

2003

Date (time) needed

SOON (10-17) D-note

LRB-0021, P2

DOA BUDGET DRAFT

(converted from a DWD draft)

PJK : Kmg:

Use the appropriate components and routines developed for bills.

>>FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION<<

AN ACT ... [DO NOT generate catalog]; relating to: the budget.

Analysis by the Legislative Reference Bureau

If titles are needed in the analysis, in the component bar:

For the main heading, execute: create -> anal: -> title: -> head

For the subheading, execute: create -> anal: -> title: -> sub

For the sub-subheading, execute: create -> anal: -> title: -> sub-sub

For the analysis text, in the component bar:

For the text paragraph, execute: create -> anal: -> text

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

SECTION #.





State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-0021/P
PJK:kmg:pg

P2

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: use of the child support percentage standard.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

CHILDREN

keep titles →

Under current law, in divorces, paternity actions, and other actions affecting the family in which child support is ordered, including actions to revise child support, the court must determine child support payments by using the percentage standard established by administrative rule by DWD. The percentage standard is also used to determine the amount of child support that a parent must pay when a child is placed outside the home in a residential, nonmedical facility, such as a group home, foster home, or juvenile correctional institution. The percentage standard is a percentage of the payer's gross monthly income. The percentage of income that the child support payer must pay varies with the number of children to be supported. A payer must pay 17% of his or her gross income for one child, 25% for two children, 29% for three children, 31% for four children, and 34% for five or more children.

In addition to the percentage standard, the administrative rules set out a special method that may be used to calculate child support payments for a shared-time payer, serial-family payer, or split-custody payer, based on the percentage standard and modified to fit the specific circumstance. Under the rules, a shared-time payer is, generally, one who provides care for the child at least 31% of the time, a serial-family payer is, generally, one who already has a legal obligation to pay support for one or more children from a previous marriage or other relationship; and a split-custody payer is, generally, one who has at least two

children and who cares for at least one, but not all, of the children for more time than the other parent.

Under current statutory law, upon the request of a party a court may modify the amount of child support that would be ordered by using the percentage standard if the court finds that use of the percentage standard is unfair to the child or to either of the parties after considering a number of factors, such as the earning capacity of each parent, the cost of day care, the child's educational needs, and extraordinary travel expenses incurred in exercising physical placement rights. If the court does modify the amount of child support, the court must state in writing or on the record the amount of support that would be required if the percentage standard were used, the amount by which the court's order deviates from that amount, its reasons for finding that the use of the percentage standard is unfair, the reason for the amount of the modification, and the basis for the modification.

This bill authorizes a court to modify the amount of child support that would be ordered by using the percentage standard if the payer is a shared-time payer, serial-family payer, or split-custody payer, and the court uses the method set out in the administrative rules for calculating child support for that type of payer. In deciding whether to modify the amount of support, the court must first consider the factors that are specified in current law for deviating from the percentage standard on the basis of finding that its use is unfair to the child or either party. However, if the court does modify the amount of support in accordance with the method set out in the administrative rules for a shared-time, serial, or split-custody payer, the court is not required to state in writing or on the record the amount of support that would be required if the percentage standard were used, the amount by which the court's order deviates from that amount, its reasons for the amount of the modification, or the basis for the modification.

Insert A

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

SECTION 1. 46.03 (18) (a) of the statutes is amended to read:

46.03 (18) (a) Except as provided in s. 46.10 (14) (b) and, (c), and (cd), the department of health and family services shall establish a uniform system of fees for services provided or purchased by the department of health and family services, or a county department under s. 46.215, 46.22, 51.42, or 51.437, except for services provided under subch. III of ch. 49; services relating to adoption; services provided to courts; outreach, information, and referral services; or where, as determined by the department of health and family services, a fee is administratively unfeasible or

1 would significantly prevent accomplishing the purpose of the service. A county
2 department under s. 46.215, 46.22, 51.42, or 51.437 shall apply the fees ~~which that~~
3 it collects under this program to cover the cost of such services. The department of
4 health and family services shall report to the joint committee on finance no later than
5 March 1 of each year on the number of children placed for adoption by the
6 department of health and family services during the previous year and the costs to
7 the state for services relating to such adoptions.

8 **SECTION 2.** 46.03 (18) (b) of the statutes is amended to read:

9 46.03 (18) (b) ~~Except as provided in s. 46.10 (14) (b) and (c), and (cd),~~ any person
10 receiving services provided or purchased under par. (a) or the spouse of the person
11 and, in the case of a minor, the parents of the person, and, in the case of a foreign child
12 described in s. 48.839 (1) who became dependent on public funds for his or her
13 primary support before an order granting his or her adoption, the resident of this
14 state appointed guardian of the child by a foreign court who brought the child into
15 this state for the purpose of adoption, shall be liable for the services in the amount
16 of the fee established under par. (a). If a minor receives services without the consent
17 of a parent or guardian under s. 51.47, the department shall base the fee solely on
18 the minor's ability to pay.

19 **SECTION 3.** 46.10 (2) of the statutes is amended to read:

20 46.10 (2) ~~Except as provided in subs. (2m) and (14) (b) and (c), and (cd),~~ any
21 person, including but not limited to a person admitted, committed, or placed under
22 s. 975.01, 1977 stats., s. 975.02, 1977 stats., and s. 975.17, 1977 stats., and ss. 51.10,
23 51.13, 51.15, 51.20, 51.35 (3), 51.37 (5), 51.45 (10), (11), (12), and (13), 55.05, 55.06,
24 971.14 (2) and (5), 971.17 (1), 975.06, and 980.06, receiving care, maintenance,
25 services, and supplies provided by any institution in this state including University

1 of Wisconsin Hospitals and Clinics, in which the state is chargeable with all or part
2 of the person's care, maintenance, services, and supplies, any person receiving care
3 and services from a county department established under s. 51.42 or 51.43 or from
4 a facility established under s. 49.73, and any person receiving treatment and services
5 from a public or private agency under s. 980.06 (2) (c), 1997 stats., or s. 971.17 (3) (d)
6 or (4) (e) or 980.08 (5) and the person's property and estate, including the homestead,
7 and the spouse of the person, and the spouse's property and estate, including the
8 homestead, and, in the case of a minor child, the parents of the person, and their
9 property and estates, including their homestead, and, in the case of a foreign child
10 described in s. 48.839 (1) who became dependent on public funds for his or her
11 primary support before an order granting his or her adoption, the resident of this
12 state appointed guardian of the child by a foreign court who brought the child into
13 this state for the purpose of adoption, and his or her property and estate, including
14 his or her homestead, shall be liable for the cost of the care, maintenance, services,
15 and supplies in accordance with the fee schedule established by the department
16 under s. 46.03 (18). If a spouse, widow or minor, or an incapacitated person may be
17 lawfully dependent upon the property for their support, the court shall release all or
18 such part of the property and estate from the charges that may be necessary to
19 provide for those persons. The department shall make every reasonable effort to
20 notify the liable persons as soon as possible after the beginning of the maintenance,
21 but the notice or the receipt thereof is not a condition of liability.

22 SECTION 4. 46.10 (14) (a) of the statutes is amended to read:

23 46.10 (14) (a) Except as provided in pars. (b) and (c), and (cd), liability of a
24 person specified in sub. (2) or s. 46.03 (18) for inpatient care and maintenance of
25 persons under 18 years of age at community mental health centers, a county mental

1 health complex under s. 51.08, the centers for the developmentally disabled, the
 2 Mendota Mental Health Institute, and the Winnebago Mental Health Institute or
 3 care and maintenance of persons under 18 years of age in residential, nonmedical
 4 facilities such as group homes, foster homes, treatment foster homes, child caring
 5 institutions, and juvenile correctional institutions is determined in accordance with
 6 the cost-based fee established under s. 46.03 (18). The department shall bill the
 7 liable person up to any amount of liability not paid by an insurer under s. 632.89 (2)
 8 or (2m) or by other 3rd-party benefits, subject to rules that include formulas
 9 governing ability to pay promulgated by the department under s. 46.03 (18). Any
 10 liability of the patient not payable by any other person terminates when the patient
 11 reaches age 18, unless the liable person has prevented payment by any act or
 12 omission.

