

Wisconsin Divorce Laws

CHAPTER 766 PROPERTY RIGHTS OF MARRIED PERSONS; MARITAL PROPERTY

766.01 Definitions.

In this chapter:

(1) "Acquiring" property includes reducing indebtedness on encumbered property and obtaining a lien on or security interest in property.

(2) "Appreciation" means a realized or unrealized increase in the value of property.

(2m) (a) Except as provided in pars. (b) and (c), "credit" means the right granted by a creditor to defer payment of a debt, incur debt and defer its payment or purchase property or services and defer payment for the property or services.

(b) If used in connection with a transaction governed under chs. 421 to 427, "credit" has the meaning specified in s. 421.301 (14).

(c) Paragraph (a) does not apply to s. 766.56 (2) (c) and (d).

(2r) (a) Except as provided in pars. (b) and (c), "creditor" means a person that regularly extends credit.

(b) If used in connection with a transaction governed under chs. 421 to 427, "creditor" has the meaning specified in s. 421.301 (16).

(c) Paragraph (a) does not apply to s. 766.55 (3) to (4m), 766.56 (2) (c) and (d) or 766.61 (4).

(3) "Decree" means a judgment or other order of a court.

(3m) "Deferred employment benefit" means a benefit from a deferred employment benefit plan.

(4) (a) "Deferred employment benefit plan" means a plan, fund, program or other arrangement under which compensation or benefits from employment are expressly, or as a result of surrounding circumstances, deferred to a later date or the happening of a future event. "Deferred employment benefit plan" includes but is not limited to a pension, profit sharing or stock-bonus plan, an employee stock-ownership or stock-purchase plan, a savings or thrift plan, an annuity plan, a qualified bond-purchase plan, a self-employed retirement plan, a simplified employee pension and a deferred compensation agreement or plan.

(b) "Deferred employment benefit plan" does not include life, health, accident or other insurance or a plan, fund, program or other arrangement providing benefits similar to insurance benefits, except to the extent that benefits under the plan:

1. Have a present value that is immediately realizable in cash at the option of the employee;
2. Constitute an unearned premium for the coverage;
3. Represent a right to compensation for loss of income during disability; or
4. Represent a right to payment of expenses incurred before time of valuation.

(5) "Determination date" means the last to occur of the following:

(a) Marriage.

(b) 12:01 a.m. on the date that both spouses are domiciled in this state.

(c) 12:01 a.m. on January 1, 1986.

(6) "Disposition at death" means transfer of property by will, intestate succession, nontestamentary transfer or other means that takes effect at the transferor's death.

(7) "Dissolution" means termination of a marriage by a decree of dissolution, divorce, annulment or declaration of invalidity or entry of a decree of legal separation or separate maintenance. The term does not include a decree resulting from an action available under ch. 767 which is not an annulment, a divorce or a legal separation.

(8) "During marriage" means a period in which both spouses are domiciled in this state that begins at the determination date and ends at dissolution or at the death of a spouse.

(9) (a) Except as provided in pars. (b) to (d), property is "held" by a person only if a document of title to the property is registered, recorded or filed in a public office in the name of the person or a writing that customarily operates as a document of title to the type of property is issued for the property in the person's name.

(b) An account is "held" by the person who, by the terms of the account, has a present right, subject to request, to payment from the account other than as an agent. Accounts that are so "held" include accounts under s. 705.01 (1) and brokerage accounts.

(c) An uncertificated security, as defined under s. 408.102 (1) (r), is "held" by the person identified as the registered owner of the security upon books maintained for that purpose by or on behalf

of the issuer. If the registered owner of an uncertificated security is identified as a brokerage account, the security is "held" as provided under par. (b).

(d) The property rights, as specified and described in ss. 178.21 and 178.22, of a partner in a general partnership are "held" by the partner.

(10) "Income" means wages, salaries, commissions, bonuses, gratuities, payments in kind, deferred employment benefits, proceeds, other than death benefits, of any health, accident or disability insurance policy or of any plan, fund, program or other arrangement providing benefits similar to those forms of insurance, other economic benefits having value attributable to the effort of a spouse, dividends, dividends on life insurance and annuity contracts to the extent that the aggregate of the dividends exceeds the aggregate premiums paid, interest, income distributed from trusts and estates, and net rents and other net returns attributable to investment, rental, licensing or other use of property, unless attributable to a return of capital or to appreciation.

(11) "Management and control" means the right to buy, sell, use, transfer, exchange, abandon, lease, consume, expend, assign, create a security interest in, mortgage, encumber, dispose of, institute or defend a civil action regarding or otherwise deal with property as if it were property of an unmarried person.

(12) "Marital property agreement" means an agreement that complies with s. 766.58, 766.585, 766.587, 766.588 or 766.589. The term does not include the financial disclosure form under s. 766.588 (9) or 766.589 (10).

(13) A person has "notice" of a fact if the person has knowledge of it, receives a notification of it, or has reason to know that it exists from the facts and circumstances known to the person.

(15) "Property" means an interest, present or future, legal or equitable, vested or contingent, in real or personal property.

(16) "Written consent" means a document signed by a person against whose interests it is sought to be enforced.

766.03 Applicability.

(1) Except as provided in sub. (4) and ss. 766.58 (5), (11) and (12) and 766.585, this chapter first applies to spouses upon their determination date.

(2) After this chapter first applies to spouses, it continues to apply to spouses during marriage. Section 766.75 applies after a dissolution. If at the time of the death of a spouse both spouses are domiciled in this state, the provisions of this chapter which have application after the death of a spouse apply.

(3) The cessation of the application of this chapter because a spouse is no longer domiciled in this state does not by itself affect any property, right, interest or remedy acquired under this chapter by either spouse or by a 3rd party or the satisfaction of any obligation incurred by a spouse under this chapter.

(4) Section 766.97 applies to a spouse in this state whether or not that person is domiciled in this state.

(5) Any property, right, interest or remedy of a spouse or 3rd party acquired or property that is available to satisfy an obligation incurred on or after January 1, 1986, and before May 3, 1988, shall not be adversely affected by 1987 Wisconsin Act 393, sections 10, 11, 15, 16, 27, 29 and 32.

(6) This chapter does not affect the property available to satisfy an obligation incurred by a spouse that is attributable to an obligation arising when one or both spouses are not domiciled in this state or to an act or omission occurring when one or both spouses are not domiciled in this state.

766.15 Responsibility between spouses.

(1) Each spouse shall act in good faith with respect to the other spouse in matters involving marital property or other property of the other spouse. This obligation may not be varied by a marital property agreement.

(2) Management and control by a spouse of that spouse's property that is not marital property in a manner that limits, diminishes or fails to produce income from that property does not violate sub. (1).

766.17 Variation by marital property agreement.

(1) Except as provided in ss. 766.15, 766.55 (4m), 766.57 (3) and 766.58 (2), a marital property agreement may vary the effect of this chapter.

(2) Section 859.18 (6) governs the effect of a marital property agreement upon property available for satisfaction of obligations after the death of a spouse.

766.31 Classification of property of spouses.

(1) All property of spouses is marital property except that which is classified otherwise by this chapter and that which is described in sub. (8).

(2) All property of spouses is presumed to be marital property.

(3) Each spouse has a present undivided one-half interest in each item of marital property, but the marital property interest of the nonemployee spouse in a deferred employment benefit plan or in assets in an individual retirement account that are traceable to the rollover of a deferred employment benefit plan terminates at the death of the nonemployee spouse if he or she predeceases the employee spouse.

(4) Except as provided under subs. (7) (a), (7p) and (10), income earned or accrued by a spouse or attributable to property of a spouse during marriage and after the determination date is marital property.

(5) The transfer of property to a trust does not by itself change the classification of the property.

(6) Property owned at a marriage which occurs after 12:01 a.m. on January 1, 1986, is individual property of the owning spouse if, at the marriage, both spouses are domiciled in this state.

(7) Property acquired by a spouse during marriage and after the determination date is individual property if acquired by any of the following means:

(a) By gift during lifetime or by a disposition at death by a 3rd person to that spouse and not to both spouses. A distribution of principal or income from a trust created by a 3rd person to one spouse is the individual property of that spouse unless the trust provides otherwise.

(b) In exchange for or with the proceeds of other individual property of the spouse.

(c) From appreciation of the spouse's individual property except to the extent that the appreciation is classified as marital property under s. 766.63.

(d) By a decree, marital property agreement or reclassification under sub. (10) designating it as the individual property of the spouse.

(e) As a recovery for damage to property under s. 766.70, except as specifically provided otherwise in a decree or marital property agreement.

(f) As a recovery for personal injury except for the amount of that recovery attributable to expenses paid or otherwise satisfied from marital property and except for the amount attributable to loss of income during marriage.

(7p) Income attributable to all or specified property other than marital property, with respect to which a spouse has executed under s. 766.59 a statement unilaterally designating that income as his or her individual property, is individual property.

(8) Except as provided otherwise in this chapter, the enactment of this chapter does not alter the classification and ownership rights of property acquired before the determination date or the classification and ownership rights of property acquired after the determination date in exchange for or with the proceeds of property acquired before the determination date.

(9) Except as provided otherwise in this chapter and except to the extent that it would affect the spouse's ownership rights in the property existing before the determination date, during marriage the interest of a spouse in property owned immediately before the determination date is treated as if it were individual property.

(10) Spouses may reclassify their property by gift, conveyance, as defined in s. 706.01 (4), signed by both spouses, marital property agreement, written consent under s. 766.61 (3) (e) or unilateral statement under s. 766.59 and, if the property is a security, as defined in s. 705.21 (11), by an instrument, signed by both spouses, which conveys an interest in the security. If a spouse gives property to the other spouse and intends at the time the gift is made that the property be the individual property of the donee spouse, the income from the property is the individual property of the donee spouse unless a contrary intent of the donor spouse regarding the classification of income is established.

766.51 Management and control of property of spouses.

(1) A spouse acting alone may manage and control:

(a) That spouse's property that is not marital property.

- (am) Except as provided in subs. (2) and (3), marital property held in that spouse's name alone or not held in the name of either spouse.
- (b) Marital property held in the names of both spouses in the alternative, including marital property held in a form designating the holder by the words "(name of one spouse) or (name of other spouse)".
- (d) A policy of insurance if that spouse is designated as the owner on the records of the policy issuer.
- (e) Any right of an employee under a deferred employment benefit plan that accrues as a result of that spouse's employment.
- (f) A claim for relief vested in that spouse by other law.
- (1m) (a) Notwithstanding any provision in this section except par. (b), for the purpose of obtaining an extension of credit for an obligation described under s. 766.55 (2) (b), a spouse acting alone may manage and control all of the marital property.
- (b) Unless the spouse acting alone may otherwise under this section manage and control the property, the right to manage and control marital property under this subsection does not include the right to manage and control marital property described in s. 766.70 (3) (a) to (d) or the right to assign, create a security interest in, mortgage or otherwise encumber marital property.
- (2) Spouses may manage and control marital property held in the names of both spouses other than in the alternative only if they act together.
- (3) The right to manage and control marital property transferred to a trust is determined by the terms of the trust.
- (4) The right to manage and control marital property permits gifts of that property, subject to remedies under this chapter.
- (5) The right to manage and control marital property does not determine the classification of property of the spouses and does not rebut the presumption under s. 766.31 (2).
- (6) The enactment of this chapter does not affect the right to manage and control any property of either or both spouses acquired before the determination date.
- (7) A court may appoint a conservator or guardian under ch. 880 to exercise a disabled spouse's right to manage and control marital property.
- (8) This section does not affect s. 706.02 (1) (f).
- (9) If an executory contract for the sale of property is entered into by a person having the right of management and control of the property, the rights of all persons then having or thereafter acquiring an interest in the property under this chapter are subject to the terms of the executory contract. This subsection applies to contracts entered into before or after the determination date.
- (10) At the death of a spouse if property described under s. 766.70 (3) (a), (b) or (d) is held by either spouse, but not in the names of both spouses, such property may be subject to the management and control of the holding spouse as provided under s. 857.015.

766.53 Gifts of marital property to 3rd persons.

A spouse acting alone may give to a 3rd person marital property that the spouse has the right to manage and control only if the value of the marital property given to the 3rd person does not aggregate more than either \$1,000 in a calendar year, or a larger amount if, when made, the gift is reasonable in amount considering the economic position of the spouses. Any other gift of marital property to a 3rd person is subject to s. 766.70 (6) unless both spouses act together in making the gift. Under this section and for the purpose of s. 766.70 (6) (a), in the case of a gift of marital property by a spouse to a 3rd person in which the donor spouse has retained an interest, the gift shall be valued at the full value of the entire transfer of marital property, regardless of any retained interest or interest donated to the other spouse. For purposes of this section only, a gift of a life insurance policy by a spouse to a 3rd person shall be valued at the amount payable under the policy if the insured died at the time the gift was made.

766.55 Obligations of spouses.

(1) An obligation incurred by a spouse during marriage, including one attributable to an act or omission during marriage, is presumed to be incurred in the interest of the marriage or the family. A statement separately signed by the obligated or incurring spouse at or before the time the obligation is incurred stating that the obligation is or will be incurred in the interest of the marriage or the family is conclusive evidence that the obligation to which the statement refers is an

obligation in the interest of the marriage or family, except that the existence of that statement does not affect any interspousal right or remedy.

(2) After the determination date all of the following apply:

(a) A spouse's obligation to satisfy a duty of support owed to the other spouse or to a child of the marriage may be satisfied only from all marital property and all other property of the obligated spouse.

(b) An obligation incurred by a spouse in the interest of the marriage or the family may be satisfied only from all marital property and all other property of the incurring spouse.

(c) 1. An obligation incurred by a spouse before or during marriage that is attributable to an obligation arising before marriage or to an act or omission occurring before marriage may be satisfied only from property of that spouse that is not marital property and from that part of marital property which would have been the property of that spouse but for the marriage.

2. An obligation incurred by a spouse before, on or after January 1, 1986, that is attributable to an obligation arising before January 1, 1986, or to an act or omission occurring before January 1, 1986, may be satisfied only from property of that spouse that is not marital property and from that part of marital property which would have been the property of that spouse but for the enactment of this chapter.

(cm) An obligation incurred by a spouse during marriage, resulting from a tort committed by the spouse during marriage, may be satisfied from the property of that spouse that is not marital property and from that spouse's interest in marital property.

(d) Any other obligation incurred by a spouse during marriage, including one attributable to an act or omission during marriage, may be satisfied only from property of that spouse that is not marital property and from that spouse's interest in marital property, in that order.

(2m) Unless the dissolution decree or any amendment to the decree so provides, no income of a nonincurring spouse is available for satisfaction of an obligation under sub. (2) (b) after entry of the decree. Marital property assigned to each spouse under that decree is available for satisfaction of such an obligation to the extent of the value of the marital property at the date of the decree.

If a dissolution decree provides that the nonincurring spouse is responsible for satisfaction of the obligation, the obligation may be satisfied as if both spouses had incurred the obligation.

(3) This chapter does not alter the relationship between spouses and their creditors with respect to any property or obligation in existence on the determination date. An obligation of a guarantor, surety or indemnitor arising after the determination date under a guaranty or contract of indemnity or surety executed before the determination date is an obligation in existence on the determination date.

(4) Any written consent signed by a creditor which diminishes the rights of the creditor provided in this section is binding on the creditor.

(4m) Except as provided under s. 766.56 (2) (c), no provision of a marital property agreement or of a decree under s. 766.70 adversely affects the interest of a creditor unless the creditor had actual knowledge of that provision when the obligation to that creditor was incurred or, in the case of an open-end plan, as defined under s. 766.555 (1) (a), when the plan was entered into. If a creditor obtains actual knowledge of a provision of a marital property agreement or decree after an obligation is incurred or an open-end plan is entered into, the provision does not adversely affect the interest of the creditor with respect to that obligation or plan, including any renewal, extension, modification or use of the obligation or plan. The effect of this subsection may not be varied by a marital property agreement or a decree. This subsection does not affect the application of ch. 706.

(5) This chapter does not affect the exemption of any property of spouses from availability for satisfaction of an obligation, provided by other law.

(6) Subsections (2) and (2m) and s. 859.18 do not affect the satisfaction of an obligation of a spouse from collateral or other security for that obligation.

(7) Property available under this chapter to satisfy an obligation of a spouse is available regardless of whether the property is located in this state or whether this chapter no longer applies because one or both spouses are no longer domiciled in this state.

(8) After the death of a spouse, property is available for satisfaction of obligations as provided in s. 859.18.

766.56 Credit transactions with married persons.

(1) If a spouse applies for credit that will result in an obligation described under s. 766.55 (2) (b), the creditor, in evaluating the spouse's creditworthiness, shall consider all marital property available under s. 766.55 (2) (b) to satisfy the obligation in the same manner that the creditor, in

evaluating the creditworthiness of an unmarried credit applicant, considers the property of an unmarried credit applicant available to satisfy the obligation.

(2) (a) The recording, under s. 59.43 (1) (r), of a marital property agreement or a unilateral statement or revocation under s. 766.59 does not constitute actual or constructive notice to 3rd parties. This paragraph does not affect the application of ch. 706.

(b) A creditor shall include in every written application for an extension of credit that is governed by chs. 421 to 427 a notice that no provision of a marital property agreement, a unilateral statement under s. 766.59 or a court decree under s. 766.70 adversely affects the interest of the creditor unless the creditor, prior to the time the credit is granted, is furnished a copy of the agreement, statement or decree or has actual knowledge of the adverse provision when the obligation to the creditor is incurred. The notice requirement under this paragraph does not apply to renewals, extensions or modifications or the use of an open-end credit plan.

(c) If the applicant spouse in any credit transaction discloses the existence of a currently effective marital property agreement or a decree issued under s. 766.70 and provides a copy of it to the creditor prior to the time credit is granted or, in the case of an open-end plan, as defined under s. 766.555 (1) (a), prior to the time the open-end plan is entered into, the creditor is bound by any property classification, characterization of an obligation, or management and control right contained in the agreement or decree. If a spouse discloses the existence of an agreement or decree after credit is granted or an open-end plan is entered into, the creditor is not bound under this paragraph by the agreement or decree with respect to that obligation or open-end plan, including any renewals, extensions, modifications or use of the obligation or open-end plan.

(d) When a person applies for credit, the creditor may inquire as to whether the person is married, unmarried or separated, under a decree of legal separation.

(3) (a) In this subsection, "extends credit" means that an open-end credit plan, as defined under s. 421.301 (27), is established after the determination date, or that credit other than open-end credit is extended after the determination date. The term does not include renewals, extensions, modifications or the use of an open-end credit plan. This subsection does not apply to an open-end credit plan described under s. 766.555 (2) or (3).

(b) Except as provided in par. (c), if a creditor extends credit to a spouse in a credit transaction governed by chs. 421 to 427 and the extension of credit may result in an obligation described under s. 766.55 (2) (b), the creditor shall give the nonapplicant spouse written notice of the extension of credit before any payment is due. The notice requirement may be satisfied by providing a copy of the instrument, document, agreement or contract evidencing the obligation to pay or any required credit disclosure which is given to the applicant spouse, or by providing a separate writing briefly describing the nature of the credit extended. Notice is considered given on the date it is mailed to the address of the nonapplicant spouse provided to the creditor by the applicant spouse. If the applicant spouse informs the creditor that the spouses reside at the same address, the notice may be enclosed in an envelope addressed to the nonapplicant spouse or both spouses.

(c) Notice is considered given under par. (b) if the nonapplicant spouse has actual knowledge that the credit is extended or waives the notice requirement in a signed writing.

(4) (a) Any financial organization or any other credit-granting commercial institution that violates sub. (1) is subject to the penalties under s. 138.20.

(b) Except as provided in par. (c), a creditor that fails to give notice under sub. (2) (b) is liable to each applicant spouse in the amount of \$25. Except as provided in par. (c), a creditor that fails to give notice under sub. (3) is liable to the nonapplicant spouse in the amount of \$25.

(c) A creditor is not subject to a penalty under par. (b) if the creditor shows by a preponderance of the evidence that failure to give notice was unintentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid such error.

766.565 Relationship to consumer act.

(1) In this section, "open-end credit plan" has the meaning given under s. 421.301 (27). The term includes only those plans governed by chs. 421 to 427.

(2) Except as provided under sub. (6), this section does not impose any additional or separate notice requirements on a creditor.

(3) The spouse of a person who incurs an obligation described under s. 766.55 (2) (b) and governed by chs. 421 to 427 may exercise rights and remedies available to the incurring spouse under chs. 421 to 427.

(4) Section 422.305 does not apply to the spouse of a person who incurs an obligation described under s. 766.55 (2) (b) unless that spouse also signs the writing evidencing the credit transaction or a separate guarantee or similar instrument and unless the other requirements of s. 422.305 are met.

(5) The spouse of a person who establishes an open-end credit plan that may result in an obligation described under s. 766.55 (2) (b) may terminate the plan by giving written notice of termination to the creditor. A writing evidencing an open-end credit plan may include a provision that authorizes the creditor to declare the account balance due and payable upon receipt of notice of termination, notwithstanding s. 425.103 or 425.105. Notice of termination does not affect the liability of the incurring spouse or the availability of the incurring spouse's interest in marital property or other property of that spouse to satisfy obligations incurred under the open-end credit plan, both before and after the notice of termination. Subject to the limits under s. 422.4155 (1), the terminating spouse's interest in marital property continues to be available under s. 766.55 (2) (b) to satisfy obligations incurred in the interest of the marriage or family both before and after notice of the termination. A creditor may consider in its evaluation of subsequent applications for credit the fact that a prior open-end credit plan offered by the creditor and entered into by the applicant spouse has been terminated under this subsection.

(6) Written notice to a spouse under s. 422.415 (2) (a) or (c) concerning an increase in the rate of finance charge is not effective with respect to the interest of the nonincurring spouse in marital property unless notice is given to both spouses. Notice is considered given on the date it is mailed by the creditor. The notice may be enclosed in an envelope addressed to the incurring spouse at the last-known address of that spouse appearing on the records of the creditor if a statement appears on the face of the envelope alerting the spouses that the envelope contains important information for both spouses.

(7) With respect to consumer credit transactions, the division of banking may promulgate rules to interpret this chapter and chs. 421 to 427, consistent with the purposes and policies of this chapter and chs. 421 to 427.

766.57 Protection of bona fide purchasers dealing with spouses.

(1) In this section:

(a) "Bona fide purchaser" means a purchaser of property for value who was not knowingly a party to fraud or illegality affecting the interest of the spouses or other parties to the transaction, does not have notice of an adverse claim by a spouse and acted in the transaction in good faith.

(b) "Purchase" means to acquire property by sale, lease, discount, negotiation, mortgage, pledge or lien, or otherwise to deal with property in a voluntary transaction other than a gift.

(c) A purchaser gives "value" for property acquired in return for a binding commitment to extend credit, as security for or in total or partial satisfaction of a preexisting claim, by accepting delivery pursuant to a preexisting contract for purchase, or, generally, in return for any consideration sufficient to support a simple contract.

(2) Notice of the existence of a marital property agreement, a marriage or the termination of a marriage does not affect the status of a purchaser as a bona fide purchaser.

(3) Marital property purchased by a bona fide purchaser from a spouse having the right to manage and control the property under s. 766.51 is acquired free of any claim of the other spouse and of any claim asserted through or under the other spouse. The effect of this subsection may not be varied by a marital property agreement.

766.575 Protection of trustees dealing with spouses.

(1) In this section:

(a) "Business day" has the meaning given under s. 421.301 (6).

(b) "Governing instrument" means the contract or other instrument pursuant to which a trustee has possession or control of property. The term includes, in the case of trustees whose rights, duties and responsibilities are fixed by court order or statute or both, the court order and the applicable statutory provisions as modified by any court order, as they would apply if this chapter had not been enacted.

(c) "Notice of claim" means a written notice, by or on behalf of a spouse, former spouse, surviving spouse or person claiming under a deceased spouse's disposition at death, that the person claims to be entitled to property in the trustee's possession or control, specifying the portion of property to which the claim relates.

(d) "Property" includes, in addition to the meaning given under s. 766.01 (15), any proceeds of property, any income earned on property or derived from property and any income or proceeds derived from proceeds or income previously received and reinvested.

(e) "Trustee" has the meaning given under s. 701.01 (8).

(2) Except as provided in sub. (3), in a court order or in the terms of a trust, the classification of property in the possession or control of a trustee shall not affect the trustee's right and duty to administer, manage and distribute the property in accordance with the terms of the governing instrument and the trustee may rely on and act in accordance with those terms.

(3) (a) If at least 5 business days before distributing property in accordance with the terms of a governing instrument a trustee has received at its principal business office a notice of claim, the trustee shall notify the persons to whom the property would otherwise be distributed, whether as a matter of right or in the exercise of any discretion granted under the governing instrument, of the receipt of the notice of claim and shall suspend the distribution of the portion of property to which the claim relates for 14 business days.

(b) If within 14 business days after receiving the notice of claim the trustee receives, as purporting to support the claim, a decree, marital property agreement or proof that a legal action has been commenced, including a copy of an election filed pursuant to s. 861.08 (1), to establish the validity of the claim, the trustee shall suspend distribution of the portion of the property to which the claim relates pending resolution of the validity of the claim.

(c) If documentation purporting to support the claim is not submitted as described in par. (b), the trustee may proceed to distribute the property as if the notice of claim had not been received.

(4) A trustee is not liable to any person for any claim for damages as a result of distribution of property in accordance with the terms of the governing instrument prior to its receipt of a notice of claim under sub. (3) or for any damages claimed as a result of suspension of distribution under this section. A person who files a notice of claim under sub. (3) is not entitled to recover fees or expenses charged against such property by the trustee prior to or in connection with the establishment of the validity of his or her claim. A trustee shall pay interest or earnings which accrue during the suspension of any action under sub. (3).

766.58 Marital property agreements.

(1) A marital property agreement shall be a document signed by both spouses. Only the spouses may be parties to a marital property agreement. A marital property agreement is enforceable without consideration.

(2) A marital property agreement may not adversely affect the right of a child to support.

(3) Except as provided in ss. 766.15, 766.55 (4m), 766.57 (3) and 859.18 (6), and in sub. (2), in a marital property agreement spouses may agree with respect to any of the following:

(a) Rights in and obligations with respect to any of either or both spouses' property whenever and wherever acquired or located.

(b) Management and control of any of either or both spouses' property.

(c) Disposition of any of either or both spouses' property upon dissolution or death or upon the occurrence or nonoccurrence of any other event.

(d) Modification or elimination of spousal support, except as provided in sub. (9).

(e) Making a will, trust or other arrangement to carry out the marital property agreement.

(f) Providing that upon the death of either spouse any of either or both spouses' property, including after-acquired property, passes without probate to a designated person, trust or other entity by nontestamentary disposition. Any such provision in a marital property agreement is revoked upon dissolution of the marriage as provided in s. 767.266 (1). If a marital property agreement provides for the nontestamentary disposition of property, without probate, at the death of the 2nd spouse, at any time after the death of the first spouse the surviving spouse may amend the marital property agreement with regard to property to be disposed of at his or her death unless the marital property agreement expressly provides otherwise and except to the extent property is held in a trust expressly established under the marital property agreement.

(g) Choice of law governing construction of the marital property agreement.

(h) Any other matter affecting either or both spouses' property not in violation of public policy or a statute imposing a criminal penalty.

(3m) Chapter 854 applies to transfers at death under a marital property agreement.

(4) A marital property agreement may be amended or revoked only by a later marital property agreement.

- (5) Persons intending to marry each other may enter into a marital property agreement as if married, but the marital property agreement becomes effective only upon their marriage.
- (6) A marital property agreement executed before or during marriage is not enforceable if the spouse against whom enforcement is sought proves any of the following:
- (a) The marital property agreement was unconscionable when made.
 - (b) That spouse did not execute the marital property agreement voluntarily.
 - (c) Before execution of the marital property agreement, that spouse:
 - 1. Did not receive fair and reasonable disclosure, under the circumstances, of the other spouse's property or financial obligations; and
 - 2. Did not have notice of the other spouse's property or financial obligations.
- (7) (a) Unless the marital property agreement expressly provides otherwise, a marital property agreement that classifies a deferred employment benefit plan or an individual retirement account as marital property does not affect the operation of s. 766.62 (5).
- (b) Unless the marital property agreement expressly provides otherwise, marital property agreement that classifies as marital property the noninsured spouse's interest in a policy that designates the other spouse as the owner and insured does not affect the operation of s. 766.61 (7). In this paragraph, "owner" has the meaning given in s. 766.61 (1) (a) and "policy" has the meaning given in s. 766.61 (1) (c).
- (8) The issue of whether a marital property agreement is unconscionable is for the court to decide as a matter of law. In the event that legal counsel is retained in connection with a marital property agreement the fact that both parties are represented by one counsel or that one party is represented by counsel and the other party is not represented by counsel does not by itself make a marital property agreement unconscionable or otherwise affect its enforceability.
- (9) (a) Modification or elimination of spousal support during the marriage may not result in a spouse having less than necessary and adequate support, taking into consideration all sources of support.
- (b) If a marital property agreement modifies or eliminates spousal support so as to make one spouse eligible for public assistance at the time of dissolution of the marriage or termination of the marriage by death, the court may require the other spouse or the other spouse's estate to provide support necessary to avoid that eligibility, notwithstanding the marital property agreement.
- (10) If the spouses agree in writing to arbitrate any controversies arising under this chapter or a marital property agreement, the arbitration agreement is enforceable under ch. 788.
- (11) Married persons or persons intending to marry each other may record a marital property agreement in the county register of deeds office under s. 59.43 (1) (r).
- (12) (a) A provision of a document signed before the determination date by spouses or unmarried persons who subsequently married each other, which provision affects the property of either of them and is enforceable by either of them without reference to this chapter, is not affected by this chapter except as provided otherwise in a marital property agreement made after the determination date.
- (b) If a provision or an amendment to a provision in a document described under par. (a) is intended to negate, apply or modify any right or obligation which may be acquired under 1983 Wisconsin Act 186, 1985 Wisconsin Act 37, or a community property system, the provision or amendment is enforceable after the determination date if the document was enforceable when executed or, if it is executed after April 4, 1984, either was enforceable when executed or would be enforceable if it were executed after the determination date.
- (c) This subsection does not affect a marital property agreement executed under s. 766.585.
- (13) (a) With respect to a provision of a marital property agreement that is effective upon or after dissolution of the marriage or termination of the marriage by death, any statute of limitations applicable to enforcement of the provision is tolled until dissolution of the marriage or termination of the marriage by death, respectively.
- (b) After the death of a spouse, no action concerning a marital property agreement may be brought later than 6 months after the inventory is filed under s. 858.01. If an amended inventory is filed, the action may be brought within 6 months after the filing of the amended inventory if the action relates to information contained in the amended inventory that was not contained in a previous inventory.
- (c) The court may extend the 6-month period under par. (b) for cause if a motion for extension is made within the applicable 6-month period.
- (14) Limitations on the effect of marital property agreements for state income tax purposes are set forth in ch. 71.

766.585 Marital property agreements before determination date.

(1) After April 4, 1984, and before their determination date, spouses or unmarried persons who subsequently marry each other may execute a marital property agreement under s. 766.58, which is intended to apply only after their determination date, to the same extent that persons may execute a marital property agreement under s. 766.58 after their determination date. The marital property agreement does not apply before the persons' determination date. Upon application, the marital property agreement has the same effect as if executed after the persons' determination date.

(2) Notwithstanding the execution of the marital property agreement before the persons' determination date and notwithstanding the January 1, 1986, effective date of 1983 Wisconsin Act 186 and 1985 Wisconsin Act 37, the law in effect on the date when the marital property agreement applies, not on the date of execution of the marital property agreement, applies to the execution and enforceability or other legal effect of the marital property agreement.

(3) A document executed by spouses or unmarried persons who subsequently marry each other which is intended to apply in whole or in part before their determination date is governed by s. 766.58 (12).

766.587 Statutory individual property classification agreement.

(1) GENERALLY. (a) Spouses may execute a statutory individual property classification agreement under this section to classify all the property of the spouses, including property presently owned and property acquired in the future but before the agreement terminates, as the individual property of the owner. Ownership of the property of the spouses is determined as if it were December 31, 1985. Except as provided in this section, s. 766.58 applies to an agreement under this section. Persons intending to marry each other may execute an agreement as if married, but the agreement becomes effective only upon their marriage. The form of the agreement is set forth in sub. (7).

(b) If, while an agreement is in effect, spouses acquire property as a joint tenancy exclusively between themselves or as survivorship marital property, the property is classified as the individual property of the owners and is owned as a joint tenancy. If, while an agreement is in effect, spouses acquire property held in a form as provided under s. 766.60 (1) or (2), the property is classified as the individual property of the owners and is owned as a tenancy in common.

(2) EXECUTION. An agreement under this section is executed when signed by both spouses.

(3) EFFECTIVE PERIOD. (a) An agreement under this section may be executed on or after January 1, 1986. If executed before January 1, 1986, it is effective on January 1, 1986, or upon the marriage of the parties, whichever is later. If executed on or after January 1, 1986, it is effective when executed or upon the marriage of the parties, whichever is later.

(b) An agreement under this section terminates on January 1, 1987. Termination does not affect the classification of property acquired before termination. Property acquired after termination is classified as provided under this chapter.

(4) ENFORCEABILITY. An agreement under this section is enforceable without the disclosure of a spouse's property or financial obligations to the other spouse.

(5) EFFECT ON SUPPORT AND AT DIVORCE. An agreement under this section does not affect the duty of support that spouses have to each other or the determination of property division under s. 767.255 or of maintenance payments under s. 767.26.

(6) RIGHTS OF SURVIVING SPOUSE. Notwithstanding the fact that an agreement under this section is in effect at, or has terminated before, the death of a spouse who is a party to the agreement, the surviving spouse may elect under s. 861.02. For the purpose of the election, in addition to the property described in s. 851.055, property acquired during marriage and after the determination date which would have been marital property but for the agreement is deferred marital property.

(7) STATUTORY INDIVIDUAL PROPERTY CLASSIFICATION AGREEMENT FORM. The following is the form for a statutory individual property classification agreement under this section:

NOTICE TO PERSONS WHO SIGN THIS AGREEMENT:

1. EFFECTIVE JANUARY 1, 1986, A NEW PROPERTY LAW, KNOWN AS THE MARITAL PROPERTY SYSTEM, GOVERNS THE PROPERTY RIGHTS OF MARRIED PERSONS IN WISCONSIN. UNDER THE MARITAL PROPERTY SYSTEM, EACH SPOUSE HAS A 50% OWNERSHIP INTEREST IN PROPERTY ACQUIRED DURING MARRIAGE DUE TO THE EFFORTS OF EITHER OR BOTH SPOUSES, SUCH AS WAGES, DEFERRED EMPLOYMENT BENEFITS, LIFE INSURANCE, INCOME FROM PROPERTY AND

CERTAIN APPRECIATION OF PROPERTY. BY ENTERING INTO THIS AGREEMENT, YOU HAVE AGREED TO RELINQUISH YOUR RIGHTS TO AN AUTOMATIC OWNERSHIP INTEREST IN SUCH PROPERTY ACQUIRED DURING 1986.

2. CLASSIFICATION BY THIS AGREEMENT OF YOUR AND YOUR SPOUSE'S PROPERTY AS THE INDIVIDUAL PROPERTY OF THE OWNER MAY AFFECT YOUR ACCESS TO CREDIT, THE ACCUMULATION OF AND THE MANAGEMENT AND CONTROL OF PROPERTY BY YOU DURING YOUR MARRIAGE AND THE AMOUNT OF PROPERTY YOU HAVE TO DISPOSE OF AT YOUR DEATH.

3. THIS AGREEMENT TERMINATES ON JANUARY 1, 1987. IF YOU WISH TO CHANGE THIS AGREEMENT BEFORE JANUARY 1, 1987, OR IF YOU WISH TO CONTINUE TO CLASSIFY YOUR PROPERTY AS PROVIDED IN THIS AGREEMENT AFTER IT TERMINATES ON JANUARY 1, 1987, YOU MAY DO SO BY EXECUTING A NEW MARITAL PROPERTY AGREEMENT THAT COMPLIES WITH SECTION 766.58, WISCONSIN STATUTES.

4. THIS AGREEMENT DOES NOT AFFECT RIGHTS AT DIVORCE.

5. IN GENERAL, THIS AGREEMENT IS NOT BINDING ON CREDITORS UNLESS THE CREDITOR IS FURNISHED A COPY OF THE AGREEMENT BEFORE CREDIT IS EXTENDED. IN ADDITION, THIRD PARTIES OTHER THAN CREDITORS MIGHT NOT BE BOUND BY THIS AGREEMENT UNLESS THEY HAVE ACTUAL KNOWLEDGE OF THE TERMS OF THE AGREEMENT.

6. THIS AGREEMENT MAY AFFECT YOUR TAXES.

7. THIS AGREEMENT MAY AFFECT ANY PREVIOUS MARRIAGE AGREEMENT ENTERED INTO BY YOU AND YOUR SPOUSE.

8. THIS AGREEMENT DOES NOT ALTER THE LEGAL DUTY OF SUPPORT THAT SPOUSES HAVE TO EACH OTHER OR THAT A SPOUSE HAS TO HIS OR HER CHILDREN.

9. BOTH SPOUSES MUST SIGN THIS AGREEMENT. IF SIGNED BEFORE JANUARY 1, 1986, IT IS EFFECTIVE ON JANUARY 1, 1986, OR THE DATE THE PARTIES MARRY, WHICHEVER IS LATER. IF SIGNED ON OR AFTER JANUARY 1, 1986, IT IS EFFECTIVE ON THE DATE SIGNED OR THE DATE THE PARTIES MARRY, WHICHEVER IS LATER. STATUTORY INDIVIDUAL PROPERTY CLASSIFICATION AGREEMENT

(Pursuant to Section 766.587, Wisconsin Statutes)

This agreement is made and entered into by and, (husband and wife) (who intend to marry) (strike one). The parties to this agreement agree to classify all their property, including property owned by them now and property acquired before January 1, 1987, as the individual property of the owning spouse, and agree that ownership of their property shall be determined as if it were December 31, 1985.

This agreement terminates on January 1, 1987.

Signature Date

Print Name

Here:

Address:

Signature Date

Print Name

Here:

Address:

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

(8) OTHER MEANS OF CLASSIFICATION. This section is not the exclusive means by which spouses may, before January 1, 1987, classify their property as the individual property of the owner.

766.588 Statutory terminable marital property classification agreement.

(1) GENERALLY. (a) Spouses may execute an agreement under this section to classify the property of the spouses presently owned and property acquired, reclassified or created in the future, as marital property. Except as provided in this section, s. 766.58 applies to an agreement under this section. The form of the agreement is set forth in sub. (9). Persons intending to marry each other may execute an agreement as if married, but the agreement becomes effective only upon their determination date.

(b) Notwithstanding an agreement under this section:

1. The marital property interest of the nonemployee spouse in a deferred employment benefit plan or in assets in an individual retirement account that are traceable to the rollover of a deferred employment benefit plan terminates at the death of the nonemployee spouse if he or she predeceases the employee spouse; and

2. The marital property interest of a decedent spouse in a life insurance policy which designates the surviving spouse as the owner and insured is limited as provided under s. 766.61 (7).

(c) 1. If property is held as survivorship marital property under s. 766.60 (5) (a) or 766.605 at the time an agreement under this section becomes effective, or if property is held as or acquired as survivorship marital property under s. 766.60 (5) (a) or 766.605 while an agreement is in effect, the property remains survivorship marital property as long as it is so held.

2. A joint tenancy which is held exclusively between the spouses when an agreement under this section becomes effective or while an agreement is in effect is survivorship marital property.

3. A tenancy in common which is held exclusively between the spouses when an agreement under this section becomes effective or while an agreement is in effect is marital property.

4. With respect to a tenancy in common or joint tenancy not described under subds. 2. and 3. in which at least one spouse is a tenant when an agreement under this section becomes effective or while an agreement is in effect, to the extent the incidents of the tenancy in common or joint tenancy conflict with or differ from the incidents of marital property, the incidents of the tenancy in common or of the joint tenancy, including the incident of survivorship, control.

(d) 1. In this paragraph:

a. "Joint account" has the meaning given in s. 705.01 (4).

b. "Marital account" has the meaning given in s. 705.01 (4m).

2. An agreement under this section does not defeat the survivorship feature of a joint account under s. 705.04 (1).

3. An agreement under this section does not affect the ownership, under s. 705.04 (2m), of sums remaining on deposit in a marital account at the death of a party to the account, regardless of when the agreement became effective or the marital account was established.

(2) EXECUTION. An agreement under this section shall be signed by both parties to the agreement. An agreement under this section is executed when the signature of each party to the agreement is authenticated or acknowledged. The agreement executed shall conform to the requirements under sub. (9).

(3) EFFECTIVE DATE AND EFFECTIVE PERIOD. (a) An agreement under this section is effective when executed or upon the determination date, whichever is later.

(b) If the spouses have not completed the financial disclosure form under sub. (9) before or contemporaneously with execution of the agreement, the agreement terminates 3 years after the date that both spouses have signed the agreement, unless terminated earlier by one of the spouses under sub. (4).

(c) If the spouses have completed the financial disclosure form under sub. (9), the agreement terminates when the terms of the agreement no longer apply after dissolution or the death of a spouse, unless terminated earlier by one of the spouses under sub. (4).

(3m) LIMITATION ON EXECUTION OF 3-YEAR AGREEMENT. If spouses execute an agreement under this section which becomes effective for any period and if the spouses did not complete the financial disclosure form under sub. (9) for that agreement, the spouses may not execute a subsequent agreement under this section for the same marriage unless the financial disclosure form under sub. (9) is completed.

(4) TERMINATION BY ONE SPOUSE. (a) An agreement under this section terminates 30 days after a notice of termination is given under par. (b) by one spouse to the other spouse. An example of a termination form is set forth in sub. (9).

(b) Notice of termination is given to the other spouse on the date:

1. That a signed termination is personally delivered to the other spouse; or

2. That a signed termination is sent by certified mail to the address of the other spouse last known to the spouse giving notice of termination.

(c) This subsection does not affect the ability to amend, revoke or supplement an agreement under this section by separate marital property agreement under s. 766.58 (4).

(d) With respect to its effect on 3rd parties, a termination under this section shall be treated as a marital property agreement.

(5) ENFORCEABILITY. (a) If the spouses do not complete the financial disclosure form under sub. (9), the agreement terminates as provided under sub. (3) (b) and the agreement is enforceable without the disclosure of a spouse's property or financial obligations.

(b) If the spouses complete the financial disclosure form under sub. (9), the maximum duration of the agreement is 3 years after both spouses have signed the agreement if the spouse against whom enforcement is sought proves that the information on the disclosure form did not provide fair and reasonable disclosure, under the circumstances, of the other spouse's property or financial

obligations. This paragraph applies notwithstanding the fact that a spouse had notice of the other spouse's property or financial obligations.

(c) Section 766.58 (6) (c) does not apply to an agreement under this section.

(6) EFFECT ON SUPPORT AND DIVORCE. An agreement under this section does not affect any of the following:

(a) The duty of support that spouses otherwise have to each other.

