

# State of Wisconsin



1995 Assembly Bill 100

Date of enactment: **April 24, 1996**

Date of publication\*: **May 8, 1996**

## 1995 WISCONSIN ACT 279

AN ACT *to amend* 46.255 (1), 46.255 (3), 46.255 (4), 46.255 (4m) (b), 46.255 (4m) (c), 46.255 (5) and (6), 59.39 (9m), 767.025 (3), 767.025 (4), 767.25 (4m) (c) 1., 767.25 (6) (intro.), 767.25 (6) (a), 767.261 (intro.), 767.261 (1), 767.262 (4) (b), 767.263, 767.265 (1), 767.265 (2r), 767.265 (3h), 767.265 (6) (a), 767.265 (6) (b), 767.265 (7), 767.267 (1), 767.267 (2), 767.267 (5), 767.29 (title), 767.29 (1), 767.29 (1m) (intro.), 767.29 (1m) (d), 767.29 (2), 767.32 (1r), 767.51 (3m) (c) 1., 767.51 (5p) (intro.), 767.51 (5p) (a) and 814.61 (12) (b) (intro.); *to repeal and recreate* 767.265 (3h), 767.265 (6) (a), 767.265 (6) (b) and 767.267 (1); and *to create* 59.07 (97m), 767.001 (7) and 814.612 of the statutes; **relating to:** receipt and disbursement of child and spousal support payments.

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

**SECTION 1.** 46.255 (1) of the statutes is amended to read:

46.255 (1) If a person obligated to provide child support or maintenance is delinquent in making court-ordered payments, or owes an outstanding amount that has been ordered by the court for past support, medical expenses or birth expenses, the clerk of circuit court or county support collection designee under s. 59.07 (97m), whichever is appropriate, upon application of the county designee under s. 59.07 (97) or the department, shall certify the delinquent payment or outstanding amount to the department.

**SECTION 2.** 46.255 (3) of the statutes is amended to read:

46.255 (3) Receipt of a certification by the department of revenue shall constitute a lien, equal to the amount certified, on any state tax refunds or credits owed to the obligor. The lien shall be foreclosed by the department of revenue as a setoff under s. 71.93 (3), (6) and (7). When the department of revenue determines that the obli-

gor is otherwise entitled to a state tax refund or credit, it shall notify the obligor that the state intends to reduce any state tax refund or credit due the obligor by the amount the obligor is delinquent under the support or maintenance order, by the outstanding amount for past support, medical expenses or birth expenses under the court order or by the amount due under s. 46.10 (4). The notice shall provide that within 20 days the obligor may request a hearing before the circuit court rendering the order. Within 10 days after receiving a request for hearing under this subsection, the court shall set the matter for hearing. Pending further order by the court or family court commissioner, the clerk of circuit court or county support collection designee under s. 59.07 (97m) is prohibited from disbursing the obligor's state tax refund or credit. The family court commissioner may conduct the hearing. The sole issues at that hearing shall be whether the obligor owes the amount certified and, if not and it is a support or maintenance order, whether the money withheld from a tax refund or credit shall be paid to the obligor or held for future support or maintenance. An obligor may, within 20 days of receiving notice that the amount certi-

\* Section 991.11, WISCONSIN STATUTES 1993-94: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

fied shall be withheld from his or her federal tax refund or credit, request a hearing under this subsection.

**SECTION 3.** 46.255 (4) of the statutes is amended to read:

46.255 (4) The department of revenue shall send that portion of any state or federal tax refunds or credits withheld to the department of health and social services for distribution to the appropriate clerk of circuit court or county support collection designee under s. 59.07 (97m). The department of health and social services shall make a settlement at least annually with the department of revenue and with each clerk of circuit court or county support collection designee under s. 59.07 (97m) who has certified a delinquent obligation or outstanding amount for past support, medical expenses or birth expenses. The settlement shall state the amounts certified, the amounts deducted from tax refunds and credits and returned to the clerk of circuit court or county support collection designee under s. 59.07 (97m) and the administrative costs incurred by the department of revenue. The department of health and social services may charge the county whose clerk of circuit court or support collection designee under s. 59.07 (97m) certified the obligation or outstanding amount the related administrative costs incurred by the department of health and social services and the department of revenue.

