

2001 DRAFTING REQUEST**Bill**

Received: 12/22/2000

Received By: nelsorp1

Wanted: As time permits

Identical to LRB:

For: Scott Walker (608) 266-9180

By/Representing: Melissa Gilbert

This file may be shown to any legislator: NO

Drafter: nelsorp1

May Contact:

Addl. Drafters:

Subject: Correctional System - prisons

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Independent review of inmate deaths

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	nelsorp1 01/05/2001	wjackson 01/08/2001	kfollet 01/11/2001	_____	lrb_docadmin 01/11/2001		
/1	nelsorp1 01/18/2001	wjackson 01/19/2001	pgreensl 01/31/2001	_____	lrb_docadmin 01/31/2001	lrb_docadmin 03/01/2001	

FE Scent For:

<END>

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FE Sent For:		1 wlj 1/19	1/30 PG	PG/RS			<END>

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Received: **12/22/2000**

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For: **Scott Walker (608) 266-9180**

By/Representing: **Melissa Gilbert**

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Alt. Drafters:

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Extra Copies: *MGD*

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Topic:

Independent review of inmate deaths

Instructions:

See Attached

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1?	nelsorp1	/pl WLj 1/2	kj 	kj/ jf 			

FE Sent For:

<END>



By 1/12 Governor
State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-1628/P1

RPN.../.....

WLJ

D - Note

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1

GEN

AN ACT ...; relating to: creating a board to investigate and make recommendations regarding inmate deaths.

2

insert
AmL.

The remainder of the
Analysis by the Legislative Reference Bureau
This is a preliminary draft. An analysis will be provided in a later version.

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

3

SECTION 1. 15.07 (1) (b) 23[↓] of the statutes is created to read:

4

15.07 (1) (b) 23. Members of the prison mortality and morbidity board shall be

5

appointed as provided in s. 15.145 (3).[↓]

6

SECTION 2. 15.07 (2) (m)[↓] of the statutes is created to read:

7

15.07 (2) (m) One cochairperson of the prison mortality and morbidity board

8

shall be a member appointed under s. 15.145 (3)[↓] from the list submitted by the

9

Medical College of Wisconsin[↑] and the other cochairperson shall be a member

10

appointed under s. 15.145 (3)[↓] from the list submitted by the University of

11

Wisconsin-Madison Medical School.

1 SECTION 3. 15.07 (3) (bm) 4[√] of the statutes is created to read:

2 15.07 (3) (bm) 4. The prison mortality and morbidity board shall meet at least
 3 ^{9 4}~~four~~ times each year and may meet at other times on the call of either cochairperson
 4 or a majority of the board's members.

5 SECTION 4. 15.145 (3)[√] of the statutes is created to read:

6 15.145 (3) PRISON MORTALITY AND MORBIDITY BOARD. There is created in the
 7 department of corrections a prison mortality and morbidity board consisting of 11
 8 ^{9 4}~~four~~ members appointed for ~~four~~ year terms. Four of the members shall be appointed by
 9 the governor from a list of candidates submitted by the Medical College of Wisconsin.
 10 Four of the members shall be appointed by the governor from a list of candidates
 11 submitted by the University of Wisconsin-Madison Medical School. Three of the
 12 members shall be appointed by the governor from a list of candidates submitted by
 13 the secretary of the department of corrections. At least one member of the board
 14 must be a physician who is certified and licensed as a forensics pathologist by the
 15 American Board of Pathology.

16 SECTION 5. 146.82 (2) (a) 22[√] of the statutes is created to read:

17 146.82 (2) (a) 22. To the prison mortality and morbidity board to enable that
 18 ^Δ board to investigate the death of an inmate under s.979.15.[√]

19 SECTION 6. 758.19 (5) (a) 5[√] of the statutes is amended to read:

20 758.19 (5) (a) 5. Fees for witnesses or expert witnesses subpoenaed by the court
 21 at the request of the district attorney, coroner, prison mortality and morbidity board,
 22 or medical examiner under s. 979.06 (1) and (2).

