



## 1995 ASSEMBLY BILL 571

September 25, 1995 - Introduced by Representatives COLEMAN, SCHNEIDERS, WALKER, LAZICH, WIRCH, RILEY, PORTER, URBAN, OWENS, WASSERMAN, OTT, GOETSCH, SERATTI, PLACHE, KREIBICH, PLOMBON, F. LASEE, OLSEN, SPRINGER and LA FAVE, cosponsored by Senators PETAK and DARLING. Referred to Committee on Children and Families.

- 1     **AN ACT to amend** 780.01 (3), 780.03 and 780.05; and **to create** 767.30 (3) (f),  
2             767.30 (4) and 780.01 (5) of the statutes; **relating to:** creating a lien against  
3             vessels to satisfy child support arrearages.

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### *Analysis by the Legislative Reference Bureau*

Under current law, if a person who has been ordered to pay child or family support fails to make payment, a court may enforce the order by any appropriate remedy. Under another portion of current law, certain claims against the owner of a vessel used in navigating the waters of this state are automatically liens against the vessel so that the vessel may be attached upon the filing of the claim and sold to satisfy the claim if proven in court. Those claims include:

1. Debts for labor or materials in the building or repair of the vessel.
2. Sums due for towing or anchoring the vessel.
3. Demands or damages for nonperformance of a contract related to transportation on the vessel.
4. Damages for injury to persons or property caused by the vessel.

This bill adds to the list of claims that are automatically a lien against a vessel, arrearages in child or family support owed by the owner of the vessel. The bill also specifies as an appropriate remedy for nonpayment of child or family support, satisfaction out of the proceeds of the sale of any vessel attached and sold under the other portion of law amended by the bill.

This bill also requires the department of natural resources to provide to a county a list of the owners of boats for which certificates of numbers or registrations have been issued by the department.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 767.30 (3) (f) of the statutes is created to read:

2           767.30 (3) (f) For failure to pay child support or family support, satisfaction  
3 under s. 780.10 out of the proceeds of the sale of any ship, boat or vessel attached and  
4 sold under ch. 780.

5           **SECTION 2.** 767.30 (4) of the statutes is created to read:

6           767.30 (4) Upon the request of a county, the department of natural resources  
7 shall provide the county with a list of the names and addresses of all of the owners  
8 of boats that have a valid certificate of number or registration that has been issued  
9 by the department under s. 30.52. The department shall prepare the list annually  
10 before May 31 of each year.

11           **SECTION 3.** 780.01 (3) of the statutes is amended to read:

12           780.01 (3) For all demands or damages accruing from the nonperformance or  
13 malperformance of any contract of affreightment or any contract touching the  
14 transportation of persons or property entered into by the master, agent, owner or  
15 consignee of the ship, boat or vessel on which such contract is to be performed; and,

16           **SECTION 4.** 780.01 (5) of the statutes is created to read:

17           780.01 (5) For all arrearages owed by the owner in child support ordered under  
18 s. 48.355 (2) (b) 4., 48.357 (5m), 48.363 (2) or 948.22 (7) or ch. 767 or 769 or in family  
19 support ordered under ch. 767.

20           **SECTION 5.** 780.03 of the statutes is amended to read:

1           **780.03 Owner personally liable.** The owner or owners of any such ship, boat  
2 or vessel shall be personally liable for the payment of every debt and for every  
3 demand ~~and or~~ claim arising under s. 780.01 (1) ~~and~~, (2) or (5). Such liability for a  
4 debt, demand or claim arising under s. 780.01 (1) or (2) shall not in any way impair  
5 or affect the liability that may exist against the master, agent or consignee for the  
6 same debt or demand.

7           **SECTION 6.** 780.05 of the statutes is amended to read:

8           **780.05 When undertaking not required.** In case the plaintiff's claim arises  
9 out of or is founded upon any of the causes under s. 780.01 (1) or (5) the plaintiff shall  
10 not be required to give the undertaking required by s. 811.06 unless required so to  
11 do by an order of the court or judge; and no such order shall be made unless the  
12 defendant or someone in the defendant's behalf shall make an affidavit showing that  
13 he or she has a good and valid defense in whole or in part to the claim or demand of  
14 the plaintiff, setting forth the nature of the defense; and where the defense is only  
15 to a portion of the claim, before any such order shall be made the defendant shall pay  
16 or tender to the plaintiff that portion of the claim to which there is no defense; such  
17 payment or tender shall not affect the jurisdiction of the court or prevent a recovery  
18 by the plaintiff of the same costs, disbursements and charges as the plaintiff would  
19 have been entitled to had not the amount of the plaintiff's claim been reduced by such  
20 payment. No such order shall be made except upon one day's notice to the plaintiff,  
21 accompanied by copies of the affidavits and other papers upon which it is founded.

22           **SECTION 7. Effective dates.** This act takes effect on the day after publication,  
23 except as follows:

