

**2007 DRAFTING REQUEST**

**Bill**

Received: **11/19/2007**

Received By: **pkahler**

Wanted: **Soon**

Identical to LRB:

For: **Legislative Council - JLC**

By/Representing: **Anne Sappenfield**

This file may be shown to any legislator: **NO**

Drafter: **pkahler**

May Contact:

Addl. Drafters:

Subject: **Dom. Rel. - cust./plac./vis.**

Extra Copies:

Submit via email: **YES**

Requester's email: **Anne.Sappenfield@legis.wisconsin.gov**

Carbon copy (CC:) to:

**Pre Topic:**

No specific pre topic given

**Topic:**

Parenting plans in actions affecting the family

**Instructions:**

See Attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 11/19/2007			_____			
/P1	pkahler 11/20/2007	wjackson 11/27/2007	pgreensl 11/19/2007	_____			
		wjackson 11/27/2007		_____			
/P2			nmatzke 11/27/2007	_____	sbasford 11/27/2007		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	pkahler 11/27/2007	kfollett 11/27/2007	nmatzke 11/28/2007	_____	cduerst 11/28/2007	cduerst 01/08/2008	

FE Sent For: N/A

<END>

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/P1	pkahler 11/20/2007	wjackson 11/27/2007 wjackson 11/27/2007	pgreensl 11/19/2007	_____			
/P2		11/27 11/27	nmatzke 11/27/2007 nwn 11/27	_____	sbasford 11/27/2007		

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/?	pkahler	1/26 jf/c 11/27 conversion	11/19 PK	_____	_____	_____	_____
FE Sent For:		nwn 11/27		nwn/rs 11/27			

<END>

AS:ty:jal

07/27/2007

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

*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.

This draft requires the clerk of court to provide parties that have a minor child with 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 draft bill also provides that a mediator must review the nonfinancial provisions of the parenting plan at the initial session of mediation.

The draft 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.

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

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

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

4           767.215 (2m) (a) 3. Shall be accompanied by a copy of s. 767.41 (1m), provided without  
5 charge by the clerk of court, for completing and filing a parenting plan under s. 767.41 (1m).

**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.

6           **SECTION 3.** 767.405 (8) (c) of the statutes is amended to read:

7           767.405 (8) (c) The initial session under par. (a) shall be a screening and evaluation  
8 mediation session to determine whether mediation is appropriate and whether both parties  
9 wish to continue in mediation. At the initial session, the mediator shall review with the parties  
10 the nonfinancial provisions that must be included in the parenting plan under s. 767.41 (1m).

**NOTE:** SECTION 3 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.

11          **SECTION 4.** 767.41 (1m) of the statutes is amended to read:

12          767.41 (1m) PARENTING PLAN. In an action for annulment, divorce, or legal separation,  
13 an action to determine paternity, or an action under s. 767.001 (1) (e), 767.501, or 767.805 (3),  
14 in which legal custody or physical placement is contested, a party seeking sole or joint legal  
15 custody or periods of physical placement shall file a parenting plan with the court ~~before any~~  
16 pretrial conference within 60 days after the court waives the requirement to attend mediation  
17 or within 60 days after the mediator notifies the court under s. 767.405 (12) (b) that the parties  
18 have not reached an agreement, unless the court orders otherwise. Except for cause shown,  
19 a party required to file a parenting plan under this subsection who does not timely file a

1 parenting plan waives the right to object to the other party's parenting plan. A parenting plan  
2 shall provide information about the following questions:

**NOTE:** SECTION 4 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.

3 **SECTION 5. Initial applicability.**

4 (1) This act first applies to actions commenced on the effective date of this subsection,  
5 including actions to enforce or modify a judgment or order that was granted before the  
6 effective date of this subsection.

**NOTE:** SECTION 5 provides that the provisions of the act first apply to actions affecting the family commenced on the effective date of the act.

7 (END)



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-3491/F1

PJK:....pg

72  
v m not run  
lgt

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D - vote  
by Nov 26 or 27,  
please

2:00

regenerate ↓

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

**Analysis by the Legislative Reference Bureau**

This is a preliminary draft. An analysis will be provided in a later version.

Insert  
A →

**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.

*bill*  
This ~~draft~~ requires the clerk of court to provide parties that have a minor child with 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 ~~draft~~ bill also provides that a mediator must review the nonfinancial provisions of the parenting plan at the initial session of mediation.

*bill*  
The ~~draft~~ 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.

