

2001 DRAFTING REQUEST**Bill**

Received: 12/20/2000

Received By: nelsorp1

Wanted: As time permits

Identical to LRB:

For: Administration-Budget

By/Representing: Steinmetz

This file may be shown to any legislator: NO

Drafter: nelsorp1

May Contact:

Alt. Drafters:

Subject: Correctional System - prisons

Extra Copies:

Pre Topic:

DOA:.....Steinmetz -

Topic:

Require autopsy of each prison inmate who dies

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>
/1	nelsorp1 12/21/2000	gilfokm 12/21/2000	jfrantze 12/21/2000	_____	gretskl 12/21/2000		S&L
/2	nelsorp1 01/15/2001	wjackson 01/15/2001	martykr 01/15/2001	_____	lrb_docadmin 01/15/2001		S&L
/3	nelsorp1 01/19/2001	gilfokm 01/19/2001	pgreensl 01/19/2001	_____	lrb_docadmin 01/19/2001		S&L

FE Sent For:

<END>

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/2	nelsorp1 01/15/2001	wjackson 01/15/2001	martykr 01/15/2001	_____ 1/19	lrb_docadmin 01/15/2001		S&L
FE Sent For:	13-1/Kmg 19-01		1/19 P5	PS/JLD			<END>

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FE Sent For:

12/15 WJ

km/15
ds
km/15
<END>

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160

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1?	nelsorp1	1-12/21 King	12/21	12/21			
			12/15				

FE Sent For:

<END>



**WISCONSIN DEPARTMENT OF
ADMINISTRATION**

TOMMY G. THOMPSON
GOVERNOR

GEORGE LIGHTBOURN
SECRETARY

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Madison, WI 53707-7864
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Date: December 19, 2000

To: Steve Miller, LRB

From: Jana D. Steinmetz, DOA
266-2213

Subject: Department of Corrections Biennial Budget Governor's Initiative Statutory
Language Draft.

I am forwarding a statutory language change as a Governor's Initiative in the fiscal year 2001-03 biennial budget for the Department of Corrections (DOC).

Independent Review of Inmate Deaths: This change will require an autopsy to be performed for each inmate death. The proposed change is attached.

cc: Jim Johnston
Justice Team Lead

**Governor's Initiative
Department of Corrections
2001-03 Biennial Budget
Statutory Language Request**

Topic: Independent Review of Inmate Deaths

Current Language

Current language at s. 979.02 provides that the coroner, medical examiner or district attorney may order the conducting of an autopsy upon 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.

Proposed Change

Amend s. 979.02 or create a subsection to require an autopsy for all DOC inmate deaths. The Department of Corrections is required to pay for these autopsies.

Effect of the Change

This change will create an independent review of all inmate deaths.

Rationale for the Change

Currently, autopsies are performed for inmate deaths only if ordered by the coroner, medical examiner or district attorney. If the coroner or medical examiner determines that the death was the result of unexplained or suspicious circumstances, he or she is required under s. 979.04(2) to immediately notify the district attorney. Requiring autopsies in all cases where the deceased is an inmate will ensure an independent review of each death.

Desired Effective Date:	Upon Passage of Bill
Agency:	DOC
Agency Contact:	Jana D. Steinmetz
Phone:	266-2213



500 N (12/21)
State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-1606/1

RPN..... King

NOTE

DOA:.....Steinmetz – Require autopsy of each prison inmate ^{who} dies

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

Q

DON'T
GEN. CAT.

deceased

1

AN ACT ..., relating to: autopsy required for inmates of correctional 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), suicide, or 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.

for

may have occurred

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1606/1dn

RPN.....
Kmg

I did not create a separate appropriation for DOC to pay for the autopsies. Do you want me to create one? If not, do you want me to add language saying what appropriation DOC should use to pay the costs of autopsies?

Is my reference to state correctional institutions correct?

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1606/1dn
RPN:kmg:jf

December 21, 2000

I did not create a separate appropriation for DOC to pay for the autopsies. Do you want me to create one? If not, do you want me to add language saying what appropriation DOC should use to pay the costs of autopsies?

Is my reference to state correctional institutions correct?

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

6-2213

Nelson, Robert P.

From: Steinmetz, Jana
Sent: Friday, January 12, 2001 4:39 PM
To: Nelson, Robert P.
Cc: Johnston, James
Subject: Statutory Language - Dept. of Corrections

Bob,

Below are comments on several drafts, some of which you had questions on.

✓ LRB-1910/2 (lapse of funds) is fine as drafted.

LRB-0473-1 (increasing the number of Parole Commission members). I previously told you it was fine as drafted, but we would like to make a change. The two additional members added in this biennium should sunset on June 30, 2003 (i.e., they should only exist for two years).

LRB-1906/1 (appropriation for fee collected from DOC employees). The primary purpose of the appropriation is for DOC to be able to deposit funds from parking and cafeteria fees collected from employees at the central office. The use of the term "facilities" would seem appropriate for the title and the language of the appropriation itself, but I will defer to your judgment as to whether that is appropriate.

X LRB-1606/1 (autopsy for prison inmates). In answer to your questions, there is no need to create a separate appropriation for DOC to pay for the autopsies, nor a need to add language specifying what appropriation they will use to pay for them.

As for the reference to state correctional institutions, it's less clear. The directive should apply to inmates in state correctional institutions, which should include state prisons, correctional centers, probation and parole holder facilities and workhouses (all listed in s. 302.01). It should also apply to inmates held in out-of-state facilities. As far as the out-of-state facilities, DOC should be compelled to arrange for an autopsy to be performed on the inmate and have the results forwarded to the appropriate authorities in the state in which the death occurred. This should be broad given that inmates are currently held in several different states, and those states are subject to change in the future.

If you have any questions, please give me a call.

Thanks,

Jana



5000 (1/15)
State of Wisconsin
2001 - 2002 LEGISLATURE
11-11-02

LRB-1606/1

RPN:kmg:jf

2
FWLj

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

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

DO NOT GEN

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

Analysis by the Legislative Reference Bureau

CORRECTIONAL SYSTEM

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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

insert anl-2 ↓

insert anl-1 ↓

Individual

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.

or county

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.

insert anl-3 ↓

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)

Insert 29 ↓

that performed the autopsy or received the autopsy report

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1606/2ins
RPN:kmg:jf

insert anl-1:
in the legal custody of DOC and is

insert anl-2:
facility located in this state^{er}

insert anl-3:
If an individual dies while ^{he or she is} in the legal custody of DOC and confined to a correctional facility in another state under a contract between the other state and DOC, DOC must have an autopsy performed on the individual. ^{Under the bill,} The autopsy must be performed ~~under the bill~~ by either a coroner or medical examiner of the county from which the individual was sentenced to the custody of DOC or by an appropriate authority in the other state. If a coroner or medical examiner of the county from which the individual was sentenced to the custody of DOC performs the autopsy and determines that the individual's death may have been the result of any of the situations that would permit the district attorney in Wisconsin to order an inquest, that person shall send a copy of the results of the autopsy to the appropriate authority in the other state.

The bill requires DOC to pay the costs of the autopsy.

