

## ASSEMBLY BILL 380

1 ✓ 765.11 (1) If any parent, grandparent, child, or natural guardian of a minor  
2 applicant for a marriage license, any brother, sister or guardian of either of the  
3 applicants for a marriage license, either of the applicants, the district attorney or the  
4 family a circuit court commissioner believes that the statements of the application  
5 are false or insufficient, or that the applicants or either of them are incompetent to  
6 marry, that person may file with the court having probate jurisdiction in the county  
7 in which the marriage license is applied for, a petition under oath, setting forth the  
8 grounds of objection to the marriage and asking for an order requiring the parties  
9 making such application to show cause why the marriage license should not be  
10 refused. Whereupon, the court, if satisfied that the grounds of objection are prima  
11 facie valid, shall issue an order to show cause as aforesaid, returnable as the court  
12 directs, but not more than 14 days after the date of the order, which shall be served  
13 forthwith upon the applicants for the marriage license residing in the state, and upon  
14 the clerk before whom the application has been made, and shall operate as a stay  
15 upon the issuance of the marriage license until further ordered; if either or both of  
16 the applicants are nonresidents of the state the order shall be served forthwith upon  
17 the nonresident by publication of a class 1 notice, under ch. 985, in the county  
18 wherein the application is pending, and by mailing a copy thereof to the nonresident  
19 at the address contained in the application.

20 SECTION 133. 765.11 (2) of the statutes is amended to read:

21 ✓ 765.11 (2) If, upon hearing, the court finds that the statements in the  
22 application are ~~wilfully~~ <sup>willfully</sup> false or insufficient, or that either or both of said parties are  
23 not competent in law to marry, the court shall make an order refusing the marriage  
24 license, and shall immediately report such matter to the district attorney. If said  
25 falseness or insufficiency is due merely to inadvertence, then the court shall permit

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1 the parties to amend the application so as to make the statements therein true and  
2 sufficient, and upon application being so amended, the marriage license shall be  
3 issued. If any party is unable to supply any of the information required in the  
4 application, the court may, if satisfied that such inability is not due to ~~wilfulness~~ <sup>willfulness</sup> or  
5 negligence, order the marriage license to be issued notwithstanding such  
6 insufficiency. The costs and disbursements of the proceedings under this section  
7 shall rest in the discretion of the court, but none shall be taxed against any district  
8 attorney or ~~family~~ circuit court commissioner acting in good faith.

9 **SECTION 134.** 765.16 (5) of the statutes is amended to read:

10 ✓ 765.16 (5) Any ~~family court commissioner appointed under s. 767.13 or~~ <sup>✓</sup> circuit  
11 court commissioner appointed under SCR 75.02 (1) or supplemental court  
12 commissioner appointed under s. ~~757.68~~ <sup>✓</sup> 757.675 (1).

13 **SECTION 135.** 767.045 (1) (c) (intro.) of the statutes is amended to read:

14 ✓ 767.045 (1) (c) (intro.) The attorney responsible for support enforcement under  
15 s. 59.53 (6) (a) may request that the court or ~~family~~ a circuit court commissioner  
16 appoint a guardian ad litem to bring an action or motion on behalf of a minor who  
17 is a nonmarital child whose paternity has not been acknowledged under s. 767.62 (1)  
18 or a substantially similar law of another state or adjudicated for the purpose of  
19 determining the paternity of the child, and the court or ~~family~~ circuit court  
20 commissioner shall appoint a guardian ad litem, if any of the following applies:

21 **SECTION 136.** 767.081 (title) of the statutes is amended to read:

22 ✓ **767.081 (title) Information from the office of family court commissioner.** <sup>✓</sup>

23 **SECTION 137.** 767.081 (1) of the statutes is amended to read:

24 ✓ 767.081 (1) Upon the filing of an action affecting the family, the office of family <sup>✓</sup>  
25 court commissioner shall inform the parties of any services, including referral

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office of

1 services, offered by the office of family court commissioner and by the director of  
2 family court counseling services under s. 767.11.

3 SECTION 138. 767.081 (2) (a) (intro.) of the statutes is amended to read:

4 ✓ 767.081 (2) (a) (intro.) <sup>plain</sup> ~~The family~~ <sup>place</sup> ~~a circuit~~ court commissioner shall, with or  
5 without charge, provide the party with written information on the following, as  
6 appropriate to the action commenced:

7 SECTION 139. 767.081 (2) (b) of the statutes is amended to read:

8 ✓ 767.081 (2) (b) <sup>plain</sup> ~~The family~~ <sup>place</sup> ~~a circuit~~ court commissioner shall provide a party,  
9 for inspection or purchase, with a copy of the statutory provisions in this chapter  
10 generally pertinent to the action.

11 SECTION 140. 767.083 (2) of the statutes is amended to read:

12 ✓ 767.083 (2) An order by the court, after consideration of the recommendation  
13 of the family a circuit court commissioner, directing an immediate hearing on the  
14 petition for the protection of the health or safety of either of the parties or of any child  
15 of the marriage or for other emergency reasons consistent with the policies of this  
16 chapter. The court shall upon granting such order specify the grounds therefor.

17 SECTION 141. 767.085 (1) (i) of the statutes is amended to read:

18 ✓ 767.085 (1) (i) If the action is one under s. 767.02 (1) (a), (b), (c), (d), (h) or (i),  
19 that during the pendency of the action, without the consent of the other party or an  
20 order of the court or family a circuit court commissioner, the parties are prohibited  
21 from, and may be held in contempt of court for, encumbering, concealing, damaging,  
22 destroying, transferring or otherwise disposing of property owned by either or both  
23 of the parties, except in the usual course of business, in order to secure necessities  
24 or in order to pay reasonable costs and expenses of the action, including attorney fees.

25 SECTION 142. 767.085 (1) (j) (intro.) of the statutes is amended to read:

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## SECTION 142

1 ✓ 767.085 (1) (j) (intro.) Unless the action is one under s. 767.02 (1) (g) or (h), that  
2 during the pendency of the action, the parties are prohibited from, and may be held  
3 in contempt of court for, doing any of the following without the consent of the other  
4 party or an order of the court or ~~family~~ a circuit court commissioner:

5 **SECTION 143.** 767.085 (3) of the statutes is amended to read:

6 ✓ 767.085 (3) SERVICE. If only one party initiates the action, the other shall be  
7 served under ch. 801 and may serve a response or counterclaim within 20 days after  
8 the date of service, except that questions of jurisdiction may be raised at any time  
9 prior to judgment. Service shall be made upon the petitioner and upon the ~~family~~  
10 circuit court commissioner as provided in s. 767.14, and the original copy of the  
11 response shall be filed in court. If the parties together initiate the action with a joint  
12 petition, service of summons is not required.

13 **SECTION 144.** 767.087 (1) (b) of the statutes is amended to read:

14 ✓ 767.087 (1) (b) If the action is one under s. 767.02 (1) (a), (b), (c), (d), (h) or (i),  
15 encumbering, concealing, damaging, destroying, transferring or otherwise disposing  
16 of property owned by either or both of the parties, without the consent of the other  
17 party or an order of the court or ~~family~~ a circuit court commissioner, except in the  
18 usual course of business, in order to secure necessities or in order to pay reasonable  
19 costs and expenses of the action, including attorney fees.

20 **SECTION 145.** 767.087 (1) (c) of the statutes is amended to read:

21 ✓ 767.087 (1) (c) Unless the action is one under s. 767.02 (1) (g) or (h), without  
22 the consent of the other party or an order of the court or ~~family~~ a circuit court  
23 commissioner, establishing a residence with a minor child of the parties outside the  
24 state or more than 150 miles from the residence of the other party within the state,

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## SECTION 145

1 removing a minor child of the parties from the state for more than 90 consecutive  
2 days or concealing a minor child of the parties from the other party.

3 **SECTION 146.** 767.087 (2) of the statutes is amended to read:

4 ✓ 767.087 (2) The prohibitions under sub. (1) shall apply until the action is  
5 dismissed, until a final judgment in the action is entered or until the court or family  
6 a circuit court commissioner orders otherwise.

7 **SECTION 147.** 767.11 (1) (c) of the statutes is amended to read:

8 ✓ 767.11 (1) (c) A county or counties may designate ~~a~~ the supervisor of the office  
9 of family court commissioner as the director under par. (a) or (b).

