



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-3620/2
TD/SW/ES/EW:amn

2017 SENATE BILL 327

June 23, 2017 - Introduced by Senators CARPENTER, BEWLEY, JOHNSON, LARSON, MILLER, RINGHAND, RISSER, SHILLING and VINEHOUT, cosponsored by Representatives SPREITZER, ZAMARRIPA, C. TAYLOR, ANDERSON, BERCEAU, BILLINGS, BOWEN, CONSIDINE, CROWLEY, GENRICH, GOYKE, HESSELBEIN, HINTZ, KOLSTE, MASON, OHNSTAD, POPE, RIEMER, SARGENT, SHANKLAND, STUCK, SUBECK, WACHS, YOUNG and ZEPNICK. Referred to Committee on Government Operations, Technology and Consumer Protection.

1 **AN ACT** *to repeal* 49.141 (1) (j) 2., 102.51 (1) (a) 2., 115.76 (12) (a) 2. and 115.76
2 (12) (a) 3.; *to renumber and amend* 891.40 (1) and 891.41 (1) (b); *to amend*
3 29.219 (4), 29.228 (5), 29.228 (6), 29.229 (2) (i), 29.2295 (2) (i), 29.563 (3) (a) 3.,
4 29.607 (3), 45.01 (6) (c), 45.51 (3) (c) 2., 45.51 (5) (a) 1. b., 45.51 (5) (a) 1. c., 45.55,
5 46.10 (2), 48.02 (13), 48.396 (2) (dm), 48.422 (7) (bm), 48.422 (7) (br), 48.432 (1)
6 (am) 2. b., 48.63 (3) (b) 4., 48.63 (3) (b) 5., 48.82 (1) (a), 48.837 (1r) (d), 48.837
7 (1r) (e), 48.837 (6) (b), 48.837 (6) (br), 48.913 (1) (a), 48.913 (1) (b), 48.913 (1) (h),
8 48.913 (2) (intro.), 48.913 (2) (b), 48.913 (2) (c) (intro.), 48.913 (3), 48.913 (4),
9 48.913 (7), 49.141 (1) (j) 1., 49.155 (1m) (c) 1g., 49.155 (1m) (c) 1h., 49.163 (2)
10 (am) 2., 49.19 (1) (a) 2. a., 49.19 (4) (d) (intro.), 49.19 (4) (d) 1., 49.19 (4) (d) 2.,
11 49.19 (4) (d) 3., 49.19 (4) (d) 4., 49.19 (4) (d) 5., 49.345 (2), 49.43 (12), 49.471 (1)
12 (b) 2., 49.90 (4), 54.01 (36) (a), 54.960 (1), 69.03 (15), 69.05 (3m) (intro.), (a) and
13 (b), 69.11 (4) (b), 69.12 (5), 69.13 (2) (b) 4., 69.14 (1) (c) 4., 69.14 (1) (e) (title) and
14 1., 69.14 (1) (f) 1., 69.14 (1) (g), 69.14 (2) (b) 2. d., 69.15 (1), 69.15 (3) (b) 3., 71.03

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1 (2) (d) (title), 71.03 (2) (d) 1., 71.03 (2) (d) 2., 71.03 (2) (d) 3., 71.03 (2) (g), 71.03
2 (2) (m) 2., 71.03 (4) (a), 71.05 (22) (a) (title), 71.07 (5m) (a) 3., 71.07 (9e) (b), 71.09
3 (13) (a) 2., 71.52 (4), 71.83 (1) (a) 8., 71.83 (1) (b) 5., 77.25 (8m), 77.54 (7) (b) 1.,
4 101.91 (5m), 102.07 (5) (b), 102.07 (5) (c), 102.51 (1) (a) 1., 103.10 (1) (h), 103.165
5 (3) (a) 3., 111.32 (12), 115.76 (12) (a) 1., 115.76 (13), 146.34 (1) (f), 157.05,
6 182.004 (6), 250.04 (3) (a), 301.12 (2), 301.50 (1), 700.19 (2), 705.01 (4), 705.01
7 (4m), 706.09 (1) (e), 765.001 (2), 765.01, 765.03 (1), 765.16 (1m) (intro.), 765.16
8 (1m) (c), 765.23, 765.24, 765.30 (3) (a), 766.587 (7) (form) 9., 766.588 (9) (form)
9 13., 766.589 (10) (form) 14., 767.215 (2) (b), 767.215 (5) (a) 2., 767.323, 767.80
10 (1) (intro.), 767.80 (1) (c), 767.80 (2), 767.855, 767.863 (1m), 767.87 (1m) (intro.),
11 767.87 (8), 767.87 (9), 767.883 (1), 769.316 (9), 769.401 (2) (a), 769.401 (2) (g),
12 815.20 (1), 822.40 (4), 851.30 (2) (a), 852.01 (1) (f) 1., 852.01 (1) (f) 2., 852.01 (1)
13 (f) 3., 854.03 (3), 891.39 (title), 891.39 (1) (a), 891.39 (1) (b), 891.39 (3), 891.40
14 (2), 891.41 (title), 891.41 (1) (intro.), 891.41 (1) (a), 891.41 (2), 905.05 (title),
15 938.02 (13), 938.396 (2g) (g), 943.20 (2) (c), 943.201 (1) (b) 8. and 943.205 (2) (b);
16 and *to create* 69.15 (3) (b) 3m., 765.02 (3), 891.40 (1) (b), 891.40 (3), 891.41 (3),
17 990.01 (22m), 990.01 (39) and 990.01 (40m) of the statutes; **relating to:**
18 marriage between persons of the same sex and extending parentage rights to
19 married couples of the same sex.

Analysis by the Legislative Reference Bureau***Summary***

This bill recognizes same-sex marriage by making references in the statutes to spouses gender neutral, with the intent of harmonizing the Wisconsin statutes with the holding of the U.S. Supreme Court in Obergefell v. Hodges, 135 S. Ct. 2584, 192 L.Ed.2d 609 (2015), which recognizes that same-sex couples have a fundamental constitutional right to marriage. The bill also recognizes legal parentage for same-sex couples under certain circumstances.

SENATE BILL 327***Same-sex marriage***

This bill provides that marriage may be contracted between persons of the same sex and confers the same rights and responsibilities on married persons of the same sex that married persons of different sexes have under current law. The bill defines “spouse” as a person who is legally married to another person of the same sex or a different sex and replaces every reference to “husband” or “wife” in current law with “spouse.” The bill makes applicable to married persons of the same sex all provisions under current law that apply to married persons of different sexes. These provisions relate to such diverse areas of the law as income tax, marital property, inheritance rights, divorce, child and spousal support, insurance coverage, family and spousal recreational licenses, consent to conduct an autopsy, domestic abuse, and eligibility for various types of benefits, such as retirement or death benefits and medical assistance.

Same-sex parents

In addition to making statutory references to spouses gender neutral, the bill specifies ways in which married couples of the same sex may be the legal parents of a child and, with some exceptions, makes current references in the statutes to “mother” and “father,” and related terms, gender neutral.

Under current law, all of the following may adopt a child: a husband and wife jointly, a husband or wife whose spouse is the parent of the child, and an unmarried adult. Because the bill makes references in the statutes to spouses gender neutral, same-sex spouses jointly may adopt a child and become the legal parents of the child, and a same-sex spouse of a person who is the parent of a minor child may adopt the child and become the legal parent of his or her spouse’s child.

Under current law, if a woman is artificially inseminated under the supervision of a physician with semen donated by a man who is not her husband and the husband consents in writing to the artificial insemination of his wife, the husband is the natural father of any child conceived. Under this bill, a same-sex spouse may also consent to the artificial insemination of her spouse with donated semen and is the natural parent of the child conceived. The artificial insemination is not required to take place under the supervision of a physician, but, if it does not, the semen used for the insemination must have been obtained from a sperm bank.

Under current law, there is a paternity presumption whereby a man is presumed to be the father of a child if he and the child’s natural mother 1) were married to each other when the child was conceived or born or 2) married each other after the child was born but had a relationship with each other when the child was conceived and no other man has been adjudicated to be the father or is presumed to be the father because the man was married to the mother when the child was conceived or born. The paternity presumption may be rebutted in a legal action or proceeding by the results of a genetic test showing that the statistical probability of another man’s parentage is 99.0 percent or higher. The bill expands this presumption into a parentage presumption, so that a person is presumed to be the natural parent of a child if he or she 1) was married to the child’s mother when the child was conceived or born or 2) married the child’s mother after the child was born but had a relationship with the mother when the child was conceived and no man has

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been adjudicated to be the father and no other person is presumed to be the child's parent because he or she was married to the mother when the child was conceived or born. The parentage presumption may still be rebutted by the results of a genetic test showing that the statistical probability of another person's parentage is 99.0 percent or higher.

The bill does not change the paternity statutes or the statutes relating to statements acknowledging paternity or declarations of paternal interest with respect to their application only to a male who may be adjudicated to be the father of a child or who may sign a statement or declaration that he is the father of a child. Expanding on current law, however, the bill allows for a paternity action to be brought for the purpose of rebutting the parentage presumption, regardless of whether that presumption applies to a male or female spouse of the mother of the child.

The bill defines "natural parent" as a parent of a child who is not an adoptive parent, whether the parent is biologically related to the child or not. Thus, a person who is a biological parent, a parent by consenting to the artificial insemination of his or her spouse, or a parent under the parentage presumption is a natural parent of a child. The definition applies throughout the statutes wherever the term "natural parent" is used. In addition, the bill expands some references in the statutes to "biological parent" by changing the reference to "natural parent."

Birth certificates

Generally, the bill substitutes the term "spouse" for "husband" in the birth certificate statutes and enters the spouse, instead of the husband, of a birth mother on the birth certificate at times when a husband would currently be entered on a birth certificate. A birth mother's name is entered on a birth certificate when she gives birth to a child and current law specifies when the husband, father, or no additional name should be entered on the birth certificate. Current law requires that if a birth mother is married at any time from the conception to the birth of a child, then her husband's name is entered on the birth certificate as the legal father of the child. Under the bill, if a birth mother is married at any time from the conception to the birth of the child, then her spouse's name is entered as a legal parent of the child. The bill also specifies that, in the instance that a second parent's name is initially omitted from the birth certificate, if the state registrar receives a signed acknowledgement of parentage by people presumed to be parents because the two people married after the birth of the child, the two people had a relationship during the time the child was conceived, no man is adjudicated to be the father, and no other person is presumed to be the parent, then the state registrar must enter the name of the birth mother's spouse as a parent on the birth certificate.

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.

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

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

1 **SECTION 1.** 29.219 (4) of the statutes is amended to read:

2 29.219 (4) ~~HUSBAND AND WIFE~~ SPOUSES RESIDENT LICENSES. A combined husband
3 and wife spouses resident fishing license shall be issued subject to s. 29.024 by the
4 department to residents applying for this license. This license confers upon both
5 ~~husband and wife~~ spouses the privileges of resident fishing licenses.

6 **SECTION 2.** 29.228 (5) of the statutes is amended to read:

7 29.228 (5) ANNUAL FAMILY FISHING LICENSE. The department shall issue a
8 nonresident annual family fishing license, subject to s. 29.024, to any nonresident
9 who applies for this license. This license entitles the ~~husband, wife~~ spouses and any
10 minor children to fish under this license.

11 **SECTION 3.** 29.228 (6) of the statutes is amended to read:

12 29.228 (6) FIFTEEN-DAY FAMILY FISHING LICENSE. The department shall issue a
13 nonresident 15-day family fishing license, subject to s. 29.024, to any nonresident
14 who applies for this license. This license entitles the ~~husband, wife~~ spouses and any
15 minor children to fish under this license.

16 **SECTION 4.** 29.229 (2) (i) of the statutes is amended to read:

17 29.229 (2) (i) ~~Husband and wife~~ Spouses fishing licenses.

18 **SECTION 5.** 29.2295 (2) (i) of the statutes is amended to read:

19 29.2295 (2) (i) ~~Husband and wife~~ Spouses fishing licenses.

20 **SECTION 6.** 29.563 (3) (a) 3. of the statutes is amended to read:

21 29.563 (3) (a) 3. ~~Husband and wife~~ Spouses: \$30.25.

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1 **SECTION 7.** 29.607 (3) of the statutes is amended to read:

2 29.607 (3) LICENSE REQUIRED; EXCEPTIONS; WILD RICE IDENTIFICATION CARD. Every
3 person over the age of 16 and under the age of 65 shall obtain the appropriate wild
4 rice license to harvest or deal in wild rice but no license to harvest is required of the
5 members of the immediate family of a licensee or of a recipient of old-age assistance
6 or members of their immediate families. The department, subject to s. 29.024 (2g)
7 and (2r), shall issue a wild rice identification card to each member of a licensee's
8 immediate family, to a recipient of old-age assistance and to each member of the
9 recipient's family. The term "immediate family" includes ~~husband and wife~~ spouses
10 and minor children having their abode and domicile with the parent or legal
11 guardian.

12 **SECTION 8.** 45.01 (6) (c) of the statutes is amended to read:

13 45.01 (6) (c) The ~~biological~~ natural or adoptive parent or a person who acts in
14 the place of a parent and who has so acted for not less than 12 months prior to the
15 veteran's entrance into active service.

16 **SECTION 9.** 45.51 (3) (c) 2. of the statutes is amended to read:

17 45.51 (3) (c) 2. The department may deviate from this sequence upon order of
18 the board to prevent the separation of ~~a husband and wife~~ spouses.

19 **SECTION 10.** 45.51 (5) (a) 1. b. of the statutes is amended to read:

20 45.51 (5) (a) 1. b. Was married to the person under sub. (2) (a) 1. or 2. at the time
21 the person entered the service and who became a ~~widow or widower~~ surviving spouse
22 by the death of the person while in the service or as a result of physical disability of
23 the person incurred during the service.

