments under s. 767.32, each stipulation approved by the court or the family court  
 4 commissioner for child support under this chapter and each order for child or spousal  
 5 support entered under s. 948.22 (7) constitutes an assignment of all commissions,  
 6 earnings, salaries, wages, pension benefits, benefits under ch. 102 or 108, lottery  
 7 prizes that are payable in instalments and other money due or to be due in the future  
 8 to the ~~clerk of court or support collection designee of the county where the action is~~  
 9 ~~filed~~. The assignment shall be for an amount an under this section  
 10 (2t) (a) If a payer who is subject to ~~an~~ assignment fails to make  
 11 a required maintenance, child support, spousal support or family support payment,  
 12 the court may increase the amount of the assignment ~~and~~ ~~the new~~  
 13 amount shall be sufficient to ensure payment under the order or stipulation and to  
 14 pay any arrearages due at a periodic rate not to exceed 50% of the amount of support  
 15 due under the order or stipulation so long as the addition of the amount toward  
 16 arrearages does not leave the party at an income below the poverty line established  
 17 under 42 USC 9902 (2).

NOTE: NOTE: Sub. (1) is repealed and recreated eff. 10-1-99 or the date stated in the notice published by the department of workforce development in the Wisconsin Administrative Register under s. 767.29 (1) (f), whichever is earlier, by 1997 Wis. Act 191 to read: NOTE:

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

History: 1971 c. 110; 1975 c. 94 s. 91 (3); 1975 c. 199; 1977 c. 105; 1979 c. 32 ss. 50, 92 (4); 1979 c. 196, 221; Stats. 1979 s. 767.265; 1981 c. 20, 186; 1983 a. 27, 384; 1985 a. 29; 1987 a. 38 s. 136; 1987 a. 332 s. 64; 1987 a. 398, 403; 1988 s. 31, 56, 212, 336; 1991 a. 287; 1993 a. 16, 326, 389, 481; 1995 a. 27 s. 9130 (4); 1995 a. 279, 404; 1997 a. 27, 191.

Antony of Az

26 SECTION 2. 767.265 (1) of the statutes, as affected by 1999 Wisconsin Act ...  
 27 (this act), is amended to read:  
 28 767.265 (1) Each order for child support under this chapter, for maintenance  
 29 payments under s. 767.23 or 767.26, for family support under this chapter, for costs



1 ordered under s. 767.51 (3) or 767.62 (4) (a), for support by a spouse under s. 767.02  
 2 (1) (f) ~~or~~, for maintenance payments under s. 767.02 (1) (g) or for the annual receiving  
 3 and disbursing fee under s. 767.29 (1) (d), each order for a revision in a judgment or  
 4 order with respect to child support, maintenance or family support payments under  
 5 s. 767.32, each stipulation approved by the court or the family court commissioner  
 6 for child support under this chapter and each order for child or spousal support  
 7 entered under s. 948.22 (7) constitutes an assignment of all commissions, earnings,  
 8 salaries, wages, pension benefits, benefits under ch. 102 or 108, lottery prizes that  
 9 are payable in instalments and other money due or to be due in the future to the ~~party~~

*Department or its designee.*

10 of court or support collection designee of the county where the action is filed. The  
 11 assignment shall be for an amount sufficient to ensure payment under the order or  
 12 stipulation and to pay any arrearages due at a periodic rate not to exceed 50% of the  
 13 amount of support due under the order or stipulation so long as the addition of the  
 14 amount toward arrearages does not leave the party at an income below the poverty  
 15 line established under 42 USC 9902 (2).

NOTE: NOTE: Sub. (1) is repeated and recreated eff. 10-1-99 or the date stated in the notice published by the department of workforce development in the Wisconsin Administrative Register under s. 767.29 (1) (f), whichever is earlier, by 1997 Wis. Act 191 to read: NOTE: (1-3-99)

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

History: 1971 c. 110; 1975 c. 94 s. 91 (3); 1975 c. 199; 1977 c. 105; 1979 c. 32 ss. 50, 92 (4); 1979 c. 196, 221; Stats. 1979 s. 767.265; 1981 c. 20, 186; 1983 a. 27, 384; 1985 a. 29; 1987 a. 38 s. 136; 1987 a. 332 s. 64; 1987 a. 398, 403; 1989 a. 56, 212, 336; 1991 a. 287; 1993 a. 16, 326, 389, 481; 1995 a. 27 s. 9130 (4); 1995 a. 279, 404; 1997 a. 27, 191.

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**SECTION 3. 767.265 (2h) of the statutes is amended to read:**

**767.265 (2h)** If a court-ordered assignment does not require immediately effective withholding and a payer fails to make a required maintenance, child support, spousal support ~~or~~, family support or annual receiving and disbursing fee payment within 10 days after its due date, within 20 days after the payment's due date the court or family court commissioner shall cause the assignment to go into

1 effect by providing notice of the assignment in the manner provided under sub. (2r)  
 2 and shall send a notice by regular mail to the last-known address of the payer. The  
 3 notice sent to the payer shall inform the payer that an assignment is in effect and  
 4 that the payer may, within a 10-day period, by motion request a hearing on the issue  
 5 of whether the assignment should remain in effect. The court or family court  
 6 commissioner shall hold a hearing requested under this subsection within 10  
 7 working days after the date of the request. If at the hearing the payer establishes  
 8 that the assignment is not proper because of a mistake of fact, the court or family  
 9 court commissioner may direct that the assignment be withdrawn. Either party  
 10 may, within 15 working days after the date of a decision by a family court  
 11 commissioner under this subsection, seek review of the decision by the court with  
 12 jurisdiction over the action.

History: 1971 c. 110; 1975 c. 94 s. 91 (3); 1975 c. 199; 1977 c. 105; 1979 c. 32 ss. 50, 92 (4); 1979 c. 196, 221; Stats. 1979 s. 767.265; 1981 c. 20, 186; 1983 a. 27, 384; 1985 a. 29; 1987 a. 38 s. 136; 1987 a. 332 s. 64; 1987 a. 398, 403; 1989 a. 31, 56, 212, 336; 1991 a. 287; 1993 a. 16, 326, 389, 481; 1995 a. 27 s. 9130 (4); 1995 a. 279, 404; 1997 a. 27, 191.

13 SECTION 4. 767.265 (2r) of the statutes, as affected by 1997 Wisconsin Act 191,  
 14 section 414, is amended to read:

Insert 4-14

NOTE: NOTE: Sub. (2r) is repealed and recreated eff. 10-1-99 or the date stated in the notice published by the department of workforce development in the Wisconsin Administrative Register under s. 767.29 (1) (f), whichever is earlier, by 1997 Wis. Act 191 to read:NOTE:

(2r) Upon entry of each order for child support, maintenance, family support or support by a spouse and upon approval of each stipulation for child support, unless the court finds that income withholding is likely to cause the payer irreparable harm or unless s. 767.267 applies, the court, family court commissioner or county child support agency under s. 59.53 (5) shall provide notice of the assignment by regular mail or by facsimile machine, as defined in s. 134.72 (1) (a), or other electronic means to the last-known address of the person from whom the payer receives or will receive money. The notice shall provide that the amount withheld may not exceed the maximum amount that is subject to garnishment under 15 USC 1673 (b) (2). If the department or its designee, whichever is appropriate, does not receive the money from the person notified, the court, family court commissioner or county child support agency under s. 59.53 (5) shall provide notice of the assignment to any other person from whom the payer receives or will receive money. Notice under this subsection may be a notice of the court, a copy of the executed assignment or a copy of that part of the court order directing payment.

History: 1971 c. 110; 1975 c. 94 s. 91 (3); 1975 c. 199; 1977 c. 105; 1979 c. 32 ss. 50, 92 (4); 1979 c. 196, 221; Stats. 1979 s. 767.265; 1981 c. 20, 186; 1983 a. 27, 384; 1985 a. 29; 1987 a. 38 s. 136; 1987 a. 332 s. 64; 1987 a. 398, 403; 1989 a. 31, 56, 212, 336; 1991 a. 287; 1993 a. 16, 326, 389, 481; 1995 a. 27 s. 9130 (4); 1995 a. 279, 404; 1997 a. 27, 191.

23 auto ref SECTION 5. 767.265 (2t) (a) of the statutes, as <sup>affected</sup> created by 1999 Wisconsin Act  
 24 .... (this act), is amended to read:

25 767.265 (2t) (a) If a payer who is subject to ~~an assignment~~ <sup>an</sup> assignment <sup>under this section</sup> fails  
 26 to make a required maintenance, child support, spousal support or family support  
 27 or annual receiving and disbursing fee payment, the court may increase the amount  
 28 of the assignment ~~to the amount of the assignment~~ <sup>to the amount of the assignment</sup> The new amount shall be sufficient to ensure

plain

1 payment under the order or stipulation and to pay any arrearages due at a periodic  
2 rate not to exceed 50% of the amount of support due under the order or stipulation  
3 so long as the addition of the amount toward arrearages does not leave the party at  
4 an income below the poverty line established under 42 USC 9902 (2).

5 **SECTION 6.** 767.265 (2t) (b) of the statutes is created to read:

6 767.265 (2t) (b) The court, family court commissioner or county child support  
7 agency shall cause the assignment under par. (a) to go into effect by providing notice  
8 of the assignment in the manner provided under sub. (2r) and shall send a notice by  
9 regular mail to the last-known address of the payer. The notice sent to the payer  
10 shall inform the payer that the new assignment amount is in effect and that the  
11 payer may, within a 10-day period, by motion request a hearing on the issue of  
12 whether the new assignment amount should remain in effect. The court or family  
13 court commissioner shall hold a hearing requested under this paragraph within 10  
14 working days after the date of the request. If at the hearing the payer establishes  
15 that the new assignment amount is not proper because of a mistake of fact, the court  
16 or family court commissioner may direct that the new assignment amount be  
17 withdrawn and that the former assignment amount be reinstated. Either party may,  
18 within 15 working days after the date of a decision by a family court commissioner  
19 under this paragraph, seek review of the decision by the court with jurisdiction over  
20 the action.

21 **SECTION 7.** 767.265 (2t) (c) of the statutes is created to read:

22 767.265 (2t) (c) If a party's current obligation to pay maintenance, child  
23 support, spousal support or family support terminates but the party has an  
24 arrearage in the payment of one or more of those payments, the assignment shall

1 continue in effect, in an amount up to the amount of the assignment before the party's  
2 current obligation terminated, until the arrearage is paid in full.

3 SECTION 8. 767.265 (2t) (c) of the statutes, as created by 1999 Wisconsin Act ...  
4 (this act), is amended to read:

5 767.265 (2t) (c) If a party's current obligation to pay maintenance, child  
6 support, spousal support or, family support or the annual receiving and disbursing fees  
7 terminates but the party has an arrearage in the payment of one or more of those  
8 payments, the assignment shall continue in effect, in an amount up to the amount  
9 of the assignment before the party's current obligation terminated, until the  
10 arrearage is paid in full.

11 SECTION 9357. Initial applicability; workforce development.

12 (1) ASSIGNMENT OF RECEIVING AND DISBURSING FEES. The treatment of sections  
13 767.265 (2h) and (2r) and 767.29 (1) (d) (intro.), 1. and 2. of the statutes and the  
14 amendment of section 767.265 (1) (by SECTION) and (2t) (a) and (c) of the statutes first  
15 apply to annual receiving and disbursing fees that are ordered on the effective date  
16 of this subsection.

17 SECTION 9457. Effective dates; workforce development.

18 (1) ASSIGNMENT OF RECEIVING AND DISBURSING FEES. The treatment of sections  
19 767.265 (2h) and (2r) and 767.29 (1) (d) (intro.), 1. and 2. of the statutes, the  
20 amendment of section 767.265 (1) (by SECTION) and (2t) (a) and (c) of the statutes and  
21 SECTION 9357 of this act take effect on January 1, 2000.

22 (END)

Insert 6-10

auto ref A

auto ref A

auto ref B

(by SECTION auto ref C)

~~SECTION 9357~~  
~~SECTION 9457~~  
~~SECTION 9458~~  
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1-3-99

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197 Act 191K or get from stats. NOTE version

- 64 -

strike

the annual receiving and disbursing fee

SECTION 414. 767.265 (2r) of the statutes, as affected by 1997 Wisconsin Acts 27 and ... (this act), is repealed and recreated to read:

767.265 (2r) Upon entry of each order for child support, maintenance, family support or support by a spouse and upon approval of each stipulation for child support, unless the court finds that income withholding is likely to cause the payer irreparable harm or unless s. 767.267 applies, the court, family court commissioner or county child support agency under s. 59.53 (5) shall provide notice of the assignment by regular mail or by facsimile machine, as defined in s. 134.72 (1) (a), or other electronic means to the last-known address of the person from whom the payer receives or will receive money. The notice shall provide that the amount withheld may not exceed the maximum amount that is subject to garnishment under 15 USC 1673 (b) (2). If the department or its designee, whichever is appropriate, does not receive the money from the person notified, the court, family court commissioner or county child support agency under s. 59.53 (5) shall provide notice of the assignment to any other person from whom the payer receives or will receive money. Notice under this subsection may be a notice of the court, a copy of the executed assignment or a copy of that part of the court order directing payment.

SECTION 415. 767.265 (3h) of the statutes is amended to read:

767.265 (3h) A person who receives notice of assignment under this section or s. 767.23 (1) (L), 767.25 (4m) (c) or 767.51 (3m) (c) or 767.62 (4) (b) 3. of similar laws of another state shall withhold the amount specified in the notice from any money that person pays to the payer later than one week after receipt of notice of assignment. Within 5 days after the day the person pays money to the payer, the person shall send the amount withheld to the clerk of court or support collection designee, whichever is appropriate, of the jurisdiction providing notice or, in the case of an amount ordered withheld for health care expenses, to the appropriate health care insurer, provider or plan. With each payment sent to the clerk of court or support collection designee, the person from whom the payer receives money shall report to the clerk or support collection designee the payer's gross income or other gross amount from which the payment was withheld. Except as provided in sub. (3m), for each payment sent to the clerk of court or support collection designee, the person from whom the payer receives money shall receive an amount equal to the person's necessary disbursements, not to exceed \$3, which shall be deducted from the money to be paid to the payer. Section 24.09 does not apply to assignments under this section.

SECTION 416. 767.265 (3h) of the statutes, as affected by 1997 Wisconsin Acts 27 and ... (this act), is repealed and recreated to read:

767.265 (3h) A person who receives notice of assignment under this section or s. 767.23 (1) (L), 767.25 (4m)

1997 Senate Bill 494

(c), 767.51 (3m) (c) or 767.62 (4) (b) 3. or similar laws of another state shall withhold the amount specified in the notice from any money that person pays to the payer later than one week after receipt of notice of assignment. Within 5 days after the day the person pays money to the payer, the person shall send the amount withheld to the department or its designee, whichever is appropriate, or, in the case of an amount ordered withheld for health care expenses, to the appropriate health care insurer, provider or plan. With each payment sent to the department or its designee, the person from whom the payer receives money shall report to the department or its designee the payer's gross income or other gross amount from which the payment was withheld. Except as provided in sub. (3m), for each payment sent to the department or its designee, the person from whom the payer receives money shall receive an amount equal to the person's necessary disbursements, not to exceed \$3, which shall be deducted from the money to be paid to the payer. Section 24.09 does not apply to assignments under this section.

SECTION 417. 767.265 (3m) of the statutes is amended to read:

767.265 (3m) Benefits under ch. 108 may be assigned and withheld only in the manner provided in s. 108.13 (4). Any order to withhold benefits under ch. 108 shall be for an amount certain may be for a percentage of benefits payable or for a fixed sum, or for a combination of both in the alternative by requiring the withholding of the greater or lesser of either a percentage of benefits payable or a fixed sum. When money is to be withheld from these benefits, no fee may be deducted from the amount withheld and no fine may be levied for failure to withhold the money.

SECTION 418. 767.265 (4) of the statutes is amended to read:

767.265 (4) A withholding assignment or order under this section or s. 767.23 (1) (L), 767.25 (4m) (c) or 767.51 (3m) (c) or 767.62 (4) (b) 3. has priority over any other assignment, garnishment or similar legal process under state law.

SECTION 419. 767.265 (6) (a) of the statutes is amended to read:

767.265 (6) (a) Except as provided in sub. (3m), if after receipt of notice of assignment the person from whom the payer receives money fails to withhold the money or send the money to the clerk of court or support collection designee or the appropriate health care insurer, provider or plan as provided in this section or s. 767.23 (1) (L), 767.25 (4m) (c) or 767.51 (3m) (c) or 767.62 (4) (b) 3., the person may be proceeded against under the principal action under ch. 785 for contempt of court or may be proceeded against under ch. 778 and be required to forfeit not less than \$50 nor more than an amount, if the amount exceeds \$50, that is equal to 1% of the amount not withheld or sent.

(end of ins 4-14)

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182

SECTION # . 767.29 (1)(d) (intro.)  
of the statutes  
and 1. as created by 1997 Wisconsin Act  
27, are consolidated, renumbered  
767.29 (1)(d) and amended to  
read:



767.29(1)(d) and amended to be  
insert 6-10 2002

1997 Assembly Bill 100

SECTION 5010. 767.29 (1) (b) of the statutes is created to read:

767.29 (1) (b) Upon request, after the filing of an order or judgment or the receipt of an interim disbursement order, the clerk of court shall advise the county child support agency under s. 59.53 (5) of the terms of the order or judgment within 2 business days after the filing or receipt. The county child support agency shall, within the time required by federal law, enter the terms of the order or judgment into the statewide support data system, as required by s. 59.53 (5) (b).

SECTION 5011. 767.29 (1) (d) of the statutes is created to read:

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

1. Move the court for a remedial sanction under ch. 785.
2. Apply to the court or family court commissioner for an assignment relating to the annual fee in accordance with s. 767.265.

SECTION 5012. 767.29 (1) (f) of the statutes is created to read:

767.29 (1) (f) If the department determines that the statewide automated support and maintenance receipt and disbursement system will be operational before October 1, 1999, the department shall publish a notice in the Wisconsin Administrative Register that states the date on which the system will begin operating. Before that date or October 1, 1999, whichever is earlier, the circuit courts, county child support agencies under s. 59.53 (5), clerks of court and employers shall cooperate with the department in any measures taken to ensure an efficient and orderly transition from the countywide system of support receipt and disbursement to the statewide system.

SECTION 5014. 767.29 (1m) (intro.) of the statutes is amended to read:

767.29 (1m) (intro.) Notwithstanding ss. 767.25 (6), 767.261 and 767.51 (5p), if the clerk of court or support

collection department or its designee receives support or maintenance money that exceeds the amount due in the month in which it is received and that the clerk or support collection department or its designee determines is for support or maintenance due in a succeeding month, the clerk or support collection department or its designee may hold the amount of overpayment that does not exceed the amount due in the next month for disbursement in the next month if any of the following applies:

SECTION 5015. 767.29 (1m) (d) of the statutes is amended to read:

767.29 (1m) (d) The clerk or support collection department or its designee determines that the overpayment should be held until the month when it is due.

SECTION 5016. 767.29 (2) of the statutes is amended to read:

767.29 (2) If any party entitled to maintenance payments or support money, or both, is receiving public assistance under ch. 49, the party may assign the party's right thereto to the county department under s. 46.215, 46.22 or 46.23 granting such assistance. Such assignment shall be approved by order of the court granting the maintenance payments or support money, and may be terminated in like manner; except that it shall not be terminated in cases where there is any delinquency in the amount of maintenance payments and support money previously ordered or adjudged to be paid to the assignee without the written consent of the assignee or upon notice to the assignee and hearing. When an assignment of maintenance payments or support money, or both, has been approved by the order, the assignee shall be deemed a real party in interest within s. 803.01 but solely for the purpose of securing payment of unpaid maintenance payments or support money adjudged or ordered to be paid, by participating in proceedings to secure the payment thereof. Notwithstanding assignment under this subsection, and without further order of the court, the clerk of court or support collection department or its designee, upon receiving notice that a party or a minor child of the parties is receiving aid under s. 49.19 public assistance under ch. 49, shall forward all support assigned under s. 48.57 (3m) (b) 2., 49.19 (4) (h) 1. or 49.45 (19) to the department assignee under s. 49.19 (4) (h) 1. or 49.45 (19).

SECTION 5019. 767.293 (1) of the statutes is amended to read:

767.293 (1) If an order for child support under this chapter or s. 948.22 (7), an order for family support under this chapter or a stipulation approved by the court or the family court commissioner for child support under this chapter requires a payer to pay child or family support in an amount that is expressed as a percentage of parental income, the payee, including the state or its designee a county child support agency under s. 59.53 (5) if the state is a real party in interest under s. 767.075 (1), may establish an arrearage by filing an affidavit in the action in which the order for the payment of support was entered

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Insert 6-12-A

move

Wisconsin Act 27,

SECTION# RP. 767.29(1)(d) 2., as created by 1997  
(end of ins 6-10)

1999-2000 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0536/?ins  
PJK.....

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~~SECTION 1. 767.265 (1) of the statutes is amended to read:~~

wof  
In directing the manner of payment of the annual fee, the court or family court commissioner shall order that the annual fee be withheld from income and sent to the department or its designee, as provided under s. 767.265, along with the first payment in each year of maintenance, child support or family support.

(END OF INSERT 6-12-A)



1999-2000 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0536/ins

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Under current law, the department of workforce development (DWD) will assume responsibility on January 3, 1999, (which is the date published by DWD in the Wisconsin Administrative Register as the date for the transfer of responsibilities from the clerks of court) for receiving and disbursing child support, maintenance, family support and other support-related payments. A payer of support or maintenance is required by statute to pay an annual receipt and disbursement fee of \$25 to DWD. The bill provides that the receipt and disbursement fee must be paid by wage assignment, just as support and maintenance payments are paid.

Current law provides that each order for child or family support, maintenance or spousal support is an automatic assignment of a person's wages to DWD (to the clerk of court before January 3, 1999). Current law also provides that the assignment ~~shall~~ be in an amount that is sufficient to ensure payment of the amount under the order, as well as any arrearages due at a periodic rate that does not exceed 50% of the amount due under the order, as long as the additional amount for arrearages does not leave the person at an income below the federal poverty line. The bill clarifies that, if a payer accrues an arrearage, a court is authorized to increase the amount of an assignment up to the amount specified in the statute. The bill provides that either the court, the family court commissioner or the county child support agency must provide notice to the payer that the new, increased assignment amount is in effect and that the payer may request a hearing on whether the new amount should remain in effect. The court or family court commissioner must reinstate the former assignment amount if the payer requests a hearing and establishes that the new assignment amount is not proper because of a mistake of fact. <sup>1</sup>

The bill also provides that the wage assignment of a person who had an obligation to pay support or maintenance, but who no longer has a current obligation to do ~~shall~~ continue in effect if the person has an arrearage in the payment of support or maintenance. The amount of the assignment may be up to the amount that the assignment was before the person's current obligation to pay support or maintenance terminated.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

(END OF INSERT A)

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will

STATE OF WISCONSIN  
DEPARTMENT OF ADMINISTRATION  
DIVISION OF EXECUTIVE BUDGET AND FINANCE  
DOA-5187 N(R0695)

### FACSIMILE COVER MESSAGE

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Location		Room Number
		Telephone Number
<b>FROM (Sender)</b>		
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Location	<i>101 East Wilson Street, 10th Floor; Madison, WI 53702</i>	Facsimile Telephone Number <i>(608) 267-0372</i>
		Telephone Number

**COMMENTS / INSTRUCTIONS**

*Comments from the department...*

# InterOffice Memo

Department of Workforce Development

**Date:** December 4, 1998

**To:** Jennifer Sajna  
State Budget Office

**From:** Bob Nikolay  
Bureau of Strategic Planning and Budget

**Subject:** Statutory Language Drafts for Biennial Budget

Summarized below are additional comments on LRB drafts for biennial budget statutory language.

1. LRB 0514/2 - Redemption of Personal and Real Property. The draft is OK.

2. LRB 0536/1 - Collection of R&D Fee by Income Assignment. The R & D fee provisions of this bill and the provisions continuing a wage withholding order in effect after the children reach the age of majority are OK. However, the drafter had expressed an interest in amending the provisions in s.767.265(1) to clarify that the state has the authority to administratively increase withholding orders by an additional 50% to cover arrearages. However, the draft, at page 3, line 3, indicates that the court may increase the assignment. Current law already created an assignment for up to an additional 50% at s.767.265(1). What we thought we were missing was the authority, administratively, to implement that assignment. PRWORA requires states to have procedures for administratively increasing withholding. (s.2314, amending 42 USC 666(a)(1)(B)) 45 CFR 303.100(4). However, 1997 Wisconsin Act 27, the Budget Bill, amended s.767.265(2r) to provide that either the Family Court Commissioner or the Child Support Agency could send out the withholding notice. Accordingly, we do not believe that any clarifications are necessary in the statutes. We recommend that sections 1, 5, and 6 be deleted from the draft.

3. LRB 0589/1 - Grants and Loans to Obligor. This draft is OK.

4. LRB-0601/1 - Financial Account Seizure. Section 1, line 3 creates a requirement that DWD notify a financial institution that no hearing was requested. This is unnecessary as the financial institution only needs to know what to do with the frozen funds. The language should read "If a hearing is not timely requested under par. (d)6 or 6m, the department shall advise the financial institution to remit to the department the amount seized, less the amount of any fees charged under par. (e)."

NOTE: It is also not possible to notify the financial institution that no hearing was requested as DWD won't know if a third party has requested a hearing because only the obligor is required to notify the Department. We did not realize this until we saw the drafter's language. Would it be possible to insert a notice requirement for third parties in s.49.854(7m)? Without it, the Department may potentially disburse seized assets prior to a court determination of third party property rights.



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-0536/4  
PJK:kmg:hmh

P2

*rm is run*

DOA:.....Sajna - Collect receipt and disbursement fee by income assignment

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

*SOON  
(12-11)  
J-vote*

*Due By  
Monday Noon,  
12/28*

*do not generate*

- 1 AN ACT *...*; relating to: collecting the receipt and disbursement fee by income
- 2 assignment and the assignment amount for support arrearages.

*Analysis by the Legislative Reference Bureau*

**HEALTH AND HUMAN SERVICES**

**OTHER HEALTH AND HUMAN SERVICES**

Under current law, the department of workforce development (DWD) will assume responsibility on January 3, 1999, (which is the date published by DWD in the Wisconsin Administrative Register as the date for the transfer of responsibilities from the clerks of court) for receiving and disbursing child support, maintenance, family support and other support-related payments. A payer of support or maintenance is required by statute to pay an annual receipt and disbursement fee of \$25 to DWD. The bill provides that the receipt and disbursement fee must be paid by wage assignment, just as support and maintenance payments are paid.

4 ← Current law provides that each order for child or family support, maintenance or spousal support is an automatic assignment of a person's wages to DWD (to the clerk of court before January 3, 1999). ~~Current law also provides that the assignment must be~~ in an amount that is sufficient to ensure payment of the amount under the order, as well as any arrearages due at a periodic rate that does not exceed 50% of the amount due under the order, as long as the additional amount for arrearages does not leave the person at an income below the federal poverty line. ~~The bill clarifies that, if a payer accrues an arrearage, a court is authorized to increase the amount~~

*Insert A*

of an assignment up to the amount specified in the statute. The bill provides that either the court, the family court commissioner or the county child support agency must provide notice to the payer that the new, increased assignment amount is in effect and that the payer may request a hearing on whether the new amount should remain in effect. The court or family court commissioner must reinstate the former assignment amount if the payer requests a hearing and establishes that the new assignment amount is not proper because of a mistake of fact.

The bill also provides that the wage assignment of a person who had an obligation to pay support or maintenance, but who no longer has a current obligation to do so, will continue in effect if the person has an arrearage in the payment of support or maintenance. The amount of the assignment may be up to the amount that the assignment was before the person's current obligation to pay support or maintenance terminated.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 767.265 (1) of the statutes, as affected by 1997 Wisconsin Act 191,  
2 section 411, is amended to read:

3           767.265 (1) Each order for child support under this chapter, for maintenance  
4 payments under s. 767.23 or 767.26, for family support under this chapter, for costs  
5 ordered under s. 767.51 (3) or 767.62 (4) (a), for support by a spouse under s. 767.02  
6 (1) (f) or for maintenance payments under s. 767.02 (1) (g), each order for a revision  
7 in a judgment or order with respect to child support, maintenance or family support  
8 payments under s. 767.32, each stipulation approved by the court or the family court  
9 commissioner for child support under this chapter and each order for child or spousal  
10 support entered under s. 948.22 (7) constitutes an assignment of all commissions,  
11 earnings, salaries, wages, pension benefits, benefits under ch. 102 or 108, lottery  
12 prizes that are payable in instalments and other money due or to be due in the future  
13 to the department or its designee. The assignment shall be for an amount

1 (2t) (a) If a payer who is subject to an assignment under this section fails to  
2 make a required maintenance, child support, spousal support or family support  
3 payment, the court may increase the amount of the assignment. The new amount  
4 shall be sufficient to ensure payment under the order or stipulation and to pay any  
5 arrearages due at a periodic rate not to exceed 50% of the amount of support due  
6 under the order or stipulation so long as the addition of the amount toward  
7 arrearages does not leave the party at an income below the poverty line established  
8 under 42 USC 9902 (2).

9 **SECTION 2.** 767.265 (1) of the statutes, as affected by 1999 Wisconsin Act ....  
10 (this act), is amended to read:

11 767.265 (1) Each order for child support under this chapter, for maintenance  
12 payments under s. 767.23 or 767.26, for family support under this chapter, for costs  
13 ordered under s. 767.51 (3) or 767.62 (4) (a), for support by a spouse under s. 767.02  
14 (1) (f) ~~or~~, for maintenance payments under s. 767.02 (1) (g) or for the annual receiving  
15 and disbursing fee under s. 767.29 (1) (d), each order for a revision in a judgment or  
16 order with respect to child support, maintenance or family support payments under  
17 s. 767.32, each stipulation approved by the court or the family court commissioner  
18 for child support under this chapter and each order for child or spousal support  
19 entered under s. 948.22 (7) constitutes an assignment of all commissions, earnings,  
20 salaries, wages, pension benefits, benefits under ch. 102 or 108, lottery prizes that  
21 are payable in instalments and other money due or to be due in the future to the  
22 department or its designee.

