



State of Wisconsin
2025 - 2026 LEGISLATURE

LRB-2421/1
MDE:amn

2025 SENATE BILL 189

April 14, 2025 - Introduced by Senators WIMBERGER and CABRAL-GUEVARA, cosponsored by Representatives TUSLER, O'CONNOR, DOYLE, PALMERI and PIWOWARCZYK. Referred to Committee on Mental Health, Substance Abuse Prevention, Children and Families.

AN ACT *to renumber* 767.235 (1); *to amend* 767.127 (2), 767.235 (2), 767.315

(1) (a), 767.315 (2), 767.335 (intro.) and 767.35 (3); *to create* 767.235 (1) (b) of the statutes; **relating to:** an optional final hearing by affidavit for the dissolution of a marriage.

Analysis by the Legislative Reference Bureau

This bill allows a court to enter a judgment of divorce or legal separation based on an affidavit signed by each party to the action (final hearing by affidavit). Under current law, all hearings and trials to determine whether a divorce or legal separation must be granted must be before the court entering the judgment.

In order for a final hearing by affidavit to be granted, the parties to the divorce or legal separation action must 1) be represented by counsel or have worked with a lawyer mediator with special skills and training in dispute resolution who is registered on the case and drafted and filed the signed stipulation related to divorce or legal separation, 2) sign and file any stipulation required by the court, and 3) submit the signed affidavit, which must meet a number of requirements, including that the affidavit waives the right to a hearing in person before a court.

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

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SECTION 1. 767.127 (2) of the statutes is amended to read:

767.127 (2) FILING DISCLOSURE FORMS. Disclosure forms required under this section shall be filed within 90 days after the service of summons or the filing of a joint petition or at a time ordered by the court. Information on the forms shall be updated on the record to the date of hearing or, in the case of granting a divorce or legal separation based on an affidavit under s. 767.235 (1) (b), the date of the signing of the affidavit.

SECTION 2. 767.235 (1) of the statutes is renumbered 767.235 (1) (a).

SECTION 3. 767.235 (1) (b) of the statutes is created to read:

767.235 (1) (b) Notwithstanding par. (a), a judgment of divorce or legal separation under s. 767.35 may be granted without a hearing before the court if all of the following conditions are met:

1. Both parties named in the action are represented by counsel or have worked with a lawyer mediator with special skills and training in dispute resolution who is registered on the case and who drafted and filed the parties' signed stipulation under s. 767.34.

2. All parties under s. 767.205 have signed and filed a court-approved stipulation under s. 767.34.

3. Both parties have filed a stipulation for judgment upon affidavit.

4. Both parties have submitted an affidavit that meets all of the following requirements:

- a. The affidavit affirms or amends, if necessary, the information contained in the petition under s. 767.215 (2).

- b. The affidavit affirms the residency requirements under s. 767.301.

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- c. The affidavit asserts that the conditions under s. 767.35 (1) have been met.
- d. The affidavit states whether either party is a member of the armed forces of the United States or its allies.
- e. The affidavit states whether either party is receiving public assistance.
- f. The affidavit affirms that both parties made the disclosures required under s. 767.127.
- g. The affidavit affirms that both parties understood the terms of and entered freely into any stipulation filed under s. 767.34.
- h. The affidavit requests that the court incorporate any stipulation filed under s. 767.34 into the judgment.
- i. The affidavit waives the right to a hearing in person before a court under par. (a) and s. 767.315.
- j. The affidavit states that both parties understand the requirements under s. 767.35 (3).
- k. The affidavit states whether either party requests to resume a former legal surname, if any, under s. 767.395.
- L. The affidavit states whether the parties were involved in any pending or completed court cases in any jurisdiction where interspousal battery or domestic abuse, as defined in s. 813.122 (1) (a), are indicated, including petitions under s. 813.12, 813.122, or 813.125, criminal cases alleging conduct under s. 940.19 or 940.20, or their substantial equivalents in state, tribal, or federal court.
- m. The affidavit states that both parties acknowledge and understand the prohibition on remarriage under s. 765.03.

SECTION 4. 767.235 (2) of the statutes is amended to read:

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767.235 (2) APPEARANCE OF LITIGANTS. ~~Unless~~ Except as provided under sub. (1) (b), or unless nonresidence in the state is shown by competent evidence, service is by publication, or the court for other good cause orders otherwise, both parties in actions affecting the family shall appear upon the final hearing or trial. An order of the court to that effect shall be procured by the moving party, and shall be served upon the nonmoving party before the hearing or trial. No order is required in the case of a joint petition.

SECTION 5. 767.315 (1) (a) of the statutes is amended to read:

767.315 (1) (a) If both of the parties to a legal separation or divorce action by petition or otherwise have stated under oath or affirmation that the marriage is irretrievably broken, or if the parties have voluntarily lived apart continuously for 12 months or more immediately prior to commencement of the action and one party has so stated, the court, after hearing, shall make a finding that the marriage is irretrievably broken for purposes of s. 767.35 (1) (b) 1. This paragraph may be satisfied by an affidavit under s. 767.235 (1) (b).

SECTION 6. 767.315 (2) of the statutes is amended to read:

767.315 (2) BREAKDOWN OF MARITAL RELATIONSHIP. If both of the parties to a legal separation or divorce action by petition or otherwise have stated under oath or affirmation that the marital relationship is broken, the court, after hearing, shall make a finding that the marital relationship is broken for purposes of s. 767.35 (1) (b) 2. This subsection may be satisfied by an affidavit under s. 767.235 (1) (b).

SECTION 7. 767.335 (intro.) of the statutes is amended to read:

767.335 Waiting period for final hearing or trial. (intro.) An action for

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divorce or legal separation may not be brought to final hearing or trial or granted based on an affidavit under s. 767.235 (1) (b) until the first of the following occurs:

SECTION 8. 767.35 (3) of the statutes is amended to read:

767.35 (3) WHEN DIVORCE JUDGMENT EFFECTIVE. A judgment of divorce is effective when granted. A court granting a judgment of divorce shall inform the parties ~~appearing in court~~ that the judgment is effective when granted but that it is unlawful under s. 765.03 (2) for a party to marry again until 6 months after the judgment is granted. This section does not prevent application of enforceable orders prior to the divorce judgment as set forth in s. 767.333.

(END)