(b) The determination of property division under s. 767.255.

(c) The determination of maintenance payments under s. 767.26.

(7) OTHER MEANS OF CLASSIFICATION. This section is not the exclusive means by which spouses may reclassify their property as marital property.

(8) EFFECT OF TERMINATION. Termination of an agreement under sub. (3) or (4) does not affect the classification of property acquired before termination. Property acquired after termination is classified as provided under this chapter.

(9) STATUTORY TERMINABLE MARITAL PROPERTY CLASSIFICATION AGREEMENT FORM. The language of a statutory terminable marital property classification agreement form shall be identical to the language included in the form set forth under this subsection.

The format of a statutory terminable marital property classification agreement shall be substantially as follows:

NOTICE TO PERSONS WHO SIGN THIS AGREEMENT:

1. A PROPERTY LAW KNOWN AS THE MARITAL PROPERTY SYSTEM GOVERNS THE PROPERTY RIGHTS OF MARRIED PERSONS IN WISCONSIN. AFTER THE MARITAL PROPERTY SYSTEM APPLIES TO A MARRIED COUPLE, EACH SPOUSE HAS AN UNDIVIDED ONE-HALF OWNERSHIP INTEREST IN PROPERTY, SUCH AS WAGES, DEFERRED EMPLOYMENT BENEFITS, LIFE INSURANCE, INCOME FROM PROPERTY AND CERTAIN APPRECIATION OF PROPERTY, THEREAFTER ACQUIRED DURING MARRIAGE DUE TO THE EFFORTS OF EITHER OR BOTH SPOUSES. PROPERTY WHICH IS BROUGHT TO THE MARRIAGE AND PROPERTY WHICH IS ACQUIRED BY ONE SPOUSE DURING THE MARRIAGE BY GIFT OR INHERITANCE IS NOT MARITAL PROPERTY BUT IS SOLELY OWNED BY THE ACQUIRING SPOUSE. THIS AGREEMENT ALTERS THE LAW GOVERNING YOUR PROPERTY RIGHTS. THE PURPOSE OF THE FOLLOWING INFORMATION IS TO APPRISE YOU, IN VERY GENERAL TERMS, OF SOME OF THE MORE IMPORTANT ASPECTS AND POSSIBLE EFFECTS OF THIS AGREEMENT. THE INFORMATION IS NOT INTENDED TO BE A PRECISE OR COMPLETE RECITATION OF THE LAW APPLICABLE TO THIS AGREEMENT AND IS NOT A SUBSTITUTE FOR LEGAL ADVICE.

2. BY ENTERING INTO THIS AGREEMENT, YOU HAVE AGREED TO RELINQUISH YOUR RIGHTS TO A SOLE OWNERSHIP INTEREST IN YOUR SOLELY OWNED PROPERTY; HOWEVER, YOU ARE ACQUIRING AUTOMATIC, EQUAL OWNERSHIP RIGHTS, WITH YOUR SPOUSE, TO ALL PROPERTY THAT YOU AND YOUR SPOUSE OWN OR ACQUIRE.

3. THIS AGREEMENT MAY AFFECT:

A. YOUR ACCESS TO CREDIT AND THE PROPERTY AVAILABLE TO SATISFY OBLIGATIONS INCURRED BY YOU OR YOUR SPOUSE.

B. THE ACCUMULATION OF AND THE MANAGEMENT AND CONTROL OF PROPERTY BY YOU DURING YOUR MARRIAGE.

C. THE AMOUNT OF PROPERTY YOU HAVE TO DISPOSE OF AT YOUR DEATH.

D. YOUR TAXES.

E. ANY PREVIOUS MARRIAGE AGREEMENT ENTERED INTO BY YOU AND YOUR SPOUSE.

4. THIS AGREEMENT DOES NOT:

A. AFFECT RIGHTS AT DIVORCE.

B. ALTER THE LEGAL DUTY OF SUPPORT THAT SPOUSES HAVE TO EACH OTHER OR THAT A SPOUSE HAS TO HIS OR HER CHILDREN.

C. BY ITSELF PROVIDE THAT, UPON YOUR DEATH, YOUR MARITAL PROPERTY PASSES TO YOUR SURVIVING SPOUSE. IF THAT IS WHAT YOU INTEND, YOU ARE ENCOURAGED TO SEEK LEGAL ADVICE TO DETERMINE WHAT MUST BE DONE TO ACCOMPLISH THAT RESULT.

5. IN GENERAL, THIS AGREEMENT IS NOT BINDING ON CREDITORS UNLESS THE CREDITOR IS FURNISHED A COPY OF THE AGREEMENT BEFORE CREDIT IS EXTENDED. (It is not necessary to furnish a copy of the financial disclosure form.) IN ADDITION, THIRD PARTIES OTHER THAN CREDITORS MIGHT NOT BE BOUND BY THIS AGREEMENT UNLESS THEY HAVE ACTUAL KNOWLEDGE OF THE TERMS OF THE AGREEMENT.

6. IF YOU WISH TO AFFECT AN INTEREST IN YOUR REAL PROPERTY WITH THIS AGREEMENT, PARTICULARLY IN RELATION TO THIRD PARTIES, ADDITIONAL LEGAL PROCEDURES AND FORMALITIES MAY BE REQUIRED. IF YOU HAVE QUESTIONS REGARDING THE EFFECT OF THIS AGREEMENT ON YOUR REAL PROPERTY, YOU ARE URGED TO SEEK LEGAL ADVICE.

7. IF YOU DO NOT COMPLETE SCHEDULE "A", "FINANCIAL DISCLOSURE", AND THE AGREEMENT BECOMES EFFECTIVE, THE AGREEMENT TERMINATES 3 YEARS AFTER THE DATE THAT YOU BOTH HAVE SIGNED THE AGREEMENT AND YOU MAY NOT, EXECUTE A SUBSEQUENT STATUTORY TERMINABLE MARITAL PROPERTY CLASSIFICATION AGREEMENT WITH THE SAME SPOUSE DURING THE SAME MARRIAGE UNLESS YOU COMPLETE THE FINANCIAL DISCLOSURE FORM. IF YOU INTEND THAT THIS AGREEMENT EXTEND BEYOND 3 YEARS, EACH OF YOU, BEFORE SIGNING THE AGREEMENT, MUST DISCLOSE TO THE OTHER YOUR EXISTING PROPERTY AND YOUR EXISTING FINANCIAL OBLIGATIONS, BY COMPLETING SCHEDULE "A", "FINANCIAL DISCLOSURE". IF SCHEDULE "A" HAS BEEN FILLED OUT BUT, IN A LEGAL ACTION AGAINST YOU TO ENFORCE THE AGREEMENT, YOU SHOW THAT THE INFORMATION ON SCHEDULE "A" DID NOT PROVIDE YOU WITH FAIR AND REASONABLE DISCLOSURE UNDER THE CIRCUMSTANCES, THE DURATION OF THE AGREEMENT IS 3 YEARS AFTER BOTH PARTIES SIGNED THE AGREEMENT.

8. ONE SPOUSE MAY TERMINATE THIS AGREEMENT AT ANY TIME BY GIVING SIGNED NOTICE OF TERMINATION TO THE OTHER SPOUSE. THE AGREEMENT TERMINATES 30 DAYS AFTER NOTICE IS GIVEN.

9. TERMINATION OF THIS AGREEMENT DOES NOT BY ITSELF CHANGE THE CLASSIFICATION OF PROPERTY CLASSIFIED BY THE AGREEMENT.

10. THIS AGREEMENT MAY BE AMENDED, REVOKED OR SUPPLEMENTED BY A LATER MARITAL PROPERTY AGREEMENT.

11. BOTH PARTIES MUST SIGN THIS AGREEMENT AND THE SIGNATURES MUST BE AUTHENTICATED BY OR ACKNOWLEDGED BEFORE A NOTARY. THE AGREEMENT BECOMES EFFECTIVE ON THE DATE THAT YOU HAVE BOTH SIGNED IT, THE DATE THAT YOU MARRY, OR THE DATE ON WHICH YOU ARE BOTH DOMICILED IN WISCONSIN, WHICHEVER IS LATER. IF YOU ALTER THE LANGUAGE OF THE AGREEMENT ON THIS FORM THE AGREEMENT WILL NOT CONSTITUTE A STATUTORY TERMINABLE MARITAL PROPERTY CLASSIFICATION AGREEMENT (BUT IT MAY QUALIFY AS A GENERAL MARITAL PROPERTY AGREEMENT UNDER SECTION 766.58, WISCONSIN STATUTES).

12. EACH SPOUSE SHOULD RETAIN A COPY OF THIS AGREEMENT, INCLUDING ANY DISCLOSURE OF PROPERTY AND OBLIGATIONS, WHILE THE AGREEMENT IS IN EFFECT AND AFTER IT TERMINATES. RETENTION OF A COPY MAY BE IMPORTANT TO PROTECT INTERESTS ACQUIRED UNDER OR AFFECTED BY THE AGREEMENT.

13. IF AFTER ENTERING INTO THIS AGREEMENT ONE OR BOTH OF YOU ESTABLISH A DOMICILE OUTSIDE THIS STATE, YOU ARE URGED TO SEEK LEGAL ADVICE CONCERNING THE CONTINUED EFFECTIVENESS OF THIS AGREEMENT.

STATUTORY TERMINABLE MARITAL PROPERTY CLASSIFICATION AGREEMENT

(Pursuant to Section 766.588, Wisconsin Statutes)

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

One spouse may terminate this agreement at any time by giving signed notice of termination to the other spouse. Notice of termination by a spouse is given upon personal delivery or when sent by certified mail to the other spouse's last-known address. The agreement terminates 30 days after such notice is given. The parties (have) (have not) (strike one) completed Schedule "A", "Financial Disclosure", attached to this agreement. If Schedule "A" has not been completed, the duration of this agreement is 3 years after both parties have signed the agreement. If Schedule "A" has been completed, the duration of this agreement is not limited to 3 years after it is signed.

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

Signature of One Spouse:

Date:

Print Name Here:

Residence Address:

Signature authenticated this day of, (year)

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

*....

Notary Public, County, Wisconsin.

My Commission is permanent.

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

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

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

Signature of Other Spouse:

Date:

Print Name Here:

Residence Address:

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

AUTHENTICATION

Signature authenticated this day of, (year)

*....

TITLE: MEMBER STATE BAR OF WISCONSIN

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

ACKNOWLEDGMENT

STATE OF WISCONSIN)

) ss.

.... County)

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

*....

Notary Public, County, Wisconsin.

My Commission is permanent.

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

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

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

TERMINATION OF STATUTORY TERMINABLE MARITAL PROPERTY CLASSIFICATION AGREEMENT

I UNDERSTAND THAT:

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

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

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

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

Signature:

Date:

Print Name Here:

Residence Address:

SCHEDULE "A"

FINANCIAL DISCLOSURE

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

Husband Wife Both Names

I. ASSETS

A. Real estate (gross value)

B. Stocks, bonds and mutual funds

C. Accounts at and certificates or other instruments issued by financial institutions

D. Mortgages, land contracts, promissory notes and cash

E. Partnership interests

EL. Limited liability company interests.

- F. Trust interests
- G. Livestock, farm products, crops
- H. Automobiles and other vehicles
- I. Jewelry and personal effects
- J. Household furnishings
- K. Life insurance and annuities:
 - 1. Face value
 - 2. Cash surrender value
- L. Retirement benefits (include value):
 - 1. Pension plans
 - 2. Profit sharing plans
 - 3. HR-10 KEOGH plans
 - 4. IRAs
 - 5. Deferred compensation plans
- M. Other assets not listed elsewhere
- II. OBLIGATIONS (TOTAL OUTSTANDING BALANCE):
 - A. Mortgages and liens
 - B. Credit cards
 - C. Other obligations to financial institutions
 - D. Alimony, maintenance and child support (per month)
 - E. Other obligations (such as other obligations to individuals, guarantees, contingent liabilities)
- III. ANNUAL COMPENSATION FOR SERVICES:
 (for example, wages and income from self-employment; also include social security, disability and similar income here)
 (IF YOU NEED ADDITIONAL SPACE, ADD ADDITIONAL SHEETS)

766.589 Statutory terminable individual property classification agreement.

(1) GENERALLY. (a) For purposes of determining ownership of property classified by an agreement under this section, a spouse owns property if the property is held by that spouse. If property classified by an agreement under this section is not held by either or both spouses, ownership of the property is determined as if the spouses were unmarried when the property was acquired.

(b) Spouses may execute an agreement under this section to classify the marital property of the spouses presently owned and property acquired, reclassified or created in the future that would otherwise be marital property, as the individual property of the owner. At the death of the owning spouse, property classified by an agreement under this section is subject to the rights of the surviving spouse under sub. (7). Except as provided in this section, s. 766.58 applies to an agreement under this section. The form of the agreement is set forth in sub. (10). Persons intending to marry each other may execute an agreement as if married, but the agreement becomes effective only upon their determination date.

(c) 1. If at the time an agreement under this section is executed property is held as survivorship marital property, the property is classified as the individual property of the owners and is owned as a joint tenancy. If at the time an agreement under this section is executed property is held in a form as provided under s. 766.60 (1) or (2), the property is classified as the individual property of the owners and is owned as a tenancy in common. If while an agreement is in effect spouses acquire property as a joint tenancy exclusively between themselves or as survivorship marital property, the property is classified as the individual property of the owners and is owned as a joint tenancy. If while an agreement is in effect spouses acquire property as tenants in common exclusively between themselves, the spouses' respective ownership interests in the property are classified as the individual property of the owners. If while an agreement is in effect spouses acquire property held in a form as provided under s. 766.60 (1) or (2), the property is classified as the individual property of the owners and is owned as a tenancy in common. An agreement under this section does not affect the incidents under ch. 705 of a joint account, as defined in s. 705.01 (4).

2. For purposes of an agreement under this section, to the extent the incidents of a joint tenancy or tenancy in common conflict with or differ from the incidents of individual property, the incidents of the tenancy in common or joint tenancy, including the incident of survivorship, control.

(2) EXECUTION. An agreement under this section shall be signed by both parties to the agreement. An agreement under this section is executed when the signature of each party to the agreement

is authenticated or acknowledged. The agreement executed shall conform to the requirements under sub. (10).

(3) EFFECTIVE DATE AND EFFECTIVE PERIOD. (a) An agreement under this section is effective when executed or upon the determination date, whichever is later.

(b) If the spouses have not completed the financial disclosure form under sub. (10) before or contemporaneously with execution of the agreement, the agreement terminates 3 years after the date that both spouses signed the agreement, unless terminated earlier by one of the spouses under sub. (4).

(c) If the spouses have completed the financial disclosure form under sub. (10), the agreement terminates when the terms of the agreement no longer apply after dissolution or the death of a spouse, unless terminated earlier by one of the spouses under sub. (4).

(3m) LIMITATION ON EXECUTION OF 3-YEAR AGREEMENT. If spouses execute an agreement under this section which becomes effective for any period and, for that agreement, do not complete the financial disclosure form under sub. (10), the spouses may not execute a subsequent agreement under this section for the same marriage unless the financial disclosure form under sub. (10) is completed.

(4) TERMINATION BY ONE SPOUSE; GOOD FAITH DUTY. (a) An agreement under this section terminates 30 days after a notice of termination is given under par. (b) by one spouse to the other spouse. An example of a termination form is set forth in sub. (10).

(b) Notice of termination is given to the other spouse on the date:

1. That signed termination is personally delivered to the other spouse; or
2. That signed termination is sent by certified mail to the address of the other spouse last known to the spouse giving notice of termination.

(c) After notice of termination is given under this subsection and until the agreement terminates, each spouse shall act in good faith with respect to the other spouse in matters involving the property of the spouse who is required to act in good faith which is classified as individual property by the agreement. Management and control by a spouse of that property in a manner that limits, diminishes or fails to produce income from that property does not violate this paragraph.

(d) This subsection does not affect the ability to amend, revoke or supplement an agreement under this section by separate marital property agreement under s. 766.58 (4).

(e) With respect to its effect on 3rd parties, a termination under this section shall be treated as a marital property agreement.

(5) ENFORCEABILITY. (a) If the spouses do not complete the financial disclosure form under sub. (10), the agreement terminates as provided under sub. (3) (b) and the agreement is enforceable without the disclosure of a spouse's property or financial obligations.

(b) If the spouses complete the financial disclosure form under sub. (10), the maximum duration of the agreement is 3 years after both spouses have signed the agreement if the spouse against whom enforcement is sought proves that the information on the disclosure form did not provide fair and reasonable disclosure, under the circumstances, of the other spouse's property or financial obligations. This paragraph applies notwithstanding the fact that a spouse had notice of the other spouse's property or financial obligations.

(c) Section 766.58 (6) (c) does not apply to an agreement under this section.

(6) EFFECT ON SUPPORT AND DIVORCE. An agreement under this section does not affect any of the following:

- (a) The duty of support that spouses otherwise have to each other.
- (b) The determination of property division under s. 767.255.
- (c) The determination of maintenance payments under s. 767.26.

(7) RIGHTS OF SURVIVING SPOUSE. Notwithstanding the fact that an agreement under this section is in effect at, or has terminated before, the time of death of a spouse who is party to the agreement, the surviving spouse may elect under s. 861.02. For the purpose of the election, in addition to the property described in s. 851.055, property acquired during marriage and after the determination date which would have been marital property but for the agreement is deferred marital property.

(8) OTHER MEANS OF CLASSIFICATION. This section is not the exclusive means by which spouses may reclassify their marital property.

(9) EFFECT OF TERMINATION. Termination of an agreement under sub. (3) or (4) does not affect the classification of property acquired before termination. Property acquired after termination is classified as provided under this chapter.

(10) STATUTORY TERMINABLE INDIVIDUAL PROPERTY CLASSIFICATION AGREEMENT FORM. The language of a statutory terminable individual property classification agreement form shall be

identical to the language included in the form set forth under this subsection. The format of a statutory terminable individual property classification agreement shall be substantially as follows:

NOTICE TO PERSONS WHO SIGN THIS AGREEMENT

1. A PROPERTY LAW KNOWN AS THE MARITAL PROPERTY SYSTEM GOVERNS THE PROPERTY RIGHTS OF MARRIED PERSONS IN WISCONSIN. AFTER THE MARITAL PROPERTY SYSTEM APPLIES TO A MARRIED COUPLE, EACH SPOUSE HAS AN UNDIVIDED ONE-HALF OWNERSHIP INTEREST IN PROPERTY, SUCH AS WAGES, DEFERRED EMPLOYMENT BENEFITS, LIFE INSURANCE, INCOME FROM PROPERTY AND CERTAIN APPRECIATION OF PROPERTY, THEREAFTER ACQUIRED DURING MARRIAGE DUE TO THE EFFORTS OF EITHER OR BOTH SPOUSES. THIS AGREEMENT ALTERS THE LAW GOVERNING YOUR PROPERTY RIGHTS. THE PURPOSE OF THE FOLLOWING INFORMATION IS TO APPRISE YOU, IN VERY GENERAL TERMS, OF SOME OF THE MORE IMPORTANT ASPECTS AND POSSIBLE EFFECTS OF THIS AGREEMENT. THE INFORMATION IS NOT INTENDED TO BE A PRECISE OR COMPLETE RECITATION OF THE LAW APPLICABLE TO THIS AGREEMENT AND IS NOT A SUBSTITUTE FOR LEGAL ADVICE.

2. BY ENTERING INTO THIS AGREEMENT, YOU HAVE AGREED TO RELINQUISH YOUR RIGHTS TO AN AUTOMATIC OWNERSHIP INTEREST IN PROPERTY ACQUIRED AS A RESULT OF SPOUSAL EFFORT DURING MARRIAGE AND THE TERM OF THE AGREEMENT; HOWEVER, YOU ARE ACQUIRING AUTOMATIC OWNERSHIP RIGHTS TO PROPERTY TITLED IN YOUR NAME.

3. THIS AGREEMENT MAY AFFECT:

A. YOUR ACCESS TO CREDIT AND THE PROPERTY AVAILABLE TO SATISFY OBLIGATIONS INCURRED BY YOU OR YOUR SPOUSE.

B. THE ACCUMULATION OF AND THE MANAGEMENT AND CONTROL OF PROPERTY BY YOU DURING YOUR MARRIAGE.

C. THE AMOUNT OF PROPERTY YOU HAVE TO DISPOSE OF AT YOUR DEATH.

D. YOUR TAXES.

E. ANY PREVIOUS MARRIAGE AGREEMENT ENTERED INTO BY YOU AND YOUR SPOUSE.

4. THIS AGREEMENT DOES NOT:

A. AFFECT RIGHTS AT DIVORCE.

B. ALTER THE LEGAL DUTY OF SUPPORT THAT SPOUSES HAVE TO EACH OTHER OR THAT A SPOUSE HAS TO HIS OR HER CHILDREN.

5. NOTWITHSTANDING THIS AGREEMENT, THE PROPERTY CLASSIFIED BY THIS AGREEMENT WHICH IS OWNED BY THE FIRST SPOUSE TO DIE IS SUBJECT TO CERTAIN ELECTIVE RIGHTS OF THE SURVIVING SPOUSE. YOU MAY BAR THESE ELECTIVE RIGHTS BY SEPARATE MARITAL PROPERTY AGREEMENT.

6. IN GENERAL, THIS AGREEMENT IS NOT BINDING ON CREDITORS UNLESS THE CREDITOR IS FURNISHED A COPY OF THE AGREEMENT BEFORE CREDIT IS EXTENDED. (IT IS NOT NECESSARY TO FURNISH A COPY OF THE FINANCIAL DISCLOSURE FORM.) IN ADDITION, THIRD PARTIES OTHER THAN CREDITORS MIGHT NOT BE BOUND BY THIS AGREEMENT UNLESS THEY HAVE ACTUAL KNOWLEDGE OF THE TERMS OF THE AGREEMENT.