10 **SECTION 148.** 767.11 (5) (a) of the statutes is amended to read:

11 ✓ 767.11 (5) (a) In any action affecting the family, including a revision of  
12 judgment or order under s. 767.32 or 767.325, in which it appears that legal custody  
13 or physical placement is contested, the court or family circuit court commissioner  
14 shall refer the parties to the director of family court counseling services for possible  
15 mediation of those contested issues. The court or ~~the family~~ circuit court  
16 commissioner shall inform the parties that the confidentiality of communications in  
17 mediation is waived if the parties stipulate under sub. (14) (c) that the person who  
18 provided mediation to the parties may also conduct the legal custody or physical  
19 placement study under sub. (14).

20 **SECTION 149.** 767.11 (5) (b) of the statutes is amended to read:

21 ✓ 767.11 (5) (b) If both parties to any action affecting the family wish to have joint  
22 legal custody of a child, either party may request that the court or family circuit court  
23 commissioner ~~to~~ refer the parties to the director of family court counseling services  
24 for assistance in resolving any problem relating to joint legal custody and physical  
25 placement of the child. Upon request, the court shall so refer the parties.

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## SECTION 150

1           **SECTION 150.** 767.11 (5) (c) of the statutes is amended to read:

2           ✓ 767.11 (5) (c) A person who is awarded periods of physical placement, a child  
3 of such a person, a person with visitation rights or a person with physical custody of  
4 a child may notify ~~the family~~ a circuit court commissioner of any problem he or she  
5 has relating to any of these matters. Upon notification, the ~~family~~ circuit court  
6 commissioner may refer any person involved in the matter to the director of family  
7 court counseling services for assistance in resolving the problem.

8           **SECTION 151.** 767.11 (6) of the statutes is amended to read:

9           ✓ 767.11 (6) ACTION UPON REFERRAL. Whenever a court or ~~family~~ circuit court  
10 commissioner refers a party to the director of family court counseling services for  
11 possible mediation, the director shall assign a mediator to the case. The mediator  
12 shall provide mediation if he or she determines it is appropriate. If the mediator  
13 determines mediation is not appropriate, he or she shall so notify the court.  
14 Whenever a court or ~~family~~ circuit court commissioner refers a party to the director  
15 of family court counseling services for any other family court counseling service, the  
16 director shall take appropriate action to provide the service.

17 ~~USE~~           **SECTION 152.** 767.11 (7) of the statutes is amended to read:

18           ✓ 767.11 (7) PRIVATE MEDIATOR. The parties to any action affecting the family may,  
19 at their own expense, receive mediation services from a mediator other than one who  
20 provides services under sub. (3). Parties who receive services from such a mediator  
21 shall sign and file with the director of family court counseling services and with the  
22 court or ~~family~~ circuit court commissioner a written notice stating the mediator's  
23 name and the date of the first meeting with the mediator.

24           **SECTION 153.** 767.11 (13) of the statutes is amended to read:

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1 ✓ 767.11 (13) POWERS OF COURT OR ~~FAMILY~~ CIRCUIT COURT COMMISSIONER. Except as  
2 provided in sub. (8), referring parties to mediation under this section does not affect  
3 the power of the court or family a circuit court commissioner to make any necessary  
4 order relating to the parties during the course of the mediation.

5 SECTION 154. 767.115 (1) (a) of the statutes is amended to read:

6 ✓ 767.115 (1) (a) At any time during the pendency of an action affecting the  
7 family in which a minor child is involved and in which the court or ~~family~~ circuit court  
8 commissioner determines that it is appropriate and in the best interest of the child,  
9 the court or ~~family~~ circuit court commissioner, on its own motion, may order the  
10 parties to attend a program specified by the court or ~~family~~ circuit court  
11 commissioner concerning the effects on a child of a dissolution of the marriage.

12 SECTION 155. 767.115 (1) (b) of the statutes is amended to read:

13 ✓ 767.115 (1) (b) At any time during the pendency of an action to determine the  
14 paternity of a child, or an action affecting the family for which the underlying action  
15 was an action to determine the paternity of a child, if the court or ~~family~~ circuit court  
16 commissioner determines that it is appropriate and in the best interest of the child,  
17 the court or ~~family~~ circuit court commissioner, on its own motion, may order either  
18 or both of the parties to attend a program specified by the court or ~~family~~ circuit court  
19 commissioner providing training in parenting or coparenting skills, or both.

20 SECTION 156. 767.115 (1m) of the statutes is amended to read:

21 ✓ 767.115 (1m) A program under sub. (1) shall be educational rather than  
22 therapeutic in nature and may not exceed a total of 4 hours in length. The parties  
23 shall be responsible for the cost, if any, of attendance at the program. The court or  
24 ~~family~~ circuit court commissioner may specifically assign responsibility for payment

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1 of any cost. No facts or information obtained in the course of the program, and no  
2 report resulting from the program, is admissible in any action or proceeding.

3 **SECTION 157.** 767.115 (2) of the statutes is amended to read:

4 ✓ 767.115 (2) Notwithstanding s. 767.07, the court or family circuit court  
5 commissioner may require the parties to attend a program under sub. (1) as a  
6 condition to the granting of a final judgment or order in the action affecting the  
family that is pending before the court or family circuit court commissioner.

10987  
58-92 → **SECTION 158.** 767.12 (1) of the statutes is amended to read:

9 ✓ 767.12 (1) PROCEEDINGS. In actions affecting the family, all hearings and trials  
10 to determine whether judgment shall be granted, except hearings under s. 767.13 (5)  
11 757.69 (1) (p) 3., shall be before the court. The testimony shall be taken by the  
12 reporter and shall be written out and filed with the record if so ordered by the court.  
13 Custody proceedings shall receive priority in being set for hearing.

14 **SECTION 159.** 767.125 of the statutes is amended to read:

15 ✓ **767.125 Order for appearance of litigants.** Unless nonresidence in the  
16 state is shown by competent evidence, service is by publication, or the court shall for  
17 other good cause otherwise order, both parties in actions affecting the family shall  
18 be required to appear upon the trial. An order of the court or family a circuit court  
19 commissioner to that effect shall accordingly be procured by the moving party, and  
20 shall be served upon the nonmoving party before the trial. In the case of a joint  
21 petition the order is not required.

22 ✓ **SECTION 160.** 767.13 (title) of the statutes is repealed.

23 ✓ **SECTION 161.** 767.13 (1) of the statutes is renumbered 757.68 (2m) (a) and  
24 amended to read:



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1 ✓ 757.68 (2m) (a) *Counties other than Milwaukee.* 1. 'Appointment.' In each  
2 county, except in a county having a population of 500,000 or more, ~~the circuit judges~~  
3 ~~for the county, subject to the approval of the chief judge of the judicial administrative~~  
4 ~~district, shall, by order filed in the office of the clerk of the circuit court on or before~~  
5 ~~the first Monday of July of each year, appoint some reputable attorney of recognized~~  
6 ~~ability and standing at the bar as the a circuit court commissioner to supervise the~~  
7 ~~office of family court commissioner for the county.~~

8 2. 'Powers; civil service; oath; temporary appointment; assistants.' ~~The family~~  
9 ~~court commissioner, by virtue of the office and to the extent required for the~~  
10 ~~performance of the duties, has the powers of a court commissioner. The circuit court~~  
11 ~~commissioner appointed to supervise the office of family court commissioner is in~~  
12 addition to the maximum number of circuit court commissioners permitted by ~~s.~~  
13 <sup>591b.</sup> ~~757.68~~ (1). The circuit court commissioner supervising the office of the family court  
14 commissioner, or any assistant circuit court commissioner assisting in family  
15 matters, may be placed under a county civil service system by resolution of the county  
16 board. ~~Before entering upon the discharge of the duties the family court~~  
17 ~~commissioner shall take and file the official oath. The person appointed shall~~  
18 ~~continue to act until a successor is appointed and qualified, except that in the event~~  
19 ~~of disability or extended absence the judges may appoint another reputable attorney~~  
20 ~~to act as temporary family court commissioner. The county board may provide that~~  
21 ~~one or more assistant family court commissioners shall be appointed by the circuit~~  
22 ~~judges for the county, subject to the approval of the chief judge of the judicial~~  
23 ~~administrative district. An assistant family court commissioner shall have the same~~  
24 ~~qualifications as the commissioner and shall take and file the official oath.~~

25 SECTION 162. 767.13 (2) (title) of the statutes is repealed.

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SECTION 163

1 ✓ SECTION 163. 767.13 (2) (a) of the statutes is renumbered 757.68 (2m) (b) and  
2 amended to read:

3 ✓ 757.68 (2m) (b) ~~Appointment; assistants; civil service Milwaukee County.~~ In  
4 counties having a population of 500,000 or more, there is created in the classified civil  
5 service a circuit court commissioner position to supervise the office of family court  
6 commissioner and such additional assistant family circuit court commissioners  
7 commissioner positions as the county board shall determine and authorize, ~~who,~~  
8 Circuit court commissioners shall be appointed ~~from the membership of the bar~~  
9 ~~residing in the county to these positions~~ by the chief judge of the judicial  
10 administrative district under ss. 63.01 to 63.17 SCR 75.02 (1).