History: 1971 c. 254 ss. 1, 2, 4 to 16; Stats. 1971 s. 257.19; 1975 c. 37, 189, 199; 1977 c. 29; 1977 c. 187 ss. 97, 135; 1977 c. 305 s. 64; 1977 c. 449; Stats. 1977 s. 758.19; Sup. Ct. Order, 88 Wis. 2d xiii (1979); 1981 c. 96; 1983 a. 27; 1985 a. 29, 340; 1989 a. 31; 1991 a. 32, 39; 1993 a. 16, 206, 437, 491; 1995 a. 27, 77, 201, 225, 417; 1997 a. 27, 237; 1999 a. 9, 29.

23 SECTION 7. 979.015[√] of the statutes is amended to read:

1 **979.015 Subpoena for documents.** Upon the request of the coroner, medical
2 examiner, prison mortality and morbidity board, or district attorney, a court shall
3 issue a subpoena requiring the production of documents necessary for the
4 determination of a decedent's cause of death. The documents may include the
5 decedent's patient health care records and treatment records, as defined in ss. 51.30
6 and 146.81 (4). The documents shall be returnable to the officer named in the
7 subpoena.

8 History: 1983 a. 279.

8 **SECTION 8.** 979.02[✓] of the statutes is amended to read:

9 **979.02 Autopsies.** The coroner, medical examiner, prison mortality and
10 morbidity board, or district attorney may order the conducting of an autopsy upon
11 the body of a dead person any place within the state in cases where an inquest might
12 be had as provided in s. 979.04 notwithstanding the fact that no such inquest is
13 ordered or conducted. The autopsy shall be conducted by a licensed physician who
14 has specialized training in pathology. The district attorney may move the circuit
15 court for the county in which the body is buried for an order disinterring the body for
16 purposes of autopsy. The order shall be granted by the circuit court upon a
17 reasonable showing that any of the criteria specified in s. 979.04 exists. This section
18 does not prevent additional autopsies or examinations of the body if there are
19 unanswered pathological questions concerning the death and the causes of death.

20 History: 1983 a. 279 s. 12; Stats. 1983 s. 979.02.

20 **SECTION 9.** 979.04 (2)[✓] of the statutes is amended to read:

21 979.04 (2) If the coroner or medical examiner has knowledge of the death of any
22 person in the manner described under sub. (1), he or she shall immediately notify the
23 district attorney. If the prison ~~morality~~^{mortality} and morbidity board has knowledge of the
24 death of any person in the manner described under sub. (1), the board shall

1 immediately notify the district attorney. The notification shall include information
 2 concerning the circumstances surrounding the death. The coroner, prison morality ^{score period} and morbidity board, or medical examiner may request the district attorney to order
 3 and morbidity board, or medical examiner may request the district attorney to order
 4 an inquest under sub. (1). If the district attorney refuses to order the inquest, a
 5 coroner, the prison morality ^{and morbidity board}, or a medical examiner may
 6 petition the circuit court to order an inquest. The court may issue the order if it finds
 7 that the district attorney has abused his or her discretion in not ordering an inquest.

mortality

History: 1983 a. 279; 1985 a. 135; 1987 a. 399.

8 **SECTION 10.** 979.06 (1) of the statutes is amended to read:

9 979.06 (1) The judge or court commissioner may issue subpoenas for witnesses
 10 at the request of the coroner, prison morality ^{mortality} and morbidity board, or medical
 11 examiner and shall issue subpoenas for witnesses requested by the district attorney.
 12 Subpoenas are returnable at the time and place stated therein. Persons who are
 13 served with a subpoena may be compelled to attend proceedings in the manner
 14 provided in s. 885.12.

History: 1983 a. 279.

15 **SECTION 11.** 979.10 (1) (a) 2. of the statutes is amended to read:

16 979.10 (1) (a) 2. The coroner or medical examiner in the county where the event
 17 which caused the death occurred if the death occurred in this state and if the death
 18 is the subject of an investigation under s. 979.01 or s. 979.15; or

History: 1971 c. 164 s. 86; 1973 c. 272; 1979 c. 177; 1983 a. 146; 1983 a. 279 s. 20; Stats. 1983 s. 979.10; 1985 a. 315.

