



2007 SENATE BILL 428

January 29, 2008 - Introduced by Senators LASSA, SCHULTZ, A. LASEE, ROBSON and HANSEN, cosponsored by Representatives VRUWINK, GRONEMUS, A. OTT, SHERIDAN, MOLEPSKE, VAN ROY, NELSON, F. LASEE, SOLETSKI, NYGREN, HAHN, HIXSON and SEIDEL. Referred to Committee on Public Health, Senior Issues, Long Term Care and Privacy.

1 **AN ACT** *to repeal* 69.18 (4) (bm), 979.01 (3), 979.01 (3m), 979.03 and 979.10 (3);
2 *to renumber* 69.18 (4) (a) 1. to 6. and 979.10 (1) (c); *to renumber and amend*
3 69.18 (4) (a) (intro.), 157.02 (1), (2), (3), (4) and (5), 979.01 (1m), 979.01 (2),
4 979.01 (4), 979.02 and 979.10 (1) (a) 1., 2. and 3.; *to amend* 59.34 (1) (a), 69.01
5 (12), 69.18 (2) (d) 1., 69.18 (3) (a), 69.20 (2) (a) 2., 157.03 (1), 157.03 (2), 157.055
6 (2) (intro.), 157.70 (3) (a), 346.71 (2), 440.78 (1) (b), 979.01 (title), 979.01 (1)
7 (intro.), 979.01 (1) (a), 979.01 (1) (d), 979.01 (1) (e), 979.01 (1) (g), 979.01 (1) (i),
8 979.01 (1r), 979.015, 979.02 (title), 979.025 (title), 979.025 (1), 979.025 (2),
9 979.025 (3), 979.04, 979.05 (2), (3), (4), (5) and (6), 979.06 (1), (2) and (4), 979.07
10 (1) (a), 979.08 (1), 979.08 (5), 979.08 (6), 979.08 (7), 979.09, 979.10 (1) (a) (intro.),
11 979.10 (1) (b), 979.10 (2), 979.10 (4), 979.11 and 979.22; *to repeal and recreate*
12 979.01 (1) (b), 979.01 (1) (c), 979.01 (1) (f), 979.01 (1) (h) and 979.01 (1g); and
13 *to create* 15.255 (3), 17.103, 51.30 (4) (b) 28., 59.34 (1) (cm), 59.35 (3m), 59.38
14 (3m), 69.18 (4) (am) (intro.), 69.18 (4) (b), 69.18 (4) (d), 69.18 (4) (e), 69.18 (4) (f),

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1 157.02 (1m) (title), 157.02 (2m), 157.113 (title), 165.50 (4), 165.65, 979.001,
2 979.01 (1) (j) to (p), 979.01 (1i), 979.01 (1k), 979.01 (1m) (b), 979.01 (1p), 979.01
3 (2) (b), 979.017, 979.02 (2) to (7), 979.027, 979.032, 979.034, 979.036, 979.10 (1)
4 (a) 1m. and 2m., 979.10 (1) (d), 979.10 (5) and 979.10 (6) of the statutes;
5 **relating to:** reporting deaths, death investigations and other duties of
6 coroners and medical examiners, inquests, disposition of bodies, training and
7 testing requirements for coroners and medical examiners, creating the Board
8 on Medicolegal Investigations, requiring the exercise of rule-making authority,
9 and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, coroners or medical examiners investigate certain deaths. In a county with a population of 500,000 or more, and in any county that has instituted a medical examiner system, a medical examiner appointed by the county board is responsible for death investigations. In all other counties, the coroner, who is an elected constitutional officer, is responsible for death investigations.

Reporting Deaths

Under current law, any person who has knowledge of certain deaths must report the death to the sheriff, police chief, or medical examiner or coroner for the locality in which the death occurred. The following types of deaths must be reported: a death that involves unexplained, unusual, or suspicious circumstances; a homicide or suicide; a death following an accident; a death that is due to poisoning; a death following an abortion; a death for which a physician or spiritual advisor did not attend the deceased within 30 days before death; and a death for which a physician refuses to sign the death certificate or for which a physician cannot timely be obtained to sign the medical certification that is required for a death certificate. A sheriff or police chief who is notified of such a death must notify the coroner or medical examiner of the death, and the coroner or medical examiner must notify the district attorney. Any person who fails to report a death as required is subject to a fine not to exceed \$1,000 or imprisonment for not more than 90 days.

This bill requires that if a death must be reported, any person who has knowledge of the death must report it to the coroner or medical examiner and may, in addition, report it to a law enforcement officer.

The bill requires reporting of the following additional types of deaths: a death for which injury may be a contributing cause; a death of a person who is in the custody of a law enforcement officer or under active pursuit by a law enforcement officer, or that otherwise involves a law enforcement officer; a death of a person who is confined

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in a federal prison, state prison, jail, juvenile facility, or otherwise confined by the Department of Corrections or a sheriff; a death of an individual who is detained or institutionalized in connection with a civil commitment, preliminary proceedings for civil commitment, or criminal trial competency proceedings; a death of an individual receiving emergency care at a hospital or other medical facility; a death associated with medical error; a death associated with abuse of a chemical substance that may be legally used or with use of a controlled substance; a death associated with an epidemic, a pandemic, or the spread of a dangerous communicable disease; when human remains are discovered outside a cemetery; and any other death that the coroner or medical examiner in a written policy requires reported. In addition, the bill clarifies that the requirement to report a death associated with an abortion applies to the death of a woman. Also, the bill provides that a death of an individual who was not under the care of a physician for the illness or condition that caused death must be reported regardless of whether the person was attended by a spiritual adviser.

The bill provides that the penalty for failure by a partnership, association, organization, institution, or body politic or corporate to report a death for which reporting is required is a fine of not more than \$10,000, imprisonment for not more than 90 days, or both.

Jurisdiction to investigate death and notifications

The bill assigns jurisdiction to investigate a death to the coroner or medical examiner in the county in which occurred the crime, injury, or other event that caused the death. However, if it cannot be determined where the event that caused the death occurred, or if the death occurred outside the state, the coroner or medical examiner in the county in which death was pronounced has jurisdiction to investigate. The bill provides that the coroner or medical examiner who has jurisdiction to investigate a death has custody of the deceased's body and prohibits any person from moving the body at or from a death scene without authorization from the coroner or medical examiner. The bill requires a coroner or examiner who receives notice of a death to notify the deceased's next of kin. The bill provides that a coroner or medical examiner need not notify the district attorney of certain types of reported deaths if the district attorney has waived notice in writing.

Autopsies and other diagnostic procedures

Currently, a coroner, medical examiner, or district attorney may order an autopsy conducted on a body if there is reason to believe that the death resulted from a homicide or certain other crimes or suicide, or occurred under unexplained or suspicious circumstances. A coroner or medical examiner must order an autopsy on any person who dies while confined in a correctional facility in this state. If a child who is under two years of age dies unexpectedly or under circumstances indicating sudden infant death syndrome, the coroner or medical examiner must order an autopsy unless the parent or guardian in writing requests that an autopsy not be performed. If the autopsy reveals that sudden infant death syndrome is the cause of death, that cause shall be stated in the autopsy report. No person may perform an autopsy on the body of a person whose death must be reported without obtaining written authorization from the coroner or medical examiner.

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Under current law, if an autopsy is not performed in connection with a death that must be reported, the coroner or medical examiner may take specimens from the body for analysis to assist in determining the cause of death. The coroner or medical examiner shall take specimens for analysis in such cases if requested to do so by the spouse, parent, child, or sibling of the deceased.

The bill requires a coroner or medical examiner to order an autopsy for the following deaths: a death that likely resulted from a crime; a death of a person under 18 years of age that is unusual or unexplained; a death of an person who is in the custody of a law enforcement officer or under active pursuit by a law enforcement officer, or that otherwise involves a law enforcement officer; a death of a person who is confined in federal prison, a jail, or otherwise confined by a sheriff; and a death of a person who is detained or institutionalized in connection with a civil commitment, preliminary proceedings for civil commitment, or criminal trial competency proceedings. The bill repeals the requirement that a coroner or medical examiner, in cases where a death must be reported, must take specimens from a deceased's body upon request of the deceased's spouse, parent, child, or sibling. Under the bill, if a coroner or medical examiner does not order an autopsy for a death that must be reported, the bill requires the coroner or medical examiner to inform the deceased's representative that the representative may independently contract for pathology related services. Finally, the bill repeals the requirement that, when applicable, coroners and medical examiners cite sudden infant death syndrome as the cause of death in an autopsy report.

Investigation records and handling of personal property

The bill requires that each coroner or medical examiner keep records of each death investigation and specifies the contents of the records. The bill further requires that the coroner or medical examiner keep death investigation records in an office that is owned or leased by the county and designated as the office of the coroner or medical examiner.

The bill provides that records of autopsies and other diagnostic procedures are confidential. Under the bill, a coroner or medical examiner may release such records only to persons who have authority to access the deceased's health care records without informed consent, to the deceased's representative, or for educational purposes. The bill requires that a coroner or medical examiner keep all confidential records that are gathered for an investigation, such as health care records, confidential. At the request of a law enforcement agency investigating a death, a coroner or medical examiner must keep death investigation records and information related to an investigation confidential during the course of the investigation. The bill also requires that each coroner or medical examiner maintain written policies regarding access to death investigation records.

The bill requires a coroner or medical examiner to maintain an inventory of personal property that the coroner or medical examiner takes from a death scene or from a deceased. The bill specifies that the coroner or medical examiner must destroy or donate to a drug repository program any prescription medications that the coroner or medical examiner collects in an investigation and does not provide to a law enforcement agency.

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Under current law, the coroner or medical examiner's authorization is required for various activities related to the disposition of bodies.

Authorization to embalm. Under current law, a coroner's or medical examiner's authorization is required to embalm the body of a person whose death must be reported. A coroner or medical examiner must issue the authorization within 12 hours of receiving notice of the death or as soon thereafter as possible in the event of unexplained, unusual, or suspicious circumstances.

The bill specifies certain information that coroners and medical examiners must include on an authorization for embalming, eliminates the general 12 hour deadline for issuing an authorization to embalm, and provides that a coroner or medical examiner must issue an authorization to embalm as soon as possible after being notified of a death.

Cremation permit. Under current law, a coroner's or medical examiner's authorization is required for cremation of the body of any deceased person. Currently, a person may not cremate a body within 48 hours of death, or discovery of death, unless the death was caused by a contagious or infectious disease. A coroner or medical examiner must view a body and make inquiry into the cause and manner of death before issuing a cremation permit. Finally, a cremation authorization for the body of a person who died outside the state may be used only in the county in which it is issued.

The bill provides that even when a death is caused by a contagious or infectious disease, the body may not be cremated within 48 hours of the pronouncement of death unless the body must be cremated immediately to effectively contain the disease or a public health authority orders the sooner disposal of the body during a state of emergency that is related to public health. The bill requires that if the medical certification of the cause and manner of death on a death certificate is completed by a physician, the coroner or medical examiner must review the medical certification before issuing a cremation release. The bill further requires that a coroner or medical examiner must specify on a cremation release the earliest date and time that cremation may occur. Finally, the bill requires that a person who receives a body for medical research or education must obtain a cremation release before receiving the body.

Authorization to disinter and reinter. Under current law, a coroner or medical examiner must issue an authorization to disinter and reinter a body upon an order of the court or at the request of various next of kin of the deceased or another person who has authority to dispose of the body.

The bill clarifies that no person, other than a cemetery, may disinter a body or human remains without authorization from the coroner or medical examiner. The bill adds, as a condition for obtaining a coroner's or medical examiner's authorization for disinterment without a court order, that the person requesting authorization provide proof of intent to cremate or bury the disintered remains.

Disposition of unidentified or unclaimed bodies. Under current law, if an inmate of state, county, or municipal institution dies, and a relative or friend of the

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deceased does not claim the body and a medical or mortuary school does not take the body, the superintendent of the institution must bury the body.

This bill provides that if a person other than the superintendent of a state, county, or municipal institution has an unidentified or unclaimed body, the person shall notify the coroner or medical examiner, who must bury or cremate the body. Under the bill, if a coroner or medical examiner buries or cremates the body, the county must pay the costs of burial or cremation with funds other than funds appropriated for the operation of the coroner's or medical examiner's office. The bill further provides that if the coroner or medical examiner makes reasonable efforts to identify a body and notify the deceased's representative of disposal of the body, the coroner or medical examiner is immune from civil liability for his or her choice of method for disposing of the body.

Board on Medicolegal Investigations

This bill creates a Board on Medicolegal Investigations (Board) that is attached to the Department of Justice and requires the Board to establish training and testing requirements for coroners, deputy coroners, medical examiners, and medical examiner assistants. The bill requires the Board to notify the appropriate county board if a medical examiner does not satisfy the training and testing requirements, and to notify both the governor and the appropriate county board if a coroner does not satisfy the training and testing requirements. The bill provides that failure to satisfy the training or testing requirements constitutes cause for a county board to remove a medical examiner and cause for the governor to remove a coroner. The bill also requires the Board to promulgate rules regarding the content and maintenance of, and public access to, coroner and medical examiner death investigation records. And, finally, the bill requires the Board to develop a form that coroners and medical examiners must use when issuing permits for disinterment or reinterment.

Inquests

Under current law, if there is reason to believe that a death resulted from criminal activity or occurred under other unexplained or suspicious circumstances, the district attorney in the county in which suspected criminal activity or other event that resulted in death occurred may order that an inquest be conducted. An inquest is a proceeding before a jury or judge at which witnesses may be called. The judge or jury must determine whether there is probable cause to believe that a death occurred as a result of a crime, and, if so, which crimes were committed and who may have committed them.

The bill grants the attorney general the same authority that district attorneys currently have to order, and represent the state in, an inquest, if there is reason to believe that a death resulted from criminal activity or other unexplained or suspicious circumstances.

Mental health treatment records

Under current law, a coroner or medical examiner may obtain a decedent's health care records without informed consent for the purpose of conducting a death investigation. This bill provides a coroner or medical examiner access to a decedent's

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mental health treatment records without informed consent for the purpose of conducting a death investigation.

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:

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

2 15.255 (3) BOARD ON MEDICOLEGAL INVESTIGATIONS. There is created a board on
3 medicolegal investigations that is attached to the department of justice under s.
4 15.03 and that shall consist of the following members appointed for staggered 6-year
5 terms:

6 (a) A coroner, a medical examiner, and a forensic pathologist, who are members
7 of the Wisconsin Coroners and Medical Examiners Association.

8 (b) A member of the Wisconsin Funeral Directors Association.

9 (c) A member of the Wisconsin District Attorney's Association.

10 (d) A member of the Wisconsin Sheriffs and Deputy Sheriffs Association.

11 (e) A member of the Wisconsin Chiefs of Police Association, Inc.

12 (f) A member of the Wisconsin Counties Association.

13 (g) The attorney general or his or her designee.

14 (h) The state public defender or his or her designee.

15 **SECTION 2.** 17.103 of the statutes is created to read:

16 **17.103 Cause to remove coroner or medical examiner.** Failure of a
17 coroner to satisfy the testing and training requirements for coroners under s. 165.65
18 (1) constitutes cause for the governor to remove a coroner under s. 17.09 (5). Failure
19 of a medical examiner to satisfy the testing or training requirements for medical

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1 examiners under s. 165.65 (1) constitutes cause for a county board to remove a
2 medical examiner under s. 17.10 (2).

3 **SECTION 3.** 51.30 (4) (b) 28. of the statutes is created to read:

4 51.30 (4) (b) 28. To a medical examiner, assistant medical examiner, coroner,
5 or deputy coroner upon an oral or written request from that person, if the treatment
6 records are relevant to completion of a medical certification under s. 69.18 (2) or to
7 an investigation of the cause or manner of the patient's death under s. 979.01 or
8 979.10. A custodian of treatment records may initiate contact with a coroner or
9 medical examiner to inform him or her of treatment records of a deceased patient
10 that may be relevant to the completion of a medical certification or the investigation
11 of a death. The recipient of any information under this subdivision shall keep the
12 information confidential except as necessary to comply with s. 69.18, 979.01, or
13 979.10.

14 **SECTION 4.** 59.34 (1) (a) of the statutes is amended to read:

15 59.34 (1) (a) Participate in inquest proceedings when required by law, except
16 that in any county with a population of 500,000 or more and all counties which have
17 instituted the medical examiner system this duty and the powers incident thereto
18 shall be vested exclusively in the office of the medical examiner. Except as provided
19 under s. 59.38 (5), the board shall appoint the medical examiner. The office may be
20 occupied on a full-time or part-time basis and the officeholder shall be paid
21 compensation as the board by ordinance provides. The duties performed by the
22 county coroner and not vested in the medical examiner shall be performed by the
23 clerk. The medical examiner may appoint such assistants as the board authorizes.
24 Whenever requested by the court or district attorney, the medical examiner shall
25 testify to facts and conclusions disclosed by autopsies performed by him or her, at his

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1 or her direction or in his or her presence; shall make physical examinations and tests
2 incident to any matter of a criminal nature up for consideration before either the
3 court or district attorney or attorney general upon request; shall testify as an expert
4 for either the court or the state in all matters where the examinations or tests have
5 been made; and shall perform such other duties of a pathological or medicolegal
6 nature as may be required.

7 **SECTION 5.** 59.34 (1) (cm) of the statutes is created to read:

8 59.34 (1) (cm) Complete training and testing required by the board of
9 medicolegal investigations under s. 165.65.

10 **SECTION 6.** 59.35 (3m) of the statutes is created to read:

11 59.35 (3m) A deputy coroner shall complete training and testing required by
12 the board of medicolegal investigations under s. 165.65.

13 **SECTION 7.** 59.38 (3m) of the statutes is created to read:

14 59.38 (3m) TRAINING AND TESTING. The medical examiner and his or her
15 assistants shall complete training and testing required by the board of medicolegal
16 investigations under s. 165.65.

17 **SECTION 8.** 69.01 (12) of the statutes is amended to read:

18 69.01 (12) "Final disposition" means the disposition of a corpse or stillbirth by
19 burial, interment, entombment, cremation, delivery to a university or school under
20 s. 157.02 ~~(3)~~ (1m) (c) or delivery to a medical or dental school anatomy department
21 under s. 157.06. "Final disposition" does not include disposition of the ashes
22 produced by cremation of a corpse or stillbirth.