11 ✓ SECTION 164. 767.13 (2) (b), (3) and (4) of the statutes are repealed.

12 ✓ SECTION 165. 767.13 (5) (title) and (a) (title) of the statutes are repealed.

13 ✓ SECTION 166. 767.13 (5) (a) of the statutes is renumbered 757.69 (1) (p) and <sup>(intro.)</sup>  
14 amended to read:

15 ✓ 757.69 (1) (p) <sup>(intro.)</sup> ~~On authority delegated by a judge, which may be by a standard~~  
16 ~~order, and with the approval of the chief judge of the judicial administrative district,~~  
17 a family When assigned to assist in matters affecting the family:

18 1. ~~A circuit court commissioner may preside~~ <sup>Preside</sup> at any hearing held to determine  
19 whether a judgment of divorce shall be granted, if both parties state that the  
20 marriage is irretrievably broken and that all material issues, including but not  
21 limited to division of property or estate, legal custody, physical placement, child  
22 support, spousal maintenance and family support, are resolved or if one party does  
23 not participate in the action for divorce. ~~The family~~ A circuit court commissioner may  
24 grant and enter judgment in any action over which he or she presides under this  
25 paragraph subdivision unless the judgment modifies an agreement between the

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1 parties on material issues. If the family circuit court commissioner does not approve  
2 an agreement between the parties on material issues, the action shall be certified to  
3 the court for trial.

4 ✓ SECTION 167. 767.13 (5) (b) (title) of the statutes is repealed.

5 ✓ SECTION 168. 767.13 (5) (b) of the statutes is renumbered 757.69 (1) (p) 2. and  
6 amended to read:

7 ✓ 757.69 (1) (p) 2. On authority delegated by a judge, which may be by a standard  
8 order, a family ~~circu~~ court commissioner may ~~conduct~~ <sup>Conduct</sup> hearings and enter  
9 judgments in actions for enforcement of, or revision of judgment for, maintenance,  
10 custody, physical placement or visitation.

11 ✓ SECTION 169. 767.13 (5) (c) (title) of the statutes is repealed.

12 SECTION 170. 767.13 (5) (c) of the statutes is renumbered 757.69 (1) (p) 3. and  
13 amended to read:

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14 ✓ 757.69 (1) (p) 3. Except when otherwise ordered by a judge, a family prohibited  
15 by the chief judge of the judicial administrative district, ~~circu~~ court commissioner  
16 ~~may conduct~~ <sup>plain text</sup> hearings and enter orders and judgments in actions to establish  
17 paternity, in actions to establish or enforce a child support or a family support  
18 obligation and in actions to revise orders or judgments for child support or family  
19 support.

767.13(5)  
(cc)

~~may conduct~~  
plain text  
~~plain~~

20 ✓ SECTION 171. 767.13 (6) of the statutes is repealed.

21 ✓ SECTION 172. 767.13 (7) (title) of the statutes is repealed.

22 ✓ SECTION 173. 767.13 (7) of the statutes is renumbered 757.69 (1) (p) 2 and  
23 amended to read:

(cc)

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(2E) (D)

✓ ✓ ✓ ✓ ✓

1 ✓ 757.69 ~~(a)~~ Each family A circuit court commissioner shall cooperate with  
2 the county and the department to ensure that all dependent children receive  
3 reasonable and necessary child support.

4 SECTION 174. 767.14 of the statutes is amended to read:

5 ✓ 767.14 **Service on office of family court commissioner and appearance**  
6 **by family circuit court commissioner.** In any action affecting the family, each  
7 party shall, either within 20 days after making service on the opposite party of any  
8 petition or pleading or before filing such petition or pleading in court, serve a copy  
9 of the same upon the circuit court commissioner supervising the office of family court  
10 commissioner of the county in which the action is begun, whether such action is  
11 contested or not. No judgment in any such action shall be granted unless this section  
12 is complied with except when otherwise ordered by the court. Such A circuit court  
13 commissioner assisting in matters affecting the family may appear in an action  
14 under this chapter when appropriate; and shall appear when requested by the court.

15 SECTION 175. 767.145 (1) of the statutes is amended to read:

16 ✓ 767.145 (1) After the expiration of the period specified by the statute, the court  
17 may in its discretion, upon petition and without notice, extend the time within which  
18 service shall be made upon the circuit court commissioner supervising the office of  
19 family court commissioner.

20 SECTION 176. 767.15 (1) of the statutes is amended to read:

21 ✓ 767.15 (1) In any action affecting the family in which either party is a recipient  
22 of benefits under ss. 49.141 to 49.161 or aid under s. 46.261, 49.19 or 49.45, each party  
23 shall, either within 20 days after making service on the opposite party of any motion  
24 or pleading requesting the court or family circuit court commissioner to order, or to  
25 modify a previous order, relating to child support, maintenance or family support, or

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1 before filing the motion or pleading in court, serve a copy of the motion or pleading  
2 upon the county child support agency under s. 59.53 (5) of the county in which the  
3 action is begun.

4 SECTION 177. 767.16 of the statutes is amended to read:

5 ✓ **767.16 Family Circuit court commissioner or law partner; when**  
6 **interested; procedure.** Neither a family circuit court commissioner assisting in  
7 matters affecting the family nor a partner may appear in any action affecting the  
8 family in any court held in the county in which the family circuit court commissioner  
9 is acting, except when authorized to appear by s. 767.14. In case the circuit court  
10 commissioner or a partner shall be in any way interested in such action, the  
11 presiding judge shall appoint some reputable attorney to perform the services  
12 enjoined upon such family the circuit court commissioner and ~~such~~. The appointed  
13 ~~attorney, so appointed,~~ shall take and file the oath and receive the compensation  
14 provided by law.

15 ✓ SECTION 178. 767.17 of the statutes is repealed.

16 SECTION 179. 767.23 (1) (intro.) of the statutes is amended to read:

17 767.23 (1) (intro.) Except as provided in ch. 822, in every action affecting the  
18 family, the court or ~~family~~ circuit court commissioner may, during the pendency  
19 thereof, make just and reasonable temporary orders concerning the following  
20 matters:

21 SECTION 180. 767.23 (1) (a) of the statutes is amended to read:

22 767.23 (1) (a) Upon request of one party, granting legal custody of the minor  
23 children to the parties jointly, to one party ~~solely~~ or to a relative or agency specified  
24 under s. 767.24 (3). The court or family circuit court commissioner may order joint  
25 legal custody without the agreement of the other party and without the findings

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## SECTION 180

1 required under s. 767.24 (2) (b) 2. This order may not have a binding effect on a final  
2 custody determination.

3 **SECTION 181.** 767.23 (1) (am) of the statutes is amended to read:

4 767.23 (1) (am) Upon the request of a party, granting periods of physical  
5 placement to a party. The court or family circuit court commissioner shall make a  
6 determination under this paragraph within 30 days after the request for a temporary  
7 order regarding periods of physical placement is filed.

8 **SECTION 182.** 767.23 (1m) of the statutes is amended to read:

9 ✓ 767.23 (1m) If a family circuit court commissioner believes that a temporary  
10 restraining order or injunction under s. 813.12 is appropriate in an action, the circuit  
11 court commissioner shall inform the parties of their right to seek the order or  
12 injunction and the procedure to follow. On a motion for such a restraining order or  
13 injunction, the family circuit court commissioner shall submit the motion to the court  
14 within 5 working days.

15 **SECTION 183.** 767.23 (1n) of the statutes is amended to read:

16 ✓ 767.23 (1n) Before making any temporary order under sub. (1), the court or  
17 family circuit court commissioner shall consider those factors which the court is  
18 required by this chapter to consider before entering a final judgment on the same  
19 subject matter. If the court or family circuit court commissioner makes a temporary  
20 child support order that deviates from the amount of support that would be required  
21 by using the percentage standard established by the department under s. 49.22 (9),  
22 the court or family circuit court commissioner shall comply with the requirements  
23 of s. 767.25 (1n). A temporary order under sub. (1) may be based upon the written  
24 stipulation of the parties, subject to the approval of the court or ~~the~~ family circuit

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→

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✓  
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3

1 court commissioner. Temporary orders made by the family a circuit court  
2 commissioner may be reviewed by the court as provided in s. 767.13 (6).  
3

SECTION 184. 767.25 (4m) (f) 2. of the statutes is amended to read:

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

14 SECTION 185. 767.265 (1) of the statutes, ~~as affected by 1997 Wisconsin Act 191,~~  
15 ~~section 411,~~ is amended to read:

16 767.265 (1) Each order for child support under this chapter, for maintenance  
17 payments under s. 767.23 or 767.26, for family support under this chapter, for costs  
18 ordered under s. 767.51 (3) or 767.62 (4) (a), for support by a spouse under s. 767.02  
19 (1) (f) or for maintenance payments under s. 767.02 (1) (g), each order for a revision  
20 in a judgment or order with respect to child support, maintenance or family support  
21 payments under s. 767.32, each stipulation approved by the court or the family a  
22 circuit court commissioner for child support under this chapter and each order for  
23 child or spousal support entered under s. 948.22 (7) constitutes an assignment of all  
24 commissions, earnings, salaries, wages, pension benefits, benefits under ch. 102 or  
25 108, lottery prizes that are payable in instalments and other money due or to be due

**ASSEMBLY BILL 380****SECTION 185**

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

7 **SECTION 186.** 767.265 (2h) of the statutes is amended to read:

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

24 **SECTION 187.** 767.265 (2r) of the statutes, as affected by 1997 Wisconsin Act  
25 191, section 414, is amended to read:



## ASSEMBLY BILL 380

1       767.265 (2r) Upon entry of each order for child support, maintenance, family  
2 support or support by a spouse and upon approval of each stipulation for child  
3 support, unless the court finds that income withholding is likely to cause the payer  
4 irreparable harm or unless s. 767.267 applies, the court, family circuit court  
5 commissioner or county child support agency under s. 59.53 (5) shall provide notice  
6 of the assignment by regular mail or by facsimile machine, as defined in s. 134.72 (1)  
7 (a), or other electronic means to the last-known address of the person from whom the  
8 payer receives or will receive money. The notice shall provide that the amount  
9 withheld may not exceed the maximum amount that is subject to garnishment under  
10 15 USC 1673 (b) (2). If the department or its designee, whichever is appropriate, does  
11 not receive the money from the person notified, the court, family circuit court  
12 commissioner or county child support agency under s. 59.53 (5) shall provide notice  
13 of the assignment to any other person from whom the payer receives or will receive  
14 money. Notice under this subsection may be a notice of the court, a copy of the  
15 executed assignment or a copy of that part of the court order directing payment.

16       **SECTION 188.** 767.267 (1) of the statutes, as affected by 1997 Wisconsin Act 27,  
17 is amended to read:

18       767.267 (1) If the court or the family circuit court commissioner determines  
19 that income withholding under s. 767.265 is inapplicable, ineffective or insufficient  
20 to ensure payment under an order or stipulation specified in s. 767.265 (1), or that  
21 income withholding under s. 767.25 (4m) (c) or 767.51 (3m) (c) is inapplicable,  
22 ineffective or insufficient to ensure payment of a child's health care expenses,  
23 including payment of health insurance premiums, ordered under s. 767.25 (4m) or  
24 767.51 (3m), the court or family circuit court commissioner may require the payer to  
25 identify or establish a deposit account, owned in whole or in part by the payer, that

## ASSEMBLY BILL 380

## SECTION 188

1 allows for periodic transfers of funds and to file with the financial institution at  
2 which the account is located an authorization for transfer from the account to the  
3 department or its designee, whichever is appropriate. The authorization shall be  
4 provided on a standard form approved by the court and shall specify the frequency  
5 and the amount of transfer, sufficient to meet the payer's obligation under the order  
6 or stipulation, as required by the court or family circuit court commissioner. The  
7 authorization shall include the payer's consent for the financial institution or an  
8 officer, employe or agent of the financial institution to disclose information to the  
9 court, family circuit court commissioner, county child support agency under s. 59.53  
10 (5), department or department's designee regarding the account for which the payer  
11 has executed the authorization for transfer.

Insert 68-11 → SECTION 189. 767.267 (5) of the statutes, as affected by 1997 Wisconsin Act 27

12 is amended to read:

13  
14 ✓ 767.267 (5) A financial institution or an officer, employe<sup>e</sup> or agent of a financial  
15 institution may disclose information to the court, family circuit court commissioner,  
16 county child support agency under s. 59.53 (5), department or department's designee  
17 concerning an account for which a payer has executed an authorization for transfer  
18 under sub. (1).

19 SECTION 190. 767.27 (2) of the statutes is amended to read:

20 ✓ 767.27 (2) Except as provided in sub. (2m), disclosure forms required under this  
21 section shall be filed within 90 days after the service of summons or the filing of a  
22 joint petition or at such other time as ordered by the court or family circuit court  
23 commissioner. Information contained on such forms shall be updated on the record  
24 to the date of hearing.

25 SECTION 191. 767.29 (title) of the statutes is amended to read:

## ASSEMBLY BILL 380

1 ✓ 767.29 (title) Maintenance, child support and family support  
2 payments, receipt and disbursement; family circuit court commissioner,  
3 fees and compensation.

4 SECTION 192. 767.29 (1) (c) of the statutes, ~~as~~ affected by 1997 Wisconsin Act

5 ~~Act~~ is amended to read:

6 ✓ 767.29 (1) (c) Except as provided in sub. (1m), the department or its designee  
7 shall disburse the money received under the judgment or order in the manner  
8 required by federal regulations and take receipts therefor, unless the department or  
9 its designee is unable to disburse the moneys because they were paid by check or  
10 other draft drawn upon an account containing insufficient funds. All moneys  
11 received or disbursed under this section shall be entered in a record kept by the  
12 department or its designee, whichever is appropriate, which shall be open to  
13 inspection by the parties to the action, their attorneys and the family circuit court  
14 commissioner.

15 SECTION 193. 767.29 (1) (d) (intro.) of the statutes, ~~as~~ created by 1997 Wisconsin

16 ~~Act~~ is amended to read:

17 767.29 (1) (d) (intro.) For receiving and disbursing maintenance, child support  
18 or family support payments, and for maintaining the records required under par. (c),  
19 the department or its designee shall collect an annual fee of \$25 to be paid by each  
20 party ordered to make payments. The court or family circuit court commissioner  
21 shall order each party ordered to make payments to pay the annual fee under this  
22 paragraph at the time of, and in addition to, the first payment to the department or  
23 its designee in each year for which payments are ordered. All fees collected under  
24 this paragraph shall be deposited in the appropriation account under s. 20.445 (3)  
25 (ja). At the time of ordering the payment of an annual fee under this paragraph, the

ASSEMBLY BILL 380

SECTION 193

1 ~~court or family circuit~~ court commissioner shall notify each party ordered to make  
 2 payments of the requirement to pay the annual fee and of the amount of the annual  
 3 fee. If the annual fee under this section is not paid when due, the department or its  
 4 designee may not deduct the annual fee from the maintenance or child or family  
 5 support payment, but may do any of the following:

6 ~~SECTION 194. 767.29 (1) (d) 2. of the statutes, as created by 1997 Wisconsin Act~~  
 7 ~~27, is amended to read:~~

8 ~~767.29 (1) (d) 2. Apply to the court or family a circuit~~ court commissioner for  
 an assignment relating to the annual fee in accordance with s. 767.265.

✓  
 Insert  
 70-9

10 → SECTION 195. 767.29 (1) (e) of the statutes, ~~as affected by 1997 Wisconsin Act~~

11 ~~1997~~ is amended to read:

12 ✓ 767.29 (1) (e) If the maintenance, child support or family support payments  
 13 adjudged or ordered to be paid are not paid to the department or its designee at the  
 14 time provided in the judgment or order, the county child support agency under s.  
 15 59.53 (5) or ~~the family a circuit~~ court commissioner of the county shall take such  
 16 proceedings as he or she considers advisable to secure the payment of the sum  
 17 including enforcement by contempt proceedings under ch. 785 or by other means.  
 18 Copies of any order issued to compel the payment shall be mailed to counsel who  
 19 represented each party when the maintenance, child support or family support  
 20 payments were awarded. In case any fees of officers in any of the proceedings,  
 21 including the compensation of the ~~family circuit~~ court commissioner at the rate of \$50  
 22 per day unless the commissioner is on a salaried basis, is not collected from the  
 23 person proceeded against, the fees shall be paid out of the county treasury upon the  
 24 order of the presiding judge and the certificate of the department.

