



2005 SENATE BILL 447

November 22, 2005 - Introduced by Senators GROTHMAN, SCHULTZ, LAZICH and ROESSLER, cosponsored by Representatives GUNDRUM, NISCHKE, MUSSER, KRAWCZYK, HAHN, OWENS, ALBERS, F. LASEE, HUEBSCH, NASS, VOS, BIES and KESTELL. Referred to Committee on Judiciary, Corrections and Privacy.

1 **AN ACT** *to renumber and amend* 895.85 (3); and *to create* 895.85 (3) (a) and
2 895.85 (3) (b) of the statutes; **relating to:** punitive damage 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, including economic damages, such as his or her medical costs, and noneconomic damages, such as compensation for 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 the intent to cause injury to a particular person or persons or that the defendant knew that the defendant's 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:

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

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1 895.85 **(3)** (intro.) The plaintiff may receive punitive damages if evidence is
2 submitted showing that the defendant acted maliciously toward the plaintiff or in an
3 intentional disregard of the rights of the plaintiff. did any of the following:

4 **SECTION 2.** 895.85 (3) (a) of the statutes is created to read:

5 895.85 **(3)** (a) Acted with the intent to cause injury to a particular person or
6 persons.

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

8 895.85 **(3)** (b) Knew that the defendant's action was practically certain to result
9 in injury to one or more persons.

10 **SECTION 4. Initial applicability.**

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

13 (END)