23 **SECTION 3.** 767.265 (2h) of the statutes is amended to read:

24 767.265 (2h) If a court-ordered assignment does not require immediately  
25 effective withholding and a payer fails to make a required maintenance, child

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

16 **SECTION 4.** 767.265 (2r) of the statutes, as affected by 1997 Wisconsin Act 191,  
17 section 414, is amended to read:

18 767.265 (2r) Upon entry of each order for child support, maintenance, family  
19 support or support by a spouse or the annual receiving and disbursing fee, and upon  
20 approval of each stipulation for child support, unless the court finds that income  
21 withholding is likely to cause the payer irreparable harm or unless s. 767.267  
22 applies, the court, family court commissioner or county child support agency under  
23 s. 59.53 (5) shall provide notice of the assignment by regular mail or by facsimile  
24 machine, as defined in s. 134.72 (1) (a), or other electronic means to the last-known  
25 address of the person from whom the payer receives or will receive money. The notice

Insert 4-15

1 shall provide that the amount withheld may not exceed the maximum amount that  
2 is subject to garnishment under 15 USC 1673 (b) (2). If the department or its  
3 designee, whichever is appropriate, does not receive the money from the person  
4 notified, the court, family court commissioner or county child support agency under  
5 s. 59.53 (5) shall provide notice of the assignment to any other person from whom the  
6 payer receives or will receive money. Notice under this subsection may be a notice  
7 of the court, a copy of the executed assignment or a copy of that part of the court order  
8 directing payment.

9 **SECTION 5.** 767.265 (2t) (a) of the statutes, as affected by 1999 Wisconsin Act  
10 .... (this act), is amended to read:

11 767.265 (2t) (a) If a payer who is subject to an assignment under this section  
12 fails to make a required maintenance, child support, spousal support or family  
13 support or annual receiving and disbursing fee payment, the court may increase the  
14 amount of the assignment. The new amount shall be sufficient to ensure payment  
15 under the order or stipulation and to pay any arrearages due at a periodic rate not  
16 to exceed 50% of the amount of support due under the order or stipulation so long as  
17 the addition of the amount toward arrearages does not leave the party at an income  
18 below the poverty line established under 42 USC 9902 (2).

19 **SECTION 6.** 767.265 (2t) (b) of the statutes is created to read:

20 767.265 (2t) (b) The court, family court commissioner or county child support  
21 agency shall cause the assignment under par. (a) to go into effect by providing notice  
22 of the assignment in the manner provided under sub. (2r) and shall send a notice by  
23 regular mail to the last-known address of the payer. The notice sent to the payer  
24 shall inform the payer that the new assignment amount is in effect and that the  
25 payer may, within a 10-day period, by motion request a hearing on the issue of



1 whether the new assignment amount should remain in effect. The court or family  
 2 court commissioner shall hold a hearing requested under this paragraph within 10  
 3 working days after the date of the request. If at the hearing the payer establishes  
 4 that the new assignment amount is not proper because of a mistake of fact, the court  
 5 or family court commissioner may direct that the new assignment amount be  
 6 withdrawn and that the former assignment amount be reinstated. Either party may,  
 7 within 15 working days after the date of a decision by a family court commissioner  
 8 under this paragraph, seek review of the decision by the court with jurisdiction over  
 9 the action.

10 SECTION 7. 767.265 (2t) (c) of the statutes is created to read:

11 767.265 (2t) (c) If a party's current obligation to pay maintenance, child  
 12 support, spousal support or family support terminates but the party has an  
 13 arrearage in the payment of one or more of those payments, the assignment shall  
 14 continue in effect, in an amount up to the amount of the assignment before the party's  
 15 current obligation terminated, until the arrearage is paid in full.

16 SECTION 8. 767.265 (2t) (c) of the statutes, as created by 1999 Wisconsin Act ....  
 17 (this act), is amended to read:

18 767.265 (2t) (c) If a party's current obligation to pay maintenance, child  
 19 support, spousal support or family support or the annual receiving and disbursing  
 20 fee terminates but the party has an arrearage in the payment of one or more of those  
 21 payments, the assignment shall continue in effect, in an amount up to the amount  
 22 of the assignment before the party's current obligation terminated, until the  
 23 arrearage is paid in full.

24 SECTION 9. 767.29 (1) (d) (intro.) and 1. of the statutes, as created by 1997  
 25 Wisconsin Act 27, are consolidated, renumbered 767.29 (1) (d) and amended to read:

*(editor: this is changed to (1m) and moved to insert 84-15)*

1           767.29 (1) (d) For receiving and disbursing maintenance, child support or  
 2 family support payments, and for maintaining the records required under par. (c),  
 3 the department or its designee shall collect an annual fee of \$25 to be paid by each  
 4 party ordered to make payments. The court or family court commissioner shall order  
 5 each party ordered to make payments to pay the annual fee under this paragraph at  
 6 the time of, and in addition to, the first payment to the department or its designee  
 7 in each year for which payments are ordered. In directing the manner of payment  
 8 of the annual fee, the court or family court commissioner shall order that the annual  
 9 fee be withheld from income and sent to the department or its designee, as provided  
 10 under s. 767.265, along with the first payment in each year of maintenance, child  
 11 support or family support. All fees collected under this paragraph shall be deposited  
 12 in the appropriation account under s. 20.445 (3) (ja). At the time of ordering the  
 13 payment of an annual fee under this paragraph, the court or family court  
 14 commissioner shall notify each party ordered to make payments of the requirement  
 15 to pay the annual fee and of the amount of the annual fee. If the annual fee under  
 16 this section is not paid when due, the department or its designee may not deduct the  
 17 annual fee from the maintenance or child or family support payment, but may do any  
 18 of the following: 1. ~~Move~~ move the court for a remedial sanction under ch. 785.

19           **SECTION 10.** 767.29 (1) (d) 2. of the statutes, as created by 1997 Wisconsin Act  
 20 27, is repealed.

21           **SECTION 9357. Initial applicability; workforce development.**

22           (1) ASSIGNMENT OF RECEIVING AND DISBURSING FEES. The treatment of sections  
 23 767.265 (2h) and (2r) and 767.29 (1) (d) (intro.), 1. and 2. of the statutes and the  
 24 amendment of section 767.265 (1) (by SECTION 2) and (2) (a) (by SECTION 2) and (c)

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A

23  
24

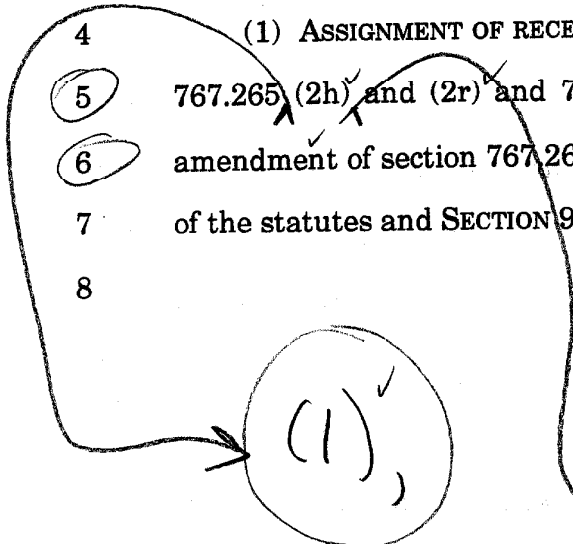
(1m)

1 of the statutes first apply to annual receiving and disbursing fees that are ordered  
2 on the effective date of this subsection.

3 **SECTION 9457. Effective dates; workforce development.**

4 (1) ASSIGNMENT OF RECEIVING AND DISBURSING FEES. The treatment of sections  
5 767.265 (2h) and (2r) and 767.29 (1) (d) (intro.), 1. and 2. of the statutes, the  
6 amendment of section 767.265 (1m) by SECTION 2 and (2) (a) (by SECTION 5) and (c)  
7 of the statutes and SECTION 9357 (1) of this act take effect on January 1, 2000.

8 (END)



(by SECTION 5) auto ref A

Done

1999-2000 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0536/P2ins  
PJK:kmg:hmh

INSERT A for P2

Current law also provides that, if an assignment does not require ~~immediate~~ withholding and the payer misses a payment, the the court or family court commissioner may cause the assignment to go into effect by providing notice of the assignment to the payer's employer or other person from whom the payer receives or will receive money. The payer also receives notice and may request a hearing on whether the assignment should remain in effect. The bill clarifies that the portion of the original assignment that was for any arrearages due is an assigned amount that does not require ~~immediate~~ withholding and that, if a payer accrues an arrearage by missing a payment, the assignment of the arrearage may be put into effect by providing notice. The bill provides that, in addition to the court and the family court commissioner, the county child support agency may cause the assignment for arrearages to go into effect by sending the required notices.

INSERT A

immediately effective

to the payer<sup>er</sup> and to a person from  
whom the payer<sup>er</sup> receives or  
will receive money

1999-2000 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0536/P2ins  
PJK:kmg:hmh

INSERT 4-15 ✓

1874

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

NOTE: NOTE: Sub. (1) is repealed and recreated eff. 10-1-99 or the date stated in the notice published by the department of workforce development in the Wisconsin Administrative Register under s. 767.29 (1) (f), whichever is earlier, by 1997 Wis. Act 191 to read: NOTE: ✓

(1) Each order for child support under this chapter, for maintenance payments under s. 767.23 or 767.26, for family support under this chapter, for costs ordered under s. 767.51 (3) or 767.62 (4) (a), for support by a spouse under s. 767.02 (1) (f) or, for maintenance payments under s. 767.02 (1) (g) or for the annual receiving and disbursing fee under s. 767.29 (1) (d), each order for a revision in a judgment or order with respect to child support, maintenance or family support

*gas 4-15 cont'd*

*28/4*

payments under s. 767.32, each stipulation approved by the court or the family court commissioner for child support under this chapter and each order for child or spousal support entered under s. 948.22 (7) constitutes an assignment of all commissions, earnings, salaries, wages, pension benefits, benefits under ch. 102 or 108, lottery prizes that are payable in instalments and other money due or to be due in the future to the department or its designee. The assignment shall be for an amount sufficient to ensure payment under the order or stipulation and to pay any arrearages due at a periodic rate not to exceed 50% of the amount of support due under the order or stipulation so long as the addition of the amount toward arrearages does not leave the party at an income below the poverty line established under 42 USC 9902 (2).