7. IF YOU WISH TO AFFECT AN INTEREST IN YOUR REAL PROPERTY WITH THIS AGREEMENT, PARTICULARLY IN RELATION TO THIRD PARTIES, ADDITIONAL LEGAL PROCEDURES AND FORMALITIES MAY BE REQUIRED. IF YOU HAVE QUESTIONS REGARDING THE EFFECT OF THIS AGREEMENT ON YOUR REAL PROPERTY, YOU ARE URGED TO SEEK LEGAL ADVICE.

8. IF YOU DO NOT COMPLETE SCHEDULE "A", "FINANCIAL DISCLOSURE", AND THE AGREEMENT BECOMES EFFECTIVE, THE AGREEMENT TERMINATES 3 YEARS AFTER THE DATE THAT YOU BOTH HAVE SIGNED THE AGREEMENT AND YOU MAY NOT EXECUTE A SUBSEQUENT STATUTORY TERMINABLE INDIVIDUAL PROPERTY CLASSIFICATION AGREEMENT WITH THE SAME SPOUSE DURING THE SAME MARRIAGE UNLESS YOU COMPLETE THE FINANCIAL DISCLOSURE FORM. IF YOU INTEND THAT THIS AGREEMENT EXTEND BEYOND 3 YEARS, EACH OF YOU, BEFORE SIGNING THE AGREEMENT, MUST DISCLOSE TO THE OTHER YOUR EXISTING PROPERTY AND YOUR EXISTING FINANCIAL OBLIGATIONS, BY COMPLETING SCHEDULE "A", "FINANCIAL DISCLOSURE". IF SCHEDULE "A" HAS BEEN FILLED OUT BUT IN A LEGAL ACTION AGAINST YOU TO ENFORCE THE AGREEMENT YOU SHOW THAT THE INFORMATION ON SCHEDULE "A" DID NOT PROVIDE YOU WITH FAIR AND REASONABLE DISCLOSURE UNDER THE CIRCUMSTANCES, THE DURATION OF THE AGREEMENT IS 3 YEARS AFTER BOTH PARTIES SIGNED THE AGREEMENT.

9. ONE SPOUSE MAY TERMINATE THIS AGREEMENT AT ANY TIME BY GIVING SIGNED NOTICE OF TERMINATION TO THE OTHER SPOUSE. THE AGREEMENT TERMINATES 30 DAYS AFTER NOTICE IS GIVEN. IF SUCH NOTICE OF TERMINATION IS GIVEN BY ONE SPOUSE TO THE OTHER SPOUSE, EACH SPOUSE HAS A DUTY TO THE OTHER SPOUSE TO ACT IN GOOD FAITH IN MATTERS INVOLVING THE PROPERTY OF THE SPOUSE WHO IS REQUIRED TO ACT IN GOOD FAITH WHICH

HAS BEEN CLASSIFIED AS INDIVIDUAL PROPERTY BY THIS AGREEMENT. THE GOOD FAITH DUTY CONTINUES UNTIL THE AGREEMENT TERMINATES (30 DAYS AFTER NOTICE IS GIVEN).

10. TERMINATION OF THIS AGREEMENT DOES NOT BY ITSELF CHANGE THE CLASSIFICATION OF PROPERTY CLASSIFIED BY THE AGREEMENT.

11. THIS AGREEMENT MAY BE AMENDED, REVOKED OR SUPPLEMENTED BY A LATER MARITAL PROPERTY AGREEMENT.

12. BOTH PARTIES MUST SIGN THIS AGREEMENT AND THE SIGNATURES MUST BE AUTHENTICATED OR ACKNOWLEDGED BEFORE A NOTARY. THE AGREEMENT BECOMES EFFECTIVE ON THE DATE THAT YOU HAVE BOTH SIGNED IT, THE DATE THAT YOU MARRY, OR THE DATE ON WHICH YOU ARE BOTH DOMICILED IN WISCONSIN, WHICHEVER IS LATER. IF YOU ALTER THE LANGUAGE OF THE AGREEMENT ON THIS FORM, THE AGREEMENT WILL NOT CONSTITUTE A STATUTORY TERMINABLE INDIVIDUAL PROPERTY CLASSIFICATION AGREEMENT (BUT IT MAY QUALIFY AS A GENERAL MARITAL PROPERTY AGREEMENT UNDER SECTION 766.58, WISCONSIN STATUTES).

13. EACH SPOUSE SHOULD RETAIN A COPY OF THIS AGREEMENT, INCLUDING ANY DISCLOSURE OF PROPERTY AND OBLIGATIONS, WHILE THE AGREEMENT IS IN EFFECT AND AFTER IT TERMINATES. RETENTION OF A COPY MAY BE IMPORTANT TO PROTECT INTERESTS ACQUIRED UNDER OR AFFECTED BY THE AGREEMENT.

14. IF AFTER ENTERING INTO THIS AGREEMENT ONE OR BOTH OF YOU ESTABLISH A DOMICILE OUTSIDE THIS STATE, YOU ARE URGED TO SEEK LEGAL ADVICE CONCERNING THE CONTINUED EFFECTIVENESS OF THIS AGREEMENT.

STATUTORY TERMINABLE INDIVIDUAL PROPERTY CLASSIFICATION AGREEMENT

(Pursuant to Section 766.589, Wisconsin Statutes)

This agreement is entered into by and (husband and wife) (who intend to marry) (strike one). The parties hereby classify the marital property owned by them when this agreement becomes effective, and property acquired during the term of this agreement which would otherwise have been marital property, as the individual property of the owning spouse. The parties agree that ownership of such property shall be determined by the name in which the property is held and, if property is not held by either or both spouses, ownership shall be determined as if the parties were unmarried persons when the property was acquired. Upon the death of either spouse the surviving spouse may, except as otherwise provided in a subsequent marital property agreement, and regardless of whether this agreement has terminated, elect against the property of the decedent spouse as provided in section 766.589 (7) of the Wisconsin Statutes. One spouse may terminate this agreement at any time by giving signed notice of termination to the other spouse. Notice of termination by a spouse is given upon personal delivery or when sent by certified mail to the other spouse's last-known address. The agreement terminates 30 days after such notice is given. The parties (have) (have not) (strike one) completed Schedule "A", "Financial Disclosure", attached to this agreement. If Schedule "A" has not been completed, the duration of this agreement is 3 years after both parties have signed the agreement. If Schedule "A" has been completed, the duration of this agreement is not limited to 3 years after it is signed.

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

Signature of One Spouse:

Date:

Print Name Here:

Residence Address:

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

AUTHENTICATION

Signature authenticated this day of, (year)

*....

TITLE: MEMBER STATE BAR OF WISCONSIN

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

ACKNOWLEDGMENT

STATE OF WISCONSIN)

)ss.

.... County)

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

*....

Notary Public, County, Wisconsin.

My Commission is permanent.

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

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

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

Signature of Other Spouse:

Date:

Print Name Here:

Residence Address:

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

AUTHENTICATION

Signature authenticated this day of, (year)

*....

TITLE: MEMBER STATE BAR OF WISCONSIN

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

ACKNOWLEDGMENT

STATE OF WISCONSIN)

) ss.

.... County)

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

*....

Notary Public, County, Wisconsin.

My Commission is permanent.

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

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

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

TERMINATION OF STATUTORY TERMINABLE INDIVIDUAL PROPERTY CLASSIFICATION AGREEMENT

I UNDERSTAND THAT:

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

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

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

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

Signature:

Date:

Print Name Here:

Residence Address:

SCHEDULE "A"

FINANCIAL DISCLOSURE

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

Husband Wife Both Names

I. ASSETS:

A. Real estate (gross value)

B. Stocks, bonds and mutual funds

C. Accounts at and certificates and other instruments issued by financial institutions

D. Mortgages, land contracts, promissory notes and cash

- E. Partnership interests
- EL. Limited liability company interests
- F. Trust interests
- G. Livestock, farm products, crops
- H. Automobiles and other vehicles
- I. Jewelry and personal effects
- J. Household furnishings
- K. Life insurance and annuities:
 - 1. Face value
 - 2. Cash surrender value
- L. Retirement benefits (include value):
 - 1. Pension plans
 - 2. Profit sharing plans
 - 3. HR–10 KEOGH plans
 - 4. IRAs
 - 5. Deferred compensation plans
- M. Other assets not listed elsewhere
- II. OBLIGATIONS (TOTAL OUTSTANDING BALANCE):
 - A. Mortgages and liens
 - B. Credit cards
 - C. Other obligations to financial institutions
 - D. Alimony, maintenance and child support (per month)
 - E. Other obligations (such as other obligations to individuals guarantees, contingent liabilities)
- III. ANNUAL COMPENSATION FOR SERVICES:
 (for example, wages and income from self–employment; also include social security, disability and similar income here)
 (IF YOU NEED ADDITIONAL SPACE, ADD ADDITIONAL SHEETS.)

766.59 Unilateral statement; income from nonmarital property.

- (1) A spouse may unilaterally execute a written statement which classifies the income attributable to all or certain of that spouse’s property other than marital property as individual property.
- (2) (a) The statement is executed when signed by the executing spouse and acknowledged by a notary. If executed before January 1, 1986, the statement is effective on January 1, 1986, or at a later time if provided otherwise in the statement. If executed on or after January 1, 1986, the statement is effective when executed or at a later time if provided otherwise in the statement.
- (b) Within 5 days after the statement is signed, the executing spouse shall notify the other spouse of the statement’s contents by personally delivering a copy to the other spouse or by sending a copy by certified mail to the other spouse’s last–known address. Failure to give notice is a breach of the duty of good faith imposed by s. 766.15.
- (c) The executing spouse may record the statement in the county register of deeds office under s. 59.43 (1) (r).
- (3) Any income of the property designated in the statement which accrues on or after the date the statement becomes effective and before a revocation under sub. (4) is individual property. However, a statement only affects income accrued during the marriage during which the statement was executed.
- (4) A statement may be revoked in writing by the executing spouse. The revoking spouse shall notify the other spouse of the revocation by personally delivering a copy to the other spouse or by sending a copy by certified mail to the other spouse’s last– known address. The revoking spouse may record the revocation in the county register of deeds office under s. 59.43 (1) (r).
- (5) With respect to its effect on 3rd parties, a statement or a revocation shall be treated as if it were a marital property agreement.
- (6) A person intending to marry may execute a statement under this section as if married. A statement executed by a person intending to marry is effective upon the marriage or at a later time if so provided in the statement. Within 5 days after the statement is executed, the person executing the statement shall notify the person whom he or she intends to marry or has married of the statement’s contents by personally delivering a copy of the statement to that person or by sending a copy by certified mail to that person’s address. Failure to give notice is a breach of the duty of good faith imposed by s. 766.15.

766.60 Optional forms of holding property; survivorship ownership.

(1) Spouses may hold marital property in a form that designates the holders of it by the words "(name of one spouse) or (name of other spouse) as marital property".

(2) Spouses may hold marital property in a form that designates the holder of it by the words "(name of one spouse) and (name of other spouse) as marital property".

(3) A spouse may hold individual property in a form that designates the holder of it by the words "(name of spouse) as individual property".

(4) (a) Spouses may hold property in any other form permitted by law, including but not limited to a concurrent form or a form that provides survivorship ownership. Except as provided in par.

(b) and except with respect to any remedy a spouse has under this chapter, whether a tenancy in common or joint tenancy was created before or after the determination date, to the extent the incidents of the tenancy in common or joint tenancy conflict with or differ from the incidents of property classification under this chapter, the incidents of the tenancy in common or of the joint tenancy, including the incident of survivorship, control.

(b) 1. Except as provided in subd. 2. or in a marital property agreement under s. 766.58:

a. If a document of title, instrument of transfer or bill of sale expresses an intent to establish a joint tenancy exclusively between spouses after the determination date, the property is survivorship marital property under sub. (5).

b. If a document of title, instrument of transfer or bill of sale expresses an intent to establish a tenancy in common exclusively between spouses after the determination date, the property is marital property.

2. A joint tenancy or tenancy in common exclusively between spouses which is given to the spouses by a 3rd party after the determination date is survivorship marital property or marital property, respectively, unless the donor provides otherwise.

(5) (a) If the words "survivorship marital property" are used instead of the words "marital property" in the form described in sub. (1) or (2), the marital property so held is survivorship marital property. On the death of a spouse, the ownership rights of that spouse in the property vest solely in the surviving spouse by nontestamentary disposition at death. The first deceased spouse may not dispose at death of any interest in survivorship marital property. Holding marital property in a form described in sub. (1) or (2) does not alone establish survivorship ownership between the spouses with respect to the property held.

(b) A real estate mortgage, a security interest under ch. 409 or a lien under s. 71.91 (5) (b) or ch. 49 or 779 on or against the interest of a spouse in survivorship marital property does not defeat the right of survivorship on the death of the spouse. The surviving spouse takes the interest of the deceased spouse subject to the mortgage, security interest or lien.

(c) A judgment lien on the interest of a spouse in survivorship marital property does not defeat the right of survivorship on the death of the spouse. If execution on the judgment lien was issued before the spouse's death the surviving spouse takes the interest of the deceased spouse subject to the lien. If execution on the judgment lien was not issued before the spouse's death, the surviving spouse takes the interest of the deceased spouse free of the judgment lien, unless the judgment lien is on the interests of both spouses in the survivorship marital property and all of the property of the spouses was available under s. 766.55 to satisfy the obligation for which the judgment was rendered.

766.605 Classification of homestead.

A homestead acquired after the determination date which, when acquired, is held exclusively between spouses with no 3rd party is survivorship marital property if no intent to the contrary is expressed on the instrument of transfer or in a marital property agreement. A homestead may be reclassified under s. 766.31 (10).

766.61 Classification of life insurance policies and proceeds.

(1) In this section:

(a) "Owner" means a person appearing on the records of the policy issuer as the person having the ownership interest, or means the insured if no person other than the insured appears on those

records as a person having that interest. In the case of group insurance, the term means the holder of each individual certificate of coverage under the group plan and does not include the person who contracted with the policy issuer on behalf of the group, regardless of whether that person is listed as the owner on the contract.

(b) Except as provided in sub. (3) (e), "ownership interest" means the rights of an owner under a policy.

(c) "Policy" means an insurance policy insuring the life of a spouse and providing for payment of death benefits at the spouse's death and, for purposes of sub. (3) (e), the term includes an insurance policy insuring the life of any individual and providing for payment of death benefits at the death of the insured. This paragraph does not apply to sub. (2).

(d) "Proceeds" means the death benefit from a policy and all other economic benefits from it, whether they accrue or become payable as a result of the death of an insured person or upon the occurrence or nonoccurrence of another event.

(2) (a) In this subsection:

1. "Business day" has the meaning given under s. 421.301 (6).
2. "Notice of claim" means a written notice, by or on behalf of a spouse, former spouse, surviving spouse or a person claiming under a deceased spouse's disposition at death, that the person claims to be entitled to proceeds, payments or an interest in the policy.
3. "Policy" means an insurance policy insuring the life of a spouse or a life insurance policy of which a spouse is the owner.

(b) Except as provided in par. (c):

1. A policy issuer may rely on and act in accordance with the issuer's policy and records. If a policy issuer makes payments or takes actions in accordance with the policy and the issuer's records, the issuer is not liable because of those payments or actions.
2. The classification of a policy or a portion of a policy as marital property has no effect on the policy issuer's duty to perform under the issuer's contract when making payment or taking action in accordance with the policy and the issuer's records.

(c) 1. If at least 5 business days before making payment or taking action in accordance with the issuer's policy and records, a policy issuer has received at its home office a notice of claim, the issuer shall notify the party directing the payment or action of the receipt of the notice of claim and shall not take any action on the policy for 14 business days.

2. If within 14 business days after receiving the notice of claim the issuer receives at its home office, as purporting to support the notice of claim, a decree, marital property agreement, written directive signed by the beneficiary and surviving spouse, consent under sub. (3) (e) or proof that a legal action has been filed, including a copy of an election filed pursuant to s. 861.08 (1), to secure an interest as evidenced in such a document, the issuer shall make payment or take action on the policy after the issuer receives from a court or from the claimant and the person directing action or payment written documentation indicating that the dispute has been resolved.

3. If documentation purporting to support the claim is not submitted as described under subd. 2., the policy issuer shall take action or make payment as if the notice of claim had not been received.

(d) A policy issuer is not liable to any person for any claim for damages as a result of the issuer's suspension of policy action or the taking of any action pursuant to this subsection. A policy issuer shall pay interest which accrues during the suspension of any action under this subsection.

(2m) (a) In determining the marital property component of the ownership interest and proceeds of a policy under sub. (3), the date on which a policy becomes effective is the date of original issuance or coverage of the policy, whichever is earlier, if the policy is thereafter kept in force merely by continuing premium payments, without any further underwriting by the issuer. If additional underwriting is required after original issuance of the policy or if the amount of proceeds increases after original issuance as a result of unscheduled additional premiums paid by the policyholder, the effective date of the policy is the date on which the newly underwritten right to proceeds or the right to increased proceeds begins.

(b) In determining the marital property component of the ownership interest and proceeds of a group policy sponsored by an employer or association under sub. (3), the date on which the policy becomes effective is the date on which individual coverage begins, notwithstanding that the employer or association thereafter changes policy issuers or that the amount of coverage changes under the policy pursuant to the plan or benefit offered by the employer or association. If additional underwriting is required after original issuance of the policy, or if the coverage is provided by a different employer or association, the effective date of the policy is the date on which the newly underwritten or newly provided coverage begins.

(3) Except as provided in subs. (4) to (6):

(a) 1. Except as provided in subd. 2., the ownership interest and proceeds of a policy issued after the determination date which designates the insured as the owner are marital property, regardless of the classification of property used to pay premiums on the policy.

2. If after the issuance of a policy described under subd. 1. the insured or his or her spouse are at any time not domiciled in this state, the ownership interest and proceeds of the policy are mixed property. The marital property component of the ownership interest and proceeds is the amount which results from multiplying the entire ownership interest and proceeds by a fraction, the numerator of which is the period during marriage that the policy was in effect and the denominator of which is the entire period that the policy was in effect.

(b) The ownership interest and proceeds of a policy issued before the determination date which designates the insured as the owner are mixed property if a premium on the policy is paid from marital property after the determination date, regardless of the classification of property used to pay premiums on that policy after the initial payment of a premium on it from marital property. The marital property component of the ownership interest and proceeds is the amount which results from multiplying the entire ownership interest and proceeds by a fraction, the numerator of which is the period during marriage that the policy was in effect after the date on which a premium was paid from marital property and the denominator of which is the entire period that the policy was in effect.

(c) 1. Except as provided in subd. 2., the ownership interest and proceeds of a policy which designates the spouse of the insured as the owner are individual property of its owner, regardless of the classification of property used to pay premiums on the policy.

2. If after the issuance of a policy described under subd. 1. the insured or his or her spouse are at any time not domiciled in this state, the ownership interest and proceeds of the policy are individual property and property that is other than individual or marital property. The individual property component of the ownership interest and proceeds is the amount which results from multiplying the entire ownership interest and proceeds by a fraction, the numerator of which is the entire period during which the policy was in effect less that period during which the insured or his or her spouse were at any time not domiciled in this state and the denominator of which is the entire period that the policy was in effect.

(d) This chapter does not affect the ownership interest and proceeds of a policy that designates a person other than either spouse as the owner, if no premium on the policy is paid from marital property after the determination date. If a premium on the policy is paid from marital property after the determination date, the ownership interest and proceeds of the policy are in part property of the designated owner of the policy and in part marital property of the spouses, regardless of the classification of property used to pay premiums on that policy after the initial payment of a premium on it from marital property. The marital property component of the ownership interest and proceeds is the amount which results from multiplying the entire ownership interest and proceeds by a fraction, the numerator of which is the period during marriage that the policy was in effect after the date on which a premium was paid from marital property and the denominator of which is the entire period that the policy was in effect.

(e) A written consent in which a spouse consents to the designation of another person as the beneficiary of the proceeds of a policy or consents to the use of property to pay premiums on a policy is effective, to the extent that the written consent provides, to relinquish or reclassify all or a portion of that spouse's interest in property used to pay premiums on the policy or in the ownership interest or proceeds of the policy without regard to the classification of property used by a spouse or another person to pay premiums on that policy. Unless the written consent expressly provides otherwise, a written consent under this paragraph is revocable in writing and is effective only with respect to the beneficiary named in it. Unless the written consent expressly provides otherwise, a revocation of a written consent is effective no earlier than the date on which it is signed by the revoking spouse and does not operate to reclassify any property which was reclassified or in which the revoking spouse relinquished an interest from the date of the consent to the date of revocation. In this paragraph, "ownership interest" includes the interests of a spouse in a policy who is not an owner under the policy.

(f) Designation of a trust as the beneficiary of the proceeds of a policy with a marital property component does not by itself reclassify that component.

(4) This section does not affect a creditor's interest in the ownership interest or proceeds of a policy assigned to the creditor as security or payable to the creditor.

(5) The interest of a person as owner or beneficiary of a policy acquired under a decree or property settlement agreement incident to a prior marriage or to parenthood is not marital property, regardless of the classification of property used to pay premiums on that policy.

(6) This section does not affect the ownership interest or proceeds of a policy if neither spouse is designated as an owner in the policy or the policy issuer's records and no marital property is used to pay a premium on the policy.