13 SECTION 5. 46.10 (14) (b) of the statutes is amended to read:

14 46.10 (14) (b) Except as provided in par. ^{plain} ~~XXXXXX~~ (c) ~~XXXXXX~~ and subject to par.
 15 (cm), liability of a parent specified in sub. (2) or s. 46.03 (18) for the care and
 16 maintenance of the parent's minor child who has been placed by a court order under
 17 s. 48.355 or 48.357 in a residential, nonmedical facility such as a group home, foster
 18 home, treatment foster home, or residential care center for children and youth shall
 19 be determined by the court by using the percentage standard established by the
 20 department of workforce development under s. 49.22 (9) ~~XXXXXXXXXXXXXXXXXXXX~~
 21 ~~XXXXXXXXXXXX~~ and by applying the percentage standard in the manner established
 22 by the department under s. 46.247.

31

23 SECTION 6. 46.10 (14) (cd) of the statutes is created to read:

24 46.10 (14) (cd) Upon request by a parent and after considering the factors
 25 under par. (c) 1. to 11., the court may modify the amount of child support payments

1 determined under par. (b), subject to par. (cm), in the special circumstance specified
 2 in s. DWD 40.04 (1), Wis. Adm. Code, by calculating child support payments in the
 3 manner provided in s. DWD 40.04 (1), Wis. Adm. Code; in the special circumstance
 4 specified in s. DWD 40.04 (2), Wis. Adm. Code, by calculating child support payments
 5 in the manner provided in s. DWD 40.04 (2), Wis. Adm. Code; and in the special
 6 circumstance specified in s. DWD 40.04 (3), Wis. Adm. Code, by calculating child
 7 support payments in the manner provided in s. DWD 40.04 (3), Wis. Adm. Code. The
 8 court is not required to provide the information specified in par. (d) if the court
 9 determines child support payments under this paragraph.

10 SECTION 7. 46.10 (14) (cm) 1. of the statutes is amended to read:

11 46.10 (14) (cm) 1. Except as provided in subd. 2., if a parent who is required to
 12 pay child support under par. (b) or (c) or (cd) is receiving adoption assistance under
 13 s. 48.975 for the child for whom support is ordered, the amount of the child support
 14 payments determined under par. (b) or (c) or (cd) may not exceed the amount of the
 15 adoption assistance maintenance payments under s. 48.975(3) (a). If an agreement
 16 under s. 48.975 (4) is in effect that provides for a payment of \$0 under s. 48.975 (3)
 17 (a), the payment of \$0 shall be considered to be an adoption assistance maintenance
 18 payment for purposes of this subdivision.

19 SECTION 8. 48.30 (6) (b) of the statutes is amended to read:

20 48.30 (6) (b) If it appears to the court that disposition of the case may include
 21 placement of the child outside the child's home, the court shall order the child's
 22 parent to provide a statement of income, assets, debts, and living expenses to the
 23 court or the designated agency under s. 48.33 (1) at least 5 days before the scheduled
 24 date of the dispositional hearing or as otherwise ordered by the court. The clerk of
 25 court shall provide, without charge, to any parent ordered to provide a statement of

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1 income, assets, debts, and living expenses a document setting forth the percentage
 2 standard established by the department of workforce development under s. 49.22 (9) (a) ✓
 3 and the manner of its application established by the department of health and family
 4 services under s. 46.247 and listing the factors that a court may consider under s.
 5 46.10 (14) (c) ~~and (ca)~~

6 SECTION 9. 48.31 (7) (b) of the statutes is amended to read:

7 48.31 (7) (b) If it appears to the court that disposition of the case may include
 8 placement of the child outside the child's home, the court shall order the child's
 9 parent to provide a statement of income, assets, debts, and living expenses to the
 10 court or the designated agency under s. 48.33 (1) at least 5 days before the scheduled
 11 date of the dispositional hearing or as otherwise ordered by the court. The clerk of
 12 court shall provide, without charge, to any parent ordered to provide a statement of
 13 income, assets, debts, and living expenses a document setting forth the percentage
 14 standard established by the department of workforce development under s. 49.22 (9) (a) ✓
 15 and the manner of its application established by the department of health and family
 16 services under s. 46.247 and listing the factors that a court may consider under s.
 17 46.10 (14) (c) ~~and (ca)~~

18 SECTION 10. 48.33 (4m) (intro.) of the statutes is amended to read:
 19 48.33 (4m) SUPPORT RECOMMENDATIONS; INFORMATION TO PARENTS. (intro.) In
 20 making a recommendation for an amount of child support under sub. (4), the agency
 21 shall consider the factors that the court considers under s. 46.10 (14) (c) and (ca) for
 22 deviation from the percentage standard. Prior to the dispositional hearing under s.
 23 48.335, the agency shall provide the child's parent with all of the following:

24 SECTION 11. 48.33 (4m) (b) of the statutes is amended to read:

1 48.33 (4m) (b) A written explanation of how the parent may request that the
2 court modify the amount of child support under s. 46.10 (14) (c) or (cd).

3 SECTION 12. 48.357 (5m) (a) of the statutes is amended to read:

4 48.357 (5m) (a) If a proposed change in placement changes a child's placement
5 from a placement in the child's home to a placement outside the child's home, the
6 court shall order the child's parent to provide a statement of income, assets, debts,
7 and living expenses to the court or the person or agency primarily responsible for
8 implementing the dispositional order by a date specified by the court. The clerk of
9 court shall provide, without charge, to any parent ordered to provide a statement of
10 income, assets, debts, and living expenses a document setting forth the percentage
11 standard established by the department of workforce development under s. 49.22 (9) ✓ (a)

12 and the manner of its application established by the department of health and family
13 services under s. 46.247 and listing the factors that a court may consider under s.
14 46.10 (14) (c) ~~46.10 (14) (c)~~ If the child is placed outside the child's home, the court shall
15 determine the liability of the parent in the manner provided in s. 46.10 (14).

16 SECTION 13. 48.363 (1) (c) of the statutes is amended to read:

17 48.363 (1) (c) If the proposed revision is for a change in the amount of child
18 support to be paid by a parent, the court shall order the child's parent to provide a
19 statement of income, assets, debts, and living expenses to the court and the person
20 or agency primarily responsible for implementing the dispositional order by a date
21 specified by the court. The clerk of court shall provide, without charge, to any parent
22 ordered to provide a statement of income, assets, debts, and living expenses a
23 document setting forth the percentage standard established by the department of
24 workforce development under s. 49.22 (9) ✓ (a) and the manner of its application ✓

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1 established by the department of health and family services under s. 46.247 and
2 listing the factors that a court may consider under s. 46.10 (14) (c) ~~46.10 (14) (c)~~

3 SECTION 14. 301.03 (18) (a) of the statutes is amended to read:

4 301.03 (18) (a) Except as provided in s. 301.12 (14) (b) and, (c), and (cd),
5 establish a uniform system of fees for juvenile delinquency-related services provided
6 or purchased by the department or a county department under s. 46.215, 46.22, or
7 46.23, except for services provided to courts; outreach, information, and referral
8 services; or when, as determined by the department, a fee is administratively
9 unfeasible or would significantly prevent accomplishing the purpose of the service.
10 A county department under s. 46.215, 46.22, or 46.23 shall apply the fees that it
11 collects under this program to cover the cost of those services.

