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

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

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

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

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

13 **SECTION 88.** 767.23 (1g) of the statutes is repealed.

NOTE: Repealed as obsolete. The repealed provision provides as follows: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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NOTE: Deletes an obsolete applicability provision.

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

3 767.241 (1) (title) COURT AUTHORITY.

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

5 (3) (title) TO WHOM PAID.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (6) INTEREST ON ARREARAGE. (intro.) A party ordered to pay child support under
5 this section shall pay simple interest at the rate of 1% per month on any amount in
6 arrears that is equal to or greater than the amount of child support due in one month.
7 If the party no longer has a current obligation to pay child support, interest at the
8 rate of 1% per month shall accrue on the total amount of child support in arrears, if
9 any. Interest under this subsection is in lieu of interest computed under s. 807.01
10 (4), 814.04 (4), or 815.05 (8) and is paid to the department or its designee under s.
11 ~~767.29~~ 767.57. The court may determine amounts owed for specific expenses related
12 to the support of a child previously ordered and may add the amounts to any
13 arrearage of record under this subsection. Except as provided in s. ~~767.29~~ 767.57
14 (1m), the department or its designee, ~~whichever is appropriate~~, shall apply all
15 payments received for child support as follows:

NOTE: Clarifies that for purposes of interest on child support arrearages the court
may also determine amounts owed for previously ordered specific expenses and may add
the amounts to any other arrearage under the subsection.

16 (7) EFFECT OF JOINT LEGAL CUSTODY. An order of joint legal custody under s.
17 ~~767.24~~ 767.41 does not affect the amount of child support ordered.

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

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

21 767.55 (1) GENERALLY. In an action for modification of a child support order
22 under s. ~~767.32~~ 767.59 or an action in which an order for child support is required
23 under s. ~~767.25 (1), 767.51 (3) or 767.62 (4)~~ 767.511 (1), 767.805 (4), or 767.89 (3), the

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1 court may order either or both parents of the child to seek employment or participate
2 in an employment or training program.

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

5 767.55 (4) (a) (intro.) In this section subsection, "unemployed teenage parent"
6 means a parent who satisfies all of the following criteria:

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

9 (b) (intro.) In an action for revision of a judgment or order providing for child
10 support under s. ~~767.32~~ 767.59 or an action in which an order for child support is
11 required under s. ~~767.25 (1), 767.51 (3) or 767.62 (4)~~ 767.511 (1), 767.805 (4), or
12 767.89 (3), the court shall order an unemployed teenage parent to do one or more of
13 the following:

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

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

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

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

1 **(3)** (i) The amount and duration of an order under s. ~~767.26~~ 767.56 granting
2 maintenance payments to either party, any order for periodic family support
3 payments under s. ~~767.261~~ 767.531 and whether the property division is in lieu of
4 such payments.

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

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

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

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

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

21 **767.531 Family support.** (intro.) The court may make a financial order
22 designated "family support" as a substitute for child support orders under s. ~~767.25~~
23 767.511 and maintenance payment orders under s. ~~767.26~~ 767.56. A party ordered

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

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

12 **767.241 (title) Award of attorney fees and other fees and costs.**

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

15 **767.58 (title) Notice of change of employer, ~~change of address, and~~**
16 **~~change in ability to pay; other information.~~ (1) SUPPORT OR MAINTENANCE ORDER;**
17 **NOTICE REQUIREMENTS.** Each order for child support, family support, or maintenance
18 payments shall include an order that the payer and payee notify the county child
19 support agency under s. 59.53 (5) of any change of address within 10 business days
20 of such change. Each order for child support, family support, or maintenance
21 payments shall also include an order that the payer notify the county child support
22 agency under s. 59.53 (5) and the payee, within 10 business days, of any change of
23 employer and of any substantial change in the amount of his or her income, including
24 receipt of bonus compensation, ~~such that~~ affecting his or her ability to pay child
25 support, family support, or maintenance ~~is affected~~. The order shall also include a

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1 statement ~~that clarifies~~ that notification of any substantial change in the amount of
2 the payer's income will not result in a change of the order unless a revision of the
3 order under s. ~~767.32~~ 767.59 or an annual adjustment of the child or family support
4 amount under s. ~~767.33~~ 767.553 is sought. An order under this subsection is
5 enforceable under ch. 785.

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

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

7 **767.264** (title) **Dismissal; vacation; substitution or withdrawal of**
8 **attorney.**

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

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

12 767.75 (1) (b) ~~Each~~ "Payment order" means an order for child support under
13 this chapter, for maintenance payments under s. ~~767.23~~ 767.225 or ~~767.26~~ 767.56,
14 for family support under this chapter, for costs ordered under s. ~~767.51 (3)~~ or ~~767.62~~
15 ~~(4)~~ 767.805 (4) or 767.89 (3), for support by a spouse under s. ~~767.02-767.001 (1) (f)~~,
16 or for maintenance payments under s. ~~767.02 (1) (g)~~, each 767.001 (1) (g); ~~an~~ order
17 for or obligation to pay the annual receiving and disbursing fee under s. ~~767.29 (1)~~
18 ~~(d)~~, each 767.57 (1e) (a); ~~an~~ order for a revision in a judgment or order with respect
19 to child support, maintenance, or family support payments under s. ~~767.32~~, each
20 767.59; a stipulation approved by the court or a circuit court commissioner for child
21 support under this chapter; and each an order for child or spousal support entered
22 under s. 948.22 (7).

