

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2001 ASSEMBLY BILL 170**

November 1, 2001 – Offered by CORRECTIONS AND THE COURTS.

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

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

5 **SECTION 1.** 15.07 (1) (b) 23. of the statutes is created to read:
6 15.07 (1) (b) 23. Members of the prison mortality and morbidity board shall be
7 appointed as provided in s. 15.145 (3).

8 **SECTION 2.** 15.07 (3) (bm) 5. of the statutes is created to read:
9 15.07 (3) (bm) 5. The prison mortality and morbidity board shall meet at least
10 4 times each year and may meet at other times on the call of the chairperson or a
11 majority of the board's members.

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

2 15.145 **(3)** PRISON MORTALITY AND MORBIDITY BOARD. There is created in the
3 department of corrections a prison mortality and morbidity board consisting of 12
4 members appointed for 2–year terms. Eight of the members shall be appointed by
5 the governor and shall include 2 representatives from the University of Wisconsin
6 Hospitals and Clinics Authority, 2 representatives from the Medical College of
7 Wisconsin, one physician from a health care provider other than the University of
8 Wisconsin Hospitals and Clinics Authority or the Medical College of Wisconsin, one
9 nurse employed by a state agency, one nurse employed by a private health
10 maintenance organization or preferred provider plan, and one member who does not
11 represent any of the foregoing entities. The other 4 members of the board shall be
12 appointed by the secretary of the department of corrections and shall be a warden
13 of a state correctional facility, a manager of a unit within a state correctional facility
14 that provides the health services to inmates, a registered nurse from a correctional
15 institution, and a correctional officer. At least one member of the board shall be a
16 physician who is certified and licensed as a forensics pathologist by the American
17 Board of Pathology.

18 **SECTION 4.** 146.82 (2) (a) 22. of the statutes is created to read:

19 146.82 **(2)** (a) 22. To the prison mortality and morbidity board to enable that
20 board to investigate the death of an inmate under s. 979.15.

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

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

25 **SECTION 6.** 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 **SECTION 7.** 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 **SECTION 8.** 979.06 (1) of the statutes is amended to read:

21 **979.06 (1)** The judge or court commissioner may issue subpoenas for witnesses
22 at the request of the coroner, prison mortality and morbidity board, or medical
23 examiner and shall issue subpoenas for witnesses requested by the district attorney.
24 Subpoenas are returnable at the time and place stated therein. Persons who are

1 served with a subpoena may be compelled to attend proceedings in the manner
2 provided in s. 885.12.

3 **SECTION 9.** 979.10 (1) (a) 2. of the statutes is amended to read:

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

7 **SECTION 10.** 979.15 of the statutes is created to read:

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

13 **(2)** Within 72 hours after the death of an inmate in a state correctional
14 institution, the secretary of the department of corrections shall notify the speaker of
15 the assembly and the president of the senate and each member of the appropriate
16 standing committee of the assembly and senate, as provided in s. 13.172 (3), and
17 every member of the prison mortality and morbidity board, of the death. The
18 secretary shall provide the speaker and president, standing committee members,
19 and the board members with all of the information available to the department
20 directly related to the inmate's death, including the date, time, location, and cause
21 of death. The secretary shall provide the board with the inmate's prison records,
22 information obtained as the result of any internal investigation of the death, and any
23 medical records of the inmate that are in the custody of the department. The
24 department shall cooperate with the board and provide any assistance the board
25 requests while investigating the death of the inmate. The board, while performing

1 its duties, may review medical records of the inmate in the custody of any medical
2 provider; information related to the death in the custody of a law enforcement agency,
3 district attorney, or the attorney general; information regarding the death of the
4 inmate obtained by the coroner or medical examiner; and any information collected
5 as the result of an autopsy ordered under s. 979.02 or an inquest ordered under s.
6 979.04. The board may interview department and law enforcement staff and
7 subpoena witnesses and documents as part of its investigation.

8 **(3)** The prison mortality and morbidity board shall prepare a report of the
9 board's investigation of an inmate's death and submit that report to all of the
10 following:

- 11 (a) The appropriate relative of the deceased.
12 (b) The secretary of the department of corrections.
13 (c) If appropriate, the district attorney.
14 (d) The speaker of the assembly and the president of the senate, or their
15 designees.

16 **(END)**