



# WISCONSIN CIVIL JUSTICE COUNCIL, INC.

*Promoting Fairness and Equity in Wisconsin's Civil Justice System*

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## SAMPLE OP-ED

### **Hidden Civil Liability Provisions Should Be Removed From State Budget**

Three policy provisions hidden in Gov. Jim Doyle's 1,743-page budget bill (AB 75) would turn back the clock on Wisconsin's civil justice system, reward trial lawyers and hurt Wisconsin's economy. In short, the proposed changes to Wisconsin's civil justice system amount to nothing more than legal extortion.

Yet none of the policy provisions have anything to do with Wisconsin's budget. So why are they included? It's an old ploy to pass policies that wouldn't stand up to public scrutiny.

Every two years the governor submits a budget bill to the Legislature. Because the budget bill funds all state programs, it has to eventually pass. Policy makers therefore slip controversial policy provisions into the budget that, if introduced as separate pieces of legislation, would not likely pass.

While unfortunately some policy gets into every budget, the amount of provisions hidden from the public in this budget is breathtaking. For example, one provision known as joint and several liability—or the “deep pocket rule”—would potentially make a co-defendant 100% liable for the plaintiff's damages if he or she is as little as 1% at fault. How is that for “justice”?

Another provision requires that courts inform the jury on how its findings of fault affect responsibility for damages—that is, the trial lawyers want the jury to adjust fault determinations to maximize awards for plaintiffs. This provision deliberately biases the jury.

A third provision would allow the person most at fault to sue others less at fault and take their money. Let's say, for example, a person in a four-car pileup is most at fault. That person under this new law can sue the other drivers so long as his or her negligence is less than the combined negligence of the other drivers. No one is safe from lawsuits if the person most at fault can collect from those least at fault. The point of this provision is to give trial lawyers free rein to sue as many people as possible. What does that have to do with the state's budget?

These three provisions will drastically affect Wisconsin's business climate. Wisconsin businesses are at a competitive disadvantage when anyone can be sued anytime for practically anything. The constant risk of having your business wiped out by one lawsuit will severely harm Wisconsin's economy. Our economic strength will be traded for more lawsuits, higher awards and more prosperous trial lawyers.

At a minimum, these provisions should be removed from the budget and allowed to be debated as separate legislation, with public hearings and full deliberation by all members of the Legislature.

Wisconsin amended the joint and several liability law in 1995 so that a defendant can only be fully responsible for all damages if he or she is 51% or more at fault. The bill was introduced as a separate piece of legislation that received public hearings in the proper committees, and passed with bipartisan support (69-27 in the Assembly, 24-8 in the Senate).

Unlike the 1995 changes, however, Wisconsin will never get a chance to debate the current changes if they are left in the budget.

Wisconsin deserves better than this. We pride ourselves on an open and fair government. We don't tolerate special interest groups receiving favors, especially when they are hidden from the public.

Write or call (800-362-9472) your state representative and senator. Tell them you want the joint and several liability and other trial lawyer provisions removed from the budget.

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