

**SUBCHAPTER VI  
SUPPORT AND MAINTENANCE**

**767.501 Actions to compel support.**

(1) DEFINITIONS. 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) WHO MAY COMMENCE; SUPPORT DETERMINATION.

(a) If a person does not provide for the support and maintenance of his or her spouse or minor child, any of the following may commence a court action to compel the person to provide 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, under s. [767.511](#) or [767.56](#), determine the amount, if any, that the person should reasonably contribute to the support and maintenance of the spouse or child and how the sum shall be paid. The amount shall 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. [767.34 \(2\) \(am\) 1.](#) to [3.](#) are satisfied. The amount ordered to be paid may be modified by the court under s. [767.59](#) upon sufficient evidence.

(c) The determination may be enforced by contempt proceedings, an account transfer under s. [767.76](#), or other enforcement mechanisms under s. [767.77](#).

(d) In an action under this section, no filing fee or other costs are 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 the court may order that all or part of any fees and costs incurred be paid by either party.

(3) PUBLIC ASSISTANCE RECIPIENTS; ACTION BY STATE. If the state or any subdivision of the state furnishes public aid to a spouse or dependent child for support and maintenance and the spouse, person with legal custody, or nonlegally responsible relative does not commence an action under this chapter for support or maintenance, 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. [767.205 \(2\)](#) and shall commence an action under this section. An attorney employed by the state or a subdivision of the state may commence an action under this section. The title of the action shall be "In re the support or maintenance of A.B. (Child)".

(4) LEGAL CUSTODY AND PHYSICAL PLACEMENT. Upon request of a party to an action under this section, the court may make orders concerning the legal custody and physical placement of any minor child of the parties in accordance with s. [767.41](#).

**History:** [1971 c. 220](#); [1971 c. 307 s. 116](#); [1973 c. 237](#); [1975 c. 82](#); [1977 c. 105, 271](#); [1979 c. 32 ss. 50, 92 \(4\)](#); Stats. 1979 s. 767.08; [1981 c. 317](#); [1983 a. 27](#); [1985 a. 29, 176](#); [1987 a. 413](#); [1989 a. 212](#); [1993 a. 481](#); [1995 a. 27 s. 9126 \(19\)](#); [1995 a. 201, 404](#); [1997 a. 27, 35](#); [1999 a. 162](#); [2001 a. 16](#); [2005 a. 443 ss. 42, 216, 217](#); Stats. 2005 s. 767.501.

**NOTE:** [2005 Wis. Act 443](#) contains explanatory notes.

To find a party estopped from seeking a revision of a stipulation incorporated into a divorce judgment: 1) both parties must have entered into the stipulation knowingly and freely; 2) the overall settlement must be fair and equitable and not illegal or against public policy; and 3) one party subsequently seeks to be released from its terms on grounds that the court could not have entered the order it did without the parties agreement. *Nichols v. Nichols*, [162 Wis. 2d 96, 469 N.W.2d 619](#) (1991).

County child support agencies can initiate actions to compel support under this section without payment of a filing fee. [72 Atty. Gen. 72](#).

### **767.511 Child support.**

- (1)** WHEN ORDERED. When the court approves a stipulation for child support under s. [767.34](#), 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. [767.001 \(1\) \(f\)](#) or [\(j\)](#), [767.501](#), or [767.805 \(3\)](#), 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. [767.34 \(2\) \(am\) 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 \(c\)](#), 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 s. [767.513](#) 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.
  - (c)** In addition to ordering child support for a child under par. [\(a\)](#), assign as a support obligation responsibility for, and direct the manner of payment of, the child's health care expenses under s. [767.513](#).
- (1g)** CONSIDERATION OF FINANCIAL INFORMATION. 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)** PERCENTAGE STANDARD GENERALLY REQUIRED. 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)** DEVIATION FROM STANDARD; FACTORS. 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 child 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. [767.41](#).
  - (f)** The physical, mental, and emotional health needs of the child, including any costs for health insurance as provided for under s. [767.513](#).
  - (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) DEVIATION FROM STANDARD; RECORD.** 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) SEPARATE FUND OR TRUST.** 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) EFFECT OF PHYSICAL PLACEMENT VIOLATION.** Violation of physical placement rights by the custodial parent does not constitute reason for failure to meet child support obligations.
- (4) AGE OF CHILD ELIGIBLE FOR SUPPORT.** 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.
- (5) LIABILITY FOR PAST SUPPORT.** Subject to ss. [767.805 \(4m\)](#) and [767.89 \(4\)](#), liability for past support is limited to the period after the birth of the child.
- (6) INTEREST ON ARREARAGE.** Subject to sub. [\(6m\)](#), a party ordered to pay child support under this section shall pay simple interest at the rate of 1 percent per month on any amount in arrears that is equal to or greater than the amount of child support due in one month. Subject to sub. [\(6m\)](#), if the party no longer has a current obligation to pay child support, interest at the rate of 1 percent 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. [767.57](#). Except as provided in s. [767.57 \(1m\)](#) and except as required under federal statutes or regulations, the department or its designee 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.
- (6m) PILOT PROGRAM ON INTEREST RATE.** The department may conduct a pilot program under which the interest that accrues on the amounts in arrears specified in sub. [\(6\)](#) and in s. [767.531](#) shall be at the rate of 0.5 percent per month instead of 1 percent per month. If the department conducts a pilot program under this subsection, the program may begin at any time after December 31, 2013, and the new rate shall apply to interest that accrues during that time.
- (7) EFFECT OF JOINT LEGAL CUSTODY.** An order of joint legal custody under s. [767.41](#) does not affect the amount of child support ordered.

