

**BILL**

1 the public interest must be taken into account always. The seriousness of marriage  
 2 makes adequate premarital counseling and education for family living highly  
 3 desirable and courses thereon are urged upon all persons contemplating marriage.  
 4 The impairment or dissolution of the marriage relation generally results in injury  
 5 to the public wholly apart from the effect upon the parties immediately concerned.  
 6 Under the laws of this state, marriage is a legal relationship between 2 equal  
 7 persons, ~~a husband and wife~~, who owe to each other mutual responsibility and  
 8 support. Each spouse has an equal obligation in accordance with his or her ability  
 9 to contribute money or services or both which are necessary for the adequate support  
 10 and maintenance of his or her minor children and of the other spouse. No spouse may  
 11 be presumed primarily liable for support expenses under this subsection.

12 **SECTION 105.** 765.01 of the statutes is amended to read:

13 **765.01 A civil contract.** Marriage, so far as its validity at law is concerned,  
 14 is a civil contract, to which the consent of the parties capable in law of contracting  
 15 is essential, and which creates the legal status of ~~husband and wife~~ spouse to each  
 16 other.

17 **SECTION 106.** 765.02 (3) of the statutes is created to read:

18 765.02 (3) Marriage may be contracted between persons of the same or opposite  
 19 sex. *or different sexes*

20 **SECTION 107.** 765.03 (1) of the statutes is amended to read:

21 765.03 (1) No marriage shall be contracted while either of the parties has a  
 22 ~~husband or wife~~ spouse living, nor between persons who are nearer of kin than 2nd  
 23 cousins except that marriage may be contracted between first cousins ~~where the if~~  
 24 a female party has attained the age of 55 years or ~~where if~~ if either party, at the time  
 25 of application for a marriage license, submits an affidavit signed by a physician

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1 stating that either party is permanently sterile or that the 2 parties are otherwise  
2 permanently biologically incapable of producing a child together. Relationship  
3 under this section shall be computed by the rule of the civil law, whether the parties  
4 to the marriage are of the half or of the whole blood. A marriage may not be  
5 contracted if either party has such want of understanding as renders him or her  
6 incapable of assenting to marriage.

7 **SECTION 108.** 765.16 (1m) (intro.) of the statutes is amended to read:

8 765.16 (1m) (intro.) Marriage may be validly solemnized and contracted in this  
9 state only after a marriage license has been issued therefor, and only by the mutual  
10 declarations of the 2 parties to be joined in marriage that ~~they take each~~ takes the  
11 ~~other as husband and wife~~ his or her spouse, made before an authorized officiating  
12 person and in the presence of at least 2 competent adult witnesses other than the  
13 officiating person. The following are authorized to be officiating persons:

14 **SECTION 109.** 765.16 (1m) (c) of the statutes is amended to read:

15 765.16 (1m) (c) The 2 parties themselves, by mutual declarations that ~~they~~  
16 ~~take each~~ takes the other as ~~husband and wife~~ his or her spouse, in accordance with  
17 the customs, rules, and regulations of any religious society, denomination, or sect to  
18 which either of the parties may belong.

19 **SECTION 110.** 765.23 of the statutes is amended to read:

20 **765.23 Immaterial irregularities otherwise.** No marriage hereafter  
21 contracted shall be void either by reason of the marriage license having been issued  
22 by a county clerk not having jurisdiction to issue the same; or by reason of any  
23 informality or irregularity of form in the application for the marriage license or in  
24 the marriage license itself, or the incompetency of the witnesses to such marriage;  
25 or because the marriage may have been solemnized in a county other than the county

**BILL****SECTION 110**

1 prescribed in s. 765.12, or more than 30 days after the date of the marriage license,  
2 if the marriage is in other respects lawful and is consummated with the full belief  
3 on the part of the persons so married, or either of them, that they have been lawfully  
4 joined in marriage. Where a marriage has been celebrated in one of the forms  
5 provided for in s. 765.16 (1m), and the parties thereto have immediately thereafter  
6 assumed the habit and repute of ~~husband and wife~~ a married couple, and having  
7 continued the same uninterruptedly thereafter for the period of one year, or until the  
8 death of either of them, it shall be deemed that a marriage license has been issued  
9 as required by ss. 765.05 to 765.24 and 767.803.

10 **SECTION 111.** 765.24 of the statutes is amended to read:

11 **765.24 Removal of impediments to subsequent marriage.** If a person  
12 during the lifetime of a ~~husband or wife~~ spouse with whom the marriage is in force,  
13 enters into a subsequent marriage contract in accordance with s. 765.16, and the  
14 parties thereto live together thereafter as ~~husband and wife~~ a married couple, and  
15 such subsequent marriage contract was entered into by one of the parties in good  
16 faith, in the full belief that the former ~~husband or wife~~ spouse was dead, or that the  
17 former marriage had been annulled, or dissolved by a divorce, or without knowledge  
18 of such former marriage, ~~they~~ the parties shall, after the impediment to their  
19 marriage has been removed by the death or divorce of the other party to such former  
20 marriage, if they continue to live together as ~~husband and wife~~ a married couple in  
21 good faith on the part of one of them, be held to have been legally married from and  
22 after the removal of such impediment and ~~the issue of any children born during such~~  
23 subsequent marriage shall be considered as the marital issue children of both  
24 parents parties.

25 **SECTION 112.** 765.30 (3) (a) of the statutes is amended to read:

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1           765.30 (3) (a) *Penalty for unlawful solemnization of marriage.* Any officiating  
2 person who solemnizes a marriage unless the contracting parties have first obtained  
3 a proper marriage license as heretofore provided; or unless the parties to such  
4 marriage declare that ~~they take each~~ takes the other as ~~husband and wife~~ his or her  
5 spouse; or without the presence of 2 competent adult witnesses; or solemnizes a  
6 marriage knowing of any legal impediment thereto; or solemnizes a marriage more  
7 than 30 days after the date of the marriage license; or falsely certifies to the date of  
8 a marriage solemnized by the officiating person; or solemnizes a marriage in a county  
9 other than the county prescribed in s. 765.12.

10           **SECTION 113.** 766.587 (7) (form) 9. of the statutes is amended to read:

11           766.587 (7) (form) 9. BOTH SPOUSES MUST SIGN THIS AGREEMENT. IF  
12 SIGNED BEFORE JANUARY 1, 1986, IT IS EFFECTIVE ON JANUARY 1, 1986,  
13 OR THE DATE THE PARTIES MARRY, WHICHEVER IS LATER. IF SIGNED ON  
14 OR AFTER JANUARY 1, 1986, IT IS EFFECTIVE ON THE DATE SIGNED OR THE  
15 DATE THE PARTIES MARRY, WHICHEVER IS LATER.

## STATUTORY INDIVIDUAL

## PROPERTY CLASSIFICATION AGREEMENT

(Pursuant to Section 766.587, Wisconsin Statutes)

19           This agreement is made and entered into by .... and ..., (~~husband and wife who~~  
20 are married) (who intend to marry) (strike one).

21           The parties to this agreement agree to classify all their property, including  
22 property owned by them now and property acquired before January 1, 1987, as the  
23 individual property of the owning spouse, and agree that ownership of their property  
24 shall be determined as if it were December 31, 1985.

25           This agreement terminates on January 1, 1987.

**BILL****SECTION 113**

1 Signature .... Date ....

2 Print Name Here: ....

3 Address: ....

4 Signature .... Date ....

5 Print Name Here: ....

6 Address: ....

7 [NOTE: Each spouse should retain a copy of the agreement for himself or  
8 herself.]

9 **SECTION 114.** 766.588 (9) (form) 13. of the statutes is amended to read:

10 766.588 (9) (form) 13. IF AFTER ENTERING INTO THIS AGREEMENT ONE  
11 OR BOTH OF YOU ESTABLISH A DOMICILE OUTSIDE THIS STATE, YOU ARE  
12 URGED TO SEEK LEGAL ADVICE CONCERNING THE CONTINUED  
13 EFFECTIVENESS OF THIS AGREEMENT.

14 STATUTORY TERMINABLE MARITAL

15 PROPERTY CLASSIFICATION AGREEMENT

16 (Pursuant to Section 766.588, Wisconsin Statutes)

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

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

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1           The parties (have) (have not) (strike one) completed Schedule "A", "Financial  
 2 Disclosure", attached to this agreement. If Schedule "A" has not been completed, the  
 3 duration of this agreement is 3 years after both parties have signed the agreement.  
 4 If Schedule "A" has been completed, the duration of this agreement is not limited to  
 5 3 years after it is signed.

6           IF THE DURATION OF THIS AGREEMENT IS NOT TO BE LIMITED TO 3  
 7 YEARS, MAKE SURE SCHEDULE "A", "FINANCIAL DISCLOSURE", IS  
 8 COMPLETED AND THAT YOU HAVE REVIEWED THE SCHEDULE BEFORE  
 9 SIGNING THE AGREEMENT. IF YOU AND YOUR SPOUSE HAVE PREVIOUSLY  
 10 ENTERED INTO A STATUTORY TERMINABLE MARITAL PROPERTY  
 11 CLASSIFICATION AGREEMENT WITH EACH OTHER WHICH WAS  
 12 EFFECTIVE DURING YOUR PRESENT MARRIAGE AND YOU AND YOUR  
 13 SPOUSE DID NOT COMPLETE SCHEDULE "A", YOU MAY NOT EXECUTE THIS  
 14 AGREEMENT IF YOU DO NOT COMPLETE SCHEDULE "A".

15 Signature of One Spouse: ....

16 Date: ....

17 Print Name Here: ....

18 Residence Address: ....

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

20                                   AUTHENTICATION

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

22 \*....

23 TITLE: MEMBER STATE BAR OF WISCONSIN

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

25                                   ACKNOWLEDGMENT

**BILL**

1 STATE OF WISCONSIN )

2 ) ss.

3 .... County )

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

7 \*....

8 Notary Public ...., .... County, Wisconsin.

9 My Commission is permanent.

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

11 (Signatures may be authenticated or

12 acknowledged. Both are not necessary.)

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

15 Signature of Other Spouse: ....

16 Date: ....

17 Print Name Here: ....

18 Residence Address: ....

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

20 AUTHENTICATION

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

22 \*....

23 TITLE: MEMBER STATE BAR OF WISCONSIN

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

25 ACKNOWLEDGMENT

**BILL**

1 STATE OF WISCONSIN )

2 ) ss.

3 .... County )

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

7 \*....

8 Notary Public ....., .... County, Wisconsin.

9 My Commission is permanent.

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

11 (Signatures may be authenticated or  
12 acknowledged. Both are not necessary.)

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

15 TERMINATION OF STATUTORY TERMINABLE

16 MARITAL PROPERTY CLASSIFICATION AGREEMENT

17 I UNDERSTAND THAT:

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

21 2. THIS TERMINATION IS PROSPECTIVE; IT DOES NOT AFFECT THE  
22 CLASSIFICATION OF PROPERTY ACQUIRED BEFORE THE TERMINATION  
23 BECOMES EFFECTIVE. PROPERTY ACQUIRED AFTER THE TERMINATION  
24 BECOMES EFFECTIVE IS CLASSIFIED AS PROVIDED UNDER THE MARITAL  
25 PROPERTY LAW.



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

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

7           Signature: ....

8           Date: ....

9           Print Name Here: ....

10          Residence Address: ....

11   SCHEDULE "A"

12   FINANCIAL DISCLOSURE

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

17   ~~Husband~~ ~~Wife~~ Spouse (Name)   Spouse (Name)   Both Names

18           I.    ASSETS

19           A.   Real estate (gross value)

20           B.   Stocks, bonds and mutual funds

21           C.   Accounts at and certificates or other  
 22           instruments issued by financial institutions

23           D.   Mortgages, land contracts, promissory notes  
 24           and cash

25           E.   Partnership interests

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- 1 EL. Limited liability company interests-
- 2 F. Trust interests
- 3 G. Livestock, farm products, crops
- 4 H. Automobiles and other vehicles
- 5 I. Jewelry and personal effects
- 6 J. Household furnishings
- 7 K. Life insurance and annuities:
  - 8 1. Face value
  - 9 2. Cash surrender value
- 10 L. Retirement benefits (include value):
  - 11 1. Pension plans
  - 12 2. Profit sharing plans
  - 13 3. HR-10 KEOGH plans
  - 14 4. IRAs
  - 15 5. Deferred compensation plans
- 16 M. Other assets not listed elsewhere
- 17 II. OBLIGATIONS (TOTAL OUTSTANDING BALANCE):
  - 18 A. Mortgages and liens
  - 19 B. Credit cards
  - 20 C. Other obligations to financial institutions
  - 21 D. Alimony, maintenance and child support (per  
22 month)
  - 23 E. Other obligations (such as other obligations  
24 to individuals, guarantees, contingent  
25 liabilities)

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## 1 III. ANNUAL COMPENSATION FOR SERVICES:

2 (for example, wages and income from  
3 self-employment; also include social security,  
4 disability and similar income here)

5 (IF YOU NEED ADDITIONAL SPACE,  
6 ADD ADDITIONAL SHEETS)

7 **SECTION 115.** 766.589 (10) (form) 14. of the statutes is amended to read:

8 766.589 (10) (form) 14. IF AFTER ENTERING INTO THIS AGREEMENT  
9 ONE OR BOTH OF YOU ESTABLISH A DOMICILE OUTSIDE THIS STATE, YOU  
10 ARE URGED TO SEEK LEGAL ADVICE CONCERNING THE CONTINUED  
11 EFFECTIVENESS OF THIS AGREEMENT.

12 STATUTORY TERMINABLE INDIVIDUAL

13 PROPERTY CLASSIFICATION AGREEMENT

14 (Pursuant to Section 766.589, Wisconsin Statutes)

15 This agreement is entered into by ... and ... (~~husband and wife who are~~  
16 married) (who intend to marry) (strike one). The parties hereby classify the marital  
17 property owned by them when this agreement becomes effective, and property  
18 acquired during the term of this agreement ~~which~~ that would otherwise have been  
19 marital property, as the individual property of the owning spouse. The parties agree  
20 that ownership of such property shall be determined by the name in which the  
21 property is held and, if property is not held by either or both spouses, ownership shall  
22 be determined as if the parties were unmarried persons when the property was  
23 acquired.

24 Upon the death of either spouse the surviving spouse may, except as otherwise  
25 provided in a subsequent marital property agreement, and regardless of whether

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1 this agreement has terminated, elect against the property of the decedent spouse as  
2 provided in section 766.589 (7) of the Wisconsin Statutes.

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

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

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

21 Signature of One Spouse: ....

22 Date: ....

23 Print Name Here: ....

24 Residence Address: ....

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

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1 AUTHENTICATION

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

3 \*....

4 TITLE: MEMBER STATE BAR OF WISCONSIN

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

6 ACKNOWLEDGMENT

7 STATE OF WISCONSIN )

8 ) ss.

9 .... County )

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

13 \*....

14 Notary Public ...., .... County, Wisconsin.

15 My Commission is permanent.

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

17 (Signatures may be authenticated or

18 acknowledged. Both are not necessary.)

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

20 typed or printed below their signatures.

21 Signature of Other Spouse: ....

22 Date: ....

23 Print Name Here: ....

24 Residence Address: ....

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

**BILL**

1 AUTHENTICATION

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

3 \*....

4 TITLE: MEMBER STATE BAR OF WISCONSIN

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

6 ACKNOWLEDGMENT

7 STATE OF WISCONSIN )

8 ) ss.

9 .... County )

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

13 \*....

14 Notary Public ...., .... County, Wisconsin.

15 My Commission is permanent.

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

17 (Signatures may be authenticated or

18 acknowledged. Both are not necessary.)

19 \*Names of persons signing in any capacity should

20 be typed or printed below their signatures.

21 TERMINATION OF

22 STATUTORY TERMINABLE INDIVIDUAL

23 PROPERTY CLASSIFICATION AGREEMENT

24 I UNDERSTAND THAT:

**BILL****SECTION 115**

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

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

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

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

15 Signature: ....

16 Date: ....

17 Print Name Here: ....

18 Residence Address: ....

## 19                                 SCHEDULE "A"

## 20                                 FINANCIAL DISCLOSURE

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

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

**BILL**

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



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

9    III.   ANNUAL COMPENSATION FOR SERVICES:

10           (for example, wages and income from

11           self-employment; also include social security,

12           disability and similar income here)

13   (IF YOU NEED ADDITIONAL SPACE,

14   ADD ADDITIONAL SHEETS.)

15    **SECTION 116.** 767.215 (2) (b) of the statutes is amended to read:

16           767.215 (2) (b) The name and birthdate of each minor child of the parties and

17           each other child born to ~~the wife~~ a party during the marriage, and whether ~~the wife~~

18           a party is pregnant.

19    **SECTION 117.** 767.215 (5) (a) 2. of the statutes is amended to read:

20           767.215 (5) (a) 2. The name, date of birth, and social security number of each

21           minor child of the parties and of each child who was born to ~~the wife~~ a party during

22           the marriage and who is a minor.

23    **SECTION 118.** 767.323 of the statutes is amended to read:

24           **767.323 Suspension of proceedings to effect reconciliation.** During the

25           pendency of an action for divorce or legal separation, the court may, upon written

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1 stipulation of both parties that they desire to attempt a reconciliation, enter an order  
2 suspending any and all orders and proceedings for such period, not exceeding 90  
3 days, as the court determines advisable to permit the parties to attempt a  
4 reconciliation without prejudice to their respective rights. During the suspension  
5 period, the parties may resume living together as ~~husband and wife~~ a married couple  
6 and their acts and conduct do not constitute an admission that the marriage is not  
7 irretrievably broken or a waiver of the ground that the parties have voluntarily lived  
8 apart continuously for 12 months or more immediately prior to the commencement  
9 of the action. Suspension may be revoked upon the motion of either party by an order  
10 of the court. If the parties become reconciled, the court shall dismiss the action. If  
11 the parties are not reconciled after the period of suspension, the action shall proceed  
12 as though no reconciliation period was attempted.

13 **SECTION 119.** 767.80 (1) (intro.) of the statutes is amended to read:

14 767.80 (1) WHO MAY BRING ACTION OR FILE MOTION. (intro.) The following persons  
15 may bring an action or file a motion, including an action or motion for declaratory  
16 judgment, for the purpose of determining the paternity of a child or for the purpose  
17 of rebutting the presumption of paternity under s. 891.405 or the presumption of  
18 parentage under s. 891.41 (1):

19 **SECTION 120.** 767.80 (1) (c) of the statutes is amended to read:

20 767.80 (1) (c) Unless s. 767.805 (1) applies, a male presumed to be the child's  
21 father under s. 891.405 or a person presumed to be the child's parent under s. 891.41  
22 (1).

23 **SECTION 121.** 767.80 (2) of the statutes is amended to read:

24 767.80 (2) CERTAIN AGREEMENTS NOT A BAR TO ACTION. Regardless of its terms,  
25 an agreement made after July 1, 1981, other than an agreement approved by the

**BILL****SECTION 121**

1 court between an alleged father or presumed father parent and the mother or child,  
2 does not bar an action under this section. Whenever the court approves an  
3 agreement in which one of the parties agrees not to commence an action under this  
4 section, the court shall first determine whether or not the agreement is in the best  
5 interest of the child. The court shall not approve any provision waiving the right to  
6 bring an action under this section if this provision is contrary to the best interests  
7 of the child.

8 **SECTION 122.** 767.855 of the statutes is amended to read:

9 **767.855 Dismissal if adjudication not in child's best interest.** Except as  
10 provided in s. 767.863 (1m), at any time in an action to establish the paternity of a  
11 child, upon the motion of a party or guardian ad litem or the child's mother if she is  
12 not a party, the court or supplemental court commissioner under s. 757.675 (2) (g)  
13 may, with respect to a male, refuse to order genetic tests, if genetic tests have not yet  
14 been taken, and dismiss the action if the court or supplemental court commissioner  
15 determines that a judicial determination of whether the male is the father of the  
16 child is not in the best interest of the child.

17 **SECTION 123.** 767.863 (1m) of the statutes is amended to read:

18 **767.863 (1m) PATERNITY ALLEGATION BY MALE PERSON OTHER THAN HUSBAND**  
19 **SPOUSE; WHEN DETERMINATION NOT IN BEST INTEREST OF CHILD.** In an action to establish  
20 the paternity of a child who was born to a woman while she was married, if a male  
21 person other than the woman's husband spouse alleges that he, not the husband  
22 woman's spouse, is the child's father biological parent, a party, or the woman if she  
23 is not a party, may allege that a judicial determination that a male person other than  
24 the husband woman's spouse is the father biological parent is not in the best interest  
25 of the child. If the court or a supplemental court commissioner under s. 757.675 (2)

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1 (g) determines that a judicial determination of whether a male person other than the  
2 husband woman's spouse is the father biological parent is not in the best interest of  
3 the child, no genetic tests may be ordered and the action shall be dismissed.

4 **SECTION 124.** 767.87 (1m) (intro.) of the statutes is amended to read:

5 767.87 (1m) BIRTH RECORD REQUIRED. (intro.) If the child was born in this state,  
6 the petitioner shall present a certified copy of the child's birth certificate or a printed  
7 copy of the record from the birth database of the state registrar to the court, so that  
8 the court is aware of whether a name has been inserted on the birth certificate as the  
9 father parent of the child other than the mother, at the earliest possible of the  
10 following:

11 **SECTION 125.** 767.87 (8) of the statutes is amended to read:

12 767.87 (8) BURDEN OF PROOF. The party bringing an action for the purpose of  
13 determining paternity or for the purpose of declaring the nonexistence of paternity  
14 presumed under s. 891.405 or the nonexistence of parentage presumed under s.  
15 891.41 (1) shall have the burden of proving the issues involved by clear and  
16 satisfactory preponderance of the evidence.

17 **SECTION 126.** 767.87 (9) of the statutes is amended to read:

18 767.87 (9) ARTIFICIAL INSEMINATION; NATURAL ~~FATHER~~ PARENT. ~~Where~~ If a child  
19 is conceived by artificial insemination, the husband spouse of the mother of the child  
20 at the time of the conception of the child is the natural father parent of the child, as  
21 provided in s. 891.40.

22 **SECTION 127.** 767.883 (1) of the statutes is amended to read:

23 767.883 (1) TWO PARTS. The trial shall be divided into 2 parts, the first part  
24 dealing with the determination of paternity and the 2nd part dealing with child  
25 support, legal custody, periods of physical placement, and related issues. The main

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1 issue at the first part shall be whether the alleged or presumed father is or is not the  
2 father of the mother's child, but if the child was born to the mother while she was the  
3 lawful wife spouse of a specified male person, the prior issue of whether the husband  
4 mother's spouse was not the father parent of the child shall be determined first, as  
5 provided under s. 891.39. The first part of the trial shall be by jury only if the  
6 defendant verbally requests a jury trial either at the initial appearance or pretrial  
7 hearing or requests a jury trial in writing prior to the pretrial hearing. The court may  
8 direct and, if requested by either party before the introduction of any testimony in  
9 the party's behalf, shall direct the jury to find a special verdict as to any of the issues  
10 specified in this section, except that the court shall make all of the findings  
11 enumerated in s. 767.89 (2) to (4). If the mother is dead, becomes insane, cannot be  
12 found within the jurisdiction, or fails to commence or pursue the action, the  
13 proceeding does not abate if any of the persons under s. 767.80 (1) makes a motion  
14 to continue. The testimony of the mother taken at the pretrial hearing may in any  
15 such case be read in evidence if it is competent, relevant, and material. The issues  
16 of child support, custody, and visitation, and related issues shall be determined by  
17 the court either immediately after the first part of the trial or at a later hearing before  
18 the court.

19 **SECTION 128.** 769.316 (9) of the statutes is amended to read:

20 769.316 (9) The defense of immunity based on the relationship of ~~husband and~~  
21 ~~wife~~ between spouses or parent and child does not apply in a proceeding under this  
22 chapter.

23 **SECTION 129.** 769.401 (2) (a) of the statutes is amended to read:

24 769.401 (2) (a) A presumed ~~father~~ parent of the child.

25 **SECTION 130.** 769.401 (2) (g) of the statutes is amended to read:

**BILL**

1           769.401 (2) (g) ~~The mother~~ A parent of the child.

2           **SECTION 131.** 815.20 (1) of the statutes is amended to read:

3           815.20 (1) An exempt homestead as defined in s. 990.01 (14) selected by a  
4           resident owner and occupied by him or her shall be exempt from execution, from the  
5           lien of every judgment, and from liability for the debts of the owner to the amount  
6           of \$75,000, except mortgages, laborers', mechanics', and purchase money liens, and  
7           taxes, and except as otherwise provided. The exemption shall not be impaired by  
8           temporary removal with the intention to reoccupy the premises as a homestead nor  
9           by the sale of the homestead, but shall extend to the proceeds derived from the sale  
10          to an amount not exceeding \$75,000, while held, with the intention to procure  
11          another homestead with the proceeds, for 2 years. The exemption extends to land  
12          owned by ~~husband and wife~~ spouses jointly or in common or as marital property, and  
13          each spouse may claim a homestead exemption of not more than \$75,000. The  
14          exemption extends to the interest therein of tenants in common, having a homestead  
15          thereon with the consent of the cotenants, and to any estate less than a fee.

16          **SECTION 132.** 822.40 (4) of the statutes is amended to read:

17          822.40 (4) A privilege against disclosure of communications between spouses  
18          and a defense of immunity based on the relationship of ~~husband and wife~~ between  
19          spouses or parent and child may not be invoked in a proceeding under this  
20          subchapter.

21          **SECTION 133.** 851.30 (2) (a) of the statutes is amended to read:

22          851.30 (2) (a) An individual who obtains or consents to a final decree or  
23          judgment of divorce from the decedent or an annulment of their marriage, if the  
24          decree or judgment is not recognized as valid in this state, unless they subsequently

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1 participate in a marriage ceremony purporting to marry each other or they  
2 subsequently hold themselves out as ~~husband and wife~~ married to each other.

3 **SECTION 134.** 852.01 (1) (f) 1. of the statutes is amended to read:

4 852.01 (1) (f) 1. One-half to the ~~maternal~~ grandparents on one side equally if  
5 both survive, or to the surviving ~~maternal~~ grandparent on that side; if both ~~maternal~~  
6 grandparents on that side are deceased, to the issue of the ~~maternal~~ grandparents  
7 on that side or either of them, per stirpes.

8 **SECTION 135.** 852.01 (1) (f) 2. of the statutes is amended to read:

9 852.01 (1) (f) 2. One-half to the ~~paternal~~ relations on the other side in the same  
10 manner as to the ~~maternal~~ relations under subd. 1.

11 **SECTION 136.** 852.01 (1) (f) 3. of the statutes is amended to read:

12 852.01 (1) (f) 3. If either ~~the maternal side or the paternal~~ side has no surviving  
13 grandparent or issue of a grandparent, the entire estate to the decedent's relatives  
14 on the other side.

15 **SECTION 137.** 854.03 (3) of the statutes is amended to read:

16 854.03 (3) MARITAL PROPERTY. Except as provided in subs. (4) and (5), if ~~a~~  
17 ~~husband and wife~~ 2 spouses die leaving marital property and it is not established  
18 that one survived the other by at least 120 hours, 50 percent of the marital property  
19 shall be distributed as if it were ~~the husband's~~ the first spouse's individual property  
20 and the ~~husband~~ 2nd spouse had survived, and 50 percent of the marital property  
21 shall be distributed as if it were the ~~wife's~~ 2nd spouse's individual property and the  
22 ~~wife~~ first spouse had survived.

23 **SECTION 138.** 891.39 (title) of the statutes is amended to read:

24 **891.39 (title) Presumption as to whether a child is marital or**  
25 **nonmarital; ~~self-erimination~~ self-incrimination; birth certificates.**

**BILL**

1           **SECTION 139.** 891.39 (1) (a) of the statutes is amended to read:

2           891.39 (1) (a) Whenever it is established in an action or proceeding that a child  
3 was born to a woman while she was ~~the lawful wife of~~ legally married to a specified  
4 ~~man person~~, any party asserting in such action or proceeding that the ~~husband was~~  
5 spouse is not the father parent of the child shall have the burden of proving that  
6 assertion by a clear and satisfactory preponderance of the evidence. In all such  
7 actions or proceedings the ~~husband and the wife~~ spouses are competent to testify as  
8 witnesses to the facts. The court or judge in such cases shall appoint a guardian ad  
9 litem to appear for and represent the child whose ~~paternity parentage~~ parentage is questioned.  
10 Results of a genetic test, as defined in s. 767.001 (1m), showing that a ~~man person~~  
11 other than the ~~husband~~ mother's spouse is not excluded as the father of the child and  
12 that the statistical probability of the ~~man's person's~~ parentage is 99.0 percent or  
13 higher constitute a clear and satisfactory preponderance of the evidence of the  
14 assertion under this paragraph, even if the ~~husband~~ mother's spouse is unavailable  
15 to submit to genetic tests, as defined in s. 767.001 (1m).

16           **SECTION 140.** 891.39 (1) (b) of the statutes is amended to read:

17           891.39 (1) (b) In actions affecting the family, in which the question of ~~paternity~~  
18 parentage is raised, and in paternity proceedings, the court, upon being satisfied that  
19 the parties to the action are unable to adequately compensate any such guardian ad  
20 litem for the guardian ad litem's services and expenses, shall then make an order  
21 specifying the guardian ad litem's compensation and expenses, which compensation  
22 and expenses shall be paid as provided in s. 967.06. If the court orders a county to  
23 pay the compensation of the guardian ad litem, the amount ordered may not exceed  
24 the compensation paid to private attorneys under s. 977.08 (4m) (b).

25           **SECTION 141.** 891.39 (3) of the statutes is amended to read:



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1           891.39 (3) If any court under this section adjudges a child to be a nonmarital  
2 child, the clerk of court shall report the facts to the state registrar, who shall issue  
3 a new birth certificate showing the correct facts as found by the court, and shall  
4 dispose of the original, with the court's report attached under s. 69.15 (3). If the  
5 ~~husband~~ mother's spouse is a party to the action and the court makes a finding as  
6 to whether or not the ~~husband~~ mother's spouse is the ~~father~~ parent of the child, such  
7 finding shall be conclusive in all other courts of this state.

8           **SECTION 142.** 891.40 (1) of the statutes is renumbered 891.40 (1) (a) and  
9 amended to read:

10           891.40 (1) (a) If, ~~under the supervision of a licensed physician and with the~~  
11 consent of her ~~husband~~ spouse, a wife woman is inseminated artificially as provided  
12 in par. (b) with semen donated by a man who is not her ~~husband~~ spouse, the ~~husband~~  
13 spouse of the mother at the time of the conception of the child shall be the natural  
14 ~~father~~ parent of a child conceived. The ~~husband's~~ spouse's consent must be in writing  
15 and signed by him or her and ~~his wife.~~ The by the mother.

16           (c) 1. If the artificial insemination under par. (a) takes place under the  
17 supervision of a licensed physician, the physician shall certify their the signatures  
18 on the consent and the date of the insemination, and shall file the ~~husband's~~ spouse's  
19 consent with the department of health services, ~~where it shall be kept.~~ If the  
20 artificial insemination under par. (a) does not take place under the supervision of a  
21 licensed physician, the spouses shall file the signed consent, which shall include the  
22 date of the insemination, with the department of health services.

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

**BILL**

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

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

7           **SECTION 143.** 891.40 (1) (b) of the statutes is created to read:

8           891.40 (1) (b) The artificial insemination under par. (a) must satisfy any of the  
9 following:

10           1. The artificial insemination takes place under the supervision of a licensed  
11 physician.

12           2. The semen used for the insemination is obtained from a sperm bank.

13           **SECTION 144.** 891.40 (2) of the statutes is amended to read:

14           891.40 (2) The donor of semen provided to a licensed physician or obtained from  
15 a sperm bank for use in the artificial insemination of a woman other than the donor's  
16 wife spouse is not the natural ~~father~~ parent of a child conceived, bears no liability for  
17 the support of the child, and has no parental rights with regard to the child.

18           **SECTION 145.** 891.40 (3) of the statutes is created to read:

19           891.40 (3) This section applies with respect to children conceived before, on,  
20 or after the effective date of this subsection ... [LRB inserts date], as a result of  
21 artificial insemination.

22           **SECTION 146.** 891.41 (title) of the statutes is amended to read:

23           **891.41 (title) Presumption of paternity parentage based on marriage of**  
24 **the parties.**

25           **SECTION 147.** 891.41 (1) (intro.) of the statutes is amended to read:

**BILL****SECTION 147**

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

3           **SECTION 148.** 891.41 (1) (a) of the statutes is amended to read:

4           891.41 (1) (a) ~~He~~ The person and the child's natural mother are or have been  
5 married to each other and the child is conceived or born after marriage and before  
6 the granting of a decree of legal separation, annulment, or divorce between the  
7 parties.

8           **SECTION 149.** 891.41 (1) (b) of the statutes is renumbered 891.41 (1) (b) (intro.)  
9 and amended to read:

10           891.41 (1) (b) (intro.) ~~He~~ The person and the child's natural mother were  
11 married to each other after the child was born but ~~he~~ the person and the child's  
12 natural mother had a relationship with one another during the period of time within  
13 which the child was conceived and ~~no other~~ all of the following apply:

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

15           2. No other person is presumed to be the father parent of the child under par.  
16 (a).

17           **SECTION 150.** 891.41 (2) of the statutes is amended to read:

18           891.41 (2) In a legal action or proceeding, a presumption under sub. (1) is  
19 rebutted by results of a genetic test, as defined in s. 767.001 (1m), that show that a  
20 ~~man person~~ other than the ~~man person~~ presumed to be the father ~~parent~~ under sub.  
21 (1) is not excluded as the father of the child and that the statistical probability of the  
22 ~~man's person's~~ parentage is 99.0 percent or higher, even if the ~~man person~~ presumed  
23 to be the father natural parent under sub. (1) is unavailable to submit to genetic  
24 tests, as defined in s. 767.001 (1m).

25           **SECTION 151.** 891.41 (3) of the statutes is created to read:

**BILL**

1           891.41 (3) This section applies with respect to children born before, on, or after  
2 the effective date of this subsection .... [LRB inserts date].

3           **SECTION 152.** 905.05 (title) of the statutes is amended to read:

4           **905.05** (title) ~~Husband-wife~~ **Spousal and domestic partner privilege.**

5           **SECTION 153.** 938.02 (13) of the statutes is amended to read:

6           938.02 (13) “Parent” means a ~~biological~~ natural parent, ~~a husband who has~~  
7 ~~consented to the artificial insemination of his wife under s. 891.40,~~ or a parent by  
8 adoption. If the juvenile is a nonmarital child who is not adopted or whose parents  
9 do not subsequently intermarry under s. 767.803, “parent” includes a person  
10 acknowledged under s. 767.805 or a substantially similar law of another state or  
11 adjudicated to be the biological father. “Parent” does not include any person whose  
12 parental rights have been terminated. For purposes of the application of s. 938.028  
13 and the federal Indian Child Welfare Act, 25 USC 1901 to 1963, “parent” means a  
14 ~~biological~~ natural parent of an Indian child, an Indian ~~husband~~ spouse who has  
15 consented to the artificial insemination of his ~~wife~~ or her spouse under s. 891.40, or  
16 an Indian person who has lawfully adopted an Indian juvenile, including an adoption  
17 under tribal law or custom, and includes, in the case of a nonmarital Indian child who  
18 is not adopted or whose parents do not subsequently intermarry under s. 767.803,  
19 a person acknowledged under s. 767.805, a substantially similar law of another state,  
20 or tribal law or custom to be the biological father or a person adjudicated to be the  
21 biological father, but does not include any person whose parental rights have been  
22 terminated.

23           **SECTION 154.** 938.396 (2g) (g) of the statutes is amended to read:

24           938.396 (2g) (g) *Paternity of juvenile.* Upon request of a court having  
25 jurisdiction over actions affecting the family, an attorney responsible for support

**BILL****SECTION 154**

1 enforcement under s. 59.53 (6) (a) or a party to a paternity proceeding under subch.  
2 IX of ch. 767, the party's attorney or the guardian ad litem for the juvenile who is the  
3 subject of that proceeding to review or be provided with information from the records  
4 of the court assigned to exercise jurisdiction under this chapter and ch. 48 relating  
5 to the paternity of a juvenile for the purpose of determining the paternity of the  
6 juvenile or for the purpose of rebutting the presumption of paternity under s. 891.405  
7 or the presumption of parentage under s. 891.41, the court assigned to exercise  
8 jurisdiction under this chapter and ch. 48 shall open for inspection by the requester  
9 its records relating to the paternity of the juvenile or disclose to the requester those  
10 records.

11 **SECTION 155.** 943.20 (2) (c) of the statutes is amended to read:

12 943.20 (2) (c) "Property of another" includes property in which the actor is a  
13 co-owner and property of a partnership of which the actor is a member, unless the  
14 actor and the victim are ~~husband and wife~~ married to each other.

15 **SECTION 156.** 943.201 (1) (b) 8. of the statutes is amended to read:

16 943.201 (1) (b) 8. The ~~maiden name~~ surname of an individual's ~~mother parent~~  
17 before marriage if the surname was changed as a result of marriage.

18 **SECTION 157.** 943.205 (2) (b) of the statutes is amended to read:

19 943.205 (2) (b) "Owner" includes a co-owner of the person charged and a  
20 partnership of which the person charged is a member, unless the person charged and  
21 the victim are ~~husband and wife~~ married to each other.

22 **SECTION 158.** 990.01 (22m) of the statutes is created to read:

23 990.01 (22m) NATURAL PARENT. "Natural parent" means a parent of a child who  
24 is not an adoptive parent, whether the parent is biologically related to the child or  
25 not.

**BILL**

1           **SECTION 159.** 990.01 (39) of the statutes is created to read:

2           990.01 (39) SPOUSES. "Spouses" means 2 individuals of the same or opposite  
3 sex who are legally married to each other.

4           ~~SECTION 160.~~ 990.01 (40m) of the statutes is created to read:

5           990.01 (40m) STEPPARENT. "Stepparent" means a person who is the spouse of  
6 a child's parent and who is not also a parent of the child.

(END)

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, with the intent of harmonizing the Wisconsin statutes with the holding of the U.S. Supreme Court in Obergefell v. Hodges, 135 S. Ct. 2584, 192 L.Ed.2d 609 (2015), which recognizes that same-sex couples have a fundamental constitutional right to marriage

INS 65-7

**SECTION 1. Nonstatutory provisions.**

(1) LEGISLATIVE INTENT. The legislature intends this act to harmonize the language of the Wisconsin statutes relating to marriage and the determination of parentage with the provision of section 990.001(2) of the statutes, which specifies that words importing one gender extend and may be applied to any gender. The legislature intends that by amending the statutes relating to marriage and the determination of parentage with respect to married couples to use gender neutral language where appropriate so as to clarify that the same statutory rights and responsibilities apply between married persons of the same sex as between married persons of different sexes and to extend some of the presumptions of paternity to either parent, the Wisconsin statutes will be better aligned with the holding of the U.S. Supreme Court in Obergefell v. Hodges, 135 S. Ct. 2584, 192 L.Ed.2d 609 (2015), which recognizes that same-sex couples have a fundamental constitutional right to marriage.