



WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

Memo No. 7

TO: MEMBERS OF THE SPECIAL COMMITTEE ON REVIEW OF SPOUSAL
MAINTENANCE AWARDS IN DIVORCE PROCEEDINGS

FROM: Margit Kelley, Staff Attorney

RE: Summary List of Bill Drafts

DATE: December 2, 2010

This Memo summarizes the major features of the drafting requests relating to an award of spousal maintenance in divorce proceedings that are included in bill drafts WLC: 0006/1, WLC: 0007/1, WLC: 0015/1, WLC: 0016/1, WLC: 0030/1, WLC: 0031/1, WLC: 0039/1, WLC: 0040/1, and WLC: 0041/1. A more detailed summary is presented in the prefatory note to each bill draft.

Summary of Bill Drafts

WLC: 0006/1

- Specifies a formula for the amount and duration of a maintenance award, based principally on the American Academy of Matrimonial Lawyers (AAML) Commission recommendations. (Chair Tony Staskunas)
 - Amount is determined as 30% of the payer's gross income minus 20% of the recipient's income, not to exceed 40% of the total combined gross income of the parties.
 - Duration is determined as: 0-3 years [multiply by 0.3 or award no maintenance]; 4-10 years [multiply by 0.5 or 0.3]; 11-20 [or 25] years [multiply by 0.75 or 0.5]; 21 [or 26] or more years, award indefinite maintenance.
- Specifies a formula for the amount and duration of a maintenance award, based principally on the New Mexico guideline recommendations. (Representative Joel Kleefisch)

- Amount is determined as 30% of the payer's gross income minus 50% of the recipient's income; if a payer has a child support obligation to the same recipient the amount is 28% of the payer's gross income minus 58% of the recipient's income.
- Duration is determined as: 0-9 years, award no maintenance; 10-25 years, multiply by 0.3; 26 or more years, award indefinite maintenance.
- Specifies a formula for the amount and duration of a maintenance award, based principally on the Texas Family Code. (Representative Joel Kleefisch)
 - Amount may provide for the minimum reasonable needs of the recipient and may not exceed the lesser of \$1,000 per month or 10% of the payer's gross monthly income.
 - Duration is for whichever is less: no more than three years, or the shortest reasonable period for the recipient to obtain employment or skills to become self-supporting. Exceptions are limited to circumstances of disability, or caretaking responsibilities for a minor child or disabled adult child.
- Specifies that maintenance based on the Texas Family Code may be awarded only if the marriage duration is at least 15 years. (Public Member Andrew Matznick)
- Specifies a formula for the amount and duration of a maintenance award, based principally on the income of the payer and the length of the parties' marriage. (Public Member Dan Pence)
 - Amount is determined as 1% of payer's gross income for each year of marriage (*e.g.*, for 20 years of marriage, amount of award is 20% of payer's gross income).
 - Duration is determined as 1.5 years for every 10 years of marriage (*e.g.*, for 20 years of marriage, duration of award is three years).

WLC: 0007/1

- Specifies that maintenance may be awarded only if the recipient lacks sufficient property to provide for his or her own reasonable needs, and that either the recipient is unable to support himself or herself through employment or has caretaking responsibility for a child that makes reduced employment appropriate, based principally on the Uniform Marriage and Divorce Act. (Public Member Kenneth Seubert)

WLC: 0015/1

- Specifies a graduated formula for duration of a maintenance award; defines length of marriage for this purpose as through the date of filing of the action between the parties. (Senator Luther Olsen)
- Specifies that no indefinite maintenance may be awarded, except in certain exceptional circumstances. (Public Member Dan Pence)

WLC: 0016/1

- Disallows maintenance to recipient who has engaged in abuse of the payer. (Public Member Dan Pence)

WLC: 0030/1

- Eliminates the court's authority to award a spousal maintenance award. (Representative Joel Kleefisch)

WLC: 0031/1

- Adds a provision for termination of maintenance upon death of payer. (Senator Luther Olsen)
- Revises the process for notice of recipient's remarriage. (Public Member Jared Potter)

WLC: 0039/1

- Adds a provision for termination of maintenance upon recipient's cohabitation. (Senator Luther Olsen; Public Member Dan Pence)

WLC: 0040/1

- Requires a notice to be included in a summons that describes the court's authority to award maintenance. (Public Member Tom Grogan)

WLC: 0041/1

- Specifies that if payer remarries, the income of the payer's spouse may not be considered in revising the amount of a maintenance award. (Representative Amy Sue Vruwink)
- Specifies that if recipient receives an inheritance, it is considered a substantial change in circumstances sufficient to allow review of a maintenance award. (Public Member Andrew Matznick)

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