

2003 DRAFTING REQUEST

Assembly Amendment (AA-AB250)

Received: 07/25/2003

Received By: **pkahler**

Wanted: **Soon**

Identical to LRB:

For: **Terry Musser (608) 266-7461**

By/Representing: **Kathie Kolka**

This file may be shown to any legislator: **NO**

Drafter: **pkahler**

May Contact:

Addl. Drafters:

Subject: **Dom. Rel. - child support**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Musser@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Authorizing the court to reduce support amount and stop interest accrual for low-income payer

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 07/29/2003	csicilia 07/30/2003		_____			
/P1			rschluet 07/30/2003	_____	mbarman 07/30/2003		
/1	pkahler	csicilia	pgreensl	_____	mbarman	mbarman	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	08/06/2003	08/06/2003	08/06/2003 _____		08/06/2003	08/06/2003	

FE Sent For:

<END>

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/?	pkahler 07/29/2003	csicilia 07/30/2003					
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/P1			rschluet 07/30/2003		mbarman 07/30/2003		
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11 vs 8/6
03





FE Sent For:

<END>

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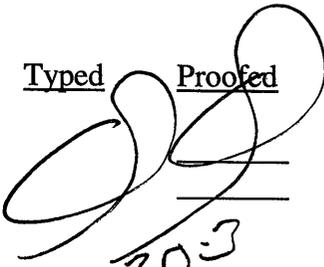
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1?	pkahler	Pl ijs 7/29 03					

7-30-03

FE Sent For:

<END>

Kahler, Pam

From: Jan Raz [jraz@wi.rr.com]
Sent: Tuesday, July 22, 2003 6:22 PM
To: Sen.George; Rep.Musser
Cc: Schwartz, Aaron; Matzen, David; Sen.Zien; Rep.Kestell; Hogan, John
Subject: amendment to SB250/SB156

In light of the interest at today's hearing on helping low income child support payers, can you please ask the LRB to draft an amendment to AB250/SB156 before the August 7th hearing that establishes a new Wis. Stat section 767.25(1p) which reads:

- a. If the court finds both of the following:
 - 1) a parent has an obligation to pay child support and/or arrears that the parent has no ability to reasonably comply or which exceeds the limits set in 15 U.S.C. section 1673 ***
 - 2) that parent has made a reasonable effort to maximize his or her earning potential,

the court shall issue a temporary order that:

- 1. establishes a reasonable payment plan for that parent, based on that parent's ability to pay.
- 2. conditional on full compliance with this payment plan, stops the accrual of new interest charges on the arrearage, and/or reduces the amount of the future child support order from the amount defined 767.251.

b. The court shall review the criteria for and compliance with the temporary order, established under subsection(a), not less than once every two years.

Jan Raz
10120 W Forest Home Ave.
Hales Corners, WI 53130
414 425-4866 fax 414 425-8405
e-mail; jraz@wi.rr.com

NOTE:

*** 15 U.S.C. section 1673 Restriction on garnishment

(b)(2) The maximum part of the aggregate disposable earnings of an individual for any workweek which is subject to garnishment to enforce any order for the support of any person shall not exceed -

(A) where such individual is supporting his spouse or dependent child (other than a spouse or child with respect to whose support such order is used), 50 per centum of such individual's disposable earnings for that week; and

(B) where such individual is not supporting such a spouse or dependent child described in clause (A), 60 per centum of such individual's disposable earnings for that week; except that, with respect to the disposable earnings of any individual for any workweek, the 50 per centum specified in clause (A) shall be deemed to be 55 per centum and the 60 per centum specified in clause (B) shall be deemed to be 65 per centum, if and to the extent that such earnings are subject to garnishment to enforce a support order with respect to a period which is prior to the twelve-week period which ends with the beginning of such workweek.

(c) No court of the United States or any State, and no State (or officer or agency thereof), may make, execute, or enforce any order or process in violation of this section.

767.265(2r)

Kahler, Pam

From: Musser, Terry
Sent: Wednesday, July 23, 2003 10:32 AM
To: Kahler, Pam
Subject: Draft Request -- Amendment to AB 250

Hi, Pam ...

Attached is a request for an amendment to AB 250, child support.

Does it contain enough information to draft it?

Can it be done before the next hearing on AB 250 ... Thursday, August 7th?

Thanks very much,

Kathie @ Rep Musser's Office
6-7461
rep.musser@legis.state.wi.us



amendment to
SB250/SB156

Kahler, Pam

From: Kahler, Pam
Sent: Friday, July 25, 2003 11:09 AM
To: 'Jan Raz'
Cc: Musser, Terry
Subject: RE: questions about draft request for amendment to AB

I'm not sure how to answer your question. The new provision will look something like that but it will not be located there, although s. 767.25 (6) will be affected or cross-referenced.

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

From: Jan Raz [mailto:jraz@wi.rr.com]
Sent: Friday, July 25, 2003 11:04 AM
To: Kahler, Pam
Cc: Musser, Terry
Subject: RE: questions about draft request for amendment to AB 250

At this time, please proceed with only the arrears portion.

Does the following achieve this?

MODIFY 767.25(6)(a)Except as provided in sub. (b),

CREATE (b) If the court finds that a payer has an obligation to pay child support as defined under 767.251 and/or arrears that the payer has no ability to reasonably comply with, and that payer has made a reasonable effort to maximize his or her earning potential, the court may waive the future interest on arrears and reduce the amount of future child support defined under 767.251, as long as the payer stays in full compliance with the court's order for future support and a minimum installment payment of arrears established under 767.30(1) or 767.265(1) .

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

From: Kahler, Pam [mailto:Pam.Kahler@legis.state.wi.us]
Sent: Friday, July 25, 2003 10:01 AM
To: 'Jan Raz'
Cc: Musser, Terry
Subject: RE: questions about draft request for amendment to AB 250

Yes, I think this information gives me enough to go on. I think the provision works for arrears, but I don't think it is needed if there are no arrears. If there are arrears, authorizing the court to stop the accrual of interest and to reduce the amount of current support is new, but authorizing the court to reduce support when there are no arrears and the payer does not have the ability to pay the amount under s. 767.251 is already taken care of in current law (which is not changed in the bill) under s. 767.25 (1m) (b), (bp), and (hs). Shall I limit this to arrears?

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

From: Jan Raz [mailto:jraz@wi.rr.com]
Sent: Friday, July 25, 2003 9:01 AM
To: Kahler, Pam
Cc: Musser, Terry
Subject: RE: questions about draft request for amendment to AB 250

The intent is that the court should look at the total of current child support defined under

07/25/2003

767.251 and total arrears or minimum installment payment of arrears(per week, bi-weekly, or per month) . (I presume this would be established under under 767.30(1) or 767.265(1))

These provisions could apply where there are no arrears, if the payer has no job or be a very low income parent and unable to pay the amount defined under 767.251 which may be based on an imputed income rather than actual income. In this case this provision would allow the court to reduce the current child support amount based on the payer's ability to pay the amount.

Since "or which exceeds the limits set in 15 U.S.C. section 1673" appears to add a lot of confusion, let's delete this.

Do the below listed changes clarify this adequately?

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

From: Kahler, Pam [mailto:Pam.Kahler@legis.state.wi.us]
Sent: Thursday, July 24, 2003 3:12 PM
To: 'Jan Raz'
Cc: Musser, Terry
Subject: RE: questions about draft request for amendment to AB 250

If the new provision is supposed to apply only with respect to a payer who is in arrears, it would make sense, I think, to put it in s. 767.30. I'm still unclear, however, about what exactly the parent can't comply with or exceeds the limits in the fed. stat. Is it the amount of support ordered in accordance with s. 767.251?

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

From: Jan Raz [mailto:jraz@wi.rr.com]
Sent: Thursday, July 24, 2003 2:03 PM
To: Kahler, Pam
Cc: Musser, Terry
Subject: RE: questions about draft request for amendment to AB 250

You raise some interesting questions. Would the following be a better way and place to deal with this?

