

# State of Wisconsin



2017 Senate Bill 230

Date of enactment: April 3, 2018  
Date of publication\*: April 4, 2018

## 2017 WISCONSIN ACT 246

AN ACT *to renumber and amend* 157.02 (1); *to amend* 157.02 (2), 157.02 (5), 301.325, 302.14 and 979.10 (1) (a) (intro.); and *to create* 157.02 (1) (a), 157.02 (1) (b) 2. and 973.20 (11) (f) of the statutes; **relating to:** burial or cremation and burial of a deceased prison inmate, cremation of an unclaimed corpse, and prohibition on cremation of an unclaimed corpse in cases of homicide.

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

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

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

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

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

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

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

157.02 (1) (a) In this section, "burial" has the meaning given in s. 157.061 (1).

**SECTION 3.** 157.02 (1) (b) 2. of the statutes is created to read:

157.02 (1) (b) 2. Allow the relative to claim the cremated remains of the inmate before burial of the remains.

**SECTION 4.** 157.02 (2) of the statutes is amended to read:

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

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

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

\* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

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

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

SECTION 7. 302.14 of the statutes is amended to read:

**302.14 Property of deceased inmates, parolees, probationers or persons on extended supervision, disposition.** When an inmate of a prison, a parolee of an institution, a person on extended supervision or a person

on probation to the department dies leaving an estate, after paying all costs and obligations under ss. 301.32 and 301.325, of \$150 or less in the trust of the warden, superintendent or secretary, the warden, superintendent or secretary shall try to determine whether or not the estate is to be probated. If probate proceedings are not commenced within 90 days, the warden, superintendent or secretary shall turn over the money or securities to the nearest of kin as evidenced by the records of the institution and the department.

SECTION 8m. 973.20 (11) (f) of the statutes is created to read:

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

SECTION 9. 979.10 (1) (a) (intro.) of the statutes is amended to read:

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