

CHILD SUPPORT LEGISLATION

2019-20 SESSION

AB 94: Suspension of Current Support for Incarcerated Payers

Introduced by Legislative Council

Under this bill, when making an initial child support determination, a parent's incarceration cannot be considered to be voluntary unemployment in considering their earning capacity.

Additionally, if certain conditions are met, a current child support obligation is automatically suspended and no arrears accrue on the suspended obligation while the obligated parent is incarcerated.

The obligation is reinstated 60 days following their release. In order to be eligible for suspension, the following conditions must be met:

- The payer is sentenced to a period of incarceration longer than 180 days.
- The payer does not have income or assets from which current support could be collected.
- The other parent was not the victim of the crime for which the person is incarcerated.
- The payer is not incarcerated for a crime against the child.
- The payer is not incarcerated for nonpayment of child support.

The goal of this legislation is to increase consistent child support payments for children by setting child support orders based on an incarcerated parent's ability to pay. Children do not benefit when their parents engage in a cycle of nonpayment, underground income generation, and re-incarceration. Support orders modified for incarcerated parents, based on their current ability to pay, result in less debt accrual, more formal employment, more child support payments, and less need for enforcement after they are released.

AB 96: Child Support Guidelines

Introduced by Legislative Council

Under this bill, the formula that applies in a shared physical placement arrangement becomes the primary method of establishing support in Wisconsin. The straightforward application of the Percentage of Income Standard is applied only if the conditions for a shared placement formula do not apply.

This bill amends DCF's administrative rule related to the calculation of child support. Although it does not change any of the calculations, it restructures the administrative rule to make the shared placement formula the primary method of calculating support in Wisconsin. The shared placement formula applies when each parent has at least 25% overnight placement with the child(ren). It is an income shares model, which means that the calculation of support factors in the incomes of both parents. Wisconsin's current formula, the Percentage of Income Standard, looks only at the income of the noncustodial

parent, although it presumes that the other parent is sharing a comparable percentage of their income with the child(ren).

Because income shares models are perceived as being fairer and Wisconsin's shared placement formula is used in the majority of cases, this change would create a greater perception of fairness in Wisconsin's child support formula without requiring the adoption of a new formula

AB 102: Military Allowances

Introduced by Legislative Council

Under current administrative rule (DCF 150), military allowances and veterans disability compensation benefits are considered income when calculating child support. Under this bill, DCF 150 would be amended to specify that the definition of income includes basic allowances for subsistence and housing, but does not include variable housing costs.

Military service members receive allowances to assist in the cost of housing. A variable component may be added to the basic housing allowance to reflect the higher cost of living in some states. A service member who is stationed in a high cost of living state receives a higher allowance. If the variable component of their housing allowance is included in their income when child support is calculated and they are subsequently transferred to a lower cost of living state, their housing allowance will be reduced. However, their child support order will not be reduced to reflect the reduction in their income unless they go back to court to seek a reduction.

There is a movement to have this legislation enacted in all states so that consideration of a service member's housing allowance in calculating income available for child support will be consistent across the country. So far, only the state of Georgia has passed this legislation.

AB 101: Elimination of Family Support

Introduced by Legislative Council

Under current law, family support is an alternative that combines child support and maintenance into a single obligation and is calculated using the same criteria that apply to orders for child support and maintenance. Family support payments are treated for tax purposes as maintenance payments, taxable to the recipient, and tax deductible to the payer. However, under s. 11051 of the Federal Tax Cuts and Jobs Act of 2017, maintenance payments are no longer deductible to the payer or taxable to the payee, effective with any divorce order executed after December 31, 2018.

Under this bill, no new family support orders may be issued after the effective date of the bill. Family support orders issued prior to that date would remain in effect and subject to enforcement, although not subject to the tax implications prior to December 31, 2018.

This bill would have minimal impact on the child support program. Orders entered prior to the effective date would still be enforced and new orders would be issued as separate child support and maintenance orders.

AB 103: Birth Cost Recovery

Introduced by Legislative Council

Under current law, if a mother is enrolled in medical assistance at the time of a child's birth, the father may be ordered to contribute to the birth costs paid by the medical assistance program. The amount that may be ordered for a father's obligation is up to one half of the cost of the birth, subject to further limitations based on income, as provided in DCF 150. County child support agencies receive a 15% incentive on all birth cost collections.

Effective July 1, 2018, DCF amended DCF 150 to further limit the recovery of birth costs in situations where the father and mother were living together with the child in an intact family at the time paternity or support is established. The change in the rule was made pursuant to a recommendation from an advisory committee of external stakeholders reviewing Wisconsin's child support guidelines to ensure that limited family resources remained in the household when the family was intact, rather than paid to reimburse the state.

Under this bill, the July 1, 2018 amendment to DCF limiting the recovery of birth costs in intact families would be repealed.

AB 166/SB 158

Introduced by Senator Testin and Representative Krug

This bill establishes a new administrative method for establishing paternity that avoids the stigma associated with a court process. This new method would be available for use when the current voluntary acknowledgment process is unavailable either because

- both parties do not consent,
- the mother was married to someone else at the time of conception, or
- the mother had sexual relations with multiple partners during the conceptive period.

Under the bill, a man is conclusively determined to be the father of a child if:

- Genetic tests are performed with respect to the child, child's mother, and the man in response to a subpoena issued by the county child support agency requiring the parties to submit to the tests;
- Test results show the man is not excluded as the father and the statistical probability of paternity is 99 percent or higher;
- Both the mother and the man are at least 18 years old;
- There is no other paternity presumption. The bill also mandates genetic testing in all paternity actions except in defaults, cases where the alleged father is deceased and genetic material cannot be obtained without undue hardship, and cases where either a marital presumption or a presumption based on the filing of a voluntary paternity acknowledgment exists.

AB 56/SB 59: Expansion of Children First Program

Biennial Budget Bill

This proposal in the biennial budget bill will increase the maximum amount of reimbursement for providers serving participants under the Children First (CF) program. Under current law, reimbursement for CF services is limited to no more than \$400.00 per NCP, per year. This proposal would provide an additional \$1.4 million TANF in each fiscal year of the biennium to increase reimbursement to no more than \$800.00 per NCP, per year. The goal of this request is to expand existing services and to serve more unemployed and underemployed non-custodial parents (NCPs). Specifically, it will allow the department to enhance case management services, increase employment referrals and encourage stronger collaborations between other state, local government and community/faith-based partners.

AB 56/SB 59: Elimination of Birth Cost Recovery

Biennial Budget Bill

This proposal in the biennial budget bill would eliminate the practice of birth cost recovery, allowing money, that would be collected to repay Medicaid expenses for the child's birth to go to the direct needs of children in the form of child support to the custodial parent.

AB 56/SB 59: Custodial Parent Fee Increase

Biennial Budget Bill

This proposal in the biennial budget bill increases the custodial parent child support filing fee from \$25 to \$35, as is required by federal law. The law also revises the amount from \$500 to \$550 that the state must collect and disburse to the family before imposing the fee each federal fiscal year.