

2003 ASSEMBLY BILL 624

October 27, 2003 – Introduced by Representatives KRUSICK, BERCEAU, COLON, HUBER, JESKEWITZ, OWENS, SERATTI, STASKUNAS and ZIEGELBAUER, cosponsored by Senators ROESSLER and CARPENTER. Referred to Committee on Children and Families.

1 **AN ACT** *to amend* 893.02 and 893.40; and *to create* 893.415 of the statutes;
2 **relating to:** a statute of limitations for bringing an action to collect child
3 support.

Analysis by the Legislative Reference Bureau

Under current law, an action on a judgment or decree of a court of record is barred unless it is commenced within 20 years after the judgment or decree was entered. The Wisconsin Supreme Court in *State v. Hamilton*, 2003 WI 50, determined that this statute of limitations applies to an independent action to collect delinquent child support owed under a judgment or order.

Before the enactment of the current statute of limitations for an action on a judgment or decree, the statute of limitations for such an action was 20 years after the action accrued. In the context of collecting delinquent child support, that was interpreted as being 20 years after the youngest child under the support order reached majority.

This bill codifies the previous interpretation of the statute of limitations for an action to collect delinquent child support. The bill provides that an action to collect child or family support owed under a judgment or order is barred if not commenced within 20 years after the youngest child under the order reaches the age of 18 or, if he or she is enrolled full-time in high school or its equivalent, reaches the age of 19.

ASSEMBLY BILL 624

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 893.02 of the statutes is amended to read:

2 **893.02 Action, when commenced.** ~~An~~ Except as provided in s. 893.415 (3).
3 an action is commenced, within the meaning of any provision of law which limits the
4 time for the commencement of an action, as to each defendant, when the summons
5 naming the defendant and the complaint are filed with the court, but no action shall
6 be deemed commenced as to any defendant upon whom service of authenticated
7 copies of the summons and complaint has not been made within 90 days after filing.

8 **SECTION 2.** 893.40 of the statutes is amended to read:

9 **893.40 Action on judgment or decree; court of record.** Except as provided
10 in s. ss. 846.04 (2) and (3) and 893.415, action upon a judgment or decree of a court
11 of record of any state or of the United States shall be commenced within 20 years after
12 the judgment or decree is entered or be barred.

13 **SECTION 3.** 893.415 of the statutes is created to read:

14 **893.415 Action to collect support. (1)** In this section, “action” means any
15 proceeding brought before a court, whether commenced by a petition, motion, order
16 to show cause, or other pleading.

17 **(2)** An action to collect child or family support owed under a judgment or order
18 entered under ch. 767, or to collect child support owed under a judgment or order
19 entered under s. 48.355 (2) (b) 4., 48.357 (5m) (a), 48.363 (2), 938.183 (4), 938.355 (2)
20 (b) 4., 938.357 (5m) (a), 938.363 (2), or 948.22 (7), shall be commenced within 20 years
21 after the youngest child for whom the support was ordered under the judgment or

ASSEMBLY BILL 624

1 order reaches the age of 18 or, if the child is enrolled full-time in high school or its
2 equivalent, reaches the age of 19.

3 **(3)** An action under this section is commenced when the petition, motion, order
4 to show cause, or other pleading commencing the action is filed with the court, except
5 that an action under this section is not commenced if proper notice of the action, as
6 required by law or by the court, has not been provided to the respondent in the action
7 within 90 days after the petition, motion, order to show cause, or other pleading is
8 filed.

9 **SECTION 4. Initial applicability.**

10 (1) This act first applies to actions to collect child or family support that are not
11 barred on the effective date of this subsection.

12 (END)