

1 **AN ACT** *to repeal* 767.56 (1) to (10); and *to amend* 767.56 (intro.) of the statutes;
2 **relating to:** eliminating maintenance awards in actions affecting the family.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This draft, relating to eliminating spousal maintenance awards in certain actions affecting the family, was prepared for the Joint Legislative Council's Special Committee on Review of Spousal Maintenance Awards in Divorce Proceedings.

3 **SECTION 1.** 767.56 (intro.) of the statutes is amended to read:

4 **767.56 Maintenance.** Upon a judgment of annulment, divorce, or legal separation, or
5 in rendering a judgment in an action under s. 767.001 (1) (g) or (j), the court may not grant
6 an any order requiring maintenance payments to either party ~~for a limited or indefinite length~~
7 ~~of time after considering:~~

NOTE: Eliminates spousal maintenance [current s. 767.56, stats.] from current law and specifically prohibits it.

8 **SECTION 2.** 767.56 (1) to (10) of the statutes are repealed.

NOTE: Repeals the provisions setting forth the factors the court must consider if it decides to award maintenance since spousal maintenance is eliminated under this draft.

COMMENT: Elimination of spousal maintenance would necessitate consideration of interaction with dozens of other sections of the Wisconsin statutes. A couple of the more significant consequences would involve modification or elimination of s. 767.531, stats., which addresses family support (a combination of child support and maintenance). The committee would need to contemplate the policy implications of such action and provide guidance as to the role of family support going forward.

Another consideration would be the effect of such action on property division, since there are considerations that are addressed within the

overall property division and maintenance scheme. Cases where one party has supported the education of the other, where one party has become disabled during the marriage, and where one party has left the work force or discontinued education to maintain the marital household or raise children are often decided by a combination of property division and maintenance, and making such determinations only in the context of property division may have consequences that the committee should consider.

The elimination of maintenance would also have implications regarding s. 767.59, stats., addressing revision of support and maintenance orders. Absent the existence of a maintenance provision, this section would also require major revision.

A review of Wisconsin statutes indicates that other sections affected include ss. 766.589 (6) (c), 767.501 (2) (b), 767.70 (4) (a) 3., 767.75 (1) (b), 767.77 (1), 767.78 (1), and 767.588 (6) (c), stats. Depending upon how these statutory provisions are addressed, other provisions may need to be modified for consistency and to reflect the committee's intent on a number of issues yet to be discussed.