

STATE OF WISCONSIN : CIRCUIT COURT : _____ COUNTY
FAMILY COURT BRANCH

IN RE THE MARRIAGE OF:

____ PETITIONER ____ JOINT PETITIONER

CASE NO.:

-AND-

____ RESPONDENT ____ JOINT PETITIONER

LEGAL SEPARATION 40201

IV-D / KIDS PIN: _____

DECREE OF LEGAL SEPARATION
UNDER § 767.07, WIS. STATS.

Judicial Officer: _____

Place: _____

Hearing Date: _____

Appearances: _____ was present in person; ____ pro se ____ and by:
_____ waived appearance duly filed ____ did not appear ____ appeared ____ pro se ____ and by Attorney:
The Court, having examined the pleadings and having heard the evidence and being fully advised finds:

FINDINGS OF FACT

- 1. That all necessary residency requirements and prerequisites of law have been legally satisfied. For at least six (6) months before the commencement of this action, at least one of the parties was a continuous resident of the state of Wisconsin, and of this county for at least thirty (30) days prior to the commencement of this action; further, all necessary parties have been duly served and ordered to appear; 120 days have lapsed since the date of service of the petition upon the other party;
2. That this Court has personal jurisdiction of both parties and the subject of this matter;
3. That the Wife, _____, is the ____ Petitioner ____ Respondent ____ Joint Petitioner who resides at:
_____ in the City of _____, State of _____;
4. That the Husband, _____, is the ____ Petitioner ____ Respondent ____ Joint Petitioner who resides at:
_____ in the City of _____, State of _____;
5. That the Wife was born on _____ and has the social security number of _____ DID#: _____;
6. That the Husband was born on _____ and has the social security number of _____ DID#: _____;
7. That the Wife is employed as a _____ and has a current monthly gross income as reflected in her financial disclosure statement of \$ _____ and a net monthly income of \$ _____ or as updated on the record;
8. That the Husband is employed as a _____ and has a current monthly gross income as reflected in his financial disclosure statement of \$ _____ and a net monthly income of \$ _____ or as updated on the record;
9. Both parties were married on _____, in the City of _____ State of _____;
10. That no other action for divorce, annulment or legal separation has been at any time commenced, or is now pending between the parties in this court or any other court or before any judge in this state or elsewhere, except on:
11. This is the _____ marriage for the Wife and the _____ marriage for the Husband;
12. That this action is brought pursuant to § 767.02(1) (d) Legal Separation, Wis. Stats.;
13. That the wife is now not pregnant;
14. That the marital relationship is broken under § 767.12(3).
14a. Other findings: None.

15. Their assets, their interests therein, the values thereof, and their encumbrances and debts are found to be as set forth in their ___Marital Settlement Agreement (___Proposed Order) and in the Financial Disclosure Statement(s), which were updated as required by statute on the record and are on file herein;

16. That the ___Marital Settlement Agreement (___Proposed Order) appended hereto, is found to be fair and reasonable;

17. That no other minor children were born to the wife during this marriage except that the following are the names of any children that have been born to or adopted by the parties and have been set forth in the attached ___Marital Settlement Agreement (___Proposed Order) along with specific legal custody, primary placement, best interest, insurance, and child support provisions for:

Child's Name: Social Security Number: Date of Birth: Age:

Upon these Findings of Fact, I hereby make the following Conclusions of Law and Judgment:

CONCLUSIONS OF LAW AND JUDGMENT

18. IT IS ORDERED, ADJUDGED, AND DECREED that the parties are hereby granted a decree of legal separation and are advised that in case of a reconciliation at anytime thereafter, the parties may apply for a revocation of the decree of legal separation.

19. All the terms and provisions of the ___Marital Settlement Agreement (___Petitioner's Proposed Order) which were entered into and attached and appended hereto, are found to be fair and reasonable, are approved in their entirety, and are incorporated by reference, merged into, and made part of this Judgment of this Court.

20. The Parties' property and obligations shall be distributed and apportioned according to the terms and conditions of said ___Marital Settlement Agreement (___Proposed Order).

21. Both parties are ordered to comply with all said terms and conditions.

22. Disobedience of court orders is punishable under Chapter 785, Wis. Stats., by commitment to the county jail or house of correction until such judgment is complied with and the costs and expenses of the proceedings are paid or until the party commitment is otherwise discharged according to law.

