

2001 DRAFTING REQUEST

Bill

Received: 01/10/2001

Received By: kahlepj

Wanted: As time permits

Identical to LRB:

For: Tony Staskunas (608) 266-0620

By/Representing: Adrienne Ramirez

This file may be shown to any legislator: NO

Drafter: kahlepj

May Contact:

Alt. Drafters:

Subject: Dom. Rel. - divorce

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Require attendance at educational program for divorce if child involved

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 01/16/2001	hhagen 02/04/2001		_____			
/1			rschluet 02/06/2001	_____	lrb docadmin 02/06/2001	lrb docadmin 02/08/2001	

FE Sent For:

<END>

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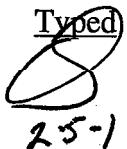

Topic:

Requie marriage counseling for divorce

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>
1/?	kahlepj	1, hmk 2/4/01	 25-1	 26-1			

FE Sent For:

<END>

Kahler, Pam

From: Ramirez, Adrienne
Sent: Wednesday, January 10, 2001 10:48 AM
To: Kahler, Pam
Subject: Drafting request

Pam -

Grand
↓

Last session you drafted LRB-3162, relating to requiring marital counseling to get a divorce for Rep. Staskunas. The Representative would like to re-introduce this proposal as it was amended in the Legislature. Two amendments were adopted to the bill, AB 524, they are ASA 1 to AB 524, LRBs0392/1, and AA1 to ASA 1, LRBa1939/1.

Please feel free to contact me if you have questions regarding this drafting request.

Thank you for your help.

Adrienne
Office of Rep. Staskunas
6-0620



ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 524

2001 Bill

~~March 14, 2000 Offered by COMMITTEE ON FAMILY LAW.~~

regenerate

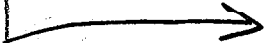
1 AN ACT to repeal 767.115 (1) (b) and 767.115 (4); to renumber and amend
2 767.115 (1) (a) and 767.115 (2); to amend 767.07 (1), 767.115 (title), 767.115
3 (1m) and 767.115 (3); and to create 767.115 (1) (a) 1., 767.115 (1) (a) 2., 767.115
4 (1) (a) 3., 767.115 (1) (bm), 767.115 (2) (b) and 767.115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

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

7 SECTION 1. 767.07 (1) of the statutes is amended to read:
8 767.07 (1) The requirements of this chapter as to residence and marriage
9 assessment counseling attendance at the educational program under s. 767.115 (1)
10 (a) have been complied with;

11 SECTION 2. 767.115 (title) of the statutes, as affected by 1999 Wisconsin Act 9,
12 is amended to read:

Insert A



11

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

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 shall require the parties to an action affecting the
23 family in which a minor child is involved to attend a program under sub. (1) (a) as
24 a condition to the granting of a final judgment or order in the action affecting the
25 family that is pending before the court or family court commissioner.

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.

Insert 4-b

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

8 767.115 (2) (c) The court or family court commissioner may refuse to hear a
9 custody or physical placement motion of a party who refuses to attend a program
10 ordered under sub. (1) (a).

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

12 767.115 (3) A party who fails to attend a program ordered under sub. (1) (a) or
13 to pay costs specifically ordered under sub. (1m) may be proceeded against under ch.
14 785 for contempt of court.

15 SECTION 14. 767.115 (4) of the statutes, as created by 1999 Wisconsin Act 9, is
16 repealed.

17 SECTION 15. Initial applicability.

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

20 SECTION 16. Effective dates. This act takes effect on the day after publication,
21 except as follows:

22 (1) The treatment of section 767.115 (title) and (4) of the statutes takes effect
23 on May 1, 2000, or on the day after publication, whichever is later.

INSERT A

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 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 ~~court~~ 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

Judge

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.

(END OF INSERT A)



**ASSEMBLY AMENDMENT 1,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 524**

March 22, 2000 - Offered by Representative STASKUNAS.

Insert 4-6

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 3, line 22: delete "may" and substitute "may shall"

3 **2.** Page 4, line 2: after "(b)" insert "1."

4 **3.** Page 4, line 6: after that line insert:

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

10

(END)

of ins 4-6)



STEPHEN R. MILLER
CHIEF

State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
5TH FLOOR
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

FEB 06 2001

February 6, 2001

MEMORANDUM

To: Representative Staskunas

From: Pamela J. Kahler, Senior Legislative Attorney

Re: LRB-1951 Require attendance at educational program for divorce if child involved

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-2682 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.