(7) If a noninsured spouse predeceases an insured spouse, the marital property interest of the decedent spouse in a policy which designates the surviving spouse as the owner and insured is limited to a dollar amount equal to one-half of the marital property interest in the interpolated terminal reserve and in the unused portion of the term premium of the policy on the date of death of the deceased spouse. All other rights of the decedent spouse in the ownership interest or proceeds of the policy, other than the marital property interest described in this subsection, terminate at the decedent spouse's death.

(8) This section does not apply to a policy held by a deferred employment benefit plan. Classification of a deferred employment benefit, regardless of the nature of the assets held by the deferred employment benefit plan, is determined under s. 766.62.

766.62 Classification of deferred employment benefits.

(1) (a) Except as provided in par. (b), a deferred employment benefit attributable to employment of a spouse occurring after the determination date is marital property.

(b) A deferred employment benefit attributable to employment of a spouse occurring after the determination date is mixed property if, after the determination date and during the period of employment giving rise to the benefit, the employed spouse or his or her spouse are at any time not domiciled in this state. The marital property component of that mixed property is the amount which results from multiplying the entire benefit by a fraction, the numerator of which is the period of employment giving rise to the benefit that occurred after the determination date and during marriage and the denominator of which is the total period of employment giving rise to the benefit.

(2) A deferred employment benefit attributable to employment of a spouse occurring while the spouse is married and partly before and partly after the determination date is mixed property. The marital property component of that mixed property is the amount which results from multiplying the entire benefit by a fraction, the numerator of which is the period of employment giving rise to the benefit that occurred after the determination date and during marriage and the denominator of which is the total period of employment giving rise to the benefit.

(2m) Unless provided otherwise in a decree or marital property agreement, a mixed property deferred employment benefit shall be valued as of a dissolution or an employee spouse's death.

(3) Ownership or disposition provisions of a deferred employment benefit plan which conflict with sub. (1) or (2) are ineffective between spouses or former spouses or between a surviving spouse and a person claiming under a deceased spouse's disposition at death.

(4) If a deferred employment benefit plan administrator makes payments or takes actions in accordance with the plan and the administrator's records, the administrator is not liable because of those payments or actions.

(5) If the nonemployee spouse predeceases the employee spouse, the marital property interest of the nonemployee spouse in all of the following terminates at the death of the nonemployee spouse:

(a) A deferred employment benefit plan.

(b) Assets in an individual retirement account that are traceable to the rollover of a deferred employment benefit plan.

766.63 Mixed property.

(1) Except as provided otherwise in ss. 766.61 and 766.62, mixing marital property with property other than marital property reclassifies the other property to marital property unless the component of the mixed property which is not marital property can be traced.

(2) Application by one spouse of substantial labor, effort, inventiveness, physical or intellectual skill, creativity or managerial activity to either spouse's property other than marital property creates marital property attributable to that application if both of the following apply:

(a) Reasonable compensation is not received for the application.

(b) Substantial appreciation of the property results from the application.

766.70 Remedies.

(1) A spouse has a claim against the other spouse for breach of the duty of good faith imposed by s. 766.15 resulting in damage to the claimant spouse's property. Except as otherwise provided in

sub. (6), no spouse may commence an action under this subsection later than 6 years after acquiring actual knowledge of the facts giving rise to the claim.

(2) Upon request of a spouse, a court may order an accounting of the spouses' property and obligations and may determine rights of ownership in, beneficial enjoyment of or access to marital property and the classification of all property of the spouses.

(3) Upon request of a spouse, a court may order the name of the spouse added to marital property or to a document evidencing ownership of marital property held in the name of the other spouse alone except with respect to any of the following:

(a) An interest in a partnership or joint venture held by the other spouse as a general partner or as a participant.

(aL) An interest in a limited liability company held by the other spouse as a member.

(b) An interest in a professional corporation, professional association or similar entity held by the other spouse as a stockholder or member.

(c) An asset of an unincorporated business if the other spouse is the only one of the spouses involved in operating or managing the business.

(d) A corporation, the stock of which is not publicly traded. Under this paragraph, stock of a corporation is publicly traded if both of the following apply:

1. The stock is traded on a national stock exchange or quoted on the national association of securities dealers automated quotations system.

2. The employees, officers and directors of the corporation own, in the aggregate, less than 10% in value of the outstanding shares of the stock in the corporation.

(e) Any other property if the addition would adversely affect the rights of a 3rd person.

(4) (a) If marital property has been or is likely to be substantially injured by the other spouse's gross mismanagement, waste or absence, upon request of a spouse a court may order any of the following:

1. A temporary or permanent limitation or termination of any of the other spouse's management and control rights in marital property.

2. A change in classification of marital property.

3. A division of the obligations of the spouses existing on the date of the request, after considering the classification of the obligation under s. 766.55 and the factors specified under ss. 767.255 and 767.26.

4. That all obligations incurred after the court order are the obligations of the incurring spouse and that the other spouse is not liable for, and his or her property is not available to satisfy, the obligations.

5. That any property acquired by either spouse after the court order is the individual property of the acquiring spouse.

(b) The court may make any order under this subsection subject to any equitable condition.

(c) This subsection does not apply to property described in sub. (3) (a), (b), (d) and (e).

(5) When marital property is used to satisfy an obligation other than an obligation under s. 766.55 (2) (a) or (b), the nonobligated spouse may request the court to order that he or she receive as individual property marital property equal in value to the marital property used to satisfy the obligations of the obligated spouse, subject to the rights of any 3rd party who relied upon the availability of the marital property to satisfy any obligation under s. 766.55 (2) (a) or (b) and subject to equitable considerations. No person may bring an action under this subsection later than one year after the obligation is satisfied.

(6) (a) Except as provided in pars. (b) and (c), if a gift of marital property during marriage by a spouse does not comply with s. 766.53, the other spouse may bring an action to recover the property or a compensatory judgment equal to the amount by which the gift exceeded the limit under s. 766.53. The other spouse may bring the action against the donating spouse, the gift recipient or both. The other spouse must commence the action within the earliest of one year after he or she has notice of the gift, one year after a dissolution or on or before the deadline for filing a claim under s. 859.01 after the death of either spouse. If the recovery occurs during marriage, it is marital property. If the recovery occurs after a dissolution or the death of either spouse, the recovery is limited to 50% of the recovery that would have been available if the recovery had occurred during marriage.

(b) 1. If a transfer of marital property to a 3rd person during marriage by a spouse acting alone becomes a completed gift upon the death of the spouse or if an arrangement during marriage involving marital property by a spouse acting alone is intended to be and becomes a gift to a 3rd person upon the death of the spouse, the surviving spouse may bring an action against the gift recipient to recover one-half of the gift of marital property. The surviving spouse may not

commence an action under this paragraph later than one year after the death of the decedent spouse.

2. If the spouse entitled to a remedy under subd. 1. predeceases the donor spouse, no action may be commenced later than one year after the decedent's death. Except as provided in s. 766.61 (7), recovery in such an action is the same as if the donor spouse had predeceased the spouse entitled to recover, but is valued at the date of death of the spouse entitled to recover.

(c) 1. If a spouse acting alone makes a gift of marital property to a 3rd person during marriage in the form of a joint tenancy and the spouse and the 3rd person are joint tenants with respect to that property, the other spouse has a right of reimbursement against the donor spouse or the gift recipient or both with respect to that portion of the gift representing the quotient resulting from dividing the number of joint tenants other than the donor spouse by the total number of joint tenants, including the donor spouse. The other spouse must commence the action within the earliest of one year after he or she has notice of the gift, one year after a dissolution or one year after the death of either spouse.

2. If the gift of marital property under subd. 1. remains in the form of a joint tenancy, at the death of the tenant spouse the surviving spouse has a right of reimbursement against the decedent spouse's estate or the gift recipient or both with respect to one-half of that portion of the joint tenancy representing the quotient resulting from dividing one by the total number of joint tenants immediately before the death of the tenant spouse, valued at the date of death. The surviving spouse may not commence the action later than one year after the death of the decedent spouse. If the spouse entitled to a right of reimbursement under this subdivision predeceases the tenant spouse, the action may not be commenced later than one year after the decedent's death. The portion subject to the right of reimbursement in such an action is the same as if the tenant spouse had predeceased the spouse with the right of reimbursement, but is valued at the date of death of the spouse with the right of reimbursement.

(7) After the date of death within 90 days after the earlier of either the receipt of the inventory listing any life insurance policy or deferred employment benefit plan covered by s. 766.61 or 766.62, or the discovery of the existence of such a policy or plan, the surviving spouse may purchase the decedent's interest in the policy or plan from the decedent's estate at the interest's fair market value at the date of death, if all or part of the policy or plan is included in the decedent spouse's estate.

(8) Except as provided in sub. (6) and ss. 766.55 (4m), 766.56 (2) (c) and 766.57, no decree issued under this section may adversely affect the interest of a 3rd party.

766.73 Invalid marriages.

If a marriage is invalidated by a decree, a court may apply so much of this chapter to the property of the parties to the invalid marriage as is necessary to avoid an inequitable result. This section does not apply if s. 767.255 applies to the action to invalidate the marriage.

766.75 Treatment of certain property at dissolution.

After a dissolution each former spouse owns an undivided one-half interest in the former marital property as a tenant in common, except as provided otherwise in a decree or an agreement entered into by the former spouses after dissolution.

766.95 Rules of construction.

Unless displaced by this chapter, the principles of law and equity supplement its provisions.

766.96 Uniformity of application and construction.

This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

766.97 Equal rights; common law disabilities.

(1) Women and men have the same rights and privileges under the law in the exercise of suffrage, freedom of contract, choice of residence, jury service, holding office, holding and conveying

property, care and custody of children and in all other respects. The various courts and executive and administrative officers shall construe the statutes so that words importing one gender extend and may be applied to either gender consistent with the manifest intent of the legislature. The courts and executive and administrative officers shall make all necessary rules and provisions to carry out the intent and purpose of this subsection.

(2) Nothing in this chapter revives the common law disabilities on a woman's right to own, manage, inherit, transfer or receive gifts of property in her own name, to enter into contracts in her own name or to institute civil actions in her own name. Except as otherwise provided in this chapter and in other sections of the statutes controlling marital property or property of spouses that is not marital property, either spouse has the right to own and exclusively manage his or her property that is not marital property, enter into contracts with 3rd parties or with his or her spouse, institute and defend civil actions in his or her name and maintain an action against his or her spouse for damages resulting from that spouse's intentional act or negligence.

(3) The common law rights of a spouse to compel the domestic and sexual services of the other spouse are abolished. Nothing in this subsection affects a spouse's common law right to consortium or society and companionship.

CHAPTER 767 ACTIONS AFFECTING THE FAMILY

767.001 Definitions. In this chapter:

(1d) "Department" means the department of workforce development.

(1m) "Genetic test" means a test that examines genetic markers present on blood cells, skin cells, tissue cells, bodily fluid cells or cells of another body material for the purpose of determining the statistical probability of an alleged father's paternity.

(1s) "Joint legal custody" means the condition under which both parties share legal custody and neither party's legal custody rights are superior, except with respect to specified decisions as set forth by the court or the parties in the final judgment or order.

(2) "Legal custody" means:

(a) With respect to any person granted legal custody of a child, other than a county agency or a licensed child welfare agency under par. (b), the right and responsibility to make major decisions concerning the child, except with respect to specified decisions as set forth by the court or the parties in the final judgment or order.

(b) With respect to the department of health and family services or a county agency specified in s. 48.56 (1) or a licensed child welfare agency granted legal custody of a child, the rights and responsibilities specified under s. 48.02 (12).

(2m) "Major decisions" includes, but is not limited to, decisions regarding consent to marry, consent to enter military service, consent to obtain a motor vehicle operator's license, authorization for nonemergency health care and choice of school and religion.

(3) "Mediation" means a cooperative process involving the parties and a mediator, the purpose of which is to help the parties, by applying communication and dispute resolution skills, define and resolve their own disagreements, with the best interest of the child as the paramount consideration.

(4) "Mediator" means a person with special skills and training in dispute resolution.

(5) "Physical placement" means the condition under which a party has the right to have a child physically placed with that party and has the right and responsibility to make, during that placement, routine daily decisions regarding the child's care, consistent with major decisions made by a person having legal custody.

(6) "Sole legal custody" means the condition under which one party has legal custody.

767.01 Jurisdiction.

(1) The circuit courts have jurisdiction of all actions affecting the family and have authority to do all acts and things necessary and proper in such actions and to carry their orders and judgments into execution as prescribed in this chapter. All actions affecting the family shall be commenced and conducted and the orders and judgments enforced according to these statutes in respect to actions in circuit court, as far as applicable, except as provided in this chapter.

(2) In an action to establish paternity or to establish or enforce a child support obligation, in regard to a child who is the subject of the action, a person is subject to the jurisdiction of the courts of this state as provided in s. 769.201 or 801.05.

(3) An action under s. 767.45 may be brought in the county in which the child or the alleged father resides or is found or, if the father is deceased, in which proceedings for probate of his estate have been or could be commenced.

767.015 Child custody jurisdiction.

All proceedings relating to the custody of children shall comply with the requirements of ch. 822.

767.02 Actions affecting the family.

(1) Actions affecting the family are:

(a) To affirm marriage.

(b) Annulment.

(c) Divorce.

(d) Legal separation (formerly divorce from bed and board).

(e) Custody.

(f) For child support.

(g) For maintenance payments.

(h) For property division.

(i) To enforce or modify a judgment or order in an action affecting the family granted in this state or elsewhere.

(j) For periodic family support payments.

(k) Concerning periods of physical placement or visitation rights to children, including an action to prohibit a move with or the removal of a child under s. 767.327 (3) (c).

(L) To determine paternity.

(m) To enforce or revise an order for support entered under s. 48.355 (2) (b) 4., 48.357 (5m) (a), 48.363 (2), 938.183 (4), 938.355 (2) (b) 4., 938.357 (5m) (a) or 938.363 (2).

(2) "Divorce" means divorce from the bonds of matrimony or absolute divorce, when used in this chapter.

767.027 Notice and service of process requirements.

(1) In any action under s. 767.02 (1) (i) to enforce a judgment or order with respect to child support, due process requirements related to notice and service of process are satisfied to the extent that the court finds all of the following:

(a) That a diligent effort was made to ascertain the location of the respondent.

(b) That written notice of the action to the respondent has been delivered to the most recent residential address or employer address provided by the respondent under s. 767.263 (2) to the county child support agency under s. 59.53 (5).

(2) The department shall promulgate rules that specify the process that the department will use under sub. (1) (a) to ascertain the location of the respondent. Notwithstanding sub. (1) (b), the process specified in the rules shall utilize all reasonable means to which the department has access, including electronic means, interfaces with other programs and information provided by the postmaster, for determining the current address of the respondent.

767.03 Annulment.

No marriage may be annulled or held void except pursuant to judicial proceedings. No marriage may be annulled after the death of either party to the marriage. A court may annul a marriage entered into under the following circumstances:

(1) A party lacked capacity to consent to the marriage at the time the marriage was solemnized, either because of age, because of mental incapacity or infirmity or because of the influence of alcohol, drugs, or other incapacitating substances, or a party was induced to enter into a marriage by force or duress, or by fraud involving the essentials of marriage. Suit may be brought by either party, or by the legal representative of a party lacking the capacity to consent, no later than one year after the petitioner obtained knowledge of the described condition.

(2) A party lacks the physical capacity to consummate the marriage by sexual intercourse, and at the time the marriage was solemnized the other party did not know of the incapacity. Suit may be brought by either party no later than one year after the petitioner obtained knowledge of the incapacity.

(3) A party was 16 or 17 years of age and did not have the consent of his or her parent or guardian or judicial approval, or a party was under 16 years of age. Suit may be brought by the underaged party or a parent or guardian at any time prior to the party's attaining the age of 18 years, but a parent or guardian must bring suit within one year of obtaining knowledge of the marriage.

(4) The marriage is prohibited by the laws of this state. Suit may be brought by either party within 10 years of the marriage, except that the 10-year limitation shall not apply where the marriage is prohibited because either party has another spouse living at the time of the marriage and the impediment has not been removed under s. 765.24.

767.045 Guardian ad litem for minor children.

(1) APPOINTMENT. (a) The court shall appoint a guardian ad litem for a minor child in any action affecting the family if any of the following conditions exists:

1. The court has reason for special concern as to the welfare of a minor child.
2. Except as provided in par. (am), the legal custody or physical placement of the child is contested.

(am) The court is not required to appoint a guardian ad litem under par. (a) 2. if all of the following apply:

1. Legal custody or physical placement is contested in an action to modify legal custody or physical placement under s. 767.325 or 767.327.
2. The modification sought would not substantially alter the amount of time that a parent may spend with his or her child.
3. The court determines any of the following:
 - a. That the appointment of a guardian ad litem will not assist the court in the determination regarding legal custody or physical placement because the facts or circumstances of the case make the likely determination clear.

b. That a party seeks the appointment of a guardian ad litem solely for a tactical purpose, or for the sole purpose of delay, and not for a purpose that is in the best interest of the child.

(b) The court may appoint a guardian ad litem for a minor child in any action affecting the family if the child's legal custody or physical placement is stipulated to be with any person or agency other than a parent of the child or, if at the time of the action, the child is in the legal custody of, or physically placed with, any person or agency other than the child's parent by prior order or by stipulation in this or any other action.

(c) The attorney responsible for support enforcement under s. 59.53 (6) (a) may request that the court or a circuit court commissioner appoint a guardian ad litem to bring an action or motion on behalf of a minor who is a nonmarital child whose paternity has not been acknowledged under s. 767.62 (1) or a substantially similar law of another state or adjudicated for the purpose of determining the paternity of the child, and the court or circuit court commissioner shall appoint a guardian ad litem, if any of the following applies:

1. Aid is provided under s. 46.261, 48.57 (3m) or (3n), 49.19 or 49.45 on behalf of the child, or benefits are provided to the child's custodial parent under ss. 49.141 to 49.161, but the state and its delegate under s. 49.22 (7) are barred by a statute of limitations from commencing an action under s. 767.45 on behalf of the child.
2. An application for legal services has been filed with the child support program under s. 49.22 on behalf of the child, but the state and its delegate under s. 49.22 (7) are barred by a statute of limitations from commencing an action under s. 767.45 on behalf of the child.

(d) A guardian ad litem appointed under par. (c) shall bring an action or motion for the determination of the child's paternity if the guardian ad litem determines that the determination of the child's paternity is in the child's best interest.

(e) Nothing in this subsection prohibits the court from making a temporary order under s. 767.23 that concerns the child before a guardian ad litem is appointed or before the guardian ad litem has made a recommendation to the court, if the court determines that the temporary order is in the best interest of the child.

(2) TIME FOR APPOINTMENT. The court shall appoint a guardian ad litem under sub. (1) (a) 1. or (b) whenever the court deems it appropriate. The court shall appoint a guardian ad litem under sub. (1) (a) 2. at the time specified in s. 767.11 (12) (b), unless upon motion by a party or its own motion, the court determines that earlier appointment is necessary.

(3) QUALIFICATIONS. The guardian ad litem shall be an attorney admitted to practice in this state. No person who is an interested party in a proceeding, appears as counsel in a proceeding on behalf

of any party or is a relative or representative of an interested party may be appointed guardian ad litem in that proceeding.

(4) RESPONSIBILITIES. The guardian ad litem shall be an advocate for the best interests of a minor child as to paternity, legal custody, physical placement, and support. The guardian ad litem shall function independently, in the same manner as an attorney for a party to the action, and shall consider, but shall not be bound by, the wishes of the minor child or the positions of others as to the best interests of the minor child. The guardian ad litem shall consider the factors under s. 767.24 (5) (am), subject to s. 767.24 (5) (bm), and custody studies under s. 767.11 (14). The guardian ad litem shall investigate whether there is evidence that either parent has engaged in interspousal battery, as described in s. 940.19 or 940.20 (1m), or domestic abuse, as defined in s. 813.12 (1) (am), and shall report to the court on the results of the investigation. The guardian ad litem shall review and comment to the court on any mediation agreement and stipulation made under s. 767.11 (12) and on any parenting plan filed under s. 767.24 (1m). Unless the child otherwise requests, the guardian ad litem shall communicate to the court the wishes of the child as to the child's legal custody or physical placement under s. 767.24 (5) (am) 2. The guardian ad litem has none of the rights or duties of a general guardian.

(4m) STATUS HEARING. (a) Subject to par. (b), at any time after 120 days after a guardian ad litem is appointed under this section, a party may request that the court schedule a status hearing related to the actions taken and work performed by the guardian ad litem in the matter.

(b) A party may, not sooner than 120 days after a status hearing under this subsection is held, request that the court schedule another status hearing on the actions taken and work performed by the guardian ad litem in the matter.

(5) TERMINATION AND EXTENSION OF APPOINTMENT. The appointment of a guardian ad litem under sub. (1) terminates upon the entry of the court's final order or upon the termination of any appeal in which the guardian ad litem participates. The guardian ad litem may appeal, may participate in an appeal or may do neither. If an appeal is taken by any party and the guardian ad litem chooses not to participate in that appeal, he or she shall file with the appellate court a statement of reasons for not participating. Irrespective of the guardian ad litem's decision not to participate in an appeal, the appellate court may order the guardian ad litem to participate in the appeal. At any time, the guardian ad litem, any party or the person for whom the appointment is made may request in writing that the court extend or terminate the appointment or reappointment. The court may extend that appointment, or reappoint a guardian ad litem appointed under this section, after the final order or after the termination of the appeal, but the court shall specifically state the scope of the responsibilities of the guardian ad litem during the period of that extension or reappointment.