23. ___Notices § 767.327 and § 948.31, Wis. Stats., are appended to this final decree and incorporated by reference in whole and are made the order and judgment of the court as if fully set out herein, in both words and figures. All payments shall be made to: Wisconsin SCTF Box 74200, Milwaukee, WI 53274-0200.

24. That the clerk of courts per § 806.06(1),(2), Wis. Stats., shall enter this judgment forthwith by affixing a file stamp that is dated.

25. The Court further orders (specify): ___No additional orders. ___See attachment.

Dated at: on _____ .

BY THE COURT:

OPPOSING COUNSEL / G.A.L. / 'S SIGNATURE(s)

PRESIDING OFFICIAL'S SIGNATURE

Change of Residence of Child(ren). Notice is hereby given of the provisions of Wis. Stats. § 767.327:

1. § 767.327 Moving the child's residence within or outside the state.

(1) NOTICE TO OTHER PARENT. (a) If the court grants periods of physical placement to more than one parent, it shall order a parent with legal custody of and physical placement rights to a child to provide not less than 60 days written notice to the other parent, with a copy to the court, of his or her intent to:

1. Establish his or her legal residence with the child at any location outside the state.
2. Establish his or her legal residence with the child at any location within this state that is at a distance of 150 miles or more from the other parent.
3. Remove the child from this state for more than 90 consecutive days.

(b) The parent shall send the notice under par. (a) by certified mail. The notice shall state the parent's proposed action, including the specific date and location of the move or specific beginning and ending dates and location of the removal, and that the other parent may object within the time specified in sub. (2).

(2) OBJECTION; PROHIBITION; MEDIATION. (a) Within 15 days after receiving the notice under sub. (1), the other parent may send to the parent proposing the move or removal, with a copy to the court, a written notice of objection to the proposed action.

(b) If the parent who is proposing the move or removal receives a notice of objection under par. (a) within 20 days after sending a notice under sub. (1)(a), the parent may not move with or remove the child pending resolution of the dispute, or final order of the court under sub. (3), unless the parent obtains a temporary order to do so under § 767.23 (1)(bm).

(c) Upon receipt of a copy of a notice of objection under par. (a), the court or family court commissioner shall promptly refer the parents for mediation or other family court counseling services under § 767.11 and may appoint a guardian ad litem. Unless the parents agree to extend the time period, if mediation or counseling services do not resolve the dispute within thirty (30) days after referral, the matter shall proceed under subs (3) to (5).

(3) STANDARDS FOR MODIFICATION OR PROHIBITION IF MOVE OR REMOVAL CONTESTED. (a) 1. Except as provided under par. (b), if the parent proposing the move or removal has sole legal or joint legal custody of the child and the child resides with that parent for the greater period of time, the parent objecting to the move may file a petition, motion or order to show cause for modification of the legal custody or physical placement order affecting the child. The court may modify the legal custody or physical placement order if, after considering the factors under sub. (5), the court finds all of the following:

- a. The modification is in the best interest of the child.
- b. The move or removal will result in a substantial change of circumstances since the entry of the last order affecting legal custody or the last order substantially affecting physical placement.

2. With respect to subd. 1:

a. There is a rebuttable presumption that continuing the current allocation of decision making under a legal custody order or continuing the child's physical placement with the parent with whom the child resides for the greater period of time is in the best interest of the child. This presumption may be overcome by a showing that the move or removal is unreasonable and not in the best interest of the child.

b. A change in the economic circumstances or marital status of either party is not sufficient to meet the standards for modification under that subdivision.

3. Under this paragraph, the burden of proof is on the parent objecting to the move or removal.

(b) 1. If the parents have joint legal custody and have substantially equal periods of physical placement with a child, either parent may file a petition, motion or order to show cause for modification of the legal custody or physical placement order. The court may modify an order of legal custody or physical placement if, after considering the factors under sub. (5), the court finds all of the following:

- a. Circumstances make it impractical for the parties to continue to have substantially equal periods of physical placement.
- b. The modification is in the best interest of the child.

