

- 1 **AN ACT to repeal and recreate 767.56 of the statutes; relating to:** when a
2 maintenance award may be granted and the duration of such an award.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill draft, relating to when a maintenance award may be granted and the duration of such an award, was prepared for the Joint Legislative Council's Special Committee on Review of Spousal Maintenance Awards in Divorce Proceedings.

Under current law (s. 767.56, stats.), maintenance may be awarded to a party for a limited or indefinite length of time, for an amount not defined by statute, after considering a list of statutory factors that includes the length of the marriage, the age and physical and emotional health of the parties, the educational levels of the parties, the earning capacity of the party seeking maintenance, the feasibility that the party seeking maintenance can become self-supporting at a standard of living reasonably comparable to that enjoyed during the marriage, and the contribution by one party to the education, training, or increased earning power of the other party.

This bill draft repeals and recreates the maintenance statute. It specifies that a court may award maintenance only if it finds that: (1) the maintenance recipient lacks sufficient property to provide for his or her own reasonable needs; and (2) either or both of the following applies: (a) the recipient is unable to support himself or herself through appropriate employment; or (b) the recipient has substantial periods of physical placement with his or her child whose needs make it appropriate for the recipient not to work outside the home.

This bill draft specifies that the duration of the maintenance order is limited to the period in which the impediments to becoming self-supporting apply, and may not exceed 1.5 years for every 10 years of marriage.

The provisions of the bill draft would first be applicable to actions filed on the date the statute takes effect.

- 3 **SECTION 1.** 767.56 of the statutes is repealed and recreated to read:

1 **767.56 Maintenance. (1) WHEN AWARDED.** Upon a judgment of annulment, divorce,
2 or legal separation, or in rendering a judgment in an action under s. 767.001 (1) (g) or (j), the
3 court may grant an order requiring maintenance payments to either party only if it finds that
4 the party seeking maintenance lacks sufficient property to provide for his or her reasonable
5 needs, and that any of the following apply:

6 a. The party seeking maintenance is unable to support himself or herself through
7 appropriate employment.

8 b. The party seeking maintenance has substantial periods of physical placement with
9 his or her child whose condition or circumstances make it appropriate that the party not be
10 required to seek employment outside the home.

11 **(2) MAINTENANCE DURATION.** The court may award maintenance only during the period
12 in which the applicable factors in sub. (1) apply, the duration of which may not exceed 1.5
13 years for every 10 years of marriage.

NOTE: Repeals and recreates the maintenance statute [s. 767.56, stats.] in divorce and specified other actions affecting the family to provide that the court may award maintenance payments to either party only if it finds that: (1) the party seeking maintenance lacks sufficient property to provide for his or her reasonable needs; and (2) either one of the following applies: (a) that party is unable to support himself or herself through appropriate employment; or (b) that party has substantial periods of physical placement with his or her child whose condition or circumstances make it appropriate that the party not be required to seek employment outside the home. The duration of the maintenance order is limited to the period in which these impediments to becoming self-supporting apply, and may not exceed 1.5 years for every 10 years of marriage.

SECTION 2. Initial applicability. The treatment of section 767.56 of the statutes first applies to parties filing a petition in an action for annulment, divorce, or legal separation, or in actions under section 767.001 (1) (g) or (j), stats., on the effective date of this section.

(END)