



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0529/P2
PJK:hmh&cjs:rs
/stacs
rm not run

DOA:.....Blaine - Increasing receipt and disbursement fee and setting it by rule

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

SOON
(11-3)

do not give cut
increasing

1 AN ACT relating to: the child support receipt and disbursement fee ~~bill~~
2 ~~granting authority to the DWD~~

Analysis by the Legislative Reference Bureau

- ✓ HEALTH AND HUMAN SERVICES
- ✓ OTHER HEALTH AND HUMAN SERVICES

Under current law, a person who is ordered by a court to pay maintenance, child support, or family support must also pay an annual fee of \$25 to DWD to pay for DWD's costs associated with receiving and disbursing the maintenance, child support, or family support and maintaining a record of the receipts and disbursements. The bill increases the ~~annual fee~~ annual fee to \$35 ~~fees~~ fees payable in 2002. For fees payable in 2003 and thereafter, DWD must specify by rule the amount of the fee or how the amount of the fee will be determined. The fee structure that DWD establishes may take into consideration the number of orders to which a payer is subject and may be based on a percentage of the total amount of maintenance, child support, or family support that a payer pays.

beginning with

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:

LPS: → * delete pages 2 to 4 of P2

1 family court commissioner shall order each party ordered to make payments to pay
2 the ~~annual~~ fee under this ~~paragraph subdivision~~ in each year for which payments are
3 ordered. In directing the manner of payment of the ~~annual~~ fee, the court or family
4 court commissioner shall order that the ~~annual~~ fee be withheld from income and sent
5 to the department or its designee, as provided under s. 767.265. All fees collected
6 under this ~~paragraph subdivision~~ shall be deposited in the appropriation account
7 under s. 20.445 (3) (ja). At the time of ordering the payment of an ~~annual~~ the fee
8 under this ~~paragraph subdivision~~, the court or family court commissioner shall
9 notify each party ordered to make payments of the requirement to pay the ~~annual~~
10 fee and of the amount of the ~~annual~~ fee. If the ~~annual~~ fee under this ~~paragraph~~
11 subdivision is not paid when due, the department or its designee may not deduct the
12 ~~annual~~ fee from the maintenance or child or family support payment, but may move
13 the court for a remedial sanction under ch. 785.

14 SECTION 7. 767.29 (1) (d) 2. of the statutes is created to read:

15 767.29 (1) (d) 2. For fees under subd. 1. that are payable in 2003 and thereafter,
16 the department shall by rule specify the amount or how to determine the amount of
17 the fee. The department may establish a fee structure that takes into consideration
18 the number of orders under which a payer is required to pay maintenance or child
19 or family support and may provide for calculating the fee as a percentage of the
20 amount of maintenance or child or family support that a payer pays and for paying
21 the fee on other than an annual basis.

****NOTE: I would rather leave the rule authorization as open-ended as possible to give DWD as much flexibility as possible. This provision could end after the first sentence. On the other hand, the second sentence could include more possibilities. The more detailed the language, however, the more limiting it is. The only reason to add more detail would be if DWD feels that it does not have the authority to be as creative as necessary under the language of the first sentence.

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0529/P2ins
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INSERT 5-22

^x
SECTION 1. 767.29 (1) (d) of the statutes is amended 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 [✓]\$35. The court or family court commissioner shall order each party ordered to make payments to pay the annual fee under this paragraph in each year for which payments are ordered. 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. 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 paragraph 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 move the court for a remedial sanction under ch. 785.

History: 1971 c. 41 s. 12; Sup. Ct. Order, 67 Wis. 2d 585, 775 (1975); 1975 c. 82, 200; 1975 c. 401 s. 4; 1977 c. 105 s. 59; 1977 c. 271, 418, 447; 1979 c. 32 ss. 50, 92 (4); 1979 c. 257 c. 17; Stats. 1979 s. 767.29; 1981 c. 29 s. 2202 (20) (m), 1983 a. 27, 302; 1985 a. 29, 176; 1991 a. 39; 1993 a. 481; 1995 a. 2 / ss. 7104m, 9126 (19), 9130 (4); 1995 a. 77, 279, 289, 404; 1997 a. 27, 35, 105, 191, 252; 1999 a. 9.

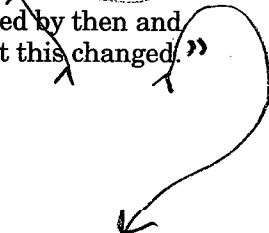
SECTION 9358. Initial applicability; workforce development.

(1) RECEIPT AND DISBURSEMENT FEE. The treatment of section 767.29 (1) (d) of the statutes first applies to receipt and disbursement fees that are payable in calendar year ~~2001~~ → 2002

→
****NOTE: Robert: ~~x~~ changed ~~the~~ to "calendar year 2003" because judges will not know until after the budget passes the amount of the fee that they will have to order payers to pay. For example, a person who is ordered to pay child support in, say, May 2001, will not pay the fee until January 2002, but the judge will not know in May what

→ This may need to be
=

initial applicability

amount to order the person to pay because the budget will not have passed by then and the actual amount could change in the process. Let me know if you want this changed." 

(END OF INSERT 5-22)

*to "calendar
year 2003"*

Kahler, Pam

From: Kahler, Pam
Sent: Tuesday, January 02, 2001 11:34 AM
To: Blaine, Robert
Subject: RE: R&D fee & tax intercept

Robert:

Regarding the fee increase - I guess we will just have to let judges worry about how the orders are phrased. Since the increase first applies to "fees that are payable in calendar year 2002," the increase would not be limited to orders made after the effective date. Frankly, I don't know how they (judges) deal with increases in amounts that must be ordered under the statutes. Perhaps the order does not actually specify the amount, just that an annual fee is required to be paid at the beginning of each year, although s. 767.29 (1) (d) requires the court, at the time of ordering the annual fee, to notify the party ordered to pay the fee of the requirement to pay the fee and of the amount of the fee.

No word on the stale-dated and undistributed checks draft. Rob and I have not yet had time to discuss what approach we had planned to take before all of the constitutional problems came to light.

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

From: Blaine, Robert
Sent: Friday, December 29, 2000 10:15 AM
To: Kahler, Pam
Subject: R&D fee & tax intercept

Pam,

I was going through all my stat language to see what loose ends I've left out there. I noticed one item in draft 0532 / 2, where you had inserted a comment as to whether amounts can be withheld from federal income tax returns. DOR does, in fact, withhold amounts from federal tax returns. It only can do so if the amount in arrears is over \$500 and if the department knows the SSN of the obligor.

Interesting.

One other issue was hanging out there on the R&D fee increase draft, which goes to your concern about the applicability of the new fee. The concern was that in May 2001, a judge won't know of the new fee, which may be effective Jan. 1, 2002, this provision is passed in the budget. A question. Is it a problem for judges to assign \$25 in May, but then those making orders in August then order \$35? Another question is (and this goes to my ignorance of how orders work in the first place) why does a judge need to know the amount (i.e., if it could go up to \$35). I am assuming that, if the fee went from \$25 to \$35, then judges wouldn't have to re-order all CR&D payments in order for the department to collect \$35. Or, are you telling me that the \$35 would only apply to any order made after the effective date? Our assumption (and intent) has been that the \$35 would apply to anyone paying a CR&D fee.