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1 **(1f) PAYMENT ORDER AS ASSIGNMENT OF INCOME.** A payment order constitutes an
2 assignment of all commissions, earnings, salaries, wages, pension benefits, benefits
3 under ch. 102 or 108, lottery prizes that are payable in installments, and other money
4 due or to be due in the future to the department or its designee. The assignment shall
5 be for an amount sufficient to ensure payment under the order, obligation, or
6 stipulation and to pay any arrearages due at a periodic rate not to exceed 50% of the
7 amount of support due under the order, obligation, or stipulation so long as the
8 addition of the amount toward arrearages does not leave the party at an income
9 below the poverty line established under 42 USC 9902 (2).

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

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

20 **(2h) DELAYED WITHHOLDING: FAILURE TO PAY.** If a court-ordered assignment,
21 including the assignment specified under sub. ~~(1)~~ (1f) for the payment of any
22 arrearages due, does not require immediately effective withholding and a payer fails
23 to make a required maintenance, child support, spousal support, family support, or
24 annual receiving and disbursing fee payment within 10 days after its due date,
25 within 20 days after the payment's due date the court, ~~circuit court commissioner~~ or

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1 county child support agency under s. 59.53 (5) shall cause the assignment to go into
2 effect by providing notice of the assignment in the manner provided under sub. (2r)
3 and shall send a notice by regular mail to the last-known address of the payer. The
4 notice sent to the payer shall inform the payer that an assignment is in effect and
5 that the payer may, within a 10-day period after the notice is mailed, by motion
6 request a hearing on the issue of whether the assignment should remain in effect.
7 The court ~~or circuit court commissioner~~ shall hold a hearing requested under this
8 subsection within 10 working days after the date of receipt of the request. If at the
9 hearing the payer establishes that the assignment is not proper because of a mistake
10 of fact, the court ~~or circuit court commissioner~~ may direct that the assignment be
11 withdrawn. Either party may, within 15 working days after the date of a decision
12 by a circuit court commissioner under this subsection, seek review of the decision by
13 the court with jurisdiction over the action.

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

14 **(2m)** (a) 1. An obligation to pay unpaid fees under s. ~~767.29 (1) (dm) 1m.~~ 767.57
15 (1e) (b) 1m. constitutes an assignment of all commissions, earnings, salaries, wages,
16 pension benefits, benefits under ch. 102 or 108, lottery prizes that are payable in
17 installments, and other money due or to be due in the future to the department or
18 its designee.

19 2. An obligation to pay unpaid fees under s. ~~767.29 (1) (dm) 2m.~~ 767.57 (1e) (b)
20 2m. constitutes an assignment of all commissions, earnings, salaries, wages, pension
21 benefits, benefits under ch. 102 or 108, lottery prizes that are payable in
22 installments, and other money due or to be due in the future to the clerk of court to
23 whom the fees are owed, or to his or her successor.

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1 (b) The county child support agency under s. 59.53 (5) may cause an assignment
2 under par. (a) to go into effect by providing notice of the assignment in the manner
3 provided under sub. (2r) and sending a notice by regular mail to the last-known
4 address of the payer. The notice sent to the payer shall inform the payer that an
5 assignment is in effect and that the payer may, within a 10-day period after the
6 notice is mailed, by motion request a hearing on the issue of whether the assignment
7 should remain in effect. The court ~~or circuit court commissioner~~ shall hold a hearing
8 requested under this paragraph within 10 working days after the date of receipt of
9 the request. If at the hearing the payer establishes that the assignment is not proper
10 because of a mistake of fact, the court ~~or circuit court commissioner~~ may direct that
11 the assignment be withdrawn. The payer or the county child support agency may,
12 within 15 working days after the date of a decision by a circuit court commissioner
13 under this paragraph, seek review of the decision by the court with jurisdiction over
14 the action.

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

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

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1 the maximum amount that is subject to garnishment under 15 USC 1673 (b) (2). If
2 the department or its designee, ~~whichever is appropriate~~, does not receive the money
3 from the person notified, the court, ~~circuit court commissioner~~ or county child
4 support agency under s. 59.53 (5) shall provide notice of the assignment to any other
5 person from whom the payer receives or will receive money. Notice under this
6 subsection may be a notice of the court, a copy of the executed assignment, or a copy
7 of that part of the court order directing payment.

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

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

4 (6) FAILURE TO COMPLY WITH ASSIGNMENT OBLIGATIONS. (a) Except as provided
5 in sub. (3m), if after receipt of notice of assignment the person from whom the payer
6 receives money fails to withhold the money or send the money to the department or
7 its designee or the appropriate health care insurer, provider, or plan as provided in
8 this section or s. ~~767.23 (1) (L) or 767.25 (4m) (e)~~ 767.225 (1) (L) or 767.513 (3), the
9 person may be proceeded against under the principal action under ch. 785 for
10 contempt of court or may be proceeded against under ch. 778 and be required to
11 forfeit not less than \$50 nor more than an amount, if the amount exceeds \$50, that
12 is equal to 1% of the amount not withheld or sent.