History: 1971 c. 110; 1975 c. 94 s. 91 (3); 1975 c. 199; 1977 c. 105; 1979 c. 32 ss. 50, 92 (4); 1979 c. 196, 221; Stats. 1979 s. 767.265; 1981 c. 20, 186; 1983 a. 27, 384; 1985 a. 29; 1987 a. 38 s. 136; 1987 a. 332 s. 64; 1987 a. 398, 403; 1989 a. 31, 56, 212, 336; 1991 a. 287; 1993 a. 16, 326, 389, 481; 1995 a. 27 s. 9130 (4); 1995 a. 279, 404; 1997 a. 27, 191.

**SECTION 1.** 767.265 (1m) of the statutes is created to read:

767.265 (1m) If a party's current obligation to pay maintenance, child support, spousal support or family support terminates but the party has an arrearage in the payment of one or more of those payments, the assignment shall continue in effect, in an amount up to the amount of the assignment before the party's current obligation terminated, until the arrearage is paid in full.

**SECTION 2.** 767.265 (1m) of the statutes, as created by 1999 Wisconsin Act .... (this act), is amended to read:

767.265 (1m) If a party's current obligation to pay maintenance, child support, spousal support or, family support or the annual receiving and disbursing fee terminates but the party has an arrearage in the payment of one or more of those payments, the assignment shall continue in effect, in an amount up to the amount

*ens 4-15 cont'd 3094*

of the assignment before the party's current obligation terminated, until the arrearage is paid in full.

**SECTION 3.** 767.265 (2h) of the statutes is amended to read:

767.265 (2h) If a court-ordered assignment, including the assignment specified under sub. (1) for the payment of any arrearages due, does not require immediately effective withholding and a payer fails to make a required maintenance, child support, spousal support or family support payment within 10 days after its due date, within 20 days after the payment's due date the court ~~or~~ family court commissioner or child support agency under s. 59.53 (5) shall cause the assignment to go into effect by providing notice of the assignment in the manner provided under sub. (2r) and shall send a notice by regular mail to the last-known address of the payer. The notice sent to the payer shall inform the payer that an assignment is in effect and that the payer may, within a 10-day period, by motion request a hearing on the issue of whether the assignment should remain in effect. The court or family court commissioner shall hold a hearing requested under this subsection within 10 working days after the date of the request. If at the hearing the payer establishes that the assignment is not proper because of a mistake of fact, the court or family court commissioner may direct that the assignment be withdrawn. Either party may, within 15 working days after the date of a decision by a family court commissioner under this subsection, seek review of the decision by the court with jurisdiction over the action.

*County*

**History:** 1971 c. 110; 1975 c. 94 s. 91 (3); 1975 c. 199; 1977 c. 105; 1979 c. 32 ss. 50, 92 (4); 1979 c. 196, 221; Stats. 1979 s. 767.265; 1981 c. 20, 186; 1983 a. 27, 384; 1985 a. 29; 1987 a. 38 s. 136; 1987 a. 332 s. 64; 1987 a. 398, 403; 1989 a. 31, 56, 212, 336; 1991 a. 287; 1993 a. 16, 326, 389, 481; 1995 a. 27 s. 9130 (4); 1995 a. 279, 404; 1997 a. 27, 191.

**SECTION 4.** 767.265 (2h) of the statutes, as affected by 1999 Wisconsin Act ....

(this act), is amended to read:

*Auto ref A*

*Ins 4-15 cont'd*

*4074*

767.265 (2h) If a court-ordered assignment, including the assignment specified under sub. (1) for the payment of any arrearages due, does not require immediately effective withholding and a payer fails to make a required maintenance, child support, spousal support ~~or~~, family support or annual receiving and disbursing fee payment within 10 days after its due date, within 20 days after the payment's due date the court, family court commissioner or <sup>→ county</sup> child support agency under s. 59.53 (5) shall cause the assignment to go into effect by providing notice of the assignment in the manner provided under sub. (2r) and shall send a notice by regular mail to the last-known address of the payer. The notice sent to the payer shall inform the payer that an assignment is in effect and that the payer may, within a 10-day period, by motion request a hearing on the issue of whether the assignment should remain in effect. The court or family court commissioner shall hold a hearing requested under this subsection within 10 working days after the date of the request. If at the hearing the payer establishes that the assignment is not proper because of a mistake of fact, the court or family court commissioner may direct that the assignment be withdrawn. Either party may, within 15 working days after the date of a decision by a family court commissioner under this subsection, seek review of the decision by the court with jurisdiction over the action.

History: 1971 c. 110; 1975 c. 94 s. 91 (3); 1975 c. 199; 1977 c. 105; 1979 c. 32 ss. 50, 92 (4); 1979 c. 196, 221; Stats. 1979 s. 767.265; 1981 c. 20, 186; 1983 a. 27, 384; 1985 a. 29; 1987 a. 38 s. 136; 1987 a. 332 s. 64; 1987 a. 398, 403; 1989 a. 31, 56, 212, 336; 1991 a. 287; 1993 a. 16, 326, 389, 481; 1995 a. 27 s. 9130 (4); 1995 a. 279, 404; 1997 a. 27, 191.

(END OF INSERT 4-15)



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

LRB-0536/P2dn  
PJK:kmg:hmh

Jenny:

When the language of this draft is approved, this draft and LRB-0593 will be compiled into one draft to make final reconciliation easier. We may have to discuss how the delinquent fees in LRB-0593 are to be collected.

Pamela J. Kahler  
Senior Legislative Attorney  
266-2682

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

LRB-0536/P2dn  
PJK:kmgjf

December 23, 1998

Jenny:

When the language of this draft is approved, this draft and LRB-0593 will be compiled into one draft to make final reconciliation easier. We may have to discuss how the delinquent fees in LRB-0593 are to be collected.

Pamela J. Kahler  
Senior Legislative Attorney  
266-2682

# InterOffice Memo

Department of Workforce Development

Date: January 12, 1999

To: Jennifer Sajna  
State Budget Office

From: Bob Nikolay  
Bureau of Strategic Planning and Budget

Subject: Statutory Language Drafts for Biennial Budget

Summarized below are additional comments on LRB drafts of biennial budget statutory language.

1. ~~LRB 0487/3 – Child Care and Basic Education. The drafter is correct in assuming that it was the Department's intent to eliminate language regarding "other employment skills training" and "educational courses that provide an employment skill" from s.49.155(1m)(a)4. She was also correct in determining that the phrase "skill specific training" is subsumed in the phrase "courses that provide an employment skill."~~

2. ~~LRB 0495/2 – Child Care Allocations. This draft is OK.~~

3. LRB 0536/2 – Collection of CR&D Fee by Income Assignment. On page 6, beginning on line 14, we would prefer that the underlined language after "under s. 767.265" be deleted. The Department would like to devise a methodology in KIDS for issuing withholding orders to employers that would not necessarily always be with the first payment of the year. The language, as drafted, would limit us.

The drafter notes that this draft needs to be reconciled with LRB-0593/1, which is the draft that deals with collection of the R & D fee for pre-existing orders. The two drafts need to be reconciled in a way that permits administrative withholding by the Child Support Agencies both for R & D fees ordered after the effective date of passage and for pre-existing orders.

✓ 4. LRB 0601/1 – Financial Account Seizure. This draft is OK.

5. ~~LRB 0701/2 – Child Care Eligibility. We would suggest that in addition to repealing s. 49.155(1m)(b)3, that the asset test also be eliminated for foster care and kinship care families specified in s.49.155(1m)(c)1g and 1h to provide consistency across the program.~~

~~(Sorry –Tina, they were right after all – I was looking at the wrong section when I called you.)~~



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-0536/E

PJK:kmg:jf

*rm is run*

DOA:.....Sajna – Collect receipt and disbursement fee by income assignment  
FOR 1999-01 BUDGET – NOT READY FOR INTRODUCTION

*SOON  
(1-26)  
D-note*

*Insert 1-2*

1 *Insert  
Green Act* AN ACT relating to: collecting the receipt and disbursement fee by income  
② assignment ~~and~~ the assignment amount for support arrearages.

*Analysis by the Legislative Reference Bureau*

**HEALTH AND HUMAN SERVICES**

4 ←

**OTHER HEALTH AND HUMAN SERVICES**

Under current law, the department of workforce development (DWD) will assume responsibility on January 4, 1999, (which is the date published by DWD in the Wisconsin Administrative Register as the date for the transfer of responsibilities from the clerks of court) for receiving and disbursing child support, maintenance, family support and other support-related payments. A payer of support or maintenance is required by statute to pay an annual receipt and disbursement fee of \$25 to DWD. The bill provides that the receipt and disbursement fee must be paid by wage assignment, just as support and maintenance payments are paid.

*Insert anal*

Current law provides that each order for child or family support, maintenance or spousal support is an automatic assignment of a person's wages to DWD (to the clerk of court before January 4, 1999) in an amount that is sufficient to ensure payment of the amount under the order, as well as any arrearages due at a periodic rate that does not exceed 50% of the amount due under the order, as long as the additional amount for arrearages does not leave the person at an income below the federal poverty line. Current law also provides that, if an assignment does not require immediately effective withholding and the payer misses a payment, the court

or family court commissioner may cause the assignment to go into effect by providing notice of the assignment to the payer's employer or other person from whom the payer receives or will receive money. The payer also receives notice and may request a hearing on whether the assignment should remain in effect. The bill clarifies that the portion of the original assignment that was for any arrearages due is an assigned amount that does not require immediately effective withholding and that, if a payer accrues an arrearage by missing a payment, the assignment of the arrearage may be put into effect by providing notice to the payer and to a person from whom the payer receives or will receive money. The bill provides that, in addition to the court and the family court commissioner, the county child support agency may cause the assignment for arrearages to go into effect by sending the required notices.