12 SECTION 15. 301.03 (18) (b) of the statutes is amended to read:

13 301.03 (18) (b) Except as provided in s. 301.12 (14) (b) and, (c), and (cd), hold
14 liable for the services provided or purchased under par. (a) in the amount of the fee
15 established under par. (a) any person receiving those services or the spouse of the
16 person and, in the case of a minor, the parents of the person, and, in the case of a
17 foreign child described in s. 48.839 (1) who became dependent on public funds for his
18 or her primary support before an order granting his or her adoption, the resident of
19 this state appointed guardian of the child by a foreign court who brought the child
20 into this state for the purpose of adoption.

21 SECTION 16. 301.12 (2) of the statutes is amended to read:

22 301.12 (2) Except as provided in subs. (2m) and (14) (b) and, (c), and (cd), any
23 person, including but not limited to a person placed under s. 48.366, 938.183, 938.34
24 (4h) or (4m), or 938.357 (4) or (5) (e), receiving care, maintenance, services, and
25 supplies provided by any institution in this state operated or contracted for by the

1 department, in which the state is chargeable with all or part of the person's care,
2 maintenance, services, and supplies, and the person's property and estate, including
3 the homestead, and the spouse of the person, and the spouse's property and estate,
4 including the homestead, and, in the case of a minor child, the parents of the person,
5 and their property and estates, including their homestead, and, in the case of a
6 foreign child described in s. 48.839 (1) who became dependent on public funds for his
7 or her primary support before an order granting his or her adoption, the resident of
8 this state appointed guardian of the child by a foreign court who brought the child
9 into this state for the purpose of adoption, and his or her property and estate,
10 including his or her homestead, shall be liable for the cost of the care, maintenance,
11 services, and supplies in accordance with the fee schedule established by the
12 department under s. 301.03 (18). If a spouse, widow or minor, or an incapacitated
13 person may be lawfully dependent upon the property for their support, the court
14 shall release all or such part of the property and estate from the charges that may
15 be necessary to provide for those persons. The department shall make every
16 reasonable effort to notify the liable persons as soon as possible after the beginning
17 of the maintenance, but the notice or the receipt of the notice is not a condition of
18 liability.

19 SECTION 17. 301.12 (14) (a) of the statutes is amended to read:

20 301.12 (14) (a) Except as provided in pars. (b) and, (c), and (cd), liability of a
21 person specified in sub. (2) or s. 301.03 (18) for care and maintenance of persons
22 under 17 years of age in residential, nonmedical facilities such as group homes, foster
23 homes, treatment foster homes, child caring institutions, and juvenile correctional
24 institutions is determined in accordance with the cost-based fee established under
25 s. 301.03 (18). The department shall bill the liable person up to any amount of

1 liability not paid by an insurer under s. 632.89 (2) or (2m) or by other 3rd-party
 2 benefits, subject to rules which that include formulas governing ability to pay
 3 promulgated by the department under s. 301.03 (18). Any liability of the resident not
 4 payable by any other person terminates when the resident reaches age 17, unless the
 5 liable person has prevented payment by any act or omission.

6 SECTION 18. 301.12 (14) (b) of the statutes is amended to read:

7 301.12 (14) (b) Except as provided in par. ^{plain} ~~par. (c)~~ and subject to par.
 8 (cm), liability of a parent specified in sub. (2) or s. 301.03 (18) for the care and
 9 maintenance of the parent's minor child who has been placed by a court order under
 10 s. 938.183, 938.355, or 938.357 in a residential, nonmedical facility such as a group
 11 home, foster home, treatment foster home, residential care center for children and
 12 youth, or juvenile correctional institution shall be determined by the court by using
 13 the percentage standard established by the department of workforce development
 14 under s. 49.22 (9) ~~and by applying the percentage standard in the manner established by the department under par. (g).~~
 15

(g) ←

16 SECTION 19. 301.12 (14) (cd) of the statutes is created to read:
 17 301.12 (14) (cd) Upon request by a parent and after considering the factors
 18 under par. (c) 1. to 11., the court may modify the amount of child support payments
 19 determined under par. (b), subject to par. (cm), in the special circumstance specified
 20 in s. DWD 40.04 (1), Wis. Adm. Code, by calculating child support payments in the
 21 manner provided in s. DWD 40.04 (1), Wis. Adm. Code; in the special circumstance
 22 specified in s. DWD 40.04 (2), Wis. Adm. Code, by calculating child support payments
 23 in the manner provided in s. DWD 40.04 (2), Wis. Adm. Code; and in the special
 24 circumstance specified in s. DWD 40.04 (3), Wis. Adm. Code, by calculating child
 25 support payments in the manner provided in s. DWD 40.04 (3), Wis. Adm. Code. The

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1 court is not required to provide the information specified in par. (d) if the court
2 determines child support payments under this paragraph.

3 SECTION 20. 301.12 (14) (cm) 1. of the statutes is amended to read:

4 301.12 (14) (cm) 1. Except as provided in subd. 2., if a parent who is required
5 to pay child support under par. (b) ~~or~~ (c), or (cd) is receiving adoption assistance
6 under s. 48.975 for the child for whom support is ordered, the amount of the child
7 support payments determined under par. (b) ~~or~~ (c), or (cd) may not exceed the
8 amount of the adoption assistance payments.

9 SECTION 21. 767.085 (2) (b) of the statutes is amended to read:

10 767.085 (2) (b) The clerk of court shall provide without charge, to each person
11 filing a petition requesting child support, a document setting forth the percentage
12 standard established by the department under s. 49.22 (9) ^(a) and listing the factors [✓]
13 which that a court may consider under s. 767.25 ~~(1m)~~ ^{and (1r)} [✓]

14 SECTION 22. 767.085 (2m) (a) 2. of the statutes is amended to read:

15 767.085 (2m) (a) 2. Shall be accompanied by a document, provided without
16 charge by the clerk of court, setting forth the percentage standard established by the
17 department under s. 49.22 (9) ^(a) and listing the factors [✓] which that a court may consider
18 under s. 767.25 ~~(1m)~~ ^{and (1r)} [✓]

19 SECTION 23. 767.23 (1n) of the statutes is amended to read:

20 767.23 (1n) Before making any temporary order under sub. (1), the court or
21 circuit court commissioner shall consider those factors that the court is required by
22 this chapter to consider before entering a final judgment on the same subject matter.
23 In making a determination under sub. (1) (a) or (am), the court or circuit court
24 commissioner shall consider the factors under s. 767.24 (5). If the court or circuit
25 court commissioner makes a temporary child support order that deviates from the

1 amount of support that would be required by using the percentage standard
 2 established by the department under s. 49.22 (9) ^(a) or by using the method of
 3 ~~calculating child support~~ ^{under} s. 767.25 (1n), the court or circuit court
 4 commissioner shall comply with the requirements of s. 767.25 (1n). A temporary
 5 order under sub. (1) may be based upon the written stipulation of the parties, subject
 6 to the approval of the court or circuit court commissioner. Temporary orders made
 7 by a circuit court commissioner may be reviewed by the court.

8 SECTION 24. 767.25 (1j) of the statutes is amended to read:

9 767.25 (1j) Except as provided in sub. ~~subs.~~ ^{and (1r)} (1m), the court shall
 10 determine child support payments by using the percentage standard established by
 11 the department under s. 49.22 (9) ~~under s. 49.22 (9)~~ ^(a)

12 SECTION 25. 767.25 (1L) of the statutes is created to read:

13 767.25 (1L) Upon request by a party ^{or on its own motion} ~~under this subsection~~
 14 ~~and (1r)~~ the court may modify the amount of child support payments
 15 determined under sub. (1j) in the special circumstance specified in s. DWD 40.04 (1),
 16 Wis. Adm. Code; by calculating child support payments in the manner provided in
 17 s. DWD 40.04 (1), Wis. Adm. Code; in the special circumstance specified in s. DWD
 18 40.04 (2), Wis. Adm. Code, by calculating child support payments in the manner
 19 provided in s. DWD 40.04 (2), Wis. Adm. Code; and in the special circumstance
 20 specified in s. DWD 40.04 (3), Wis. Adm. Code, by calculating child support payments
 21 in the manner provided in s. DWD 40.04 (3), Wis. Adm. Code. The court is not
 22 required to provide the information specified in sub. (1n) if the court determines child
 23 support payments under this subsection.