23 **SECTION 9.** 69.18 (2) (d) 1. of the statutes is amended to read:

24 69.18 (2) (d) 1. Except as provided under par. (e), if a death is ~~the subject of a~~
25 ~~coroner's or medical examiner's determination~~ must be reported to a coroner or

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1 medical examiner under s. 979.01 ~~or 979.03~~, the coroner or medical examiner or a
2 physician supervised by a coroner or medical examiner in the county where the event
3 which caused the death occurred shall complete and sign the medical certification
4 for the death and mail the death certificate within 5 days after the pronouncement
5 of death or present the certificate to the person responsible for filing the death
6 certificate under sub. (1) within 6 days after the pronouncement of death.

7 **SECTION 10.** 69.18 (3) (a) of the statutes is amended to read:

8 69.18 (3) (a) Except as provided under par. (c) or (e), the person who has moved
9 a corpse under sub. (1) (a) shall complete a report for final disposition, on a form
10 supplied by the state registrar, and, within 24 hours after being notified of the death,
11 mail or present a copy of the report to the coroner or medical examiner in the county
12 of the place of death and mail or present a copy to the local registrar in the
13 registration district of the place of death. ~~If the cause of death is subject to an~~
14 ~~investigation~~ must be reported to a coroner or medical examiner under s. 979.01 ~~or~~
15 ~~979.03~~, the report for final disposition shall be submitted to the coroner or medical
16 examiner in the county in which the event which caused the death occurred.

17 **SECTION 11.** 69.18 (4) (a) (intro.) of the statutes is renumbered 69.18 (4) (c) and
18 amended to read:

19 69.18 (4) (c) Subject to s. 157.111, the coroner or medical examiner of the county
20 in which a decedent's corpse is interred shall issue ~~an authorization~~ a permit for
21 disinterment and reinterment, on a form prescribed by the board on medicolegal
22 investigations, upon receipt of an order of a court of competent jurisdiction ~~or upon~~
23 ~~receipt of a written application for disinterment and reinterment signed by the~~
24 ~~person in charge of the disinterment and by any of the following persons, in order of~~
25 ~~priority stated, when persons in prior classes are not available at the time of~~

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1 ~~application, and in the absence of actual notice of contrary indications by the~~
2 ~~decedent or actual notice of opposition by a member of the same or a prior class.~~

3 **SECTION 12.** 69.18 (4) (a) 1. to 6. of the statutes are renumbered 69.18 (4) (am)
4 1. to 6.

5 **SECTION 13.** 69.18 (4) (am) (intro.) of the statutes is created to read:

6 69.18 (4) (am) (intro.) In this subsection, “decedent’s representative” means
7 any member of the following classes of individuals, in the order of priority listed:

8 **SECTION 14.** 69.18 (4) (b) of the statutes is created to read:

9 69.18 (4) (b) Except as provided in s. 157.112 (3), no person may disinter a
10 human corpse from a grave or tomb without first obtaining a disinterment permit
11 under par. (c) or (d).

12 **SECTION 15.** 69.18 (4) (bm) of the statutes is repealed.

13 **SECTION 16.** 69.18 (4) (d) of the statutes is created to read:

14 69.18 (4) (d) Subject to s. 157.111, the coroner or medical examiner of the county
15 in which a decedent’s corpse is interred shall issue a disinterment permit, on a form
16 prescribed by the board on medicolegal investigations, upon receipt of a written
17 application for disinterment that is made and signed by a decedent’s representative
18 and signed by the person in charge of disinterment if all of the following apply:

19 1. No decedent’s representative who is of a member of prior class under par.
20 (am) is available at the time the application is made.

21 2. The coroner or medical examiner does not have actual notice that the
22 deceased would have opposed the disinterment.

23 3. The coroner or medical examiner does not have actual notice of opposition
24 to disinterment by a decedent’s representative who is a member of the same or a prior
25 class under par. (am) as the applicant.

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1 4. The applicant provides proof of intent to cremate the decedent's corpse or to
2 lawfully inter the decedent's corpse in a specified burial place.

3 **SECTION 17.** 69.18 (4) (e) of the statutes is created to read:

4 69.18 (4) (e) No person may cremate a corpse disinterred under this subsection
5 without obtaining a cremation release under s. 979.10 (1) (ag).

6 **SECTION 18.** 69.18 (4) (f) of the statutes is created to read:

7 69.18 (4) (f) Except as provided in s. 157.112 (3), no person may disinter a
8 decedent's cremated remains from a cemetery unless all of the following conditions
9 are satisfied:

10 1. The cemetery authority, or its designee, consents to disinterment.

11 2. A decedent's representative consents to disinterment and no other decedent's
12 representative who is a member of the same or a prior class under par. (am) objects
13 to disinterment.

14 **SECTION 19.** 69.20 (2) (a) 2. of the statutes is amended to read:

15 69.20 (2) (a) 2. For a certificate of death, any of the persons specified under s.
16 69.18 (4) (a) ~~(am)~~ (am) 1. to 6. or an individual who is authorized in writing by one of the
17 persons.

18 **SECTION 20.** 157.02 (1), (2), (3), (4) and (5) of the statutes are renumbered
19 157.02 (1m) (a), (b), (c), (d) and (e), and 157.02 (1m) (b) and (e), as renumbered, are
20 amended to read:

21 157.02 (1m) (b) *Time allowed relative to act.* If a relative or friend fails to
22 arrange for taking charge of the corpse within a reasonable time after death, the
23 superintendent or other officer may proceed as provided in this ~~section~~ subsection,
24 but relatives or friends may claim the corpse at any time before it has been delivered
25 pursuant to ~~sub. (3)~~ par. (c).

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1 (e) *Other disposition.* If the corpse is not disposed of under ~~subs. (1) to (4) pars.~~
2 (a) to (d), the superintendent or public officer shall properly bury it.

3 **SECTION 21.** 157.02 (1m) (title) of the statutes is created to read:

4 157.02 **(1m)** (title) DISPOSITION OF INMATE'S REMAINS.

5 **SECTION 22.** 157.02 (2m) of the statutes is created to read:

6 157.02 **(2m)** DISPOSITION OF OTHER UNCLAIMED REMAINS. (a) If a person, other
7 than a person who has responsibility to dispose of a corpse under sub. (1m), has the
8 corpse of a deceased individual and cannot by exercise of reasonable effort locate the
9 deceased's representative, as defined in s. 979.001 (1), or the deceased's
10 representative refuses to claim the corpse for disposition, the person shall notify the
11 coroner or medical examiner in the county in which the corpse is located, and the
12 coroner or medical examiner shall take custody of the corpse and cause the corpse
13 to be decently buried or cremated. The county shall pay costs of burial or cremation
14 under this paragraph with funds other than funds appropriated for the operation of
15 the coroner's or medical examiner's office.

16 (b) A coroner or medical is immune from civil liability for his or her choice of
17 method for disposing of an unidentified corpse under this subsection if the coroner
18 or medical examiner made reasonable efforts to identify the corpse. A coroner or
19 medical examiner is immune from civil liability for his or her choice of method for
20 disposing of an unclaimed corpse under this subsection if the coroner or medical
21 examiner made reasonable efforts to notify the deceased's representative of the
22 disposal of the corpse.

23 **SECTION 23.** 157.03 (1) of the statutes is amended to read:

24 157.03 **(1)** The corpse of a person who died with smallpox, diphtheria, or scarlet
25 fever, or who in his or her last sickness shall request to be buried or cremated, and

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1 of a stranger or traveler who suddenly died, shall not be disposed of under s. 157.02
2 (~~3~~) (1m) (c), and no person having charge of a corpse authorized to be so disposed of
3 shall sell or deliver it to be used outside the state.

4 **SECTION 24.** 157.03 (2) of the statutes is amended to read:

5 157.03 (2) Upon receipt of the corpse by a university or school pursuant to s.
6 157.02 (~~3~~) (1m) (c) it shall be properly embalmed and retained for 3 months before
7 being used or dismembered and shall be delivered to any relative claiming it upon
8 satisfactory proof of relationship.

9 **SECTION 25.** 157.055 (2) (intro.) of the statutes is amended to read:

10 157.055 (2) (intro.) Notwithstanding ss. 69.18 (4), 157.113, 445.04 (2), 445.14,
11 ~~979.01 (3), (3m), and (4)~~, 979.02, and 979.025 (2), 979.027, 979.10, and 979.105, and
12 subch. VI of ch. 440, during a period of a state of emergency related to public health
13 declared by the governor under s. 166.03 (1) (b) 1., a public health authority may do
14 all of the following:

15 **SECTION 26.** 157.113 (title) of the statutes is created to read:

16 **157.113 (title) Permission required to deposit cremated remains in**
17 **cemetery.**

18 **SECTION 27.** 157.70 (3) (a) of the statutes is amended to read:

19 157.70 (3) (a) ~~Except as provided under s. 979.01, a~~ A person shall immediately
20 notify the director if the person knows or has reasonable grounds to believe that a
21 burial site or the cataloged land contiguous to a cataloged burial site is being
22 disturbed or may be disturbed contrary to the requirements of subs. (4) and (5).

