



State Representative

**SCOTT R. JENSEN**

98th District State Assembly

**Jensen Update - March 3, 2006****Editor's Note**

At Scott's request, this week's edition of the Jensen Update reflects the commentary of his loyal staff. Like you, we appreciate Scott's insightful and thoughtful articles on the topical issues before the State Assembly. When Scott returns in a few weeks, we will gladly hand back the pen - or should we say the keyboard - to him.

**School Choice Bill Moves Forward**

In the early hours of Friday morning, the State Senate passed the compromise agreement on the Milwaukee Parental Choice Program worked out by Assembly Speaker John Gard (R-Peshtigo) and Governor Doyle. The State Assembly had passed a similar bill Thursday afternoon.

The modification to the Milwaukee Parental Choice Program – more popularly known as the school choice program – will do four main things. First, the limit on the number of pupils that can participate in the school choice program will be increased from 15% of the number of children who attend the Milwaukee Public School (MPS) system to a flat number of 22,500 pupils.

Second, children who are already in the school choice program will be able to remain in the program if their family income is less than 220% of the federal poverty level. Currently children can remain in the program if their family income is less than 175% of the federal poverty level.

Third, children will no longer be required to attend an MPS school for one year before entering the school choice program. Children will now be able to apply to enter the school choice program with no prior-year attendance requirements.

Finally, schools in the choice program will be required to be accredited by at least one of a number of specified accrediting agencies within three and half years of the school's initial participation in the program.

The Assembly is expected to meet and reconcile the differences between the two bills next Tuesday. Currently, the Governor is expected to sign the final version of the bill some time next week.

**It's the Voters Turn**

On Tuesday, the State Assembly approved the Marriage Protection Amendment. It's now up to the voters of Wisconsin to decide whether the state's Constitution should include an amendment

defining marriage as being between one man and one woman. The question will be on the November 7, 2006 general election ballot.

As you may know, Representative Jensen supports the Marriage Protection Amendment and voted to put it on the ballot. When talking with the folks back home, his legislative colleagues or with the many groups and organizations that have lined up in support or against the Marriage Protection Amendment, Scott's message has been consistent.

Under existing state law, marriage is defined as a contract between a husband and a wife, but the words "husband" and "wife" are not defined. Back in the days when this law was put on the books it was well understood that "husband" referred to a male and "wife" referred to a female. Since then, times have changed, and this distinction has become more ambiguous. The Marriage Protection Amendment clarifies this ambiguity by stating "only a marriage between one man and one woman shall be valid or recognized as a marriage in this state. A legal status identical or substantially similar to that of marriage for unmarried individuals shall not be valid or recognized in this state."

The need for the Marriage Protection Amendment arose out of decision by the Massachusetts Supreme Court. In November 2003, that Court struck down Massachusetts man-woman marriage statutes and ruled that prohibiting same-sex marriages was a violation of the equal protection clause of the Massachusetts Constitution. That called into question whether judges outside Wisconsin could ultimately determine what constitutes a legal marriage in Wisconsin.

To date, 19 states have amended their constitutions to protect and preserve the age-old institution of marriage between a man and a woman. This fall, Wisconsin will be among at least seven other states to consider a Marriage Protection Amendment. It will be up to you to decide what "marriage" means in Wisconsin.

## **If at First You Don't Succeed, Try and Try Again**

Last July, when the Wisconsin Supreme Court ruled the state's cap on non-economic damages in medical malpractice cases was unconstitutional, hospital administrators and physicians were quick to point out the dangerous consequences of the Court's decision. Sadly, their predictions are being realized.

Hospital administrators are struggling to recruit physicians, particularly specialists, to come to Wisconsin. Physicians are paying more for their medical malpractice insurance. Unfortunately, it is the health care needs of the state's residents that are suffering the most. They are paying more for their health care and are having a harder time seeing specialists. These problems will get worse until a workable, constitutional cap on on-economic damages in medical malpractice cases is reinstated.

Last fall, Assembly Republicans responded to this pending crisis with legislation establishing a two-tiered cap on non-economic damages in medical malpractice liability cases. Under the bill, damages could not exceed \$450,000 for adults and \$550,000 for children. These limits could be revised upward in future years based on the recommendation of the non-partisan Injured Patients and Families Compensation Fund Board. The two-tier limit set forth in the bill was modeled after the state's existing cap on wrongful death awards. This cap was recently challenged in state court and upheld by the Wisconsin Supreme Court.

Despite bi-partisan support for this legislation in the State Legislature, Governor Doyle vetoed the bill. Since then, State Representative Curt Gielow (R-Mequon) has been working on a compromise proposal. Yesterday, the State Assembly took up and passed legislation capping non-economic damages in medical malpractice cases at \$750,000. This limit could be revised upward in future years based on the recommendation of the non-partisan Injured Patients and Families Compensation Fund Board. The compromise proposal picked up another nine Assembly Democrat votes which bodes well for prompt and favorable action by the State Senate.

It will again be up to Governor Doyle to decide whether there will be a cap on non-economic damages in medical malpractice cases. Hopefully, this compromise proposal will address his concerns.

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