

2001 ASSEMBLY BILL 340

April 18, 2001 – Introduced by Representatives HAHN, NASS, GUNDERSON, BOCK, RYBA, TOWNSEND, PLOUFF, SERATTI and HUBER, cosponsored by Senator GEORGE. Referred to Committee on Judiciary.

1 **AN ACT** *to renumber and amend* 893.82 (6); and *to create* 893.82 (6) (b) of the
2 statutes; **relating to:** the amount recoverable against a state officer, employee,
3 or agent for wrongful death.

Analysis by the Legislative Reference Bureau

Under current law, if a person brings an action for a wrongful death that was caused by the act or omission of a state officer, employee, or agent, the maximum that the person may recover is \$250,000. A state officer, employee, or agent, for purposes of this limit, includes a member of a nonprofit corporation operating a museum under a lease with the state historical society, certain volunteer health care providers and physicians, and a member of a local emergency planning committee. Currently, if the wrongful death was caused by someone other than a state officer, employee, or agent, the person suing for the wrongful death may recover the reasonable costs of the medical expenses prior to the death, funeral expenses, and an amount up to \$500,000 per occurrence for the loss of society and companionship if the deceased was a minor, or up to \$350,000 per occurrence for the loss of society and companionship if the deceased was an adult.

This bill allows a person who brings an action for a wrongful death that was caused by the act or omission of a state officer, employee, or agent to recover the same amount for the loss of society and companionship as he or she would recover if the death was caused by someone who was not a state officer, employee, or agent.

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For further information see the *state and local* 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:

1 **SECTION 1.** 893.82 (6) of the statutes is renumbered 893.82 (6) (a) and amended
2 to read:

3 893.82 (6) (a) ~~The~~ Except as provided in par. (b), the amount recoverable by any
4 person or entity for any damages, injuries, or death in any civil action or civil
5 proceeding against a state officer, employee, or agent, or against a nonprofit
6 corporation operating a museum under a lease agreement with the state historical
7 society, including any such action or proceeding based on contribution or
8 indemnification, shall not exceed \$250,000. No punitive damages may be allowed or
9 recoverable in any such action.

10 **SECTION 2.** 893.82 (6) (b) of the statutes is created to read:

11 893.82 (6) (b) The amount recoverable as damages for the loss of society and
12 companionship by any person or entity in any civil action or civil proceeding for
13 wrongful death against a state officer, employee, or agent, or against a nonprofit
14 corporation operating a museum under a lease agreement with the state historical
15 society, including any such action or proceeding based on contribution or
16 indemnification, shall not exceed the amounts allowed under s. 895.04 (4) for the loss
17 of society and companionship. No punitive damages may be allowed or recoverable
18 in any such action. This paragraph does not affect who may be awarded damages for
19 loss of society and companionship in a wrongful death action or how the limits under
20 s. 895.04 (4) on the recovery for loss of society and companionship in a wrongful death
21 action are applied under s. 895.04 or under s. 893.55 (4) (f) and ch. 655.

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1 **SECTION 3. Initial applicability.**

2 (1) This act first applies to deaths occurring on the effective date of this
3 subsection.

4 **(END)**