19 **SECTION 12.** 979.15 of the statutes is created to read:

20 **979.15 Investigation of a prison inmate's death.** (1) The prison morality ^{mortality}
 21 and morbidity board shall investigate the death of every individual who dies while
 22 he or she is an inmate in a state correctional institution, as defined in s. 301.01 (4).
 23 To facilitate their investigation, the board shall have access to all medical and prison
 24 records related to the deceased inmate.

1 (2) Within 72 hours after the death of an inmate in a state correctional
2 institution, the secretary of the department of corrections shall notify the speaker of
3 the assembly and the president of the senate, or their designees, and every member
4 of the prison ~~morality~~^{mortality} and morbidity board, of the death. The secretary shall provide
5 the speaker and president, or their designees, and the board members with all of
6 the information available to the department regarding the inmate's death, including
7 the date, time, location, and cause of death. The secretary shall provide the board
8 with the inmate's prison records, information obtained as the result of any internal
9 investigation of the death, and any medical records of the inmate that are in the
10 custody of the department. The department shall cooperate with the board and
11 provide any assistance the board requests while investigating the death of the
12 inmate. The board, while performing its duties, may review medical records of the
13 inmate in the custody of any medical provider, information related to the death in the
14 custody of a law enforcement agency, district attorney, or the attorney general,
15 information regarding the death of the inmate obtained by the coroner or medical
16 examiner, and any information collected as the result of an autopsy ordered under
17 s. 979.02 or an inquest ordered under s. 979.04. The board may interview
18 department and law enforcement staff and subpoena witnesses and documents as
19 part of its investigation.

20 (3) The prison ~~morality~~^{mortality} and morbidity board shall prepare a report of the
21 board's investigation of an inmate's death and submit that report to all of the
22 following:

- 23 (a) The appropriate relative of the deceased.
- 24 (b) The secretary of the department of corrections.
- 25 (c) If appropriate, the district attorney.

- 1 (d) The speaker of the assembly and ^{the} president of the senate, or their designees.
- 2 (4) The prison ~~morality~~ ^{mortality} and morbidity board may make recommendations to
- 3 the department of corrections regarding medical and other prison procedures, based
- 4 on the board's investigation of an inmate's death. The board may also make
- 5 recommendations to the department of corrections regarding possible disciplinary
- 6 action against staff who did not follow departmental policies or procedures related
- 7 to the circumstances surrounding the death of an inmate.
- 8 (5) The prison ~~morality~~ ^{mortality} and morbidity board shall prepare and forward a
- 9 complaint to the appropriate credentialing board, as defined in s. 440.01 (2) (bm), if,
- 10 during the board's investigation of an inmate's death, the board determines that a
- 11 medical provider failed to provide proper and necessary medical care to a prison
- 12 inmate.

13 (END)

DOA:.....Steinmetz - Require autopsy of each prison inmate who dies

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

Insert Anal

1 AN ACT ...; relating to: autopsy required for deceased inmates of correctional
2 facilities.

Analysis by the Legislative Reference Bureau

CORRECTIONAL SYSTEM

ADULT CORRECTIONAL SYSTEM

Under current law, upon the death of an inmate of a state correctional institution, the person in charge of the institution is required to notify the inmate's relative of the death. Currently, (DOC) is also required to provide the relative with written notification that DOC, upon request, will provide the relative with a copy of any autopsy performed on the inmate or a copy of any other report or information regarding the inmate's death.

Under current law, if the district attorney has notice that the death of a person may be the result of homicide (including homicide by negligent handling of a dangerous weapon or resulting from intoxicated use of a motor vehicle) or suicide, or may have occurred under unexplained or suspicious circumstances, the district attorney may order an inquest to determine the cause of the person's death. If a coroner or medical examiner has similar knowledge about a person's death, the coroner or medical examiner is required to notify the district attorney of the circumstances surrounding the death and may request that the district attorney order an inquest. The district attorney may order an inquest based on that information or may request that the coroner or medical examiner conduct a

the department of corrections

preliminary examination and report back to the district attorney. If the district attorney does not order an inquest, under current law the coroner or medical examiner may petition the circuit court to order an inquest.

Under this bill, the coroner or medical examiner is required to conduct an autopsy of every person who dies while he or she is an inmate in a state correctional institution. If the coroner or medical examiner determines that the person's death was the result of any of the circumstances that could result in the district attorney ordering an inquest, such as homicide, the coroner or medical examiner is required to follow current law regarding notification of the district attorney and requesting an inquest.

