

## ASSEMBLY BILL 816

1 document, instrument, or bill of sale. This subsection applies to property acquired  
2 before January 1, 1986, and, if ch. 766 does not apply when the property is acquired,  
3 to property acquired on or after January 1, 1986.

4 **SECTION 102.** 705.01 (4) of the statutes is amended to read:

5 ~~705.01 (4)~~ "Joint account" means an account, other than a marital account,  
6 payable on request to one or more of 2 or more parties whether or not mention is made  
7 of any right of survivorship. "Joint account" also means any account established with  
8 the right of survivorship on or after January 1, 1986, by 2 parties who claim to be  
9 ~~husband and wife~~ married to each other, which is payable on request to either or both  
10 of the parties.

11 **SECTION 103.** 705.01 (4m) of the statutes is amended to read:

12 ~~705.01 (4m)~~ "Marital account" means an account established without the right  
13 of survivorship on or after January 1, 1986, by 2 parties who claim to be ~~husband and~~  
14 ~~wife~~ married to each other, which is payable on request to either or both of the parties  
15 and which is designated as a marital account. An account established by those  
16 parties with the right of survivorship under s. 766.58 (3) (f) or 766.60 is a joint  
17 account.

18 **SECTION 104.** 706.09 (1) (e) of the statutes is amended to read:

19 ~~706.09 (1) (e)~~ *Marital interests.* Homestead of the spouse of any transferor of  
20 an interest in real estate, if the recorded conveyance purporting to transfer the  
21 homestead states that the person executing it is single, unmarried, or ~~widowed a~~  
22 surviving spouse or fails to indicate the marital status of the transferor, and if the  
23 conveyance has, in either case, appeared of record for 5 years. This paragraph does  
24 not apply to the interest of a married person who is described of record as a holder  
25 in joint tenancy or of marital property with that transferor.

**ASSEMBLY BILL 816****SECTION 105**

1           **SECTION 105.** 765.001 (2) of the statutes is amended to read:

2           × 765.001 (2) INTENT. It is the intent of chs. 765 to 768 to promote the stability  
3 and best interests of marriage and the family. It is the intent of the legislature to  
4 recognize the valuable contributions of both spouses during the marriage and at  
5 termination of the marriage by dissolution or death. Marriage is the institution that  
6 is the foundation of the family and of society. Its stability is basic to morality and  
7 civilization, and of vital interest to society and the state. The consequences of the  
8 marriage contract are more significant to society than those of other contracts, and  
9 the public interest must be taken into account always. The seriousness of marriage  
10 makes adequate premarital counseling and education for family living highly  
11 desirable and courses thereon are urged upon all persons contemplating marriage.  
12 The impairment or dissolution of the marriage relation generally results in injury  
13 to the public wholly apart from the effect upon the parties immediately concerned.  
14 Under the laws of this state, marriage is a legal relationship between 2 equal  
15 persons, ~~a husband and wife~~, who owe to each other mutual responsibility and  
16 support. Each spouse has an equal obligation in accordance with his or her ability  
17 to contribute money or services or both which are necessary for the adequate support  
18 and maintenance of his or her minor children and of the other spouse. No spouse may  
19 be presumed primarily liable for support expenses under this subsection.

20           **SECTION 106.** 765.01 of the statutes is amended to read:

21           × **765.01 A civil contract.** Marriage, so far as its validity at law is concerned,  
22 is a civil contract, to which the consent of the parties capable in law of contracting  
23 is essential, and which creates the legal status of ~~husband and wife~~ spouse to each  
24 other.

25           **SECTION 107.** 765.02 (3) of the statutes is created to read:



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## SECTION 110

1 the customs, rules, and regulations of any religious society, denomination, or sect to  
2 which either of the parties may belong.

3 SECTION 111. 765.23 of the statutes is amended to read:

4 ~~765.23~~ **Immaterial irregularities otherwise.** No marriage hereafter  
5 contracted shall be void either by reason of the marriage license having been issued  
6 by a county clerk not having jurisdiction to issue the same; or by reason of any  
7 informality or irregularity of form in the application for the marriage license or in  
8 the marriage license itself, or the incompetency of the witnesses to such marriage;  
9 or because the marriage may have been solemnized in a county other than the county  
10 prescribed in s. 765.12, or more than 30 days after the date of the marriage license,  
11 if the marriage is in other respects lawful and is consummated with the full belief  
12 on the part of the persons so married, or either of them, that they have been lawfully  
13 joined in marriage. Where a marriage has been celebrated in one of the forms  
14 provided for in s. 765.16 (1m), and the parties thereto have immediately thereafter  
15 assumed the habit and repute of ~~husband and wife~~ a married couple, and having  
16 continued the same uninterruptedly thereafter for the period of one year, or until the  
17 death of either of them, it shall be deemed that a marriage license has been issued  
18 as required by ss. 765.05 to 765.24 and 767.803.

19 SECTION 112. 765.24 of the statutes is amended to read:

20 ~~765.24~~ **Removal of impediments to subsequent marriage.** If a person  
21 during the lifetime of a ~~husband or wife~~ spouse with whom the marriage is in force,  
22 enters into a subsequent marriage contract in accordance with s. 765.16, and the  
23 parties thereto live together thereafter as ~~husband and wife~~ a married couple, and  
24 such subsequent marriage contract was entered into by one of the parties in good  
25 faith, in the full belief that the former ~~husband or wife~~ spouse was dead, or that the

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1 former marriage had been annulled, or dissolved by a divorce, or without knowledge  
2 of such former marriage, ~~they~~ the parties shall, after the impediment to their  
3 marriage has been removed by the death or divorce of the other party to such former  
4 marriage, if they continue to live together as ~~husband and wife~~ a married couple in  
5 good faith on the part of one of them, be held to have been legally married from and  
6 after the removal of such impediment and ~~the issue of any children born during~~ such  
7 subsequent marriage shall be considered as the marital issue children of both  
8 ~~parents~~ parties.

9 **SECTION 113.** <sup>✓</sup> 765.30 (3) (a) of the statutes is amended to read:

10 ~~×~~765.30 (3) (a) *Penalty for unlawful solemnization of marriage.* Any officiating  
11 person who solemnizes a marriage unless the contracting parties have first obtained  
12 a proper marriage license as heretofore provided; or unless the parties to such  
13 marriage declare that ~~they take each~~ takes the other as ~~husband and wife~~ his or her  
14 spouse; or without the presence of 2 competent adult witnesses; or solemnizes a  
15 marriage knowing of any legal impediment thereto; or solemnizes a marriage more  
16 than 30 days after the date of the marriage license; or falsely certifies to the date of  
17 a marriage solemnized by the officiating person; or solemnizes a marriage in a county  
18 other than the county prescribed in s. 765.12.

19 **SECTION 114.** 766.587 (7) (form) 9. of the statutes is amended to read:

20 ~~×~~766.587 (7) (form) 9. BOTH SPOUSES MUST SIGN THIS AGREEMENT. IF  
21 SIGNED BEFORE JANUARY 1, 1986, IT IS EFFECTIVE ON JANUARY 1, 1986,  
22 OR THE DATE THE PARTIES MARRY, WHICHEVER IS LATER. IF SIGNED ON  
23 OR AFTER JANUARY 1, 1986, IT IS EFFECTIVE ON THE DATE SIGNED OR THE  
24 DATE THE PARTIES MARRY, WHICHEVER IS LATER.



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1 (Pursuant to Section 766.588, Wisconsin Statutes)

2 This agreement is entered into by .... and .... (~~husband and wife who are~~  
3 married) (who intend to marry) (strike one). The parties hereby classify all of the  
4 property owned by them when this agreement becomes effective, and property  
5 acquired during the term of this agreement, as marital property.

6 One spouse may terminate this agreement at any time by giving signed notice  
7 of termination to the other spouse. Notice of termination by a spouse is given upon  
8 personal delivery or when sent by certified mail to the other spouse's last-known  
9 address. The agreement terminates 30 days after such notice is given.

10 The parties (have) (have not) (strike one) completed Schedule "A", "Financial  
11 Disclosure", attached to this agreement. If Schedule "A" has not been completed, the  
12 duration of this agreement is 3 years after both parties have signed the agreement.  
13 If Schedule "A" has been completed, the duration of this agreement is not limited to  
14 3 years after it is signed.

15 IF THE DURATION OF THIS AGREEMENT IS NOT TO BE LIMITED TO 3  
16 YEARS, MAKE SURE SCHEDULE "A", "FINANCIAL DISCLOSURE", IS  
17 COMPLETED AND THAT YOU HAVE REVIEWED THE SCHEDULE BEFORE  
18 SIGNING THE AGREEMENT. IF YOU AND YOUR SPOUSE HAVE PREVIOUSLY  
19 ENTERED INTO A STATUTORY TERMINABLE MARITAL PROPERTY  
20 CLASSIFICATION AGREEMENT WITH EACH OTHER WHICH WAS  
21 EFFECTIVE DURING YOUR PRESENT MARRIAGE AND YOU AND YOUR  
22 SPOUSE DID NOT COMPLETE SCHEDULE "A", YOU MAY NOT EXECUTE THIS  
23 AGREEMENT IF YOU DO NOT COMPLETE SCHEDULE "A".

24 Signature of One Spouse: ....

25 Date: ....

**ASSEMBLY BILL 816**

**SECTION 115**

1 Print Name Here: ....

2 Residence Address: ....

3 (Make Sure Your Signature is Authenticated or Acknowledged Below.)

4 AUTHENTICATION

5 Signature .... authenticated this .... day of ....., .... (year)

6 \*....

7 TITLE: MEMBER STATE BAR OF WISCONSIN

8 (If not, .... authorized by s. 706.06, Wis. Stats.)

9 ACKNOWLEDGMENT

10 STATE OF WISCONSIN )

11 ) ss.

12 .... County )

13 Personally came before me this .... day of ....., .... (year) the above named .... to  
14 me known to be the person who executed the foregoing instrument and acknowledge  
15 the same.

16 \*....

17 Notary Public ....., .... County, Wisconsin.

18 My Commission is permanent.

19 (If not, state expiration date: ....., .... (year))

20 (Signatures may be authenticated or

21 acknowledged. Both are not necessary.)

22 \*Names of persons signing in any capacity should be  
23 typed or printed below their signatures.

24 Signature of Other Spouse: ....

25 Date: ....



**ASSEMBLY BILL 816**

1 Print Name Here: ....

2 Residence Address: ....

3 (Make Sure Your Signature is Authenticated or Acknowledged Below.)

4 AUTHENTICATION

5 Signature .... authenticated this .... day of ...., .... (year)

6 \*....

7 TITLE: MEMBER STATE BAR OF WISCONSIN

8 (If not, .... authorized by s. 706.06, Wis. Stats.)

9 ACKNOWLEDGMENT

10 STATE OF WISCONSIN )

11 ) ss.

12 .... County )

13 Personally came before me this .... day of ...., .... (year) the above named .... to  
14 me known to be the person who executed the foregoing instrument and acknowledge  
15 the same.

16 \*....

17 Notary Public ...., .... County, Wisconsin.

18 My Commission is permanent.

19 (If not, state expiration date: ...., .... (year))

20 (Signatures may be authenticated or

21 acknowledged. Both are not necessary.)

22 \*Names of persons signing in any capacity should be

23 typed or printed below their signatures.

24 TERMINATION OF STATUTORY TERMINABLE

25 MARITAL PROPERTY CLASSIFICATION AGREEMENT

**ASSEMBLY BILL 816****SECTION 115**

1 I UNDERSTAND THAT:

2 1. THIS TERMINATION TAKES EFFECT 30 DAYS AFTER MY SPOUSE IS  
3 NOTIFIED OF THE TERMINATION, AS PROVIDED UNDER SECTION 766.588  
4 (4) OF THE WISCONSIN STATUTES.

5 2. THIS TERMINATION IS PROSPECTIVE; IT DOES NOT AFFECT THE  
6 CLASSIFICATION OF PROPERTY ACQUIRED BEFORE THE TERMINATION  
7 BECOMES EFFECTIVE. PROPERTY ACQUIRED AFTER THE TERMINATION  
8 BECOMES EFFECTIVE IS CLASSIFIED AS PROVIDED UNDER THE MARITAL  
9 PROPERTY LAW.

10 3. IN GENERAL, THIS TERMINATION IS NOT BINDING ON CREDITORS  
11 UNLESS THEY ARE PROVIDED A COPY OF THE TERMINATION BEFORE  
12 CREDIT IS EXTENDED.

13 The undersigned terminates the statutory terminable marital property  
14 classification agreement entered into by me and my spouse on ... (date last spouse  
15 signed the agreement) under section 766.588 of the Wisconsin Statutes.

16 Signature: ....

17 Date: ....

18 Print Name Here: ....

19 Residence Address: ....

20 SCHEDULE "A"

21 FINANCIAL DISCLOSURE

22 The following general categories of assets and liabilities are not all inclusive  
23 and if other assets or liabilities exist they should be listed. Assets should be listed  
24 according to which spouse has title (including assets owned by a spouse or the  
25 spouses with one or more third parties) and at their approximate market value.

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- 1                                    *Husband* ~~*Wife*~~ *Spouse (Name)* *Spouse (Name)* *Both Names*
- 2        I.    ASSETS
- 3            A.    Real estate (gross value)
- 4            B.    Stocks, bonds and mutual funds
- 5            C.    Accounts at and certificates or other
- 6                                    instruments issued by financial institutions
- 7            D.    Mortgages, land contracts, promissory notes
- 8                                    and cash
- 9            E.    Partnership interests
- 10          EL. Limited liability company interests.
- 11          F.    Trust interests
- 12          G.    Livestock, farm products, crops
- 13          H.    Automobiles and other vehicles
- 14          I.    Jewelry and personal effects
- 15          J.    Household furnishings
- 16          K.    Life insurance and annuities:
- 17                                    1.    Face value
- 18                                    2.    Cash surrender value
- 19          L.    Retirement benefits (include value):
- 20                                    1.    Pension plans
- 21                                    2.    Profit sharing plans
- 22                                    3.    HR-10 KEOGH plans
- 23                                    4.    IRAs
- 24                                    5.    Deferred compensation plans
- 25          M.    Other assets not listed elsewhere

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**SECTION 115**

- 1 II. OBLIGATIONS (TOTAL OUTSTANDING BALANCE):
- 2 A. Mortgages and liens
- 3 B. Credit cards
- 4 C. Other obligations to financial institutions
- 5 D. Alimony, maintenance and child support (per
- 6 month)
- 7 E. Other obligations (such as other obligations
- 8 to individuals, guarantees, contingent
- 9 liabilities)

10 III. ANNUAL COMPENSATION FOR SERVICES:  
 11 (for example, wages and income from  
 12 self-employment; also include social security,  
 13 disability and similar income here)

14 (IF YOU NEED ADDITIONAL SPACE,  
 15 ADD ADDITIONAL SHEETS)

16 **SECTION 116.** 766.589 (10) (form) 14. of the statutes is amended to read:

17 766.589 (10) (form) 14. IF AFTER ENTERING INTO THIS AGREEMENT  
 18 ONE OR BOTH OF YOU ESTABLISH A DOMICILE OUTSIDE THIS STATE, YOU  
 19 ARE URGED TO SEEK LEGAL ADVICE CONCERNING THE CONTINUED  
 20 EFFECTIVENESS OF THIS AGREEMENT.

21 STATUTORY TERMINABLE INDIVIDUAL

22 PROPERTY CLASSIFICATION AGREEMENT

23 (Pursuant to Section 766.589, Wisconsin Statutes)

24 This agreement is entered into by .... and .... (~~husband and wife~~ who are  
 25 married) (who intend to marry) (strike one). The parties hereby classify the marital

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1 property owned by them when this agreement becomes effective, and property  
2 acquired during the term of this agreement ~~which~~ <sup>↓ ↓ that</sup> would otherwise have been  
3 marital property, as the individual property of the owning spouse. The parties agree  
4 that ownership of such property shall be determined by the name in which the  
5 property is held and, if property is not held by either or both spouses, ownership shall  
6 be determined as if the parties were unmarried persons when the property was  
7 acquired.

8       Upon the death of either spouse the surviving spouse may, except as otherwise  
9 provided in a subsequent marital property agreement, and regardless of whether  
10 this agreement has terminated, elect against the property of the decedent spouse as  
11 provided in section 766.589 (7) of the Wisconsin Statutes.

12       One spouse may terminate this agreement at any time by giving signed notice  
13 of termination to the other spouse. Notice of termination by a spouse is given upon  
14 personal delivery or when sent by certified mail to the other spouse's last-known  
15 address. The agreement terminates 30 days after such notice is given.

16       The parties (have) (have not) (strike one) completed Schedule "A", "Financial  
17 Disclosure", attached to this agreement. If Schedule "A" has not been completed, the  
18 duration of this agreement is 3 years after both parties have signed the agreement.  
19 If Schedule "A" has been completed, the duration of this agreement is not limited to  
20 3 years after it is signed.

21       **IF THE DURATION OF THIS AGREEMENT IS NOT TO BE LIMITED TO 3**  
22 **YEARS, MAKE SURE THAT SCHEDULE "A", "FINANCIAL DISCLOSURE", IS**  
23 **COMPLETED AND THAT YOU HAVE REVIEWED THE SCHEDULE BEFORE**  
24 **SIGNING THE AGREEMENT. IF YOU AND YOUR SPOUSE HAVE PREVIOUSLY**  
25 **ENTERED INTO A STATUTORY TERMINABLE INDIVIDUAL PROPERTY**

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**SECTION 116**

1 CLASSIFICATION AGREEMENT WITH EACH OTHER WHICH WAS  
2 EFFECTIVE DURING YOUR PRESENT MARRIAGE AND YOU AND YOUR  
3 SPOUSE DID NOT COMPLETE SCHEDULE "A", YOU MAY NOT EXECUTE THIS  
4 AGREEMENT IF YOU DO NOT COMPLETE SCHEDULE "A".

5 Signature of One Spouse: ....

6 Date: ....

7 Print Name Here: ....

8 Residence Address: ....

9 (Make Sure Your Signature is Authenticated or Acknowledged Below.)

10 AUTHENTICATION

11 Signature .... authenticated this .... day of ....., .... (year)

12 \*....

13 TITLE: MEMBER STATE BAR OF WISCONSIN

14 (If not, .... authorized by s. 706.06, Wis. Stats.)

15 ACKNOWLEDGMENT

16 STATE OF WISCONSIN )

17 ) ss.

18 .... County )

19 Personally came before me this .... day of ....., .... (year) the above named .... to  
20 me known to be the person who executed the foregoing instrument and acknowledge  
21 the same.

22 \*....

23 Notary Public ....., .... County, Wisconsin.

24 My Commission is permanent.

25 (If not, state expiration date: ....., .... (year))

**ASSEMBLY BILL 816**

1 (Signatures may be authenticated or  
2 acknowledged. Both are not necessary.)

3 \*Names of persons signing in any capacity should be  
4 typed or printed below their signatures.

5 Signature of Other Spouse: ....

6 Date: ....

7 Print Name Here: ....

8 Residence Address: ....

9 (Make Sure Your Signature is Authenticated or Acknowledged Below.)

10 AUTHENTICATION

11 Signature .... authenticated this .... day of ...., .... (year)

12 \*....

13 TITLE: MEMBER STATE BAR OF WISCONSIN

14 (If not, .... authorized by s. 706.06, Wis. Stats.)

15 ACKNOWLEDGMENT

16 STATE OF WISCONSIN )

17 ) ss.

18 .... County )

19 Personally came before me this .... day of ...., .... (year) the above named .... to  
20 me known to be the person who executed the foregoing instrument and acknowledge  
21 the same.

22 \*....

23 Notary Public ...., .... County, Wisconsin.

24 My Commission is permanent.

25 (If not, state expiration date: ...., .... (year))

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**SECTION 116**

1 (Signatures may be authenticated or  
 2 acknowledged. Both are not necessary.)  
 3 \*Names of persons signing in any capacity should  
 4 be typed or printed below their signatures.

5 **TERMINATION OF**  
 6 **STATUTORY TERMINABLE INDIVIDUAL**  
 7 **PROPERTY CLASSIFICATION AGREEMENT**

8 I UNDERSTAND THAT:

9 1. THIS TERMINATION TAKES EFFECT 30 DAYS AFTER MY SPOUSE IS  
 10 NOTIFIED OF THE TERMINATION, AS PROVIDED UNDER SECTION 766.589  
 11 (4) OF THE WISCONSIN STATUTES.

12 2. THIS TERMINATION IS PROSPECTIVE; IT DOES NOT AFFECT THE  
 13 CLASSIFICATION OF PROPERTY ACQUIRED BEFORE THE TERMINATION  
 14 BECOMES EFFECTIVE. PROPERTY ACQUIRED AFTER THE TERMINATION  
 15 BECOMES EFFECTIVE IS CLASSIFIED AS PROVIDED UNDER THE MARITAL  
 16 PROPERTY LAW.

17 3. IN GENERAL, THIS TERMINATION IS NOT BINDING ON CREDITORS  
 18 UNLESS THEY ARE PROVIDED A COPY OF THE TERMINATION BEFORE  
 19 CREDIT IS EXTENDED.

20 The undersigned terminates the statutory terminable individual property  
 21 classification agreement entered into by me and my spouse on .... (date last spouse  
 22 signed the agreement) under section 766.589 of the Wisconsin Statutes.

23 Signature: ....

24 Date: ....

25 Print Name Here: ....



**ASSEMBLY BILL 816**

1 Residence Address: ....

2 SCHEDULE "A"

3 FINANCIAL DISCLOSURE

4 The following general categories of assets and liabilities are not all inclusive  
5 and if other assets or liabilities exist they should be listed. Assets should be listed  
6 according to which spouse has title (including assets owned by a spouse or the  
7 spouses with one or more third parties) and at their approximate market value.

8 *Husband* *Wife* Spouse (Name) Spouse (Name) *Both Names*

9 I. ASSETS

- 10 A. Real estate (gross value)
- 11 B. Stocks, bonds and mutual funds
- 12 C. Accounts at and certificates and other  
13 instruments issued by financial institutions
- 14 D. Mortgages, land contracts, promissory notes  
15 and cash
- 16 E. Partnership interests
- 17 EL. Limited liability company interests
- 18 F. Trust interests
- 19 G. Livestock, farm products, crops
- 20 H. Automobiles and other vehicles
- 21 I. Jewelry and personal effects
- 22 J. Household furnishings
- 23 K. Life insurance and annuities:
- 24 1. Face value
- 25 2. Cash surrender value

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**SECTION 116**

- 1           L. Retirement benefits (include value):
  - 2                   1. Pension plans
  - 3                   2. Profit sharing plans
  - 4                   3. HR-10 KEOGH plans
  - 5                   4. IRAs
  - 6                   5. Deferred compensation plans
- 7           M. Other assets not listed elsewhere
- 8        II. OBLIGATIONS (TOTAL OUTSTANDING BALANCE):
  - 9                   A. Mortgages and liens
  - 10                  B. Credit cards
  - 11                  C. Other obligations to financial institutions
  - 12                  D. Alimony, maintenance and child support (per
  - 13                    month)
  - 14                  E. Other obligations (such as other obligations
  - 15                    to individuals, guarantees, contingent
  - 16                    liabilities)

- 17        III. ANNUAL COMPENSATION FOR SERVICES:
  - 18                   (for example, wages and income from
  - 19                   self-employment; also include social security,
  - 20                   disability and similar income here)

(IF YOU NEED ADDITIONAL SPACE,  
ADD ADDITIONAL SHEETS.)

23        SECTION 117. 767.215 (2) (b) of the statutes is amended to read:

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1       X 767.215 (2) (b) The name and birthdate of each minor child of the parties and  
2 each other child born to ~~the wife~~ a party during the marriage, and whether ~~the wife~~  
3 a party is pregnant.

4       SECTION 118. 767.215 (5) (a) 2. of the statutes is amended to read:

5       X 767.215 (5) (a) 2. The name, date of birth, and social security number of each  
6 minor child of the parties and of each child who was born to ~~the wife~~ a party during  
7 the marriage and who is a minor.

8       SECTION 119. 767.323 of the statutes is amended to read:

9       X **767.323 Suspension of proceedings to effect reconciliation.** During the  
10 pendency of an action for divorce or legal separation, the court may, upon written  
11 stipulation of both parties that they desire to attempt a reconciliation, enter an order  
12 suspending any and all orders and proceedings for such period, not exceeding 90  
13 days, as the court determines advisable to permit the parties to attempt a  
14 reconciliation without prejudice to their respective rights. During the suspension  
15 period, the parties may resume living together as ~~husband and wife~~ a married couple  
16 and their acts and conduct do not constitute an admission that the marriage is not  
17 irretrievably broken or a waiver of the ground that the parties have voluntarily lived  
18 apart continuously for 12 months or more immediately prior to the commencement  
19 of the action. Suspension may be revoked upon the motion of either party by an order  
20 of the court. If the parties become reconciled, the court shall dismiss the action. If  
21 the parties are not reconciled after the period of suspension, the action shall proceed  
22 as though no reconciliation period was attempted.

23       SECTION 120. 767.80 (1) (intro.) of the statutes is amended to read:

24       X **767.80 (1) WHO MAY BRING ACTION OR FILE MOTION.** (intro.) The following persons  
25 may bring an action or file a motion, including an action or motion for declaratory

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## SECTION 120

1 judgment, for the purpose of determining the paternity of a child or for the purpose  
2 of rebutting the presumption of paternity under s. 891.405 or the presumption of  
3 parentage under s. 891.41 (1):

4 **SECTION 121.** 767.80 (1) (c) of the statutes is amended to read:

5 ~~767.80 (1) (c)~~ Unless s. 767.805 (1) applies, a male presumed to be the child's  
6 father under s. 891.405 or a person presumed to be the child's parent under s. 891.41  
7 (1).

8 **SECTION 122.** 767.80 (2) of the statutes is amended to read:

9 ~~767.80 (2)~~ CERTAIN AGREEMENTS NOT A BAR TO ACTION. Regardless of its terms,  
10 an agreement made after July 1, 1981, other than an agreement approved by the  
11 court between an alleged father or presumed father parent and the mother or child,  
12 does not bar an action under this section. Whenever the court approves an  
13 agreement in which one of the parties agrees not to commence an action under this  
14 section, the court shall first determine whether or not the agreement is in the best  
15 interest of the child. The court shall not approve any provision waiving the right to  
16 bring an action under this section if this provision is contrary to the best interests  
17 of the child.

18 **SECTION 123.** 767.855 of the statutes is amended to read:

19 ~~767.855~~ **Dismissal if adjudication not in child's best interest.** Except as  
20 provided in s. 767.863 (1m), at any time in an action to establish the paternity of a  
21 child, upon the motion of a party or guardian ad litem or the child's mother if she is  
22 not a party, the court or supplemental court commissioner under s. 757.675 (2) (g)  
23 may, with respect to a male, refuse to order genetic tests, if genetic tests have not yet  
24 been taken, and dismiss the action if the court or supplemental court commissioner

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1 determines that a judicial determination of whether the male is the father of the  
2 child is not in the best interest of the child.

3 **SECTION 124.** 767.863 (1m) of the statutes is amended to read:

4 ~~767.863 (1m)~~ PATERNITY ALLEGATION BY MALE PERSON OTHER THAN HUSBAND  
5 SPOUSE; WHEN DETERMINATION NOT IN BEST INTEREST OF CHILD. In an action to establish  
6 the paternity of a child who was born to a woman while she was married, if a ~~male~~  
7 person other than the woman's ~~husband~~ spouse alleges that he, not the ~~husband~~  
8 woman's spouse, is the child's ~~father~~ biological parent, a party, or the woman if she  
9 is not a party, may allege that a judicial determination that a ~~male person~~ other than  
10 the ~~husband~~ woman's spouse is the ~~father~~ biological parent is not in the best interest  
11 of the child. If the court or a supplemental court commissioner under s. 757.675 (2)  
12 (g) determines that a judicial determination of whether a ~~male person~~ other than the  
13 ~~husband~~ woman's spouse is the ~~father~~ biological parent is not in the best interest of  
14 the child, no genetic tests may be ordered and the action shall be dismissed.

15 **SECTION 125.** 767.87 (1m) (intro.) of the statutes is amended to read:

16 ~~767.87 (1m)~~ BIRTH RECORD REQUIRED. (intro.) If the child was born in this state,  
17 the petitioner shall present a certified copy of the child's birth certificate or a printed  
18 copy of the record from the birth database of the state registrar to the court, so that  
19 the court is aware of whether a name has been inserted on the birth certificate as the  
20 ~~father~~ parent of the child other than the mother, at the earliest possible of the  
21 following:

22 **SECTION 126.** 767.87 (8) of the statutes is amended to read:

23 ~~767.87 (8)~~ BURDEN OF PROOF. The party bringing an action for the purpose of  
24 determining paternity or for the purpose of declaring the nonexistence of paternity  
25 presumed under s. 891.405 or the nonexistence of parentage presumed under s.

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1 891.41 (1) shall have the burden of proving the issues involved by clear and  
2 satisfactory preponderance of the evidence.

3 **SECTION 127.** 767.87 (9) of the statutes is amended to read:

4 ~~767.87 (9)~~ ARTIFICIAL INSEMINATION; NATURAL FATHER PARENT. Where If a child  
5 is conceived by artificial insemination, the ~~husband~~ spouse of the mother of the child  
6 at the time of the conception of the child is the natural father parent of the child, as  
7 provided in s. 891.40.

8 **SECTION 128.** 767.883 (1) of the statutes is amended to read:

9 ~~767.883 (1)~~ TWO PARTS. The trial shall be divided into 2 parts, the first part  
10 dealing with the determination of paternity and the 2nd part dealing with child  
11 support, legal custody, periods of physical placement, and related issues. The main  
12 issue at the first part shall be whether the alleged or presumed father is or is not the  
13 father of the mother's child, but if the child was born to the mother while she was the  
14 lawful wife spouse of a specified male person, the prior issue of whether the ~~husband~~  
15 mother's spouse was not the father parent of the child shall be determined first, as  
16 provided under s. 891.39. The first part of the trial shall be by jury only if the  
17 defendant verbally requests a jury trial either at the initial appearance or pretrial  
18 hearing or requests a jury trial in writing prior to the pretrial hearing. The court may  
19 direct and, if requested by either party before the introduction of any testimony in  
20 the party's behalf, shall direct the jury to find a special verdict as to any of the issues  
21 specified in this section, except that the court shall make all of the findings  
22 enumerated in s. 767.89 (2) to (4). If the mother is dead, becomes insane, cannot be  
23 found within the jurisdiction, or fails to commence or pursue the action, the  
24 proceeding does not abate if any of the persons under s. 767.80 (1) makes a motion  
25 to continue. The testimony of the mother taken at the pretrial hearing may in any

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1 such case be read in evidence if it is competent, relevant, and material. The issues  
 2 of child support, custody and visitation, and related issues shall be determined by the  
 3 court either immediately after the first part of the trial or at a later hearing before  
 4 the court.

5 **SECTION 129.** 769.316 (9) of the statutes is amended to read:

6 ~~769.316 (9)~~ The defense of immunity based on the relationship of husband and  
 7 wife between spouses or parent and child does not apply in a proceeding under this  
 8 chapter.

9 **SECTION 130.** 769.401 (2) (a) of the statutes, as affected by 2009 Wisconsin Act

10 321, is amended to read:

11 ~~769.401 (2)~~ (a) A presumed father parent of the child.

12 **SECTION 131.** 769.401 (2) (g) of the statutes, as affected by 2009 Wisconsin Act

13 321, is amended to read:

14 ~~769.401 (2)~~ (g) The ~~mother~~ A parent of the child.

15 **SECTION 132.** 815.20 (1) of the statutes is amended to read:

16 ~~815.20 (1)~~ An exempt homestead as defined in s. 990.01 (14) selected by a  
 17 resident owner and occupied by him or her shall be exempt from execution, from the  
 18 lien of every judgment, and from liability for the debts of the owner to the amount  
 19 of \$75,000, except mortgages, laborers', mechanics', and purchase money liens, and  
 20 taxes, and except as otherwise provided. The exemption shall not be impaired by  
 21 temporary removal with the intention to reoccupy the premises as a homestead nor  
 22 by the sale of the homestead, but shall extend to the proceeds derived from the sale  
 23 to an amount not exceeding \$75,000, while held, with the intention to procure  
 24 another homestead with the proceeds, for 2 years. The exemption extends to land  
 25 owned by ~~husband and wife~~ spouses jointly or in common or as marital property, and

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1 each spouse may claim a homestead exemption of not more than \$75,000. The  
2 exemption extends to the interest therein of tenants in common, having a homestead  
3 thereon with the consent of the cotenants, and to any estate less than a fee.

4 **SECTION 133.** 822.40 (4) of the statutes is amended to read:

5 ~~χ~~822.40 (4) A privilege against disclosure of communications between spouses  
6 and a defense of immunity based on the relationship of ~~husband and wife~~ between  
7 spouses or parent and child may not be invoked in a proceeding under this  
8 subchapter.

9 **SECTION 134.** 851.30 (2) (a) of the statutes is amended to read:

10 ~~χ~~851.30 (2) (a) An individual who obtains or consents to a final decree or  
11 judgment of divorce from the decedent or an annulment of their marriage, if the  
12 decree or judgment is not recognized as valid in this state, unless they subsequently  
13 participate in a marriage ceremony purporting to marry each other or they  
14 subsequently hold themselves out as ~~husband and wife~~ married to each other.

15 **SECTION 135.** 852.01 (1) (f) 1. of the statutes is amended to read:

16 ~~χ~~852.01 (1) (f) 1. One-half to the ~~maternal~~ grandparents on one side equally if  
17 both survive, or to the surviving ~~maternal~~ grandparent on that side; if both ~~maternal~~  
18 grandparents on that side are deceased, to the issue of the ~~maternal~~ grandparents  
19 on that side or either of them, per stirpes.

20 **SECTION 136.** 852.01 (1) (f) 2. of the statutes is amended to read:

21 ~~χ~~852.01 (1) (f) 2. One-half to the ~~paternal~~ relations on the other side in the same  
22 manner as to the ~~maternal~~ relations under subd. 1.

23 **SECTION 137.** 852.01 (1) (f) 3. of the statutes is amended to read:



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1       ~~852.01 (1) (f) 3.~~ If either ~~the maternal side or the paternal side~~ has no surviving  
2 grandparent or issue of a grandparent, the entire estate to the decedent's relatives  
3 on the other side.

4       SECTION 138. 854.03 (3) of the statutes is amended to read:

5       ~~854.03 (3)~~ MARITAL PROPERTY. Except as provided in subs. (4) and (5), if ~~a~~  
6 husband and wife 2 spouses die leaving marital property and it is not established  
7 that one survived the other by at least 120 hours, 50% 50 percent of the marital  
8 property shall be distributed as if it were ~~the husband's~~ <sup>plain</sup> the first spouse's individual  
9 property and the husband 2nd spouse had survived, and 50% 50 percent of the  
10 marital property shall be distributed as if it were the wife's 2nd spouse's <sup>plain</sup> individual  
11 property and the wife first spouse had survived.

12       SECTION 139. 891.39 (title) of the statutes is amended to read:

13       ~~891.39 (title)~~ **Presumption as to whether a child is marital or**  
14 **nonmarital; ~~self-erimination~~ self-incrimination; birth certificates.**

15       SECTION 140. ~~891.39 (1) (a)~~ of the statutes is amended to read:

16       ~~891.39 (1) (a)~~ Whenever it is established in an action or proceeding that a child  
17 was born to a woman while she was ~~the lawful wife of~~ legally married to a specified  
18 ~~man~~ person, any party asserting in such action or proceeding that the husband was  
19 spouse is not the ~~father~~ parent of the child shall have the burden of proving that  
20 assertion by a clear and satisfactory preponderance of the evidence. In all such  
21 actions or proceedings the husband and the wife spouses are competent to testify as  
22 witnesses to the facts. The court or judge in such cases shall appoint a guardian ad  
23 litem to appear for and represent the child whose ~~paternity~~ parentage is questioned.  
24 Results of a genetic test, as defined in s. 767.001 (1m), showing that a ~~man~~ person  
25 other than the husband mother's spouse is not excluded as the father of the child and

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1 that the statistical probability of the ~~man's~~ person's parentage is ~~99.0%~~ 99.0 percent  
2 or higher constitute a clear and satisfactory preponderance of the evidence of the <sup>plain</sup>  
3 assertion under this paragraph, even if the ~~husband~~ mother's spouse is unavailable  
4 to submit to genetic tests, as defined in s. 767.001 (1m).

5 **SECTION 141.** 891.39 (1) (b) of the statutes is amended to read:

6 ~~×~~ 891.39 (1) (b) In actions affecting the family, in which the question of paternity  
7 parentage is raised, and in paternity proceedings, the court, upon being satisfied that  
8 the parties to the action are unable to adequately compensate any such guardian ad  
9 litem for the guardian ad litem's services and expenses, shall then make an order  
10 specifying the guardian ad litem's compensation and expenses, which compensation  
11 and expenses shall be paid as provided in s. 967.06. If the court orders a county to  
12 pay the compensation of the guardian ad litem, the amount ordered may not exceed  
13 the compensation paid to private attorneys under s. 977.08 (4m) (b).

14 **SECTION 142.** 891.39 (3) of the statutes is amended to read:

15 ~~×~~ 891.39 (3) If any court under this section adjudges a child to be a nonmarital  
16 child, the clerk of court shall report the facts to the state registrar, who shall issue  
17 a new birth certificate showing the correct facts as found by the court, and shall  
18 dispose of the original, with the court's report attached under s. 69.15 (3). If the  
19 ~~husband~~ mother's spouse is a party to the action and the court makes a finding as  
20 to whether or not the ~~husband~~ mother's spouse is the ~~father~~ parent of the child, such  
21 finding shall be conclusive in all other courts of this state.

22 **SECTION 143.** 891.40 (1) of the statutes is renumbered 891.40 (1) (a) and  
23 amended to read:

24 ~~×~~ 891.40 (1) (a) If, ~~under the supervision of a licensed physician and with the~~  
25 consent of her ~~husband~~ spouse, a ~~wife~~ woman is inseminated artificially as provided

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1 in par. (b) with semen donated by a man who is not her husband spouse, the husband  
 2 spouse of the mother at the time of the conception of the child shall be the natural  
 3 father parent of a child conceived. The husband's spouse's consent must be in writing  
 4 and signed by him or her and his wife. The by the mother.

5 (c) 1. If the artificial insemination under par. (a) takes place under the  
 6 supervision of a licensed physician, the physician shall certify their the signatures  
 7 on the consent and the date of the insemination, and shall file the husband's spouse's  
 8 consent with the department of health services, where it shall be kept. If the  
 9 artificial insemination under par. (a) does not take place under the supervision of a  
 10 licensed physician, the spouses shall file the signed consent, which shall include the  
 11 date of the insemination, with the department of health services.

12 2. The department of health services shall keep a consent filed under subd. 1.  
 13 confidential and in a sealed file except as provided in s. 46.03 (7) (bm). However,

14 3. Notwithstanding subd. 1., the physician's or spouses' failure to file the  
 15 consent form does not affect the legal status of father natural parent and child.

16 (d) All papers and records pertaining to the artificial insemination under par.  
 17 (a), whether part of the permanent record of a court or of a file held by the a  
 18 supervising physician or sperm bank or elsewhere, may be inspected only upon an  
 19 order of the court for good cause shown.

20 **SECTION 144.** 891.40 (1) (b) of the statutes is created to read:

21 × 891.40 (1) (b) The artificial insemination under par. (a) must satisfy either of  
 22 the following:

23 1. The artificial insemination takes place under the supervision of a licensed  
 24 physician.

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1           2. The artificial insemination does not take place under the supervision of a  
2 licensed physician, but the semen used for the insemination is obtained from a sperm  
3 bank.

4           SECTION 145. 891.40 (2) of the statutes is amended to read:

5           ×891.40 (2) The donor of semen provided to a licensed physician or obtained from  
6 a sperm bank for use in the artificial insemination of a woman other than the donor's  
7 wife spouse is not the natural father parent of a child conceived, bears no liability for  
8 the support of the child, and has no parental rights with regard to the child.

9           SECTION 146. 891.40 (3) of the statutes is created to read:

10          ×891.40 (3) This section applies with respect to children conceived before, on,  
11 or after the effective date of this subsection ... [LRB inserts date], as a result of  
12 artificial insemination.

13          SECTION 147. 891.41 (title) of the statutes is amended to read:

14          ×891.41 (title) **Presumption of paternity parentage based on marriage of**  
15 **the parties.**

16          SECTION 148. 891.41 (1) (intro.) of the statutes is amended to read:

17          ×891.41 (1) (intro.) A man person is presumed to be the natural father parent  
18 of a child if any of the following applies:

19          SECTION 149. 891.41 (1) (a) of the statutes is amended to read:

20          × 891.41 (1) (a) He The person and the child's natural mother are or have been  
21 married to each other and the child is conceived or born after marriage and before  
22 the granting of a decree of legal separation, annulment, or divorce between the  
23 parties.

