

ASSEMBLY BILL 354

SECTION 168

1 matters, may be placed under a county civil service system by resolution of the county
2 board. ~~Before entering upon the discharge of the duties the family court~~
3 ~~commissioner shall take and file the official oath. The person appointed shall~~
4 ~~continue to act until a successor is appointed and qualified, except that in the event~~
5 ~~of disability or extended absence the judges may appoint another reputable attorney~~
6 ~~to act as temporary family court commissioner. The county board may provide that~~
7 ~~one or more assistant family court commissioners shall be appointed by the circuit~~
8 ~~judges for the county, subject to the approval of the chief judge of the judicial~~
9 ~~administrative district. An assistant family court commissioner shall have the same~~
10 ~~qualifications as the commissioner and shall take and file the official oath.~~

11 **SECTION 169.** 767.13 (2) (title) of the statutes is repealed.

12 **SECTION 170.** 767.13 (2) (a) of the statutes is renumbered 757.68 (2m) (b) and
13 amended to read:

14 757.68 (2m) (b) ~~Appointment; assistants; civil service Milwaukee County.~~ In
15 counties having a population of 500,000 or more, there is created in the classified civil
16 service a circuit court commissioner position to supervise the office of family court
17 commissioner and such additional assistant family circuit court commissioners
18 commissioner positions as the county board shall determine and authorize, ~~who~~
19 Circuit court commissioners shall be appointed ~~from the membership of the bar~~
20 ~~residing in the county to these positions~~ by the chief judge of the judicial
21 administrative district under ~~ss. 63.01 to 63.17~~ SCR 75.02 (1).

22 **SECTION 171.** 767.13 (2) (b), (3) and (4) of the statutes are repealed.

23 **SECTION 172.** 767.13 (5) (title) and (a) (title) of the statutes are repealed.

24 **SECTION 173.** 767.13 (5) (a) of the statutes is renumbered 757.69 (1) (p) (intro.)
25 and amended to read:

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1 757.69 (1) (p) (intro.) ~~On authority delegated by a judge, which may be by a~~
2 ~~standard order, and with the approval of the chief judge of the judicial administrative~~
3 ~~district, a family court commissioner may preside~~ When assigned to assist in matters
4 affecting the family:

5 1. Preside at any hearing held to determine whether a judgment of divorce shall
6 be granted, if both parties state that the marriage is irretrievably broken and that
7 all material issues, including but not limited to division of property or estate, legal
8 custody, physical placement, child support, spousal maintenance and family
9 support, are resolved or if one party does not participate in the action for divorce. ~~The~~
10 ~~family~~ A circuit court commissioner may grant and enter judgment in any action over
11 which he or she presides under this ~~paragraph~~ subdivision unless the judgment
12 modifies an agreement between the parties on material issues. If the ~~family circuit~~
13 court commissioner does not approve an agreement between the parties on material
14 issues, the action shall be certified to the court for trial.

15 **SECTION 174.** 767.13 (5) (b) (title) of the statutes is repealed.

16 **SECTION 175.** 767.13 (5) (b) of the statutes is renumbered 757.69 (1) (p) 2. and
17 amended to read:

18 757.69 (1) (p) 2. ~~On authority delegated by a judge, which may be by a standard~~
19 ~~order, a family court commissioner may conduct~~ Conduct hearings and enter
20 judgments in actions for enforcement of, or revision of judgment for, maintenance,
21 custody, physical placement or visitation.

22 **SECTION 176.** 767.13 (5) (c) (title) of the statutes is repealed.

23 **SECTION 177.** 767.13 (5) (c) of the statutes is renumbered 757.69 (1) (p) 3. and
24 amended to read:

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1 757.69 (1) (p) 3. Except when ~~otherwise ordered by a judge, a family court~~
2 ~~commissioner may prohibited by the chief judge of the judicial administrative~~
3 ~~district,~~ conduct hearings and enter orders and judgments in actions to establish
4 paternity, in actions to establish or enforce a child support or a family support
5 obligation and in actions to revise orders or judgments for child support or family
6 support.

7 **SECTION 178.** 767.13 (6) of the statutes is repealed.

8 **SECTION 179.** 767.13 (7) (title) of the statutes is repealed.

9 **SECTION 180.** 767.13 (7) of the statutes is renumbered 757.69 (2t) and amended
10 to read:

11 757.69 (2t) ~~Each family~~ A circuit court commissioner shall cooperate with the
12 county and the department to ensure that all dependent children receive reasonable
13 and necessary child support.

14 **SECTION 181.** 767.14 of the statutes is amended to read:

15 **767.14 Service on office of family court commissioner and appearance**
16 **by family circuit court commissioner.** In any action affecting the family, each
17 party shall, either within 20 days after making service on the opposite party of any
18 petition or pleading or before filing such petition or pleading in court, serve a copy
19 of the same upon the circuit court commissioner supervising the office of family court
20 commissioner of the county in which the action is begun, whether such action is
21 contested or not. No judgment in any such action shall be granted unless this section
22 is complied with except when otherwise ordered by the court. Such A circuit court
23 commissioner assisting in matters affecting the family may appear in an action
24 under this chapter when appropriate; and shall appear when requested by the court.

25 **SECTION 182.** 767.145 (1) of the statutes is amended to read:

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1 767.145 (1) After the expiration of the period specified by the statute, the court
2 may in its discretion, upon petition and without notice, extend the time within which
3 service shall be made upon the circuit court commissioner supervising the office of
4 family court commissioner.

5 **SECTION 183.** 767.15 (1) of the statutes is amended to read:

6 767.15 (1) In any action affecting the family in which either party is a recipient
7 of benefits under ss. 49.141 to 49.161 or aid under s. 46.261, 49.19 or 49.45, each party
8 shall, either within 20 days after making service on the opposite party of any motion
9 or pleading requesting the court or ~~family~~ circuit court commissioner to order, or to
10 modify a previous order, relating to child support, maintenance or family support, or
11 before filing the motion or pleading in court, serve a copy of the motion or pleading
12 upon the county child support agency under s. 59.53 (5) of the county in which the
13 action is begun.

14 **SECTION 184.** 767.16 of the statutes is amended to read:

15 **767.16 Family Circuit court commissioner or law partner; when**
16 **interested; procedure.** Neither a ~~family~~ circuit court commissioner assisting in
17 matters affecting the family nor a partner may appear in any action affecting the
18 family in any court held in the county in which the ~~family~~ circuit court commissioner
19 is acting, except when authorized to appear by s. 767.14. In case the circuit court
20 commissioner or a partner shall be in any way interested in such action, the
21 presiding judge shall appoint some reputable attorney to perform the services
22 enjoined upon ~~such family~~ the circuit court commissioner and ~~such~~. The appointed
23 attorney, so appointed, shall take and file the oath and receive the compensation
24 provided by law.

25 **SECTION 185.** 767.17 of the statutes is repealed.

1 **SECTION 186.** 767.23 (1) (intro.) of the statutes is amended to read:

2 767.23 (1) (intro.) Except as provided in ch. 822, in every action affecting the
3 family, the court or ~~family~~ circuit court commissioner may, during the pendency
4 thereof, make just and reasonable temporary orders concerning the following
5 matters:

6 **SECTION 187.** 767.23 (1) (a) of the statutes is amended to read:

7 767.23 (1) (a) Upon request of one party, granting legal custody of the minor
8 children to the parties jointly, to one party solely or to a relative or agency specified
9 under s. 767.24 (3), in a manner consistent with s. 767.24, except that the court or
10 ~~family~~ circuit court commissioner may order sole legal custody without the
11 agreement of the other party and without the findings required under s. 767.24 (2)
12 (b) 2. This order may not have a binding effect on a final custody determination.

13 **SECTION 188.** 767.23 (1) (am) of the statutes is amended to read:

14 767.23 (1) (am) Upon the request of a party, granting periods of physical
15 placement to a party in a manner consistent with s. 767.24. The court or ~~family~~
16 circuit court commissioner shall make a determination under this paragraph within
17 30 days after the request for a temporary order regarding periods of physical
18 placement is filed.

19 **SECTION 189.** 767.23 (1m) of the statutes is amended to read:

20 767.23 (1m) If a ~~family~~ circuit court commissioner believes that a temporary
21 restraining order or injunction under s. 813.12 is appropriate in an action, the circuit
22 court commissioner shall inform the parties of their right to seek the order or
23 injunction and the procedure to follow. On a motion for such a restraining order or
24 injunction, the ~~family~~ circuit court commissioner shall submit the motion to the court
25 within 5 working days.

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1 **SECTION 190.** 767.23 (1n) of the statutes is amended to read:

2 767.23 (1n) Before making any temporary order under sub. (1), the court or
3 family circuit court commissioner shall consider those factors that the court is
4 required by this chapter to consider before entering a final judgment on the same
5 subject matter. In making a determination under sub. (1) (a) or (am), the court or
6 family circuit court commissioner shall consider the factors under s. 767.24 (5). If
7 the court or ~~family~~ circuit court commissioner makes a temporary child support order
8 that deviates from the amount of support that would be required by using the
9 percentage standard established by the department under s. 49.22 (9), the court or
10 family circuit court commissioner shall comply with the requirements of s. 767.25
11 (1n). A temporary order under sub. (1) may be based upon the written stipulation
12 of the parties, subject to the approval of the court or ~~the~~ family circuit court
13 commissioner. Temporary orders made by ~~the~~ family a circuit court commissioner
14 may be reviewed by the court as ~~provided in s. 767.13 (6)~~.

15 **SECTION 191.** 767.242 (3) (b) of the statutes is amended to read:

16 767.242 (3) (b) The petition shall request the imposition of a remedy or any
17 combination of remedies under sub. (5) (b) and (c). This paragraph does not prohibit
18 a judge or family circuit court commissioner from imposing a remedy under sub. (5)
19 (b) or (c) if the remedy was not requested in the petition.

20 **SECTION 192.** 767.242 (3) (c) of the statutes is amended to read:

21 767.242 (3) (c) A judge or family circuit court commissioner shall accept any
22 legible petition for an order under this section.

23 **SECTION 193.** 767.242 (5) (a) of the statutes is amended to read:

24 767.242 (5) (a) A judge or family circuit court commissioner shall hold a hearing
25 on the petition no later than 30 days after the petition has been served, unless the

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1 time is extended by mutual agreement of the parties or upon the motion of a guardian
2 ad litem and the approval of the judge or ~~family~~ circuit court commissioner. The
3 judge or ~~family~~ circuit court commissioner may, on his or her own motion or the
4 motion of any party, order that a guardian ad litem be appointed for the child prior
5 to the hearing.

6 **SECTION 194.** 767.242 (5) (b) (intro.) of the statutes is amended to read:

7 767.242 (5) (b) (intro.) If, at the conclusion of the hearing, the judge or ~~family~~
8 circuit court commissioner finds that the respondent has intentionally and
9 unreasonably denied the petitioner one or more periods of physical placement or that
10 the respondent has intentionally and unreasonably interfered with one or more of
11 the petitioner's periods of physical placement, the court or ~~family~~ circuit court
12 commissioner:

13 **SECTION 195.** 767.242 (5) (b) 2. c. of the statutes is amended to read:

14 767.242 (5) (b) 2. c. Grant an injunction ordering the respondent to strictly
15 comply with the judgment or order relating to the award of physical placement. In
16 determining whether to issue an injunction, the judge or ~~family~~ circuit court
17 commissioner shall consider whether alternative remedies requested by the
18 petitioner would be as effective in obtaining compliance with the order or judgment
19 relating to physical placement.

20 **SECTION 196.** 767.242 (5) (c) of the statutes is amended to read:

21 767.242 (5) (c) If, at the conclusion of the hearing, the judge or ~~family~~ circuit
22 court commissioner finds that the petitioner has incurred a financial loss or expenses
23 as a result of the respondent's failure, intentionally and unreasonably and without
24 adequate notice to the petitioner, to exercise one or more periods of physical
25 placement under an order allocating specific times for the exercise of periods of

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1 physical placement, the judge or family circuit court commissioner may issue an
2 order requiring the respondent to pay to the petitioner a sum of money sufficient to
3 compensate the petitioner for the financial loss or expenses.

4 **SECTION 197.** 767.242 (5) (d) of the statutes is amended to read:

5 767.242 (5) (d) Except as provided in par. (b) 1. a. and 2. a., the judge or family
6 circuit court commissioner may not modify an order of legal custody or physical
7 placement in an action under this section.

8 **SECTION 198.** 767.242 (6) (a) of the statutes is amended to read:

9 767.242 (6) (a) If an injunction is issued under sub. (5) (b) 2. c., upon request
10 by the petitioner the judge or family circuit court commissioner shall order the sheriff
11 to assist the petitioner in executing or serving the injunction.

12 **SECTION 199.** 767.247 of the statutes is amended to read:

13 **767.247 Prohibiting visitation or physical placement if a parent kills**
14 **other parent.** (1) Notwithstanding ss. 767.23 (1) (am), 767.24 (1), (4) and (5),
15 767.51 (3) and 767.62 (4) (a) and except as provided in sub. (2), in an action under this
16 chapter that affects a minor child, a court or family circuit court commissioner may
17 not grant to the child's parent visitation or physical placement rights with the child
18 if the parent has been convicted under s. 940.01 of the first-degree intentional
19 homicide, or under s. 940.05 of the 2nd-degree intentional homicide, of the child's
20 other parent, and the conviction has not been reversed, set aside or vacated.

21 (2) Subsection (1) does not apply if the court or family circuit court
22 commissioner determines by clear and convincing evidence that the visitation or
23 periods of physical placement would be in the best interests of the child. The court
24 or family circuit court commissioner shall consider the wishes of the child in making
25 the determination.

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1 **SECTION 200.** 767.25 (4m) (f) 2. of the statutes is amended to read:

2 **767.25 (4m) (f) 2.** The notice provided to the parent shall inform the parent that
3 coverage for the child under the new employer's health benefit plan will be in effect
4 upon the employer's receipt of the notice. The notice shall inform the parent that he
5 or she may, within 10 business days after receiving the notice, by motion request a
6 hearing before the court on the issue of whether the order to provide coverage of the
7 child's health care expenses should remain in effect. A motion under this subdivision
8 may be heard by a ~~family circuit~~ court commissioner. If the parent requests a hearing
9 and the court or ~~family circuit~~ court commissioner determines that the order to
10 provide coverage of the child's health care expenses should not remain in effect, the
11 court shall provide notice to the employer that the order is no longer in effect.

12 **SECTION 201.** 767.265 (1) of the statutes is amended to read:

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

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

5 **SECTION 202.** 767.265 (2h) of the statutes is amended to read:

6 767.265 (2h) If a court-ordered assignment, including the assignment
7 specified under sub. (1) for the payment of any arrearages due, does not require
8 immediately effective withholding and a payer fails to make a required maintenance,
9 child support, spousal support, family support or annual receiving and disbursing
10 fee payment within 10 days after its due date, within 20 days after the payment's due
11 date the court, ~~family~~ circuit court commissioner or county child support agency
12 under s. 59.53 (5) shall cause the assignment to go into effect by providing notice of
13 the assignment in the manner provided under sub. (2r) and shall send a notice by
14 regular mail to the last-known address of the payer. The notice sent to the payer
15 shall inform the payer that an assignment is in effect and that the payer may, within
16 a 10-day period, by motion request a hearing on the issue of whether the assignment
17 should remain in effect. The court or ~~family~~ circuit court commissioner shall hold a
18 hearing requested under this subsection within 10 working days after the date of the
19 request. If at the hearing the payer establishes that the assignment is not proper
20 because of a mistake of fact, the court or ~~family~~ circuit court commissioner may direct
21 that the assignment be withdrawn. Either party may, within 15 working days after
22 the date of a decision by a ~~family~~ circuit court commissioner under this subsection,
23 seek review of the decision by the court with jurisdiction over the action.

24 **SECTION 203.** 767.265 (2m) (b) of the statutes is amended to read:

1 767.265 (2m) (b) The county child support agency under s. 59.53 (5) may cause
2 an assignment under par. (a) to go into effect by providing notice of the assignment
3 in the manner provided under sub. (2r) and sending a notice by regular mail to the
4 last-known address of the payer. The notice sent to the payer shall inform the payer
5 that an assignment is in effect and that the payer may, within a 10-day period, by
6 motion request a hearing on the issue of whether the assignment should remain in
7 effect. The court or ~~family circuit~~ court commissioner shall hold a hearing requested
8 under this paragraph within 10 working days after the date of the request. If at the
9 hearing the payer establishes that the assignment is not proper because of a mistake
10 of fact, the court or ~~family circuit~~ court commissioner may direct that the assignment
11 be withdrawn. The payer or the county child support agency may, within 15 working
12 days after the date of a decision by a ~~family circuit~~ court commissioner under this
13 paragraph, seek review of the decision by the court with jurisdiction over the action.

14 **SECTION 204.** 767.265 (2r) of the statutes is amended to read:

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

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1 from the person notified, the court, ~~family circuit~~ court commissioner or county child
2 support agency under s. 59.53 (5) shall provide notice of the assignment to any other
3 person from whom the payer receives or will receive money. Notice under this
4 subsection may be a notice of the court, a copy of the executed assignment or a copy
5 of that part of the court order directing payment.

6 **SECTION 205.** 767.267 (1) of the statutes is amended to read:

7 767.267 (1) If the court or ~~the family circuit~~ court commissioner determines
8 that income withholding under s. 767.265 is inapplicable, ineffective or insufficient
9 to ensure payment under an order or stipulation specified in s. 767.265 (1), or that
10 income withholding under s. 767.25 (4m) (c) is inapplicable, ineffective or insufficient
11 to ensure payment of a child's health care expenses, including payment of health
12 insurance premiums, ordered under s. 767.25 (4m) ~~or 767.51 (3m)~~, the court or ~~family~~
13 ~~circuit~~ court commissioner may require the payer to identify or establish a deposit
14 account, owned in whole or in part by the payer, that allows for periodic transfers of
15 funds and to file with the financial institution at which the account is located an
16 authorization for transfer from the account to the department or its designee,
17 whichever is appropriate. The authorization shall be provided on a standard form
18 approved by the court and shall specify the frequency and the amount of transfer,
19 sufficient to meet the payer's obligation under the order or stipulation, as required
20 by the court or ~~family circuit~~ court commissioner. The authorization shall include
21 the payer's consent for the financial institution or an officer, employee or agent of the
22 financial institution to disclose information to the court, ~~family circuit~~ court
23 commissioner, county child support agency under s. 59.53 (5), department or
24 department's designee regarding the account for which the payer has executed the
25 authorization for transfer.

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1 **SECTION 206.** 767.267 (5) of the statutes is amended to read:

2 767.267 (5) A financial institution or an officer, employee or agent of a financial
3 institution may disclose information to the court, family circuit court commissioner,
4 county child support agency under s. 59.53 (5), department or department's designee
5 concerning an account for which a payer has executed an authorization for transfer
6 under sub. (1).

7 **SECTION 207.** 767.27 (2) of the statutes is amended to read:

8 767.27 (2) Except as provided in sub. (2m), disclosure forms required under this
9 section shall be filed within 90 days after the service of summons or the filing of a
10 joint petition or at such other time as ordered by the court or family circuit court
11 commissioner. Information contained on such forms shall be updated on the record
12 to the date of hearing.

13 **SECTION 208.** 767.29 (title) of the statutes is amended to read:

14 **767.29 (title) Maintenance, child support and family support**
15 **payments, receipt and disbursement; family circuit court commissioner,**
16 **fees and compensation.**

17 **SECTION 209.** 767.29 (1) (c) of the statutes is amended to read:

18 767.29 (1) (c) Except as provided in sub. (1m), the department or its designee
19 shall disburse the money received under the judgment or order in the manner
20 required by federal regulations and take receipts therefor, unless the department or
21 its designee is unable to disburse the moneys because they were paid by check or
22 other draft drawn upon an account containing insufficient funds. All moneys
23 received or disbursed under this section shall be entered in a record kept by the
24 department or its designee, whichever is appropriate, which shall be open to

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1 inspection by the parties to the action, their attorneys and the ~~family~~ circuit court
2 commissioner.

3 **SECTION 210.** 767.29 (1) (d) of the statutes is amended to read:

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

19 **SECTION 211.** 767.29 (1) (e) of the statutes is amended to read:

20 767.29 (1) (e) If the maintenance, child support or family support payments
21 adjudged or ordered to be paid are not paid to the department or its designee at the
22 time provided in the judgment or order, the county child support agency under s.
23 59.53 (5) or ~~the family~~ a circuit court commissioner of the county shall take such
24 proceedings as he or she considers advisable to secure the payment of the sum
25 including enforcement by contempt proceedings under ch. 785 or by other means.

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1 Copies of any order issued to compel the payment shall be mailed to counsel who
2 represented each party when the maintenance, child support or family support
3 payments were awarded. In case any fees of officers in any of the proceedings,
4 including the compensation of the ~~family~~ circuit court commissioner at the rate of \$50
5 per day unless the commissioner is on a salaried basis, is not collected from the
6 person proceeded against, the fees shall be paid out of the county treasury upon the
7 order of the presiding judge and the certificate of the department.

8 **SECTION 212.** 767.29 (1m) (b) of the statutes is amended to read:

9 767.29 (1m) (b) The court or ~~the family~~ circuit court commissioner has ordered
10 that overpayments of child support, family support or maintenance that do not
11 exceed the amount of support or maintenance due in the next month may be held for
12 disbursement in the next month.

13 **SECTION 213.** 767.29 (3) (a) of the statutes is amended to read:

14 767.29 (3) (a) If maintenance payments or support money, or both, is ordered
15 to be paid for the benefit of any person, who is committed by court order to an
16 institution or is in confinement, or whose legal custody is vested by court order under
17 ch. 48 or 938 in an agency, department or relative, the court or ~~family~~ a circuit court
18 commissioner may order such maintenance payments or support money to be paid
19 to the relative or agency, institution, welfare department or other entity having the
20 legal or actual custody of said person, and to be used for the latter's care and
21 maintenance, without the appointment of a guardian under ch. 880.

22 **SECTION 214.** 767.29 (3) (b) of the statutes is amended to read:

23 767.29 (3) (b) If a child who is the beneficiary of support under a judgment or
24 order is placed by court order in a child caring institution, juvenile correctional
25 institution or state mental institution, the right of the child to support during the

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1 period of the child's confinement, including any right to unpaid support accruing
2 during that period, is assigned to the state. If the judgment or order providing for
3 the support of a child who is placed in a child caring institution, juvenile correctional
4 institution or state mental institution includes support for one or more other
5 children, the support that is assigned to the state shall be the proportionate share
6 of the child placed in the institution, except as otherwise ordered by the court or
7 ~~family circuit~~ court commissioner on the motion of a party.

8 **SECTION 215.** 767.293 (1) of the statutes is amended to read:

9 767.293 (1) If an order for child support under this chapter or s. 948.22 (7), an
10 order for family support under this chapter or a stipulation approved by the court or
11 ~~the family circuit~~ court commissioner for child support under this chapter requires
12 a payer to pay child or family support in an amount that is expressed as a percentage
13 of parental income, the payee, including the state or a county child support agency
14 under s. 59.53 (5) if the state is a real party in interest under s. 767.075 (1), may
15 establish an arrearage by filing an affidavit in the action in which the order for the
16 payment of support was entered or the stipulation for support was approved. The
17 affidavit shall state the amount of the arrearage and the facts supporting a
18 reasonable basis on which the arrearage was determined and may state the payer's
19 current income and the facts supporting a reasonable basis on which the payer's
20 current income was determined. Not later than 60 days after filing the affidavit, the
21 payee shall serve the affidavit on the payer in the manner provided in s. 801.11 (1)
22 (a) or (b) or by sending the affidavit by registered or certified mail to the last-known
23 address of the payer. After the payee files a proof of service on the payer, the court
24 shall send a notice to the payer by regular, registered or certified mail to the payer's
25 last-known address. The notice shall provide that, unless the payer requests a

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1 hearing to dispute the arrearage or the amount of the arrearage not later than 20
2 days after the date of the notice, the court or ~~family~~ circuit court commissioner may
3 enter an order against the payer in the amount stated in the affidavit and may
4 provide notice of assignment under s. 767.265. The notice shall include the mailing
5 address to which the request for hearing must be mailed or delivered in order to
6 schedule a hearing under sub. (2).

7 **SECTION 216.** 767.293 (2) of the statutes is amended to read:

8 767.293 (2) If the payer makes a timely request for a hearing, the court or
9 ~~family~~ circuit court commissioner shall hold a hearing on the issue of the amount of
10 the arrearage, if any. If the court or ~~family~~ circuit court commissioner determines
11 after hearing that an arrearage exists, the court or ~~family~~ circuit court commissioner
12 shall enter an order establishing an arrearage in the amount determined by the court
13 or ~~family~~ circuit court commissioner and may send notice of assignment under s.
14 767.265.

15 **SECTION 217.** 767.293 (3) of the statutes is amended to read:

16 767.293 (3) If the court or ~~family~~ circuit court commissioner sends the notice
17 under sub. (1) and the payer fails to make a timely request for a hearing, the court
18 or ~~family~~ circuit court commissioner, if the affidavit demonstrates to the satisfaction
19 of the court or ~~family~~ circuit court commissioner that an arrearage exists, shall enter
20 an order establishing an arrearage in the amount determined by the court or ~~family~~
21 circuit court commissioner and may send notice of assignment under s. 767.265. The
22 court or ~~family~~ circuit court commissioner shall send the order to the payer's
23 last-known address and shall inform the payer whether an assignment is in effect
24 and that the payer may, within a 10-day period, by motion request a hearing on the
25 issue of whether the order should be vacated or the assignment should be withdrawn.

ASSEMBLY BILL 354**SECTION 218**

1 **SECTION 218.** 767.32 (1) (a) of the statutes is amended to read:

2 767.32 (1) (a) After a judgment or order providing for child support under this
3 chapter or s. 48.355 (2) (b) 4., 48.357 (5m) (a), 48.363 (2), 938.183 (4), 938.355 (2) (b)
4 4., 938.357 (5m) (a), 938.363 (2) or 948.22 (7), maintenance payments under s. 767.26
5 or family support payments under this chapter, or for the appointment of trustees
6 under s. 767.31, the court may, from time to time, on the petition, motion or order to
7 show cause of either of the parties, or upon the petition, motion or order to show cause
8 of the department, a county department under s. 46.215, 46.22 or 46.23 or a county
9 child support agency under s. 59.53 (5) if an assignment has been made under s.
10 46.261, 48.57 (3m) (b) 2. or (3n) (b) 2., 49.19 (4) (h) or 49.45 (19) or if either party or
11 their minor children receive aid under s. 48.57 (3m) or (3n) or ch. 49, and upon notice
12 to the office of family court commissioner, revise and alter such judgment or order
13 respecting the amount of such maintenance or child support and the payment
14 thereof, and also respecting the appropriation and payment of the principal and
15 income of the property so held in trust, and may make any judgment or order
16 respecting any of the matters that such court might have made in the original action,
17 except that a judgment or order that waives maintenance payments for either party
18 shall not thereafter be revised or altered in that respect nor shall the provisions of
19 a judgment or order with respect to final division of property be subject to revision
20 or modification. A revision, under this section, of a judgment or order with respect
21 to an amount of child or family support may be made only upon a finding of a
22 substantial change in circumstances. In any action under this section to revise a
23 judgment or order with respect to maintenance payments, a substantial change in
24 the cost of living by either party or as measured by the federal bureau of labor
25 statistics may be sufficient to justify a revision of judgment or order with respect to

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1 the amount of maintenance, except that a change in an obligor's cost of living is not
2 in itself sufficient if payments are expressed as a percentage of income.

3 **SECTION 219.** 767.327 (2) (c) of the statutes is amended to read:

4 767.327 (2) (c) Upon receipt of a copy of a notice of objection under par. (a), the
5 court or ~~family~~ circuit court commissioner shall promptly refer the parents for
6 mediation or other family court counseling services under s. 767.11 and may appoint
7 a guardian ad litem. Unless the parents agree to extend the time period, if mediation
8 or counseling services do not resolve the dispute within 30 days after referral, the
9 matter shall proceed under subs. (3) to (5).

10 **SECTION 220.** 767.33 (2) of the statutes is amended to read:

11 767.33 (2) An adjustment under sub. (1) may be made only if the party receiving
12 payments applies to ~~the family~~ a circuit court commissioner for the adjustment. If
13 the order specifies the date on which the annual adjustment becomes effective, the
14 application to the ~~family~~ circuit court commissioner must be made at least 20 days
15 before the effective date of the adjustment. The ~~family~~ circuit court commissioner,
16 upon application by the party receiving payments, shall send a notice by certified
17 mail to the last-known address of the obligor. The notice shall be postmarked no
18 later than 10 days after the date on which the application was filed and shall inform
19 the obligor that an adjustment in payments will become effective on the date
20 specified in the order or, if no date is specified in the order, 10 days after the date on
21 which the notice is sent. The obligor may, after receipt of notice and before the
22 effective date of the adjustment, request a hearing on the issue of whether the
23 adjustment should take effect, in which case the adjustment shall be held in
24 abeyance pending the outcome of the hearing. The ~~family~~ circuit court commissioner
25 shall hold a hearing requested under this subsection within 10 working days after

ASSEMBLY BILL 354**SECTION 220**

1 the request. If at the hearing the obligor establishes that extraordinary
2 circumstances beyond his or her control prevent fulfillment of the adjusted child
3 support obligation, the family circuit court commissioner may direct that all or part
4 of the adjustment not take effect until the obligor is able to fulfill the adjusted
5 obligation. If at the hearing the obligor does not establish that extraordinary
6 circumstances beyond his or her control prevent fulfillment of the adjusted
7 obligation, the adjustment shall take effect as of the date it would have become
8 effective had no hearing been requested. Either party may, within 15 working days
9 of the date of the decision by the family circuit court commissioner under this
10 subsection, seek review of the decision by the court with jurisdiction over the action.

11 **SECTION 221.** 767.37 (1) (a) of the statutes is amended to read:

12 767.37 (1) (a) In any action affecting the family, if the court orders maintenance
13 payments or other allowances for a party or children or retains jurisdiction in such
14 matters, the written judgment shall include a provision that disobedience of the
15 court order with respect to the same is punishable under ch. 785 by commitment to
16 the county jail or house of correction until such judgment is complied with and the
17 costs and expenses of the proceedings are paid or until the party committed is
18 otherwise discharged, according to law. The written judgment in any action affecting
19 the family shall include the social security numbers of the parties and of any child
20 of the parties. The findings of fact and conclusions of law and the written judgment
21 shall be drafted by the attorney for the moving party, and shall be submitted to the
22 court and filed with the clerk of the court within 30 days after judgment is granted;
23 but if the respondent has been represented by counsel, the findings, conclusions and
24 judgment shall first be submitted to respondent's counsel for approval and if the
25 family circuit court commissioner has appeared at the trial of the action, such papers

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1 shall also be sent to the ~~family~~ circuit court commissioner for approval. After any
2 necessary approvals are obtained, the findings of fact, conclusions of law and
3 judgment shall be submitted to the court. Final stipulations of the parties may be
4 appended to the judgment and incorporated by reference therein.

5 **SECTION 222.** 767.37 (2) of the statutes is amended to read:

6 767.37 (2) So far as a judgment of divorce affects the marital status of the
7 parties the court has the power to vacate or modify the judgment for sufficient cause
8 shown, upon its own motion, or upon the application of both parties to the action, at
9 any time within 6 months from the granting of such judgment. No such judgment
10 shall be vacated or modified without service of notice of motion on the office of family
11 court commissioner. The court may direct ~~the family~~ a circuit court commissioner or
12 appoint some other attorney, to bring appropriate proceedings for the vacation of the
13 judgment. The compensation of the ~~family~~ circuit court commissioner when not on
14 a salaried basis or other attorney for performing such services shall be at the rate of
15 \$50 per day, which shall be paid out of the county treasury upon order of the presiding
16 judge and the certificate of the clerk of the court. If the judgment is vacated it shall
17 restore the parties to the marital relation that existed before the granting of such
18 judgment. If after vacation of the judgment either of the parties brings an action in
19 this state for divorce against the other the court may order the petitioner in such
20 action to reimburse the county the amount paid by it to the family circuit court
21 commissioner or other attorney in connection with such vacation proceedings.
22 Whenever a judgment of divorce is set aside under this subsection, the court shall
23 order the record in the action impounded without regard to s. 767.19; and thereafter
24 neither the record nor any part of the record shall be offered or admitted into evidence
25 in any action or proceeding except by special order of the court of jurisdiction upon

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1 good cause shown in any paternity proceedings under this chapter or by special order
2 of any court of record upon a showing of necessity to clear title to real estate.

3 **SECTION 223.** 767.45 (5) (b) of the statutes is amended to read:

4 767.45 (5) (b) An action under this section may be joined with any other action
5 for child support and shall be governed by the procedures specified in s. 767.05
6 relating to child support, except that the title of the action shall be “In re the
7 paternity of A.B.” The petition shall state the name and date of birth of the child if
8 born or that the mother is pregnant if the child is unborn, the name of any alleged
9 father, whether or not an action by any of the parties to determine the paternity of
10 the child or rebut the presumption of paternity to the child has at any time been
11 commenced, or is pending before any judge or circuit court commissioner, in this state
12 or elsewhere. If a paternity judgment has been rendered, or if a paternity action has
13 been dismissed, the petition shall state the court which rendered the judgment or
14 dismissed the action, and the date and the place the judgment was granted if known.
15 The petition shall also give notice of a party’s right to request a genetic test under
16 s. 49.225 or 767.48.

17 **SECTION 224.** 767.455 (5) (form) of the statutes is amended to read:

18 767.455 (5) (form)

19 STATE OF WISCONSIN,

CIRCUIT COURT: ...COUNTY

20
21 In re the Paternity of A. B.

22 STATE OF WISCONSIN

23 and

24 C. D.

25 Address

1 City, State Zip Code File No. ...

2 , Petitioners

3 vs.

S U M M O N S

4 E. F.

5 Address (Case Classification Type): (Code No.)

6 City, State Zip Code

7 , Respondent

8

9 THE STATE OF WISCONSIN, To the Respondent:

10 You have been sued. claims that you are the father of the child, born on
11 (date), in (city) (county) (state). You must appear to answer this claim of
12 paternity. Your court appearance is:

13 Date:

14 Time:

15 Room:

16 Judge or ~~Family~~ Circuit Court Commissioner:

17 Address:

18 If you do not appear, the court will enter a default judgment finding you to be
19 the father. A default judgment will take effect 30 days after it is served on or mailed
20 to you, unless within those 30 days you present to the court evidence of good cause
21 for failure to appear. If you plan to be represented by an attorney, you should contact
22 the attorney prior to the court appearance listed above. If you are unable to afford
23 an attorney, the court will appoint one for you only upon the blood tests showing that
24 you are not excluded as the father and the probability of your being the father is less
25 than 99.0%. Appearance is not required if you complete the attached waiver of first

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1 appearance statement and send it to the court at least 10 days prior to the date of
2 your scheduled appearance in this summons.

3 Dated:, (year)

4 Signed:.....

5 G. H., Clerk of Circuit Court

6 or

7 Petitioner's Attorney

8 State Bar No.:

9 Address:

10 City, State Zip Code:

11 Phone No.:

12 **SECTION 225.** 767.458 (1m) of the statutes is amended to read:

13 767.458 (1m) In an action to establish the paternity of a child who was born
14 to a woman while she was married, where a man other than the woman's husband
15 alleges that he, not the husband, is the child's father, a party may allege that a
16 judicial determination that a man other than the husband is the father is not in the
17 best interest of the child. If the court or a circuit or supplemental court commissioner
18 under s. ~~757.69 (3)~~ 757.675 (2) (g) determines that a judicial determination of
19 whether a man other than the husband is the father is not in the best interest of the
20 child, no genetic tests may be ordered and the action shall be dismissed.

21 **SECTION 226.** 767.46 (1) of the statutes is amended to read:

22 767.46 (1) A pretrial hearing shall be held before the court or a circuit or
23 supplemental court commissioner under s. ~~757.69 (3)~~ 757.675 (2) (g). A record or
24 minutes of the proceeding shall be kept. At the pretrial hearing the parties may

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1 present and cross-examine witnesses, request genetic tests and present other
2 evidence relevant to the determination of paternity.

3 **SECTION 227.** 767.463 of the statutes is amended to read:

4 **767.463 Dismissal if adjudication not in child's best interest.** Except as
5 provided in s. 767.458 (1m), at any time in an action to establish the paternity of a
6 child, upon the motion of a party or guardian ad litem, the court or circuit or
7 supplemental court commissioner under s. ~~757.69 (3)~~ 757.675 (2) (g) may, with
8 respect to a man, refuse to order genetic tests, if genetic tests have not yet been taken,
9 and dismiss the action if the court or circuit or supplemental court commissioner
10 determines that a judicial determination of whether the man is the father of the child
11 is not in the best interest of the child.

12 **SECTION 228.** 767.465 (2) (a) of the statutes is amended to read:

13 **767.465 (2) (a)** Except as provided in sub. (2m), if a respondent is the alleged
14 father and fails to appear at the first appearance, unless the first appearance is not
15 required under s. 767.457 (2), scheduled court-ordered genetic test, pretrial hearing
16 or trial, the court shall enter an order adjudicating the respondent to be the father
17 and appropriate orders for support, legal custody and physical placement. The
18 orders shall be either served on the respondent or mailed by regular, registered or
19 certified mail, to the last-known address of the respondent. The orders shall take
20 effect 30 days after service or 30 days after the date on which the orders were mailed
21 unless, within that time, the respondent presents to the court or a circuit or
22 supplemental court commissioner under s. ~~757.69 (3) (g)~~ 757.675 (2) (g) evidence of
23 good cause for failure to appear or failure to have undergone a court-ordered genetic
24 test.

25 **SECTION 229.** 767.62 (2) (b) of the statutes is amended to read:

ASSEMBLY BILL 354**SECTION 229**

1 767.62 (2) (b) If a statement acknowledging paternity is timely rescinded as
2 provided in s. 69.15 (3m), a court or ~~family~~ circuit court commissioner may not enter
3 an order specified in sub. (4) with respect to the man who signed the statement as
4 the father of the child unless the man is adjudicated the child's father using the
5 procedures set forth in ss. 767.45 to 767.60.

6 **SECTION 230.** 767.62 (3) (b) of the statutes is amended to read:

7 767.62 (3) (b) Except as provided in s. 767.045, in an action specified in par. (a)
8 the court or ~~family~~ a circuit court commissioner may appoint a guardian ad litem for
9 the child and shall appoint a guardian ad litem for a party who is a minor, unless the
10 minor party is represented by an attorney.

11 **SECTION 231.** 767.62 (4) (intro.) of the statutes is amended to read:

12 767.62 (4) **ORDERS WHEN PATERNITY ACKNOWLEDGED.** (intro.) In an action under
13 sub. (3) (a), if the persons who signed and filed the statement acknowledging
14 paternity as parents of the child had notice of the hearing, the court or ~~family~~ circuit
15 court commissioner shall make an order that contains all of the following provisions:

16 **SECTION 232.** 769.102 of the statutes is amended to read:

17 **769.102 Tribunal of this state.** The courts and circuit and supplemental
18 court commissioners are the tribunal of this state.