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

19 (c) No employer may use an assignment under this section or s. ~~767.23 (1) (L)~~
20 ~~or 767.25 (4m) (e)~~ 767.225 (1) (L) or 767.513 (3) as a basis for the denial of employment
21 to a person, the discharge of an employee, or any disciplinary action against an
22 employee. An employer who denies employment or discharges or disciplines an
23 employee in violation of this paragraph may be fined not more than \$500 and may
24 be required to make full restitution to the aggrieved person, including reinstatement
25 and back pay. Except as provided in this paragraph, restitution shall be in

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1 accordance with s. 973.20. An aggrieved person may apply to the district attorney
2 or to the department for enforcement of this paragraph.

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

5 767.75 (1) DEFINITIONS. (intro.) In this section, “employer”:

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

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

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

10 767.76 (1) AUTHORITY OF COURT TO REQUIRE. If the court ~~or circuit court~~
11 ~~commissioner~~ determines that income withholding under s. 767.265 767.75 is
12 inapplicable, ineffective, or insufficient to ensure payment under an order or
13 stipulation specified in s. 767.265 767.75 (1), or that income withholding under s.
14 ~~767.25 (4m) (e)~~ 767.513 (3) is inapplicable, ineffective, or insufficient to ensure
15 payment of a child’s health care expenses, including payment of health insurance
16 premiums, ordered under s. ~~767.25 (4m)~~ 767.513, the court ~~or circuit court~~
17 ~~commissioner~~ may require the payer to identify or establish a deposit account, owned
18 in whole or in part by the payer, that allows for periodic transfers of funds and to file
19 with the financial institution at which the account is located an authorization for
20 transfer from the account to the department or its designee, ~~whichever is~~
21 ~~appropriate.~~ The authorization shall be provided on a standard form approved by
22 the court and shall specify the frequency and the amount of transfer, sufficient to
23 meet the payer’s obligation under the order or stipulation, as required by the court
24 ~~or circuit court commissioner.~~ The authorization shall include the payer’s consent
25 for the financial institution or an officer, employee, or agent of the financial

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1 institution to disclose information to the court, ~~circuit court commissioner~~, county
2 child support agency under s. 59.53 (5), department, or department's designee
3 regarding the account for which the payer has executed the authorization for
4 transfer.

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

10 **SECTION 121.** 767.27 (title), (1), (1m) and (2) of the statutes are renumbered
11 767.127 (title), (1), (1m) and (2) and amended to read:

12 **767.127 (title) ~~Disclosure of assets required~~ Financial disclosure.** (1)
13 REQUIRED DISCLOSURE. In any an action affecting the family, except an action to affirm
14 marriage under s. ~~767.02~~ 767.001 (1) (a), the court shall require each party to furnish,
15 on such standard forms as required by the court ~~may require~~, full disclosure of all
16 assets owned in full or in part by either party separately or by the parties jointly.
17 ~~Such disclosure~~ Disclosure may be made by each party individually or by the parties
18 jointly. Assets required to be disclosed ~~shall include~~, but ~~shall~~ are not be limited to,
19 real estate, savings accounts, stocks and bonds, mortgages and notes, life insurance,
20 retirement interests, interest in a partnership, limited liability company, or
21 corporation, tangible personal property, ~~income from employment~~, future interests
22 whether vested or nonvested, and any other financial interest or source. The court
23 shall also require each party to furnish, on the same standard form, information
24 pertaining to all debts and liabilities of the parties. The form used shall contain a
25 statement in conspicuous print that complete disclosure of assets and debts is

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

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

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

8 **(1m) HEALTH INSURANCE INFORMATION FOR MINOR CHILD.** In any action affecting
9 the family ~~which~~ that involves a minor child, the court shall require, in addition to
10 the disclosure under sub. (1), that each party furnish the court with information
11 regarding the types and costs of any health insurance policies or plans ~~which~~ that
12 are offered through each party’s employer or other organization. This disclosure
13 shall include a copy of any health care policy or plan ~~which~~ that names the child as
14 a beneficiary at the time that the disclosure is filed under sub. (2).

15 **(2) FILING DISCLOSURE FORMS.** Disclosure forms required under this section
16 shall be filed within 90 days after the service of summons or the filing of a joint
17 petition or at ~~such other~~ a time as ordered by the court ~~or circuit court commissioner.~~
18 Information ~~contained~~ on ~~such~~ the forms shall be updated on the record to the date
19 of hearing.

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

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

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

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

13 **767.127 (3) (a)** Except as provided in par. (b), information disclosed under this
14 section shall be and under s. 767.54 is confidential and may not be made available
15 to any person for any purpose other than the adjudication, appeal, modification, or
16 enforcement of judgment of an action affecting the family of the disclosing parties.

17 **(4) FAILURE TO TIMELY FILE.** ~~Failure by~~ If either party fails timely to file a
18 complete disclosure statement as required by this section shall ~~authorize~~, the court
19 ~~to~~ may accept as accurate any information provided in the statement of the other
20 party or obtained under s. 49.22 (2m) by the department or the county child support
21 agency under s. 59.53 (5).

