

2003 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-SB38)

Received: **06/18/2003**

Received By: **rnelson2**

Wanted: **As time permits**

Identical to LRB:

For: **Mark Gundrum (608) 267-5158**

By/Representing: **don dyke**

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

Drafter: **rnelson2**

May Contact:

Addl. Drafters:

Subject: **Courts - immunity liability**

Extra Copies: **Don Dyke, LC** *Emailed*

Submit via email: **YES**

Requester's email: **Rep.Gundrum@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Limiting recovery of person injured while committing a felony

Instructions:

See Attached

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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FE Sent For:

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LC
conclusion
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6-18-3
<END>

FE Sent For:

For Gaudreau
cc Don Dyke

1

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

2

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

3

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

4

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

5

895.78 Limiting felon's right to damages. (1) In this section:

6

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

7

(b) "Damages" means damages for an injury to real or personal property, for death, or
8 for personal injury.

9

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

10

(d) "Victim" means a person against whom the act constituting a felony was committed.

11

(2) No person may recover damages from any of the following persons for injury or
12 death incurred while committing, or as a result of committing, an act that constituted a felony,

13

if the person was convicted of a felony for that act:

14

(a) A victim.

15

(b) An individual other than a victim who assisted or attempted to assist in the
16 prevention of the act, who assisted or attempted to assist in the protection of the victim, or who
17 assisted or attempted to assist in the apprehension or detention of the person committing the
18 act unless the individual who assisted or attempted to assist is convicted of a crime as a result
19 of his or her assistance or attempted assistance.



cjs

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

ASSEMBLY SUBSTITUTE AMENDMENT ,

TO 2003 SENATE BILL 38

bill hist ✓

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 ~~the~~ act constituting a felony was
10 committed.

an

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* *use 2x*

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

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

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

19 (b) Any applicable statute of limitations for an action to recover damages from
20 an individual described under sub. (2) (b) for injury or death incurred while
21 committing, or as a result of committing, an act that constituted a felony is tolled
22 during the period beginning with the commencement of a criminal proceeding
23 charging the individual described under sub. (2) (b) with a crime as a result of his or
24 her assistance or attempt to assist *until* the final disposition, as defined in s. 893.13
25 (1), of the criminal proceeding. This paragraph does not apply if a criminal

and ending with

1 proceeding described in par. (a) does not result in a felony conviction and there is no
2 other criminal proceeding described under par. (a) pending.

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

5 **SECTION 2. Initial applicability.**

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

8

(END)