Jan Raz
10120 W Forest Home Ave.
Hales Corners, WI 53130
414 425-4866 fax 414 425-8405
e-mail; jraz@wi.rr.com

MODIFY 767.25(6)(a)Except as provided in sub. (b),

CREATE (b)If the court finds that a payer has an obligation to pay child support defined under 767.251 and/or arrears that the payer has no ability to reasonably comply with, and that payer has made a reasonable effort to maximize his or her earning potential, the court may waive the future interest on arrears, as long as the payer stays in full compliance with the court's order for current support and a minimum installment payment of arrears established under 767.30(1) or 767.265(1) .

MODIFY 767.25(1j) Except as provided in sub. (1m) or (1p).....

CREATE (1p) If the court finds that a payer has an obligation to pay child support defined under 767.251, and/or arrears that the payer has no ability to reasonably comply with, and that payer has made a reasonable effort to maximize his or her earning potential, the court may order a child support order which is less than the amount defined under 767.251, as long as the payer stays in full compliance with the court's order for for current support and a minimum installment payment of arrears established under 767.30(1) or 767.265(1) , if applicable.

MODIFY 767.32(2) Except as provided in sub. (2m), (2r) or (2x).....

CREATE (2x) If the court finds that a payer has an obligation to pay child support defined under 767.251 and/or arrears that the payer has no ability to reasonably comply with, and that payer has made a reasonable effort to maximize his or her earning potential, the court may order a child support order which is less than the amount defined 767.251, as long as the payer stays in full compliance with the court's order for current support and the minimum installment payment of arrears established under 767.30(1) or 767.265(1) , if applicable.

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

From: Kahler, Pam [mailto:Pam.Kahler@legis.state.wi.us]

Sent: Thursday, July 24, 2003 11:17 AM

To: 'Jan Raz'

Cc: Musser, Terry

Subject: RE: questions about draft request for amendment to AB 250

1. I can't decide on the most appropriate location for the provision because I'm not sure what's going on. Has the payee brought the matter before the court to determine that an arrearage exists? Has the payer brought the matter before the court to modify the child support order? A different reason?
2. (resolved)
3. No, my question is *what* exceeds the limits. Is it the monthly amount under the original child support order? Is it the monthly amount that the court would order to cover the arrearage in addition to the amount of current support? (See s. 767.265 (1) - current support plus arrears in an amount that is up to 50% of the current support amount, as long as it doesn't put the payer under the poverty line) Something else?
4. From your response, it sounds as though you may want to amend s. 767.265 (1), which sets out, as noted above, the amount the court is supposed to order to cover arrears, along with current support.
5. By "conditional on full compliance" I didn't know if you meant that the interest not accruing and the modification in the amount of support would apply only after all arrears had been paid off or on an ongoing basis *while* the arrears were being paid off. It sounds like you mean the latter.

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

From: Jan Raz [mailto:jraz@wi.rr.com]

Sent: Thursday, July 24, 2003 10:24 AM

To: pam.kahler@legis.state.wi.us

Cc: terry musser

Subject: RE: questions about draft request for amendment to AB

07/25/2003

250

See response below.

Jan Raz
10120 W Forest Home Ave.
Hales Corners, WI 53130
414 425-4866 fax 414 425-8405
e-mail; jraz@wi.rr.com

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

From: Musser, Terry [<mailto:Terry.Musser@legis.state.wi.us>]
Sent: Thursday, July 24, 2003 9:02 AM
To: 'Jan Raz, Fathers'
Subject: FW: questions about draft request for amendment to AB 250

Hi, Jan ... would you mind answer these questions from Pam, the LRB drafter? It's OK to send directly to her at pam.kahler@legis.state.wi.us and cc to Terry, OK?