**SECTION 4.** 46.255 (4m) (b) of the statutes is amended to read:

46.255 (4m) (b) The department may provide a certification that it receives under sub. (2) or (2m) to the department of administration. Upon receipt of the certification, the department of administration shall determine whether the obligor is a vendor or is receiving any other payments from this state, except for wages, retirement benefits or assistance under s. 45.352, 1971 stats., s. 45.351 (1), this chapter or ch. 49 or 108. If the department of administration determines that the obligor is a vendor or is receiving payments from this state, except for wages, retirement benefits or assistance under s. 45.352, 1971 stats., s. 45.351 (1), this chapter or ch. 49 or 108, it shall begin to withhold the amount certified from those payments and shall notify the obligor that the state intends to reduce any payments due the obligor by the amount the obligor is delinquent under the support or maintenance order, by the outstanding amount for past support, medical expenses or birth expenses under the court order or by the amount due under s. 46.10 (4). The notice shall provide that within 20 days after receipt of the notice the obligor may request a hearing before the circuit court rendering the order. An obligor may, within 20 days after receiving notice, request a hearing under this paragraph. Within 10 days after receiving a request for hearing under this paragraph, the court shall set the matter for hearing. The family court commissioner may conduct the hearing. Pending further order by the court or family court commissioner, the clerk of circuit court or

county support collection designee under s. 59.07 (97m) may not disburse the payments withheld from the obligor. The sole issues at the hearing are whether the obligor owes the amount certified and, if not and it is a support or maintenance order, whether the money withheld shall be paid to the obligor or held for future support or maintenance.

**SECTION 5.** 46.255 (4m) (c) of the statutes is amended to read:

46.255 (4m) (c) Except as provided by order of the court after hearing under par. (b), the department of administration shall continue withholding until the amount certified is recovered in full. The department of administration shall transfer the amounts withheld under this paragraph to the department of health and social services for distribution to the appropriate clerk of court or county support collection designee under s. 59.07 (97m).

**SECTION 6.** 46.255 (5) and (6) of the statutes are amended to read:

46.255 (5) Certification of an obligation to the department of health and social services does not deprive any party of the right to collect the obligation or to prosecute the obligor. The clerk of court or county support collection designee under s. 59.07 (97m), whichever is appropriate, shall immediately notify the department of any collection of an obligation that has been certified. The department shall correct the certified obligation according to the amount the county has collected and report the correction to the department of revenue.

(6) If the state implements the child and spousal support and paternity program under s. 59.07 (97), the state may act under this section in place of the county designee under ~~this section~~ s. 59.07 (97).

**SECTION 7.** 59.07 (97m) of the statutes is created to read:

**59.07 (97m) RECEIPT AND DISBURSEMENT OF CHILD AND SPOUSAL SUPPORT PAYMENTS.** (a) Subject to approval of the department of health and social services under par. (am), designate by resolution any office, officer, board, department or agency as the county support collection designee to receive and disburse child and spousal support payments ordered by the court under s. 948.22 (7) and child and family support payments and maintenance payments ordered by the court or the family court commissioner under ch. 767 or ordered by a court in another county or jurisdiction but enforced or received by the court of the support collection designee's county.

(am) A county board that makes a designation under par. (a) shall send a copy of the resolution to the department of health and social services. Within 60 days after receiving the copy of the resolution, the department of health and social services shall notify the county board in writing of whether the department approves or disapproves the designation. If the department disapproves the designation, it shall specify the reasons for disapproval in the notice. If the department does not notify the

county board of the department's approval or disapproval within 60 days after receipt of the copy of the resolution, the designation is approved.

(b) Any office, officer, board, department or agency designated under this subsection shall do all of the following:

1. Keep a record of all payments received and disbursed and of arrearages in payments. If the department of health and social services operates a data system relating to those payments and arrearages, the county support collection designee shall use that system to keep this record.

