

2005 SENATE BILL 123

1 **AN ACT** *to repeal* 767.02 (title), 767.05 (title) and (1), 767.05 (2) (title), 767.078
2 (title), 767.09 (title), 767.11 (15), 767.14, 767.145 (title) and (1), 767.19 (title),
3 767.23 (1g), 767.24 (9), 767.253 (title), 767.265 (title), 767.29 (1) (f), 767.293,
4 767.295 (title), 767.325 (9), 767.327 (7), 767.39 (title), 767.39 (2), 767.42,
5 767.455 (5g), 767.455 (5r), 767.455 (5w), 767.457 (title), 767.457 (2), 767.458 (1)
6 (a) to (e) and 767.465 (2m) (b); *to renumber* 767.001 (3) and (4), 767.025 (2) and
7 (4), 767.03 (title), 767.05 (7), 767.07 (title), 767.085 (4), 767.19 (2), 767.20,
8 767.23 (1m), 767.24 (title), 767.24 (1) (title), 767.266, 767.305 (title), 767.32 (2r),
9 767.455 (title) and (1) to (4), 767.456, 767.458 (title), 767.465 (2m) (c), (3) and
10 (4), 767.466 and 767.48 (title); *to renumber and amend* 767.01 (3), 767.015,
11 767.02 (1), 767.02 (2), 767.025 (title), 767.025 (intro.), 767.025 (1), 767.027,
12 767.03, 767.04, 767.045, 767.05 (1m), 767.05 (2), 767.05 (3), 767.05 (4), 767.05
13 (5), 767.05 (6), 767.07, 767.075, 767.077, 767.078 (1), 767.078 (2), 767.08,
14 767.081, 767.082, 767.083, 767.085 (title), 767.085 (1), 767.085 (2), 767.085

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1 (2m) and (3), 767.087, 767.09 (1) and (2), 767.10, 767.11 (title) and (1), 767.11
2 (2) to (14), 767.115 (title), 767.115 (1) (a), 767.115 (1) (b), 767.115 (1m), (2) and
3 (3), 767.115 (4), 767.12 (title) and (1), 767.12 (2) and (3), 767.125, 767.145 (2),
4 767.15, 767.19 (1), 767.21, 767.22, 767.23 (title) and (1), 767.23 (1n), 767.23 (2),
5 767.23 (3), 767.24 (1), 767.24 (1m) to (8), 767.242, 767.245, 767.247, 767.25
6 (title) and (1) to (4), 767.25 (4m), 767.25 (5) to (7), 767.253, 767.254, 767.255,
7 767.26, 767.261, 767.262, 767.263, 767.265 (1), 767.265 (1m) to (7m), 767.265
8 (8), 767.267, 767.27 (title), (1), (1m) and (2), 767.27 (2m), 767.27 (3), (4) and (5),
9 767.275, 767.28, 767.29 (title), 767.29 (1) (a), (b) and (c), 767.29 (1) (d) and (dm),
10 767.29 (1) (e), 767.29 (1m) to (4), 767.295 (1) and (2) (a), 767.295 (2) (b) and (c),
11 767.30, 767.303 (title), 767.303 (1), 767.303 (2) to (5), 767.305, 767.31, 767.32
12 (title), 767.32 (1) (a), 767.32 (1) (b), (c) and (d), 767.32 (1m), 767.32 (1r), 767.32
13 (2), 767.32 (2m), 767.32 (2s), 767.32 (2w), 767.32 (3), 767.32 (4), 767.32 (5),
14 767.325 (intro.) and (1) to (5), 767.325 (5m), 767.325 (6) to (8), 767.327 (title) and
15 (1) to (6), 767.329, 767.33, 767.37 (title), 767.37 (1) (a), 767.37 (1) (c), 767.37 (2),
16 767.37 (3), 767.38, 767.39 (1), 767.40, 767.45, 767.455 (5), 767.455 (6), 767.457
17 (1), 767.458 (1) (intro.), 767.458 (1m) to (3), 767.459 (title), 767.459, 767.46,
18 767.463, 767.465 (title), (1), (1m), (2) and (2m) (title) and (a), 767.47, 767.475,
19 767.477, 767.48 (1) (a), 767.48 (1) (b) and (1m) to (7), 767.50, 767.51, 767.52,
20 767.53, 767.60 and 767.62; **to amend** 46.21 (5) (b), 48.988 (11), 48.989 (2), 69.15
21 (3) (b) 1., 69.15 (3) (b) 3., 767.01 (1), 767.16, 808.075 (4) (d) 13. and 814.615 (1)
22 (a) (intro.) and (2); and **to create** subchapter I (title) of chapter 767 [precedes
23 767.001], 767.001 (1b), 767.005, 767.01 (2) (title), subchapter II (title) of chapter
24 767 [precedes 767.105], 767.117 (1) (title) and (3) (title), 767.127 (3) (title),
25 767.17, subchapter III (title) of chapter 767 [precedes 767.201], 767.201,

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1 767.205 (title), 767.215 (4) (title), 767.215 (5), 767.225 (3m) (title), 767.235 (3)
2 (title), 767.241 (1) (title), (2) (title), (3) (title) and (4) (title), 767.264 (title),
3 767.281 (2) (title) and (4) (title), subchapter IV (title) of chapter 767 [precedes
4 767.301], 767.313 (2), 767.315 (title), 767.34 (2) (title), subchapter V (title) of
5 chapter 767 [precedes 767.401], 767.401 (1) (title) and (2) (title), 767.405 (1)
6 (intro.), 767.43 (1) (title), (1m) (title), (2) (title), (2m) (title), (3) (title), (3c) (title),
7 (3m) (title), (5) (title) and (6) (title), subchapter VI (title) of chapter 767
8 [precedes 767.501], 767.501 (1) (title) and (2) (title), 767.501 (4), 767.511 (1) (c),
9 (1g) (title), (1j) (title), (1m) (title), (1n) (title), (2) (title), (3) (title) and (4) (title),
10 767.513 (title), (4) (title) and (5) (title), 767.55 (title), (2) (title) and (3) (title),
11 767.553 (1) (title), (4) (title) and (5) (title), 767.57 (1) (title), (1e) (title) and (4)
12 (title), 767.58 (2) (title), 767.59 (1k), 767.59 (2) (title), subchapter VII (title) of
13 chapter 767 [precedes 767.61], 767.61 (2) (title) and (3) (title), 767.61 (4), (5) and
14 (6), subchapter VIII (title) of chapter 767 [precedes 767.70], 767.71, 767.73 (1)
15 (title), (4) (title) and (5) (title), 767.75 (title), (2m) (title), (3m) (title), (6m) (title),
16 (7) (title) and (7m) (title), 767.76 (2) (title), (3) (title), (4) (title) and (6) (title),
17 767.77 (4) (title), subchapter IX of chapter 767 [precedes 767.80], 767.80 (2)
18 (title), (3) (title), (4) (title), (5) (title), (6) (title) and (6r) (title), 767.805 (1m),
19 767.813 (5) (b) and (c), 767.813 (5g), 767.814, 767.815 (1) (title) and (2) (title),
20 767.82 (1) (title), (2) (title), (3) (title), (4) (title), (5) (title), (6) (title), (7) (title) and
21 (8) (title), 767.83 (2) (title), 767.84 (1) (title), 767.84 (1m) (title), (2) (title), (3)
22 (title), (5) (title), (6) (title) and (7) (title), 767.85 (1) (title), 767.853 (1) (title) and
23 (2) (title), 767.863 (3) (title), 767.865 (1) (title), 767.865 (1) (b), 767.865 (2),
24 767.87 (1) (title), (1m) (title), (2) (title), (2m) (title), (4) (title), (5) (title), (6) (title),
25 (7) (title), (8) (title), (9) (title), (10) (title) and (11) (title), 767.88 (2) (title), (3)

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- 1 (title), (4) (title), (5) (title) and (6) (title), 767.883 (2) (title), 767.89 (1) (title), (3)
2 (title), (3m) (title), (4) (title) and (7) (title) and 767.893 (2) (b) 2. of the statutes;
3 **relating to:** reorganizing and revising chapter 767 of the statutes.

Analysis by the Legislative Reference Bureau

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was developed by the Joint Legislative Council's Special Committee on Recodification of Ch. 767, Actions Affecting the Family. The special committee was directed to recodify ch. 767, stats., including possible reorganization of the chapter in a logical manner, renumbering and retitling sections, consolidating related provisions, modernizing language, resolving ambiguities in language, codifying court decisions, and making minor substantive changes.

General topics covered by ch. 767 include: annulment, divorce, and legal separation; child custody, physical placement, and visitation; support, including child support; spousal maintenance; property division; and paternity. The chapter was last recodified in the 1959 legislative session. See ch. 595, laws of 1959. Since that recodification, the chapter has expanded considerably, both in the number of individual provisions and the length of the chapter. The expansion of the chapter has resulted in a disorganized chapter, which can be difficult to use.

This bill:

- (1) Reorganizes ch. 767 by:
 - a. Creating 9 subchapters and relocating provisions within the chapter.
 - b. Reorganizing individual sections, or portions of sections, by combining them with other sections, dividing single sections into 2 or more sections, and internally reorganizing single sections.
- (2) Makes nonsubstantive editorial changes to modernize language and for consistency with current drafting style.
- (3) Revises section titles, where appropriate, and provides subsection titles throughout the chapter.
- (4) Repeals several provisions considered no longer necessary.
- (5) Makes substantive changes the special committee concluded are relatively noncontroversial.

The special committee explicitly intends that, unless expressly noted, this bill makes no substantive changes in the statutory provisions treated by the bill. Substantive changes in the bill are identified in notes to the provisions substantively affected. If a question arises about the effect of any modification made by this bill, the special committee intends that the revisions in this bill be construed to have the same effect as the prior statutes.

Some of the notes to paternity-related provisions treated by the bill include references to the "paternity reform committee." That committee was established by the family law section of the State Bar of Wisconsin. The committee's report to the family law section board was approved by the board in May 2000. Several of the committee's recommendations are included in this bill.

For convenience, a table of contents listing all section numbers of reorganized ch. 767 and the newly created subchapters is included in this prefatory note. Also, a finding

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aid is included at the end of this bill identifying the treatment by this bill of current statutory provisions within ch. 767.

The remainder of this note consists of the table of contents for reorganized ch. 767:

CHAPTER 767**Subchapter I****Definitions, scope, jurisdiction, and
recognition of judgments**

767.001	Definitions
767.005	Scope
767.01	Jurisdiction
767.041	Full faith and credit; comity
767.055	Uniform Divorce Recognition Act

Subchapter II**Provisions of general application**

767.105	Information from the office of family court commissioner
767.117	Prohibited acts during pendency of action
767.127	Financial disclosure
767.13	Impoundment of record
767.16	Circuit court commissioner or law partner; when interested; procedure
767.17	Review of circuit court commissioner decisions
767.18	Actions to affirm marriage

Subchapter III**General procedure**

767.201	Civil procedure generally governs
767.205	Parties; title of actions
767.215	Initiating action; petition and response
767.217	Notice to Child Support Program
767.225	Orders during pendency of action
767.235	Trial or hearing on judgment
767.241	Award of attorney fees and other fees and costs
767.251	Content, preparation, and approval of judgment
767.264	Dismissal; vacation; substitution or withdrawal of attorney.
767.273	Allowances pending appeal
767.281	Filing procedures and orders for enforcement or modification of judgments or orders

Subchapter IV**Annulment, divorce, and legal separation**

767.301	Residence requirements
767.313	Annulment
767.315	Grounds for divorce and legal separation

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767.317	Defenses abolished
767.323	Suspension of proceedings to effect reconciliation
767.331	Actions for certain interspousal remedies
767.335	Waiting period for final hearing or trial
767.34	Court-approved stipulation
767.35	Judgment of divorce or legal separation
767.36	Copies of judgment to parties
767.375	Effect on transfers at death
767.385	Maintenance, legal custody, and support when divorce or separation denied
767.395	Name of spouse

Subchapter V**Child custody, placement, and visitation**

767.401	Educational programs and classes
767.405	Family court services
767.407	Guardian ad litem for minor children
767.41	Custody and physical placement
767.43	Visitation rights of certain persons
767.44	Prohibiting visitation or physical placement if a par- ent kills other parent
767.451	Revision of legal custody and physical placement orders
767.461	Revisions agreed to by stipulation
767.471	Enforcement of physical placement orders
767.481	Moving the child's residence within or outside the state

Subchapter VI**Support and maintenance**

767.501	Actions to compel support
767.511	Child support
767.513	Child health care expenses
767.521	Action by state for child support
767.531	Family support
767.54	Required exchange of financial information
767.55	Child support: employment-related orders
767.553	Annual adjustments in support orders
767.56	Maintenance
767.57	Maintenance, child support, and family support pay- ments; fees
767.58	Notice of change of employer, address, and ability to pay; other information
767.59	Revision of support and maintenance orders

SENATE BILL 123**Subchapter VII
Property division**

- 767.61 Property division
767.63 Disposed assets may be subject to division

**Subchapter VIII
Enforcement**

- 767.70 Child support enforcement: notice and service of process
767.71 Reconciling percentage-expressed support orders
767.73 Delinquent child or family support; suspension of operating privilege
767.75 Assignment of income for payment obligations
767.76 Account transfers
767.77 Enforcement of payment obligations
767.78 Enforcement; contempt proceedings

**Subchapter IX
Paternity**

- 767.80 Determination of paternity
767.803 Determination of marital children
767.805 Voluntary acknowledgment of paternity
767.813 Summons
767.814 Names on pleadings after paternity established
767.815 Enlargement of time in a paternity action
767.82 Paternity procedures
767.83 Right to counsel
767.84 Genetic tests in paternity actions
767.85 Temporary orders
767.853 Paternity hearings and records; confidentiality
767.855 Dismissal if adjudication not in child's best interest
767.86 Time of first appearance
767.863 First appearance
767.865 Deceased respondent
767.87 Testimony and evidence relating to paternity
767.88 Pretrial paternity proceedings
767.883 Trial
767.89 Paternity judgment
767.893 Default and stipulated judgments
767.895 Motion to reopen judgment based on statement acknowledging paternity

SENATE BILL 123**SECTION 1**

1 46.21 (5) (b) Sections 46.10, 49.08, 49.90, and 301.12 ~~and 767.42~~ govern the
2 support and maintenance of persons in any of the institutions specified in sub. (2) (a).

NOTE: Reflects the repeal of s. 767.42 by SEC. 182 of this bill.

3 **SECTION 2.** 48.988 (11) of the statutes is amended to read:

4 48.988 (11) Financial responsibility for any child placed under the interstate
5 compact on the placement of children shall be determined in accordance with sub.
6 (5) in the first instance. However, in the event of partial or complete default of
7 performance thereunder, the provisions of s. 49.90 ~~or 767.42~~, ch. 769, or any other
8 applicable state law fixing responsibility for the support of children also may be
9 invoked.

NOTE: Reflects the repeal of s. 767.42 by SEC. 182 of this bill.

10 **SECTION 3.** 48.989 (2) of the statutes is amended to read:

11 48.989 (2) FINANCIAL RESPONSIBILITY. Financial responsibility for any child
12 placed under the provisions of the interstate compact on the placement of children
13 shall be determined in accordance with ss. 48.60 (4) (b) and 48.988 (5). In the event
14 of partial or complete default of performance under the compact, the provisions of s.
15 49.90 ~~or 767.42~~, ch. 769, or any other applicable state law fixing responsibility for the
16 support of children may also be invoked.

NOTE: Reflects the repeal of s. 767.42 by SEC. 182 of this bill.

17 **SECTION 4.** 69.15 (3) (b) 1. of the statutes is amended to read:

18 69.15 (3) (b) 1. Except as provided under par. (c), if the state registrar receives
19 a statement acknowledging paternity on a form prescribed by the state registrar and
20 signed by both of the birth parents of a child determined to be a marital child under
21 s. ~~767.60~~ 767.803, a certified copy of the parents' marriage certificate, and the fee
22 required under s. 69.22 (5) (b) 1., the state registrar shall insert the name of the

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1 husband from the marriage certificate as the father if the name of the father was
2 omitted on the original birth certificate. The state registrar shall include on the form
3 for the acknowledgment ~~a notice of the information in s. 767.458 (1) (a) to (e) the~~
4 items in s. 767.813 (5g).

5 **SECTION 5.** 69.15 (3) (b) 3. of the statutes is amended to read:

6 69.15 (3) (b) 3. Except as provided under par. (c), if the state registrar receives
7 a statement acknowledging paternity on a form prescribed by the state registrar and
8 signed by both parents, and by a parent or legal guardian of any parent who is under
9 the age of 18 years, along with the fee under s. 69.22, the state registrar shall insert
10 the name of the father under subd. 1. The state registrar shall mark the certificate
11 to show that the form is on file. The form shall be available to the department of
12 workforce development or a county child support agency under s. 59.53 (5) pursuant
13 to the program responsibilities under s. 49.22 or to any other person with a direct and
14 tangible interest in the record. The state registrar shall include on the form for the
15 acknowledgment ~~a notice of the information in ss. 767.458 (1) (a) to (e) and 767.62~~
16 s. 767.805 and the items in s. 767.813 (5g).

17 **SECTION 6.** Subchapter I (title) of chapter 767 [precedes 767.001] of the statutes
18 is created to read:

CHAPTER 767**SUBCHAPTER I****DEFINITIONS, SCOPE, JURISDICTION,****AND RECOGNITION OF JUDGMENTS**

23 **SECTION 7.** 767.001 (1b) of the statutes is created to read:

SENATE BILL 123**SECTION 7**

1 767.001 **(1b)** “Court” includes the circuit court commissioner when the circuit
2 court commissioner has been authorized by law to exercise the authority of the court
3 or has been delegated that authority as authorized by law.

NOTE: Permits substitution of “court” for “court or circuit court commissioner” or
“judge or circuit court commissioner” as the latter appears in ch. 767. Separate references
to “supplemental court commissioner” in ch. 767 are retained.

4 **SECTION 8.** 767.001 (3) and (4) of the statutes are renumbered 767.405 (1) (a)
5 and (b).

NOTE: Relocates definitions of “mediation” and “mediator” in the current general
definitions section of ch. 767 to the section in the chapter relating to family court services.
With the exception of 2 cross-references to the terms in other sections in this chapter, this
is the only section in the chapter in which those terms appear.

6 **SECTION 9.** 767.005 of the statutes is created to read:

7 **767.005 Scope.** This chapter applies to actions affecting the family.

NOTE: Explicitly states what is implicit in current ch. 767. Note that the term
“action affecting the family” is now a defined term in the definitions section. See SEC. 15
of this bill.

8 **SECTION 10.** 767.01 (1) of the statutes is amended to read:

9 767.01 **(1)** GENERALLY. The circuit courts have jurisdiction of all actions
10 affecting the family and have authority to do all acts and things necessary and proper
11 in such those actions and to carry their orders and judgments into execution as
12 prescribed in this chapter. ~~All actions affecting the family shall be commenced and~~
13 ~~conducted and the orders and judgments enforced according to these statutes in~~
14 ~~respect to actions in circuit court, as far as applicable, except as provided in this~~
15 ~~chapter~~ Except as provided in subs. (2) and (2m), jurisdiction may be exercised as
16 provided under ch. 801.

NOTE: 1. The substance of the stricken sentence is relocated to s. 767.201, in subch.
III, general procedure.

2. The underscored sentence restates part of current s. 767.05 (1), stats., which is
repealed by SEC. 26 of this bill. Current s. 767.05 (1) provides: “A court of this state having
jurisdiction to hear actions affecting the family may exercise jurisdiction as provided
under ch. 769 or 801.”. Reference to ch. 769 is already included in current s. 767.01 (2),
stats.

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1 **SECTION 11.** 767.01 (2) (title) of the statutes is created to read:

2 767.01 **(2)** (title) PATERNITY AND CHILD SUPPORT.

3 **SECTION 12.** 767.01 (3) of the statutes is renumbered 767.80 (1m) and amended
4 to read:

5 767.80 **(1m)** VENUE. An action under s. ~~767.45~~ this section may be brought in
6 the county in which the child or the alleged father resides or is found or, if the father
7 is deceased, in which proceedings for probate of his estate have been or could be
8 commenced.

9 **SECTION 13.** 767.015 of the statutes is renumbered 767.01 (2m), and 767.01
10 (2m) (title), as renumbered, is amended to read:

11 767.01 **(2m)** (title) CHILD CUSTODY JURISDICTION.

NOTE: Combines s. 767.015 with s. 767.01, which currently and under this bill
contains jurisdiction provisions.

12 **SECTION 14.** 767.02 (title) of the statutes is repealed.

13 **SECTION 15.** 767.02 (1) of the statutes is renumbered 767.001 (1), and 767.001
14 (1) (intro.) and (k), as renumbered, are amended to read:

15 767.001 **(1)** (intro.) Actions “Action affecting the family are” means any of the
16 following actions:

17 (k) Concerning periods of physical placement or visitation rights to children,
18 including an action to prohibit a move with or the removal of a child under s. ~~767.327~~
19 767.481 (3) (c).

NOTE: Relocates s. 767.02 (1), which currently delineates those actions comprising
“actions affecting the family,” into the general definitions section for ch. 767.

20 **SECTION 16.** 767.02 (2) of the statutes is renumbered 767.001 (1f) and amended
21 to read:

SENATE BILL 123**SECTION 16**

1 767.001 **(1f)** “Divorce” means ~~divorce from the bonds of matrimony or absolute~~
2 ~~divorce, when used in this chapter~~ dissolution of the marriage relationship.

NOTE: Modernizes the definition of “divorce” and relocates the definition into the general definitions section for ch. 767.

3 **SECTION 17.** 767.025 (title) of the statutes is renumbered 767.281 (title) and
4 amended to read:

5 **767.281** (title) **Filing procedures and orders for enforcement or**
6 **modification of judgments or orders in actions affecting the family.**

7 **SECTION 18.** 767.025 (intro.) of the statutes is renumbered 767.281 (1) and
8 amended to read:

9 767.281 **(1)** APPLICABILITY. ~~The following filing procedures shall apply~~ This
10 section applies to all enforcement or modification petitions, motions or orders to show
11 cause filed for actions affecting the family under s. ~~767.02~~ 767.001 (1) (i):

12 **SECTION 19.** 767.025 (1) of the statutes is renumbered 767.281 (1m) and
13 amended to read:

14 767.281 **(1m)** GENERALLY. Except as provided in sub. (2), if a petition, motion,
15 or order to show cause requesting enforcement or modification of a judgment or order
16 in an action affecting the family ~~which~~ that was granted by a court of this state is filed
17 in a county other than the county in which the judgment or order was rendered, the
18 petitioner or party bringing the motion or order to show cause shall send a copy of
19 the petition, motion, or order to show cause and summons to the clerk of the court
20 in which the judgment or order was rendered. If a question arises as to which court
21 should exercise jurisdiction, a conference involving both judges, all counsel, and
22 guardians ad litem may be convened under s. 807.13 (3) to resolve the question. The
23 petitioner shall send a copy of any order rendered pursuant to ~~this~~ the petition,

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1 motion, or order to show cause to the clerk of the court in which the original judgment
2 or order was rendered.

3 **SECTION 20.** 767.025 (2) and (4) of the statutes are renumbered 767.281 (2) and
4 (4).

5 **SECTION 21.** 767.027 of the statutes is renumbered 767.70, and 767.70 (title),
6 (1) (intro.) and (b) and (2), as renumbered, are amended to read:

7 **767.70 (title) Notice Child support enforcement: notice and service of**
8 **process requirements. (1) WHEN SATISFIED.** (intro.) In ~~any~~ an action under s.
9 ~~767.02~~ 767.001 (1) (i) to enforce or modify a judgment or order with respect to child
10 support, due process requirements related to notice and service of process are
11 satisfied ~~to the extent that~~ if the court finds all of the following:

NOTE: Clarifies that the provision applies to actions to modify child support orders
and judgments.

12 (b) That written notice of the action to the respondent has been delivered to the
13 most recent residential address or employer address provided by the respondent
14 under s. ~~767.263~~ 767.58 (2) to the county child support agency under s. 59.53 (5).

15 **(2) RULES ON LOCATING RESPONDENT.** The department shall promulgate rules
16 that specify specifying the process that the department will use under sub. (1) (a) to
17 ascertain the location of the respondent. Notwithstanding sub. (1) (b), the process
18 specified in the rules shall utilize all reasonable means to which the department has
19 access, including electronic means, interfaces with other programs, and information
20 provided by the postmaster, for determining the current address of the respondent.

21 **SECTION 22.** 767.03 (title) of the statutes is renumbered 767.313 (title).

22 **SECTION 23.** 767.03 of the statutes is renumbered 767.313 (1), and 767.313 (1)
23 (intro.), as renumbered, is amended to read:

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1 767.313 (1) GROUND: WHEN SUIT MAY BE BROUGHT. (intro.) ~~No marriage may be~~
2 ~~annulled or held void except pursuant to judicial proceedings. No marriage may be~~
3 ~~annulled after the death of either party to the marriage.~~ A court may annul a
4 marriage entered into under upon any of the following circumstances grounds:

NOTE: The stricken sentences are relocated to new s. 767.313 (2), created by SEC.
145 of this bill.

5 **SECTION 24.** 767.04 of the statutes is renumbered 767.18 and amended to read:

6 **767.18 Actions to affirm marriage.** When If the validity of any a marriage
7 ~~shall be~~ is denied or doubted by either of the parties the other party may commence
8 an action to affirm the marriage, ~~and the.~~ The judgment in such an action to affirm
9 marriage shall declare such the marriage valid or annul the same marriage, and be
10 is conclusive upon all persons concerned.

11 **SECTION 25.** 767.045 of the statutes, as affected by 2003 Wisconsin Act 130, is
12 renumbered 767.407, and 767.407 (1) (am) 1., (c) and (e), (2) and (4), as renumbered,
13 are amended to read:

14 767.407 (1) (am) 1. Legal custody or physical placement is contested in an
15 action to modify legal custody or physical placement under s. ~~767.325~~ 767.451 or
16 ~~767.327~~ 767.481.

17 (c) The attorney responsible for support enforcement under s. 59.53 (6) (a) may
18 request that the court ~~or a circuit court commissioner~~ appoint a guardian ad litem
19 to bring an action or motion on behalf of a minor who is a nonmarital child whose
20 paternity has not been acknowledged under s. ~~767.62~~ 767.805 (1) or a substantially
21 similar law of another state or adjudicated for the purpose of determining the
22 paternity of the child, and the court ~~or circuit court commissioner~~ shall appoint a
23 guardian ad litem, if any of the following applies:

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1 1. Aid is provided under s. 46.261, 48.57 (3m) or (3n), 49.19₁ or 49.45 on behalf
2 of the child, or benefits are provided to the child's custodial parent under ss. 49.141
3 to 49.161, but the state and its delegate under s. 49.22 (7) are barred by a statute of
4 limitations from commencing an action under s. ~~767.45~~ 767.80 on behalf of the child.

5 2. An application for legal services has been filed with the child support
6 program under s. 49.22 on behalf of the child, but the state and its delegate under
7 s. 49.22 (7) are barred by a statute of limitations from commencing an action under
8 s. ~~767.45~~ 767.80 on behalf of the child.

9 (e) Nothing in this subsection prohibits the court from making a temporary
10 order under s. ~~767.23~~ 767.225 that concerns the child before a guardian ad litem is
11 appointed or before the guardian ad litem has made a recommendation to the court,
12 if the court determines that the temporary order is in the best interest of the child.

13 **(2) TIME FOR APPOINTMENT.** The court shall appoint a guardian ad litem under
14 sub. (1) (a) 1. or (b) whenever the court deems it appropriate. The court shall appoint
15 a guardian ad litem under sub. (1) (a) 2. at the time specified in s. ~~767.11~~ 767.405 (12)
16 (b), unless upon motion by a party or its own motion, the court determines that
17 earlier appointment is necessary.

18 **(4) RESPONSIBILITIES.** The guardian ad litem shall be an advocate for the best
19 interests of a minor child as to paternity, legal custody, physical placement, and
20 support. The guardian ad litem shall function independently, in the same manner
21 as an attorney for a party to the action, and shall consider, but shall not be bound by,
22 the wishes of the minor child or the positions of others as to the best interests of the
23 minor child. The guardian ad litem shall consider the factors under s. ~~767.24~~ 767.41
24 (5) (am), subject to s. ~~767.24~~ 767.41 (5) (bm), and custody studies under s. ~~767.11~~
25 767.405 (14). The guardian ad litem shall investigate whether there is evidence that

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1 either parent has engaged in interspousal battery, as described in s. 940.19 or 940.20
2 (1m), or domestic abuse, as defined in s. 813.12 (1) (am), and shall report to the court
3 on the results of the investigation. The guardian ad litem shall review and comment
4 to the court on any mediation agreement and stipulation made under s. ~~767.11~~
5 767.405 (12) and on any parenting plan filed under s. ~~767.24~~ 767.41 (1m). Unless the
6 child otherwise requests, the guardian ad litem shall communicate to the court the
7 wishes of the child as to the child's legal custody or physical placement under s.
8 ~~767.24~~ 767.41 (5) (am) 2. The guardian ad litem has none of the rights or duties of
9 a general guardian.

10 **SECTION 26.** ~~767.05~~ (title) and (1) of the statutes are repealed.

NOTE: The substance of this subsection is relocated to the general section on
jurisdiction. See SEC. 10.

11 **SECTION 27.** ~~767.05~~ (1m) of the statutes is renumbered 767.301 and amended
12 to read:

13 **767.301 Residence requirements.** No action to affirm marriage or for
14 annulment under s. ~~767.02~~ 767.001 (1) (a) or (b) may be brought unless at least one
15 of the parties has been a bona fide resident of the county in which the action is
16 brought for not less than 30 days next preceding the commencement of the action,
17 or unless the marriage has been contracted within this state within one year prior
18 to the commencement of the action. No action for divorce or legal separation under
19 s. ~~767.02~~ 767.001 (1) (c) or (d) may be brought unless at least one of the parties has
20 been a bona fide resident of the county in which the action is brought for not less than
21 30 days next preceding the commencement of the action. No action for divorce under
22 s. ~~767.02~~ 767.001 (1) (c) may be brought unless at least one of the parties has been

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1 a bona fide resident of this state for not less than 6 months next preceding the
2 commencement of the action.

NOTE: The type of action to which the cross-references refer is included for convenience.

3 **SECTION 28.** 767.05 (2) (title) of the statutes is repealed.

4 **SECTION 29.** 767.05 (2) of the statutes is renumbered 767.41 (1) (a) and
5 amended to read:

6 767.41 (1) (a) Subject to ch. 822, the question of a child's custody may be
7 determined as an incident of any action affecting the family or in an independent
8 action for custody. The effect of any determination of a child's custody ~~shall~~ is not be
9 binding personally against any parent or guardian unless the parent or guardian has
10 been made personally subject to the jurisdiction of the court in the action as provided
11 under ch. 801 or has been notified under s. 822.05, as provided in s. 822.12. Nothing
12 in this section ~~chapter~~ may be construed to foreclose a person other than a parent
13 who has physical custody of a child from proceeding under ch. 822.

14 **SECTION 30.** 767.05 (3) of the statutes is renumbered 767.205 (1) and amended
15 to read:

16 767.205 (1) PARTIES. The party initiating an action affecting the family ~~shall~~
17 ~~be denominated~~ is the petitioner. The party responding to the action ~~shall be~~
18 ~~denominated~~ is the respondent. All references to "plaintiff" in chs. 801 to 807 ~~shall~~
19 apply to the petitioner, and all references to "defendant" in chs. 801 to 807 ~~shall~~ apply
20 to the respondent. Both parties ~~together~~ may initiate the petition together by signing
21 and filing a joint petition. The parties to a joint petition ~~shall be called~~ are joint
22 petitioners. The parties to a joint petition shall state ~~within~~ in the joint petition that
23 both parties consent to personal jurisdiction and waive service of summons.

SENATE BILL 123**SECTION 31**

1 **SECTION 31.** 767.05 (4) of the statutes is renumbered 767.215 (2e) and amended
2 to read:

3 767.215 **(2e)** ~~PETITION~~ RELATIONSHIP OF PETITION TO COMPLAINT. All references
4 to a “complaint” in chs. 801 to 807 shall apply to petitions under s. ~~767.085~~ this
5 section.

6 **SECTION 32.** 767.05 (5) of the statutes is renumbered 767.205 (3) and amended
7 to read:

8 767.205 **(3)** TITLE OF ACTIONS. An action affecting the family under s. ~~767.02~~
9 described in s. 767.001 (1) (a) to (d) or (g) to (k) shall be entitled “In re the marriage
10 of A.B. and C.D.”, except that an independent action for visitation under s. ~~767.245~~
11 767.43 (3) shall be entitled “In re visitation with A. B.”. An action affecting the family
12 under s. 767.02 described in s. 767.001 (1) (f) or (m) shall be entitled “In re the support
13 of A.B.”. A child custody action shall be entitled “In re the custody of A.B.”. ~~In all~~
14 ~~other respects, the general provisions of chs. 801 and 802 respecting the content and~~
15 ~~form of the summons and pleadings shall apply.~~

NOTE: The stricken sentence is relocated to the provision created by SEC. 80 of this
bill.

16 **SECTION 33.** 767.05 (6) of the statutes is renumbered 767.264 (1), and 767.264
17 (1) (title), as renumbered, is amended to read:

18 767.264 **(1)** (title) DISMISSAL OPPORTUNITY TO RESPOND.

19 **SECTION 34.** 767.05 (7) of the statutes is renumbered 767.331.

20 **SECTION 35.** 767.07 (title) of the statutes is renumbered 767.35 (title).

21 **SECTION 36.** 767.07 of the statutes is renumbered 767.35 (1) and amended to
22 read:

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1 767.35 (1) WHEN GRANTED. A court of competent jurisdiction shall grant a
2 judgment of divorce or legal separation if all of the following conditions are met:

3 (a) The requirements of this chapter as to residence and ~~marriage assessment~~
4 counseling attendance at an educational program under s. 767.401 have been
5 complied with;

6 (b) 1. In connection with a judgment of divorce or legal separation, the court
7 finds that the marriage is irretrievably broken under s. ~~767.12 (2)~~ 767.315 (1) (a) or
8 (b) 1. or 2., unless par. (b) subd. 2. applies.