Thanks,

Kathie

> From: Kahler, Pam
> Sent: Wednesday, July 23, 2003 5:12:33 PM
> To: Musser, Terry
> Subject: RE: Draft Request -- Amendment to AB 250
> Auto forwarded by a Rule
>
> Kathie:
>
> I do have a number of questions about this proposal:

> 1. I don't understand the context in which the court is making the finding. According to the placement in s. 767.25, it should be for the final support order, but it appears to be for a determination that there is an arrearage in the amount of support that already has been ordered. It shouldn't apply to a final support order because presumably the court would reduce the amount from the amount under the statute on the basis of consideration of factors in current law.

Would modification of an existing order in 767.32(6) be a better place to put it?

> 2. The order would not be a temporary order unless it only applies before the final support order.

It is okay to eliminate the word temporary. The intent is that this order is subject for review for compliance at least every two years. Thus it could be a final order, which is subject to review periodically.

>

> 3. I don't understand what "which exceeds the limits set in 15 USC 1673" refers to. What exceeds those limits? Also, what limits is he referring to; there are many limits in that section.

15 USC 1673, defines a maximum amount of net income that a court can order to be withheld from a person's wages, depending on their circumstances. This is explained at <http://www.wisconsinfathers.org/childsupportmax.htm> If 50% of a person's net income is \$500/month, a court order to pay \$700/month arrears and future child support exceeds these limits. Does this clear up this question?

>

> 4. Does the "reasonable payment plan" relate to payment of arrears? It would not seem to relate to payment of child support itself because that is in effect already a payment plan.

The intent is that an order for the total of arrears and future child support must be reasonable based on that parent's ability to pay that amount.

>

> 5. What does he mean by full compliance with the payment plan?

The person must make the full court ordered payments. If they pay any amount less than that this amount they would no be in compliance. The court would then have to review this case to see if the interest charges or the full amount of support should re-instated.

If interest is not to accrue, it must mean that interest does not accrue while the person is complying with the payment plan, correct?

YES

When does the reduction in support apply? Does the court reduce the amount of support after the person has paid off all the arrears, in full compliance with the plan? If not then, is current support reduced while the person is in compliance but not reduced for any month during which the person is not in compliance with the payment plan?

If the payment plan for arrears plus the full amount of future child support per the standard exceeds the ability of that parent to pay this amount, the court could reduce or eliminate the future child support amount. This is intended to make sure kids get some support rather than no support at all. It also recognises that under current law the court can not reduce the arrear, but can reduce future support.

I the payer fails to fully comply, then the court would need to review this order, and decide whether to reinstate the interest charges or the full amount of support.

Any other question?

Kahler, Pam

From: Jan Raz [jraz@wi.rr.com]
Sent: Tuesday, July 29, 2003 8:25 AM
To: Kahler, Pam
Cc: terry musser
Subject: RE: One last question -AB250 amendment

Hi Pam

At this time, let's not add the two year requirement.

Please also modify section 25, item 1(f) of SB250 to read.

For the purpose of calculating child support the court shall use actual income, when available, based on each parent's current or past two years of earning history. However, if the court determines that a parent is intentionally not working at least 35 hours a week, that parent is available to work, and that employment opportunities exist in the parent's community for which the parent is qualified, the court shall impute to the parent a gross income based on a normal work schedule for that parent's occupation, the parent's educational attainment and work experience, and the type of employment opportunities in the parent's community for which the parent is qualified.

Jan Raz

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

From: Kahler, Pam [mailto:Pam.Kahler@legis.state.wi.us]
Sent: Friday, July 25, 2003 4:14 PM
To: 'jraz@wi.rr.com'
Cc: Musser, Terry
Subject: One last question

Jan:

Do you still want to include the requirement that the court review for compliance at least every two years or do you want to leave it up to the payee to protest any noncompliance?



State of Wisconsin
2003 - 2004 LEGISLATURE

LRBa0792/A

PJK:f:....

cjs

7-31

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
ASSEMBLY AMENDMENT,
TO 2003 ASSEMBLY BILL 250

~~State
SOC
(A-79)~~
Bill list ✓

1 At the locations indicated, amend the bill as follows:

2 1. Page 1, line 10: after "support" insert " , authorizing a court to reduce the
3 amount of ^{child} support and prohibit the accrual of interest on arrears in certain
4 situations,".