24 **SECTION 11.** 45.51 (5) (a) 1. c. of the statutes is amended to read:

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1 45.51 (5) (a) 1. c. The period during which the surviving spouse was married
2 to and lived with the deceased person under sub. (2) (a) 1. or 2. plus the period of
3 ~~widowhood or widowerhood~~ after the death of the deceased person is 6 months or
4 more.

5 **SECTION 12.** 45.55 of the statutes is amended to read:

6 **45.55 Notes and mortgages of minor veterans.** Notwithstanding any
7 provision of this chapter or any other law to the contrary, any minor who served in
8 the active armed forces of the United States at any time after August 27, 1940, and
9 the ~~husband or wife~~ spouse of such a minor may execute, in his or her own right, notes
10 or mortgages, as defined in s. 851.15, the payment of which is guaranteed or insured
11 by the U.S. department of veterans affairs or the federal housing administrator
12 under the servicemen's readjustment act of 1944, the national housing act, or any
13 acts supplementing or amending these acts. In connection with these transactions,
14 the minors may sell, release, or convey the mortgaged property and litigate or settle
15 controversies arising therefrom, including the execution of releases, deeds, and other
16 necessary papers or instruments. The notes, mortgages, releases, deeds, and other
17 necessary papers or instruments when so executed are not subject to avoidance by
18 the minor or the ~~husband or wife~~ spouse of the minor upon either or both of them
19 attaining the age of 18 because of the minority of either or both of them at the time
20 of the execution thereof.

21 **SECTION 13.** 46.10 (2) of the statutes is amended to read:

22 46.10 (2) Except as provided in subs. (2m) and (14) (b) and (c), any person,
23 including but not limited to a person admitted, committed, protected, or placed under
24 s. 975.01, 1977 stats., s. 975.02, 1977 stats., s. 975.17, 1977 stats., s. 55.05 (5), 2003
25 stats., and 55.06, 2003 stats., and ss. 51.10, 51.13, 51.15, 51.20, 51.35 (3), 51.37 (5),

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1 51.45 (10), (11), (12) and (13), 55.05, 55.055, 55.12, 55.13, 55.135, 971.14 (2) and (5),
2 971.17 (1), 975.06 and 980.06, receiving care, maintenance, services, and supplies
3 provided by any institution in this state including University of Wisconsin Hospitals
4 and Clinics, in which the state is chargeable with all or part of the person's care,
5 maintenance, services, and supplies, any person receiving care and services from a
6 county department established under s. 51.42 or 51.437 or from a facility established
7 under s. 49.73, and any person receiving treatment and services from a public or
8 private agency under s. 980.06 (2) (c), 1997 stats., s. 980.08 (5), 2003 stats., or s.
9 971.17 (3) (d) or (4) (e) or 980.08 (4) (g) and the person's property and estate, including
10 the homestead, and the spouse of the person, and the spouse's property and estate,
11 including the homestead, and, in the case of a minor child, the parents of the person,
12 and their property and estates, including their homestead, and, in the case of a
13 foreign child described in s. 48.839 (1) who became dependent on public funds for his
14 or her primary support before an order granting his or her adoption, the resident of
15 this state appointed guardian of the child by a foreign court who brought the child
16 into this state for the purpose of adoption, and his or her property and estate,
17 including his or her homestead, shall be liable for the cost of the care, maintenance,
18 services, and supplies in accordance with the fee schedule established by the
19 department under s. 46.03 (18). If a spouse, ~~widow~~ surviving spouse, or minor, or an
20 incapacitated person may be lawfully dependent upon the property for their support,
21 the court shall release all or such part of the property and estate from the charges
22 that may be necessary to provide for those persons. The department shall make
23 every reasonable effort to notify the liable persons as soon as possible after the
24 beginning of the maintenance, but the notice or the receipt thereof is not a condition
25 of liability.

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1 **SECTION 14.** 48.02 (13) of the statutes is amended to read:

2 48.02 (13) “Parent” means a biological natural parent, ~~a husband who has~~
3 ~~consented to the artificial insemination of his wife under s. 891.40,~~ or a parent by
4 adoption. If the child is a nonmarital child who is not adopted or whose parents do
5 not subsequently intermarry under s. 767.803, “parent” includes a person
6 acknowledged under s. 767.805 or a substantially similar law of another state or
7 adjudicated to be the biological father. “Parent” does not include any person whose
8 parental rights have been terminated. For purposes of the application of s. 48.028
9 and the federal Indian Child Welfare Act, 25 USC 1901 to 1963, “parent” means a
10 ~~biological~~ natural parent of an Indian child, an Indian ~~husband~~ spouse who has
11 consented to the artificial insemination of his wife or her spouse under s. 891.40, or
12 an Indian person who has lawfully adopted an Indian child, including an adoption
13 under tribal law or custom, and includes, in the case of a nonmarital Indian child who
14 is not adopted or whose parents do not subsequently intermarry under s. 767.803,
15 a person acknowledged under s. 767.805, a substantially similar law of another state,
16 or tribal law or custom to be the biological father or a person adjudicated to be the
17 biological father, but does not include any person whose parental rights have been
18 terminated.

19 **SECTION 15.** 48.396 (2) (dm) of the statutes is amended to read:

20 48.396 (2) (dm) Upon request of a court having jurisdiction over actions
21 affecting the family, an attorney responsible for support enforcement under s. 59.53
22 (6) (a) or a party to a paternity proceeding under subch. IX of ch. 767, the party’s
23 attorney or the guardian ad litem for the child who is the subject of that proceeding
24 to review or be provided with information from the records of the court assigned to
25 exercise jurisdiction under this chapter and ch. 938 relating to the paternity of a child

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1 for the purpose of determining the paternity of the child or for the purpose of
2 rebutting the presumption of paternity under s. 891.405 or the presumption of
3 parentage under s. 891.41 (1), the court assigned to exercise jurisdiction under this
4 chapter and ch. 938 shall open for inspection by the requester its records relating to
5 the paternity of the child or disclose to the requester those records.

6 **SECTION 16.** 48.422 (7) (bm) of the statutes is amended to read:

7 48.422 (7) (bm) Establish whether a proposed adoptive parent of the child has
8 been identified. If a proposed adoptive parent of the child has been identified and
9 the proposed adoptive parent is not a relative of the child, the court shall order the
10 petitioner to submit a report to the court containing the information specified in s.
11 48.913 (7). The court shall review the report to determine whether any payments or
12 agreement to make payments set forth in the report are coercive to the birth parent
13 of the child or to an alleged ~~to~~ or presumed father of the child or are impermissible
14 under s. 48.913 (4). Making any payment to or on behalf of the any birth parent of
15 ~~the child, an, alleged father, or presumed father~~ parent of the child or the child
16 conditional in any part upon transfer or surrender of the child or the termination of
17 parental rights or the finalization of the adoption creates a rebuttable presumption
18 of coercion. Upon a finding of coercion, the court shall dismiss the petition or amend
19 the agreement to delete any coercive conditions, if the parties agree to the
20 amendment. Upon a finding that payments ~~which~~ that are impermissible under s.
21 48.913 (4) have been made, the court may dismiss the petition and may refer the
22 matter to the district attorney for prosecution under s. 948.24 (1). This paragraph
23 does not apply if the petition was filed with a petition for adoptive placement under
24 s. 48.837 (2).

25 **SECTION 17.** 48.422 (7) (br) of the statutes is amended to read:

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1 48.422 (7) (br) Establish whether any person has coerced a birth parent ~~or any,~~
2 alleged father, or presumed ~~father~~ parent of the child in violation of s. 48.63 (3) (b)
3 5. Upon a finding of coercion, the court shall dismiss the petition.

4 **SECTION 18.** 48.432 (1) (am) 2. b. of the statutes is amended to read:

5 48.432 (1) (am) 2. b. If there is no adjudicated father, the ~~husband~~ spouse of the
6 mother at the time the individual or adoptee is conceived or born, or when the parents
7 intermarry under s. 767.803.

8 **SECTION 19.** 48.63 (3) (b) 4. of the statutes is amended to read:

9 48.63 (3) (b) 4. Before a child may be placed under subd. 1., the department,
10 county department, or child welfare agency making the placement and the proposed
11 adoptive parent or parents shall enter into a written agreement that specifies who
12 is financially responsible for the cost of providing care for the child prior to the
13 finalization of the adoption and for the cost of returning the child to the parent who
14 has custody of the child if the adoption is not finalized. Under the agreement, the
15 department, county department, or child welfare agency or the proposed adoptive
16 parent or parents, but not the ~~any~~ birth parent of the ~~child or any,~~ alleged father, or
17 presumed ~~father~~ parent of the child, shall be financially responsible for those costs.

18 **SECTION 20.** 48.63 (3) (b) 5. of the statutes is amended to read:

19 48.63 (3) (b) 5. Prior to termination of parental rights to the child, no person
20 may coerce a birth parent of the ~~child or any,~~ alleged father, or presumed ~~father~~
21 parent of the child into refraining from exercising his or her right to withdraw
22 consent to the transfer or surrender of the child or to termination of his or her
23 parental rights to the child, to have reasonable visitation or contact with the child,
24 or to otherwise exercise his or her parental rights to the child.

25 **SECTION 21.** 48.82 (1) (a) of the statutes is amended to read:

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1 48.82 (1) (a) ~~A husband and wife~~ Spouses jointly, or either the husband or wife
2 if the ~~other~~ spouse is of a parent of the minor.

3 **SECTION 22.** 48.837 (1r) (d) of the statutes is amended to read:

4 48.837 (1r) (d) Before a child may be placed under par. (a), the department,
5 county department, or child welfare agency making the placement and the proposed
6 adoptive parent or parents shall enter into a written agreement that specifies who
7 is financially responsible for the cost of providing care for the child prior to the
8 finalization of the adoption and for the cost of returning the child to the parent who
9 has custody of the child if the adoption is not finalized. Under the agreement, the
10 department, county department, or child welfare agency or the proposed adoptive
11 parent or parents, but not the any birth parent of the child or ~~any~~, alleged father, or
12 presumed father parent of the child, shall be financially responsible for those costs.

13 **SECTION 23.** 48.837 (1r) (e) of the statutes is amended to read:

14 48.837 (1r) (e) Prior to termination of parental rights to the child, no person
15 may coerce a birth parent of the child or ~~any~~, alleged father, or presumed father
16 parent of the child into refraining from exercising his or her right to withdraw
17 consent to the transfer or surrender of the child or to termination of his or her
18 parental rights to the child, to have reasonable visitation or contact with the child,
19 or to otherwise exercise his or her parental rights to the child.

20 **SECTION 24.** 48.837 (6) (b) of the statutes is amended to read:

21 48.837 (6) (b) At the beginning of the hearing held under sub. (2), the court shall
22 review the report that is submitted under s. 48.913 (6). The court shall determine
23 whether any payments or the conditions specified in any agreement to make
24 payments are coercive to the any birth parent of the child or to ~~an~~, alleged father, or
25 presumed father parent of the child or are impermissible under s. 48.913 (4). Making

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1 any payment to or on behalf of ~~the a~~ birth parent ~~of the child, an,~~ alleged father, or
2 presumed ~~father~~ parent of the child or the child conditional in any part upon transfer
3 or surrender of the child or the termination of parental rights or the finalization of
4 the adoption creates a rebuttable presumption of coercion. Upon a finding of
5 coercion, the court shall dismiss the petitions under subs. (2) and (3) or amend the
6 agreement to delete any coercive conditions, if the parties agree to the amendment.
7 Upon a finding that payments ~~which~~ that are impermissible under s. 48.913 (4) have
8 been made, the court may dismiss the petition and may refer the matter to the
9 district attorney for prosecution under s. 948.24 (1).

10 **SECTION 25.** 48.837 (6) (br) of the statutes is amended to read:

11 48.837 (6) (br) At the hearing on the petition under sub. (2), the court shall
12 determine whether any person has coerced a birth parent ~~or any,~~ alleged father, or
13 presumed ~~father~~ parent of the child in violation of sub. (1r) (e). Upon a finding of
14 coercion, the court shall dismiss the petitions under subs. (2) and (3).

15 **SECTION 26.** 48.913 (1) (a) of the statutes is amended to read:

16 48.913 (1) (a) Preadoptive counseling for a birth parent ~~of the child or an,~~
17 alleged father, or presumed ~~father~~ parent of the child.

18 **SECTION 27.** 48.913 (1) (b) of the statutes is amended to read:

19 48.913 (1) (b) Post-adoptive counseling for a birth parent ~~of the child or an,~~
20 alleged father, or presumed ~~father~~ parent of the child.

21 **SECTION 28.** 48.913 (1) (h) of the statutes is amended to read:

22 48.913 (1) (h) Legal and other services received by a birth parent ~~of the child,~~
23 ~~an,~~ alleged father, or presumed ~~father~~ parent of the child or the child in connection
24 with the adoption.

25 **SECTION 29.** 48.913 (2) (intro.) of the statutes is amended to read:

SENATE BILL 327**SECTION 29**

1 48.913 (2) PAYMENT OF EXPENSES WHEN BIRTH PARENT IS RESIDING IN ANOTHER
2 STATE. (intro.) Notwithstanding sub. (1), the proposed adoptive parents of a child or
3 a person acting on behalf of the proposed adoptive parents of a child may pay for an
4 expense of a birth parent ~~of the child or an,~~ alleged father, or presumed father parent
5 of the child if the birth parent ~~or the,~~ alleged father, or presumed father parent was
6 residing in another state when the payment was made and when the expense was
7 incurred and if all of the following apply:

8 **SECTION 30.** 48.913 (2) (b) of the statutes is amended to read:

9 48.913 (2) (b) The state in which the birth parent ~~or the,~~ alleged father, or
10 presumed father parent was residing when the payment was made permits the
11 payment of that expense by the proposed adoptive parents of the child.