**History:** [1971 c. 157](#); [1977 c. 29, 105, 418](#); [1979 c. 32](#) ss. [50, 92 \(4\)](#); [1979 c. 196](#); Stats. 1979 s. [767.25](#); [1981 c. 20](#); [1983 a. 27](#); [1985 a. 29](#); [1987 a. 27, 37, 355, 413](#); [1989 a. 31, 212](#); [1991 a. 39](#); [1993 a. 481](#); [1995 a. 27](#) ss. [7101, 7102, 9126 \(19\)](#); [1995 a. 201, 279, 404](#); [1997 a. 27, 35, 191](#); [1999 a. 9, 32](#); [2001 a. 16, 61](#); [2005 a. 253, 342](#); [2005 a. 443](#) ss. [103, 105, 219](#); Stats. 2005 s. [767.511](#); [2009 a. 185](#); [2011 a. 32](#); [2013 a. 20](#); [2017 a. 366](#).

**Cross-reference:** See also ch. [DCF 150](#), Wis. adm. code.

**Cross-reference:** See also Wisconsin Administrative Code Citations published in the Wisconsin Administrative Code for a list of citations to cases citing chs. [DCF 150](#), HSS 80, HFS 80, and DWD 40, the child support percentage of income standard.

**Cross-reference:** See also notes to s. [767.59](#) for decisions regarding postjudgment modifications.

A provision in a judgment as to the education of children past the age of majority, inserted pursuant to a stipulation of the parties, cannot later be challenged and can be enforced by contempt proceedings. *Bliwas v. Bliwas*, [47 Wis. 2d 635, 178 N.W.2d 35](#) (1970).

**DCF 150.04 Determining the child support obligation in special circumstances.** Child support may be determined under special circumstances as follows:

**(4) DETERMINING THE CHILD SUPPORT OBLIGATION OF A LOW-INCOME PAYER.**

- (a)** The court may use the monthly support amount provided in the schedule in Appendix C as the support amount for a payer with a monthly income available for child support at a level set forth in the schedule if the payer's total economic circumstances limit his or her ability to pay support at the level determined under s. [DCF 150.03 \(1\)](#). If a payer's monthly income available for child support is below the lowest income level in Appendix C, the court may set an order at an amount appropriate for the payer's total economic circumstances. This amount may be lower than the lowest support amount in Appendix C.
- (b)** The department shall revise the schedule in Appendix C every year based on changes in the federal poverty guidelines since the schedule was last revised. The department shall publish revisions to the schedule in the Wisconsin Administrative Register.

**Note:** The schedule in Appendix C provides reduced percentage rates that may be used to determine the child support obligation for payers with an income below 150% of the federal poverty guidelines. If a payer's monthly income available for child support is below 75% of the federal poverty guidelines, the court may order an amount appropriate for the payer's total economic circumstances. For monthly income amount for child support between 75% and 150% of the federal poverty guidelines, the percentage rates in the schedule gradually increase as income increases. The percentage rates used in s. [DCF 150.03 \(1\)](#) apply to payers with income greater than or equal to 150% of the federal poverty guidelines.

