
















State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

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

Date Transfer Requested: 10/01/2013 (Per: EHS)

Appendix D2

- Appendix A1  The drafting file for LRB 13-0480 (used to create 13-3303)
- Appendix A2  The drafting file for LRB 11-0558 (used to create 13-0480)
- Appendix B1  The drafting file for LRB 13-0481 (used to create 13-3303)
- Appendix B2  The drafting file for LRB 11-0559 (used to create 13-0481)
- Appendix C1  The drafting file for LRB 13-0482 (used to create 13-3303)
- Appendix C2  The drafting file for LRB 11-0560 (used to create 13-0482)
- Appendix D1  The drafting file for LRB 13-0483 (used to create 13-3303)
- Appendix D2  The drafting file for LRB 11-0563 (used to create 13-0483)
- Appendix E  The drafting file for LRB 13-0484 (used to create 13-3303)
- Appendix F  The drafting file for LRB 13-0486 (used to create 13-3303)
- Appendix G  The drafting file for LRB 13-0487 (used to create 13-3303)
- Appendix H  The drafting file for LRB 13-0488 (used to create 13-3303)
- Appendix I  The drafting file for LRB 13-0489 (used to create 13-3303)

has been transferred to the drafting file for

2013 LRB-3303



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

Appendix A

LRB BILL HISTORY RESEARCH APPENDIX

The drafting file for 2011 LRB-0563 (For: Leg. Council - LRC)

has been transferred to the drafting file for

2013 LRB-0483 (For: Leg. Council - LRC)



RESEARCH APPENDIX -
PLEASE KEEP WITH THE DRAFTING FILE

Date Transfer Requested: 11/02/2012 (Per: PJK)

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

2011 DRAFTING REQUEST

Bill

Received: 11/19/2010

Received By: pkahler

Wanted: As time permits

Companion to LRB:

For: Legislative Council - LRC

By/Representing: Laura Rose

May Contact:

Drafter: pkahler

Subject: Dom. Rel. - child support/maint.

Addl. Drafters:

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:

Release of frozen accounts

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 11/22/2010	kfollett 11/24/2010		_____			
/P1			rschluet 11/29/2010	_____	mbarman 11/29/2010		
/1	pkahler 01/12/2012	jdye 01/13/2012	phenry 01/13/2012	_____	mbarman 01/13/2012		
/2	pkahler 01/19/2012	kfollett 01/19/2012	rschluet 01/20/2012	_____	mbarman 01/20/2012		

LRB-0563

01/20/2012 11:05:13 AM

Page 2

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For:

<END>

2011 DRAFTING REQUEST

Bill

Received: 11/19/2010

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Wanted: As time permits

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By/Representing: Laura Rose

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/?	pkahler 11/22/2010	kfollett 11/24/2010		_____			
/P1			rschluet 11/29/2010	_____	mbarman 11/29/2010		
/1	pkahler 01/12/2012	jdyer 01/13/2012	pherry 01/13/2012	_____	mbarman 01/13/2012		

FE Sent For:

Handwritten notes: 12/15 f, 1/19, 2011, SM

2011 DRAFTING REQUEST

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Received: 11/19/2010

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/?	pkahler 11/22/2010	kfollett 11/24/2010	V/B ph X	_____			
/P1		1/13 jld	rschluet 11/29/2010	_____	mbarman 11/29/2010		

FE Sent For:

<END>

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Instructions:

See attached

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<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	1P16f 11/24		_____			

FE Sent For:

<END>

Jim Doyle
Governor

Reggie Bicha
Secretary



State of Wisconsin
Department of Children and Families

201 East Washington Avenue, Room G200
P.O. Box 8916
Madison, WI 53708-8916

Telephone: 608-267-3905
Fax: 608-266-6836
dcf.wisconsin.gov

CORRESPONDENCE/Memorandum

State of Wisconsin

Date: October 29, 2010
To: Director Terry Anderson
Legislative Council
From: Secretary Reggie Bicha
Department of Children and Families
RBicha
Subject: Department of Children and Families Law Revision Proposals

The Department of Children and Families is seeking a number of technical amendments through the law revision process. Below are the proposals listed by program area and unless otherwise stated the proposal has not been introduced in previous sessions and have no fiscal effect.

