

2007 SENATE BILL 406

January 22, 2008 – Introduced by Senators TAYLOR, MILLER, PLALE and SCHULTZ, cosponsored by Representatives ALBERS, SINICKI, GRIGSBY and TURNER. Referred to Committee on Judiciary, Corrections, and Housing.

1 **AN ACT** *to amend* 767.215 (2m) (b), 767.405 (8) (c) and 767.41 (1m) (intro.); and
2 *to create* 767.215 (1) (c) and 767.215 (2m) (a) 3. of the statutes; **relating to:**
3 parenting plans in actions affecting the family.

Analysis by the Legislative Reference Bureau

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

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: Under current law, in an action affecting the family, such as a divorce or action to determine paternity, in which legal custody or physical placement is contested, a parent seeking sole or joint legal custody or periods of physical placement must file a parenting plan with the court before any pretrial conference. In general, a parent who does not file a parenting plan before the pretrial conference waives the right to object to the other party's parenting plan. A parenting plan must provide information relating to issues such as the legal custody or physical placement the parent is seeking; where the parent lives and intends to live; the parent's hours of employment; the plan for where the child will attend school; child care arrangements; decision-making relating to the child; and any proposed child support or maintenance.

Also, under current law, in an action affecting the family in which it appears that legal custody is contested, the court must refer the parties to the director of family court services for possible mediation.

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This bill requires the clerk of court to provide parties that have a minor child with a copy of the statute relating to parenting plans when they file a petition or receive a summons for an action affecting the family. The bill also provides that a mediator must review the nonfinancial provisions of the parenting plan at the initial session of mediation.

The bill requires parties to file a parenting plan with the court within 60 days after the court waives the requirement that the parties attend mediation or within 60 days after the mediator notifies the court that the parties have not reached an agreement, unless the court orders otherwise.

1 **SECTION 1.** 767.215 (1) (c) of the statutes is created to read:

2 767.215 **(1)** (c) The clerk of court shall provide, without charge, a copy of s.
3 767.41 (1m) to each person filing a petition showing that the parties have a minor
4 child.

5 **SECTION 2.** 767.215 (2m) (a) 3. of the statutes is created to read:

6 767.215 **(2m)** (a) 3. Shall be accompanied by a copy of s. 767.41 (1m), provided
7 without charge by the clerk of court.

NOTE: SECTIONS 1 and 2 require the clerk of court to provide a copy of the statute relating to parenting plans to each person who files a petition or receives a summons initiating an action affecting the family if the petition shows that the parties have a minor child.

8 **SECTION 3.** 767.215 (2m) (b) of the statutes is amended to read:

9 767.215 **(2m)** (b) If service is by publication, notification regarding s. 948.31
10 may consist of references to the statute numbers and titles, and information relating
11 to the percentage standard and the factors and completing and filing parenting plans
12 need not be provided.

NOTE: SECTION 3 provides that if service of the summons is by publication the statute relating to parenting plans does not have to be included in the publication.

13 **SECTION 4.** 767.405 (8) (c) of the statutes is amended to read:

14 767.405 **(8)** (c) The initial session under par. (a) shall be a screening and
15 evaluation mediation session to determine whether mediation is appropriate and
16 whether both parties wish to continue in mediation. At the initial session, the

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1 mediator shall review with the parties the nonfinancial provisions that must be
2 included in the parenting plan under s. 767.41 (1m).

NOTE: SECTION 4 requires the mediator to review with the parties at the initial session of mediation the nonfinancial provisions that must be included in the parenting plan.

3 **SECTION 5.** 767.41 (1m) (intro.) of the statutes is amended to read:

4 767.41 **(1m)** PARENTING PLAN. (intro.) ~~In~~ Unless the court orders otherwise, in
5 an action for annulment, divorce, or legal separation, an action to determine
6 paternity, or an action under s. 767.001 (1) (e), 767.501, or 767.805 (3), in which legal
7 custody or physical placement is contested, a party seeking sole or joint legal custody
8 or periods of physical placement shall file a parenting plan with the court before any
9 pretrial conference if the court waives the requirement to attend mediation under s.
10 767.405 (8) (b) or if the parties attend mediation and the mediator notifies the court
11 under s. 767.405 (12) (b) that the parties have not reached an agreement. Unless the
12 court orders otherwise, the parenting plan shall be filed within 60 days after the
13 court waives the mediation requirement or the mediator notifies the court that no
14 agreement has been reached. Except for cause shown, a party required to file a
15 parenting plan under this subsection who does not timely file a parenting plan
16 waives the right to object to the other party's parenting plan. A parenting plan shall
17 provide information about the following questions:

NOTE: SECTION 5 requires parties to file a parenting plan within 60 days after the court waives the requirement to attend mediation or within 60 days after the mediator notifies the court that the parties have not reached an agreement, unless the court orders otherwise. Under current law, the parenting plan must be filed before any pretrial conference.

18 **SECTION 6. Initial applicability.**

