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**WISCONSIN LEGISLATIVE COUNCIL  
AMENDMENT MEMO**

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**2007 Assembly Bill 139**

**Assembly Substitute  
Amendment 1, as Amended by  
Assembly Amendment 1**

*Memo published:* February 28, 2008

*Contact:* Don Salm, Senior Staff Attorney (266-8540)

Assembly Substitute Amendment 1, as amended by Assembly Amendment 1 (described below), *expands* the scope of the provision in current law requiring autopsies for persons who die while confined in a state correctional facility so that it applies to a person in the Department of Correction's (DOC's) custody who dies while temporarily confined in, and under a DOC contract with, a county jail or house of correction.

The Substitute Amendment also *creates an Inmate and Resident Mortality Board* (hereafter, "the Board"), which is composed of nine members and attached to DOC. Under the Substitute Amendment:

1. If a person in DOC custody dies while in an in-state or out-of-state correctional institution, a county jail, or a house of correction, the *Board must review* the circumstances of the person's death. Within three business days after the person's death, DOC must send a *written notice* to each member of the Board of the death and provide them with a summary of information regarding the death, including the date, time, and place of the death. Upon request, DOC must also provide a Board member with the records that are in the custody of DOC (including medical and mental health records) regarding the person who died and with any information obtained as the result of DOC's internal review of the death. The DOC is required to provide any assistance the Board needs to review the circumstances of the death.
2. Beyond reviewing information from DOC, the Board *may also review*: (a) any medical and mental health records of the inmate or resident in the custody of a medical or mental health treatment provider; (b) medical and mental health records in the custody of a law enforcement agency; (c) information obtained by the coroner or medical examiner regarding the death; and (d) information collected as a result of the autopsy.
3. The Board is required to: (a) issue a report regarding its review of an inmate's death *within 30 days* after the meeting at which the Board completes its review; and (b) submit that report to a

relative of the deceased person, to members of the appropriate standing committees of the Senate and Assembly, to the Secretary of DOC, and to the District Attorney or Attorney General, if appropriate.

4. The Board is required to submit to DOC *any recommendations* that it has regarding medical and other prison procedures, and rules to implement them, based on the Board's review of the death.

5. If the Board determines during its review of a person's death that a medical provider failed to provide appropriate, proper, and necessary medical care, the Board is required to prepare and forward a complaint to the appropriate credentialing board.

6. Meetings of the Board are *not* subject to the Open Meetings Law. Records prepared by the Board are not subject to the Open Records Law.

As to *Assembly Amendment 1 to the Substitute Amendment*, under the Substitute Amendment, the Board is required to refer concerns or recommendations to DOC related to the performance of the staff, including "*violations by staff of departmental policies, procedures, or work rules related*" to the circumstances surrounding the death.

*Assembly Amendment 1* replaces the highlighted words in this provision so that the provision reads: "The board may also refer concerns or recommendations to the department related to the performance of the staff, including violations by staff of department *policies or procedures that may have contributed* to the circumstances surrounding the death" [emphasis added].

#### *Legislative History*

In executive session on February 21, 2008, the Assembly Committee on Corrections and Courts voted to adopt Assembly Substitute Amendment 1, as amended by Assembly Amendment 1, and to recommend passage of the bill, as amended, on votes of Ayes, 11; Noes, 0.

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