

Memo

SB193 2

TO: Members of the Senate Judiciary, Consumer Affairs and
Campaign Finance Reform Committee

FROM: John Metcalf, Director, Human Resources Policy

DATE: June 5, 2001

RE: **SB 193 -- Loss of Society and Companionship Recovery**

Background

Under current law, established in *In re Wells*, 174 Wis. 2d 503 (Ct. App. 1993), a parent cannot recover for the loss of society and companionship of an adult child who died as the result of medical malpractice. Also, under current law, established in *Czapinski v. St. Francis Hospital, Inc.* 236 Wis. 2d 316 (2000), an adult child cannot recover for the loss of society and companionship of a parent who died as the result of medical malpractice.

This bill provides first that a parent can recover for loss of society and companionship if the parent's adult child dies as the result of medical malpractice. This bill also provides that an adult child can recover for loss of society and companionship if the adult child's parent dies as the result of medical malpractice.

WMC Position – Oppose

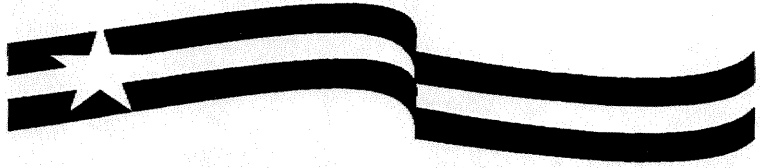
Wisconsin Manufacturers & Commerce opposes the creation of new classes of litigants who can sue for loss of society and companionship for the following reasons:

- There are no objective measures for the value of loss of society and companionship.
- There is no logical end to the degree of relationship to the injured person that could be eligible for compensation--extended family members, close personal friends, etc.
- The court decisions outlined above accurately reflect the Legislature's intent to limit this statutorily created form of recovery to: spouses, parents, minor siblings and children. The Legislature has established a balanced and reasonable approach in Sec. 655.007 Wis. Stats. to compensation in this area, that the courts have affirmed.

Conclusion

Wisconsin Manufacturers & Commerce strongly urges the Committee to oppose this bill and to maintain current law.

WISCONSIN CITIZEN ACTION



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FOR IMMEDIATE RELEASE

May 29, 2001

Contact: Roger Bybee 414/272-2562 ext. 215

Wisconsin families dramatize inequities in state malpractice law, push Family Justice Bill to 're-open courthouse doors'

"If a doctor drives negligently and causes the death of someone, the victim's family can take him to court to seek justice. But if that very same doctor acts with the same kind of negligence on the operating table against an adult child or the parent of an adult child, the victim's family has no recourse under present Wisconsin law," explained Roger Bybee, communications director of Wisconsin Citizen Action.

"This is a shameful loophole that adds to the suffering of families who lose a loved family member and then discover that they have no means of seeking justice and accountability. The courtroom door is closed to their pleas for justice on behalf of the family member they lost."

In response, a group of Wisconsin families has banded together as the Family Justice Network and is promoting Senate Bill 193—the Family Justice Bill. Senate Bill 193 would restore the right of family members to sue for medical malpractice, regardless of the age or marital status of the victim.

Members of families affected by the current law, along with SB 193's chief sponsor, Sen. Gary George, will hold a news conference on Wednesday, May 30 at 11 a.m. at Milwaukee's Courthouse (south-side steps) to urge the Legislature to pass the bill.

As a result of changes in law and court interpretations, families no longer have the right to sue if they are adult children and their parent dies due to malpractice, or if a parent loses an adult child over age 18. Wisconsin law is now one of just seven states that follow such an approach.

"Wisconsin must restore the right of every person to have their day in court, regardless of any arbitrary distinction in age," said Bybee. "Wisconsin needs to rejoin the larger community of states who have adopted humane policies, and restore the opportunity for every Wisconsin family to have its day in court."

NEWS CONFERENCE

Wednesday, May 30 11 a.m.

South entrance of Milwaukee County Courthouse

NOTE TO PRODUCERS:

In-depth interviews with family members directly affected can be arranged prior to or after the news conference. Please contact Roger Bybee at 414/272-2562 ext. 215 to make arrangements.

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