To be frank, we need to get as much revenue out of this fee increase as possible. The child support program is facing some critical funding problems (as evidenced by our decision to go ahead with the stale-dated checks draft), and there isn't GPR to fill the hole. If we pushed off the effective date to CY 2003, we wouldn't realize hardly any new revenue in 2001-03.

Thanks for your help,
 Robert

P.S. Any news on the undistributed child support / stale-dated checks draft?

State Budget Office
 Wisconsin Department of Administration
 (608) 266-8219
robert.blaine@doa.state.wi.us

Kahler, Pam

From: Blaine, Robert
Sent: Wednesday, January 03, 2001 10:07 AM
To: Kahler, Pam
Subject: More stat language

Pam --

The governor wanted to add some additional nonstat language to the budget regarding operation of the trust fund. Let me know if this could be incorporated into a current child support draft or if I need to formally send it over as a new draft.

Subject: Operation of the Centralized Receipt & Disbursement System.

Background: The Department of Workforce Development (DWD) contracts with an outside vendor (currently Lockheed Martin) to administer the state's centralized receipt and disbursement (CR&D) system, or the Child Support Trust Fund. The costs of this contract have been continuously rising over the past few years.

Request / Intent: The administration would like to include a nonstatutory provision in the budget bill which would require DWD to study the costs and positions required if the state were to assume responsibility for the operation of the Trust Fund. This authority would be made available to the department if the annual cost of operating the Trust Fund (i.e., the annual cost of paying Lockheed) exceeds a predetermined amount. At this time, we would like this threshold to be \$13,500,000.

The language should require the department to submit a report to the Secretary of the Department of Administration which summarizes the study. This report should be submitted within 3 months of the department's initiation of the study.

Thanks,
Robert Blaine

*report
by Dec 31
2001*

State Budget Office
Wisconsin Department of Administration
(608) 266-8219
robert.blaine@doa.state.wi.us



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0529/2
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DOA:.....Blaine – Increasing receipt and disbursement fee and setting it by rule

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

*SOON
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receipt and disbursement system

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1 AN ACT *relating to:* increasing the child support receipt and disbursement
2 fee *and a study on the cost of operating the*

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

OTHER HEALTH AND HUMAN SERVICES

Under current law, a person who is ordered by a court to pay maintenance, child support, or family support must also pay an annual fee of \$25 to DWD to pay for DWD's costs associated with receiving and disbursing the maintenance, child support, or family support and maintaining a record of the receipts and disbursements. The bill increases the annual fee to \$35, beginning with fees payable in 2002. *insert A*

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:

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

SECTION 1

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 \$35. The court or
 4 family court commissioner shall order each party ordered to make payments to pay
 5 the annual fee under this paragraph in each year for which payments are ordered.
 6 In directing the manner of payment of the annual fee, the court or family court
 7 commissioner shall order that the annual fee be withheld from income and sent to
 8 the department or its designee, as provided under s. 767.265. All fees collected under
 9 this paragraph shall be deposited in the appropriation account under s. 20.445 (3)
 10 (ja). At the time of ordering the payment of an annual fee under this paragraph, the
 11 court or family court commissioner shall notify each party ordered to make payments
 12 of the requirement to pay the annual fee and of the amount of the annual fee. If the
 13 annual fee under this paragraph is not paid when due, the department or its designee
 14 may not deduct the annual fee from the maintenance or child or family support
 15 payment, but may move the court for a remedial sanction under ch. 785.

SECTION 9358. Initial applicability; workforce development.

17 (1) RECEIPT AND DISBURSEMENT FEE. The treatment of section 767.29 (1) (d) of
 18 the statutes first applies to receipt and disbursement fees that are payable in
 19 calendar year 2002.

****NOTE: Robert: This may need to be changed to "calendar year 2003" because judges will not know until after the budget passes the amount of the fee that they will have to order payers to pay. For example, a person who is ordered to pay child support in, say, May 2001, will not pay the fee until January 2002, but the judge will not know in May what amount to order the person to pay because the budget will not have passed by then and the actual amount could change in the process. Let me know if you want this initial applicability changed to "calendar year 2003."

(END)

Insert 2-15

D-note
Date
 0529/2
 DAK:hmh:
 Robert:
 This redraft includes the study.
 PJK

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FROM THE
LEGISLATIVE REFERENCE BUREAU

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Not P
The bill also requires DWD to study what it would cost DWD to operate the statewide receipt and disbursement system itself, instead of paying its designee to operate the system.

(END OF INSERT A)

INSERT 2-15

SECTION 9158. Nonstatutory provisions; workforce development.

(1) STUDY ON COST OF OPERATING RECEIPT AND DISBURSEMENT SYSTEM. The department of workforce development shall study what it would cost the department to operate the statewide automated support and maintenance receipt and disbursement system under section 767.29[✓] of the statutes, including the number of employees that would be required to perform the functions. In the study, the department shall differentiate between the cost of initially taking over the operation of the system and the cost of operating the system annually thereafter and shall compare those costs with the current and anticipated future cost of paying its designee to operate the system. No later than December 31, 2001[✓], the department of workforce development shall submit a report on the results of the study, including the department's conclusions and recommendations, to the secretary of administration.

(END OF INSERT 2-15)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0529/2dn
PJK:lml:jf

January 8, 2001

Robert:

This redraft includes the study.

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

Kahler, Pam

From: Blaine, Robert
Sent: Wednesday, January 17, 2001 9:14 AM
To: Kahler, Pam
Subject: FW: R & D fees/budget

Pam --

DWD has encountered a problem with its collection of CR&D fees (see below) and have asked for additional stat language. If we were to do this, I think it would fall under the purview of 0529. The problem section is s. 767.29 (1), which states that the department can only collect R&D fees in years where support is ordered. According to the department, Dane county is arguing that if an order terminates and there is still a support arrearage, they cannot collect R&D fees even through they are still trying to collect on the support arrearage.

It would seem that all that is needed is some additional language in Sec. 1 of the draft which says that the department can collect fees for any year where support is ordered or where an arrearage exists. Of course, things always turn out to be more complicated than they seem.

Can you let me know how easy / complicated this is to fix? At this stage of the game, we're only willing to consider it if the fix is pretty simple or if the problem is really big (and I don't know yet how big the problem could get, from a fiscal perspective that is). Call me if you would like to discuss (I'll be in a meeting between 9:30 & 10:00, but around for the rest of the day).

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

From: Chesnik, Constance
Sent: Tuesday, January 16, 2001 3:41 PM
To: Blaine, Robert
Cc: Smith, Shawn
Subject: RE: R & D fees/budget

No, dad has \$100 in child support arrearages, not R & D fee arrearages. (proabaly a lot more). Child turns 18 and dad continues to have this outstanding arrearage on his record. We have to maintain the record and try to collect it (it's also accruing interest) but under the Dane Co. FCC's interpretation, we could no longer charge an R & D fee for any year after the child reaches age 18 if there is no order for payment on those arrears. He is also planning to order that the fees on existing cases that meet these criteria be expunged. I will see if we can quickly run a report to see what the statewide impact of this would be.

