



SENATE BILL 123 (LRB -1817)

An Act to repeal 767.02 (title), 767.05 (title) and (1), 767.05 (2) (title), 767.078 (title), 767.09 (title), 767.11 (15), 767.14, 767.145 (title) and (1), 767.19 (title), 767.23 (1g), 767.24 (9), 767.253 (title), 767.265 (title), 767.29 (1) (f), 767.293, 767.295 (title), 767.325 (9), 767.327 (7), 767.39 (title), 767.39 (2), 767.42, 767.455 (5g), 767.455 (5r), 767.455 (5w), 767.457 (title), 767.457 (2), 767.458 (1) (a) to (e) and 767.465 (2m) (b); to renumber 767.001 (3) and (4), 767.025 (2) and (4), 767.03 (title), 767.05 (7), 767.07 (title), 767.085 (4), 767.19 (2), 767.20, 767.23 (1m), 767.24 (title), 767.24 (1) (title), 767.266, 767.305 (title), 767.32 (2r), 767.455 (title) and (1) to (4), 767.456, 767.458 (title), 767.465 (2m) (c), (3) and (4), 767.466 and 767.48 (title); to renumber and amend 767.01 (3), 767.015, 767.02 (1), 767.02 (2), 767.025 (title), 767.025 (intro.), 767.025 (1), 767.027, 767.03, 767.04, 767.045, 767.05 (1m), 767.05 (2), 767.05 (3), 767.05 (4), 767.05 (5), 767.05 (6), 767.07, 767.075, 767.077, 767.078 (1), 767.078 (2), 767.08, 767.081, 767.082, 767.083, 767.085 (title), 767.085 (1), 767.085 (2), 767.085 (2m) and (3), 767.087, 767.09 (1) and (2), 767.10, 767.11 (title) and (1), 767.11 (2) to (14), 767.115 (title), 767.115 (1) (a), 767.115 (1) (b), 767.115 (1m), (2) and (3), 767.115 (4), 767.12 (title) and (1), 767.12 (2) and (3), 767.125, 767.145 (2), 767.15, 767.19 (1), 767.21, 767.22, 767.23 (title) and (1), 767.23 (1n), 767.23 (2), 767.23 (3), 767.24 (1), 767.24 (1m) to (8), 767.242, 767.245, 767.247, 767.25 (title) and (1) to (4), 767.25 (4m), 767.25 (5) to (7), 767.253, 767.254, 767.255, 767.26, 767.261, 767.262, 767.263, 767.265 (1), 767.265 (1m) to (7m), 767.265 (8), 767.267, 767.27 (title), (1), (1m) and (2), 767.27 (2m), 767.27 (3), (4) and (5), 767.275, 767.28, 767.29 (title), 767.29 (1) (a), (b) and (c), 767.29 (1) (d) and (dm), 767.29 (1) (e), 767.29 (1m) to (4), 767.295 (1) and (2) (a), 767.295 (2) (b) and (c), 767.30, 767.303 (title), 767.303 (1), 767.303 (2) to (5), 767.305, 767.31, 767.32 (title), 767.32 (1) (a), 767.32 (1) (b), (c) and (d), 767.32 (1m), 767.32 (1r), 767.32 (2), 767.32 (2m), 767.32 (2s), 767.32 (2w), 767.32 (3), 767.32 (4), 767.32 (5), 767.325 (intro.) and (1) to (5), 767.325 (5m), 767.325 (6) to (8), 767.327 (title) and (1) to (6), 767.329, 767.33, 767.37 (title), 767.37 (1) (a), 767.37 (1) (c), 767.37 (2), 767.37 (3), 767.38, 767.39 (1), 767.40, 767.45, 767.455 (5), 767.455 (6), 767.457 (1), 767.458 (1) (intro.), 767.458 (1m) to (3), 767.459 (title), 767.459, 767.46, 767.463, 767.465 (title), (1), (1m), (2) and (2m) (title) and (a), 767.47, 767.475, 767.477, 767.48 (1) (a), 767.48 (1) (b) and (1m) to (7), 767.50, 767.51, 767.52, 767.53, 767.60 and 767.62; to amend 46.21 (5) (b), 48.988 (11), 48.989 (2), 69.15 (3) (b) 1., 69.15 (3) (b) 3., 767.01 (1), 767.16, 808.075 (4) (d) 13. and 814.615 (1) (a) (intro.) and (2); and to create subchapter I (title) of chapter 767 [precedes 767.001], 767.001 (1b), 767.005, 767.01 (2) (title), subchapter II (title) of chapter 767 [precedes 767.105], 767.117 (1) (title) and (3) (title), 767.127 (3) (title), 767.17, subchapter III (title) of chapter 767 [precedes 767.201], 767.201, 767.205 (title), 767.215 (4) (title), 767.215 (5), 767.225 (3m) (title), 767.235 (3) (title), 767.241 (1) (title), (2) (title), (3) (title) and (4) (title), 767.264 (title), 767.281 (2) (title) and (4) (title), subchapter IV (title) of chapter 767 [precedes 767.301], 767.313 (2), 767.315 (title), 767.34 (2) (title), subchapter V (title) of chapter 767 [precedes 767.401], 767.401 (1) (title) and (2) (title), 767.405 (1) (intro.), 767.43 (1) (title), (1m) (title), (2) (title), (2m) (title), (3) (title), (3c) (title), (3m) (title), (5) (title) and (6) (title), 767.481 (8), subchapter VI (title) of chapter 767 [precedes 767.501], 767.501 (1) (title) and (2) (title), 767.501 (4), 767.511 (1) (c), (1g) (title), (1j) (title), (1m) (title), (1n) (title), (2) (title), (3) (title) and (4) (title), 767.513 (title), (4) (title) and (5) (title), 767.55 (title), (2) (title) and (3) (title), 767.553 (1) (title), (4) (title) and (5) (title), 767.57 (1) (title), (1e) (title) and (4) (title), 767.58 (2) (title), 767.59 (1k), 767.59 (2) (title), subchapter VII (title) of chapter 767 [precedes 767.61], 767.61 (2) (title) and (3) (title), 767.61 (4), (5) and (6), subchapter VIII (title) of chapter 767 [precedes 767.70], 767.71, 767.73 (1) (title), (4) (title) and (5) (title), 767.75 (title), (2m) (title), (3m) (title), (6m) (title), (7) (title) and (7m) (title), 767.76 (2) (title), (3) (title), (4) (title) and (6) (title), 767.77 (4) (title), subchapter IX of chapter 767 [precedes 767.80], 767.80 (2) (title), (3) (title), (4) (title), (5) (title), (6) (title) and (6r) (title), 767.805 (1m), 767.813 (5) (b) and (c), 767.813 (5g), 767.814, 767.815 (1) (title) and (2) (title), 767.82 (1) (title), (2) (title), (3) (title), (4) (title), (5) (title), (6) (title), (7) (title) and (8) (title), 767.83 (2) (title), 767.84 (1) (title), 767.84 (1) (a) 2., 767.84 (1m) (title), (2) (title), (3) (title), (5) (title), (6) (title) and (7) (title), 767.85 (1) (title), 767.853 (1) (title) and (2) (title), 767.863 (3) (title), 767.865 (1) (title), 767.865 (1) (b), 767.865 (2), 767.87 (1) (title), (1m) (title), (2) (title), (2m) (title), (4) (title), (5) (title), (6) (title), (7) (title), (8) (title), (9) (title), (10) (title) and (11) (title), 767.88 (2) (title), (3) (title), (4) (title), (5) (title) and (6) (title), 767.883 (2) (title), 767.89 (1) (title), (3) (title), (3m) (title), (4) (title) and (7) (title) and 767.893 (2) (b) 2. of the statutes; relating to: reorganizing and revising chapter 767 of the statutes.

2005

- 09-13. S. Introduced by JOINT LEGISLATIVE COUNCIL.
03-18. S. Read first time and referred to committee on Health, Children, Families, Aging and Long Term Care 133
03-23. S. Pursuant to Senate Rule 46(2)(c), withdrawn from the committee on Health, Children, Families, Aging and Long Term Care and rereferred to the committee on Judiciary, Corrections and Privacy 136
09-13. S. Public hearing held.

2006

- 01-18. S. Executive action taken.
02-06. S. Report introduction and adoption of Senate Amendment 1 recommended by committee on Judiciary, Corrections and Privacy, Ayes 5, Noes 0 (LRB a1877) 584
02-06. S. Report passage as amended recommended by committee on Judiciary, Corrections and Privacy, Ayes 5, Noes 0 585
02-06. S. Available for scheduling.
02-16. S. Placed on calendar 2-21-2006 by committee on Senate Organization.
02-21. S. Read a second time 611
02-21. S. Senate amendment 1 adopted 611
02-21. S. Ordered to a third reading 611

SB

02-21.	S.	Rules suspended	611
02-21.	S.	Read a third time and passed	611
02-21.	S.	Ordered immediately messaged	615
02-27.	A.	Received from Senate	850
02-27.	A.	Read first time and referred to committee on Family Law	851
02-28.	A.	Assembly amendment 1 offered by Representative Kestell (LRB a2466)	856
03-01.	A.	Public hearing held.	
03-01.	A.	Executive action taken.	
03-02.	A.	Report Assembly Amendment 1 adoption recommended by committee on Family Law, Ayes 6, Noes 0	875
03-02.	A.	Report concurrence as amended recommended by committee on Family Law, Ayes 6, Noes 0	876
03-02.	A.	Referred to committee on Rules	876
03-07.	A.	Placed on calendar 3-9-2006 by committee on Rules.	
03-07.	A.	Made a special order of business at 10:24 A.M. on 3-9-2006 pursuant to Assembly Resolution 51	933
03-09.	A.	Read a second time	944
03-09.	A.	Assembly amendment 1 adopted	944
03-09.	A.	Ordered to a third reading	944
03-09.	A.	Rules suspended	944
03-09.	A.	Read a third time and concurred in as amended	944
03-09.	A.	Ordered immediately messaged	944
03-09.	S.	Received from Assembly amended and concurred in as amended, Assembly amendment 1 adopted	721
03-09.	S.	Available for scheduling.	
04-24.	S.	Placed on calendar 4-25-2006 by committee on Senate Organization.	
04-25.	S.	Assembly amendment 1 concurred in .	
04-25.	S.	Action ordered immediately messaged.	

2005
ENROLLED BILL

05en S B- 123

ADOPTED DOCUMENTS:

Orig Engr SubAmdt

05- 1817/1

Amendments to above (if none, write "NONE"): SA1 - a 1877/2

AA1 - a 2466/1

Corrections - show date (if none, write "NONE"): None

Topic Relating clause + ^{cc}, actions affecting
the family ^{cc}

4-26-06
Date

[Signature]
Enrolling Drafter

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2005 SENATE BILL 123

March 18, 2005 - Introduced by JOINT LEGISLATIVE COUNCIL. Referred to Committee on Health, Children, Families, Aging and Long Term Care.

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

SENATE BILL 123

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,

SENATE BILL 123

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), 767.481 (8), subchapter VI (title) of chapter
8 767 [precedes 767.501], 767.501 (1) (title) and (2) (title), 767.501 (4), 767.511 (1)
9 (c), (1g) (title), (1j) (title), (1m) (title), (1n) (title), (2) (title), (3) (title) and (4)
10 (title), 767.513 (title), (4) (title) and (5) (title), 767.55 (title), (2) (title) and (3)
11 (title), 767.553 (1) (title), (4) (title) and (5) (title), 767.57 (1) (title), (1e) (title) and
12 (4) (title), 767.58 (2) (title), 767.59 (1k), 767.59 (2) (title), subchapter VII (title)
13 of chapter 767 [precedes 767.61], 767.61 (2) (title) and (3) (title), 767.61 (4), (5)
14 and (6), subchapter VIII (title) of chapter 767 [precedes 767.70], 767.71, 767.73
15 (1) (title), (4) (title) and (5) (title), 767.75 (title), (2m) (title), (3m) (title), (6m)
16 (title), (7) (title) and (7m) (title), 767.76 (2) (title), (3) (title), (4) (title) and (6)
17 (title), 767.77 (4) (title), subchapter IX of chapter 767 [precedes 767.80], 767.80
18 (2) (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 (1) (a) 2., 767.84 (1m) (title),
22 (2) (title), (3) (title), (5) (title), (6) (title) and (7) (title), 767.85 (1) (title), 767.853
23 (1) (title) and (2) (title), 767.863 (3) (title), 767.865 (1) (title), 767.865 (1) (b),
24 767.865 (2), 767.87 (1) (title), (1m) (title), (2) (title), (2m) (title), (4) (title), (5)
25 (title), (6) (title), (7) (title), (8) (title), (9) (title), (10) (title) and (11) (title), 767.88

SENATE BILL 123

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

Analysis by the Legislative Reference Bureau

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

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

SENATE BILL 123

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 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

SENATE BILL 123**Subchapter IV****Annulment, divorce, and legal separation**

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

SENATE BILL 123

- 767.57 Maintenance, child support, and family support payments; fees
- 767.58 Notice of change of employer, address, and ability to pay; other information
- 767.59 Revision of support and maintenance orders
- 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

SENATE BILL 123

767.893 Default and stipulated judgments
767.895 Motion to reopen judgment based on statement
acknowledging paternity

1 **SECTION 1.** 46.21 (5) (b) of the statutes is amended to read:

2 46.21 (5) (b) Sections 46.10, 49.08, 49.90, and 301.12 ~~and 767.42~~ govern the
3 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.

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

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

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

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

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

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

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

19 69.15 (3) (b) 1. Except as provided under par. (c), if the state registrar receives
20 a statement acknowledging paternity on a form prescribed by the state registrar and

SENATE BILL 123

1 signed by both of the birth parents of a child determined to be a marital child under
2 s. ~~767.60~~ 767.803, a certified copy of the parents' marriage certificate, and the fee
3 required under s. 69.22 (5) (b) 1., the state registrar shall insert the name of the
4 husband from the marriage certificate as the father if the name of the father was
5 omitted on the original birth certificate. The state registrar shall include on the form
6 for the acknowledgment ~~a notice of the information in s. 767.458 (1) (a) to (e)~~ the
7 items in s. 767.813 (5g).

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

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

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

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

SENATE BILL 123**SECTION 7**

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

2 767.001 (1b) “Court” includes the circuit court commissioner when the circuit
3 court commissioner has been authorized by law to exercise the authority of the court
4 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.

5 **SECTION 8.** 767.001 (3) and (4) of the statutes are renumbered 767.405 (1) (a)
6 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.

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

8 **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.

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

10 767.01 (1) GENERALLY. The circuit courts have jurisdiction of all actions
11 affecting the family and have authority to do all acts and things necessary and proper
12 in such those actions and to carry their orders and judgments into execution as
13 prescribed in this chapter. ~~All actions affecting the family shall be commenced and~~
14 ~~conducted and the orders and judgments enforced according to these statutes in~~
15 ~~respect to actions in circuit court, as far as applicable, except as provided in this~~
16 ~~chapter~~ Except as provided in subs. (2) and (2m), jurisdiction may be exercised as
17 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

SENATE BILL 123

under ch. 769 or 801.”. Reference to ch. 769 is already included in current s. 767.01 (2), stats.

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,

SENATE BILL 123

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:

SENATE BILL 123**SECTION 23**

1 767.313 (1) GROUNDS: 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:

SENATE BILL 123

1 1. Aid is provided under s. 46.261, 48.57 (3m) or (3n), 49.19, 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

SENATE BILL 123**SECTION 25**

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

SENATE BILL 123

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~~ 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:

SENATE BILL 123

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.

SENATE BILL 123

SECTION 37

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} is renumbered 767.55 (3), and 767.55
16 (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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SI

SENATE BILL 123

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~~ 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

SENATE BILL 123**SECTION 42**

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:

SENATE BILL 123

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:

SENATE BILL 123

SECTION 45

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.

SENATE BILL 123

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

SENATE BILL 123

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.

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. ~~(1)~~ (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. ~~(1)~~ (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~~

SENATE BILL 123

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~~

SENATE BILL 123

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 (title) 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

SENATE BILL 123

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

SENATE BILL 123

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:

SENATE BILL 123

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, 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, 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).

1 SUBCHAPTER III

2 GENERAL PROCEDURE

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

4 **767.201 Civil procedure generally governs.** Except as otherwise provided
5 in the statutes, chs. 801 to 847 govern procedure and practice in an action affecting
6 the family. Except as provided in this chapter, chs. 801 and 802 apply to the content
7 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.

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

9 **767.205 (title) Parties; title of actions.**10 SECTION 82. 767.21 of the statutes is renumbered 767.041, and 767.041 (1) (a)
11 and (3), as renumbered, are amended to read:12 767.041 (1) (a) Full faith and credit shall be given in all courts of this state to
13 a judgment in any action affecting the family, except an action relating to child
14 custody, by a court of competent jurisdiction in another state, territory, or possession
15 of the United States, when both spouses personally appear or when the respondent
16 has been personally served. Full faith and credit shall also be given in all courts of

SENATE BILL 123

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

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

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

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

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

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

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

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

767.225 (title) ~~Temporary orders for support of spouse and children; 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).

SENATE BILL 123

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 ~~therefore~~ 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~~

SENATE BILL 123

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.