12 **SECTION 31.** 48.913 (2) (c) (intro.) of the statutes is amended to read:

13 48.913 (2) (c) (intro.) A listing of all payments made under this subsection, a
14 copy of the statutory provisions of the state in which the birth parent ~~or the,~~ alleged
15 father, or presumed father parent was residing when the payments were made that
16 permit those payments to be made by the proposed adoptive parents of the child, and
17 a copy of all orders entered in the state in which the birth parent ~~or the,~~ alleged
18 father, or presumed father parent was residing when the payments were made that
19 relate to the payment of expenses of the birth parent ~~or the,~~ alleged father, or
20 presumed father parent by the proposed adoptive parents of the child is submitted
21 to the court as follows:

22 **SECTION 32.** 48.913 (3) of the statutes is amended to read:

23 48.913 (3) METHOD OF PAYMENT. Any payment under sub. (1) or (2) shall be made
24 directly to the provider of a good or service except that a payment under sub. (1) or
25 (2) may be made to a birth parent ~~of the child or to an,~~ alleged father, or presumed

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1 ~~father~~ parent of the child as reimbursement of an amount previously paid by the
2 birth parent ~~or by the,~~ alleged father, or presumed ~~father~~ parent if documentation
3 is provided showing that the birth parent ~~or,~~ alleged father, or presumed ~~father~~
4 parent has made the previous payment.

5 **SECTION 33.** 48.913 (4) of the statutes is amended to read:

6 48.913 (4) OTHER PAYMENTS PROHIBITED. The proposed adoptive parents of a
7 child or a person acting on behalf of the proposed adoptive parents may not make any
8 payments to or on behalf of a birth parent ~~of the child, an,~~ alleged father, or presumed
9 ~~father~~ parent of the child or the child except as provided in subs. (1) and (2).

10 **SECTION 34.** 48.913 (7) of the statutes is amended to read:

11 48.913 (7) REPORT TO THE COURT; CONTENTS REQUIRED. The report required under
12 sub. (6) shall include a list of all transfers of anything of value made or agreed to be
13 made by the proposed adoptive parents or by a person acting on their behalf to a birth
14 parent ~~of the child, an,~~ alleged father, or presumed ~~father~~ parent of the child or the
15 child, on behalf of a birth parent ~~of the child, an,~~ alleged father, or presumed ~~father~~
16 parent of the child or the child, or to any other person in connection with the
17 pregnancy, the birth of the child, the placement of the child with the proposed
18 adoptive parents, or the adoption of the child by the proposed adoptive parents. The
19 report shall be itemized and shall show the goods or services for which payment was
20 made or agreed to be made. The report shall include the dates of each payment, the
21 names and addresses of each attorney, doctor, hospital, agency, or other person or
22 organization receiving any payment from the proposed adoptive parents or a person
23 acting on behalf of the proposed adoptive parents in connection with the pregnancy,
24 the birth of the child, the placement of the child with the proposed adoptive parents,
25 or the adoption of the child by the proposed adoptive parents.

SENATE BILL 327**SECTION 35**

1 **SECTION 35.** 49.141 (1) (j) 1. of the statutes is amended to read:

2 49.141 (1) (j) 1. A biological natural parent.

3 **SECTION 36.** 49.141 (1) (j) 2. of the statutes is repealed.

4 **SECTION 37.** 49.155 (1m) (c) 1g. of the statutes is amended to read:

5 49.155 (1m) (c) 1g. If the individual is a foster parent of the child or a subsidized
6 guardian or interim caretaker of the child under s. 48.623, the child's biological
7 natural or adoptive family has a gross income that is at or below 200 percent of the
8 poverty line. In calculating the gross income of the child's biological natural or
9 adoptive family, the department or county department or agency determining
10 eligibility shall include court-ordered child or family support payments received by
11 the individual, if those support payments exceed \$1,250 per month, and income
12 described under s. 49.145 (3) (b) 1. and 3.

13 **SECTION 38.** 49.155 (1m) (c) 1h. of the statutes is amended to read:

14 49.155 (1m) (c) 1h. If the individual is a relative of the child, is providing care
15 for the child under a court order, and is receiving payments under s. 48.57 (3m) or
16 (3n) on behalf of the child, the child's biological natural or adoptive family has a gross
17 income that is at or below 200 percent of the poverty line. In calculating the gross
18 income of the child's biological natural or adoptive family, the department or county
19 department or agency determining eligibility shall include court-ordered child or
20 family support payments received by the individual, if those support payments
21 exceed \$1,250 per month, and income described under s. 49.145 (3) (b) 1. and 3.

22 **SECTION 39.** 49.163 (2) (am) 2. of the statutes is amended to read:

23 49.163 (2) (am) 2. If over 24 years of age, be a biological natural or adoptive
24 parent of a child under 18 years of age whose parental rights to the child have not

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1 been terminated or be a relative and primary caregiver of a child under 18 years of
2 age.

3 **SECTION 40.** 49.19 (1) (a) 2. a. of the statutes is amended to read:

4 49.19 (1) (a) 2. a. Is living with a parent; a blood relative, including those of
5 half-blood, and including first cousins, nephews or nieces and persons of preceding
6 generations as denoted by prefixes of grand, great or great-great; a ~~stepfather,~~
7 ~~stepmother~~ stepparent, stepbrother, or stepsister; a person who legally adopts the
8 child or is the adoptive parent of the child's parent, a natural or legally adopted child
9 of such person or a relative of an adoptive parent; or a spouse of any person named
10 in this subparagraph subd. 2. a. even if the marriage is terminated by death or
11 divorce; and is living in a residence maintained by one or more of these relatives as
12 the child's or their own home, or living in a residence maintained by one or more of
13 these relatives as the child's or their own home because the parents of the child have
14 been found unfit to have care and custody of the child; or

15 **SECTION 41.** 49.19 (4) (d) (intro.) of the statutes is amended to read:

16 49.19 (4) (d) (intro.) Aid may be granted to the ~~mother or stepmother~~ parent
17 or stepparent of a dependent child if he or she is without a ~~husband~~ spouse or if he
18 or she:

19 **SECTION 42.** 49.19 (4) (d) 1. of the statutes is amended to read:

20 49.19 (4) (d) 1. Is the ~~wife~~ spouse of a ~~husband~~ person who is incapacitated for
21 gainful work by mental or physical disability; or

22 **SECTION 43.** 49.19 (4) (d) 2. of the statutes is amended to read:

23 49.19 (4) (d) 2. Is the ~~wife~~ spouse of a ~~husband~~ person who is incarcerated or
24 who is a convicted offender permitted to live at home but precluded from earning a

SENATE BILL 327**SECTION 43**

1 wage because the ~~husband~~ person is required by a court imposed sentence to perform
2 unpaid public work or unpaid community service; or

3 **SECTION 44.** 49.19 (4) (d) 3. of the statutes is amended to read:

4 49.19 (4) (d) 3. Is the ~~wife~~ spouse of a ~~husband~~ person who has been committed
5 to the department pursuant to ch. 975, irrespective of the probable period of such
6 commitment; or

7 **SECTION 45.** 49.19 (4) (d) 4. of the statutes is amended to read:

8 49.19 (4) (d) 4. Is the ~~wife~~ spouse of a ~~husband~~ person who has continuously
9 abandoned or failed to support him or her, if proceedings have been commenced
10 against the ~~husband~~ person under ch. 769; or

11 **SECTION 46.** 49.19 (4) (d) 5. of the statutes is amended to read:

12 49.19 (4) (d) 5. Has been divorced and is without a ~~husband~~ spouse or legally
13 separated from his or her ~~husband~~ spouse and is unable through use of the provisions
14 of law to compel his or her former ~~husband~~ spouse to adequately support the child
15 for whom aid is sought; or

16 **SECTION 47.** 49.345 (2) of the statutes is amended to read:

17 49.345 (2) Except as provided in sub. (14) (b) and (c), any person, including a
18 person placed under s. 48.32 (1) (am) or (b), 48.345 (3), 48.357 (1) or (2m), 938.183,
19 938.34 (3) or (4d), or 938.357 (1), (2m), (4), or (5) (e), receiving care, maintenance,
20 services, and supplies provided by any institution in this state, in which the state is
21 chargeable with all or part of the person's care, maintenance, services, and supplies,
22 and the person's property and estate, including the homestead, and the spouse of the
23 person, and the spouse's property and estate, including the homestead, and, in the
24 case of a minor child, the parents of the person, and their property and estates,
25 including their homestead, and, in the case of a foreign child described in s. 48.839

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1 (1) who became dependent on public funds for his or her primary support before an
2 order granting his or her adoption, the resident of this state appointed guardian of
3 the child by a foreign court who brought the child into this state for the purpose of
4 adoption, and his or her property and estate, including his or her homestead, shall
5 be liable for the cost of the care, maintenance, services, and supplies in accordance
6 with the fee schedule established by the department under s. 49.32 (1). If a spouse,
7 ~~widow~~ surviving spouse, or minor, or an incapacitated person may be lawfully
8 dependent upon the property for his or her support, the court shall release all or such
9 part of the property and estate from the charges that may be necessary to provide for
10 the person. The department shall make every reasonable effort to notify the liable
11 persons as soon as possible after the beginning of the maintenance, but the notice or
12 the receipt of the notice is not a condition of liability.

13 **SECTION 48.** 49.43 (12) of the statutes is amended to read:

14 49.43 (12) "Spouse" means the legal ~~husband or wife of~~ person to whom the
15 beneficiary is legally married, whether or not the person is eligible for medical
16 assistance.

17 **SECTION 49.** 49.471 (1) (b) 2. of the statutes is amended to read:

18 49.471 (1) (b) 2. A ~~stepfather, stepmother~~ stepparent, stepbrother, or stepsister.

19 **SECTION 50.** 49.90 (4) of the statutes is amended to read:

20 49.90 (4) The circuit court shall in a summary way hear the allegations and
21 proofs of the parties and by order require maintenance from these relatives, if they
22 have sufficient ability, considering their own future maintenance and making
23 reasonable allowance for the protection of the property and investments from which
24 they derive their living and their care and protection in old age, in the following
25 order: First the ~~husband or wife~~ spouse; then the ~~father and the mother~~ parents; and

SENATE BILL 327**SECTION 50**

1 then the grandparents in the instances in which sub. (1) (a) 2. applies. The order
2 shall specify a sum ~~which~~ that will be sufficient for the support of the dependent
3 person under sub. (1) (a) 1. or the maintenance of a child of a dependent person under
4 sub. (1) (a) 2., to be paid weekly or monthly, during a period fixed by the order or until
5 the further order of the court. If the court is satisfied that any such relative is unable
6 wholly to maintain the dependent person or the child, but is able to contribute to the
7 person's support or the child's maintenance, the court may direct 2 or more of the
8 relatives to maintain the person or the child and prescribe the proportion each shall
9 contribute. If the court is satisfied that these relatives are unable together wholly
10 to maintain the dependent person or the child, but are able to contribute to the
11 person's support or the child's maintenance, the court shall direct a sum to be paid
12 weekly or monthly by each relative in proportion to ability. Contributions directed
13 by court order, if for less than full support, shall be paid to the department of health
14 services or the department of children and families, whichever is appropriate, and
15 distributed as required by state and federal law. An order under this subsection that
16 relates to maintenance required under sub. (1) (a) 2. shall specifically assign
17 responsibility for and direct the manner of payment of the child's health care
18 expenses, subject to the limitations under subs. (1) (a) 2. and (11). Upon application
19 of any party affected by the order and upon like notice and procedure, the court may
20 modify such an order. Obedience to such an order may be enforced by proceedings
21 for contempt.

22 **SECTION 51.** 54.01 (36) (a) of the statutes is amended to read:

23 54.01 **(36)** (a) An individual who obtains or consents to a final decree or
24 judgment of divorce from the decedent or an annulment of their marriage, if the
25 decree or judgment is not recognized as valid in this state, unless the 2 subsequently

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1 participated in a marriage ceremony purporting to marry each other or they
2 subsequently held themselves out as ~~husband and wife~~ married to each other.

3 **SECTION 52.** 54.960 (1) of the statutes is amended to read:

4 54.960 (1) Beneficial interests in a custodial trust created for multiple
5 beneficiaries are deemed to be separate custodial trusts of equal undivided interests
6 for each beneficiary. Except in a transfer or declaration for use and benefit of
7 ~~husband and wife~~ 2 individuals who are married to each other, for whom
8 survivorship is presumed, a right of survivorship does not exist unless the
9 instrument creating the custodial trust specifically provides for survivorship or
10 survivorship is required as to marital property.

11 **SECTION 53.** 69.03 (15) of the statutes is amended to read:

12 69.03 (15) Periodically provide to each county child support agency under s.
13 59.53 (5) a list of names and, notwithstanding s. 69.20 (2) (a), addresses of registrants
14 who reside in that county for whom ~~no father's name~~ only one parent's name has been
15 inserted on the registrant's birth certificate within 6 months of birth.

