

**1999 DRAFTING REQUEST**

**Assembly Amendment (AA-AB133)**

Received: **04/23/99**

Received By: **kahlepj**

Wanted: **Soon**

Identical to LRB:

For: **Legislative Fiscal Bureau 7-7417**

By/Representing: **Doty**

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

Drafter: **kahlepj**

May Contact:

Alt. Drafters:

Subject: **Dom. Rel. - miscellaneous  
Public Assistance - food stamps**

Extra Copies:

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**Pre Topic:**

LFB:.....Doty -

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**Topic:**

Eliminate state as real party in interest if parent receiving food stamps

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**Instructions:**

See Attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kahlepj 04/23/99	jgeller 04/23/99		_____			
/1			martykr 04/26/99	_____	lrb_docadmin 04/26/99		
/2	kahlepj 04/26/99	jgeller 04/27/99	martykr 04/28/99	_____	lrb_docadmin 04/28/99		

FE Sent For:

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/1		<i>1/2 4/27 jg</i> martykr 04/26/99		_____	lrb_docadmin 04/26/99		
		<i>km 4/27</i>		<i>AKS 4/27</i> <i>km 4/27</i>			

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1/?	kahlepj	1 4/23 JG	Km 4/24	HH 4/24 Km/26			

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<END>

## **Kahler, Pam**

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**From:** Doty, Kelsie  
**Sent:** Thursday, April 22, 1999 7:14 PM  
**To:** Kahler, Pam  
**Subject:** Child support: drafting requests

Pam -

Finance took up child support yesterday (the issue papers are on the internet at [www.legis.state.wi.us](http://www.legis.state.wi.us) -- select "LFB" and then "1999-01 Budget Papers" ). Here is the list of drafts we will need. Please give me a call.

1. The committee adopted a motion to extend the provisions related to CR&D Income assignment and withholding to the counties (Motion #174 -- I'll fax a copy of it over).
2. For issue paper #1072 (state child support payments to counties), the committee adopted alternatives: 2, 3a & 4. This will consolidate ss. 49.23 and 49.23 into one program (LRB 0497/4).
3. For issue paper #1073, the committee deleted the Governor's provision to make the state a real party in interest in child support cases if the parent receives food stamps (LRB 0535/1).
4. For issue paper #1074 (making a grant or loan to obligors), the committee adopted alternative 3. The provision will stay in (LRB 0589/2). However, the effective date will need to be modified (see the alternative).

**Kelsie Doty**  
Fiscal Analyst  
Legislative Fiscal Bureau  
1 East Main St., Suite 301  
Madison, WI 53703  
Phone: (608) 266-3847  
Fax: (608) 267-6873  
Kelsie.Doty@legis.state.wi.us



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

April 22, 1999

Joint Committee on Finance

Paper #1073

### **State is a Real Party in Interest in Child Support Cases if the Parent Receives Food Stamps (DWD -- Child Support)**

[LFB 1999-01 Budget Summary: Page 714, #8]

#### **CURRENT LAW**

Under current law, the state is a real party in interest for purposes of establishing paternity, securing reimbursement of aid paid, future support and costs as appropriate in an action affecting the family when aid is provided under the foster care, kinship care, medical assistance or Wisconsin Works (W-2) programs on behalf of the child or the child's custodial parent. This provision also applies whenever aid under these programs has been provided in the past.

#### **GOVERNOR**

Specify that the state is a real party in interest in an action affecting the family if a child's custodial parent receives food stamp benefits. This modification would first apply to actions affecting the family that are pending on the bill's general effective date.

#### **DISCUSSION POINTS**

##### **State is a Real Party in Interest**

1. Under current law, cooperation with child support enforcement efforts is required for eligibility for food stamp benefits, unless the individual can show good cause not to cooperate. Cooperation is also required for purposes of the W-2, child care and medical assistance (except for pregnant women and children) programs.

2. As noted above, the state is a real party in interest for purposes of establishing paternity, securing reimbursement of aid paid, future support and costs as appropriate in an action

affecting the family when aid is provided under the foster care, kinship care, medical assistance or W-2 programs in the present as well as in the past.

3. As drafted, the bill provision would make the state a party in interest in cases involving child support actions when the custodial parent is presently receiving food stamps. However, the state would still not be a real party in interest when food stamp benefits had been provided in the past. An amendment could be adopted to make the food stamp provision consistent with the foster care, kinship care, medical assistance and W-2 programs as they relate to the state's interest in court actions involving the family when food stamps had been provided in the past. The Department indicates that this would conform with its intent.

4. Many food stamp recipients also receive benefits through one or more of the state's other public assistance programs for which the state is a real party in interest under current law. As a result, this modification would only apply to food stamp recipients who do not receive other benefits.

5. Since food stamp benefits are entirely federally funded, this provision would not help to recover state dollars. However, it could be argued that the state has an obligation to assist these individuals in securing child support payments since the state requires beneficiaries to cooperate in attaining support in order to qualify for food stamps. In addition, since food stamp recipients have low income, they may apply for other state state-funded public assistance programs in the future if support dollars are not collected.

#### **Initial Applicability Date**

6. As drafted, the bill provision would first apply to actions affecting the family that are pending on the bill's general effective date. Questions have been raised regarding the impact of first applying the modification to actions pending, as opposed to actions commenced, on the bill's effective date.

7. Based on discussions with various family court commissioners and judges, having this provision first apply to actions pending on the bill's effective date could delay proceedings until the state is notified of the action and has an opportunity to respond.

8. On the other hand, the Department indicates that making the new provision first apply to actions that are commenced on the bill's effective date could result in judges and family court commissioners electing to dismiss cases that are pending on that date so that a new action could be commenced at a later date with the state as a real party in interest.

#### **ALTERNATIVES**

1. Adopt the Governor's recommendation to make the state a real party in interest when food stamp benefits are being provided at the time of the action and specify that this modification would first apply to actions affecting the family that are pending on the bill's general effective date.

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2. Adopt the Governor's recommendation with one or both of the following modifications:

a. Specify that the state is a real party in interest when food stamps had been provided in the past.

b. Specify that the new provision would first apply to actions affecting the family that are commenced on the bill's general effective date.

3. Maintain current law.

Prepared by: Kelsie Doty



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRBb0188

PJK.....

JLg

LFB:.....Doty – Eliminate state as real party in interest if parent receiving food stamps

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

**LFB AMENDMENT**

**TO 1999 ASSEMBLY BILL 133 AND 1999 SENATE BILL 45**

SOON  
(4-23)

1 At the locations indicated, amend the bill as follows:

2 1. Page 676, line 4: delete lines 4 to 14. ✓

3 2. Page 1297, line 22: delete lines 22 to 25. ✓

4 3. Page 1465, line 8: delete lines 8 to 10. ✓

5 (END)





State of Wisconsin  
1999 - 2000 LEGISLATURE

LRBb0188/2  
PJK:jlg:km

*rmis run*

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3 **2.** Page 1297, line 22: delete lines 22 to 25.

4 **3.** Page 1465, line 8: delete lines 8 to 10.

5 (END)



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