2. Cooperate with the department of health and social services with respect to the child and spousal support and establishment of paternity and medical liability support program under sub. (97) and s. 46.25, and provide that department with any information from the record under subd. 1. that it requires to administer that program.

**SECTION 8.** 59.39 (9m) of the statutes is amended to read:

59.39 (9m) Keep Except in counties that have designated a county support collection designee under s. 59.07 (97m), keep a record of all payments and arrearages in payments ordered by the court under s. 948.22 (7) or ch. 767 or 769 and directed under s. 767.29 (1) to be paid to the clerk or county support collection designee or ordered by a court in another county or jurisdiction but enforced or received by the clerk's court of the clerk's county. If the department of health and social services operates a data system relating to those payments and arrearages, the clerk shall use that system to keep this record.

**SECTION 9.** 767.001 (7) of the statutes is created to read:

767.001 (7) "Support collection designee" means the county support collection designee under s. 59.07 (97m).

**SECTION 10.** 767.025 (3) of the statutes is amended to read:

767.025 (3) Except as provided in s. 769.316 (3), if an enforcement or modification petition, motion or order to show cause is filed in a county other than the county in which the original judgment or order was rendered under sub. (2) (a), the clerk of court or support collection designee, whichever is appropriate, from the ~~court~~ county that rendered the original judgment or order shall send a copy of any payment records associated with the original judgment or order of child support, family support or maintenance to the clerk of court in the county in which the petition, motion or order to show cause is filed.

**SECTION 11.** 767.025 (4) of the statutes is amended to read:

767.025 (4) If a petition, motion or order to show cause for enforcement or modification of a child support, family support or maintenance order is filed and heard in a county other than the county in which the original judgment or order was rendered, any judgment or order enforcing or modifying the original judgment or order

shall specify the clerk of circuit court or support collection designee to whom payments of support or maintenance are payable and the clerk of circuit court or support collection designee to whom payments of arrearages in support or maintenance, if any, are payable.

**SECTION 12.** 767.25 (4m) (c) 1. of the statutes, as created by 1993 Wisconsin Act 481, is amended to read:

767.25 (4m) (c) 1. In directing the manner of payment of a child's health care expenses, the court may order that payment, including payment for health insurance premiums, be withheld from income and sent to the appropriate health care insurer, provider or plan, as provided in s. 767.265 (3h), or sent to the clerk of court or support collection designee, whichever is appropriate, for disbursement to the person for whom the payment has been awarded if that person is not a health care insurer, provider or plan. If the court orders income withholding and assignment for the payment of health care expenses, the court shall send notice of assignment in the manner provided under s. 767.265 (2r) and may include the notice of assignment under this subdivision with a notice of assignment under s. 767.265. The clerk of court shall keep a record of all moneys received and disbursed by the clerk for health care expenses that are directed to be paid to the clerk and the support collection designee shall keep a record of all moneys received and disbursed by the support collection designee for health care expenses that are directed to be paid to the support collection designee.

**SECTION 13.** 767.25 (6) (intro.) of the statutes is amended to read:

767.25 (6) (intro.) A party ordered to pay child support under this section shall pay simple interest at the rate of 1.5% per month on any amount unpaid, commencing the first day of the 2nd month after the month in which the amount was due. Interest under this subsection is in lieu of interest computed under s. 807.01 (4), 814.04 (4) or 815.05 (8) and is paid to the clerk of court or support collection designee under s. 767.29. Except as provided in s. 767.29 (1m), the clerk of court or support collection designee, whichever is appropriate, shall apply all payments received for child support as follows:

**SECTION 14.** 767.25 (6) (a) of the statutes is amended to read:

767.25 (6) (a) First, to payment of child support due within the calendar month during which the payment is withheld from income under s. 767.265 or under similar laws of another state. If payment is not made through income withholding, the clerk or support collection designee, whichever is appropriate, shall first apply child support payments received to payment of child support due within the calendar month during which the payment is received.