24 SECTION 26. 767.295 (2) (c) of the statutes is amended to read:

Insert 13-23

(a) ✓
↑

1 767.295 (2) (c) If the court enters an order under par. (a), it shall order the
 2 parent to pay child support equal to the amount determined by applying the
 3 percentage standard established under s. 49.22 (9) ~~or based on the method of calculating child support~~
 4 ~~under s. 49.22 (9) or based on the method of calculating child support~~ to the income a person would earn by working 40 hours per week for the
 5 federal minimum hourly wage under 29 USC 206 (a) (1) or equal to the amount of
 6 child support that the parent was ordered to pay in the most recent determination
 7 of support under this chapter. The child support obligation ordered under this
 8 paragraph continues until the parent makes timely payment in full for 3 consecutive
 9 months or until the person participates in the program under s. 49.36 for 16 weeks,
 10 whichever comes first. The court shall provide in its order that the parent must make
 11 child support payments calculated under s. 767.25 (1j) ~~or (1m)~~ ^{or (1r)} after the
 12 obligation to make payments ordered under this paragraph ceases.

SECTION 27. 767.32 (1) (b) 4. of the statutes is amended to read:

14 767.32 (1) (b) 4. A difference between the amount of child support ordered by
 15 the court to be paid by the payer and the amount that the payer would have been
 16 required to pay based on the percentage standard established by the department
 17 under s. 49.22 (9) ~~or based on the method of calculating child support~~ ^(a)
 18 ~~under s. 49.22 (9) or based on the method of calculating child support~~ ^{under}
 19 ~~767.25 (1j), if the court did not use the percentage standard or the method~~
 20 ~~under s. 767.25 (1j) in determining the child support~~ ^{under}
 21 payments and did not provide the information required under s. 46.10 (14) (d), 301.12
 22 (14) (d), or 767.25 (1n), whichever is appropriate.

SECTION 28. 767.32 (2) of the statutes is amended to read:

24 767.32 (2) Except as provided in sub. (2m) or (2r), if the court revises a
 25 judgment or order with respect to child support payments, it shall do so by using the

number 17

(a) ✓

undo

1 percentage standard established by the department under s. 49.22 (9) ~~and listing the factors which that a court may consider under s.~~

2 ~~s. DWD 40.03, Wis. Adm. Code~~ → (a)

3 SECTION 29. 767.32 (2m) of the statutes is renumbered 767.32 (2m) (a).

4 SECTION 30. 767.32 (2m) (b) of the statutes is created to read:

5 767.32 (2m) (b) Upon request by a party and after considering the factors under
6 s. 767.25 (1m) (a) to (i), the court may modify the amount of child support payments
7 determined under sub. (2) in the special circumstance specified in s. DWD 40.04 (1),
8 Wis. Adm. Code, by calculating child support payments in the manner provided in
9 s. DWD 40.04 (1), Wis. Adm. Code; in the special circumstance specified in s. DWD
10 40.04 (2), Wis. Adm. Code, by calculating child support payments in the manner
11 provided in s. DWD 40.04 (2), Wis. Adm. Code; and in the special circumstance
12 specified in s. DWD 40.04 (3), Wis. Adm. Code, by calculating child support payments
13 in the manner provided in s. DWD 40.04 (3), Wis. Adm. Code. The court is not
14 required to provide the information specified in s. 767.25 (1n) if the court determines
15 child support payments under this paragraph.

Insert 15-15

16 SECTION 31. 767.45 (7) of the statutes is amended to read:

17 767.45 (7) The clerk of court shall provide without charge, to each person
18 bringing an action under this section, except to the state under sub. (1) (g) or (6m),
19 a document setting forth the percentage standard established by the department

20 under s. 49.22 (9) and listing the factors which that a court may consider under s.

21 767.25 ~~(1m)~~ → and (1r)

22 SECTION 32. 767.455 (6) of the statutes is amended to read:

23 767.455 (6) DOCUMENT. The summons served on the respondent shall be
24 accompanied by a document, provided without charge by the clerk of court, setting

(a)

✓
and ✓
(1r)

1

forth the percentage standard established by the department under s. 49.22 (9) and

2

listing the factors ~~which~~ that a court may consider under s. 767.25 ~~(1m)~~ (1n).

3

SECTION 33. 767.477 (2) of the statutes is amended to read:

4

767.477 (2) Before making any temporary order under sub. (1), the court shall

5

consider those factors that the court is required to consider when granting a final

6

judgment on the same subject matter. If the court makes a temporary child support

7

order that deviates from the amount of support that would be required by using the

8

percentage standard established by the department under s. 49.22 (9) ^(a) or by using the

9

~~method of calculating child support~~ ^{under} s. 767.25 (1n), the court shall comply

10

with the requirements of s. 767.25 (1n).

11

SECTION 34. 938.30 (6) (b) of the statutes is amended to read:

12

938.30 (6) (b) If it appears to the court that disposition of the case may include

13

placement of the juvenile outside the juvenile's home, the court shall order the

14

juvenile's parent to provide a statement of income, assets, debts, and living expenses

15

to the court or the designated agency under s. 938.33 (1) at least 5 days before the

16

scheduled date of the dispositional hearing or as otherwise ordered by the court. The

17

clerk of court shall provide, without charge, to any parent ordered to provide a

18

statement of income, assets, debts, and living expenses a document setting forth the

19

percentage standard established by the department of workforce development under

20

s. 49.22 (9) ^(a) and listing the factors that a court may consider under s. 301.12 (14) (c)

21

~~method of calculating child support~~

22

SECTION 35. 938.31 (7) (b) of the statutes is amended to read:

23

938.31 (7) (b) If it appears to the court that disposition of the case may include

24

placement of the juvenile outside the juvenile's home, the court shall order the

25

juvenile's parent to provide a statement of income, assets, debts, and living expenses

1 to the court or the designated agency under s. 938.33 (1) at least 5 days before the
 2 scheduled date of the dispositional hearing or as otherwise ordered by the court. The
 3 clerk of court shall provide, without charge, to any parent ordered to provide a
 4 statement of income, assets, debts, and living expenses a document setting forth the
 5 percentage standard established by the department of workforce development under
 6 s. 49.22 (9) ^(a) and listing the factors that a court may consider under s. 301.12 (14) (c) ✓

6
7

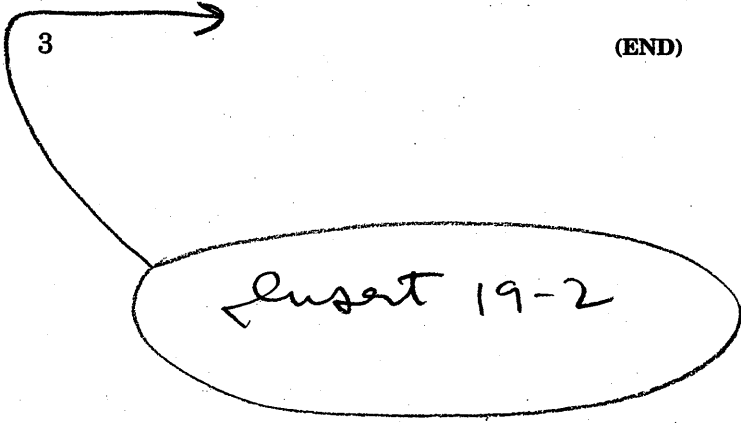
8 **SECTION 36.** 938.33 (4m) (intro.) of the statutes is amended to read:
 9 938.33 (4m) **SUPPORT RECOMMENDATIONS; INFORMATION TO PARENTS.** (intro.) In
 10 making a recommendation for an amount of child support under sub. (3) or (4), the
 11 agency shall consider the factors that the court considers under s. 301.12 (14) (c) and
 12 (cd) for deviation from the percentage standard. At or before the dispositional
 13 hearing under s. 938.335, the agency shall provide the juvenile's parent with all of
 14 the following:
 15 **SECTION 37.** 938.33 (4m) (b) of the statutes is amended to read:
 16 938.33 (4m) (b) A written explanation of how the parent may request that the
 17 court modify the amount of child support under s. 301.12 (14) (c) or (cd).