19 **SECTION 233.** 769.302 of the statutes is amended to read:

20 **769.302 Action by minor parent.** A minor parent, or a guardian or other
21 legal representative of a minor parent, may maintain a proceeding on behalf of or for
22 the benefit of the minor's child. Notwithstanding s. 767.045 (1) or 803.01 (3), the
23 court may appoint a guardian ad litem for the minor's child, but the court need not
24 appoint a guardian ad litem for a minor parent who maintains such a proceeding
25 unless the proceeding is one for the determination of parentage, in which case the

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1 court or a family circuit court commissioner shall appoint a guardian ad litem for a
2 minor parent within this state who maintains such a proceeding or for a minor within
3 this state who is alleged to be a parent, as provided in s. 767.475 (1).

4 **SECTION 234.** 782.01 (3) of the statutes is amended to read:

5 782.01 (3) In this chapter, unless the context requires otherwise, judge includes
6 the supreme court, the court of appeals and circuit courts and each justice and judge
7 thereof and circuit and supplemental court commissioners; and prisoner includes
8 every person restrained of personal liberty; and imprisoned includes every such
9 restraint, and respondent means the person on whom the writ is to be served.

10 **SECTION 235.** 782.03 of the statutes is amended to read:

11 **782.03 Petition for writ.** Application for the writ shall be by petition, signed
12 either by the prisoner or by some person in his or her behalf, and may be made to the
13 supreme court, the court of appeals or the circuit court of the county, or to any justice
14 or judge of the supreme court, court of appeals or circuit court or to any circuit or
15 supplemental court commissioner, within the county where the prisoner is detained;
16 or if there is no judge within the county, or for any cause he or she is incapable of
17 acting, or has refused to grant the writ, then to some judge residing in an adjoining
18 county; but every application, made by or on behalf of a person sentenced to the state
19 prisons, must contain a copy of any motion made under s. 974.06 and shall indicate
20 the disposition of the motion and the court in which the disposition was made. If no
21 motion was made, the petition shall so state.

22 **SECTION 236.** 782.28 of the statutes is amended to read:

23 **782.28 Transfer from circuit court commissioner.** If the writ is returnable
24 before a circuit court commissioner, either party may make a request for transfer to
25 the court in which the matter is filed. Upon receipt of such request the circuit court

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1 commissioner shall forthwith transmit all papers and records in the proceedings to
2 the court.

3 **SECTION 237.** 799.03 of the statutes is amended to read:

4 **799.03 Definition.** In this chapter unless otherwise designated, “court”
5 means circuit court and “court” does not mean circuit court commissioner.

6 **SECTION 238.** 799.05 (7) (intro.) of the statutes is amended to read:

7 **799.05 (7) FORM; CIRCUIT COURT COMMISSIONER.** (intro.) Except as provided in
8 s. 799.22 (4) (b) 3., in counties establishing at least one part-time or full-time court
9 commissioner position under s. 757.68 (1) (b) in which a circuit court commissioner
10 is assigned to assist in small claims matters, the summons shall be substantially in
11 the following form:

12 **SECTION 239.** 799.06 (1) of the statutes is amended to read:

13 **799.06 (1) PLEADINGS.** All pleadings except the initial complaint may be oral.
14 Any circuit court may by rule require written pleadings and any judge or circuit court
15 commissioner may require written pleadings in a particular case.

16 **SECTION 240.** 799.11 (3) of the statutes is amended to read:

17 **799.11 (3)** When, in any action under this chapter, it appears from the return
18 of service of the summons or otherwise that the county in which the action is pending
19 is not a proper place of trial and that another county would be a proper place of trial,
20 the court or circuit court commissioner shall, on motion of a party or its own motion,
21 transfer the action to that county unless the defendant appears and waives the
22 improper venue. The clerk of the court to which the action is transferred shall issue
23 a new notice of return date upon payment of the fee required by s. 814.61 (2) (a).

24 **SECTION 241.** 799.20 (4) of the statutes is amended to read:

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1 799.20 (4) INQUIRY OF DEFENDANT WHO APPEARS ON RETURN DATE. If the defendant
2 appears on the return date of the summons or any adjourned date thereof, the court
3 or circuit court commissioner shall make sufficient inquiry of the defendant to
4 determine whether the defendant claims a defense to the action. If it appears to the
5 court or circuit court commissioner that the defendant claims a defense to the action,
6 the court or circuit court commissioner shall schedule a trial of all the issues involved
7 in the action, unless the parties stipulate otherwise or the action is subject to
8 immediate dismissal.

9 **SECTION 242.** 799.206 (1), (2) and (4) of the statutes are amended to read:

10 799.206 (1) In counties establishing ~~at least one part-time or full-time a circuit~~
11 court commissioner position under s. 757.68 ~~(1)(b)~~ (5m), all actions and proceedings
12 commenced under this chapter shall be returnable before a circuit court
13 commissioner appointed under s. 757.68 (1) and SCR chapter 75. In any other
14 county, a circuit court commissioner may conduct return date proceedings if
15 delegated such authority under s. 757.69 (1) (d).

16 (2) Judgment on failure to appear may be entered by the circuit court
17 commissioner or the clerk upon the return date as provided in s. 799.22.

18 (4) Except as provided in sub. (3), the circuit court commissioner shall hear all
19 matters using the procedures set forth in s. 799.207.

20 **SECTION 243.** 799.207 (title) of the statutes is amended to read:

21 **799.207 (title) Proceedings before circuit court commissioner.**

22 **SECTION 244.** 799.207 (1) (a) of the statutes is amended to read:

23 799.207 (1) (a) Any circuit court commissioner assigned to assist in the
24 ~~administration of small claims~~ matters may hold a conference with the parties or
25 their attorneys or both on the return date, examine pleadings and identify issues.

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1 **SECTION 245.** 799.207 (1) (b) of the statutes is amended to read:

2 799.207 (1) (b) Except as provided in par. (e), a decision shall be rendered by
3 the circuit court commissioner on the return date if there is time available for a
4 hearing, the parties do not intend to call witnesses, and the parties agree to such a
5 hearing. If for any of the reasons stated in this paragraph, the matter cannot be
6 heard on the return date, an adjourned date shall be set.

7 **SECTION 246.** 799.207 (1) (e) of the statutes is amended to read:

8 799.207 (1) (e) If the circuit court commissioner cannot reach a decision on the
9 return or adjourned date, the commissioner shall mail the decision to each party
10 within 30 days of the date of the hearing.

11 **SECTION 247.** 799.207 (2) (intro.) of the statutes is amended to read:

12 799.207 (2) (intro.) The circuit court commissioner's decision shall become a
13 judgment 11 days after rendering, if oral, and 16 days after mailing, if written, except
14 that:

15 **SECTION 248.** 799.207 (3) (b) of the statutes is amended to read:

16 799.207 (3) (b) The circuit court commissioner shall give each of the parties a
17 form and instructions which shall be used for giving notice of an election to have the
18 matter heard by the court.

19 **SECTION 249.** 799.209 (1) to (4) of the statutes are amended to read:

20 **799.209 (1)** The court or circuit court commissioner shall conduct the
21 proceeding informally, allowing each party to present arguments and proofs and to
22 examine witnesses to the extent reasonably required for full and true disclosure of
23 the facts.

24 **(2)** The proceedings shall not be governed by the common law or statutory rules
25 of evidence except those relating to privileges under ch. 905 or to admissibility under

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1 s. 901.05. The court or circuit court commissioner shall admit all other evidence
2 having reasonable probative value, but may exclude irrelevant or repetitious
3 evidence or arguments. An essential finding of fact may not be based solely on a
4 declarant's oral hearsay statement unless it would be admissible under the rules of
5 evidence.

6 (3) The court or circuit court commissioner may conduct questioning of the
7 witnesses and shall endeavor to ensure that the claims or defenses of all parties are
8 fairly presented to the court or circuit court commissioner.

9 (4) The court or circuit court commissioner shall establish the order of trial and
10 the procedure to be followed in the presentation of evidence and arguments in an
11 appropriate manner consistent with the ends of justice and the prompt resolution of
12 the dispute on its merits according to the substantive law.

13 **SECTION 250.** 799.21 (3) (b) of the statutes is amended to read:

14 799.21 (3) (b) In counties ~~establishing at least one part-time or full-time court~~
15 ~~commissioner position under s. 757.68 (1) (b) in which a circuit court commissioner~~
16 is assigned to assist in small claims matters, except in eviction actions which shall
17 be governed by par. (a), demand for trial by jury shall be made at the time a demand
18 for trial is filed. If the party requesting a trial does not request a jury trial, any other
19 party may request a jury trial by filing the request with the court and mailing copies
20 to all other parties within 15 days from the date of mailing of the demand for trial
21 or the date on which personal notice of demand is given, whichever is applicable. If
22 no party demands a trial by jury, the right to trial by jury is waived forever. The fees
23 prescribed in ss. 814.61 (4) and 814.62 (3) (e) shall be paid when the demand for a
24 trial by jury is filed.

25 **SECTION 251.** 799.21 (4) of the statutes is amended to read:

ASSEMBLY BILL 354**SECTION 251**

1 799.21 (4) JURY PROCEDURE. If there is a demand for a trial by jury, the judge
2 or circuit court commissioner shall place the case on the trial calendar and a jury of
3 6 persons shall be chosen as provided in s. 345.43 (3) (b). The parties shall proceed
4 as if the action had originally been begun as a proceeding under chs. 801 to 807,
5 except that the court is not required to provide the jury with one complete set of
6 written instructions under s. 805.13 (4) and the requirements for appearance by the
7 parties shall be governed by s. 799.06 (2).

8 **SECTION 252.** 799.24 (1) of the statutes is amended to read:

9 799.24 (1) ENTRY OF JUDGMENT OR ORDER; NOTICE OF ENTRY THEREOF. When a
10 judgment or an order is rendered, the judge, circuit court commissioner or clerk of
11 circuit court shall immediately enter it in the court record and note the date thereof
12 which shall be the date of entry of judgment or order. The clerk of circuit court, except
13 in municipal and county forfeiture actions, shall mail a notice of entry of judgment
14 to the parties or their attorneys at their last-known address within 5 days of its
15 entry. Upon payment of the exact amount of the fee prescribed in s. 814.62 (3) (c),
16 the clerk of circuit court shall enter the judgment in the judgment and lien docket.

17 **SECTION 253.** 799.24 (3) of the statutes is amended to read:

18 799.24 (3) STIPULATED DISMISSAL. Prior to the entry of judgment, upon
19 stipulation of the parties to a schedule for compliance with the stipulation, the court
20 or circuit court commissioner may enter a stipulated judgment of dismissal in lieu
21 thereof. Any such judgment may be vacated without notice to the obligated party,
22 and the unsatisfied portion thereof entered, upon application by the prevailing party
23 and proof by affidavit of noncompliance with the terms of the stipulation.

24 **SECTION 254.** 799.26 (1) of the statutes is amended to read:

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1 799.26 (1) When a judgment for money damages is entered under this chapter,
2 the court or circuit court commissioner shall order the judgment debtor to execute
3 under penalty of contempt a disclosure statement and to mail or deliver that
4 statement to the judgment creditor or to the clerk of circuit court in the county where
5 the judgment is entered within 15 days of entry of judgment unless the judgment is
6 sooner satisfied. The statement shall disclose, as of the date of judgment, the debtor's
7 name, residence address, employers and their addresses, any real property interests
8 owned by the debtor, cash on hand, financial institutions in which the judgment
9 debtor has funds on deposit, whether the debtor's earnings are totally exempt from
10 garnishment under s. 812.34 (2) (b), and such other information as required by the
11 schedules adopted under sub. (3).

12 **SECTION 255.** 803.01 (3) (b) 1. of the statutes is amended to read:

13 803.01 (3) (b) 1. The guardian ad litem shall be appointed by a circuit court of
14 the county where the action is to be commenced or is pending, except that the
15 guardian ad litem shall be appointed by a family circuit court commissioner of the
16 county in actions to establish paternity that are before the ~~family~~ circuit court
17 commissioner.

18 **SECTION 256.** 807.02 of the statutes is amended to read:

19 **807.02 Motions, where heard; stay of proceedings.** Except as provided in
20 s. 807.13 or when the parties stipulate otherwise and the court approves, motions in
21 actions or proceedings in the circuit court must be heard within the circuit where the
22 action is triable. Orders out of court, not requiring notice, may be made by the
23 presiding judge of the court in any part of the state. No order to stay proceedings
24 after a verdict, report or finding in any circuit court may be made by a circuit or

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1 supplemental court commissioner. No stay of proceedings for more than 20 days may
2 be granted except upon previous notice to the adverse party.

3 **SECTION 257.** 807.04 (1) of the statutes is amended to read:

4 807.04 (1) Except as provided under sub. (2), all trials, and all hearings at
5 which oral testimony is to be presented, shall be held in open court. The court may
6 make any order which a judge or a circuit or supplemental court commissioner has
7 power to make. ~~Court commissioners shall have the powers provided in ch. 753 or~~
8 ~~by other statute.~~

9 **SECTION 258.** 807.09 (1) of the statutes is amended to read:

10 807.09 (1) A circuit judge of the circuit court of any county may appoint and
11 remove at any time, any retired or former circuit or county court judge to act, in
12 matters referred by the judge and in conciliation matters. When a matter for
13 conciliation is referred for such purpose, the conciliator shall have full authority to
14 hear, determine and report findings to the court. Such conciliators may be appointed
15 circuit court commissioners as provided in s. 757.68 under SCR 75.02 (1).

16 **SECTION 259.** 812.30 (2) of the statutes is amended to read:

17 812.30 (2) "Court" includes a circuit court commissioner assigned to preside at
18 a proceeding under this subchapter.

19 **SECTION 260.** 813.025 (1) of the statutes is amended to read:

20 813.025 (1) No circuit or supplemental court commissioner shall may issue any
21 injunction or order suspending or restraining the enforcement or execution of any
22 statute of the state or of any order of an administrative officer, board, department,
23 commission or other state agency purporting to be made pursuant to the statutes of
24 the state. If so issued ~~such,~~ the injunction or order shall be void.

25 **SECTION 261.** 813.12 (2) (a) of the statutes is amended to read:

1 813.12 (2) (a) No action under this section may be commenced by complaint and
2 summons. An action under this section may be commenced only by a petition
3 described under sub. (5) (a). The action commences with service of the petition upon
4 the respondent if a copy of the petition is filed before service or promptly after service.
5 If the judge or ~~family~~ a circuit court commissioner extends the time for a hearing
6 under sub. (3) (c) and the petitioner files an affidavit with the court stating that
7 personal service by the sheriff or a private server under s. 801.11 (1) (a) or (b) was
8 unsuccessful because the respondent is avoiding service by concealment or
9 otherwise, the petitioner may serve the respondent by publication of the petition as
10 a class 1 notice, under ch. 985, and by mailing if the respondent's post-office address
11 is known or can with due diligence be ascertained. The mailing may be omitted if the
12 post-office address cannot be ascertained with due diligence.

13 **SECTION 262.** 813.12 (2) (b) of the statutes is amended to read:

14 813.12 (2) (b) A petition may be filed in conjunction with an action affecting the
15 family commenced under ch. 767, but commencement of an action affecting the
16 family or any other action is not necessary for the filing of a petition or the issuance
17 of a temporary restraining order or an injunction. A judge or ~~family~~ circuit court
18 commissioner may not make findings or issue orders under s. 767.23 or 767.24 while
19 granting relief requested only under this section. Section 813.06 does not apply to
20 an action under this section. The respondent may respond to the petition either in
21 writing before or at the hearing on the issuance of the injunction or orally at that
22 hearing.

23 **SECTION 263.** 813.12 (3) (a) of the statutes is amended to read:

24 813.12 (3) (a) A judge or ~~family~~ circuit court commissioner shall issue a
25 temporary restraining order ordering the respondent to refrain from committing acts

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1 of domestic abuse against the petitioner, to avoid the petitioner's residence, except
2 as provided in par. (am), or any premises temporarily occupied by the petitioner or
3 both, or to avoid contacting or causing any person other than a party's attorney to
4 contact the petitioner unless the petitioner consents in writing, or any combination
5 of these remedies requested in the petition, if all of the following occur:

6 1. The petitioner submits to the judge or family circuit court commissioner a
7 petition alleging the elements set forth under sub. (5) (a).

8 2. The judge or family circuit court commissioner finds reasonable grounds to
9 believe that the respondent has engaged in, or based on prior conduct of the
10 petitioner and the respondent may engage in, domestic abuse of the petitioner. In
11 determining whether to issue a temporary restraining order, the judge or family
12 circuit court commissioner shall consider the potential danger posed to the petitioner
13 and the pattern of abusive conduct of the respondent but may not base his or her
14 decision solely on the length of time since the last domestic abuse or the length of time
15 since the relationship ended. The judge or family circuit court commissioner may
16 grant only the remedies requested or approved by the petitioner.

17 **SECTION 264.** 813.12 (3) (am) of the statutes is amended to read:

18 813.12 (3) (am) If the petitioner and the respondent are not married, the
19 respondent owns the premises where the petitioner resides and the petitioner has
20 no legal interest in the premises, in lieu of ordering the respondent to avoid the
21 petitioner's residence under par. (a) the judge or family circuit court commissioner
22 may order the respondent to avoid the premises for a reasonable time until the
23 petitioner relocates and shall order the respondent to avoid the new residence for the
24 duration of the order.

25 **SECTION 265.** 813.12 (3) (c) of the statutes is amended to read:

1 813.12 (3) (c) The temporary restraining order is in effect until a hearing is held
2 on issuance of an injunction under sub. (4). The temporary restraining order is not
3 voided if the respondent is admitted into a dwelling that the order directs him or her
4 to avoid. A judge or family circuit court commissioner shall hold a hearing on
5 issuance of an injunction within 7 days after the temporary restraining order is
6 issued, unless the time is extended upon the written consent of the parties or
7 extended once for 14 days upon a finding that the respondent has not been served
8 with a copy of the temporary restraining order although the petitioner has exercised
9 due diligence.

10 **SECTION 266.** 813.12 (3) (d) of the statutes is amended to read:

11 813.12 (3) (d) The judge or circuit court commissioner shall advise the
12 petitioner of the right to serve the respondent the petition by published notice if with
13 due diligence the respondent cannot be served as provided under s. 801.11 (1) (a) or
14 (b). The clerk of circuit court shall assist the petitioner with the preparation of the
15 notice and filing of the affidavit of printing.

16 **SECTION 267.** 813.12 (4) (a) (intro.) of the statutes is amended to read:

17 813.12 (4) (a) (intro.) A judge or family circuit court commissioner may grant
18 an injunction ordering the respondent to refrain from committing acts of domestic
19 abuse against the petitioner, to avoid the petitioner's residence, except as provided
20 in par. (am), or any premises temporarily occupied by the petitioner or both, or to
21 avoid contacting or causing any person other than a party's attorney to contact the
22 petitioner unless the petitioner consents to that contact in writing, or any
23 combination of these remedies requested in the petition, if all of the following occur:

24 **SECTION 268.** 813.12 (4) (a) 3. of the statutes is amended to read:

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1 813.12 (4) (a) 3. After hearing, the judge or family circuit court commissioner
2 finds reasonable grounds to believe that the respondent has engaged in, or based
3 upon prior conduct of the petitioner and the respondent may engage in, domestic
4 abuse of the petitioner. In determining whether to issue an injunction, the judge or
5 family circuit court commissioner shall consider the potential danger posed to the
6 petitioner and the pattern of abusive conduct of the respondent but may not base his
7 or her decision solely on the length of time since the last domestic abuse or the length
8 of time since the relationship ended. The judge or family circuit court commissioner
9 may grant only the remedies requested by the petitioner.

10 **SECTION 269.** 813.12 (4) (am) of the statutes is amended to read:

11 813.12 (4) (am) If the petitioner and the respondent are not married, the
12 respondent owns the premises where the petitioner resides and the petitioner has
13 no legal interest in the premises, in lieu of ordering the respondent to avoid the
14 petitioner's residence under par. (a) the judge or family circuit court commissioner
15 may order the respondent to avoid the premises for a reasonable time until the
16 petitioner relocates and shall order the respondent to avoid the new residence for the
17 duration of the order.

18 **SECTION 270.** 813.12 (4) (b) of the statutes is amended to read:

19 813.12 (4) (b) The judge or family circuit court commissioner may enter an
20 injunction only against the respondent named in the petition. No injunction may be
21 issued under this subsection under the same case number against the person
22 petitioning for the injunction. The judge or family circuit court commissioner may
23 not modify an order restraining the respondent based solely on the request of the
24 respondent.

25 **SECTION 271.** 813.12 (4m) (a) 2. of the statutes is amended to read:

1 813.12 (4m) (a) 2. Except as provided in par. (ag), require the respondent to
2 surrender any firearms that he or she owns or has in his or her possession to the
3 sheriff of the county in which the action under this section was commenced, to the
4 sheriff of the county in which the respondent resides or to another person designated
5 by the respondent and approved by the judge or ~~family~~ circuit court commissioner.
6 The judge or circuit court commissioner shall approve the person designated by the
7 respondent unless the judge or circuit court commissioner finds that the person is
8 inappropriate and places the reasons for the finding on the record. If a firearm is
9 surrendered to a person designated by the respondent and approved by the judge or
10 ~~family~~ circuit court commissioner, the judge or ~~family~~ circuit court commissioner
11 shall inform the person to whom the firearm is surrendered of the requirements and
12 penalties under s. 941.29 (4).

13 **SECTION 272.** 813.12 (4m) (b) (intro.) of the statutes is amended to read:

14 813.12 (4m) (b) (intro.) A firearm surrendered under par. (a) 2. may not be
15 returned to the respondent until a judge or ~~family~~ circuit court commissioner
16 determines all of the following:

17 **SECTION 273.** 813.12 (4m) (b) 2. of the statutes is amended to read:

18 813.12 (4m) (b) 2. That the person is not prohibited from possessing a firearm
19 under any state or federal law or by the order of any federal court or state court, other
20 than an order from which the judge or ~~family~~ circuit court commissioner is competent
21 to grant relief.

22 **SECTION 274.** 813.12 (5) (c) of the statutes is amended to read:

23 813.12 (5) (c) A judge or ~~family~~ circuit court commissioner shall accept any
24 legible petition for a temporary restraining order or injunction.

25 **SECTION 275.** 813.12 (6) (a) of the statutes is amended to read:

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1 813.12 (6) (a) If an order is issued under this section, upon request by the
2 petitioner the court or ~~family~~ circuit court commissioner shall order the sheriff to
3 accompany the petitioner and assist in placing him or her in physical possession of
4 his or her residence or to otherwise assist in executing or serving the temporary
5 restraining order or injunction. The petitioner may, at the petitioner's expense, use
6 a private process server to serve papers on the respondent.

7 **SECTION 276.** 813.12 (7m) of the statutes is amended to read:

8 813.12 (7m) TRANSCRIPTS. The judge or ~~family~~ circuit court commissioner shall
9 record the temporary restraining order or injunction hearing upon the request of the
10 petitioner.

11 **SECTION 277.** 813.122 (3) (a) of the statutes is amended to read:

12 813.122 (3) (a) Procedure for an action under this section is in 2 parts. First,
13 if the petitioner requests a temporary restraining order, the court or circuit court
14 commissioner shall issue or refuse to issue that order. Second, the court shall hold
15 a hearing under sub. (5) on whether to issue an injunction, which is the final relief.
16 If the court or circuit court commissioner issues a temporary restraining order, the
17 order shall set forth the date for the hearing on an injunction. If the court or circuit
18 court commissioner does not issue a temporary restraining order, the date for the
19 hearing shall be set upon motion by either party.

20 **SECTION 278.** 813.122 (3) (b) (intro.) of the statutes is amended to read:

21 813.122 (3) (b) (intro.) The court or circuit court commissioner, on its or his or
22 her own motion or the motion of any party, may order one or more of the following:

23 **SECTION 279.** 813.122 (3) (bm) of the statutes is amended to read:

24 813.122 (3) (bm) The court or circuit court commissioner shall appoint a
25 guardian ad litem if the respondent is a parent of the child.

1 **SECTION 280.** 813.122 (4) (a) (intro.) of the statutes is amended to read:

2 813.122 (4) (a) (intro.) A judge or circuit court commissioner shall issue a
3 temporary restraining order ordering the respondent to avoid the child victim's
4 residence or any premises temporarily occupied by the child victim or both, and to
5 avoid contacting or causing any person other than a party's attorney to contact the
6 child victim unless the petitioner consents in writing and the judge or circuit court
7 commissioner agrees that the contact is in the best interests of the child victim, if all
8 of the following occur:

9 **SECTION 281.** 813.122 (4) (a) 1. of the statutes is amended to read:

10 813.122 (4) (a) 1. The petitioner submits to the judge or circuit court
11 commissioner a petition alleging the elements set forth under sub. (6) (a).

12 **SECTION 282.** 813.122 (4) (a) 2. of the statutes is amended to read:

13 813.122 (4) (a) 2. The judge or circuit court commissioner finds reasonable
14 grounds to believe that the respondent has engaged in, or based on prior conduct of
15 the child victim and the respondent may engage in, abuse of the child victim.

16 **SECTION 283.** 813.122 (5m) (a) 2. of the statutes is amended to read:

17 813.122 (5m) (a) 2. Except as provided in par. (ag), require the respondent to
18 surrender any firearms that he or she owns or has in his or her possession to the
19 sheriff of the county in which the action under this section was commenced, to the
20 sheriff of the county in which the respondent resides or to another person designated
21 by the respondent and approved by the judge or circuit court commissioner. The
22 judge or circuit court commissioner shall approve the person designated by the
23 respondent unless the judge or circuit court commissioner finds that the person is
24 inappropriate and places the reasons for the finding on the record. If a firearm is
25 surrendered to a person designated by the respondent and approved by the judge or

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1 circuit court commissioner, the judge or circuit court commissioner shall inform the
2 person to whom the firearm is surrendered of the requirements and penalties under
3 s. 941.29 (4).

4 **SECTION 284.** 813.122 (5m) (b) (intro.) of the statutes is amended to read:

5 813.122 (5m) (b) (intro.) A firearm surrendered under par. (a) 2. may not be
6 returned to the respondent until a judge or circuit court commissioner determines
7 all of the following:

8 **SECTION 285.** 813.122 (5m) (b) 2. of the statutes is amended to read:

9 813.122 (5m) (b) 2. That the person is not prohibited from possessing a firearm
10 under any state or federal law or by the order of any federal court or state court, other
11 than an order from which the judge or circuit court commissioner is competent to
12 grant relief.

13 **SECTION 286.** 813.122 (9) (a) of the statutes is amended to read:

14 813.122 (9) (a) If an order is issued under this section, upon request by the
15 petitioner, the court or circuit court commissioner, as applicable, shall order the
16 sheriff to assist in executing or serving the temporary restraining order or
17 injunction.

18 **SECTION 287.** 813.123 (3) (a) of the statutes is amended to read:

19 813.123 (3) (a) Procedure for an action under this section is in 2 parts. First,
20 if the petitioner requests a temporary restraining order, the court or circuit court
21 commissioner shall issue or refuse to issue that order. Second, the court shall hold
22 a hearing under sub. (5) on whether to issue an injunction, which is the final relief.
23 If the court or circuit court commissioner issues a temporary restraining order, the
24 order shall set forth the date for the hearing on an injunction. If the court or circuit

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1 court commissioner does not issue a temporary restraining order, the date for the
2 hearing shall be set upon motion by either party.

3 **SECTION 288.** 813.123 (3) (b) (intro.) of the statutes is amended to read:

4 813.123 (3) (b) (intro.) The court or circuit court commissioner, on its or his or
5 her own motion or the motion of any party, may order one or more of the following:

6 **SECTION 289.** 813.123 (4) (a) of the statutes is amended to read:

7 813.123 (4) (a) Unless the vulnerable adult, guardian or guardian ad litem
8 consents in writing and the judge or circuit court commissioner agrees that the
9 contact is in the best interests of the vulnerable adult, a judge or circuit court
10 commissioner shall issue a temporary restraining order ordering the respondent to
11 avoid interference with an investigation of the vulnerable adult under s. 55.043, the
12 delivery of protective services to the vulnerable adult under s. 55.05 or a protective
13 placement of the vulnerable adult under s. 55.06 if all of the following occur:

14 1. The petitioner submits to the judge or circuit court commissioner a petition
15 alleging the elements set forth under sub. (6).

16 2. The judge or circuit court commissioner finds reasonable grounds to believe
17 that the respondent has interfered with, or based on prior conduct of the respondent
18 may interfere with, an investigation of the vulnerable adult under s. 55.043, the
19 delivery of protective services to the vulnerable adult under s. 55.05 or a protective
20 placement of the vulnerable adult under s. 55.06.

21 **SECTION 290.** 813.123 (8) (a) of the statutes is amended to read:

22 813.123 (8) (a) If an order is issued under this section, upon request by the
23 petitioner, the court or circuit court commissioner shall order the sheriff to assist in
24 executing or serving the temporary restraining order or injunction.

25 **SECTION 291.** 813.125 (3) (a) (intro.) of the statutes is amended to read:

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1 813.125 (3) (a) (intro.) A judge or circuit court commissioner may issue a
2 temporary restraining order ordering the respondent to cease or avoid the
3 harassment of another person, if all of the following occur:

4 **SECTION 292.** 813.125 (3) (a) 2. of the statutes is amended to read:

5 813.125 (3) (a) 2. The judge or circuit court commissioner finds reasonable
6 grounds to believe that the respondent has violated s. 947.013.

7 **SECTION 293.** 813.125 (3) (c) of the statutes is amended to read:

8 813.125 (3) (c) The temporary restraining order is in effect until a hearing is
9 held on issuance of an injunction under sub. (4). A judge or circuit court
10 commissioner shall hold a hearing on issuance of an injunction within 7 days after
11 the temporary restraining order is issued, unless the time is extended upon the
12 written consent of the parties or extended once for 7 days upon a finding that the
13 respondent has not been served with a copy of the temporary restraining order
14 although the petitioner has exercised due diligence.

15 **SECTION 294.** 813.125 (4) (a) (intro.) of the statutes is amended to read:

16 813.125 (4) (a) (intro.) A judge or circuit court commissioner may grant an
17 injunction ordering the respondent to cease or avoid the harassment of another
18 person, if all of the following occur:

19 **SECTION 295.** 813.125 (4) (a) 2. of the statutes is amended to read:

20 813.125 (4) (a) 2. The petitioner serves upon the respondent a copy of a
21 restraining order obtained under sub. (3) and notice of the time for the hearing on
22 the issuance of the injunction under sub. (3) (c). The restraining order or notice of
23 hearing served under this subdivision shall inform the respondent that, if the judge
24 or circuit court commissioner issues an injunction, the judge or circuit court

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1 commissioner may also order the respondent not to possess a firearm while the
2 injunction is in effect.

3 **SECTION 296.** 813.125 (4) (a) 3. of the statutes is amended to read:

4 813.125 (4) (a) 3. After hearing, the judge or circuit court commissioner finds
5 reasonable grounds to believe that the respondent has violated s. 947.013.

6 **SECTION 297.** 813.125 (4m) (a) of the statutes is amended to read:

7 813.125 (4m) (a) If a judge or circuit court commissioner issues an injunction
8 under sub. (4) and the judge or circuit court commissioner determines, based on clear
9 and convincing evidence presented at the hearing on the issuance of the injunction,
10 that the respondent may use a firearm to cause physical harm to another or to
11 endanger public safety, the judge or circuit court commissioner may prohibit the
12 respondent from possessing a firearm.

13 **SECTION 298.** 813.125 (4m) (c) 2. of the statutes is amended to read:

14 813.125 (4m) (c) 2. Except as provided in par. (cg), require the respondent to
15 surrender any firearms that he or she owns or has in his or her possession to the
16 sheriff of the county in which the action under this section was commenced, to the
17 sheriff of the county in which the respondent resides or to another person designated
18 by the respondent and approved by the judge or circuit court commissioner. The
19 judge or circuit court commissioner shall approve the person designated by the
20 respondent unless the judge or circuit court commissioner finds that the person is
21 inappropriate and places the reasons for the finding on the record. If a firearm is
22 surrendered to a person designated by the respondent and approved by the judge or
23 circuit court commissioner, the judge or circuit court commissioner shall inform the
24 person to whom the firearm is surrendered of the requirements and penalties under
25 s. 941.29 (4).

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SECTION 299

1 **SECTION 299.** 813.125 (4m) (d) (intro.) of the statutes is amended to read:

2 813.125 (4m) (d) (intro.) A firearm surrendered under par. (c) 2. may not be
3 returned to the respondent until a judge or circuit court commissioner determines
4 all of the following:

5 **SECTION 300.** 813.125 (4m) (d) 2. of the statutes is amended to read:

6 813.125 (4m) (d) 2. That the person is not prohibited from possessing a firearm
7 under any state or federal law or by the order of any federal court or state court, other
8 than an order from which the judge or circuit court commissioner is competent to
9 grant relief.

10 **SECTION 301.** 813.125 (5) (am) of the statutes is amended to read:

11 813.125 (5) (am) The petition shall inform the respondent that, if the judge or
12 circuit court commissioner issues an injunction, the judge or circuit court
13 commissioner may also order the respondent not to possess a firearm while the
14 injunction is in effect.

15 **SECTION 302.** 814.615 (3) of the statutes is amended to read:

16 814.615 (3) The court or ~~family~~ a circuit court commissioner shall direct either
17 or both parties to pay any applicable fee under this section. If either or both parties
18 are unable to pay, the court shall grant a separate judgment for the amount of the
19 fees in favor of the county and against the party or parties responsible for the fees.

20 **SECTION 303.** 814.68 (title) of the statutes is amended to read:

21 **814.68 (title) Fees of supplemental court commissioners.**

22 **SECTION 304.** 814.68 (1) (intro.) of the statutes is amended to read:

23 814.68 (1) ~~PART-TIME~~ SUPPLEMENTAL COURT COMMISSIONERS. (intro.) A ~~part-time~~
24 supplemental court commissioner appointed under s. ~~757.68 (2)~~ 757.675 (1) shall
25 collect the following fees:

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1 **SECTION 305.** 814.68 (1) (a) of the statutes is amended to read:

2 814.68 (1) (a) A fee of \$1 for each decision, signing or filing of a document or
3 other ministerial act required by law performed by a ~~part-time~~ supplemental court
4 commissioner. This paragraph does not apply to testimonial proceedings or
5 depositions taken before a supplemental court commissioner.

6 **SECTION 306.** 814.68 (1) (b) (intro.) of the statutes is amended to read:

7 814.68 (1) (b) (intro.) For the following duties performed by a ~~part-time~~
8 supplemental court commissioner held in the county courthouse or other court
9 facilities provided by law, reasonable compensation as fixed by the court but not more
10 than the hourly equivalent of the salary of a judge of the court:

11 **SECTION 307.** 814.68 (1) (b) 1. of the statutes is amended to read:

12 814.68 (1) (b) 1. Every attendance upon the hearing of any motion for an order
13 which a supplemental court commissioner is authorized to grant and for attendance
14 upon any motion or an official act to be done by the supplemental court commissioner.

15 **SECTION 308.** 814.68 (2) of the statutes is amended to read:

16 814.68 (2) SUPPLEMENTARY EXAMINATIONS. For attendance upon an examination
17 under ch. 816, a supplemental court commissioner shall collect a fee of \$15 to be paid
18 upon the issuance of the order under s. 816.03 (1). The fee shall be returned in any
19 case where it appears by affidavit filed that the order was not served upon the
20 judgment debtor. This fee is the only fee a supplemental court commissioner is
21 entitled to for proceedings under ch. 816.

22 **SECTION 309.** 816.03 (1) (b) of the statutes is amended to read:

23 816.03 (1) (b) A supplemental court commissioner upon application of a
24 judgment creditor shall order any judgment debtor to appear before the
25 supplemental court commissioner and answer concerning the judgment debtor's

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1 property at a time and place specified in the order, within said county, in lieu of the
2 procedure set forth in par. (a).

3 **SECTION 310.** 816.035 (1) and (2) of the statutes are amended to read:

4 816.035 (1) An order under s. 816.03 (1) issued by a supplemental court
5 commissioner shall be served in the same manner as the service of a summons under
6 s. 801.11. The return on the order shall be made to the supplemental commissioner
7 who issued the order. The supplemental commissioner shall file the order and the
8 return with the clerk of the court in which the judgment involved is entered.

9 (2) Upon issuance of the order, the supplemental court commissioner shall
10 collect the fee prescribed in s. 814.68 (2) for attendance upon the examination.

11 **SECTION 311.** 818.02 (6) of the statutes is amended to read:

12 818.02 (6) In a proceeding to determine paternity or to establish or revise a
13 child support or maintenance obligation, if the court or ~~family~~ a circuit court
14 commissioner finds that the petitioner cannot effect service of process upon the
15 respondent despite due diligence on the part of the petitioner or after the respondent
16 is personally served but fails to appear on the return date, on the date set for the
17 pretrial hearing or on the date set for the trial.

18 **SECTION 312.** 879.61 of the statutes is amended to read:

19 **879.61 Discovery proceedings.** Any personal representative or any person
20 interested who suspects that any other person has concealed, stolen, conveyed or
21 disposed of property of the estate; or is indebted to the decedent; possesses, controls
22 or has knowledge of concealed property of the decedent; possesses, controls or has
23 knowledge of writings which contain evidence of or tend to disclose the right, title,
24 interest or claim of the decedent to any property; or possesses, controls or has
25 knowledge of any will of the decedent, may file a petition in the court so stating. The

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1 court upon, such notice as it directs, may order the other person to appear before the
2 court or a circuit court commissioner for disclosure, may subpoena witnesses and
3 compel the production of evidence, and may make any order in relation to the matter
4 as is just and proper.

5 **SECTION 313.** 885.10 of the statutes is amended to read:

6 **885.10 Witness for indigent respondent or defendant.** Upon satisfactory
7 proof of the financial inability of the respondent or defendant to procure the
8 attendance of witnesses for his or her defense, the judge or supplemental court
9 commissioner, in any paternity proceeding or criminal action or proceeding, or in any
10 other case in which the respondent or defendant is represented by the state public
11 defender or by assigned counsel under s. 977.08, to be tried or heard before him or
12 her, may direct the witnesses to be subpoenaed as he or she determines is proper and
13 necessary, upon the respondent's or defendant's oath or affidavit or that of the
14 respondent's or defendant's attorney. Witnesses so subpoenaed shall be paid their
15 fees in the manner that witnesses for the state therein are paid. Determination of
16 indigency, in full or in part, under s. 977.07 is proof of the respondent's or defendant's
17 financial inability to procure the attendance of witnesses for his or her defense.

18 **SECTION 314.** 885.12 of the statutes is amended to read:

19 **885.12 Coercing witnesses before officers and boards.** If any person,
20 without reasonable excuse, fails to attend as a witness, or to testify as lawfully
21 required before any arbitrator, coroner, medical examiner, board, commission,
22 commissioner, examiner, committee, or other officer or person authorized to take
23 testimony, or to produce a book or paper which the person was lawfully directed to
24 bring, or to subscribe the person's deposition when correctly reduced to writing, any
25 judge of a court of record or a circuit court commissioner in the county where the

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1 person was obliged to attend may, upon sworn proof of the facts, issue an attachment
2 for the person, and unless the person shall purge the contempt and go and testify or
3 do such other act as required by law, may commit the person to close confinement in
4 the county jail until the person shall so testify or do such act, or be discharged
5 according to law. The sheriff of the county shall execute the commitment.

6 **SECTION 315.** 887.26 (7) of the statutes is amended to read:

7 887.26 (7) FEES. The persons who take depositions and the witness shall be
8 entitled to the fees allowed supplemental court commissioners under s. 814.68 (1)
9 and witnesses for similar service by the law of this state, or such as may be prescribed
10 by the law of the state or country where taken.

