

**2003 DRAFTING REQUEST**

**Bill**

Received: **09/13/2002**

Received By: **pkahler**

Wanted: **Soon**

Identical to LRB:

For: **Administration-Budget 6-8219**

By/Representing: **Fath**

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:

Carbon copy (CC:) to:

---

**Pre Topic:**

DOA:.....Fath - BB0181,

---

**Topic:**

Provide that state is real party in interest in support cases if party is receiving food stamps

---

**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 09/13/2002	kgilfoy 09/16/2002		_____			State
/P1	pkahler 09/26/2002	kgilfoy 10/01/2002	pgreensl	_____	sbasford 09/19/2002		State
/P2			pgreensl	_____	lemery		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
			10/01/2002 _____		10/01/2002		
/1	pkahler 10/15/2002	kgilfoy 10/15/2002	jfrantze 10/16/2002 _____		mbarman 10/16/2002		State
	pkahler 02/05/2003	jdyer 02/06/2003	_____				
/2			jfrantze 02/06/2003 _____		amentkow 02/06/2003		

FE Sent For:

<END>

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/?	pkahler 09/13/2002	kgilfoy 09/16/2002					State
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/P2		12/2/02 jld	pgreensl		lemery		State

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			10/01/2002 _____		10/01/2002		
/1	pkahler 10/15/2002	kgilfoy 10/15/2002	jfrantze 10/16/2002 _____		mbarman 10/16/2002		

FE Sent For:

<END>

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FE Sent For:		1- 10/15 KMP	10/16	Self 10/16			
				<END>			

2003 DRAFTING REQUEST

Bill

Received: 09/13/2002

Received By: pkahler

Wanted: Soon

Identical to LRB:

For: Workforce Development 6-3338

By/Representing: Troy Sterr

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: stertr@dwd.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Provide that state is real party in interest in support cases if party is receiving food stamps

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 09/13/2002	kgilfoy 09/16/2002		_____			State
/P1	pkahler 09/26/2002	kgilfoy 10/01/2002	pgreensl	_____	sbasford 09/19/2002		State
/P2			pgreensl	_____	lemery		

10/01/2002 01:58:35 PM

Page 2

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
			10/01/2002 _____		10/01/2002		

FE Sent For:

<END>

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Received By: pkahler

Wanted: Soon

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For: Workforce Development 6-3338

By/Representing: Troy Sterr

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May Contact:

Addl. Drafters:

Subject: Dom. Rel. - child support

Extra Copies:

Submit via email: YES

Requester's email: sterrtr@dwd.state.wi.us

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/?	pkahler 09/13/2002	kgilfoy 09/16/2002		<del>10</del>			State
/P1		1/2-10/1 Kmg	pgreensl 09/19/2002	<del>sell</del>	sbasford 09/19/2002		

10/1  
PK



FE Sent For:

**<END>**

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FE Sent For:		1/1-9/16 Kmg	9/19 P8	9/19 self <END>			

## **STATUTORY MODIFICATIONS**

Department of Workforce Development  
2003-2005 Biennial Budget Request

**DIN Number:** DIN56XXSTAT#2

**Topic:** Real party of interest in Food Stamp cases

**Description of Change:**

Amend s. 767.075(c) to include food stamp recipients receiving aid under s. 49.124 among the list of aid cases in which the State is a real party in interest in the child support case.

**Justification:**

Under current law, the state may join in an action affecting the family as a real party in interest for the purpose of establishing paternity or securing child support in a number of situations. The most common situation is when a child or custodial parent of a child involved in the action is the recipient of certain services or benefits provided by the state.

The cooperation language in s. 49.124(1g)(a) provides that a food stamp recipient who is a custodial parent must cooperate with the efforts directed at establishing and enforcing child support orders. However, current law does not provide that the state is a real party in interest in Food Stamp-only cases. Judges are challenging the state's authority to appear in child support actions in these cases, which means local agencies cannot have paternity or child support established and these cases count against the agency for purposes of federal reporting and eligibility for federal incentive awards.

The ability to take a case to court could reduce the need for food stamps when paternity and order establishment results in child support being paid.



State of Wisconsin  
2001 - 2002 LEGISLATURE

3 4

0015/P1  
LRB-5180/1  
PJK: King

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SOON  
(9-6)

you cut

1 AN ACT **relating to:** making the state a real party in interest in support cases  
2 if the custodial parent is receiving food stamps.

---

*Analysis by the Legislative Reference Bureau*

Under current law, in a number of situations the state may join in an action affecting the family (such as a divorce action or an action to enforce a child support order) as a real party in interest for purposes of establishing paternity or securing future support or reimbursement of aid paid. The most common situation is when a child or custodial parent of a child involved in the action is the recipient of certain services or benefits provided by the state, such as medical assistance. The bill adds to those situations receipt of food stamp benefits by a custodial parent involved in the action. Current law requires a custodial parent of a child who has an absent parent to cooperate with efforts to establish or enforce a support order, if appropriate, to be eligible for food stamps.