18 **SECTION 38.** 938.357 (5m) (a) of the statutes is amended to read:
 19 938.357 (5m) (a) If a proposed change in placement changes a juvenile's
 20 placement from a placement in the juvenile's home to a placement outside the
 21 juvenile's home, the court shall order the juvenile's parent to provide a statement of
 22 income, assets, debts, and living expenses to the court or the person or agency
 23 primarily responsible for implementing the dispositional order by a date specified by
 24 the court. The clerk of court shall provide, without charge, to any parent ordered to
 25 provide a statement of income, assets, debts, and living expenses a document setting

1 subsection, including orders in actions or proceedings to modify a judgment or order
2 that was granted before the effective date of this subsection.

3

(END)



D-note

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0021/P2ins
PJK:kfg

INSERT A ✓

Under current law, DWD must promulgate rules that provide a standard for courts to use in determining child support based on a percentage of a parent's gross income. This standard is called the percentage standard, and it requires a payer to pay a specific percentage of his or her gross income as child support. The specific percentage depends on the number of children to be supported.

The statute that requires DWD to establish the percentage standard by administrative rule also requires those rules to provide for consideration of each parent's income and physical placement with the child in determining child support in cases in which both parents have substantial physical placement with the child. Thus, in addition to the percentage standard, the rules set out ^{an} special method that may be used to calculate child support payments, based on adjustments to the percentage standard to fit the specific circumstance, if the payer provides care for the child at least 31% of the time (shared-time payer), already has a legal obligation to pay support for one or more children from a previous marriage or other relationship (serial-family payer), or has at least two children and cares for at least one, but not all, of the children for more time than the other parent (split-custody payer).

Requires → ~~By~~ ~~under~~ ~~current~~ ~~law~~ a court ~~may~~ use the percentage standard in determining child support in divorces, paternity actions, and other actions affecting the family in which child support is ordered, as well as when a child is placed in a residential, nonmedical facility, such as a group home, foster home, or juvenile correctional institution. The court may, however, modify the amount of child support that it would order by using the percentage standard if the court finds that use of the percentage standard is unfair to the child or to either of the parties after considering a number of factors, such as the earning capacity of each parent, the needs of any other person whom a parent is legally obligated to support, the child's educational needs, and the physical, emotional, and mental health needs of the child. If the court does modify the amount of child support, the court must state in writing or on the record the amount of support that would be required if the percentage standard were used, the amount by which the court's order deviates from that amount, its reasons for finding that the use of the percentage standard is unfair, the reason for the amount of the modification, and the basis for the modification.

In *In re Marriage of Randall v. Randall*, 2000 WI App 98, 235 Wis. 2d 1, 612 N.W. 2d 737, the Wisconsin court of appeals decided that, even though the administrative rule setting out the special method for calculating child support for shared-time, serial-family, and split-custody payers is permissive in the rule, a court is required to use the special method if the payer is a shared-time, serial-family, or split-custody payer because the special method is part of the percentage standard, which the court is required to use under the statute. This bill reverses that decision.

Under the bill, DWD is required to establish the percentage standard by rule and authorized to provide by rule for adjustments to the percentage standard that a court may, in its discretion, use for determining support in cases in which both parents have substantial physical placement with the child or in which a parent has

→
it →
if it used →
 a preexisting obligation to support a child. The bill authorizes, but does not require, a court to modify the amount of child support that would be ordered ~~by using~~ the percentage standard by using the special method of calculating child support set out in the rule if both parents have substantial physical placement with the child or a parent has a preexisting obligation to support a child. If the court uses the special method set out in the rule, the court is not required to consider the factors that are specified in current law for deviating from the percentage standard on the basis of finding that its use is unfair to the child or either party and is not required to state in writing or on the record the amount of support that would be required if the percentage standard were used, the amount by which the court's order deviates from that amount, its reasons for the amount of the modification, or the basis for the modification.

(END OF INSERT A)

INSERT 6-18 ✓

1 **SECTION 1.** 46.247 of the statutes is amended to read:
 2 **46.247 Application of child support standard for certain children.** For
 3 purposes of determining child support under s. 46.10 (14) (b), the department shall
 4 promulgate rules related to the application of the standard established by the
 5 department of workforce development under s. 49.22 (9) (a) ✓ to a child support
 6 obligation for the care and maintenance of a child who is placed by a court order
 7 under s. 48.355 or 48.357 in a residential, nonmedical facility. The rules shall take
 8 into account the needs of any person, including dependent children other than the
 9 child, whom either parent is legally obligated to support.

History: 1995 a. 404 s. 47; 1997 a. 3, 27, 237.

(END OF INSERT 6-18)

INSERT 9-2 ✓

fix comp. 10
 11 **SECTION 2.** 49.22 (9) of the statutes is renumbered 49.22 (9) (a) ✓ and amended
 to read:



bus 9-2 cont'd

①

49.22 (9) (a) The department shall promulgate rules that provide a standard for courts to use in determining a child support obligation based upon a percentage of the gross income and assets of either or both parents.

(b) ~~The department may promulgate rules shall that provide for consideration of the income of each parent and the amount of physical placement with each parent adjustments to the standard promulgated under par. (a) that a court, in its discretion, may use in determining a child support obligation in cases in which a child has substantial periods of physical placement with each parent or in which a parent has a preexisting obligation to support a child.~~

History: 1975 c. 82; 1977 c. 26, 29, 203, 418; 1979 c. 196, 221; 1981 c. 20, 93; 1983 a. 27; 1985 a. 29 ss. 861m to 866, 2390 to 2399; 1987 a. 27; 1987 a. 332 s. 64; 1987 a. 399, 403, 413; 1989 a. 31; 1991 a. 39; 1993 a. 16, 481; 1995 a. 27 ss. 2128m to 2134, 9126 (19), 9130 (4); 1995 a. 77, 187, 201, 225, 289; 1995 a. 404 ss. 39 to 43, 45, 46, 48, 173, 174; Stats. 1995 s. 49.22; 1997 a. 27, 105, 191, 237; 1999 a. 32; 2001 a. 16.

(END OF INSERT 9-2)

INSERT 12-8 ✓

SECTION 3. 301.12 (14) (g) of the statutes is amended to read:

301.12 (14) (g) For purposes of determining child support under par. (b), the department shall promulgate rules related to the application of the standard established by the department of workforce development under s. 49.22 (9) (a) to a child support obligation for the care and maintenance of a child who is placed by a court order under s. 938.183, 938.355, or 938.357 in a residential, nonmedical facility. The rules shall take into account the needs of any person, including dependent children other than the child, whom either parent is legally obligated to support.

History: 1995 a. 27 ss. 6361, 9126 (19); 1995 a. 77; 1997 a. 237; 1999 a. 103; 2001 a. 59.

