



1995 ASSEMBLY BILL 727

December 12, 1995 - Introduced by Representatives GARD, GREEN, LADWIG, SCHNEIDERS, OLSEN, WARD, GUNDERSON and OTT, cosponsored by Senator HUELSMAN. Referred to Committee on Judiciary.

1 **AN ACT to repeal and recreate** 804.10 (2) of the statutes; **relating to:**
2 permitting the discovery of information in actions for personal injuries.

Analysis by the Legislative Reference Bureau

Under current law, in an action for personal injury damages, the court may order the claimant to give the other party or a physician the right to inspect any X-ray photograph taken of the claimant and the right to copy and inspect any hospital, medical or other records concerning the injuries for which the damages are claimed.

This bill requires the party claiming the damages in an action for personal injuries to give the other party, upon request, the right to inspect and copy any film, image, scan, slide, specimen or other document, record or report from any hospital, clinic, physician, chiropractor or other health care provider concerning the physical or mental condition of the person claiming damages. The bill applies to the documents, records and reports from before and after the incident that gave rise to the action for damages. Under the bill, any record relating to the physical or mental condition of the party claiming damages is presumed subject to discovery, with the party claiming damages having the burden of rebutting the presumption.

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3 **SECTION 1.** 804.10 (2) of the statutes is repealed and recreated to read:
4 804.10 (2) Consistent with s. 804.01 (2) (a) and subject to s. 804.01 (3), in any
5 action brought to recover damages for personal injury, the party claiming damages

1 shall give the other party, upon request, consent and the right to inspect and copy any
2 film, image, scan, slide, specimen or other document, record or report from any
3 hospital, clinic, physician, chiropractor or other health care provider concerning the
4 physical or mental condition of the party claiming damages. This subsection applies
5 to any document, record or report concerning the physical and mental condition of
6 the party claiming damages before and after the incident that gave rise to the action
7 to recover damages. Any record relating to the physical or mental condition of the
8 party claiming damages is presumed subject to discovery under this subsection. The
9 party claiming damages has the burden of rebutting this presumption when moving
10 for a protective order under s. 804.01 (3).

11 **SECTION 2. Initial applicability.**

12 (1) This act first applies to requests for documents, records and reports made
13 on the effective date of this subsection.

14 (END)