

In re the Marriage of:

SPOUSE1,

Petitioner,

Case No.

and,

SPOUSE2,

Respondent.

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND JUDGMENT OF
DIVORCE**

TRIAL

Presiding Judge: ***

Place: Milwaukee County Courthouse

Date: ***

Date of granting of judgment of divorce: ***

Appearances: ***

I, the Judge before whom this action was tried, do hereby make these findings of fact, conclusions of law and judgment.

FINDINGS OF FACT

1. For at least six months before the commencement of this action the parties were continuous residents of the State of Wisconsin, and of this County for at least 30 days prior to such commencement; further that all parties have been duly served, that 120 days have lapsed since the commencement of this action, and that the parties have been informed of and the moving party has met the counseling requirements.

2. The petitioner in this action is: PARTY1,

Residence: ***

Birthdate: ***

Social Security Number: ***

Occupation: Estimator Income:
Earnings/month: ***

3. The Respondent in this action is: PARTY2

Residence: ***

Birthdate: ***

Social Security Number: ***

Occupation: Estimator Income:

Earnings/month: ***

4. The parties were married on .

5. (a) The following minor children have been born to or adopted by the parties:

(b) The wife is not now pregnant.

6. (a) Neither party has begun any other action for divorce, legal separation, or annulment anywhere.

(b) Neither party has been previously divorced.

7. The parties jointly fit and proper persons to be given legal custody of the minor children. The best interests of the children are served by awarding

8. The assets of the parties, their interests therein, the values thereof, and their encumbrances and debts are found to be as set forth in the financial disclosure forms which were updated as required by statute on the record and marked as an exhibit at the time of trial and are on file herein.

CONCLUSIONS OF LAW AND JUDGMENT

1. The jurisdictional requirements of Chapter 767 have been met, and the matter is properly before this court.

2. The marriage is irretrievably broken, and petitioner is entitled to a judgment of divorce from respondent effective _____[Date]. However, neither party will remarry for six months following that date.

3. Petitioner (Respondent) may resume the use of her former legal surname.

9. **Divorce.** The marriage between the petitioner, PARTY1, who resides

at *** and who is by occupation ***, and the respondent, PARTY2, who resides at ***, and who is by occupation *** is dissolved, and the parties are divorced effective immediately on the 13th day of April, 1990, except as the parties are informed by the Court under sec.

Sec. 765.03(2).

It is unlawful for any person who is or has been a party to an action for divorce in any court in this State, or elsewhere, to marry again until 6 months after judgment of divorce is granted, and the marriage of any such person solemnized before the expiration of 6 months from the date of the granting of judgment of divorce shall be void.

10. Custody and Physical Placement.

11. Change of Residence of Children. Notice is hereby given of the provisions of sec. 767.327, Stats.:

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) (a).

(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 s. 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 s. 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 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 or removal 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 substantially equal periods of physical placement with the 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 or joint legal custody of the child and the child resides 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 interest of the child.

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

12. 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 a 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 s. 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 a child to leave, takes a child away or withholds a 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 E 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 a child to leave, takes a child away or withholds a 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 s. 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 E felony:

(a) Intentionally conceals a 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 child custody rights, takes the child or causes the child to leave with intent to deprive the other parent of physical custody as defined in s. 822.02 (9).

(c) After issuance of a temporary or final order specifying joint legal custody rights and periods of physical placement, takes a child from or causes a child to leave the other parent in violation of the order or withholds a 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 from imminent physical harm or sexual assault;

2. Is taken by a parent fleeing from imminent physical harm 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 s. 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 s. 973.09, to provide reimbursement 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.

13. Maintenance/ Support Payments.

(a) Respondent shall pay to the petitioner as child support the sum of \$** per month commencing *** and continuing monthly thereafter until further order of the court.

(b) All child support payments shall be by income assignment. The Respondent's employer shall be ordered to withhold the above amount from money due on a monthly basis and sent to the Wisconsin Collections Trust Fund, Box 74200, Milwaukee, WI 53274-0200.

(c) Under 767.25(6), STATS., 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:

(d) The Respondent shall pay to the Wisconsin Support Collections Fund an annual receiving and disbursing fee of \$25. Said annual fee is due with the first child support payment each year, payable to the clerk of court.

(e) So long as any support payment is due both parties shall notify the county child support agency under s. 59.53 (5) of any change of address within 10 business days of such change. Additionally, the payer shall notify the county child support agency under s. 59.53 (5) and the payee, within 10 business days, of any change of employer and of any substantial change in the amount of his or her income, including receipt of bonus compensation, such that his or her ability to pay child support, family support, or maintenance is affected. Notification of any substantial change in the amount of the payer's income will not result in a change of the order unless a revision of the order under s. 767.32 or an annual adjustment of the child or family support amount under s. 767.33 is sought.

(f) Each party shall provide to the county child support agency under s. 59.53 (5) his or her social security number, residential and mailing addresses, telephone number, operator's license number and the name, address and telephone number of his or her employer. A party shall advise the county child support agency under s. 59.53 (5) of any change in the information provided under this subsection within 10 business days after the change.

No payments are to be made directly between the parties!

14. Final Stipulation.

The final stipulation of the parties, placed on the record during the trial of this matter, dated *** and incorporated by reference and is made part of the judgment of the court.

15. Attorney Fees.

"That all payments of attorneys' fees provided for herein shall be paid directly to the attorney or to the state or county providing services under sec. 46.25 or 49.19, Stats., who may enforce the order in its name."

16. Guardian ad Litem Fees.

17. Psychologists Fees.

18. The parties are hereby enjoined from harrassing one another.

20. Non-Compliance.

Disobedience of the Court orders is punishable under Ch. 785 by commitment to the county jail or house of correction until such judgment is complied with and the costs and expenses of the pro ceedings are paid or until the party committed is otherwise discharged, according to law.

21. Exchange of Financial Information.

Each year before April 1 each party shall supply to the other in writing proof of the party's gross income for the preceeding year. This requirement is satisfied by supplying the opposing party with a copy of the income tax return which was filed by that party. The court informs the parties of the provisions of sec. 767.27(2m), STATS., which provides:

(2m) In every action in which the court has ordered a party to pay child or family support under this chapter, including an action to revise a judgment or order under s. 767.32, the court shall require the parties annually to exchange financial information. A party who fails to furnish the information as required by the court under this subsection may be proceeded against for contempt of court under ch. 785. If the court finds that a party has failed to furnish the information required under this subsection, the court may award to the party bringing the action costs and, notwithstanding s. 814.04 (1), reasonable attorney fees.

JUDGMENT IS RENDERED AND THE CLERK IS ORDERED TO ENTER THE JUDGMENT.

Dated at Milwaukee, Wisconsin, this _____ day of _____, 20__.

BY THE COURT:

Circuit Court Judge

Approved as to form:

This document was drafted by:
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