

2001 ASSEMBLY BILL 149

February 23, 2001 – Introduced by Representatives STASKUNAS, HUEBSCH, BOCK, MUSSER, KREUSER, SERATTI, GUNDERSON, PLOUFF, LA FAVE, PLALE and TOWNSEND, cosponsored by Senators PLACHE and GEORGE. Referred to Committee on Family Law.

1 **AN ACT to repeal** 767.115 (1) (b) and 767.115 (4); **to renumber and amend**
2 767.115 (1) (a) and 767.115 (2); **to amend** 767.07 (1), 767.115 (title), 767.115
3 (1m) and 767.115 (3); and **to create** 767.115 (1) (a) 1., 767.115 (1) (a) 2., 767.115
4 (1) (a) 3., 767.115 (1) (bm), 767.115 (2) (b) and 767.115 (2) (c) of the statutes;
5 **relating to:** requiring parties to an action affecting the family to attend an
6 educational parenting program.

Analysis by the Legislative Reference Bureau

Under current law, a judge or family court commissioner may order the parties to an action affecting the family (which includes such actions as divorces, paternity actions, and actions related to child support or legal custody) that involves a minor child to attend a program on the effects of a dissolution of marriage on children if the judge or family court commissioner determines that it is appropriate and in the best interest of the child. A judge or family court commissioner may order one or both parties to a paternity action to attend a program that provides training in parenting or coparenting skills if the judge or family court commissioner determines that it is appropriate and in the best interest of the child. A judge or family court commissioner may order both parties to a divorce or paternity action to attend a class that addresses such issues as family dynamics and child development. The parties are responsible for the cost of any program or class attended. If the parties were ordered to attend a program, the judge or family court commissioner may condition

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the granting of a final judgment or order in the action on attendance at the program. If the parties were ordered to attend a class, the judge or family court commissioner may not condition the granting of a final judgment or order in the action on attendance at the class, but may refuse to hear a custody or physical placement motion of a party who refuses to attend the class.

This bill eliminates the specific authority of a judge or family court commissioner to order parties in a paternity action to attend a program that provides training in parenting or coparenting skills or to order parties in an action affecting the family to attend a class addressing various family and child development issues. Instead, the bill requires a judge or family court commissioner, in an action affecting the family in which a minor child is involved, to order the parties to attend a program that includes instruction on or training in the effects of divorce on a child, working together in the best interest of the child, or parenting or coparenting skills, whichever the judge or family court commissioner determines is appropriate in the particular case. The bill includes exceptions: the judge or family court commissioner is not required to order the parties to attend a program if the judge or family court commissioner finds that attendance would cause undue hardship or finds, because of evidence of child or spousal abuse or a significant problem with alcohol or other drug abuse, that attendance would endanger the health or safety of one of the parties. The judge or family court commissioner is required to condition the granting of the final judgment or order in the action on attendance at the program, unless the parties were not ordered to attend because of a finding of undue hardship or endangerment to the health or safety of one of the parties. The judge or family court commissioner may refuse to hear a custody or physical placement motion of a party who refuses to attend the program, and may grant the final judgment or order in the action even if only one of the parties has attended the program if the judge or family court commissioner determines that the other party has failed or refuses to attend the program to delay or prevent the granting of the final judgment or order. The parties are still responsible for paying any cost to attend the program.

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

1 **SECTION 1.** 767.07 (1) of the statutes is amended to read:

2 767.07 (1) The requirements of this chapter as to residence and marriage
3 ~~assessment counseling attendance at the educational program under s. 767.115 (1)~~
4 (a) have been complied with;

5 **SECTION 2.** 767.115 (title) of the statutes is amended to read:

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1 **767.115** (title) **Educational programs and classes program in actions**
2 **affecting the family.**

3 **SECTION 3.** 767.115 (1) (a) of the statutes is renumbered 767.115 (1) (a) (intro.)
4 and amended to read:

5 767.115 **(1)** (a) (intro.) ~~At any time during~~ During the pendency of an action
6 affecting the family in which a minor child is involved ~~and in which the court or~~
7 ~~family court commissioner determines that it is appropriate and in the best interest~~
8 ~~of the child, the court or family court commissioner, on its own motion, may shall~~
9 order the parties to attend a program specified by the court or family court
10 commissioner ~~concerning the effects on a child of a dissolution of the marriage. that~~
11 provides instruction on or training in any of the following that the court or family
12 court commissioner determines is appropriate in the particular case:

13 **SECTION 4.** 767.115 (1) (a) 1. of the statutes is created to read:

14 767.115 **(1)** (a) 1. The effects of divorce on a child.

15 **SECTION 5.** 767.115 (1) (a) 2. of the statutes is created to read:

16 767.115 **(1)** (a) 2. Working together in the best interest of the child.

17 **SECTION 6.** 767.115 (1) (a) 3. of the statutes is created to read:

18 767.115 **(1)** (a) 3. Parenting or coparenting skills, or both.

19 **SECTION 7.** 767.115 (1) (b) of the statutes is repealed.

20 **SECTION 8.** 767.115 (1) (bm) of the statutes is created to read:

21 767.115 **(1)** (bm) In the discretion of the court or family court commissioner, the
22 parties shall not be required to attend a program under par. (a) if the court or family
23 court commissioner finds that attending such a program would cause undue
24 hardship or endanger the health or safety of one of the parties. In making a
25 determination of whether attending a program under par. (a) would endanger the

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1 health or safety of one of the parties, the court or family court commissioner shall
2 consider the following:

3 1. Evidence that a party engaged in abuse, as defined in s. 813.122 (1) (a), of
4 the child, as defined in s. 48.02 (2).

5 2. Evidence of interspousal battery, as described under s. 940.19 or 940.20 (1m),
6 or domestic abuse, as defined in s. 813.12 (1) (a).

7 3. Evidence that either party has a significant problem with alcohol or other
8 drug abuse.

9 4. Any other evidence indicating that a party's health or safety will be
10 endangered by attending a program.

11 **SECTION 9.** 767.115 (1m) of the statutes is amended to read:

12 767.115 **(1m)** A program under sub. (1) (a) shall be educational rather than
13 therapeutic in nature and ~~may not exceed a total of~~ shall include at least 4 hours in
14 length of instruction or training. The parties shall be responsible for the cost, if any,
15 of attendance at the program. The court or family court commissioner may
16 specifically assign responsibility for payment of any cost. No facts or information
17 obtained in the course of the program, and no report resulting from the program, is
18 admissible in any action or proceeding.

19 **SECTION 10.** 767.115 (2) of the statutes is renumbered 767.115 (2) (a) and
20 amended to read:

21 767.115 **(2)** (a) ~~Notwithstanding s. 767.07~~ Except as provided in par. (b), the
22 court or family court commissioner ~~may~~ shall require the parties to an action
23 affecting the family in which a minor child is involved to attend a program under sub.
24 (1) (a) as a condition to the granting of a final judgment or order in the action affecting
25 the family ~~that is pending before the court or family court commissioner.~~

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1 **SECTION 11.** 767.115 (2) (b) of the statutes is created to read:

2 767.115 (2) (b) 1. If the parties were not ordered to attend a program under sub.
3 (1) (a) because the court or family court commissioner found under sub. (1) (bm) that
4 attending would cause undue hardship or endanger the health or safety of one of the
5 parties, the court or family court commissioner may not condition the granting of the
6 final judgment or order in the action affecting the family on attending a program.

7 2. If the court or family court commissioner determines that a party has failed
8 or refuses to attend a program under sub. (1) (a) for the purpose of delaying or
9 preventing the granting of a final judgment or order in the action, the court or family
10 court commissioner may grant a final judgment or order even though only one of the
11 parties has attended the program.

12 **SECTION 12.** 767.115 (2) (c) of the statutes is created to read:

13 767.115 (2) (c) The court or family court commissioner may refuse to hear a
14 custody or physical placement motion of a party who refuses to attend a program
15 ordered under sub. (1) (a).

16 **SECTION 13.** 767.115 (3) of the statutes is amended to read:

17 767.115 (3) A party who fails to attend a program ordered under sub. (1) (a) or
18 to pay costs specifically ordered under sub. (1m) may be proceeded against under ch.
19 785 for contempt of court.

20 **SECTION 14.** 767.115 (4) of the statutes is repealed.

21 **SECTION 15. Initial applicability.**

22 (1) REQUIREMENT TO ATTEND EDUCATIONAL PROGRAM. This act first applies to
23 actions commenced on the effective date of this subsection.

24

(END)