



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 12/29/2010 (Per: CMH)

A ☞ The 2011 drafting file for
LRB-0358

E ☞ The 2011 drafting file for
LRB-0371

B ☞ The 2011 drafting file for
LRB-0368

F ☞ The 2011 drafting file for
LRB-0372

C ☞ The 2011 drafting file for
LRB-0369

G ☞ The 2011 drafting file for
LRB-0671

D ☞ The 2011 drafting file for
LRB-0370

☞ **Compile Draft – Appendix D**

has been copied/added to the drafting file for

2011 LRB-0388

(Jr1 Special Session Draft)

2011 DRAFTING REQUEST

Bill

Received: **11/09/2010**

Received By: **phurley**

Wanted: **As time permits**

Companion to LRB:

For: **Governor-elect**

By/Representing: **Kevin Moore**

May Contact:

Drafter: **tkuczens**

Subject: **Courts - miscellaneous**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Kevin.Moore@wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Punitive damages

Instructions:

redraft 05s0627

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 11/09/2010 tkuczens 11/10/2010	jdye 11/10/2010		_____			
/P1			rschluet 11/10/2010	_____	lparisi 11/10/2010		

FE Sent For:

<END>

2011 DRAFTING REQUEST

Bill

Received: 11/09/2010

Received By: phurley

Wanted: As time permits

Companion to LRB:

For: Governor-elect

By/Representing: Kevin Moore

May Contact:

Drafter: phurley

Subject: Courts - miscellaneous

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: Kevin.Moore@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Punitive damages

Instructions:

redraft 05s0627

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	PI 11/10/10					

FE Sent For:

<END>

Kuczenski, Tracy

From: Hurley, Peggy
Sent: Tuesday, November 09, 2010 1:28 PM
To: Kuczenski, Tracy
Subject: FW: Drafting Request

From: Moore, Kevin E - GOT [mailto:Kevin.Moore@wisconsin.gov]
Sent: Tuesday, November 09, 2010 9:27 AM
To: Hurley, Peggy
Cc: Champagne, Rick
Subject: Drafting Request

Good Morning Peggy,

The Governor Elect would like the following bill drafted”

2005 LRBs0627/1

Please feel free to contact me should you have any questions.

Sincerely,

Kevin Moore
Office of Governor-Elect Scott Walker

11/9/2010

2011-2012

-0370/P1
LRB 002771
RPN:wljif
TKK
insert
RMNR

ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2005 SENATE BILL 447

2011 Bill

in 11/16/10 wanted
11/11/10

LPS-
PWF

March 7, 2006 - Offered by Representative GUNDRUM.

INSERT ANALYSIS

X

✓
Reger

1 AN ACT to renumber and amend 895.85 (3); and to create 895.85 (3) (a), 895.85
2 (3) (b) and 895.85 (6) of the statutes, relating to: punitive damage awards. ✓

STANDARD OF CONDUCT. ← CS

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

3 SECTION 1. 895.85 (3) of the statutes is renumbered 895.85 (3) (intro.) and
4 amended to read:

5 895.85 (3) (intro.) The plaintiff may receive punitive damages if evidence is
6 submitted showing that the defendant acted maliciously toward the plaintiff or in an
7 intentional disregard of the rights of the plaintiff. did any of the following:

8 SECTION 2. 895.85 (3) (a) of the statutes is created to read:
9 895.85 (3) (a) Acted with the intent to cause injury to a particular person or
10 persons.

11 SECTION 3. 895.85 (3) (b) of the statutes is created to read:

895.043 X

895.043

895.043

895.043

895.043 ✓

895.043

① ^{895.043} 895.85 (3) (b) Knew that the defendant's action that resulted in injury to one
2 or more persons was practically certain to result in injury to one or more persons.

③ ^{895.043} SECTION 4. 895.85 (6) of the statutes is created to read:

④ ^{895.043} 895.85 (6) UNAVAILABLE DEFENSE. A voluntarily produced intoxicated or
5 drugged condition is not a defense to liability for punitive damages if, had the actor
6 not been in that intoxicated or drugged condition, he or she would have known that
7 his or her action that resulted in injury to one or more persons, done while in the
8 intoxicated or drugged condition, was practically certain to result in injury to one or
9 more persons.

10 **SECTION 5. Initial applicability.**

11 (1) This act first applies to actions that occur on the effective date of this
12 subsection.

13 (END)

1

Insert Analysis

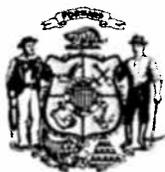
Analysis by the Legislative Reference Bureau

Wisconsin

Under current law, a person injured by a negligent person can recover the damages resulting from the injury. Damages include economic damages, such as the injured person's medical costs, and noneconomic damages, such as compensation or pain and suffering. In addition, under current law, as interpreted by the Supreme Court, in *Wischer v. Mitsubishi*, 2005 WI 26, 279 Wis. 2d 4 (2005), the plaintiff may recover punitive damages if he or she can prove that the defendant acted maliciously toward the plaintiff or in an intentional disregard of the rights of the plaintiff.

This bill changes the proof that the plaintiff must provide to recover punitive damages. Under the bill, the plaintiff must prove that the defendant either acted with intent to cause injury to a particular person or persons or that the defendant knew that the action of the defendant that resulted in injury to one or more persons was practically certain to result in injury to one or more persons. The bill also provides that a voluntarily produced intoxicated or drugged condition is not a defense to liability for punitive damages if, but for the intoxicated or drugged state of the actor, the actor would have known that his or her action was practically certain to result in injury to one or more persons.

(end ins)



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-0370/P1
TKK:jld:rs

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to renumber and amend* 895.043 (3); and *to create* 895.043 (3) (a),
2 895.043 (3) (b) and 895.043 (6) of the statutes; **relating to:** punitive damage
3 awards.

Analysis by the Legislative Reference Bureau

Under current law, a person injured by a negligent person can recover the damages resulting from the injury. Damages include economic damages, such as the injured person's medical costs, and noneconomic damages, such as compensation or pain and suffering. In addition, under current law, as interpreted by the Wisconsin Supreme Court, in *Wischer v. Mitsubishi*, 2005 WI 26, 279 Wis. 2d 4 (2005), the plaintiff may recover punitive damages if he or she can prove that the defendant acted maliciously toward the plaintiff or in an intentional disregard of the rights of the plaintiff.

This bill changes the proof that the plaintiff must provide to recover punitive damages. Under the bill, the plaintiff must prove that the defendant either acted with intent to cause injury to a particular person or persons or that the defendant knew that the action of the defendant that resulted in injury to one or more persons was practically certain to result in injury to one or more persons. The bill also provides that a voluntarily produced intoxicated or drugged condition is not a defense to liability for punitive damages if, but for the intoxicated or drugged state

of the actor, the actor would have known that his or her action was practically certain to result in injury to one or more persons.

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

1 **SECTION 1.** 895.043 (3) of the statutes is renumbered 895.043 (3) (intro.) and
2 amended to read:

3 895.043 (3) STANDARD OF CONDUCT. (intro.) The plaintiff may receive punitive
4 damages if evidence is submitted showing that the defendant acted maliciously
5 toward the plaintiff or in an intentional disregard of the rights of the plaintiff. did
6 any of the following:

7 **SECTION 2.** 895.043 (3) (a) of the statutes is created to read:

8 895.043 (3) (a) Acted with the intent to cause injury to a particular person or
9 persons.

10 **SECTION 3.** 895.043 (3) (b) of the statutes is created to read:

11 895.043 (3) (b) Knew that the defendant's action that resulted in injury to one
12 or more persons was practically certain to result in injury to one or more persons.

13 **SECTION 4.** 895.043 (6) of the statutes is created to read:

14 895.043 (6) UNAVAILABLE DEFENSE. A voluntarily produced intoxicated or
15 drugged condition is not a defense to liability for punitive damages if, had the actor
16 not been in that intoxicated or drugged condition, he or she would have known that
17 his or her action that resulted in injury to one or more persons, done while in the
18 intoxicated or drugged condition, was practically certain to result in injury to one or
19 more persons.

20 **SECTION 5. Initial applicability.**

 {