(END OF INSERT 12-8)

INSERT 13-23 ✓

SECTION 4. 767.25 (1r) of the statutes is created to read:



Ins 13-23 contd

1 767.25 (1r) Notwithstanding sub. (1m),[✓] in cases in which a child has
2 substantial periods of physical placement with each parent or in which a parent has
3 a preexisting obligation to support a child, upon request by a party or on its own
4 motion, the court may modify the amount of child support payments determined
5 under sub. (1j)[✓] in the manner provided by rule under s. 49.22 (9) (b).[✓] The court is not
6 required to provide the information specified in sub. (1n)[✓] if the court determines child
7 support payments under this subsection.

(END OF INSERT 13-23)

INSERT 15-15 ✓

8 ~~SECTION 5. 767.32 (2m) (b) of the statutes is created to read.~~

9 767.32 (2m) (b) Notwithstanding par. (a), in cases in which a child has
10 substantial periods of physical placement with each parent or in which a parent has
11 a preexisting obligation to support a child, upon request by a party or on its own
12 motion, the court may modify the amount of child support payments determined
13 under sub. (2)[✓] in the manner provided by rule under s. 49.22 (9) (b).[✓] The court is not
14 required to provide the information specified in s. 767.25 (1n)[✓] if the court determines
15 child support payments under this paragraph.

16 SECTION 6. 767.33 (1) (a) of the statutes is amended to read:

17 767.33 (1) (a) An order for child or family support under this chapter may
18 provide for an annual adjustment in the amount to be paid based on a change in the
19 payer's income if the amount of child or family support is expressed in the order as
20 a fixed sum and based on the percentage standard established by the department
21 under s. 49.22 (9) (a).[✓] No adjustment may be made under this section unless the
22 order provides for the adjustment.



Ins 15-15 contd

1 SECTION 7. 767.33 (1) (b) of the statutes is amended to read:

2 767.33 (1) (b) An adjustment under this section may not be made more than
3 once in a year and shall be determined on the basis of the percentage standard
4 established by the department under s. 49.22 (9) (a). ✓

History: 1981 c. 20; 1983 a. 27; 1993 a. 481; 1995 a. 27 s. 9126 (19); 1995 a. 404; 1997 a. 27; 2001 a. 16, 61, 105.
(END OF INSERT 15-15)

INSERT 19-2

not frozen
↓
⑤
②
Ⓢ

5 PERCENTAGE STANDARD DOCUMENT LISTING DEVIATION FACTORS. The treatment
6 of sections 767.085 (2) (b) ✓ and (2m) (a) 2., ✓ 767.45 (7), ✓ and 767.455 (6) ✓ of the statutes
7 first applies to actions commenced on the first day of the 7th month beginning after
8 publication.

(END OF INSERT 19-2)

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

LRB-0021/P2dn

PJK/eng:pg

5/21

Erin:

1. The delay in the initial applicability of ss. 767.085 (2) (b) and (2m) (a) 2., 767.45 (7), and 767.455 (6) is intended to provide time to update the documents that clerks of court provide showing the percentage standard and the factors considered for deviation from it.

2. Sometimes a change in the statutes related to child support is used as a "substantial change in circumstances" for an action to revise support under s. 767.32. Do you want to provide explicitly that this change is not a substantial change in circumstances?

This would only be an issue for those cases in which the court determined that it was *required* to calculate support by using s. DWD 40.04, Wis. Adm. Code. I don't know how often that might have happened before the decision in *Randall*, or since that decision, so I don't know if there would be very many parties who would try to get support revised on the basis of the ~~statutory~~ ^{statutory} change, placing a burden on the courts.

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

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

LRB-0021/P2dn
PJK:kmg:jf

October 18, 2002

Erin:

1. The delay in the initial applicability of ss. 767.085 (2) (b) and (2m) (a) 2., 767.45 (7), and 767.455 (6) is intended to provide time to update the documents that clerks of court provide showing the percentage standard and the factors considered for deviation from it.

2. Sometimes a change in the statutes related to child support is used as a "substantial change in circumstances" for an action to revise support under s. 767.32. Do you want to provide explicitly that this change is not a substantial change in circumstances?

This would only be an issue for those cases in which the court determined that it was *required* to calculate support by using s. DWD 40.04, Wis. Adm. Code. I don't know how often that might have happened before the decision in *Randall*, or since that decision, so I don't know if there would be very many parties who would try to get support revised on the basis of the statutory change, placing a burden on the courts.

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

DOA:.....Fath - BB0187, Clarify that percentage standard is permissive in certain cases

FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

CHILDREN

Under current law, DWD must promulgate rules that provide a standard for courts to use in determining child support based on a percentage of a parent's gross income. This standard is called the percentage standard, and it requires a payer to pay a specific percentage of his or her gross income as child support. The specific percentage depends on the number of children to be supported.

The statute that requires DWD to establish the percentage standard by administrative rule also requires those rules to provide for consideration of each parent's income and physical placement with the child in determining child support in cases in which both parents have substantial physical placement with the child. Thus, in addition to the percentage standard, the rules set out a special method that may be used to calculate child support payments, based on adjustments to the percentage standard to fit the specific circumstance, if the payer provides care for the child at least 31% of the time (shared-time payer), already has a legal obligation to pay support for one or more children from a previous marriage or other relationship (serial-family payer), or has at least two children and cares for at least one, but not all, of the children for more time than the other parent (split-custody payer).

Current law requires a court to use the percentage standard in determining child support in divorces, paternity actions, and other actions affecting the family in which child support is ordered, as well as when a child is placed in a residential, nonmedical facility, such as a group home, foster home, or juvenile correctional institution. The court may, however, modify the amount of child support that it would order by using the percentage standard if the court finds that use of the percentage standard is unfair to the child or to either of the parties after considering a number of factors, such as the earning capacity of each parent, the needs of any other person whom a parent is legally obligated to support, the child's educational needs, and the physical, emotional, and mental health needs of the child. If the court does modify the amount of child support, the court must state in writing or on the record the amount of support that would be required if the percentage standard were used, the amount by which the court's order deviates from that amount, its reasons for finding that the use of the percentage standard is unfair, the reason for the amount of the modification, and the basis for the modification.

In *In re Marriage of Randall v. Randall*, 2000 WI App 98, 235 Wis. 2d 1, 612 N.W. 2d 737, the Wisconsin Court of Appeals decided that, even though the administrative rule setting out the special method for calculating child support for shared-time, serial-family, and split-custody payers is permissive in the rule, a court is required to use the special method if the payer is a shared-time, serial-family, or split-custody payer because the special method is part of the percentage standard, which the court is required to use under the statute. This bill reverses that decision.

Under the bill, DWD is required to establish the percentage standard by rule and authorized to provide by rule for adjustments to the percentage standard that a court may, in its discretion, use for determining support in cases in which both parents have substantial physical placement with the child or in which a parent has a preexisting obligation to support a child. The bill authorizes, but does not require, a court to modify the amount of child support that it would order if it used the percentage standard by using the special method of calculating child support set out in the rule if both parents have substantial physical placement with the child or a parent has a preexisting obligation to support a child. If the court uses the special method set out in the rule, the court is not required to consider the factors that are specified in current law for deviating from the percentage standard on the basis of finding that its use is unfair to the child or either party and is not required to state in writing or on the record the amount of support that would be required if the percentage standard were used, the amount by which the court's order deviates from that amount, its reasons for the amount of the modification, or the basis for the modification.

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

1

SECTION 1. 46.10 (14) (b) of the statutes is amended to read:

1 46.10 (14) (b) Except as provided in par. (c) and subject to par. (cm), liability
2 of a parent specified in sub. (2) or s. 46.03 (18) for the care and maintenance of the
3 parent's minor child who has been placed by a court order under s. 48.355 or 48.357
4 in a residential, nonmedical facility such as a group home, foster home, treatment
5 foster home, or residential care center for children and youth shall be determined by
6 the court by using the percentage standard established by the department of
7 workforce development under s. 49.22 (9) (a) and by applying the percentage
8 standard in the manner established by the department under s. 46.247.