Child Support:

- ✓ 8. Release of Frozen Financial Institution Accounts

Specific Statutory Change

Amend Wis. Stat. §49.854(5)(f) to require the department to instruct the financial institution to release a frozen account when the court determines that the child support arrears are not owed.

Administrative or Substantive Problem with Current Law and Need for the Change

Wis. Stat. § 49.854(5)(f) provides that if a payer requests a court hearing after his or her financial accounts have been frozen due to child support arrears, and the court determines that the arrears are not owed, the department must return the seized funds to the payer. However, the department is not in possession of the funds as the account has just been frozen.

- ✓ 9. Paternity Acknowledgment Form Notice Requirements

Specific Statutory Change

Delete the language in the last sentence of Wis. Stat. § 69.15(3)(b)3 and replace it with language requiring that the form provided by the state registrar for the voluntary acknowledgment of paternity must be in accordance with federal law and regulations related to voluntary paternity acknowledgment, and must include the rights and responsibilities of, and alternatives to, voluntary paternity acknowledgment.

Administrative or Substantive Problem with Current Law and Need for the Change

Current law requires that the voluntary paternity acknowledgment form

Kahler, Pam

From: Malaise, Gordon
Sent: Tuesday, November 16, 2010 5:41 PM
To: Kahler, Pam
Cc: Rose, Laura
Subject: FW: Department of Children and Families Law Revision Proposals
Attachments: law revision-1.pdf

Pam:

Here are DCF's remedial legislation proposals. The proposals relating to child support and W-2 look like yours. The child welfare proposals are mine.

Gordon

From: Rose, Laura
Sent: Tuesday, November 16, 2010 3:17 PM
To: Malaise, Gordon
Subject: FW: Department of Children and Families Law Revision Proposals

Hi, Gordon,

Attached are the Law Revision remedial legislation proposals from DCF for the upcoming legislative session. I reviewed them, and I think they are okay. Please let me know if you have any questions.

Thanks very much,

Laura

Laura D. Rose, Deputy Director

Wisconsin Legislative Council

One East Main Street, Suite 401

PO Box 2536

Madison, WI 53701-2536

tel: 608.266.9791

fax: 608.266.3830

laura.rose@legis.wisconsin.gov

11/17/2010

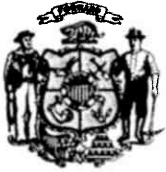
From: DCF Secretary Reggie Bicha [mailto:DCFSecretaryReggieBicha@wisconsin.gov]
Sent: Friday, October 29, 2010 3:20 PM
To: Anderson, Terry C.
Cc: Rose, Laura
Subject: Department of Children and Families Law Revision Proposals

I am attaching the Department of Children and Families Law Revision Proposals. Thank you.

Sincerely,

Reggie Bicha
Secretary

11/17/2010



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-05637
PJK: [handwritten initials]

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

*D-vote
(2/11-22)*

gen cat

1 AN ACT *x*; relating to: releasing a frozen bank account of a support obligor
2 (suggested as remedial legislation by the Department of Children and
3 Families).

Analysis by the Legislative Reference Bureau

Under current law, if a person who has been ordered by a court to pay child support (obligor) is delinquent in the payments, the amount of the delinquency becomes a lien in favor of the Department of Children and Families (DCF). To enforce the lien, DCF^v may levy against one or more accounts that the obligor has at a financial institution by sending a notice of levy to the financial institution instructing the financial institution to prohibit the closing of or withdrawals from the account, up to the amount that is sufficient to pay the amount of the delinquency. If the obligor requests a hearing and at the hearing the court orders an alternative payment arrangement or determines that the obligor does not owe the support, or owes less than the amount claimed by DCF, the court must, under current law, order DCF^v to return the seized funds or the excess of the seized funds over the delinquent amount. Since DCF has not actually seized the funds, this bill requires the court to order DCF to instruct the financial institution to release the account, or funds in the account that exceed the delinquent amount, to the obligor.