The bill also provides that the wage assignment of a person who had an obligation to pay support or maintenance, but who no longer has a current obligation to do so, will continue in effect if the person has an arrearage in the payment of support or maintenance. The amount of the assignment may be up to the amount that the assignment was before the person's current obligation to pay support or maintenance terminated.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

Insert 2-1

1 SECTION 1. 767.265 (1) of the statutes, as affected by 1997 Wisconsin Act 191,

2 section 411, is amended to read:

3 767.265 (1) Each order for child support under this chapter, for maintenance  
4 payments under s. 767.23 or 767.26, for family support under this chapter, for costs  
5 ordered under s. 767.51 (3) or 767.62 (4) (a), for support by a spouse under s. 767.02  
6 (1) (f) ~~or~~, for maintenance payments under s. 767.02 (1) (g) or for the annual receiving  
7 and disbursing fee under s. 767.29 (1) (d), each order for a revision in a judgment or  
8 order with respect to child support, maintenance or family support payments under  
9 s. 767.32, each stipulation approved by the court or the family court commissioner  
10 for child support under this chapter and each order for child or spousal support  
11 entered under s. 948.22 (7) constitutes an assignment of all commissions, earnings,  
12 salaries, wages, pension benefits, benefits under ch. 102 or 108, lottery prizes that

1 are payable in instalments and other money due or to be due in the future to the  
2 department or its designee. The assignment shall be for an amount sufficient to  
3 ensure payment under the order or stipulation and to pay any arrearages due at a  
4 periodic rate not to exceed 50% of the amount of support due under the order or  
5 stipulation so long as the addition of the amount toward arrearages does not leave  
6 the party at an income below the poverty line established under 42 USC 9902 (2).

7 **SECTION 2.** 767.265 (1m) of the statutes is created to read:

8 767.265 (1m) If a party's current obligation to pay maintenance, child support,  
9 spousal support or family support terminates but the party has an arrearage in the  
10 payment of one or more of those payments, the assignment shall continue in effect,  
11 in an amount up to the amount of the assignment before the party's current  
12 obligation terminated, until the arrearage is paid in full.

13 **SECTION 3.** 767.265 (1m) of the statutes, as created by 1999 Wisconsin Act ...  
14 (this act), is amended to read:

15 767.265 (1m) If a party's current obligation to pay maintenance, child support,  
16 spousal support ~~or~~ family support or the annual receiving and disbursing fee  
17 terminates but the party has an arrearage in the payment of one or more of those  
18 payments, the assignment shall continue in effect, in an amount up to the amount  
19 of the assignment before the party's current obligation terminated, until the  
20 arrearage is paid in full.

21 **SECTION 4.** 767.265 (2h) of the statutes is amended to read:

22 767.265 (2h) If a court-ordered assignment, including the assignment  
23 specified under sub. (1) for the payment of any arrearages due, does not require  
24 immediately effective withholding and a payer fails to make a required maintenance,  
25 child support, spousal support or family support payment within 10 days after its due

1 date, within 20 days after the payment's due date the court ~~or~~, family court  
2 commissioner or county child support agency under s. 59.53 (5) shall cause the  
3 assignment to go into effect by providing notice of the assignment in the manner  
4 provided under sub. (2r) and shall send a notice by regular mail to the last-known  
5 address of the payer. The notice sent to the payer shall inform the payer that an  
6 assignment is in effect and that the payer may, within a 10-day period, by motion  
7 request a hearing on the issue of whether the assignment should remain in effect.  
8 The court or family court commissioner shall hold a hearing requested under this  
9 subsection within 10 working days after the date of the request. If at the hearing the  
10 payer establishes that the assignment is not proper because of a mistake of fact, the  
11 court or family court commissioner may direct that the assignment be withdrawn.  
12 Either party may, within 15 working days after the date of a decision by a family court  
13 commissioner under this subsection, seek review of the decision by the court with  
14 jurisdiction over the action.

15 **SECTION 5.** 767.265 (2h) of the statutes, as affected by 1999 Wisconsin Act ....  
16 (this act), is amended to read:

17 767.265 (2h) If a court-ordered assignment, including the assignment  
18 specified under sub. (1) for the payment of any arrearages due, does not require  
19 immediately effective withholding and a payer fails to make a required maintenance,  
20 child support, spousal support ~~or~~, family support or annual receiving and disbursing  
21 fee payment within 10 days after its due date, within 20 days after the payment's due  
22 date the court, family court commissioner or county child support agency under s.  
23 59.53 (5) shall cause the assignment to go into effect by providing notice of the  
24 assignment in the manner provided under sub. (2r) and shall send a notice by regular  
25 mail to the last-known address of the payer. The notice sent to the payer shall inform

1 the payer that an assignment is in effect and that the payer may, within a 10-day  
2 period, by motion request a hearing on the issue of whether the assignment should  
3 remain in effect. The court or family court commissioner shall hold a hearing  
4 requested under this subsection within 10 working days after the date of the request.  
5 If at the hearing the payer establishes that the assignment is not proper because of  
6 a mistake of fact, the court or family court commissioner may direct that the  
7 assignment be withdrawn. Either party may, within 15 working days after the date  
8 of a decision by a family court commissioner under this subsection, seek review of the  
9 decision by the court with jurisdiction over the action.

10 **SECTION 6.** 767.265 (2r) of the statutes, as affected by 1997 Wisconsin Act 191,  
11 section 414, is amended to read:

12 767.265 (2r) Upon entry of each order for child support, maintenance, family  
13 support ~~or~~ support by a spouse or the annual receiving and disbursing fee, and upon  
14 approval of each stipulation for child support, unless the court finds that income  
15 withholding is likely to cause the payer irreparable harm or unless s. 767.267  
16 applies, the court, family court commissioner or county child support agency under  
17 s. 59.53 (5) shall provide notice of the assignment by regular mail or by facsimile  
18 machine, as defined in s. 134.72 (1) (a), or other electronic means to the last-known  
19 address of the person from whom the payer receives or will receive money. The notice  
20 shall provide that the amount withheld may not exceed the maximum amount that  
21 is subject to garnishment under 15 USC 1673 (b) (2). If the department or its  
22 designee, whichever is appropriate, does not receive the money from the person  
23 notified, the court, family court commissioner or county child support agency under  
24 s. 59.53 (5) shall provide notice of the assignment to any other person from whom the  
25 payer receives or will receive money. Notice under this subsection may be a notice

Insert 5-9c



1 of the court, a copy of the executed assignment or a copy of that part of the court order  
2 directing payment.

3 SECTION 7. 767.29 (1) (d) (intro.) and 1. of the statutes, as created by 1997  
4 Wisconsin Act 27, are consolidated, renumbered 767.29 (1) (d) and amended to read:

5 767.29 (1) (d) For receiving and disbursing maintenance, child support or  
6 family support payments, and for maintaining the records required under par. (c),

7 the department or its designee shall collect an annual fee of \$25 ~~to be paid by each~~

8 ~~party ordered to make payments.~~ The court or family court commissioner shall order

9 each party ordered to make payments to pay the annual fee under this paragraph at

10 ~~the time of, and in addition to, the first payment to the department or its designee~~

11 in each year for which payments are ordered. In directing the manner of payment

12 of the annual fee, the court or family court commissioner shall order that the annual

13 fee be withheld from income and sent to the department or its designee, as provided

14 ~~under s. 767.265 along with the first payment in each year of maintenance, child~~

15 ~~support or family support.~~ All fees collected under this paragraph shall be deposited

16 in the appropriation account under s. 20.445 (3) (ja). At the time of ordering the

17 payment of an annual fee under this paragraph, the court or family court

18 commissioner shall notify each party ordered to make payments of the requirement

19 to pay the annual fee and of the amount of the annual fee. If the annual fee under

20 this section <sup>paragraph</sup> is not paid when due, the department or its designee may not deduct the

21 annual fee from the maintenance or child or family support payment, but may do any

22 of the following: 1. ~~Move~~ move the court for a remedial sanction under ch. 785.

23 SECTION 8. 767.29 (1) (d) 2. of the statutes, as created by 1997 Wisconsin Act  
24 27, is repealed.

25 SECTION 9357. Initial applicability; workforce development.

Insert 6-24

1           (1) ASSIGNMENT OF RECEIVING AND DISBURSING FEES. The treatment of sections  
2       767.265 (1), (2h) (by SECTION 5) and (2r) and 767.29 (1) (d) (intro.), 1. and 2. of the  
3       statutes and the amendment of section 767.265 (1m) of the statutes first apply to  
4       annual receiving and disbursing fees that are ordered on the effective date of this  
5       subsection.

6           **SECTION 9457. Effective dates; workforce development.**

7           (1) ASSIGNMENT OF RECEIVING AND DISBURSING FEES. The treatment of sections  
8       767.265 (1), (2h) (by SECTION 5) and (2r) and 767.29 (1) (d) (intro.), 1. and 2. of the  
9       statutes, the amendment of section 767.265 (1m) of the statutes and SECTION 9357  
10      (1) of this act take effect on January 1, 2000.

11

(END)

*D-note*

1999-2000 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0536/lins  
PJK:kmg:jf

INSERT *3 anal* ✓

no 91

In addition, the bill authorizes DWD to collect any annual fee payment that was owed to a clerk of court, that was not paid to the clerk and that is shown on DWD's automated payment and collection system on December 31, 1998. The unpaid fees may be collected by wage assignment, or DWD may move the court for a contempt of court sanction if wage assignment is inapplicable or ineffective.