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.** 979.025 of the statutes is created to read:

2 **979.025 Autopsy of correctional inmate.** The coroner or medical examiner
3 of the county where the death occurred shall perform an autopsy on every person who
4 dies while he or she is an inmate in a state correctional institution, as defined in s.
5 301.01 (4). The costs of the autopsy shall be paid by the department of corrections.
6 If the coroner or medical examiner determines that the death may have been the
7 result of any of the situations that would permit the district attorney to order an
8 inquest under s. 979.04 (1), the coroner or medical examiner shall follow the
9 procedures under s. 979.04 (2).

10 **SECTION 9311. Initial applicability; corrections.**

11 (1) **AUTOPSIES OF INMATES.** The treatment of section 979.025 of the statutes first
12 applies to inmate deaths that occur on the effective date of this subsection.

13

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1628/P1dn
RPN. *lc?l:gf*



Please review this draft carefully to ensure that it is consistent with your intent. I drafted it as a preliminary draft to give you something to ~~look at~~ and consider.

review

Robert P. Nelson
Senior Legislative Attorney
Phone: (608) 267-7511
E-mail: robert.nelson@legis.state.wi.us

Nelson, Robert P.

From: Dsida, Michael
Sent: Thursday, December 21, 2000 4:55 PM
To: Nelson, Robert P.
Subject: FW: Inmate Death Oversight Committee draft

Importance: High

Thanks again bob

-----Original Message-----

From: Gilbert, Melissa
Sent: Thursday, December 21, 2000 4:47 PM
To: Dsida, Michael
Subject: Inmate Death Oversight Committee draft
Importance: High

Mike,

In response to concerns about DOC health care, we want to craft a bill giving an independent committee review authority over inmate deaths.
Please see drafting instruction below.

Thanks...and happy holidays!

-----Original Message-----

From: Walker, Scott
Sent: Wednesday, December 20, 2000 9:49 AM
To: Gilbert, Melissa
Subject: HSU draft
Importance: High

Create a "Mortality and Morbidity Committee" comprised of the following members:

- Four members selected by the head of the Medical College of Wisconsin
- Four members selected by the head of the University of Wisconsin Medical School
- Three members selected by the Secretary of the Department of Corrections

- The co-chairs will be one member from each medical school
- At least one member of the committee must be a board certified forensics pathologist

The committee will be given complete access to all medical and prison records related to the inmate. The responsibilities of the committee include:

- Review the facts on each death that occurs in the prison system and prepare a report to be given to the Secretary of the Department of Corrections, the appropriate family member (s) of the deceased inmate and to the Speaker of the Assembly and the President of the Senate or their designees (ideally the chairs of the respective committees covering corrections).
- Make recommendations to the Department of Corrections on medical and prison procedures related to the death and circumstances leading up to the death and make recommendations for possible disciplinary action if department procedures were not followed by staff.
- When necessary, prepare and forward a complaint to the appropriate board under the Department of Regulations and Licensing if medical care was not properly administered by any healthcare professionals (i.e. the medical examining board).

The committee will meet on a quarterly basis to review any death within the prison system, but members of the panel must be notified of a death within 72 hours of the time of death and must be provided with information regarding the cause of death and time, date, location and background of inmate (details consistent with HR 1800).

In addition, the Speaker of the Assembly and the President of the Senate or their designees (ideally the chairs of the respective committees covering corrections) must be notified within 72 hours of any death within the prison system.

Nelson, Robert P.

From: Kunkel, Mark
Sent: Friday, January 05, 2001 9:10 AM
To: Nelson, Robert P.
Subject: Forensic pathologists

Bob, it looks like there is also something called the American Board of Pathology which certifies forensic pathologists. See email from my brother below.

Mark Kunkel
Legislative Attorney
Legislative Reference Bureau
(608) 266-0131 mark.kunkel@legis.state.wi.us

-----Original Message-----

From: John Kunkel [mailto:johnkunkel@yahoo.com]
Sent: Friday, January 05, 2001 7:07 AM
To: Kunkel, Mark
Subject: Re: Quincy, come here and look at this!