24          SECTION 150. 891.41 (1) (b) of the statutes is renumbered 891.41 (1) (b) (intro.)  
25 and amended to read:

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1       ~~891.41 (1) (b) (intro.)~~ ~~He~~ The person and the child's natural mother were  
2 married to each other after the child was born but ~~he~~ the person and the child's  
3 natural mother had a relationship with one another during the period of time within  
4 which the child was conceived and ~~no other~~ all of the following apply:

5           1. No man has been adjudicated to be the father ~~or~~.

6           2. No other person is presumed to be the father parent of the child under par.

7 (a).

8       **SECTION 151.** <sup>✓</sup> 891.41 (2) of the statutes is amended to read:

9       ~~891.41 (2)~~ In a legal action or proceeding, a presumption under sub. (1) is  
10 rebutted by results of a genetic test, as defined in s. 767.001 (1m), that show that a  
11 man person other than the man person presumed to be the father parent under sub.  
12 (1) is not excluded as the father of the child and that the statistical probability of the  
13 man's person's parentage is ~~99.0%~~ 99.0 percent or higher, even if the man person  
14 presumed to be the ~~father~~ natural parent <sup>plain</sup> under sub. (1) is unavailable to submit to  
15 genetic tests, as defined in s. 767.001 (1m).

16       **SECTION 152.** <sup>✓</sup> 891.41 (3) of the statutes is created to read:

17       ~~891.41 (3)~~ This section applies with respect to children born before, on, or after  
18 the effective date of this subsection .... [LRB inserts date].

19       **SECTION 153.** <sup>✓</sup> 905.05 (title) of the statutes is amended to read:

20       ~~905.05~~ (title) **Husband-wife Spousal and domestic partner privilege.**

21       **SECTION 154.** <sup>✓</sup> 938.02 (13) of the statutes is amended to read:

22       ~~938.02 (13)~~ "Parent" means a biological natural parent, ~~a husband who has~~  
23 ~~consented to the artificial insemination of his wife under s. 891.40,~~ or a parent by  
24 adoption. If the juvenile is a nonmarital child who is not adopted or whose parents  
25 do not subsequently intermarry under s. 767.803, "parent" includes a person

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1 acknowledged under s. 767.805 or a substantially similar law of another state or  
2 adjudicated to be the biological father. “Parent” does not include any person whose  
3 parental rights have been terminated. For purposes of the application of s. 938.028  
4 and the federal Indian Child Welfare Act, 25 USC 1901 to 1963, “parent” means a  
5 ~~biological~~ natural parent of an Indian child, an Indian ~~husband~~ spouse who has  
6 consented to the artificial insemination of his ~~wife~~ or her spouse under s. 891.40, or  
7 an Indian person who has lawfully adopted an Indian juvenile, including an adoption  
8 under tribal law or custom, and includes, in the case of a nonmarital Indian child who  
9 is not adopted or whose parents do not subsequently intermarry under s. 767.803,  
10 a person acknowledged under s. 767.805, a substantially similar law of another state,  
11 or tribal law or custom to be the biological father or a person adjudicated to be the  
12 biological father, but does not include any person whose parental rights have been  
13 terminated.

14 **SECTION 155.** 938.396 (2g) (g) of the statutes is amended to read:

15 ~~×~~ 938.396 (2g) (g) *Paternity of juvenile.* Upon request of a court having  
16 jurisdiction over actions affecting the family, an attorney responsible for support  
17 enforcement under s. 59.53 (6) (a) or a party to a paternity proceeding under subch.  
18 IX of ch. 767, the party’s attorney or the guardian ad litem for the juvenile who is the  
19 subject of that proceeding to review or be provided with information from the records  
20 of the court assigned to exercise jurisdiction under this chapter and ch. 48 relating  
21 to the paternity of a juvenile for the purpose of determining the paternity of the  
22 juvenile or for the purpose of rebutting the presumption of paternity under s. 891.405  
23 or the presumption of parentage under s. 891.41, the court assigned to exercise  
24 jurisdiction under this chapter and ch. 48 shall open for inspection by the requester

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1 its records relating to the paternity of the juvenile or disclose to the requester those  
2 records.

3 SECTION 156. 943.20 (2) (c) of the statutes is amended to read:

4 ~~943.20 (2) (c)~~ “Property of another” includes property in which the actor is a  
5 co-owner and property of a partnership of which the actor is a member, unless the  
6 actor and the victim are ~~husband and wife~~ married to each other.

7 SECTION 157. 943.201 (1) (b) 8. of the statutes is amended to read:

8 ~~943.201 (1) (b) 8.~~ The ~~maiden name~~ surname of an individual’s ~~mother~~ parent  
9 before marriage if the surname was changed as a result of marriage.

10 SECTION 158. 943.205 (2) (b) of the statutes is amended to read:

11 ~~943.205 (2) (b)~~ “Owner” includes a co-owner of the person charged and a  
12 partnership of which the person charged is a member, unless the person charged and  
13 the victim are ~~husband and wife~~ married to each other.

14 SECTION 159. 990.01 (22m) of the statutes is created to read:

15 ~~990.01 (22m)~~ NATURAL PARENT. “Natural parent” means a parent of a child who  
16 is not an adoptive parent, whether the parent is biologically related to the child or  
17 not.

18 SECTION 160. 990.01 (39) of the statutes is created to read:

19 ~~990.01 (39)~~ SPOUSES. “Spouses” means 2 individuals of the same or opposite  
20 sex who are legally married to each other.

21 SECTION 161. 990.01 (40m) of the statutes is created to read:

22 ~~990.01 (40m)~~ STEPPARENT. “Stepparent” means a person who is the spouse of  
23 a child’s parent and who is not also a parent of the child.

24

(END)