25 SECTION 196. 767.29 (1m) (b) of the statutes is amended to read:

## ASSEMBLY BILL 380

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

5        **SECTION 197.** 767.29 (3) (a) of the statutes is amended to read:

6        ✓ 767.29 (3) (a) If maintenance payments or support money, or both, is ordered  
7 to be paid for the benefit of any person, who is committed by court order to an  
8 institution or is in confinement, or whose legal custody is vested by court order under  
9 ch. 48 or 938 in an agency, department or relative, the court or ~~family~~ a circuit court  
10 commissioner may order such maintenance payments or support money to be paid  
11 to the relative or agency, institution, welfare department or other entity having the  
12 legal or actual custody of said person, and to be used for the latter's care and  
13 maintenance, without the appointment of a guardian under ch. 880.

14        **SECTION 198.** 767.29 (3) (b) of the statutes is amended to read:

15        ✓ 767.29 (3) (b) If a child who is the beneficiary of support under a judgment or  
16 order is placed by court order in a child caring institution, juvenile correctional  
17 institution or state mental institution, the right of the child to support during the  
18 period of the child's confinement, including any right to unpaid support accruing  
19 during that period, is assigned to the state. If the judgment or order providing for  
20 the support of a child who is placed in a child caring institution, juvenile correctional  
21 institution or state mental institution includes support for one or more other  
22 children, the support that is assigned to the state shall be the proportionate share  
23 of the child placed in the institution, except as otherwise ordered by the court or  
24 ~~family~~ circuit court commissioner on the motion of a party.

25        **SECTION 199.** 767.293 (1) of the statutes is amended to read:

**ASSEMBLY BILL 380****SECTION 199**

1 ✓ 767.293 (1) If an order for child support under this chapter or s. 948.22 (7), an  
2 order for family support under this chapter or a stipulation approved by the court or  
3 the family circuit court commissioner for child support under this chapter requires  
4 a payer to pay child or family support in an amount that is expressed as a percentage  
5 of parental income, the payee, including the state or a county child support agency  
6 under s. 59.53 (5) if the state is a real party in interest under s. 767.075 (1), may  
7 establish an arrearage by filing an affidavit in the action in which the order for the  
8 payment of support was entered or the stipulation for support was approved. The  
9 affidavit shall state the amount of the arrearage and the facts supporting a  
10 reasonable basis on which the arrearage was determined and may state the payer's  
11 current income and the facts supporting a reasonable basis on which the payer's  
12 current income was determined. Not later than 60 days after filing the affidavit, the  
13 payee shall serve the affidavit on the payer in the manner provided in s. 801.11 (1)  
14 (a) or (b) or by sending the affidavit by registered or certified mail to the last-known  
15 address of the payer. After the payee files a proof of service on the payer, the court  
16 shall send a notice to the payer by regular, registered or certified mail to the payer's  
17 last-known address. The notice shall provide that, unless the payer requests a  
18 hearing to dispute the arrearage or the amount of the arrearage not later than 20  
19 days after the date of the notice, the court or family circuit court commissioner may  
20 enter an order against the payer in the amount stated in the affidavit and may  
21 provide notice of assignment under s. 767.265. The notice shall include the mailing  
22 address to which the request for hearing must be mailed or delivered in order to  
23 schedule a hearing under sub. (2).

24 **SECTION 200.** 767.293 (2) of the statutes is amended to read:

## ASSEMBLY BILL 380

1 ✓ 767.293 (2) If the payer makes a timely request for a hearing, the court or  
2 family circuit court commissioner shall hold a hearing on the issue of the amount of  
3 the arrearage, if any. If the court or family circuit court commissioner determines  
4 after hearing that an arrearage exists, the court or family circuit court commissioner  
5 shall enter an order establishing an arrearage in the amount determined by the court  
6 or family circuit court commissioner and may send notice of assignment under s.  
7 767.265.

8 SECTION 201. 767.293 (3) of the statutes is amended to read:

9 ✓ 767.293 (3) If the court or family circuit court commissioner sends the notice  
10 under sub. (1) and the payer fails to make a timely request for a hearing, the court  
11 or family circuit court commissioner, if the affidavit demonstrates to the satisfaction  
12 of the court or family circuit court commissioner that an arrearage exists, shall enter  
13 an order establishing an arrearage in the amount determined by the court or family  
14 circuit court commissioner and may send notice of assignment under s. 767.265. The  
15 court or family circuit court commissioner shall send the order to the payer's  
16 last-known address and shall inform the payer whether an assignment is in effect  
17 and that the payer may, within a 10-day period, by motion request a hearing on the  
18 issue of whether the order should be vacated or the assignment should be withdrawn.

19 SECTION 202. 767.32 (1) (a) of the statutes is amended to read:

20 ~~767.32 (1) (a) After a judgment or order providing for child support under this~~  
21 ~~chapter or s. 48.355 (2) (b) 4., 48.357 (5m), 48.363 (2), 938.183 (4), 938.355 (2) (b) 4.,~~  
22 ~~938.357 (5m), 938.363 (2) or 948.22 (7), maintenance payments under s. 767.26 or~~  
23 ~~family support payments under this chapter, or for the appointment of trustees~~  
24 ~~under s. 767.31, the court may, from time to time, on the petition, motion or order to~~  
25 ~~show cause of either of the parties, or upon the petition, motion or order to show cause~~

ASSEMBLY BILL 380

SECTION 202

1 of the department, a county department under s. 46.215, 46.22 or 46.23 or a county  
 2 child support agency under s. 59.53 (5) if an assignment has been made under s.  
 3 46.261, 48.57 (3m) (b) 2. or (3n) (b) 2., 49.19 (4) (h) or 49.45 (19) or if either party or  
 4 their minor children receive aid under s. 48.57 (3m) or (3n) or ch. 49, and upon notice  
 5 to the office of family court commissioner, revise and alter such judgment or order  
 6 respecting the amount of such maintenance or child support and the payment  
 7 thereof, and also respecting the appropriation and payment of the principal and  
 8 income of the property so held in trust, and may make any judgment or order  
 9 respecting any of the matters that such court might have made in the original action,  
 10 except that a judgment or order that waives maintenance payments for either party  
 11 shall not thereafter be revised or altered in that respect nor shall the provisions of  
 12 a judgment or order with respect to final division of property be subject to revision  
 13 or modification. A revision, under this section, of a judgment or order with respect  
 14 to an amount of child or family support may be made only upon a finding of a  
 15 substantial change in circumstances. In any action under this section to revise a  
 16 judgment or order with respect to maintenance payments, a substantial change in  
 17 the cost of living by either party or as measured by the federal bureau of labor  
 18 statistics may be sufficient to justify a revision of judgment or order with respect to  
 19 the amount of maintenance, except that a change in an obligor's cost of living is not  
 in itself sufficient if payments are expressed as a percentage of income.

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 21 20  
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SECTION 203. 767.327 (2) (c) of the statutes is amended to read:

22 ✓ 767.327 (2) (c) Upon receipt of a copy of a notice of objection under par. (a), the  
 23 court or family circuit court commissioner shall promptly refer the parents for  
 24 mediation or other family court counseling services under s. 767.11 and may appoint  
 25 a guardian ad litem. Unless the parents agree to extend the time period, if mediation



## ASSEMBLY BILL 380

1 or counseling services do not resolve the dispute within 30 days after referral, the  
2 matter shall proceed under subs. (3) to (5).

