

1999 DRAFTING REQUEST

Bill

Received: 09/07/1999

Received By: nelsorpl

Wanted: As time permits

Identical to LRB:

For: Neal Kedzie (608) 266-9650

By/Representing:

This file may be shown to any legislator: NO

Drafter: nelsorpl

May Contact:

Alt. Drafters:

Subject: Courts - immunity liability

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Wrongful birth immunity

Instructions:

See Attached 97-2585

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Tvved</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Reauired</u>
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/1			kfollet 09/09/1999	_____	lrb_docadmin 09/09/1999	lrb_docadmin 09/16/1999	lrb_docadmin 09/16/1999

FE Sent For:

<END>

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/?	nelsorp 1		KJF 9/9	KJF/KM 9/9			

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<END>

1999-2000

1997-1998 LEGISLATURE

3575/1

LRB-2585/2

RPN:mjl:lp

D-NOTE

1999 Bill

ojslkm

1997 ASSEMBLY BILL 538

September 29, 1997 - Introduced by Representatives GREEN, SCHAFER, PLALE, WIECKERT, RYBA, HOVEN, FREESE, KREIBICH, HANDRICK, VRAKAS, OURADA, ZUKOWSKI, WALKER, ALBERS, GROTHMAN, LADWIG, AINSWORTH, GUNDERSON, DUFF, OTTE, KEDZIE, GOETSCH, OTT, SYKORA, SERATTI, URBAN, HUEBSCH, POWERS and NASS, cosponsored by Senators DRZEWIECKI, WELCH, FITZGERALD, FARROW, ZIEN and SCHULTZ. Referred to Committee on Judiciary.

1 AN ACT to create 895.68 of the statutes; relating to: immunity in cases involving
2 wrongful birth and wrongful life.

Analysis by the Legislative Reference Bureau

Under current law, if a child is born with a disability that a person (usually a health care provider) could have informed the parents about while there was still time for the child to be aborted, that person may be liable for the costs of caring for that child and for the child's related medical expenses. The person could be liable under current law if he or she negligently failed to inform the parents of the disability or if he or she negligently incorrectly diagnosed the fetus's condition while an abortion was an available option. If the parents of the child sue for costs resulting from caring for that child, the action is called a wrongful birth action. If the child sues for damages because of being born with a disability, the action is called a wrongful life action. The Wisconsin supreme court has recognized the right to sue for wrongful birth, but has not recognized the right to sue for wrongful life.

This bill creates an immunity from a wrongful birth or wrongful life action for a person who commits an act or fails to commit an act and that act or omission results in the birth of a child because a woman did not undergo an abortion that she would have undergone had the person not committed the act or not failed to commit the act.

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

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and **sign** on the appropriate line(s) below.

Date: 09/09/1999

To: Representative Kedzie

Relating to LRB drafting number: LRB-3575

Topic

Wrongful birth immunity

Subject(s)

Courts - immunity liability

1. **JACKET** the draft for introduction Neal J. Kedzie
in the **Senate** or the **Assembly** (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____
A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction Neal J. Kedzie ^{NO F/E needed}

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Robert P. Nelson, Senior Legislative Attorney
Telephone: (608) 267-75 11

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