(END OF INSERT *3 anal*)



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-0593/1  
PJK:kmg:km

DOA:.....Sajna - Collection of unpaid receipt and disbursement fees  
FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

*Insert 1-2 ✓*

1 AN ACT ...; relating to collection of unpaid support receipt and disbursement  
2 fees and making an appropriation.

*Analysis by the Legislative Reference Bureau*

**HEALTH AND HUMAN SERVICES**

**OTHER HEALTH AND HUMAN SERVICES**

~~Under current law, the clerks of court receive and disburse child support, maintenance, family support and other support-related payments. The payments are collected by wage assignment. The department of workforce development (DWD) will take over the receipt and disbursement responsibilities on January 3, 1999 (which is the date published by DWD in the Wisconsin Administrative Register as the date for the transfer of responsibilities). A payer of support or maintenance is required by statute to pay an annual receipt and disbursement fee of up to \$25 to the clerk of court. When DWD takes over the responsibility, a payer is required to pay an annual fee of \$25 to DWD. The bill authorizes DWD to collect any annual fee payment that was owed to a clerk of court, that was not paid to the clerk and that is shown on DWD's automated payment and collection system on December 31, 1998. To collect the unpaid fees, DWD may move the court for a contempt of court sanction, or may apply to the court for an assignment with respect to the fees.~~

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

*(over for ins. 2-1)*

Insert 2-1 ✓ 182

1 SECTION 1. 20.445 (3) (ja) of the statutes, as affected by 1997 Wisconsin Act 27,  
2 is amended to read:

3 20.445 (3) (ja) *Child support state operations — fees.* All moneys received from  
4 fees charged under s. 49.22 (8), from fees ordered under s. 767.29 (1) (d), from fees  
5 collected under s. 767.29 (1) (dm) and from fees charged and incentive payments and  
6 collections retained under s. 49.22 (7m), for costs associated with receiving and  
7 disbursing support and support-related payments, including any contract costs, and  
8 for administering the program under s. 49.22 and all other purposes specified in s.  
9 49.22.

10 SECTION 2. 767.29 (1) (dm) of the statutes is created to read:

11 767.29 (1) (dm) The department or its designee may collect any unpaid fees  
12 under s. 814.61 (12) (b), 1997 stats., that are shown on the department's automated  
13 payment and collection system on December 31, 1998. The department or its  
14 designee shall deposit all fees collected under this paragraph in the appropriation  
15 account under s. 20.445 (3) (ja). In collecting the fees under this paragraph, the  
16 department or its designee may not deduct the amount of unpaid fees from any  
17 maintenance or child or family support payment, but may do any of the following:

- 18 1. Move the court for a remedial sanction under ch. 785.  
19 2. Apply to the court or family court commissioner for an assignment relating  
20 to the unpaid fees in accordance with s. 767.265.

21 (END)

↓  
could on separate insert

1999-2000 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0536/lins  
PJK:kmg:jf

INSERT 2-1 CONTD

2 of 2

SECTION 1. 102.27 (2) (a) of the statutes is amended to read:

102.27 (2) (a) A benefit under this chapter is assignable under s. 46.10 (14) (e), 301.12 (14) (e), 767.23 (1) (L), 767.25 (4m) (c), 767.265 (1) or (2m), 767.51 (3m) (c) or 767.62 (4) (b) 3.

History: 1981 c. 20, 391; 1983 a. 27, 192; 1985 a. 83; 1989 a. 64; 1993 a. 481; 1997 a. 191, 237.  
(END OF INSERT 2-1)

INSERT 5-9

SECTION 2. 767.265 (2m) of the statutes is created to read:

767.265 (2m) An obligation to pay unpaid fees under s. 767.29 (1) (dm) constitutes an assignment of all commissions, earnings, salaries, wages, pension benefits, benefits under ch. 102 or 108, lottery prizes that are payable in instalments and other money due or to be due in the future to the department or its designee. The county child support agency under s. 59.53 (5) may cause the assignment to go into effect by providing notice of the assignment in the manner provided under sub. (2r) and sending a notice by regular mail to the last-known address of the payer. The notice sent to the payer shall inform the payer that an assignment is in effect and that the payer may, within a 10-day period, by motion request a hearing on the issue of whether the assignment should remain in effect. The court or family court commissioner shall hold a hearing requested under this subsection within 10 working days after the date of the request. If at the hearing the payer establishes that the assignment is not proper because of a mistake of fact, the court or family court commissioner may direct that the assignment be withdrawn. The payer or the county child support agency may, within 15 working days after the date of a decision

by a family court commissioner under this subsection, seek review of the decision by the court with jurisdiction over the action.

(END OF INSERT 5-9)

INSERT 6-24 ✓

SEC. #. 767.29(1)(dm) of the statutes is created to read:  
767.29 (1) (dm) The department or its designee may collect any unpaid fees

under s. 814.61 (12) (b), 1997 stats., that are shown on the department's automated payment and collection system on December 31, 1998, and shall deposit all fees collected under this paragraph in the appropriation account under s. 20.445 (3) (ja) ✓. The department or its designee may collect unpaid fees under this paragraph through income withholding under s. 767.265 (2m) ✓. If the department or its designee determines that income withholding is inapplicable, ineffective or insufficient for the collection of any unpaid fees under this paragraph ✓, the department or its designee may move the court for a remedial sanction under ch. 785. The department or its designee may contract with or employ a collection agency or other person for the collection of any unpaid fees under this paragraph and, notwithstanding s. 20.930, may contract with or employ an attorney to appear in any action in state or federal court to enforce the payment obligation. The department or its designee may not deduct the amount of unpaid fees from any maintenance or child or family support payment.

(END OF INSERT 6-24)

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

LRB-0536/1dn  
PJK:king;jf

Jenny:

This redraft combines LRB-0536 and LRB-0593. LRB-0593 should not be included in the budget.

Pamela J. Kahler  
Senior Legislative Attorney  
266-2682



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

LRB-0536/1dn  
PJK:kmg:jf

January 27, 1999

Jenny:

This redraft combines LRB-0536 and LRB-0593. LRB-0593 should not be included in the budget.

Pamela J. Kahler  
Senior Legislative Attorney  
266-2682



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-0536/1

PJK:kmg:jf

DOA:.....Sajna – Collect receipt and disbursement fee by income assignment

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

- 1     **AN ACT ...; relating to:** collecting the receipt and disbursement fee by income  
2           assignment, the assignment amount for support arrearages, collection of  
3           unpaid support receipt and disbursement fees and making an appropriation.

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*Analysis by the Legislative Reference Bureau*

**HEALTH AND HUMAN SERVICES**

**OTHER HEALTH AND HUMAN SERVICES**

Under current law, the department of workforce development (DWD) will assume responsibility on January 4, 1999, (which is the date published by DWD in the Wisconsin Administrative Register as the date for the transfer of responsibilities from the clerks of court) for receiving and disbursing child support, maintenance, family support and other support-related payments. A payer of support or maintenance is required by statute to pay an annual receipt and disbursement fee of \$25 to DWD. The bill provides that the receipt and disbursement fee must be paid by wage assignment, just as support and maintenance payments are paid. In addition, the bill authorizes DWD to collect any annual fee payment that was owed to a clerk of court, that was not paid to the clerk and that is shown on DWD's automated payment and collection system on December 31, 1998. The unpaid fees may be collected by wage assignment, or DWD may move the court for a contempt of court sanction if wage assignment is inapplicable or ineffective.

Current law provides that each order for child or family support, maintenance or spousal support is an automatic assignment of a person's wages to DWD (to the

clerk of court before January 4, 1999) in an amount that is sufficient to ensure payment of the amount under the order, as well as any arrearages due at a periodic rate that does not exceed 50% of the amount due under the order, as long as the additional amount for arrearages does not leave the person at an income below the federal poverty line. Current law also provides that, if an assignment does not require immediately effective withholding and the payer misses a payment, the court or family court commissioner may cause the assignment to go into effect by providing notice of the assignment to the payer's employer or other person from whom the payer receives or will receive money. The payer also receives notice and may request a hearing on whether the assignment should remain in effect. The bill clarifies that the portion of the original assignment that was for any arrearages due is an assigned amount that does not require immediately effective withholding and that, if a payer accrues an arrearage by missing a payment, the assignment of the arrearage may be put into effect by providing notice to the payer and to a person from whom the payer receives or will receive money. The bill provides that, in addition to the court and the family court commissioner, the county child support agency may cause the assignment for arrearages to go into effect by sending the required notices.

The bill also provides that the wage assignment of a person who had an obligation to pay support or maintenance, but who no longer has a current obligation to do so, will continue in effect if the person has an arrearage in the payment of support or maintenance. The amount of the assignment may be up to the amount that the assignment was before the person's current obligation to pay support or maintenance terminated.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 20.445 (3) (ja) of the statutes, as affected by 1997 Wisconsin Act 27,  
2           is amended to read:  
3           20.445 (3) (ja) *Child support state operations — fees.* All moneys received from  
4           fees charged under s. 49.22 (8), from fees ordered under s. 767.29 (1) (d), from fees  
5           collected under s. 767.29 (1) (dm) and from fees charged and incentive payments and  
6           collections retained under s. 49.22 (7m), for costs associated with receiving and  
7           disbursing support and support-related payments, including any contract costs, and

1 for administering the program under s. 49.22 and all other purposes specified in s.  
2 49.22.

3 **SECTION 2.** 102.27 (2) (a) of the statutes is amended to read:

4 102.27 (2) (a) A benefit under this chapter is assignable under s. 46.10 (14) (e),  
5 301.12 (14) (e), 767.23 (1) (L), 767.25 (4m) (c), 767.265 (1) or (2m), 767.51 (3m) (c) or  
6 767.62 (4) (b) 3.

7 **SECTION 3.** 767.265 (1) of the statutes, as affected by 1997 Wisconsin Act 191,  
8 section 411, is amended to read:

9 767.265 (1) Each order for child support under this chapter, for maintenance  
10 payments under s. 767.23 or 767.26, for family support under this chapter, for costs  
11 ordered under s. 767.51 (3) or 767.62 (4) (a), for support by a spouse under s. 767.02  
12 (1) (f) ~~or~~, for maintenance payments under s. 767.02 (1) (g) or for the annual receiving  
13 and disbursing fee under s. 767.29 (1) (d), each order for a revision in a judgment or  
14 order with respect to child support, maintenance or family support payments under  
15 s. 767.32, each stipulation approved by the court or the family court commissioner  
16 for child support under this chapter and each order for child or spousal support  
17 entered under s. 948.22 (7) constitutes an assignment of all commissions, earnings,  
18 salaries, wages, pension benefits, benefits under ch. 102 or 108, lottery prizes that  
19 are payable in instalments and other money due or to be due in the future to the  
20 department or its designee. The assignment shall be for an amount sufficient to  
21 ensure payment under the order or stipulation and to pay any arrearages due at a  
22 periodic rate not to exceed 50% of the amount of support due under the order or  
23 stipulation so long as the addition of the amount toward arrearages does not leave  
24 the party at an income below the poverty line established under 42 USC 9902 (2).

