

HON. TODD L. ZIEGLER  
Branch 1

STATE OF WISCONSIN

CIRCUIT COURT  
FAMILY COURT BRANCH

MONROE COUNTY

In re the marriage of:

JENNIFER HOWE SAULS McKINNEY,

Petitioner,

**PETITION FOR  
LEGAL SEPARATION  
(WITH MINOR CHILDREN)**

**FILED**

and

ISRAEL RYAN McKINNEY,

Respondent.

APR 03 2012

LEGAL SEPARATION: 40101

'12 FA 108

Clerk of Circuit Court  
Monroe County Wisconsin  
Case No. 12-FA-\_\_\_\_\_

1. The petitioner, Jennifer Howe Sauls McKinney, born July 13, 1977, resides at \_\_\_\_\_ in the City of \_\_\_\_\_ County of Monroe, Wisconsin, \_\_\_\_\_ the petitioner is a self-employed photographer/author.
2. The respondent, Israel Ryan McKinney, born June 9, 1976, resides at 120 6th Avenue West, Apt. 307, in the City of Alexandria, County of Douglas, Minnesota, 56308; the respondent is a factory worker.
3. The parties were married on October 16, 2003, at La Crosse, Wisconsin.
4. The petitioner has been a bona fide resident of Monroe County for more than thirty (30) days immediately preceding the commencement of this action and of the State of Wisconsin for less than six (6) months immediately preceding the commencement of this action.
5. (a) Five (5) children have been born to or adopted by the parties to this marriage, of which the following are minor children: KJ \_\_\_\_\_ McKinney, born December 16, 2004 (age 7); G \_\_\_\_\_ McKinney, born August 1, 2006 (age 5); M \_\_\_\_\_ McKinney, born \_\_\_\_\_

October 19, 2007 (age 4); S McKinney, born October 29, 2008 (age 3); and  
L McKinney, born August 2, 2010 (age 1).

- (b) No other children have been born to the wife during this marriage.
- (c) The petitioner is a fit and proper person to have the legal custody of the minor children.

- 6. The wife is not pregnant.
- 7. The marital relationship is broken.
- 8. No other action for divorce, annulment, or legal separation by either of the parties has been at any time commenced or is now pending in any other court or before any judge thereof in this state or elsewhere.
- 9. Neither party was previously married.
- 10. The parties have not entered into any written agreements as to support, legal custody, physical placement, visitation of the children, maintenance, or property division.
- 11. The following custody information is given in compliance with Wis. Stat. § 822.09, Stats.:
  - (a) The minor children named above presently reside with the petitioner at \_\_\_\_\_, Wisconsin.
  - (b) Within the last five (5) years, the minor children have lived in \_\_\_\_\_ Wisconsin, or Alexandria, Minnesota, with the petitioner and the respondent.
  - (c) The petitioner has not previously participated as a party, witness, or in any other capacity in other litigation concerning the custody of the above-named minor children in this or any other state.

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Clerk of Circuit Court  
Monroe County Wisconsin

- (d) The petitioner is unaware of any other custody proceedings concerning the above-named minor children pending in a court of this or any other state.
- (e) The petitioner knows of no person not a party to this action who has physical custody of the minor children or claims to have legal custody, physical placement, or visitation rights with respect to the minor children.
- (f) The petitioner understands that as a party to this action, she has a continuing duty to inform this court of any custody proceedings brought concerning the children in this or any other state of which the petitioner obtains information during this proceeding.

**THE PETITIONER REQUESTS THE FOLLOWING RELIEF:**

- A. Legal separation for the following reasons: irreconcilable differences and personal beliefs;
- B. The sole legal custody of the minor children;
- C. Allocation of periods of physical placement of the minor children, with primary physical placement of the children awarded to the petitioner;
- D. Child support;
- E. Property division;
- F. Attorney fees and costs;
- G. Income assignment;
- H. Restoration of legal surname; and,
- I. Such other relief as is appropriate.

