



1997 ASSEMBLY BILL 390

May 27, 1997 - Introduced by Representatives PLOUFF, LORGE, R. YOUNG, CULLEN, WOOD, RILEY, BALDWIN, REYNOLDS, NOTESTEIN, BOCK, R. POTTER, L. YOUNG and BOYLE, cosponsored by Senators CLAUSING, PLACHE, JAUCH and BRESKE. Referred to Committee on Judiciary.

1 **AN ACT to repeal** 655.017, 893.55 (4) (a) to (d) and 893.55 (4) (f); **to renumber**
2 893.55 (4) (e); and **to amend** 893.55 (5) (intro.), 895.04 (4) and 895.04 (7) of the
3 statutes; **relating to:** the dollar limits in wrongful death and medical
4 malpractice actions.

Analysis by the Legislative Reference Bureau

Currently, in an action for wrongful death, the plaintiff may recover the reasonable costs of medical care, funeral expenses and related cemetery expenses. In addition, damages for the loss of society and companionship may be awarded to the spouse, children or parents of the deceased. The amount recoverable for the loss of society and companionship is limited to \$150,000 in current law. This bill eliminates the limit on the amount of damages recoverable for the loss of society and companionship in wrongful death actions and allows most relatives to recover for that loss.

Under current law, in a medical malpractice action, the plaintiff may be awarded noneconomic damages to compensate for a number of items, including pain and suffering, mental distress, the loss of enjoyment of the ordinary pleasures of life, the loss of physical health and the loss of society and companionship. The amount of noneconomic damages recoverable is limited to \$350,000 in current law. This bill

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eliminates the limit on the amount of noneconomic damages recoverable in medical malpractice cases.

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

1 **SECTION 1.** 655.017 of the statutes is repealed.

2 **SECTION 2.** 893.55 (4) (a) to (d) of the statutes are repealed.

3 **SECTION 3.** 893.55 (4) (e) of the statutes is renumbered 893.55 (4).

4 **SECTION 4.** 893.55 (4) (f) of the statutes is repealed.

5 **SECTION 5.** 893.55 (5) (intro.) of the statutes is amended to read:

6 893.55 (5) (intro.) Every award of damages under ch. 655 shall specify the sum
7 of money, if any, awarded for each of the following for each claimant for the period
8 from the date of injury to the date of award and for the period after the date of award,
9 without regard to the limit under sub. (4) (d):

10 **SECTION 6.** 895.04 (4) of the statutes is amended to read:

11 895.04 (4) Judgment for damages for pecuniary injury from wrongful death
12 may be awarded to any person entitled to bring a wrongful death action. Additional
13 damages ~~not to exceed \$150,000~~ for loss of society and companionship may be
14 awarded to the spouse, children or parents relatives, as defined in s. 48.02 (15), of
15 the deceased.

16 **SECTION 7.** 895.04 (7) of the statutes is amended to read:

17 895.04 (7) ~~Damages found by a jury in excess of the maximum amount specified~~
18 ~~in sub. (4) shall be reduced by the court to such maximum.~~ The aggregate of the
19 damages covered by subs. (4) and (5) shall be diminished under s. 895.045 if the
20 deceased or person entitled to recover is found negligent.

21 **SECTION 8. Initial applicability.**