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

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

LAW REVISION COMMITTEE PREFATORY NOTE. ✓ This bill is a remedial legislation proposal, requested by the Department of Children and Families and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4. and 5., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

✓

1 **SECTION 1.** 20.437 (2) (r) of the statutes is amended to read:

2 20.437 (2) (r) *Support receipt and disbursement program; payments.* From the
3 support collections trust fund, except as provided in par. (qm), all moneys received
4 under s. 49.854, except for moneys received under s. 49.854 (11) (b), all moneys
5 received under ss. 767.57 and 767.75 for child or family support, maintenance,
6 spousal support, health care expenses, or birth expenses, all other moneys received
7 under judgments or orders in actions affecting the family, as defined in s. 767.001 (1),
8 and all moneys received under s. 49.855 (4) from the department of revenue or the
9 department of administration that were withheld by the department of revenue or
10 the internal revenue service for delinquent child support, family support, or
11 maintenance or outstanding court-ordered amounts for past support, medical
12 expenses, or birth expenses, for disbursement to the persons for whom the payments
13 are awarded, for ~~returning seized funds under s. 49.854 (5) (f)~~ paying a person who
14 holds a financial institution account jointly with an obligor the value of the account
15 that is attributable to the person under s. 49.854 (7m), and, if assigned under s. 48.57
16 (3m) (b) 2. or (3n) (b) 2., 48.645 (3), 49.145 (2) (s), 49.19 (4) (h) 1. b., or 49.775 (2) (bm),

1 for transfer to the appropriation account under par. (k). Estimated disbursements
2 under this paragraph shall not be included in the schedule under s. 20.005.

History: 2007 a. 20 ss. 331, 335, 340, 341, 342, 344 to 352, 354 to 368g, 374 to 376, 380, 381, 401, 404, 405, 423 to 437, 447, 448, 450, 451, 453, 453p, 454, 456 to 458, 460e, 463, 465 to 472, 474 to 480, 9121 (6) (a); 2009 a. 28 ss. 471 to 513, 522; 2009 a. 76, 180, 185, 265, 339; s. 13.92 (2) (i).

3 SECTION 2. 49.854 (5) (f) of the statutes is amended to read:

4 49.854 (5) (f) *Hearings.* A hearing requested under par. (d) 6. shall be
5 conducted before the circuit court rendering the order to pay support. Within 45
6 business days after receiving a request for hearing under par. (d) 6., the court shall
7 conduct the hearing. A circuit court commissioner may conduct the hearing. The
8 hearing shall be limited to a review of whether the account holder owes the amount
9 of support certified and whether any alternative payment arrangement offered by
10 the department or the county child support agency is reasonable. If the court or
11 circuit court commissioner makes a written determination that an alternative
12 payment arrangement offered by the department or county child support agency is
13 not reasonable, the court or circuit court commissioner may order an alternative
14 payment arrangement. If the court or circuit court commissioner orders an
15 alternative payment arrangement, the court or circuit court commissioner shall
16 order the department to instruct the financial institution to release all or a portion
17 of the funds. If the court or circuit court commissioner determines that the account
18 holder does not owe support or owes less than the amount claimed by the
19 department, the court shall order the department to ~~return the seized funds~~ instruct
20 the financial institution to release the funds in the account or the excess of ~~the seized~~
21 those funds over the amount of the delinquency to the account holder. If a circuit
22 court commissioner conducts the hearing under this paragraph, the department or
23 the obligor may, within 15 business days after the date that the circuit court

strike

1 commissioner makes his or her decision, request review of the decision by the court
2 with jurisdiction over the action.

3 **History:** 1997 a. 191; 1999 a. 9; 2001 a. 61; 2003 a. 33; 2007 a. 20.

