



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2003 Assembly Bill 448

Assembly Amendments 2 and 3

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Current law generally permits the inspection of public records, including autopsy records and photographs or other pictorial images, subject to the common law “balancing test” weighing the public interest in disclosure of a record against the public harm in releasing such a record.

2003 Assembly Bill 448 permits the inspection or copying of information contained in an autopsy report, subject to the “balancing test,” except autopsy photographs and pictorial images. A photograph or other pictorial image taken during an autopsy may be disclosed, subject to the “balancing test,” but members of the public may not copy such photographs unless the deceased’s spouse or next-of-kin consent to the copying or unless a court orders the custodian to allow copying.

Assembly Amendment 2 establishes a 25-year limit on the prohibition on the copying of autopsy photographs. Thus, subject to the balancing test, a person may copy autopsy photographs or other pictorial images after 25 years immediately following the autopsy have expired.

Assembly Amendment 3 establishes an exemption to the bill’s prohibition on the copying of autopsy photographs or other pictorial images under certain circumstances. These exemptions include photographs for use in medical, health, or forensic education activities conducted under the auspices of a coroner, physician, or medical examiner or to persons conducting health care peer reviews or health care quality assurances.

Assembly Amendments 2 and 3 were adopted by the Assembly Committee on Government Operations and Spending Limitations by a vote of Ayes, 5, Noes, 1; and 2003 Assembly Bill 448 was recommended for passage by a vote of Ayes, 4, Noes, 2; on February 11, 2004.

DWS:ksm