

**COURT OF APPEALS
DECISION
DATED AND FILED**

April 17, 2002

Cornelia G. Clark
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

**Appeal No. 01-1744
STATE OF WISCONSIN**

Cir. Ct. No. 99-PA-74

**IN COURT OF APPEALS
DISTRICT II**

IN RE THE PATERNITY OF R. D. M.:

STATE OF WISCONSIN,

PETITIONER-APPELLANT,

VALUIA M.,

PETITIONER,

v.

WILLIAM L. G.,

RESPONDENT-RESPONDENT.

APPEAL from an order of the circuit court for Washington County:
ANDREW T. GONRING, Judge. *Reversed and cause remanded.*

Before Nettlesheim, P.J., Anderson and Snyder, JJ.

¶1 NETTESHEIM, P.J. This is a paternity action. The State of Wisconsin, acting on behalf of the Washington County Child Support Agency, appeals from a circuit court order determining that the past support obligation of William L.G.,¹ the father of the child, is to be measured from the day after this action was commenced pursuant to the current WIS. STAT. § 767.51(4) (1999-2000).² The State contends that William’s past support obligation should be measured from the date of the birth of the child pursuant to the former version of the statute, which was in effect at the time this action was commenced. *See* WIS. STAT. § 767.51(4) (1987-88). We agree with the State. We reverse the order and remand for further proceedings.

¶2 The controlling facts are not in dispute. Prior to 1987, a father’s liability for past support in a paternity action was measured from “the period after commencement of action.” *See* WIS. STAT. § 767.51(4) (1985-86). In 1987, the legislature amended this statute to provide that a father’s liability for past support was measured from “the period after the birth of the child.” WIS. STAT. § 767.51(4) (1987-88). The instant action was commenced on August 27, 1999, while this statute was in effect.

¶3 In 1999, the legislature again amended this statute to its current form and returned to the original law, measuring a father’s liability for past support from “the period after the day on which the petition in the action under s. 767.45 is

¹ William appears pro se in this appeal.

² All references to the Wisconsin Statutes are to the 1999-2000 version unless otherwise noted.

filed”³ WIS. STAT. § 767.51(4). In the nonstatutory provisions of the statute, the legislature enacted a paragraph addressing the effective date and initial applicability of the statute. The legislature directed that the statute would become effective on May 1, 2000, and that it would “first apply to actions affecting the family, including actions to enforce or modify a judgment or order in an action affecting the family previously granted, *that are commenced on the effective date of this paragraph.*” 1999 Wis. Act, § 9357(9yo)(a) (emphasis added). This action was still pending when this new version of the statute became effective.

¶4 In summary, this action “bridges” the former statute and the current statute: the action was commenced while the former statute was in effect, but it was concluded when the new statute was in effect. The trial court relied on this time line as the basis for its determination that the current statute governed this action. The court noted that WIS. STAT. § 767.51 is entitled “Paternity judgment” and requires that the judgment or order recite the obligor’s support obligation. From this, the court concluded that the date of the entry of the judgment was the benchmark for determining whether the former or the current statute controlled. Since no judgment had yet been entered in this case when the current version of the statute became effective, the court determined that the current statute controlled. Therefore, the court measured William’s past support obligation from the date of the commencement of the instant action.

¶5 We agree with the trial court that WIS. STAT. § 767.51 focuses on paternity judgments and mandates that the judgment must determine the support

³ The statute recites certain exceptions that allow past support to be measured from a time prior to the commencement of the action. None of these exceptions is germane to this appeal.

obligation. But we do not see how that analysis conflicts with what the legislature has otherwise clearly directed as to the effective date and initial applicability provisions of the new statute. The legislature said that the statute initially applies to actions commenced on May 1, 2000, not to actions, such as this, commenced in August 1999.

¶6 In the trial court, William argued that the legislature’s initial applicability phrase—“actions ... that are commenced on the effective date of this paragraph”—referred to pending actions. 1999 Wis. Act, § 9357(9yo)(a). At a minimum, William contended that this language was ambiguous. We disagree. William’s argument might sail if the phrase read, “actions [*already*] commenced on the effective date of this paragraph.” But instead, the phrase designates actions commenced *on* the effective date of the act.

¶7 The trial court was also troubled by the legislature’s use of the word “on” instead of the phrase “on or after” when stating the initial applicability date of the current statute.⁴ However, as the State correctly notes, the Legislative Reference Bureau’s Bill Drafting Manual, which the drafters of WIS. STAT. § 767.51 may well have consulted, specifically recommends against the “on or after” language when fixing an initial applicability date.⁵ *Wisconsin Bill Drafting Manual* at 7.055(1)(a) (2001-02). The manual states that a bill may need an initial

⁴ Although the trial court was troubled by this language, we are not entirely clear how it created difficulty as to whether the former or the current statute applied. Even if we concluded that the word “on” restricted the application of the new statute to actions filed only on the effective date of the law (an absurd interpretation in our judgment), such would not assist William’s case.

⁵ We may look to these drafting guidelines when construing a statute. See *Paul v. Skemp*, 2001 WI 42, ¶49, 242 Wis. 2d 507, 625 N.W.2d 860.

applicability provision as well as an effective date provision if the legislature wants to apply the new provision to events occurring after the law's effective date, but also wants to apply prior law to events occurring before the law's effective date. *Id.* Here, the legislature's effective date of the law did not answer the question as to pending litigation. Thus, the legislature needed to also fix an initial applicability date. It answered that question by initially applying the new law to actions commenced on (or after) the effective date of the statute.

¶8 For these reasons, we conclude that the prior statute governs William's past support obligation.

By the Court.—Order reversed and cause remanded.

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