3 SECTION 204. 767.33 (2) of the statutes is amended to read:

4 ✓ 767.33 (2) An adjustment under sub. (1) may be made only if the party receiving  
5 payments applies to ~~the family~~ a circuit court commissioner for the adjustment. If  
6 the order specifies the date on which the annual adjustment becomes effective, the  
7 application to the ~~family~~ circuit court commissioner must be made at least 20 days  
8 before the effective date of the adjustment. The ~~family~~ circuit court commissioner,  
9 upon application by the party receiving payments, shall send a notice by certified  
10 mail to the last-known address of the obligor. The notice shall be postmarked no  
11 later than 10 days after the date on which the application was filed and shall inform  
12 the obligor that an adjustment in payments will become effective on the date  
13 specified in the order or, if no date is specified in the order, 10 days after the date on  
14 which the notice is sent. The obligor may, after receipt of notice and before the  
15 effective date of the adjustment, request a hearing on the issue of whether the  
16 adjustment should take effect, in which case the adjustment shall be held in  
17 abeyance pending the outcome of the hearing. The ~~family~~ circuit court commissioner  
18 shall hold a hearing requested under this subsection within 10 working days after  
19 the request. If at the hearing the obligor establishes that extraordinary  
20 circumstances beyond his or her control prevent fulfillment of the adjusted child  
21 support obligation, the ~~family~~ circuit court commissioner may direct that all or part  
22 of the adjustment not take effect until the obligor is able to fulfill the adjusted  
23 obligation. If at the hearing the obligor does not establish that extraordinary  
24 circumstances beyond his or her control prevent fulfillment of the adjusted  
25 obligation, the adjustment shall take effect as of the date it would have become

**ASSEMBLY BILL 380****SECTION 204**

1 effective had no hearing been requested. Either party may, within 15 working days  
2 of the date of the decision by the family circuit court commissioner under this  
3 subsection, seek review of the decision by the court with jurisdiction over the action.

4 **SECTION 205.** 767.37 (1) (a) of the statutes is amended to read:

5 ✓ 767.37 (1) (a) In any action affecting the family, if the court orders maintenance  
6 payments or other allowances for a party or children or retains jurisdiction in such  
7 matters, the written judgment shall include a provision that disobedience of the  
8 court order with respect to the same is punishable under ch. 785 by commitment to  
9 the county jail or house of correction until such judgment is complied with and the  
10 costs and expenses of the proceedings are paid or until the party committed is  
11 otherwise discharged, according to law. The written judgment in any action affecting  
12 the family shall include the social security numbers of the parties and of any child  
13 of the parties. The findings of fact and conclusions of law and the written judgment  
14 shall be drafted by the attorney for the moving party, and shall be submitted to the  
15 court and filed with the clerk of the court within 30 days after judgment is granted;  
16 but if the respondent has been represented by counsel, the findings, conclusions and  
17 judgment shall first be submitted to respondent's counsel for approval and if the  
18 family circuit court commissioner has appeared at the trial of the action, such papers  
19 shall also be sent to the family circuit court commissioner for approval. After any  
20 necessary approvals are obtained, the findings of fact, conclusions of law and  
21 judgment shall be submitted to the court. Final stipulations of the parties may be  
22 appended to the judgment and incorporated by reference therein.

23 **SECTION 206.** 767.37 (2) of the statutes is amended to read:

24 ✓ 767.37 (2) So far as a judgment of divorce affects the marital status of the  
25 parties the court has the power to vacate or modify the judgment for sufficient cause

## ASSEMBLY BILL 380

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

21 **SECTION 207.** 767.45 (5) (b) of the statutes is amended to read:

22 ✓ 767.45 (5) (b) An action under this section may be joined with any other action  
23 for child support and shall be governed by the procedures specified in s. 767.05  
24 relating to child support, except that the title of the action shall be “In re the  
25 paternity of A.B.” The petition shall state the name and date of birth of the child if

**ASSEMBLY BILL 380**

**SECTION 207**

1 born or that the mother is pregnant if the child is unborn, the name of any alleged  
 2 father, whether or not an action by any of the parties to determine the paternity of  
 3 the child or rebut the presumption of paternity to the child has at any time been  
 4 commenced, or is pending before any judge or circuit court commissioner, in this state  
 5 or elsewhere. If a paternity judgment has been rendered, or if a paternity action has  
 6 been dismissed, the petition shall state the court which rendered the judgment or  
 7 dismissed the action, and the date and the place the judgment was granted if known.  
 8 The petition shall also give notice of a party's right to request a genetic test under  
 9 s. 49.225 or 767.48.

10 **SECTION 208.** 767.455 (5) ~~of the statutes is amended to read:~~ (form) keep

11 ✓ 767.455 (5) (form) ~~FORM~~ The summons shall be in substantially the following form:

12 STATE OF WISCONSIN,

CIRCUIT COURT: ....COUNTY

14 In re the Paternity of A. B.

15 STATE OF WISCONSIN

16 and

17 C. D.

18 Address

19 City, State Zip Code

File No. ...

20 , Petitioners

21 vs.

S U M M O N S

22 E. F.

23 Address

.... (Case Classification Type):

.... (Code No.)

24 City, State Zip Code

25 , Respondent

ASSEMBLY BILL 380

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THE STATE OF WISCONSIN, To the Respondent:

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

Date: .....

Time: .....

Room: .....

Judge or Family Circuit Court Commissioner: .....

Address: .....

If you do not appear, the court will enter a default judgment finding you to be the father. A default judgment will take effect 30 days after it is served on or mailed to you, unless within those 30 days you present to the court evidence of good cause for failure to appear. If you plan to be represented by an attorney, you should contact the attorney prior to the court appearance listed above. If you are unable to afford an attorney, the court will appoint one for you only upon the blood tests showing that you are not excluded as the father and the probability of your being the father is less than 99.0%. Appearance is not required if you complete the attached waiver of first appearance statement and send it to the court at least 10 days prior to the date of your scheduled appearance in this summons.

Dated: ....., .... (year)

Signed:..... ..

G. H., Clerk of Circuit Court

or  
Petitioner's Attorney

*LPS. align under Clerk*

## ASSEMBLY BILL 380

## SECTION 208

1 State Bar No.: ....

2 Address: ....

3 City, State Zip Code: ....

4 Phone No.: ....

5 **SECTION 209.** 767.458 (1m) of the statutes is amended to read:

6 ✓ 767.458 (1m) In an action to establish the paternity of a child who was born  
7 to a woman while she was married, where a man other than the woman's husband  
8 alleges that he, not the husband, is the child's father, a party may allege that a  
9 judicial determination that a man other than the husband is the father is not in the  
10 best interest of the child. If the court or a circuit or supplemental court commissioner  
11 under s. ~~757.69 (3)~~ 757.675 (2) (g) determines that a judicial determination of  
12 whether a man other than the husband is the father is not in the best interest of the  
13 child, no genetic tests may be ordered and the action shall be dismissed.

14 **SECTION 210.** 767.46 (1) of the statutes is amended to read:

15 ✓ 767.46 (1) A pretrial hearing shall be held before the court or a circuit or  
16 supplemental court commissioner under s. ~~757.69 (3)~~ 757.675 (2) (g). A record or  
17 minutes of the proceeding shall be kept. At the pretrial hearing the parties may  
18 present and cross-examine witnesses, request genetic tests and present other  
19 evidence relevant to the determination of paternity.

20 **SECTION 211.** 767.463 of the statutes is amended to read:

21 ✓ **767.463 Dismissal if adjudication not in child's best interest.** Except as  
22 provided in s. 767.458 (1m), at any time in an action to establish the paternity of a  
23 child, upon the motion of a party or guardian ad litem, the court or circuit or  
24 supplemental court commissioner under s. ~~757.69 (3)~~ 757.675 (2) (g) may, with  
25 respect to a man, refuse to order genetic tests, if genetic tests have not yet been taken,

## ASSEMBLY BILL 380

1 and dismiss the action if the court or circuit or supplemental court commissioner  
2 determines that a judicial determination of whether the man is the father of the child  
3 is not in the best interest of the child.

4 SECTION 212. 767.465 (2) (a) of the statutes is amended to read:

5 ✓ 767.465 (2) (a) Except as provided in sub. (2m), if a respondent is the alleged  
6 father and fails to appear at the first appearance, unless the first appearance is not  
7 required under s. 767.457 (2), scheduled court-ordered genetic test, pretrial hearing  
8 or trial, the court shall enter an order adjudicating the respondent to be the father  
9 and appropriate orders for support, legal custody and physical placement. The  
10 orders shall be either served on the respondent or mailed by regular, registered or  
11 certified mail, to the last-known address of the respondent. The orders shall take  
12 effect 30 days after service or 30 days after the date on which the orders were mailed  
13 unless, within that time, the respondent presents to the court or a circuit or  
14 supplemental court commissioner under s. 757.69 (3) (g) ✓ 757.675 (2) (g) ✓ evidence of  
15 good cause for failure to appear or failure to have undergone a court-ordered genetic  
16 test.

17 SECTION 213. 767.51 (3m) (f) 2. of the statutes is amended to read:

18 ~~767.51 (3m) (f) 2. The notice provided to the parent shall inform the parent that~~  
19 ~~coverage for the child under the new employer's health benefit plan will be in effect~~  
20 ~~upon the employer's receipt of the notice. The notice shall inform the parent that he~~  
21 ~~or she may, within 10 business days after receiving the notice, by motion request a~~  
22 ~~hearing before the court on the issue of whether the order to provide coverage of the~~  
23 ~~child's health care expenses should remain in effect. A motion under this subdivision~~  
24 ~~may be heard by a family circuit court commissioner. If the parent requests a hearing~~  
25 ~~and the court or family circuit court commissioner determines that the order to~~

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## SECTION 213

1 provide coverage of the child's health-care expenses should not remain in effect, the  
2 court shall provide notice to the employer that the order is no longer in effect.

3 SECTION 214. 767.62 (2) (b) of the statutes is amended to read:

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

9 SECTION 215. 767.62 (3) (b) of the statutes is amended to read:

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

14 SECTION 216. 767.62 (4) (a) of the statutes is amended to read:

15 767.62 (4) (a) In an action under sub. (3) (a), if the persons who signed and filed  
16 the statement acknowledging paternity as parents of the child had notice of the  
17 hearing, the court or family a circuit court commissioner may make an order that  
18 contains any provision directed against the appropriate party to the proceeding  
19 concerning the duty of support, the legal custody or guardianship of the child, periods  
20 of physical placement, the furnishing of bond or other security for the payment of  
21 amounts under the order or any other matter in the best interest of the child. Unless  
22 the court orders otherwise, if there is no presumption of paternity under s. 891.41  
23 (1) the mother shall have sole legal custody of the child. The court or family circuit  
24 court commissioner shall order either party or both to pay for the support of any child  
25 of the parties who is less than 18 years old, or any child of the parties who is less than



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1 19 years old if the child is pursuing an accredited course of instruction leading to the  
2 acquisition of a high school diploma or its equivalent. The order may direct the father  
3 to pay or contribute to the reasonable expenses of the mother's pregnancy and  
4 confinement during pregnancy and may direct either party to pay or contribute to  
5 the costs of attorney fees or other costs.

6 **SECTION 217.** 767.62 (4) (b) 2. of the statutes is amended to read:

7 767.62 (4) (b) 2. In addition to ordering child support for a child under par. (a),  
8 the court or family circuit court commissioner shall specifically assign responsibility  
9 for and direct the manner of payment of the child's health care expenses. In  
10 assigning responsibility for a child's health care expenses, the court or family circuit  
11 court commissioner shall consider whether a child is covered under a parent's health  
12 insurance policy or plan at the time the court enters an order under this paragraph,  
13 the availability of health insurance to each parent through an employer or other  
14 organization, the extent of coverage available to a child and the costs to the parent  
15 for the coverage of the child. A parent may be required to initiate or continue health  
16 care insurance coverage for a child under this subdivision. If a parent is required to  
17 do so, he or she shall provide copies of necessary program or policy identification to  
18 the other parent and is liable for any health care costs for which he or she receives  
19 direct payment from an insurer. This paragraph may not be construed to limit the  
20 authority of the court or family circuit court commissioner to enter or modify support  
21 orders containing provisions for payment of medical expenses, medical costs, or  
22 insurance premiums that are in addition to and not inconsistent with this  
23 paragraph.

24 **SECTION 218.** 767.62 (4) (b) 3. a. of the statutes, as affected by 1997 Wisconsin  
25 Act 191, section 489, is amended to read:

1           767.62 (4) (b) 3. a. In directing the manner of payment of a child's health care  
2 expenses, the court or family circuit court commissioner may order that payment,  
3 including payment for health insurance premiums, be withheld from income and  
4 sent to the appropriate health care insurer, provider or plan, as provided in s. 767.265  
5 (3h), or sent to the department or its designee, whichever is appropriate, for  
6 disbursement to the person for whom the payment has been awarded if that person  
7 is not a health care insurer, provider or plan. If the court or family circuit court  
8 commissioner orders income withholding and assignment for the payment of health  
9 care expenses, the court or family circuit court commissioner shall send notice of  
10 assignment in the manner provided under s. 767.265 (2r) and may include that notice  
11 of assignment with a notice of assignment under s. 767.265. The department or its  
12 designee, whichever is appropriate, shall keep a record of all moneys received and  
13 disbursed by the department or its designee for health care expenses that are  
14 directed to be paid to the department or its designee.

15           **SECTION 219.** 767.62 (4) (b) 3. b. of the statutes is amended to read:

16           767.62 (4) (b) 3. b. If the court or family circuit court commissioner orders a  
17 parent to initiate or continue health insurance coverage for a child under a health  
18 insurance policy that is available to the parent through an employer or other  
19 organization but the court or family circuit court commissioner does not specify the  
20 manner in which payment of the health insurance premiums shall be made, the clerk  
21 of court may provide notice of assignment in the manner provided under s. 767.265  
22 (2r) for the withholding from income of the amount necessary to pay the health  
23 insurance premiums. That notice of assignment may be sent with or included as part  
24 of any other notice of assignment under s. 767.265, if appropriate. A person who  
25 receives the notice of assignment shall send the withheld health insurance

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1 premiums to the appropriate health care insurer, provider or plan, as provided in s.  
2 767.265 (3h).

3 **SECTION 220.** 767.62 (4) (b) 4. (intro.) of the statutes is amended to read:

4 767.62 (4) (b) 4. (intro.) If the court or family circuit court commissioner orders  
5 a parent to provide coverage of the health care expenses of the parent's child and the  
6 parent is eligible for family coverage of health care expenses under a health benefit  
7 plan that is provided by an employer on an insured or on a self-insured basis, the  
8 employer shall do all of the following:

9 **SECTION 221.** 767.62 (4) (b) 4. c. of the statutes is amended to read:

10 767.62 (4) (b) 4. c. After the child has coverage under the employer's health  
11 benefit plan, and as long as the parent is eligible for family coverage under the  
12 employer's health benefit plan, continue to provide coverage for the child unless the  
13 employer receives satisfactory written evidence that the order of the court or family  
14 circuit court commissioner is no longer in effect or that the child has coverage of  
15 health care expenses under another health insurance policy or health benefit plan  
16 that provides comparable coverage of health care expenses.

17 **SECTION 222.** 767.62 (4) (b) 5. a. of the statutes is amended to read:

18 767.62 (4) (b) 5. a. If a parent who has been ordered by a court or family circuit  
19 court commissioner to provide coverage of the health care expenses of a child who is  
20 eligible for medical assistance under subch. IV of ch. 49 receives payment from a 3rd  
21 party for the cost of services provided to the child but does not pay the health care  
22 provider for the services or reimburse the department or any other person who paid  
23 for the services on behalf of the child, the department may obtain a judgment against  
24 the parent for the amount of the 3rd party payment.

25 **SECTION 223.** 767.62 (4) (b) 6. b. of the statutes is amended to read:

1 767.62 (4) (b) 6. b. The notice provided to the parent shall inform the parent  
2 that coverage for the child under the new employer's health benefit plan will be in  
3 effect upon the employer's receipt of the notice. The notice shall inform the parent  
4 that he or she may, within 10 business days after receiving the notice, by motion  
5 request a hearing before the court on the issue of whether the order to provide  
6 coverage of the child's health care expenses should remain in effect. A motion under  
7 this subd. 6. b. may be heard by a family circuit court commissioner. If the parent  
8 requests a hearing and the court or family circuit court commissioner determines  
9 that the order to provide coverage of the child's health care expenses should not  
10 remain in effect, the court shall provide notice to the employer that the order is no  
11 longer in effect.

12 **SECTION 224.** 767.62 (4) (d) 1. of the statutes is amended to read:

13 767.62 (4) (d) 1. Except as provided in par. (e), the court or family circuit court  
14 commissioner shall determine child support payments under par. (a) by using the  
15 percentage standard established by the department under s. 49.22 (9).

