

2003 DRAFTING REQUEST

Bill

Received: **04/07/2003**

Received By: **pkahler**

Wanted: **As time permits**

Identical to LRB:

For: **Sheryl Albers (608) 266-8531**

By/Representing: **Ryan Gruber**

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

Drafter: **pkahler**

May Contact:

Addl. Drafters:

Subject: **Dom. Rel. - cust./plac./vis.
Courts - costs and fees**

Extra Copies: **RPN**

Submit via email: **YES**

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

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Waive filing fee for petition or motion to amend custody or physical placement if change is stipulated

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 04/08/2003	jdye 04/09/2003 jdye 04/09/2003					S&L
/1			chaskett 04/09/2003		mbarman 04/09/2003	mbarman 08/19/2003	

Per Ryan Gruber

Jacketed

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For: 08/19/2003.

(~~"/T"~~)

<END>

Requested
by Ryan Gruber

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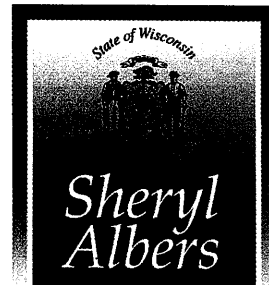
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/?	pkahler	1 4/9 jld	1 4/9 cph	SELF 4/9			

FE Sent For:

<END>

FK



To: LRB – Drafting
From: Representative Sheryl K. Albers

Date: April 7, 2003

Subject: Fee Waiver for Stipulated Modifications to Child Custody

Please draft a 2003 bill that would accomplish the following:

- Create a fee waiver in 814.61(7)(b) by adding language to the effect that no fee may be collected under this paragraph for any petition or motion by either party for the revision of a judgment or order involving legal custody or physical placement of a child or moving a child's residence if both parties have stipulated to the revision or the judgment or order.

Please contact Ryan Gruber in my office with any questions. Thank you.



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-2487/1

PJK:...

Jid

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-note

gen cost

1 AN ACT...; relating to: waiver of filing fee if parties stipulate to certain revisions
2 of judgment or order.

Analysis by the Legislative Reference Bureau

Under current law, a party who files a petition or motion to revise a judgment or order for child support, family support, or maintenance must pay a filing fee of \$30 to the clerk of circuit court. Fifty percent of the filing fee is retained for general use by the county and 50% is paid to the state treasurer for deposit in the general fund. No filing fee is required, however, if the parties stipulate to the revision in child or family support or maintenance.

Also under current law, a party who files a petition, motion, or order to show cause to revise a judgment or order for legal custody of, or physical placement with, a child must pay a filing fee of \$50 to the clerk of circuit court. Twenty-five percent of the filing fee is retained for general use by the county, 25% is paid to the state treasurer for deposit in the general fund, and 50% must be used exclusively for the county's family court counseling services, which include mediation. This bill provides that no filing fee is required for filing a petition, motion, or order to show cause to revise a judgment or order for legal custody or physical placement if the parties stipulate to the revision.

For further information see the *state and local* 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:

1 SECTION 1. 814.61 (7) (b) of the statutes is amended to read:

2 814.61 (7) (b) Upon the filing of any petition, motion, or order to show cause
3 by either party under s. 767.325 or 767.327, \$50. No fee may be collected under this
4 paragraph for filing a petition, motion, or order to show cause for the revision of a
5 judgment or order for legal custody or physical placement if both parties have
6 stipulated to the revision of the judgment or order. Of the fees received by the clerk
7 under this paragraph, the county treasurer shall pay 25% to the state treasurer for
8 deposit in the general fund, retain 25% for the use of the county, and deposit 50% in
9 a separate account to be used by the county exclusively for the purposes specified in
10 s. 767.11.

11 **History:** 1981 c. 317; 1983 a. 27; 1983 a. 189 s. 329 (28); 1983 a. 228, 447, 538; 1985 a. 29, 169; 1987 a. 27 ss. 2143p, 3202 (24); 1987 a. 144, 355, 399; 1989 a. 31; 1989 a. 56 s. 259; 1989 a. 191; 1991 a. 39, 221, 269; 1993 a. 16, 319, 326, 481, 491; 1995 a. 27, 201, 224, 269, 279, 289, 306; 1997 a. 27, 35, 285; 1999 a. 9, 71; 2001 a. 109.

(END)

D-note

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

LRB-2487/dn

PJK:.....

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JLD

Under s. 767.325, a party may file a petition, motion, or order to show cause to revise a judgment or order for legal custody or physical placement. Under s. 767.327, a party may file a petition, motion, or order to show cause to revise a judgment or order for legal custody or physical placement or to prohibit a move with, or removal of, a child. A petition, motion, or order to show cause is not filed to allow the move or removal. For that reason, I limited the fee waiver to petitions, motions, or orders to show cause for revisions of legal custody or physical placement. It did not seem very likely to me that the parties would stipulate to prohibiting a move or removal, or that a judgment or order would contain a provision that would be revised by such a stipulation.

Although the amendment to s. 814.61 (7) (b) is patterned after the exception in s. 814.61 (7) (a), one difference between the two paragraphs that you should be aware of is that the court has interpreted the "shall" in s. 767.329 as a "may." Even if the parties stipulate to a modification in a physical placement or legal custody order, the court is not required to accept the stipulation because the court must determine if the stipulation is in the best interests of the child.

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-2487/1dn
PJK:jld:cph

April 9, 2003

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