

MSK:ty;

12/01/2010

1       **AN ACT** *to create* 767.215 (2m) (c) of the statutes; **relating to:** providing notice in a  
2           summons in certain actions affecting the family describing a court's authority to  
3           grant a maintenance award.

*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 providing notice in a summons in certain actions affecting the family describing a court's authority to grant a maintenance award, was prepared for the Joint Legislative Council's Special Committee on Review of Spousal Maintenance Awards in Divorce Proceedings.

This bill draft requires notice to be included in a summons that describes the court's authority to award maintenance.

4       **SECTION 1.** 767.215 (2m) (c) of the statutes is created to read:

5           767.215 (**2m**) (c) If only one party initiates the action, the summons served on the other  
6       party shall include notification of the availability of maintenance, and shall list the factors that  
7       a court may consider under s. 767.56. The format of the notice shall be substantially as  
8       follows:

9           “NOTICE TO PERSONS REGARDING AVAILABILITY OF MAINTENANCE.

10          A spouse seeking support from the other spouse may request maintenance in the divorce  
11       or legal separation. The court may order maintenance for a limited or indefinite length of time.  
12       When considering whether to award maintenance, the court will look at all of the  
13       circumstances of the parties, including, but not limited to, the following factors listed in s.  
14       767.56:

- 15           1. The length of the marriage.
- 16           2. The age and physical and emotional health of the parties.
- 17           3. The division of property made under s. 767.61.

1           4. The educational level of each party at the time of marriage and at the time the action  
2 is commenced.

3           5. The earning capacity of the party seeking maintenance, including educational  
4 background, training, employment skills, work experience, length of absence from the job  
5 market, custodial responsibilities for children and the time and expense necessary to acquire  
6 sufficient education or training to enable the party to find appropriate employment.

7           6. The feasibility that the party seeking maintenance can become self-supporting at a  
8 standard of living reasonably comparable to that enjoyed during the marriage and, if so, the  
9 length of time necessary to achieve this goal.

10          7. The tax consequences to each party.

11          8. Any mutual agreement made by the parties before or during the marriage, according  
12 to the terms of which one party has made financial or service contributions to the other with  
13 the expectation of reciprocation or other compensation in the future, if the repayment has not  
14 been made, or any mutual agreement made by the parties before or during the marriage  
15 concerning any arrangement for the financial support of the parties.

16          9. The contribution by one party to the education, training or increased earning power  
17 of the other.

18          10. Such other factors as the court may in each individual case determine to be  
19 relevant.”.

**NOTE:** Requires notice to be included in a summons that describes the court’s authority to award maintenance.

**COMMENT:** The committee may wish to note that the inclusion of this notice in a summons will not be available to parties who file jointly. A summons is only served if one party initiates the divorce or legal

separation action between the parties, and is not filed or served in actions that are filed jointly by the parties.

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(END)