5 2. Page 16, line 18: delete lines 18 to 23 and substitute:

6 "(f) For the purpose of calculating child support, the court shall use actual
7 income, when available, based on a parent's current or past 2 years of earning history.
8 However, if the court determines that a parent is intentionally working less than 35
9 hours per week, that the parent is available to work, and that employment
10 opportunities exist in the parent's community for which the parent is qualified, the
11 court shall impute to the parent a gross income based on a normal work schedule for
12 that parent's occupation, educational attainment, and work experience and the type

1 of employment opportunities in the parent's community for which the parent is
2 qualified." ✓

3 3. Page 21, line 17: after that line insert:

4 "SECTION 26m. 767.30 (3m) of the statutes is created to read:

5 767.30 (3m) (a) If the court finds that a party who has been ordered to pay child
6 or family support under this chapter has failed to make one or more payments and
7 that the party has made a reasonable effort to maximize his or her earning capacity
8 but does not have the ability to reasonably comply with the order, the court may,
9 subject to par. (b), do either or both of the following:

10 1. Notwithstanding ss. 767.25 (1j), 767.251, and 767.32 (1) (a), reduce the
11 amount of the child or family support under the order and require the payer to make
12 periodic payments in an amount that does not leave the party at an income below the
13 poverty line established under 42 USC 9902 (2) but that is sufficient to ensure
14 payment of the reduced support amount and of the arrearage at a periodic rate not
15 to exceed 50% of the reduced amount of support due under the order.

party

16 2. Notwithstanding ^{ss.} 767.25 (6) ^{and 767.261} prohibit the accrual of interest, from the date
17 of the order under this subdivision, ^{keep comma} on the amount in arrears.

18 (b) An order to reduce support under par. (a) 1. or to prohibit the accrual of
19 interest under par. (a) 2. applies only so long as the payer is in compliance with the
20 support order." ✓

21 (END)

D-note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa0792/ndn

PJK/.....

g's

2

I wasn't sure what the intent was of the first sentence in the proposed change to s. 767.251 (1) (f). Frankly, I don't know what it means, so I made no changes to the proposed language. What does "actual income, when available" mean? Is it the income or information about the income that is available? I don't know what it means for the court to use "actual income," since s. 767.251 (1) delineates what income *is* for purposes of determining child support. I do not know how a court will interpret "based on ... current or past ~~two~~ years of earning history." Is it a choice between the two? Is the court limited to looking at a parent's earning history over the past two years and not before that time? What is "current earning history" and how does it differ from the past two years of earning history? Does "current earning history" go back farther than two years? Instead of "current earning history," is it supposed to be current earnings?

The addition of the first sentence in s. 767.251 (1) (f) adds confusion to the determination of income. I don't know how courts will interpret it.

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa0792/P1dn
PJK:cjs:rs

July 30, 2003

I wasn't sure what the intent was of the first sentence in the proposed change to s. 767.251 (1) (f). Frankly, I don't know what it means, so I made no changes to the proposed language. What does "actual income, when available" mean? Is it the income or information about the income that is available? I don't know what it means for the court to use "actual income," since s. 767.251 (1) delineates what income *is* for purposes of determining child support. I do not know how a court will interpret "based on ... current or past 2 years of earning history." Is it a choice between the two? Is the court limited to looking at a parent's earning history over the past two years and not before that time? What is "current earning history" and how does it differ from the past two years of earning history? Does "current earning history" go back farther than two years? Instead of "current earning history," is it supposed to be current earnings?

The addition of the first sentence in s. 767.251 (1) (f) adds confusion to the determination of income. I don't know how courts will interpret it.

