

2003 DRAFTING REQUEST

Bill

Received: **01/09/2003**

Received By: **rnelson2**

Wanted: **As time permits**

Identical to LRB:

For: **Neal Kedzie (608) 266-2635**

By/Representing:

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

Drafter: **rnelson2**

May Contact:

Addl. Drafters:

Subject: **Courts - immunity liability**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Kedzie@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Immunity in cases involving wrongful birth and wrongful life.

Instructions:

See Attached 01s0283 and 01-2813

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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Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For:

*None
Needed*

<END>

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FE Sent For:

<END>

Nelson, Robert P.

From: Sen.Kedzie
Sent: Wednesday, January 08, 2003 5:15 PM
To: Nelson, Robert P.
Subject: Drafting Request

Robert,

I would like to re-introduce 2001 AB 360 (LRB 2813/1), relating to immunity in cases involving wrongful birth and wrongful life. Please have the bill drafted similar to ASA 3 (LRBs0283/2), which was adopted by the Assembly Committee on Family Law.

If you have any questions regarding this request, please feel free to contact Matt Phillips on my staff either by email or at 266-2635. Also, if you could provide an idea when the draft would be complete, it would be appreciated. Thank you.

2003 BILL

~~ASSEMBLY SUBSTITUTE AMENDMENT 3,~~
~~TO 2001 ASSEMBLY BILL 360~~

January 16, 2002 - Offered by Representative KEDZIE.

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act:

AN ACT to create 895.68 of the statutes; relating to: recovery in cases involving wrongful birth or wrongful life.

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

SECTION 1. 895.68 of the statutes is created to read:
895.68 Limit on recovery; wrongful birth and wrongful life. (1) In this section:
(a) "Abortion" has the meaning given in s. 253.10 (2) (a).
(b) "Wrongful birth action" means a cause of action that is brought by a parent or other person who is legally required to provide for the support of a child, seeks economic or noneconomic damages resulting from a condition of the child that existed at the time of the child's birth, and is based on a claim that a person's act or omission contributed to the mother's decision not to undergo an abortion.

1 (c) "Wrongful life action" means a cause of action that is brought by or on behalf
2 of a child, seeks the child's economic or noneconomic damages resulting from a
3 condition of the child that existed at the time of the child's birth, and is based on a
4 claim that a person's act or omission contributed to the mother's decision not to
5 undergo an abortion.

6 (2) In a wrongful birth[✓] action or a wrongful life[✓] action, no person may recover
7 damages from another person resulting from any condition that existed at the time
8 of a child's birth if that other person's negligent act or omission contributed to the
9 mother's decision not to undergo an abortion.

10 **(END)**

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1399/?ins
RPN:.....

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→ Line and
ANALYSIS COMPONENT

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 prohibits the recovery of damages from a person in a wrongful birth or wrongful life action if the damages resulted from a condition that existed at the time of the child's birth and the defendant's negligence contributed to the mother's decision not to undergo an abortion.

← LINE COMPONENT

Mentkowski, Annie

From: Phillips, Matt
Sent: Thursday, January 23, 2003 3:24 PM
To: LRB.Legal
Subject: Draft review: LRB-1399/1 Topic: Immunity in cases involving wrongful birth and wrongful life.

It has been requested by <Phillips, Matt> that the following draft be jacketed for the SENATE:

Draft review: LRB-1399/1 Topic: Immunity in cases involving wrongful birth and wrongful life.