22 **(5) FAILURE TO DISCLOSE: CONSTRUCTIVE TRUST.** If any a party ~~deliberately~~
23 intentionally or negligently fails to disclose information required by sub. (1) and ~~in~~

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

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

12 **767.63 Disposition of Disposed assets prior to action may be subject to**
13 **division.** In any an action affecting the family, except an action to affirm marriage
14 under s. ~~767.02~~ 767.001 (1) (a), any asset with a fair market value of \$500 or more
15 ~~which that~~ would be considered part of the estate of either or both of the parties if
16 owned by either or both of them at the time of the action, ~~but which~~ and that was
17 transferred for inadequate consideration, wasted, given away, or otherwise
18 unaccounted for by one of the parties within one year prior to the filing of the petition
19 or the length of the marriage, whichever is shorter, ~~shall be~~ is rebuttably presumed
20 to be ~~part of the estate for the purposes of s. 767.255~~ property subject to division
21 under s. 767.61 and ~~shall be~~ is subject to the disclosure requirement of s. ~~767.27~~
22 767.127. Transfers ~~which that~~ resulted in an exchange of assets of substantially
23 equivalent value need not be specifically disclosed ~~where such~~ if those assets are
24 otherwise identified in the statement of net worth.

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

3 **767.385 Maintenance, legal custody, and support when divorce or**
4 **separation denied.** ~~In~~ If a judgment in an action for divorce or legal separation,
5 ~~although such~~ denies the divorce or legal separation is denied, the court may make
6 such order as the nature of the case renders just and reasonable for the legal custody
7 of and periods of physical placement with any of the minor children, and for the
8 maintenance of either spouse and support of ~~such~~ the children by either spouse out
9 of property or income, ~~as the nature of the case may render just and reasonable.~~ If
10 the court orders child support under this section, the court shall determine the child
11 support payments in a manner consistent with s. ~~767.25~~ 767.511, regardless of the
12 fact that ~~the court has not entered~~ a judgment of divorce or legal separation has not
13 been entered.

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

15 767.281 (2) (title) SUPPORT OR MAINTENANCE ORDERS.

16 (4) (title) SUPPORT AND MAINTENANCE PAYMENTS TO DEPARTMENT.

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

19 **767.57 (title) Maintenance, child support, and family support**
20 **payments, receipt and disbursement; circuit court commissioner, fees and**
21 **compensation; fees.**

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

24 767.57 (1) (a) All orders or judgments providing for temporary or permanent
25 maintenance, child support, or family support payments shall direct that the

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1 ~~payment of all such sums~~ payments be made to the department or its designee for
2 the use of the person for whom the same has payments have been awarded. A party
3 ~~securing~~ obtaining an order for temporary maintenance, child support, or family
4 support payments shall ~~forthwith~~ promptly file the order, together with all pleadings
5 in the action, with the clerk of court.

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

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

17 767.57 (1e) (a) For receiving and disbursing maintenance, child support, or
18 family support payments, including ~~arrears in any of those payments~~ in arrears, and
19 for maintaining the records required under par. (c), the department or its designee
20 shall collect an annual fee of \$35. The court ~~or circuit court commissioner~~ shall order
21 each party ordered to make payments to pay the ~~annual fee under this paragraph~~ in
22 each year for which payments are ordered or in which an arrearage in any of those
23 payments is owed. In directing the manner of payment ~~of the annual fee~~, the court
24 ~~or circuit court commissioner~~ shall order that the ~~annual fee~~ be withheld from income
25 and sent to the department or its designee, as provided under s. 767.265. ~~All fees~~

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1 collected ~~767.75~~. Fees under this paragraph shall be deposited in the appropriation
2 account under s. 20.445 (3) (ja). At the time of ordering the payment of an annual
3 ~~the fee under this paragraph~~, the court or circuit court commissioner shall notify
4 each party ordered to make payments of the requirement to pay the annual fee, and
5 of the amount of, the annual fee. If the annual fee under this paragraph is not paid
6 when due, the department or its designee may not deduct the annual fee from any
7 maintenance, child or family support, or arrearage payment, but may move the court
8 for a remedial sanction under ch. 785.

9 (b) 1m. The department or its designee may collect any unpaid fees under s.
10 814.61 (12) (b), 1997 stats., that are shown on the department's automated payment
11 and collection system on December 31, 1998, and shall deposit all fees collected under
12 this subdivision in the appropriation account under s. 20.445 (3) (ja). The
13 department or its designee may collect unpaid fees under this subdivision through
14 income withholding under s. ~~767.265~~ 767.75 (2m). If the department or its designee
15 determines that income withholding is inapplicable, ineffective, or insufficient for
16 the collection of any unpaid fees under this subdivision, the department or its
17 designee may move the court for a remedial sanction under ch. 785. The department
18 or its designee may contract with or employ a collection agency or other person for
19 the collection of any unpaid fees under this subdivision and, notwithstanding s.
20 20.930, may contract with or employ an attorney to appear in any action in state or
21 federal court to enforce the payment obligation. The department or its designee may
22 not deduct the amount of unpaid fees from any maintenance, child or family support,
23 or arrearage payment.

24 2m. A clerk of court may collect any unpaid fees under s. 814.61 (12) (b), 1997
25 stats., that are owed to the clerk of court, or to his or her predecessor, and that were

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1 not shown on the department's automated payment and collection system on
2 December 31, 1998, through income withholding under s. ~~767.265~~ 767.75 (2m). If the
3 clerk of court determines that income withholding is inapplicable, ineffective, or
4 insufficient for the collection of any unpaid fees under this subdivision, the clerk of
5 court may move the court for a remedial sanction under ch. 785.

