



State of Wisconsin
2019 - 2020 LEGISLATURE

LRBs0091/1
SWB:wlj

**SENATE SUBSTITUTE AMENDMENT 1,
TO SENATE BILL 350**

September 24, 2019 - Offered by Senator LARSON.

1 **AN ACT to repeal** 767.805 (4) (d) and 767.89 (3) (e); and **to amend** 49.45 (19) (a),
2 49.45 (19) (c), 49.855 (3) and 49.855 (4m) (b) of the statutes; **relating to:**
3 eliminating recovery of birth costs.

Analysis by the Legislative Reference Bureau

This bill eliminates the requirement that a court include in a judgment or order relating to paternity an order for a father to pay for a portion of pregnancy and birth expenses. Under current law, a court is required to include in a paternity order an order for the father to repay a portion of pregnancy and birth expenses, taking into account the father's income and ability to pay. The bill eliminates orders relating to pregnancy and birth expenses. The bill also expressly prohibits the state from seeking recovery of birth expenses. Under current law, if the mother of a child was enrolled in a health maintenance organization or other prepaid health care plan under the Medical Assistance program at the time of the child's birth, the state could seek to recover from the father the birth expenses incurred by the health maintenance organization or other prepaid health care plan.

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

1 **SECTION 1.** 49.45 (19) (a) of the statutes is amended to read:

2 49.45 (19) (a) As Except as provided in par. (c), as a condition of eligibility for
3 medical assistance, a person shall, notwithstanding other provisions of the statutes,
4 be deemed to have assigned to the state, by applying for or receiving medical
5 assistance, any rights to medical support or other payment of medical expenses from
6 any other person, including rights to unpaid amounts accrued at the time of
7 application for medical assistance as well as any rights to support accruing during
8 the time for which medical assistance is paid.

9 **SECTION 2.** 49.45 (19) (c) of the statutes is amended to read:

10 49.45 (19) (c) ~~If the mother of a child was enrolled in a health maintenance~~
11 ~~organization or other prepaid health care plan under medical assistance at the time~~
12 ~~of the child's birth, The state may not seek recovery of birth expenses that may be~~
13 ~~recovered by the state under this subsection are the birth expenses incurred by the~~
14 ~~health maintenance organization or other prepaid health care plan.~~

15 **SECTION 3.** 49.855 (3) of the statutes is amended to read:

16 49.855 (3) Receipt of a certification by the department of revenue shall
17 constitute a lien, equal to the amount certified, on any state tax refunds or credits
18 owed to the obligor. The lien shall be foreclosed by the department of revenue as a
19 setoff under s. 71.93 (3), (6), and (7). When the department of revenue determines
20 that the obligor is otherwise entitled to a state tax refund or credit, it shall notify the
21 obligor that the state intends to reduce any state tax refund or credit due the obligor
22 by the amount the obligor is delinquent under the support, maintenance, or receiving
23 and disbursing fee order or obligation, by the outstanding amount for past support,
24 medical expenses, or birth expenses under the court order, or by the amount due
25 under s. 46.10 (4), 49.345 (4), or 301.12 (4). The notice shall provide that within 20

1 days the obligor may request a hearing before the circuit court rendering the order
2 under which the obligation arose. Within 10 days after receiving a request for
3 hearing under this subsection, the court shall set the matter for hearing. Pending
4 further order by the court or a circuit court commissioner, the department of children
5 and families or its designee, whichever is appropriate, is prohibited from disbursing
6 the obligor's state tax refund or credit. A circuit court commissioner may conduct the
7 hearing. The sole issues at that hearing shall be whether the obligor owes the
8 amount certified and, if not and it is a support or maintenance order, whether the
9 money withheld from a tax refund or credit shall be paid to the obligor or held for
10 future support or maintenance, except that the obligor's ability to pay shall also be
11 an issue at the hearing if the obligation relates to an order under ~~s. 767.805 (4) (d)~~
12 ~~1. or 767.89 (3) (e) 1.~~ regarding birth expenses and the order specifies that the court
13 found that the obligor's income was at or below the poverty line established under
14 42 USC 9902 (2).

15 **SECTION 4.** 49.855 (4m) (b) of the statutes is amended to read:

16 49.855 (**4m**) (b) The department of revenue may provide a certification that it
17 receives under sub. (1), (2m), (2p), or (2r) to the department of administration. Upon
18 receipt of the certification, the department of administration shall determine
19 whether the obligor is a vendor or is receiving any other payments from this state,
20 except for wages, retirement benefits, or assistance under s. 45.352, 1971 stats., s.
21 45.40 (1m), this chapter, or ch. 46, 108, or 301. If the department of administration
22 determines that the obligor is a vendor or is receiving payments from this state,
23 except for wages, retirement benefits, or assistance under s. 45.352, 1971 stats., s.
24 45.40 (1m), this chapter, or ch. 46, 108, or 301, it shall begin to withhold the amount
25 certified from those payments and shall notify the obligor that the state intends to

1 reduce any payments due the obligor by the amount the obligor is delinquent under
2 the support, maintenance, or receiving and disbursing fee order or obligation, by the
3 outstanding amount for past support, medical expenses, or birth expenses under the
4 court order, or by the amount due under s. 46.10 (4), 49.345 (4), or 301.12 (4). The
5 notice shall provide that within 20 days after receipt of the notice the obligor may
6 request a hearing before the circuit court rendering the order under which the
7 obligation arose. An obligor may, within 20 days after receiving notice, request a
8 hearing under this paragraph. Within 10 days after receiving a request for hearing
9 under this paragraph, the court shall set the matter for hearing. A circuit court
10 commissioner may conduct the hearing. Pending further order by the court or circuit
11 court commissioner, the department of children and families or its designee,
12 whichever is appropriate, may not disburse the payments withheld from the obligor.
13 The sole issues at the hearing are whether the obligor owes the amount certified and,
14 if not and it is a support or maintenance order, whether the money withheld shall be
15 paid to the obligor or held for future support or maintenance, except that the obligor's
16 ability to pay is also an issue at the hearing if the obligation relates to an order under
17 s. ~~767.805 (4) (d) 1. or 767.89 (3) (e) 1. regarding birth expenses~~ and the order specifies
18 that the court found that the obligor's income was at or below the poverty line
19 established under 42 USC 9902 (2).

20 **SECTION 5.** 767.805 (4) (d) of the statutes is repealed.

21 **SECTION 6.** 767.89 (3) (e) of the statutes is repealed.

22 **SECTION 7. Initial applicability.**