**SECTION 15.** 767.261 (intro.) of the statutes is amended to read:

**767.261 Family support.** (intro.) The court may make a financial order designated "family support" as a

substitute for child support orders under s. 767.25 and maintenance payment orders under s. 767.26. A party ordered to pay family support under this section shall pay simple interest at the rate of 1.5% per month on any amount unpaid, commencing the first day of the 2nd month after the month in which the amount was due. Interest under this section is in lieu of interest computed under s. 807.01 (4), 814.04 (4) or 815.05 (8) and is paid to the clerk of court or support collection designee under s. 767.29. Except as provided in s. 767.29 (1m), the clerk of court or support collection designee, whichever is appropriate, shall apply all payments received for family support as follows:

**SECTION 16.** 767.261 (1) of the statutes is amended to read:

767.261 (1) First, to payment of family support due within the calendar month during which the payment is withheld from income under s. 767.265 or under similar laws of another state. If payment is not made through income withholding, the clerk or support collection designee, whichever is appropriate, shall first apply family support payments received to payment of family support due within the calendar month during which the payment is received.

**SECTION 17.** 767.262 (4) (b) of the statutes is amended to read:

767.262 (4) (b) The court may order payment of costs under this section by a county in an action in which the court finds that the record of payments and arrearages kept by the clerk of court under s. 59.39 (9m) or the support collection designee under s. 59.07 (97m) (b) 1. is substantially incorrect and that the clerk of court or support collection designee has failed to correct the record within 30 days after having received information that the court determines is sufficient for making the correction.

**SECTION 18.** 767.263 of the statutes is amended to read:

**767.263 Notice of change of employer; change of address; change in ability to pay.** Each order for child support, family support or maintenance payments shall include an order that the payer and payee notify the clerk of court or support collection designee, whichever is appropriate, of any change of address within 10 days of such change. Each order for child support, family support or maintenance payments shall also include an order that the payer notify the clerk of court or support collection designee, within 10 days, of any change of employer and of any substantial change in the amount of his or her income such that his or her ability to pay child support, family support or maintenance is affected. The order shall also include a statement that clarifies that notification of any substantial change in the amount of the payer's income will not result in a change of the order unless a revision of the order is sought.

**SECTION 19.** 767.265 (1) of the statutes is amended to read:

767.265 (1) Each order for child support under this chapter, for maintenance payments under s. 767.23 or 767.26, for family support under this chapter, for costs ordered under s. 767.51 (3), for support by a spouse under s. 767.02 (1) (f) or for maintenance payments under s. 767.02 (1) (g), each order for a revision in a judgment or order with respect to child support, maintenance or family support payments under s. 767.32, each stipulation approved by the court or the family court commissioner for child support under this chapter and each order for child or spousal support entered under s. 948.22 (7) constitutes an assignment of all commissions, earnings, salaries, wages, pension benefits, benefits under ch. 102 or 108, lottery prizes that are payable in instalments and other money due or to be due in the future to the clerk of the court or support collection designee of the county where the action is filed. The assignment shall be for an amount sufficient to ensure payment under the order or stipulation and to pay any arrearages due at a periodic rate not to exceed 50% of the amount of support due under the order or stipulation so long as the addition of the amount toward arrearages does not leave the party at an income below the poverty line established under 42 USC 9902 (2).

**SECTION 20.** 767.265 (2r) of the statutes is amended to read:

767.265 (2r) Upon entry of each order for child support, maintenance, family support or support by a spouse and upon approval of each stipulation for child support, unless the court finds that income withholding is likely to cause the payer irreparable harm or unless s. 767.267 applies, the court shall provide notice of the assignment by regular mail to the last-known address of the person from whom the payer receives or will receive money. If the clerk of court or support collection designee, whichever is appropriate, does not receive the money from the person notified, the court shall provide notice of the assignment to any other person from whom the payer receives or will receive money. Notice under this subsection may be a notice of the court, a copy of the executed assignment or a copy of that part of the court order directing payment.