(6) COMPENSATION. The guardian ad litem shall be compensated at a rate that the court determines is reasonable. The court shall order either or both parties to pay all or any part of the compensation of the guardian ad litem. In addition, upon motion by the guardian ad litem, the court shall order either or both parties to pay the fee for an expert witness used by the guardian ad litem, if the guardian ad litem shows that the use of the expert is necessary to assist the guardian ad litem in performing his or her functions or duties under this chapter. If both parties are indigent, the court may direct that the county of venue pay the compensation and fees. If the court orders a county to pay the compensation of the guardian ad litem, the amount ordered may not exceed the compensation paid to private attorneys under s. 977.08 (4m) (b). The court may order a separate judgment for the amount of the reimbursement in favor of the county and against the party or parties responsible for the reimbursement. The court may enforce its orders under this subsection by means of its contempt power.

767.05 Procedures.

(1) JURISDICTION. A court of this state having jurisdiction to hear actions affecting the family may exercise jurisdiction as provided under ch. 769 or 801.

(1m) RESIDENCE. No action under s. 767.02 (1) (a) or (b) may be brought unless at least one of the parties has been a bona fide resident of the county in which the action is brought for not less than 30 days next preceding the commencement of the action, or unless the marriage has been contracted within this state within one year prior to the commencement of the action. No action under s. 767.02 (1) (c) or (d) may be brought unless at least one of the parties has been a bona fide resident of the county in which the action is brought for not less than 30 days next preceding the commencement of the action. No action under s. 767.02 (1) (c) may be brought unless at least

one of the parties has been a bona fide resident of this state for not less than 6 months next preceding the commencement of the action.

(2) ACTIONS FOR CUSTODY OF CHILDREN. Subject to ch. 822, the question of a child's custody may be determined as an incident of any action affecting the family or in an independent action for custody. The effect of any determination of a child's custody shall not be binding personally against any parent or guardian unless the parent or guardian has been made personally subject to the jurisdiction of the court in the action as provided under ch. 801 or has been notified under s. 822.05 as provided in s. 822.12. Nothing in this section may be construed to foreclose a person other than a parent who has physical custody of a child from proceeding under ch. 822.

(3) PARTIES. The party initiating an action affecting the family shall be denominated the petitioner. The party responding to the action shall be denominated the respondent. All references to "plaintiff" in chs. 801 to 807 shall apply to the petitioner, and all references to "defendant" in chs. 801 to 807 shall apply to the respondent. Both parties together may initiate the petition by signing and filing a joint petition. The parties to a joint petition shall be called joint petitioners. The parties to a joint petition shall state within the joint petition that both parties consent to personal jurisdiction and waive service of summons.

(4) PETITION. All references to a "complaint" in chs. 801 to 807 shall apply to petitions under s. 767.085.

(5) TITLE OF ACTIONS. An action affecting the family under s. 767.02 (1) (a) to (d) or (g) to (k) shall be entitled "In re the marriage of A.B. and C.D.", except that an independent action for visitation under s. 767.245 (3) shall be entitled "In re visitation with A. B.". An action affecting the family under s. 767.02 (1) (f) or (m) shall be entitled "In re the support of A.B.". A child custody action shall be entitled "In re the custody of A.B.". In all other respects, the general provisions of chs. 801 and 802 respecting the content and form of the summons and pleadings shall apply.

(6) DISMISSAL. An action affecting the family may not be dismissed under s. 805.04 (1) unless all the parties who have appeared in the action have been served with a copy of the notice of dismissal and have had an opportunity to file a responsive pleading or motion.

(7) ACTIONS FOR CERTAIN INTERSPOUSAL REMEDIES. If a spouse has begun an action against the other spouse under s. 766.70 and either or both spouses subsequently bring an action under this chapter for divorce, annulment or legal separation, the actions may be consolidated by the court exercising jurisdiction under this chapter. If the actions are consolidated, to the extent the procedural and substantive requirements of this chapter conflict with the requirements under s. 766.70, this chapter controls. No action under s. 766.70 may be brought by a spouse against the other spouse while an action for divorce, annulment or legal separation is pending under this chapter.

767.07 Judgment of divorce or legal separation.

A court of competent jurisdiction shall grant a judgment of divorce or legal separation if:

(1) The requirements of this chapter as to residence and marriage assessment counseling have been complied with;

(2) (a) In connection with a judgment of divorce or legal separation, the court finds that the marriage is irretrievably broken under s. 767.12 (2), unless par. (b) applies.

(b) In connection with a judgment of legal separation, the court finds that the marital relationship is broken under s. 767.12 (3); and

(3) To the extent it has jurisdiction to do so, the court has considered, approved or made provision for legal custody, the support of any child of the marriage entitled to support, the maintenance of either spouse, the support of the family under s. 767.261 and the disposition of property.

767.075 State is real party in interest.

(1) The state is a real party in interest within the meaning of s. 803.01 for purposes of establishing paternity, securing reimbursement of aid paid, future support and costs as appropriate in an action affecting the family in any of the following circumstances:

(a) An action to establish paternity whenever there is a completed application for legal services filed with the child support program under s. 49.22 or whenever s. 767.45 (6m) or (6r) applies.

(b) An action to establish or enforce a child support or maintenance obligation whenever there is a completed application for legal services filed with the child support program under s. 49.22.

(c) Whenever aid under s. 46.261, 48.57 (3m) or (3n), 49.19 or 49.45 is provided on behalf of a dependent child or benefits are provided to the child's custodial parent under ss. 49.141 to 49.161.

(cm) Whenever aid under s. 46.261, 48.57 (3m) or (3n), 49.19 or 49.45 has, in the past, been provided on behalf of a dependent child, or benefits have, in the past, been provided to the child's custodial parent under ss. 49.141 to 49.161, and the child's family is eligible for continuing child support services under 45 CFR 302.33.

(2) (a) Except as provided in par. (b), in any action affecting the family under a child support enforcement program, an attorney acting under s. 49.22 or 59.53 (5), including any district attorney or corporation counsel, represents only the state. Child support services provided by an attorney as specified in sub. (1) do not create an attorney-client relationship with any other party.

(b) Paragraph (a) does not apply to an attorney who is employed by the department under s. 49.22 or a county under s. 59.53 (5) or (6) (a) to act as the guardian ad litem of the minor child for the purpose of establishing paternity.

767.077 Support for dependent child.

The state or its delegate under s. 49.22 (7) shall bring an action for support of a minor child under s. 767.02 (1) (f) or, if appropriate, for paternity determination and child support under s. 767.45 whenever the child's right to support is assigned to the state under s. 46.261, 48.57 (3m) (b) 2. or (3n) (b) 2., 49.145 (2) (s), 49.19 (4) (h) 1. b. or 49.775 (2) (bm) if all of the following apply:

(1) The child has been deprived of parental support by reason of the continued absence of a parent from the home.

(2) A court has not issued an order under s. 767.25 requiring the parent who is absent from the home to support the child.

767.078 Order in case involving dependent child.

(1) (a) In this subsection, "case involving a dependent child" means an action which meets all of the following criteria:

1. Is an action for modification of a child support order under s. 767.32 or an action in which an order for child support is required under s. 767.25 (1), 767.51 (3) or 767.62 (4).

2. The child's right to support is assigned to the state under s. 46.261 (3), 48.57 (3m) (b) 2. or (3n) (b) 2., or 49.19 (4) (h) 1. b.

3. The child has been deprived of parental support by reason of the continued absence of a parent from the home. (b) Except as provided in par. (c), in a case involving a dependent child, if the child's parent who is absent from the home is not employed, the court shall order that parent to do one or more of the following:

1. Register for work at a public employment office established under s. 106.09.

2. Apply for jobs.

3. Participate in a job training program.

(c) An order is not required under par. (b) if the court makes written findings that there is good cause for not issuing the order.

(2) Subsection (1) does not limit the authority of a court to issue an order, other than an order under sub. (1), regarding employment of a parent in an action for modification of a child support order under s. 767.32 or an action in which an order for child support is required under s. 767.25 (1), 767.51 (3) or 767.62 (4).

767.08 Actions to compel support.

(1) In this section:

(a) "Nonlegally responsible relative" means a relative who assumes responsibility for the care of a child without legal custody, but is not in violation of a court order. "Nonlegally responsible relative" does not include a relative who has physical custody of a child during a court-ordered visitation period.

(b) "Relative" means any person connected with a child by blood, marriage or adoption.

(2) (a) If a person fails or refuses to provide for the support and maintenance of his or her spouse or minor child, any of the following may commence an action in any court having jurisdiction in actions affecting the family to compel the person to provide any legally required support and maintenance:

1. The person's spouse.

2. The minor child.

3. The person with legal custody of the child.

4. A nonlegally responsible relative.

(b) The court in the action shall, as provided under s. 767.25 or 767.26, determine and adjudge the amount, if any, the person should reasonably contribute to the support and maintenance of the spouse or child and how the sum should be paid. This amount must be expressed as a fixed sum unless the parties have stipulated to expressing the amount as a percentage of the payer's income and the requirements under s. 767.10 (2) (am) 1. to 3. are satisfied. The amount so ordered to be paid may be changed or modified by the court upon notice of motion or order to show cause by either party upon sufficient evidence.

(c) The determination may be enforced by contempt proceedings, an account transfer under s. 767.267 or other enforcement mechanisms as provided under s. 767.30. (d) In any such support action there shall be no filing fee or other costs taxable to the person's spouse, the minor child, the person with legal custody or the nonlegally responsible relative, but after the action has been commenced and filed the court may direct that any part of or all fees and costs incurred shall be paid by either party.

(3) If the state or any subdivision thereof furnishes public aid to a spouse or dependent child for support and maintenance and the spouse, person with legal custody or nonlegally responsible relative fails or refuses to institute an appropriate court action under this chapter to provide for the same, the person in charge of county welfare activities, the county child support agency under s. 59.53 (5) or the department is a real party in interest under s. 767.075 and shall initiate an action under this section, for the purpose of obtaining support and maintenance. Any attorney employed by the state or any subdivision thereof may initiate an action under this section. The title of the action shall be "In re the support or maintenance of A.B. (Child)".

767.081 Information from the office of family court commissioner.

(1) Upon the filing of an action affecting the family, the office of family court commissioner shall inform the parties of any services, including referral services, offered by the office of family court commissioner and by the director of family court counseling services under s. 767.11.

(2) Upon request of a party to an action affecting the family, including a revision of judgment or order under s. 767.32 or 767.325:

(a) The office of family court commissioner shall, with or without charge, provide the party with written information on the following, as appropriate to the action commenced:

1. The procedure for obtaining a judgment or order in the action.
2. The major issues usually addressed in such an action.
3. Community resources and family court counseling services available to assist the parties.
4. The procedure for setting, modifying and enforcing child support awards or modifying and enforcing legal custody or physical placement judgments or orders.

(b) The office of family court commissioner shall provide a party, for inspection or purchase, with a copy of the statutory provisions in this chapter generally pertinent to the action.

767.082 Suspension of proceedings to effect reconciliation.

During the pendency of any action for divorce or legal separation, the court may, upon written stipulation of both parties that they desire to attempt a reconciliation, enter an order suspending any and all orders and proceedings for such period, not exceeding 90 days, as the court determines advisable so as to permit the parties to attempt a reconciliation without prejudice to their respective rights. During the period of suspension the parties may resume living together as husband and wife and their acts and conduct shall not constitute an admission that the marriage is not irretrievably broken or a waiver of the ground that the parties have voluntarily lived apart continuously for 12 months or more immediately prior to the commencement of the action if such is the case. Suspension may be revoked upon motion of either party by order of the court. If the parties become reconciled, the court shall dismiss the action. If the parties are not reconciled after the period of suspension, the action shall proceed as though no reconciliation period was attempted.

767.083 Waiting period in certain actions.

No petition for divorce or legal separation may be brought to trial until the happening of whichever of the following events occurs first:

- (1) The expiration of 120 days after service of the summons and petition upon the respondent or the expiration of 120 days after the filing of the joint petition; or
- (2) An order by the court, after consideration of the recommendation of a circuit court commissioner, directing an immediate hearing on the petition for the protection of the health or safety of either of the parties or of any child of the marriage or for other emergency reasons consistent with the policies of this chapter. The court shall upon granting such order specify the grounds therefor.

767.085 Petition and response.

(1) PETITION, CONTENTS.

Except as otherwise provided, in any action affecting the family, the petition shall state:

(a) The name and birthdate of the parties, the social security numbers of the husband and wife and their occupations, the date and place of marriage and the facts relating to the residence of both parties.

(b) The name, birthdate and social security number of each minor child of the parties and each other child born to the wife during the marriage, and whether the wife is pregnant.

(c) If the relief requested is a divorce or a legal separation in which the parties do not file a petition under s. 767.12 (3), that the marriage is irretrievably broken, or, alternatively, that both parties agree that the marriage is irretrievably broken.

(cm) If the relief requested is a legal separation and the parties have filed a petition under s. 767.12 (3), that both parties agree that the marital relationship is broken.

(d) Whether or not an action for divorce or legal separation by either of the parties was or has been at any time commenced, or is pending in any other court or before any judge thereof, in this state or elsewhere, and if either party was previously married, and if so the manner in which such marriage was terminated, and if terminated by court judgment, the name of the court in which the judgment was granted and the time and place the judgment was granted, if known.

(e) Whether the parties have entered into any written agreements as to support, legal custody and physical placement of the children, maintenance of either party, and property division; and if so, the written agreement shall be attached.

(f) The relief requested. When the relief requested is a legal separation, the petition shall state the specific reason for requesting such relief.

(h) That during the pendency of the action, the parties are prohibited from, and may be held in contempt of court for, harassing, intimidating, physically abusing or imposing any restraint on the personal liberty of the other party or a minor child of either party.

(i) If the action is one under s. 767.02 (1) (a), (b), (c), (d), (h) or (i), that during the pendency of the action, without the consent of the other party or an order of the court or a circuit court commissioner, the parties are prohibited from, and may be held in contempt of court for, encumbering, concealing, damaging, destroying, transferring or otherwise disposing of property owned by either or both of the parties, except in the usual course of business, in order to secure necessities or in order to pay reasonable costs and expenses of the action, including attorney fees.

(j) Unless the action is one under s. 767.02 (1) (g) or (h), that during the pendency of the action, the parties are prohibited from, and may be held in contempt of court for, doing any of the following without the consent of the other party or an order of the court or a circuit court commissioner:

1. Establishing a residence with a minor child of the parties outside the state or more than 150 miles from the residence of the other party within the state.

2. Removing a minor child of the parties from the state for more than 90 consecutive days.

3. Concealing a minor child of the parties from the other party.

(2) INITIATION OF ACTION. (a) Either or both of the parties to the marriage may initiate the action. The party initiating the action or his or her attorney shall sign the petition. Both parties or their respective attorneys shall sign a joint petition.

(b) The clerk of court shall provide without charge, to each person filing a petition requesting child support, a document setting forth the percentage standard established by the department under s. 49.22 (9) and listing the factors which a court may consider under s. 767.25 (1m).

(2m) SUMMONS, CONTENTS. (a) Except as provided in par. (b), if only one party initiates the action and the parties have minor children, the summons served on the other party:

1. Shall include notification of the availability of information under s. 767.081 (2) and of the contents of s. 948.31.

2. Shall be accompanied by a document, provided without charge by the clerk of court, setting forth the percentage standard established by the department under s. 49.22 (9) and listing the factors which a court may consider under s. 767.25 (1m).

(b) If service is by publication, notification regarding s. 948.31 may consist of references to the statute numbers and titles, and information relating to the percentage standard and the factors need not be provided.

(3) SERVICE. If only one party initiates the action, the other shall be served under ch. 801 and may serve a response or counterclaim within 20 days after the date of service, except that questions of jurisdiction may be raised at any time prior to judgment. Service shall be made upon the petitioner and upon the circuit court commissioner as provided in s. 767.14, and the original copy of the response shall be filed in court. If the parties together initiate the action with a joint petition, service of summons is not required.

(4) DEFENSES ABOLISHED. Previously existing defenses to divorce and legal separation, including but not limited to condonation, connivance, collusion, recrimination, insanity, and lapse of time, are abolished.

767.087 Prohibited acts during pendency of action.

(1) In an action affecting the family, the petitioner upon filing the petition, the joint petitioners upon filing the joint petition and the respondent upon service of the petition are prohibited from doing any of the following:

(a) Harassing, intimidating, physically abusing or imposing any restraint on the personal liberty of the other party or a minor child of either of the parties.

(b) If the action is one under s. 767.02 (1) (a), (b), (c), (d), (h) or (i), encumbering, concealing, damaging, destroying, transferring or otherwise disposing of property owned by either or both of the parties, without the consent of the other party or an order of the court or a circuit court commissioner, except in the usual course of business, in order to secure necessities or in order to pay reasonable costs and expenses of the action, including attorney fees.

(c) Unless the action is one under s. 767.02 (1) (g) or (h), without the consent of the other party or an order of the court or a circuit court commissioner, establishing a residence with a minor child of the parties outside the state or more than 150 miles from the residence of the other party within the state, removing a minor child of the parties from the state for more than 90 consecutive days or concealing a minor child of the parties from the other party.

(2) The prohibitions under sub. (1) shall apply until the action is dismissed, until a final judgment in the action is entered or until the court or a circuit court commissioner orders otherwise.

(3) (a) Except as provided in par. (b), a party who violates any provision of sub. (1) may be proceeded against under ch. 785 for contempt of court.

(b) An act in violation of sub. (1) (c) is not a contempt of court if the court finds that the action was taken to protect a party or a minor child of the parties from physical abuse by the other party and that there was no reasonable opportunity under the circumstances for the party to obtain an order under sub. (2) authorizing the action.

767.09 Power of court in divorce and legal separation actions.

(1) When a party requests a legal separation rather than a decree of divorce, the court shall grant the decree in that form unless the other party requests a divorce, in which case the court shall hear and determine which decree shall be granted. A decree of separation shall provide that in case of a reconciliation at any time thereafter, the parties may apply for a revocation of the judgment. Upon such application the court shall make such orders as may be just and reasonable.

(2) By stipulation of both parties, or upon motion of either party not earlier than one year after entry of a decree of legal separation, the court shall convert the decree to a decree of divorce.

767.10 Stipulation and property division.

(1) The parties in an action for an annulment, divorce or legal separation may, subject to the approval of the court, stipulate for a division of property, for maintenance payments, for the support of children, for periodic family support payments under s. 767.261 or for legal custody and physical placement, in case a divorce or legal separation is granted or a marriage annulled.

(2) (a) A court may not approve a stipulation for child support or family support unless the stipulation provides for payment of child support, determined in a manner consistent with s. 767.25 or 767.51.

(am) A court may not approve a stipulation for expressing child support or family support as a percentage of the payer's income unless all of the following apply:

1. The state is not a real party in interest in the action under any of the circumstances specified in s. 767.075 (1).

2. The payer is not subject to any other order, in any other action, for the payment of child or family support or maintenance.

3. All payment obligations included in the order, other than the annual receiving and disbursing fee under s. 767.29 (1) (d), are expressed as a percentage of the payer's income.

(b) A court may not approve a stipulation for a division of property that assigns substantially all of the property to one of the parties in the action if the other party in the action is in the process of applying for medical assistance under subch. IV of ch. 49 or if the court determines that it can be reasonably anticipated that the other party in the action will apply for medical assistance under subch. IV of ch. 49 within 30 months of the stipulation.

767.11 Family court counseling services.

(1) DIRECTOR. (a) Except as provided in par. (b) and subject to approval by the chief judge of the judicial administrative district, the circuit judge or judges in each county shall designate a person meeting the qualifications under sub. (4) as the director of family court counseling services in that county.

(b) If 2 or more contiguous counties enter into a cooperative agreement under sub. (3) (b), the circuit judges for the counties involved shall, subject to approval by the chief judge of the judicial administrative district, designate a person meeting the qualifications under sub. (4) as the director of family court counseling services for those counties.

(c) A county or counties may designate the supervisor of the office of family court commissioner as the director under par. (a) or (b).

(2) DUTIES. A director of family court counseling services designated under sub. (1) shall administer a family court counseling office if such an office is established under sub. (3) (a) or (b). Regardless of whether such an office is established, the director shall:

(a) Employ staff to perform mediation and to perform any legal custody and physical placement study services authorized under sub. (14), arrange and monitor staff training, and assign and monitor staff case load.

(b) Contract under sub. (3) (c) with a person or public or private entity to perform mediation and to perform any legal custody and physical placement study services authorized under sub. (14).

(c) Supervise and perform mediation and any legal custody and physical placement study services authorized under sub. (14), and evaluate the quality of any such mediation or study services.

(d) Administer and manage funding for family court counseling services.

(3) MEDIATION PROVIDED. Mediation shall be provided in every county in this state by any of the following means:

(a) A county may establish a family court counseling office to provide mediation in that county.

(b) Two or more contiguous counties may enter into a cooperative agreement to establish one family court counseling office to provide mediation in those counties.

(c) A director of family court counseling services designated under sub. (1) may contract with any person or public or private entity, located in a county in which the director administers family court counseling services or in a contiguous county, to provide mediation in such a county.

(4) MEDIATOR QUALIFICATIONS. Every mediator assigned under sub. (6) (a) shall have not less than 25 hours of mediation training or not less than 3 years of professional experience in dispute resolution. Every mediator assigned under sub. (6) (a) shall have training on the dynamics of domestic violence and the effects of domestic violence on victims of domestic violence and on children.

(5) MEDIATION REFERRALS. (a) Except as provided in sub. (8)(b), in any action affecting the family, including a revision of judgment or order under s. 767.32 or 767.325, in which it appears that legal custody or physical placement is contested, the court or circuit court commissioner shall refer the parties to the director of family court counseling services for possible mediation of those contested issues. The court or circuit court commissioner shall inform the parties of all of the following:

1. That the confidentiality of communications in mediation is waived if the parties stipulate under sub. (14) (c) that the person who provided mediation to the parties may also conduct the legal custody or physical placement study under sub. (14).