Mark,
A board certified forensic pathologist is a MD who did training in forensic pathology and then took a training exam by the American Board of Pathology and is licensed by that Board. There is only one American Board of Pathology.

I'll explain more later, gotta go to conference.
Most counties don't require a board certified forensic pathologist to be a coroner.

John
--- "Kunkel, Mark" <Mark.Kunkel@legis.state.wi.us>
wrote:

> Hey, a work related question for you:
>
> Who certifies pathologists? Is there a different
> certification for forensic
> pathologists? I found a website for a nonprofit
> voluntary certification
> outfit called The American Board of Medicolegal
> Death Investigators, Inc.SM
> (ABMDI). Are they the only people in the
> certification business?

Nelson, Robert P.

From: Gilbert, Melissa
Sent: Wednesday, January 17, 2001 3:56 PM
To: Nelson, Robert P.
Subject: LRB 1628/P1

Hi Bob,

Sorry to overload you, but we'd like to make a small change to the preliminary draft of LRB 1628 (inmate death board). Could we specify that one of the DOC designees be a correctional nurse?

Also, the draft states that members of the boards shall be appointed for four-year terms by the governor. Is there any way to make that more flexible? I'm guessing we may have a hard time finding doctors who want to committ four years to this task.

Thanks for all of your assistance!

Melissa Gilbert
Research Assistant
Office of Rep. Scott Walker



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

REGEN

1 AN ACT *to amend* 758.19 (5) (a) 5., 979.015, 979.02, 979.04 (2), 979.06 (1) and
2 979.10 (1) (a) 2.; and *to create* 15.07 (1) (b) 23., 15.07 (2) (m), 15.07 (3) (bm) 4.,
3 15.145 (3), 146.82 (2) (a) 22. and 979.15 of the statutes; **relating to:** creating
4 a board to investigate and make recommendations regarding inmate deaths.

Analysis by the Legislative Reference Bureau

Under current law, upon the death of an inmate of a state correctional institution, the person in charge of the institution is required to notify the inmate's relative of the death. Currently, the department of corrections (DOC) is also required to provide the relative with written notification that DOC, upon request, will provide the relative with a copy of any autopsy performed on the inmate or a copy of any other report or information regarding the inmate's death.

Under current law, if the district attorney has notice that the death of a person may be the result of homicide (including homicide by negligent handling of a dangerous weapon or resulting from intoxicated use of a motor vehicle) or suicide, or may have occurred under unexplained or suspicious circumstances, the district attorney may order an inquest to determine the cause of the person's death. If a coroner or medical examiner has similar knowledge about a person's death, the coroner or medical examiner is required to notify the district attorney of the circumstances surrounding the death and may request that the district attorney order an inquest. The district attorney may order an inquest based on that information or may request that the coroner or medical examiner conduct a preliminary examination and report back to the district attorney. If the district

attorney does not order an inquest, under current law the coroner or medical examiner may petition the circuit court to order an inquest.

~~This is a preliminary draft. The remainder of the analysis will be provided in a later version.~~

insert and

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

1 **SECTION 1.** 15.07 (1) (b) 23. of the statutes is created to read:

2 15.07 (1) (b) 23. Members of the prison mortality and morbidity board shall be
3 appointed as provided in s. 15.145 (3).

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

5 15.07 (2) (m) One cochairperson of the prison mortality and morbidity board
6 shall be a member appointed under s. 15.145 (3) from the list submitted by the
7 Medical College of Wisconsin, and the other cochairperson shall be a member
8 appointed under s. 15.145 (3) from the list submitted by the University of
9 Wisconsin-Madison Medical School.

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

11 15.07 (3) (bm) 4. The prison mortality and morbidity board shall meet at least
12 4 times each year and may meet at other times on the call of either cochairperson or
13 a majority of the board's members.

