



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-0410/P3
EAW:cdc&wlj

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to amend* 767.511 (1m) (hs) and 767.553 (4) (c) 2.; and *to create* 767.57
2 (4m) and 767.775 of the statutes; **relating to:** reduction of child support
3 payments during incarceration.

Analysis by the Legislative Reference Bureau

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

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

4 **SECTION 1.** 767.511 (1m) (hs) of the statutes is amended to read:
5 767.511 (**1m**) (hs) The earning capacity of each parent, based on each parent's
6 education, training and work experience and the availability of work in or near the
7 parent's community. A court may not consider incarceration to be voluntary
8 unemployment for the purpose of determining earning capacity under this
9 paragraph.

1 **SECTION 2.** 767.553 (4) (c) 2. of the statutes is amended to read:

2 767.553 (4) (c) 2. The payer was seeking an adjustment and the payee
3 establishes that the payer voluntarily and unreasonably reduced his or her income
4 below his or her earning capacity. Incarceration may not be considered a voluntary
5 and unreasonable reduction of income below the payer's earning capacity.

6 **SECTION 3.** 767.57 (4m) of the statutes is created to read:

7 767.57 (4m) PROCEDURE IF ORDER SUSPENDED DURING INCARCERATION. If an order
8 for child support is suspended during incarceration under s. 767.775, the department
9 or its designee shall do all of the following:

10 (a) Suspend the current obligation for child support, effective on the first day
11 of the first month following receipt of notice that the payer has been sentenced to
12 incarceration for 180 days or more.

13 (b) Provide notice to the payer and the payee of the suspension.

14 **SECTION 4.** 767.775 of the statutes is created to read:

15 767.775 **Child support order and enforcement suspended during**
16 **incarceration.** (1) A current obligation for child support under s. 767.225, 767.511,
17 767.805, or 767.89 is suspended and may not be enforced against a person who is
18 incarcerated if all of the following apply:

19 (a) The person is serving a sentence with a term of confinement that is greater
20 than 180 days postconviction, not including time served.

21 (b) The person does not have income or assets during the period of incarceration
22 from which child support can be collected.

23 (c) The payee was not the victim of the crime for which the person is
24 incarcerated.

25 (d) The person is not incarcerated for a crime against a child.

