



## 2015 ASSEMBLY BILL 770

January 22, 2016 - Introduced by Representatives HUTTON, R. BROOKS, JARCHOW, KREMER, ROHRKASTE and THIESFELDT, cosponsored by Senators WANGGAARD, MARKLEIN and NASS. Referred to Committee on Corrections.

1     **AN ACT** *to renumber and amend* 157.02 (1); *to amend* 157.02 (2), 157.02 (5),  
2           301.32 (1), 301.325 and 979.10 (1) (a) (intro.); and *to create* 157.02 (1) (b) 2. and  
3           973.20 (11) (c) of the statutes; **relating to:** burial or cremation and burial of a  
4           deceased prison inmate, cremation of an unclaimed corpse, and prohibition on  
5           cremation of an unclaimed corpse in cases of homicide.

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### *Analysis by the Legislative Reference Bureau*

This bill changes procedures relating to burial or cremation and burial of a deceased prison inmate and cremation of an unclaimed corpse. Under the bill, the Department of Corrections must provide written notification to a deceased inmate's relative informing him or her that DOC will, upon request, provide a copy of any autopsy report or other report regarding the inmate's death and allow the relative to claim the cremated remains of the inmate before the remains are buried. With certain exceptions, the bill allows the superintendent of an institution or other public officer to cremate and bury an unclaimed corpse. The bill prohibits cremation of an unclaimed corpse if the deceased person died as a result of homicide.

The bill also adds an express allowance for DOC to charge a prisoner's estate for some or all of the costs to the department of the prisoner's incarceration or burial or cremation and burial. Under the bill, if an inmate in a state prison has not paid court-ordered restitution at the time of his or her death, DOC is required to assess, collect, and disburse the amount owed from the inmate's wages or other moneys.

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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.** 157.02 (1) of the statutes is renumbered 157.02 (1) (a) and amended  
2 to read:

3           157.02 (1) (a) When an inmate of any state, county or municipal institution  
4 dies, the superintendent or other person in charge of the institution shall  
5 immediately notify a relative of the decedent. A public officer having the possession  
6 or the disposition of a corpse shall immediately notify a relative of the decedent. If  
7 no relative is known, or discoverable by use of ordinary diligence, notice may be  
8 dispensed with. ~~In addition, if~~

9           (b) If the deceased had been an inmate of a state correctional institution, the  
10 department of corrections shall provide written notification to the relative informing  
11 him or her that the department of corrections, upon request, will ~~provide~~ do any or  
12 all of the following:

13           1. Provide a copy of any autopsy report or other report or information  
14 pertaining to the death.

15           (c) The department of corrections shall describe how ~~the request~~ requests  
16 under par. (b) may be made and shall promptly comply with any such request.

17           **SECTION 2.** 157.02 (1) (b) 2. of the statutes is created to read:

18           157.02 (1) (b) 2. Allow the relative to claim the cremated remains of the inmate  
19 before the remains are buried.

20           **SECTION 3.** 157.02 (2) of the statutes is amended to read:

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1           157.02 (2) TIME ALLOWED RELATIVE TO ACT. If a relative or friend fails to arrange  
2 for taking charge of the corpse within a reasonable time after death, the  
3 superintendent or other officer may proceed as provided in this section, but relatives  
4 or friends may claim the corpse at any time before it has been delivered pursuant to  
5 sub. (3) or, if a request is made under sub. (1) (b) 2., after it has been cremated but  
6 before the cremated remains have been buried pursuant to sub. (5).

7           **SECTION 4.** 157.02 (5) of the statutes is amended to read:

8           157.02 (5) OTHER DISPOSITION. If the corpse is not disposed of under subs. (1)  
9 to (4), the superintendent or public officer shall properly bury it, or cremate it, subject  
10 to s. 979.10, and bury the cremated remains.

11           **SECTION 5.** 301.32 (1) of the statutes is amended to read:

12           301.32 (1) PROPERTY DELIVERED TO WARDEN OR SUPERINTENDENT; CREDIT AND DEBIT.  
13 All money and other property delivered to an employee of any state correctional  
14 institution for the benefit of a prisoner or resident shall be delivered to the warden  
15 or superintendent, who shall enter the property upon his or her accounts to the credit  
16 of the prisoner or resident. The property may be used only under the direction and  
17 with the approval of the superintendent or warden and for the crime victim and  
18 witness assistance surcharge under s. 973.045 (4), the delinquency victim and  
19 witness assistance surcharge under s. 938.34 (8d) (c), the deoxyribonucleic acid  
20 analysis surcharge under s. 973.046 (1r), the child pornography surcharge under s.  
21 973.042, the drug offender diversion surcharge under s. 973.043, victim restitution  
22 under s. 973.20 (11) (c), or the benefit of the prisoner or resident. If the money  
23 remains uncalled for for one year after the prisoner's or resident's death or departure  
24 from the state correctional institution, the superintendent shall deposit it in the  
25 general fund. If any prisoner or resident leaves property, other than money, uncalled

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1 for at a state correctional institution for one year, the superintendent shall sell the  
2 property and deposit the proceeds in the general fund, donate the property to a public  
3 agency or private, nonprofit organization or destroy the property. If any person  
4 satisfies the department, within 5 years after the deposit, of his or her right to the  
5 deposit, the department shall direct the department of administration to draw its  
6 warrant in favor of the claimant and it shall charge the same to the appropriation  
7 made by s. 20.913 (3) (bm).

8 **SECTION 6.** 301.325 of the statutes is amended to read:

9 **301.325 Prisoner reimbursement to the state.** The department may  
10 charge a prisoner or a prisoner's estate for some or all of the costs to the department  
11 of the prisoner's incarceration or burial or cremation and burial under s. 157.02 (5).  
12 The department may collect from the inmate or his or her estate during his or her  
13 incarceration or after his or her release or death, or both. If the prisoner has paid  
14 all victim restitution ordered under s. 973.20 or if the department has collected  
15 victim restitution pursuant to s. 973.20 (11) (c), the department may use any  
16 remaining money held for a prisoner under s. 301.32 (1) to pay for some or all of the  
17 costs to the department for the prisoner's burial or cremation and burial under s.  
18 157.02 (5). Upon the request of the department, the attorney general may bring a  
19 civil action to recover costs under this section that the department has been unable  
20 to collect. The department may not recover under this section for any costs already  
21 recovered as otherwise provided in chs. 301 to 303. The department shall promulgate  
22 rules providing a method of charging under this section that is based on a prisoner's  
23 ability to pay and providing procedures for collection of the costs.

24 **SECTION 7.** 973.20 (11) (c) of the statutes is created to read:

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1           973.20 (11) (c) If an inmate in a state prison or a person sentenced to a state  
2           prison has not paid, at the time of his or her death, restitution ordered under this  
3           section, the department shall assess, collect, and disburse the amount owed from the  
4           inmate's wages or other moneys.

5           **SECTION 8.** 979.10 (1) (a) (intro.) of the statutes is amended to read:

6           979.10 (1) (a) (intro.) No person may cremate the corpse of a deceased person  
7           within 48 hours after the death, or the discovery of the death, of the deceased person  
8           unless the death was caused by a contagious or infectious disease. Notwithstanding  
9           s. 979.09, no person may cremate an unclaimed corpse if the deceased person died  
10          as the result of homicide. No person may cremate a corpse unless the person has  
11          received a cremation permit from:

12

(END)