

1        **AN ACT to create** 71.07 (9e) (ag) of the statutes; **relating to:** eligibility for the  
 2            Wisconsin earned income tax credit for certain parents.

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

**JOINT LEGISLATIVE COUNCIL PREFATORY NOTE:** This bill draft was prepared for the Joint Legislative Council’s Special Committee on Infant Mortality. The draft extends eligibility for the Wisconsin Earned Income Tax Credit (EITC) to certain parents who do not currently qualify for the EITC because their child does not reside with them if the person is subject to a court order to provide support for the child.

Under federal law, the EITC is a refundable tax credit for low-income workers. If the amount of the credit exceeds a worker’s tax liability, the claimant receives a check from the Internal Revenue Service for the excess amount. The amount of the credit for which a claimant is eligible is based, in part, on whether the person has a qualifying child and how many qualifying children the person has. A qualifying child for purposes of the EITC is a child who meets four tests: (1) the relationship test; (2) the age test; (3) the residency test; and (4) the joint return test.

The relationship test requires that the child be the person’s son, daughter, stepchild, foster child, or descendant of one of those individuals (i.e. grandchild), or that the child be the person’s brother, sister, half brother, half sister, stepbrother, stepsister, or descendant of one of those individuals (i.e. niece). The age test requires that the child be under age 19 if he or she is not a student, that the child be under age 24 if he or she is a student, or that the child be permanently and totally disabled. The residency test requires that the child must have lived with the person for more than half of the year. The joint return test requires that the child not be filing a joint return for the year.

In addition, a child cannot be used by more than one person to claim the EITC. This means that eligibility for the EITC requires a person to use a child who is not used by any other person to claim the EITC.

A refundable earned income tax credit also exists under Wisconsin law. A person may claim the Wisconsin EITC in an amount equal to a specified percentage of the federal EITC for which the person is eligible if the person has one or more qualifying children.