2. That the court may waive the requirement to attend at least one mediation session if the court determines that attending the session will cause undue hardship or would endanger the health or safety of one of the parties and the bases on which the court may make its determination.

(b) If both parties to any action affecting the family wish to have joint legal custody of a child, either party may request that the court or circuit court commissioner refer the parties to the director of family court counseling services for assistance in resolving any problem relating to joint legal custody and physical placement of the child. Upon request, the court shall so refer the parties.

(c) A person who is awarded periods of physical placement, a child of such a person, a person with visitation rights or a person with physical custody of a child may notify a circuit court commissioner of any problem he or she has relating to any of these matters. Upon notification, the circuit court commissioner may refer any person involved in the matter to the director of family court counseling services for assistance in resolving the problem.

(6) ACTION UPON REFERRAL. (a) Whenever a court or circuit court commissioner refers a party to the director of family court counseling services for possible mediation, the director shall assign a mediator to the case. The mediator shall provide mediation if he or she determines it is appropriate. If the mediator determines mediation is not appropriate, he or she shall so notify the court. Whenever a court or circuit court commissioner refers a party to the director of family court counseling services for any other family court counseling service, the director shall take appropriate action to provide the service.

(b) Any intake form that the family court counseling services requires the parties to complete before commencement of mediation shall ask each party whether either of the parties has engaged in interspousal battery, as described in s. 940.19 or 940.20 (1m), or domestic abuse, as defined in s. 813.12 (1) (am).

(7) PRIVATE MEDIATOR. The parties to any action affecting the family may, at their own expense, receive mediation services from a mediator other than one who provides services under sub. (3).

Parties who receive services from such a mediator shall sign and file with the director of family court counseling services and with the court or circuit court commissioner a written notice stating the mediator's name and the date of the first meeting with the mediator.

(8) INITIAL SESSION OF MEDIATION REQUIRED. (a) Except as provided in par. (b), in any action affecting the family, including an action for revision of judgment or order under s. 767.32 or 767.325, in which it appears that legal custody or physical placement is contested, the parties shall attend at least one session with a mediator assigned under sub. (6) (a) or contracted with under sub. (7) and, if the parties and the mediator determine that continued mediation is appropriate, no court may hold a trial of or a final hearing on legal custody or physical placement until after mediation is completed or terminated.

(b) A court may, in its discretion, hold a trial or hearing without requiring attendance at the session under par. (a) if the court finds that attending the session will cause undue hardship or would endanger the health or safety of one of the parties. In making its determination of whether attendance at the session would endanger the health or safety of one of the parties, the court shall consider evidence of the following:

1. That a party engaged in abuse, as defined in s. 813.122 (1) (a), of the child, as defined in s. 48.02 (2).

2. Interspousal battery as described under s. 940.19 or 940.20 (1m) or domestic abuse as defined in s. 813.12 (1) (am).

3. That either party has a significant problem with alcohol or drug abuse.

4. Any other evidence indicating that a party's health or safety will be endangered by attending the session.

(c) The initial session under par. (a) shall be a screening and evaluation mediation session, including screening for domestic abuse, to determine whether mediation is appropriate and whether both parties wish to continue in mediation.

(9) PROHIBITED ISSUES IN MEDIATION. If mediation is provided by a mediator assigned under sub. (6) (a), no issue relating to property division, maintenance, or child support may be considered during the mediation unless all of the following apply:

(a) The property division, maintenance or child support issue is directly related to the legal custody or physical placement issue.

(b) The parties agree in writing to consider the property division, maintenance or child support issue.

(10) POWERS AND DUTIES OF MEDIATOR. A mediator assigned under sub. (6) (a) shall be guided by the best interest of the child and may do any of the following, at his or her discretion:

(a) Include the counsel of any party or any appointed guardian ad litem in the mediation.

(b) Interview any child of the parties, with or without a party present.

(c) Require a party to provide written disclosure of facts relating to any legal custody or physical placement issue addressed in mediation, including any financial issue permitted to be considered.

(d) Suspend mediation when necessary to enable a party to obtain an appropriate court order or appropriate therapy.

(e) Terminate mediation if a party does not cooperate or if mediation is not appropriate or if any of the following facts exist:

1. There is evidence that a party engaged in abuse, as defined in s. 813.122 (1) (a), of the child, as defined in s. 48.02 (2).

2. There is evidence of interspousal battery as described under s. 940.19 or 940.20 (1m) or domestic abuse as defined in s. 813.12 (1) (am).

3. Either party has a significant problem with alcohol or drug abuse.

4. Other evidence which indicates one of the parties' health or safety will be endangered if mediation is not terminated.

(12) MEDIATION AGREEMENT. (a) Any agreement which resolves issues of legal custody or periods of physical placement between the parties reached as a result of mediation under this section shall be prepared in writing, reviewed by the attorney, if any, for each party and by any appointed guardian ad litem, and submitted to the court to be included in the court order as a stipulation. Any reviewing attorney or guardian ad litem shall certify on the mediation agreement that he or she reviewed it and the guardian ad litem, if any, shall comment on the agreement based on the best interest of the child. The mediator shall certify that the written mediation agreement is in the best interest of the child based on the information presented to the mediator and accurately reflects the agreement made between the parties. The court may approve or reject the agreement, based on the best interest of the child. The court shall state in writing its reasons for rejecting an agreement.

(b) If after mediation under this section the parties do not reach agreement on legal custody or periods of physical placement, the parties or the mediator shall so notify the court. Except as provided in s. 767.045 (1) (am), the court shall promptly appoint a guardian ad litem under s. 767.045. Regardless of whether the court appoints a guardian ad litem, the court shall, if appropriate, refer the matter for a legal custody or physical placement study under sub. (14). If the parties come to agreement on legal custody or physical placement after the matter has been referred for a study, the study shall be terminated. The parties may return to mediation at any time before any trial or final hearing on legal custody or periods of physical placement. If the parties return to mediation, the county shall collect any applicable fee under s. 814.615.

(13) POWERS OF COURT OR CIRCUIT COURT COMMISSIONER. Except as provided in sub. (8), referring parties to mediation under this section does not affect the power of the court or a circuit court commissioner to make any necessary order relating to the parties during the course of the mediation.

(14) LEGAL CUSTODY AND PHYSICAL PLACEMENT STUDY. (a) A county or 2 or more contiguous counties shall provide legal custody and physical placement study services. The county or counties may elect to provide these services by any of the means set forth in sub. (3) with respect to mediation. Regardless of whether a county so elects, whenever legal custody or physical placement of a minor child is contested and mediation under this section is not used or does not result in agreement between the parties, or at any other time the court considers it appropriate, the court may order a person or entity designated by the county to investigate the following matters relating to the parties:

1. The conditions of the child's home.

2. Each party's performance of parental duties and responsibilities relating to the child.

2m. Whether either party has engaged in interspousal battery, as described in s. 940.19 or 940.20 (1m), or domestic abuse, as defined in s. 813.12 (1) (am).

3. Any other matter relevant to the best interest of the child.

(b) The person or entity investigating the parties under par. (a) shall complete the investigation and submit the results to the court. The court shall make the results available to both parties. The report shall be a part of the record in the action unless the court orders otherwise.

(c) No person who provided mediation to the parties under this section may investigate the parties under this subsection unless each party personally so consents by written stipulation after mediation has ended and after receiving notice from the person who provided mediation that consent waives the inadmissibility of communications in mediation under s. 904.085.

(15) APPLICABILITY. This section applies to each county on the date established by that county, or on June 1, 1989, whichever is earlier.

767.125 Order for appearance of litigants.

Unless nonresidence in the state is shown by competent evidence, service is by publication, or the court shall for other good cause otherwise order, both parties in actions affecting the family shall be required to appear upon the trial. An order of the court or a circuit court commissioner to that effect shall accordingly be procured by the moving party, and shall be served upon the nonmoving party before the trial. In the case of a joint petition the order is not required.

767.14 Service on office of family court commissioner and appearance by circuit court commissioner.

In any action affecting the family, each party shall, either within 20 days after making service on the opposite party of any petition or pleading or before filing such petition or pleading in court, serve a copy of the same upon the circuit court commissioner supervising the office of family court commissioner of the county in which the action is begun, whether such action is contested or not. No judgment in any such action shall be granted unless this section is complied with except when otherwise ordered by the court. A circuit court commissioner assisting in matters affecting the family may appear in an action under this chapter when appropriate; and shall appear when requested by the court.

767.145 Enlargement of time.

(1) After the expiration of the period specified by the statute, the court may in its discretion, upon petition and without notice, extend the time within which service shall be made upon the circuit court commissioner supervising the office of family court commissioner.

(2) Except as provided in s. 767.456, extension of time under any other circumstances shall be governed by s. 801.15 (2), except that the court may, upon the petitioner's demonstration of good cause, and without notice, order one additional 60-day extension for service of the initial papers in the action.

767.15 Service on child support program.

(1) In any action affecting the family in which either party is a recipient of benefits under ss. 49.141 to 49.161 or aid under s. 46.261, 49.19 or 49.45, each party shall, either within 20 days after making service on the opposite party of any motion or pleading requesting the court or circuit court commissioner to order, or to modify a previous order, relating to child support, maintenance or family support, or before filing the motion or pleading in court, serve a copy of the motion or pleading upon the county child support agency under s. 59.53 (5) of the county in which the action is begun.

(2) In any appeal of any action affecting the family in which support or maintenance of a child of any party is at issue, the person who initiates the appeal shall notify the department of the appeal by sending a copy of the notice of appeal to the department.

(3) No judgment in any action affecting the family may be granted unless this section is complied with or a court orders otherwise.

767.16 Circuit court commissioner or law partner; when interested; procedure.

Neither a circuit court commissioner assisting in matters affecting the family nor a partner may appear in any action affecting the family in any court held in the county in which the circuit court commissioner is acting, except when authorized to appear by s. 767.14. In case the circuit court commissioner or a partner shall be in any way interested in such action, the presiding judge shall appoint some reputable attorney to perform the services enjoined upon the circuit court

commissioner. The appointed attorney shall take and file the oath and receive the compensation provided by law.

767.19 Record; impounding.

(1) No record or evidence in any case shall be impounded, or access thereto refused, except by special written order of the court made in its discretion in the interests of public morals. And when impounded no officer or other person shall permit a copy of any of the testimony or pleadings, or the substance thereof, to be taken by any person other than a party to the action, or his or her attorney of record, without the special order of the court.

(2) The court may on its own motion, or on motion of any party to an action affecting the family, exclude from the courtroom all persons other than the parties, their attorneys and any guardians ad litem.

767.20 Name of spouse.

Except as provided in s. 301.47, the court, upon granting a divorce, shall allow either spouse, upon request, to resume a former legal surname, if any.

767.21 Full faith and credit; comity.

(1) ACTIONS IN COURTS OF OTHER STATES. (a) Full faith and credit shall be given in all courts of this state to a judgment in any action affecting the family, except an action relating to child custody, by a court of competent jurisdiction in another state, territory or possession of the United States, when both spouses personally appear or when the respondent has been personally served. Full faith and credit shall also be given in all courts of this state to the amount of arrearages owed for nonpayment or late payment of a child support, family support or maintenance payment under an order issued by a court of competent jurisdiction in another state, territory or possession of the United States. A court in this state may not adjust the amount of arrearages owed except as provided in s. 767.32 (1m).

(b) Full faith and credit shall be given in all courts of this state to a determination of paternity made by any other state, whether established through voluntary acknowledgment or an administrative or judicial process.

(2) ACTIONS IN COURTS OF FOREIGN COUNTRIES. Any court of this state may recognize a judgment in any action affecting the family involving Wisconsin domiciliaries, except an action relating to child custody, by a court of competent jurisdiction in a foreign country, in accordance with the principles of international comity.

(3) CHILD CUSTODY ACTIONS. All matters relating to the effect of the judgment of another court concerning child custody shall be governed by ch. 822.

767.22 Uniform divorce recognition act.

(1) A divorce obtained in another jurisdiction shall be of no force or effect in this state, if the court in such other jurisdiction lacks subject matter jurisdiction to hear the case because both parties to the marriage were domiciled in this state at the time the proceeding for the divorce was commenced.

(2) Proof that a person obtaining a divorce in another jurisdiction was (a) domiciled in this state within 12 months prior to the commencement of the proceeding therefor, and resumed residence in this state within 18 months after the date of the person's departure therefrom, or (b) at all times after the person's departure from this state, and until the person's return maintained a place of residence within this state, shall be prima facie evidence that the person was domiciled in this state when the divorce proceeding was commenced.

(3) This section shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

(4) This section may be cited as the Uniform Divorce Recognition Act.

767.23 Temporary orders for support of spouse and children; suit money; attorney fees.

(1) Except as provided in ch. 822, in every action affecting the family, the court or circuit court commissioner may, during the pendency thereof, make just and reasonable temporary orders concerning the following matters:

(a) Upon request of one party, granting legal custody of the minor children to the parties jointly, to one party solely or to a relative or agency specified under s. 767.24 (3), in a manner consistent with s. 767.24, except that the court or circuit court commissioner may order sole legal custody without the agreement of the other party and without the findings required under s. 767.24 (2) (b) 2. This order may not have a binding effect on a final custody determination.

(am) Upon the request of a party, granting periods of physical placement to a party in a manner consistent with s. 767.24. The court or circuit court commissioner shall make a determination under this paragraph within 30 days after the request for a temporary order regarding periods of physical placement is filed.

(b) Notwithstanding ss. 767.085 (1) (j) and 767.087 (1) (c), prohibiting the removal of minor children from the jurisdiction of the court.

(bm) Allowing a party to move with or remove a child after a notice of objection has been filed under s. 767.327 (2) (a).

(c) Subject to s. 767.477, requiring either party or both parties to make payments for the support of minor children, which payment amounts must be expressed as a fixed sum unless the parties have stipulated to expressing the amount as a percentage of the payer's income and the requirements under s. 767.10 (2) (am) 1. to 3. are satisfied.

(d) Requiring either party to pay for the maintenance of the other party. This maintenance may include the expenses and attorney fees incurred by the other party in bringing or responding to the action affecting the family.

(e) Requiring either party to pay family support under s. 767.261.

(f) Requiring either party to execute an assignment of income under s. 767.265 or an authorization for transfer under s. 767.267.

(g) Requiring either party or both parties to pay debts or perform other actions in relation to the persons or property of the parties.

(h) Notwithstanding ss. 767.085 (1) (i) and 767.087 (1) (b), prohibiting either party from disposing of assets within the jurisdiction of the court.

(i) Requiring counseling of either party or both parties. (k) Subject to s. 767.477, requiring either party or both parties to maintain minor children as beneficiaries on a health insurance policy or plan.

(L) Requiring either party or both parties to execute an assignment of income for payment of health care expenses of minor children.

(1g) Notwithstanding 1987 Wisconsin Act 355, section 73, as affected by 1987 Wisconsin Act 364, the parties may agree to the adjudication of a temporary order under this section in an action affecting the family that is pending on May 3, 1988.

(1m) If a circuit court commissioner believes that a temporary restraining order or injunction under s. 813.12 is appropriate in an action, the circuit court commissioner shall inform the parties of their right to seek the order or injunction and the procedure to follow. On a motion for such a restraining order or injunction, the circuit court commissioner shall submit the motion to the court within 5 working days.

(1n) (a) Before making any temporary order under sub. (1), the court or circuit court commissioner shall consider those factors that the court is required by this chapter to consider before entering a final judgment on the same subject matter. In making a determination under sub. (1) (a) or (am), the court or circuit court commissioner shall consider the factors under s. 767.24 (5) (am), subject to s. 767.24 (5) (bm).

(b) 1. If the court or circuit court commissioner makes a temporary child support order that deviates from the amount of support that would be required by using the percentage standard established by the department under s. 49.22 (9), the court or circuit court commissioner shall comply with the requirements of s. 767.25 (1n).

2. If the court or circuit court commissioner finds by a preponderance of the evidence that a party has engaged in a pattern or serious incident of interspousal battery, as described under s. 940.19 or 940.20 (1m), or domestic abuse, as defined in s. 813.12 (1) (am), and makes a temporary order awarding joint or sole legal custody or periods of physical placement to the party, the court or circuit court commissioner shall comply with the requirements of s. 767.24 (6) (f) and, if appropriate, s. 767.24 (6) (g).

(c) A temporary order under sub. (1) may be based upon the written stipulation of the parties, subject to the approval of the court or the circuit court commissioner. Temporary orders made by a circuit court commissioner may be reviewed by the court.

(2) Notice of motion for an order or order to show cause under sub. (1) may be served at the time the action is commenced or at any time thereafter and shall be accompanied by an affidavit stating the basis for the request for relief.

(3) (a) Upon making any order for dismissal of an action affecting the family or for substitution of attorneys in an action affecting the family or for vacation of a judgment theretofore granted in any such action, the court shall prior to or in its order render and grant separate judgment in favor of any attorney who has appeared for a party to the action and in favor of any guardian ad litem for a party or a child for the amount of fees and disbursements to which the attorney or guardian ad litem is, in the court's judgment, entitled and against the party responsible therefor.

(b) Upon making any order for dismissal of an action affecting the family or for vacation of a judgment granted in any such order, the court shall, prior to or in its order of dismissal or vacation, also preserve the right of the state or a political subdivision of the state to collect any arrearages, by an action under this chapter or under ch. 785, owed to the state if either party in the case was a recipient of aid under ch. 49.

767.242 Enforcement of physical placement orders.

(1) DEFINITIONS. In this section:

(a) "Petitioner" means the parent filing a petition under this section, regardless of whether that parent was the petitioner in the action in which periods of physical placement were awarded under s. 767.24.

(b) "Respondent" means the parent upon whom a petition under this section is served, regardless of whether that parent was the respondent in the action in which periods of physical placement were awarded under s. 767.24.

(2) WHO MAY FILE. A parent who has been awarded periods of physical placement under s. 767.24 may file a petition under sub.

(3) if any of the following applies:

(a) The parent has had one or more periods of physical placement denied by the other parent.

(b) The parent has had one or more periods of physical placement substantially interfered with by the other parent.

(c) The parent has incurred a financial loss or expenses as a result of the other parent's intentional failure to exercise one or more periods of physical placement under an order allocating specific times for the exercise of periods of physical placement.

(3) PETITION. (a) The petition shall allege facts sufficient to show the following:

1. The name of the petitioner and that the petitioner has been awarded periods of physical placement.

2. The name of the respondent.

3. That the criteria in sub. (2) apply.

(b) The petition shall request the imposition of a remedy or any combination of remedies under sub. (5) (b) and (c). This paraACTIONS graph does not prohibit a judge or circuit court commissioner from imposing a remedy under sub. (5) (b) or (c) if the remedy was not requested in the petition.

(c) A judge or circuit court commissioner shall accept any legible petition for an order under this section.

(d) The petition shall be filed under the principal action under which the periods of physical placement were awarded.

(e) A petition under this section is a motion for remedial sanction for purposes of s. 785.03 (1) (a).

(4) SERVICE ON RESPONDENT; RESPONSE. Upon the filing of a petition under sub. (3), the petitioner shall serve a copy of the petition upon the respondent by personal service in the same manner as a summons is served under s. 801.11. The respondent may respond to the petition either in writing before or at the hearing under sub. (5) (a) or orally at that hearing.

(5) HEARING; REMEDIES. (a) A judge or circuit court commissioner shall hold a hearing on the petition no later than 30 days after the petition has been served, unless the time is extended by mutual agreement of the parties or upon the motion of a guardian ad litem and the approval of the judge or circuit court commissioner. The judge or circuit court commissioner may, on his or her own motion or the motion of any party, order that a guardian ad litem be appointed for the child prior to the hearing.

(b) If, at the conclusion of the hearing, the judge or circuit court commissioner finds that the respondent has intentionally and unreasonably denied the petitioner one or more periods of physical placement or that the respondent has intentionally and unreasonably interfered with one or more of the petitioner's periods of physical placement, the court or circuit court commissioner:

1. Shall do all of the following:

a. Issue an order granting additional periods of physical placement to replace those denied or interfered with.

b. Award the petitioner a reasonable amount for the cost of maintaining an action under this section and for attorney fees.

2. May do one or more of the following:

a. If the underlying order or judgment relating to periods of physical placement does not provide for specific times for the exercise of periods of physical placement, issue an order specifying the times for the exercise of periods of physical placement.

b. Find the respondent in contempt of court under ch. 785.

c. Grant an injunction ordering the respondent to strictly comply with the judgment or order relating to the award of physical placement. In determining whether to issue an injunction, the judge or circuit court commissioner shall consider whether alternative remedies requested by the petitioner would be as effective in obtaining compliance with the order or judgment relating to physical placement.

(c) If, at the conclusion of the hearing, the judge or circuit court commissioner finds that the petitioner has incurred a financial loss or expenses as a result of the respondent's failure, intentionally and unreasonably and without adequate notice to the petitioner, to exercise one or more periods of physical placement under an order allocating specific times for the exercise of periods of physical placement, the judge or circuit court commissioner may issue an order requiring the respondent to pay to the petitioner a sum of money sufficient to compensate the petitioner for the financial loss or expenses.

(d) Except as provided in par. (b) 1. a. and 2. a., the judge or circuit court commissioner may not modify an order of legal custody or physical placement in an action under this section.

(e) An injunction issued under par. (b) 2. c. is effective according to its terms, for the period of time that the petitioner requests, but not more than 2 years.

(6) ENFORCEMENT ASSISTANCE. (a) If an injunction is issued under sub. (5) (b) 2. c., upon request by the petitioner the judge or circuit court commissioner shall order the sheriff to assist the petitioner in executing or serving the injunction.

