

## 2005 ASSEMBLY BILL 495

June 14, 2005 – Introduced by Representatives UNDERHEIM, ALBERS and F. LASEE.  
Referred to Committee on Family Law.

1 AN ACT *to amend* 757.69 (1) (p) (intro.) and 767.12 (1); and *to create* 767.12 (1m)  
2 of the statutes; **relating to:** the right to a jury in divorce actions.

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### *Analysis by the Legislative Reference Bureau*

Under current law, with limited exceptions, all hearings and trials in actions affecting the family are before the judge. (There are exceptions for certain hearings, such as for establishing or revising a child support order, which may be before a circuit court commissioner, and for the determination of paternity in a paternity action, which may be before a jury.) This bill provides that a party in a divorce action may request a jury trial with respect to determining custody, physical placement, child or family support, or maintenance. A party may also request a jury trial for revising a custody, physical placement, child or family support, or maintenance order if the original order was entered in a divorce action. Under the bill, if a jury trial is requested, a circuit court commissioner may not hear the matter.

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

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

3 SECTION 1. 757.69 (1) (p) (intro.) of the statutes is amended to read:  
4 757.69 (1) (p) (intro.) ~~When~~ Except when a party demands a trial by jury under  
5 s. 767.12 (1m) (b), when assigned to assist in matters affecting the family:

**ASSEMBLY BILL 495**

1           **SECTION 2.** 767.12 (1) of the statutes is amended to read:

2           767.12 (1) PROCEEDINGS. ~~In~~ Except as provided in sub. (1m) and s. 767.50 (1),  
3 in actions affecting the family, all hearings and trials to determine whether judgment  
4 shall be granted, except hearings under s. 757.69 (1) (p) 3., shall be before the ~~court~~  
5 judge. The testimony shall be taken by the reporter and shall be written out and filed  
6 with the record if so ordered by the court. Custody proceedings shall receive priority  
7 in being set for hearing.

8           **SECTION 3.** 767.12 (1m) of the statutes is created to read:

9           767.12 (1m) JURY TRIAL. (a) The parties shall have the right to a jury trial in  
10 an action for divorce with respect to determining any of the following, or in an action  
11 to revise a divorce judgment or order with respect to any of the following:

- 12           1. Custody.
- 13           2. Physical placement.
- 14           3. Child support.
- 15           4. Family support.
- 16           5. Maintenance.

17           (b) Any party may, upon payment of the fees prescribed in ss. 814.61 (4) and  
18 814.62 (3) (e), file a written demand for trial by jury. If no party demands a trial by  
19 jury, the right to trial by jury is waived forever. If a jury is requested, the trial shall  
20 be before a jury selected under s. 805.08.

21           (c) This subsection only applies to the following actions:

- 22           1. Divorce actions that are commenced on or after the effective date of this  
23 subdivision .... [revisor inserts date].

