



## 2013 ASSEMBLY BILL 409

October 4, 2013 – Introduced by Representatives BIES, C. TAYLOR, BERCEAU, GOYKE, KAHL, KESSLER and T. LARSON, cosponsored by Senators L. TAYLOR, LEHMAN and RISSER. Referred to Committee on Judiciary.

1     **AN ACT to create** 15.07 (1) (a) 6., 15.07 (3) (bm) 7., 15.255 (1m) and 165.855 of  
2             the statutes; **relating to:** investigation of deaths involving a law enforcement  
3             officer.

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### *Analysis by the Legislative Reference Bureau*

This bill requires each law enforcement agency to have a written policy, subject to the approval of the law enforcement standards board, regarding the handling of deaths involving a law enforcement officer. The policy must require a team of investigators consisting of three individuals, two of whom must be from an agency that does not employ an officer involved in the death being investigated, to prepare a report and provide it to the district attorney of the county in which the death occurred. The district attorney must give the report to the board for the review of officer-involved deaths, which this bill creates and attaches to the Department of Justice. The board must review the report to ensure it addresses all aspects of the death and may request further information from the investigative team. The board may then submit recommendations to the district attorney and may forward the report to any person responsible for the discipline of a law enforcement officer involved in the death.

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:*

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1           **SECTION 1.** 15.07 (1) (a) 6. of the statutes is created to read:

2           15.07 (1) (a) 6. The members of the board for review of officer-involved deaths  
3 shall be appointed as provided in s. 15.255 (1m) (b).

4           **SECTION 2.** 15.07 (3) (bm) 7. of the statutes is created to read:

5           15.07 (3) (bm) 7. The board for review of officer-involved deaths shall meet as  
6 necessary to perform its duties under s. 165.855 (5).

7           **SECTION 3.** 15.255 (1m) of the statutes is created to read:

8           15.255 (1m) BOARD FOR REVIEW OF OFFICER-INVOLVED DEATHS. (a) There is  
9 created a board for review of officer-involved deaths that is attached to the  
10 department of justice under s. 15.03. The board shall be composed of 5 members as  
11 follows:

12           1. One retired or reserve judge.

13           2. A former sheriff, chief of police, chief deputy sheriff, or chief deputy chief of  
14 police.

15           3. An assistant attorney general.

16           4. A professor or researcher affiliated with a Wisconsin university or college  
17 who has expertise in the field of criminal law or criminal justice.

18           5. A former district attorney or assistant district attorney who served in that  
19 capacity for at least 10 years.

20           (b) The members of the board under par. (a) shall be appointed by the attorney  
21 general for staggered 4-year terms.

22           **SECTION 4.** 165.855 of the statutes is created to read:

23           **165.855 Review of deaths involving officers.** (1) Each law enforcement  
24 agency shall have a written policy regarding the handling of deaths involving a law

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1 enforcement officer employed by the agency. Each policy is subject to the review and  
2 approval of the law enforcement standards board.

3 (2) (a) Each policy under sub. (1) must require a team of investigators  
4 consisting of at least 3 individuals, including individuals from at least 2 different  
5 agencies that do not employ a law enforcement officer involved in the death being  
6 investigated.

7 (b) If the death being investigated is traffic related, the policy under sub. (1)  
8 must require the investigative team to use a crash reconstruction unit from an  
9 agency that does not employ a law enforcement officer involved in the death being  
10 investigated. The policy shall give preference to using a unit from the state traffic  
11 patrol.

12 (c) Each policy under sub. (1) may allow an internal investigation into the death  
13 if the internal investigation does not interfere with the duties under this section of  
14 the team of investigators under par. (a).

15 (d) Each policy under sub. (1) must require any officer involved in the death to  
16 submit a blood sample. No person may perform any analysis or test on the blood  
17 sample without either the permission of the officer who submitted the sample or a  
18 search warrant. At the conclusion of the investigation of the death, the sample may  
19 be destroyed if a court approves.

20 (3) Compensation for participation on a team under sub. (2) (a) shall be  
21 determined in a manner consistent with mutual aid agreements under s. 175.46.

22 (4) (a) A team created under sub. (2) (a) shall consult and report to the district  
23 attorney of the county in which the death occurred. Except as provided in this  
24 subsection, the team shall keep confidential any material and information related  
25 to the death and the investigation.

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1 (b) When the report under par. (a) is complete the district attorney shall release  
2 the report to the board for the review of officer-involved deaths.

3 (c) A team created under sub. (2) (a) shall respond to requests under sub. (5)  
4 from the board for the review of officer-involved deaths unless the district attorney  
5 restricts the team from a response due to a court order or because a response could  
6 jeopardize the prosecution or investigation of an open case.

7 **(5)** (a) When the board for the review of officer-involved deaths receives a  
8 report under sub. (4) (b), it shall review the report and evidence to determine if it  
9 addresses all aspects of the death. The board for the review of officer-involved  
10 deaths may request more information, clarification, or testimony from the  
11 investigative team that prepared the report.

12 (b) When the board for the review of officer-involved deaths finishes its review  
13 of the report, it may make recommendations to the district attorney of the county in  
14 which the death occurred and forward the report to any person responsible for  
15 disciplining an officer involved.

16 (c) Meetings of the board for the review of officer-involved deaths are open to  
17 the public but public comment is closed unless the majority of the board votes to allow  
18 public comment.

19 **(6)** When the board for the review of officer-involved deaths completes its  
20 review of a report under sub. (5), the attorney general shall release the report and  
21 any accompanying written files unless the information must be kept confidential by  
22 statute.

23 **SECTION 5. Nonstatutory provisions.**