23 **SECTION 28.** 165.50 (4) of the statutes is created to read:

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1 165.50 (4) The attorney general may order and represent the state in an
2 inquest as provided under s. 979.04 (1) or may order a preliminary investigation into
3 a death as provided under s. 979.04 (3).

4 **SECTION 29.** 165.65 of the statutes is created to read:

5 **165.65 Board on medicolegal investigations.** The board on medicolegal
6 investigations shall do all of the following:

7 (1) Promulgate rules establishing testing and training requirements for
8 coroners, deputy coroners, medical examiners, and medical examiners' assistants.

9 (2) If a coroner does not satisfy the testing and training requirements for
10 coroners under sub. (1), notify the governor and the appropriate county board.

11 (3) If a medical examiner does not satisfy the training and testing requirement
12 for medical examiners under sub. (1), notify the appropriate county board.

13 (4) Promulgate rules establishing standards for the content and maintenance
14 of coroner and medical examiner death investigation records under s. 979.032.

15 (5) Promulgate rules regarding public access to coroner and medical examiner
16 death investigation records under s. 979.032.

17 (6) Create a form that coroners and medical examiners shall use to issue
18 permits for disinterment or reinterment under s. 69.18 (4).

19 **SECTION 30.** 346.71 (2) of the statutes is amended to read:

20 346.71 (2) In cases of death involving a motor vehicle in which the decedent was
21 the operator of a motor vehicle, a pedestrian 14 years of age or older or a bicycle or
22 electric personal assistive mobility device operator 14 years of age or older and who
23 died within 6 hours of the time of the accident, the coroner or medical examiner of
24 the county where the death occurred shall require that a blood specimen of at least
25 10 cc. be withdrawn from the body of the decedent within 12 hours after his or her

SENATE BILL 428**SECTION 30**

1 death, by the coroner or medical examiner or by a physician so designated by the
2 coroner or medical examiner or by a qualified person at the direction of the physician.
3 All funeral directors shall obtain a release from the coroner or medical examiner of
4 the county where the accident occurred as provided in s. ~~979.01 (4)~~ 979.105 prior to
5 proceeding with embalming any body coming under the scope of this section. The
6 blood so drawn shall be forwarded to a laboratory approved by the department of
7 health and family services for analysis of the alcoholic content of the blood specimen.
8 The coroner or medical examiner causing the blood to be withdrawn shall be notified
9 of the results of each analysis made and shall forward the results of each such
10 analysis to the department of health and family services. If the death involved a
11 motor vehicle, the department shall keep a record of all such examinations to be used
12 for statistical purposes only and the department shall disseminate and make public
13 the cumulative results of the examinations without identifying the individuals
14 involved. If the death involved an all-terrain vehicle, the department of natural
15 resources shall keep a record of all such examinations to be used for statistical
16 purposes only and the department of natural resources shall disseminate and make
17 public the cumulative results of the examinations without identifying the
18 individuals involved.

19 **SECTION 31.** 440.78 (1) (b) of the statutes is amended to read:

20 440.78 (1) (b) A copy of the cremation ~~permit~~ release issued under s. 979.10 (1)
21 (~~a~~) (ag).

22 **SECTION 32.** 979.001 of the statutes is created to read:

23 **979.001 Definitions.** In this chapter:

24 (1) "Deceased's representative" means any member of the following classes of
25 individuals, in the order of priority listed:

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- 1 (a) The deceased's spouse.
- 2 (b) An adult son or daughter of the deceased.
- 3 (c) A parent of the deceased.
- 4 (d) An adult brother or sister of the deceased.
- 5 (e) A person appointed as such by the circuit court.
- 6 **(2)** "Event" includes a sudden unexplained collapse.
- 7 **(3)** "Health care provider" means all of the following:
- 8 (a) A midwife licensed under subch. XII of ch 440.
- 9 (b) A nurse licensed under ch. 441.
- 10 (c) A chiropractor licensed under ch. 446.
- 11 (d) A dentist licensed under ch. 447.
- 12 (e) A physician, physician assistant, or respiratory care practitioner licensed
- 13 or certified under subch. II of ch. 448.
- 14 (f) A physical therapist licensed under subch. III of ch. 448.
- 15 (g) A podiatrist licensed under subch. IV of ch. 448.
- 16 (h) A dietitian certified under subch. V of ch. 448.
- 17 (i) An athletic trainer licensed under subch. VI of ch. 448.
- 18 (j) An occupational therapist or occupational therapy assistant licensed under
- 19 subch. VII of ch. 448.
- 20 (k) An optometrist licensed under ch. 449.
- 21 (L) A pharmacist licensed under ch. 450.
- 22 (m) An acupuncturist certified under ch. 451.
- 23 (n) A psychologist licensed under ch. 455.
- 24 (o) A social worker, marriage and family therapist, or professional counselor
- 25 certified or licensed under ch. 457.

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1 (p) A speech–language pathologist or audiologist licensed under subch. II of ch.
2 459 or a speech and language pathologist licensed by the department of public
3 instruction.

4 (q) A massage therapist or bodyworker certified under ch. 460.

5 (4) “Law enforcement agency” has the meaning given in s. 165.83 (1) (b).

6 (5) “Therapeutic misadventure” means an unintended medical error made by
7 a health care provider or an unexpected mechanical failure of a medical device
8 during the treatment of a patient that causes serious harm to the patient.

9 **SECTION 33.** 979.01 (title) of the statutes is amended to read:

10 **979.01 (title) Reporting deaths required; penalty; taking specimens by**
11 **coroner or medical examiner jurisdiction for investigating deaths.**

12 **SECTION 34.** 979.01 (1) (intro.) of the statutes is amended to read:

13 979.01 (1) (intro.) ~~All physicians, authorities of hospitals, sanatoriums,~~
14 ~~public and private institutions, convalescent homes, authorities of any institution~~
15 ~~of a like nature, and other persons having~~ Any health care provider, director of an
16 inpatient health care facility, as defined in s. 50.135 (1), director of a long-term
17 care facility, as defined in s. 16.009 (1) (em), director of emergency medical
18 services, director of a correctional facility, or any other person who has knowledge
19 ~~of the death of any person who has died under any of the following circumstances~~
20 individual, shall, if any of the following applies, immediately report the death to
21 the sheriff, police chief, the medical examiner or coroner of in the county where in
22 which the death took place individual was pronounced dead or in which the
23 individual’s body or remains were located and may report the death to a law
24 enforcement officer in that county:

25 **SECTION 35.** 979.01 (1) (a) of the statutes is amended to read:

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1 979.01 (1) (a) ~~All deaths in which there are~~ The death involves unexplained,
2 unusual, or suspicious circumstances.

3 **SECTION 36.** 979.01 (1) (b) of the statutes is repealed and recreated to read:

4 979.01 (1) (b) The death is a suspected homicide, including a death resulting
5 from an act of bioterrorism, as defined in s. 166.02 (1r).

6 **SECTION 37.** 979.01 (1) (c) of the statutes is repealed and recreated to read:

7 979.01 (1) (c) The death is a suspected suicide.

8 **SECTION 38.** 979.01 (1) (d) of the statutes is amended to read:

9 979.01 (1) (d) ~~All deaths following~~ The death is of a woman and is associated
10 with an abortion, as defined in s. 253.10 (2) (a).

11 **SECTION 39.** 979.01 (1) (e) of the statutes is amended to read:

12 979.01 (1) (e) ~~All deaths due to~~ Injury or poisoning may be a contributing cause
13 of the death, whether homicidal, suicidal or accidental or not the injury or poisoning
14 is the primary cause of death and regardless of the interval between the injury or
15 poisoning and the death.

16 **SECTION 40.** 979.01 (1) (f) of the statutes is repealed and recreated to read:

17 979.01 (1) (f) The death occurs while the individual is in the actual or
18 constructive custody of a law enforcement officer, during active pursuit of the
19 individual by a law enforcement officer, or otherwise involves a law enforcement
20 officer.

21 **SECTION 41.** 979.01 (1) (g) of the statutes is amended to read:

22 979.01 (1) (g) ~~When there was no~~ The individual was not under the care of a
23 physician, or accredited practitioner of a bona fide religious denomination relying
24 upon prayer or spiritual means for healing in attendance within 30 days preceding
25 for the illness or condition that caused the death.

SENATE BILL 428**SECTION 42**

1 **SECTION 42.** 979.01 (1) (h) of the statutes is repealed and recreated to read:

2 979.01 (1) (h) The death occurs while the individual is confined in a federal
3 prison in this state, a state prison, county jail or house of correction, a juvenile
4 correctional facility, as defined in s. 938.02 (10p), or a juvenile detention facility, as
5 defined in s. 938.02 (10r), or is otherwise incarcerated in the custody of the
6 department of corrections or of a county sheriff.

7 **SECTION 43.** 979.01 (1) (i) of the statutes is amended to read:

8 979.01 (1) (i) ~~When, after~~ After reasonable efforts, a physician cannot within
9 6 days after the pronouncement of death, or sooner under circumstances that the
10 coroner or medical examiner determines constitute an emergency, be obtained to sign
11 the medical certification as required under s. 69.18 (2) (b) or (c) ~~within 6 days after~~
12 ~~the pronouncement of death or sooner under circumstances which the coroner or~~
13 ~~medical examiner determines to be an emergency, or all persons authorized to certify~~
14 the cause of death under s. 69.18 (2) (b) or (c) refuse to sign the death certificate.

15 **SECTION 44.** 979.01 (1) (j) to (p) of the statutes are created to read:

16 979.01 (1) (j) The death occurs while the individual is detained or
17 institutionalized under s. 51.20, 971.14, or 971.17 or ch. 980.

18 (k) The death occurs while the individual is receiving emergency care at a
19 hospital, as defined in s. 50.33 (2) (a) and (c), or a physician's office, as defined in s.
20 101.123 (1) (dg).

21 (L) The death occurs during a diagnostic, anesthetic, or therapeutic procedure
22 or during administration of medication and is suspected to be associated with a
23 therapeutic misadventure.

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1 (m) The death is suspected to be associated with the abuse of a chemical
2 substance that may be legally used or with the use of a controlled substances, as
3 defined in s. 961.01 (4).

4 (n) The death is associated with an epidemic or pandemic, with the spread of
5 a dangerous communicable disease, as defined by the department of health and
6 family services, or with a disease-causing agent that may pose a threat to public
7 health.

8 (o) The individual's remains are discovered outside a cemetery or documented
9 burial plot.

10 (p) The coroner or medical examiner for the county in which the individual was
11 pronounced dead or in which the individual's body or remains were located, in a
12 written and published death reporting protocol, requires that the death be reported.

13 **SECTION 45.** 979.01 (1g) of the statutes is repealed and recreated to read:

14 979.01 (1g) If a law enforcement officer is notified of a death under sub. (1), the
15 law enforcement officer shall immediately notify the coroner or medical examiner in
16 the county in which the body or remains were located.

17 **SECTION 46.** 979.01 (1i) of the statutes is created to read:

18 979.01 (1i) If there is reason to believe that a death that must be reported under
19 sub. (1) was caused by a crime, injury, or other event that occurred in a county in this
20 state, other than the county in which the body is located, the coroner or medical
21 examiner in the county in which the body is located shall immediately notify the
22 coroner or medical examiner in the county in which the crime, injury, or other event
23 is believed to have occurred.

24 **SECTION 47.** 979.01 (1k) of the statutes is created to read:

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1 979.01 (1k) (a) Except as provided in par. (b), if a death must be reported under
2 sub. (1), the coroner or medical examiner in the county in which the crime, injury, or
3 other event that caused the death occurred has jurisdiction to investigate the cause
4 and manner of death.

5 (b) If there is reason to believe that a death that must be reported under sub.
6 (1) was caused by a crime, injury, or other event that occurred outside this state, or
7 if after reasonable efforts it cannot be determined where the crime, injury, or other
8 event that caused the death occurred, the coroner or medical examiner in the county
9 in which death is pronounced has jurisdiction to investigate the cause and manner
10 of death.

11 **SECTION 48.** 979.01 (1m) of the statutes is renumbered 979.01 (1m) (a) and
12 amended to read:

13 979.01 (1m) (a) The ~~Except as provided in par. (b), the~~ coroner or medical
14 examiner receiving notification under sub. (1) or (1g) who has jurisdiction to
15 investigate a death under this section shall immediately, within a reasonable time
16 after receiving notice of the death, notify the district attorney for his or her county
17 or the attorney general of the death.

18 **SECTION 49.** 979.01 (1m) (b) of the statutes is created to read:

19 979.01 (1m) (b) Subject to s. 979.04 (2), the coroner or medical examiner is not
20 required to notify the district attorney or attorney general of any deaths for which
21 the district attorney, in writing, waives notice.

22 **SECTION 50.** 979.01 (1p) of the statutes is created to read:

23 979.01 (1p) A coroner or medical examiner who receives notice of a death under
24 sub. (1), or his or her designee, shall notify the deceased's next of kin of the death.

25 **SECTION 51.** 979.01 (1r) of the statutes is amended to read:

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1 979.01 **(1r)** If the coroner or medical examiner is notified of ~~a death under sub.~~
2 ~~(1) or (1g) and determines that his or her notification of the death was not required~~
3 ~~under sub. (1) or (1g),~~ the discovery of human remains under this section and
4 determines that the remains have no forensic significance, he or she shall notify the
5 director of the historical society under s. 157.70 (3).

6 **SECTION 52.** 979.01 (2) of the statutes is renumbered 979.01 (2) (a) and
7 amended to read:

8 979.01 **(2)** (a) Any person individual who violates ~~this section shall sub. (1) may~~
9 be fined not more than \$1,000 or imprisoned not more than 90 days or both.

10 **SECTION 53.** 979.01 (2) (b) of the statutes is created to read:

11 979.01 **(2)** (b) Any partnership, association, organization, institution, or body
12 politic or corporate that violates sub. (1) may be fined not more than \$10,000 or
13 imprisoned not more than 90 days or both.

14 **SECTION 54.** 979.01 (3) of the statutes is repealed.

15 **SECTION 55.** 979.01 (3m) of the statutes is repealed.

16 **SECTION 56.** 979.01 (4) of the statutes is renumbered 979.105 and amended to
17 read:

18 979.105 **Authorization to embalm.** No person may embalm or perform an
19 autopsy ~~on or dispose of~~ the body of any person who has died under any of the
20 circumstances listed in this section unless the person obtains the individual whose
21 death must be reported under s. 979.01 (1) without the written authorization of the
22 coroner of the county in which the injury or cause of death occurred. ~~Such~~
23 ~~authorization shall be issued by the~~ or medical examiner who has jurisdiction to
24 investigate the death under s. 979.01. An authorization to embalm shall include
25 information necessary to identify the deceased, the date and place of death, the name

SENATE BILL 428**SECTION 56**

1 of the funeral director or person acting in the place of the funeral director, and shall
2 specify that the coroner or medical examiner does not provide authorization to
3 override the wishes of the next of kin of the deceased with respect to disposition of
4 the body. The coroner or ~~a deputy~~ medical examiner, or his or her designee, shall
5 issue an authorization to embalm under this section within 12 hours after
6 notification of the reportable death, or as soon thereafter as possible in the event of
7 unexplained, unusual or suspicious circumstances after being notified of the death.

8 **SECTION 57.** 979.015 of the statutes is amended to read:

9 **979.015 Subpoena for documents.** Upon the request of the coroner, medical
10 examiner ~~or, district attorney, or attorney general,~~ a court shall issue a subpoena
11 requiring the production of documents ~~necessary for the determination of a~~
12 ~~decedent's~~ relevant to determining the cause or manner of a decedent's death. The
13 ~~documents may include the decedent's patient health care records and treatment~~
14 ~~records, as defined in ss. 51.30 and 146.81 (4).~~ The documents shall be returnable
15 to the officer named in the subpoena.

16 **SECTION 58.** 979.017 of the statutes is created to read:

17 **979.017 Custody of and authorization to move a body.** (1) The coroner
18 or medical examiner who has jurisdiction to investigate a death under s. 979.01 has
19 legal custody of the decedent's body until he or she releases the body for disposition.
20 Temporary transfer of a decedent's body for the purpose of removing a body part that
21 is the subject of an anatomical gift under s. 157.06 does not constitute release of legal
22 custody of the body.

23 (2) If an individual's death must be reported under s. 979.01 (1), no person may
24 move the individual's body at or from the scene of death without authorization from
25 the coroner or medical examiner to whom the death was first reported under s.

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1 979.01, except if it is necessary to move the body to perform search or rescue
2 operations for living individuals.

3 **SECTION 59.** 979.02 (title) of the statutes is amended to read:

4 **979.02 (title) Autopsies and other diagnostic procedures.**

5 **SECTION 60.** 979.02 of the statutes is renumbered 979.02 (1) and amended to
6 read:

7 979.02 (1) The coroner, or medical examiner or district attorney who has
8 jurisdiction to investigate a death under s. 979.01 may order the conducting of that
9 an autopsy upon or other appropriate diagnostic procedure be performed on the body
10 of a dead person any place within the state in cases where an inquest might be had
11 as provided in s. 979.04 notwithstanding the fact that no such inquest is ordered or
12 conducted. The autopsy shall be conducted by a licensed physician who has
13 specialized training in pathology. The district attorney may move the circuit court
14 for the county in which the body is buried for an order disinterring the body for
15 purposes of autopsy. The order shall be granted by the circuit court upon a
16 reasonable showing that any of the criteria specified in s. 979.04 exists. This section
17 does not prevent additional autopsies or examinations of the body if there are
18 unanswered pathological questions concerning the death and the causes of death the
19 deceased, or may extract from the body any specimen, bodily fluids, other bodily
20 material, or other material for analysis that will assist him or her in conducting a
21 death investigation. The coroner or medical examiner shall dispose of specimens,
22 fluids, and materials that are no longer of use in the investigation in accordance with
23 standard biological material practices and county evidence retention rules.

24 **SECTION 61.** 979.02 (2) to (7) of the statutes are created to read:

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1 979.02 (2) The coroner or medical examiner who has jurisdiction to investigate
2 a death under s. 979.01, or his or her designee, shall order that an autopsy and any
3 other appropriate diagnostic procedure be performed on the body of the deceased if
4 the death occurred under any of the following circumstances:

5 (a) The death likely resulted from a criminal act, unless the district attorney
6 or attorney general waives the requirement for an autopsy.

