

1975 Assembly Bill 1101

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## CHAPTER 82, Laws of 1975

AN ACT to amend 20.435 (4) (p), 46.03 (18) (a), 49.19 (3) (a), 49.53 (1), 52.01 (4), 52.10 (17) (a) (intro.), 247.08 (2) and 247.29 (2); to repeal and recreate 46.25; and to create 20.435 (4) (dd) and (pm), 49.19 (4) (h) and (5) (a) 3, 49.52 (1) (b) and (c) and 59.07 (97) of the statutes, relating to child support collection, paternity determination, assignment of support rights and making an appropriation.

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

SECTION 1. 20.435 (4) (dd) of the statutes is created to read:

20.435 (4) (dd) *County child support programs.* A sum sufficient to provide reimbursement to counties for child support and establishment of paternity programs in accordance with s. 49.52 (1) (c).

SECTION 2. 20.435 (4) (p) of the statutes is amended to read:

20.435 (4) (p) *Social security federal aids; grants and administration.* All federal moneys received for meeting costs of county administered public assistance programs under s. 49.52 ~~and~~ state administered programs under s. 49.50 (7), the child support and establishment of paternity program under s. 46.25 and the cost of care for children under s. 49.19 (10) (d).

SECTION 3. 20.435 (4) (pm) of the statutes is created to read:

20.435 (4) (pm) *Child support collections.* All moneys received for the support of dependent children to be distributed in accordance with federal and state laws, rules and regulations.

SECTION 4. 46.03 (18) (a) of the statutes, as affected by chapter 39, laws of 1975, is amended to read:

46.03 (18) (a) The department shall establish a uniform system of fees for services provided or purchased by the department, a county department of public welfare or a board under s. 51.42 or 51.437, except for services provided to courts, for provision of child support and paternity establishment services or for outreach, information and referral services, or where as determined by the department, a fee is administratively unfeasible or would significantly prevent accomplishing the purpose of the service. All fees paid and collected for services provided or purchased by the department, or a county department of public welfare shall be deposited in the general fund as a general fund receipt with the exception of medical assistance payments for care at the state colonies.

SECTION 5. 46.25 of the statutes is repealed and recreated to read:

**46.25 Child support and establishment of paternity program.** (1) There is created a child support and establishment of paternity program in the department. The purpose of this program is the establishment of paternity when possible and the enforcement of support obligations owed by absent parents to their children. To accomplish the objectives of the program, county and state agencies will cooperate with one another to implement a child support and paternity establishment program in accordance with state and federal laws, regulations and rules.

(2) The department shall constitute the state location service which shall assist in locating parents who have deserted their children and other persons liable for support of dependents. The department may request and shall receive information from the records of all departments, boards, bureaus or other agencies of this state and the same are authorized to provide such information as is necessary for this purpose. The department or county child support agency may make such information available only to those officials as defined by state or federal law, agencies of this state, other states and political subdivisions of this state and other states seeking to locate parents who have deserted their children. This information may be given to them only upon their assurance that it will be used solely in connection with their official duties under the child support and establishment of paternity program. Disclosure of information under this subsection shall comply with s. 204 (a) (9) of the social security act, as amended.

(3) The department, acting as a state location service, shall furnish all services under sub. (2) to any similarly appointed agency of another state which by its laws is authorized to furnish such services to this state or its agencies.

SECTION 6. 49.19 (3) (a) of the statutes is amended to read:

49.19 (3) (a) After the investigation and report and a finding of eligibility, aid as defined in sub. (1) shall be granted by the county welfare department as the best interest of the child requires. No such aid shall be furnished any person for any period during which he that person is receiving ~~old-age assistance, aid to the blind or aid to totally and permanently disabled persons~~ supplemental security income or to any person who fails to provide such social security account numbers as required by federal law.

SECTION 7. 49.19 (4) (h) of the statutes is created to read:

49.19 (4) (h) 1. As a condition of eligibility for assistance under this section, the person charged with the care and custody of the dependent child or children shall:

a. Fully cooperate in efforts directed at establishing the paternity of a child born out of wedlock and obtaining support payments or any other payments or property to which such person and the dependent child or children may have rights. Such cooperation shall be in accordance with federal law, rules and regulations applicable to paternity establishment and collection of support payments.

b. Assign to the state any rights to support from any other person that the parent and the dependent child or children may have. This shall include rights to unpaid amounts accrued at the time such assignment is executed.

c. Notwithstanding other provisions of the statutes, payments by an absent parent for the support of dependent children on whose behalf aid under this section is paid shall be made to the state.

2. If the person charged with the care and custody of the dependent child or children does not comply with the requirements of subd. 1, such person shall be ineligible for assistance under this section. In such instances, aid payments made on behalf of the dependent child or children shall be made in the form of protective payments.

SECTION 8. 49.19 (5) (a) 3 of the statutes is created to read:

49.19 (5) (a) 3. When required by federal law, a portion of monthly child support payment collections shall be paid to the family in accordance with federal law, rules and regulations and shall not be considered as income or as a resource. Such payments shall be made by separate check.

SECTION 9. 49.52 (1) (b) and (c) of the statutes are created to read:

49.52 (1) (b) The department shall distribute child support collections from the appropriation under s. 20.435 (4) (pm) in accordance with state and federal law, rules and regulations.

(c) The department shall reimburse each county from the appropriation under s. 20.435 (4) (dd) for child support and establishment of paternity program costs incurred on behalf of recipients of aid to families with dependent children as determined by contracts under s. 59.07 (97) not otherwise paid for by the federal reimbursement and county incentive payments permitted by federal law. Such payments shall be made for program costs only so long as the federal reimbursement for those program costs is 75% of program costs or, if a program waiver is in effect, 50% of program costs until June 30, 1976. Such payments shall be made at the end of each calendar year.

SECTION 10. 49.53 (1) of the statutes is amended to read:

49.53 (1) Except as provided under sub. (2), no person may use or disclose information concerning applicants and recipients of aid to families with dependent children, social services ~~under s. 49.01, child support and establishment of paternity services under s. 46.25~~, or supplemental payments under s. 49.177, for any purpose not connected with the administration of the programs. Any person violating this subsection may be fined not less than \$25 nor more than \$500 or imprisoned in the county jail not less than 10 days nor more than one year or both.

SECTION 11. 52.01 (4) of the statutes is amended to read:

52.01 (4) The county court shall in a summary way hear the allegations and proofs of the parties and by order require maintenance from such relatives, if of sufficient ability (having due regard for their own future maintenance and making reasonable allowance for the protection of the property and investments from which they derive their living and their care and protection in old age) in the following order: First the husband or wife; then the father; and lastly the mother. Such order shall specify a sum which will be sufficient for the support of such dependent person, to be paid weekly or monthly, during a period fixed therein, or until the further order of the court. If satisfied that any such relative is unable wholly to maintain such dependent person, but is able to contribute to his support, the court may direct 2 or more such relatives to maintain him and prescribe the proportion each shall contribute and if satisfied that such relatives are unable together wholly to maintain such dependent person, but are able to contribute something therefor, the court shall direct a sum to be paid weekly or monthly by each such relative in proportion to his ability. Contributions directed by court order, if for less than full support, shall be paid to the ~~county welfare agency and applied to the dependent person's grant~~ department of health and social services and distributed as required by state and federal law. Upon application of any party affected thereby and upon like notice and procedure, the court may modify such order. Obedience to such order may be enforced by proceedings as for a contempt.

SECTION 12. 52.10 (17) (a) (intro.) of the statutes is amended to read:

52.10 (17) (a) (intro.) The department of ~~justice~~ health and social services is designated as the state information agency under this section, and shall:

SECTION 13. 59.07 (97) of the statutes is created to read:

59.07 (97) CHILD SUPPORT AND PATERNITY PROGRAM. The county board of each county shall designate by board resolution any office, officer, board, department or agency, as the county designee. The department of health and social services shall contract with the county board or its designee to implement the child support and establishment of paternity program provided for by Title IV of the federal social security act. The board or its designee shall implement and administer the child

support and establishment of paternity program in accordance with the contract with the state department of health and social services. The department shall ensure that such contracts are for amounts reasonable and necessary to assure quality of service. If a county refuses to name a local designee, the state may implement the program.

SECTION 14. 247.08 (2) of the statutes is amended to read:

247.08 (2) If the state or any subdivision thereof furnishes public aid to a spouse or dependent children for support and maintenance and such spouse fails or refuses to institute an appropriate court action under this chapter to provide for the same, the person in charge of county welfare activities, the county child support agency or the state department of health and social services shall have the same right as the individual spouse to initiate an action pursuant to this section, for the purpose of securing reimbursement for support and maintenance furnished and of obtaining continued support and maintenance. The title of the action shall be substantially in the following form:

A.B. (welfare official), on behalf of

C.D. (spouse)

v.

E.F. (other spouse).

In counties having a population of 500,000 or more, counsel employed by the department of public welfare, the county child support agency or the department of health and social services shall represent the director or department thereof in any such action and may petition the court to be appointed as guardian ad litem for any minor or incompetent children.

SECTION 15. 247.29 (2) of the statutes, as affected by supreme court order dated February 17, 1975 and effective January 1, 1976, is amended to read:

247.29 (2) If any party entitled to alimony or support money, or both, is receiving public assistance under ch. 49, such party may assign his right thereto to the county department of public welfare or municipal relief agency granting such assistance. Such assignment shall be approved by order of the court granting such alimony or support money, and may be terminated in like manner; except that it shall not be terminated in cases where there is any delinquency in the amount of alimony and support money previously ordered or adjudged to be paid to such assignee without the written consent of the assignee or upon notice to the assignee and hearing. When an assignment of alimony or support money, or both, has been approved by such order, the assignee shall be deemed a real party in interest with s. 803.01 but solely for the purpose of securing payment of unpaid alimony or support money adjudged or ordered to be paid, by participating in proceeding to secure the payment thereof. This provision for a voluntary assignment does not apply to child support paid in behalf of recipients of assistance under s. 49.19.

SECTION 16. **Appropriation increase.** The appropriation for the division of family services under section 20.435 (4) (a) of the statutes, as affected by the laws of 1975, is increased by \$304,200 for the fiscal year 1975-76 and by \$447,300 for the fiscal year 1976-77 to provide state matching funds for the paternity establishment and child support collection program under section 46.25 of the statutes, as created by this act.

SECTION 17. **Plan development.** The department of health and social services shall develop a plan for the paternity establishment and child support collection program required by section 46.25 of the statutes, as created by this act, and shall submit such plan to the appropriate federal officials no later than December 31, 1975.

The plan shall be developed so as to maximize state and county receipt of federal funding under the program.

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