*create auto ref (aa) ✓*

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.

*create auto ref (ab)*

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, for completing and filing a parenting plan under

8 s. 767.41 (1m).

*a.r. (aa) a.r. (ab)*

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.

*create auto ref (a)*

9 SECTION 3. 767.405 (8) (c) of the statutes is amended to read:

10 767.405 (8) (c) The initial session under par. (a) shall be a screening and

11 evaluation mediation session to determine whether mediation is appropriate and

12 whether both parties wish to continue in mediation. At the initial session, the

13 mediator shall review with the parties the nonfinancial provisions that must be

14 included in the parenting plan under s. 767.41 (1m).

*a.r. (a)*

NOTE: SECTION 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.

*Section 2-9*

15 SECTION 4. 767.41 (1m) of the statutes is amended to read:

1           767.41 (1m) PARENTING PLAN. In an action for annulment, divorce, or legal  
 2 separation, an action to determine paternity, or an action under s. 767.001 (1) (e),  
 3 767.501, or 767.805 (3), in which legal custody or physical placement is contested, a  
 4 party seeking sole or joint legal custody or periods of physical placement shall file a  
 5 parenting plan with the court ~~before any pretrial conference~~ within 60 days after the  
 6 court waives the requirement to attend mediation or within 60 days after the  
 7 mediator notifies the court under s. 767.405 (12) (b) that the parties have not reached  
 8 an agreement, unless the court orders otherwise. Except for cause shown, a party  
 9 required to file a parenting plan under this subsection who does not timely file a  
 10 parenting plan waives the right to object to the other party's parenting plan. A  
 11 parenting plan shall provide information about the following questions:

Amend 3-11

NOTE: SECTION 4 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.

**SECTION 5. Initial applicability.**

12  
 13 (1) This act first applies to actions commenced on the effective date of this  
 14 subsection, including actions to enforce or modify a judgment or order that was  
 15 granted before the effective date of this subsection.

X NOTE: SECTION 4 provides that the provisions of the act first apply to actions  
 affecting the family commenced on the effective date of the act.

(END)

D - note

2007-2008 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-3491/P/ins  
PJK:....pg

INSERT A

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

(END OF INSERT A)

INSERT 2-9

1           **SECTION 1.** 767.215 (2m) (b) of the statutes is amended to read:  
2           767.215 (2m) (b) If service is by publication, notification regarding s. 948.31  
3           may consist of references to the statute numbers and titles, and information relating  
4           to the percentage standard and the factors and completing and filing parenting plans  
5           need not be provided.

History: 1971 c. 220; 1977 c. 105; 1979 c. 32 ss. 50, 92 (4); 1979 c. 196; 1979 c. 352 s. 39; Stats. 1979 s. 767.085; 1985 a. 29; 1987 a. 332 s. 64; 1987 a. 355, 403; 1989 a. 31, 56, 132; 1993 a. 78, 481; 1995 a. 27 s. 9126 (19); 1995 a. 201, 404; 1997 a. 191; 2001 a. 61; 2005 a. 443 ss. 31, 46 to 49, 71, 83, 84; Stats. 2005 s. 767.215.

\*\*\*\*NOTE: I removed some language in proposed s. 767.215 (2m) (a) 3. and added an amendment to s. 767.215 (2m) (b). Are these changes ok?

(END OF INSERT 2-9)

INSERT 3-11

6           **SECTION 2.** 767.41 (1m) (intro.) of the statutes is amended to read:  
7           767.41 (1m) PARENTING PLAN. (intro.) In Unless the court orders otherwise, in  
8           an action for annulment, divorce, or legal separation, an action to determine  
9           paternity, or an action under s. 767.001 (1) (e), 767.501, or 767.805 (3), in which legal  
10          custody or physical placement is contested, a party seeking sole or joint legal custody  
11          or periods of physical placement shall file a parenting plan with the court ~~before any~~  
12          pretrial conference if the court waives the requirement to attend mediation under s.  
13          767.405 (8) (b) or if the parties attend mediation and the mediator notifies the court  
14          under s. 767.405 (12) (b) that the parties have not reached an agreement. Unless the  
15          court orders otherwise, the parenting plan shall be filed within 60 days after the

1 court waives the mediation requirement or the mediator notifies the court that no  
2 agreement has been reached. Except for cause shown, a party required to file a  
3 parenting plan under this subsection who does not timely file a parenting plan  
4 waives the right to object to the other party's parenting plan. A parenting plan shall  
5 provide information about the following questions:

**History:** 1971 c. 149, 157, 211; 1975 c. 39, 122, 200, 283; 1977 c. 105, 418; 1979 c. 32 ss. 50, 92 (4); 1979 c. 196; Stats. 1979 s. 767.24; 1981 c. 391; 1985 a. 70, 176; 1987 a. 332 s. 64; 1987 a. 355, 364, 383, 403; 1989 a. 56 s. 259; 1989 a. 359; 1991 a. 32; 1993 a. 213, 446, 481; 1995 a. 77, 100, 275, 289, 343, 375; 1997 a. 35, 191; 1999 a. 9; 2001 a. 109; 2003 a. 130; 2005 a. 101, 174, 264; 2005 a. 443 ss. 29, 94 to 98; Stats. 2005 s. 767.41; 2005 a. 471 ss. 1 to 5; ss. 13.93 (1) (b) and (2) (c).

**(END OF INSERT 3-11)**

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3491/Pfdn

PJK:lpjg

Date

2  
lgf

X Is s. 767.215<sup>(2m)</sup>(b) amended satisfactorily, or would you like something different or no amendment at all?

I modified the amendment of s. 767.41 (1m) (intro.). Since this change from current law is not minor, I thought the two situations in which parenting plans would have to be filed needed to be explicit rather than implicit. Is this change ok?

Note s. 767.451 (6m). I think this provision can stand as is and is really independent of s. 767.41 (1m), since a revision of legal custody or physical placement is not one of the actions listed in s. 767.41 (1m) (intro.). Let me know if you disagree and think that s. 767.451 (6m) must be reconciled with s. 767.41 (1m) (intro.).

Re. the initial applicability section, would this bill affect any actions to enforce or modify a judgment or order? The actions listed in s. 767.41 (1m) (intro.) are not for enforcement or modification, although it's probably better to include more types of actions than are needed than to include fewer than are needed.

Pamela J. Kahler  
Senior Legislative Attorney  
Phone: (608) 266-2682  
E-mail: pam.kahler@legis.wisconsin.gov

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**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3491/P2dn  
PJK:kjf:nwn

November 27, 2007

Is s. 767.215 (2m) (b) amended satisfactorily, or would you like something different or no amendment at all?

I modified the amendment of s. 767.41 (1m) (intro.). Since this change from current law is not minor, I thought the two situations in which parenting plans would have to be filed needed to be explicit rather than implicit. Is this change ok?

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Re. the initial applicability section, would this bill affect any actions to enforce or modify a judgment or order? The actions listed in s. 767.41 (1m) (intro.) are not for enforcement or modification, although it's probably better to include more types of actions than are needed than to include fewer than are needed.

Pamela J. Kahler  
Senior Legislative Attorney  
Phone: (608) 266-2682  
E-mail: [pam.kahler@legis.wisconsin.gov](mailto:pam.kahler@legis.wisconsin.gov)



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-3491/P2

PJK:kjf:rtwn

*revision*

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

*by Dec 4,  
please*

*Regen*

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.

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***Analysis by the Legislative Reference Bureau***

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

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

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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.

This bill requires the clerk of court to provide parties that have a minor child with 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.

*author of [unclear] [unclear]*

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: I removed some language in proposed s. 767.215 (2m) (a) 3. and added an amendment to s. 767.215 (2m) (b). Are these changes ok?

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

*Insert 2-12*

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  
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15 parenting plan under this subsection who does not timely file a parenting plan  
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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.**



**2007-2008 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3491/lins  
PJK:kjf:awn

*auto ref 3* ↘

**INSERT 2-12**

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

**(END OF INSERT 2-12)**

*of the summons*



State of Wisconsin  
LEGISLATIVE REFERENCE BUREAU

**RESEARCH APPENDIX -**  
**PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 12/20/2007 (Per: PJK)



Appendix A

The 2007 drafting file for LRB-3491/1  
has been copied/added to the drafting file for  
**2007 LRB-3711**

☞ The attached 2007 draft was incorporated into the new 2007 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as an appendix, to the new 2007 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

☞ This cover sheet was added to rear of the original 2007 drafting file. The drafting file was then returned, intact, to its folder and filed.

**Duerst, Christina**

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**From:** Sappenfield, Anne  
**Sent:** Tuesday, January 08, 2008 9:13 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 07-3491/1 Topic: Parenting plans in actions affecting the family

Please Jacket LRB 07-3491/1 for the ASSEMBLY.