

2013 DRAFTING REQUEST

Bill

Received: 12/6/2013 Received By: phurley  
Wanted: As time permits Same as LRB:  
For: Dave Hansen (608) 266-5670 By/Representing: John  
May Contact: Drafter: phurley  
Subject: Courts - limitations Addl. Drafters:  
Extra Copies:

Submit via email: YES  
Requester's email: Sen.Hansen@legis.wisconsin.gov  
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Statute of limitations to enforce family or child support orders

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	phurley 12/16/2013			_____			
/P1	phurley 12/19/2013	kfollett 12/18/2013	rschlue 12/18/2013	_____	lparisi 12/18/2013		State S&L
/1		kfollett 12/19/2013	rschlue 12/19/2013	_____	srose 12/19/2013	sbasford 12/20/2013	State S&L

FE Sent For:

@intro.

<END>

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/?	phurley						
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1/11/18 1/11/18  
12/18 12/18  
12/18

FE Sent For:

<END>

## Hurley, Peggy

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**From:** Hurley, Peggy  
**Sent:** Thursday, December 05, 2013 5:17 PM  
**To:** Wagnitz, John  
**Subject:** RE: Senator Hansen Constituent Request

Hi John,

After we spoke, I poked about the statutes a bit and found that there is already a 'special' statute of limitations for child support and alimony:

### **893.415 Action to collect support.**

(1) In this section, "action" means any proceeding brought before a court, whether commenced by a petition, motion, order to show cause, or other pleading.

(2) An action to collect child or family support owed under a judgment or order entered under ch. 767, or to collect child support owed under a judgment or order entered under s. 48.355 (2) (b) 4., 48.357 (5m) (a), 48.363 (2), 938.183 (4), 938.355 (2) (b) 4., 938.357 (5m) (a), 938.363 (2), or 948.22 (7), **shall be commenced within 20 years after the youngest child for whom the support was ordered under the judgment or order reaches the age of 18 or, if the child is enrolled full-time in high school or its equivalent, reaches the age of 19.**

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

This was passed in 2003; the initial applicability stated that the law applied to actions that were not already barred when the act passed. I don't know if this changes your request or not: it essentially adds up to 18 (or 19, if the child is in school) years to the general statute of limitations. Further, the statute doesn't seem to address family support that is NOT child support (i.e., alimony).

I could amend the statute so that there is no statute of limitation for any kind of support (child support or otherwise) entered in a family law case (or the other relevant types of cases from chapters 48 or 938), or I could leave the statute intact with regard to child support but amend it so that there is no statute of limitations for other kinds of support that are not child support (alimony).

If you want to discuss these options further, please give me a call.

Peggy  
-6 8906

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**From:** Wagnitz, John  
**Sent:** Thursday, December 05, 2013 4:44 PM  
**To:** Hurley, Peggy  
**Cc:** Kuczynski, Tracy  
**Subject:** FW: Senator Hansen Constituent Request

Dear Peggy and Tracy,

Senator Hansen would like to introduce legislation to eliminate the statute of limitations on collection of past due child support and spousal support in cases where domestic abuse exists. Since it would be difficult to limit this law to only cases involving domestic abuse, we've decided to just eliminate the statute of limitations altogether.

Can you draft legislation to this effect?

Thank you,

John Wagnitz  
Office of State Senator Dave Hansen  
106 South, State Capitol  
phone: (608) 266-5670

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**From:** Wagnitz, John  
**Sent:** Thursday, October 10, 2013 1:26 PM  
**To:** Queensland, Michael  
**Subject:** Senator Hansen Constituent Request

Hi Mike,

Senator Hansen was contacted by a constituent who requested legislation to extend or eliminate the statute of limitations on collection of past due child support and spousal support in cases where domestic abuse exists.

Our constituent never received either from her ex-husband and was afraid to challenge him for fear of retribution. When he died, she found the statute of limitations made it impossible to collect from her ex-husband's estate for back child support and alimony. To make it more complicated, there is no record of abuse, neither police reports nor arrests.

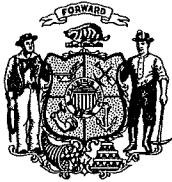
After receiving her call, our office contacted Tony Gibart of the Wisconsin Coalition Against Domestic Violence regarding her suggestion. Mr. Gibart discussed this with our constituent's attorney and this is the section we came up with.

<< File: 201310101138.pdf >>

I just wanted to get your input and suggestions as we proceed with drafting legislation.

Thank you,

John Wagnitz  
Office of State Senator Dave Hansen  
106 South, State Capitol  
phone: (608) 266-5670



**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

12-16-13

Gen

1 AN ACT ...; **relating to:** eliminating the statute of limitations affecting actions to  
2 collect family and child support.

***Analysis by the Legislative Reference Bureau***

Under current law, an action to enforce a court judgment or decree is generally barred unless it is commenced within 20 years after the judgment or decree was entered. However, under current law, an action to collect child or family support owed under a judgment or order is barred unless it is 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.

This bill eliminates the statute of limitations on an action to collect child or family support and allows a person to bring an action to collect the amounts owed at any time.

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:***

3 SECTION 1. 893.415 (2) of the statutes is amended to read:

4 (2) An action to collect child or family support owed under a judgment or order  
5 entered under ch. 767, or to collect child support owed under a judgment or order

1 entered under s. 48.355 (2) (b) 4., 48.357 (5m) (a), 48.363 (2), 938.183 (4), 938.355 (2)  
2 (b) 4., 938.357 (5m) (a), 938.363 (2), or 948.22 (7), shall may be be commenced within  
3 ~~20 years after the youngest child for whom the support was ordered under the~~  
4 ~~judgment or order reaches the age of 18 or, if the child is enrolled full-time in high~~  
5 ~~school or its equivalent, reaches the age of 19 at any time.~~

History: 2003 a. 287.

6 <sup>(B)</sup> Section 4. Initial applicability.

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

9 (END)





State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-3786/P1  
PJH:kjf:rs

MR

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

today - a change  
- set from 1/1 to 1/1

Regen

1 AN ACT *to amend* 893.415 (2) of the statutes; **relating to:** eliminating the  
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3 commenced ~~within 20 years after the youngest child for whom the support was~~  
4 ~~ordered under the judgment or order reaches the age of 18 or, if the child is enrolled~~  
5 ~~full-time in high school or its equivalent, reaches the age of 19~~ at any time.

6 **SECTION 2. Initial applicability.**

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

9 (END)

**Rose, Stefanie**

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**From:** Wagnitz, John  
**Sent:** Thursday, December 19, 2013 4:33 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB -3786/1 Topic: Statute of limitations to enforce family or child support orders

Please Jacket LRB -3786/1 for the SENATE.