



State of Wisconsin \ DEPARTMENT OF HEALTH AND SOCIAL SERVICES
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MEMORANDUM

December 20, 1983

To: Members of the Wisconsin Judiciary
From: Linda Reivitz (K)
Secretary
Subject: Percentage of Income Standard for Setting Child Support Awards

Chapter 27, Laws of 1983, created several changes in Wisconsin laws affecting the establishment and enforcement of Child Support obligations. Specifically, Section 767.395(3) authorizes the Department to adopt a standard for determining a child support obligation based upon a percentage of the gross income and assets of either or both parents. Several sections of the statutes, as described in the attached documents, permit support orders to be expressed as a percentage of income or as a fixed sum.

We have arrived at the percentage standard after months of review of pertinent literature, consultation with experts and related agency personnel, and discussion with members of the judiciary and legal professions. It is our best estimate of the amount spent on children if a family were to remain intact, and represents a balance between the interests of parental responsibility for support of children and an equitable division of financial support which acknowledges the sharing of income of both parents. We believe it can be a useful tool for setting support orders and one which will result in adequate assistance to children.

We are required by law to evaluate the efficiency and cost-effectiveness of the use of the standard, and hope to work with some of you and other court personnel in this effort. We are very hopeful that you find the standard useful and fair, and that to use it will assist families and children in Wisconsin.

Attachments (2)

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RECENT FAMILY PRACTICE LEGISLATION
1983 WISCONSIN ACT 27

The 1983-84 budget bill made several changes in Wisconsin statutes affecting the establishment and enforcement of financial support and the role of the Wisconsin Department of Health and Social Services. The impact of the changes will be most apparent in three aspects: the clerk of court record keeping process, the remedies for enforcing support orders and the form of court orders.

Court Records - Wis. Stat. ss.767.25(6) and 767.261 have been amended to impose a 1.5 percent monthly interest penalty on any child or family support amount unpaid. The changes do not require the clerk of court to calculate the interest penalty although many clerks may include the interest calculation in their record systems.

Wis. Stat. s.59.39(9m) permits the clerk of courts to contract with the Department to keep financial payments records. (That service may be necessary if orders expressed as a percentage of income are to be manageable.)

Enforcement Remedies - Section 767.265 has been changed to make the support order an income assignment by operation of law, eliminating the necessity of a written assignment by the payer. The period of delinquency necessary as a pre-condition to the assignment taking effect is reduced from twenty days to ten days.

To evaluate the use of income assignments, the statute is also amended to require courts, in up to ten counties that have agreed to participate in the evaluations, to order that support obligations be withheld from payers' wages or salary by issuing the income assignments immediately upon entry of the order. After June 30, 1987, all circuits are required to issue assignments immediately upon entry of a support order.

Wis. Stat. s.46.25(7m) gives the Department an alternative to reciprocal enforcement of support orders by authorizing it to employ collection agencies and attorneys to collect from nonresidents.

There are a number of other interesting changes. For example, Wis. Stat. s.767.08 now permits support actions by legal custodians other than parents.

Wis. Stat. s.767.15 has been amended to require that parties serve a copy of any motion or pleading on the county child support agency if any party or child receives medical assistance.

Wis. Stat. s.767.262 now permits the state to recover attorney's fees.

Wis. Stat. s.767.29(1) expressly authorizes the Department to inspect court payment records.

Wis. Stat. s.767.395 requires the Department to study the cost-effectiveness and efficiency of a percentage-of-income standard and income withholding and to report its findings to the legislature.

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