16 **SECTION 54.** 69.05 (3m) (intro.), (a) and (b) of the statutes are amended to read:

17 69.05 (3m) (intro.) If ~~the mother~~ a parent of a registrant of a birth certificate
18 resides in a city and the birth certificate is not filed in such city, send a copy of the
19 birth certificate to the local health department with jurisdiction for the city if all of
20 the following are true:

21 (a) The local health department has a maternal-child visitation or information
22 program;

23 (b) The local health department has requested the copy and notified the state
24 registrar of its request; ~~and~~

25 **SECTION 55.** 69.11 (4) (b) of the statutes is amended to read:

SENATE BILL 327**SECTION 55**

1 69.11 (4) (b) The state registrar may amend an item on a birth certificate that
2 affects information about the name, sex, date of birth, place of birth, parent's name,
3 or marital status of the mother if 365 days have elapsed since the occurrence of the
4 event that is the subject of the birth certificate, if the amendment is at the request
5 of a person with a direct and tangible interest in the record and is on a request form
6 supplied by the state registrar, and if the amendment is accompanied by 2 items of
7 documentary evidence from early childhood that are sufficient to prove that the item
8 to be changed is in error and by the affidavit of the person requesting the
9 amendment. A change in the marital status on the birth certificate may be made
10 under this paragraph only if the marital status is inconsistent with information
11 concerning the father or ~~husband~~ spouse that appears on the birth certificate. This
12 paragraph may not be used to add to or delete from a birth certificate the name of a
13 parent, to change the identity of a parent named on the birth certificate, or to effect
14 a name change prohibited under s. 301.47.

15 **SECTION 56.** 69.12 (5) of the statutes is amended to read:

16 69.12 (5) A change in the marital status on the certificate of birth may be
17 requested under this section only if the marital status is inconsistent with father or
18 ~~husband~~ spouse information appearing on the certificate of birth. This section may
19 not be used to add or delete the name of a parent on the certificate of birth or change
20 the identity of either parent named on the certificate of birth.

21 **SECTION 57.** 69.13 (2) (b) 4. of the statutes is amended to read:

22 69.13 (2) (b) 4. If relevant to the correction sought, a certified copy of a marriage
23 document, a certified copy of a certificate of divorce or annulment or a final divorce
24 decree that indicates that the mother was not married to the person listed as her

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1 ~~husband~~ spouse at any time during the pregnancy, a legal name change order, or any
2 other legal document that clarifies the disputed information.

3 **SECTION 58.** 69.14 (1) (c) 4. of the statutes is amended to read:

4 69.14 (1) (c) 4. In the absence of a person under subds. 1. to 3., the ~~father or~~
5 mother, father, or mother's spouse, or in the absence of the father or the mother's
6 spouse and the inability of the mother, the person responsible for the premises where
7 the birth occurs.

8 **SECTION 59.** 69.14 (1) (e) (title) and 1. of the statutes are amended to read:

9 69.14 (1) (e) (title) *Father's Spouse's or father's name*. 1. If Except as provided
10 in par. (h), if the mother of a registrant under this section was married at any time
11 from the conception to the birth of the registrant, the name of the ~~husband~~ spouse
12 of the mother shall be entered on the birth certificate as the a legal father parent of
13 the registrant. The name of the ~~father~~ parent entered under this subdivision may
14 not be changed except by a proceeding under ch. 767.

15 **SECTION 60.** 69.14 (1) (f) 1. of the statutes is amended to read:

16 69.14 (1) (f) 1. a. Except as provided under subd. 1. b., if the mother of a
17 registrant of a birth certificate under this section is married ~~to the father of the~~
18 ~~registrant~~ at any time from the conception to the birth of the registrant, the given
19 name and surname ~~which~~ that the mother ~~and father~~ of the registrant and her
20 spouse enter for the registrant on the birth certificate shall be the given name and
21 surname filed and registered on the birth certificate.

22 b. If the mother of a registrant of a birth certificate under this section is married
23 ~~to the father of the registrant~~ at any time from the conception to the birth of the
24 registrant and the mother is separated or divorced ~~from the father of the registrant~~
25 at the time of birth, the given name and surname ~~which~~ that the parent of the

SENATE BILL 327**SECTION 60**

1 registrant with actual custody enters for the registrant on the birth certificate shall
2 be the given name and surname filed and registered on the birth certificate, except
3 that if a court has granted legal custody of the registrant, the given name and
4 surname ~~which~~ that the person with legal custody enters for the registrant on the
5 birth certificate shall be the given name and surname filed and registered on the
6 birth certificate.

7 c. If the mother of a registrant of a birth certificate under this section is not
8 married ~~to the father of the registrant~~ at any time from the conception to the birth
9 of the registrant, the given name and surname ~~which~~ that the mother of the
10 registrant enters for the registrant on the birth certificate shall be the given name
11 and surname filed and registered on the birth certificate, except that if a court has
12 granted legal custody of the registrant, the given name and surname ~~which~~ that the
13 person with legal custody enters for the registrant on the birth certificate shall be the
14 given name and surname filed and registered on the birth certificate.

15 **SECTION 61.** 69.14 (1) (g) of the statutes is amended to read:

16 69.14 (1) (g) *Birth by artificial insemination.* If the registrant of a birth
17 certificate under this section is born as a result of artificial insemination under the
18 requirements of s. 891.40, the ~~husband~~ spouse of the woman shall be considered the
19 ~~father~~ a parent of the registrant on the birth certificate. ~~If the registrant is born as~~
20 ~~a result of artificial insemination which does not satisfy the requirements of s.~~
21 ~~891.40, the information about the father of the registrant shall be omitted from the~~
22 ~~registrant's birth certificate.~~

23 **SECTION 62.** 69.14 (2) (b) 2. d. of the statutes is amended to read:

24 69.14 (2) (b) 2. d. The full name of the father or the mother's spouse, except that
25 if the mother was not married at the time of conception or birth or between conception

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1 and birth of the registrant, the name of the father may not be entered except as
2 provided under s. 69.15 (3).

3 **SECTION 63.** 69.15 (1) of the statutes is amended to read:

4 69.15 (1) BIRTH CERTIFICATE INFORMATION CHANGES. The state registrar may
5 change information on a birth certificate registered in this state which was correct
6 at the time the birth certificate was filed under a court or administrative order issued
7 in this state, in another state or in Canada or under the valid order of a court of any
8 federally recognized Indian tribe, band, or nation if all of the following occur:

9 (a) The order provides for an adoption, name change, or name change with sex
10 change or establishes paternity; and or parentage.

11 (b) A clerk of court or, for a paternity or parentage action, a clerk of court or
12 county child support agency under s. 59.53 (5), sends the state registrar a certified
13 report of an order of a court in this state on a form supplied by the state registrar or,
14 in the case of any other order, the state registrar receives a certified copy of the order
15 and the proper fee under s. 69.22.

16 **SECTION 64.** 69.15 (3) (b) 3. of the statutes is amended to read:

17 69.15 (3) (b) 3. Except as provided under par. (c), if the state registrar receives
18 a statement acknowledging paternity of a nonmarital child on a form prescribed by
19 the state registrar and signed by both parents, neither of whom was under the age
20 of 18 years when the form was signed, along with the fee under s. 69.22, the state
21 registrar shall insert the name of the father under subd. 1. The state registrar shall
22 mark the certificate to show that the form is on file. The form shall be available to
23 the department of children and families or a county child support agency under s.
24 59.53 (5) pursuant to the program responsibilities under s. 49.22 or to any other
25 person with a direct and tangible interest in the record. The state registrar shall

SENATE BILL 327**SECTION 64**

1 include on the form for the acknowledgment the information in s. 767.805 and the
2 items in s. 767.813 (5g).

3 **SECTION 65.** 69.15 (3) (b) 3m. of the statutes is created to read:

4 69.15 (3) (b) 3m. Except as provided in par. (c), if the state registrar receives
5 an acknowledgement of parentage on a form prescribed by the state registrar and
6 signed by both of the people presumed to be natural parents under s. 891.41 (1) (b),
7 a certified copy of the parents' marriage certificate, and the fee required under s.
8 69.22 (5) (b) 1., the state registrar shall insert the name of the spouse from the
9 marriage certificate as a parent if the name of that parent was omitted on the original
10 birth certificate.

11 **SECTION 66.** 71.03 (2) (d) (title) of the statutes is amended to read:

12 71.03 (2) (d) (title) *Husband and wife Spouses joint filing.*

13 **SECTION 67.** 71.03 (2) (d) 1. of the statutes is amended to read:

14 71.03 (2) (d) 1. Except as provided in subds. 2. and 3. and par. (e), ~~a husband~~
15 ~~and a wife~~ spouses may file a joint return for income tax purposes even though one
16 of the spouses has no gross income or no deductions.

17 **SECTION 68.** 71.03 (2) (d) 2. of the statutes is amended to read:

18 71.03 (2) (d) 2. No joint return may be filed if either ~~the husband or wife~~ spouse
19 at any time during the taxable year is a nonresident alien, unless an election is in
20 effect for the taxable year under section 6013 (g) or (h) of the ~~internal revenue code~~
21 Internal Revenue Code.

22 **SECTION 69.** 71.03 (2) (d) 3. of the statutes is amended to read:

23 71.03 (2) (d) 3. No joint return may be filed if the ~~husband and wife~~ spouses
24 have different taxable years, except that if their taxable years begin on the same day
25 and end on different days because of the death of either or both the joint return may

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1 be filed with respect to the taxable year of each unless the surviving spouse remarries
2 before the close of his or her taxable year or unless the taxable year of either spouse
3 is a fractional part of a year under section 443 (a) (1) of the ~~internal revenue code~~
4 Internal Revenue Code.

5 **SECTION 70.** 71.03 (2) (g) of the statutes is amended to read:

6 71.03 (2) (g) *Joint return following separate return.* Except as provided in par.
7 (i), if an individual has filed a separate return for a taxable year for which a joint
8 return could have been filed by the individual and the individual's spouse under par.
9 (d) or (e) and the time prescribed by law for timely filing the return for that taxable
10 year has expired, the individual and the individual's spouse may file a joint return
11 for that taxable year. A joint return filed by the ~~husband and wife~~ spouses under this
12 paragraph is their return for that taxable year, and all payments, credits, refunds
13 or other repayments made or allowed with respect to the separate return of each
14 spouse for that taxable year shall be taken into account in determining the extent
15 to which the tax based upon the joint return has been paid. If a joint return is filed
16 under this paragraph, any election, other than the election to file a separate return,
17 made by either spouse in that spouse's separate return for that taxable year with
18 respect to the treatment of any income, deduction or credit of that spouse may not
19 be changed in the filing of the joint return if that election would have been irrevocable
20 if the joint return had not been filed.

21 **SECTION 71.** 71.03 (2) (m) 2. of the statutes is amended to read:

22 71.03 (2) (m) 2. If ~~a husband and wife~~ spouses change from a joint return to
23 separate returns within the time prescribed in subd. 1., the tax paid on the joint
24 return shall be allocated between them in proportion to the tax liability shown on
25 each separate return.

SENATE BILL 327**SECTION 72**

1 **SECTION 72.** 71.03 (4) (a) of the statutes is amended to read:

2 71.03 (4) (a) Natural persons whose total income is not in excess of \$10,000 and
3 consists entirely of wages subject to withholding for Wisconsin tax purposes and not
4 more than \$200 total of dividends, interest and other wages not subject to Wisconsin
5 withholding, and who have elected the Wisconsin standard deduction and have not
6 claimed either the credit for homestead property tax relief or deductions for expenses
7 incurred in earning such income, shall, at their election, not be required to record on
8 their income tax returns the amount of the tax imposed on their Wisconsin taxable
9 income. Married persons shall be permitted this election only if the joint income of
10 the ~~husband and wife~~ spouses does not exceed \$10,000, if both report their incomes
11 on the same joint income tax return form, and if both make this election.

12 **SECTION 73.** 71.05 (22) (a) (title) of the statutes is amended to read:

13 71.05 (22) (a) (title) *Election of deductions; ~~husband and wife~~ spousal*
14 *deductions.*

15 **SECTION 74.** 71.07 (5m) (a) 3. of the statutes is amended to read:

16 71.07 (5m) (a) 3. "Household" means a claimant and an individual related to
17 the claimant as ~~husband or wife~~ his or her spouse.

18 **SECTION 75.** 71.07 (9e) (b) of the statutes is amended to read:

19 71.07 (9e) (b) No credit may be allowed under this subsection to married
20 persons, except married persons living apart who are treated as single under section
21 7703 (b) of the ~~internal revenue code~~ Internal Revenue Code, if the ~~husband and wife~~
22 spouses report their income on separate income tax returns for the taxable year.

23 **SECTION 76.** 71.09 (13) (a) 2. of the statutes is amended to read:

24 71.09 (13) (a) 2. The tax shown on the return for the preceding year. If ~~a~~
25 ~~husband and wife~~ spouses who filed separate returns for the preceding taxable year

SENATE BILL 327

1 file a joint return, the tax shown on the return for the preceding year is the sum of
2 the taxes shown on the separate returns of the ~~husband and wife~~ spouses. If ~~a~~
3 ~~husband and wife~~ spouses who filed a joint return for the preceding taxable year file
4 separate returns, the tax shown on the return for the preceding year is ~~the husband's~~
5 ~~or wife's~~ each spouse's proportion of that tax based on what their respective tax
6 liabilities for that year would have been had they filed separately.

7 **SECTION 77.** 71.52 (4) of the statutes is amended to read:

8 71.52 (4) "Household" means a claimant and an individual related to the
9 claimant as ~~husband or wife~~ his or her spouse.

10 **SECTION 78.** 71.83 (1) (a) 8. of the statutes is amended to read:

11 71.83 (1) (a) 8. 'Joint return replacing separate returns.' If the amount shown
12 as the tax by ~~the husband and wife~~ spouses on a joint return filed under s. 71.03 (2)
13 (g) to (L) exceeds the sum of the amounts shown as the tax upon the separate return
14 of each spouse and if any part of that excess is attributable to negligence or
15 intentional disregard of this chapter, but without intent to defraud, at the time of the
16 filing of that separate return, then 25 percent of the total amount of that excess shall
17 be added to the tax.