Connie M. Chesnik

Attorney, Dept. of Workforce Development
(608) 267-7295

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

From: Blaine, Robert
Sent: Tuesday, January 16, 2001 3:34 PM
To: Smith, Shawn; Chesnik, Constance
Subject: RE: R & D fees/budget

I'm not sure if I understand the problem. Let's say there's a Dad with \$100 in R&D fees in arrears. Are you saying that the Dane FCC is arguing that if Dad pays his support, Johnny grows up and Dad stops paying support, Dad also won't have to pay his \$100 in fee arrearages? Or, are you saying he just won't have to pay R&D fees from that point forward, even though he still has an arrearage on the system?

Lhate to ask, but is there any way we can quantify the effects if this language is not incorporated. It would have to be pretty significant for me to push something this late in the ballgame.

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

From: Smith, Shawn
Sent: Tuesday, January 16, 2001 3:23 PM
To: Noyes, Jennifer; Blaine, Robert
Cc: Mansfield, Mark; Chesnik, Constance
Subject: FW: R & D fees/budget

Robert-I recognize this might be too little too late, but wondering if there would be any support for clarifying the intent of this in the language? Too soon to know how big of an impact this would be, but I think we can all agree any impact is too much!

Pls advise.

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

From: Chesnik, Constance
Sent: Tuesday, January 16, 2001 3:17 PM
To: Smith, Shawn
Subject: R & D fees/budget

I have been informed that the Dane Co. FCC is starting to order that all R & D fees be expunged for any year following the termination of the current support order if there is no order for payment on arrears. As you know, the R & D fee is intended to cover the costs associated with maintaining the case on the KIDS system. However, a literal reading of the statutes says that the fee is due in every year 'for which payments are ordered'. Once CSUP stops running, if there is no order for payment on the arrears, technically there is no order for payment in that year. This is only one county's interpretation, but it is a large county and the FCC is sure to pass his wisdom on to his colleagues which could significantly reduce the amount of 'collectible' R & D fees out there. We do have provisions in the budget to increase the R & D fee. Would Jennifer consider an amendment to that draft to clarify that the fee accrues every year in which a support arrearage remains on the record?

Connie M. Chesnik

Attorney, Dept. of Workforce Development
(608) 267-7295



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0529/3

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Stays
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LPS: check sheet
request + fix if necessary
Changes related to

DOA:.....Blaine - ~~increasing~~ receipt and disbursement fee and a study on the cost of operating the receipt and disbursement system

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

SOON
(1-24)
D-note

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the budget

- 1
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AN ACT relating to: ~~increasing the child support receipt and disbursement fee and a study on the cost of operating the receipt and disbursement system.~~

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

OTHER HEALTH AND HUMAN SERVICES

Under current law, a person who is ordered by a court to pay maintenance, child support, or family support must also pay an annual fee of \$25 to DWD to pay for DWD's costs associated with receiving and disbursing the maintenance, child support, or family support and maintaining a record of the receipts and disbursements. The bill increases the annual fee to \$35, beginning with fees payable in 2002. The bill also requires DWD to study what it would cost DWD to operate the statewide receipt and disbursement system itself, instead of paying its designee to operate the system.

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

Insert A

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

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

2 767.29 (1) (d) For receiving and disbursing maintenance, child support, or
3 family support payments, and for maintaining the records required under par. (c),
4 the department or its designee shall collect an annual fee of \$25 ~~\$35~~. The court or
5 family court commissioner shall order each party ordered to make payments to pay
6 the annual fee under this paragraph in each year for which payments are ordered.
7 In directing the manner of payment of the annual fee, the court or family court
8 commissioner shall order that the annual fee be withheld from income and sent to
9 the department or its designee, as provided under s. 767.265. All fees collected under
10 this paragraph shall be deposited in the appropriation account under s. 20.445 (3)
11 (ja). At the time of ordering the payment of an annual fee under this paragraph, the
12 court or family court commissioner shall notify each party ordered to make payments
13 of the requirement to pay the annual fee and of the amount of the annual fee. If the
14 annual fee under this paragraph is not paid when due, the department or its designee
15 may not deduct the annual fee from the maintenance or child or family support
16 payment, but may move the court for a remedial sanction under ch. 785.

Insert 2-16

17 **SECTION 9158. Nonstatutory provisions; workforce development.**

18 (1) **STUDY ON COST OF OPERATING RECEIPT AND DISBURSEMENT SYSTEM.** The
19 department of workforce development shall study what it would cost the department
20 to operate the statewide automated support and maintenance receipt and
21 disbursement system under section 767.29 of the statutes, including the number of
22 employees that would be required to perform the functions. In the study, the
23 department shall differentiate between the cost of initially taking over the operation
24 of the system and the cost of operating the system annually thereafter and shall
25 compare those costs with the current and anticipated future cost of paying its

1 designee to operate the system. No later than December 31, 2001, the department
2 of workforce development shall submit a report on the results of the study, including
3 the department's conclusions and recommendations, to the secretary of
4 administration.

→ ¶ (a) [Ⓛ] Increase.

5 **SECTION 9358. Initial applicability; workforce development.**

6 (1) RECEIPT AND DISBURSEMENT FEE. The treatment of section 767.29 (1) (d) of
7 the statutes first applies to receipt and disbursement fees that are payable in
8 calendar year 2002.

9 (END)

→ with respect to increasing the amount
of the receipt and disbursement
fees

Ⓛ
¶ (b) Arrearages. The treatment of sections 20.445
(3)(ja), 767.265(1) and (1m), and 767.29(1)(d), with
respect to payment of the receipt and disbursement
Ⓛ fee if arrearages are owed, and (dm) ^m first
applies to arrearages existing on the effective
date of this paragraph.

D. note

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

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ordered → Under current law, if a person is ordered to pay maintenance, child support, or family support, the court must also order the person to pay to DWD an annual fee of \$25, in every year for which maintenance, child support, or family support payments are ~~made~~ to pay for DWD's costs associated with receiving and disbursing the maintenance, child support, or family support and maintaining a record of the receipts and disbursements. The bill increases the annual fee to \$35, beginning with fees payable in 2002, and provides that the person paying the annual fee must pay it, not only in every year for which maintenance, child support, or family support payments are ~~made~~ but also in every year in which the person owes an arrearage in any of those payments. In addition, the bill requires DWD to study what it would cost DWD to operate the statewide receipt and disbursement system itself, instead of paying its designee to operate the system.

(END OF INSERT A)

INSERT 2-16

1 SECTION 1. 20.445 (3) ^x(ja) of the statutes is amended to read:
2 20.445 (3) (ja) *Child support state operations — fees.* All moneys received from
3 fees charged under s. 49.22 (8), from fees ordered or otherwise owed under s. 767.29
4 (1) (d), from fees collected under s. 767.29 (1) (dm) 1m., and from fees charged and
5 incentive payments and collections retained under s. 49.22 (7m), for costs associated
6 with receiving and disbursing support and support-related payments, including any
7 contract costs, and for administering the program under s. 49.22 and all other
8 purposes specified in s. 49.22.