9 2. In connection with a judgment of legal separation, the court finds that the
10 marital relationship is broken under s. ~~767.12 (3); and~~ 767.315 (2).

11 (c) To the extent that it has jurisdiction to do so, the court has considered, and
12 approved or made provision for legal custody and physical placement, the support of
13 any child of the marriage entitled to support, the maintenance of either spouse, the
14 support of the family under s. ~~767.261~~ 767.531, and the disposition of property.

15 **SECTION 37.** 767.075 of the statutes is renumbered 767.205 (2), and 767.205 (2)
16 (title), (a) 1. and (b), as renumbered, are amended to read:

17 767.205 (2) (title) ~~STATE IS~~ WHEN THE STATE IS A REAL PARTY IN INTEREST.

18 (a) 1. An action to establish paternity whenever there is a completed
19 application for legal services filed with the child support program under s. 49.22 or
20 whenever s. ~~767.45~~ 767.80 (6m) or (6r) applies.

21 (b) 1. Except as provided in ~~par. (b) subd. 2.,~~ in any action affecting the family
22 under a child support enforcement program, an attorney acting under s. 49.22 or
23 59.53 (5), including any district attorney or corporation counsel, represents only the
24 state. Child support services provided by an attorney as specified in ~~sub. (1) par. (a)~~
25 do not create an attorney–client relationship with any other party.

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1 2. ~~Paragraph (a)~~ Subdivision 1. does not apply to an attorney who is employed
2 by the department under s. 49.22 or a county under s. 59.53 (5) or (6) (a) to act as the
3 guardian ad litem of the minor child for the purpose of establishing paternity.

4 **SECTION 38.** 767.077 of the statutes is renumbered 767.521, and 767.521
5 (intro.) and (2), as renumbered, are amended to read:

6 **767.521 Support Action by state for dependent child support.** (intro.)

7 The state or its delegate under s. 49.22 (7) shall bring an action for support of a minor
8 child under s. ~~767.02~~ 767.001 (1) (f) or, if appropriate, for paternity determination
9 and child support under s. ~~767.45~~ whenever 767.80 if the child's right to support is
10 assigned to the state under s. 46.261, 48.57 (3m) (b) 2. or (3n) (b) 2., 49.145 (2) (s),
11 49.19 (4) (h) 1. b., or 49.775 (2) (bm) if and all of the following apply:

12 **(2)** A court has not issued an order under s. ~~767.25~~ 767.511 requiring the parent
13 who is absent from the home to support the child.

14 **SECTION 39.** 767.078 (title) of the statutes is repealed.

15 **SECTION 40.** 767.078 (1) of the statutes, as affected by 2005 Wisconsin Act 25,
16 is renumbered 767.55 (3), and 767.55 (3) (a) 1., as renumbered, is amended to read:

17 767.55 **(3)** (a) 1. Is an action for modification of a child support order under s.
18 ~~767.32~~ 767.59 or an action in which an order for child support is required under s.
19 ~~767.25 (1), 767.51 (3) or 767.62 (4)~~ 767.511 (1), 767.805 (4), or 767.89 (3).

20 **SECTION 41.** 767.078 (2) of the statutes is renumbered 767.55 (3) (d) and
21 amended to read:

22 767.55 **(3)** (d) ~~Subsection (1)~~ Paragraph (b) does not limit the authority of a
23 court to issue an order, other than an order under ~~sub. (1) par. (b)~~, regarding
24 employment of a parent in an action for modification of a child support order under

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1 s. ~~767.32~~ 767.59 or an action in which an order for child support is required under
2 s. ~~767.25 (1), 767.51 (3) or 767.62 (4)~~ 767.511 (1), 767.805 (4), or 767.89 (3).

3 **SECTION 42.** 767.08 of the statutes is renumbered 767.501, and 767.501 (2) (a)
4 (intro.), (b), (c) and (d) and (3), as renumbered, are amended to read:

5 767.501 **(2)** (a) (intro.) If a person ~~fails or refuses to~~ does not provide for the
6 support and maintenance of his or her spouse or minor child, any of the following may
7 commence an a court action ~~in any court having jurisdiction in actions affecting the~~
8 ~~family~~ to compel the person to provide ~~any legally required~~ support and
9 maintenance:

10 (b) The court in the action shall, ~~as provided under s. 767.25~~ 767.511 or ~~767.26~~
11 767.56, determine and ~~adjudge~~ the amount, if any, that the person should reasonably
12 contribute to the support and maintenance of the spouse or child and how the sum
13 ~~should~~ shall be paid. ~~This~~ The amount ~~must~~ shall be expressed as a fixed sum unless
14 the parties have stipulated to expressing the amount as a percentage of the payer's
15 income and the requirements under s. ~~767.10~~ 767.34 (2) (am) 1. to 3. are satisfied.
16 The amount ~~so~~ ordered to be paid may be ~~changed or~~ modified by the court ~~upon~~
17 ~~notice of motion or order to show cause by either party~~ under s. 767.59 upon sufficient
18 evidence.

19 (c) The determination may be enforced by contempt proceedings, an account
20 transfer under s. ~~767.267~~ 767.76, or other enforcement mechanisms ~~as provided~~
21 under s. ~~767.30~~ 767.77.

22 (d) In ~~any such support~~ an action ~~there shall be~~ under this section, no filing fee
23 or other costs are taxable to the person's spouse, the minor child, the person with
24 legal custody, or the nonlegally responsible relative, but after the action has been

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1 commenced and filed the court may ~~direct order~~ that any all or part of or ~~all any~~ fees
2 and costs incurred shall be paid by either party.

3 **(3)** PUBLIC ASSISTANCE RECIPIENTS; ACTION BY STATE. If the state or any
4 subdivision thereof of the state furnishes public aid to a spouse or dependent child
5 for support and maintenance and the spouse, person with legal custody, or nonlegally
6 responsible relative ~~fails or refuses to institute an appropriate court~~ does not
7 commence an action under this chapter ~~to provide for the same~~ for support or
8 maintenance, the person in charge of county welfare activities, the county child
9 support agency under s. 59.53 (5), or the department is a real party in interest under
10 s. ~~767.075~~ 767.205 (2) and shall ~~initiate~~ commence an action under this section, ~~for~~
11 ~~the purpose of obtaining support and maintenance.~~ Any. An attorney employed by
12 the state or any a subdivision thereof of the state may ~~initiate~~ commence an action
13 under this section. The title of the action shall be “In re the support or maintenance
14 of A.B. (Child)”.

15 **SECTION 43.** 767.081 of the statutes is renumbered 767.105, and 767.105 (1)
16 and (2) (intro.) and (a) 3., as renumbered, are amended to read:

17 767.105 **(1)** INFORMATION ON AVAILABLE SERVICES. Upon the filing of an action
18 affecting the family, the office of family court commissioner shall inform the parties
19 of any services, including referral services, offered by the office of family court
20 commissioner and by the director of family court ~~counseling~~ services under s. ~~767.11~~
21 767.405.

22 **(2)** OTHER INFORMATION ON REQUEST. (intro.) Upon request of a party to an action
23 affecting the family, including a revision of judgment or order under s. ~~767.32~~
24 767.451 or ~~767.325~~ 767.59:

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1 (a) 3. Community resources and family court counseling services available to
2 assist the parties.

3 **SECTION 44.** 767.082 of the statutes is renumbered 767.323 and amended to
4 read:

5 **767.323 Suspension of proceedings to effect reconciliation.** During the
6 pendency of any an action for divorce or legal separation, the court may, upon written
7 stipulation of both parties that they desire to attempt a reconciliation, enter an order
8 suspending any and all orders and proceedings for such period, not exceeding 90
9 days, as the court determines advisable so as to permit the parties to attempt a
10 reconciliation without prejudice to their respective rights. During the ~~period of~~
11 suspension period, the parties may resume living together as husband and wife and
12 their acts and conduct ~~shall~~ do not constitute an admission that the marriage is not
13 irretrievably broken or a waiver of the ground that the parties have voluntarily lived
14 apart continuously for 12 months or more immediately prior to the commencement
15 of the action ~~if such is the case~~. Suspension may be revoked upon the motion of either
16 party by an order of the court. If the parties become reconciled, the court shall
17 dismiss the action. If the parties are not reconciled after the period of suspension,
18 the action shall proceed as though no reconciliation period was attempted.

19 **SECTION 45.** 767.083 of the statutes is renumbered 767.335 and amended to
20 read:

21 **767.335 ~~Waiting period in certain actions~~ for final hearing or trial.** No
22 ~~petition~~ An action for divorce or legal separation may not be brought to final hearing
23 or trial until the ~~happening of whichever of the following events occurs first of the~~
24 following occurs:

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1 (1) GENERALLY. The expiration of 120 days after service of the summons and
2 petition upon the respondent or the expiration of 120 days after the filing of the joint
3 petition; ~~or.~~

4 (2) EMERGENCY. An order by the court, after consideration of the
5 recommendation of a circuit court commissioner, directing an immediate hearing on
6 the petition for the protection of the health or safety of either of the parties or of any
7 child of the marriage or for other emergency reasons consistent with the policies of
8 this chapter. The court shall, upon granting such the order, specify the grounds
9 ~~therefor~~ for the order.

10 **SECTION 46.** 767.085 (title) of the statutes is renumbered 767.215 (title) and
11 amended to read:

12 **767.215** (title) **Petition Initiating action; petition and response.**

13 **SECTION 47.** 767.085 (1) of the statutes is renumbered 767.215 (2), and 767.215
14 (2) (intro.), (a) to (f), (i) and (j) (intro.), as renumbered, are amended to read:

15 767.215 (2) ~~PETITION; CONTENTS~~ CONTENT. (intro.) Except as otherwise provided,
16 in ~~any~~ an action affecting the family, the petition shall state:

17 (a) The name and birthdate of the parties, ~~the social security numbers of the~~
18 ~~husband and wife and their occupations,~~ the date and place of marriage, and the facts
19 relating to the residence of both parties.

20 (b) The name, and birthdate ~~and social security number~~ of each minor child of
21 the parties and each other child born to the wife during the marriage, and whether
22 the wife is pregnant.

NOTE: 1. Repeals the requirements that social security numbers be included in the
petition. See SEC. 84 for the provision replacing these requirements.

2. Repeals as unnecessary the requirement that the parties state their
occupations.

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1 (c) If the relief requested is a divorce or a legal separation in which the parties
2 do not file a petition under s. ~~767.12 (3)~~ 767.315 (2), that the marriage is irretrievably
3 broken, or, alternatively, that both parties agree that the marriage is irretrievably
4 broken.

5 (cm) If the relief requested is a legal separation and the parties have filed a
6 petition under s. ~~767.12 (3)~~ 767.315 (2), that both parties agree that the marital
7 relationship is broken.

8 (d) Whether ~~or not~~ an action for divorce or legal separation by either of the
9 parties ~~was or~~ has been at any time commenced, or is pending in any other court ~~or~~
10 ~~before any judge thereof~~, in this state or elsewhere, ~~and if~~.

11 (dm) Whether either party was previously married, and, if so, the manner in
12 which such the marriage was terminated, and, if terminated by court judgment, the
13 name of the court ~~in which~~ that granted the judgment ~~was granted~~ and the time and
14 place the judgment was granted, if known.

15 (e) Whether the parties have entered into ~~any a~~ written agreements agreement
16 as to support, legal custody, and physical placement of the children, maintenance of
17 either party, ~~and or~~ property division; ~~and if~~. If so, the written agreement shall be
18 attached.

19 (f) The relief requested. ~~When~~ If the relief requested is a legal separation, the
20 petition shall state the specific reason for requesting such that relief.

21 (i) If the action is one under s. ~~767.02~~ 767.001 (1) (a), (b), (c), (d), (h), or (i), that
22 during the pendency of the action, without the consent of the other party or an order
23 of the court ~~or a circuit court commissioner~~, the parties are prohibited from, and may
24 be held in contempt of court for, encumbering, concealing, damaging, destroying,
25 transferring, or otherwise disposing of property owned by either or both of the

SENATE BILL 123**SECTION 47**

1 parties, except in the usual course of business, in order to secure necessities, or in
2 order to pay reasonable costs and expenses of the action, including attorney fees.

3 (j) (intro.) Unless the action is one under s. ~~767.02~~ 767.001 (1) (g) or (h), that
4 during the pendency of the action, the parties are prohibited from, and may be held
5 in contempt of court for, doing any of the following without the consent of the other
6 party or an order of the court ~~or a circuit court commissioner~~:

7 **SECTION 48.** 767.085 (2) of the statutes is renumbered 767.215 (1), and 767.215
8 (1) (b), as renumbered, is amended to read:

9 767.215 (1) (b) The clerk of court shall provide without charge, to each person
10 filing a petition requesting child support, a document setting forth the percentage
11 standard established by the department under s. 49.22 (9) and listing the factors
12 which that a court may consider under s. ~~767.25~~ 767.511 (1m).

13 **SECTION 49.** 767.085 (2m) and (3) of the statutes are renumbered 767.215 (2m)
14 and (3), and 767.215 (2m) (title) and (a) 1. and 2. and (3), as renumbered, are
15 amended to read:

16 767.215 (2m) (title) ~~SUMMONS, CONTENTS~~ CONTENT.

17 (a) 1. Shall include notification of the availability of information under s.
18 ~~767.081~~ 767.105 (2) and of the contents of s. 948.31.

19 2. Shall be accompanied by a document, provided without charge by the clerk
20 of court, setting forth the percentage standard established by the department under
21 s. 49.22 (9) and listing the factors which that a court may consider under s. ~~767.25~~
22 767.511 (1m).

23 (3) SERVICE. If only one party initiates the action, the other shall be served
24 under ch. 801 and may serve a response or counterclaim within 20 days after the date
25 of service, except that questions of jurisdiction may be raised at any time prior to

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1 judgment. Service shall be made upon the petitioner ~~and upon the circuit court~~
2 ~~commissioner as provided in s. 767.14~~, and the original copy of the response shall be
3 filed in court. If the parties together initiate the action with a joint petition, service
4 of summons is not required.

NOTE: Reflects the repeal of s. 767.14 by SEC. 69 of the bill.

5 **SECTION 50.** 767.085 (4) of the statutes is renumbered 767.317.

6 **SECTION 51.** 767.087 of the statutes is renumbered 767.117, and 767.117 (1) (b)
7 and (c) and (2), as renumbered, are amended to read:

8 767.117 **(1) (b)** If the action is one under s. ~~767.02~~ 767.001 (1) (a), (b), (c), (d),
9 (h), or (i), encumbering, concealing, damaging, destroying, transferring, or otherwise
10 disposing of property owned by either or both of the parties, without the consent of
11 the other party or an order of the court ~~or a circuit court commissioner~~, except in the
12 usual course of business, in order to secure necessities, or in order to pay reasonable
13 costs and expenses of the action, including attorney fees.

14 (c) Unless the action is one under s. ~~767.02~~ 767.001 (1) (g) or (h), without the
15 consent of the other party or an order of the court ~~or a circuit court commissioner~~,
16 establishing a residence with a minor child of the parties outside the state or more
17 than 150 miles from the residence of the other party within the state, removing a
18 minor child of the parties from the state for more than 90 consecutive days, or
19 concealing a minor child of the parties from the other party.

20 **(2) DURATION OF PROHIBITIONS.** The prohibitions under sub. (1) shall apply until
21 the action is dismissed, until a final judgment in the action is entered, or until the
22 court ~~or a circuit court commissioner~~ orders otherwise.

23 **SECTION 52.** 767.09 (title) of the statutes is repealed.

SENATE BILL 123**SECTION 53**

1 **SECTION 53.** 767.09 (1) and (2) of the statutes are renumbered 767.35 (2) and
2 (5) and amended to read:

3 767.35 **(2)** GRANTING DIVORCE OR LEGAL SEPARATION. When a party requests a
4 legal separation rather than a decree of divorce, the court shall grant the decree in
5 that form a judgment of legal separation unless the other party requests a divorce,
6 in which case the court shall hear and determine which decree judgment shall be
7 granted.

8 **(4)** REVOCATION OF LEGAL SEPARATION JUDGMENT UPON RECONCILIATION. A decree
9 judgment of legal separation shall provide that ~~in case of, if~~ a reconciliation occurs
10 at any time thereafter after the judgment, the parties may apply for a revocation of
11 the judgment. Upon ~~such~~ application for a revocation of the judgment, the court shall
12 make such orders as may be just and reasonable.

13 **(5)** CONVERSION OF LEGAL SEPARATION TO DIVORCE. By stipulation of both parties,
14 or upon motion of either party not earlier than one year after entry of a decree
15 judgment of legal separation, the court shall convert the decree judgment to a decree
16 judgment of divorce.

17 **SECTION 54.** 767.10 of the statutes is renumbered 767.34, and 767.34 (title), (1)
18 and (2) (a) and (am) 1. and 3., as renumbered, are amended to read:

19 **767.34** (title) ~~Stipulation and property division~~ **Court-approved**
20 **stipulation.** **(1)** AUTHORITY. The parties in an action for an annulment, divorce, or
21 legal separation may, subject to the approval of the court, stipulate for a division of
22 property, for maintenance payments, for the support of children, for periodic family
23 support payments under s. ~~767.261~~ 767.531, or for legal custody and physical
24 placement, in case a divorce or legal separation is granted or a marriage annulled.

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1 **(2)** (a) A court may not approve a stipulation for child support or family support
2 unless the stipulation provides for payment of child support, determined in a manner
3 consistent with s. ~~767.25~~ 767.511 or ~~767.51~~ 767.89.

4 (am) 1. The state is not a real party in interest in the action under any of the
5 circumstances specified in s. ~~767.075~~ (1) 767.205 (2) (a).

6 3. All payment obligations included in the order, other than the annual
7 receiving and disbursing fee under s. ~~767.29~~ (1) (d) 767.57 (1e) (a), are expressed as
8 a percentage of the payer's income.

9 **SECTION 55.** Subchapter II (title) of chapter 767 [precedes 767.105] of the
10 statutes is created to read:

11 **CHAPTER 767**

12 SUBCHAPTER II

13 PROVISIONS OF GENERAL APPLICATION

14 **SECTION 56.** 767.11 (title) and (1) of the statutes are renumbered 767.405 (title)
15 and (1m), and 767.405 (title) and (1m) (a) and (b), as renumbered, are amended to
16 read:

17 **767.405** (title) **Family court counseling services.**

18 **(1m)** (a) Except as provided in par. (b) and subject to approval by the chief judge
19 of the judicial administrative district, the circuit judge or judges in each county shall
20 designate a person meeting the qualifications under sub. (4) as the director of family
21 court ~~counseling~~ services in that county.

22 (b) If 2 or more contiguous counties enter into a cooperative agreement under
23 sub. (3) (b), the circuit judges for the counties involved shall, subject to approval by
24 the chief judge of the judicial administrative district, designate a person meeting the

SENATE BILL 123**SECTION 56**

1 qualifications under sub. (4) as the director of family court ~~counseling~~ services for
2 those counties.

3 **SECTION 57.** 767.11 (2) to (14) of the statutes, as affected by 2003 Wisconsin Act
4 130, are renumbered 767.405 (2) to (14), and 767.405 (2) (intro.), (c) and (d), (3) (a),
5 (b) and (c), (5) (a) (intro.), (b) and (c), (6), (7), (8) (a), (12) and (13), as renumbered, are
6 amended to read:

7 767.405 (2) DUTIES. (intro.) A director of family court ~~counseling~~ services
8 designated under sub. (4) (1m) shall administer a family court ~~counseling~~ services
9 office if such an office is established under sub. (3) (a) or (b). Regardless of whether
10 ~~such an~~ the office is established, the director shall:

11 (c) Supervise and perform mediation and any legal custody and physical
12 placement study services authorized under sub. (14), and evaluate the quality of any
13 ~~such~~ the mediation or study services.

14 (d) Administer and manage funding for family court ~~counseling~~ services.

15 **(3)** (a) A county may establish a family court ~~counseling~~ services office to
16 provide mediation in that county.

17 (b) Two or more contiguous counties may enter into a cooperative agreement
18 to establish one family court ~~counseling~~ services office to provide mediation in those
19 counties.

20 (c) A director of family court ~~counseling~~ services designated under sub. (4) (1m)
21 may contract with any person or public or private entity, located in a county in which
22 the director administers family court ~~counseling~~ services or in a contiguous county,
23 to provide mediation in ~~such a~~ the county in which the person or entity is located.

24 **(5)** (a) (intro.) Except as provided in sub. (8) (b), in any action affecting the
25 family, including a revision of judgment or order under s. ~~767.32~~ 767.451 or ~~767.325~~

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1 767.59, in which it appears that legal custody or physical placement is contested, the
2 court ~~or circuit court commissioner~~ shall refer the parties to the director of family
3 court ~~counseling~~ services for possible mediation of those contested issues. The court
4 ~~or circuit court commissioner~~ shall inform the parties of all of the following:

5 (b) If both parties to any action affecting the family wish to have joint legal
6 custody of a child, either party may request that the court ~~or circuit court~~
7 ~~commissioner~~ refer the parties to the director of family court ~~counseling~~ services for
8 assistance in resolving any problem relating to joint legal custody and physical
9 placement of the child. Upon request, the court shall so refer the parties.

10 (c) A person who is awarded periods of physical placement, or a child of such
11 a ~~that~~ person, a person with visitation rights, or a person with physical custody of
12 a child may notify a circuit court commissioner of any problem he or she has relating
13 to any of these matters. Upon notification, the circuit court commissioner may refer
14 any person involved in the matter to the director of family court ~~counseling~~ services
15 for assistance in resolving the problem.

16 **(6) ACTION UPON REFERRAL.** (a) Whenever a court ~~or circuit court commissioner~~
17 refers a party to the director of family court ~~counseling~~ services for possible
18 mediation, the director shall assign a mediator to the case. The mediator shall
19 provide mediation if he or she determines that it is appropriate. If the mediator
20 determines that mediation is not appropriate, he or she shall so notify the court.
21 Whenever a court ~~or circuit court commissioner~~ refers a party to the director of family
22 court ~~counseling~~ services for any other family court ~~counseling~~ service, the director
23 shall take appropriate action to provide the service.

24 (b) Any intake form that the family court ~~counseling~~ services requires the
25 parties to complete before commencement of mediation shall ask each party whether

SENATE BILL 123**SECTION 57**

1 either of the parties has engaged in interspousal battery, as described in s. 940.19 or
2 940.20 (1m), or domestic abuse, as defined in s. 813.12 (1) (am).

3 (7) PRIVATE MEDIATOR. The parties to any action affecting the family may, at
4 their own expense, receive mediation services from a mediator other than one who
5 provides services under sub. (3). Parties who receive services from such a mediator
6 under this subsection shall sign and file with the director of family court counseling
7 services and with the court ~~or circuit court commissioner~~ a written notice stating the
8 mediator's name and the date of the first meeting with the mediator.

9 (8) (a) Except as provided in par. (b), in any action affecting the family,
10 including an action for revision of judgment or order under s. ~~767.32~~ 767.451 or
11 ~~767.325~~ 767.59, in which it appears that legal custody or physical placement is
12 contested, the parties shall attend at least one session with a mediator assigned
13 under sub. (6) (a) or contracted with under sub. (7) and, if the parties and the
14 mediator determine that continued mediation is appropriate, no court may hold a
15 trial of or a final hearing on legal custody or physical placement until after mediation
16 is completed or terminated.

17 (12) MEDIATION AGREEMENT. (a) Any agreement ~~which~~ that resolves issues of
18 legal custody or periods of physical placement between the parties and that is
19 reached as a result of mediation under this section shall be prepared in writing,
20 reviewed by the attorney, if any, for each party and by any appointed guardian ad
21 litem, and submitted to the court to be included in the court order as a stipulation.
22 Any reviewing attorney or guardian ad litem shall certify on the mediation
23 agreement that he or she reviewed it, and the guardian ad litem, if any, shall
24 comment on the agreement based on the best interest of the child. The mediator shall
25 certify that the written mediation agreement ~~is in the best interest of the child based~~

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1 ~~on the information presented to the mediator and~~ accurately reflects the agreement
2 made between the parties. The court may approve or reject the agreement, based on
3 the best interest of the child. The court shall state in writing its reasons for rejecting
4 an agreement.

NOTE: Deletes current requirement that the mediator certify that the written mediation agreement is “in the best interest of the child” based on the information presented to the mediator. Reflects concern that a mediator, in general, does not have the expertise necessary, or sufficient knowledge of the information presented, to certify that the agreement is in the best interest of the child. The mediator will still be required to certify that the written mediation agreement accurately reflects the agreement made between the parties.

5 (b) If after mediation under this section the parties do not reach agreement on
6 legal custody or periods of physical placement, the parties or the mediator shall so
7 notify the court. Except as provided in s. ~~767.045~~ 767.407 (1) (am), the court shall
8 promptly appoint a guardian ad litem under s. ~~767.045~~ 767.407. Regardless of
9 whether the court appoints a guardian ad litem, the court shall, if appropriate, refer
10 the matter for a legal custody or physical placement study under sub. (14). If the
11 parties come to agreement on legal custody or physical placement after the matter
12 has been referred for a study, the study shall be terminated. The parties may return
13 to mediation at any time before any trial of or final hearing on legal custody or periods
14 of physical placement. If the parties return to mediation, the county shall collect any
15 applicable fee under s. 814.615.

16 **(13) POWERS OF COURT OR CIRCUIT COURT COMMISSIONER.** Except as provided in
17 sub. (8), referring parties to mediation under this section does not affect the power
18 of the court ~~or a circuit court commissioner~~ to make any necessary order relating to
19 the parties during the course of the mediation.

20 **SECTION 58.** 767.11 (15) of the statutes is repealed.

NOTE: Deletes an obsolete applicability provision.

SENATE BILL 123**SECTION 59**

1 **SECTION 59.** 767.115 (title) of the statutes is renumbered 767.401 (title) and
2 amended to read:

3 **767.401 (1) Educational programs and classes in ~~actions affecting~~**
4 **~~the family.~~**

5 **SECTION 60.** 767.115 (1) (a) of the statutes, as affected by 2003 Wisconsin Act
6 130, is renumbered 767.401 (1) (a) and amended to read:

7 767.401 (1) (a) ~~At any time during~~ During the pendency of an action affecting
8 the family in which a minor child is involved and in which the court ~~or circuit court~~
9 ~~commissioner~~ determines that it is appropriate and in the best interest of the child,
10 the court ~~or circuit court commissioner~~, on its own motion, may order the parties to
11 attend a program specified by the court ~~or circuit court commissioner~~ concerning the
12 effects on a child of a dissolution of the marriage. If the court ~~or circuit court~~
13 ~~commissioner~~ orders the parties to attend a program under this paragraph and there
14 is evidence that one or both of the parties have engaged in interspousal battery, as
15 described in s. 940.19 or 940.20 (1m), or domestic abuse, as defined in s. 813.12 (1)
16 (am), the court ~~or circuit court commissioner~~ may not require the parties to attend
17 the program together or at the same time.

18 **SECTION 61.** 767.115 (1) (b) of the statutes is renumbered 767.401 (1) (b) and
19 amended to read:

20 767.401 (1) (b) ~~At any time during~~ During the pendency of an action to
21 determine the paternity of a child, or an action affecting the family for which the
22 underlying action was an action to determine the paternity of a child, if the court ~~or~~
23 ~~circuit court commissioner~~ determines that it is appropriate and in the best interest
24 of the child, the court ~~or circuit court commissioner~~, on its own motion, may order

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1 either or both of the parties to attend a program specified by the court ~~or circuit court~~
2 ~~commissioner~~ providing training in parenting or coparenting skills, or both.

3 **SECTION 62.** 767.115 (1m), (2) and (3) of the statutes are renumbered 767.401
4 (1) (c), (d) and (e) and amended to read:

5 767.401 (1) (c) A program under ~~sub. (1) par. (a) or (b)~~ shall be educational
6 rather than therapeutic in nature and may not exceed a total of 4 hours in length.
7 The parties shall be responsible for the cost, if any, of attendance at the program.
8 The court ~~or circuit court commissioner~~ may specifically assign responsibility for
9 payment of any cost. No facts or information obtained in the course of the program,
10 and no report resulting from the program, is admissible in any action or proceeding.

11 (d) Notwithstanding s. ~~767.07~~ 767.35 (1), the court ~~or circuit court~~
12 ~~commissioner~~ may require the parties to an action affecting the family in which a
13 minor child is involved to attend a program under ~~sub. (1) par. (a) or (b)~~ as a condition
14 to the granting of a final judgment or order in the action affecting the family ~~that is~~
15 ~~pending before the court or circuit court commissioner.~~

16 (e) A party who fails to attend a program ordered under ~~sub. (1) par. (a) or (b)~~
17 or pay costs specifically ordered under ~~sub. (1m) par. (c)~~ may be proceeded against
18 under ch. 785 for contempt of court.

19 **SECTION 63.** 767.115 (4) of the statutes is renumbered 767.401 (2), and 767.401
20 (2) (a), (b) and (c) 2., as renumbered, are amended to read:

21 767.401 (2) (a) ~~At any time during~~ During the pendency of a divorce or
22 paternity action, the court ~~or circuit court commissioner~~ may order the parties to
23 attend a class that is approved by the court ~~or circuit court commissioner~~ and that
24 addresses such issues as child development, family dynamics, how parental

SENATE BILL 123**SECTION 63**

1 separation affects a child's development, and what parents can do to make raising
2 a child in a separated situation less stressful for the child.

3 (b) The court ~~or circuit court commissioner~~ may not require the parties to
4 attend a class under this subsection as a condition to the granting of the final
5 judgment or order in the divorce or paternity action, however, the court ~~or circuit~~
6 ~~court commissioner~~ may refuse to hear a custody or physical placement motion of a
7 party who refuses to attend a class ordered under this subsection.

8 (c) 2. If the court ~~or circuit court commissioner~~ finds that a party is indigent,
9 any costs that would be the responsibility of that party shall be paid by the county.

10 **SECTION 64.** 767.117 (1) (title) and (3) (title) of the statutes are created to read:

11 767.117 (1) (title) PROHIBITIONS.

12 (3) (title) VIOLATIONS.

13 **SECTION 65.** 767.12 (title) and (1) of the statutes are renumbered 767.235 (title)
14 and (1) and amended to read:

15 **767.235 (title) Trial procedure or hearing on judgment. (1) PROCEEDINGS**
16 **BEFORE COURT.** In actions ~~an action~~ affecting the family, all hearings and trials to
17 determine whether judgment shall be granted, except hearings under s. 757.69 (1)
18 (p) 3., shall be before the court. ~~The testimony~~ Testimony shall be taken by the
19 reporter and shall be ~~written out~~ transcribed and filed with the record if so ordered
20 by the court. Custody proceedings ~~shall receive~~ have priority in being set for hearing.

21 **SECTION 66.** 767.12 (2) and (3) of the statutes are renumbered 767.315 (1) and
22 (2) and amended to read:

23 767.315 (1) IRRETRIEVABLE BREAKDOWN. (a) If both of the parties to a legal
24 separation or divorce action by petition or otherwise have stated under oath or
25 affirmation that the marriage is irretrievably broken, or if the parties have

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1 voluntarily lived apart continuously for 12 months or more immediately prior to
2 commencement of the action and one party has so stated, the court, after hearing,
3 shall make a finding that the marriage is irretrievably broken for purposes of s.
4 767.35 (1) (b) 1.

5 (b) If the parties to a legal separation or divorce action have not voluntarily
6 lived apart for at least 12 months immediately prior to commencement of the action
7 and if only one party has stated under oath or affirmation that the marriage is
8 irretrievably broken, the court shall consider all relevant factors, including the
9 circumstances that gave rise to filing the petition and the prospect of reconciliation,
10 and proceed as follows:

11 1. If the court finds no reasonable prospect of reconciliation, it shall make a
12 finding that the marriage is irretrievably broken; ~~or~~ for purposes of s. 767.35 (1) (b)
13 1.

14 2. If the court finds that there is a reasonable prospect of reconciliation, it shall
15 continue the matter for further hearing not fewer than 30 nor more than 60 days
16 later, or as soon thereafter as the matter may be reached on the court's calendar, and
17 may suggest to the parties that they seek counseling. The court, at the request of
18 either party or on its own motion, may order counseling. At the adjourned hearing,
19 if either party states under oath or affirmation that the marriage is irretrievably
20 broken, the court shall make a finding whether the marriage is irretrievably broken
21 for purposes of s. 767.35 (1) (b) 1.

22 **(2) BREAKDOWN OF MARITAL RELATIONSHIP.** If both of the parties to a legal
23 separation or divorce action by petition or otherwise have stated under oath or
24 affirmation that the marital relationship is broken, the court, after hearing, shall

SENATE BILL 123**SECTION 66**

1 make a finding that the marital relationship is broken for purposes of s. 767.35 (1)
2 (b) 2.

3 **SECTION 67.** 767.125 of the statutes is renumbered 767.235 (2) and amended
4 to read:

5 767.235 (2) ~~ORDER FOR APPEARANCE~~ APPEARANCE OF LITIGANTS. Unless
6 nonresidence in the state is shown by competent evidence, service is by publication,
7 or the court shall for other good cause orders otherwise ~~order~~, both parties in actions
8 affecting the family shall ~~be required to appear upon the final hearing or trial.~~ An
9 order of the court ~~or a circuit court commissioner~~ to that effect shall accordingly be
10 procured by the moving party, and shall be served upon the nonmoving party before
11 the hearing or trial. ~~In~~ No order is required in the case of a joint petition ~~the order~~
12 ~~is not required.~~

NOTE: Clarifies that the appearance requirement extends to final hearings.

13 **SECTION 68.** 767.127 (3) (title) of the statutes is created to read:

14 767.127 (3) (title) CONFIDENTIALITY OF DISCLOSED INFORMATION.

15 **SECTION 69.** 767.14 of the statutes is repealed.

NOTE: Repealed as unnecessary. The repealed section provides:

767.14 Service on office of family court commissioner and appearance by circuit court commissioner. In any action affecting the family, each party shall, either within 20 days after making service on the opposite party of any petition or pleading or before filing such petition or pleading in court, serve a copy of the same upon the circuit court commissioner supervising the office of family court commissioner of the county in which the action is begun, whether such action is contested or not. No judgment in any such action shall be granted unless this section is complied with except when otherwise ordered by the court. A circuit court commissioner assisting in matters affecting the family may appear in an action under this chapter when appropriate; and shall appear when requested by the court.

Those judicial circuits desiring to continue service on the circuit court court commissioner may do so by adopting a local rule.

16 **SECTION 70.** 767.145 (title) and (1) of the statutes are repealed.

NOTE: Reflects the repeal of s. 767.14 by SEC. 69 of this bill. Section 767.145 (1) provides:

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767.145 (1) After the expiration of the period specified by the statute, the court may in its discretion, upon petition and without notice, extend the time within which service shall be made upon the circuit court commissioner supervising the office of family court commissioner.

1 **SECTION 71.** 767.145 (2) of the statutes is renumbered 767.215 (4) (a) and
2 amended to read:

3 767.215 (4) (a) Except as provided in s. ~~767.456~~ par. (b) and s. 767.815,
4 extension of time ~~under any other circumstances shall be~~ is governed by s. 801.15 (2),
5 ~~except that the~~.

6 (b) The court may, upon the petitioner's demonstration of good cause, and
7 without notice, order one additional 60-day extension for service of the initial papers
8 in the action if the extension motion is made within 90 days after filing the initial
9 papers. If the extension motion is not made within the 90-day period, the court may
10 grant the motion only if it finds excusable neglect for failure to act and good cause
11 shown for granting the extension.

NOTE: Clarifies when motions for a 60-day extension for serving the initial papers must be made and the standard for granting the motion if made more than 90 days after filing the papers.

12 **SECTION 72.** 767.15 of the statutes is renumbered 767.217 and amended to
13 read:

14 **767.217** (title) ~~Service on child support program~~ **Notice to Child**
15 **Support Program.** (1) NOTICE OF PLEADING OR MOTION. In ~~any an~~ action affecting
16 the family in which either party is a recipient of benefits under ss. 49.141 to 49.161
17 or aid under s. 46.261, 49.19~~1~~, or 49.45, each party shall, either within 20 days after
18 ~~making service on~~ serving the opposite party ~~of any~~ with a motion or pleading
19 requesting the court ~~or circuit court commissioner~~ to order, or to modify a previous
20 order, relating to child support, maintenance~~1~~, or family support, or before filing the

SENATE BILL 123**SECTION 72**

1 motion or pleading in court, serve a copy of the motion or pleading ~~upon~~ on the county
2 child support agency under s. 59.53 (5) of the county in which the action is begun.

3 **(2) NOTICE OF APPEAL.** In ~~any~~ an appeal of ~~any~~ an action affecting the family
4 in which support or maintenance of a child of any party is at issue, the person who
5 initiates the appeal shall notify the department of the appeal by sending a copy of
6 the notice of appeal to the department.

7 **(3) NONCOMPLIANCE.** ~~No~~ A judgment in ~~any~~ an action affecting the family may
8 not be granted unless this section is complied with or a court orders otherwise.

9 **SECTION 73.** 767.16 of the statutes is amended to read:

10 **767.16 Circuit court commissioner or law partner; when interested;**
11 **procedure.** ~~Neither a~~ A circuit court commissioner assisting in matters affecting
12 the family ~~nor a partner or a member of the commissioner's law firm~~ may not appear
13 in any action affecting the family in any court held in the county in which the circuit
14 court commissioner is acting, ~~except when authorized to appear by s. 767.14. In case~~
15 ~~the.~~ If a circuit court commissioner or a partner shall be in any way member of the
16 commissioner's law firm is interested in such an action affecting the family and no
17 other circuit court commissioner is available, the presiding judge shall appoint some
18 reputable an attorney to ~~perform the services enjoined upon the~~ act as circuit court
19 commissioner in that action. The appointed attorney shall take and file the oath and
20 receive the compensation provided by law.

NOTE: 1. Removes as obsolete reference to an appearance by a court commissioner
when authorized by s. 767.14. Section 767.14 is repealed by SEC. 69 of this bill.

2. Clarifies remaining language.

21 **SECTION 74.** 767.17 of the statutes is created to read:

22 **767.17 Review of circuit court commissioner decisions.** A decision of a
23 circuit court commissioner under this chapter is reviewable under s. 757.69 (8).

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NOTE: For convenience, adds a cross-reference to the provision on review of circuit court commissioner decisions by the court, including opportunity for a *de novo* hearing.

1 **SECTION 75.** 767.19 (title) of the statutes is repealed.

2 **SECTION 76.** 767.19 (1) of the statutes is renumbered 767.13 and amended to
3 read:

4 **767.13 Impoundment of record.** No Except as provided in s. 767.127 (3), the
5 record or evidence in any case shall an action affecting the family may not be
6 impounded, or and access thereto to the record or evidence may not be refused, except
7 by special written order of the court made in its discretion in the interests of public
8 morals. And when impounded no officer or other for good cause shown. No person
9 shall may permit a copy of any of the testimony or pleadings impounded record or
10 evidence, or the substance thereof of the record or evidence, to be taken by any person
11 other than a party to the action, or his or her attorney of record, without the special
12 order of the unless a court orders otherwise.

NOTE: 1. Substitutes, as the standard for impounding or denying access to the record or evidence in an action affecting the family, “good cause shown” for “in the interests of public morals”. The new language is a more current standard for the exercise of judicial discretion, although it is recognized that it is broader than the previous standard. Inclusion of “shown” in the new language implies that someone other than the court must seek impoundment or denial of access and has the burden of persuading the court.

2. The exception clause refers to the provision on confidentiality of required asset disclosure, treated by SEC. 123 of the bill.

13 **SECTION 77.** 767.19 (2) of the statutes is renumbered 767.235 (3).

14 **SECTION 78.** 767.20 of the statutes, as affected by 2003 Wisconsin Act 52, is
15 renumbered 767.395.

16 **SECTION 79.** Subchapter III (title) of chapter 767 [precedes 767.201] of the
17 statutes is created to read:

18 **CHAPTER 767**

SENATE BILL 123**SECTION 79**

SUBCHAPTER III

GENERAL PROCEDURE

SECTION 80. 767.201 of the statutes is created to read:

767.201 Civil procedure generally governs. Except as otherwise provided in the statutes, chs. 801 to 847 govern procedure and practice in an action affecting the family. Except as provided in this chapter, chs. 801 and 802 apply to the content and form of the pleadings and summons in an action affecting the family.

NOTE: 1. The first sentence is intended to restate the second sentence of current s. 767.01 (1), stats., which provides: “All actions affecting the family shall be commenced and conducted and the orders and judgments enforced according to these statutes in respect to actions in circuit court, as far as applicable, except as provided in this chapter.”. (The sentence is stricken from s. 767.01 (1) by SEC. 10 of this bill.)

2. The restated language of the first sentence also reflects current s. 801.01 (1) and (2), which provides:

(1) **KINDS.** Proceedings in the courts are divided into actions and special proceedings. “Action”, as used in chs. 801 to 847, includes “special proceeding” unless a specific provision of procedure in special proceedings exists.

(2) **SCOPE.** Chapters 801 to 847 govern procedure and practice in circuit courts of this state in all civil actions and special proceedings whether cognizable as cases at law, in equity or of statutory origin except where different procedure is prescribed by statute or rule. Chapters 801 to 847 shall be construed to secure the just, speedy and inexpensive determination of every action and proceeding.

3. The second sentence is intended to restate the last sentence of current s. 767.05 (5), stats., which is stricken by SEC. 32 of this bill.

SECTION 81. 767.205 (title) of the statutes is created to read:

767.205 (title) Parties; title of actions.

SECTION 82. 767.21 of the statutes is renumbered 767.041, and 767.041 (1) (a) and (3), as renumbered, are amended to read:

767.041 (1) (a) Full faith and credit shall be given in all courts of this state to a judgment in any action affecting the family, except an action relating to child custody, by a court of competent jurisdiction in another state, territory, or possession of the United States, when both spouses personally appear or when the respondent has been personally served. Full faith and credit shall also be given in all courts of

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1 this state to the amount of arrearages owed for nonpayment or late payment of a child
2 support, family support, or maintenance payment under an order issued by a court
3 of competent jurisdiction in another state, territory, or possession of the United
4 States. A court in this state may not adjust the amount of arrearages owed except
5 as provided in s. ~~767.32~~ 767.59 (1m).

6 **(3) CHILD CUSTODY ACTIONS.** All matters relating to the effect of the judgment
7 of another court concerning child custody ~~shall be~~ are governed by ch. 822.

8 **SECTION 83.** 767.215 (4) (title) of the statutes is created to read:

9 767.215 **(4)** (title) EXTENSION OF TIME FOR SERVICE.

10 **SECTION 84.** 767.215 (5) of the statutes is created to read:

11 767.215 **(5) SOCIAL SECURITY NUMBERS.** (a) When the petition under this section
12 is filed with the court, the party filing the petition shall submit a separate form,
13 furnished by the court, containing all of the following:

- 14 1. The name, date of birth, and social security number of each party.
- 15 2. The name, date of birth, and social security number of each minor child of
16 the parties and of each child born to the wife during the marriage.

17 (b) A form submitted under this subsection shall be maintained with the
18 confidential information required under s. 767.54 or maintained separately from the
19 case file. The form may be disclosed only to the parties and their attorneys, a county
20 child support enforcement agency, and any other person authorized by law or court
21 order to have access to the information on the form.

NOTE: Replaces the requirement of current s. 767.085 (1) (a) or (b) that the social
security numbers be included on the petition. See, also, the treatment of current s. 767.37
(1) (a) by SEC. 170 of this bill.

22 **SECTION 85.** 767.22 of the statutes is renumbered 767.055 and amended to
23 read:

SENATE BILL 123**SECTION 85**

1 **767.055 Uniform divorce recognition act Divorce Recognition Act. (1)**

2 EFFECT OF FOREIGN DIVORCE BY STATE DOMICILIARY. A divorce obtained in another
3 jurisdiction ~~shall be~~ is of no force or effect in this state, if the court in such the other
4 jurisdiction lacks subject matter jurisdiction to hear the case because both parties
5 to the marriage were domiciled in this state at the time the proceeding for the divorce
6 was commenced.

7 **(2) PROOF.** Proof that a person obtaining a divorce in another jurisdiction was
8 ~~(a) domiciled in this state within 12 months prior to the commencement of the divorce~~
9 ~~proceeding therefor, and resumed residence in this state within 18 months after the~~
10 ~~date of the person's departure therefrom, or (b) from this state, or that at all times~~
11 ~~after the person's departure from this state, and until the person's return the person~~
12 ~~maintained a place of residence within this state, shall be~~ is prima facie evidence that
13 the person was domiciled in this state when the divorce proceeding was commenced.

14 **(3) CONSTRUCTION.** This section shall be so interpreted and construed so as to
15 effectuate its general purpose to make uniform the law of those states ~~which~~ that
16 enact it.

17 **(4) TITLE.** This section may be cited as the Uniform Divorce Recognition Act.

18 **SECTION 86.** 767.225 (3m) (title) of the statutes is created to read:

19 767.225 **(3m)** (title) AVAILABILITY OF DOMESTIC ABUSE RESTRAINING ORDER.

20 **SECTION 87.** 767.23 (title) and (1) of the statutes are renumbered 767.225 (title)
21 and (1), and 767.225 (title) and (1) (intro.), (a) to (f), (h) and (k), as renumbered, are
22 amended to read:

23 767.225 (title) ~~Temporary orders for support of spouse and children;~~
24 ~~suit money; attorney fees~~ Orders during pendency of action.

SENATE BILL 123

1 **(1) TEMPORARY ORDERS.** (intro.) Except as provided in ch. 822, in every an action
2 affecting the family, the court ~~or circuit court commissioner~~ may, during the
3 pendency thereof of the action, make just and reasonable temporary orders
4 concerning the following matters:

5 (a) Upon request of one party, granting legal custody of the minor children to
6 the parties jointly, to one party solely, or to a relative or agency specified under s.
7 ~~767.24~~ 767.41 (3), in a manner consistent with s. ~~767.24~~ 767.41, except that the court
8 ~~or circuit court commissioner~~ may order sole legal custody without the agreement of
9 the other party and without the findings required under s. ~~767.24~~ 767.41 (2) (b) 2.
10 This An order may under this paragraph is not have a binding effect on a final
11 custody determination.

12 (am) Upon the request of a party, granting periods of physical placement to a
13 party in a manner consistent with s. ~~767.24~~ 767.41. The court ~~or circuit court~~
14 ~~commissioner~~ shall make a determination under this paragraph within 30 days after
15 the request for a temporary order regarding periods of physical placement is filed.

16 (b) Notwithstanding ss. ~~767.085 (1) (j) and 767.087 (1) (e)~~ 767.117 (1) (c) and
17 767.215 (2) (j), prohibiting the removal of minor children from the jurisdiction of the
18 court.

19 (bm) Allowing a party to move with or remove a child after a notice of objection
20 has been filed under s. ~~767.327~~ 767.481 (2) (a).

21 (c) Subject to s. ~~767.477~~ 767.85, requiring either party or both parties to make
22 payments for the support of minor children, which payment amounts must be
23 expressed as a fixed sum unless the parties have stipulated to expressing the amount
24 as a percentage of the payer's income and the requirements under s. ~~767.10~~ 767.34
25 (2) (am) 1. to 3. are satisfied.

SENATE BILL 123**SECTION 87**

1 (d) Requiring either party to pay for the maintenance of the other party. This
2 maintenance Maintenance under this paragraph may include the expenses and
3 attorney fees incurred by the other party in bringing or responding to the action
4 affecting the family.

5 (e) Requiring either party to pay family support under s. ~~767.261~~ 767.531.

6 (f) Requiring either party to execute an assignment of income under s. ~~767.265~~
7 767.75 or an authorization for transfer under s. ~~767.267~~ 767.76.

8 (h) Notwithstanding ss. ~~767.085 (1) (i) and 767.087 (1) (b)~~ 767.117 (1) (b) and
9 767.215 (2) (i), prohibiting either party from disposing of assets within the
10 jurisdiction of the court.

11 (k) Subject to s. ~~767.477~~ 767.85, requiring either party or both parties to
12 maintain minor children as beneficiaries on a health insurance policy or plan.

13 **SECTION 88.** 767.23 (1g) of the statutes is repealed.

NOTE: Repealed as obsolete. The repealed provision provides as follows:
“Notwithstanding 1987 Wisconsin Act 355, section 73, as affected
by 1987 Wisconsin Act 364, the parties may agree to the adjudication of
a temporary order under this section in an action affecting the family that
is pending on May 3, 1988.”.

14 **SECTION 89.** 767.23 (1m) of the statutes is renumbered 767.225 (3m).

15 **SECTION 90.** 767.23 (1n) of the statutes, as affected by 2003 Wisconsin Acts 130
16 and 326, is renumbered 767.225 (1n) and amended to read:

17 767.225 (1n) CONSIDERATIONS; STIPULATIONS; REVIEW. (a) Before making any a
18 temporary order under sub. (1), the court ~~or circuit court commissioner~~ shall consider
19 those factors that the court is required by this chapter to consider before entering a
20 final judgment on the same subject matter. In making a determination under sub.
21 (1) (a) or (am), the court ~~or circuit court commissioner~~ shall consider the factors under
22 s. ~~767.24~~ 767.41 (5) (am), subject to s. ~~767.24~~ 767.41 (5) (bm).

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1 (b) 1. If the court ~~or circuit court commissioner~~ makes a temporary child
2 support order that deviates from the amount of support that would be required by
3 using the percentage standard established by the department under s. 49.22 (9), the
4 court ~~or circuit court commissioner~~ shall comply with the requirements of s. ~~767.25~~
5 767.511 (1n).

6 2. If the court ~~or circuit court commissioner~~ finds by a preponderance of the
7 evidence that a party has engaged in a pattern or serious incident of interspousal
8 battery, as described under s. 940.19 or 940.20 (1m), or domestic abuse, as defined
9 in s. 813.12 (1) (am), and makes a temporary order awarding joint or sole legal
10 custody or periods of physical placement to the party, the court ~~or circuit court~~
11 ~~commissioner~~ shall comply with the requirements of s. ~~767.24~~ 767.41 (6) (f) and, if
12 appropriate, s. ~~767.24~~ 767.41 (6) (g).

13 (c) A temporary order under sub. (1) may be based upon the written stipulation
14 of the parties, subject to the approval of the court ~~or the circuit court commissioner~~.
15 Temporary orders made by a circuit court commissioner may be reviewed by the
16 court.

17 **SECTION 91.** 767.23 (2) of the statutes is renumbered 767.225 (2) and amended
18 to read:

19 767.225 (2) NOTICE OF MOTION FOR ORDER. Notice of motion for an order or order
20 to show cause under sub. (1) may be served at the time the action is commenced or
21 at any time ~~thereafter~~ after commencement and shall be accompanied by an affidavit
22 stating the basis for the request for relief.

23 **SECTION 92.** 767.23 (3) of the statutes is renumbered 767.264 (2) and amended
24 to read:

SENATE BILL 123**SECTION 92**

1 767.264 **(2)** ATTORNEY FEES AND OTHER AMOUNTS OWING. (a) Upon making any
2 an order for dismissal of an action affecting the family or, for substitution of attorneys
3 attorney in an action affecting the family, for withdrawal of attorney from, or for
4 vacation of a judgment theretofore granted in any such an action affecting the family,
5 the court shall, prior to or in its order render and, grant separate judgment in favor
6 of any an attorney who has appeared for a party to the action and in favor of any a
7 guardian ad litem for a party or a child for the amount of fees and disbursements to
8 which the attorney or guardian ad litem is, in the court's judgment, entitled and
9 against the party responsible ~~therefor~~ for the fees and disbursements.

10 (b) Upon making any an order for dismissal of an action affecting the family
11 or for vacation of a judgment granted in any such the order, the court shall, prior to
12 or in its order of dismissal or vacation, also preserve the right of the state or a political
13 subdivision of the state to collect any arrearages, by an action under this chapter or
14 under ch. 785, owed to the state if either party in the case was a recipient of aid under
15 ch. 49.

NOTE: Clarifies the application of the provision to withdrawal of an attorney from
an action affecting the family.

16 **SECTION 93.** 767.235 (3) (title) of the statutes is created to read:

17 767.235 **(3)** (title) EXCLUSION FROM COURTROOM.

18 **SECTION 94.** 767.24 (title) of the statutes is renumbered 767.41 (title).

19 **SECTION 95.** 767.24 (1) (title) of the statutes is renumbered 767.41 (1) (title).

20 **SECTION 96.** 767.24 (1) of the statutes is renumbered 767.41 (1) (b) and
21 amended to read:

22 767.41 **(1)** (b) In rendering a judgment of annulment, divorce, legal separation,
23 or paternity, or in rendering a judgment in an action under s. ~~767.02 (1) (e) or 767.62~~

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1 ~~(3)~~ 767.001 (1) (e), 767.501, or 767.805 (3), the court shall make such provisions as
2 it deems just and reasonable concerning the legal custody and physical placement
3 of any minor child of the parties, as provided in this section.

NOTE: Adds actions to compel support and maintenance under renumbered s.
767.501 (former s. 767.08) to the list of actions covered by renumbered s. 767.41 (former
s. 767.24), relating to legal custody and physical placement orders in specified actions
affecting the family. See, also, SEC. 217 of this bill.

4 **SECTION 97.** 767.24 (1m) to (8) of the statutes, as affected by 2003 Wisconsin
5 Act 130, are renumbered 767.41 (1m) to (8), and 767.41 (1m) (intro.), (3) (e) and (4)
6 (d), as renumbered, are amended to read:

7 767.41 **(1m)** PARENTING PLAN. (intro.) In an action for annulment, divorce, or
8 legal separation, an action to determine paternity, or an action under s. ~~767.02 (1)~~
9 ~~(e) or 767.62 (3)~~ 767.001 (1) (e), 767.501, or 767.805 (3), in which legal custody or
10 physical placement is contested, a party seeking sole or joint legal custody or periods
11 of physical placement shall file a parenting plan with the court before any pretrial
12 conference. Except for cause shown, a party required to file a parenting plan under
13 this subsection who does not timely file a parenting plan waives the right to object
14 to the other party's parenting plan. A parenting plan shall provide information about
15 the following questions:

16 **(3)** (e) The charges for care furnished to a child whose custody is transferred
17 under this subsection shall be pursuant to the procedure under s. 48.36 (1) or 938.36
18 (1) except as provided in s. ~~767.29~~ 767.57 (3).

19 **(4)** (d) If the court grants periods of physical placement to more than one
20 parent, it shall order a parent with legal custody and physical placement rights to
21 provide the notice required under s. ~~767.327~~ 767.481 (1).

22 **SECTION 98.** 767.24 (9) of the statutes is repealed.

NOTE: Deletes an obsolete applicability provision.

SENATE BILL 123**SECTION 99**

1 **SECTION 99.** 767.241 (1) (title), (2) (title), (3) (title) and (4) (title) of the statutes
2 are created to read:

3 767.241 **(1)** (title) COURT AUTHORITY.

4 **(2)** (title) PREACTION AND POSTACTION FEES.

5 **(3)** (title) TO WHOM PAID.

6 **(4)** (title) PAYMENT BY STATE OR COUNTY.

7 **SECTION 100.** 767.242 of the statutes, as affected by 2001 Wisconsin Act 109,
8 is renumbered 767.471, and 767.471 (1) (a) and (b), (2) (intro.), (3), (4), (5) (a), (b)
9 (intro.), 1. b. and 2. b. and c., (c), (d) and (e) and (6) (a) and (b), as renumbered, are
10 amended to read:

11 767.471 **(1)** (a) “Petitioner” “Moving party” means the parent filing a petition
12 motion under this section, regardless of whether that parent was the petitioner in
13 the action in which periods of physical placement were awarded under s. ~~767.24~~
14 767.41.

15 (b) “Respondent” “Responding party” means the parent upon whom a petition
16 motion under this section is served, regardless of whether that parent was the
17 respondent in the action in which periods of physical placement were awarded under
18 s. ~~767.24~~ 767.41.

19 **(2)** WHO MAY FILE. (intro.) A parent who has been awarded periods of physical
20 placement under s. ~~767.24~~ 767.41 may file a petition motion under sub. (3) if any of
21 the following applies:

22 **(3)** PETITION MOTION. (a) The petition motion shall allege facts sufficient to
23 show the following:

24 1. The name of the petitioner moving party and that the petitioner moving
25 party has been awarded periods of physical placement.

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1 2. The name of the ~~respondent~~ responding party.

2 3. That one or more of the criteria in sub. (2) apply.

3 (b) The ~~petition~~ motion shall request the imposition of a remedy or any
4 combination of remedies under sub. (5) (b) and (c). This paragraph does not prohibit
5 a ~~judge or circuit court commissioner~~ court from imposing a remedy under sub. (5)
6 (b) or (c) if the remedy was not requested in the ~~petition~~ motion.

7 (c) A ~~judge or circuit court commissioner~~ court shall accept any legible ~~petition~~
8 motion for an order under this section.

9 (d) The ~~petition~~ motion shall be filed under the principal action under which
10 the periods of physical placement were awarded.

11 (e) A ~~petition~~ motion under this section is a motion for remedial sanction for
12 purposes of s. 785.03 (1) (a).

13 **(4)** SERVICE ON ~~RESPONDENT~~ RESPONDING PARTY; RESPONSE. Upon the filing of a
14 ~~petition~~ motion under sub. (3), the ~~petitioner~~ moving party shall serve a copy of the
15 ~~petition~~ motion upon the ~~respondent~~ responding party by personal service in the
16 same manner as a summons is served under s. 801.11. The ~~respondent~~ responding
17 party may respond to the ~~petition~~ motion either in writing before or at the hearing
18 under sub. (5) (a) or orally at that hearing.

19 **(5)** (a) ~~A judge or circuit court commissioner~~ The court shall hold a hearing on
20 the ~~petition~~ motion no later than 30 days after the ~~petition~~ motion has been served,
21 unless the time is extended by mutual agreement of the parties or upon the motion
22 of a guardian ad litem and the approval of the ~~judge or circuit court commissioner~~
23 court. The ~~judge or circuit court commissioner~~ court may, on ~~his or her~~ its own motion
24 or the motion of any party, order that a guardian ad litem be appointed for the child
25 prior to the hearing.

SENATE BILL 123**SECTION 100**

1 (b) (intro.) If, at the conclusion of the hearing, the ~~judge or circuit court~~
2 ~~commissioner court~~ finds that the respondent responding party has intentionally
3 and unreasonably denied the ~~petitioner~~ moving party one or more periods of physical
4 placement or that the respondent responding party has intentionally and
5 unreasonably interfered with one or more of the ~~petitioner's~~ moving party's periods
6 of physical placement, the court ~~or circuit court commissioner~~:

7 1. b. Award the ~~petitioner~~ moving party a reasonable amount for the cost of
8 maintaining an action under this section and for attorney fees.

9 2. b. Find the respondent responding party in contempt of court under ch. 785.

10 c. Grant an injunction ordering the respondent responding party to strictly
11 comply with the judgment or order relating to the award of physical placement. In
12 determining whether to issue an injunction, the ~~judge or circuit court commissioner~~
13 court shall consider whether alternative remedies requested by the ~~petitioner~~
14 moving party would be as effective in obtaining compliance with the order or
15 judgment relating to physical placement.

16 (c) If, at the conclusion of the hearing, the ~~judge or circuit court commissioner~~
17 court finds that the ~~petitioner~~ moving party has incurred a financial loss or expenses
18 as a result of the ~~respondent's~~ responding party's failure, intentionally and
19 unreasonably and without adequate notice to the ~~petitioner~~ moving party, to exercise
20 one or more periods of physical placement under an order allocating specific times
21 for the exercise of periods of physical placement, the ~~judge or circuit court~~
22 commissioner court may issue an order requiring the respondent responding party
23 to pay to the ~~petitioner~~ moving party a sum of money sufficient to compensate the
24 ~~petitioner~~ moving party for the financial loss or expenses.

SENATE BILL 123**SECTION 100**

1 (d) Except as provided in par. (b) 1. a. and 2. a., the ~~judge or circuit court~~
2 ~~commissioner~~ court may not modify an order of legal custody or physical placement
3 in an action under this section.

4 (e) An injunction issued under par. (b) 2. c. is effective according to its terms,
5 for the period of time that the ~~petitioner~~ moving party requests, but not more than
6 2 years.

7 **(6)** (a) If an injunction is issued under sub. (5) (b) 2. c., upon request by the
8 ~~petitioner the judge or circuit court commissioner~~ moving party the court shall order
9 the sheriff to assist the ~~petitioner~~ moving party in executing or serving the
10 injunction.

11 (b) Within 24 hours after a request by the ~~petitioner~~ moving party, the clerk of
12 the circuit court shall send a copy of an injunction issued under sub. (5) (b) 2. c. to
13 the sheriff or to any other local law enforcement agency that is the central repository
14 for orders and that has jurisdiction over the ~~respondent's~~ responding party's
15 residence. If the ~~respondent~~ responding party does not reside in this state, the clerk
16 shall send a copy of the injunction to the sheriff of the county in which the circuit
17 court is located.

NOTE: Replaces “petition” with “motion”, “petitioner” with “moving party”, and
“respondent” with “responding party”. This change is intended to avoid the current
confusion resulting from using “petition”, “petitioner”, and “respondent” with reference
to both the original petition in the action in which physical placement was ordered and
the petition to enforce that order under this section, current s. 767.242.

18 **SECTION 101.** 767.245 of the statutes is renumbered 767.43, and 767.43 (4), as
19 renumbered, is amended to read:

20 767.43 **(4)** PATERNITY DETERMINATION. If the paternity of the child has not yet
21 been determined in an action under sub. (3) that is commenced by a person other
22 than a parent of the child’s mother but the person filing the petition under sub. (3)

SENATE BILL 123**SECTION 101**

1 has, in conjunction with that petition, filed a petition or motion under s. ~~767.45~~
2 767.80 (1) (k), the court shall make a determination as to paternity before
3 determining visitation rights under sub. (3).

4 **SECTION 102.** 767.247 of the statutes is renumbered 767.44 and amended to
5 read:

6 **767.44 Prohibiting visitation or physical placement if a parent kills**
7 **other parent. (1) WHEN PROHIBITED.** Notwithstanding ss. ~~767.23 (1) (am), 767.24~~
8 ~~(1), (4) and (5), 767.51 (3) and 767.62 (4) (a)~~ 767.225 (1) (am), 767.41 (1), (4), and (5),
9 767.805 (4) (a), and 767.89 (3) and except as provided in sub. (2), in an action under
10 this chapter that affects a minor child, a court ~~or circuit court commissioner~~ may not
11 grant to the child's parent visitation or physical placement rights with the child if the
12 parent has been convicted under s. 940.01 of the first-degree intentional homicide,
13 or under s. 940.05 of the 2nd-degree intentional homicide, of the child's other parent,
14 and the conviction has not been reversed, set aside, or vacated.

15 **(2) WHEN NOT APPLICABLE.** Subsection (1) does not apply if the court ~~or circuit~~
16 ~~court commissioner~~ determines by clear and convincing evidence that the visitation
17 or periods of physical placement would be in the best interests of the child. The court
18 ~~or circuit court commissioner~~ shall consider the wishes of the child in making the
19 determination.

20 **SECTION 103.** 767.25 (title) and (1) to (4) of the statutes are renumbered 767.511
21 (title) and (1) to (4), and 767.511 (1) and (1m) (em) and (f), as renumbered, are
22 amended to read:

23 767.511 **(1) WHEN ORDERED.** ~~Whenever~~ When the court approves a stipulation
24 for child support under s. ~~767.10~~ 767.34, enters a judgment of annulment, divorce,
25 or legal separation, or enters an order or a judgment in a paternity action or in an

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1 action under s. ~~767.02 (1) (f) or (j), 767.08 or 767.62 (3)~~ 767.001 (1) (f) or (j), 767.501,
2 or 767.805 (3), the court shall do all of the following:

3 (a) Order either or both parents to pay an amount reasonable or necessary to
4 fulfill a duty to support a child. The support amount must be expressed as a fixed
5 sum unless the parties have stipulated to expressing the amount as a percentage of
6 the payer's income and the requirements under s. ~~767.10~~ 767.34 (2) (am) 1. to 3. are
7 satisfied.

8 (b) Ensure that the parties have stipulated which party, if either is eligible, will
9 claim each child as an exemption for federal income tax purposes under 26 USC 151
10 (c) (1) (B), or as an exemption for state income tax purposes under s. 71.07 (8) (b) or
11 under the laws of another state. If the parties are unable to reach an agreement
12 about the tax exemption for each child, the court shall make the decision in
13 accordance with state and federal tax laws. In making its decision, the court shall
14 consider whether the parent who is assigned responsibility for the child's health care
15 expenses under ~~sub. (4m) s. 767.513~~ is covered under a health insurance policy or
16 plan, including a self-insured plan, that is not subject to s. 632.897 (10) and that
17 conditions coverage of a dependent child on whether the child is claimed by the
18 insured parent as an exemption for purposes of federal or state income taxes.

19 **(1m)** (em) Extraordinary travel expenses incurred in exercising the right to
20 periods of physical placement under s. ~~767.24~~ 767.41.

21 (f) The physical, mental, and emotional health needs of the child, including any
22 costs for health insurance as provided for under ~~sub. (4m) s. 767.513~~.

23 **SECTION 104.** 767.25 (4m) of the statutes is renumbered 767.513, and 767.513
24 (1) to (3), (4) (b), (5) (b) and (6), as renumbered, are amended to read:

SENATE BILL 123**SECTION 104**

1 767.513 **(1)** DEFINITION. In this ~~subsection~~ section, “health insurance” does not
2 include medical assistance provided under subch. IV of ch. 49.

3 **(2)** RESPONSIBILITY AND PAYMENT. In addition to ordering child support for a child
4 under ~~sub. s. 767.511~~ (1), the court shall specifically assign responsibility for and
5 direct the manner of payment of the child’s health care expenses. In assigning
6 responsibility for a child’s health care expenses, the court shall consider whether a
7 child is covered under a parent’s health insurance policy or plan at the time the court
8 approves a stipulation for child support under s. ~~767.10~~ 767.34, enters a judgment
9 of annulment, divorce, or legal separation, or enters an order or a judgment in a
10 paternity action or in an action under s. ~~767.02 (1) (f) or (j), 767.08 or 767.62 (3)~~
11 767.001 (1) (f) or (j), 767.501, or 767.805 (3), the availability of health insurance to
12 each parent through an employer or other organization, the extent of coverage
13 available to a child, and the costs to the parent for the coverage of the child. A parent
14 may be required to initiate or continue health care insurance coverage for a child
15 under this ~~subsection~~ section. If a parent is required to do so, he or she shall provide
16 copies of necessary program or policy identification to the custodial parent and is
17 liable for any health care costs for which he or she receives direct payment from an
18 insurer. This ~~subsection~~ section shall not be construed to limit the authority of the
19 court to enter or modify support orders containing provisions for payment of medical
20 expenses, medical costs, or insurance premiums ~~which that~~ are in addition to and not
21 inconsistent with this ~~subsection~~ section.

22 **(3)** INCOME WITHHOLDING AND ASSIGNMENT. (a) In directing the manner of
23 payment of a child’s health care expenses, the court may order that payment,
24 including payment for health insurance premiums, be withheld from income and
25 sent to the appropriate health care insurer, provider, or plan, as provided in s.

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1 ~~767.265~~ 767.75 (3h), or sent to the department or its designee, ~~whichever is~~
2 ~~appropriate,~~ for disbursement to the person for whom the payment has been
3 awarded if that person is not a health care insurer, provider, or plan. If the court
4 orders income withholding and assignment for the payment of health care expenses,
5 the court or county child support agency under s. 59.53 (5) shall send notice of
6 assignment in the manner provided under s. ~~767.265~~ 767.75 (2r) and may include the
7 notice of assignment under this ~~subdivision~~ paragraph with a notice of assignment
8 under s. ~~767.265~~ 767.75. The department or its designee, ~~whichever is appropriate,~~
9 shall keep a record of all moneys received and disbursed ~~by the department or its~~
10 ~~designee~~ for health care expenses that are directed to be paid to the department or
11 its designee.

12 (b) If the court orders a parent to initiate or continue health insurance coverage
13 for a child under a health insurance policy that is available to the parent through an
14 employer or other organization but the court does not specify the manner in which
15 payment of the health insurance premiums shall be made, the ~~clerk of court~~ or county
16 child support agency under s. 59.53 (5) may provide notice of assignment in the
17 manner provided under s. ~~767.265~~ 767.75 (2r) for the withholding from income of the
18 amount necessary to pay the health insurance premiums. The notice of assignment
19 under this ~~subdivision~~ paragraph may be sent with or included as part of any other
20 notice of assignment under s. ~~767.265~~, if appropriate 767.75. A person who receives
21 notice of assignment under this ~~subdivision~~ paragraph shall send the withheld
22 health insurance premiums to the appropriate health care insurer, provider, or plan,
23 as provided in s. ~~767.265~~ 767.75 (3h).

24 (4) (b) Provide family coverage of health care expenses for the child, if eligible
25 for coverage, upon application by the parent, the child's other parent, the

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1 department, or the county child support agency under s. 59.53 (5), or upon receiving
2 a notice under ~~par. (f) 1.~~ sub. (6) (a).

3 **(5) (b)** ~~Section 767.265~~ 767.75 (4) applies to a garnishment based on a judgment
4 obtained under ~~subd. 1.~~ par. (a).

5 **(6) CHANGE OF EMPLOYMENT; NOTICE.** (a) If a parent who provides coverage of
6 the health care expenses of a child under an order under this ~~subsection~~ section
7 changes employers and that parent has a court-ordered child support obligation
8 with respect to the child, the county child support agency under s. 59.53 (5) shall
9 provide notice of the order to provide coverage of the child's health care expenses to
10 the new employer and to the parent.

11 (b) The notice provided to the parent shall inform the parent that coverage for
12 the child under the new employer's health benefit plan will be in effect upon the
13 employer's receipt of the notice. The notice shall inform the parent that he or she
14 may, within 10 business days after receiving the notice, by motion request a hearing
15 before the court on the issue of whether the order to provide coverage of the child's
16 health care expenses should remain in effect. A motion under this ~~subdivision~~
17 paragraph may be heard by a circuit court commissioner. If the parent requests a
18 hearing and the court ~~or circuit court commissioner~~ determines that the order to
19 provide coverage of the child's health care expenses should not remain in effect, the
20 court shall provide notice to the employer that the order is no longer in effect.

NOTE: SECTION 104 renumbers s. 767.25 (4m) (health care expenses) so that it
becomes a stand alone section, separate from the general child support section. See, also,
the creation of s. 767.511 (1) (c) by SEC. 219 of the bill.

21 **SECTION 105.** 767.25 (5) to (7) of the statutes are renumbered 767.511 (5) to (7),
22 and 767.511 (5), (6) (intro.) and (7), as renumbered, are amended to read:

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1 767.511 **(5)** LIABILITY FOR PAST SUPPORT. Subject to ss. ~~767.51 (4) and 767.62 (4m)~~
2 767.805 (4m) and 767.89 (4), liability for past support shall be is limited to the period
3 after the birth of the child.

4 **(6)** INTEREST ON ARREARAGE. (intro.) A party ordered to pay child support under
5 this section shall pay simple interest at the rate of 1% per month on any amount in
6 arrears that is equal to or greater than the amount of child support due in one month.
7 If the party no longer has a current obligation to pay child support, interest at the
8 rate of 1% per month shall accrue on the total amount of child support in arrears, if
9 any. Interest under this subsection is in lieu of interest computed under s. 807.01
10 (4), 814.04 (4), or 815.05 (8) and is paid to the department or its designee under s.
11 ~~767.29~~ 767.57. Except as provided in s. ~~767.29~~ 767.57 (1m), the department or its
12 designee, ~~whichever is appropriate~~, shall apply all payments received for child
13 support as follows:

14 **(7)** EFFECT OF JOINT LEGAL CUSTODY. An order of joint legal custody under s.
15 ~~767.24~~ 767.41 does not affect the amount of child support ordered.

16 **SECTION 106.** 767.253 (title) of the statutes is repealed.

17 **SECTION 107.** 767.253 of the statutes is renumbered 767.55 (1) and amended
18 to read:

19 767.55 **(1)** GENERALLY. In an action for modification of a child support order
20 under s. ~~767.32~~ 767.59 or an action in which an order for child support is required
21 under s. ~~767.25 (1), 767.51 (3) or 767.62 (4)~~ 767.511 (1), 767.805 (4), or 767.89 (3), the
22 court may order either or both parents of the child to seek employment or participate
23 in an employment or training program.

24 **SECTION 108.** 767.254 of the statutes is renumbered 767.55 (4), and 767.55 (4)
25 (a) (intro.) and 4. and (b) (intro.), as renumbered, are amended to read:

SENATE BILL 123**SECTION 108**

1 767.55 **(4)** (a) (intro.) In this section subsection, “unemployed teenage parent”
2 means a parent who satisfies all of the following criteria:

3 4. Would be ordered to make payments for the support of a child but for ~~par. (c)~~
4 subd. 3.

5 (b) (intro.) In an action for revision of a judgment or order providing for child
6 support under s. ~~767.32~~ 767.59 or an action in which an order for child support is
7 required under s. ~~767.25 (1), 767.51 (3) or 767.62 (4)~~ 767.511 (1), 767.805 (4), or
8 767.89 (3), the court shall order an unemployed teenage parent to do one or more of
9 the following:

10 **SECTION 109.** 767.255 of the statutes is renumbered 767.61, and 767.61 (1) and
11 (3) (i), as renumbered, are amended to read:

12 767.61 **(1)** DIVISION REQUIRED. Upon every judgment of annulment, divorce, or
13 legal separation, or in rendering a judgment in an action under s. ~~767.02~~ 767.001 (1)
14 (h), the court shall divide the property of the parties and divest and transfer the title
15 of any such property accordingly. A certified copy of the portion of the judgment that
16 affects title to real estate shall be recorded in the office of the register of deeds of the
17 county in which the lands so affected are situated. The court may protect and
18 promote the best interests of the children by setting aside a portion of the property
19 of the parties in a separate fund or trust for the support, maintenance, education and
20 general welfare of any minor children of the parties.

NOTE: 1. The language stricken from the first sentence, and the stricken second
sentence, are relocated, with revisions, into new subs. (5) (a) and (6). See SEC. 232 of this
bill.

2. The last sentence is relocated to new sub. (4). See SEC. 232 of this bill.

21 **(3)** (i) The amount and duration of an order under s. ~~767.26~~ 767.56 granting
22 maintenance payments to either party, any order for periodic family support

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1 payments under s. ~~767.261~~ 767.531 and whether the property division is in lieu of
2 such payments.

3 **SECTION 110.** 767.26 of the statutes is renumbered 767.56, and 767.56 (intro.),
4 (3) and (8), as renumbered, are amended to read:

5 **767.56 Maintenance payments.** (intro.) Upon every a judgment of
6 annulment, divorce, or legal separation, or in rendering a judgment in an action
7 under s. ~~767.02~~ 767.001 (1) (g) or (j), the court may grant an order requiring
8 maintenance payments to either party for a limited or indefinite length of time after
9 considering:

10 (3) The division of property made under s. ~~767.255~~ 767.61.

11 (8) Any mutual agreement made by the parties before or during the marriage,
12 according to the terms of which one party has made financial or service contributions
13 to the other with the expectation of reciprocation or other compensation in the future,
14 where such if the repayment has not been made, or any mutual agreement made by
15 the parties before or during the marriage concerning any arrangement for the
16 financial support of the parties.

17 **SECTION 111.** 767.261 of the statutes is renumbered 767.531, and 767.531
18 (intro.), as renumbered, is amended to read:

19 **767.531 Family support.** (intro.) The court may make a financial order
20 designated “family support” as a substitute for child support orders under s. ~~767.25~~
21 767.511 and maintenance payment orders under s. ~~767.26~~ 767.56. A party ordered
22 to pay family support under this section shall pay simple interest at the rate of 1%
23 per month on any amount in arrears that is equal to or greater than the amount of
24 child support due in one month. If the party no longer has a current obligation to pay
25 child support, interest at the rate of 1% per month shall accrue on the total amount

SENATE BILL 123**SECTION 111**

1 of child support in arrears, if any. Interest under this section is in lieu of interest
2 computed under s. 807.01 (4), 814.04 (4), or 815.05 (8) and is paid to the department
3 or its designee under s. ~~767.29~~ 767.57. Except as provided in s. ~~767.29~~ 767.57 (1m),
4 the department or its designee, ~~whichever is appropriate~~, shall apply all payments
5 received for family support as follows:

6 **SECTION 112.** 767.262 of the statutes is renumbered 767.241, and 767.241
7 (title), as renumbered, is amended to read:

8 **767.241 (title) Award of attorney fees and other fees and costs.**

9 **SECTION 113.** 767.263 of the statutes is renumbered 767.58, and 767.58 (title)
10 and (1), as renumbered, are amended to read:

11 **767.58 (title) Notice of change of employer, ~~change of address, and~~**
12 **~~change in ability to pay; other information.~~ (1) SUPPORT OR MAINTENANCE ORDER;**
13 **NOTICE REQUIREMENTS.** Each order for child support, family support, or maintenance
14 payments shall include an order that the payer and payee notify the county child
15 support agency under s. 59.53 (5) of any change of address within 10 business days
16 of such change. Each order for child support, family support, or maintenance
17 payments shall also include an order that the payer notify the county child support
18 agency under s. 59.53 (5) and the payee, within 10 business days, of any change of
19 employer and of any substantial change in the amount of his or her income, including
20 receipt of bonus compensation, ~~such that~~ affecting his or her ability to pay child
21 support, family support, or maintenance ~~is affected~~. The order shall also include a
22 statement ~~that clarifies~~ that notification of any substantial change in the amount of
23 the payer's income will not result in a change of the order unless a revision of the
24 order under s. ~~767.32~~ 767.59 or an annual adjustment of the child or family support

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1 amount under s. ~~767.33~~ 767.553 is sought. An order under this subsection is
2 enforceable under ch. 785.

NOTE: Clarifies that an order under the provision is enforceable by contempt proceedings.

3 **SECTION 114.** 767.264 (title) of the statutes is created to read:

4 **767.264** (title) **Dismissal; vacation; substitution or withdrawal of**
5 **attorney.**

6 **SECTION 115.** 767.265 (title) of the statutes is repealed.

7 **SECTION 116.** 767.265 (1) of the statutes is renumbered 767.75 (1) (b) and
8 amended to read:

9 767.75 (1) (b) Each “Payment order” means an order for child support under
10 this chapter, for maintenance payments under s. ~~767.23~~ 767.225 or ~~767.26~~ 767.56,
11 for family support under this chapter, for costs ordered under s. ~~767.51 (3)~~ or ~~767.62~~
12 (4) ~~767.805 (4)~~ or ~~767.89 (3)~~, for support by a spouse under s. ~~767.02-767.001 (1) (f)~~,
13 or for maintenance payments under s. ~~767.02 (1) (g)~~, each 767.001 (1) (g); an order
14 for or obligation to pay the annual receiving and disbursing fee under s. ~~767.29 (1)~~
15 (d), each 767.57 (1e) (a); an order for a revision in a judgment or order with respect
16 to child support, maintenance, or family support payments under s. ~~767.32~~, each
17 ~~767.59~~; a stipulation approved by the court or a circuit court commissioner for child
18 support under this chapter; and each an order for child or spousal support entered
19 under s. 948.22 (7).

20 **(1f) PAYMENT ORDER AS ASSIGNMENT OF INCOME.** A payment order constitutes an
21 assignment of all commissions, earnings, salaries, wages, pension benefits, benefits
22 under ch. 102 or 108, lottery prizes that are payable in installments, and other money
23 due or to be due in the future to the department or its designee. The assignment shall

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1 be for an amount sufficient to ensure payment under the order, obligation, or
2 stipulation and to pay any arrearages due at a periodic rate not to exceed 50% of the
3 amount of support due under the order, obligation, or stipulation so long as the
4 addition of the amount toward arrearages does not leave the party at an income
5 below the poverty line established under 42 USC 9902 (2).

6 **SECTION 117.** 767.265 (1m) to (7m) of the statutes are renumbered 767.75 (1m)
7 to (7m), and 767.75 (1m), (2h), (2m) (a) 1. and 2. and (b), (2r), (3h), (4), (6) and (7m)
8 (b) (intro.) and (c), as renumbered, are amended to read:

9 767.75 **(1m)** OBLIGATION CONTINUING. If a party's current obligation to pay
10 maintenance, child support, spousal support, or family support terminates but the
11 party has an arrearage in the payment of one or more of those payments or in the
12 payment of the annual receiving and disbursing fee, any assignment under sub. (1)
13 ~~shall continue~~ (1f) continues in effect, in an amount up to the amount of the
14 assignment before the party's current obligation terminated, until the arrearage is
15 paid in full.

16 **(2h)** DELAYED WITHHOLDING: FAILURE TO PAY. If a court-ordered assignment,
17 including the assignment specified under sub. (1) (1f) for the payment of any
18 arrearages due, does not require immediately effective withholding and a payer fails
19 to make a required maintenance, child support, spousal support, family support, or
20 annual receiving and disbursing fee payment within 10 days after its due date,
21 within 20 days after the payment's due date the court, ~~circuit court commissioner~~ or
22 county child support agency under s. 59.53 (5) shall cause the assignment to go into
23 effect by providing notice of the assignment in the manner provided under sub. (2r)
24 and shall send a notice by regular mail to the last-known address of the payer. The
25 notice sent to the payer shall inform the payer that an assignment is in effect and

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1 that the payer may, within a 10-day period after the notice is mailed, by motion
2 request a hearing on the issue of whether the assignment should remain in effect.
3 The court ~~or circuit court commissioner~~ shall hold a hearing requested under this
4 subsection within 10 working days after the date of receipt of the request. If at the
5 hearing the payer establishes that the assignment is not proper because of a mistake
6 of fact, the court ~~or circuit court commissioner~~ may direct that the assignment be
7 withdrawn. Either party may, within 15 working days after the date of a decision
8 by a circuit court commissioner under this subsection, seek review of the decision by
9 the court with jurisdiction over the action.

NOTE: Clarifies when the 10-day period commences for the payer to request a hearing and for the court to hold a hearing.

10 **(2m)** (a) 1. An obligation to pay unpaid fees under s. ~~767.29 (1) (dm) 1m.~~ 767.57
11 (1e) (b) 1m. constitutes an assignment of all commissions, earnings, salaries, wages,
12 pension benefits, benefits under ch. 102 or 108, lottery prizes that are payable in
13 installments, and other money due or to be due in the future to the department or
14 its designee.

15 2. An obligation to pay unpaid fees under s. ~~767.29 (1) (dm) 2m.~~ 767.57 (1e) (b)
16 2m. constitutes an assignment of all commissions, earnings, salaries, wages, pension
17 benefits, benefits under ch. 102 or 108, lottery prizes that are payable in
18 installments, and other money due or to be due in the future to the clerk of court to
19 whom the fees are owed, or to his or her successor.

20 (b) The county child support agency under s. 59.53 (5) may cause an assignment
21 under par. (a) to go into effect by providing notice of the assignment in the manner
22 provided under sub. (2r) and sending a notice by regular mail to the last-known
23 address of the payer. The notice sent to the payer shall inform the payer that an

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1 assignment is in effect and that the payer may, within a 10-day period after the
2 notice is mailed, by motion request a hearing on the issue of whether the assignment
3 should remain in effect. The court ~~or circuit court commissioner~~ shall hold a hearing
4 requested under this paragraph within 10 working days after the date of receipt of
5 the request. If at the hearing the payer establishes that the assignment is not proper
6 because of a mistake of fact, the court ~~or circuit court commissioner~~ may direct that
7 the assignment be withdrawn. The payer or the county child support agency may,
8 within 15 working days after the date of a decision by a circuit court commissioner
9 under this paragraph, seek review of the decision by the court with jurisdiction over
10 the action.

NOTE: Clarifies when the 10-day period commences for the payer to request a hearing and for the court to hold a hearing.

11 **(2r)** NOTICE OF ASSIGNMENT TO INCOME SOURCE. Upon entry of each order for child
12 support, maintenance, family support, support by a spouse, or the annual receiving
13 and disbursing fee, and upon approval of each stipulation for child support, unless
14 the court finds that income withholding is likely to cause the payer irreparable harm
15 or unless s. ~~767.267~~ 767.76 applies, the court, ~~circuit court commissioner~~ or county
16 child support agency under s. 59.53 (5) shall provide notice of the assignment by
17 regular mail or by facsimile machine, as defined in s. 134.72 (1) (a), or other electronic
18 means to the last-known address of the person from whom the payer receives or will
19 receive money. The notice shall provide that the amount withheld may not exceed
20 the maximum amount that is subject to garnishment under 15 USC 1673 (b) (2). If
21 the department or its designee, ~~whichever is appropriate~~, does not receive the money
22 from the person notified, the court, ~~circuit court commissioner~~ or county child
23 support agency under s. 59.53 (5) shall provide notice of the assignment to any other

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1 person from whom the payer receives or will receive money. Notice under this
2 subsection may be a notice of the court, a copy of the executed assignment, or a copy
3 of that part of the court order directing payment.

4 **(3h)** DUTIES OF PERSON RECEIVING ASSIGNMENT NOTICE. A person who receives
5 notice of assignment under this section or s. ~~767.23 (1) (L) or 767.25 (4m) (c)~~ 767.225
6 (1) (L) or 767.513 (3) or similar laws of another state shall withhold the amount
7 specified in the notice from any money that person pays to the payer later than one
8 week after receipt of notice of assignment. Within 5 days after the day the person
9 pays money to the payer, the person shall send the amount withheld to the
10 department or its designee, ~~whichever is appropriate~~, or, in the case of an amount
11 ordered withheld for health care expenses, to the appropriate health care insurer,
12 provider, or plan. With each payment sent to the department or its designee, the
13 person from whom the payer receives money shall report to the department or its
14 designee the payer's gross income or other gross amount from which the payment
15 was withheld. Except as provided in sub. (3m), for each payment sent to the
16 department or its designee, the person from whom the payer receives money shall
17 receive an amount equal to the person's necessary disbursements, not to exceed \$3,
18 which shall be deducted from the money to be paid to the payer. Section 241.09 does
19 not apply to assignments under this section.

20 **(4)** ASSIGNMENT PRIORITY. A withholding assignment or order under this section
21 or s. ~~767.23 (1) (L) or 767.25 (4m) (c)~~ 767.225 (1) (L) or 767.513 (3) has priority over
22 any other assignment, garnishment, or similar legal process under state law.

23 **(6)** FAILURE TO COMPLY WITH ASSIGNMENT OBLIGATIONS. (a) Except as provided
24 in sub. (3m), if after receipt of notice of assignment the person from whom the payer
25 receives money fails to withhold the money or send the money to the department or

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1 its designee or the appropriate health care insurer, provider, or plan as provided in
2 this section or s. ~~767.23 (1) (L) or 767.25 (4m) (c)~~ 767.225 (1) (L) or 767.513 (3), the
3 person may be proceeded against under the principal action under ch. 785 for
4 contempt of court or may be proceeded against under ch. 778 and be required to
5 forfeit not less than \$50 nor more than an amount, if the amount exceeds \$50, that
6 is equal to 1% of the amount not withheld or sent.

7 (b) If an employer who receives an assignment under this section or s. ~~767.23~~
8 ~~(1) (L) or 767.25 (4m) (c)~~ 767.225 (1) (L) or 767.513 (3) fails to notify the department
9 or its designee, ~~whichever is appropriate~~, within 10 days after an employee is
10 terminated or otherwise temporarily or permanently leaves employment, the
11 employer may be proceeded against under the principal action under ch. 785 for
12 contempt of court.

13 (c) No employer may use an assignment under this section or s. ~~767.23 (1) (L)~~
14 ~~or 767.25 (4m) (c)~~ 767.225 (1) (L) or 767.513 (3) as a basis for the denial of employment
15 to a person, the discharge of an employee, or any disciplinary action against an
16 employee. An employer who denies employment or discharges or disciplines an
17 employee in violation of this paragraph may be fined not more than \$500 and may
18 be required to make full restitution to the aggrieved person, including reinstatement
19 and back pay. Except as provided in this paragraph, restitution shall be in
20 accordance with s. 973.20. An aggrieved person may apply to the district attorney
21 or to the department for enforcement of this paragraph.

22 **(7m)** (b) (intro.) If after an assignment is in effect the payer's employer changes
23 its payroll period, or the payer changes employers and the new employer's payroll
24 period is different from the former employer's payroll period, the ~~clerk of court~~ county

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1 child support agency under s. 59.53 (5) may, unless otherwise ordered by a judge,
2 amend the withholding assignment or order so that all of the following apply:

3 (c) ~~The clerk of court~~ child support agency shall provide notice of the
4 amended withholding assignment or order by regular mail to the payer's employer
5 and to the payer.

6 **SECTION 118.** 767.265 (8) of the statutes is renumbered 767.75 (1) (intro.) and
7 amended to read:

8 767.75 (1) DEFINITIONS. (intro.) In this section, “employer”:

9 (a) “Employer” includes the state and its political subdivisions.

10 **SECTION 119.** 767.266 of the statutes is renumbered 767.375.

11 **SECTION 120.** 767.267 of the statutes is renumbered 767.76, and 767.76 (1) and
12 (5), as renumbered, are amended to read:

13 767.76 (1) AUTHORITY OF COURT TO REQUIRE. If the court ~~or circuit court~~
14 ~~commissioner~~ determines that income withholding under s. ~~767.265~~ 767.75 is
15 inapplicable, ineffective, or insufficient to ensure payment under an order or
16 stipulation specified in s. ~~767.265~~ 767.75 (1), or that income withholding under s.
17 ~~767.25 (4m) (c)~~ 767.513 (3) is inapplicable, ineffective, or insufficient to ensure
18 payment of a child's health care expenses, including payment of health insurance
19 premiums, ordered under s. ~~767.25 (4m)~~ 767.513, the court ~~or circuit court~~
20 ~~commissioner~~ may require the payer to identify or establish a deposit account, owned
21 in whole or in part by the payer, that allows for periodic transfers of funds and to file
22 with the financial institution at which the account is located an authorization for
23 transfer from the account to the department or its designee, ~~whichever is~~
24 ~~appropriate.~~ The authorization shall be provided on a standard form approved by
25 the court and shall specify the frequency and the amount of transfer, sufficient to

SENATE BILL 123**SECTION 120**

1 meet the payer's obligation under the order or stipulation, as required by the court
2 ~~or circuit court commissioner~~. The authorization shall include the payer's consent
3 for the financial institution or an officer, employee, or agent of the financial
4 institution to disclose information to the court, ~~circuit court commissioner~~, county
5 child support agency under s. 59.53 (5), department, or department's designee
6 regarding the account for which the payer has executed the authorization for
7 transfer.

8 (5) AUTHORIZED DISCLOSURE. A financial institution or an officer, employee, or
9 agent of a financial institution may disclose information to the court, ~~circuit court~~
10 ~~commissioner~~, county child support agency under s. 59.53 (5), department, or
11 department's designee concerning an account for which a payer has executed an
12 authorization for transfer under sub. (1).

13 **SECTION 121.** 767.27 (title), (1), (1m) and (2) of the statutes are renumbered
14 767.127 (title), (1), (1m) and (2) and amended to read:

15 **767.127 (title) ~~Disclosure of assets required~~ Financial disclosure. (1)**
16 REQUIRED DISCLOSURE. In ~~any~~ an action affecting the family, except an action to affirm
17 marriage under s. ~~767.02~~ 767.001 (1) (a), the court shall require each party to furnish,
18 on such standard forms as required by the court ~~may require~~, full disclosure of all
19 assets owned in full or in part by either party separately or by the parties jointly.
20 ~~Such disclosure~~ Disclosure may be made by each party individually or by the parties
21 jointly. Assets required to be disclosed shall include, but shall are not be limited to,
22 real estate, savings accounts, stocks and bonds, mortgages and notes, life insurance,
23 retirement interests, interest in a partnership, limited liability company, or
24 corporation, tangible personal property, ~~income from employment~~, future interests
25 whether vested or nonvested, and any other financial interest or source. The court

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1 shall also require each party to furnish, on the same standard form, information
2 pertaining to all debts and liabilities of the parties. The form used shall contain a
3 statement in conspicuous print that complete disclosure of assets and debts is
4 required by law and deliberate failure to provide complete disclosure constitutes
5 perjury. The court shall require each party to attach to the disclosure form a
6 statement reflecting income earned to date for the current year and the most recent
7 statement under s. 71.65 (1) (a) that the party has received. The court may on its own
8 initiative and shall at the request of either party require the parties to furnish copies
9 of all state and federal income tax returns filed by them for the past 2 years, and may
10 require copies of such those returns for prior years.

NOTE: 1. Adds reference to “retirement interests” for convenience. Although current law requires disclosure of retirement interests, specific reference may make the requirement clearer to nonlawyers.

2. Requires each party to attach to the disclosure form a current income statement and the most recent W-2 statement. The requirement supplements current provisions requiring disclosure of any “other financial source” and disclosure of state and federal income tax returns for the past 2 years if requested by a party or the court.

11 **(1m)** HEALTH INSURANCE INFORMATION FOR MINOR CHILD. In any action affecting
12 the family ~~which~~ that involves a minor child, the court shall require, in addition to
13 the disclosure under sub. (1), that each party furnish the court with information
14 regarding the types and costs of any health insurance policies or plans ~~which~~ that
15 are offered through each party’s employer or other organization. This disclosure
16 shall include a copy of any health care policy or plan ~~which~~ that names the child as
17 a beneficiary at the time that the disclosure is filed under sub. (2).

18 **(2)** FILING DISCLOSURE FORMS. Disclosure forms required under this section
19 shall be filed within 90 days after the service of summons or the filing of a joint
20 petition or at ~~such other~~ a time as ordered by the court ~~or circuit court commissioner.~~

SENATE BILL 123**SECTION 121**

1 Information ~~contained on such~~ the forms shall be updated on the record to the date
2 of hearing.

3 **SECTION 122.** 767.27 (2m) of the statutes is renumbered 767.54 and amended
4 to read:

5 **767.54 Required exchange of financial information.** In every an action
6 in which the court has ordered a party to pay child or family support under this
7 chapter, including an action to revise a judgment or order under s. ~~767.32~~ 767.59, the
8 court shall require the parties annually to exchange financial information.
9 Information disclosed under this section is subject to s. 767.127 (3). A party who fails
10 to furnish the information as required by the court under this ~~subsection~~ section may
11 be proceeded against for contempt of court under ch. 785. If the court finds that a
12 party has failed to furnish the information required under this ~~subsection~~ section,
13 the court may award to the party bringing the action costs and, notwithstanding s.
14 814.04 (1), reasonable attorney fees.

NOTE: The reference to s. 767.127 (3) in the new sentence is to the confidentiality
provision of that section (current s. 767.27 (3)).

15 **SECTION 123.** 767.27 (3), (4) and (5) of the statutes are renumbered 767.127 (3),
16 (4) and (5), and 767.127 (3) (a), (4) and (5), as renumbered, are amended to read:

17 767.127 **(3)** (a) Except as provided in par. (b), information disclosed under this
18 section ~~shall be~~ and under s. 767.54 is confidential and may not be made available
19 to any person for any purpose other than the adjudication, appeal, modification, or
20 enforcement of judgment of an action affecting the family of the disclosing parties.

21 **(4) FAILURE TO TIMELY FILE.** ~~Failure by~~ If either party fails timely to file a
22 complete disclosure statement as required by this section ~~shall authorize~~, the court
23 ~~to~~ may accept as accurate any information provided in the statement of the other

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1 party or obtained under s. 49.22 (2m) by the department or the county child support
2 agency under s. 59.53 (5).

3 **(5) FAILURE TO DISCLOSE: CONSTRUCTIVE TRUST.** If ~~any a~~ party ~~deliberately~~
4 ~~intentionally~~ or negligently fails to disclose information required by sub. (1) and ~~in~~
5 ~~consequence thereof as a result~~ any asset ~~or assets~~ with a fair market value of \$500
6 or more is omitted from the final distribution of property, the party aggrieved by ~~such~~
7 ~~the~~ nondisclosure may at any time petition the court granting the annulment,
8 divorce, or legal separation to declare the creation of a constructive trust as to all
9 undisclosed assets, for the benefit of the parties and their minor or dependent
10 children, if any, with the party in whose name the assets are held declared the
11 constructive trustee, ~~said.~~ The trust to shall include such terms and conditions as
12 the court may determine. The court shall grant the petition upon a finding of a
13 failure to disclose ~~such~~ assets as required under sub. (1).

14 **SECTION 124.** 767.275 of the statutes is renumbered 767.63 and amended to
15 read:

16 **767.63 Disposition of Disposed assets prior to action may be subject to**
17 **division.** In any ~~an~~ action affecting the family, except an action to affirm marriage
18 under s. ~~767.02~~ 767.001 (1) (a), any asset with a fair market value of \$500 or more
19 ~~which that~~ would be considered part of the estate of either or both of the parties if
20 owned by either or both of them at the time of the action, ~~but which~~ and that was
21 transferred for inadequate consideration, wasted, given away, or otherwise
22 unaccounted for by one of the parties within one year prior to the filing of the petition
23 or the length of the marriage, whichever is shorter, ~~shall be is~~ rebuttably presumed
24 to be part of the estate for the purposes of s. ~~767.255~~ property subject to division
25 under s. 767.61 and ~~shall be is~~ subject to the disclosure requirement of s. ~~767.27~~

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1 767.127. Transfers ~~which~~ that resulted in an exchange of assets of substantially
2 equivalent value need not be specifically disclosed ~~where such~~ if those assets are
3 otherwise identified in the statement of net worth.

4 **SECTION 125.** 767.28 of the statutes is renumbered 767.385 and amended to
5 read:

6 **767.385 Maintenance, legal custody, and support when divorce or**
7 **separation denied.** ~~In~~ If a judgment in an action for divorce or legal separation,
8 ~~although such~~ denies the divorce or legal separation is denied, the court may make
9 such order as the nature of the case renders just and reasonable for the legal custody
10 of and periods of physical placement with any of the minor children, and for the
11 maintenance of either spouse and support of ~~such~~ the children by either spouse out
12 of property or income, ~~as the nature of the case may render just and reasonable.~~ If
13 the court orders child support under this section, the court shall determine the child
14 support payments in a manner consistent with s. ~~767.25~~ 767.511, regardless of the
15 fact that ~~the court has not entered~~ a judgment of divorce or legal separation has not
16 been entered.

17 **SECTION 126.** 767.281 (2) (title) and (4) (title) of the statutes are created to read:

18 767.281 **(2)** (title) SUPPORT OR MAINTENANCE ORDERS.

19 **(4)** (title) SUPPORT AND MAINTENANCE PAYMENTS TO DEPARTMENT.

20 **SECTION 127.** 767.29 (title) of the statutes is renumbered 767.57 (title) and
21 amended to read:

22 **767.57** (title) **Maintenance, child support, and family support**
23 **payments, receipt and disbursement; circuit court commissioner, fees and**
24 **compensation; fees.**

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1 **SECTION 128.** 767.29 (1) (a), (b) and (c) of the statutes are renumbered 767.57
2 (1) (a), (b) and (c), and 767.57 (1) (a) and (c), as renumbered, are amended to read:

3 767.57 **(1)** (a) All orders or judgments providing for temporary or permanent
4 maintenance, child support, or family support payments shall direct that the
5 payment of all such sums payments be made to the department or its designee for
6 the use of the person for whom the ~~same has~~ payments have been awarded. A party
7 ~~securing~~ obtaining an order for temporary maintenance, child support, or family
8 support payments shall ~~forthwith~~ promptly file the order, together with all pleadings
9 in the action, with the clerk of court.

10 (c) Except as provided in sub. (1m), the department or its designee shall
11 disburse, and take receipts for, the money received under the judgment or order in
12 the manner required by federal regulations ~~and take receipts therefor,~~ unless the
13 department or its designee is unable to disburse the moneys because ~~they~~ the moneys
14 were paid by check or other draft drawn upon an account containing insufficient
15 funds. All moneys received or disbursed under this section shall be entered in a
16 record kept by the department or its designee, ~~whichever is appropriate, which.~~ The
17 record shall be open to inspection by the parties to the action, their attorneys, and
18 the circuit court commissioner.

19 **SECTION 129.** 767.29 (1) (d) and (dm) of the statutes are renumbered 767.57 (1e)
20 (a) and (b) and amended to read:

21 767.57 **(1e)** (a) For receiving and disbursing maintenance, child support, or
22 family support payments, including ~~arrears in any of those payments~~ in arrears, and
23 for maintaining the records required under par. (c), the department or its designee
24 shall collect an annual fee of \$35. The court ~~or circuit court commissioner~~ shall order
25 each party ordered to make payments to pay the annual fee ~~under this paragraph~~ in

SENATE BILL 123**SECTION 129**

1 each year for which payments are ordered or in which an arrearage in any of those
2 payments is owed. In directing the manner of payment of the annual fee, the court
3 ~~or circuit court commissioner~~ shall order that the annual fee be withheld from income
4 and sent to the department or its designee, as provided under s. 767.265. All fees
5 collected 767.75. Fees under this paragraph shall be deposited in the appropriation
6 account under s. 20.445 (3) (ja). At the time of ordering the payment of an annual
7 the fee under this paragraph, the court ~~or circuit court commissioner~~ shall notify
8 each party ordered to make payments of the requirement to pay the annual fee, and
9 of the amount of the annual fee. If the annual fee under this paragraph is not paid
10 when due, the department or its designee may not deduct the annual fee from any
11 maintenance, child or family support, or arrearage payment, but may move the court
12 for a remedial sanction under ch. 785.

13 (b) 1m. The department or its designee may collect any unpaid fees under s.
14 814.61 (12) (b), 1997 stats., that are shown on the department's automated payment
15 and collection system on December 31, 1998, and shall deposit all fees collected under
16 this subdivision in the appropriation account under s. 20.445 (3) (ja). The
17 department or its designee may collect unpaid fees under this subdivision through
18 income withholding under s. ~~767.265~~ 767.75 (2m). If the department or its designee
19 determines that income withholding is inapplicable, ineffective, or insufficient for
20 the collection of any unpaid fees under this subdivision, the department or its
21 designee may move the court for a remedial sanction under ch. 785. The department
22 or its designee may contract with or employ a collection agency or other person for
23 the collection of any unpaid fees under this subdivision and, notwithstanding s.
24 20.930, may contract with or employ an attorney to appear in any action in state or
25 federal court to enforce the payment obligation. The department or its designee may

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1 not deduct the amount of unpaid fees from any maintenance, child or family support,
2 or arrearage payment.

3 2m. A clerk of court may collect any unpaid fees under s. 814.61 (12) (b), 1997
4 stats., that are owed to the clerk of court, or to his or her predecessor, and that were
5 not shown on the department's automated payment and collection system on
6 December 31, 1998, through income withholding under s. ~~767.265~~ 767.75 (2m). If the
7 clerk of court determines that income withholding is inapplicable, ineffective, or
8 insufficient for the collection of any unpaid fees under this subdivision, the clerk of
9 court may move the court for a remedial sanction under ch. 785.

10 **SECTION 130.** 767.29 (1) (e) of the statutes is renumbered 767.57 (1h) and
11 amended to read:

12 767.57 (1h) NONPAYMENT; ENFORCEMENT. If the maintenance, child support, or
13 family support payments ~~adjudged or ordered to be paid~~ are not paid to the
14 department or its designee at the time provided in the judgment or order, the county
15 child support agency under s. 59.53 (5) or a circuit court commissioner of the county
16 shall take such proceedings as ~~he or she considers advisable~~ to secure the payment
17 of the sum, including enforcement by contempt proceedings under ch. 785 or by other
18 means. Copies of any order issued to compel the payment shall be mailed to ~~counsel~~
19 the attorney, if any, who represented each party when the maintenance, child
20 support, or family support payments were awarded. ~~In case~~ If any fees of officers in
21 any of the proceedings, including the compensation of the circuit court commissioner
22 at the rate of \$50 per day unless the commissioner is on a salaried basis, is not
23 collected from the person proceeded against, the fees shall be paid out of the county
24 treasury upon the order of the presiding judge and the certificate of the department.

25 **SECTION 131.** 767.29 (1) (f) of the statutes is repealed.

SENATE BILL 123**SECTION 131**

NOTE: Repealed as obsolete. The repealed paragraph provides:

If the department determines that the statewide automated support and maintenance receipt and disbursement system will be operational before October 1, 1999, the department shall publish a notice in the Wisconsin Administrative Register that states the date on which the system will begin operating. Before that date or October 1, 1999, whichever is earlier, the circuit courts, county child support agencies under s. 59.53 (5), clerks of court and employers shall cooperate with the department in any measures taken to ensure an efficient and orderly transition from the countywide system of support receipt and disbursement to the statewide system.

1 **SECTION 132.** 767.29 (1m) to (4) of the statutes, as affected by 2005 Wisconsin
2 Act 25, are renumbered 767.57 (1m) to (4), and 767.57 (1m) (intro.) and (b), (2) and
3 (3), as renumbered, are amended to read:

4 767.57 **(1m)** OVERPAYMENT. (intro.) Notwithstanding ss. ~~767.25~~ 767.511 (6) and
5 ~~767.261~~ 767.531, if the department or its designee receives support or maintenance
6 money that exceeds the amount due in the month in which it is received and that the
7 department or its designee determines that the excess amount is for support or
8 maintenance due in a succeeding month, the department or its designee may hold
9 the amount of overpayment that does not exceed the amount due in the next month
10 for disbursement in the next month if any of the following applies:

11 (b) ~~The court or circuit court commissioner~~ has ordered that overpayments of
12 child support, family support, or maintenance that do not exceed the amount of
13 support or maintenance due in the next month may be held for disbursement in the
14 next month.

15 **(2)** PROCEDURE IF RECIPIENT ON PUBLIC ASSISTANCE. If ~~any a~~ party entitled to
16 maintenance ~~payments~~ or support money, or both, is receiving public assistance
17 under ch. 49, the party may assign the party's right ~~thereto~~ to support or
18 maintenance to the county department under s. 46.215, 46.22, or 46.23 granting such
19 the assistance. ~~Such~~ The assignment shall be approved by order of the court granting

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1 the maintenance payments or support money, and may be terminated in like
2 manner; except that it shall. The assignment may not be terminated in cases where
3 if there is any a delinquency in the amount to be paid to the assignee of maintenance
4 payments and support money previously ordered or adjudged to be paid to the
5 assignee without the written consent of the assignee or upon notice to the assignee
6 and a hearing. When an assignment of maintenance payments or support money, or
7 both, has been approved by the order, the assignee shall be deemed a real party in
8 interest within s. 803.01 but solely for the purpose of securing payment of unpaid
9 maintenance payments or support money adjudged or ordered to be paid, by
10 participating in proceedings to secure the payment thereof of unpaid amounts.
11 Notwithstanding assignment under this subsection, and without further order of the
12 court, the department or its designee, upon receiving notice that a party or a minor
13 child of the parties is receiving aid under s. 46.261 or public assistance under ch. 49
14 or that a kinship care relative or long-term kinship care relative of the minor child
15 is receiving kinship care payments or long-term kinship care payments for the minor
16 child, shall forward all support assigned under s. 46.261 (3), 48.57 (3m) (b) 2. or (3n)
17 (b) 2., 49.19 (4) (h) 1., or 49.45 (19) to the assignee under s. 46.261 (3), 48.57 (3m) (b)
18 2. or (3n) (b) 2., 49.19 (4) (h) 1., or 49.45 (19).

19 **(3) PROCEDURE IF RECIPIENT INSTITUTIONALIZED OR CONFINED.** (a) If maintenance
20 payments or support money, or both, is are ordered to be paid for the benefit of any
21 person, who is committed by court order to an institution or, who is in confinement,
22 or whose legal custody is vested by court order under ch. 48 or 938 in an agency,
23 department, or relative, the court or a circuit court commissioner may order such
24 that the maintenance payments or support money to be paid to the relative or agency,
25 institution, welfare department, or other entity having the legal or actual custody of

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1 said the person, and to that it be used for the latter's person's care and maintenance,
2 without the appointment of a guardian under ch. 880.

3 (b) If a child who is the beneficiary of support under a judgment or order is
4 placed by court order in a residential care center for children and youth, juvenile
5 correctional institution, or state mental institution, the right of the child to support
6 during the period of the child's confinement, including any right to unpaid support
7 accruing during that period, is assigned to the state. If the judgment or order
8 providing for the support of a child who is placed in a residential care center for
9 children and youth, juvenile correctional institution, or state mental institution
10 includes support for one or more other children, the support that is assigned to the
11 state shall be the proportionate share of the child placed in the center or institution,
12 except as otherwise ordered by the court ~~or circuit court commissioner~~ on the motion
13 of a party.

14 **SECTION 133.** 767.293 of the statutes is repealed.

NOTE: Recreated by SECTION 235 of this bill.

15 **SECTION 134.** 767.295 (title) of the statutes is repealed.

16 **SECTION 135.** 767.295 (1) and (2) (a) of the statutes are renumbered 767.55 (2)
17 (a) and (am), and 767.55 (2) (a) and (am) (intro.), as renumbered, are amended to
18 read:

19 767.55 (2) (a) In ~~this section~~ subsection, “custodial parent” means a parent who
20 lives with his or her child for substantial periods of time.

21 (am) (intro.) In an action for modification of a child support order under s.
22 ~~767.32~~ 767.59, an action in which an order for child support is required under s.
23 ~~767.25 (1), 767.51 (3) or 767.62 (4)~~ 767.511 (1), 767.805 (4), or 767.89 (3), or a
24 contempt of court proceeding to enforce a child support or family support order in a

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1 county that contracts under s. 49.36 (2), the court may order a parent who is not a
2 custodial parent to register for a work experience and job training program under s.
3 49.36 if all of the following conditions are met:

4 **SECTION 136.** 767.295 (2) (b) and (c) of the statutes are renumbered 767.55 (2)
5 (b) and (c), and 767.55 (2) (c), as renumbered, is amended to read:

6 767.55 (2) (c) If the court enters an order under par. (a) (am), it shall order the
7 parent to pay child support equal to the amount determined by applying the
8 percentage standard established under s. 49.22 (9) ~~to the income a person would earn~~
9 ~~by working 40 hours per week for the federal minimum hourly wage under 29 USC~~
10 ~~206 (a) (1)~~ or equal to the amount of child support that the parent was ordered to pay
11 in the most recent determination of support under this chapter. The child support
12 obligation ordered under this paragraph continues until the parent makes timely
13 payment in full for 3 consecutive months or until the person participates in the
14 program under s. 49.36 for 16 weeks, whichever ~~comes~~ occurs first. The court shall
15 provide in its order that the parent ~~must~~ shall make child support payments
16 calculated under s. ~~767.25~~ 767.511 (1j) or (1m) after the obligation to make payments
17 ordered under this paragraph ceases.

18 **SECTION 137.** 767.30 of the statutes is renumbered 767.77, and 767.77 (title),
19 (1), (2) and (3) (intro.), as renumbered, are amended to read:

20 **767.77 (title) Enforcement of payments ordered payment obligations.**
21 **(1) DEFINITION.** ~~If the court orders any payment for~~ In this section, “payment
22 obligation” means an obligation to pay support under s. 48.355 (2) (b) 4., 48.357 (5m)
23 (a), 48.363 (2), 938.183 (4), 938.355 (2) (b) 4., 938.357 (5m) (a), or 938.363 (2), support
24 or maintenance under s. ~~767.08~~ 767.501, child support, family support, or
25 maintenance under s. ~~767.23~~ 767.225, child support under s. ~~767.25~~ 767.511,

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1 maintenance under s. ~~767.26~~ 767.56, family support under s. ~~767.261~~ 767.531,
 2 attorney fees under s. ~~767.262~~ 767.241, child support or a child's health care
 3 expenses under s. ~~767.477~~ 767.85, paternity obligations under s. ~~767.458 (3)~~, ~~767.51~~
 4 ~~or 767.62 (4)~~ 767.805 (4), 767.863 (3), or 767.89, support arrearages under s. ~~767.293~~
 5 767.71, or child or spousal support under s. 948.22 (7), ~~the~~.

6 **(1m)** TERMS OF PAYMENT. The court may provide order that ~~any a~~ payment
 7 obligation be paid in the amounts and at the times that it considers expedient.

8 **(2)** SECURITY FOR PAYMENT. The court may impose liability for ~~any a~~ payment
 9 ~~listed under sub. (1)~~ obligation as a charge upon ~~any~~ specific real estate of the
 10 obligated party ~~liable~~ or may require that party to give sufficient security for
 11 payment. ~~However, no such~~ No charge upon real estate ~~may become effectual is~~
 12 effective until the order or judgment imposing liability or a certified copy of it is
 13 recorded in the office of the register of deeds in the county in which the real estate
 14 is situated.

15 **(3)** NONCOMPLIANCE; ENFORCEMENT. (intro.) If ~~the a~~ party fails to pay a payment
 16 ordered under sub. (1) ~~(1m)~~ or to give security under sub. (2), the court may by any
 17 appropriate remedy enforce the judgment, or the order as if it were a final judgment,
 18 including any past due payment and interest. Appropriate remedies include but are
 19 not limited to:

20 **SECTION 138.** Subchapter IV (title) of chapter 767 [precedes 767.301] of the
 21 statutes is created to read:

CHAPTER 767**SUBCHAPTER IV**

ANNULMENT, DIVORCE,

AND LEGAL SEPARATION

25

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1 **SECTION 139.** 767.303 (title) of the statutes is renumbered 767.73 (title) and
2 amended to read:

3 **767.73** (title) ~~Enforcement of Delinquent child or family support;~~
4 ~~suspension of operating privilege.~~

5 **SECTION 140.** 767.303 (1) of the statutes is renumbered 767.73 (1) (a) and
6 amended to read:

7 767.73 (1) (a) ~~If a person fails to pay~~ In this subsection, “support payment”
8 means a payment ordered for support under s. ~~767.077~~ 767.521, support under s.
9 ~~767.08~~ 767.501, child support or family support under s. ~~767.23~~ 767.225, child
10 support under s. ~~767.25~~ 767.511, family support under s. ~~767.261~~ 767.531, revised
11 child or family support under s. ~~767.32~~ 767.59, child support under s. ~~767.458~~
12 767.863 (3), child support under s. ~~767.477~~ 767.85, child support under s. ~~767.51~~
13 767.89, child support under s. ~~767.62~~ 767.805 (4), child support under ch. 769, or
14 child support under s. 948.22 (7), ~~the payment is.~~

15 **(b)** If a person fails to pay a support payment that is 90 or more days past due
16 and the court finds that the person has the ability to pay the amount ordered, the
17 court may suspend the person’s operating privilege, as defined in s. 340.01 (40), until
18 the person pays all arrearages in full or makes payment arrangements that are
19 satisfactory to the court, except that the suspension period may not exceed 2 years.
20 If otherwise eligible, the person is eligible for an occupational license under s. 343.10
21 at any time.

22 **SECTION 141.** 767.303 (2) to (5) of the statutes are renumbered 767.73 (2) to (5),
23 and 767.73 (2) and (3), as renumbered, are amended to read:

24 767.73 (2) NOTICE OF SUSPENSION TO DEPARTMENT OF TRANSPORTATION. ~~Whenever~~
25 ~~the~~ If a court orders suspension of a person’s operating privilege under sub. (1) (b),

SENATE BILL 123**SECTION 141**

1 the court shall notify the department of transportation, in the form and manner
2 prescribed by the department. The notice to the department shall include the name
3 and last-known address of the person against whom the support order was entered,
4 certification by the court that the person has been notified of the entry of the support
5 order and that there are arrearages in support payments that are 90 or more days
6 past due, and the place where the arrearages may be paid ~~and~~. The notice shall also
7 state that the person's operating privilege ~~shall remain~~ remains suspended until the
8 person pays all arrearages in full or makes payment arrangements that are
9 satisfactory to the court, except that the suspension period may not exceed 2 years.

10 **(3) NOTICE OF PAYMENT TO DEPARTMENT.** If the person subsequently pays the full
11 amount of the arrearages or makes payment arrangements that are satisfactory to
12 the court, the court shall immediately notify the department of transportation of the
13 payment, in the form and manner prescribed by the department.

14 **SECTION 142.** 767.305 (title) of the statutes is renumbered 767.78 (title).

15 **SECTION 143.** 767.305 of the statutes is renumbered 767.78 (1) and amended
16 to read:

17 767.78 **(1) DEFINITION.** ~~In all cases where a party has incurred a financial~~ this
18 section, "financial obligation" means an obligation for payment incurred under s.
19 48.355 (2) (b) 4., 48.357 (5m) (a), 48.363 (2), ~~767.23, 767.25, 767.255, 767.26, 767.261,~~
20 ~~767.262, 767.293, 767.458 (3), 767.477, 767.51, 767.62 (4)~~ 767.225, 767.241, 767.511,
21 767.531, 767.56, 767.61, 767.71, 767.805 (4), 767.85, 767.863 (3), 767.89, 938.183 (4),
22 938.355 (2) (b) 4., 938.357 (5m) (a), or 938.363 (2).

23 **(2) NONCOMPLIANCE; ORDER TO SHOW CAUSE.** If a person has incurred a financial
24 obligation and has failed within a reasonable time or as ordered by the court to satisfy
25 ~~such~~ the obligation, and where the wage assignment proceeding under s. 767.265

SENATE BILL 123**SECTION 143**

1 767.75 and the account transfer under s. ~~767.267~~ 767.76 are inapplicable,
2 impractical, or unfeasible, the court may on its own initiative, and shall on the
3 application of the receiving party, issue an order requiring the payer to show cause
4 at ~~some~~ a reasonable time ~~therein~~ specified in the order why he or she should not be
5 ~~punished for such misconduct as provided in~~ subject to contempt of court under ch.
6 785.

7 **SECTION 144.** 767.31 of the statutes is renumbered 767.57 (5) and amended to
8 read:

9 767.57 (5) TRUSTEE OR RECEIVER MAY BE APPOINTED. The court may appoint a
10 receiver or trustee, when deemed expedient as necessary, to receive any payments
11 ordered under this chapter, to invest and pay over the income for the maintenance
12 of the spouse ~~entitled thereto~~ or the support and education of any of the ~~minor~~
13 children described in s. 767.511 (4), or to pay over the principal sum in ~~such~~
14 ~~proportions~~ the amount and at ~~such~~ the times as that the court directs. The court
15 may require the receiver or trustee shall give such to post bond, with ~~such~~ or without
16 ~~sureties as, in the amount that~~ the court requires, ~~for the faithful performance of his~~
17 ~~or her trust~~ directs.

NOTE: Authorizes the court to appoint a receiver, as an alternative to a trustee, to handle maintenance or support obligations. In addition, clarifies that reference to support and education of children includes any minor child or any child less than 19 if the child is pursuing an accredited course of instruction leading to the acquisition of a high school diploma or its equivalent.

18 **SECTION 145.** 767.313 (2) of the statutes is created to read:

19 767.313 (2) **JUDICIAL PROCEEDING REQUIRED; NO ANNULMENT AFTER DEATH.** A
20 judicial proceeding is required to annul a marriage. A marriage may not be annulled
21 after the death of a party to the marriage.

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NOTE: Restates language stricken from current s. 767.03 (intro.). See SEC. 23 of the bill. Reference to voiding a marriage is not included in the restated language because ch. 767 does not include actions to void a marriage.

1 **SECTION 146.** 767.315 (title) of the statutes is created to read:

2 **767.315 (title) Grounds for divorce and legal separation.**

3 **SECTION 147.** 767.32 (title) of the statutes is renumbered 767.59 (title) and
4 amended to read:

5 **767.59 (title) Revision of certain judgments support and maintenance**
6 **orders.**

7 **SECTION 148.** 767.32 (1) (a) of the statutes is renumbered 767.59 (1) and
8 amended to read:

9 767.59 (1) DEFINITION. After In this section, “support or maintenance order”
10 means a judgment or order providing for child support under this chapter or s. 48.355
11 (2) (b) 4., 48.357 (5m) (a), 48.363 (2), 938.183 (4), 938.355 (2) (b) 4., 938.357 (5m) (a),
12 938.363 (2), or 948.22 (7), for maintenance payments under s. 767.26, or 767.56, for
13 family support payments under this chapter, or for the appointment of trustees or
14 receivers under s. 767.31, the court may, from time to time, on 767.57 (5).

15 (1c) COURT AUTHORITY. (a) On the petition, motion, or order to show cause of
16 either of the parties, or upon the petition, motion, or order to show cause of the
17 department, a county department under s. 46.215, 46.22, or 46.23, or a county child
18 support agency under s. 59.53 (5) if an assignment has been made under s. 46.261,
19 48.57 (3m) (b) 2. or (3n) (b) 2., 49.19 (4) (h), or 49.45 (19) or if either party or their
20 minor children receive aid under s. 48.57 (3m) or (3n) or ch. 49, and upon notice to
21 the office of family court commissioner, revise, a court may, except as provided in par.
22 (b), do any of the following:

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1 ~~1. Revise and alter such judgment or a support or maintenance order respecting~~
2 ~~as to the amount of such and payment of maintenance or child support and the~~
3 ~~payment thereof, and also respecting the appropriation and payment of the principal~~
4 ~~and income of the property so held in trust, and may make.~~

5 ~~2. Make any judgment or order respecting on any of the matters that such~~
6 ~~matter that the court might have made in the original action, except that.~~

7 ~~(b) A court may not revise or modify a judgment or order that waives~~
8 ~~maintenance payments for either party shall not thereafter be revised or altered in~~
9 ~~that respect nor shall the provisions of or a judgment or order with respect to final~~
10 ~~division of property be subject to revision or modification.~~

NOTE: Deletes as unnecessary notice to the court commissioner in renumbered sub.
(1c) (a) (intro.).

11 ~~**(1f)** SUPPORT: SUBSTANTIAL CHANGE IN CIRCUMSTANCES. (a) Except as provided~~
12 ~~in par. (d), a revision under this section of a judgment or order with respect as to an~~
13 ~~the amount of child or family support may be made only upon a finding of a~~
14 ~~substantial change in circumstances. In any action under this section to revise a~~
15 ~~judgment or order with respect to maintenance payments, a substantial change in~~
16 ~~the cost of living by either party or as measured by the federal bureau of labor~~
17 ~~statistics may be sufficient to justify a revision of judgment or order with respect to~~
18 ~~the amount of maintenance, except that a change in an obligor's cost of living is not~~
19 ~~in itself sufficient if payments are expressed as a percentage of income.~~

NOTE: The stricken sentence is relocated to a new subsection. See s. 767.59 (1k),
created by SEC. 227 of this bill.

20 **SECTION 149.** 767.32 (1) (b), (c) and (d) of the statutes are renumbered 767.59
21 (1f) (b), (c) and (d), and 767.59 (1f) (b) (intro.), 3. and 4. and (c) (intro.), as renumbered,
22 are amended to read:

SENATE BILL 123**SECTION 149**

1 767.59 (1f) (b) (intro.) In ~~any~~ an action under this section to revise a judgment
2 or order with respect to ~~an~~ the amount of child support, any of the following shall
3 constitute constitutes a rebuttable presumption of a substantial change in
4 circumstances sufficient to justify a revision of the judgment or order:

5 3. Failure of the payer to furnish a timely disclosure under s. ~~767.27 (2m)~~
6 767.54.

7 4. A difference between the amount of child support ordered by the court to be
8 paid by the payer and the amount that the payer would have been required to pay
9 based on the percentage standard established by the department under s. 49.22 (9)
10 if the court did not use the percentage standard in determining the child support
11 payments and did not provide the information required under s. 46.10 (14) (d), 301.12
12 (14) (d) or ~~767.25~~ 767.511 (1n), whichever is appropriate.

13 (c) (intro.) In ~~any~~ an action under this section to revise a judgment or order with
14 respect to an amount of child support, any of the following may constitute a
15 substantial change of circumstances sufficient to justify revision of the judgment or
16 order:

17 **SECTION 150.** 767.32 (1m) of the statutes is renumbered 767.59 (1m) and
18 amended to read:

19 767.59 (1m) PAYMENT REVISIONS PROSPECTIVE. In an action under sub. ~~(1)~~ (1c)
20 to revise a judgment or order with respect to child support, maintenance payments,
21 or family support payments, the court may not revise the amount of child support,
22 maintenance payments, or family support payments due, or an amount of arrearages
23 in child support, maintenance payments, or family support payments that has
24 accrued, prior to the date that notice of the action is given to the respondent, except
25 to correct previous errors in calculations.

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1 **SECTION 151.** 767.32 (1r) of the statutes is renumbered 767.59 (1r), and 767.59
2 (1r) (intro.) and (c), as renumbered, are amended to read:

3 767.59 **(1r)** CREDIT TO PAYER FOR CERTAIN PAYMENTS. (intro.) In an action under
4 sub. (1) (1c) to revise a judgment or order with respect to child support or family
5 support, the court may grant credit to the payer against support due prior to the date
6 on which the petition, motion, or order to show cause is served for payments made
7 by the payer other than payments made as provided in s. ~~767.265 or 767.29~~ 767.57
8 or 767.75, in any of the following circumstances:

9 (c) The payer proves by clear and convincing evidence, with evidence of a
10 written agreement, that the payee expressly agreed to accept the payments in lieu
11 of child or family support paid as provided in s. ~~767.265 or 767.29~~ 767.57 or 767.75,
12 not including gifts or contributions for entertainment.

13 **SECTION 152.** 767.32 (2) of the statutes is renumbered 767.59 (2) (a) and
14 amended to read:

15 767.59 **(2)** (a) Except as provided in sub. ~~(2m) or (2r)~~ par. (b) or (c), if the court
16 revises a judgment or order with respect to child support payments, it shall do so by
17 using the percentage standard established by the department under s. 49.22 (9).

18 **SECTION 153.** 767.32 (2m) of the statutes is renumbered 767.59 (2) (b) and
19 amended to read:

20 767.59 **(2)** (b) Upon request by a party, the court may modify the amount of
21 revised child support payments determined under sub. ~~(2)~~ par. (a) if, after
22 considering the factors listed in s. ~~767.25~~ 767.511 (1m), the court finds, by the greater
23 weight of the credible evidence, that the use of the percentage standard is unfair to
24 the child or to any of the parties.

25 **SECTION 154.** 767.32 (2r) of the statutes is renumbered 767.59 (2) (c).

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1 **SECTION 155.** 767.32 (2s) of the statutes is renumbered 767.59 (2s) and
2 amended to read:

3 767.59 (2s) STIPULATION FOR REVISION OF SUPPORT. In an action under sub. (1)
4 (1c), the court may not approve a stipulation for the revision of a judgment or order
5 with respect to an amount of child support or family support unless the stipulation
6 provides for payment of an amount of child support or family support that is
7 determined in the manner required under s. 46.10 (14), 301.12 (14), ~~767.25, 767.51~~
8 ~~or 767.62 (4)~~ 767.511, 767.805 (4), or 767.89, whichever is appropriate.

9 **SECTION 156.** 767.32 (2w) of the statutes is renumbered 767.59 (2w) and
10 amended to read:

11 767.59 (2w) WHEN REVISION EFFECTIVE. A revision of a judgment or order with
12 respect to child support, family support, or maintenance payments has the effect of
13 modifying the original judgment or order with respect to ~~such~~ the payments to the
14 extent of the revision from the date on which the order revising ~~such~~ the payments
15 is effective. The child support, family support, or maintenance payments modified
16 by the order for revision shall cease to accrue under the original judgment or order
17 from the date on which the order revising ~~such~~ the payments is effective.

18 **SECTION 157.** 767.32 (3) of the statutes is renumbered 767.59 (3) and amended
19 to read:

20 767.59 (3) REMARRIAGE; VACATING MAINTENANCE ORDER. After a final judgment
21 requiring maintenance payments has been rendered and the payee has remarried,
22 the court shall, on application of the payer with notice to the payee and upon proof
23 of remarriage, vacate the order requiring ~~such~~ the payments.

24 **SECTION 158.** 767.32 (4) of the statutes is renumbered 767.59 (4) and amended
25 to read:

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1 767.59 (4) REVIEW WHEN THE STATE IS A REAL PARTY IN INTEREST. In any case in
2 which the state is a real party in interest under s. ~~767.075~~ 767.205 (2), the
3 department shall review the support obligation periodically and whenever
4 ~~circumstances so warrant,~~ if appropriate, petition the court for revision of the
5 judgment or order with respect to the support obligation.

6 **SECTION 159.** 767.32 (5) of the statutes is renumbered 767.59 (5) and amended
7 to read:

8 767.59 (5) NOTICE OF CHILD SUPPORT INFORMATION. A summons or petition,
9 motion, or order to show cause under this section shall include notification of the
10 availability of information under s. ~~767.081~~ 767.105 (2).

11 **SECTION 160.** 767.325 (intro.) and (1) to (5) of the statutes are renumbered
12 767.451 (intro.) and (1) to (5), and 767.451 (intro.), (1) (a) (intro.) and (2) (a) and (b),
13 as renumbered, are amended to read:

14 **767.451 Revision of legal custody and physical placement orders.**
15 (intro.) Except for matters under s. ~~767.327 or 767.329~~ 767.461 or 767.481, the
16 following provisions are applicable to modifications of legal custody and physical
17 placement orders:

18 **(1) (a)** *Within 2 years after ~~initial order~~ final judgment.* (intro.) Except as
19 provided under sub. (2), a court may not modify any of the following orders before 2
20 years after the ~~initial order~~ final judgment determining legal custody or physical
21 placement is entered under s. ~~767.24~~ 767.41, unless a party seeking the modification,
22 upon petition, motion, or order to show cause, shows by substantial evidence that the
23 modification is necessary because the current custodial conditions are physically or
24 emotionally harmful to the best interest of the child:

SENATE BILL 123**SECTION 160**

NOTE: The new language in sub. (1) (a) (intro.) clarifies that the “initial order” referred to in the current provision refers to the final judgment determining legal custody or physical placement under new s. 767.41 (s. 767.24 in current law). No substantive change in current law is intended.

1 **(2)** (a) If the parties have substantially equal periods of physical placement
2 pursuant to a court order and circumstances make it impractical for the parties to
3 continue to have substantially equal physical placement, a court, upon petition,
4 motion, or order to show cause by a party, may modify ~~such an~~ the order if it is in the
5 best interest of the child.

6 (b) In any case in which par. (a) does not apply and in which the parties have
7 substantially equal periods of physical placement pursuant to a court order, a court,
8 upon petition, motion, or order to show cause of a party, may modify ~~such an~~ the order
9 based on the appropriate standard under sub. (1). However, under sub. (1) (b) 2.,
10 there is a rebuttable presumption that having substantially equal periods of physical
11 placement is in the best interest of the child.

12 **SECTION 161.** 767.325 (5m) of the statutes, as affected by 2003 Wisconsin Act
13 130, is renumbered 767.451 (5m) and amended to read:

14 767.451 **(5m)** FACTORS TO CONSIDER. In all actions to modify legal custody or
15 physical placement orders, the court shall consider the factors under s. ~~767.24~~ 767.41
16 (5) (am), subject to s. ~~767.24~~ 767.41 (5) (bm), and shall make its determination in a
17 manner consistent with s. ~~767.24~~ 767.41.

18 **SECTION 162.** 767.325 (6) to (8) of the statutes are renumbered 767.451 (6) to
19 (8), and 767.451 (6m) and (8), as renumbered, are amended to read:

20 767.451 **(6m)** PARENTING PLAN. In any action to modify a legal custody or
21 physical placement order under sub. (1), the court may require the party seeking the
22 modification to file with the court a parenting plan under s. ~~767.24~~ 767.41 (1m) before
23 any hearing is held.

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1 **(8)** PETITION, MOTION, OR ORDER TO SHOW CAUSE. A petition, motion, or order to
2 show cause under this section shall include notification of the availability of
3 information under s. ~~767.081~~ 767.105 (2).

4 **SECTION 163.** 767.325 (9) of the statutes is repealed.

NOTE: Deletes an obsolete applicability provision.

5 **SECTION 164.** 767.327 (title) and (1) to (6) of the statutes are renumbered
6 767.481 (title) and (1) to (6), and 767.481 (1) (a) (intro.), (2) (b) and (c) and (4), as
7 renumbered, are amended to read:

8 767.481 **(1)** (a) (intro.) If the court grants periods of physical placement to more
9 than one parent, it shall order a parent with legal custody of and physical placement
10 rights to a child to provide not less than 60 ~~days~~ days' written notice to the other
11 parent, with a copy to the court, of his or her intent to:

12 **(2)** (b) If the parent who is proposing the move or removal receives a notice of
13 objection under par. (a) within 20 days after sending a notice under sub. (1) (a), the
14 parent may not move with or remove the child pending resolution of the dispute, or
15 final order of the court under sub. (3), unless the parent obtains a temporary order
16 to do so under s. ~~767.23~~ 767.225 (1) (bm).

17 (c) Upon receipt of a copy of a notice of objection under par. (a), the court ~~or~~
18 ~~circuit court commissioner~~ shall promptly refer the parents for mediation or other
19 family court ~~counseling~~ services under s. ~~767.11~~ 767.405 and may appoint a guardian
20 ad litem. Unless the parents agree to extend the time period, if mediation or
21 ~~counseling~~ family court services do not resolve the dispute within 30 days after
22 referral, the matter shall proceed under subs. (3) to (5).

SENATE BILL 123**SECTION 164**

1 **(4) GUARDIAN AD LITEM; PROMPT HEARING.** After a petition, motion, or order to
2 show cause is filed under sub. (3), the court shall appoint a guardian ad litem, unless
3 s. ~~767.045~~ 767.407 (1) (am) applies, and shall hold a hearing as soon as possible.

4 **SECTION 165.** 767.327 (7) of the statutes is repealed.

NOTE: Repeals an obsolete applicability provision.

5 **SECTION 166.** 767.329 of the statutes is renumbered 767.461 and amended to
6 read:

7 **767.461 Revisions agreed to by stipulation.** If after an initial order is
8 entered under s. ~~767.24~~, 767.41 the parties agree to a modification in an order of
9 physical placement or legal custody and file a stipulation with the court that specifies
10 the agreed upon modification, the court shall incorporate the terms of the stipulation
11 into a revised order of physical placement or legal custody unless the court finds that
12 the modification is not in the best interest of the child.

NOTE: Provides an exception to the requirement that the court incorporate the terms of a stipulation to modify physical placement or legal custody into the revised order: unless the court finds the modification is not in the best interest of the child. The exception is based on a court of appeals decision holding that acceptance of a stipulation is not mandatory and that the trial court is not prohibited from examining the best interests of the child. [*Paternity of S.A.*, 165 Wis. 2d 530, 478 N.W.2d 21 (Ct. App. 1991).]

13 **SECTION 167.** 767.33 of the statutes is renumbered 767.553, and 767.553 (1) (c),
14 (2), (3), (4) (a) (intro.), (b), (c) (intro.) and (d) and (5), as renumbered, are amended
15 to read:

16 767.553 **(1) (c)** In the order the court ~~or circuit court commissioner~~ shall specify
17 what information the parties must exchange to determine whether the payer's
18 income has changed, and shall specify the manner and timing of the information
19 exchange.

20 **(2) FORM FOR STIPULATING.** If the court ~~or circuit court commissioner~~ provides
21 for an annual adjustment, the court ~~or circuit court commissioner~~ shall make

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1 available to the parties, including the state if the state is a real party in interest
2 under s. ~~767.075 (1)~~ 767.205 (2) (a), a form approved by the court ~~or circuit court~~
3 ~~commissioner~~ for the parties to use in stipulating to an adjustment of the amount of
4 child or family support and to modification of any applicable income-withholding
5 order. The form shall include an order, to be signed by ~~a judge or circuit court~~
6 ~~commissioner~~ the court, for approval of the stipulation of the parties.

7 **(3) INCOME CHANGES.** (a) If the payer's income changes from the amount found
8 by the court ~~or circuit court commissioner~~ or stipulated to by the parties for the
9 current child or family support order, the parties may implement an adjustment
10 under this section by stipulating, on the form under sub. (2), to the changed income
11 amount and the adjusted child or family support amount, subject to sub. (1) (b).

12 (b) The stipulation form ~~must~~ shall be signed by all parties, including the state
13 if the state is a real party in interest under s. ~~767.075 (1)~~ 767.205 (2) (a), and filed
14 with the court. If the stipulation is approved, the order shall be signed by ~~a judge~~
15 ~~or circuit court commissioner~~ the court and implemented in the same manner as an
16 order for a revision under s. ~~767.32~~ 767.59. An adjustment under this subsection
17 ~~shall be~~ is effective as of the date on which the order is signed by the ~~judge or circuit~~
18 ~~court commissioner~~.

19 **(4)** (a) (intro.) Any party, including the state if the state is a real party in
20 interest under s. ~~767.075 (1)~~ 767.205 (2) (a), may file a motion, petition, or order to
21 show cause for implementation of an annual adjustment under this section if any of
22 the following applies:

23 (b) If the court ~~or circuit court commissioner~~ determines after a hearing that
24 an adjustment should be made, the court ~~or circuit court commissioner~~ shall enter
25 an order adjusting the child or family support payments by the amount determined

SENATE BILL 123**SECTION 167**

1 by the court ~~or circuit court commissioner~~, subject to sub. (1) (b). An adjustment
2 under this subsection may not take effect before the date on which the party
3 responding to the motion, petition, or order to show cause received notice of the action
4 under this subsection.

5 (c) (intro.) Notwithstanding par. (b), the court ~~or circuit court commissioner~~
6 may direct that all or part of the adjustment not take effect until such time as the
7 court ~~or circuit court commissioner~~ directs, if any of the following applies:

8 (d) If in an action under this subsection the court ~~or circuit court commissioner~~
9 determines that a party has unreasonably failed to provide the information required
10 under sub. (1) (c) or to provide the information on a timely basis, or unreasonably
11 failed or refused to sign a stipulation for an annual adjustment, the court ~~or circuit~~
12 ~~court commissioner~~ may award to the aggrieved party actual costs, including service
13 costs, any costs attributable to time missed from employment, the cost of travel to
14 and from court, and reasonable attorney fees.

15 (5) (a) Nothing in this section affects a party's right to file at any time a motion,
16 petition, or order to show cause under s. ~~767.32~~ 767.59 for revision of a judgment or
17 order with respect to an amount of child or family support.

18 **SECTION 168.** 767.34 (2) (title) of the statutes is created to read:

19 767.34 (2) (title) LIMITATIONS ON COURT APPROVAL.

20 **SECTION 169.** 767.37 (title) of the statutes is renumbered 767.251 (title) and
21 amended to read:

22 **767.251** (title) **Effect Content, preparation, and approval of judgment.**

23 **SECTION 170.** 767.37 (1) (a) of the statutes is renumbered 767.251 and amended
24 to read:

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1 767.251 **(1)** CONTENT. In ~~any an~~ action affecting the family, if the court orders
2 maintenance payments or other allowances for a party or children or retains
3 jurisdiction in such those matters, the written judgment shall include a ~~provision~~
4 statement that disobedience of the court order ~~with respect to the same~~ is punishable
5 under ch. 785 by commitment to the county jail or house of correction until such the
6 judgment is complied with and the costs and expenses of the proceedings are paid or
7 until the party committed is otherwise discharged, according to law. ~~The written~~
8 ~~judgment in any action affecting the family shall include the social security numbers~~
9 ~~of the parties and of any child of the parties~~ Final written agreements and
10 stipulations of the parties shall, unless set forth in the judgment, be appended to the
11 judgment and incorporated by reference.

12 **(2)** PREPARATION. The findings of fact ~~and~~, conclusions of law, and the written
13 judgment shall be drafted by the attorney for the ~~moving party~~ petitioner unless the
14 court otherwise directs, and shall be submitted to the court and filed with the clerk
15 of the court within 30 days after judgment is granted; ~~but if the respondent has been~~
16 ~~represented by counsel, the~~.

17 **(3)** APPROVAL. ~~The draft~~ findings, conclusions, and judgment shall ~~first be~~
18 submitted to respondent's counsel for approval and if the circuit court commissioner
19 ~~has appeared at the trial of the action, such papers shall also be sent to the circuit~~
20 ~~court commissioner for approval~~ be approved by all counsel appearing, including a
21 guardian ad litem and county child support enforcement agency attorney, and any
22 other person designated by the court or local rule. After ~~any~~ necessary approvals are
23 obtained, the findings of fact, conclusions of law, and judgment shall be submitted
24 to the court. ~~Final stipulations of the parties may be appended to the judgment and~~
25 ~~incorporated by reference therein.~~

SENATE BILL 123**SECTION 170**

NOTE: 1. Subdivided into 3 subsections.

2. The last sentence, which is stricken, is revised and relocated to sub. (1). Final written agreements and stipulations now must be appended to the judgment (unless set forth in the judgment) and incorporated by reference.

3. Clarifies responsibility for preparation and approval of the draft findings, conclusions, and judgment.

1 **SECTION 171.** 767.37 (1) (c) of the statutes is renumbered 767.36 and amended
2 to read:

3 **767.36 Copies of judgment to parties.** At the time of filing any a judgment
4 for an annulment, divorce, or legal separation, the attorney for the moving party who
5 prepared the judgment shall present furnish to the clerk of court 2 true copies thereof
6 of the judgment, including any attachments to the judgment referenced in the
7 judgment, in addition to the original judgment, ~~and until such.~~ Until the copies are
8 presented, the clerk may refuse to accept such the judgment for filing. After the
9 judgment is filed, the clerk shall mail a copy ~~forthwith~~ promptly to each party to the
10 action at the last-known address, and the mailing shall be shown in the court record
11 ~~shall show such mailing.~~

NOTE: Clarifies: (1) the party who prepared the judgment is to provide copies to the clerk; and (2) the copies are to include any attachments referenced in the judgment.

12 **SECTION 172.** 767.37 (2) of the statutes is renumbered 767.35 (6) and amended
13 to read:

14 **767.35 (6) VACATING OR MODIFYING DIVORCE JUDGMENT AS IT AFFECTS MARITAL**
15 STATUS. So far as a judgment of divorce affects the marital status of the parties, the
16 court ~~has the power to~~ may vacate or modify the judgment for sufficient cause shown,
17 upon its own motion, or upon the application of both parties to the action, at any time
18 within 6 months from the granting of such the judgment. ~~No such judgment shall~~
19 ~~be vacated or modified without service of notice of motion on the office of family court~~
20 ~~commissioner. The court may direct a circuit court commissioner or appoint some~~

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1 other attorney, to bring appropriate proceedings for the vacation of the judgment.
2 The compensation of the circuit court commissioner when not on a salaried basis or
3 other attorney for performing such services shall be at the rate of \$50 per day, which
4 shall be paid out of the county treasury upon order of the presiding judge and the
5 certificate of the clerk of the court. If the judgment is vacated it shall restore the
6 parties to the marital relation that existed before the granting of such the judgment.
7 If after vacation of the judgment either of the parties brings an action in this state
8 for divorce against the other the court may order the petitioner in such action to
9 reimburse the county the amount paid by it to the circuit court commissioner or other
10 attorney in connection with such vacation proceedings. ~~Whenever~~ If a judgment of
11 divorce is set aside under this subsection, the court shall order the record in the
12 action impounded without regard to s. 767.19; and thereafter neither 767.13. ~~After~~
13 the record is impounded, the record ~~nor any part of the record shall~~ may not be offered
14 or admitted in whole or in part into evidence in any action or proceeding except by
15 special order of the court of jurisdiction upon good cause shown in any paternity
16 proceedings under this chapter or by special order of any a court of record upon a
17 showing of necessity to clear title to real estate.

NOTE: Deletes, as obsolete, provisions relating to the court option to direct a circuit court commissioner or appoint an attorney to bring an action for vacating a divorce judgment under this section.

18 **SECTION 173.** 767.37 (3) of the statutes is renumbered 767.35 (3) and amended
19 to read:

20 767.35 (3) WHEN DIVORCE JUDGMENT EFFECTIVE. ~~When a~~ A judgment of divorce
21 is granted it shall be effective immediately except as provided in s. 765.03 (2). ~~Every~~
22 judge who grants when granted. A court granting a judgment of divorce shall inform
23 the parties appearing in court that the judgment is effective ~~immediately except as~~

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1 ~~provided in s. 765.03 (2) when granted but that it is unlawful under s. 765.03 (2) for~~
2 ~~a party to marry again until 6 months after the judgment is granted.~~

NOTE: Clarifies what the court is required to inform the parties concerning the limitation on remarrying under s. 765.03 (2).

3 **SECTION 174.** 767.38 of the statutes is renumbered 767.35 (7) and amended to
4 read:

5 **767.35 (7) JUDGMENT DIVORCE JUDGMENT REVOKED ON REMARRIAGE OF PARTIES.**

6 When a judgment of divorce has been granted and the parties shall afterwards
7 subsequently intermarry, the court, upon their joint application and upon
8 satisfactory proof of such the marriage, shall revoke all judgments and any orders
9 which that will not affect the right of 3rd persons and. If the judgment is revoked,
10 the court shall order the record impounded without regard to s. ~~767.19~~ 767.13, and
11 neither the record ~~nor any part of the record shall~~ may not be offered or admitted,
12 in whole or in part, into evidence in any action or proceeding except by special order
13 of the court of jurisdiction upon good cause shown in ~~any a~~ a paternity ~~proceedings~~
14 proceeding under this chapter or by special order of ~~any a~~ a court of record upon a
15 showing of necessity to clear title to real estate.

16 **SECTION 175.** 767.39 (title) of the statutes is repealed.

17 **SECTION 176.** 767.39 (1) of the statutes is renumbered 767.273 and amended
18 to read:

19 **767.273 Allowances pending appeal.** In actions an action affecting the
20 family pending in an appellate court, ~~no~~ an allowance for suit money, counsel fees,
21 or disbursements in the court, ~~nor or~~ or for temporary maintenance or support
22 payments to the spouse or the children during the pendency of the appeal ~~will~~ may
23 be made ~~in the~~ by the proper trial court upon motion made and decided after entry

SENATE BILL 123**SECTION 176**

1 of the order or judgment appealed from and prior to the return of the record to
2 appellate court. If the allowance is ordered before the appeal is taken, the order shall
3 be conditioned upon the taking of the appeal and is not effective until the record is
4 transmitted to appellate court.

NOTE: Incorporates the substance of current s. 767.39 (2), stats., which is repealed.

5 **SECTION 177.** 767.39 (2) of the statutes is repealed.

NOTE: Restated in renumbered s. 767.273. See SEC. 176 of the bill.

6 **SECTION 178.** 767.40 of the statutes is renumbered 785.07 and amended to
7 read:

8 **785.07 Contempt proceedings orders imposing confinement.** All A
9 contempt orders in which order imposing confinement is imposed shall be issued by
10 a judge.

NOTE: Relocated to current ch. 785, stats., contempt of court. The provision has been interpreted as applying to contempt proceedings generally, not just those arising from an action affecting the family.

11 **SECTION 179.** Subchapter V (title) of chapter 767 [precedes 767.401] of the
12 statutes is created to read:

13 **CHAPTER 767**

14 **SUBCHAPTER V**

15 **CHILD CUSTODY, PLACEMENT,**

16 **AND VISITATION**

17 **SECTION 180.** 767.401 (1) (title) and (2) (title) of the statutes are created to read:

18 767.401 **(1)** (title) PROGRAMS: EFFECTS OF DISSOLUTION ON CHILDREN; PARENTING
19 SKILLS.

20 **(2)** (title) CLASSES ON PARENTING.

21 **SECTION 181.** 767.405 (1) (intro.) of the statutes is created to read:

22 767.405 **(1)** DEFINITIONS. (intro.) In this section:

SENATE BILL 123**SECTION 182**

1 **SECTION 182.** 767.42 of the statutes is repealed.

NOTE: Repealed as obsolete. The section, which apparently is not currently in use, allows a county to seize and sell property for the support of a spouse or child if a person abandons and fails to support the spouse or child.

2 **SECTION 183.** 767.43 (1) (title), (1m) (title), (2) (title), (2m) (title), (3) (title), (3c)
3 (title), (3m) (title), (5) (title) and (6) (title) of the statutes are created to read:

4 767.43 **(1)** (title) PETITION; WHO MAY FILE.

5 **(1m)** (title) EXCEPTION; HOMICIDE CONVICTION.

6 **(2)** (title) WISHES OF THE CHILD.

7 **(2m)** (title) WHEN SPECIAL GRANDPARENT PROVISION APPLICABLE.

8 **(3)** (title) SPECIAL GRANDPARENT VISITATION PROVISION.

9 **(3c)** (title) ACTION IN WHICH PETITION FILED; ALTERNATIVES.

10 **(3m)** (title) PRETRIAL HEARING; RECOMMENDATION.

11 **(5)** (title) INTERFERENCE WITH VISITATION RIGHTS.

12 **(6)** (title) MODIFICATION OF ORDER IF HOMICIDE CONVICTION.

13 **SECTION 184.** 767.45 of the statutes is renumbered 767.80, and 767.80 (1)
14 (intro.), (c), (d), (g), (i) and (k), (5) (b), (5m), (6) (a) and (c), (6m), (6r) (a) 2. c. and (7),
15 as renumbered, are amended to read:

16 767.80 **(1)** WHO MAY BRING ACTION OR FILE MOTION. (intro.) The following persons
17 may bring an action or file a motion, including an action or motion for declaratory
18 judgment, for the purpose of determining the paternity of a child or for the purpose
19 of rebutting the presumption of paternity under s. 891.405 or 891.41 (1):

20 (c) Unless s. ~~767.62~~ 767.805 (1) applies, a ~~man~~ male presumed to be the child's
21 father under s. 891.405 or 891.41 (1).

22 (d) A ~~man~~ male alleged or alleging himself to be the father of the child.

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1 (g) This state whenever the circumstances specified in s. ~~767.075 (1)~~ 767.205
2 (2) (a) apply, including the delegates of the state as specified in sub. (6).

3 (i) A guardian ad litem appointed for the child under s. 48.235, ~~767.045~~ 767.407
4 (1) (c), or 938.235.

5 (k) In conjunction with the filing of a petition for visitation with respect to the
6 child under s. ~~767.245~~ 767.43 (3), a parent of a person who has filed a declaration of
7 paternal interest under s. 48.025 with respect to the child or a parent of a person who,
8 before April 1, 1998, signed and filed a statement acknowledging paternity under s.
9 69.15 (3) (b) 3. with respect to the child.

10 (5) (b) An action under this section may be joined with any other action for child
11 support and ~~shall be~~ is governed by the procedures specified in s. ~~767.05~~ 767.205
12 relating to child support, except that the title of the action shall be “In re the
13 paternity of A.B.” The petition shall state the name and date of birth of the child if
14 born or that the mother is pregnant if the child is unborn, the name of any alleged
15 father, whether or not an action by any of the parties to determine the paternity of
16 the child or rebut the presumption of paternity to the child has at any time been
17 commenced, or is pending before any ~~judge or circuit court commissioner~~ court, in
18 this state or elsewhere. If a paternity judgment has been rendered, or if a paternity
19 action has been dismissed, the petition shall state the court ~~which~~ that rendered the
20 judgment or dismissed the action, and the date and the place the judgment was
21 granted if known. The petition shall also give notice of a party’s right to request a
22 genetic test under s. 49.225 or ~~767.48~~ 767.84.

23 (5m) APPLICABLE PROCEDURE: EXCEPTIONS. Except as provided in ss. ~~767.458 (3),~~
24 ~~767.465 (2) and (2m), 767.477, 767.62~~ 767.805, 767.863 (3), 767.85, 767.893 (2) and
25 (2m), and 769.401, unless a ~~man~~ male is presumed the child’s father under s. 891.41

SENATE BILL 123**SECTION 184**

1 (1), is adjudicated the child's father either under s. ~~767.51~~ 767.89 or by final order
2 or judgment of a court of competent jurisdiction in another state, or has
3 acknowledged himself to be the child's father under s. ~~767.62~~ 767.805 (1) or a
4 substantially similar law of another state, no order or temporary order may be
5 entered for child support, legal custody, or physical placement until the ~~man~~ male is
6 adjudicated the father using the procedure set forth in ~~ss. 767.45 to 767.60~~ this
7 subchapter, except s. 767.805. Except as provided in ~~ss. 767.477, 767.62~~ 767.805,
8 767.85, and 769.401, the exclusive procedure for establishment of child support
9 obligations, legal custody, or physical placement rights for a ~~man~~ male who is not
10 presumed the child's father under s. 891.41 (1), adjudicated the father, or
11 acknowledged under s. ~~767.62~~ 767.805 (1) or a substantially similar law of another
12 state to be the father is by an action under ~~ss. 767.45 to 767.60~~ this subchapter, except
13 s. 767.805, or under s. 769.701. No person may waive the use of this procedure. If
14 a presumption under s. 891.41 (1) exists, a party denying paternity has the burden
15 of rebutting the presumption.

16 (6) (a) The attorney responsible for support enforcement under s. 59.53 (6) (a)
17 shall provide the representation for the state as specified under s. ~~767.075 (1)~~
18 767.205 (2) (a) in cases brought under this section.

19 (c) The attorney under s. 59.53 (6) (a) or any state attorney acting under par.
20 (b) may not represent the state as specified under s. ~~767.075 (1)~~ 767.205 (2) (a) in an
21 action under this section and at the same time act as guardian ad litem for the child
22 or the alleged child of the party.

23 (6m) WHEN ACTION MUST BE COMMENCED. The attorney designated under sub.
24 (6) (a) shall commence an action under this section on behalf of the state within 6
25 months after receiving notification under s. 69.03 (15) that no father is named on the

SENATE BILL 123

1 birth certificate of a child who is a resident of the county if paternity has not been
2 acknowledged under s. ~~767.62~~ 767.805 (1) or a substantially similar law of another
3 state or adjudicated, except in situations under s. 69.14 (1) (g) and (h) and as provided
4 by the department by rule.

5 **(6r)** (a) 2. c. That the ~~man~~ male designated in s. 48.299 (6) (a) or 938.299 (6)
6 (a) has previously been excluded as the father of the child.

7 **(7)** CLERK TO PROVIDE DOCUMENT. The clerk of court shall provide without
8 charge, to each person bringing an action under this section, except to the state under
9 sub. (1) (g) or (6m), a document setting forth the percentage standard established by
10 the department under s. 49.22 (9) and listing the factors ~~which~~ that a court may
11 consider under s. ~~767.25~~ 767.511 (1m).

12 **SECTION 185.** 767.455 (title) and (1) to (4) of the statutes are renumbered
13 767.813 (title) and (1) to (4).

14 **SECTION 186.** 767.455 (5) of the statutes is renumbered 767.813 (5) and
15 amended to read:

16 767.813 **(5)** ~~FORM~~ FORMS. The summons shall be in substantially one of the
17 following ~~form~~ forms:

18 (a) Mother as petitioner.

19 STATE OF WISCONSIN, CIRCUIT COURT:COUNTY

20 _____
21 In re the Paternity of A. B.

22 STATE OF WISCONSIN

23 and

24 C. D. (Mother-Petitioner)

25 Address

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SECTION 186

1 City, State Zip Code

File No. ...

2 , Petitioners

3 vs.

S U M M O N S

4 E. F.

5 Address (Case Classification Type):.... (Code No.)

6 City, State Zip Code

7 , Respondent

8
9 THE STATE OF WISCONSIN, To the Respondent:

10 1. You have been sued. claims that you are the father of the child, born
11 on (date), in (city) (county) (state). You must appear to answer this claim of
12 paternity. Your court appearance is:

13 Date:

14 Time:

15 Room:

16 Judge or Circuit Court Commissioner:

17 Address:

18 2. If you do not appear, the court will enter a default judgment finding you to
19 be the father. ~~A default judgment will take effect 30 days after it is served on or~~
20 ~~mailed to you, unless within those 30 days you present to the court evidence of good~~
21 ~~cause for failure to appear.~~

22 3. If you plan to be represented by an attorney, you should contact the attorney
23 prior to the court appearance listed above. If you are unable to afford an attorney,
24 the court will appoint one for you only upon the blood genetic tests showing that you
25 are not excluded as the father and the probability of your being the father is less than

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1 ~~99.0%. Appearance is not required if you complete the attached waiver of first~~
 2 ~~appearance statement and send it to the court at least 10 days prior to the date of~~
 3 ~~your scheduled appearance in this summons 99.0 percent.~~

4 4. You are also notified that interference with the custody of a child is
 5 punishable by a fine of up to \$10,000 and imprisonment for up to 5 years. Section
 6 948.31, stats.

7 5. The County Clerk of Circuit Court is an equal opportunity service
 8 provider. If you need assistance to access services in the courts or need material in
 9 an alternate format, please call

10 Dated:, (year)

11 Signed:.....

12 G. H., Clerk of Circuit Court

13 or

14 Petitioner's Attorney

15 State Bar No.:

16 Address:

17 City, State Zip Code:

18 Phone No.:

NOTE: Revises the current summons form for a mother-petitioner in a paternity action to reflect changes in the bill making default judgments effective immediately and eliminating the waiver of first appearance in paternity actions. The revised form (and the new forms created in SEC. 243) add a provision indicating that the clerk of circuit court is an equal opportunity service provider.

19 **SECTION 187.** 767.455 (5g) of the statutes is repealed.

NOTE: Replaced by the provision created by SEC. 244 of the bill.

20 **SECTION 188.** 767.455 (5r) of the statutes is repealed.

NOTE: The paternity reform committee recommended eliminating the waiver of first appearance in paternity actions, thus requiring a first appearance in every case that comes to court. Only voluntary acknowledgments will not have a first appearance. The

SENATE BILL 123**SECTION 188**

committee suggested this change: (1) because the current system is “cumbersome, including extra and unnecessary court appearances”; and (2) to “reduce fraud, which can occur since we do not know with assurance who signed the waiver as most are not notarized”.

This change is made in the bill by repealing current ss. 767.455 (5r), 767.457 (2) and 767.465 (2m) (b), relating to waiver of first appearance.

1 **SECTION 189.** 767.455 (5w) of the statutes is repealed.

NOTE: Repeals current s. 767.455 (5w), stats., which specifies that the current statutory summons form does not apply to “a man alleging himself to be the father of the child”. A separate summons form for an alleged father as petitioner is created by SEC. 243 in this bill.

2 **SECTION 190.** 767.455 (6) of the statutes is renumbered 767.813 (6) and
3 amended to read:

4 767.813 **(6)** DOCUMENT. The summons served on the respondent shall be
5 accompanied by a document, provided without charge by the clerk of court, setting
6 forth the percentage standard established by the department under s. 49.22 (9) and
7 listing the factors ~~which~~ that a court may consider under s. ~~767.25~~ 767.511 (1m).

8 **SECTION 191.** 767.456 of the statutes is renumbered 767.815.

9 **SECTION 192.** 767.457 (title) of the statutes is repealed.

10 **SECTION 193.** 767.457 (1) of the statutes is renumbered 767.86 and amended
11 to read:

12 **767.86 Time of first appearance.** The first appearance under s. ~~767.458~~
13 767.863 may not be held ~~any sooner than~~ until 30 days after service or receipt of the
14 summons and petition unless the parties agree ~~that the first appearance may be held~~
15 ~~sooner~~ to an earlier date.

16 **SECTION 194.** 767.457 (2) of the statutes is repealed.

NOTE: This SECTION, which repeals s. 767.457 (2), and SECS. 188 and 204 eliminate the waiver of first appearance in paternity cases. See the note to SEC. 188 in this bill.

17 **SECTION 195.** 767.458 (title) of the statutes is renumbered 767.863 (title).

SENATE BILL 123**SECTION 196**

1 **SECTION 196.** 767.458 (1) (intro.) of the statutes is renumbered 767.863 (1) and
2 amended to read:

3 767.863 (1) NOTICE TO PARTIES. ~~At the first court appearance where~~ If the
4 respondent is present at a hearing prior to the determination of paternity, the court
5 shall, at least one time at one such hearing, inform the parties of the ~~following:~~ items
6 in s. 767.813 (5g).

7 **SECTION 197.** 767.458 (1) (a) to (e) of the statutes are repealed.

NOTE: Repeals s. 767.458 (1) (a) to (e), stats., which set forth the items the court must inform the parties of at the first court appearance where the respondent is present. This provision is no longer necessary because the bill amends current s. 767.458 (1) (intro.) (renumbered s. 767.863 (1) in this bill) to cross-reference the items listed in s. 767.455 (5g) (renumbered s. 767.813 (5g) in this bill). See SEC. 196, above.

8 **SECTION 198.** 767.458 (1m) to (3) of the statutes are renumbered 767.863 (1m)
9 to (3), and 767.863 (1m) and (2), as renumbered, are amended to read:

10 767.863 (1m) PATERNITY ALLEGATION BY MALE OTHER THAN HUSBAND; WHEN
11 DETERMINATION NOT IN BEST INTEREST OF CHILD. In an action to establish the paternity
12 of a child who was born to a woman while she was married, ~~where a man~~ if a male
13 other than the woman's husband alleges that he, not the husband, is the child's
14 father, a party may allege that a judicial determination that a ~~man~~ male other than
15 the husband is the father is not in the best interest of the child. If the court or a circuit
16 or supplemental court commissioner under s. 757.675 (2) (g) determines that a
17 judicial determination of whether a ~~man~~ male other than the husband is the father
18 is not in the best interest of the child, no genetic tests may be ordered and the action
19 shall be dismissed.

20 (2) ORDER FOR TESTS. ~~At~~ If at the first appearance, ~~if it appears from a sufficient~~
21 petition or affidavit of the child's mother or an alleged father, or from sworn
22 testimony of the child's mother or an alleged father, that there is probable cause to

SENATE BILL 123**SECTION 198**

1 believe that any of the males named has had sexual intercourse with the mother
2 during a possible time of the child's conception, the court may, or upon the request
3 of any party shall, order any of the named persons to submit to genetic tests. The
4 tests shall be conducted in accordance with s. ~~767.48~~ 767.84. The court is not
5 required to order a person who has undergone a genetic test under s. 49.225 to submit
6 to another genetic test under this subsection unless a party requests additional tests
7 under s. ~~767.48~~ 767.84 (2).

8 **SECTION 199.** 767.459 (title) of the statutes is renumbered 767.865 (title) and
9 amended to read:

10 **767.865** (title) ~~Appearance on behalf of deceased~~ **Deceased respondent.**

11 **SECTION 200.** 767.459 of the statutes is renumbered 767.865 (1) (a) and
12 amended to read:.

13 767.865 (1) (a) The personal representative or ~~an attorney, if there is no~~
14 personal representative, a guardian ad litem in accordance with par. (b) may appear
15 for a deceased respondent ~~who is the alleged father~~ whenever an appearance by the
16 respondent is required. The summons and petition shall be served on the personal
17 representative of and guardian ad litem for the deceased respondent under s.
18 767.813 (3).

NOTE: See the note to SEC. 257 of this bill.

19 **SECTION 201.** 767.46 of the statutes is renumbered 767.88, and 767.88 (1), as
20 renumbered, is amended to read:

21 767.88 (1) PROCEDURE: EVIDENCE. A pretrial hearing shall be held before the
22 court or a ~~circuit or~~ supplemental court commissioner under s. 757.675 (2) (g). A
23 record or minutes of the proceeding shall be kept. At the pretrial hearing the parties

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1 may present and cross-examine witnesses, request genetic tests, and present other
2 evidence relevant to the determination of paternity.

3 **SECTION 202.** 767.463 of the statutes is renumbered 767.855 and amended to
4 read:

5 **767.855 Dismissal if adjudication not in child's best interest.** Except as
6 provided in s. ~~767.458~~ 767.863 (1m), at any time in an action to establish the
7 paternity of a child, upon the motion of a party or guardian ad litem, the court or
8 circuit or supplemental court commissioner under s. 757.675 (2) (g) may, with respect
9 to a man male, refuse to order genetic tests, if genetic tests have not yet been taken,
10 and dismiss the action if the court or circuit or supplemental court commissioner
11 determines that a judicial determination of whether the man male is the father of
12 the child is not in the best interest of the child.

13 **SECTION 203.** 767.465 (title), (1), (1m), (2) and (2m) (title) and (a) of the statutes
14 are renumbered 767.893 (title), (1), (1m), (2) and (2m) (title) and (a), and 767.893
15 (1m), (2) (a) and (b) and (2m) (a), as renumbered, are amended to read:

16 **767.893 (1m) JUDGMENT WHEN MOTHER FAILS TO APPEAR.** Notwithstanding sub.
17 (1), a court may enter an order adjudicating the alleged father, or man male alleging
18 that he is the father, to be the father of the child under s. ~~767.51~~ 767.89 if the mother
19 of the child fails to appear at the first appearance, ~~unless the first appearance is not~~
20 ~~required under s. 767.457 (2),~~ scheduled genetic test, pretrial hearing, or trial if
21 sufficient evidence exists to establish the man male as the father of the child.

22 **(2) (a)** Except as provided in sub. (2m), if a respondent is the alleged father and
23 fails to appear at the first appearance, ~~unless the first appearance is not required~~
24 ~~under s. 767.457 (2),~~ scheduled court-ordered genetic test, pretrial hearing, or trial,
25 the court shall enter an order adjudicating the respondent to be the father and

SENATE BILL 123**SECTION 203**

1 appropriate orders for support, legal custody, and physical placement. The orders
2 shall be either served on the respondent or mailed by regular, registered, or certified
3 mail, to the last-known address of the respondent. ~~The orders shall take effect 30~~
4 ~~days after service or 30 days after the date on which the orders were mailed unless,~~
5 ~~within that time, the respondent presents to the court or a circuit or supplemental~~
6 ~~court commissioner under s. 757.675 (2) (g) evidence of good cause for failure to~~
7 ~~appear or failure to have undergone a court-ordered genetic test.~~

NOTE: Amended to delete language requiring a delay in the effective date of default judgment orders in paternity actions. The paternity reform committee recommended that default judgments in paternity cases take effect immediately.

8 (b) A default judgment may not be entered under par. (a) if there is more than
9 one person alleged in the petition to be the father, unless ~~only~~ any of the following
10 applies:

11 1. Only one of those persons fails to appear and all of the other male
12 respondents have been excluded as the father.

NOTE: See SEC. 262 in this bill for subd. 2.

13 **(2m)** (a) At any time after service of the summons and petition, a respondent
14 who is the alleged father may, with or without appearance in court and subject to the
15 approval of the court, in writing acknowledge that he has read and understands the
16 notice under s. ~~767.455~~ 767.813 (5g) and stipulate that he is the father of the child
17 and for child support payments, legal custody, and physical placement. The court
18 may not approve a stipulation for child support unless it provides for payment of
19 child support determined in a manner consistent with s. ~~767.25~~ 767.511 or ~~767.51~~
20 767.89.

21 **SECTION 204.** 767.465 (2m) (b) of the statutes is repealed.

NOTE: Repeals s. 767.465 (2m) (b), relating to waiver of first appearance. See the note to SEC. 188 in this bill.

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1 **SECTION 205.** 767.465 (2m) (c), (3) and (4) of the statutes are renumbered
2 767.893 (2m) (c), (3) and (4).

3 **SECTION 206.** 767.466 of the statutes is renumbered 767.895.

4 **SECTION 207.** 767.47 of the statutes is renumbered 767.87, and 767.87 (1) (c),
5 (1m) (d) and (3), as renumbered, are amended to read:

6 767.87 **(1)** (c) Genetic test results under ~~ss. s.~~ 49.225, 767.48 767.84, or 885.23.

7 **(1m)** (d) Prior to the entry of the judgment under s. ~~767.51~~ 767.89.

8 **(3)** EVIDENCE OF IDENTIFIED MALE NOT UNDER JURISDICTION. Except as provided
9 in s. ~~767.48 767.84~~ (4), in an action against an alleged father, evidence offered by him
10 with respect to an identified ~~man~~ male who is not subject to the jurisdiction of the
11 court concerning that ~~man's~~ male's sexual intercourse with the mother at or about
12 the presumptive time of conception of the child is admissible in evidence only after
13 the alleged father has undergone genetic tests and made the results available to the
14 court.

15 **SECTION 208.** 767.475 of the statutes is renumbered 767.82, and 767.82 (1) (b),
16 (2m) and (7m), as renumbered, are amended to read:

17 767.82 **(1)** (b) The court shall appoint a guardian ad litem for the child if s.
18 ~~767.045 767.407~~ (1) (a) or (c) applies or if the court has concern that the child's best
19 interest is not being represented.

20 **(2m)** CUSTODY PENDING COURT ORDER. If there is no presumption of paternity
21 under s. 891.41 (1) or if paternity is acknowledged under s. 767.805 (1), the mother
22 shall have sole legal custody of the child until the court orders otherwise.

NOTE: Creates language specifying that if paternity is acknowledged under s. 767.805 (1) [renumbered from s. 767.62 (1)], the mother has sole legal custody of the child until the court orders otherwise. Current law is silent on legal custody where paternity is acknowledged and the court has not ordered otherwise.

SENATE BILL 123

1 **(7m)** WHEN ACTION HAS PRIORITY. The court shall give priority to an action
2 brought under s. ~~767.45~~ whenever 767.80 if the petition under s. ~~767.45~~ 767.80 (5)
3 indicates that the matter was referred under s. 48.299 (6) (a) or 938.299 (6) (a) by a
4 court assigned to exercise jurisdiction under chs. 48 and 938.

5 **SECTION 209.** 767.477 of the statutes is renumbered 767.85, and 767.85 (2), as
6 renumbered, is amended to read:

7 767.85 **(2)** CONSIDERATIONS. Before making any temporary order under sub. (1),
8 the court shall consider those factors that the court is required to consider when
9 granting a final judgment on the same subject matter. If the court makes a
10 temporary child support order that deviates from the amount of support that would
11 be required by using the percentage standard established by the department under
12 s. 49.22 (9), the court shall comply with the requirements of s. ~~767.25~~ 767.511 (1n).

13 **SECTION 210.** 767.48 (title) of the statutes is renumbered 767.84 (title).

14 **SECTION 211c.** 767.48 (1) (a) of the statutes is renumbered 767.84 (1) (a) and
15 amended to read:

16 767.84 **(1)** (a) The court may, and upon request of a party shall, require the
17 child, mother, any male for whom there is probable cause to believe that he had
18 sexual intercourse with the mother during a possible time of the child's conception,
19 or any male witness who testifies or will testify about his sexual relations with the
20 mother at a possible time of conception to submit to genetic tests. Probable cause of
21 sexual intercourse during a possible time of conception may be established by a
22 sufficient petition or affidavit of the child's mother or an alleged father, filed with the
23 court, or after an examination under oath of a party or witness, when the court
24 determines ~~such~~ that an examination is necessary. The court is not required to order

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1 a person who has undergone a genetic test under s. 49.225 to submit to another test
2 under this paragraph unless a party requests additional tests under sub. (2).

3 **SECTION 212c.** 767.48 (1) (b) and (1m) to (7) of the statutes are renumbered
4 767.84 (1) (b) and (1m) to (7), and 767.84 (4) and (5) (b), as renumbered, are amended
5 to read:

6 767.84 (4) TESTS EXCLUDING PATERNITY; REFUSAL TO SUBMIT TO TEST. ~~Whenever~~
7 ~~the results of genetic tests exclude~~ Genetic test results excluding an alleged father
8 as the father of the child, ~~this evidence shall be~~ are conclusive evidence of
9 nonpaternity and the court shall dismiss any paternity action with respect to that
10 alleged father. ~~Whenever the results of genetic tests exclude~~ Genetic test results
11 excluding any male witness from possible paternity, ~~the tests shall be~~ are conclusive
12 evidence of nonpaternity of the male witness. Testimony relating to sexual
13 intercourse or possible sexual intercourse of the mother with any person excluded as
14 a possible father, as a result of a genetic test, is inadmissible as evidence. ~~If any party~~
15 ~~refuses~~ Refusal of a party to submit to a genetic test, ~~this fact shall be disclosed to~~
16 the fact finder. Refusal to submit to a genetic test ordered by the court is a contempt
17 of the court for failure to produce evidence under s. ~~767.47~~ 767.87 (5). If the action
18 was brought by the child's mother but she refuses to submit herself or the child to
19 genetic tests, the action shall be dismissed.

20 (5) (b) If 2 or more identical series of genetic tests are performed upon the same
21 person, regardless of whether the tests were ordered under this section or s. 49.225
22 or ~~767.458~~ 767.863 (2), the court shall require the person requesting the 2nd or
23 subsequent series of tests to pay for it ~~the series~~ in advance, unless the court finds
24 that the person is indigent.

SENATE BILL 123**SECTION 214m**

1 **SECTION 214m.** 767.50 of the statutes is renumbered 767.883, and 767.883 (1),
2 as renumbered, is amended to read:

3 767.883 (1) TWO PARTS. The trial shall be divided into 2 parts.—~~The, the~~ first
4 part shall deal dealing with the determination of paternity.—~~The~~ and the 2nd part
5 shall deal dealing with child support, legal custody, periods of physical placement,
6 and related issues. ~~At the first part of the trial, the~~ The main issue at the first part
7 shall be whether the alleged or presumed father is or is not the father of the mother’s
8 child, but if the child was born to the mother while she was the lawful wife of a
9 specified man there shall first be determined, as provided in s. 891.39, male the prior
10 issue of whether the husband was not the father of the child shall be determined first,
11 as provided under s. 891.39. The first part of the trial shall be by jury only if the
12 defendant verbally requests a jury trial either at the initial appearance or pretrial
13 hearing or requests a jury trial in writing prior to the pretrial hearing. The court may
14 direct, and, if requested by either party, before the introduction of any testimony in
15 the party’s behalf, shall direct the jury, ~~in cases where there is a jury,~~ to find a special
16 verdict as to any of the issues specified in this section, except that the court shall
17 make all of the findings enumerated in s. ~~767.51~~ 767.89 (2) to (4). If the mother is
18 dead, becomes insane, cannot be found within the jurisdiction, or fails to commence
19 or pursue the action, the proceeding does not abate if any of the persons under s.
20 ~~767.45~~ 767.80 (1) makes a motion to continue. The testimony of the mother taken
21 at the pretrial hearing may in any such case be read in evidence if it is competent,
22 relevant, and material. The issues of child support, custody and visitation, and
23 related issues shall be determined by the court either immediately after the first part
24 of the trial or at a later hearing before the court.

SENATE BILL 123

1 **SECTION 215.** Subchapter VI (title) of chapter 767 [precedes 767.501] of the
2 statutes is created to read:

CHAPTER 767**SUBCHAPTER VI****SUPPORT AND MAINTENANCE**

6 **SECTION 216.** 767.501 (1) (title) and (2) (title) of the statutes are created to read:

7 767.501 (1) (title) DEFINITIONS.

8 (2) (title) WHO MAY COMMENCE; SUPPORT DETERMINATION.

9 **SECTION 217.** 767.501 (4) of the statutes is created to read:

10 767.501 (4) LEGAL CUSTODY AND PHYSICAL PLACEMENT. Upon request of a party
11 to an action under this section, the court may make orders concerning the legal
12 custody and physical placement of any minor child of the parties in accordance with
13 s. 767.41.

NOTE: Expressly authorizes a request for and determination of legal custody and physical placement in conjunction with an action to compel support and maintenance under renumbered s. 767.501 (former s. 767.08). See, also, SEC. 96 of this bill.

14 **SECTION 218.** 767.51 of the statutes is renumbered 767.89, and 767.89 (2), (3)
15 (b), (c) and (f), (4) (a) (intro.) and (6), as renumbered, are amended to read:

16 767.89 (2) REPORT TO STATE REGISTRAR. The clerk of court or county child support
17 agency under s. 59.53 (5) shall file with the state registrar, within 30 days after the
18 entry of a judgment or order determining paternity, a report showing the names,
19 dates, and birth places of the child and the father, the social security numbers of the
20 mother, father, and child, and the maiden name of the mother on a form designated
21 by the state registrar, along with the fee set forth in s. 69.22 (5), which the clerk of
22 court or county child support agency shall collect.

NOTE: This is a technical change. 2001 Wisconsin Act 16 amended s. 69.15 (1) (b), stats., to permit the state registrar to change information on a birth certificate if, among

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other things, for a paternity action, a clerk of court or county child support agency sends certain information to the state registrar. Prior law referred only to a clerk of court providing such information. The bill amends s. 767.89 (2) [renumbered from s. 767.51 (2), stats.] to incorporate that change, which was inadvertently not made in Act 16.

1 **(3) (b)** Orders for the legal custody of and periods of physical placement with
2 the child, determined in accordance with s. ~~767.24~~ 767.41.

3 (c) An order requiring either or both of the parents to contribute to the support
4 of any child of the parties who is less than 18 years old, or any child of the parties who
5 is less than 19 years old if the child is pursuing an accredited course of instruction
6 leading to the acquisition of a high school diploma or its equivalent, determined in
7 accordance with s. ~~767.25~~ 767.511.

8 (f) An order requiring either or both parties to pay or contribute to the costs of
9 the guardian ad litem fees, genetic tests as provided in s. ~~767.48~~ 767.84 (5), and other
10 costs.

11 **(4) (a) (intro.)** Subject to par. (b), liability for past support of the child shall be
12 is limited to support for the period after the day on which the petition in the action
13 under s. ~~767.45~~ 767.80 is filed, unless a party shows, to the satisfaction of the court,
14 all of the following:

15 **(6) OTHER APPLICABLE PROVISIONS.** Sections ~~767.24, 767.245, 767.263, 767.265,~~
16 ~~767.267, 767.29, 767.293, 767.30, 767.305, 767.31, 767.32 and 767.325~~ 767.41,
17 767.43, 767.451, 767.57, 767.58, 767.59, 767.71, 767.75, 767.76, 767.77, and 767.78,
18 where applicable, shall apply to a judgment or order under this section.

19 **SECTION 219.** 767.511 (1) (c), (1g) (title), (1j) (title), (1m) (title), (1n) (title), (2)
20 (title), (3) (title) and (4) (title) of the statutes are created to read:

21 767.511 **(1) (c)** In addition to ordering child support for a child under par. (a),
22 assign as a support obligation responsibility for, and direct the manner of payment
23 of, the child's health care expenses under s. 767.513.

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NOTE: Health care expenses for a child are now dealt with in a section separate from the general child support section. (This bill renumbers current s. 767.25 (4m) and makes it a separate section; see SEC. 104 of the bill.) The above provision, which is located in the general child support section (renumbered s. 767.511), is intended to clarify that an order regarding health care expenses is to be considered a support obligation. In addition, it is intended to clarify that statutory cross–references to child support under s. 767.511 include a child’s health care expenses under s. 767.513.

1 **(1g)** (title) CONSIDERATION OF FINANCIAL INFORMATION.

2 **(1j)** (title) PERCENTAGE STANDARD GENERALLY REQUIRED.

3 **(1m)** (title) DEVIATION FROM STANDARD; FACTORS.

4 **(1n)** (title) DEVIATION FROM STANDARD; RECORD.

5 **(2)** (title) SEPARATE FUND OR TRUST.

6 **(3)** (title) EFFECT OF PHYSICAL PLACEMENT VIOLATION.

7 **(4)** (title) AGE OF CHILD ELIGIBLE FOR SUPPORT.

8 **SECTION 220.** 767.513 (title), (4) (title) and (5) (title) of the statutes are created
9 to read:

10 **767.513** (title) **Child health care expenses.**

11 **(4)** (title) HEALTH BENEFIT PLAN; EMPLOYER OBLIGATION.

12 **(5)** (title) RECOVERY BY STATE OF 3RD PARTY PAYMENTS.

13 **SECTION 221.** 767.52 of the statutes is renumbered 767.83, and 767.83 (1), (2m)
14 and (3), as renumbered, are amended to read:

15 767.83 **(1)** GENERALLY. At the pretrial hearing, at the trial, and in any further
16 other proceedings in any paternity action, any party may be represented by counsel.
17 If the male respondent is indigent and the state is the petitioner under s. 767.45
18 767.80 (1) (g), the petitioner is represented by a government attorney as provided in
19 s. 767.45 767.80 (6), or the action is commenced on behalf of the child by an attorney
20 appointed under s. 767.045 767.407 (1) (c), counsel shall be appointed for the

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1 respondent as provided in ch. 977, and subject to the limitations under sub. (2m),
2 unless the respondent knowingly and voluntarily waives the appointment of counsel.

3 **(2m)** WHEN APPOINTED REPRESENTATION PROVIDED. Representation by an
4 attorney appointed under sub. (1) shall be provided only after the results of any
5 genetic tests have been completed and only if all of the results fail to show that the
6 alleged father is excluded and fail to give rise to the rebuttable presumption under
7 s. ~~767.48~~ 767.84 (1m) that the alleged father is the father of the child.

8 **(3)** APPEARANCE BY STATE'S ATTORNEY NOT AFFECTED. This section does not
9 prevent an attorney responsible for support enforcement under s. 59.53 (6) (a) or any
10 other attorney employed under s. 49.22 or 59.53 (5) from appearing in any paternity
11 action as provided under s. ~~767.45~~ 767.80 (6).

12 **SECTION 222.** 767.53 of the statutes is renumbered 767.853, and 767.853 (3)
13 (intro.), as renumbered, is amended to read:

14 767.853 **(3)** PAST PROCEEDINGS. (intro.) Subject to s. ~~767.19~~ 767.13, a record of
15 a past proceeding is open to public inspection if all of the following apply:

16 **SECTION 223.** 767.55 (title), (2) (title) and (3) (title) of the statutes are created
17 to read:

18 **767.55** (title) **Child support: employment-related orders.**

19 **(2)** (title) NONCUSTODIAL PARENT.

20 **(3)** (title) ABSENT PARENT.

21 **SECTION 224.** 767.553 (1) (title), (4) (title) and (5) (title) of the statutes are
22 created to read:

23 767.553 **(1)** (title) **WHEN ADJUSTMENT MAY BE ORDERED.**

24 **(4)** (title) **IMPLEMENTATION; WHEN EFFECTIVE.**

25 **(5)** (title) **REVISION OR REMEDIAL SANCTIONS.**

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1 **SECTION 225.** 767.57 (1) (title), (1e) (title) and (4) (title) of the statutes are
2 created to read:

3 767.57 **(1)** (title) PAYMENT TO DEPARTMENT.

4 **(1e)** (title) RECEIVING AND DISBURSING FEE.

5 **(4)** (title) PROCEDURE FOR CERTAIN CHILD RECIPIENTS.

6 **SECTION 226.** 767.58 (2) (title) of the statutes is created to read:

7 767.58 **(2)** (title) INFORMATION FOR CHILD SUPPORT AGENCY.

8 **SECTION 227.** 767.59 (1k) of the statutes is created to read:

9 767.59 **(1k)** MAINTENANCE: CHANGE IN COST OF LIVING. In an action under this
10 section to revise maintenance payments, a substantial change in the cost of living for
11 either party or as measured by the federal bureau of labor statistics may be sufficient
12 to support a revision of the amount of maintenance, except that a change in an
13 obligor's cost of living is not by itself sufficient if payments are expressed as a
14 percentage of income.

NOTE: Restates the last sentence of current s. 767.32 (1) (a).

15 **SECTION 228.** 767.59 (2) (title) of the statutes is created to read:

16 767.59 **(2)** (title) PERCENTAGE STANDARD REQUIRED; EXCEPTIONS.

17 **SECTION 229.** 767.60 of the statutes is renumbered 767.803 and amended to
18 read:

19 **767.803 Determination of marital children.** ~~In any case where~~ If the father
20 and mother of any a nonmarital child ~~shall~~ enter into a lawful marriage or a marriage
21 which appears and they believe is lawful, except where the parental rights of the
22 mother were terminated ~~prior thereto, that~~ before either of these circumstances, the
23 child ~~shall thereby become~~ becomes a marital child, ~~shall be~~ is entitled to a change
24 in birth certificate under s. 69.15 (3) (b), and shall enjoy all of the rights and

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1 privileges of a marital child as if he or she had been born during the marriage of the
2 parents; and this. This section shall be taken to apply applies to all cases prior to
3 before, on, or after its effective date, as well as those subsequent thereto but no estate
4 already vested shall be divested by this section and ss. 765.05 to 765.24 and 852.05.
5 The issue children of all marriages declared void under the law shall, nevertheless,
6 be are nevertheless marital issue children.

7 **SECTION 230.** Subchapter VII (title) of chapter 767 [precedes 767.61] of the
8 statutes is created to read:

CHAPTER 767**SUBCHAPTER VII****PROPERTY DIVISION**

12 **SECTION 231.** 767.61 (2) (title) and (3) (title) of the statutes are created to read:
13 767.61 **(2)** (title) PROPERTY SUBJECT TO DIVISION.

14 **(3)** (title) PRESUMPTION OF EQUAL DIVISION.

15 **SECTION 232.** 767.61 (4), (5) and (6) of the statutes are created to read:

16 767.61 **(4)** SEPARATE FUND OR TRUST OPTION. In dividing the property of the
17 parties under this section, the court may protect and promote the best interests of
18 a child of the parties described under s. 767.511 (4) by setting aside a portion of the
19 property in a separate fund or trust for the support, maintenance, education, and
20 general welfare of the child.

21 **(5)** RELATED PROVISIONS OF JUDGMENT. In a judgment described under sub. (1),
22 the court shall do all of the following:

23 (a) Direct that title to the property of the parties be transferred as necessary,
24 in accordance with the division of property set forth in the judgment.

25 (b) Include all of the following in the judgment:

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1 1. Notification that it may be necessary for the parties to take additional
2 actions in order to transfer interests in their property in accordance with the division
3 of property set forth in the judgment, including such interests as interests in real
4 property, interests in retirement benefits, and contractual interests.

5 2. Notification that the judgment does not necessarily affect the ability of a
6 creditor to proceed against a party or against that party's property even though the
7 party is not responsible for the debt under the terms of the judgment.

8 3. Notification that an instrument executed by a party before the judgment
9 naming the other party as a beneficiary is not necessarily affected by the judgment
10 and it may be necessary to revise the instrument if a change in beneficiary is desired.

11 **(6) RECORDING JUDGMENT AFFECTING REAL PROPERTY SUFFICIENT.** A certified copy
12 of the portion of the judgment affecting title to real property, or a deed consistent with
13 the judgment, shall be recorded in the office of the register of deeds of the county in
14 which the real property is located.

NOTE: 1. Subsection (4) restates the last sentence of current s. 767.255 (1), stats. See SEC. 109 of this bill. The current provision only refers to a "minor child". However, the obligation for child support extends to 18 year olds who are in high school or its equivalent (current s. 767.25 (4), stats.). Therefore, the separate trust or fund option is extended to cover that situation as well as minor children.

2. Subsection (5) (a) is intended to replace current language in s. 767.255 (1), stats., requiring the court when dividing property to "divest and transfer the title of any such property accordingly". The revised language, more accurately reflecting current practice, requires the court to direct that title to be transferred as necessary, in accordance with the property division.

3. Subsection (5) (b) is new. It is intended to alert parties that additional action on their part may be necessary in order to implement the provisions of the judgment, that a property division judgment generally is not binding on creditors, and that additional action may be necessary to change prior beneficiary designations.

4. Subsection (6) clarifies that a deed consistent with the judgment may be recorded in lieu of the judgment. It replaces the following provision in current s. 767.255 (1), stats.: "A certified copy of the portion of the judgment that affects title to real estate shall be recorded in the office of the register of deeds of the county in which the lands so affected are situated."

15 **SECTION 233.** 767.62 of the statutes is renumbered 767.805, and 767.805 (2) (b),
16 (3) (b), (4) (intro.), (a) and (b), (5) (b) and (6) (b), as renumbered, are amended to read:

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1 767.805 **(2)** (b) If a statement acknowledging paternity is timely rescinded as
2 provided in s. 69.15 (3m), a court ~~or circuit court commissioner~~ may not enter an
3 order specified in sub. (4) with respect to the ~~man~~ male who signed the statement as
4 the father of the child unless the ~~man~~ male is adjudicated the child's father using the
5 procedures set forth in ~~ss. 767.45 to 767.60~~ this subchapter, except for this section.

6 **(3)** (b) Except as provided in s. ~~767.045~~ 767.407, in an action specified in par.
7 (a) the court ~~or a circuit court commissioner~~ may appoint a guardian ad litem for the
8 child and shall appoint a guardian ad litem for a party who is a minor, unless the
9 minor party is represented by an attorney.

10 **(4)** ORDERS WHEN PATERNITY ACKNOWLEDGED. (intro.) In an action under sub. (3)
11 (a), if the persons who signed and filed the statement acknowledging paternity as
12 parents of the child had notice of the hearing, the court ~~or circuit court commissioner~~
13 shall make an order that contains all of the following provisions:

14 (a) Orders for the legal custody of and periods of physical placement with the
15 child, determined in accordance with s. ~~767.24~~ 767.41.

16 (b) An order requiring either or both of the parents to contribute to the support
17 of any child of the parties who is less than 18 years old, or any child of the parties who
18 is less than 19 years old if the child is pursuing an accredited course of instruction
19 leading to the acquisition of a high school diploma or its equivalent, determined in
20 accordance with s. ~~767.25~~ 767.511.

21 **(5)** (b) If a court in a proceeding under par. (a) determines that the ~~man~~ male
22 is not the father of the child, the court shall vacate any order entered under sub. (4)
23 with respect to the ~~man~~ male. The court or the county child support agency under
24 s. 59.53 (5) shall notify the state registrar, in the manner provided in s. 69.15 (1) (b),
25 to remove the ~~man's~~ male's name as the father of the child from the child's birth

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1 certificate. No paternity action may thereafter be brought against the ~~man~~ male
2 with respect to the child.

3 **(6)** (b) Parties who signed and filed a statement acknowledging paternity
4 before April 1, 1998, may sign and file a new statement that fulfills the requirements
5 under par. (a). ~~Such a~~ The new statement supersedes any statement previously filed
6 with the state registrar and has the effects specified in this section.

7 **SECTION 234.** Subchapter VIII (title) of chapter 767 [precedes 767.70] of the
8 statutes is created to read:

9 **CHAPTER 767**

10 **SUBCHAPTER VIII**

11 **ENFORCEMENT**

12 **SECTION 235.** 767.71 of the statutes is created to read:

13 **767.71 Reconciling percentage-expressed support orders. (1) REQUEST**
14 **FOR DETERMINATION.** (a) In this section, “support order” means an order for child
15 support under this chapter or s. 948.22 (7), an order for family support under this
16 chapter, or a stipulation approved by the court for child support under this chapter.

17 (b) If a support order is or has been expressed as a percentage of parental
18 income, a party, including the state or a county child support agency under s. 59.53
19 (5) if the state is a real party in interest under s. 767.205 (2) (a), may request a
20 determination under this section of the amount due under the order. The court may
21 determine the amount due and, if ordered by the court, the county child support
22 agency shall reconcile the amount due with payments actually made to determine
23 if an arrearage exists.

24 **(2) NOTICE AND AFFIDAVIT.** (a) The party seeking the determination under this
25 section shall file with the court a notice of reconciliation of account and a supporting

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1 affidavit. No later than 3 business days after filing, the party seeking the
2 determination shall serve the notice and affidavit on all other parties, including the
3 child support agency if the state is a real party in interest, by sending the notice and
4 affidavit by regular mail to the last-known address provided under s. 767.58 (2),
5 pursuant to s. 767.70.

6 (b) The notice of reconciliation of account shall include all of the following:

7 1. The period of time for which the reconciliation is sought.

8 2. A statement that, unless a party requests a hearing no later than 20 business
9 days after the date of the notice, the court may enter an order determining the
10 amount due under the percentage-expressed order and may enter a repayment order
11 that applies if the reconciliation of the amount due with payments made results in
12 an arrearage.

13 3. The mailing address to which the request for a hearing must be delivered or
14 mailed to schedule a hearing under sub. (3).

15 (c) The supporting affidavit shall state the facts supporting a reasonable basis
16 for determining the payer's income during the period of time for which the
17 reconciliation is sought.

18 **(3) IF HEARING HELD.** (a) Within 10 business days after receiving a timely
19 request for a hearing, the court shall set the matter for hearing. The court shall send
20 notice of the date, time, and location of the hearing to the parties by regular mail at
21 their last-known addresses.

22 (b) At the hearing, the court may establish the appropriate charge under the
23 percentage order by determining the amount of the payer's income that is subject to
24 the percentage-expressed order during the period for which reconciliation is sought
25 and applying the ordered percentage to that amount. The court may enter a

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1 repayment order that becomes effective if the reconciliation of the amount due with
2 payments made results in an arrearage.

3 **(4) IF NO HEARING.** If no party requests a hearing, the court shall review the
4 supporting affidavit within 60 days of filing. If the court finds that the affidavit
5 contains a reasonable basis for determining the payer's income during the period for
6 which reconciliation is sought, the court may enter an order determining the amount
7 due under the percentage-expressed order and may enter a repayment order that
8 becomes effective if the reconciliation of the amount due with payments made results
9 in an arrearage. The court shall send the order to the parties by regular mail to their
10 last-known addresses.

11 **(5) ENFORCEMENT.** Any arrearage that exists as a result of the reconciliation of
12 the amount due with payments made may be enforced under ch. 49 or this chapter.

NOTE: Recreates current s. 767.293:

(a) For improved clarity.

(b) To relieve courts and court commissioners from determining the amount of any arrearage that may exist. Instead, that determination is made by the county child support agency, which is in a better position to make the often difficult calculations necessary to reconcile charges against payments made.

13 **SECTION 236.** 767.73 (1) (title), (4) (title) and (5) (title) of the statutes are
14 created to read:

15 767.73 **(1)** (title) AUTHORITY TO SUSPEND.

16 **(4)** (title) APPLICATION TO PAST ARREARAGES.

17 **(5)** (title) RELATIONSHIP TO OTHER REMEDIES.

18 **SECTION 237.** 767.75 (title), (2m) (title), (3m) (title), (6m) (title), (7) (title) and
19 (7m) (title) of the statutes are created to read:

20 767.75 (title) **Assignment of income for payment obligations.**

21 **(2m)** (title) UNPAID RECEIVING AND DISBURSING FEES; ASSIGNMENT.

22 **(3m)** (title) ASSIGNMENT OF UNEMPLOYMENT COMPENSATION BENEFITS.

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1 **(6m)** (title) CONVERSION OF CERTAIN SUPPORT ORDERS TO FIXED AMOUNT.

2 **(7)** (title) RECEIPT OF MORE THAN ONE NOTICE OF ASSIGNMENT.

3 **(7m)** (title) CHANGE IN PAYROLL PERIOD.

4 **SECTION 238.** 767.76 (2) (title), (3) (title), (4) (title) and (6) (title) of the statutes
5 are created to read:

6 767.76 **(2)** (title) TRANSFER OF FUNDS BY FINANCIAL INSTITUTIONS.

7 **(3)** (title) PRIORITY OF TRANSFER AUTHORIZATION.

8 **(4)** (title) REVOCATION OF TRANSFER AUTHORIZATION.

9 **(6)** (title) LIABILITY IMMUNITY.

10 **SECTION 239.** 767.77 (4) (title) of the statutes is created to read:

11 767.77 **(4)** (title) INFORMATION ON BOAT OWNERSHIP.

12 **SECTION 240.** Subchapter IX of chapter 767 [precedes 767.80] of the statutes
13 is created to read:

14 **CHAPTER 767**

15 **SUBCHAPTER IX**

16 **PATERNITY**

17 **SECTION 241.** 767.80 (2) (title), (3) (title), (4) (title), (5) (title), (6) (title) and (6r)
18 (title) of the statutes are created to read:

19 767.80 **(2)** (title) CERTAIN AGREEMENTS NOT A BAR TO ACTION.

20 **(3)** (title) STAY IF ACTION BEFORE BIRTH.

21 **(4)** (title) CHILD AS PARTY.

22 **(5)** (title) PETITION.

23 **(6)** (title) WHICH ATTORNEY REPRESENTS STATE.

24 **(6r)** (title) RESPONSIBILITIES OF ATTORNEY UPON REFERRAL.

25 **SECTION 242.** 767.805 (1m) of the statutes is created to read:

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1 767.805 (1m) MINOR PARENT MAY NOT SIGN. A minor may not sign a statement
2 acknowledging paternity.

 NOTE: Prohibits minor parents from signing voluntary paternity
 acknowledgments. Based on a recommendation of the paternity reform committee. The
 reform committee noted: (1) minors need the protection of a guardian ad litem to explain
 their rights and responsibilities; and (2) the parents of the minor do not necessarily have
 the same interests as the minor and therefore may not be able to provide such protection.

3 **SECTION 243.** 767.813 (5) (b) and (c) of the statutes are created to read:

4 767.813 (5) (b) *Alleged father as petitioner:*

5 STATE OF WISCONSIN, CIRCUIT COURT:COUNTY

6 _____

7 In re the Paternity of A. B.

8 C. D. (Alleged Father–Petitioner)

9 Address

10 City, State Zip Code File No. ...

11 , Petitioner

12 vs. SUMMONS

13 E. F.

14 Address (Case Classification Type):.... (Code No.)

15 City, State Zip Code

16 , Respondent

17 _____

18 THE STATE OF WISCONSIN, To the Respondent:

19 1. You have been sued. The petitioner claims that he may be the father of
20 the child, born on (date), in (city) (county) (state). You must appear to answer
21 this claim of paternity. Your court appearance is:

22 Date:

23 Time:

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1 Room:

2 Judge or Circuit Court Commissioner:

3 Address:

4 2. If you do not appear, the court will enter a default judgment finding the
5 petitioner to be the father. If you plan to be represented by an attorney, you should
6 contact the attorney prior to the court appearance listed above.

7 3. The County Clerk of Circuit Court is an equal opportunity service
8 provider. If you need assistance to access services in the court or need material in
9 an alternate format, please call

10 Dated:, (year)

11 Signed:....

12 G. H., Clerk of Circuit Court

13 or

14 Petitioner’s Attorney

15 State Bar No.:

16 Address:

17 City, State Zip Code:

18 Phone No.:

19 (c) *Nonparent as petitioner.*

20 STATE OF WISCONSIN,

CIRCUIT COURT:COUNTY

21 _____

22 In re the Paternity of A. B.

23 C. D. (Nonparent–Petitioner)

24 Address

25 City, State Zip Code

File No. ...

SENATE BILL 123

1 , Petitioner

2 vs.

S U M M O N S

3 E. F.

4 Address (Case Classification Type):... (Code No.)

5 City, State Zip Code

6 , Respondent

7

8 THE STATE OF WISCONSIN, To the Respondent

9 1. You have been sued. The petitioner claims that is the mother and
10 may be the father of the child, born on (date), in (city) (county) (state). You
11 must appear to answer this claim of paternity. Your court appearance is:

12 Date:

13 Time:

14 Room:

15 Judge or Circuit Court Commissioner:

16 Address:

17 2. If you do not appear, the court may enter a default judgment finding to
18 be the father. If you plan to be represented by an attorney, you should contact the
19 attorney prior to the court appearance listed above. If you are alleged to be the father
20 and you are unable to afford an attorney, the court will appoint one for you only upon
21 genetic tests showing that you are not excluded as the father and the probability of
22 your being the father is less than 99.0 percent.

23 3. The County Clerk of Circuit Court is an equal opportunity service
24 provider. If you need assistance to access services in the court or need material in
25 an alternate format, please call

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1 Dated:, (year)

2 Signed:.....

3 G. H., Clerk of Circuit Court

4 or

5 Petitioner’s Attorney

6 State Bar No.:

7 Address:

8 City, State Zip Code:

9 Phone No.:

NOTE: Creates statutory summons forms for father and nonparent petitioners in paternity actions. These forms are in addition to the current “mother as petitioner” form in s. 767.455 (5), stats. [renumbered s. 767.813 (5) in this bill].

10 **SECTION 244.** 767.813 (5g) of the statutes is created to read:

11 767.813 (5g) NOTICE. The notice to parties shall be attached to the summons.
12 The notice shall be in boldface type and in substantially the following form:

13 NOTICE TO PARTIES

14 1. You are a party to a petition for paternity. A judgment of paternity legally
15 designates the child in the case to be a child of the man found to be the father. It
16 creates a legally recognized parent–child relationship between the man and the
17 child. It creates the right of inheritance for the child, and obligates the man to
18 support the child until the child reaches the age of 18, or the age of 19 if the child is
19 enrolled full–time in high school or its equivalent. The failure by either parent to pay
20 court–ordered support is punishable by imprisonment as a contempt of court or as
21 a criminal violation.

22 2. A party to a paternity case has the right to be represented by an attorney.
23 If you are unable to afford an attorney and you are a man who is named as the

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1 possible father of a child in a paternity case, the court will appoint an attorney for
2 you only if the results of one or more genetic tests show that you are not excluded as
3 the father and that the statistical probability of your being the father is less than 99.0
4 percent. In order to determine whether you are entitled to have an attorney
5 appointed for you, you may call the following telephone number

6 3. The petitioner in this case has the burden of proving by a clear and
7 satisfactory preponderance of the evidence whether the man named as the possible
8 father is the father. However, if genetic tests show that the man named is not
9 excluded as the father, and show that the statistical probability that the man is the
10 father is 99.0 percent or higher, that man is rebuttably presumed to be the father.

11 4. You may request genetic tests which will indicate the probability that the
12 man named as the possible father is or is not the father of the child. The court will
13 order genetic tests on a request by you, the state, or any other party. Any person who
14 refuses to take court-ordered genetic tests may be punished for contempt of court.

15 5. The following defenses are available in a paternity case:

16 (a) The man named as a possible father of the child may claim that he was
17 sterile or impotent at the time of conception.

18 (b) The mother may claim that she, or the man named as a possible father may
19 claim that he, did not have sexual intercourse with the other party during the
20 conceptive period (generally the period 8 to 10 months before the birth of the child).

21 (c) The mother or the man named as a possible father may claim that another
22 man had sexual intercourse with the mother during the conceptive period.

23 6. You have the right to request a jury trial on the issue of whether the named
24 man is the father.

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1 7. If you fail to appear at any stage of the proceeding, including a scheduled
2 court-ordered genetic test, the court may enter a default judgment finding the man
3 claimed to be the father as the father.

4 8. You must keep the clerk of court and child support agency informed of your
5 current address at all times.

NOTE: Replaces the current statutory form for “Notice to Respondent” in a paternity action with a general “Notice to Parties” statutory form. In addition to making the notice form a general form for all parties, this SECTION revises the form to:

1. Replace the current phrase indicating that a judgment of paternity “grants parental rights to that man” with a statement that the judgment “creates a legally recognized parent-child relationship between the man and the child”.

2. Revise the phrase “failure to pay child support” in item 1 in the Notice to read “failure by either parent to pay court-ordered support”.

3. Clarify that the right to request a jury trial in item 6 in the Notice refers to a jury trial “on the issue of whether the named man is the father”.

4. Revise item 7 in the Notice to delete statements relating to the effective date of a default judgment (under the bill, a default judgment takes effect immediately) and waiver of first appearance (waiver of first appearance provisions are repealed in the bill).

5. Specify that the party must keep the child support agency, as well as the clerk of court (current law), informed of current address.

6 **SECTION 245.** 767.814 of the statutes is created to read:

7 **767.814 Names on pleadings after paternity determined.** After paternity
8 is determined by the court in an action or proceeding under this subchapter, any
9 papers filed in, and any records of, the court relating to the action or proceeding may
10 identify the parties by name instead of by initials.

NOTE: Permits the use of names rather than initials on pleadings and other court findings and court records once paternity is determined. Based on a recommendation of the paternity reform committee.

11 **SECTION 246.** 767.815 (1) (title) and (2) (title) of the statutes are created to read:

12 767.815 **(1)** (title) GOOD CAUSE.

13 **(2)** (title) REASONABLE GROUNDS; DUE DILIGENCE.

14 **SECTION 247.** 767.82 (1) (title), (2) (title), (3) (title), (4) (title), (5) (title), (6)
15 (title), (7) (title) and (8) (title) of the statutes are created to read:

16 767.82 **(1)** (title) APPOINTMENT OF GUARDIAN AD LITEM.

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- 1 **(2)** (title) PRESUMPTION.
- 2 **(3)** (title) TIME OF CONCEPTION; EVIDENCE.
- 3 **(4)** (title) DISCOVERY.
- 4 **(5)** (title) STATUTE OF LIMITATIONS.
- 5 **(6)** (title) ARREST.
- 6 **(7)** (title) APPOINTMENT OF TRUSTEE OR GUARDIAN.
- 7 **(8)** (title) PROCEDURES APPLICABLE TO OTHER MATTERS IN ACTION.
- 8 **SECTION 248.** 767.83 (2) (title) of the statutes is created to read:
- 9 767.83 **(2)** (title) EXTENT OF APPOINTED ATTORNEY'S REPRESENTATION.
- 10 **SECTION 249.** 767.84 (1) (title) of the statutes is created to read:
- 11 767.84 **(1)** (title) WHEN TEST ORDERED; REPORT.
- 12 **SECTION 251.** 767.84 (1m) (title), (2) (title), (3) (title), (5) (title), (6) (title) and
- 13 (7) (title) of the statutes are created to read:
- 14 767.84 **(1m)** (title) REBUTTABLE PRESUMPTION.
- 15 **(2)** (title) INDEPENDENT TESTS.
- 16 **(3)** (title) NUMBER AND QUALIFICATIONS OF EXPERTS.
- 17 **(5)** (title) FEES AND COSTS.
- 18 **(6)** (title) CALLING CERTAIN WITNESSES; NOTICE.
- 19 **(7)** (title) NOTICE OF RIGHT TO TESTS.
- 20 **SECTION 252.** 767.85 (1) (title) of the statutes is created to read:
- 21 767.85 **(1)** (title) WHEN REQUIRED.
- 22 **SECTION 253.** 767.853 (1) (title) and (2) (title) of the statutes are created to read:
- 23 767.853 **(1)** (title) PENDING PROCEEDING.
- 24 **(2)** (title) INFORMATION TO DEPARTMENT.
- 25 **SECTION 254.** 767.863 (3) (title) of the statutes is created to read:

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1 767.863 **(3)** (title) ORDERS IF STATEMENT ON FILE.

2 **SECTION 255.** 767.865 (1) (title) of the statutes is created to read:

3 767.865 **(1)** (title) WHO MAY APPEAR.

4 **SECTION 256.** 767.865 (1) (b) of the statutes is created to read:

5 767.865 **(1)** (b) If the court determines that it is appropriate, the court may
6 appoint a guardian ad litem for the deceased respondent for purposes of par. (a).
7 Section 767.407 (3) and (5) applies to the guardian ad litem. The guardian ad litem
8 shall represent the interests of the deceased respondent. The guardian ad litem shall
9 be compensated at a rate that the court determines is reasonable. The court shall
10 order the compensation to be paid from the deceased respondent's estate. If the
11 moneys in the estate are not sufficient to pay all or part of the compensation, the
12 court may direct that the county of venue pay the compensation. If the court orders
13 a county to pay the compensation of the guardian ad litem, the amount ordered may
14 not exceed the compensation paid to private attorneys under s. 977.08 (4m) (b).

NOTE: See the note to SEC. 257 of this bill.

15 **SECTION 257.** 767.865 (2) of the statutes is created to read:

16 767.865 **(2)** GENETIC TESTS. If genetic material is available, without undue
17 hardship, from a deceased respondent or a relative of the deceased respondent in an
18 action for paternity, genetic tests shall be administered in accordance with s. 767.84.
19 There is a rebuttable presumption that exhumation of the deceased respondent's
20 body to obtain the genetic material for testing is an undue hardship under this
21 subsection.

NOTE: SECTIONS 256 and 257 of this bill are based on a recommendation of the
paternity reform committee.

1. SECTION 256 permits the appointment of a guardian ad litem to represent a
deceased respondent when there is no personal representative and requires the guardian
ad litem to receive service of the summons and petition. The reform committee's
recommendation to appoint a guardian ad litem for "a deceased respondent who is the

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alleged father” is expanded to include any deceased respondent. See, also, SEC. 200 of this bill.

2. SECTION 257 requires genetic tests if genetic material is available, without undue hardship, from the deceased or his relatives. Exhumation is rebuttably presumed an undue hardship.

1 **SECTION 258.** 767.87 (1) (title), (1m) (title), (2) (title), (2m) (title), (4) (title), (5)
2 (title), (6) (title), (7) (title), (8) (title), (9) (title), (10) (title) and (11) (title) of the
3 statutes are created to read:

4 767.87 **(1)** (title) GENERALLY.

5 **(1m)** (title) BIRTH RECORD REQUIRED.

6 **(2)** (title) ADMISSIBILITY OF SEXUAL RELATIONS BY MOTHER.

7 **(2m)** (title) ADMISSIBILITY OF CERTAIN MEDICAL AND GENETIC INFORMATION.

8 **(4)** (title) IMMUNITY.

9 **(5)** (title) REFUSAL TO TESTIFY OR PRODUCE EVIDENCE.

10 **(6)** (title) WHEN MOTHER NOT COMPELLED TO TESTIFY.

11 **(7)** (title) CERTAIN TESTIMONY OF PHYSICIAN NOT PRIVILEGED.

12 **(8)** (title) BURDEN OF PROOF.

13 **(9)** (title) ARTIFICIAL INSEMINATION; NATURAL FATHER.

14 **(10)** (title) RECORD OF MOTHER'S TESTIMONY ADMISSIBLE.

15 **(11)** (title) RELATED COSTS ADMISSIBLE.

16 **SECTION 259.** 767.88 (2) (title), (3) (title), (4) (title), (5) (title) and (6) (title) of
17 the statutes are created to read:

18 767.88 **(2)** (title) COURT EVALUATION AND RECOMMENDATION.

19 **(3)** (title) ACCEPTANCE OF RECOMMENDATION; JUDGMENT.

20 **(4)** (title) RECOMMENDATION REFUSED AND NO TESTS TAKEN.

21 **(5)** (title) FINAL RECOMMENDATION NOT ACCEPTED; TRIAL.

22 **(6)** (title) TERMINATION OF INFORMAL HEARING.

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1 **SECTION 260.** 767.883 (2) (title) of the statutes is created to read:

2 767.883 **(2)** (title) JURY SIZE; VERDICT.

3 **SECTION 261.** 767.89 (1) (title), (3) (title), (3m) (title), (4) (title) and (7) (title)
4 of the statutes are created to read:

5 767.89 **(1)** (title) EFFECT OF JUDGMENT OR ORDER.

6 **(3)** (title) CONTENT OF JUDGMENT OR ORDER.

7 **(3m)** (title) CHANGE OF CHILD'S NAME.

8 **(4)** (title) LIABILITY FOR PAST SUPPORT.

9 **(7)** (title) PREPARATION OF FINAL PAPERS.

10 **SECTION 262.** 767.893 (2) (b) 2. of the statutes is created to read:

11 767.893 **(2)** (b) 2. The alleged father who fails to appear has had genetic tests
12 under s. 49.225 or 767.84 showing that the alleged father is not excluded and that
13 the statistical probability of the alleged father's parentage is 99.0 percent or higher.

NOTE: Authorizes the court to enter a default judgment when an alleged father has a genetic test result of 99% or higher, even though there may be another untested alleged father. Based on a recommendation of the paternity reform committee.

14 **SECTION 263.** 808.075 (4) (d) 13. of the statutes is amended to read:

15 808.075 **(4)** (d) 13. Determination of ~~arrearages under s. 767.293~~ charges and
16 issuance of repayment orders under s. 767.71.

17 **SECTION 264.** 814.615 (1) (a) (intro.) and (2) of the statutes are amended to read:

18 814.615 **(1)** (a) (intro.) Except as provided under sub. (2), for family court
19 counseling services provided under s. ~~767.11~~ 767.405 a county shall collect the
20 following fees:

21 **(2)** In lieu of the fee under sub. (1) (a) 2. or 3., a county may establish a fee
22 schedule to recover its reasonable costs of providing family court ~~counseling~~ services
23 under s. ~~767.11~~ 767.405. A fee schedule established under this subsection may apply

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1 in lieu of the fee under sub. (1) (a) 2. or 3. or both, and shall require no fee for the first
 2 mediation session conducted upon referral under s. ~~767.11~~ 767.405 (5); provide for
 3 payment for any other services based on the parties' ability to pay; and take into
 4 account the fees the county collects under s. 814.61 (1) (b) and (7) (b). Fees shall be
 5 based on services actually provided. The county may not collect a single fee
 6 applicable without regard to the number of sessions or services provided. Subject to
 7 sub. (3), the county shall provide family court ~~counseling~~ services to the parties even
 8 if both parties are unable to pay.

9 **SECTION 265. Cross-reference changes.** In the sections of the statutes
 10 listed in Column A, the cross-references shown in Column B are changed to the
 11 cross-references shown in column C:

A Statute Sections	B Old Cross-Reference	C New Cross-Reference
20.445 (3) (ja)	767.29 (1) (dm) 1m.	767.57 (1e) (b) 1m.
20.445 (3) (ja) and (kp)	767.29 (1) (d)	767.57 (1e) (a)
20.445 (3) (q) and (r)	767.265 and 767.29	767.57 and 767.75
20.445 (3) (r)	767.02 (1)	767.001 (1)
20.921 (2) (a)	767.23 (1) (L), 767.25 (4m) (c), or 767.265	767.225 (1) (L), 767.513 (3), or 767.75
25.68 (2)	767.265 and 767.29	767.57 and 767.75
25.68 (3)	767.02 (1)	767.001 (1)
40.08 (1c)	767.265	767.75
40.08 (1m) (k) 1.	767.32 (1) (a)	767.59 (1c) (b)

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1	40.08 (1m) (k) 1.	767.255	767.61
2	46.03 (3)	767.475 (7)	767.82 (7)
3	48.02 (13)	767.60	767.803
4	48.02 (13)	767.62 (1)	767.805
5	48.025 (1)	767.60	767.803
6	48.235 (4) (a) 7m. and	767.45	767.80
7	(4m) (a) 7m.		
8	48.27 (3) (b) 1. (intro.)	767.60	767.803
9	48.299 (6) (a) and (c),	767.45	767.80
10	and (7)		
11	48.299 (6) (c)	767.475 (7m)	767.82 (7m)
12	48.299 (6) (d) and (8)	ss. 767.45 to 767.60	subch. IX of ch. 767
13	48.396 (2) (dm)	ss. 767.45 to 767.60	subch. IX of ch. 767
14	48.42 (2) (b) (intro.) and	767.60	767.803
15	(4) (b) 2.		
16	48.42 (4) (b) 2.	767.62 (1)	767.805
17	48.422 (6) (a)	767.60	767.803
18	48.432 (1) (am) 2. b.	767.60	767.803
19	48.837 (4) (e)	767.62 (1)	767.805
20	48.91 (2)	767.60	767.803
21	48.91 (2)	767.62 (1)	767.805
22	48.981 (2) (a) 17.	767.11	767.405

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1	48.981 (7) (b)	767.24 or 767.325	767.41 or 767.451
2	49.141 (1) (j) 4.	767.60	767.803
3	49.19 (4) (d) 6.	767.23	767.225
4	49.19 (4) (d) 7.	767.08	767.501
5	49.225 (2) (b)	767.45	767.80
6	49.299 (6) (b)	767.45 (5) (c) and (6r)	767.80 (5) (c) and (6r)
7	49.36 (3) (a)	767.295 (2) (a)	767.55 (2) (am)
8	49.79 (2) (a) 2.	767.45	767.80
9	49.855 (1)	767.29 (1) (d)	767.57 (1e) (a)
10	49.90 (2r)	767.02 (1) (f) or (j) or	767.001 (1) (f) or (j) or
11		767.08	767.501
12	49.90 (2r)	767.45 (1)	767.80 (1)
13	49.90 (10)	767.25	767.511
14	49.90 (11)	ss. 767.45 to 767.60	subch. IX of ch. 767
15	51.30 (5) (bm)	767.24 (4) (b) or 767.325	767.41 (4) (b) or 767.451
16		(4)	(4)
17	55.07 (2)	767.24 (4) (b) or 767.325	767.41 (4) (b) or 767.451
18		(4)	(4)
19	59.53 (5) (b)	767.29 (1)	767.57 (1)
20	59.53 (6) (b)	767.075, 767.08, and	767.205 (2), 767.501, and
21		767.45	767.80
22	62.63 (4)	767.265	767.75

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1	66.0137 (4)	767.25 (4m) (d)	767.513 (4)
2	69.15 (3) (b) 2.	767.60	767.803
3	102.27 (2) (a)	767.23 (1) (L), 767.25	767.225 (1) (L), 767.513
4		(4m) (c), 767.265 (1), or	(3), 767.75 (1), or (2m)
5		(2m)	
6	115.76 (12) (a) 4.	ss. 767.45 to 767.51	subch. IX of ch. 767
7	118.125 (2) (m)	767.24 (4)	767.41 (4)
8	120.13 (2) (g)	767.25 (4m) (d)	767.513 (4)
9	146.34 (1) (f)	767.60	767.803
10	146.835	767.24 (4) (b) or 767.325	767.41 (4) (b) or 767.451
11		(4)	(4)
12	215.26 (8) (dm)	767.267 (5)	767.76 (5)
13	343.10 (1) (a) and (5) (b)	767.303	767.73
14	343.30 (5)	767.303	767.73
15	565.30 (5m) (a)	767.265	767.75
16	565.30 (5m) (a)	767.02 (1) (f) or (g),	767.001 (1) (f) or (g),
17		767.10, 767.23, 767.25,	767.225, 767.34,
18		767.26, 767.261,	767.511, 767.531,
19		767.458 (3), 767.465	767.56, 767.805 (4),
20		(2m), 767.477, 767.51	767.85, 767.863 (3),
21		(3), 767.62 (4)	767.89 (3), 767.893
22			(2m)

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1	632.897 (10) (a) 3.	767.25 (4m)	767.513
2	757.48 (1) (a)	767.045	767.407
3	758.19 (5) (a) 2.	767.045 (6)	767.407 (6)
4	765.02 (2)	767.23 (1) or 767.24	767.225 (1) or 767.41
5	765.15	767.11	767.405
6	765.23	767.60	767.803
7	766.58 (3) (f)	767.266 (1)	767.375 (1)
8	766.587 (5)	767.255	767.61
9	766.587 (5)	767.26	767.56
10	766.588 (6) (b)	767.255	767.61
11	766.588 (6) (c)	767.26	767.56
12	766.589 (6) (b)	767.255	767.61
13	766.589 (6) (c)	767.26	767.56
14	766.70 (4) (a) 3.	767.255 and 767.26	767.56 and 767.61
15	766.73	767.255	767.61
16	769.302	767.045 (1)	767.407 (1)
17	769.302	767.475 (1)	767.82 (1)
18	769.605 (3)	767.265 (2r)	767.75 (2r)
19	778.30 (1) (d)	767.265 (4)	767.75 (4)
20	785.01 (1) (bm)	767.087 (1)	767.117 (1)
21	786.36 (1) (c)	767.60	767.803
22	801.07 (5)	767.02 (1) (a) to (d)	767.001 (1) (a) to (d)

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1	801.07 (5)	767.05 (1m)	767.301
2	802.12 (3) (c) 1.	767.255	767.61
3	802.12 (3) (c) 2.	767.26	767.56
4	802.12 (3) (c) 3.	767.262	767.241
5	802.12 (3) (c) 4.	767.32	767.59
6	802.12 (3) (d) 1.	767.24, 767.458 (3),	767.41, 767.805 (4),
7		767.51 (3), or 767.62 (4)	767.863 (3), or 767.89
8			(3)
9	802.12 (3) (d) 2.	767.245	767.43
10	802.12 (3) (d) 3.	767.25, 767.458 (3),	767.511, 767.805 (4),
11		767.51, or 767.62 (4)	767.863 (3), or 767.89
12			(3)
13	802.12 (3) (d) 4.	767.32 or 767.325	767.451 or 767.59
14	802.12 (3) (e) 3.	767.045, 767.11, and	767.405, 767.407, and
15		767.24	767.41
16	802.12 (3) (e) 4.	767.045, 767.11, and	767.405, 767.407, and
17		767.245	767.43
18	802.12 (3) (e) 5.	767.25 or 767.51	767.511 or 767.89
19	803.01 (3) (b) 2.	767.045 (1) (c)	767.407 (1) (c)
20	808.075 (4) (d) 1.	767.24, 767.325,	767.41, 767.451,
21		767.327, or 767.329	767.461, or 767.481
22	808.075 (4) (d) 2.	767.245	767.43

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1	808.075 (4) (d) 3.	767.33	767.553
2	808.075 (4) (d) 4.	767.32 or 767.51	767.59 or 767.89
3	808.075 (4) (d) 5.	767.39	767.273
4	808.075 (4) (d) 7.	767.37 (2)	767.35 (6)
5	808.075 (4) (d) 8.	767.38	767.35 (7)
6	808.075 (4) (d) 9.	767.30, 767.51, or 767.62	767.77, 767.805 (4), or
7		(4)	767.89
8	808.075 (4) (d) 10.	767.305, 767.51, or	767.78, 767.805 (4), or
9		767.62 (4)	767.89
10	808.075 (4) (d) 11.	767.25 (4m) or 767.265	767.513 or 767.75
11	808.075 (4) (d) 12.	767.267	767.76
12	812.39 (2)	767.265	767.75
13	813.06	767.23	767.225
14	813.12 (2) (b)	767.23 or 767.24	767.225 or 767.41
15	813.122 (5) (e) and (6) (a)	767.25	767.511
16	4.		
17	814.04 (intro.)	767.33 (4) (d)	767.553 (4) (d)
18	814.61 (1) (b)	767.02	767.001 (1)
19	814.61 (1) (b)	767.11	767.405
20	814.61 (1) (c) 1.	767.45 (1) (g) or (h)	767.80 (1) (g) or (h)
21	814.61 (1) (c) 1.	767.045 (1) (c)	767.407 (1) (c)
22	814.61 (7) (a)	767.32 (1)	767.59 (1c) (a)

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1	814.61 (7) (b)	767.325 or 767.327	767.451 or 767.481
2	814.61 (7) (b)	767.11	767.405
3	814.61 (7) (c)	767.045 (1) (c)	767.407 (1) (c)
4	814.61 (7) (c)	767.045 (1) (c) 1. or 2.	767.407 (1) (c) 1. or 2.
5	814.61 (7) (c)	767.45 (1) (g)	767.80 (1) (g)
6	814.615 (1) (a) 1.	767.11 (5)	767.405 (5)
7	814.615 (1) (a) 3.	767.11 (14)	767.405 (14)
8	814.615 (4)	767.11	767.405
9	852.05 (2)	767.62 (1)	767.805
10	852.05 (3)	767.60	767.803
11	854.15 (6)	767.266 (1)	767.375 (1)
12	885.23	767.48	767.84
13	895.035 (1) (a)	767.10	767.34
14	895.035 (1) (a)	767.23 or 767.24	767.225 or 767.41
15	895.73 (2)	767.24	767.41
16	904.085 (2) (a)	767.11	767.405
17	904.085 (4) (b)	767.11 (14) (c)	767.405 (14) (c)
18	905.04 (4) (g)	ss. 767.45 to 767.53	subch. IX of ch. 767
19	938.02 (13)	767.60	767.803
20	938.02 (13)	767.62 (1)	767.805
21	938.235 (4) (a) 7m.	767.45	767.80
22	938.27 (3) (b) 1. (intro.)	767.60	767.803

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1	938.299 (6) (a) and (c)	767.45	767.80
2	and (7)		
3	938.299 (6) (b)	767.45 (5) (c) and (6r)	767.80 (5) (c) and (6r)
4	938.299 (6) (c)	767.475 (7m)	767.82 (7m)
5	938.299 (6) (d) and (8)	ss. 767.45 to 767.60	subch. IX of ch. 767
6	938.396 (2) (g)	ss. 767.45 to 767.60	subch. IX of ch. 767
7	948.22 (7) (b) 2.	767.25 or 767.51	767.511 or 767.89
8	948.22 (7) (b) 2. and (bm)	767.25 (1)	767.511 (1)
9	948.22 (7) (bm)	767.25 (1m)	767.511 (1m)
10	948.22 (7) (c)	767.265	767.75
11	948.22 (7) (c)	767.29	767.57
12	948.22 (7) (c)	767.30	767.77
13	948.31 (2)	767.60	767.803
14	972.085	767.47 (4)	767.87 (4)
15	973.05 (4m)	767.265 (4)	767.75 (4)
16	977.05 (4) (i) 7.	767.045 (1) (c)	767.407 (1) (c)
17	977.05 (4) (i) 7.	767.45 (1) (g)	767.80 (1) (g)
18	977.05 (4) (i) 7.	767.52	767.83
19	977.05 (6) (b) (intro.)	767.30 or 767.305	767.77 or 767.78
20	977.05 (6) (b) 1.	767.045 (1) (c)	767.407 (1) (c)
21	977.08 (2) (h)	767.52	767.83

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1	978.06 (6)	767.075, 767.08, or	767.205 (2), 767.501, or
2		767.45	767.80
3	990.01 (19m) (b) and	767.60	767.803
4	(23m)		

SECTION 266. Initial applicability.

6 (1) The treatment of section 767.027 of the statutes first applies to actions to
7 modify a judgment or order with respect to child support that are commenced on the
8 effective date of this subsection.

9 (2) The treatment of sections 767.085 (1) and 767.215 (5) of the statutes first
10 applies to petitions that are filed on the effective date of this subsection.

11 (3) The treatment of section 767.11 (12) of the statutes first applies to written
12 mediation agreements that are certified by the mediator on the effective date of this
13 subsection.

14 (4) The treatment of section 767.14 of the statutes first applies to actions
15 affecting the family that are commenced on the effective date of this subsection.

16 (5) The treatment of section 767.145 (2) of the statutes first applies to motions
17 for extension of time for service that are made on the effective date of this subsection.

18 (7) The treatment of section 767.265 (2h) and (2m) (b) of the statutes first
19 applies to notices of assignment that are sent on the effective date of this subsection.

20 (8) The treatment of section 767.27 (1) of the statutes first applies to actions
21 affecting the family that are commenced on the effective date of this subsection.

22 (9) The treatment of sections 767.293 and 767.71 of the statutes first applies
23 to determinations sought by notices of reconciliation of account that are filed on the
24 effective date of this subsection.

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1 (9m) The treatment of section 767.295 (2) (c) of the statutes first applies to child
2 support orders that are granted on the effective date of this subsection.

3 (10) The treatment of section 767.37 (1) (a) and (c) and (3) of the statutes first
4 applies to judgments that are granted on the effective date of this subsection.

5 (11) The treatment of sections 767.455 (5), (5g), and (5r), 767.457 (2), 767.459,
6 767.465 (2) (a) and (b) and (2m) (b), 767.475 (2m), 767.48 (1) (a), 767.813 (5) (b) and
7 (c) and (5g), 767.865 (1) (b) and (2), and 767.893 (2) (b) 2. of the statutes first applies
8 to paternity actions that are commenced on the effective date of this subsection.

9 (12) The treatment of section 767.501 (4) of the statutes first applies to actions
10 to compel support or maintenance that are commenced on the effective date of this
11 subsection.

12 (13) The treatment of section 767.61 (4), and (5) of the statutes first applies to
13 judgments granted on the effective date of this subsection.

14 (14) The treatment of section 767.805 (1m) of the statutes first applies to
15 statements acknowledging paternity that are filed on the effective date of this
16 subsection.

17 (15) The treatment of section 767.814 of the statutes first applies to actions or
18 proceedings under subchapter IX of chapter 767 of the statutes in which paternity
19 is determined on the effective date of this subsection.

SECTION 267. Effective date.

20 (1) This act takes effect on January 1, 2007.

21
NOTE: The following list shows the general treatment of provisions of ch. 767 by
this bill. The left-hand column ("current section") lists the current provisions of ch. 767.
The right-hand column ("treatment") shows the general treatment of each provision by
this bill.

SENATE BILL 123**SECTION 267**

<i>Current Section</i>	<i>Treatment</i>
767.001 (1d) to (2m)	No change.
767.001 (3)	Renumbered s. 767.405 (1) (a).
767.001 (4)	Renumbered s. 757.405 (1) (b).
767.001 (5) and (6)	No change.
767.01 (1)	Second sentence relocated to 767.201. Portion of current s. 767.05 (1) added.
767.01 (2)	No change.
767.01 (3)	Renumbered s. 767.80 (1m).
767.02 (1)	Renumbered s. 767.001 (1).
767.02 (2)	Renumbered s. 767.001 (1f) and modernized.
767.025	Renumbered s. 767.281.
767.027	Renumbered s. 767.70; clarified.
767.03	Renumbered s. 767.313 (1) (a) to (d).
767.04	Renumbered s. 767.18.
767.045	Renumbered s. 767.407.
767.05 (1)	Repealed; substance relocated to s. 767.01 (1).
767.05 (1m)	Renumbered s. 767.301.
767.05 (2)	Renumbered s. 767.41 (1) (a).
767.05 (3)	Renumbered s. 767.205 (1).
767.05 (4)	Renumbered s. 767.215 (2e).
767.05 (5)	Renumbered s. 767.205 (3).
767.05 (6)	Renumbered s. 767.264 (1).
767.05 (7)	Renumbered s. 767.331.
767.07	Renumbered s. 767.35 (1).
767.075	Renumbered s. 7767.205 (2).
767.077	Renumbered s. 767.521.
767.078 (1)	Renumbered s. 767.55 (3).
767.078 (2)	Renumbered s. 767.55 (3) (d).
767.08	Renumbered s. 767.501.
767.081	Renumbered s. 767.105.
767.082	Renumbered s. 767.323.
767.083	Renumbered s. 767.335.

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<i>Current Section</i>	<i>Treatment</i>
767.085 (1)	Renumbered s. 767.215 (2); substantively revised.
767.085 (2)	Renumbered s. 767.215 (1).
767.085 (2m) and (3)	Renumbered s. 767.215 (2m) and (3).
767.085 (4)	Renumbered s. 767.317.
767.087	Renumbered s. 767.117.
767.09 (1)	Renumbered s. 767.35 (2) [and (4)].
767.09 (2)	Renumbered s. 767.35 (5).
767.10	Renumbered s. 767.34.
767.11 (1)	Renumbered s. 767.405 (1m).
767.11 (2) to (14)	Renumbered s. 767.405 (2) to (14); sub. (12) (a) substantively revised.
767.11 (15)	Repealed.
767.115 (1)	Renumbered s. 767.401 (1).
767.115 (1m) to (3)	Renumbered s. 767.401 (1) (c) to (e).
767.115 (4)	Renumbered s. 767.401 (2).
767.12 (1)	Renumbered s. 767.235 (1).
767.12 (2) and (3)	Renumbered s. 767.315 (1) and (2).
767.125	Renumbered s. 767.235 (2).
767.14	Repealed.
767.145 (1)	Repealed.
767.145 (2)	Renumbered s. 767.215 (4); substantively revised.
767.15	Renumbered s. 767.217.
767.16	Clarified; obsolete provision removed.
767.19 (1)	Renumbered s. 767.13; substantively revised.
767.19 (2)	Renumbered s. 767.235 (3).
767.20	Renumbered s. 767.395.
767.21	Renumbered s. 767.041.
767.22	Renumbered s. 767.055.
767.23 (1)	Renumbered s. 767.225 (1)
767.23 (1g)	Repealed
767.23 (1m)	Renumbered s. 767.225 (3m).

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<i>Current Section</i>	<i>Treatment</i>
767.23 (1n)	Renumbered s. 767.225 (1n).
767.23 (2)	Renumbered s. 767.225 (2).
767.23 (3)	Renumbered s. 767.264 (2).
767.24 (1)	Renumbered s. 767.41 (1) (b); expanded.
767.24 (1m) to (8)	Renumbered s. 767.41 (1m) to (8).
767.24 (9)	Repealed.
767.242	Renumbered s. 767.471.
767.245	Renumbered s. 767.43.
767.247	Renumbered s. 767.44.
767.25 (1) to (4)	Renumbered s. 767.511 (1) to (4).
767.25 (4m)	Renumbered s. 767.513.
767.25 (5) to (7)	Renumbered s. 767.511 (5) to (7). Sub-section (6) clarified.
767.253	Renumbered s. 767.55 (1).
767.254	Renumbered s. 767.55 (4).
767.255	Renumbered s. 767.61; reorganized and substantively revised.
767.26	Renumbered s. 767.56.
767.261	Renumbered s. 767.531.
767.262	Renumbered s. 767.241.
767.263	Renumbered s. 767.58; sub. (1) clarified.
767.265 (1)	Renumbered s. 767.75 (1) (b) [and (1f)].
767.265 (1m) to (7m)	Renumbered s. 767.75 (1m) to (7m); (2h) and (2m) clarified.
767.265 (8)	Renumbered s. 767.75 (1) (intro.).
767.266	Renumbered s. 767.375.
767.267	Renumbered s. 767.76.
767.27 (1) to (2)	Renumbered s. 767.127 (1) to (2); sub. (1) substantively revised.
767.27 (2m)	Renumbered s. 767.54.
767.27 (3) to (5)	Renumbered s. 767.127 (3) to (5).
767.275	Renumbered s. 767.63.
767.28	Renumbered s. 767.385.
767.29 (1) (a) to (c)	Renumbered s. 767.57 (1) (a) to (c).

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<i>Current Section</i>	<i>Treatment</i>
767.29 (1) (d) and (dm)	Renumbered s. 767.57 (1e) (a) and (b).
767.29 (1) (e)	Renumbered s. 767.57 (1h).
767.29 (1) (f)	Repealed.
767.29 (1m) to (4)	Renumbered s. 767.57 (1m) to (4).
767.293	Repealed. Recreated as s. 767.71 and substantively revised.
767.295 (1) and (2) (a)	Renumbered s. 767.55 (2) (a) and (am).
767.295 (2) (b) and (c)	Renumbered s. 767.55 (2) (b) and (c).
767.30	Renumbered s. 767.77.
767.303	Renumbered s. 767.73.
767.305	Renumbered s. 767.78.
767.31	Renumbered s. 767.57 (5); substantively revised.
767.32	Renumbered s. 767.59. Internally reorganized by subdividing and consolidating.
767.325 (1) to (8)	Renumbered s. 767.451 (1) to (8); sub. (1) (a) (intro.) clarified.
767.325 (9)	Repealed.
767.327 (1) to (6)	Renumbered s. 767.481 (1) to (6).
767.327 (7)	Repealed.
767.329	Renumbered s. 767.461; clarified.
767.33	Renumbered s. 767.553.
767.37 (1) (a)	Renumbered s. 767.251; substantively revised.
767.37 (1) (c)	Renumbered s. 767.36; substantively revised.
767.37 (2)	Renumbered s. 767.35 (6); portion repealed.
767.37 (3)	Renumbered s. 767.35 (3); clarified.
767.38	Renumbered s. 767.35 (7).
767.39 (1)	Renumbered s. 767.273; incorporates substance of current sub. (2).
767.39 (2)	Repealed; substance included in renumbered s. 767.273.
767.40	Renumbered s. 785.07.

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<i>Current Section</i>	<i>Treatment</i>
767.42	Repealed.
767.45	Renumbered s. 767.80.
767.455 (1) to (4)	Renumbered s. 767.813 (1) to (4).
767.455 (5)	Renumbered s. 767.813 (5); expanded.
767.455 (5g)	Repealed; replaced by new s. 767.813 (5g).
767.455 (5r)	Repealed.
767.455 (5w)	Repealed.
767.455 (6)	Renumbered s. 767.813 (6).
767.456	Renumbered s. 767.815.
767.457 (1)	Renumbered s. 767.86.
767.457 (2)	Repealed.
767.458	Renumbered s. 767.863 (1); sub. (1) (intro.) clarified; sub. (1) (a) to (e) repealed.
767.458 (1m) to (3)	Renumbered s. 767.863 (1m) to (3).
767.459	Renumbered s. 767.865 (1) (a).
767.46	Renumbered s. 767.88.
767.463	Renumbered s. 767.855.
767.465	Renumbered s. 767.893; sub. (2) substantively revised; sub. (2m) repealed.
767.466	Renumbered s. 767.895.
767.47	Renumbered s. 767.87.
767.475	Renumbered s. 767.82; sub. (2m) clarified.
767.477	Renumbered s. 767.85.
767.48	Renumbered s. 767.84; sub. (1) (a) 1. substantively revised.
767.50	Renumbered s. 767.883.
767.51	Renumbered s. 767.89.
767.52	Renumbered s. 767.83.
767.53	Renumbered s. 767.853.

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<i><u>Current Section</u></i>	<i><u>Treatment</u></i>
767.60	Renumbered s. 767.803.
767.62	Renumbered s. 767.805; substantively revised.

1

(END)