7 (b) The death must be reported under s. 979.01 (1) (b), (f), (h), or (j).

8 (c) The deceased was under 18 years of age and the death is unexplained or
9 unusual.

10 (3) If the conditions for ordering an inquest under s. 979.04 (1) are satisfied,
11 the district attorney or attorney general may order an autopsy conducted on the body
12 of a deceased.

13 (4) An autopsy ordered under this section may be performed only by a licensed
14 physician who has undergone specialized training in pathology.

15 (5) The requirement to order an autopsy under sub. (2) does not preclude a
16 coroner or medical examiner from allowing the removal of a body part that is the
17 subject of an anatomical gift under s. 157.06.

18 (6) Except if ordered under sub. (3), no person may perform an autopsy on the
19 body of an individual whose death must be reported under s. 979.01 (1) without the
20 written authorization of the coroner or medical examiner who has jurisdiction to
21 investigate the death under s. 979.01. In cases in which the coroner or medical
22 examiner issues an authorization to perform an autopsy, the coroner or medical
23 examiner shall, if possible, issue the authorization within 12 hours after being
24 notified of the death, or as soon as possible thereafter.

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1 (7) If the coroner or medical examiner who has jurisdiction to investigate a
2 death under s. 979.01 determines that an autopsy or analysis of specimens, bodily
3 fluids, or other bodily materials is not required for an investigation of a death that
4 must be reported under s. 979.01 (1), the coroner or medical examiner shall, upon the
5 request of the deceased's representative, inform the deceased's representative of his
6 or her right to privately contract for pathology-related services at his or her own
7 expense.

8 **SECTION 62.** 979.025 (title) of the statutes is amended to read:

9 **979.025** (title) **Autopsy Investigation of death of a correctional inmate.**

10 **SECTION 63.** 979.025 (1) of the statutes is amended to read:

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

20 **SECTION 64.** 979.025 (2) of the statutes is amended to read:

21 979.025 (2) INMATE CONFINED IN AN INSTITUTION IN ANOTHER STATE. If an
22 individual dies while he or she is in the legal custody of the department and confined
23 to a correctional facility in another state under a contract under s. 301.07, 301.21,
24 or 302.25, the department shall have an autopsy and any other appropriate
25 diagnostic procedure performed by an appropriate authority in the other state or, if

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1 the body is returned to this state, by order of the coroner or medical examiner of the
2 county in which the circuit court is located that sentenced the individual to the
3 custody of the department. If the coroner or medical examiner who ~~performs~~ orders
4 the autopsy or other diagnostic procedure in this state determines that the
5 individual's death may have been the result of any of the situations that would
6 permit the district attorney to order an inquest under s. 979.04 (1), the coroner or
7 medical examiner shall forward the results of the autopsy or other diagnostic
8 procedure to the appropriate authority in the other state.

9 **SECTION 65.** 979.025 (3) of the statutes is amended to read:

10 979.025 (3) COSTS OF AN AUTOPSY AND DIAGNOSTIC PROCEDURE. The costs of an
11 autopsy or other diagnostic procedure performed under sub. (1) ~~or~~ (2) or performed
12 on an inmate confined in a correctional facility in this state under s. 979.02 (2) (b)
13 shall be paid by the department.

14 **SECTION 66.** 979.027 of the statutes is created to read:

15 **979.027 Disinterment for autopsy or other diagnostic procedure.** The
16 district attorney or attorney general may move the circuit court for the county in
17 which a body is buried for an order disinterring the body for the purpose of
18 conducting an autopsy or other diagnostic procedures. The order shall be granted
19 by the circuit court upon a reasonable showing that any of the criteria specified in
20 s. 979.04 exists. The clerk of the circuit court shall send a copy of the order to the
21 coroner or medical examiner in the county in which the body is buried. Upon receipt
22 of the order, the coroner or medical examiner shall issue a permit for disinterment
23 and reinterment under s. 69.18 (4) (c). This section does not preclude the
24 performance of additional autopsies or examinations of the body if there are
25 unanswered pathological questions concerning the death and the causes of death.

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1 **SECTION 67.** 979.03 of the statutes is repealed.

2 **SECTION 68.** 979.032 of the statutes is created to read:

3 **979.032 Coroner or medical examiner investigation records. (1)** The
4 coroner or medical examiner shall create and maintain, in accordance with rules
5 promulgated under s. 165.65 (4), a record for each investigation conducted under s.
6 979.01 that includes all of the following:

7 (a) The full name of the deceased and any known alias used by the deceased.

8 (b) A coroner or medical examiner case number.

9 (c) A case activity log.

10 (d) An investigation report containing any personal information regarding the
11 deceased that is relevant to determining the cause and manner of death, the medical
12 history of the deceased, information relevant to the circumstances of the death, death
13 scene observations, findings regarding the body of the deceased that are relevant to
14 determining the cause of death, notation of evidence recovered, including any visual
15 documentation, a list of other persons or agencies involved in the investigation, and
16 a list of persons interviewed by the coroner or medical examiner regarding the case.

17 (e) A written autopsy report, if an autopsy is completed.

18 (f) Documentation of the chain of custody of all evidence and property obtained
19 by the coroner or medical examiner, including an inventory sheet, described under
20 s. 979.036 (2), of prescription medications, if applicable.

21 **(2)** The coroner or medical examiner shall maintain investigation records
22 created under sub. (1) in an office that is owned or leased by the county, maintained
23 by the county, and designated as the office of the county coroner or medical examiner.

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1 **(3)** Subject to ss. 165.65 (5) and 979.034, the coroner or medical examiner shall
2 maintain written policies regarding access to investigation records created or
3 maintained under this section.

4 **SECTION 69.** 979.034 of the statutes is created to read:

5 **979.034 Confidentiality of coroner or medical examiner investigation**
6 **records and information.** **(1)** The coroner or medical examiner shall keep
7 confidential all records obtained under s. 51.30 (4) (b) 28. or 146.82 (2) (a) 18., all
8 confidential documents obtained by subpoena under s. 979.015, and any information
9 contained in such records or documents, except that the coroner or medical examiner
10 may divulge such information as necessary to complete a medical certification under
11 s. 69.18 (2).

12 **(2)** The coroner or medical examiner shall keep records of autopsies and other
13 diagnostic procedures, including any photographs or other pictorial images of the
14 deceased made in connection with an autopsy, and information learned from an
15 autopsy or other diagnostic procedure confidential. The coroner or medical examiner
16 may not release such records or information except to persons listed under s. 146.82
17 (2) who may access patient health care records without the patient's informed
18 consent, to the deceased's representative or his or her designee, or for educational
19 purposes.

20 **(3)** If a law enforcement agency, or a district attorney investigating a death, or
21 the attorney general, requests that the coroner or medical examiner keep
22 investigation records under s. 979.032 and information related to an investigation
23 confidential, the coroner or medical examiner shall keep such records and
24 information confidential for as long as the law enforcement agency, district attorney,
25 or attorney general requests.

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1 **SECTION 70.** 979.036 of the statutes is created to read:

2 **979.036 Handling of personal property of deceased.** (1) Each coroner or
3 medical examiner shall keep an inventory of any money or other property that the
4 coroner or medical examiner takes from a death scene or from a deceased person and
5 does not immediately provide to a law enforcement agency as evidence. The coroner
6 or medical examiner shall release any such property, other than prescription
7 medication, that belonged to the deceased to the deceased's representative unless the
8 property is needed as evidence or unless a court has issued an order to hold the
9 property for payment of fees associated with the disposal of the body.

10 (2) If the coroner or medical examiner takes prescription medications from a
11 death scene or from the body of a deceased, the coroner or medical examiner shall list
12 them on an inventory sheet and sign the inventory sheet. If the coroner or medical
13 examiner does not provide the prescription medications to a law enforcement agency
14 as evidence, the coroner or medical examiner shall destroy them in accordance with
15 applicable county evidence retention policies and appropriate standards for disposal
16 of medications, except that the coroner or medical examiner shall donate those
17 prescription medications that satisfy the standards under s. 255.056 (3) to the drug
18 repository program under s. 255.056 or to another similar drug repository program.
19 The coroner or medical examiner shall indicate on the inventory sheet the disposition
20 of the prescription medications.

21 **SECTION 71.** 979.04 of the statutes is amended to read:

22 **979.04 Inquests: when called.** (1) If the district attorney or attorney general
23 has notice of the death of any person and there is reason to believe from the
24 circumstances surrounding the death that felony murder, first-degree or
25 2nd-degree intentional homicide, first-degree or 2nd-degree reckless homicide,

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1 homicide by negligent handling of dangerous weapon, explosives or fire, homicide by
2 negligent operation of vehicle, homicide resulting from negligent control of a vicious
3 animal, or homicide by intoxicated user of a vehicle or firearm may have been
4 committed, or that death may have been due to suicide or unexplained or suspicious
5 circumstances, the district attorney or attorney general may order that an inquest
6 be conducted for the purpose of inquiring how the person died. The district attorney
7 or attorney general shall appear in any such inquest representing the state in
8 presenting all evidence which may be relevant or material to the inquiry of the
9 inquest. The inquest may be held in any county in this state in which venue would
10 lie for the trial of any offense charged as the result of or involving the death. An
11 inquest may only be ordered by the district attorney or attorney general under this
12 subsection or by the circuit judge under sub. (2).

