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## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

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**2003 Assembly Bill 326**

**Assembly Substitute  
Amendment 2, as Amended by  
Senate Amendment 1**

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Under *current law*, under certain circumstances, funeral directors and persons who operate funeral establishments are allowed to sell funeral services and merchandise that are purchased with trust funds or the proceeds of life insurance policies that are made available upon the death of the purchaser. A copy of a death certificate may be required to make the trust funds or life insurance proceeds available.

However, *current law* prohibits, with certain exceptions, a person from copying a vital record, including a death certificate. One of the exceptions to the copying prohibition applies to financial institutions and other specified entities that copy vital records for administrative uses.

*Assembly Bill 326* expands the “copying” exception for “administrative uses” so that it also applies to funeral directors and persons who operate funeral establishments.

*Assembly Substitute Amendment 2* no longer expands the “copying” exception for “administrative uses” so that it also applies to funeral directors and persons who operate funeral establishments (i.e., does not allow for “copying” of a death certificate).

Rather, *Assembly Substitute Amendment 2* requires the Department of Health and Family Services to prescribe an “affidavit of death” form for the purpose of releasing burial agreement trust funds to a beneficiary or establishing proof of death for payment of benefits of a life insurance policy. The newly created “affidavit of death” form allows for release of these funds or proceeds from a financial institution or insurer without a copy of a death certificate, so long as the financial institution or insurer consents to receipt of the affidavit.

*Senate Amendment 1* does the following:

- Provides that the “affidavit of death” form must be accompanied by an invoice for the cost of the services and personal property for which release of the funds is sought.

- Provides that if a bank, trust company, savings bank, savings and loan association, or credit union consents to receipt of the affidavit and to release of the funds, it is immune from civil liability for the amount of the funds so released.

**LEGISLATIVE HISTORY**

On January 20, 2004, the Assembly adopted Assembly Substitute Amendment 2 by a voice vote. The Assembly passed the bill, as amended, by a voice vote.

On March 1, 2004, the Senate Committee on Labor, Small Business Development and Consumer Affairs recommended adoption and concurrence as amended, by a vote of Ayes, 5; Noes, 0.

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