(END)

D. note

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

LRB-0563/ndn
PJK:.....

PI
gf

Date

✓
Is how I amended s. 20.437 (2) (r) okay?

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

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

LRB-0563/P1dn
PJK:kjfrs

November 29, 2010

Is how I amended s. 20.437 (2) (r) okay?

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

After SECTION 1

Provides that one purpose of the support collections trust fund is to pay a person who holds an account at a financial institution jointly with a delinquent support obligor the value of the account that is attributable to the person instead of returning funds seized from a financial institution. This reflects that a financial institution freezes accounts at the request of the Department of Children and Families upon notice of levy but the department does not seize the funds until an opportunity for a hearing is afforded.

After SECTION 2

In a hearing relating to a levy against a delinquent obligor's financial account, provides that the court may order the department to instruct the financial institution to release all or a portion of the funds, instead of ordering the department to release the funds.



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-0563/01
PJK:kjf:rs

2011 BILL

pm is new

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

by 1-18
in 1-13
D. note

X

Regen

- 1 AN ACT to amend 20.437 (2) (r) and 49.854 (5) (f) of the statutes; relating to:
- 2 releasing a frozen bank account of a support obligor (suggested as remedial
- 3 legislation by the Department of Children and Families). ✓

Analysis by the Legislative Reference Bureau

Under current law, if a person who has been ordered by a court to pay child support (obligor) is delinquent in the payments, the amount of the delinquency becomes a lien in favor of the Department of Children and Families (DCF). To enforce the lien, DCF may levy against one or more accounts that the obligor has at a financial institution by sending a notice of levy to the financial institution instructing the financial institution to prohibit the closing of or withdrawals from the account, up to the amount that is sufficient to pay the amount of the delinquency. If the obligor requests a hearing and at the hearing the court orders an alternative payment arrangement or determines that the obligor does not owe the support, or owes less than the amount claimed by DCF, the court must, under current law, order DCF to return the seized funds or the excess of the seized funds over the delinquent amount. Since DCF has not actually seized the funds, this bill requires the court to order DCF to instruct the financial institution to release the account, or funds in the account that exceed the delinquent amount, to the obligor.

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LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Department of Children and Families and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4. and 5., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

1 **SECTION 1.** 20.437 (2) (r) of the statutes is amended to read:

2 20.437 (2) (r) *Support receipt and disbursement program; payments.* From the
3 support collections trust fund, except as provided in par. (qm), all moneys received
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6 spousal support, health care expenses, or birth expenses, all other moneys received
7 under judgments or orders in actions affecting the family, as defined in s. 767.001 (1),
8 and all moneys received under s. 49.855 (4) from the department of revenue or the
9 department of administration that were withheld by the department of revenue or
10 the internal revenue service for delinquent child support, family support, or
11 maintenance or outstanding court-ordered amounts for past support, medical
12 expenses, or birth expenses, for disbursement to the persons for whom the payments
13 are awarded, for ~~returning seized funds under s. 49.854 (5) (f) paying a person who~~
14 holds a financial institution account jointly with an obligor the value of the account
15 that is attributable to the person under s. 49.854 (7m), and, if assigned under s. 48.57
16 (3m) (b) 2. or (3n) (b) 2., 48.645 (3), 49.145 (2) (s), 49.19 (4) (h) 1. b., or 49.775 (2) (bm),
17 for transfer to the appropriation account under par. (k). Estimated disbursements
18 under this paragraph shall not be included in the schedule under s. 20.005.

✓
Insert 2-18 →

1 SECTION 2. 49.854 (5) (f) of the statutes is amended to read:

2 49.854 (5) (f) *Hearings.* A hearing requested under par. (d) 6. shall be
3 conducted before the circuit court rendering the order to pay support. Within 45
4 business days after receiving a request for hearing under par. (d) 6., the court shall
5 conduct the hearing. A circuit court commissioner may conduct the hearing. The
6 hearing shall be limited to a review of whether the account holder owes the amount
7 of support certified and whether any alternative payment arrangement offered by
8 the department or the county child support agency is reasonable. If the court or
9 circuit court commissioner makes a written determination that an alternative
10 payment arrangement offered by the department or county child support agency is
11 not reasonable, the court or circuit court commissioner may order an alternative
12 payment arrangement. If the court or circuit court commissioner orders an
13 alternative payment arrangement, the court or circuit court commissioner shall
14 order the department to instruct the financial institution to release all or a portion
15 of the funds. If the court or circuit court commissioner determines that the account
16 holder does not owe support or owes less than the amount claimed by the
17 department, the court shall order the department to ~~return the seized funds~~ instruct
18 the financial institution to release the funds in the account or the excess of ~~the seized~~
19 those funds over the amount of the delinquency to the account holder. If a circuit
20 court commissioner conducts the hearing under this paragraph, the department or
21 the obligor may, within 15 business days after the date that the circuit court
22 commissioner makes his or her decision, request review of the decision by the court
23 with jurisdiction over the action.

24

Insert 3-23 ✓

(END)

D-note

**2011-2012 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0563/lins
PJK:.....

INSERT 2-18

NOTE: Provides that one purpose of the support collections trust fund is to pay a person who holds an account at a financial institution jointly with a delinquent support obligor the value of the account that is attributable to the person instead of returning funds seized from a financial institution. This reflects that a financial institution freezes accounts at the request of the Department of Children and Families upon notice of levy but the department does not seize the funds until an opportunity for a hearing is afforded.

(END OF INSERT 2-18)

INSERT 3-23

NOTE: In a hearing relating to a levy against a delinquent obligor's financial account, provides that the court may order the department to instruct the financial institution to release all or a portion of the funds, instead of ordering the department to release the funds.

(END OF INSERT 3-23)

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

date

05631
LRB-0561/1dn
PJK:....

JLD

In light of the amendment to s. 20.437 (2) (r)[✓], should the next to the last sentence of s. 49.854 (7m)[✓] be amended to replace "from the net balance of the jointly held account" with "from the appropriation under s. 20.437 (2) (r)"[✓]?

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

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

LRB-0563/1dn
PJK:jld:ph

January 13, 2012

In light of the amendment to s. 20.437 (2) (r), should the next to the last sentence of s. 49.854 (7m) be amended to replace "from the net balance of the jointly held account" with "from the appropriation under s. 20.437 (2) (r)"?

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

Kahler, Pam

From: Sappenfield, Anne
Sent: Friday, January 20, 2012 8:17 AM
To: Kahler, Pam
Subject: RE: LRC draft LRB-0563

Thank you!

From: Kahler, Pam
Sent: Thursday, January 19, 2012 2:32 PM
To: Sappenfield, Anne
Subject: LRC draft LRB-0563

Hi, Anne:

I just spoke with Connie Chesnick about this draft and my question relating to amending s. 49.854 (7m). We've decided that instead I should amend the appropriation differently. So I will run a /2 of this draft.

Pamela J. Kahler
Legislative Attorney
Legislative Reference Bureau
608-266-2682



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-0563/2

PJK:kjf:ph

r mls nmn

2011 BILL

*D-note
Friday, please*

legen

- 1 AN ACT *to amend* 20.437 (2) (r) and 49.854 (5) (f) of the statutes; **relating to:**
2 releasing a frozen bank account of a support obligor (suggested as remedial
3 legislation by the Department of Children and Families).

Analysis by the Legislative Reference Bureau

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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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8 and all moneys received under s. 49.855 (4) from the department of revenue or the
9 department of administration that were withheld by the department of revenue or
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11 maintenance or outstanding court-ordered amounts for past support, medical
12 expenses, or birth expenses, for disbursement to the persons for whom the payments
13 are awarded, ~~for returning seized funds under s. 49.854 (5) (f)~~ *strike* paying a person who
14 holds a financial institution account jointly with an obligor the value of the account
15 that is attributable to the person under s. 49.854 (7m) *strike comma* and, if assigned under s. 48.57
16 (3m) (b) 2. or (3n) (b) 2., 48.645 (3), 49.145 (2) (s), 49.19 (4) (h) 1. b., or 49.775 (2) (bm),
17 for transfer to the appropriation account under par. (k). Estimated disbursements
18 under this paragraph shall not be included in the schedule under s. 20.005.

