



1995 ASSEMBLY BILL 628

October 26, 1995 - Introduced by Representatives PROSSER, WARD, GARD, OTTE, FREESE, DOBYNS, MUSSER, DUFF, KLUSMAN, PORTER, URBAN, KREIBICH, LAZICH, LADWIG, GOETSCH, HANDRICK, SKINDRUD, NASS, LEHMAN, SCHNEIDERS, AINSWORTH, HOVEN, JENSEN, OLSEN, SERATTI, KAUFERT, OWENS, OURADA, HASENOHRL, GROTHMAN, WALKER, SILBAUGH, VRAKAS, HUEBSCH, ALBERS, OTT and FOTI, cosponsored by Senators RUDE, FARROW, PETAK, HUELSMAN, BUETTNER, SCHULTZ, DARLING and PANZER. Referred to Committee on Judiciary.

- 1 **AN ACT to create** 895.525 (4m) of the statutes; **relating to:** liability of a person
2 engaged in contact sports activities.

Analysis by the Legislative Reference Bureau

The Wisconsin supreme court, in *Lestina v. West Bend Mutual Insurance Company*, 176 Wis. 2d 901 (1993), decided that the appropriate standard of care in Wisconsin for a recreational sports player who is alleged to have caused injury to another player during and as part of the recreational team contact sports competition is ordinary negligence. That case involved the injury to a participant in a recreational soccer league game by a player of the opposite team.

This bill changes that standard to recklessness, which is defined as conduct where the actor intentionally does an act or fails to do an act which it is his or her duty to another to do, knowing or having reason to know of facts which would lead a reasonable person to realize not only that his or her conduct creates an unreasonable risk of physical harm to another but also that that risk is substantially greater than that which is necessary to make his or her conduct negligent. The bill requires this standard of care to apply to all participants in contact sports involving amateur teams, including teams in recreational, municipal, high school and college leagues, and involving professional teams unless the professional league establishes a different standard.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

- 3 **SECTION 1.** 895.525 (4m) of the statutes is created to read:

