

2001 DRAFTING REQUEST

Bill

Received: 01/04/2001

Received By: nelsorp1

Wanted: As time permits

Identical to LRB:

For: Eugene Hahn (608) 266-3404

By/Representing: Mike

This file may be shown to any legislator: NO

Drafter: nelsorp1

May Contact:

Alt. Drafters:

Subject: Courts - immunity liability

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Limits on wrongful death actions against state employees

Instructions:

Have the limit for wrongful death actions in 893.52 to be the same as the limit for wrongful death in 895.04

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>
/P1	nelsorp1 01/10/2001						S&L
/1		jdyer 01/12/2001	martykr 01/22/2001		lrb_docadmin 01/22/2001		S&L
/2	nelsorp1 01/30/2001	jdyer 01/30/2001	rschluet 01/30/2001		lrb_docadmin 01/30/2001		S&L
/3	nelsorp1 02/12/2001	jdyer 02/12/2001	martykr 02/13/2001		lrb_docadmin 02/13/2001		S&L
/4	nelsorp1	jdyer	pgreensl		lrb_docadmin	lrb_docadmin	S&L

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	03/01/2001	03/01/2001	03/01/2001	_____	03/01/2001	03/07/2001	

FE Sent For (03/07/2001.
"4")
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03-07-01
1/4"

per Mike
in Hahn's
office

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14 3/1 jd
3/1
PG

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May Contact:

Alt. Drafters:

Subject: Courts - immunity liability

Extra Copies: Don Dyke

Pre Topic:

No specific pre topic given

2/9 Don Dyke - do not effect limits on awards or who may recover

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13 2/12 jld *km 2/13* *PK 2/13*

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1/2 1/30 jld


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1?	nelsorp1	1/12 jld	1/22	2/22	2/22		

FE Sent For:

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State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-1771/P1

RPN.....

JLD

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1
2

Gen the
AN ACT ...; relating to: amount recoverable against a state officer, employee, or agent for wrongful death.

Analysis by the Legislative Reference Bureau

X 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 as he or she would recover if the death was caused by someone who was not a state officer, employee, or agent.



2001 BILL

D-Note:
This draft is in response to
a change requested by Don Dyke,
Legislative Council, on your behalf.
RPN

Reger

- 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 as he or she would recover if the death was caused by someone who was not a state officer, employee, or agent.

for the loss of society and companionship ✓

BILL

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

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

10 893.82 (6) (b) ^{as damages for the loss of society and companionship} The amount recoverable by any person or entity ~~for a death~~ in
11 any civil action or civil proceeding ^{for wrongful death} against a state officer, employee, or agent, or
12 against a nonprofit corporation operating a museum under a lease agreement with
13 the state historical society, including any such action or proceeding based on
14 contribution or indemnification, shall not exceed the amounts allowed under ~~§~~ [§].
15 895.04 (4) ~~and~~. No punitive damages may be allowed or recoverable in any such
16 action. for the loss of society and companionship

17 **SECTION 3. Initial applicability.**

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

20

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1771/2dn
RPN:jld:rs

January 30, 2001

This draft is in response to a change requested by Don Dyke, Legislative Council, on your behalf.

Robert P. Nelson
Senior Legislative Attorney
Phone: (608) 267-7511
E-mail: robert.nelson@legis.state.wi.us

BILL

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

3 (END)

Call from Von Dyke
2/8

This ~~act~~ does not effect
who may be awarded damages
for loss of Soc. + Companion ship
in a WD action under ~~ch. 655~~ and ss 893.55(4)(f) and s. 895.04(4)
~~and~~ ~~does not effect how~~
~~the~~ ^{or how} damage the limits under
chapter s. 895.04(4) are applied
under that ch. & those sections



State of Wisconsin
2001 - 2002 LEGISLATURE

RMR

LRB-1771/3

RPN:jld:rs

D. W. Ste

2001 BILL

Regen

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.

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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.

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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. *INS 2-18*

19 **SECTION 3. Initial applicability.**

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1771/3ins
RPN:jld:rs

1 insert 2-18:

2 ^{NO}4 This paragraph does not affect who may be awarded damages for loss of society
3 and companionship in a wrongful death action or how the limits under s. 895.04 (4)
4 on the recovery for loss of society and companionship in a wrongful death action are
5 applied under ss. 893.55 (4) (f) and 895.04 and Ch. 655.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1771/2dn
RPN:jld:rs

January 30, 2001

makes a change in s. 893.82 (6)(b),
This draft ~~is~~ in response to a ~~change~~ requested *made* by Don Dyke, Legislative Council, on your behalf.

Robert P. Nelson
Senior Legislative Attorney
Phone: (608) 267-7511
E-mail: robert.nelson@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1771/3dn
RPN;jld:km

February 13, 2001

This draft makes a change in s. 893.82 (6) (b), in response to a request made by Don Dyke, Legislative Council, on your behalf.

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Senior Legislative Attorney
Phone: (608) 267-7511
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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 ^{or under s} ~~s.~~ 893.55 (4) (f) ~~and~~ 895.04 and ch. 655.

S.A.



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
5TH FLOOR
MADISON, WI 53701-2037

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

March 1, 2001

MEMORANDUM

To: Representative Hahn

From: Robert P. Nelson, Senior Legislative Attorney

Re: LRB-1771 Limits on wrongful death actions against state employees

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 267-7511 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.