9 **SECTION 2.** 46.247 of the statutes is amended to read:

10 **46.247 Application of child support standard for certain children.** For
11 purposes of determining child support under s. 46.10 (14) (b), the department shall
12 promulgate rules related to the application of the standard established by the
13 department of workforce development under s. 49.22 (9) (a) to a child support
14 obligation for the care and maintenance of a child who is placed by a court order
15 under s. 48.355 or 48.357 in a residential, nonmedical facility. The rules shall take
16 into account the needs of any person, including dependent children other than the
17 child, whom either parent is legally obligated to support.

18 **SECTION 3.** 48.30 (6) (b) of the statutes is amended to read:

19 48.30 (6) (b) If it appears to the court that disposition of the case may include
20 placement of the child outside the child's home, the court shall order the child's
21 parent to provide a statement of income, assets, debts, and living expenses to the
22 court or the designated agency under s. 48.33 (1) at least 5 days before the scheduled
23 date of the dispositional hearing or as otherwise ordered by the court. The clerk of
24 court shall provide, without charge, to any parent ordered to provide a statement of
25 income, assets, debts, and living expenses a document setting forth the percentage

1 standard established by the department of workforce development under s. 49.22 (9)
2 (a) and the manner of its application established by the department of health and
3 family services under s. 46.247 and listing the factors that a court may consider
4 under s. 46.10 (14) (c).

5 **SECTION 4.** 48.31 (7) (b) of the statutes is amended to read:

6 48.31 (7) (b) If it appears to the court that disposition of the case may include
7 placement of the child outside the child's home, the court shall order the child's
8 parent to provide a statement of income, assets, debts, and living expenses to the
9 court or the designated agency under s. 48.33 (1) at least 5 days before the scheduled
10 date of the dispositional hearing or as otherwise ordered by the court. The clerk of
11 court shall provide, without charge, to any parent ordered to provide a statement of
12 income, assets, debts, and living expenses a document setting forth the percentage
13 standard established by the department of workforce development under s. 49.22 (9)
14 (a) and the manner of its application established by the department of health and
15 family services under s. 46.247 and listing the factors that a court may consider
16 under s. 46.10 (14) (c).

17 **SECTION 5.** 48.357 (5m) (a) of the statutes is amended to read:

18 48.357 (5m) (a) If a proposed change in placement changes a child's placement
19 from a placement in the child's home to a placement outside the child's home, the
20 court shall order the child's parent to provide a statement of income, assets, debts,
21 and living expenses to the court or the person or agency primarily responsible for
22 implementing the dispositional order by a date specified by the court. The clerk of
23 court shall provide, without charge, to any parent ordered to provide a statement of
24 income, assets, debts, and living expenses a document setting forth the percentage
25 standard established by the department of workforce development under s. 49.22 (9)

1 (a) and the manner of its application established by the department of health and
2 family services under s. 46.247 and listing the factors that a court may consider
3 under s. 46.10 (14) (c). If the child is placed outside the child's home, the court shall
4 determine the liability of the parent in the manner provided in s. 46.10 (14).

5 SECTION 6. 48.363 (1) (c) of the statutes is amended to read:

6 48.363 (1) (c) If the proposed revision is for a change in the amount of child
7 support to be paid by a parent, the court shall order the child's parent to provide a
8 statement of income, assets, debts, and living expenses to the court and the person
9 or agency primarily responsible for implementing the dispositional order by a date
10 specified by the court. The clerk of court shall provide, without charge, to any parent
11 ordered to provide a statement of income, assets, debts, and living expenses a
12 document setting forth the percentage standard established by the department of
13 workforce development under s. 49.22 (9) (a) and the manner of its application
14 established by the department of health and family services under s. 46.247 and
15 listing the factors that a court may consider under s. 46.10 (14) (c).

16 SECTION 7. 49.22 (9) of the statutes is amended to read:

17 49.22 (9) (a) The department shall promulgate rules that provide a standard
18 for courts to use in determining a child support obligation based upon a percentage
19 of the gross income and assets of either or both parents.

20 (b) The department may promulgate rules shall that provide for consideration
21 of the income of each parent and the amount of physical placement with each parent
22 adjustments to the standard promulgated under par. (a) that a court, in its
23 discretion, may use in determining a child support obligation in cases in which a
24 child has substantial periods of physical placement with each parent or in which a
25 parent has a preexisting obligation to support a child.

1 **SECTION 8.** 301.12 (14) (b) of the statutes is amended to read:

2 301.12 (14) (b) Except as provided in par. (c) and subject to par. (cm), liability
3 of a parent specified in sub. (2) or s. 301.03 (18) for the care and maintenance of the
4 parent's minor child who has been placed by a court order under s. 938.183, 938.355,
5 or 938.357 in a residential, nonmedical facility such as a group home, foster home,
6 treatment foster home, residential care center for children and youth, or juvenile
7 correctional institution shall be determined by the court by using the percentage
8 standard established by the department of workforce development under s. 49.22 (9)
9 (a) and by applying the percentage standard in the manner established by the
10 department under par. (g).

11 **SECTION 9.** 301.12 (14) (g) of the statutes is amended to read:

12 301.12 (14) (g) For purposes of determining child support under par. (b), the
13 department shall promulgate rules related to the application of the standard
14 established by the department of workforce development under s. 49.22 (9) (a) to a
15 child support obligation for the care and maintenance of a child who is placed by a
16 court order under s. 938.183, 938.355, or 938.357 in a residential, nonmedical facility.
17 The rules shall take into account the needs of any person, including dependent
18 children other than the child, whom either parent is legally obligated to support.

19 **SECTION 10.** 767.085 (2) (b) of the statutes is amended to read:

20 767.085 (2) (b) The clerk of court shall provide without charge, to each person
21 filing a petition requesting child support, a document setting forth the percentage
22 standard established by the department under s. 49.22 (9) (a) and listing the factors
23 ~~which that~~ a court may consider under s. 767.25 (1m) and (1r).

24 **SECTION 11.** 767.085 (2m) (a) 2. of the statutes is amended to read:

1 767.085 (2m) (a) 2. Shall be accompanied by a document, provided without
2 charge by the clerk of court, setting forth the percentage standard established by the
3 department under s. 49.22 (9) (a) and listing the factors ~~which~~ that a court may
4 consider under s. 767.25 (1m) and (1r).

5 **SECTION 12.** 767.23 (1n) of the statutes is amended to read:

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

19 **SECTION 13.** 767.25 (1j) of the statutes is amended to read:

20 767.25 (1j) Except as provided in ~~sub.~~ subs. (1m) and (1r), the court shall
21 determine child support payments by using the percentage standard established by
22 the department under s. 49.22 (9) (a).

23 **SECTION 14.** 767.25 (1r) of the statutes is created to read:

24 767.25 (1r) Notwithstanding sub. (1m), in cases in which a child has
25 substantial periods of physical placement with each parent or in which a parent has

1 a preexisting obligation to support a child, upon request by a party or on its own
2 motion, the court may modify the amount of child support payments determined
3 under sub. (1j) in the manner provided by rule under s. 49.22 (9) (b). The court is not
4 required to provide the information specified in sub. (1n) if the court determines child
5 support payments under this subsection.

6 **SECTION 15.** 767.295 (2) (c) of the statutes is amended to read:

7 767.295 (2) (c) If the court enters an order under par. (a), it shall order the
8 parent to pay child support equal to the amount determined by applying the
9 percentage standard established under s. 49.22 (9) (a) to the income a person would
10 earn by working 40 hours per week for the federal minimum hourly wage under 29
11 USC 206 (a) (1) or equal to the amount of child support that the parent was ordered
12 to pay in the most recent determination of support under this chapter. The child
13 support obligation ordered under this paragraph continues until the parent makes
14 timely payment in full for 3 consecutive months or until the person participates in
15 the program under s. 49.36 for 16 weeks, whichever comes first. The court shall
16 provide in its order that the parent must make child support payments calculated
17 under s. 767.25 (1j) ~~or~~ (1m), or (1r) after the obligation to make payments ordered
18 under this paragraph ceases.