(b) Within 24 hours after a request by the petitioner, the clerk of the circuit court shall send a copy of an injunction issued under sub. (5) (b) 2. c. to the sheriff or to any other local law enforcement agency that is the central repository for orders and that has jurisdiction over the respondent's residence. If the respondent does not reside in this state, the clerk shall send a copy of the injunction to the sheriff of the county in which the circuit court is located.

(c) The sheriff or other appropriate local law enforcement agency under par. (b) shall make available to other law enforcement agencies, through a verification system, information on the existence and status of any injunction issued under sub. (5) (b) 2.

c. The information need not be maintained after the injunction is no longer in effect.

(8) PENALTY. Whoever intentionally violates an injunction issued under sub. (5) (b) 2. c. is guilty of a Class I felony.

767.245 Visitation rights of certain persons.

(1) Except as provided in subs. (1m) and (2m), upon petition by a grandparent, greatgrandparent, stepparent or person who has maintained a relationship similar to a parent-child relationship with the child, the court may grant reasonable visitation rights to that person if the parents have notice of the hearing and if the court determines that visitation is in the best interest of the child.

(1m) (a) Except as provided in par. (b), the court may not grant visitation rights under sub. (1) to a person who has been convicted under s. 940.01 of the first-degree intentional homicide, or under s. 940.05 of the 2nd-degree intentional homicide, of a parent of the child, and the conviction has not been reversed, set aside or vacated.

(b) Paragraph (a) does not apply if the court determines by clear and convincing evidence that the visitation would be in the best interests of the child. The court shall consider the wishes of the child in making the determination.

(2) Whenever possible, in making a determination under sub. (1), the court shall consider the wishes of the child.

(2m) Subsection (3), rather than sub. (1), applies to a grandparent requesting visitation rights under this section if sub. (3) (a) to (c) applies to the child.

(3) The court may grant reasonable visitation rights, with respect to a child, to a grandparent of the child if the child's parents have notice of the hearing and the court determines all of the following:

(a) The child is a nonmarital child whose parents have not subsequently married each other.

(b) Except as provided in sub. (4), the paternity of the child has been determined under the laws of this state or another jurisdiction if the grandparent filing the petition is a parent of the child's father.

(c) The child has not been adopted.

(d) The grandparent has maintained a relationship with the child or has attempted to maintain a relationship with the child but has been prevented from doing so by a parent who has legal custody of the child.

(e) The grandparent is not likely to act in a manner that is contrary to decisions that are made by a parent who has legal custody of the child and that are related to the child's physical, emotional, educational or spiritual welfare.

(f) The visitation is in the best interest of the child.

(3c) A grandparent requesting visitation under sub. (3) may file a petition to commence an independent action for visitation under this chapter or may file a petition for visitation in an underlying action affecting the family under this chapter that affects the child.

(3m) (a) A pretrial hearing shall be held before the court in an action under sub. (3). At the pretrial hearing the parties may present and cross-examine witnesses and present other evidence relevant to the determination of visitation rights. A record or minutes of the proceeding shall be kept.

(b) On the basis of the information produced at the pretrial hearing, the court shall evaluate the probability of granting visitation rights to a grandparent in a trial and shall so advise the parties.

On the basis of the evaluation, the court may make an appropriate recommendation for settlement to the parties.

(c) If a party or the guardian ad litem refuses to accept a recommendation under this subsection, the action shall be set for trial.

(d) The informal hearing under this subsection may be terminated and the action set for trial if the court finds it unlikely that all parties will accept a recommendation under this subsection.

(4) If the paternity of the child has not yet been determined in an action under sub. (3) that is commenced by a person other than a parent of the child's mother but the person filing the petition under sub. (3) has, in conjunction with that petition, filed a petition or motion under s. 767.45 (1) (k), the court shall make a determination as to paternity before determining visitation rights under sub. (3).

(5) Any person who interferes with visitation rights granted under sub. (1) or (3) may be proceeded against for contempt of court under ch. 785, except that a court may impose only the remedial sanctions specified in s. 785.04 (1) (a) and (c) against that person.

(6) (a) If a person granted visitation rights with a child under this section is convicted under s. 940.01 of the first-degree intentional homicide, or under s. 940.05 of the 2nd-degree intentional homicide, of a parent of the child, and the conviction has not been reversed, set aside or vacated, the court shall modify the visitation order by denying visitation with the child upon petition, motion or order to show cause by a parent or guardian of the child, or upon the court's own motion, and upon notice to the person granted visitation rights.

(b) Paragraph (a) does not apply if the court determines by clear and convincing evidence that the visitation would be in the best interests of the child. The court shall consider the wishes of the child in making that determination.

767.25 Child support.

(1) Whenever the court approves a stipulation for child support under s. 767.10, enters a judgment of annulment, divorce or legal separation, or enters an order or a judgment in a paternity action or in an action under s. 767.02 (1) (f) or (j), 767.08 or 767.62 (3), the court shall do all of the following:

(a) Order either or both parents to pay an amount reasonable or necessary to fulfill a duty to support a child. The support amount must be expressed as a fixed sum unless the parties have stipulated to expressing the amount as a percentage of the payer's income and the requirements under s. 767.10 (2) (am) 1. to 3. are satisfied.

(b) Ensure that the parties have stipulated which party, if either is eligible, will claim each child as an exemption for federal income tax purposes under 26 USC 151 (c) (1) (B), or as an exemption for state income tax purposes under s. 71.07 (8) (b) or under the laws of another state. If the parties are unable to reach an agreement about the tax exemption for each child, the court shall make the decision in accordance with state and federal tax laws. In making its decision, the court shall consider whether the parent who is assigned responsibility for the child's health care expenses under sub. (4m) is covered under a health insurance policy or plan, including a self-insured plan, that is not subject to s. 632.897 (10) and that conditions coverage of a dependent child on whether the child is claimed by the insured parent as an exemption for purposes of federal or state income taxes.

(1g) In determining child support payments, the court may consider all relevant financial information or other information relevant to the parent's earning capacity, including information reported under s. 49.22 (2m) to the department or the county child support agency under s. 59.53 (5).

(1j) Except as provided in sub. (1m), the court shall determine child support payments by using the percentage standard established by the department under s. 49.22 (9).

(1m) Upon request by a party, the court may modify the amount of child support payments determined under sub. (1j) if, after considering the following factors, the court finds by the greater weight of the credible evidence that use of the percentage standard is unfair to the child or to any of the parties:

(a) The financial resources of the child.

(b) The financial resources of both parents.

(bj) Maintenance received by either party.

(bp) The needs of each party in order to support himself or herself at a level equal to or greater than that established under 42 USC 9902 (2).

(bz) The needs of any person, other than the child, whom either party is legally obligated to support.

(c) If the parties were married, the standard of living the child would have enjoyed had the marriage not ended in annulment, divorce or legal separation.

(d) The desirability that the custodian remain in the home as a full-time parent.

(e) The cost of day care if the custodian works outside the home, or the value of custodial services performed by the custodian if the custodian remains in the home.

(ej) The award of substantial periods of physical placement to both parents.

(em) Extraordinary travel expenses incurred in exercising the right to periods of physical placement under s. 767.24.

(f) The physical, mental and emotional health needs of the child, including any costs for health insurance as provided for under sub. (4m).

(g) The child's educational needs.

(h) The tax consequences to each party.

(hm) The best interests of the child.

(hs) The earning capacity of each parent, based on each parent's education, training and work experience and the availability of work in or near the parent's community.

(i) Any other factors which the court in each case determines are relevant.

(1n) If the court finds under sub. (1m) that use of the percentage standard is unfair to the child or the requesting party, the court shall state in writing or on the record the amount of support that would be required by using the percentage standard, the amount by which the court's order deviates from that amount, its reasons for finding that use of the percentage standard is unfair to the child or the party, its reasons for the amount of the modification and the basis for the modification.

(2) The court may protect and promote the best interests of the minor children by setting aside a portion of the child support which either party is ordered to pay in a separate fund or trust for the support, education and welfare of such children.

(3) Violation of physical placement rights by the custodial parent does not constitute reason for failure to meet child support obligations.

(4) The court shall order either party or both to pay for the support of any child of the parties who is less than 18 years old, or any child of the parties who is less than 19 years old if the child is pursuing an accredited course of instruction leading to the acquisition of a high school diploma or its equivalent.

(4m) (a) In this subsection, "health insurance" does not include medical assistance provided under subch. IV of ch. 49.

(b) In addition to ordering child support for a child under sub. (1), the court shall specifically assign responsibility for and direct the manner of payment of the child's health care expenses. In assigning responsibility for a child's health care expenses, the court shall consider whether a child is covered under a parent's health insurance policy or plan at the time the court approves a stipulation for child support under s. 767.10, enters a judgment of annulment, divorce or legal separation, or enters an order or a judgment in a paternity action or in an action under s. 767.02 (1) (f) or (j), 767.08 or 767.62 (3), the availability of health insurance to each parent through an employer or other organization, the extent of coverage available to a child and the costs to the parent for the coverage of the child. A parent may be required to initiate or continue health care insurance coverage for a child under this subsection. If a parent is required to do so, he or she shall provide copies of necessary program or policy identification to the custodial parent and is liable for any health care costs for which he or she receives direct payment from an insurer. This subsection shall not be construed to limit the authority of the court to enter or modify support orders containing provisions for payment of medical expenses, medical costs, or insurance premiums which are in addition to and not inconsistent with this subsection.

(c) 1. In directing the manner of payment of a child's health care expenses, the court may order that payment, including payment for health insurance premiums, be withheld from income and sent to the appropriate health care insurer, provider or plan, as provided in s. 767.265 (3h), or sent to the department or its designee, whichever is appropriate, for disbursement to the person for whom the payment has been awarded if that person is not a health care insurer, provider or plan. If the court orders income withholding and assignment for the payment of health care expenses, the court shall send notice of assignment in the manner provided under s. 767.265 (2r) and may include the notice of assignment under this subdivision with a notice of assignment under s. 767.265. The department or its designee, whichever is appropriate, shall keep a record of all moneys received and disbursed by the department or its designee for health care expenses that are directed to be paid to the department or its designee.

2. If the court orders a parent to initiate or continue health insurance coverage for a child under a health insurance policy that is available to the parent through an employer or other organization but the court does not specify the manner in which payment of the health insurance premiums shall be made, the clerk of court may provide notice of assignment in the manner provided under s. 767.265 (2r) for the withholding from income of the amount necessary to pay the health insurance premiums. The notice of assignment under this subdivision may be sent with or included as part of any other notice of assignment under s. 767.265, if appropriate. A person who receives notice of assignment under this subdivision shall send the withheld health insurance premiums to the appropriate health care insurer, provider or plan, as provided in s. 767.265 (3h).

(d) If the court orders a parent to provide coverage of the health care expenses of the parent's child and the parent is eligible for family coverage of health care expenses under a health benefit plan that is provided by an employer on an insured or on a self-insured basis, the employer shall do all of the following:

1. Permit the parent to obtain family coverage of health care expenses for the child, if eligible for coverage, without regard to any enrollment period or waiting period restrictions that may apply.

2. Provide family coverage of health care expenses for the child, if eligible for coverage, upon application by the parent, the child's other parent, the department or the county child support agency under s. 59.53 (5), or upon receiving a notice under par. (f) 1.

2m. Notify the county child support agency under s. 59.53 (5) when coverage of the child under the health benefit plan is in effect and, upon request, provide copies of necessary program or policy identification to the child's other parent.

3. After the child has coverage under the employer's health benefit plan, and as long as the parent is eligible for family coverage under the employer's health benefit plan, continue to provide coverage for the child unless the employer receives satisfactory written evidence that the court order is no longer in effect or that the child has coverage of health care expenses under another health insurance policy or health benefit plan that provides comparable coverage of health care expenses.

(e) 1. If a parent who has been ordered by a court to provide coverage of the health care expenses of a child who is eligible for medical assistance under subch. IV of ch. 49 receives payment from a 3rd party for the cost of services provided to the child but does not pay the health care provider for the services or reimburse the department or any other person who paid for the services on behalf of the child, the department may obtain a judgment against the parent for the amount of the 3rd party payment.

2. Section 767.265 (4) applies to a garnishment based on a judgment obtained under subd. 1.

(f) 1. If a parent who provides coverage of the health care expenses of a child under an order under this subsection changes employers and that parent has a court-ordered child support obligation with respect to the child, the county child support agency under s. 59.53 (5) shall provide notice of the order to provide coverage of the child's health care expenses to the new employer and to the parent.

2. The notice provided to the parent shall inform the parent that coverage for the child under the new employer's health benefit plan will be in effect upon the employer's receipt of the notice. The notice shall inform the parent that he or she may, within 10 business days after receiving the notice, by motion request a hearing before the court on the issue of whether the order to provide coverage of the child's health care expenses should remain in effect. A motion under this subdivision may be heard by a circuit court commissioner. If the parent requests a hearing and the court or circuit court commissioner determines that the order to provide coverage of the child's health care expenses should not remain in effect, the court shall provide notice to the employer that the order is no longer in effect.

(5) Subject to ss. 767.51 (4) and 767.62 (4m), liability for past support shall be limited to the period after the birth of the child.

(6) A party ordered to pay child support under this section shall pay simple interest at the rate of 1% per month on any amount in arrears that is equal to or greater than the amount of child support due in one month. If the party no longer has a current obligation to pay child support, interest at the rate of 1% per month shall accrue on the total amount of child support in arrears, if any. Interest under this subsection is in lieu of interest computed under s. 807.01 (4), 814.04 (4) or 815.05 (8) and is paid to the department or its designee under s. 767.29. Except as provided in s. 767.29

(1m), the department or its designee, whichever is appropriate, shall apply all payments received for child support as follows:

(a) First, to payment of child support due within the calendar month during which the payment is received.

(b) Second, to payment of unpaid child support due before the payment is received.

(c) Third, to payment of interest accruing on unpaid child support.

(7) An order of joint legal custody under s. 767.24 does not affect the amount of child support ordered.

767.261 Family support.

The court may make a financial order designated "family support" as a substitute for child support orders under s. 767.25 and maintenance payment orders under s. 767.26. A party ordered to pay family support under this section shall pay simple interest at the rate of 1% per month on any amount in arrears that is equal to or greater than the amount of child support due in one month. If the party no longer has a current obligation to pay child support, interest at the rate of 1% per month shall accrue on the total amount of child support in arrears, if any. Interest under this section is in lieu of interest computed under s. 807.01 (4), 814.04 (4) or 815.05 (8) and is paid to the department or its designee under s. 767.29. Except as provided in s. 767.29 (1m), the department or its designee, whichever is appropriate, shall apply all payments received for family support as follows:

(1) First, to payment of family support due within the calendar month during which the payment is received.

(2) Second, to payment of unpaid family support due before the payment is received.

(3) Third, to payment of interest accruing on unpaid family support.

767.262 Award of attorney fees.

(1) The court, after considering the financial resources of both parties, may do the following:

(a) Order either party to pay a reasonable amount for the cost to the other party of maintaining or responding to an action affecting the family and for attorney fees to either party.

(b) If one party receives services under s. 49.22 or services provided by the state or county as a result of an assignment of income under s. 49.19, order the other party to pay any fee chargeable under s. 49.22 (6) or the cost of services rendered by the state or county under s. 49.19.

(2) Any amount ordered under sub. (1) may include sums for legal services rendered and costs incurred prior to the commencement of the proceeding or after entry of judgment.

(3) The court may order that the amount be paid directly to the attorney or to the state or the county providing services under s. 49.22 or 49.19, who may enforce the order in its name.

(4) (a) Except as provided in par. (b), no court may order payment of costs under this section by the state or any county which may be a party to the action.

(b) The court may order payment of costs under this section by the department or its designee, whichever is appropriate, in an action in which the court finds that the record of payments and arrearages kept by the department or its designee is substantially incorrect and that the department or its designee has failed to correct the record within 30 days after having received information that the court determines is sufficient for making the correction.

767.455 Summons.

(1) PURPOSE. The summons shall state the purpose of the action.

(2) SIGNING. The process shall be signed by the clerk of the court or by the petitioner’s attorney.

(3) RETURN DATE. Every summons shall specify a return date and time before the court. The clerk of the court shall set the date and hour at which the summons is returnable.

(4) SERVICE. The summons and petition shall be served in the manner provided in s. 801.11 (1) (a) or (b) or, notwithstanding s. 990.001 (13), by registered or certified mail, with return receipt signed by the respondent.

(5) FORM. The summons shall be in substantially the following form:

STATE OF WISCONSIN, CIRCUIT COURT:COUNTY

In re the Paternity of A. B.

STATE OF WISCONSIN

and

C. D.

Address

City, State Zip Code File No. ...

, Petitioners

vs. S U M M O N S

E. F.

Address (Case Classification Type):.... (Code No.)

City, State Zip Code

, Respondent

THE STATE OF WISCONSIN, To the Respondent:

You have been sued. claims that you are the father of the child, born on (date), in (city) (county) (state). You must appear to answer this claim of paternity. Your court appearance is:

Date:

Time:

Room:

Judge or Circuit Court Commissioner:

Address:

If you do not appear, the court will enter a default judgment finding you to be the father. A default judgment will take effect 30 days after it is served on or mailed to you, unless within those 30 days you present to the court evidence of good cause for failure to appear. If you plan to be represented by an attorney, you should contact the attorney prior to the court appearance listed above. If you are unable to afford an attorney, the court will appoint one for you only upon the blood tests showing that you are not excluded as the father and the probability of your being the father is less than 99.0%. Appearance is not required if you complete the attached waiver of first appearance statement and send it to the court at least 10 days prior to the date of your scheduled appearance in this summons.

Dated:, (year)

Signed:....

G. H., Clerk of Circuit Court

or

Petitioner’s Attorney

State Bar No.:

Address:

City, State Zip Code:

Phone No.:

(5g) NOTICE. The notice to respondent shall be attached to the summons. The notice shall be in boldface type and substantially the following form:

NOTICE TO RESPONDENT

1. You have been named in a petition alleging paternity. A judgment of paternity would legally designate the child as your child, grant parental rights to you, create the right of inheritance for the child, obligate you to pay child support until the child reaches the age of 18, or the age of 19 if the child is enrolled full-time in high school or its equivalent, and make your failure to pay child support punishable by imprisonment as a contempt of court or as a criminal violation.
2. You have the right to be represented by an attorney. If you are unable to afford an attorney, the court will appoint one for you only if the results of one or more genetic tests show that you are not excluded as the father and that the statistical probability of your being the father is less than 99.0%. In order to determine whether you are entitled to have an attorney appointed for you, you may call the following telephone number
3. You may request genetic tests which will indicate the probability that you are or are not the father of the child. The court or county child support agency will order genetic tests on request by you, the state or any other party. Any person who refuses to take court-ordered genetic tests may be punished for contempt of court.
4. The petitioner has the burden of proving by a clear and satisfactory preponderance of the evidence that you are the father. However, if genetic tests show that you are not excluded as the father and that the statistical probability of your being the father is 99.0% or higher, you are rebuttably presumed to be the father.
5. The following defenses are available to you:
 - (a) That you were sterile or impotent at the time of conception.
 - (b) That you did not have sexual intercourse with the mother of the child during the conceptive period as provided in s. 891.395.
 - (c) That another man did have sexual intercourse with the mother of the child during the conceptive period.
6. You have the right to request a jury trial.
7. If you fail to appear at any stage of the proceeding, including a scheduled court-ordered genetic test, the court will enter a default judgment finding you to be the father. A default judgment will take effect 30 days after it is served on or mailed to you at your address on file with the court, unless within those 30 days you present to the court evidence of good cause for your failure to appear or your failure to have undergone a court-ordered genetic test. You need not appear at the time and place specified in the summons if you complete the attached waiver of first appearance statement and deliver it to the court by the date specified in the waiver of first appearance statement.
8. You must keep the clerk of court informed of your current address at all times.

(5r) WAIVER OF FIRST APPEARANCE. The waiver of first appearance statement shall be attached to the summons. The waiver of first appearance statement shall be in boldface type and substantially the following form:

WAIVER OF FIRST APPEARANCE

1. I understand that by signing this waiver and agreeing to its terms I am not required to appear at the time and place specified in the summons. If I do not sign this statement, I am required to appear at the time and place specified in the summons.
 2. I understand that I will be notified by the court of all future stages in the proceeding and agree to appear at those stages. If I fail to appear at any stage, including a scheduled court-ordered genetic test, the court will enter a default judgment finding me to be the father. A default judgment will take effect 30 days after it is served on or mailed to me, unless within those 30 days I present to the court evidence of good cause for my failure to appear or my failure to have undergone a court-ordered genetic test.
 3. I enter the following plea (check only one):
 - I agree that I am the child's father.
 - I deny that I am the child's father.
 - I agree that I am the child's father, subject to confirmation by a genetic test.
- If I enter a plea agreeing that I am the child's father, a judgment of paternity will be entered against me. If I enter a plea denying that I am the child's father or a plea agreeing that I am the child's father, subject to a genetic test, I agree to undergo a genetic test.
4. I have read the summons and the notice or have had them read to me.
 5. This waiver of first appearance statement is valid only if it is delivered to the court on or before

6. I will keep the clerk of court informed of my address at all times. The following is my current address:

.....
Street address and apartment number

.....
City State Zip Code

.....
Date Signature of Respondent

(5w) EXCEPTION. Subsections (5) to (5r) do not apply in an action brought by a man alleging himself to be the father of the child.

(6) DOCUMENT. The summons served on the respondent shall be accompanied by a document, provided without charge by the clerk of court, setting forth the percentage standard established by the department under s. 49.22 (9) and listing the factors which a court may consider under s. 767.25 (1m).