18 **SECTION 79.** 71.83 (1) (b) 5. of the statutes is amended to read:

19 71.83 (1) (b) 5. 'Joint return after separate returns.' If the amount shown as
20 the tax by ~~the husband and wife~~ spouses on a joint return filed under s. 71.03 (2) (g)
21 to (L) exceeds the sum of the amounts shown as the tax on the separate return of each
22 spouse and if any part of that excess is attributable to fraud with intent to evade tax
23 at the time of the filing of that separate return, then 50 percent of the total amount
24 of that excess shall be added to the tax.

25 **SECTION 80.** 77.25 (8m) of the statutes is amended to read:

SENATE BILL 327**SECTION 80**

1 77.25 **(8m)** ~~Between husband and wife~~ spouses.

2 **SECTION 81.** 77.54 (7) (b) 1. of the statutes is amended to read:

3 77.54 **(7)** (b) 1. The item is transferred to a child, spouse, parent, ~~father-in-law,~~
4 ~~mother-in-law~~ parent-in-law, daughter-in-law, or son-in-law of the transferor or,
5 if the item is a motor vehicle, from the transferor to a corporation owned solely by the
6 transferor or by the transferor's spouse.

7 **SECTION 82.** 101.91 (5m) of the statutes is amended to read:

8 101.91 **(5m)** "Manufactured home community" means any plot or plots of
9 ground upon which 3 or more manufactured homes that are occupied for dwelling or
10 sleeping purposes are located. "Manufactured home community" does not include a
11 farm where the occupants of the manufactured homes are the ~~father, mother, son,~~
12 ~~daughter, brother or sister~~ parents, children, or siblings of the farm owner or
13 operator or where the occupants of the manufactured homes work on the farm.

14 **SECTION 83.** 102.07 (5) (b) of the statutes is amended to read:

15 102.07 **(5)** (b) The parents, spouse, child, brother, sister, son-in-law,
16 daughter-in-law, ~~father-in-law, mother-in-law~~ parent-in-law, brother-in-law, or
17 sister-in-law of a farmer shall not be deemed the farmer's employees.

18 **SECTION 84.** 102.07 (5) (c) of the statutes is amended to read:

19 102.07 **(5)** (c) A shareholder-employee of a family farm corporation shall be
20 deemed a "farmer" for purposes of this chapter and shall not be deemed an employee
21 of a farmer. A "family farm corporation" means a corporation engaged in farming all
22 of whose shareholders are related as lineal ancestors or lineal descendants, whether
23 by blood or by adoption, or as spouses, brothers, sisters, uncles, aunts, cousins,
24 sons-in-law, daughters-in-law, ~~fathers-in-law, mothers-in-law~~ parents-in-law,
25 brothers-in-law, or sisters-in-law of such lineal ancestors or lineal descendants.

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1 **SECTION 85.** 102.51 (1) (a) 1. of the statutes is amended to read:

2 102.51 (1) (a) 1. A wife married person upon ~~a husband~~ his or her spouse with
3 whom he or she is living at the time of ~~his~~ the spouse's death.

4 **SECTION 86.** 102.51 (1) (a) 2. of the statutes is repealed.

5 **SECTION 87.** 103.10 (1) (h) of the statutes is amended to read:

6 103.10 (1) (h) "Spouse" means ~~an employee's legal husband or wife~~ the person
7 to whom an employee is legally married.

8 **SECTION 88.** 103.165 (3) (a) 3. of the statutes is amended to read:

9 103.165 (3) (a) 3. The decedent's ~~father or mother~~ parent or parents if the
10 decedent leaves no surviving spouse, domestic partner under ch. 770, or children.

11 **SECTION 89.** 111.32 (12) of the statutes is amended to read:

12 111.32 (12) "Marital status" means the status of being married, single,
13 divorced, separated, or widowed a surviving spouse.

14 **SECTION 90.** 115.76 (12) (a) 1. of the statutes is amended to read:

15 115.76 (12) (a) 1. A biological natural parent.

16 **SECTION 91.** 115.76 (12) (a) 2. of the statutes is repealed.

17 **SECTION 92.** 115.76 (12) (a) 3. of the statutes is repealed.

18 **SECTION 93.** 115.76 (13) of the statutes is amended to read:

19 115.76 (13) "Person acting as a parent of a child" means a relative of the child
20 or a private individual allowed to act as a parent of a child by the child's biological
21 natural or adoptive parents or guardian, and includes the child's grandparent,
22 neighbor, friend or private individual caring for the child with the explicit or tacit
23 approval of the child's biological natural or adoptive parents or guardian. "Person
24 acting as a parent of a child" does not include any person that receives public funds
25 to care for the child if such funds exceed the cost of such care.

SENATE BILL 327**SECTION 94**

1 **SECTION 94.** 146.34 (1) (f) of the statutes is amended to read:

2 146.34 (1) (f) “Parent” means a biological natural parent, ~~a husband who has~~
3 ~~consented to the artificial insemination of his wife under s. 891.40~~ or a parent by
4 adoption. If the minor is a nonmarital child who is not adopted or whose parents do
5 not subsequently intermarry under s. 767.803, “parent” includes a person adjudged
6 in a judicial proceeding under ch. 48 to be the biological father of the minor. “Parent”
7 does not include any person whose parental rights have been terminated.

8 **SECTION 95.** 157.05 of the statutes is amended to read:

9 **157.05 Autopsy.** Consent for a licensed physician to conduct an autopsy on
10 the body of a deceased person shall be deemed sufficient when given by whichever
11 one of the following assumes custody of the body for purposes of burial: ~~Father,~~
12 ~~mother, husband, wife~~ parent, spouse, child, guardian, next of kin, domestic partner
13 under ch. 770, or in the absence of any of the foregoing, a friend, or a person charged
14 by law with the responsibility for burial. If 2 or more such persons assume custody
15 of the body, the consent of one of them shall be deemed sufficient.

16 **SECTION 96.** 182.004 (6) of the statutes is amended to read:

17 182.004 (6) Stock may be issued and leases made to ~~husband and wife~~ spouses,
18 and to the survivor of them, in which event title shall descend the same as in like
19 conveyances of real property subject to ch. 766. Otherwise, title to the stock and lease
20 shall descend to the persons to whom a homestead of the stockholder would descend
21 except as provided in ch. 766. The interest of a tenant in the lease and stock shall
22 be exempt from execution to the same extent as a homestead in real estate.

23 **SECTION 97.** 250.04 (3) (a) of the statutes is amended to read:

24 250.04 (3) (a) The department shall establish and maintain surveillance
25 activities sufficient to detect any occurrence of acute, communicable, or chronic

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1 diseases and threat of occupational or environmental hazards, injuries, or changes
2 in the health of ~~mothers~~ parents and children.

3 **SECTION 98.** 301.12 (2) of the statutes is amended to read:

4 301.12 (2) Except as provided in subs. (2m) and (14) (b) and (c), any person,
5 including a person placed under s. 938.183, 938.32 (1) (bm) or (c), 938.34 (4h) or (4m),
6 or 938.357 (1), (2m), (4), or (5) (e), receiving care, maintenance, services, and supplies
7 provided by any institution in this state operated or contracted for by the
8 department, in which the state is chargeable with all or part of the person's care,
9 maintenance, services, and supplies, and the person's property and estate, including
10 the homestead, and the spouse of the person, and the spouse's property and estate,
11 including the homestead, and, in the case of a minor child, the parents of the person,
12 and their property and estates, including their homestead, and, in the case of a
13 foreign child described in s. 48.839 (1) who became dependent on public funds for his
14 or her primary support before an order granting his or her adoption, the resident of
15 this state appointed guardian of the child by a foreign court who brought the child
16 into this state for the purpose of adoption, and his or her property and estate,
17 including his or her homestead, shall be liable for the cost of the care, maintenance,
18 services, and supplies in accordance with the fee schedule established by the
19 department under s. 301.03 (18). If a spouse, ~~widow~~ surviving spouse, or minor, or
20 an incapacitated person, may be lawfully dependent upon the property for his or her
21 support, the court shall release all or such part of the property and estate from the
22 charges that may be necessary to provide for that person. The department shall
23 make every reasonable effort to notify the liable persons as soon as possible after the
24 beginning of the maintenance, but the notice or the receipt of the notice is not a
25 condition of liability.

SENATE BILL 327**SECTION 99**

1 **SECTION 99.** 301.50 (1) of the statutes is amended to read:

2 301.50 (1) In this section, “substantial parental relationship” means the
3 acceptance and exercise of significant responsibility for the daily supervision,
4 education, protection, and care of the child. In evaluating whether an individual has
5 had a substantial parental relationship with the child, factors that may be
6 considered include, but are not limited to, whether the individual has expressed
7 concern for or interest in the support, care, or well-being of the child; whether the
8 individual has neglected or refused to provide care or support for the child; and
9 whether, with respect to an individual who is or may be ~~the father~~ a parent of the
10 child, the individual has expressed concern for or interest in the support, care, or
11 well-being of the mother during her pregnancy.

12 **SECTION 100.** 700.19 (2) of the statutes is amended to read:

13 700.19 (2) ~~HUSBAND AND WIFE~~ SPOUSES. If persons named as owners in a
14 document of title, transferees in an instrument of transfer, or buyers in a bill of sale
15 are described in the document, instrument, or bill of sale as ~~husband and wife~~
16 married to each other, or are in fact ~~husband and wife~~ married to each other, they are
17 joint tenants, unless the intent to create a tenancy in common is expressed in the
18 document, instrument, or bill of sale. This subsection applies to property acquired
19 before January 1, 1986, and, if ch. 766 does not apply when the property is acquired,
20 to property acquired on or after January 1, 1986.

21 **SECTION 101.** 705.01 (4) of the statutes is amended to read:

22 705.01 (4) “Joint account” means an account, other than a marital account,
23 payable on request to one or more of 2 or more parties whether or not mention is made
24 of any right of survivorship. “Joint account” also means any account established with
25 the right of survivorship on or after January 1, 1986, by 2 parties who claim to be

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1 ~~husband and wife~~ married to each other, which is payable on request to either or both
2 of the parties.

3 **SECTION 102.** 705.01 (4m) of the statutes is amended to read:

4 705.01 (4m) "Marital account" means an account established without the right
5 of survivorship on or after January 1, 1986, by 2 parties who claim to be ~~husband and~~
6 ~~wife~~ married to each other, which is payable on request to either or both of the parties
7 and which is designated as a marital account. An account established by those
8 parties with the right of survivorship under s. 766.58 (3) (f) or 766.60 is a joint
9 account.

10 **SECTION 103.** 706.09 (1) (e) of the statutes is amended to read:

11 706.09 (1) (e) *Marital interests.* Homestead of the spouse of any transferor of
12 an interest in real estate, if the recorded conveyance purporting to transfer the
13 homestead states that the person executing it is single, unmarried, or ~~widowed a~~
14 surviving spouse or fails to indicate the marital status of the transferor, and if the
15 conveyance has, in either case, appeared of record for 5 years. This paragraph does
16 not apply to the interest of a married person who is described of record as a holder
17 in joint tenancy or of marital property with that transferor.

18 **SECTION 104.** 765.001 (2) of the statutes is amended to read:

19 765.001 (2) INTENT. It is the intent of chs. 765 to 768 to promote the stability
20 and best interests of marriage and the family. It is the intent of the legislature to
21 recognize the valuable contributions of both spouses during the marriage and at
22 termination of the marriage by dissolution or death. Marriage is the institution that
23 is the foundation of the family and of society. Its stability is basic to morality and
24 civilization, and of vital interest to society and the state. The consequences of the
25 marriage contract are more significant to society than those of other contracts, and

SENATE BILL 327**SECTION 104**

1 the public interest must be taken into account always. The seriousness of marriage
2 makes adequate premarital counseling and education for family living highly
3 desirable and courses thereon are urged upon all persons contemplating marriage.
4 The impairment or dissolution of the marriage relation generally results in injury
5 to the public wholly apart from the effect upon the parties immediately concerned.
6 Under the laws of this state, marriage is a legal relationship between 2 equal
7 persons, ~~a husband and wife~~, who owe to each other mutual responsibility and
8 support. Each spouse has an equal obligation in accordance with his or her ability
9 to contribute money or services or both which are necessary for the adequate support
10 and maintenance of his or her minor children and of the other spouse. No spouse may
11 be presumed primarily liable for support expenses under this subsection.

12 **SECTION 105.** 765.01 of the statutes is amended to read:

13 **765.01 A civil contract.** Marriage, so far as its validity at law is concerned,
14 is a civil contract, to which the consent of the parties capable in law of contracting
15 is essential, and which creates the legal status of ~~husband and wife~~ spouse to each
16 other.

17 **SECTION 106.** 765.02 (3) of the statutes is created to read:

18 765.02 (3) Marriage may be contracted between persons of the same sex or
19 different sexes.

20 **SECTION 107.** 765.03 (1) of the statutes is amended to read:

21 765.03 (1) No marriage shall be contracted while either of the parties has a
22 ~~husband or wife~~ spouse living, nor between persons who are nearer of kin than 2nd
23 cousins except that marriage may be contracted between first cousins ~~where the~~ if
24 a female party has attained the age of 55 years or ~~where~~ if either party, at the time
25 of application for a marriage license, submits an affidavit signed by a physician

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1 stating that either party is permanently sterile or that the 2 parties are otherwise
2 permanently biologically incapable of producing a child together. Relationship
3 under this section shall be computed by the rule of the civil law, whether the parties
4 to the marriage are of the half or of the whole blood. A marriage may not be
5 contracted if either party has such want of understanding as renders him or her
6 incapable of assenting to marriage.