19 **SECTION 16.** 767.32 (1) (b) 4. of the statutes is amended to read:

20 767.32 (1) (b) 4. A difference between the amount of child support ordered by
21 the court to be paid by the payer and the amount that the payer would have been
22 required to pay based on the percentage standard established by the department
23 under s. 49.22 (9) (a), or based on the method of calculating child support under s.
24 767.25 (1r), if the court did not use the percentage standard or the method under s.
25 767.25 (1r) in determining the child support payments and did not provide the

1 information required under s. 46.10 (14) (d), 301.12 (14) (d), or 767.25 (1n), whichever
2 is appropriate.

3 **SECTION 17.** 767.32 (2) of the statutes is amended to read:

4 767.32 (2) Except as provided in sub. (2m) or (2r), if the court revises a
5 judgment or order with respect to child support payments, it shall do so by using the
6 percentage standard established by the department under s. 49.22 (9) (a).

7 **SECTION 18.** 767.32 (2m) of the statutes is renumbered 767.32 (2m) (a).

8 **SECTION 19.** 767.32 (2m) (b) of the statutes is created to read:

9 767.32 (2m) (b) Notwithstanding par. (a), in cases in which a child has
10 substantial periods of physical placement with each parent or in which a parent has
11 a preexisting obligation to support a child, upon request by a party or on its own
12 motion, the court may modify the amount of child support payments determined
13 under sub. (2) in the manner provided by rule under s. 49.22 (9) (b). The court is not
14 required to provide the information specified in s. 767.25 (1n) if the court determines
15 child support payments under this paragraph.

16 **SECTION 20.** 767.33 (1) (a) of the statutes is amended to read:

17 767.33 (1) (a) An order for child or family support under this chapter may
18 provide for an annual adjustment in the amount to be paid based on a change in the
19 payer's income if the amount of child or family support is expressed in the order as
20 a fixed sum and based on the percentage standard established by the department
21 under s. 49.22 (9) (a). No adjustment may be made under this section unless the
22 order provides for the adjustment.

23 **SECTION 21.** 767.33 (1) (b) of the statutes is amended to read:

1 767.33 (1) (b) An adjustment under this section may not be made more than
2 once in a year and shall be determined on the basis of the percentage standard
3 established by the department under s. 49.22 (9) (a).

4 **SECTION 22.** 767.45 (7) of the statutes is amended to read:

5 767.45 (7) The clerk of court shall provide without charge, to each person
6 bringing an action under this section, except to the state under sub. (1) (g) or (6m),
7 a document setting forth the percentage standard established by the department
8 under s. 49.22 (9) (a) and listing the factors ~~which~~ that a court may consider under
9 s. 767.25 (1m) and (1r).

10 **SECTION 23.** 767.455 (6) of the statutes is amended to read:

11 767.455 (6) DOCUMENT. The summons served on the respondent shall be
12 accompanied by a document, provided without charge by the clerk of court, setting
13 forth the percentage standard established by the department under s. 49.22 (9) (a)
14 and listing the factors ~~which~~ that a court may consider under s. 767.25 (1m) and (1r).

15 **SECTION 24.** 767.477 (2) of the statutes is amended to read:

16 767.477 (2) Before making any temporary order under sub. (1), the court shall
17 consider those factors that the court is required to consider when granting a final
18 judgment on the same subject matter. If the court makes a temporary child support
19 order that deviates from the amount of support that would be required by using the
20 percentage standard established by the department under s. 49.22 (9) (a) or by using
21 the method of calculating child support under in s. 767.25 (1r), the court shall comply
22 with the requirements of s. 767.25 (1n).

23 **SECTION 25.** 938.30 (6) (b) of the statutes is amended to read:

24 938.30 (6) (b) If it appears to the court that disposition of the case may include
25 placement of the juvenile outside the juvenile's home, the court shall order the

1 juvenile's parent to provide a statement of income, assets, debts, and living expenses
2 to the court or the designated agency under s. 938.33 (1) at least 5 days before the
3 scheduled date of the dispositional hearing or as otherwise ordered by the court. The
4 clerk of court shall provide, without charge, to any parent ordered to provide a
5 statement of income, assets, debts, and living expenses a document setting forth the
6 percentage standard established by the department of workforce development under
7 s. 49.22 (9) (a) and listing the factors that a court may consider under s. 301.12 (14)
8 (c).

9 **SECTION 26.** 938.31 (7) (b) of the statutes is amended to read:

10 938.31 (7) (b) If it appears to the court that disposition of the case may include
11 placement of the juvenile outside the juvenile's home, the court shall order the
12 juvenile's parent to provide a statement of income, assets, debts, and living expenses
13 to the court or the designated agency under s. 938.33 (1) at least 5 days before the
14 scheduled date of the dispositional hearing or as otherwise ordered by the court. The
15 clerk of court shall provide, without charge, to any parent ordered to provide a
16 statement of income, assets, debts, and living expenses a document setting forth the
17 percentage standard established by the department of workforce development under
18 s. 49.22 (9) (a) and listing the factors that a court may consider under s. 301.12 (14)
19 (c).

20 **SECTION 27.** 938.357 (5m) (a) of the statutes is amended to read:

21 938.357 (5m) (a) If a proposed change in placement changes a juvenile's
22 placement from a placement in the juvenile's home to a placement outside the
23 juvenile's home, the court shall order the juvenile's parent to provide a statement of
24 income, assets, debts, and living expenses to the court or the person or agency
25 primarily responsible for implementing the dispositional order by a date specified by

1 the court. The clerk of court shall provide, without charge, to any parent ordered to
2 provide a statement of income, assets, debts, and living expenses a document setting
3 forth the percentage standard established by the department of workforce
4 development under s. 49.22 (9) (a) and listing the factors that a court may consider
5 under s. 301.12 (14) (c). If the juvenile is placed outside the juvenile's home, the court
6 shall determine the liability of the parent in the manner provided in s. 301.12 (14).

7 **SECTION 28.** 938.363 (1) (c) of the statutes is amended to read:

8 938.363 (1) (c) If the proposed revision is for a change in the amount of child
9 support to be paid by a parent, the court shall order the juvenile's parent to provide
10 a statement of income, assets, debts, and living expenses to the court and the person
11 or agency primarily responsible for implementing the dispositional order by a date
12 specified by the court. The clerk of court shall provide, without charge, to any parent
13 ordered to provide a statement of income, assets, debts, and living expenses a
14 document setting forth the percentage standard established by the department of
15 workforce development under s. 49.22 (9) (a) and listing the factors that a court may
16 consider under s. 301.12 (14) (c).

17 **SECTION 9359. Initial applicability; workforce development.**

18 (1) CALCULATING CHILD SUPPORT IN SPECIAL CIRCUMSTANCES. The treatment of
19 sections 767.23 (1n), 767.25 (1j) and (1r), 767.295 (2) (c), 767.32 (1) (b) 4., and 767.477
20 (2) of the statutes, the renumbering of section 767.32 (2m) of the statutes, and the
21 creation of section 767.32 (2m) (b) of the statutes first apply to child support orders
22 that are granted on the effective date of this subsection, including orders in actions
23 or proceedings to modify a judgment or order that was granted before the effective
24 date of this subsection.

1 (2) PERCENTAGE STANDARD DOCUMENT LISTING DEVIATION FACTORS. The treatment
2 of sections 767.085 (2) (b) and (2m) (a) 2., 767.45 (7), and 767.455 (6) of the statutes
3 first applies to actions commenced on the first day of the 7th month beginning after
4 publication.

5

(END)