

1999 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-AB76)

Received: **02/17/99**

Received By: **olsenje**

Wanted: **Today**

Identical to LRB:

For: **Marlin Schneider (608) 266-0215**

By/Representing: **Judy**

This file may be shown to any legislator: **NO**

Drafter: **olsenje**

May Contact:

Alt. Drafters:

Subject: **Criminal Law - miscellaneous**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Computer crimes

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>
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3
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Marlin Schaefer

20095

AB 76 -

- Judy - now -
- 6-0215 -

want Class C line 16

line 17 'or causes

a risk of death

or great bodily

harm by interruption

APPEAL from a judgment of the circuit court for Milwaukee County: MICHAEL J. SKWIERAWSKI, Judge.

Affirmed.

COUNSEL

On behalf of the defendants-third party plaintiffs-appellants, the cause was submitted on the briefs of *Paul J. Pytlik of Otjen, Van Ert, Stangle, Lieb & Weir, S.C.* of Milwaukee.

<Pg. 60>

On behalf of the third party defendant-respondent, the cause was submitted on the brief of *Timothy J. Pike of Peterson, Johnson & Murray, S.C.* of Milwaukee.

Before Wedemeyer, P.J., Fine and Curley, JJ.

OPINION

WEDEMEYER, P.J.

Thomas Muehlenberg, National School Bus Service, Inc. and National Union Fire Insurance Company appeal from the trial court's summary judgment in favor of American Family Mutual Insurance Company. The issue is whether Maggie Kriese, a child riding a school bus, was using or operating the bus within the meaning of a homeowner's insurance policy issued to her parents when she stepped on the brake pedal causing the bus to come to an abrupt halt. We conclude that Kriese was using or operating the school bus. Accordingly, we affirm.

Fourteen year-old Maggie Kriese was riding on a school bus driven by Thomas Muehlenberg. Kriese stepped on Muehlenberg's foot while it was on the brake pedal, causing the bus to stop abruptly. There is a factual dispute as to whether Kriese had permission from Muehlenberg to step on the brake pedal. Another child, Nicole Poppy, was thrown forward as a result of the sudden stop and broke her arm.

Poppy brought an action against Muehlenberg, National School Bus Service, his employer, and National Union Fire Insurance Company, its insurer. In turn, those defendants commenced a third-party action against Maggie Kriese, her parents, and American Family Mutual Insurance Company, who had issued a homeowner's insurance policy to the Krieses.¹ **<Pg. 61>**

American Family filed a motion for summary judgment seeking dismissal from the action



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBa0095/1

JEO: n:...

JLg

New Sent to W.P.G.

ASSEMBLY AMENDMENT,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 76

- 1 At the locations indicated, amend the substitute amendment as follows: ✓
- 2 1. Page 4, line 11: delete lines 11 to 14. ✓
- 3 2. Page 4, line 16: delete "Class C A felony" ✓ and substitute "Class C felony". ✓
- 4 3. Page 4, line 17: delete "causes" and substitute "creates a risk of death or
- 5 great bodily harm to another by causing". ✓
- 6 4. Page 5, line 1: delete "3. and". ✓
- 7 (END)