14 **SECTION 4.** 15.145 (3) of the statutes is created to read:

15 15.145 (3) PRISON MORTALITY AND MORBIDITY BOARD. There is created in the
16 department of corrections a prison mortality and morbidity board consisting of 11
17 members appointed for ²/~~4~~-year terms. Four of the members shall be appointed by the
18 governor from a list of candidates submitted by the Medical College of Wisconsin.
19 Four of the members shall be appointed by the governor from a list of candidates
20 submitted by the University of Wisconsin-Madison Medical School. Three of the

1 *, one of whom shall be a nurse employed by*
2 *the department of corrections,*
3 members shall be appointed by the governor from a list of candidates submitted by
4 the secretary of the department of corrections. At least one member of the board
5 must be a physician who is certified and licensed as a forensics pathologist by the
6 American Board of Pathology.

7 **SECTION 5.** 146.82 (2) (a) 22. of the statutes is created to read:

8 146.82 (2) (a) 22. To the prison mortality and morbidity board to enable that
9 board to investigate the death of an inmate under s. 979.15.

10 **SECTION 6.** 758.19 (5) (a) 5. of the statutes is amended to read:

11 758.19 (5) (a) 5. Fees for witnesses or expert witnesses subpoenaed by the court
12 at the request of the district attorney, coroner, prison mortality and morbidity board,
13 or medical examiner under s. 979.06 (1) and (2).

14 **SECTION 7.** 979.015 of the statutes is amended to read:

15 **979.015 Subpoena for documents.** Upon the request of the coroner, medical
16 examiner, prison mortality and morbidity board, or district attorney, a court shall
17 issue a subpoena requiring the production of documents necessary for the
18 determination of a decedent's cause of death. The documents may include the
19 decedent's patient health care records and treatment records, as defined in ss. 51.30
20 and 146.81 (4). The documents shall be returnable to the officer named in the
21 subpoena.

22 **SECTION 8.** 979.02 of the statutes is amended to read:

23 **979.02 Autopsies.** The coroner, medical examiner, prison mortality and
24 morbidity board, or district attorney may order the conducting of an autopsy upon
25 the body of a dead person any place within the state in cases where an inquest might
be had as provided in s. 979.04 notwithstanding the fact that no such inquest is
ordered or conducted. The autopsy shall be conducted by a licensed physician who

1 has specialized training in pathology. The district attorney may move the circuit
2 court for the county in which the body is buried for an order disinterring the body for
3 purposes of autopsy. The order shall be granted by the circuit court upon a
4 reasonable showing that any of the criteria specified in s. 979.04 exists. This section
5 does not prevent additional autopsies or examinations of the body if there are
6 unanswered pathological questions concerning the death and the causes of death.

7 **SECTION 9.** 979.04 (2) of the statutes is amended to read:

8 979.04 (2) If the coroner or medical examiner has knowledge of the death of any
9 person in the manner described under sub. (1), he or she shall immediately notify the
10 district attorney. If the prison mortality and morbidity board has knowledge of the
11 death of any person in the manner described under sub. (1), the board shall
12 immediately notify the district attorney. The notification shall include information
13 concerning the circumstances surrounding the death. The coroner, prison mortality
14 and morbidity board, or medical examiner may request the district attorney to order
15 an inquest under sub. (1). If the district attorney refuses to order the inquest, a
16 coroner, the prison mortality and morbidity board, or a medical examiner may
17 petition the circuit court to order an inquest. The court may issue the order if it finds
18 that the district attorney has abused his or her discretion in not ordering an inquest.

19 **SECTION 10.** 979.06 (1) of the statutes is amended to read:

20 979.06 (1) The judge or court commissioner may issue subpoenas for witnesses
21 at the request of the coroner, prison mortality and morbidity board, or medical
22 examiner and shall issue subpoenas for witnesses requested by the district attorney.
23 Subpoenas are returnable at the time and place stated therein. Persons who are
24 served with a subpoena may be compelled to attend proceedings in the manner
25 provided in s. 885.12.

1 **SECTION 11.** 979.10 (1) (a) 2. of the statutes is amended to read:

2 979.10 (1) (a) 2. The coroner or medical examiner in the county where the event
3 which caused the death occurred if the death occurred in this state and if the death
4 is the subject of an investigation under s. 979.01 or 979.15; or

5 **SECTION 12.** 979.15 of the statutes is created to read:

6 **979.15 Investigation of a prison inmate's death.** (1) The prison mortality
7 and morbidity board shall investigate the death of every individual who dies while
8 he or she is an inmate in a state correctional institution, as defined in s. 301.01 (4).
9 To facilitate the investigation, the board shall have access to all medical and prison
10 records related to the deceased inmate.