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

Kahler, Pam

From: Jan Raz [jraz@wi.rr.com]
Sent: Sunday, August 03, 2003 8:29 PM
To: Kahler, Pam
Cc: Musser, Terry
Subject: Amendment to AB250 (child support) (LRB 03a0792/P1)

Hi Pam

Sorry I didn't have time last week to respond to this draft. I can't believe how much time it takes to draft a reasonably simple amendment. Here are my comments regarding the preliminary draft.

Item 3: This provision is very poor. It is in the wrong section since a person should not have to fail to make a payment for the court to apply this provision. It is unnecessarily confusing. It adds details that don't belong here and which change the intent of what we are trying to achieve. The word prohibit seems inappropriate.

At this point lets delete the provision that allows the court to reduce the child support order and only focus on allowing the court to waive future interest charges. This belongs in 767.25(6) which establishes the authority for interest charges.

MODIFY 767.25(6)(a) Except as provided in sub. (b),

CREATE (b) If the court finds that a payer has an obligation to pay child support as defined under 767.251 and/or arrears that the payer has no ability to reasonably comply with, and that payer has made a reasonable effort to maximize his or her earning capacity, the court may waive any future interest charges on arrears, as long as the payer stays in full compliance with the court's order for future support and a minimum installment payment of arrears established under 767.30(1) or 767.265(1) .

Item 2: The following is offered to help reduce the confusion

For the purpose of calculating child support the court shall use actual current income of a parent. However, if the court determines that the actual current income of a parent is not available or the parent is intentionally not working at least 35 hours a week and that parent is available to work, and that employment opportunities exist in the parent's community for which the parent is qualified, the court shall impute to the parent a gross income based on a normal work schedule for that parent's occupation, the parent's educational attainment and work experience, and the type of employment opportunities in the parent's community for which the parent is qualified.

Item 1: Should be modified based on the changes noted for item 2 and 3.

Please call me if you have any further questions.

Jan Raz
10120 W Forest Home Ave.
Hales Corners, WI 53130
414 425-4866 fax 414 425-8405
e-mail; jraz@wi.rr.com



State of Wisconsin
2003 - 2004 LEGISLATURE

LRBa0792/1
PJK:cjs:rs

stays

nm is run

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT,

TO 2003 ASSEMBLY BILL 250

D-note

today p.m.

insert 1-4

bill list ✓

1 At the locations indicated, amend the bill as follows:

2 1. Page 1, line 10: after "support" insert ", authorizing a court to ~~waive~~
3 ~~waive~~ ^{waive} the accrual of interest on arrears in certain ^{future}
4 situations,".

5 2. Page 16, line 18: delete lines 18 to 23 and substitute:

6 "current" (f) For the purpose of calculating child support, the court shall use actual
7 income ~~when available based on a parent's current or past 2 years of earning history.~~
8 However, if the court determines that ^{Insert 1-B} parent is intentionally ^{not} working ~~less than~~ 35
9 hours ^a week ^{and} that ~~the~~ parent is available to work, and that employment
10 opportunities exist in the parent's community for which the parent is qualified, the
11 court shall impute to the parent a gross income based on a normal work schedule for
12 that parent's occupation, educational attainment and work experience and the type

of a parent

at least

the parent's

1 of employment opportunities in the parent's community for which the parent is
2 qualified.".

3 **3.** Page 21, line 17: after that line insert:

4 "SECTION 26m. 767.30 (3m) of the statutes is created to read:

5 767.30 (3m) (a) If the court finds that a party who has been ordered to pay child
6 or family support under this chapter has failed to make one or more payments and
7 that the party has made a reasonable effort to maximize his or her earning capacity
8 but does not have the ability to reasonably comply with the order, the court may,
9 subject to par. (b), do either or both of the following:

10 1. Notwithstanding ss. 767.25 (1j), 767.251, and 767.32 (1) (a), reduce the
11 amount of the child or family support under the order and require the party to make
12 periodic payments in an amount that does not leave the party at an income below the
13 poverty line established under 42 USC 9902 (2) but that is sufficient to ensure
14 payment of the reduced support amount and of the arrearage at a periodic rate not
15 to exceed 50% of the reduced amount of support due under the order.