**FILED**

APR 08 2012

Clerk of Circuit Court  
MONROE COUNTY WISCONSIN

**YOU ARE HEREBY NOTIFIED of Wis. Stat. § 767.117 Prohibited acts during pendency of action.:**

- (1) **PROHIBITIONS.** 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. 767.001(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, 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. 767.001(1)(g) or (h), without the consent of the other party or an order of the court, 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) **DURATION OF PROHIBITIONS.** 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 orders otherwise.
- (3) **VIOLATIONS.** (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.

BRANDAU & WALTZ LAW OFFICES, LLP

By 

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**FILED**

APR 09 2012


Clerk of Circuit Court  
MONROE COUNTY WISCONSIN

STATE OF WISCONSIN )  
 ) ss.  
COUNTY OF LA CROSSE )

Jennifer Howe Sauls McKinney, being first duly sworn, on oath states that she is the petitioner above named and that she has read and subscribed the foregoing petition, and the allegations thereof are true to her own knowledge, excepting those matters therein stated on information and belief, and as to them she believes it to be true.

  
Jennifer Howe Sauls McKinney

Subscribed and sworn to before me  
this 27<sup>th</sup> day of March, 2012.

  
\_\_\_\_\_  
Notary Public for Wisconsin.  
My commission: expires 2/18/13

**FILED**

APR 03 2012

Clerk of Circuit Court  
Monroe County Wisconsin

# WISCONSIN DEPARTMENT OF WORKFORCE DEVELOPMENT PERCENTAGE OF INCOME STANDARD FOR CHILD SUPPORT

## AUTHORITY AND PURPOSE

Section 49.22(9) of the Wisconsin Statutes required the Department of Workforce Development (DWD) to adopt and publish a standard, based upon a percentage of the gross income and assets of either or both parents, to be used by courts in determining child support obligations. Chapter DWD 40 of the Wisconsin Administrative Code establishes Wisconsin's percentage of income standard for child support. It is based upon the principle that the child's standard of living should, to the degree possible, be the same as if the child's parents were living together.

## APPLICABILITY

The Percentage of Income Standard applies to any temporary or final order for child support, including child support settlements agreed to by both parents, and modifications of existing child support orders. The Percentage of Income Standard may be used to calculate family support (a combined payment of child support and maintenance). When used to calculate family support, the amount determined under the standard should be increased by the amount necessary to provide a net family support payment, after state and federal income taxes are paid, of at least the amount of a child support payment under the standard.

## DEFINITION OF INCOME AND ASSETS

The Percentage of Income Standard defines gross income as income from any source, whether or not it is reported or taxed under federal law. The income may be in the form of money, property, or services. To determine the "gross income available for child support" in a case, subtract from gross income any public assistance payments or child support received from previous marriages, or business expenses that the court has determined are reasonably necessary to produce income or operate the business. Add to gross income any wages paid to dependent household members.

The court may also determine that income from assets should be "imputed" or assumed at a given level, and that imputed income will be added to the gross income when calculating the support obligation.

## THE PERCENTAGE STANDARD

The general percentage guidelines are: 17% for one child;  
25% for two children;  
29% for three children;  
31% for four children; and  
34% for five or more children.

Wisconsin statutes permit temporary and final support orders to be expressed as a percentage of parental income or as a fixed sum, or as a combination.

For further details, refer to Chapter DWD of the Wisconsin Administrative Code.

## NOTICE OF PERCENTAGE STANDARD--PATERNITY OR DIVORCE

### 767.45 DETERMINATION OF PATERNITY or 767.085 PETITION AND RESPONSE

§§ 767.45(7) and 767.085(2)(b). The clerk of court shall provide without charge, to each person bringing an action under this section, except to the state under sub. (1)(g) or (6m), 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 767.25(1m).

**FILED**

APR 03 2012

Clerk of Circuit Court  
Monroe County Wisconsin

**STATUTORY FACTORS COURTS MAY CONSIDER IN DETERMINING CHILD SUPPORT AWARDS--PATERNITY OR DIVORCE**

§ 767.25(1m). Upon request of a party, the court may modify the amount of child support payments determined under s. 767.25(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.

**FILED**

APR 03 2012

Clerk of Circuit Court  
Monroe County Wisconsin