**SECTION 21.** 767.265 (3h) of the statutes is amended to read:

767.265 (3h) A person who receives notice of assignment under this section or similar laws of another state shall withhold the amount specified in the notice from any money that person pays to the payer later than one week after receipt of notice of assignment. Within 5 days after the day the person pays money to the payer, the person shall send the amount withheld to the clerk of court or support collection designee, whichever is appropriate, of the jurisdiction providing notice or, in the case of an amount ordered withheld for health care expenses, to the appropriate health care insurer, provider or plan. Except as provided in sub. (3m), for each payment the person

from whom the payer receives money shall receive an amount equal to the person's necessary disbursements, not to exceed \$3, which shall be deducted from the money to be paid to the payer. Section 241.09 does not apply to assignments under this section.

**SECTION 22.** 767.265 (3h) of the statutes, as affected by 1993 Wisconsin Act 481 and 1995 Wisconsin Act ... (this act), is repealed and recreated to read:

767.265 (3h) A person who receives notice of assignment under this section or s. 767.23 (1) (L), 767.25 (4m) (c) or 767.51 (3m) (c) or similar laws of another state shall withhold the amount specified in the notice from any money that person pays to the payer later than one week after receipt of notice of assignment. Within 5 days after the day the person pays money to the payer, the person shall send the amount withheld to the clerk of court or support collection designee, whichever is appropriate, of the jurisdiction providing notice or, in the case of an amount ordered withheld for health care expenses, to the appropriate health care insurer, provider or plan. Except as provided in sub. (3m), for each payment sent to the clerk of court or support collection designee, the person from whom the payer receives money shall receive an amount equal to the person's necessary disbursements, not to exceed \$3, which shall be deducted from the money to be paid to the payer. Section 241.09 does not apply to assignments under this section.

**SECTION 23.** 767.265 (6) (a) of the statutes is amended to read:

767.265 (6) (a) Except as provided in sub. (3m), if after receipt of notice of assignment the person from whom the payer receives money fails to withhold the money or send the money to the clerk of court or support collection designee as provided in this section, the person may be proceeded against under the principal action under ch. 785 for contempt of court or may be proceeded against under ch. 778 and be required to forfeit not less than \$50 nor more than an amount, if the amount exceeds \$50, that is equal to 1% of the amount not withheld or sent.

**SECTION 24.** 767.265 (6) (a) of the statutes, as affected by 1993 Wisconsin Act 481 and 1995 Wisconsin Act ... (this act), is repealed and recreated to read:

767.265 (6) (a) Except as provided in sub. (3m), if after receipt of notice of assignment the person from whom the payer receives money fails to withhold the money or send the money to the clerk of court or support collection designee or the appropriate health care insurer, provider or plan as provided in this section or s. 767.23 (1) (L), 767.25 (4m) (c) or 767.51 (3m) (c), the person may be proceeded against under the principal action under ch. 785 for contempt of court or may be proceeded against under ch. 778 and be required to forfeit not less than \$50 nor more than an amount, if the amount exceeds \$50, that is equal to 1% of the amount not withheld or sent.

**SECTION 25.** 767.265 (6) (b) of the statutes is amended to read:

767.265 (6) (b) If an employer who receives an assignment under this section fails to notify the clerk of court or support collection designee, whichever is appropriate, within 10 days after an employe is terminated or otherwise temporarily or permanently leaves employment, the employer may be proceeded against under the principal action under ch. 785 for contempt of court.

**SECTION 26.** 767.265 (6) (b) of the statutes, as affected by 1993 Wisconsin Act 481 and 1995 Wisconsin Act ... (this act), is repealed and recreated to read:

767.265 (6) (b) If an employer who receives an assignment under this section or s. 767.23 (1) (L), 767.25 (4m) (c) or 767.51 (3m) (c) fails to notify the clerk of court or support collection designee, whichever is appropriate, within 10 days after an employe is terminated or otherwise temporarily or permanently leaves employment, the employer may be proceeded against under the principal action under ch. 785 for contempt of court.

