



## 2005 SENATE BILL 457

November 29, 2005 - Introduced by Senators BROWN and HARSDORF, cosponsored by Representatives GIELOW, KRAWCZYK and GUNDERSON. Referred to Committee on Health, Children, Families, Aging and Long Term Care.

1     **AN ACT to create** 146.56 (3) of the statutes; **relating to:** confidentiality of certain  
2           information and documents and privilege and immunity from civil liability for  
3           certain persons under the statewide trauma care system.

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### *Analysis by the Legislative Reference Bureau*

Under current law, the Department of Health and Family Services (DHFS) must develop and implement a statewide trauma care system, seeking the advice of the Statewide Trauma Advisory Council (STAC); as part of the development and implementation, DHFS must develop regional trauma advisory councils. DHFS must promulgate rules concerning the trauma care system that include a method by which to classify all hospitals as to their emergency care capabilities. Within 180 days after the rules are promulgated, and every three years thereafter, all hospitals must certify to DHFS the classification level of trauma care services provided by the hospital. DHFS may request a hospital to document the basis for its certification. Confidential injury data collected under these requirements must be used only for confidential review relating to performance improvements in the trauma care system.

This bill makes confidential all information and documents provided by a hospital to DHFS under the trauma care system. The bill also makes confidential all information and documents procured by or furnished to DHFS, STAC, or regional trauma advisory councils in connection with performance improvement activities, certifications of classification levels, and documentation of the bases for hospitals' certifications; the bill prohibits the use of or admission into evidence such

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information and documents in civil actions. With respect to the communications, findings, or recommendations made by a DHFS staff member or an individual member of STAC or a regional trauma advisory council, the bill prohibits examination of the staff member or individual in an action for civil damages and provides immunity from civil liability for actions taken or omitted by the staff member or individual in an official capacity and for statements made in good faith.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 146.56 (3) of the statutes is created to read:

2           146.56 (3) All information and documents provided by a hospital under sub. (2)  
3 and all information and documents procured by or furnished to the department, the  
4 statewide trauma advisory council, or regional trauma advisory councils with  
5 respect to performance improvement activities, certifications by hospitals under sub.  
6 (2), and documentation of the bases for hospitals' certifications under sub. (2) are  
7 immune from discovery under ch. 804, confidential, and privileged and may not be  
8 used or admitted into evidence in a civil action. With respect to a communication  
9 made by a staff member of the department or by an individual serving on the  
10 statewide trauma advisory council or a regional trauma advisory council, and to a  
11 finding or recommendation made under this section by the department, the  
12 statewide trauma advisory council, or a regional trauma advisory council, all of the  
13 following apply:

14           (a) The staff member or individual may not be examined in an action for civil  
15 damages with respect to the communication, finding, or recommendation.

16           (b) The staff member or individual has immunity from civil liability, with  
17 respect to the communication, finding, or recommendation, for any of the following:

