



2013 SENATE BILL 68

March 7, 2013 – Introduced by Senators GROTHMAN and RISSER, cosponsored by Representatives KESTELL, DOYLE, BERNIER, KLEEFISCH, LEMAHIEU, STRACHOTA, T. LARSON, RICHARDS and C. TAYLOR. Referred to Committee on Judiciary and Labor.

1 **AN ACT** *to renumber and amend* 767.56 and 767.58 (1); *to amend* 766.70 (4)
2 (a) 3. and 767.59 (3); and *to create* 767.56 (2c) and 767.58 (1) (c) of the statutes;
3 **relating to:** termination of maintenance upon the payee's or payer's death and
4 notices relating to maintenance.

Analysis by the Legislative Reference Bureau

Under current law, in an action for divorce, annulment, or legal separation, a court may order one party (payer) to pay maintenance (formerly known as alimony) to the other party (payee) for a limited or indefinite length of time. Current law also provides that, if a payee of maintenance remarries, the court must vacate the maintenance order upon the application of the payer and proof of the payee's remarriage.

This bill provides that, when a court orders maintenance or family support (a combination of child support and maintenance), the court must include in the order a requirement that the payee notify the court and the payer if the payee remarries. Under the bill, a court must vacate a maintenance order upon notice from the payee that he or she has remarried, in addition to vacating the order upon the application of the payer and proof of the payee's remarriage. The bill also provides that, unless already terminated for another reason, such as the payee's remarriage or the expiration of a limited time under an order, maintenance terminates upon the death of the payee or the payer, whichever occurs first. Under an Internal Revenue Service

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rule, maintenance must end at the payee's death in order for the payer to be able to deduct the payments from his or her gross income for income tax purposes.

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

1 **SECTION 1.** 766.70 (4) (a) 3. of the statutes is amended to read:

2 766.70 (4) (a) 3. A division of the obligations of the spouses existing on the date
3 of the request, after considering the classification of the obligation under s. 766.55
4 and the factors specified under ss. 767.56 (1c) and 767.61.

5 **SECTION 2.** 767.56 of the statutes is renumbered 767.56 (1c), and 767.56 (1c)
6 (intro.), as renumbered, is amended to read:

7 767.56 (1c) FACTORS TO CONSIDER FOR GRANTING. (intro.) Upon a judgment of
8 annulment, divorce, or legal separation, or in rendering a judgment in an action
9 under s. 767.001 (1) (g) or (j), the court may grant an order requiring maintenance
10 payments to either party for a limited or indefinite length of time, subject to sub. (2c),
11 after considering all of the following:

12 **SECTION 3.** 767.56 (2c) of the statutes is created to read:

13 767.56 (2c) TERMINATES AT DEATH OF PAYEE OR PAYER. Unless already terminated
14 for another reason, maintenance granted under this section terminates upon the
15 death of the payee or the payer, whichever occurs first.

16 **SECTION 4.** 767.58 (1) of the statutes is renumbered 767.58 (1) (a) and amended
17 to read:

18 767.58 (1) (a) Each order for child support, family support, or maintenance
19 payments shall include an order that the payer and payee notify the county child
20 support agency under s. 59.53 (5) of any change of address within 10 business days
21 of such the change.

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1 **(b)** Each order for child support, family support, or maintenance payments
2 shall also include an order that the payer notify the county child support agency
3 under s. 59.53 (5) and the payee, within 10 business days, of any change of employer
4 and of any substantial change in the amount of his or her income, including receipt
5 of bonus compensation, affecting his or her ability to pay child support, family
6 support, or maintenance. The order shall also include a statement that notification
7 of any substantial change in the amount of the payer's income will not result in a
8 change of the order unless a revision of the order under s. 767.59 or an annual
9 adjustment of the child or family support amount under s. 767.553 is sought.

10 **(d)** An order under this subsection is enforceable under ch. 785.

11 **SECTION 5.** 767.58 (1) (c) of the statutes is created to read:

12 767.58 (1) (c) Each order for family support or maintenance payments shall
13 include an order requiring the payee to notify the court and the payer within 10
14 business days of the payee's remarriage.

15 **SECTION 6.** 767.59 (3) of the statutes is amended 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 the payee's remarriage, or upon receiving notice from the payee of the payee's
20 remarriage, as required under s. 767.58 (1) (c), vacate the order requiring the
21 maintenance payments.

22 **SECTION 7. Initial applicability.**