13 (2) If the coroner or medical examiner has knowledge of the death of any person
14 in the manner described under sub. (1), he or she shall immediately notify the district
15 attorney or attorney general. The notification shall include information concerning
16 the circumstances surrounding the death. The coroner or medical examiner may
17 request the district attorney or attorney general to order an inquest under sub. (1).
18 If the district attorney refuses and attorney general refuse to order the inquest, a
19 coroner or medical examiner may petition the circuit court to order an inquest. The
20 court may issue the order if it finds that the district attorney has and attorney
21 general have abused his or her their discretion in not ordering an inquest.

22 (3) Subsequent to receipt of notice of the death, the district attorney or attorney
23 general may request the coroner or medical examiner to conduct a preliminary
24 investigation and report back to the district attorney or attorney general. The
25 district attorney or attorney general may determine the scope of the preliminary

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1 investigation. This subsection does not limit or prevent any other investigation into
2 the death by any law enforcement agency with jurisdiction over the investigation.

3 **SECTION 72.** 979.05 (2), (3), (4), (5) and (6) of the statutes are amended to read:

4 979.05 (2) The inquest shall be conducted before a jury unless the district
5 attorney, attorney general, coroner, or medical examiner requests that the inquest
6 be conducted before the judge or circuit court commissioner only. If the inquest is to
7 be conducted before a jury, a sufficient number of names of prospective jurors shall
8 be selected from the prospective juror list for the county in which the inquest is to
9 be held by the clerk of circuit court in the manner provided in s. 756.06. The judge
10 or circuit court commissioner conducting the inquest shall summon the prospective
11 jurors to appear before the judge or circuit court commissioner at the time fixed in
12 the summons. The summons may be served by mail, or by personal service if the
13 judge, circuit court commissioner, ~~or~~ district attorney, or attorney general
14 determines personal service to be appropriate. The summons shall be in the form
15 used to summon petit jurors in the circuit courts of the county. Any person who fails
16 to appear when summoned as an inquest juror is subject to a forfeiture of not more
17 than \$40. The inquest jury shall consist of 6 jurors. If 6 jurors do not remain from
18 the number originally summoned after establishment of qualifications, the judge or
19 circuit court commissioner conducting the inquest may require the clerk of the circuit
20 court to select sufficient additional jurors' names. Those persons shall be summoned
21 forthwith by the sheriff of the county.

22 (3) The judge or circuit court commissioner shall examine on oath or
23 affirmation each person who is called as a juror to discover whether the juror is
24 related by blood, marriage or adoption to the decedent, any member of the decedent's
25 family, the district attorney, the attorney general, any other attorney appearing in

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1 the case, or any members of the office of the district attorney, the attorney general,
2 or of the office of any other attorney appearing in the case, has expressed or formed
3 any opinion regarding the matters being inquired into in the inquest or is aware of
4 or has any bias or prejudice concerning the matters being inquired into in the
5 inquest. If any prospective juror is found to be not indifferent or is found to have
6 formed an opinion which cannot be laid aside, that juror shall be excused. The judge
7 or circuit commissioner may select one or more alternate jurors if the inquest is likely
8 to be protracted. This subsection does not limit the right of the district attorney or
9 attorney general to supplement the judge's or circuit commissioner's examination of
10 any prospective jurors as to qualifications.

11 (4) When 6 jurors have been selected, the judge or circuit court commissioner
12 shall administer to them an oath or affirmation ~~which~~ that shall be substantially in
13 the following form:

14 You do solemnly swear (affirm) that you will diligently inquire and determine
15 on behalf of this state when, and in what manner and by what means, the person
16 known as who is now dead came to his or her death and that you will return
17 a true verdict thereon according to your knowledge, according to the evidence
18 presented and according to the instructions given to you by the ... (judge) (circuit
19 court commissioner).

20 (5) Prior to the submission of evidence to the jury, the judge or circuit court
21 commissioner may instruct the jury on its duties and on the substantive law
22 regarding the issues which may be inquired into before the jury. The district attorney
23 or attorney general may, at any time during the course of the inquest, make
24 statements to the jury relating to procedural or evidentiary matters he or she and

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1 the judge or circuit court commissioner deem appropriate. Section 972.12 applies to
2 the conduct of the inquest jury.

3 (6) The judge or circuit court commissioner conducting the inquest may order
4 that proceedings be secret if the district attorney or attorney general so requests or
5 concurs.

6 **SECTION 73.** 979.06 (1), (2) and (4) of the statutes are amended to read:

7 979.06 (1) The judge or circuit court commissioner may issue subpoenas for
8 witnesses at the request of the coroner or medical examiner and shall issue
9 subpoenas for witnesses requested by the district attorney or attorney general.
10 Subpoenas are returnable at the time and place stated therein. Persons who are
11 served with a subpoena may be compelled to attend proceedings in the manner
12 provided in s. 885.12.

13 (2) The judge or circuit court commissioner conducting the inquest and the
14 district attorney or attorney general may require by subpoena the attendance of one
15 or more expert witnesses, including physicians, surgeons, and pathologists, for the
16 purposes of conducting an examination of the body and all relevant and material
17 scientific and medical tests connected with the examination and testifying as to the
18 results of the examination and tests. The expert witnesses so subpoenaed shall
19 receive reasonable fees determined by the district attorney or attorney general and
20 the judge or circuit court commissioner conducting the inquest.

21 (4) The judge or circuit court commissioner shall administer an oath or
22 affirmation to each witness ~~which~~ that shall be substantially in the following form:

23 You do solemnly swear (affirm) that the evidence and testimony you give to this
24 inquest concerning the death of the person known as shall be the truth, the
25 whole truth and nothing but the truth.

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1 **SECTION 74.** 979.07 (1) (a) of the statutes is amended to read:

2 979.07 (1) (a) If a person refuses to testify or to produce books, papers or
3 documents when required to do so before an inquest for the reason that the testimony
4 or evidence required of the person may tend to incriminate him or her or subject him
5 or her to a forfeiture or penalty, the person may be compelled to testify or produce the
6 evidence by order of the circuit court of the county in which the inquest is convened
7 on motion of the district attorney or attorney general. A person who testifies or
8 produces evidence in obedience to the command of the court in that case is not subject
9 to any forfeiture or penalty for or on account of testifying or producing evidence,
10 except the person is subject to prosecution and punishment for perjury or false
11 swearing committed in so testifying.

12 **SECTION 75.** 979.08 (1) of the statutes is amended to read:

13 979.08 (1) When the evidence is concluded and the testimony closed, the judge
14 or circuit court commissioner shall instruct the jury on its duties and on the
15 substantive law regarding the issues inquired into before the jury. The district
16 attorney or attorney general shall prepare a written set of appropriate requested
17 instructions and shall submit them to the judge or circuit court commissioner who,
18 together with the district attorney or attorney general, shall compile the final set of
19 instructions which shall be given. The instructions shall include those criminal
20 offenses for which the judge or circuit court commissioner believes a reasonable jury
21 might return a verdict based upon a finding of probable cause.

22 **SECTION 76.** 979.08 (5) of the statutes is amended to read:

23 979.08 (5) The verdict delivered by the inquest jury is advisory and does not
24 preclude or require the issuance of any criminal charges by the district attorney or
25 attorney general.

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1 **SECTION 77.** 979.08 (6) of the statutes is amended to read:

2 979.08 (6) Any verdict so rendered, after being validated and signed by the
3 judge or circuit court commissioner, together with the record of the inquest, shall be
4 delivered to the district attorney or attorney general for consideration. After
5 considering the verdict and record, the district attorney or attorney general may
6 deliver the entire inquest record or any part thereof to the coroner or medical
7 examiner for safekeeping.

8 **SECTION 78.** 979.08 (7) of the statutes is amended to read:

9 979.08 (7) The record of a secret inquest proceeding shall not be open for
10 inspection unless so ordered by the judge or circuit court commissioner conducting
11 the inquest upon petition by the district attorney or attorney general.

12 **SECTION 79.** 979.09 of the statutes is amended to read:

13 **979.09 Burial Disposition of an unidentified or unclaimed body.** If any
14 ~~judge or circuit court commissioner conducts an inquest as to the death of a stranger~~
15 ~~or of a person whose identity is unknown or whose body is unclaimed or if the district~~
16 ~~attorney determines that no inquest into the death of such a person is necessary and~~
17 ~~the circuit judge has not ordered an inquest under s. 979.04 (2), a coroner or medical~~
18 ~~examiner has custody of an unidentified or unclaimed body of an individual whose~~
19 ~~death was investigated under s. 979.01, and the coroner or medical examiner has~~
20 ~~made reasonable efforts to identify the body or locate the deceased's representative,~~
21 the coroner or medical examiner shall cause the body to be decently buried or
22 cremated and shall certify ~~to all the charges incurred in taking any inquest by him~~
23 ~~or her and to the expenses of burial or cremation of the dead body.~~ The charges and
24 expenses shall be audited by the county board of the proper county and paid ~~out of~~
25 ~~the county treasury~~ with funds other than funds appropriated for the operation of

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1 the coroner's or medical examiner's office. The immunity provisions under s. 157.02
2 (2m) (b) apply to a coroner's or medical examiner's actions under this section.

