



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-1312/2
CMH&MLJ:amn

2017 SENATE BILL 200

April 20, 2017 - Introduced by Senators C. LARSON and RISSER, cosponsored by Representatives CROWLEY, BOWEN, TUSLER, C. TAYLOR, GOYKE, SINICKI, ZAMARRIPA, SARGENT, BERCEAU, SPREITZER and VRUWINK. Referred to Committee on Judiciary and Public Safety.

1 **AN ACT to renumber** 175.47 (1) (a) and 175.47 (2); **to renumber and amend**
2 175.47 (3) (a), (b) and (c); **to amend** 175.47 (1) (c), 175.47 (4), 175.47 (5), 979.025
3 (1) and 979.025 (2); and **to create** 175.47 (1) (title), 175.47 (1) (ac), 175.47 (2)
4 (title) and 175.47 (3m) of the statutes; **relating to:** officer-involved deaths.

Analysis by the Legislative Reference Bureau

Current law requires an investigation following a death that involves a law enforcement officer and outlines specific requirements of the investigation. Under this bill, a death involving a correctional officer gives rise to the same investigation requirements as a death involving a law enforcement officer.

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

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

5 **SECTION 1.** 175.47 (1) (title) of the statutes is created to read:
6 175.47 (1) (title) DEFINITIONS.
7 **SECTION 2.** 175.47 (1) (a) of the statutes is renumbered 175.47 (1) (ar).

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1 **SECTION 3.** 175.47 (1) (ac) of the statutes is created to read:

2 175.47 (1) (ac) “Correctional officer” means any person employed by the state
3 or any political subdivision as a guard or officer whose principal duties are
4 supervision and discipline of inmates at a penal institution, prison, jail, house of
5 correction, or other place of penal detention; a jail officer, as defined in s. 165.85 (2)
6 (bn); or a juvenile detention officer, as defined in s. 165.85 (2) (bt).

7 **SECTION 4.** 175.47 (1) (c) of the statutes is amended to read:

8 175.47 (1) (c) “Officer-involved death” means a death of an individual that
9 results directly from an action or an omission of a law enforcement officer or
10 correctional officer while the ~~law enforcement~~ officer is on duty or while the law
11 ~~enforcement~~ officer is off duty but performing activities that are within the scope of
12 his or her ~~law enforcement~~ duties.

13 **SECTION 5.** 175.47 (2) (title) of the statutes is created to read:

14 175.47 (2) (title) DEATH INVOLVING LAW ENFORCEMENT OFFICER.

15 **SECTION 6.** 175.47 (2) of the statutes is renumbered 175.47 (2) (a).

16 **SECTION 7.** 175.47 (3) (a), (b) and (c) of the statutes are renumbered 175.47 (2)
17 (b), (c) and (d) and amended to read:

18 175.47 (2) (b) Each policy under ~~sub. (2) par. (a)~~ par. (a) must require an investigation
19 conducted by at least ~~two~~ 2 investigators, one of whom is the lead investigator and
20 neither of whom is employed by a law enforcement agency that employs a law
21 enforcement officer involved in the officer-involved death.

22 (c) If the officer-involved death being investigated is traffic-related, the policy
23 under ~~sub. (2) par. (a)~~ par. (a) must require the investigation to use a crash reconstruction
24 unit from a law enforcement agency that does not employ a law enforcement officer
25 involved in the officer-involved death being investigated, except that a policy for a

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1 state law enforcement agency may allow an investigation involving a law
2 enforcement officer employed by that state law enforcement agency to use a crash
3 reconstruction unit from the same state law enforcement agency.

4 (d) Each policy under ~~sub. (2)~~ par. (a) may allow an internal investigation into
5 the officer-involved death if the internal investigation does not interfere with the
6 investigation conducted under par. ~~(a)~~ (b).