16 **SECTION 225.** 767.62 (4) (d) 2. of the statutes is amended to read:

17 767.62 (4) (d) 2. In determining child support payments under par. (a), the  
18 court or family circuit court commissioner may consider all relevant financial  
19 information or other information relevant to the parent's earning capacity, including  
20 information reported under s. 49.22 (2m) to the department or the county child  
21 support agency under s. 59.53 (5).

22 **SECTION 226.** 767.62 (4) (e) (intro.) of the statutes is amended to read:

23 767.62 (4) (e) (intro.) Upon request by a party, the court or family circuit court  
24 commissioner may modify the amount of child support payments determined under  
25 par. (d) if, after considering the following factors, the court or family circuit court

**ASSEMBLY BILL 380**

1 commissioner finds by the greater weight of the credible evidence that use of the  
2 percentage standard is unfair to the child or to the requesting party:

3 **SECTION 227.** 767.62 (4) (e) 14. of the statutes is amended to read:

4 767.62 (4) (e) 14. Any other factors that the court or family circuit court  
5 commissioner in each case determines are relevant to the best interests of the child.

6 **SECTION 228.** 767.62 (4) (f) of the statutes is amended to read:

7 767.62 (4) (f) If the court or family circuit court commissioner finds under par  
8 (e) that use of the percentage standard is unfair to the child or the requesting party,  
9 the court or family circuit court commissioner shall state in writing or on the record  
10 the amount of support that would be required by using the percentage standard, the  
11 amount by which the court's or family circuit court commissioner's order deviates  
12 from that amount, the reasons for finding that use of the percentage standard is  
13 unfair to the child or the party, the reasons for the amount of the modification and  
14 the basis for the modification.

15 **SECTION 229.** 769.102 of the statutes is amended to read:

16 ✓ **769.102 Tribunal of this state.** The courts and circuit and supplemental  
17 court commissioners are the tribunal of this state.

18 **SECTION 230.** 769.302 of the statutes is amended to read:

19 ✓ **769.302 Action by minor parent.** A minor parent, or a guardian or other  
20 legal representative of a minor parent, may maintain a proceeding on behalf of or for  
21 the benefit of the minor's child. Notwithstanding s. 767.045 (1) or 803.01 (3), the  
22 court may appoint a guardian ad litem for the minor's child, but the court need not  
23 appoint a guardian ad litem for a minor parent who maintains such a proceeding  
24 unless the proceeding is one for the determination of parentage, in which case the  
25 court or a family circuit court commissioner shall appoint a guardian ad litem for a

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## ASSEMBLY BILL 380

## SECTION 230

1 minor parent within this state who maintains such a proceeding or for a minor within  
2 this state who is alleged to be a parent, as provided in s. 767.475 (1).

3 **SECTION 231.** 782.01 (3) of the statutes is amended to read:

4 ✓ 782.01 (3) In this chapter, unless the context requires otherwise, judge includes  
5 the supreme court, the court of appeals and circuit courts and each justice and judge  
6 thereof and circuit and supplemental court commissioners; and prisoner includes  
7 every person restrained of personal liberty; and imprisoned includes every such  
8 restraint, and respondent means the person on whom the writ is to be served.

9 **SECTION 232.** 782.03 of the statutes is amended to read:

10 ✓ 782.03 **Petition for writ.** Application for the writ shall be by petition, signed  
11 either by the prisoner or by some person in his or her behalf, and may be made to the  
12 supreme court, the court of appeals or the circuit court of the county, or to any justice  
13 or judge of the supreme court, court of appeals or circuit court or to any circuit or  
14 supplemental court commissioner, within the county where the prisoner is detained;  
15 or if there is no judge within the county, or for any cause he or she is incapable of  
16 acting, or has refused to grant the writ, then to some judge residing in an adjoining  
17 county; but every application, made by or on behalf of a person sentenced to the state  
18 prisons, must contain a copy of any motion made under s. 974.06 and shall indicate  
19 the disposition of the motion and the court in which the disposition was made. If no  
20 motion was made, the petition shall so state.

21 **SECTION 233.** 782.28 of the statutes is amended to read:

22 ✓ 782.28 ~~(title)~~ **Transfer from circuit court commissioner.** If the writ is  
23 returnable before a circuit court commissioner, either party may make a request for  
24 transfer to the court in which the matter is filed. Upon receipt of such request the

## ASSEMBLY BILL 380

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

3 SECTION 234. 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 235. 799.05 (7) (intro.) of the statutes is amended to read:

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

12 SECTION 236. 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 237. 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 238. 799.20 (4) of the statutes is amended to read:

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 239.** 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)~~ <sup>(5m)</sup>, all actions and proceedings  
12 commenced under this chapter shall be returnable before a circuit court  
13 commissioner appointed under s. 757.68 <sup>(1)</sup> and SCR <sup>(1)</sup> 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 240.** 799.207 (title) of the statutes is amended to read:

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

22        **SECTION 241.** 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.



1           **SECTION 242.** 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 243.** 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 244.** 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 245.** 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 246.** 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

## ASSEMBLY BILL 380

## SECTION 246

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 247. 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 248. 799.21 (4) of the statutes is amended to read:

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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 249. 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 250. 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 251. 799.26 (1) of the statutes is amended to read:

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## SECTION 251

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 252.** 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 253.** 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 254.** 807.04 (1) of the statutes, ~~as affected by 1997 Wisconsin Act 134~~  
4 is amended to read:

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

10 **SECTION 255.** 807.09 (1) of the statutes is amended to read:

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

17 **SECTION 256.** 812.30 (2) of the statutes is amended to read:

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

20 **SECTION 257.** 813.025 (1) of the statutes is amended to read:

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

## ASSEMBLY BILL 380

## SECTION 258

1           **SECTION 258.** 813.12 (2) (a) of the statutes is amended to read:

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

14           **SECTION 259.** 813.12 (2) (b) of the statutes is amended to read:

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

24           **SECTION 260.** 813.12 (3) (a) of the statutes is amended to read:

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1 ✓ 813.12 (3) (a) A judge or family circuit court commissioner shall issue a  
2 temporary restraining order ordering the respondent to refrain from committing acts  
3 of domestic abuse against the petitioner, to avoid the petitioner's residence, except  
4 as provided in par. (am), or any premises temporarily occupied by the petitioner or  
5 both, or to avoid contacting or causing any person other than a party's attorney to  
6 contact the petitioner unless the petitioner consents in writing, or any combination  
7 of these remedies requested in the petition, if all of the following occur:

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

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

19 **SECTION 261.** 813.12 (3) (am) of the statutes is amended to read:

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

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1 petitioner relocates and shall order the respondent to avoid the new residence for the  
2 duration of the order.

3 **SECTION 262.** 813.12 (3) (c) of the statutes is amended to read:

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

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

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

19 **SECTION 264.** 813.12 (4) (a) (intro.) of the statutes is amended to read:

20 ✓ 813.12 (4) (a) (intro.) A judge or ~~family~~ circuit court commissioner may grant  
21 an injunction ordering the respondent to refrain from committing acts of domestic  
22 abuse against the petitioner, to avoid the petitioner's residence, except as provided  
23 in par. (am), or any premises temporarily occupied by the petitioner or both, or to  
24 avoid contacting or causing any person other than a party's attorney to contact the



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1 petitioner unless the petitioner consents to that contact in writing, or any  
2 combination of these remedies requested in the petition, if all of the following occur:

3 **SECTION 265.** 813.12 (4) (a) 3. of the statutes is amended to read:

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

13 **SECTION 266.** 813.12 (4) (am) of the statutes is amended to read:

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

21 **SECTION 267.** 813.12 (4) (b) of the statutes is amended to read:

22 ✓ 813.12 (4) (b) The judge or family circuit court commissioner may enter an  
23 injunction only against the respondent named in the petition. No injunction may be  
24 issued under this subsection under the same case number against the person  
25 petitioning for the injunction. The judge or family circuit court commissioner may

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1 not modify an order restraining the respondent based solely on the request of the  
2 respondent.

3 **SECTION 268.** 813.12 (4m) (a) 2. of the statutes is amended to read:

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

16 **SECTION 269.** 813.12 (4m) (b) (intro.) of the statutes is amended to read:

17 ✓ 813.12 (4m) (b) (intro.) A firearm surrendered under par. (a) 2. may not be  
18 returned to the respondent until a judge or ~~family~~ circuit court commissioner  
19 determines all of the following:

20 **SECTION 270.** 813.12 (4m) (b) 2. of the statutes is amended to read:

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

25 **SECTION 271.** 813.12 (5) (c) of the statutes is amended to read: