

1993 Assembly Bill 221

Date of enactment: **November 24, 1993**

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1993 WISCONSIN ACT 78

AN ACT to repeal 767.23 (1) (j); **to amend** 767.085 (1) (intro.), 767.23 (1) (b) and (h) and 785.04 (1) (b); and **to create** 767.085 (1) (h) to (j), 767.087 and 785.01 (1) (bm) of the statutes, **relating to:** imposing certain prohibitions against parties in actions affecting the family during the pendency of the action and providing a penalty.

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

SECTION 1. 767.085 (1) (intro.) of the statutes is amended to read:

767.085 (1) PETITION, CONTENTS. (intro.) ~~In~~ Except as otherwise provided, in any action affecting the family, the petition shall state:

SECTION 2. 767.085 (1) (h) to (j) of the statutes are created to read:

767.085 (1) (h) That during the pendency of the action, the parties are prohibited from, and may be held in contempt of court for, harassing, intimidating, physically abusing or imposing any restraint on the personal liberty of the other party or a minor child of either party.

(i) If the action is one under s. 767.02 (1) (a), (b), (c), (d), (h) or (i), that during the pendency of the action, without the consent of the other party or an order of the court or family court commissioner, the parties are prohibited from, and may be held in contempt of court for, encumbering, concealing, damaging, destroying, transferring or otherwise disposing of property owned by either or both of the parties, except in the usual course of business, in order to secure necessities or in order to pay reasonable costs and expenses of the action, including attorney fees.

(j) Unless the action is one under s. 767.02 (1) (g) or (h), that during the pendency of the action, the parties are prohibited from, and may be held in contempt of court for, doing any of the following without the consent of the other party or an order of the court or family court commissioner:

1. Establishing a residence with a minor child of the parties outside the state or more than 150 miles from the residence of the other party within the state.

2. Removing a minor child of the parties from the state for more than 90 consecutive days.

3. Concealing a minor child of the parties from the other party.

SECTION 3. 767.087 of the statutes is created to read:

767.087 Prohibited acts during pendency of action. (1) In an action affecting the family, the petitioner upon filing the petition, the joint petitioners upon filing the joint petition and the respondent upon service of the petition are prohibited from doing any of the following:

(a) Harassing, intimidating, physically abusing or imposing any restraint on the personal liberty of the other party or a minor child of either of the parties.

(b) If the action is one under s. 767.02 (1) (a), (b), (c), (d), (h) or (i), encumbering, concealing, damaging, destroying, transferring or otherwise disposing of property owned by either or both of the parties, without the consent of the other party or an order of the court or family court commissioner, except in the usual course of business, in order to secure necessities or in order to pay reasonable costs and expenses of the action, including attorney fees.

(c) Unless the action is one under s. 767.02 (1) (g) or (h), without the consent of the other party or an order of the court or family court commissioner, establishing a residence with a minor child of the parties outside the state or more than 150 miles from the residence of the

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other party within the state, removing a minor child of the parties from the state for more than 90 consecutive days or concealing a minor child of the parties from the other party.

(2) The prohibitions under sub. (1) shall apply until the action is dismissed, until a final judgment in the action is entered or until the court or family court commissioner orders otherwise.

(3) (a) Except as provided in par. (b), a party who violates any provision of sub. (1) may be proceeded against under ch. 785 for contempt of court.

(b) An act in violation of sub. (1) (c) is not a contempt of court if the court finds that the action was taken to protect a party or a minor child of the parties from physical abuse by the other party and that there was no reasonable opportunity under the circumstances for the party to obtain an order under sub. (2) authorizing the action.

SECTION 4. 767.23 (1) (b) and (h) of the statutes are amended to read:

767.23 (1) (b) Prohibiting Notwithstanding ss. 767.085 (1) (j) and 767.087 (1) (c), prohibiting the

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removal of minor children from the jurisdiction of the court.

(h) Prohibiting Notwithstanding ss. 767.085 (1) (i) and 767.087 (1) (b), prohibiting either party from disposing of assets within the jurisdiction of the court.

SECTION 5. 767.23 (1) (j) of the statutes is repealed.

SECTION 6. 785.01 (1) (bm) of the statutes is created to read:

785.01 (1) (bm) Violation of any provision of s. 767.087 (1);

SECTION 7. 785.04 (1) (b) of the statutes is amended to read:

785.04 (1) (b) Imprisonment if the contempt of court is of a type included in s. 785.01 (1) (b), (bm), (c) or (d). The imprisonment may extend only so long as the person is committing the contempt of court or 6 months, whichever is the shorter period.

SECTION 8. Initial applicability. This act first applies to actions affecting the family that are commenced on the effective date of this SECTION.