3 **SECTION 80.** 979.10 (1) (a) (intro.) of the statutes is amended to read:

4 979.10 (1) (a) (intro.) No person may cremate the corpse body of a deceased
5 person within 48 hours after the pronouncement of death, or the discovery of the
6 death, of the deceased person unless the death was caused by a contagious or
7 infectious disease. and one of the following conditions applies:

8 (ag) No person may cremate a corpse body unless the person has received a
9 cremation permit release from one of the following:

10 **SECTION 81.** 979.10 (1) (a) 1., 2. and 3. of the statutes are renumbered 979.10
11 (1) (ag) 1., 2. and 3. and amended to read:

12 979.10 (1) (ag) 1. The coroner or medical examiner in the county where the
13 death ~~occurred~~ was pronounced if the death ~~occurred~~ was pronounced in this state;
14 and the death was not subject to an investigation under s. 979.01.

15 2. The coroner or medical examiner in the county where the crime, injury, or
16 other event which that caused the death occurred if the death occurred in this state
17 and if the death is the subject of an investigation under s. 979.01; ~~or.~~

18 3. The coroner or medical examiner of the county where the corpse body is to
19 be cremated if the death ~~occurred~~ was pronounced outside this state. ~~A cremation~~
20 ~~permit issued under this subdivision may not be used in any county except the county~~
21 ~~in which the cremation permit is issued.~~

22 **SECTION 82.** 979.10 (1) (a) 1m. and 2m. of the statutes are created to read:

23 979.10 (1) (a) 1m. The body must be cremated immediately to effectively
24 contain the disease.

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1 2m. A public health authority orders sooner disposal of the body under s.
2 157.055 (2) (c) during a state of emergency related to public health.

3 **SECTION 83.** 979.10 (1) (b) of the statutes is amended to read:

4 979.10 (1) (b) A coroner or medical examiner shall include in any cremation
5 permit release issued under par. (a) ~~(ag)~~ a statement that he or she has viewed the
6 corpse body which is the subject of the permit release and made personal inquiry into
7 the cause and manner of death under sub. (2) and is of the opinion that no further
8 examination or judicial inquiry is necessary. The release shall also specify the
9 earliest date and time that the cremation may occur.

10 **SECTION 84.** 979.10 (1) (c) of the statutes is renumbered 157.113.

11 **SECTION 85.** 979.10 (1) (d) of the statutes is created to read:

12 979.10 (1) (d) If the medical certification of the cause and manner of death of
13 a deceased is completed by a physician under s. 69.18 (2) (b) or (c), the coroner or
14 medical examiner shall review the medical certification before issuing a cremation
15 release for the deceased. It is not a violation of s. 69.24 for a coroner or medical
16 examiner to make or receive a copy of a death certificate, that has not been filed
17 under s. 69.18 (1), for purposes of this paragraph. A coroner or medical examiner
18 may not release such a copy of a death certificate to any other person or use the copy
19 for a purpose other than complying with the review requirement under this
20 paragraph.

21 **SECTION 86.** 979.10 (2) of the statutes is amended to read:

22 979.10 (2) If a ~~corpse~~ body is to be cremated, the coroner or medical examiner
23 shall view the body, make a careful personal inquiry into the cause and manner of
24 death, and ~~conduct an autopsy or order the conducting of an autopsy~~, if in his or her
25 or the coroner or medical examiner or district attorney's opinion attorney or attorney

SENATE BILL 428**SECTION 86**

1 general determines that it is necessary to determine the cause and manner of death,
2 perform or order an autopsy performed on the body. If the coroner or medical
3 examiner determines that no further examination or judicial inquiry is necessary he
4 or she shall certify that fact and issue a cremation release. Upon written request by
5 the district attorney or attorney general, the coroner or medical examiner shall
6 obtain the concurrence of the district attorney or attorney general before issuing the
7 ~~certification~~ cremation release. If the coroner or medical examiner determines that
8 further examination or judicial inquiry is necessary, he or she shall notify the district
9 attorney or attorney general under s. 979.04 (2) and refuse to issue a cremation
10 release until the examination or judicial inquiry is concluded.

11 **SECTION 87.** 979.10 (3) of the statutes is repealed.

12 **SECTION 88.** 979.10 (4) of the statutes is amended to read:

13 979.10 (4) Whoever accepts, receives, or takes any ~~corpse~~ body of a deceased
14 person with intent to destroy the ~~corpse~~ body by means of cremation, or who cremates
15 or aids and assists in the cremation of any ~~corpse~~ body of a deceased person
16 without having presented the ~~permit~~ release specified in sub. (1) shall be fined not
17 more than \$10,000 or imprisoned not more than 9 months or both.

18 **SECTION 89.** 979.10 (5) of the statutes is created to read:

19 979.10 (5) If a coroner or medical examiner issues a release to embalm
20 authorizing the burial or entombment of a body but refuses under sub. (2) to issue
21 a cremation release for the body, the coroner or medial examiner and county are not
22 liable for the cost of the storing the body.

23 **SECTION 90.** 979.10 (6) of the statutes is created to read:

24 979.10 (6) A person receiving a body under s. 157.02 (1m) (c) or 157.06 for the
25 purpose of medical research or education shall request a cremation release from the

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1 coroner or medical examiner who has jurisdiction to issue a cremation release under
2 s. 979.10 (1) before moving the body out of the county served by the coroner or medical
3 examiner.

4 **SECTION 91.** 979.11 of the statutes is amended to read:

5 **979.11 Compensation of officers.** The sole compensation of the coroner and
6 deputy coroners for attendance at an inquest and for any preliminary investigation
7 under this chapter at the direction of the district attorney or attorney general shall
8 be a reasonable sum set by the county board for each day actually and necessarily
9 required for the purpose, and a sum set by the county board for each mile actually
10 and necessarily traveled in performing the duty. Any coroner or deputy coroner may
11 be paid an annual salary and allowance for traveling expenses to be established by
12 the county board under s. 59.22 which shall be in lieu of all fees, per diem and
13 compensation for services rendered.

14 **SECTION 92.** 979.22 of the statutes is amended to read:

15 **979.22 Autopsies Fees for other autopsy and toxicological services by**
16 **coroners or medical examiners.** A coroner or medical examiner may perform
17 autopsies and toxicological services not required under this chapter and may charge
18 a fee established by the county board for such autopsies and services. The fee may
19 not exceed an amount reasonably related to the actual and necessary cost of
20 providing the service.

21 **SECTION 93. Nonstatutory provisions.**

22 (1) INITIAL TERMS OF BOARD MEMBERS. Notwithstanding the lengths of terms of
23 the members of the board of medicolegal investigations specified in section 15.255
24 (3) of the statutes, as created by this act, the initial members shall be appointed for
25 the following terms:

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1 (a) Two members specified under section 15.255 (3) (a) to (f) of the statutes, as
2 created by this act, for a term that expires on May 1, 2009.

3 (b) Three members specified under section 15.255 (3) (a) to (f) of the statutes,
4 as created by this act, for a term that expires on May 1, 2011.

5 (c) Three members specified under section 15.255 (3) (a) to (f) of the statutes,
6 as created by this act, for a term that expires on May 1, 2013.

7 **SECTION 94. Initial applicability.**

8 (1) DEATH INVESTIGATIONS; AUTHORIZATION TO EMBALM OR CREMATE; DISPOSITION OF
9 BODIES. The treatment of sections 59.34 (1) (a), 69.01 (12), 69.18 (2) (d) 1. and (3) (a),
10 157.02 (1), (1m) (title), (2m), (3), and (4), 157.03 (1) and (2), 157.055 (2) (intro.), 165.50
11 (4), 346.71 (2), 440.78 (1) (b), 979.001, 979.01 (title), (1) (intro.), (a), (b), (c), (d), (e),
12 (f), (g), (h), (i), (j), (k), (L), (m), (n), (o), and (p), (1g), (1i), (1k), (1m), (1p), (1r), (2) (b),
13 (3), (3m), and (4), 979.017, 979.02 (title), (2), (3), (4), (5), (6), and (7), 979.025 (title),
14 (1), and (2), 979.03, 979.032, 979.034, 979.036, 979.04, 979.05 (2), (3), (4), (5), and (6),
15 979.06 (1), (2), and (4), 979.07 (1) (a), 979.08 (1), (5), (6), and (7), 979.09, 979.10 (1)
16 (a) (intro.), 1m. and 2m., (b), (c), and (d), (2), (3), (4), (5), and (6), 979.11, and 979.22
17 of the statutes, and the renumbering and amendment of sections 157.02 (2) and (5),
18 979.01 (2) and (4), 979.02, and 979.10 (1) (a) 1., 2., and 3. of the statutes first apply
19 to deaths occurring on the effective date of this subsection.

20 (2) DISINTERMENT PERMITS. The treatment of sections 69.18 (4) (a) 1. to 6., (am)
21 (intro.), (b), (bm), (d), (e), and (f) of the statutes and the renumbering and amendment
22 of section 69.18 (4) (a) (intro.) of the statutes first apply to disinterment permits
23 applied for on the effective date of this subsection.

24

(END)