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

8 **767.57 (1h) NONPAYMENT; ENFORCEMENT.** ~~If the~~ maintenance, child support, or
9 family support payments ~~adjudged or ordered to be paid~~ are not paid to the
10 department or its designee at the time provided in the judgment or order, the county
11 child support agency under s. 59.53 (5) or a circuit court commissioner of the county
12 shall take ~~such~~ proceedings ~~as he or she considers advisable~~ to secure the payment
13 of the sum, including enforcement by contempt proceedings under ch. 785 or by other
14 means. Copies of any order issued to compel the payment shall be mailed to ~~counsel~~
15 the attorney, if any, who represented each party when the maintenance, child
16 support, or family support payments were awarded. ~~In case~~ If any fees of officers in
17 any of the proceedings, including the compensation of the circuit court commissioner
18 at the rate of \$50 per day unless the commissioner is on a salaried basis, is not
19 collected from the person proceeded against, the fees shall be paid out of the county
20 treasury upon the order of the presiding judge and the certificate of the department.

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

NOTE: Repealed as obsolete. The repealed paragraph provides:

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

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department in any measures taken to ensure an efficient and orderly transition from the countywide system of support receipt and disbursement to the statewide system.

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

3 **767.57 (1m) OVERPAYMENT** (intro.) Notwithstanding ss. ~~767.25~~ 767.511 (6) and
4 ~~767.261~~ 767.531, if the department or its designee receives support or maintenance
5 money that exceeds the amount due in the month in which it is received and that the
6 department or its designee determines that the excess amount is for support or
7 maintenance due in a succeeding month, the department or its designee may hold
8 the amount of overpayment that does not exceed the amount due in the next month
9 for disbursement in the next month if any of the following applies:

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

14 **(2) PROCEDURE IF RECIPIENT ON PUBLIC ASSISTANCE**. If any a party entitled to
15 maintenance ~~payments~~ or support money, or both, is receiving public assistance
16 under ch. 49, the party may assign the party's right ~~thereto~~ to support or
17 maintenance to the county department under s. 46.215, 46.22, or 46.23 granting ~~such~~
18 ~~the~~ the assistance. ~~Such~~ The assignment shall be approved by order of the court granting
19 the maintenance ~~payments~~ or support money, ~~and may be terminated in like~~
20 ~~manner; except that it shall.~~ The assignment may not be terminated in cases where
21 if there is any a delinquency in the amount to be paid to the assignee of maintenance
22 payments and support money previously ordered ~~or adjudged to be paid to the~~
23 ~~assignee~~ without the written consent of the assignee or upon notice to the assignee

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1 and a hearing. When an assignment of maintenance payments or support money, or
2 both, has been approved by the order, the assignee shall be deemed a real party in
3 interest within s. 803.01 but solely for the purpose of securing payment of unpaid
4 maintenance payments or support money adjudged or ordered to be paid, by
5 participating in proceedings to secure the payment thereof of unpaid amounts.
6 Notwithstanding assignment under this subsection, and without further order of the
7 court, the department or its designee, upon receiving notice that a party or a minor
8 child of the parties is receiving public assistance under ch. 49 or that a kinship care
9 relative or long-term kinship care relative of the minor child is receiving kinship
10 care payments or long-term kinship care payments for the minor child, shall forward
11 all support assigned under s. 48.57 (3m) (b) 2. or (3n) (b) 2., 49.19 (4) (h) 1., or 49.45
12 (19) to the assignee under s. 48.57 (3m) (b) 2. or (3n) (b) 2., 49.19 (4) (h) 1., or 49.45
13 (19).

14 **(3) PROCEDURE IF RECIPIENT INSTITUTIONALIZED OR CONFINED.** (a) If maintenance
15 payments or support money, or both, is are ordered to be paid for the benefit of any
16 person, who is committed by court order to an institution ~~or~~, who is in confinement,
17 or whose legal custody is vested by court order under ch. 48 or 938 in an agency,
18 department, or relative, the court ~~or a circuit court commissioner~~ may order such
19 that the maintenance payments or support money to be paid to the relative or agency,
20 institution, welfare department, or other entity having the legal or actual custody of
21 said the person, and to that it be used for the latter's person's care and maintenance,
22 without the appointment of a guardian under ch. 880.

23 (b) If a child who is the beneficiary of support under a judgment or order is
24 placed by court order in a residential care center for children and youth, juvenile
25 correctional institution, or state mental institution, the right of the child to support

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

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

NOTE: Recreated by SECTION 235 of this bill.

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

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

14 767.55 (2) (a) In this ~~section~~ subsection, "custodial parent" means a parent who
15 lives with his or her child for substantial periods of time.

16 (am) (intro.) In an action for modification of a child support order under s.
17 ~~767.32~~ 767.59, an action in which an order for child support is required under s.
18 ~~767.25 (1), 767.51 (3) or 767.62 (4)~~ 767.511 (1), 767.805 (4), or 767.89 (3), or a
19 contempt of court proceeding to enforce a child support or family support order in a
20 county that contracts under s. 49.36 (2), the court may order a parent who is not a
21 custodial parent to register for a work experience and job training program under s.
22 49.36 if all of the following conditions are met:

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

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1 767.55 (2) (c) If the court enters an order under par. ~~(a)~~ (am), it shall order the
2 parent to pay child support equal to the amount determined by applying the
3 percentage standard established under s. 49.22 (9) to the income a person would earn
4 by working 40 hours per week for the federal minimum hourly wage under 29 USC
5 206 (a) (1) or equal to the amount of child support that the parent was ordered to pay
6 in the most recent determination of support under this chapter. The child support
7 obligation ordered under this paragraph continues until the parent makes timely
8 payment in full for 3 consecutive months or until the person participates in the
9 program under s. 49.36 for 16 weeks, whichever ~~comes~~ occurs first. The court shall
10 provide in its order that the parent ~~must~~ shall make child support payments
11 calculated under s. ~~767.25~~ 767.511 (1j) or (1m) after the obligation to make payments
12 ordered under this paragraph ceases.

13 **SECTION 137.** 767.30 of the statutes is renumbered 767.77, and 767.77 (title),
14 (1), (2) and (3) (intro.), as renumbered, are amended to read:

15 **767.77 (title) Enforcement of payments ordered payment obligations.**

16 (1) DEFINITION. ~~If the court orders any payment for~~ In this section, “payment
17 obligation” means an obligation to pay support under s. 48.355 (2) (b) 4., 48.357 (5m)
18 (a), 48.363 (2), 938.183 (4), 938.355 (2) (b) 4., 938.357 (5m) (a), or 938.363 (2), support
19 or maintenance under s. ~~767.08~~ 767.501, child support, family support, or
20 maintenance under s. ~~767.23~~ 767.225, child support under s. ~~767.25~~ 767.511,
21 maintenance under s. ~~767.26~~ 767.56, family support under s. ~~767.261~~ 767.531,
22 attorney fees under s. ~~767.262~~ 767.241, child support or a child’s health care
23 expenses under s. ~~767.477~~ 767.85, paternity obligations under s. ~~767.458 (3), 767.51~~
24 or ~~767.62 (4)~~ 767.805 (4), 767.863 (3), or 767.89, support arrearages under s. ~~767.293~~
25 767.71, or child or spousal support under s. 948.22 (7), the.

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

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

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

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

CHAPTER 767**SUBCHAPTER IV****ANNULMENT, DIVORCE,****AND LEGAL SEPARATION**

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

23 **767.73** (title) ~~Enforcement of~~ Delinquent child or family support;
24 suspension of operating privilege.

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

3 767.73 (1) (a) ~~If a person fails to pay~~ In this subsection, “support payment”
4 means a payment ordered for support under s. ~~767.077~~ 767.521, support under s.
5 ~~767.08~~ 767.501, child support or family support under s. ~~767.23~~ 767.225, child
6 support under s. ~~767.25~~ 767.511, family support under s. ~~767.261~~ 767.531, revised
7 child or family support under s. ~~767.32~~ 767.59, child support under s. ~~767.458~~
8 767.863 (3), child support under s. ~~767.477~~ 767.85, child support under s. ~~767.51~~
9 767.89, child support under s. ~~767.62~~ 767.805 (4), child support under ch. 769, or
10 child support under s. 948.22 (7), ~~the payment is.~~

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

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

20 767.73 (2) NOTICE OF SUSPENSION TO DEPARTMENT OF TRANSPORTATION. ~~Whenever~~
21 ~~the~~ If a court orders suspension of a person’s operating privilege under sub. (1) (b),
22 the court shall notify the department of transportation, in the form and manner
23 prescribed by the department. The notice to the department shall include the name
24 and last-known address of the person against whom the support order was entered,
25 certification by the court that the person has been notified of the entry of the support

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1 order and that there are arrearages in support payments that are 90 or more days
2 past due, and the place where the arrearages may be paid and. The notice shall also
3 state that the person's operating privilege ~~shall remain~~ remains suspended until the
4 person pays all arrearages in full or makes payment arrangements that are
5 satisfactory to the court, except that the suspension period may not exceed 2 years.

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

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

11 SECTION 143. 767.305 of the statutes is renumbered 767.78 (1) and amended
12 to read:

13 767.78 (1) DEFINITION. In all cases where a party has incurred a financial this
14 section, "financial obligation" means an obligation for payment incurred under s.
15 48.355 (2) (b) 4., 48.357 (5m) (a), 48.363 (2), ~~767.23, 767.25, 767.255, 767.26, 767.261,~~
16 ~~767.262, 767.293, 767.458 (3), 767.477, 767.51, 767.62 (4)~~ 767.225, 767.241, 767.511,
17 767.531, 767.56, 767.61, 767.71, 767.805 (4), 767.85, 767.863 (3), 767.89, 938.183 (4),
18 938.355 (2) (b) 4., 938.357 (5m) (a), or 938.363 (2).

19 (2) NONCOMPLIANCE: ORDER TO SHOW CAUSE. If a person has incurred a financial
20 obligation and has failed within a reasonable time or as ordered by the court to satisfy
21 such the obligation, and where the wage assignment proceeding under s. ~~767.265~~
22 ~~767.75~~ and the account transfer under s. ~~767.267~~ 767.76 are inapplicable,
23 impractical, or unfeasible, the court may on its own initiative, and shall on the
24 application of the receiving party, issue an order requiring the payer to show cause
25 at some a reasonable time ~~therein~~ specified in the order why he or she should not be

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1 ~~punished for such misconduct as provided in~~ subject to contempt of court under ch.
2 785.

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

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

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

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

15 767.313 (2) **JUDICIAL PROCEEDING REQUIRED; NO ANNULMENT AFTER DEATH.** A
16 judicial proceeding is required to annul a marriage. A marriage may not be annulled
17 after the death of a party to the marriage.

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

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

19 **767.315 (title) Grounds for divorce and legal separation.**

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

3 **767.59 (title) Revision of certain judgments support and maintenance**
4 **orders.**

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

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

13 **(1c) COURT AUTHORITY.** (a) On the petition, motion, or order to show cause of
14 either of the parties, ~~or upon the petition, motion, or order to show cause of the~~
15 department, a county department under s. 46.215, 46.22, or 46.23, or a county child
16 support agency under s. 59.53 (5) if an assignment has been made under s. 46.261,
17 48.57 (3m) (b) 2. or (3n) (b) 2., 49.19 (4) (h), or 49.45 (19) or if either party or their
18 minor children receive aid under s. 48.57 (3m) or (3n) or ch. 49, ~~and upon notice to~~
19 ~~the office of family court commissioner, revise,~~ a court may, except as provided in par.
20 (b), do any of the following:

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

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

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

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

7 **(1f) SUPPORT: SUBSTANTIAL CHANGE IN CIRCUMSTANCES.** (a) Except as provided
8 in par. (d), a revision under this section of a judgment or order with respect as to an
9 the amount of child or family support may be made only upon a finding of a
10 substantial change in circumstances. ~~In any action under this section to revise a~~
11 ~~judgment or order with respect to maintenance payments, a substantial change in~~
12 ~~the cost of living by either party or as measured by the federal bureau of labor~~
13 ~~statistics may be sufficient to justify a revision of judgment or order with respect to~~
14 ~~the amount of maintenance, except that a change in an obligor's cost of living is not~~
15 ~~in itself sufficient if payments are expressed as a percentage of income.~~

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

16 **SECTION 149.** 767.32 (1) (b), (c) and (d) of the statutes are renumbered 767.59
17 (1f) (b), (c) and (d), and 767.59 (1f) (b) (intro.), 3. and 4. and (c) (intro.), as renumbered,
18 are amended to read:

19 767.59 **(1f)** (b) (intro.) In any an action under this section to revise a judgment
20 or order with respect to an the amount of child support, any of the following shall
21 ~~constitute~~ constitutes a rebuttable presumption of a substantial change in
22 circumstances sufficient to justify a revision of the judgment or order:

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

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

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

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

15 **767.59 (1m) PAYMENT REVISIONS PROSPECTIVE.** In an action under sub. ~~(1)~~ (1c)
16 to revise a judgment or order with respect to child support, maintenance payments,
17 or family support payments, the court may not revise the amount of child support,
18 maintenance payments, or family support payments due, or an amount of arrearages
19 in child support, maintenance payments, or family support payments that has
20 accrued, prior to the date that notice of the action is given to the respondent, except
21 to correct previous errors in calculations.

22 **SECTION 151.** 767.32 (1r) of the statutes is renumbered 767.59 (1r), and 767.59
23 (1r) (intro.) and (c), as renumbered, are amended to read:

24 **767.59 (1r) CREDIT TO PAYER FOR CERTAIN PAYMENTS.** (intro.) In an action under
25 sub. ~~(1)~~ (1c) to revise a judgment or order with respect to child support or family

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1 support, the court may grant credit to the payer against support due prior to the date
2 on which the petition, motion, or order to show cause is served for payments made
3 by the payer other than payments made as provided in s. ~~767.265 or 767.29~~ 767.57
4 or 767.75, in any of the following circumstances:

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

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

11 767.59 (2) (a) Except as provided in sub. ~~(2m) or (2r)~~ par. (b) or (c), if the court
12 revises a judgment or order with respect to child support payments, it shall do so by
13 using the percentage standard established by the department under s. 49.22 (9).

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

16 767.59 (2) (b) Upon request by a party, the court may modify the amount of
17 revised child support payments determined under sub. ~~(2)~~ par. (a) if, after
18 considering the factors listed in s. ~~767.25~~ 767.511 (1m), the court finds, by the greater
19 weight of the credible evidence, that the use of the percentage standard is unfair to
20 the child or to any of the parties.

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

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

24 767.59 (2s) STIPULATION FOR REVISION OF SUPPORT. In an action under sub. (1)
25 (1c), the court may not approve a stipulation for the revision of a judgment or order

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1 with respect to an amount of child support or family support unless the stipulation
2 provides for payment of an amount of child support or family support that is
3 determined in the manner required under s. 46.10 (14), 301.12 (14), ~~767.25, 767.51~~
4 ~~or 767.62 (4)~~ 767.511, 767.805 (4), or 767.89, whichever is appropriate.

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

7 **767.59 (2w)** WHEN REVISION EFFECTIVE. A revision of a judgment or order with
8 respect to child support, family support, or maintenance payments has the effect of
9 modifying the original judgment or order with respect to such the payments to the
10 extent of the revision from the date on which the order revising such the payments
11 is effective. The child support, family support, or maintenance payments modified
12 by the order for revision shall cease to accrue under the original judgment or order
13 from the date on which the order revising such the payments is effective.

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

16 **767.59 (3)** REMARRIAGE; VACATING MAINTENANCE ORDER. After a final judgment
17 requiring maintenance payments has been rendered and the payee has remarried,
18 the court shall, on application of the payer with notice to the payee and upon proof
19 of remarriage, vacate the order requiring such the payments.

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

22 **767.59 (4)** REVIEW WHEN THE STATE IS A REAL PARTY IN INTEREST. In any case in
23 which the state is a real party in interest under s. ~~767.075~~ 767.205 (2), the
24 department shall review the support obligation periodically and whenever

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1 ~~circumstances so warrant, if appropriate,~~ petition the court for revision of the
2 judgment or order with respect to the support obligation.

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

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

8 **SECTION 160.** 767.325 (intro.) and (1) to (5) of the statutes are renumbered
9 767.451 (intro.) and (1) to (5), and 767.451 (intro.), (1) (a) (intro.) and (2) (a) and (b),
10 as renumbered, are amended to read:

11 **767.451 Revision of legal custody and physical placement orders.**
12 (intro.) Except for matters under s. ~~767.327 or 767.329~~ 767.461 or 767.481, the
13 following provisions are applicable to modifications of legal custody and physical
14 placement orders:

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

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

22 (2) (a) If the parties have substantially equal periods of physical placement
23 pursuant to a court order and circumstances make it impractical for the parties to

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1 continue to have substantially equal physical placement, a court, upon petition,
2 motion, or order to show cause by a party, may modify ~~such an~~ the order if it is in the
3 best interest of the child.

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

10 **SECTION 161.** 767.325 (5m) of the statutes, as affected by 2003 Wisconsin Act
11 130, is renumbered 767.451 (5m) and amended to read:

12 767.451 (5m) FACTORS TO CONSIDER. In all actions to modify legal custody or
13 physical placement orders, the court shall consider the factors under s. ~~767.24~~ 767.41
14 (5) (am), subject to s. ~~767.24~~ 767.41 (5) (bm), and shall make its determination in a
15 manner consistent with s. ~~767.24~~ 767.41.

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

18 767.451 (6m) PARENTING PLAN. In any action to modify a legal custody or
19 physical placement order under sub. (1), the court may require the party seeking the
20 modification to file with the court a parenting plan under s. ~~767.24~~ 767.41 (1m) before
21 any hearing is held.

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

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

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NOTE: Deletes an obsolete applicability provision.

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

4 767.481 (1) (a) (intro.) If Except as provided in sub. (8), if the court grants
5 periods of physical placement to more than one parent, it shall order a parent with
6 legal custody of and physical placement rights to a child to provide not less than 60
7 days days' written notice to the other parent, with a copy to the court, of his or her
8 intent to:

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

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

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

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

NOTE: Repeals an obsolete applicability provision.

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

3 **767.461 Revisions agreed to by stipulation.** If after an initial order is
4 entered under s. ~~767.24~~, 767.41 the parties agree to a modification in an order of
5 physical placement or legal custody and file a stipulation with the court that specifies
6 the agreed upon modification, the court shall incorporate the terms of the stipulation
7 into a revised order of physical placement or legal custody unless the court finds that
8 the modification is not in the best interest of the child.

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

9 **SECTION 167.** 767.33 of the statutes is renumbered 767.553, and 767.553 (1) (c),
10 (2), (3), (4) (a) (intro.), (b), (c) (intro.) and (d) and (5), as renumbered, are amended
11 to read:

12 **767.553 (1) (c)** In the order the court ~~or circuit court commissioner~~ shall specify
13 what information the parties must exchange to determine whether the payer's
14 income has changed, and shall specify the manner and timing of the information
15 exchange.

16 **(2) FORM FOR STIPULATING.** If the court ~~or circuit court commissioner~~ provides
17 for an annual adjustment, the court ~~or circuit court commissioner~~ shall make
18 available to the parties, including the state if the state is a real party in interest
19 under s. ~~767.075 (1)~~ 767.205 (2) (a), a form approved by the court ~~or circuit court~~
20 ~~commissioner~~ for the parties to use in stipulating to an adjustment of the amount of
21 child or family support and to modification of any applicable income-withholding

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1 order. The form shall include an order, to be signed by ~~a judge or circuit court~~
2 ~~commissioner~~ the court, for approval of the stipulation of the parties.

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

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

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

19 (b) If the court ~~or circuit court commissioner~~ determines after a hearing that
20 an adjustment should be made, the court ~~or circuit court commissioner~~ shall enter
21 an order adjusting the child or family support payments by the amount determined
22 by the court ~~or circuit court commissioner~~, subject to sub. (1) (b). An adjustment
23 under this subsection may not take effect before the date on which the party
24 responding to the motion, petition, or order to show cause received notice of the action
25 under this subsection.

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

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

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

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

15 767.34 (2) (title) LIMITATIONS ON COURT APPROVAL.

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

18 **767.251 (title) Effect Content, preparation, and approval of judgment.**

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

21 767.251 (1) CONTENT. In ~~any~~ an action affecting the family, if the court orders
22 maintenance payments or other allowances for a party or children or retains
23 jurisdiction in ~~such~~ those matters, the written judgment shall include a ~~provision~~
24 statement that disobedience of the court order ~~with respect to the same~~ is punishable
25 under ch. 785 by commitment to the county jail or house of correction until ~~such~~ the