11 **SECTION 316.** 898.02 of the statutes is amended to read:

12 **898.02 Notice to plaintiff.** The person shall cause notice to be given to the
13 plaintiff in the action, the plaintiff's agent or attorney, in writing, that at a time and
14 place specified in the notice the person will apply to the circuit judge or circuit court
15 commissioner of the county in which the person is so confined for the purpose of
16 obtaining a discharge from imprisonment.

17 **SECTION 317.** 898.04 of the statutes is amended to read:

18 **898.04 Prisoner to be examined.** At the time and place specified in the
19 notice the person shall be taken, under the custody of the jailer, the sheriff or the
20 sheriff's deputy, before the circuit judge or circuit court commissioner, who shall
21 examine the prisoner on oath concerning his or her estate and effects and the
22 disposal thereof and the prisoner's ability to pay the judgment for which he or she
23 is committed; and who shall also hear any other legal and pertinent evidence that
24 may be produced by the debtor or the creditor.

25 **SECTION 318.** 898.11 of the statutes is amended to read:

1 **898.11 Inability to pay fees.** If the prisoner is unable to pay in whole or in
2 part the fees of the circuit judge or court commissioner in the proceedings, the
3 proceedings shall continue without charge to the prisoner.

4 **SECTION 319.** 906.15 (1) of the statutes is amended to read:

5 906.15 (1) At the request of a party, the judge or a circuit court commissioner
6 shall order witnesses excluded so that they cannot hear the testimony of other
7 witnesses. The judge or circuit court commissioner may also make the order of his
8 or her own motion.

9 **SECTION 320.** 906.15 (2) (d) of the statutes is amended to read:

10 906.15 (2) (d) A victim, as defined in s. 950.02 (4), in a criminal case or a victim,
11 as defined in s. 938.02 (20m), in a delinquency proceeding under ch. 938, unless the
12 judge or circuit court commissioner finds that exclusion of the victim is necessary to
13 provide a fair trial for the defendant or a fair fact-finding hearing for the juvenile.
14 The presence of a victim during the testimony of other witnesses may not by itself
15 be a basis for a finding that exclusion of the victim is necessary to provide a fair trial
16 for the defendant or a fair fact-finding hearing for the juvenile.

17 **SECTION 321.** 906.15 (3) of the statutes is amended to read:

18 906.15 (3) The judge or circuit court commissioner may direct that all excluded
19 and non-excluded witnesses be kept separate until called and may prevent them
20 from communicating with one another until they have been examined or the hearing
21 is ended.

22 **SECTION 322.** 911.01 (1) of the statutes is amended to read:

23 911.01 (1) COURTS AND COURT COMMISSIONERS. Chapters 901 to 911 apply to the
24 courts of the state of Wisconsin, including municipal courts, ~~family court~~
25 ~~commissioners~~, and circuit, supplemental, and municipal court commissioners, in

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1 the proceedings and to the extent hereinafter set forth except as provided in s. 972.11.
2 The word “judge” in chs. 901 to 911 means judge of a court of record, municipal judge,
3 family or circuit, supplemental, or municipal court commissioner, ~~and court~~
4 ~~commissioner.~~

5 **SECTION 323.** 938.06 (1) (a) 2. of the statutes is amended to read:

6 938.06 (1) (a) 2. The chief judge of the judicial administrative district shall
7 formulate written judicial policy governing intake and court services for juvenile
8 matters under this chapter and the director shall be charged with executing the
9 judicial policy. The chief judge shall direct and supervise the work of all personnel
10 of the court, except the work of the district attorney or corporation counsel assigned
11 to the court. The chief judge may delegate his or her supervisory functions ~~under s.~~
12 ~~938.065 (1).~~

13 **SECTION 324.** 938.065 of the statutes is repealed.

14 **SECTION 325.** 938.208 (4) of the statutes is amended to read:

15 938.208 (4) Probable cause exists to believe that the juvenile, having been
16 placed in nonsecure custody by an intake worker under s. 938.207 or by the judge or
17 juvenile circuit court commissioner under s. 938.21 (4), has run away or committed
18 a delinquent act and no other suitable alternative exists.

19 **SECTION 326.** 938.21 (1) (a) of the statutes is amended to read:

20 938.21 (1) (a) If a juvenile who has been taken into custody is not released
21 under s. 938.20, a hearing to determine whether the juvenile shall continue to be held
22 in custody under the criteria of ss. 938.205 to 938.209 (1) shall be conducted by the
23 judge or ~~juvenile~~ a circuit court commissioner within 24 hours after the end of the
24 day that the decision to hold the juvenile was made, excluding Saturdays, Sundays
25 and legal holidays. By the time of the hearing a petition under s. 938.25 shall be filed,

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1 except that no petition need be filed where a juvenile is taken into custody under s.
2 938.19 (1) (b) or (d) 2., 6. or 7. or where the juvenile is a runaway from another state,
3 in which case a written statement of the reasons for holding a juvenile in custody
4 shall be substituted if the petition is not filed. If no hearing has been held within 24
5 hours or if no petition or statement has been filed at the time of the hearing, the
6 juvenile shall be released except as provided in par. (b). A parent not present at the
7 hearing shall be granted a rehearing upon request.

8 **SECTION 327.** 938.21 (1) (b) of the statutes is amended to read:

9 938.21 (1) (b) If no petition has been filed by the time of the hearing, a juvenile
10 may be held in custody with the approval of the judge or juvenile circuit court
11 commissioner for an additional 48 hours from the time of the hearing only if, as a
12 result of the facts brought forth at the hearing, the judge or juvenile circuit court
13 commissioner determines that probable cause exists to believe that the juvenile is
14 an imminent danger to himself or herself or to others, or that probable cause exists
15 to believe that the parent, guardian or legal custodian of the juvenile or other
16 responsible adult is neglecting, refusing, unable or unavailable to provide adequate
17 supervision and care. The extension may be granted only once for any petition. In
18 the event of failure to file a petition within the 48-hour extension period provided
19 for in this paragraph, the judge or juvenile circuit court commissioner shall order the
20 juvenile's immediate release from custody.

21 **SECTION 328.** 938.21 (2) (c) of the statutes is amended to read:

22 938.21 (2) (c) Prior to the commencement of the hearing, the juvenile shall be
23 informed by the judge or juvenile circuit court commissioner of the allegations that
24 have been or may be made, the nature and possible consequences of this hearing as
25 compared to possible future hearings, the provisions of s. 938.18 if applicable, the

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1 right to counsel under s. 938.23 regardless of ability to pay if the juvenile is not yet
2 represented by counsel, the right to remain silent, the fact that the silence may not
3 be adversely considered by the judge or juvenile circuit court commissioner, the right
4 to confront and cross-examine witnesses and the right to present witnesses.

5 **SECTION 329.** 938.21 (4) (intro.) of the statutes is amended to read:

6 938.21 (4) (intro.) If the judge or juvenile circuit court commissioner finds that
7 the juvenile should be continued in custody under the criteria of s. 938.205, he or she
8 shall enter one of the following orders:

9 **SECTION 330.** 938.21 (4m) of the statutes is amended to read:

10 938.21 (4m) **ELECTRONIC MONITORING.** The judge or juvenile circuit court
11 commissioner may include in an order under sub. (4) (a) or (b) a condition that the
12 juvenile be monitored by an electronic monitoring system.

13 **SECTION 331.** 938.21 (7) of the statutes is amended to read:

14 938.21 (7) **DEFERRED PROSECUTION.** If the judge or juvenile circuit court
15 commissioner determines that the best interests of the juvenile and the public are
16 served, he or she may enter a consent decree under s. 938.32 or order the petition
17 dismissed and refer the matter to the intake worker for deferred prosecution in
18 accordance with s. 938.245.

19 **SECTION 332.** 938.30 (9) of the statutes is amended to read:

20 938.30 (9) If a circuit court commissioner conducts the plea hearing and accepts
21 an admission of the alleged facts in a petition brought under s. 938.12 or 938.13, the
22 judge shall review the admission at the beginning of the dispositional hearing by
23 addressing the parties and making the inquiries set forth in sub. (8).

24 **SECTION 333.** 938.32 (1) (a) of the statutes is amended to read:

1 938.32 (1) (a) At any time after the filing of a petition for a proceeding relating
2 to s. 938.12 or 938.13 and before the entry of judgment, the judge or juvenile circuit
3 court commissioner may suspend the proceedings and place the juvenile under
4 supervision in the juvenile's own home or present placement. The court may
5 establish terms and conditions applicable to the parent, guardian or legal custodian,
6 and to the juvenile, including any of the conditions specified in subs. (1d), (1g), (1m),
7 (1t), (1v) and (1x). The order under this section shall be known as a consent decree
8 and must be agreed to by the juvenile; the parent, guardian or legal custodian; and
9 the person filing the petition under s. 938.25. If the consent decree includes any
10 conditions specified in sub. (1g), the consent decree shall include provisions for
11 payment of the services as specified in s. 938.361. The consent decree shall be
12 reduced to writing and given to the parties.

13 **SECTION 334.** 938.32 (1d) of the statutes is amended to read:

14 938.32 (1d) If the petition alleges that the juvenile has committed an act that
15 would constitute a misdemeanor if committed by an adult, if the chief judge of the
16 judicial administrative district has approved under s. 973.11 (2) a volunteers in
17 probation program established in the juvenile's county of residence and if the judge
18 or juvenile circuit court commissioner determines that volunteer supervision under
19 that volunteers in probation program will likely benefit the juvenile and the
20 community, the judge or juvenile circuit court commissioner may establish as a
21 condition under sub. (1) that the juvenile be placed with that volunteers in probation
22 program under such conditions as the judge or juvenile circuit court commissioner
23 determines are reasonable and appropriate. These conditions may include, but need
24 not be limited to, any of the following:

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1 (a) A directive to a volunteer to provide for the juvenile a role model, informal
2 counseling, general monitoring and monitoring of the conditions established by the
3 judge or juvenile circuit court commissioner, or any combination of these functions.

4 (b) Any other conditions that the judge or juvenile circuit court commissioner
5 may establish under this section.

6 **SECTION 335.** 938.32 (1g) (intro.) of the statutes is amended to read:

7 938.32 (1g) (intro.) If the petition alleges that the juvenile committed a
8 violation specified under ch. 961 and if the multidisciplinary screen conducted under
9 s. 938.24 (2) shows that the juvenile is at risk of having needs and problems related
10 to the use of alcohol beverages, controlled substances or controlled substance analogs
11 and its medical, personal, family and social effects, the judge or juvenile circuit court
12 commissioner may establish as a condition under sub. (1) any of the following:

13 **SECTION 336.** 938.32 (1m) (intro.) and (a) of the statutes are amended to read:

14 938.32 (1m) (intro.) The judge or juvenile circuit court commissioner may
15 establish as a condition under sub. (1) that the juvenile be placed in a teen court
16 program if all of the following conditions apply:

17 (a) The chief judge of the judicial administrative district has approved a teen
18 court program established in the juvenile's county of residence and the judge or
19 juvenile circuit court commissioner determines that participation in the teen court
20 program will likely benefit the juvenile and the community.

21 **SECTION 337.** 938.32 (1t) (a) 1. of the statutes is amended to read:

22 938.32 (1t) (a) 1. Subject to subd. 3., if the petition alleges that the juvenile
23 committed a delinquent act that has resulted in damage to the property of another,
24 or in actual physical injury to another excluding pain and suffering, the judge or
25 juvenile circuit court commissioner may require the juvenile as a condition of the

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1 consent decree, to repair the damage to property or to make reasonable restitution
2 for the damage or injury, either in the form of cash payments or, if the victim agrees,
3 the performance of services for the victim, or both, if the judge or juvenile circuit court
4 commissioner, after taking into consideration the well-being and needs of the victim,
5 considers it beneficial to the well-being and behavior of the juvenile. Any consent
6 decree that includes a condition of restitution by a juvenile shall include a finding
7 that the juvenile alone is financially able to pay or physically able to perform the
8 services, may allow up to the date of the expiration of the consent decree for the
9 payment or for the completion of the services and may include a schedule for the
10 performance and completion of the services. Objection by the juvenile to the amount
11 of damages claimed shall entitle the juvenile to a hearing on the question of damages
12 before the amount of restitution is made part of the consent decree. Any recovery
13 under this subdivision shall be reduced by the amount recovered as restitution for
14 the same act under subd. 1m.

15 **SECTION 338.** 938.32 (1t) (a) 1m. of the statutes is amended to read:

16 938.32 (1t) (a) 1m. If the petition alleges that the juvenile has committed a
17 delinquent act that has resulted in damage to the property of another, or in actual
18 physical injury to another excluding pain and suffering, the judge or juvenile circuit
19 court commissioner may require a parent who has custody, as defined in s. 895.035
20 (1), of the juvenile, as a condition of the consent decree, to make reasonable
21 restitution for the damage or injury. Except for recovery for retail theft under s.
22 943.51, the maximum amount of any restitution ordered under this subdivision for
23 damage or injury resulting from any one act of a juvenile or from the same act
24 committed by 2 or more juveniles in the custody of the same parent may not exceed
25 the amount specified in s. 799.01 (1) (d). Any consent decree that includes a condition

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1 of restitution by a parent who has custody of the juvenile shall include a finding that
2 the parent who has custody of the juvenile is financially able to pay the amount
3 ordered and may allow up to the date of the expiration of the consent decree for the
4 payment. Objection by the parent to the amount of damages claimed shall entitle the
5 parent to a hearing on the question of damages before the amount of restitution is
6 made part of the consent decree. Any recovery under this subdivision shall be
7 reduced by the amount recovered as restitution for the same act under subd. 1.