25 **SECTION 4.** 767.265 (1m) of the statutes is created to read:

1           767.265 (1m) If a party's current obligation to pay maintenance, child support,  
2           spousal support or family support terminates but the party has an arrearage in the  
3           payment of one or more of those payments, the assignment shall continue in effect,  
4           in an amount up to the amount of the assignment before the party's current  
5           obligation terminated, until the arrearage is paid in full.

6           **SECTION 5.** 767.265 (1m) of the statutes, as created by 1999 Wisconsin Act ....  
7           (this act), is amended to read:

8           767.265 (1m) If a party's current obligation to pay maintenance, child support,  
9           spousal support ~~or~~, family support or the annual receiving and disbursing fee  
10          terminates but the party has an arrearage in the payment of one or more of those  
11          payments, the assignment shall continue in effect, in an amount up to the amount  
12          of the assignment before the party's current obligation terminated, until the  
13          arrearage is paid in full.

14          **SECTION 6.** 767.265 (2h) of the statutes is amended to read:

15          767.265 (2h) If a court-ordered assignment, including the assignment  
16          specified under sub. (1) for the payment of any arrearages due, does not require  
17          immediately effective withholding and a payer fails to make a required maintenance,  
18          child support, spousal support or family support payment within 10 days after its due  
19          date, within 20 days after the payment's due date the court ~~or~~, family court  
20          commissioner or county child support agency under s. 59.53 (5) shall cause the  
21          assignment to go into effect by providing notice of the assignment in the manner  
22          provided under sub. (2r) and shall send a notice by regular mail to the last-known  
23          address of the payer. The notice sent to the payer shall inform the payer that an  
24          assignment is in effect and that the payer may, within a 10-day period, by motion  
25          request a hearing on the issue of whether the assignment should remain in effect.

1 The court or family court commissioner shall hold a hearing requested under this  
2 subsection within 10 working days after the date of the request. If at the hearing the  
3 payer establishes that the assignment is not proper because of a mistake of fact, the  
4 court or family court commissioner may direct that the assignment be withdrawn.  
5 Either party may, within 15 working days after the date of a decision by a family court  
6 commissioner under this subsection, seek review of the decision by the court with  
7 jurisdiction over the action.

8 **SECTION 7.** 767.265 (2h) of the statutes, as affected by 1999 Wisconsin Act ...  
9 (this act), is amended to read:

10 **767.265 (2h)** If a court-ordered assignment, including the assignment  
11 specified under sub. (1) for the payment of any arrearages due, does not require  
12 immediately effective withholding and a payer fails to make a required maintenance,  
13 child support, spousal support ~~or~~, family support or annual receiving and disbursing  
14 fee payment within 10 days after its due date, within 20 days after the payment's due  
15 date the court, family court commissioner or county child support agency under s.  
16 59.53 (5) shall cause the assignment to go into effect by providing notice of the  
17 assignment in the manner provided under sub. (2r) and shall send a notice by regular  
18 mail to the last-known address of the payer. The notice sent to the payer shall inform  
19 the payer that an assignment is in effect and that the payer may, within a 10-day  
20 period, by motion request a hearing on the issue of whether the assignment should  
21 remain in effect. The court or family court commissioner shall hold a hearing  
22 requested under this subsection within 10 working days after the date of the request.  
23 If at the hearing the payer establishes that the assignment is not proper because of  
24 a mistake of fact, the court or family court commissioner may direct that the  
25 assignment be withdrawn. Either party may, within 15 working days after the date

1 of a decision by a family court commissioner under this subsection, seek review of the  
2 decision by the court with jurisdiction over the action.

3 **SECTION 8.** 767.265 (2m) of the statutes is created to read:

4 767.265 (2m) An obligation to pay unpaid fees under s. 767.29 (1) (dm)  
5 constitutes an assignment of all commissions, earnings, salaries, wages, pension  
6 benefits, benefits under ch. 102 or 108, lottery prizes that are payable in instalments  
7 and other money due or to be due in the future to the department or its designee. The  
8 county child support agency under s. 59.53 (5) may cause the assignment to go into  
9 effect by providing notice of the assignment in the manner provided under sub. (2r)  
10 and sending a notice by regular mail to the last-known address of the payer. The  
11 notice sent to the payer shall inform the payer that an assignment is in effect and  
12 that the payer may, within a 10-day period, by motion request a hearing on the issue  
13 of whether the assignment should remain in effect. The court or family court  
14 commissioner shall hold a hearing requested under this subsection within 10  
15 working days after the date of the request. If at the hearing the payer establishes  
16 that the assignment is not proper because of a mistake of fact, the court or family  
17 court commissioner may direct that the assignment be withdrawn. The payer or the  
18 county child support agency may, within 15 working days after the date of a decision  
19 by a family court commissioner under this subsection, seek review of the decision by  
20 the court with jurisdiction over the action.

21 **SECTION 9.** 767.265 (2r) of the statutes, as affected by 1997 Wisconsin Act 191,  
22 section 414, is amended to read:

23 767.265 (2r) Upon entry of each order for child support, maintenance, family  
24 support or, support by a spouse or the annual receiving and disbursing fee, and upon  
25 approval of each stipulation for child support, unless the court finds that income

1 withholding is likely to cause the payer irreparable harm or unless s. 767.267  
2 applies, the court, family court commissioner or county child support agency under  
3 s. 59.53 (5) shall provide notice of the assignment by regular mail or by facsimile  
4 machine, as defined in s. 134.72 (1) (a), or other electronic means to the last-known  
5 address of the person from whom the payer receives or will receive money. The notice  
6 shall provide that the amount withheld may not exceed the maximum amount that  
7 is subject to garnishment under 15 USC 1673 (b) (2). If the department or its  
8 designee, whichever is appropriate, does not receive the money from the person  
9 notified, the court, family court commissioner or county child support agency under  
10 s. 59.53 (5) shall provide notice of the assignment to any other person from whom the  
11 payer receives or will receive money. Notice under this subsection may be a notice  
12 of the court, a copy of the executed assignment or a copy of that part of the court order  
13 directing payment.

14 **SECTION 10.** 767.29 (1) (d) (intro.) and 1. of the statutes, as created by 1997  
15 Wisconsin Act 27, are consolidated, renumbered 767.29 (1) (d) and amended to read:

16 767.29 (1) (d) For receiving and disbursing maintenance, child support or  
17 family support payments, and for maintaining the records required under par. (c),  
18 the department or its designee shall collect an annual fee of \$25 ~~to be paid by each~~  
19 ~~party ordered to make payments.~~ The court or family court commissioner shall order  
20 each party ordered to make payments to pay the annual fee under this paragraph at  
21 ~~the time of, and in addition to, the first payment to the department or its designee~~  
22 in each year for which payments are ordered. In directing the manner of payment  
23 of the annual fee, the court or family court commissioner shall order that the annual  
24 fee be withheld from income and sent to the department or its designee, as provided  
25 under s. 767.265. All fees collected under this paragraph shall be deposited in the



1 appropriation account under s. 20.445 (3) (ja). At the time of ordering the payment  
2 of an annual fee under this paragraph, the court or family court commissioner shall  
3 notify each party ordered to make payments of the requirement to pay the annual  
4 fee and of the amount of the annual fee. If the annual fee under this ~~section~~  
5 ~~paragraph~~ is not paid when due, the department or its designee may not deduct the  
6 annual fee from the maintenance or child or family support payment, but may ~~do any~~  
7 ~~of the following:~~ 1. ~~Move~~ move the court for a remedial sanction under ch. 785.

8 **SECTION 11.** 767.29 (1) (d) 2. of the statutes, as created by 1997 Wisconsin Act  
9 27, is repealed.

10 **SECTION 12.** 767.29 (1) (dm) of the statutes is created to read:

11 767.29 (1) (dm) The department or its designee may collect any unpaid fees  
12 under s. 814.61 (12) (b), 1997 stats., that are shown on the department's automated  
13 payment and collection system on December 31, 1998, and shall deposit all fees  
14 collected under this paragraph in the appropriation account under s. 20.445 (3) (ja).  
15 The department or its designee may collect unpaid fees under this paragraph  
16 through income withholding under s. 767.265 (2m). If the department or its designee  
17 determines that income withholding is inapplicable, ineffective or insufficient for the  
18 collection of any unpaid fees under this paragraph, the department or its designee  
19 may move the court for a remedial sanction under ch. 785. The department or its  
20 designee may contract with or employ a collection agency or other person for the  
21 collection of any unpaid fees under this paragraph and, notwithstanding s. 20.930,  
22 may contract with or employ an attorney to appear in any action in state or federal  
23 court to enforce the payment obligation. The department or its designee may not  
24 deduct the amount of unpaid fees from any maintenance or child or family support  
25 payment.

1           **SECTION 9357. Initial applicability; workforce development.**

2           (1) ASSIGNMENT OF RECEIVING AND DISBURSING FEES. The treatment of sections  
3           767.265 (1), (2h) (by SECTION 7) and (2r) and 767.29 (1) (d) (intro.), 1. and 2. of the  
4           statutes and the amendment of section 767.265 (1m) of the statutes first apply to  
5           annual receiving and disbursing fees that are ordered on the effective date of this  
6           subsection.

7           **SECTION 9457. Effective dates; workforce development.**

8           (1) ASSIGNMENT OF RECEIVING AND DISBURSING FEES. The treatment of sections  
9           767.265 (1), (2h) (by SECTION 7) and (2r) and 767.29 (1) (d) (intro.), 1. and 2. of the  
10          statutes, the amendment of section 767.265 (1m) of the statutes and SECTION 9357  
11          (1) of this act take effect on January 1, 2000.

12

(END)