2. Under this paragraph, the burden of proof is on the parent filing the petition, motion or order to show cause.

(c) 1. If the parent proposing the move or removal has sole legal custody or joint legal custody of the child and the child resided with that parent for the greater period of time or the parents have substantially equal periods of physical placement with the child, as an alternative to the petition, motion or order to show cause under par. (a) or (b), the parent objecting to the move or removal may file a petition, motion or order to show cause for an order prohibiting the move or removal. The court may prohibit the move or removal if, after considering the factors under sub (5), the court finds that the prohibition is in the best interests of the child.

2. Under this paragraph, the burden of proof is on the parent objecting to the move or removal.

(4) GUARDIAN AD LITEM; PROMPT HEARING. After a petition, motion or order to show cause is filed under sub. (3), the court shall appoint a guardian ad litem and hold a hearing as soon as possible.

(5) FACTORS IN COURT'S DETERMINATION. In making its determination under sub. (3), the court shall consider all of the following factors:

- (a) Whether the purpose of the proposed action is reasonable.
- (b) The nature and extent of the child's relationship with the other parent and the disruption to that relationship which the proposed action may cause.
- (c) The availability of alternative arrangements to foster and continue the child's relationship with an access to the other parent.

(6) NOTICE REQUIRED FOR OTHER REMOVALS. (a) Unless the parents agree otherwise, a parent with legal custody and physical placement rights shall notify the other parent before removing the child from his or her primary residence for a period of not less than 14 days.

(b) Notwithstanding par. (a), if notice is required under sub. (1), a parent shall comply with sub. (1).

(c) Except as provided in par. (b), subs. (1) to (5) do not apply to a notice provided under par. (a).

2. § 767.11(5) Mediation referrals

(a) In any action affecting the family, including a revision of judgment or order under § 767.32 or § 767.325, in which it appears that legal custody or physical placement is contested, the court or family court commissioner shall refer the parties to the director or family court counseling services for possible mediation for those contested issues. The court or family court commissioner shall inform the parties that there is no privilege or confidentiality when the mediator also conducts the legal custody or physical placement study under sub. (14).

(b) If both parties to any action affecting the family wish to have joint legal custody of a child, either party may request the court or family court commissioner to 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 the family court commissioner of any problem he or she has relating to any of these matters. Upon notification, the family court commissioner may refer any person involved in the matter to the director of family court counseling services for assistance in resolving the problem.

(d) Interference with custody and parental rights. Whoever intentionally violates the following criminal statute may be punished by a fine of not more than \$10,000 or imprisoned not more than two years or both;

§ 948.31 Interference with custody by parent or others. (1)(a) In this subsection, "legal custodian of child" means:

1. A parent or other person having legal custody of the child under an order or judgment in an action for divorce, legal separation, annulment, child custody, paternity, guardianship or habeas corpus.
2. The department of health and social services or any person, county department under § 46.215, 46.22 or § 46.23 or licensed child welfare agency, if custody of the child has been transferred under ch. 48 to that department, person or agency.
- (b) Except as provided under ch. 48, whoever intentionally causes the child to leave, takes the child away or withholds the child for more than 12 hours beyond the court-approved period of physical placement or visitation period from a legal custodian with intent to deprive the custodian of his or her custody rights without the consent of the custodian is guilty of a Class C felony. This paragraph is not applicable if the court has entered an order authorizing the person to so take or withhold the child. The fact that joint legal custody has been awarded to both parents by a court does not preclude a court from finding that one parent has committed a violation of this paragraph.
- (2) Whoever causes the child to leave, takes the child away or withholds the child for more than 12 hours from the child's parents, or the child's mother in the case of a nonmarital child where parents do not subsequently intermarry under § 767.60, without the consent of the parents or the mother, is guilty of a Class E felony. This subsection is not applicable if legal custody has been granted by court order to the person taking or withholding the child.
- (3) Any parent, or any person acting pursuant to directions from the parent, who does any of the following is guilty of a Class C felony:
 - (a) Intentionally conceals the child from the child's other parent.
 - (b) After being served with process in an action affecting the family but prior to the issuance of a temporary or final order determining custody rights to the child, takes the child or causes the child to leave with intent to deprive the other parent of physical custody as defined in § 822.02(9).
 - (c) After issuance of a temporary or final order specifying joint legal custody rights and periods of physical placement, takes the child from or causes the child to leave the other parent in violation of the order or withholds the child for more than 12 hours beyond the court-approved period of physical placement or visitation period.
- (4)(a) It is an affirmative defense to prosecution for violation of this section if the action:
 1. Is taken by a parent or by a person authorized by a parent to protect his or her child in a situation in which the parent or authorized person reasonably believes that there is a threat of physical harm or sexual assault to the child;
 2. Is taken by a parent fleeing in a situation in which the parent reasonably believes that there is a threat of physical harm or sexual assault to himself or herself;
 3. Is consented to by the other parent or any other person or agency having legal custody of the child; or
 4. Is otherwise authorized by law.
- (b) A defendant who raises an affirmative defense has the burden of proving the defense by a preponderance of the evidence.
- (5) The venue of an action under this section is prescribed in § 971.19(8).
- (6) In addition to any other penalties provided for violation of this section, a court may order a violator to pay restitution, regardless of whether the violator is placed on probation under § 973.09, to provide reimbursements for any reasonable expenses incurred by any person or any governmental entity in locating and returning the child. Any such amounts paid by the violator shall be paid to the person or governmental entity which incurred the expense on a prorated basis. Upon the application of any interested party, the court shall hold an evidentiary hearing to determine the amount of reasonable expenses.
 - (a) All orders for maintenance/child support/family support constitute an assignment of all commissions earnings, salaries, wages, pension benefits, benefits under chapter 102 or 108, Wis. Stats., and other money due or to be due in the future. The assignment shall take effect immediately. The court shall provide notice of the assignment to the person from whom the payer receives or will receive money. Payments will be sent directly to the Department of Child Support Enforcement. Payments shall be recorded in an account established by the Wisconsin Support Collections Trust Fund. The Wis. SCTF shall charge the account with the monthly amount as herein ordered. § 767.265, Wis. Stats. The assignment shall be for an amount sufficient to ensure payment of current amounts imposed by the court for the support of the spouse and/or minor children and to defray arrearages in payments due.
 - (b) The payer shall pay to Wisconsin SCTF Box 74200 Milwaukee, WI 53274-0200 the annual sum of \$35.00 pursuant to § 814.61(12)(b), Wis. Stats. The annual fee shall be paid at the time of, and in addition to, the first payment to said fund of each year for which payments are ordered. If the annual fee is not paid when due, the payor and the Department of Child Support shall have standing to move the court for remedial sanction under chapter 785, Wis. Stats., and the annual fee shall be increased to a higher amount.
 - (c) Notification of Changes in Address, Employer and Ability to Pay. Both parties shall notify the Department of Child Support Enforcement, Room 101 and the other party if there is any permanent change in address or employer within 10 days of such change. Further, the payer shall notify the Department of Child Support Enforcement and the other party, within 10 days, of any change of employer and of any substantial change in the amount of his/her income such that his/her ability to pay child support/family support/maintenance is affected. Such notification of any substantial changes in the amount of the payer's income will not automatically result in a change of the order unless a revision of the order is sought.
 - (d) The arrearage of record if any found above is to be paid by the obligor through an income assignment.
 - (e) If the child support payment is a fixed sum, it shall be adjusted annually commencing ("date" based on a change in the petitioner's /respondent's earnings/cost of living). Application to the court for adjustment must be made by the recipient of the child support payments at least 20 days before the effective date of the adjustment and as required in § 767.33(2), Wis. Stats.
 - (f) A party ordered to pay child (family) support shall pay simple interest at the rate of 1% per month on any amount unpaid commencing the first day of the second month after the month in which the amount was due.
 - (g) A withholding assignment or order under this section has priority over any other assignment, garnishment or similar legal process under state law.

*** Commencing April 15 of this year and by April 15 of each year thereafter, the payer shall send to the custodial parent and to the Child Support Enforcement Agency a copy of his or her federal and state income tax returns together with copies of all attachments, as well as proof of all non taxed income, pursuant to secs. 767.27(2m) and 767.075, Wis. Stats. Payer shall provide notice of change of employer and of substantial change of income to the Child Support Agency and to the payee per Sec. 767.263(1), Wis. Stats.