11 (2) Within 72 hours after the death of an inmate in a state correctional
12 institution, the secretary of the department of corrections shall notify the speaker of
13 the assembly and the president of the senate, or their designees, and every member
14 of the prison mortality and morbidity board, of the death. The secretary shall provide
15 the speaker and president, or their designees, and the board members with all of the
16 information available to the department regarding the inmate's death, including the
17 date, time, location, and cause of death. The secretary shall provide the board with
18 the inmate's prison records, information obtained as the result of any internal
19 investigation of the death, and any medical records of the inmate that are in the
20 custody of the department. The department shall cooperate with the board and
21 provide any assistance the board requests while investigating the death of the
22 inmate. The board, while performing its duties, may review medical records of the
23 inmate in the custody of any medical provider; information related to the death in
24 the custody of a law enforcement agency, district attorney, or the attorney general;
25 information regarding the death of the inmate obtained by the coroner or medical

1 examiner; and any information collected as the result of an autopsy ordered under
2 s. 979.02 or an inquest ordered under s. 979.04. The board may interview
3 department and law enforcement staff and subpoena witnesses and documents as
4 part of its investigation.

5 (3) The prison mortality and morbidity board shall prepare a report of the
6 board's investigation of an inmate's death and submit that report to all of the
7 following:

8 (a) The appropriate relative of the deceased.

9 (b) The secretary of the department of corrections.

10 (c) If appropriate, the district attorney.

11 (d) The speaker of the assembly and the president of the senate, or their
12 designees.

13 (4) The prison mortality and morbidity board may make recommendations to
14 the department of corrections regarding medical and other prison procedures, based
15 on the board's investigation of an inmate's death. The board may also make
16 recommendations to the department of corrections regarding possible disciplinary
17 action against staff who did not follow departmental policies or procedures related
18 to the circumstances surrounding the death of an inmate.

19 (5) The prison mortality and morbidity board shall prepare and forward a
20 complaint to the appropriate credentialing board, as defined in s. 440.01 (2) (bm), if,
21 during the board's investigation of an inmate's death, the board determines that a
22 medical provider failed to provide proper and necessary medical care to a prison
23 inmate.

24 (END)

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1628/lins
RPN:wlj:kjf

insert anl:

This bill creates a prison mortality and morbidity board composed of ~~eleven~~ ¹¹ members appointed by the governor and attached to DOC. The prison mortality and morbidity board will have the authority to investigate the death of an inmate in a state correctional institution. Under the bill, within 72 hours after the death of an inmate, ~~the department of corrections~~ must notify the speaker of the assembly, the president of the senate, and each member of the prison mortality and morbidity board of the death, and provide them with all of the information available to DOC regarding the death.

Under the bill, DOC is required to provide any assistance the prison mortality and morbidity board needs to investigate the death, including providing the board with the inmate's prison records, information obtained as the result of any internal investigation of the death, and any medical records of the inmate in DOC's custody. The bill allows the board to review any medical records of the inmate, information related to the death in the custody of a law enforcement agency, district attorney, or attorney general, and information regarding the death obtained by the coroner or medical examiner. The bill allows the board to ask a court to subpoena documents related to the death, to order ~~the conducting of~~ an autopsy, and to request the district attorney or court to order an inquest into the inmate's death.

The bill requires the prison mortality and morbidity board to issue a report of the board's investigation and submit that report to the district attorney, if appropriate, ^{to} a relative of the deceased inmate, ^{to} the speaker of the assembly and president of the senate, or their designees, and ^{to} the secretary of DOC. The bill authorizes the board to make recommendations to DOC regarding medical and other prison procedures, and to make recommendations regarding possible disciplinary action against DOC staff. If the board determines during ~~their~~ ^{its} investigation of an inmate's death that a medical provider failed to provide proper and necessary medical care, the board is required under the bill to prepare and forward a complaint to the appropriate credentialing board.



State of Wisconsin

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January 31, 2001

MEMORANDUM

To: Representative Walker

From: Robert P. Nelson, Senior Legislative Attorney

Re: LRB-1628 Independent review of inmate deaths

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 267-7511 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.