7 **SECTION 108.** 765.16 (1m) (intro.) of the statutes is amended to read:

8 765.16 **(1m)** (intro.) Marriage may be validly solemnized and contracted in this
9 state only after a marriage license has been issued therefor, and only by the mutual
10 declarations of the 2 parties to be joined in marriage that ~~they take each~~ takes the
11 ~~other as husband and wife~~ his or her spouse, made before an authorized officiating
12 person and in the presence of at least 2 competent adult witnesses other than the
13 officiating person. The following are authorized to be officiating persons:

14 **SECTION 109.** 765.16 (1m) (c) of the statutes is amended to read:

15 765.16 **(1m)** (c) The 2 parties themselves, by mutual declarations that they
16 ~~take each~~ takes the other as ~~husband and wife~~ his or her spouse, in accordance with
17 the customs, rules, and regulations of any religious society, denomination, or sect to
18 which either of the parties may belong.

19 **SECTION 110.** 765.23 of the statutes is amended to read:

20 **765.23 Immaterial irregularities otherwise.** No marriage hereafter
21 contracted shall be void either by reason of the marriage license having been issued
22 by a county clerk not having jurisdiction to issue the same; or by reason of any
23 informality or irregularity of form in the application for the marriage license or in
24 the marriage license itself, or the incompetency of the witnesses to such marriage;
25 or because the marriage may have been solemnized in a county other than the county

SENATE BILL 327**SECTION 110**

1 prescribed in s. 765.12, or more than 30 days after the date of the marriage license,
2 if the marriage is in other respects lawful and is consummated with the full belief
3 on the part of the persons so married, or either of them, that they have been lawfully
4 joined in marriage. Where a marriage has been celebrated in one of the forms
5 provided for in s. 765.16 (1m), and the parties thereto have immediately thereafter
6 assumed the habit and repute of ~~husband and wife~~ a married couple, and having
7 continued the same uninterruptedly thereafter for the period of one year, or until the
8 death of either of them, it shall be deemed that a marriage license has been issued
9 as required by ss. 765.05 to 765.24 and 767.803.

10 **SECTION 111.** 765.24 of the statutes is amended to read:

11 **765.24 Removal of impediments to subsequent marriage.** If a person
12 during the lifetime of a ~~husband or wife~~ spouse with whom the marriage is in force,
13 enters into a subsequent marriage contract in accordance with s. 765.16, and the
14 parties thereto live together thereafter as ~~husband and wife~~ a married couple, and
15 such subsequent marriage contract was entered into by one of the parties in good
16 faith, in the full belief that the former ~~husband or wife~~ spouse was dead, or that the
17 former marriage had been annulled, or dissolved by a divorce, or without knowledge
18 of such former marriage, ~~they~~ the parties shall, after the impediment to their
19 marriage has been removed by the death or divorce of the other party to such former
20 marriage, if they continue to live together as ~~husband and wife~~ a married couple in
21 good faith on the part of one of them, be held to have been legally married from and
22 after the removal of such impediment and ~~the issue of~~ any children born during such
23 subsequent marriage shall be considered as the marital issue children of both
24 ~~parents~~ parties.

25 **SECTION 112.** 765.30 (3) (a) of the statutes is amended to read:

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1 Signature Date

2 Print Name Here:

3 Address:

4 Signature Date

5 Print Name Here:

6 Address:

7 [NOTE: Each spouse should retain a copy of the agreement for himself or
8 herself.]

9 **SECTION 114.** 766.588 (9) (form) 13. of the statutes is amended to read:

10 766.588 (9) (form) 13. IF AFTER ENTERING INTO THIS AGREEMENT ONE
11 OR BOTH OF YOU ESTABLISH A DOMICILE OUTSIDE THIS STATE, YOU ARE
12 URGED TO SEEK LEGAL ADVICE CONCERNING THE CONTINUED
13 EFFECTIVENESS OF THIS AGREEMENT.

14 STATUTORY TERMINABLE MARITAL

15 PROPERTY CLASSIFICATION AGREEMENT

16 (Pursuant to Section 766.588, Wisconsin Statutes)

17 This agreement is entered into by and (~~husband and wife~~ who are
18 married) (who intend to marry) (strike one). The parties hereby classify all of the
19 property owned by them when this agreement becomes effective, and property
20 acquired during the term of this agreement, as marital property.

21 One spouse may terminate this agreement at any time by giving signed notice
22 of termination to the other spouse. Notice of termination by a spouse is given upon
23 personal delivery or when sent by certified mail to the other spouse's last-known
24 address. The agreement terminates 30 days after such notice is given.

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1 The parties (have) (have not) (strike one) completed Schedule “A”, “Financial
2 Disclosure”, attached to this agreement. If Schedule “A” has not been completed, the
3 duration of this agreement is 3 years after both parties have signed the agreement.
4 If Schedule “A” has been completed, the duration of this agreement is not limited to
5 3 years after it is signed.

6 **IF THE DURATION OF THIS AGREEMENT IS NOT TO BE LIMITED TO 3
7 YEARS, MAKE SURE SCHEDULE “A”, “FINANCIAL DISCLOSURE”, IS
8 COMPLETED AND THAT YOU HAVE REVIEWED THE SCHEDULE BEFORE
9 SIGNING THE AGREEMENT. IF YOU AND YOUR SPOUSE HAVE PREVIOUSLY
10 ENTERED INTO A STATUTORY TERMINABLE MARITAL PROPERTY
11 CLASSIFICATION AGREEMENT WITH EACH OTHER WHICH WAS
12 EFFECTIVE DURING YOUR PRESENT MARRIAGE AND YOU AND YOUR
13 SPOUSE DID NOT COMPLETE SCHEDULE “A”, YOU MAY NOT EXECUTE THIS
14 AGREEMENT IF YOU DO NOT COMPLETE SCHEDULE “A”.**

15 Signature of One Spouse:

16 Date:

17 Print Name Here:

18 Residence Address:

19 (Make Sure Your Signature is Authenticated or Acknowledged Below.)

20 AUTHENTICATION

21 Signature authenticated this day of, (year)

22 *....

23 TITLE: MEMBER STATE BAR OF WISCONSIN

24 (If not, authorized by s. 706.06, Wis. Stats.)

25 ACKNOWLEDGMENT

SENATE BILL 327

1 STATE OF WISCONSIN)

2) ss.

3 County)

4 Personally came before me this day of, (year) the above named to
5 me known to be the person who executed the foregoing instrument and acknowledge
6 the same.

7 *....

8 Notary Public, County, Wisconsin.

9 My Commission is permanent.

10 (If not, state expiration date:, (year))

11 (Signatures may be authenticated or
12 acknowledged. Both are not necessary.)

13 *Names of persons signing in any capacity should be
14 typed or printed below their signatures.

15 Signature of Other Spouse:

16 Date:

17 Print Name Here:

18 Residence Address:

19 (Make Sure Your Signature is Authenticated or Acknowledged Below.)

20 AUTHENTICATION

21 Signature authenticated this day of, (year)

22 *....

23 TITLE: MEMBER STATE BAR OF WISCONSIN

24 (If not, authorized by s. 706.06, Wis. Stats.)

25 ACKNOWLEDGMENT

SENATE BILL 327

1 STATE OF WISCONSIN)

2) ss.

3 County)

4 Personally came before me this day of, (year) the above named to
5 me known to be the person who executed the foregoing instrument and acknowledge
6 the same.

7 *....

8 Notary Public, County, Wisconsin.

9 My Commission is permanent.

10 (If not, state expiration date:, (year))

11 (Signatures may be authenticated or
12 acknowledged. Both are not necessary.)

13 *Names of persons signing in any capacity should be
14 typed or printed below their signatures.

15 TERMINATION OF STATUTORY TERMINABLE

16 MARITAL PROPERTY CLASSIFICATION AGREEMENT

17 I UNDERSTAND THAT:

18 1. THIS TERMINATION TAKES EFFECT 30 DAYS AFTER MY SPOUSE IS
19 NOTIFIED OF THE TERMINATION, AS PROVIDED UNDER SECTION 766.588
20 (4) OF THE WISCONSIN STATUTES.

21 2. THIS TERMINATION IS PROSPECTIVE; IT DOES NOT AFFECT THE
22 CLASSIFICATION OF PROPERTY ACQUIRED BEFORE THE TERMINATION
23 BECOMES EFFECTIVE. PROPERTY ACQUIRED AFTER THE TERMINATION
24 BECOMES EFFECTIVE IS CLASSIFIED AS PROVIDED UNDER THE MARITAL
25 PROPERTY LAW.

SENATE BILL 327**SECTION 114**

1 3. IN GENERAL, THIS TERMINATION IS NOT BINDING ON CREDITORS
2 UNLESS THEY ARE PROVIDED A COPY OF THE TERMINATION BEFORE
3 CREDIT IS EXTENDED.

4 The undersigned terminates the statutory terminable marital property
5 classification agreement entered into by me and my spouse on (date last spouse
6 signed the agreement) under section 766.588 of the Wisconsin Statutes.

7 Signature:

8 Date:

9 Print Name Here:

10 Residence Address:

11 SCHEDULE "A"

12 FINANCIAL DISCLOSURE

13 The following general categories of assets and liabilities are not all inclusive
14 and if other assets or liabilities exist they should be listed. Assets should be listed
15 according to which spouse has title (including assets owned by a spouse or the
16 spouses with one or more third parties) and at their approximate market value.

17 ~~*Husband*~~ ~~*Wife*~~ *Spouse (Name)* *Spouse (Name)* *Both Names*

18 I. ASSETS

19 A. Real estate (gross value)

20 B. Stocks, bonds and mutual funds

21 C. Accounts at and certificates or other

22 instruments issued by financial institutions

23 D. Mortgages, land contracts, promissory notes

24 and cash

25 E. Partnership interests

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- 1 EL. Limited liability company interests.
- 2 F. Trust interests
- 3 G. Livestock, farm products, crops
- 4 H. Automobiles and other vehicles
- 5 I. Jewelry and personal effects
- 6 J. Household furnishings
- 7 K. Life insurance and annuities:
 - 8 1. Face value
 - 9 2. Cash surrender value
- 10 L. Retirement benefits (include value):
 - 11 1. Pension plans
 - 12 2. Profit sharing plans
 - 13 3. HR-10 KEOGH plans
 - 14 4. IRAs
 - 15 5. Deferred compensation plans
- 16 M. Other assets not listed elsewhere
- 17 II. OBLIGATIONS (TOTAL OUTSTANDING BALANCE):
 - 18 A. Mortgages and liens
 - 19 B. Credit cards
 - 20 C. Other obligations to financial institutions
 - 21 D. Alimony, maintenance and child support (per
22 month)
 - 23 E. Other obligations (such as other obligations
24 to individuals, guarantees, contingent
25 liabilities)

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1 III. ANNUAL COMPENSATION FOR SERVICES:
2 (for example, wages and income from
3 self-employment; also include social security,
4 disability and similar income here)

5 (IF YOU NEED ADDITIONAL SPACE,
6 ADD ADDITIONAL SHEETS)

7 **SECTION 115.** 766.589 (10) (form) 14. of the statutes is amended to read:

8 766.589 (10) (form) 14. IF AFTER ENTERING INTO THIS AGREEMENT
9 ONE OR BOTH OF YOU ESTABLISH A DOMICILE OUTSIDE THIS STATE, YOU
10 ARE URGED TO SEEK LEGAL ADVICE CONCERNING THE CONTINUED
11 EFFECTIVENESS OF THIS AGREEMENT.

12 STATUTORY TERMINABLE INDIVIDUAL

13 PROPERTY CLASSIFICATION AGREEMENT

14 (Pursuant to Section 766.589, Wisconsin Statutes)

15 This agreement is entered into by and (~~husband and wife~~ who are
16 married) (who intend to marry) (strike one). The parties hereby classify the marital
17 property owned by them when this agreement becomes effective, and property
18 acquired during the term of this agreement ~~which~~ that would otherwise have been
19 marital property, as the individual property of the owning spouse. The parties agree
20 that ownership of such property shall be determined by the name in which the
21 property is held and, if property is not held by either or both spouses, ownership shall
22 be determined as if the parties were unmarried persons when the property was
23 acquired.

24 Upon the death of either spouse the surviving spouse may, except as otherwise
25 provided in a subsequent marital property agreement, and regardless of whether

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1 this agreement has terminated, elect against the property of the decedent spouse as
2 provided in section 766.589 (7) of the Wisconsin Statutes.

3 One spouse may terminate this agreement at any time by giving signed notice
4 of termination to the other spouse. Notice of termination by a spouse is given upon
5 personal delivery or when sent by certified mail to the other spouse's last-known
6 address. The agreement terminates 30 days after such notice is given.

7 The parties (have) (have not) (strike one) completed Schedule "A", "Financial
8 Disclosure", attached to this agreement. If Schedule "A" has not been completed, the
9 duration of this agreement is 3 years after both parties have signed the agreement.
10 If Schedule "A" has been completed, the duration of this agreement is not limited to
11 3 years after it is signed.

12 IF THE DURATION OF THIS AGREEMENT IS NOT TO BE LIMITED TO 3
13 YEARS, MAKE SURE THAT SCHEDULE "A", "FINANCIAL DISCLOSURE", IS
14 COMPLETED AND THAT YOU HAVE REVIEWED THE SCHEDULE BEFORE
15 SIGNING THE AGREEMENT. IF YOU AND YOUR SPOUSE HAVE PREVIOUSLY
16 ENTERED INTO A STATUTORY TERMINABLE INDIVIDUAL PROPERTY
17 CLASSIFICATION AGREEMENT WITH EACH OTHER WHICH WAS
18 EFFECTIVE DURING YOUR PRESENT MARRIAGE AND YOU AND YOUR
19 SPOUSE DID NOT COMPLETE SCHEDULE "A", YOU MAY NOT EXECUTE THIS
20 AGREEMENT IF YOU DO NOT COMPLETE SCHEDULE "A".