16 2. Notwithstanding ss. 767.25 (6) and 767.261, prohibit the accrual of interest,
17 from the date of the order under this subdivision, on the amount in arrears.

18 (b) An order to reduce support under par. (a) 1. or to prohibit the accrual of
19 interest under par. (a) 2. applies only so long as the payer is in compliance with the
20 support order."

21

(END)

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INSERT 1-4

1 1. Page 14, line 23: after that line insert:

2 "SECTION 24c. 767.25 (6) of the statutes is renumbered 767.25 (6) (am), and
3 767.25 (6) (am) (intro.), as renumbered, is amended to read:

4 767.25 (6) (am) (intro.) A Except as provided in par. (bm), a party ordered to
5 pay child support under this section shall pay simple interest at the rate of 1% per
6 month on any amount in arrears that is equal to or greater than the amount of child
7 support due in one month. If the party no longer has a current obligation to pay child
8 support, interest at the rate of 1% per month shall accrue on the total amount of child
9 support in arrears, if any. Interest under this subsection is in lieu of interest
10 computed under s. 807.01 (4), 814.04 (4), or 815.05 (8) and is paid to the department
11 or its designee under s. 767.29. Except as provided in s. 767.29 (1m), the department
12 or its designee, whichever is appropriate, shall apply all payments received for child
13 support as follows:

History: 1971 c. 157; 1977 c. 29, 105, 418; 1979 c. 32 ss. 59, 92 (4); 1979 c. 196; Stats. 1979 s. 767.25; 1981 c. 20; 1983 a. 27; 1985 a. 29; 1987 a. 27, 37, 355, 413; 1989
a. 31, 212; 1991 a. 39; 1993 a. 481; 1995 a. 27 ss. 7101, 7102, 9126 (19); 1995 a. 201, 279, 404; 1997 a. 27, 35, 191; 1999 a. 9, 32; 2001 a. 16, 61.

14 SECTION 24d. 767.25 (6) (bm) of the statutes is created to read:

15 767.25 (6) (bm) If the court finds that a payer has an obligation to pay child
16 support, as defined under s. 767.251, or arrears that the payer has no ability to
17 reasonably comply with, and that payer has made a reasonable effort to maximize
18 his or her earning capacity, the court may waive any future interest charges on
19 arrears, as long as the payer stays in full compliance with the court's order for future

determined

767.265(1) or

767.30

1

support and a minimum installment payment of arrears established under s. 767.30

2

(1) ~~611.265(1)~~."

(END OF INSERT 1-4)

INSERT 1-8

3

not

the actual current income of a parent is not available or the

(END OF INSERT 1-8)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBa0792/1dn

PJK:cjs:rs

Stays

I disagree with Jan Raz that his language changes for s. 767.251 (1) (f) reduce confusion. I don't know what his specific language changes mean, I do not know what his intent is, and, as I said before, I don't know how judges will interpret them. ✓

Mr. Raz states that proposed s. 767.30 (3m) (in the previous draft) "is very poor," "is in the wrong section," "is unnecessarily (sic) confusing," and "adds details that don't belong here and which change the intent of what we are trying to achieve." I have repeatedly asked Mr. Raz questions that I need answered to draft something that is consistent with his intent, that can be understood by others (especially practicing attorneys and judges), and that is logical and legally consistent with current law, but have been unable to obtain satisfactory answers. ✓

I have put a lot of time and effort into trying to determine Mr. Raz's intent and drafting this amendment, but I don't believe he will be satisfied with any language other than his own. Therefore, I have made no changes to what he proposes, except for some technical changes, such as adding "s." before statutory section numbers, changing "and/or" to "or," changing a "sub." to "par.," etc. I realize that some of his language is ungrammatical, but I could not "clean it up" without knowing its meaning.

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa0792/1dn

PJK:cjs:pg

August 6, 2003

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Pamela J. Kahler
Senior Legislative Attorney
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