
Wisconsin Legislative Council

ACT MEMO



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2021 Wisconsin Act 169
[2021 Senate Bill 603]

**Court Commissioners' Authority
to Grant Legal Separations**

BACKGROUND

Court commissioners are court officials who perform limited judicial and quasi-judicial functions under the direction and authority of the chief judge and circuit court judges. While the Supreme Court Rules govern the qualifications for, and appointment, supervision, training, evaluation, and discipline of, circuit court commissioners, the Legislature has specified a court commissioner's powers and duties.

Specifically, under state statute, a court commissioner assigned to assist in family law matters has certain powers, including the authority to preside at hearings to grant final **divorce** judgments when either: (1) both parties have stated the marriage is irretrievably broken and agreed on a resolution of all material issues; or (2) when one party does not participate in the divorce action. In such cases, a court commissioner may grant and enter a divorce judgment. However, if the commissioner does not approve an agreement between the parties on material issues, the case must be certified to a judge for trial.

2021 WISCONSIN ACT 169

2021 Wisconsin Act 169 expands this authority to a **legal separation** judgment, a type of proceeding very similar to divorce, in that it addresses similar issues and requirements, but ultimately does not end a marriage and instead allows parties to reconcile.

Similar to the authority granted in divorce proceedings, the act allows a court commissioner to preside at hearings to grant final judgments of **legal separation**, if either: (1) both parties have stated that the marital relationship is broken and agreed on a resolution of all material issues; or (2) when one party does not participate in the legal separation action. A court commissioner may grant and enter a legal separation judgment in such cases, but the case must be certified to a judge for trial if the commissioner does not approve an agreement between the parties on material issues.

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