History: 1971 c. 125 ss. 156, 522 (1); 1971 a. 211, 215; 1971 a. 228 a. 44; 1971 c. 259; 1973 c. 90, 180, 243, 333; 1975 c. 39, 147, 224, 274, 344; 1975 c. 404 ss. 3, 10 (1); 1975 c. 405 ss. 3, 11 (1); 1977 c. 29, 48, 203, 418; 1979 c. 34 ss. 512 to 522, 2102 (25) (a); 1979 c. 189, 221, 309; 1979 c. 329 s. 25 (1); 1979 c. 350 ss. 3, 27 (6); 1979 c. 353, 355; 1981 c. 20, 36, 92, 93, 317, 325, 364; 1983 a. 8; 1983 a. 27 ss. 411 to 425; 1983 a. 98 ss. 1, 31; 1983 a. 192, 384, 388, 410; 1985 a. 17, 29, 153, 313, 332; 1987 a. 27; 1987 a. 38 ss. 2 to 4, 136; 1987 a. 399, 403; 1989 a. 31, 44, 64, 77, 254, 284, 359; 1991 a. 39 ss. 372c, 545r, 545t, 545v, 547, 548, 548g, 548m, 549, 549b, 549g, 549p; 1991 a. 85, 89, 269, 315; 1993 a. 16, 126, 243, 437, 491; 1995 a. 27 ss. 772mm, 772mn, 776p to 778b, 778L, 778n, 778q, 778v, 778z to 780m, 781m to 782p, 782u, 841, 842, 849, 850, 854, 855, 858c, 873 to 876, 878, 880, 890 to 896, 962 to 1014c, 9126 (19), 9130 (4); 1995 a. 113 s. 2t; 1995 a. 117, 201, 216, 225, 289; 1995 a. 404 ss. 4, 6 to 8, 10 to 17; 1997 a. 3; 1997 a. 27 ss. 610 to 642m, 722; 1997 a. 35, 38, 39, 102a, 112, 191, 235, 236, 237, 252; 1999 a. 9 ss. 270, 458 to 478; 1999 a. 15, 32.

9 SECTION 2. 767.265 (1) of the statutes is amended to read:
10 767.265 (1) Each order for child support under this chapter, for maintenance
11 payments under s. 767.23 or 767.26, for family support under this chapter, for costs
12 ordered under s. 767.51 (3) or 767.62 (4), for support by a spouse under s. 767.02 (1)
13 (f), or for maintenance payments under s. 767.02 (1) (g) or for, each order for or

1 obligation to pay the annual receiving and disbursing fee under s. 767.29 (1) (d), each
 2 order for a revision in a judgment or order with respect to child support,
 3 maintenance, or family support payments under s. 767.32, each stipulation
 4 approved by the court or the family court commissioner for child support under this
 5 chapter, and each order for child or spousal support entered under s. 948.22 (7)
 6 constitutes an assignment of all commissions, earnings, salaries, wages, pension
 7 benefits, benefits under ch. 102 or 108, lottery prizes that are payable in instalments,
 8 and other money due or to be due in the future to the department or its designee. The
 9 assignment shall be for an amount sufficient to ensure payment under the order,
 10 obligation₂ or stipulation and to pay any arrearages due at a periodic rate not to
 11 exceed 50% of the amount of support due under the order, obligation₂ or stipulation
 12 so long as the addition of the amount toward arrearages does not leave the party at
 13 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; 1999 a. 9.

14 **SECTION 3.** 767.265 (1m) of the statutes 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 or in the payment of the annual receiving and disbursing fee, the
 19 assignment shall continue in effect, in an amount up to the amount of the assignment
 20 before the party's current obligation terminated, until the arrearage is paid in full.

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; 1999 a. 9.

21 **SECTION 4.** 767.29 (1) (d) of the statutes is amended to read:

22 767.29 (1) (d) For receiving and disbursing maintenance, child support, or
 23 family support payments, including arrears in any of those payments, and for

1 maintaining the records required under par. (c), the department or its designee shall
 2 collect an annual fee of ~~\$25~~ \$35. The court or family court commissioner shall order
 3 each party ordered to make payments to pay the annual fee under this paragraph in
 4 each year for which payments are ordered or in which an arrearage in any of those
 5 payments is owed. In directing the manner of payment of the annual fee, the court
 6 or family court commissioner shall order that the annual fee be withheld from income
 7 and sent to the department or its designee, as provided under s. 767.265. All fees
 8 collected under this paragraph shall be deposited in the appropriation account under
 9 s. 20.445 (3) (ja). At the time of ordering the payment of an annual fee under this
 10 paragraph, the court or family court commissioner shall notify each party ordered
 11 to make payments of the requirement to pay the annual fee and of the amount of the
 12 annual fee. If the annual fee under this paragraph is not paid when due, the
 13 department or its designee may not deduct the annual fee from ~~the~~ any maintenance
 14 or, child, or family support, or arrearage payment, but may move the court for a
 15 remedial sanction under ch. 785.

History: 1971 c. 41 s. 12; Sup. Ct. Order, 67 Wis. 2d 585, 775 (1975); 1975 c. 82, 200; 1975 c. 401 s. 4; 1977 c. 105 s. 59; 1977 c. 271, 418, 447; 1979 c. 32 ss. 30, 92 (4); 1979 c. 257 s. 17; Stats. 1979 s. 767.29; 1981 c. 20 s. 2202 (20) (m); 1983 a. 27, 302; 1985 a. 29, 176; 1991 a. 39; 1993 a. 481; 1995 a. 27 ss. 7104tm, 9126 (19), 9130 (4); 1995 a. 77, 279, 289, 404; 1997 a. 27, 35, 105, 191, 252; 1999 a. 9.

16 **SECTION 5. 767.29 (1) (dm) 1m.** of the statutes is amended to read:

17 **767.29 (1) (dm) 1m.** The department or its designee may collect any unpaid fees
 18 under s. 814.61 (12) (b), 1997 stats., that are shown on the department's automated
 19 payment and collection system on December 31, 1998, and shall deposit all fees
 20 collected under this subdivision in the appropriation account under s. 20.445 (3) (ja).
 21 The department or its designee may collect unpaid fees under this subdivision
 22 through income withholding under s. 767.265 (2m). If the department or its designee
 23 determines that income withholding is inapplicable, ineffective, or insufficient for
 24 the collection of any unpaid fees under this subdivision, the department or its

1 designee may move the court for a remedial sanction under ch. 785. The department
2 or its designee may contract with or employ a collection agency or other person for
3 the collection of any unpaid fees under this subdivision and, notwithstanding s.
4 20.930, may contract with or employ an attorney to appear in any action in state or
5 federal court to enforce the payment obligation. The department or its designee may
6 not deduct the amount of unpaid fees from any maintenance or, child² or family
7 support or arrearage payment.

History: 1971 c. 41 s. 12; Sup. Ct. Order, 67 Wis. 2d 585, 775 (1975); 1975 c. 82, 200; 1975 c. 401 s. 4; 1977 c. 105 s. 59; 1977 c. 271, 418, 447; 1979 c. 32 ss. 50, 92 (4); 1979 c. 257 s. 17; Stats. 1979 s. 767.29; 1981 c. 20 s. 2202 (20) (m); 1983 a. 27, 302; 1985 a. 29, 176; 1991 a. 39; 1993 a. 481; 1995 a. 27 ss. 7104tm, 9126 (19), 9130 (4); 1995 a. 77, 279, 289, 404; 1997 a. 27, 35, 105, 191, 252; 1999 a. 9.

(END OF INSERT 2-16)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0529/3dn
PJK:hmh:jf

Dakelme

Robert:

(X) 1. Because a few of the provisions in this draft overlap with the provisions in LRB-0532, because some of the changes made to LRB-0532 must be changed to be consistent with the changes in this draft, and because the logic behind the changes in both drafts is sometimes difficult to grasp, I think it would be a good idea for me to reconcile these two drafts ahead of our normal reconciliation process. I'm afraid that if the reconciliation is left for later, I might not be able to remember all of the nuances, or another drafter might attempt to do a merely technical reconciliation, which will not work. I could combine both drafts into one, if you are sure they will both be in the compile, or, if you are not sure, I could combine them both into one draft under another LRB number, which could just be left out of the compile if both drafts do not stay in.

2. Although I included an initial applicability provision for the arrearages provisions, it probably doesn't really add anything. The initial applicability might be more useful if it related to the fees, such as first applying to fees payable in 2002. Since the statutes previously specified that the fee was owed *in every year for which payments were ordered*, it would seem unfair if a person who was paying an arrearage in child support, but not paying the fee, was accruing an arrearage in the fee before the enactment of this new language. I don't know if this was this happening. Do you want the requirement for the fee if there is an arrearage to first apply to fees payable in 2002 also?

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0529/3dn
PJK:hmh:kjf

January 24, 2001

Robert:

1. Because a few of the provisions in this draft overlap with the provisions in LRB-0532, some of the changes made to LRB-0532 must be changed to be consistent with the changes in this draft, and because the logic behind the changes in both drafts is sometimes difficult to grasp, I think it would be a good idea for me to reconcile these two drafts ahead of our normal reconciliation process. I'm afraid that if the reconciliation is left for later, I might not be able to remember all of the nuances, or another drafter might attempt to do a merely technical reconciliation, which will not work. I could combine both drafts into one, if you are sure they will both be in the compile, or, if you are not sure, I could combine them both into one draft under another LRB number, which could just be left out of the compile if both drafts do not stay in.
2. Although I included an initial applicability provision for the arrearages provisions, it probably doesn't really add anything. The initial applicability might be more useful if it related to the fees, such as first applying to fees payable in 2002. Since the statutes previously specified that the fee was owed *in every year for which payments were ordered*, it would seem unfair if a person who was paying an arrearage in child support, but not paying the fee, was accruing an arrearage in the fee before the enactment of this new language. I don't know if this was this happening. Do you want the requirement for the fee if there is an arrearage to first apply to fees payable in 2002 also?

Pamela J. Kahler
Senior Legislative Attorney
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State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0529/8

PJK:hmb:kjf

stays

h m not

nm

4

DOA:.....Blaine - Changes related to receipt and disbursement fee and a study on the cost of operating the receipt and disbursement system

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

SOON
(1-26)

D-note

do not
gen cat

1 AN ACT relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

OTHER HEALTH AND HUMAN SERVICES

Under current law, if a person is ordered to pay maintenance, child support, or family support, the court must also order the person to pay to DWD an annual fee of \$25, in every year for which maintenance, child support, or family support payments are ordered, to pay for DWD's costs associated with receiving and disbursing the maintenance, child support, or family support and maintaining a record of the receipts and disbursements. The bill increases the annual fee to \$35, beginning with fees payable in 2002, and provides that the person paying the annual fee must pay it, not only in every year for which maintenance, child support, or family support payments are ordered, but also in every year in which the person owes an arrearage in any of those payments. In addition, the bill requires DWD to study what it would cost DWD to operate the statewide receipt and disbursement system itself, instead of paying its designee to operate the system.

Insert A →

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:

SECTION 1. 20.445 (3) (ja) of the statutes is amended to read:

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

SECTION 2. 767.265 (1) of the statutes is amended to read:

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), for support by a spouse under s. 767.02 (1) (f), or for maintenance payments under s. 767.02 (1) (g) or for, each order for or obligation to pay 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 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

Insert 2-8

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

6 **SECTION 3.** 767.265 (1m) of the statutes is amended to read:

7 767.265 (1m) If a party's current obligation to pay maintenance, child support,
8 spousal support, or family support ~~or the annual receiving and disbursing fee~~
9 terminates but the party has an arrearage in the payment of one or more of those
10 payments or in the payment of the annual receiving and disbursing fee, the
11 assignment shall continue in effect, in an amount up to the amount of the assignment
12 before the party's current obligation terminated, until the arrearage is paid in full.

13 **SECTION 4.** 767.29 (1) (d) of the statutes is amended to read:

14 767.29 (1) (d) For receiving and disbursing maintenance, child support, or
15 family support payments, including arrears in any of those payments, and for
16 maintaining the records required under par. (c), the department or its designee shall
17 collect an annual fee of ~~\$25~~ \$35. The court or family court commissioner shall order
18 each party ordered to make payments to pay the annual fee under this paragraph in
19 each year for which payments are ordered or in which an arrearage in any of those
20 payments is owed. In directing the manner of payment of the annual fee, the court
21 or family court commissioner shall order that the annual fee be withheld from income
22 and sent to the department or its designee, as provided under s. 767.265. All fees
23 collected under this paragraph shall be deposited in the appropriation account under
24 s. 20.445 (3) (ja). At the time of ordering the payment of an annual fee under this
25 paragraph, the court or family court commissioner shall notify each party ordered

Insert 3-12

1 to make payments of the requirement to pay the annual fee and of the amount of the
2 annual fee. If the annual fee under this paragraph is not paid when due, the
3 department or its designee may not deduct the annual fee from the any maintenance
4 ~~or~~ child^o or family support, or arrearage payment, but may move the court for a
5 remedial sanction under ch. 785.

6 **SECTION 5. 767.29 (1) (dm) 1m. of the statutes is amended to read:**

7 767.29 (1) (dm) 1m. The department or its designee may collect any unpaid fees
8 under s. 814.61 (12) (b), 1997 stats., that are shown on the department's automated
9 payment and collection system on December 31, 1998, and shall deposit all fees
10 collected under this subdivision in the appropriation account under s. 20.445 (3) (ja).
11 The department or its designee may collect unpaid fees under this subdivision
12 through income withholding under s. 767.265 (2m). If the department or its designee
13 determines that income withholding is inapplicable, ineffective, or insufficient for
14 the collection of any unpaid fees under this subdivision, the department or its
15 designee may move the court for a remedial sanction under ch. 785. The department
16 or its designee may contract with or employ a collection agency or other person for
17 the collection of any unpaid fees under this subdivision and, notwithstanding s.
18 20.930, may contract with or employ an attorney to appear in any action in state or
19 federal court to enforce the payment obligation. The department or its designee may
20 not deduct the amount of unpaid fees from any maintenance ~~or~~ child^o or family
21 support or arrearage payment.

22 **SECTION 9158. Nonstatutory provisions; workforce development.**

23 (1) STUDY ON COST OF OPERATING RECEIPT AND DISBURSEMENT SYSTEM. The
24 department of workforce development shall study what it would cost the department
25 to operate the statewide automated support and maintenance receipt and

Insert 4-21

20
21

as affected by this act,

1 disbursement system under section 767.29 of the statutes, including the number of
2 employees that would be required to perform the functions. In the study, the
3 department shall differentiate between the cost of initially taking over the operation
4 of the system and the cost of operating the system annually thereafter and shall
5 compare those costs with the current and anticipated future cost of paying its
6 designee to operate the system. No later than December 31, 2001, the department
7 of workforce development shall submit a report on the results of the study, including
8 the department's conclusions and recommendations, to the secretary of
9 administration.

10 **SECTION 9358. Initial applicability; workforce development.**

11 (1) RECEIPT AND DISBURSEMENT FEE.

12 (a) *Increase.* The treatment of section 767.29 (1) (d) of the statutes, with respect
13 to increasing the amount of the receipt and disbursement fee, first applies to receipt
14 and disbursement fees that are payable in calendar year 2002.

15 (b) *Arrearages.* The treatment of sections 20.445 (3) (ja), 767.265 (1) and (1m),
16 and 767.29 (1) (d), with respect to payment of the receipt and disbursement fee if
17 arrearages are owed, and (dm) 1m. first applies to arrearages existing on the effective
18 date of this paragraph.

19 (END)

*and (kP), 49.855(1), (3), (4), and (4m)(b)
and (c)*

D-note

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0529/ins
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INSERT A

Under current law, if a person owes an outstanding amount for past child or family support or for medical or birth expenses, or is delinquent in making court-ordered child or family support or maintenance payments, the amount that the person owes may be withheld from any state income tax refund or credit owed to the person. Also under current law, if a court orders a person to pay child or family support or maintenance, the court must ~~also~~ order the person to pay to DWD an annual receiving and disbursing fee (R&D fee) of \$25, in every year for which maintenance, child support, or family support payments are ordered, to pay for DWD's costs associated with receiving and disbursing the maintenance, child support, or family support and maintaining a record of the receipts and disbursements.

The bill increases the R&D fee to \$35, beginning with R&D fees payable in 2002, and provides that a person paying the R&D fee must pay it not only in every year for which maintenance, child support, or family support payments are ordered but also in every year in which the person owes an arrearage in any of those payments. The bill provides that, if a person is delinquent in paying the R&D fee, the delinquent amount may be withheld from any ^{state} income tax refund or credit owed to the person upon certification of the delinquency by DWD to DOR. Before the refund or credit may be withheld, however, the person is entitled to a court hearing on whether he or she owes the amount that DWD certified to DOR. The bill also requires DWD to study what it would cost DWD to operate the statewide receipt and disbursement system, which is currently operated by a private party under contract with, and paid by, DWD.

Under current law, maintenance and child or family support are collected through wage assignment, as are R&D fees ordered on or after January 1, 2000. Current law provides that, if a person's obligation to pay maintenance, child or family support, or the R&D fee terminates, but the person has an arrearage in one or more of those payments, the wage assignment shall continue, up to the amount of the assignment before the obligation terminated, until the arrearage is paid in full. This provision applies only to those R&D fees ordered on or after January 1, 2000, however, because only those R&D fees are paid through wage assignment. The bill broadens the application of the provision to arrearages in any R&D fees, regardless of when ordered, and also broadens the assignment that is to be continued for collection of arrearages in maintenance, child or family support, or the R&D fee. Under the bill, if there is an arrearage in ~~any of those payments~~ after a person's current obligation to pay maintenance or child or family support terminates, any assignment that was in effect continues until the arrearage is paid in full, regardless of whether the assignment was for the same or a different type of payment. Thus, if a person was ordered before January 1, 2000, to pay maintenance and the R&D fee and has an arrearage in the R&D fee after his or her obligation to pay maintenance ends, the maintenance assignment is continued until the arrearage in the R&D fee is paid in full.

(END OF INSERT A)

maintenance, child or family support, or the R&D fee

who is obligated to pay maintenance or child or family support must pay to DWD or its designee is also collected through wage assignment if payment of the fee was ordered on or after January 1, 2000. (The annual receiving and disbursing fee is ordered at the same time that a person is ordered to pay maintenance or support, and the obligation to pay the fee continues for as long as the person is obligated to pay maintenance or support.) Annual receiving and disbursing fees ordered before January 1, 2000, are paid by the person in the same manner as the person pays any other obligation. Current law provides that, if a person's obligation to pay maintenance, child or family support, or the annual receiving and disbursing fee terminates, but the person has an arrearage in one or more of those payments, the wage assignment shall continue, up to the amount of the assignment before the obligation terminated, until the arrearage is paid in full. With respect to arrearages in annual receiving and disbursing fees, this provision applies only to those fees ordered on or after January 1, 2000, because only those fees are paid through wage assignment. The bill broadens the provision's application to arrearages in any annual receiving and disbursing fees, regardless of when ordered. The bill provides that, if there is an arrearage after an obligation to pay maintenance, child or family support, or the annual receiving and disbursing fee terminates, any assignment, whether of maintenance, child or family support, or the annual receiving and disbursing fee, continues until the arrearage is paid in full. Thus, if a person was ordered before January 1, 2000, to pay maintenance and the annual receiving and disbursing fee and has an arrearage in the annual receiving and disbursing fee when his or her obligation to pay maintenance and, consequently, the annual receiving and disbursing fee ends, the maintenance assignment is continued until the arrearage in the annual receiving and disbursing fee is paid in full.

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:

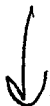
Insert 2-8

1076

1 SECTION 1. 20.445 (3) (ja) of the statutes is amended to read:

2 20.445 (3) (ja) *Child support state operations — fees.* All moneys received from
 3 fees charged under s. 49.22 (8), from fees ordered under s. 767.29 (1) (d), from fees
 4 collected under s. 767.29 (1) (dm) 1m. and, from fees charged and incentive payments
 5 and collections retained under s. 49.22 (7m), and from the department of revenue
 6 under s. 49.855 that were withheld for unpaid fees ordered under s. 767.29 (1) (d),
 7 for costs associated with receiving and disbursing support and support-related

or otherwise owed



Inset 2-8 contd

2 of 6

1 payments, including any contract costs, and for administering the program under s.
2 49.22 and all other purposes specified in s. 49.22.

3 SECTION 2. 20.445 (3) (kp) of the statutes is amended to read:

4 20.445 (3) (kp) *Delinquent support and, maintenance, and fee payments.* All
5 moneys received from ~~the department of revenue and the department of~~
6 administration under s. 49.855 that were withheld for child support, family support,
7 maintenance, medical expenses, or birth expenses, to be distributed in accordance
8 with state law and federal regulations, and that were withheld for unpaid fees
9 ordered under s. 767.29 (1) (d), for costs associated with receiving and disbursing
10 support and support-related payments, including any contract costs.

or otherwise owed

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

11 SECTION 3. 20.445 (3) (r) of the statutes is amended to read:

12 20.445 (3) (r) *Support receipt and disbursement program; payments.* From the
13 support collections trust fund, all moneys received under s. 49.854, except for moneys
14 received under s. 49.854 (11) (b), all moneys received under ss. 767.265 and 767.29
15 for child or family support, maintenance, spousal support, health care expenses, or
16 birth expenses, ~~and~~ all other moneys received under judgments or orders in actions
17 affecting the family, as defined in s. 767.02 (1), and all moneys received from the
18 department of revenue under s. 49.855 that were withheld for delinquent child
19 support, family support, or maintenance or outstanding court-ordered amounts for
20 past support, medical expenses, or birth expenses, for disbursement to the persons
21 for whom the payments are awarded, for returning seized funds under s. 49.854 (5)
22 (f), and, if assigned under s. 46.261, 48.57 (3m) (b) 2. or (3n) (b) 2., 49.145 (2) (s), 49.19
23 (4) (h) 1. b., or 49.775 (2) (bm), for transfer to the appropriation account under par.



Insert 2-8 cont'd

306

(k). Estimated disbursements under this paragraph shall not be included in the schedule under s. 20.005.

SECTION 4. 25.68 (4) of the statutes is created to read:

25.68 (4) All moneys received from the department of revenue under s. 49.855 that were withheld for delinquent child support, family support, or maintenance or outstanding court-ordered amounts for past support, medical expenses, or birth expenses.

SECTION 5. 49.855 (1) of the statutes is amended to read:

49.855 (1) If a person obligated to ~~provide~~ ^{pay} child support, family support, or maintenance ~~or~~ ~~the~~ receiving and disbursing fee under s. 767.29 (1) (d) is delinquent in making ~~court-ordered~~ payments, or owes an outstanding amount that has been ordered by the court for past support, medical expenses, or birth expenses, upon application under s. 59.53 (5) the department of workforce development shall certify the delinquent payment or outstanding amount to the department of revenue and, at least annually, shall provide to the department of revenue any certifications of delinquencies or outstanding amounts that it receives from another state because the obligor resides in this state.

SECTION 6. 49.855 (3) of the statutes is amended to read:

49.855 (3) Receipt of a certification by the department of revenue shall constitute a lien, equal to the amount certified, on any state tax refunds or credits owed to the obligor. The lien shall be foreclosed by the department of revenue as a setoff under s. 71.93 (3), (6), and (7). When the department of revenue determines that the obligor is otherwise entitled to a state tax refund or credit, it shall notify the obligor that the state intends to reduce any state tax refund or credit due the obligor by the amount the obligor is delinquent under the support ~~or~~ maintenance, or

underscore comma

9
10
11

any of these



*Insert 2-8 cont'd
or obligation*

486

1 receiving and disbursing fee order by the outstanding amount for past support,
 2 medical expenses, or birth expenses under the court order, or by the amount due
 3 under s. 46.10 (4) or 301.12 (4). The notice shall provide that within 20 days the
 4 obligor may request a hearing before the circuit court rendering the order. Within
 5 10 days after receiving a request for hearing under this subsection, the court shall
 6 set the matter for hearing. Pending further order by the court or family court
 7 commissioner, the department of workforce development or its designee, whichever
 8 is appropriate, is prohibited from disbursing the obligor's state tax refund or credit.
 9 The family court commissioner may conduct the hearing. The sole issues at that
 10 hearing shall be whether the obligor owes the amount certified and, if not and it is
 11 a support or maintenance order, whether the money withheld from a tax refund or
 12 credit shall be paid to the obligor or held for future support or maintenance. An
 13 obligor may, within 20 days of receiving notice that the amount certified shall be
 14 withheld from his or her federal tax refund or credit, request a hearing under this
 15 subsection.

under which the obligation arose

****NOTE: I'm confused about the last sentence of this subsection. Is DOR able to withhold amounts from a person's federal tax refund?*

16 **SECTION 7.** 49.855 (4) of the statutes is amended to read:
 17 49.855 (4) The department of revenue shall send ~~that~~ the portion of any state
 18 or federal tax refunds or credits withheld for delinquent child or family support or
 19 maintenance or past support, medical expenses, or birth expenses to the department
 20 of workforce development or its designee for ~~distribution to the obligee~~ deposit in the
 21 support collections trust fund under s. 25.68 and shall send the portion of any state
 22 or federal tax refunds or credits withheld for delinquent receiving and disbursing
 23 fees to the department of workforce development or its designee for deposit in the



insert 2-8 cont'd

1 appropriation account under s. 20.445 (3) (ja). The department of workforce
2 development shall make a settlement at least annually with the department of
3 revenue. The settlement shall state the amounts certified, the amounts deducted
4 from tax refunds and credits, and the administrative costs incurred by the
5 department of revenue.

~~***NOTE: Same comment as after s. 49.855 (3).~~

6 SECTION 8. 49.855 (4m) (b) of the statutes is amended to read:

7 49.855 (4m) (b) The department of revenue may provide a certification that it
8 receives under sub. (1), (2m), or (2p) to the department of administration. Upon
9 receipt of the certification, the department of administration shall determine
10 whether the obligor is a vendor or is receiving any other payments from this state,
11 except for wages, retirement benefits, or assistance under s. 45.352, 1971 stats., s.
12 45.351 (1), this chapter, or ch. 46, 108, or 301. If the department of administration
13 determines that the obligor is a vendor or is receiving payments from this state,
14 except for wages, retirement benefits, or assistance under s. 45.352, 1971 stats., s.
15 45.351 (1), this chapter, or ch. 46, 108, or 301, it shall begin to withhold the amount
16 certified from those payments and shall notify the obligor that the state intends to
17 reduce any payments due the obligor by the amount the obligor is delinquent under
18 the support or, maintenance, or receiving and disbursing fee order, by the
19 outstanding amount for past support, medical expenses, or birth expenses under the
20 court order, or by the amount due under s. 46.10 (4) or 301.12 (4). The notice shall
21 provide that within 20 days after receipt of the notice the obligor may request a
22 hearing before the circuit court rendering the order. An obligor may, within 20 days
23 after receiving notice, request a hearing under this paragraph. Within 10 days after
24 receiving a request for hearing under this paragraph, the court shall set the matter

or obligation

under which the obligation arose

Insert 2-8 cont'd

6 of 6

1 for hearing. The family court commissioner may conduct the hearing. Pending
2 further order by the court or family court commissioner, the department of workforce
3 development or its designee, whichever is appropriate, may not disburse the
4 payments withheld from the obligor. The sole issues at the hearing are whether the
5 obligor owes the amount certified and, if not and it is a support or maintenance order,
6 whether the money withheld shall be paid to the obligor or held for future support
7 or maintenance.

8 **SECTION 9.** 49.855 (4m) (c) of the statutes is amended to read:

9 49.855 (4m) (c) Except as provided by order of the court after hearing under
10 par. (b), the department of administration shall continue withholding until the
11 amount certified is recovered in full. The department of administration shall
12 transfer the amounts withheld under this paragraph to the department of workforce
13 development or its designee, the department of health and family services, or the
14 department of corrections, whichever is appropriate. The department of workforce
15 development or its designee shall ~~distribute~~ deposit amounts withheld for
16 delinquent child or family support ~~or~~ maintenance, or receiving and disbursing fees
17 or past support, medical expenses, or birth expenses ~~to the obligee in the~~
18 appropriation account under s. 20.445 (3) (kp).

19 **SECTION 10.** 767.265 (1m) of the statutes is amended to read:

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

(end of insert 2-8)

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0529/8ins
PJK:hmk/kjf

INSERT 3-12

1 SECTION 1. 767.265^x (1m) of the statutes is amended to read:

2 767.265 (1m) If a party's current obligation to pay maintenance, child support,
3 spousal support, or family support ~~or the annual receiving and disbursing fee~~
4 terminates but the party has an arrearage in the payment of one or more of those
5 payments, ~~the~~ or in the payment of the annual receiving and disbursing fee, any
6 assignment under sub. (1)[✓] shall continue in effect, in an amount up to the amount
7 of the assignment before the party's current obligation terminated, until the
8 arrearage is paid in full.

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; 1999 a. 9.

(END OF INSERT 3-12)

Insert 4-21

1
2
3
4
5
6
7

SECTION 11. 1999 Wisconsin Act 9, section 9357 (3) is amended to read:

[1999 Wisconsin Act 9] Section 9357 (3) ASSIGNMENT OF RECEIVING AND DISBURSING FEES. The treatment of sections 767.265 (1), (2h) (by SECTION 3059) and (2r) and 767.29 (1) (d) (intro.), 1. and 2. ~~of the statutes and the amendment of section 767.265 (1m) of the statutes first apply~~ applies to annual receiving and disbursing fees that are ordered on the effective date of this subsection.

(END) *by ins. 4-21*

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0529/3dn ⁴

PJK:hmk:jf
hmk

Date

Robert:

I combined LRB-0529 and LRB-0532 into LRB-0529. Keeping in mind that R&D fees are payable on arrearages without an order, I needed to "tweek" most of the changes that had been made in LRB-0532. Therefore, you should review this draft as if it ~~is~~ ^{were} new and not just two already-approved drafts mechanically put together.

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0529/4dn
PJK:hmh:kjf

January 26, 2001

Robert:

I combined LRB-0529 and LRB-0532 into LRB-0529. Keeping in mind that R&D fees are payable on arrearages without an order, I needed to "tweek" most of the changes that had been made in LRB-0532. Therefore, you should review this draft as if it were new and not just two already-approved drafts mechanically put together.

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

Kahler, Pam

From: Blaine, Robert
Sent: Wednesday, January 31, 2001 8:51 AM
To: Kahler, Pam
Subject: RE: LRB Draft: 01-0529/3 Changes related to receipt and disbursement fee and a study on the cost of operating the receipt and disbursement system

The draft looks good. Let's remove the applicability section related to the arrearages, as we discussed, and then I think this one is done.

Thanks,
Robert

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

From: Kahler, Pam
Sent: Tuesday, January 30, 2001 5:34 PM
To: Blaine, Robert
Subject: RE: LRB Draft: 01-0529/3 Changes related to receipt and disbursement fee and a study on the cost of operating the receipt and disbursement system

You, too? I'm glad I was not alone in having one of those days!

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

From: Blaine, Robert
Sent: Tuesday, January 30, 2001 5:11 PM
To: Kahler, Pam
Subject: RE: LRB Draft: 01-0529/3 Changes related to receipt and disbursement fee and a study on the cost of operating the receipt and disbursement system

I haven't forgotten about you. The draft has been on my desk all day, and I've only gotten through page 3. It's been one of those days . . .

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

From: Kahler, Pam
Sent: Monday, January 29, 2001 4:39 PM
To: Blaine, Robert
Subject: RE: LRB Draft: 01-0529/3 Changes related to receipt and disbursement fee and a study on the cost of operating the receipt and disbursement system

Sounds good.

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

From: Blaine, Robert
Sent: Monday, January 29, 2001 4:36 PM
To: Kahler, Pam
Subject: RE: LRB Draft: 01-0529/3 Changes related to receipt and disbursement fee and a study on the cost of operating the receipt and disbursement system

Thanks for the feedback (and the warning). I would like to remove the initial applicability section after all. I'm going to review the draft again tonight, so I will let you know if I need anything else first thing tomorrow.

(is that a light at the end of the tunnel?)

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

From: Kahler, Pam
Sent: Monday, January 29, 2001 10:00 AM
To: Blaine, Robert
Subject: RE: LRB Draft: 01-0529/3 Changes related to receipt and disbursement fee and a study on the cost of operating the receipt and disbursement system

Robert:

I really don't have a problem with taking out the initial applicability; as I said before, I'm not sure that it really does anything anyway. My only concern was that, without it, a court could possibly interpret the fees-on-arrears part as applying only to arrears owed in payments *ordered* on or after the effective date. I'm pretty sure the Supreme Court has done that before. If you want more info., I could

try to find the case that I'm thinking of.

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

From: Blaine, Robert
Sent: Monday, January 29, 2001 9:10 AM
To: Kahler, Pam
Subject: FW: LRB Draft: 01-0529/3 Changes related to receipt and disbursement fee and a study on the cost of operating the receipt and disbursement system

DWD's response on the applicability date. Perhaps we can discuss later. . .

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

From: Chesnik, Constance
Sent: Friday, January 26, 2001 4:34 PM
To: Blaine, Robert
Subject: RE: LRB Draft: 01-0529/3 Changes related to receipt and disbursement fee and a study on the cost of operating the receipt and disbursement system

Hi Robert, the language is fine and I appreciate your last minute effort to get it in for me. I got the report back on the number of cases for which there are no periodic payments-there are nearly \$9,000,000 in R & D fees owing on nearly 50,000 cases. Admittedly, some of those are from a time period when there was a period payment due, but even still, the potential fiscal impact is even larger than I had expected. I do not want to see an applicability date. It has been the long standing administrative construction both of this agency and of Dane County back when they were administering the fee, that it is chargeable in any year in which an arrearage is still on the record. We view this change as a technical clarification of the statutes and not one for which an applicability date is needed. Having one would effectively mean we were inappropriately charging on all these cases and could result in a having to expunge many of the fees. Thanks again.

Connie M. Chesnik

Attorney, Dept. of Workforce Development
(608) 267-7295

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

From: Blaine, Robert
Sent: Friday, January 26, 2001 11:47 AM
To: Chesnik, Constance
Subject: FW: LRB Draft: 01-0529/3 Changes related to receipt and disbursement fee and a study on the cost of operating the receipt and disbursement system

Connie -

Below is draft language that would do two things: 1) increase the R&D fee to \$35 and 2) address the R&D fee arrearage issue you raised last week. I was hoping you could look it over, esp. the initial applicability section. I'm not sure if it goes as far as you would like it to.

Your suggestions are appreciated. If you could get back to me ASAP (by Mon / Tues at the latest), that would be great.

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

From: Follett, Kathy
Sent: Thursday, January 25, 2001 8:53 AM
To: Blaine, Robert
Cc: Kraus, Jennifer; Currier, Dawn; Hanaman, Cathlene; Haugen, Caroline
Subject: LRB Draft: 01-0529/3 Changes related to receipt and disbursement fee and a study on the cost of operating the receipt and disbursement system

Following is the PDF version of draft 01-0529/3.

<< File: 01-0529/3 >> << File: 01-0529/3dn >>