

2005 ASSEMBLY BILL 751

October 13, 2005 – Introduced by Representatives KESTELL, GUNDERSON, HAHN, HINES, LEHMAN, LEMAHIEU, MUSSER, OTT, STRACHOTA, VAN ROY and VOS, cosponsored by Senators ROESSLER, BROWN, DARLING and LASSA. Referred to Committee on Children and Families.

1 **AN ACT** *to renumber and amend* 767.51 (3) (e) and 767.62 (4) (d); and *to create*
2 767.51 (3) (e) 2. and 767.62 (4) (d) 2. of the statutes; **relating to:** requiring a
3 court to establish a father's obligation for birth expenses.

Analysis by the Legislative Reference Bureau

Under current law, in a paternity judgment or order the court must include an order that requires the man who is determined to be the father to pay or contribute to the reasonable expenses of the mother's pregnancy and the child's birth based on the man's ability to pay. A recent Wisconsin Court of Appeals decision based on this statute held that, if the father has no present ability to pay, a circuit court has no authority to set an obligation to pay lying-in expenses, even if payments are held in abeyance.

This bill modifies the requirement under current law so that in a judgment or order determining paternity, including one based on a voluntary acknowledgment of paternity, the court must establish the amount of the father's obligation to pay or contribute to those expenses and requires the court to set the father's obligation at not more than one-half of the total actual and reasonable pregnancy and birth expenses. The bill requires the court to specify in the judgment or order whether periodic payments are due on the obligation, based on the father's ability to pay, and provides that, if the court does not require periodic payments because the father does not have the present ability to pay, the court may modify the paternity judgment or

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order at a later date to require periodic payments if the father has the ability to pay at that time.

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

1 **SECTION 1.** 767.51 (3) (e) of the statutes is renumbered 767.51 (3) (e) 1. and
2 amended to read:

3 767.51 **(3)** (e) 1. An order ~~requiring the father~~ establishing the amount of the
4 father's obligation to pay or contribute to the reasonable expenses of the mother's
5 pregnancy and the child's birth. The amount established may not exceed one-half
6 of the total actual and reasonable pregnancy and birth expenses. The order also shall
7 specify whether periodic payments are due on the obligation, based on the father's
8 ability to pay or contribute to those expenses.

9 **SECTION 2.** 767.51 (3) (e) 2. of the statutes is created to read:

10 767.51 **(3)** (e) 2. If the order does not require periodic payments because the
11 father has no present ability to pay or contribute to the expenses, the court may
12 modify the judgment or order at a later date to require periodic payments if the father
13 has the ability to pay at that time.

14 **SECTION 3.** 767.62 (4) (d) of the statutes is renumbered 767.62 (4) (d) 1. and
15 amended to read:

16 767.62 **(4)** (d) 1. An order ~~requiring the father~~ establishing the amount of the
17 father's obligation to pay or contribute to the reasonable expenses of the mother's
18 pregnancy and the child's birth. The amount established may not exceed one-half
19 of the total actual and reasonable pregnancy and birth expenses. The order also shall
20 specify whether periodic payments are due on the obligation, based on the father's
21 ability to pay or contribute to those expenses.