**SECTION 27.** 767.265 (7) of the statutes is amended to read:

767.265 (7) A person who receives more than one notice of assignment under sub. (3h) may send all money withheld to the clerk of court or support collection designee, whichever is appropriate, in a combined payment, accompanied by any information the clerk of court or support collection designee requires.

**SECTION 28.** 767.267 (1) of the statutes is amended to read:

767.267 (1) If the court or the family court commissioner determines that income withholding under s. 767.265 is inapplicable, ineffective or insufficient to ensure payment under an order or stipulation specified in s. 767.265 (1), the court or family court commissioner may require the payer to identify or establish a deposit account, owned in whole or in part by the payer, that allows for periodic transfers of funds and to file with the financial institution at which the account is located an authorization for transfer from the account to the clerk of court or support collection designee, whichever is appropriate. The authorization shall be provided on a standard form approved by the court and shall specify the frequency and the amount of transfer, sufficient to meet the payer's obligation under the order or stipulation, as required by the court or family court commissioner. The authorization shall include the payer's consent for the financial institution or an officer, employe or agent of the financial institution to disclose information to the court, family court commissioner ~~or~~ clerk of court or support collection designee regarding the account for which the payer has executed the authorization for transfer.

**SECTION 29.** 767.267 (1) of the statutes, as affected by 1993 Wisconsin Act 481, section 103, and 1995 Wisconsin Act ... (this act), is repealed and recreated to read:

767.267 (1) If the court or the family court commissioner determines that income withholding under s. 767.265 is inapplicable, ineffective or insufficient to ensure payment under an order or stipulation specified in s. 767.265 (1), or that income withholding under s. 767.25 (4m) (c) or 767.51 (3m) (c) is inapplicable, ineffective or insufficient to ensure payment of a child's health care expenses, including payment of health insurance premiums, ordered under s. 767.25 (4m) or 767.51 (3m), the court or family court commissioner may require the payer to identify or establish a deposit account, owned in whole or in part by the payer, that allows for periodic transfers of funds and to file with the financial institution at which the account is located an authorization for transfer from the account to the clerk of court or support collection designee, whichever is appropriate. The authorization shall be provided on a standard form approved by the court and shall specify the frequency and the amount of transfer, sufficient to meet the payer's obligation under the order or stipulation, as required by the court or family court commissioner. The authorization shall include the payer's consent for the financial institution or an officer, employe or agent of the financial institution to disclose information to the court, family court commissioner, clerk of court or support collection designee regarding the account for which the payer has executed the authorization for transfer.

**SECTION 30.** 767.267 (2) of the statutes is amended to read:

767.267 (2) A financial institution that receives an authorization for transfer under sub. (1) shall transfer the amounts as specified in the authorization or shall transfer the amount available for transfer if at a time of transfer that amount is less than the amount specified in the authorization. The financial institution may accomplish the transfer by any lawful means, including payment by check, subject to the terms of the account. The financial institution may deduct from the payer's account for each transfer its usual fee for such fund transfers. If the account is closed or if no funds are available at a time of transfer, the financial institution shall notify the clerk of court or support collection designee, whichever is appropriate, within 10 days after the date on which the funds should have been transferred.

**SECTION 31.** 767.267 (5) of the statutes is amended to read:

767.267 (5) A financial institution or an officer, employe or agent of a financial institution may disclose information to the court, family court commissioner or clerk of court or support collection designee concerning an account for which a payer has executed an authorization for transfer under sub. (1).