**Chapter DCF 150**  
**APPENDIX C**  
**Child Support Obligation of Low-Income Payers**  
**at 75% to 150% of the 2019 Federal Poverty Guidelines**

1 Person with Monthly Income Up To:	One Child		Two Children		Three Children		Four Children		Five Children	
	Percent	Child Support Amount	Percent	Child Support Amount	Percent	Child Support Amount	Percent	Child Support Amount	Percent	Child Support Amount
\$781.00	11.22%	\$88	16.50%	\$129	19.14%	\$149	20.46%	\$160	22.44%	\$175
\$808.00	11.43%	\$92	16.80%	\$136	19.49%	\$157	20.84%	\$168	22.85%	\$185
\$835.00	11.63%	\$97	17.11%	\$143	19.84%	\$166	21.21%	\$177	23.27%	\$194
\$862.00	11.84%	\$102	17.41%	\$150	20.20%	\$174	21.59%	\$186	23.68%	\$204
\$889.00	12.05%	\$107	17.71%	\$157	20.55%	\$183	21.97%	\$195	24.09%	\$214
\$917.00	12.25%	\$112	18.02%	\$165	20.90%	\$192	22.34%	\$205	24.50%	\$225
\$945.00	12.46%	\$118	18.32%	\$173	21.25%	\$201	22.72%	\$215	24.92%	\$235
\$973.00	12.66%	\$123	18.63%	\$181	21.61%	\$210	23.10%	\$225	25.33%	\$246
\$1,001.00	12.87%	\$129	18.93%	\$189	21.96%	\$220	23.47%	\$235	25.74%	\$258
\$1,029.00	13.08%	\$135	19.23%	\$198	22.31%	\$230	23.85%	\$245	26.16%	\$269
\$1,057.00	13.28%	\$140	19.54%	\$206	22.66%	\$240	24.22%	\$256	26.57%	\$281
\$1,085.00	13.49%	\$146	19.84%	\$215	23.01%	\$250	24.60%	\$267	26.98%	\$293
\$1,113.00	13.70%	\$152	20.14%	\$224	23.37%	\$260	24.98%	\$278	27.39%	\$305
\$1,141.00	13.90%	\$159	20.45%	\$233	23.72%	\$271	25.35%	\$289	27.81%	\$317
\$1,169.00	14.11%	\$165	20.75%	\$243	24.07%	\$281	25.73%	\$301	28.22%	\$330
\$1,197.00	14.31%	\$171	21.05%	\$252	24.42%	\$292	26.11%	\$312	28.63%	\$343
\$1,225.00	14.52%	\$178	21.36%	\$262	24.77%	\$303	26.48%	\$324	29.05%	\$356
\$1,253.00	14.73%	\$185	21.66%	\$271	25.13%	\$315	26.86%	\$337	29.46%	\$369
\$1,281.00	14.93%	\$191	21.96%	\$281	25.48%	\$326	27.24%	\$349	29.87%	\$383
\$1,309.00	15.14%	\$198	22.27%	\$291	25.83%	\$338	27.61%	\$361	30.28%	\$396
\$1,337.00	15.35%	\$205	22.57%	\$302	26.18%	\$350	27.99%	\$374	30.70%	\$410
\$1,365.00	15.55%	\$212	22.88%	\$312	26.54%	\$362	28.37%	\$387	31.11%	\$425
\$1,393.00	15.76%	\$220	23.18%	\$323	26.89%	\$375	28.74%	\$400	31.52%	\$439
\$1,421.00	15.97%	\$227	23.48%	\$334	27.24%	\$387	29.12%	\$414	31.94%	\$454
\$1,449.00	16.17%	\$234	23.79%	\$345	27.59%	\$400	29.49%	\$427	32.35%	\$469
\$1,477.00	16.38%	\$242	24.09%	\$356	27.94%	\$413	29.87%	\$441	32.76%	\$484
\$1,505.00	16.58%	\$250	24.39%	\$367	28.30%	\$426	30.25%	\$455	33.17%	\$499
\$1,533.00	16.79%	\$257	24.70%	\$379	28.65%	\$439	30.62%	\$469	33.59%	\$515
\$1,561.00	17.00%	\$265	25.00%	\$390	29.00%	\$453	31.00%	\$484	34.00%	\$531

Effective March 1, 2019

Appendix C will be adjusted based on the 2020 federal poverty guidelines effective March 1, 2020.

Note: DCF 150.04 (4) (b) provides:

The department shall revise the schedule in Appendix C every year based on changes in the federal poverty guidelines since the schedule was last revised. The department shall publish revisions to the schedule in the Wisconsin Administrative Register.