



2003 ASSEMBLY BILL 448

July 25, 2003 - Introduced by Representatives JOHNSRUD, FREESE, OWENS, ZIEGELBAUER, GUNDERSON, MUSSER, PETROWSKI, ALBERS, AINSWORTH, KESTELL, J. WOOD, LOEFFELHOLZ, BIES, LADWIG, HAHN, KRAWCZYK, SERATTI, OTT, PLOUFF and GARD, cosponsored by Senators KANAVAS, SCHULTZ and ROESSLER. Referred to Committee on Government Operations and Spending Limitations.

1 **AN ACT** *to create* 979.028 of the statutes; **relating to:** confidentiality of autopsy
2 records.

Analysis by the Legislative Reference Bureau

Currently, any requester has a right to inspect or copy any public record unless otherwise provided under statutory or common law or unless, under a “balancing test,” the custodian of the record demonstrates that the public interest in withholding access to the record outweighs the strong public interest in providing that access. Access to autopsy records is generally subject to the balancing test. Though, autopsy records that are in the custody of a district attorney are generally exempt from public inspection or copying under a common law exception to public access for district attorney files.

This bill provides that the public right to inspect or copy any portion of an autopsy record, other than a photo taken during the autopsy, is subject to the balancing test, as under current law. Under the bill, the public right to inspect an autopsy photo is also subject to the balancing test, as under current law. However, the bill prohibits the custodian of an autopsy photo from allowing a member of the public to copy an autopsy photo unless the deceased’s spouse or next of kin consents to the copying or unless a court orders the custodian to allow copying.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