**SECTION 32.** 767.29 (title) of the statutes is amended to read:

**767.29 (title) Maintenance, child support and family support payments, clerk of court, receipt and**

**disbursement; family court commissioner, fees and compensation.**

**SECTION 33.** 767.29 (1) of the statutes is amended to read:

767.29 (1) All orders or judgments providing for temporary or permanent maintenance, child support or family support payments shall direct the payment of all such sums to the clerk of the court, or support collection designee in a county that has designated a support collection designee under s. 59.07 (97m), for the use of the person for whom the same has been awarded. A party securing an order for temporary maintenance, child support or family support payments shall forthwith file the order, together with all pleadings in the action, with the clerk of the court or support collection designee. Except as provided in sub. (1m), the clerk or support collection designee shall disburse the money so received under the judgment or order within 15 days and take receipts therefor, unless the clerk or support collection designee is unable to disburse the moneys because they were paid by check or other draft drawn upon an account containing insufficient funds. All moneys received or disbursed under this section shall be entered in a record kept by the clerk or support collection designee, whichever is appropriate, which shall be open to inspection by the department of health and social services for the administration of the child and spousal support and establishment of paternity program under s. 46.25, the parties to the action and their attorneys, and the family court commissioner. If the maintenance, child support or family support payments adjudged or ordered to be paid shall not be paid to the clerk or support collection designee at the time provided in the judgment or order, the clerk or support collection designee or the family court commissioner of the county shall take such proceedings as either of them deems he or she considers advisable to secure the payment of the sum including enforcement by contempt proceedings under ch. 785 or by other means. Copies of any order issued to compel the payment shall be mailed to counsel who represented each party when the maintenance, child support or family support payments were awarded. In case any fees of officers in any of the proceedings, including the compensation of the family court commissioner at the rate of \$50 per day unless the commissioner is on a salaried basis, is not collected from the person proceeded against, the fees shall be paid out of the county treasury upon the order of the presiding judge and the certificate of the clerk of the court or support collection designee.

**SECTION 34.** 767.29 (1m) (intro.) of the statutes is amended to read:

767.29 (1m) (intro.) Notwithstanding ss. 767.25 (6), 767.261 and 767.51 (5p), if the clerk of court or support collection designee receives support or maintenance money that exceeds the amount due in the month in which it is received and that the clerk or support collection designee determines is for support or maintenance due in

a succeeding month, the clerk or support collection designee may hold the amount of overpayment that does not exceed the amount due in the next month for disbursement in the next month if any of the following applies:

**SECTION 35.** 767.29 (1m) (d) of the statutes is amended to read:

767.29 (1m) (d) The clerk or support collection designee determines that the overpayment should be held until the month when it is due.

**SECTION 36.** 767.29 (2) of the statutes is amended to read:

767.29 (2) If any party entitled to maintenance payments or support money, or both, is receiving public assistance under ch. 49, the party may assign the party's right thereto to the county department under s. 46.215, 46.22 or 46.23 granting such assistance. Such assignment shall be approved by order of the court granting the maintenance payments 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 maintenance payments and support money previously ordered or adjudged to be paid to the assignee without the written consent of the assignee or upon notice to the assignee and hearing. When an assignment of maintenance payments or support money, or both, has been approved by the order, the assignee shall be deemed a real party in interest within s. 803.01 but solely for the purpose of securing payment of unpaid maintenance payments or support money adjudged or ordered to be paid, by participating in proceedings to secure the payment thereof. Notwithstanding assignment under this subsection, and without further order of the court, the clerk of court or support collection designee, upon receiving notice that a party or a minor child of the parties is receiving aid under s. 49.19, shall forward all support assigned under s. 49.19 (4) (h) 1. or 49.45 (19) to the department.

**SECTION 37.** 767.32 (1r) of the statutes is amended to read:

767.32 (1r) In an action under sub. (1) to revise a judgment or order with respect to child support or family support, the court may not grant credit to the payer against support due prior to the date on which the action is commenced for payments made by the payer on behalf of the child other than payments made to the clerk of court or support collection designee under s. 767.265 or 767.29 or as otherwise ordered by the court.

