

1981 Assembly Bill 290

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CHAPTER 186 , Laws of 1981

AN ACT to amend 52.055 (2m) and 767.265 (1), (1m) and (3) of the statutes, relating to income assignments in orders for support or maintenance.

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

SECTION 1. 52.055 (2m) of the statutes, as affected by chapter 20, laws of 1981, is amended to read:

52.055 (2m) Upon a showing of need to the court, the court shall order a hearing. At the hearing, the court may make an order directing the parent to assign such salary, benefits under chs. 102 and 108 or wages due or to be due the parent in the future to the clerk of court where the judgment in any action affecting the family, as designated in s. 767.02, was granted, as will be sufficient to pay the allowances, as adjudged by the court, for the support, maintenance and education of the minor children of the parties. If the parent does not execute an assignment when so ordered, the court shall execute that assignment. The assignment shall be binding upon the party from whom the parent receives salary, benefits or wages one week after service upon it of a true copy of the assignment signed by the parent or court and annexed to a copy of the order, by personal service or by registered or certified mail until further order of the court. For each payment the party from whom the parent receives salary, benefits or wages shall receive \$1 which it shall deduct from the money to be paid the parent. Section 241.09 shall not apply to assignments under this section. An employer may not use the assignment as a basis for the discharge of an employe or for any disciplinary action against the employe. Compliance by the party from whom the parent receives salary, benefits or wages with the order operates as a discharge of its liability to the parent as to that portion of the parent's salary, benefits or wages so affected.

SECTION 2. 767.265 (1) of the statutes, as affected by chapter 20, laws of 1981, is amended to read:

767.265 (1) Each order for child support under s. 767.23 or 767.25, for maintenance payments under s. 767.23 or 767.26, for family support under s. 767.261, for support by a spouse under s. 767.02 (1) (f) or for maintenance payments under s. 767.02 (1) (g) shall include an order directing the payer to assign commissions, earnings, salaries, wages and other income due or to be due in the future to the clerk of the court where the action is filed, as will be sufficient to meet the maintenance payments, child support payments or family support payments imposed by the court for the support of the spouse or minor children or both and to defray arrearages in payments due at the time the assignment takes effect. Each order for child support under s. 767.23 or 767.25 may include an order directing the payer to assign benefits under ch. 102 or 108 due or to be due in the future to the clerk of the court where the action is filed, as will be sufficient to meet the child support payments imposed by the court for the support of minor children and to defray arrearages in payments due at the time the assignment takes place. If the payer does not execute an assignment when so ordered, the court or family court commissioner shall execute that assignment. The assignment of income shall take effect when the requirement of sub. (2) has been satisfied, or, at the discretion of the court or family court commissioner, may take effect immediately.

SECTION 3. 767.265 (1m) of the statutes is amended to read:

767.265 (1m) Any spouse who is entitled to a payment of support which has been ordered by the court or family court commissioner under s. 767.23, 767.25, 767.26 or 767.261 may apply to the court or court commissioner for an income assignment under sub. (1). Upon receipt of the application, the court or family court commissioner shall order the payer to execute an income assignment. If the payer does not execute an assignment when so ordered, the court or family court commissioner shall execute that assignment. The court or family court commissioner may order the income assignment to take effect immediately or after the requirements of sub. (2) are satisfied.

SECTION 4. 767.265 (3) of the statutes, as affected by chapter 20, laws of 1981, is amended to read:

767.265 (3) An assignment made under this section shall be binding upon the party from whom the payer receives salary, benefits or wages one week after service upon it of a true copy of the assignment signed by the payer, court or family court commissioner and annexed to a copy of the order, by personal service or by registered or certified mail, until further order of the court. For each payment the party from whom the payer receives salary, benefits or wages shall receive \$1 which shall be deducted from the money to be paid to the payer. Section 241.09 does not apply to assignments under this section. If the party from whom the payer receives salary, benefits or wages fails to make the assignment after receipt of the true copy of the assignment and order as provided in this section, it may be fined not more than \$200 and may be required to pay the amount assigned to the clerk of the court. An employer may not use such assignments as a basis for the discharge of an employe or for any disciplinary action against the employe. An employer who discharges or disciplines an employe in violation of this subsection may be fined not more than \$200 and may be required to make full restitution to the aggrieved employe, including reinstatement and back pay. Compliance by the party from whom the payer receives salary, benefits or wages with the order operates as a discharge of its liability to the payer as to that portion of the payer's commission, earnings, salaries, wages, benefits or other income so affected.