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

---

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

3 SECTION 1. 767.075 (1) (c) of the statutes is amended to read:

1           767.075 (1) (c) Whenever aid under s. 46.261, 48.57 (3m) or (3n), 49.19, or 49.45  
2           is provided on behalf of a dependent child or benefits are provided to the child's  
3           custodial parent under s. ~~49.124~~ <sup>49.79</sup> or under ss. 49.141 to 49.161.

History: 1977 c. 418; 1979 c. 32 s. 50; 1979 c. 352 s. 39; Stats. 1979 s. 767.075; 1983 a. 27 s. 2202 (57); 1987 a. 413; 1989 a. 31; 1993 a. 326, 481; 1995 a. 27 s. 9126 (19); 1995 a. 201, 275, 289, 404; 1997 a. 35, 105.

4           **SECTION 2. Initial applicability.**

5           (1) This act first applies to actions affecting the family that are pending on the  
6           effective date of this subsection.

7   (END)

**Kahler, Pam**

---

**From:** Sterr, Troy  
**Sent:** Monday, September 23, 2002 2:04 PM  
**To:** Kahler, Pam  
**Cc:** Mathison, Susan; Reines, Bruce - DWD  
**Subject:** Comments on draft statutory language

Below are comments on the drafts sent over last week. Please let me know if you have further questions. Thanks.

**LB0014:** To answer your questions in the drafter's note:  
#1.) Although the paternity acknowledgment process is a requirement of the child support program, the actual form is a DHFS form. We have worked closely with DHFS over the years on the development of the form and they are well aware of the issues that led to these proposed revisions in the statutes. However, the legitimation form referenced in 69.15(3)(b)(1) is also a DHFS form and one that we have not worked with them on. It does not seem appropriate for DWD to be proposing amendments to statutory language impacting another department.  
#2.) The existing form does include language in a number of places advising readers that it is a legal form and that if they don't understand it, they should seek legal advice. We would not object to language in the statutes requiring a disclaimer. However, we would prefer that the language in 69.15(3)(b)(3) parallel the language in s.767.62 that signees be advised of "the legal consequences of, the rights and responsibilities arising from and the alternatives to, signing the statement". The legal rights of and defenses that would be available to a man alleged to be a father in a paternity action are not directly relevant to someone contemplating signing a paternity acknowledgment more even further in the direction of having a departmental agency give legal advice.  
#3.) Date of passage of the budget will be fine.

**LRB-0015.** The draft language is fine, but the bureau would like to see the analysis strengthened. As drafted, the analysis is technically correct; however it doesn't make the connection between the recipient's requirement to cooperate with child support and child support's standing to then take any action in court. The actual draft language is fine.

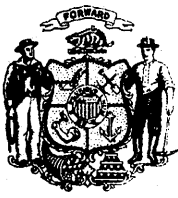
**LRB0016** is final.

**LRB0017** is final.

**LRB0018** is final.

**LRB0019** is final.

Troy D. Sterr  
Budget Analyst  
Bureau of Budget and Planning  
Department of Workforce Development  
201 East Washington Avenue, Room 422  
Madison, WI 53702  
(608) 266-3338



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SOON  
(9-26)  
Agency budget draft

↓  
DON'T  
GEN. Cat. ...

1 AN ACT ~~to amend~~ 767.075 (1) (c) of the statutes; relating to: making the state  
2 a real party in interest in support cases if the custodial parent is receiving food  
3 stamps.

*Analysis by the Legislative Reference Bureau*

Under current law, in a number of situations the state may join in an action affecting the family (such as a divorce action or an action to enforce a child support order) as a real party in interest for purposes of establishing paternity or securing future support or reimbursement of aid paid. The most common situation is when a child or custodial parent of a child involved in the action is the recipient of certain services or benefits provided by the state, such as medical assistance. The bill adds to those situations receipt of food stamp benefits by a custodial parent involved in the action. Current law requires a custodial parent of a child who has an absent parent to cooperate with efforts to establish or enforce a support order, if appropriate, to be eligible for food stamps.

Insert  
A

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

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4 SECTION 1. 767.075 (1) (c) of the statutes is amended to read:

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3 custodial parent under s. 49.79 or under ss. 49.141 to 49.161.

4           **SECTION 2. Initial applicability.**

5           (1) This act first applies to actions affecting the family that are pending on the  
6 effective date of this subsection.

