



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-0667/1
SWB:amn

2019 BILL

1 **AN ACT to repeal** 767.225 (1) (e); and **to amend** 565.30 (5m) (a), 767.34 (1),
2 767.35 (1) (c), 767.511 (6m), 767.531 (intro.), 767.54, 767.553 (1) (a), 767.59 (1),
3 767.61 (3) (i), 767.71 (1) (a), 767.73 (1) (a), 767.75 (1) (b), 767.77 (1) and 767.78
4 (1) of the statutes; **relating to:** elimination of family support.

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:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's Study Committee on Child Placement and Support. Under current law, family support is an alternative that combines the component parts of child support and maintenance in a single obligation, and is based upon the same criteria that apply to orders for child support and maintenance. Family support payments are treated for federal and state tax purposes as maintenance payments, so that the family support payment amount is deductible to the payor-spouse, and taxable to the recipient-spouse. However, under s. 11051 of the federal Tax Cuts and Jobs Act of 2017, maintenance payments are no longer deductible by the payor-spouse and are not included in income to the recipient-spouse. This change will apply to any divorce or separation instrument executed after December 31, 2018. Divorce and separation instruments modified after

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the December 31, 2018, effective date will be subject to prior law unless the modification expressly provides that the modified agreement be governed by the new law.

The bill provides that no new family support orders may be issued beginning on the bill's effective date. Family support orders issued before the bill's effective date would remain in effect and be subject to all provisions in current law that apply to family support orders, including provisions relating to calculating interest and the duties of the Department of Children and Families regarding application of payments received.

1 **SECTION 1.** 565.30 (5m) (a) of the statutes is amended to read:

2 565.30 **(5m)** (a) The administrator shall report to the department of children
3 and families the name, address and social security number of each winner of a lottery
4 prize that is payable in installments and the name, address and social security
5 number or federal income tax number of the person who has been assigned a lottery
6 prize that is payable in installments. Upon receipt of the report, the department of
7 children and families shall certify to the administrator whether any payee or
8 assignee named in the report is obligated to provide child support, spousal support,
9 maintenance or family support under s. 767.531, 2017 stats., or s. 767.001 (1) (f) or
10 (g), 767.225, 767.34, 767.511, ~~767.531~~, 767.56, 767.805 (4), 767.85, 767.863 (3),
11 767.89 (3), 767.893 (2m) or 948.22 (7) or ch. 769 and the amount required to be
12 withheld from the lottery prize under s. 767.75. Subject to par. (b), the administrator
13 shall withhold the certified amount from each payment made to the winner or
14 assignee and remit the certified amount to the department of children and families.

15 **SECTION 2.** 767.225 (1) (e) of the statutes is repealed.

16 **SECTION 3.** 767.34 (1) of the statutes is amended to read:

17 767.34 **(1) AUTHORITY.** The parties in an action for an annulment, divorce, or
18 legal separation may, subject to the approval of the court, stipulate for a division of
19 property, for maintenance payments, for the support of children, ~~for periodic family~~
20 ~~support payments under s. 767.531~~, or for legal custody and physical placement, in
21 case a divorce or legal separation is granted or a marriage annulled.

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1 **SECTION 4.** 767.35 (1) (c) of the statutes is amended to read:

2 767.35 (1) (c) To the extent that it has jurisdiction to do so, the court has
3 considered and approved or made provision for legal custody and physical placement,
4 the support of any child of the marriage entitled to support, the maintenance of either
5 spouse, ~~the support of the family under s. 767.531,~~ and the disposition of property.

6 **SECTION 5.** 767.511 (6m) of the statutes is amended to read:

7 767.511 (6m) PILOT PROGRAM ON INTEREST RATE. The department may conduct
8 a pilot program under which the interest that accrues on the amounts in arrears
9 specified in ~~sub. (6) and in s. 767.531, 2017 stats., and in sub. (6)~~ shall be at the rate
10 of 0.5 percent per month instead of 1 percent per month. If the department conducts
11 a pilot program under this subsection, the program may begin at any time after
12 December 31, 2013, and the new rate shall apply to interest that accrues during that
13 time.

14 **SECTION 6.** 767.531 (intro.) of the statutes is amended to read:

15 **767.531 Family support.** (intro.) ~~The court may make a financial order~~
16 ~~designated "family support" as a substitute for child support orders under s. 767.511~~
17 ~~and maintenance payment orders under s. 767.56.~~ Subject to s. 767.511 (6m), a party
18 ordered to pay family support under this section, 2017 stats., shall pay simple
19 interest at the rate of 1 percent per month on any amount in arrears that is equal to
20 or greater than the amount of child support due in one month. Subject to s. 767.511
21 (6m), if the party no longer has a current obligation to pay child support, interest at
22 the rate of 1 percent per month shall accrue on the total amount of child support in
23 arrears, if any. Interest under this section is in lieu of interest computed under s.
24 807.01 (4), 814.04 (4), or 815.05 (8) and is paid to the department or its designee
25 under s. 767.57. Except as provided in s. 767.57 (1m), the department or its designee

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1 shall apply all payments received for family support ordered under this section, 2017
2 stats., as follows:

3 **SECTION 7.** 767.54 of the statutes is amended to read:

4 **767.54 Required exchange of financial information.** In an action in
5 which the court has ordered a party to pay ~~child or~~ family support under s. 767.225,
6 2017 stats., or s.767.531, 2017 stats., or child support under this chapter, including
7 an action to revise a judgment or order under s. 767.59, the court shall require the
8 parties annually to exchange financial information. Information disclosed under
9 this section is subject to s. 767.127 (3). A party who fails to furnish information
10 required by the court under this section may be proceeded against for contempt of
11 court under ch. 785. If the court finds that a party has failed to furnish information
12 required under this section, the court may award to the party bringing the action
13 costs and, notwithstanding s. 814.04 (1), reasonable attorney fees.

14 **SECTION 8.** 767.553 (1) (a) of the statutes is amended to read:

15 **767.553 (1) (a)** An order for ~~child or family~~ support under this chapter may
16 provide for an annual adjustment in the amount to be paid based on a change in the
17 payer's income if the amount of ~~child or family~~ support is expressed in the order as
18 a fixed sum and based on the percentage standard established by the department
19 under s. 49.22 (9). No adjustment may be made under this section unless the order
20 provides for the adjustment.

21 **SECTION 9.** 767.59 (1) of the statutes is amended to read:

22 **767.59 (1) DEFINITION.** In this section, "support or maintenance order" means
23 a judgment or order providing for child support under this chapter or s. 48.355 (2)
24 (b) 4. or (4g) (a), 48.357 (5m) (a), 48.363 (2), 938.183 (4), 938.355 (2) (b) 4. or (4g) (a),
25 938.357 (5m) (a), 938.363 (2), or 948.22 (7), for maintenance payments under s.

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1 767.56, for family support payments under ~~this chapter~~ s. 767.531, 2017 stats., or for
2 the appointment of trustees or receivers under s. 767.57 (5).

3 **SECTION 10.** 767.61 (3) (i) of the statutes is amended to read:

4 767.61 (3) (i) The amount and duration of an order under s. 767.56 granting
5 maintenance payments to either party, any order for periodic family support
6 payments under s. 767.531, 2017 stats., and whether the property division is in lieu
7 of such payments.

8 **SECTION 11.** 767.71 (1) (a) of the statutes is amended to read:

9 767.71 (1) (a) In this section, “support order” means an order for child support
10 under this chapter or s. 948.22 (7), an order for family support under this chapter,
11 2017 stats., or a stipulation approved by the court for child support under this
12 chapter.

13 **SECTION 12.** 767.73 (1) (a) of the statutes is amended to read:

14 767.73 (1) (a) In this subsection, “support payment” means a payment ordered
15 for support under s. 767.521, support under s. 767.501, child support or family
16 support under s. 767.225, child support under s. 767.511, family support under s.
17 767.531, 2017 stats., revised child or family support under s. 767.59, child support
18 under s. 767.863 (3), child support under s. 767.85, child support under s. 767.89,
19 child support under s. 767.805 (4), child support under ch. 769, or child support under
20 s. 948.22 (7).

21 **SECTION 13.** 767.75 (1) (b) of the statutes is amended to read:

22 767.75 (1) (b) “Payment order” means an order for child support under this
23 chapter, for maintenance payments under s. 767.225 or 767.56, for family support
24 under this chapter, 2017 stats., for costs ordered under s. 767.805 (4) or 767.89 (3),
25 for support by a spouse under s. 767.001 (1) (f), or for maintenance payments under

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1 s. 767.001 (1) (g); an order for or obligation to pay the annual receiving and
2 disbursing fee under s. 767.57 (1e) (a); an order for a revision in a judgment or order
3 with respect to child support, maintenance, or family support payments under s.
4 767.59; a stipulation approved by the court for child support under this chapter; and
5 an order for child or spousal support entered under s. 948.22 (7).

6 **SECTION 14.** 767.77 (1) of the statutes is amended to read:

7 767.77 (1) DEFINITION. In this section, “payment obligation” means an
8 obligation to pay support under s. 48.355 (2) (b) 4. or (4g) (a), 48.357 (5m) (a), 48.363
9 (2), 938.183 (4), 938.355 (2) (b) 4. or (4g) (a), 938.357 (5m) (a), or 938.363 (2), support
10 or maintenance under s. 767.501, child support, ~~family support~~, or maintenance
11 under s. 767.225, child support under s. 767.511, maintenance under s. 767.56,
12 family support under s. ~~767.225, 2017 stats., or s.767.531, 2017 stats.~~, attorney fees
13 under s. 767.241, child support or a child’s health care expenses under s. 767.85,
14 paternity obligations under s. 767.805 (4), 767.863 (3), or 767.89, support arrearages
15 under s. 767.71, or child or spousal support under s. 948.22 (7).

16 **SECTION 15.** 767.78 (1) of the statutes is amended to read:

17 767.78 (1) DEFINITION. In this section, “financial obligation” means an
18 obligation for payment incurred under s. ~~767.531, 2017 stats., or s. 48.355 (2) (b) 4.~~
19 or (4g) (a), 48.357 (5m) (a), 48.363 (2), 767.225, 767.241, 767.511, ~~767.531~~, 767.56,
20 767.61, 767.71, 767.805 (4), 767.85, 767.863 (3), 767.89, 938.183 (4), 938.355 (2) (b)
21 4. or (4g) (a), 938.357 (5m) (a), or 938.363 (2).

22 **SECTION 16. Initial applicability.**

23 (1) This act first applies to orders entered on the effective date of this
24 subsection.

25 (END)