21 Signature of One Spouse:

22 Date:

23 Print Name Here:

24 Residence Address:

25 (Make Sure Your Signature is Authenticated or Acknowledged Below.)

SENATE BILL 327

1 AUTHENTICATION

2 Signature authenticated this day of, (year)

3 *....

4 TITLE: MEMBER STATE BAR OF WISCONSIN

5 (If not, authorized by s. 706.06, Wis. Stats.)

6 ACKNOWLEDGMENT

7 STATE OF WISCONSIN)

8) ss.

9 County)

10 Personally came before me this day of, (year) the above named to
11 me known to be the person who executed the foregoing instrument and acknowledge
12 the same.

13 *....

14 Notary Public, County, Wisconsin.

15 My Commission is permanent.

16 (If not, state expiration date:, (year))

17 (Signatures may be authenticated or
18 acknowledged. Both are not necessary.)

19 *Names of persons signing in any capacity should be
20 typed or printed below their signatures.

21 Signature of Other Spouse:

22 Date:

23 Print Name Here:

24 Residence Address:

25 (Make Sure Your Signature is Authenticated or Acknowledged Below.)

SENATE BILL 327

1 AUTHENTICATION

2 Signature authenticated this day of, (year)

3 *....

4 TITLE: MEMBER STATE BAR OF WISCONSIN

5 (If not, authorized by s. 706.06, Wis. Stats.)

6 ACKNOWLEDGMENT

7 STATE OF WISCONSIN)

8) ss.

9 County)

10 Personally came before me this day of, (year) the above named to
11 me known to be the person who executed the foregoing instrument and acknowledge
12 the same.

13 *....

14 Notary Public, County, Wisconsin.

15 My Commission is permanent.

16 (If not, state expiration date:, (year))

17 (Signatures may be authenticated or

18 acknowledged. Both are not necessary.)

19 *Names of persons signing in any capacity should

20 be typed or printed below their signatures.

21 TERMINATION OF

22 STATUTORY TERMINABLE INDIVIDUAL

23 PROPERTY CLASSIFICATION AGREEMENT

24 I UNDERSTAND THAT:

SENATE BILL 327

1 1. THIS TERMINATION TAKES EFFECT 30 DAYS AFTER MY SPOUSE IS
2 NOTIFIED OF THE TERMINATION, AS PROVIDED UNDER SECTION 766.589
3 (4) OF THE WISCONSIN STATUTES.

4 2. THIS TERMINATION IS PROSPECTIVE; IT DOES NOT AFFECT THE
5 CLASSIFICATION OF PROPERTY ACQUIRED BEFORE THE TERMINATION
6 BECOMES EFFECTIVE. PROPERTY ACQUIRED AFTER THE TERMINATION
7 BECOMES EFFECTIVE IS CLASSIFIED AS PROVIDED UNDER THE MARITAL
8 PROPERTY LAW.

9 3. IN GENERAL, THIS TERMINATION IS NOT BINDING ON CREDITORS
10 UNLESS THEY ARE PROVIDED A COPY OF THE TERMINATION BEFORE
11 CREDIT IS EXTENDED.

12 The undersigned terminates the statutory terminable individual property
13 classification agreement entered into by me and my spouse on (date last spouse
14 signed the agreement) under section 766.589 of the Wisconsin Statutes.

15 Signature:

16 Date:

17 Print Name Here:

18 Residence Address:

SCHEDULE "A"

FINANCIAL DISCLOSURE

21 The following general categories of assets and liabilities are not all inclusive
22 and if other assets or liabilities exist they should be listed. Assets should be listed
23 according to which spouse has title (including assets owned by a spouse or the
24 spouses with one or more third parties) and at their approximate market value.

25 ~~Husband~~ ~~Wife~~ Spouse (Name) Spouse (Name) Both Names

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- 1 I. ASSETS
- 2 A. Real estate (gross value)
- 3 B. Stocks, bonds and mutual funds
- 4 C. Accounts at and certificates and other
- 5 instruments issued by financial institutions
- 6 D. Mortgages, land contracts, promissory notes
- 7 and cash
- 8 E. Partnership interests
- 9 EL. Limited liability company interests
- 10 F. Trust interests
- 11 G. Livestock, farm products, crops
- 12 H. Automobiles and other vehicles
- 13 I. Jewelry and personal effects
- 14 J. Household furnishings
- 15 K. Life insurance and annuities:
- 16 1. Face value
- 17 2. Cash surrender value
- 18 L. Retirement benefits (include value):
- 19 1. Pension plans
- 20 2. Profit sharing plans
- 21 3. HR-10 KEOGH plans
- 22 4. IRAs
- 23 5. Deferred compensation plans
- 24 M. Other assets not listed elsewhere
- 25 II. OBLIGATIONS (TOTAL OUTSTANDING BALANCE):

SENATE BILL 327

- 1 A. Mortgages and liens
- 2 B. Credit cards
- 3 C. Other obligations to financial institutions
- 4 D. Alimony, maintenance and child support (per
- 5 month)
- 6 E. Other obligations (such as other obligations
- 7 to individuals, guarantees, contingent
- 8 liabilities)

9 III. ANNUAL COMPENSATION FOR SERVICES:

10 (for example, wages and income from
11 self-employment; also include social security,
12 disability and similar income here)

13 (IF YOU NEED ADDITIONAL SPACE,
14 ADD ADDITIONAL SHEETS.)

15 **SECTION 116.** 767.215 (2) (b) of the statutes is amended to read:

16 767.215 (2) (b) The name and birthdate of each minor child of the parties and
17 each other child born to ~~the wife~~ a party during the marriage, and whether ~~the wife~~
18 a party is pregnant.

19 **SECTION 117.** 767.215 (5) (a) 2. of the statutes is amended to read:

20 767.215 (5) (a) 2. The name, date of birth, and social security number of each
21 minor child of the parties and of each child who was born to ~~the wife~~ a party during
22 the marriage and who is a minor.

23 **SECTION 118.** 767.323 of the statutes is amended to read:

24 **767.323 Suspension of proceedings to effect reconciliation.** During the
25 pendency of an action for divorce or legal separation, the court may, upon written

SENATE BILL 327

1 stipulation of both parties that they desire to attempt a reconciliation, enter an order
2 suspending any and all orders and proceedings for such period, not exceeding 90
3 days, as the court determines advisable to permit the parties to attempt a
4 reconciliation without prejudice to their respective rights. During the suspension
5 period, the parties may resume living together as ~~husband and wife~~ a married couple
6 and their acts and conduct do not constitute an admission that the marriage is not
7 irretrievably broken or a waiver of the ground that the parties have voluntarily lived
8 apart continuously for 12 months or more immediately prior to the commencement
9 of the action. Suspension may be revoked upon the motion of either party by an order
10 of the court. If the parties become reconciled, the court shall dismiss the action. If
11 the parties are not reconciled after the period of suspension, the action shall proceed
12 as though no reconciliation period was attempted.

13 **SECTION 119.** 767.80 (1) (intro.) of the statutes is amended to read:

14 767.80 (1) WHO MAY BRING ACTION OR FILE MOTION. (intro.) The following persons
15 may bring an action or file a motion, including an action or motion for declaratory
16 judgment, for the purpose of determining the paternity of a child or for the purpose
17 of rebutting the presumption of paternity under s. 891.405 or the presumption of
18 parentage under s. 891.41 (1):

19 **SECTION 120.** 767.80 (1) (c) of the statutes is amended to read:

20 767.80 (1) (c) Unless s. 767.805 (1) applies, a male presumed to be the child's
21 father under s. 891.405 or a person presumed to be the child's parent under s. 891.41
22 (1).

23 **SECTION 121.** 767.80 (2) of the statutes is amended to read:

24 767.80 (2) CERTAIN AGREEMENTS NOT A BAR TO ACTION. Regardless of its terms,
25 an agreement made after July 1, 1981, other than an agreement approved by the

SENATE BILL 327**SECTION 121**

1 court between an alleged father or presumed father parent and the mother or child,
2 does not bar an action under this section. Whenever the court approves an
3 agreement in which one of the parties agrees not to commence an action under this
4 section, the court shall first determine whether or not the agreement is in the best
5 interest of the child. The court shall not approve any provision waiving the right to
6 bring an action under this section if this provision is contrary to the best interests
7 of the child.

8 **SECTION 122.** 767.855 of the statutes is amended to read:

9 **767.855 Dismissal if adjudication not in child's best interest.** Except as
10 provided in s. 767.863 (1m), at any time in an action to establish the paternity of a
11 child, upon the motion of a party or guardian ad litem or the child's mother if she is
12 not a party, the court or supplemental court commissioner under s. 757.675 (2) (g)
13 may, with respect to a male, refuse to order genetic tests, if genetic tests have not yet
14 been taken, and dismiss the action if the court or supplemental court commissioner
15 determines that a judicial determination of whether the male is the father of the
16 child is not in the best interest of the child.

17 **SECTION 123.** 767.863 (1m) of the statutes is amended to read:

18 **767.863 (1m) PATERNITY ALLEGATION BY MALE PERSON OTHER THAN HUSBAND**
19 **SPOUSE; WHEN DETERMINATION NOT IN BEST INTEREST OF CHILD.** In an action to establish
20 the paternity of a child who was born to a woman while she was married, if a male
21 person other than the woman's husband spouse alleges that he, not the husband
22 woman's spouse, is the child's father biological parent, a party, or the woman if she
23 is not a party, may allege that a judicial determination that a male person other than
24 the husband woman's spouse is the father biological parent is not in the best interest
25 of the child. If the court or a supplemental court commissioner under s. 757.675 (2)

SENATE BILL 327

1 (g) determines that a judicial determination of whether a ~~male person~~ other than the
2 ~~husband~~ woman's spouse is the ~~father~~ biological parent is not in the best interest of
3 the child, no genetic tests may be ordered and the action shall be dismissed.

4 **SECTION 124.** 767.87 (1m) (intro.) of the statutes is amended to read:

5 767.87 (1m) BIRTH RECORD REQUIRED. (intro.) If the child was born in this state,
6 the petitioner shall present a certified copy of the child's birth certificate or a printed
7 copy of the record from the birth database of the state registrar to the court, so that
8 the court is aware of whether a name has been inserted on the birth certificate as the
9 ~~father~~ parent of the child other than the mother, at the earliest possible of the
10 following:

11 **SECTION 125.** 767.87 (8) of the statutes is amended to read:

12 767.87 (8) BURDEN OF PROOF. The party bringing an action for the purpose of
13 determining paternity or for the purpose of declaring the nonexistence of paternity
14 presumed under s. 891.405 or the nonexistence of parentage presumed under s.
15 891.41 (1) shall have the burden of proving the issues involved by clear and
16 satisfactory preponderance of the evidence.

17 **SECTION 126.** 767.87 (9) of the statutes is amended to read:

18 767.87 (9) ARTIFICIAL INSEMINATION; NATURAL FATHER PARENT. Where If a child
19 is conceived by artificial insemination, the ~~husband~~ spouse of the mother of the child
20 at the time of the conception of the child is the natural ~~father~~ parent of the child, as
21 provided in s. 891.40.

22 **SECTION 127.** 767.883 (1) of the statutes is amended to read:

23 767.883 (1) TWO PARTS. The trial shall be divided into 2 parts, the first part
24 dealing with the determination of paternity and the 2nd part dealing with child
25 support, legal custody, periods of physical placement, and related issues. The main

SENATE BILL 327**SECTION 127**

1 issue at the first part shall be whether the alleged or presumed father is or is not the
2 father of the mother's child, but if the child was born to the mother while she was the
3 lawful ~~wife~~ spouse of a specified ~~male~~ person, the prior issue of whether the ~~husband~~
4 mother's spouse was not the ~~father~~ parent of the child shall be determined first, as
5 provided under s. 891.39. The first part of the trial shall be by jury only if the
6 defendant verbally requests a jury trial either at the initial appearance or pretrial
7 hearing or requests a jury trial in writing prior to the pretrial hearing. The court may
8 direct and, if requested by either party before the introduction of any testimony in
9 the party's behalf, shall direct the jury to find a special verdict as to any of the issues
10 specified in this section, except that the court shall make all of the findings
11 enumerated in s. 767.89 (2) to (4). If the mother is dead, becomes insane, cannot be
12 found within the jurisdiction, or fails to commence or pursue the action, the
13 proceeding does not abate if any of the persons under s. 767.80 (1) makes a motion
14 to continue. The testimony of the mother taken at the pretrial hearing may in any
15 such case be read in evidence if it is competent, relevant, and material. The issues
16 of child support, custody, and visitation, and related issues shall be determined by
17 the court either immediately after the first part of the trial or at a later hearing before
18 the court.

19 **SECTION 128.** 769.316 (9) of the statutes is amended to read:

20 769.316 (9) The defense of immunity based on the relationship of ~~husband and~~
21 ~~wife~~ between spouses or parent and child does not apply in a proceeding under this
22 chapter.

23 **SECTION 129.** 769.401 (2) (a) of the statutes is amended to read:

24 769.401 (2) (a) A presumed ~~father~~ parent of the child.

25 **SECTION 130.** 769.401 (2) (g) of the statutes is amended to read:

SENATE BILL 327

1 769.401 (2) (g) ~~The mother~~ A parent of the child.

2 **SECTION 131.** 815.20 (1) of the statutes is amended to read:

3 815.20 (1) An exempt homestead as defined in s. 990.01 (14) selected by a
4 resident owner and occupied by him or her shall be exempt from execution, from the
5 lien of every judgment, and from liability for the debts of the owner to the amount
6 of \$75,000, except mortgages, laborers', mechanics', and purchase money liens, and
7 taxes, and except as otherwise provided. The exemption shall not be impaired by
8 temporary removal with the intention to reoccupy the premises as a homestead nor
9 by the sale of the homestead, but shall extend to the proceeds derived from the sale
10 to an amount not exceeding \$75,000, while held, with the intention to procure
11 another homestead with the proceeds, for 2 years. The exemption extends to land
12 owned by ~~husband and wife~~ spouses jointly or in common or as marital property, and
13 each spouse may claim a homestead exemption of not more than \$75,000. The
14 exemption extends to the interest therein of tenants in common, having a homestead
15 thereon with the consent of the cotenants, and to any estate less than a fee.