(END)

Insert  
B



2003-2004 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0015/P1ins  
PJK:kmg:pg

Head ~~sub~~ other INSERT A

Current law provides that, to be eligible for food stamps, a custodial parent of a child who has an absent parent must cooperate with efforts to establish or enforce a support order, if appropriate. Current law also provides that, in a number of situations, the state is a real party in interest for purposes of establishing paternity or securing future support or reimbursement of aid paid by the state. As a real party in interest, the state may, for the specified purposes, commence an action or join in an action that is already commenced. One situation in which the state is a real party in interest is when the state provides certain services or benefits on behalf of a child, such as foster care aid or medical assistance, or provides certain services or benefits to a custodial parent of a child, such as services or benefits under the Wisconsin works program. This bill adds the receipt of food stamp benefits by a custodial parent of a child as another situation in which the state, for the purpose of establishing paternity or securing future support or reimbursement of aid paid, is a real party in interest in an action affecting the family that involves the custodial parent.

(END OF INSERT A)

INSERT B

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

2           (1) STATE IS REAL PARTY IN INTEREST BASED ON RECEIPT OF FOOD STAMPS. The  
3 treatment of section 767.075 (1) (c) of the statutes first applies to actions affecting  
4 the family that are pending on the effective date of this subsection.

(END OF INSERT B)

**STATUTORY LANGUAGE REQUEST**  
**2003-05 BIENNIAL BUDGET**

**TOPIC:** Real Party of Interest in Food Stamp Cases  
**TEAM:** EDUC  
**ANALYST:** Fath  
**AGENCY:** DWD  
**NUMBER:** 445

443 15

BB0181

**Date:** October 14, 2002  
**To:** Steve Miller, LRB  
**From:** Erin Fath, DOA  
**Subject:** Statutory Language Request

DWD request 5603-STAT#2: Real Party of Interest in Food Stamp Cases

Attached is a request for a statutory language change that DWD submitted to LRB prior to submitting it biennial budget request to DOA.

**LRB-0015/P1** was included with this request as part of DWD's biennial budget submission to DOA.

I am submitting this request now to get it into DOA's statutory language tracking system as a DOA statutory language request item.

If you have any questions, please call me at 6-8219, or send me an email at: [erin.fath@doa.state.wi.us](mailto:erin.fath@doa.state.wi.us).

Thank you.

## STATUTORY MODIFICATIONS

Department of Workforce Development  
2003-2005 Biennial Budget Request

**DIN Number:** DIN5603STAT#2

**Topic:** Real party of interest in food stamp cases

### **Description of Change:**

Amend s. 767.075(c) to include food stamp recipients receiving aid under s. 49.124 among the list of aid cases in which the State is a real party in interest in the child support case.

### **Justification:**

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The ability to take a case to court may reduce the need for food stamps when paternity and order establishment results in child support being paid.

2003

Date (time) needed SOON (10-15)

LRB-0015 / 1

**DOA BUDGET DRAFT**

*(converted from DWD)*

PSK : King : \_\_\_\_\_

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

head → HEALTH AND HUMAN SERVICES  
sub → OTHER HEALTH AND HUMAN SERVICES

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

SECTION #.



State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-0015/1

PJK:kmg:pg

*rmis run*

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: making the state a real party in interest in support cases  
2 if the custodial parent is receiving food stamps.

*Analysis by the Legislative Reference Bureau*

OTHER

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

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

6           (1) STATE IS REAL PARTY IN INTEREST BASED ON RECEIPT OF FOOD STAMPS. The  
7 treatment of section 767.075 (1) (c) <sup>✓</sup> of the statutes first applies to actions affecting  
8 the family that are pending on the effective date of this subsection.

9   **(END)**



State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-0015/3  
PJK:kmg:jf

2  
+ Jld  
v m not run

DOA:.....Fath – BB0181, Provide that state is real party in interest in support cases if party is receiving food stamps

FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

D-note

do not forget

1 AN ACT; relating to: the budget.

*Analysis by the Legislative Reference Bureau*

**HEALTH AND HUMAN SERVICES**

**OTHER HEALTH AND HUMAN SERVICES**

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auto ref

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9 (END)

auto ref  
(by SECTION 1)  
CS

D-note

This draft reconciles LRB-0015 and LRB-1256 with respect to s. 767.075 (1)(c) and the delayed effective date in LRB-1256. Both drafts should continue to appear in the compile.

PJK

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

LRB-0015/2dn  
PJK:jld:jf

February 6, 2003

This draft reconciles

This draft reconciles LRB-0015, and LRB-1256 with respect to s. 767.075 (1) (c) and the delayed effective date in LRB-1256. Both drafts should continue to appear in the compile.

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



State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-0015/2  
PJK:kmg&jld:jf

DOA:.....Fath – BB0181, Provide that state is real party in interest in support cases if party is receiving food stamps

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

6           (1) STATE IS REAL PARTY IN INTEREST BASED ON RECEIPT OF FOOD STAMPS. The  
7 treatment of section 767.075 (1) (c) (by SECTION 1) of the statutes first applies to  
8 actions affecting the family that are pending on the effective date of this subsection.

9   **(END)**