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## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

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<b>2013 Assembly Bill 409</b>	<b>Assembly Substitute Amendment 2</b>
<i>Memo published:</i> February 25, 2014	<i>Contact:</i> Melissa Schmidt, Senior Staff Attorney (266-2298)

**2013 Assembly Bill 409** relates to investigations of deaths involving a law enforcement officer. **Assembly Substitute Amendment 2** (ASA 2) does the following:

ASA 2 replaces the bill with provisions that do the following:

- Defines an “officer-involved death” as a “death of an individual that results directly from an action or an omission of a law enforcement officer while the law enforcement officer is on duty or while the law enforcement officer is off duty but performing activities that are consistent with his or her law enforcement duties.”
- Requires each law enforcement agency, including a law enforcement agency in a 1st class city (City of Milwaukee), to have a written policy regarding the investigation of officer-involved deaths that involve a law enforcement officer employed by the law enforcement agency as follows:
  - A policy must require an investigation that is conducted by at least two investigators, one of whom is the lead investigator and neither of whom is employed by a law enforcement agency that employs a law enforcement officer involved in the officer-involved death.
  - If the officer-involved death being investigated is traffic-related, the policy must require the investigation to use a crash reconstruction unit from a law enforcement agency that does not employ a law enforcement officer involved in the officer-involved death being investigated, except that a policy for a state law enforcement agency may allow an investigation involving a law enforcement officer employed by that state law enforcement agency to use a crash reconstruction unit from the same state law enforcement agency.

- A policy may allow an internal investigation into the officer-involved death if the internal investigation does not interfere with the investigation conducted by the outside investigators.
- Provides that compensation for participation in an investigation may be determined in a manner consistent with mutual aid agreements.
- Requires the investigators conducting the investigation to, in an expeditious manner, provide a complete report to the district attorney (DA) of the county in which the officer-involved death occurred.
- Requires the investigators conducting the investigation to release the report provided to the DA if the DA determines there is no basis to prosecute the law enforcement officer involved in the officer-involved death. Under ASA 2, the investigators are not required to keep confidential any material and information related to the death and investigation until the DA makes this determination.
- Creates a right under the Victim's Basic Bill of Rights for a victim of an officer-involved death to be informed about all of the following: (1) the process by which he or she may file either a complaint charging a person with a crime, if permitted by a judge; (2) the process by which he or she may file a complaint under the John Doe investigation proceedings; and (3) the process of an inquest, commonly referred to as a "coroner's inquest."
- Requires that, when a law enforcement agency makes a reasonable attempt to provide the victim of an officer-involved death with written information concerning the rights of victims within 24 hours after making initial contact with the victim, the law enforcement agency must also provide information about the three processes listed above.
- Specifies that ASA 2 first applies to officer-involved deaths occurring on the effective date of ASA 2.

### **Bill History**

On February 10, 2014, Representative Bies offered ASA 2. On February 18, 2014, the Assembly adopted ASA 2, and subsequently voted to pass Assembly Bill 409, as amended, on a voice vote. On February 19, 2014, it was received in the Senate.

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