16 **SECTION 132.** 822.40 (4) of the statutes is amended to read:

17 822.40 (4) A privilege against disclosure of communications between spouses
18 and a defense of immunity based on the relationship ~~of husband and wife~~ between
19 spouses or parent and child may not be invoked in a proceeding under this
20 subchapter.

21 **SECTION 133.** 851.30 (2) (a) of the statutes is amended to read:

22 851.30 (2) (a) An individual who obtains or consents to a final decree or
23 judgment of divorce from the decedent or an annulment of their marriage, if the
24 decree or judgment is not recognized as valid in this state, unless they subsequently

SENATE BILL 327**SECTION 133**

1 participate in a marriage ceremony purporting to marry each other or they
2 subsequently hold themselves out as ~~husband and wife~~ married to each other.

3 **SECTION 134.** 852.01 (1) (f) 1. of the statutes is amended to read:

4 852.01 (1) (f) 1. One-half to the ~~maternal~~ grandparents on one side equally if
5 both survive, or to the surviving ~~maternal~~ grandparent on that side; if both ~~maternal~~
6 grandparents on that side are deceased, to the issue of the ~~maternal~~ grandparents
7 on that side or either of them, per stirpes.

8 **SECTION 135.** 852.01 (1) (f) 2. of the statutes is amended to read:

9 852.01 (1) (f) 2. One-half to the ~~paternal~~ relations on the other side in the same
10 manner as to the ~~maternal~~ relations under subd. 1.

11 **SECTION 136.** 852.01 (1) (f) 3. of the statutes is amended to read:

12 852.01 (1) (f) 3. If either ~~the maternal side or the paternal~~ side has no surviving
13 grandparent or issue of a grandparent, the entire estate to the decedent's relatives
14 on the other side.

15 **SECTION 137.** 854.03 (3) of the statutes is amended to read:

16 854.03 (3) MARITAL PROPERTY. Except as provided in subs. (4) and (5), if ~~a~~
17 ~~husband and wife~~ 2 spouses die leaving marital property and it is not established
18 that one survived the other by at least 120 hours, 50 percent of the marital property
19 shall be distributed as if it were ~~the husband's~~ the first spouse's individual property
20 and the ~~husband~~ 2nd spouse had survived, and 50 percent of the marital property
21 shall be distributed as if it were the ~~wife's~~ 2nd spouse's individual property and the
22 ~~wife~~ first spouse had survived.

23 **SECTION 138.** 891.39 (title) of the statutes is amended to read:

24 **891.39** (title) **Presumption as to whether a child is marital or**
25 **nonmarital; ~~self-erimination~~ self-incrimination; birth certificates.**

SENATE BILL 327

1 **SECTION 139.** 891.39 (1) (a) of the statutes is amended to read:

2 891.39 (1) (a) Whenever it is established in an action or proceeding that a child
3 was born to a woman while she was ~~the lawful wife of~~ legally married to a specified
4 ~~man person~~, any party asserting in such action or proceeding that the ~~husband was~~
5 spouse is not the ~~father~~ parent of the child shall have the burden of proving that
6 assertion by a clear and satisfactory preponderance of the evidence. In all such
7 actions or proceedings the ~~husband and the wife~~ spouses are competent to testify as
8 witnesses to the facts. The court or judge in such cases shall appoint a guardian ad
9 litem to appear for and represent the child whose ~~paternity~~ parentage is questioned.
10 Results of a genetic test, as defined in s. 767.001 (1m), showing that a ~~man person~~
11 other than the ~~husband~~ mother's spouse is not excluded as the father of the child and
12 that the statistical probability of the ~~man's~~ person's parentage is 99.0 percent or
13 higher constitute a clear and satisfactory preponderance of the evidence of the
14 assertion under this paragraph, even if the ~~husband~~ mother's spouse is unavailable
15 to submit to genetic tests, as defined in s. 767.001 (1m).

16 **SECTION 140.** 891.39 (1) (b) of the statutes is amended to read:

17 891.39 (1) (b) In actions affecting the family, in which the question of ~~paternity~~
18 parentage is raised, and in paternity proceedings, the court, upon being satisfied that
19 the parties to the action are unable to adequately compensate any such guardian ad
20 litem for the guardian ad litem's services and expenses, shall then make an order
21 specifying the guardian ad litem's compensation and expenses, which compensation
22 and expenses shall be paid as provided in s. 967.06. If the court orders a county to
23 pay the compensation of the guardian ad litem, the amount ordered may not exceed
24 the compensation paid to private attorneys under s. 977.08 (4m) (b).

25 **SECTION 141.** 891.39 (3) of the statutes is amended to read:

SENATE BILL 327**SECTION 141**

1 891.39 (3) If any court under this section adjudges a child to be a nonmarital
2 child, the clerk of court shall report the facts to the state registrar, who shall issue
3 a new birth certificate showing the correct facts as found by the court, and shall
4 dispose of the original, with the court's report attached under s. 69.15 (3). If the
5 ~~husband~~ mother's spouse is a party to the action and the court makes a finding as
6 to whether or not the ~~husband~~ mother's spouse is the ~~father~~ parent of the child, such
7 finding shall be conclusive in all other courts of this state.

8 **SECTION 142.** 891.40 (1) of the statutes is renumbered 891.40 (1) (a) and
9 amended to read:

10 891.40 (1) (a) If, ~~under the supervision of a licensed physician and with the~~
11 consent of her ~~husband~~ spouse, a wife woman is inseminated artificially as provided
12 in par. (b) with semen donated by a man who is not her husband spouse, the husband
13 spouse of the mother at the time of the conception of the child shall be the natural
14 father parent of a child conceived. ~~The husband's~~ spouse's consent must be in writing
15 and signed by him or her and ~~his wife.~~ The by the mother.

16 (c) 1. If the artificial insemination under par. (a) takes place under the
17 supervision of a licensed physician, the physician shall certify their the signatures
18 on the consent and the date of the insemination, and shall file the husband's spouse's
19 consent with the department of health services, ~~where it shall be kept.~~ If the
20 artificial insemination under par. (a) does not take place under the supervision of a
21 licensed physician, the spouses shall file the signed consent, which shall include the
22 date of the insemination, with the department of health services.

23 2. The department of health services shall keep a consent filed under subd. 1.
24 confidential and in a sealed file except as provided in s. 46.03 (7) (bm). ~~However,~~

SENATE BILL 327

1 3. Notwithstanding subd. 1., the physician's or spouses' failure to file the
2 consent form does not affect the legal status of ~~father~~ natural parent and child.

3 (d) All papers and records pertaining to the artificial insemination under par.
4 (a), whether part of the permanent record of a court or of a file held by the a
5 supervising physician or sperm bank or elsewhere, may be inspected only upon an
6 order of the court for good cause shown.

7 **SECTION 143.** 891.40 (1) (b) of the statutes is created to read:

8 891.40 (1) (b) The artificial insemination under par. (a) must satisfy any of the
9 following:

10 1. The artificial insemination takes place under the supervision of a licensed
11 physician.

12 2. The semen used for the insemination is obtained from a sperm bank.

13 **SECTION 144.** 891.40 (2) of the statutes is amended to read:

14 891.40 (2) The donor of semen provided to a licensed physician or obtained from
15 a sperm bank for use in the artificial insemination of a woman other than the donor's
16 wife spouse is not the natural ~~father~~ parent of a child conceived, bears no liability for
17 the support of the child, and has no parental rights with regard to the child.

18 **SECTION 145.** 891.40 (3) of the statutes is created to read:

19 891.40 (3) This section applies with respect to children conceived before, on,
20 or after the effective date of this subsection ... [LRB inserts date], as a result of
21 artificial insemination.

22 **SECTION 146.** 891.41 (title) of the statutes is amended to read:

23 **891.41 (title) Presumption of paternity parentage based on marriage of**
24 **the parties.**

25 **SECTION 147.** 891.41 (1) (intro.) of the statutes is amended to read:

SENATE BILL 327**SECTION 147**

1 891.41 (1) (intro.) A ~~man~~ person is presumed to be the natural ~~father~~ parent
2 of a child if any of the following applies:

3 **SECTION 148.** 891.41 (1) (a) of the statutes is amended to read:

4 891.41 (1) (a) He ~~The person~~ and the child's natural mother are or have been
5 married to each other and the child is conceived or born after marriage and before
6 the granting of a decree of legal separation, annulment, or divorce between the
7 parties.

8 **SECTION 149.** 891.41 (1) (b) of the statutes is renumbered 891.41 (1) (b) (intro.)
9 and amended to read:

10 891.41 (1) (b) (intro.) He ~~The person~~ and the child's natural mother were
11 married to each other after the child was born but ~~he~~ the person and the child's
12 natural mother had a relationship with one another during the period of time within
13 which the child was conceived and ~~no other~~ all of the following apply:

14 1. No man has been adjudicated to be the father ~~or~~.

15 2. No other person is presumed to be the ~~father~~ parent of the child under par.
16 (a).

17 **SECTION 150.** 891.41 (2) of the statutes is amended to read:

18 891.41 (2) In a legal action or proceeding, a presumption under sub. (1) is
19 rebutted by results of a genetic test, as defined in s. 767.001 (1m), that show that a
20 ~~man~~ person other than the ~~man~~ person presumed to be the ~~father~~ parent under sub.
21 (1) is not excluded as the father of the child and that the statistical probability of the
22 ~~man's~~ person's parentage is 99.0 percent or higher, even if the ~~man~~ person presumed
23 to be the ~~father~~ natural parent under sub. (1) is unavailable to submit to genetic
24 tests, as defined in s. 767.001 (1m).

25 **SECTION 151.** 891.41 (3) of the statutes is created to read:

SENATE BILL 327

1 891.41 (3) This section applies with respect to children born before, on, or after
2 the effective date of this subsection [LRB inserts date].

3 **SECTION 152.** 905.05 (title) of the statutes is amended to read:

4 **905.05** (title) ~~Husband-wife~~ **Spousal and domestic partner privilege.**

5 **SECTION 153.** 938.02 (13) of the statutes is amended to read:

6 938.02 (13) “Parent” means a ~~biological~~ natural parent, ~~a husband who has~~
7 ~~consented to the artificial insemination of his wife under s. 891.40,~~ or a parent by
8 adoption. If the juvenile is a nonmarital child who is not adopted or whose parents
9 do not subsequently intermarry under s. 767.803, “parent” includes a person
10 acknowledged under s. 767.805 or a substantially similar law of another state or
11 adjudicated to be the biological father. “Parent” does not include any person whose
12 parental rights have been terminated. For purposes of the application of s. 938.028
13 and the federal Indian Child Welfare Act, 25 USC 1901 to 1963, “parent” means a
14 ~~biological~~ natural parent of an Indian child, an Indian ~~husband~~ spouse who has
15 consented to the artificial insemination of his wife or her spouse under s. 891.40, or
16 an Indian person who has lawfully adopted an Indian juvenile, including an adoption
17 under tribal law or custom, and includes, in the case of a nonmarital Indian child who
18 is not adopted or whose parents do not subsequently intermarry under s. 767.803,
19 a person acknowledged under s. 767.805, a substantially similar law of another state,
20 or tribal law or custom to be the biological father or a person adjudicated to be the
21 biological father, but does not include any person whose parental rights have been
22 terminated.

23 **SECTION 154.** 938.396 (2g) (g) of the statutes is amended to read:

24 938.396 (2g) (g) *Paternity of juvenile.* Upon request of a court having
25 jurisdiction over actions affecting the family, an attorney responsible for support

SENATE BILL 327**SECTION 154**

1 enforcement under s. 59.53 (6) (a) or a party to a paternity proceeding under subch.
2 IX of ch. 767, the party's attorney or the guardian ad litem for the juvenile who is the
3 subject of that proceeding to review or be provided with information from the records
4 of the court assigned to exercise jurisdiction under this chapter and ch. 48 relating
5 to the paternity of a juvenile for the purpose of determining the paternity of the
6 juvenile or for the purpose of rebutting the presumption of paternity under s. 891.405
7 or the presumption of parentage under s. 891.41, the court assigned to exercise
8 jurisdiction under this chapter and ch. 48 shall open for inspection by the requester
9 its records relating to the paternity of the juvenile or disclose to the requester those
10 records.

11 **SECTION 155.** 943.20 (2) (c) of the statutes is amended to read:

12 943.20 (2) (c) "Property of another" includes property in which the actor is a
13 co-owner and property of a partnership of which the actor is a member, unless the
14 actor and the victim are ~~husband and wife~~ married to each other.

15 **SECTION 156.** 943.201 (1) (b) 8. of the statutes is amended to read:

16 943.201 (1) (b) 8. The ~~maiden name~~ surname of an individual's ~~mother~~ parent
17 before marriage if the surname was changed as a result of marriage.

18 **SECTION 157.** 943.205 (2) (b) of the statutes is amended to read:

19 943.205 (2) (b) "Owner" includes a co-owner of the person charged and a
20 partnership of which the person charged is a member, unless the person charged and
21 the victim are ~~husband and wife~~ married to each other.

22 **SECTION 158.** 990.01 (22m) of the statutes is created to read:

23 990.01 (22m) NATURAL PARENT. "Natural parent" means a parent of a child who
24 is not an adoptive parent, whether the parent is biologically related to the child or
25 not.

