



1995 ASSEMBLY BILL 272

April 3, 1995 – Introduced by Representatives HAHN, FREESE, AINSWORTH, GOETSCH, OWENS, NASS, RYBA, F. LASEE, GUNDERSON, SERATTI, SKINDRUD and GROTHMAN, cosponsored by Senator ZIEN. Referred to Committee on Children and Families.

1 **AN ACT to amend** 767.23 (1) (c), 767.23 (1) (e), 767.25 (1) (a), 767.261 (intro.) and
2 767.51 (3); and **to create** 767.23 (1p), 767.25 (4c) and 767.32 (2c) of the statutes;
3 **relating to:** prohibiting child support if a child is 16 or 17 years old and not in
4 school.

Analysis by the Legislative Reference Bureau

Under current law, a court must order one or both parties in the final judgment of a paternity action, annulment, divorce or legal separation to pay child support for the support of any child of the parties who is less than 19 years old and pursuing an accredited course of instruction leading to the acquisition of a high school diploma or its equivalent. Additionally, in any action affecting the family, which includes all of the actions mentioned, a court or family court commissioner may order temporary child support during the pendency of the action.

This bill provides that in a paternity action, annulment, divorce or legal separation, unless the parties have otherwise agreed in writing, a court may not order a party to pay child support for a child who is 16 or 17 years old if the child is not enrolled in a school program or a high school equivalency program, including a home-based private educational program, unless the child has graduated from high school or been granted a declaration of high school graduation equivalency. The prohibition applies to both child support and family support, which is a combination of child support and maintenance (alimony), and to temporary orders during the pendency of an action as well as to final orders.

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

5 **SECTION 1.** 767.23 (1) (c) of the statutes is amended to read:

1 767.23 (1) (c) ~~Requiring~~ Subject to sub. (1p), requiring either party or both
2 parties to make payments for the support of minor children, which payment amounts
3 may be expressed as a percentage of parental income or as a fixed sum, or as a
4 combination of both in the alternative by requiring payment of the greater or lesser
5 of either a percentage of parental income or a fixed sum.

6 **SECTION 2.** 767.23 (1) (e) of the statutes is amended to read:

7 767.23 (1) (e) ~~Requiring~~ Subject to sub. (1p), requiring either party to pay
8 family support under s. 767.261.

9 **SECTION 3.** 767.23 (1p) of the statutes is created to read:

10 767.23 (1p) Unless the parties have otherwise agreed in writing, the court or
11 family court commissioner may not require either party to pay for the support of a
12 child who is 16 or 17 years old if the child is not enrolled in a school program or a high
13 school equivalency program, including a home-based private educational program,
14 as defined in s. 115.001 (3g), unless the child has graduated from high school or been
15 granted a declaration of high school equivalency.

16 **SECTION 4.** 767.25 (1) (a) of the statutes is amended to read:

17 767.25 (1) (a) ~~Order~~ Except as provided in sub. (4c), order either or both parents
18 to pay an amount reasonable or necessary to fulfill a duty to support a child. The
19 support amount may be expressed as a percentage of parental income or as a fixed
20 sum, or as a combination of both in the alternative by requiring payment of the
21 greater or lesser of either a percentage of parental income or a fixed sum.

22 **SECTION 5.** 767.25 (4c) of the statutes is created to read:

23 767.25 (4c) Unless the parties have otherwise agreed in writing, the court may
24 not order either party to pay for the support of any child who is 16 or 17 years old if
25 the child is not enrolled in a school program or a high school equivalency program,

1 including a home-based private educational program, as defined in s. 115.001 (3g),
2 unless the child has graduated from high school or been granted a declaration of high
3 school equivalency.

4 **SECTION 6.** 767.261 (intro.) of the statutes is amended to read:

5 **767.261 Family support.** (intro.) The Subject to s. 767.25 (4c), the court may
6 make a financial order designated “family support” as a substitute for child support
7 orders under s. 767.25 and maintenance payment orders under s. 767.26. A party
8 ordered to pay family support under this section shall pay simple interest at the rate
9 of 1.5% per month on any amount unpaid, commencing the first day of the 2nd month
10 after the month in which the amount was due. Interest under this section is in lieu
11 of interest computed under s. 807.01 (4), 814.04 (4) or 815.05 (8) and is paid to the
12 clerk of court under s. 767.29. Except as provided in s. 767.29 (1m), the clerk of court
13 shall apply all payments received for family support as follows:

14 **SECTION 7.** 767.32 (2c) of the statutes is created to read:

15 767.32 (2c) Unless the parties have otherwise agreed in writing, if the court
16 revises a judgment or order with respect to child support payments the court may not
17 order a party to pay child support for a child who is 16 or 17 years old if the child is
18 not enrolled in a school program or a high school equivalency program, including a
19 home-based private educational program, as defined in s. 115.001 (3g), unless the
20 child has graduated from high school or been granted a declaration of high school
21 equivalency.

22 **SECTION 8.** 767.51 (3) of the statutes is amended to read:

23 767.51 (3) The judgment or order may contain any other provision directed
24 against the appropriate party to the proceeding, concerning the duty of support, the
25 legal custody and guardianship of the child, periods of physical placement, the

1 furnishing of bond or other security for the payment of the judgment, or any other
2 matter in the best interest of the child. Unless the court orders otherwise, if there
3 is no presumption of paternity under s. 891.41 the mother shall have sole legal
4 custody of the child. The court shall order either party or both to pay for the support
5 of any child of the parties who is less than 19 years old and is pursuing an accredited
6 course of instruction leading to the acquisition of a high school diploma or its
7 equivalent. Unless the parties have otherwise agreed in writing, the court may not
8 order a party to pay for the support of a child who is 16 or 17 years old if the child
9 is not enrolled in a school program or a high school equivalency program, including
10 a home-based private educational program, as defined in s. 115.001 (3g), unless the
11 child has graduated from high school or been granted a declaration of high school
12 equivalency. The judgment or order may direct the father to pay or contribute to the
13 reasonable expenses of the mother's pregnancy and confinement during pregnancy
14 and may direct either party to pay or contribute to the costs of blood tests, attorney
15 fees and other costs. Contributions to the costs of blood tests shall be paid to the
16 county which paid for the blood tests.

17 **SECTION 9. Initial applicability.**

18 (1) This act first applies to temporary orders, final judgments and orders, and
19 revisions of judgments and orders, that are granted on the effective date of this
20 subsection.

21 (END)