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NOTE: ~~Provides that one~~ purpose of the support collections trust fund ~~is to pay a~~
 person who holds an account at a financial institution jointly with a delinquent support
 obligor the value of the account that is attributable to the person instead of returning
 funds seized from a financial institution. This reflects that a financial institution freezes
 accounts at the request of the Department of Children and Families upon notice of levy
 but the department does not seize the funds until an opportunity for a hearing is afforded.

1 **SECTION 2.** 49.854 (5) (f) of the statutes is amended to read:

2 49.854 (5) (f) *Hearings.* A hearing requested under par. (d) 6. shall be
 3 conducted before the circuit court rendering the order to pay support. Within 45
 4 business days after receiving a request for hearing under par. (d) 6., the court shall
 5 conduct the hearing. A circuit court commissioner may conduct the hearing. The
 6 hearing shall be limited to a review of whether the account holder owes the amount
 7 of support certified and whether any alternative payment arrangement offered by
 8 the department or the county child support agency is reasonable. If the court or
 9 circuit court commissioner makes a written determination that an alternative
 10 payment arrangement offered by the department or county child support agency is
 11 not reasonable, the court or circuit court commissioner may order an alternative
 12 payment arrangement. If the court or circuit court commissioner orders an
 13 alternative payment arrangement, the court or circuit court commissioner shall
 14 order the department to instruct the financial institution to release all or a portion
 15 of the funds. If the court or circuit court commissioner determines that the account
 16 holder does not owe support or owes less than the amount claimed by the
 17 department, the court shall order the department to ~~return the seized funds~~ instruct
 18 the financial institution to release the funds in the account or the excess of ~~the seized~~
 19 those funds over the amount of the delinquency to the account holder. If a circuit
 20 court commissioner conducts the hearing under this paragraph, the department or
 21 the obligor may, within 15 business days after the date that the circuit court

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1 commissioner makes his or her decision, request review of the decision by the court
2 with jurisdiction over the action.

NOTE: In a hearing relating to a levy against a delinquent obligor's financial account, provides that the court may order the department to instruct the financial institution to release all or a portion of the funds, instead of ordering the department to release the funds.

3

(END)

D-note
date

LRB-0563/2dn
PJK:kjf

Anne:

I modified the ^{CS}Note after the appropriation. Please fix if necessary.

PJK

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

LRB-0563/2dn
PJK:kjf:rs

January 20, 2012

Anne:

I modified the NOTE after the appropriation. Please fix if necessary.

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



State of Wisconsin
LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX -
PLEASE DO NOT REMOVE FROM DRAFTING FILE

Date Transfer Requested: 02/06/2012 (Per: PIK & GMM)

☛ Compile Draft – Appendix D
... Part 01 of 01

A = The 2011 drafting file for
LRB-0558

D = The 2011 drafting file for
LRB-0563

B = The 2011 drafting file for
LRB-0559

E = The 2011 drafting file for
LRB-0569

C = The 2011 drafting file for
LRB-0560

2011 LRB-0563 has been copied/added to the drafting file for
2011 LRB-0568



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-0563/2
PJK:kjf:rs

2011 BILL

- 1 **AN ACT to amend** 20.437 (2) (r) and 49.854 (5) (f) of the statutes; **relating to:**
2 releasing a frozen bank account of a support obligor (suggested as remedial
3 legislation by the Department of Children and Families).