1 Not insert 2-9: (1) INMATE CONFINED TO AN INSTITUTION IN THIS STATE. If an individual
2 dies while he or she is in the legal custody of the department of corrections and
3 confined to a state or county correctional facility located in this state, the coroner or
4 medical examiner of the county where the death occurred shall perform an autopsy
5 on the deceased individual. If the coroner or medical examiner who performs the
6 autopsy determines that the individual's death may have been the result of any of
7 the situations that would permit the district attorney to order an inquest under s.
8 979.04 (1),[✓] the coroner or medical examiner shall follow the procedures under s.
9 979.04 (2).[✓]

10 (2) INMATE CONFINED IN AN INSTITUTION IN ANOTHER STATE. If an individual dies
11 ^{he or she is} while in the legal custody of the department of corrections and confined to a
12 correctional facility in another state under a contract under s. 301.21,[✓] the

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

9 (3) COSTS OF AN AUTOPSY[Ⓞ] The costs of an autopsy performed under sub. (1)[↓] or
10 (2)[↓] shall be paid by the department of corrections.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1606/2dn

RPN:king/rl

WJ

I discussed this draft with Mike Dsida, the criminal law drafter, and he said that the definitions of correctional facilities in the statutes do not include all of the current facilities. So, instead of referring to inmates in statutorily defined correctional facilities, I refer to inmates in the custody of the department of corrections.

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DRAFTER'S NOTE
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LRB-1606/2dn
RPN:wlj:km

January 15, 2001

I discussed this draft with Mike Dsida, the criminal law drafter, and he said that the definitions of correctional facilities in the statutes do not include all of the current facilities. So, instead of referring to inmates in statutorily defined correctional facilities, I refer to inmates in the custody of the department of corrections.

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DOA:.....Steinmetz – Require autopsy of each prison inmate who dies
FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ^{Down} ^{SEM. CAT.} 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

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 individual who dies while he or she is in the legal custody of DOC and is an inmate in a ~~state or county~~ correctional facility located in this state. 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.

If an individual dies while he or she is in the legal custody of DOC and confined to a correctional facility in another state under a contract ~~between the other state and~~ DOC, DOC must have an autopsy performed on the individual. Under the bill, the autopsy must be performed by either a coroner or medical examiner of the county from which the individual was sentenced to the custody of DOC or by an appropriate authority in the other state. If a coroner or medical examiner of the county from which the individual was sentenced to the custody of DOC performs the autopsy and determines that the individual's death may have been the result of any of the situations that would permit the district attorney in Wisconsin to order an inquest, that person ~~shall~~ send a copy of the results of the autopsy to the appropriate authority in the other state.

The bill requires DOC to pay the costs of the autopsy.

must

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.** (1) INMATE CONFINED TO AN

3 INSTITUTION IN THIS STATE. If an individual dies while he or she is in the legal custody

4 of the department ~~of corrections~~ and confined to a ~~state or county~~ correctional facility

5 located in this state, the coroner or medical examiner of the county where the death

6 occurred shall perform an autopsy on the deceased individual. If the coroner or

7 medical examiner who performs the autopsy determines that the individual's death

8 may have been the result of any of the situations that would permit the district

1 attorney to order an inquest under s. 979.04 (1), the coroner or medical examiner
2 shall follow the procedures under s. 979.04 (2).

3 (2) INMATE CONFINED IN AN INSTITUTION IN ANOTHER STATE. If an individual dies
4 while he or she is in the legal custody of the department of corrections and confined
5 to a correctional facility in another state under a contract under s. 301.21, the
6 department of corrections shall have an autopsy performed by an appropriate
7 authority in the other state or by the coroner or medical examiner of the county in
8 which the circuit court is located that sentenced the individual to the custody of the
9 department. If the coroner or medical examiner who performs the autopsy in this
10 state determines that the individual's death may have been the result of any of the
11 situations that would permit the district attorney to order an inquest under s. 979.04
12 (1), the coroner or medical examiner shall forward the results of the autopsy to the
13 appropriate authority in the other state.

14 (3) COSTS OF AN AUTOPSY. The costs of an autopsy performed under sub. (1) or
15 (2) shall be paid by the department of corrections.

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

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19

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State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-1606/3
RPN:kmg&wlj:pg

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8 result of any of the situations that would permit the district attorney to order an
9 inquest under s. 979.04 (1), the coroner or medical examiner shall follow the
10 procedures under s. 979.04 (2).