7 **SECTION 8.** 175.47 (3m) of the statutes is created to read:

8 175.47 **(3m)** DEATH INVOLVING CORRECTIONAL OFFICER. (a) Whenever an autopsy
9 is performed under s. 997.025 (1) or (2), the person performing that autopsy shall
10 determine whether the death was an officer-involved death.

11 (b) Each correctional facility shall have a written policy regarding the
12 investigation of officer-involved deaths that involve a correctional officer employed
13 by the correctional facility.

14 (c) Each policy under par. (b) must require an investigation conducted by at
15 least 2 investigators, one of whom is the lead investigator and, if the correctional
16 officer is employed by a political subdivision, neither of whom is employed by the
17 political subdivision that employs a correctional officer involved in the
18 officer-involved death.

19 **SECTION 9.** 175.47 (4) of the statutes is amended to read:

20 175.47 **(4)** COMPENSATION. Compensation for participation in an investigation
21 under sub. ~~(3)-(a)~~ (2) (b) or (3m) (c) may be determined in a manner consistent with
22 mutual aid agreements.

23 **SECTION 10.** 175.47 (5) of the statutes is amended to read:

24 175.47 **(5)** REPORT TO DISTRICT ATTORNEY. (a) The investigators conducting the
25 investigation under sub. ~~(3)-(a)~~ (2) (b) or (3m) (c) shall, in an expeditious manner,

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1 provide a complete report to the district attorney of the county in which the
2 officer-involved death occurred.

3 (b) If the district attorney determines there is no basis to prosecute the law
4 enforcement officer involved in the officer-involved death, the investigators
5 conducting the investigation under sub. ~~(3) (a)~~ (2) (b) or (3m) (c) shall release the
6 report, except that the investigators shall, before releasing the report, delete any
7 information that would not be subject to disclosure pursuant to a request under s.
8 19.35 (1) (a).

9 **SECTION 11.** 979.025 (1) of the statutes is amended to read:

10 979.025 (1) INMATE CONFINED TO AN INSTITUTION IN THIS STATE. If an individual
11 dies while he or she is in the legal custody of the department and confined to a
12 correctional facility located in this state, the coroner or medical examiner of the
13 county where the death occurred shall perform an autopsy on the deceased
14 individual. If the coroner or medical examiner who performs the autopsy determines
15 that the individual's death may have been the result of any of the situations that
16 would permit the district attorney to order an inquest under s. 979.04 (1), the coroner
17 or medical examiner shall follow the procedures under s. 979.04 (2). If the coroner
18 or medical examiner who performs the autopsy determines that the individual's
19 death may have been an officer-involved death, as defined in s. 175.47 (1) (c), the
20 coroner or medical examiner shall report the death as an officer-involved death to
21 the correctional facility where the death occurred for investigation under s. 175.47
22 (3m) (c).

23 **SECTION 12.** 979.025 (2) of the statutes is amended to read:

24 979.025 (2) INMATE CONFINED IN AN INSTITUTION IN ANOTHER STATE. If an
25 individual dies while he or she is in the legal custody of the department and confined

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1 to a correctional facility in another state under a contract under s. 301.07, 301.21,
2 or 302.25, the department shall have an autopsy performed by an appropriate
3 authority in the other state or by the coroner or medical examiner of the county in
4 which the circuit court is located that sentenced the individual to the custody of the
5 department. If the coroner or medical examiner who performs the autopsy in this
6 state determines that the individual's death may have been the result of any of the
7 situations that would permit the district attorney to order an inquest under s. 979.04
8 (1), the coroner or medical examiner shall forward the results of the autopsy to the
9 appropriate authority in the other state. If the coroner or medical examiner who
10 performs the autopsy determines that the individual's death may have been an
11 officer-involved death, as defined in s. 175.47 (1) (c), the coroner or medical examiner
12 shall report the death as an officer-involved death to the appropriate authority in
13 the other state.

SECTION 13. Initial applicability.

14
15 (1) This act first applies to deaths that occurred 3 years before the effective date
16 of this subsection if no correctional officer involved was prosecuted.

17 (END)