Analysis by the Legislative Reference Bureau

Under current law, if a person who has been ordered by a court to pay child support (obligor) is delinquent in the payments, the amount of the delinquency becomes a lien in favor of the Department of Children and Families (DCF). To enforce the lien, DCF may levy against one or more accounts that the obligor has at a financial institution by sending a notice of levy to the financial institution instructing the financial institution to prohibit the closing of or withdrawals from the account, up to the amount that is sufficient to pay the amount of the delinquency. If the obligor requests a hearing and at the hearing the court orders an alternative payment arrangement or determines that the obligor does not owe the support, or owes less than the amount claimed by DCF, the court must, under current law, order DCF to return the seized funds or the excess of the seized funds over the delinquent amount. Since DCF has not actually seized the funds, this bill requires the court to order DCF to instruct the financial institution to release the account, or funds in the account that exceed the delinquent amount, to the obligor.

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For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Department of Children and Families and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4. and 5., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

1 **SECTION 1.** 20.437 (2) (r) of the statutes is amended to read:
2 20.437 (2) (r) *Support receipt and disbursement program; payments.* From the
3 support collections trust fund, except as provided in par. (qm), all moneys received
4 under s. 49.854, except for moneys received under s. 49.854 (11) (b), all moneys
5 received under ss. 767.57 and 767.75 for child or family support, maintenance,
6 spousal support, health care expenses, or birth expenses, all other moneys received
7 under judgments or orders in actions affecting the family, as defined in s. 767.001 (1),
8 and all moneys received under s. 49.855 (4) from the department of revenue or the
9 department of administration that were withheld by the department of revenue or
10 the internal revenue service for delinquent child support, family support, or
11 maintenance or outstanding court-ordered amounts for past support, medical
12 expenses, or birth expenses, for disbursement to the persons for whom the payments
13 are awarded, ~~for returning seized funds under s. 49.854 (5) (f),~~ and, if assigned under
14 s. 48.57 (3m) (b) 2. or (3n) (b) 2., 48.645 (3), 49.145 (2) (s), 49.19 (4) (h) 1. b., or 49.775
15 (2) (bm), for transfer to the appropriation account under par. (k). Estimated
16 disbursements under this paragraph shall not be included in the schedule under s.
17 20.005.

NOTE: Removes as a purpose of the support collections trust fund returning funds seized from a financial institution. This reflects that a financial institution freezes

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accounts at the request of the Department of Children and Families upon notice of levy but the department does not seize the funds until an opportunity for a hearing is afforded.

1 **SECTION 2.** 49.854 (5) (f) of the statutes is amended to read:

2 49.854 (5) (f) *Hearings.* A hearing requested under par. (d) 6. shall be
3 conducted before the circuit court rendering the order to pay support. Within 45
4 business days after receiving a request for hearing under par. (d) 6., the court shall
5 conduct the hearing. A circuit court commissioner may conduct the hearing. The
6 hearing shall be limited to a review of whether the account holder owes the amount
7 of support certified and whether any alternative payment arrangement offered by
8 the department or the county child support agency is reasonable. If the court or
9 circuit court commissioner makes a written determination that an alternative
10 payment arrangement offered by the department or county child support agency is
11 not reasonable, the court or circuit court commissioner may order an alternative
12 payment arrangement. If the court or circuit court commissioner orders an
13 alternative payment arrangement, the court or circuit court commissioner shall
14 order the department to instruct the financial institution to release all or a portion
15 of the funds. If the court or circuit court commissioner determines that the account
16 holder does not owe support or owes less than the amount claimed by the
17 department, the court shall order the department to ~~return the seized funds~~ instruct
18 the financial institution to release the funds in the account or the excess of the seized
19 those funds over the amount of the delinquency to the account holder. If a circuit
20 court commissioner conducts the hearing under this paragraph, the department or
21 the obligor may, within 15 business days after the date that the circuit court
22 commissioner makes his or her decision, request review of the decision by the court
23 with jurisdiction over the action.

BILL

NOTE: In a hearing relating to a levy against a delinquent obligor's financial account, provides that the court may order the department to instruct the financial institution to release all or a portion of the funds, instead of ordering the department to release the funds.

1

(END)