

State of Misconsin 2013 - 2014 LEGISLATURE



2013 SENATE BILL 460

December 20, 2013 – Introduced by Senators Harris and Hansen, cosponsored by Representatives Richards, Berceau and Zepnick. Referred to Committee on Judiciary and Labor.

- 1 AN ACT to amend 655.007; and to create 655.018 of the statutes; relating to:
- 2 claims for loss of society and companionship in medical malpractice cases.

Analysis by the Legislative Reference Bureau

Under current law, as stated in *Estate of Wells v. Mt. Sinai Medical Center*, 183 Wis. 2d 677 (1994), a parent does not have the right to recover for the loss of society and companionship of an adult child whose injuries were the result of medical malpractice. This bill provides that a parent does have the right to recover for loss of society and companionship if the parent's adult child is injured as the result of medical malpractice.

Under current law, as stated in *Czapinski v. St. Francis Hospital, Inc.*, 236 Wis. 2d 316 (2000), an adult child does not have the right to recover for the loss of society and companionship of a parent who died as the result of medical malpractice. This bill provides that an adult child does have the right to recover for loss of society and companionship if the adult child's parent dies as the result of medical malpractice.

For further information see the **state** 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:

Section 1. 655.007 of the statutes is amended to read:

SENATE BILL 460

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655.007 Patients' claims. On and after July 24, 1975, any Any patient or the patient's representative having a claim or any spouse, parent, minor sibling, or <u>adult or minor</u> child of the patient having a derivative claim for injury or death on account of malpractice is subject to this chapter.

Section 2. 655.018 of the statutes is created to read:

655.018 Claim by parent or adult child for loss of society and companionship. If a parent dies as the result of medical malpractice, the adult child of that parent has a cause of action for damages for loss of society and companionship against the person who committed the medical malpractice. If an adult child dies as the result of medical malpractice, the parent of that adult child has a cause of action for damages for loss of society and companionship against the person who committed the medical malpractice. This section does not affect any other claim available under this chapter.

SECTION 3. Initial applicability.

(1) This act first applies to acts or omissions occurring on the effective date of this subsection.

17 (END)