**SECTION 38.** 767.51 (3m) (c) 1. of the statutes, as created by 1993 Wisconsin Act 481, is amended to read:

767.51 (3m) (c) 1. In directing the manner of payment of a child's health care expenses, the court may order that payment, including payment for health insurance premiums, be withheld from income and sent to the appropriate health care insurer, provider or plan, as provided in s. 767.265 (3h), or sent to the clerk of court or support collection designee, whichever is appropriate, for disbursement to the person for whom the payment has

been awarded if that person is not a health care insurer, provider or plan. If the court orders income withholding and assignment for the payment of health care expenses, the court shall send notice of assignment in the manner provided under s. 767.265 (2r) and may include the notice of assignment under this subdivision with a notice of assignment under s. 767.265. The clerk of court shall keep a record of all moneys received and disbursed by the clerk for health care expenses that are directed to be paid to the clerk and the support collection designee shall keep a record of all moneys received and disbursed by the support collection designee for health care expenses that are directed to be paid to the support collection designee.

**SECTION 39.** 767.51 (5p) (intro.) of the statutes is amended to read:

767.51 (5p) (intro.) A party ordered to pay child support under this section shall pay simple interest at the rate of 1.5% per month on any amount unpaid, commencing the first day of the 2nd month after the month in which the amount was due. Interest under this subsection is in lieu of interest computed under s. 807.01 (4), 814.04 (4) or 815.05 (8) and is paid to the clerk of court or support collection designee under s. 767.29. Except as provided in s. 767.29 (1m), the clerk of court or support collection designee, whichever is appropriate, shall apply all payments received for child support as follows:

**SECTION 40.** 767.51 (5p) (a) of the statutes is amended to read:

767.51 (5p) (a) First, to payment of child support due within the calendar month during which the payment is withheld from income under s. 767.265 or under similar laws of another state. If payment is not made through income withholding, the clerk or support collection designee, whichever is appropriate, shall first apply child support payments received to payment of child support due within the calendar month during which the payment is received.

**SECTION 41.** 814.61 (12) (b) (intro.) of the statutes is amended to read:

814.61 (12) (b) *Maintenance payments and support.* (intro.) ~~For~~ Except in counties that have designated a county support collection designee under s. 59.07 (97m), for receiving and disbursing money deposited as payment for maintenance payments, child support or family support payments, under interim or final orders in an action affecting the family, and for maintaining the records required under s. 59.39 (9m), an annual fee of up to \$25 to be paid by each party ordered to make payments. ~~The~~ Except in counties that have designated a county support collection designee under s. 59.07 (97m), the court shall order each party ordered to make payments to pay the annual fee under this paragraph at the time of, and in addition to, the first payment to the clerk in each year for which payments are ordered. At the time of ordering the payment of an annual fee under this paragraph, the court shall notify each party ordered to make payments

of the requirement to pay the annual fee and of the amount of the annual fee. If the annual fee under this paragraph is not paid when due, the clerk shall may not deduct the annual fee from the maintenance or support payment, but:

**SECTION 42.** 814.612 of the statutes is created to read:

**814.612 Fees of designee for receiving and disbursing support.** In a county that has designated a county support collection designee under s. 59.07 (97m), the support collection designee, for receiving and disbursing money deposited as payment for maintenance payments, child support or family support payments, under interim or final orders in an action affecting the family, and for maintaining the records required under s. 59.07 (97m) (b) 1., shall collect an annual fee of up to \$25 to be paid by each party ordered to make payments. In such a county, the court shall order each party ordered to make payments to pay the annual fee under this section at the time of, and in addition to, the first payment to the support collection designee in each year for which pay-

ments are ordered. At the time of ordering the payment of an annual fee under this section, the court shall notify each party ordered to make payments of the requirement to pay the annual fee and of the amount of the annual fee. If the annual fee under this section is not paid when due, the support collection designee may not deduct the annual fee from the maintenance or support payment, but:

(1) The support collection designee has standing to move the court for a remedial sanction under ch. 785.

(2) The support collection designee may apply to the court or court commissioner for an assignment relating to the annual fee in accordance with s. 767.265.

**SECTION 43. Effective date.** This act takes effect on the day after publication, except as follows:

(1) The treatment of sections 767.25 (4m) (c) 1. and 767.51 (3m) (c) 1. of the statutes and the repeal and recreation of sections 767.265 (3h) and (6) (a) and (b) and 767.267 (1) of the statutes take effect on January 1, 1996.