

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2003 SENATE BILL 38**

June 19, 2003 – Offered by COMMITTEE ON JUDICIARY.

1 **AN ACT** *to create* 895.78 of the statutes; **relating to:** limiting recovery for
2 persons injured while involved in a felony.

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

3 **SECTION 1.** 895.78 of the statutes is created to read:

4 **895.78 Limiting felon’s right to damages. (1)** In this section:

5 (a) “Crime” means a crime under the laws of this state or under federal law.

6 (b) “Damages” means damages for an injury to real or personal property, for
7 death, or for personal injury.

8 (c) “Felony” means a felony under the laws of this state or under federal law.

9 (d) “Victim” means a person against whom an act constituting a felony was
10 committed.

1 **(2)** No person may recover damages from any of the following persons for injury
2 or death incurred while committing, or as a result of committing, an act that
3 constituted a felony, if the person was convicted of a felony for that act:

4 (a) A victim of that felony.

5 (b) An individual other than a victim of that felony who assisted or attempted
6 to assist in the prevention of the act, who assisted or attempted to assist in the
7 protection of the victim, or who assisted or attempted to assist in the apprehension
8 or detention of the person committing the act unless the individual who assisted or
9 attempted to assist is convicted of a crime as a result of his or her assistance or
10 attempted assistance.

11 **(3)** This section does not prohibit a person from recovering damages for death
12 or personal injury resulting from a device used to provide security that is intended
13 or likely to cause great bodily harm, as defined in s. 939.22 (14), or death.

14 **(4)** (a) Any applicable statute of limitations for an action to recover damages
15 against a person described under sub. (2) (a) or (b) for injury or death incurred while
16 committing, or as a result of committing, an act that constituted a felony is tolled
17 during the period beginning with the commencement of a criminal proceeding
18 charging the person who committed the act with a felony for that act and ending with
19 the final disposition, as defined in s. 893.13 (1), of the criminal proceeding.

20 (b) Any applicable statute of limitations for an action to recover damages from
21 an individual described under sub. (2) (b) for injury or death incurred while
22 committing, or as a result of committing, an act that constituted a felony is tolled
23 during the period beginning with the commencement of a criminal proceeding
24 charging the individual described under sub. (2) (b) with a crime as a result of his or
25 her assistance or attempt to assist and ending with the final disposition, as defined

1 in s. 893.13 (1), of the criminal proceeding. This paragraph does not apply if a
2 criminal proceeding described in par. (a) does not result in a felony conviction and
3 there is no other criminal proceeding described under par. (a) pending.

4 (5) A court may stay a civil action described under sub. (2) until the final
5 disposition of a criminal proceeding described under sub. (4).

6 **SECTION 2. Initial applicability.**

7 (1) This act first applies to damages incurred on the effective date of this
8 subsection.

9 (END)