8 **SECTION 339.** 938.32 (1t) (a) 3. of the statutes is amended to read:

9 938.32 (1t) (a) 3. Under this paragraph, a judge or juvenile circuit court
10 commissioner may not order a juvenile who is under 14 years of age to make more
11 than \$250 in restitution or to perform more than 40 total hours of services for the
12 victim as restitution.

13 **SECTION 340.** 938.32 (1v) of the statutes is amended to read:

14 938.32 (1v) If the petition alleges that the juvenile is in need of protection or
15 services under s. 938.13 (6), the judge or juvenile circuit court commissioner may
16 establish as a condition under sub. (1) that the juvenile's parent, guardian or legal
17 custodian attend school with the juvenile.

18 **SECTION 341.** 938.32 (1x) of the statutes is amended to read:

19 938.32 (1x) If the petition alleges that the juvenile violated s. 943.017 and the
20 juvenile has attained the minimum age at which a juvenile may be adjudicated
21 delinquent, the judge or juvenile circuit court commissioner may require, as a
22 condition of the consent decree, that the juvenile participate for not less than 10
23 hours nor more than 100 hours in a supervised work program under s. 938.34 (5g)
24 or perform not less than 10 hours nor more than 100 hours of other community

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1 service work, except that if the juvenile has not attained 14 years of age the
2 maximum number of hours is 40.

3 **SECTION 342.** 938.32 (2) (a) of the statutes is amended to read:

4 938.32 (2) (a) A consent decree shall remain in effect for up to one year unless
5 the juvenile, parent, guardian or legal custodian is discharged sooner by the judge
6 or juvenile circuit court commissioner.

7 **SECTION 343.** 938.32 (6) of the statutes is amended to read:

8 938.32 (6) The judge or juvenile circuit court commissioner shall inform the
9 juvenile and the juvenile's parent, guardian or legal custodian, in writing, of the
10 juvenile's right to object to the continuation of the consent decree under sub. (3) and
11 of the fact that the hearing under which the juvenile was placed on supervision may
12 be continued to conclusion as if the consent decree had never been entered.

13 **SECTION 344.** 940.203 (1) (b) of the statutes is amended to read:

14 940.203 (1) (b) "Judge" means a supreme court justice, court of appeals judge,
15 circuit court judge, municipal judge, temporary or permanent reserve, judge or
16 ~~juvenile, probate, family or other~~ circuit, supplemental, or municipal court
17 commissioner.

18 **SECTION 345.** 943.013 (1) (b) of the statutes is amended to read:

19 943.013 (1) (b) "Judge" means a supreme court justice, court of appeals judge,
20 circuit court judge, municipal judge, temporary or permanent reserve judge, or
21 ~~juvenile, probate, family or other~~ circuit, supplemental, or municipal court
22 commissioner.

23 **SECTION 346.** 946.495 of the statutes is amended to read:

24 **946.495 Violation of nonsecure custody order.** If a person has been placed
25 in nonsecure custody by an intake worker under s. 938.207 or by a judge or juvenile

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1 circuit court commissioner under s. 938.21 (4) and the person is alleged to be
2 delinquent under s. 938.12, alleged to be in need of protection or services under s.
3 938.13 (12) or has been taken into custody for committing an act that is a violation
4 of a state or federal criminal law, the person is guilty of a Class A misdemeanor if he
5 or she intentionally fails to comply with the conditions of his or her placement in
6 nonsecure custody.

7 **SECTION 347.** 967.07 of the statutes is amended to read:

8 **967.07 Court Circuit court commissioners.** A circuit court commissioner
9 may exercise powers or perform duties specified for a judge if such action is permitted
10 under s. 757.69.

11 **SECTION 348.** 971.20 (3) (a) of the statutes is amended to read:

12 971.20 (3) (a) In this subsection, “judge” includes a circuit court commissioner
13 who is assigned to conduct the preliminary examination.

14 **SECTION 349.** 973.20 (13) (c) 4. of the statutes is amended to read:

15 973.20 (13) (c) 4. Refer the disputed restitution issues to a circuit court
16 commissioner or other appropriate referee, who shall conduct a hearing on the
17 matter and submit the record thereof, together with proposed findings of fact and
18 conclusions of law, to the court within 60 days of the date of referral. Within 30 days
19 after the referee’s report is filed, the court shall determine the amount of restitution
20 on the basis of the record submitted by the referee and incorporate it into the
21 sentence or probation order imposed. The judge may direct that hearings under this
22 subdivision be recorded either by audio recorder or by a court reporter. A transcript
23 is not required unless ordered by the judge.

24 **SECTION 350.** 977.05 (6) (b) 2. of the statutes is amended to read:

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1 977.05 (6) (b) 2. The judge or ~~family~~ circuit court commissioner before whom
2 the proceedings shall be held certifies to the state public defender that the person will
3 not be incarcerated if he or she is found in contempt of court.

4 **SECTION 351.** 979.05 (1) of the statutes is amended to read:

5 979.05 (1) An inquest shall be conducted by a circuit judge or a circuit court
6 commissioner.

7 **SECTION 352.** 979.05 (2) of the statutes is repealed and recreated to read:

8 979.05 (2) The inquest shall be conducted before a jury unless the district
9 attorney, coroner, or medical examiner requests that the inquest be conducted before
10 the judge or circuit court commissioner only. If the inquest is to be conducted before
11 a jury, a sufficient number of names of prospective jurors shall be selected from the
12 prospective juror list for the county in which the inquest is to be held by the clerk of
13 circuit court in the manner provided in s. 756.06. The judge or circuit court
14 commissioner conducting the inquest shall summon the prospective jurors to appear
15 before the judge or circuit court commissioner at the time fixed in the summons. The
16 summons may be served by mail, or by personal service if the judge, circuit court
17 commissioner, or district attorney determines personal service to be appropriate.
18 The summons shall be in the form used to summon petit jurors in the circuit courts
19 of the county. Any person who fails to appear when summoned as an inquest juror
20 is subject to a forfeiture of not more than \$40. The inquest jury shall consist of 6
21 jurors. If 6 jurors do not remain from the number originally summoned after
22 establishment of qualifications, the judge or circuit court commissioner conducting
23 the inquest may require the clerk of the circuit court to select sufficient additional
24 jurors' names. Those persons shall be summoned forthwith by the sheriff of the
25 county.

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1 **SECTION 353.** 979.05 (3) of the statutes is amended to read:

2 979.05 (3) The judge or circuit court commissioner shall examine on oath or
3 affirmation each person who is called as a juror to discover whether the juror is
4 related by blood, marriage or adoption to the decedent, any member of the decedent's
5 family, the district attorney, any other attorney appearing in the case or any
6 members of the office of the district attorney or of the office of any other attorney
7 appearing in the case, has expressed or formed any opinion regarding the matters
8 being inquired into in the inquest or is aware of or has any bias or prejudice
9 concerning the matters being inquired into in the inquest. If any prospective juror
10 is found to be not indifferent or is found to have formed an opinion which cannot be
11 laid aside, that juror shall be excused. The judge or ~~court~~ circuit commissioner may
12 select one or more alternate jurors if the inquest is likely to be protracted. This
13 subsection does not limit the right of the district attorney to supplement the judge's
14 or ~~court~~ circuit commissioner's examination of any prospective jurors as to
15 qualifications.

16 **SECTION 354.** 979.05 (4) of the statutes is amended to read:

17 979.05 (4) When 6 jurors have been selected, the judge or circuit court
18 commissioner shall administer to them an oath or affirmation which shall be
19 substantially in the following form:

20 You do solemnly swear (affirm) that you will diligently inquire and determine
21 on behalf of this state when, and in what manner and by what means, the person
22 known as who is now dead came to his or her death and that you will return
23 a true verdict thereon according to your knowledge, according to the evidence
24 presented and according to the instructions given to you by the (judge) (circuit
25 court commissioner).

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1 **SECTION 355.** 979.05 (5) of the statutes is amended to read:

2 979.05 (5) Prior to the submission of evidence to the jury, the judge or circuit
3 court commissioner may instruct the jury on its duties and on the substantive law
4 regarding the issues which may be inquired into before the jury. The district attorney
5 may, at any time during the course of the inquest, make statements to the jury
6 relating to procedural or evidentiary matters he or she and the judge or circuit court
7 commissioner deem appropriate. Section 972.12 applies to the conduct of the inquest
8 jury.

9 **SECTION 356.** 979.05 (6) of the statutes is amended to read:

10 979.05 (6) The judge or circuit court commissioner conducting the inquest may
11 order that proceedings be secret if the district attorney so requests or concurs.

12 **SECTION 357.** 979.06 (1) of the statutes is amended to read:

13 979.06 (1) The judge or circuit court commissioner may issue subpoenas for
14 witnesses at the request of the coroner or medical examiner and shall issue
15 subpoenas for witnesses requested by the district attorney. Subpoenas are
16 returnable at the time and place stated therein. Persons who are served with a
17 subpoena may be compelled to attend proceedings in the manner provided in s.
18 885.12.

19 **SECTION 358.** 979.06 (2) of the statutes is amended to read:

20 979.06 (2) The judge or circuit court commissioner conducting the inquest and
21 the district attorney may require by subpoena the attendance of one or more expert
22 witnesses, including physicians, surgeons and pathologists, for the purposes of
23 conducting an examination of the body and all relevant and material scientific and
24 medical tests connected with the examination and testifying as to the results of the
25 examination and tests. The expert witnesses so subpoenaed shall receive reasonable

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1 fees determined by the district attorney and the judge or circuit court commissioner
2 conducting the inquest.

3 **SECTION 359.** 979.06 (3) of the statutes is amended to read:

4 979.06 (3) Any witness examined at an inquest may have counsel present
5 during the examination of that witness. The counsel may not examine or
6 cross-examine his or her client, cross-examine or call other witnesses or argue
7 before the judge or circuit court commissioner holding the inquest.

8 **SECTION 360.** 979.06 (4) (intro.) of the statutes is amended to read:

9 979.06 (4) (intro.) The judge or circuit court commissioner shall administer an
10 oath or affirmation to each witness which shall be substantially in the following
11 form:

12 **SECTION 361.** 979.06 (5) of the statutes is amended to read:

13 979.06 (5) The judge or circuit court commissioner conducting the inquest shall
14 cause the testimony given by all witnesses to be reduced to writing or recorded and
15 may employ stenographers to take and transcribe all of the testimony. The
16 stenographer shall receive reimbursement at a reasonable rate for each appearance
17 and transcription at rates in accordance with the customary charges in the area for
18 similar services.

19 **SECTION 362.** 979.08 (1) of the statutes is amended to read:

20 979.08 (1) When the evidence is concluded and the testimony closed, the judge
21 or circuit court commissioner shall instruct the jury on its duties and on the
22 substantive law regarding the issues inquired into before the jury. The district
23 attorney shall prepare a written set of appropriate requested instructions and shall
24 submit them to the judge or circuit court commissioner who, together with the
25 district attorney, shall compile the final set of instructions which shall be given. The

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1 instructions shall include those criminal offenses for which the judge or circuit court
2 commissioner believes a reasonable jury might return a verdict based upon a finding
3 of probable cause.

4 **SECTION 363.** 979.08 (3) (intro.) of the statutes is amended to read:

5 979.08 (3) (intro.) The jury shall retire to consider its verdict after hearing all
6 of the testimony and evidence, making all necessary inquiries and having been
7 instructed in the law. The judge or circuit court commissioner shall provide the jury
8 with one complete set of written instructions providing the substantive law to be
9 applied to the issues to be decided. The verdict shall be in a form which permits the
10 following findings:

11 **SECTION 364.** 979.08 (6) of the statutes is amended to read:

12 979.08 (6) Any verdict so rendered, after being validated and signed by the
13 judge or circuit court commissioner, together with the record of the inquest, shall be
14 delivered to the district attorney for consideration. After considering the verdict and
15 record, the district attorney may deliver the entire inquest record or any part thereof
16 to the coroner or medical examiner for safekeeping.

17 **SECTION 365.** 979.08 (7) of the statutes is amended to read:

18 979.08 (7) The record of a secret inquest proceeding shall not be open for
19 inspection unless so ordered by the judge or circuit court commissioner conducting
20 the inquest upon petition by the district attorney.

21 **SECTION 366.** 979.09 of the statutes is amended to read:

22 **979.09 Burial of body.** If any judge or circuit court commissioner conducts
23 an inquest as to the death of a stranger or of a person whose identity is unknown or
24 whose body is unclaimed or if the district attorney determines that no inquest into
25 the death of such a person is necessary and the circuit judge has not ordered an

1 inquest under s. 979.04 (2), the coroner or medical examiner shall cause the body to
2 be decently buried or cremated and shall certify to all the charges incurred in taking
3 any inquest by him or her and to the expenses of burial or cremation of the dead body.
4 The charges and expenses shall be audited by the county board of the proper county
5 and paid out of the county treasury.

6 **SECTION 367. Initial applicability.**

7 (1) This act first applies to actions commenced on the effective date of this
8 subsection.

9 **SECTION 368. Effective date.**

10 (1) This act takes effect on the first day of the 2nd month beginning after
11 publication.

12 (END)