

**2001 DRAFTING REQUEST**

**Senate Amendment (SA-SSA1-SB55)**

Received: **06/15/2001**

Received By: **nelsorp1**

Wanted: **As time permits**

Identical to LRB:

For: **Senate Democratic Caucus**

By/Representing: **Keckhaver**

This file may be shown to any legislator: **NO**

Drafter: **nelsorp1**

May Contact:

Addl. Drafters:

Subject: **Correctional System - prisons**

Extra Copies:

Submit via email: **NO**

Requester's email:

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**Pre Topic:**

SDC:.....Keckhaver - CN5516,

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**Topic:**

Require department of corrections to comply with the federal death in custody reporting act

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**Instructions:**

See Attached

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**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 06/16/2001	gilfokm 06/16/2001	rschluet 06/16/2001	_____	lrb_docadmin 06/16/2001		

FE Sent For:

<END>

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1?	nelsorp1	6/16/01 /kmg					

FE Sent For:

6-16-01 <END>

*long okay*

*DB*

Senator Moore

*NI*

**CORRECTIONS -- ADULT CORRECTIONAL FACILITIES**

**Inmate Death Reporting Requirements**

*105516*

**Motion:**

Move to require the Department of Corrections to immediately comply with the federal Death in Custody Reporting Act. Require Corrections to provide the U.S. Attorney General and the Wisconsin Attorney General with information required under the federal act for all persons under the jurisdiction of the Department of Correction including inmates housed out-of-state.

*RPN*  
*[Signature]*

**Note:**

The federal Death in Custody Reporting act was enacted on October 13, 2000. In order for states to receive federal violent offender incarceration and truth-in-sentencing incentive grants, a state is required to give assurances that it will follow guidelines established by the U.S. Attorney General to report, on a quarterly basis, information regarding the death of any person who is in the process of arrest, is in route to be incarcerated, or incarcerated at a municipal or county jail, state prison, or other state or local correctional facility. At a minimum, the following information is required: (a) the name, gender, race, ethnicity and age of the deceased; (b) the date, time and location of the death; and (c) a brief description of the circumstances surrounding the death.

The motion requires Corrections to immediately comply with the federal Death in Custody reporting requirements. The motion also requires that Corrections report the same information to the Wisconsin Attorney General and to report inmate deaths that not only occur in state facilities, but also in out-of-state contract facilities.

duplicate flag: Other reference numbers: LFB Sum #:  
 duplicate with: FM 982  
 bill number/amendment number:  
 LRB draft # LRB P-draft:

description: Require corrections to immediately comply with the federal Death in Custody Reporting Act (including inmates out of state) and require that information to be sent to U.S. AG and WI AG

**other notes**

drafting instructions:

more instructions:

GPR: \$0.00 PR: \$0.00 SEG: \$0.00 Other: *mpn*  
 FED: \$0.00 TANF: \$0.00 All Funds: \$0.00  
 GPR-REV: \$0.00 SEG-REV: \$0.00 PR-REV: \$0.00  
 no fiscal impact: x unknown impact:

duplicate flag: Other reference numbers: LFB Sum #:  
 duplicate with: FM 1256  
 bill number/amendment number:  
 LRB draft # LRB P-draft:

description: ~~Require corrections to offer same level of AODA services to female inmates as to male inmates and require report on this to JFC~~

**other notes**

drafting instructions:

more instructions:

GPR: \$0.00 PR: \$0.00 SEG: \$0.00 Other: *md*  
 FED: \$0.00 TANF: \$0.00 All Funds: \$0.00  
 GPR-REV: \$0.00 SEG-REV: \$0.00 PR-REV: \$0.00  
 no fiscal impact: unknown impact: x

duplicate flag: Other reference numbers: LFB Sum #:  
 duplicate with: FM 986  
 bill number/amendment number:  
 LRB draft # LRB P-draft:

description: Require corrections to provide public access to records that do not compromise institutional security, including final mortality reviews. Specify that inmate privacy can be protect by redacting name and number

**other notes**

drafting instructions:

more instructions:

GPR: \$0.00 PR: \$0.00 SEG: \$0.00 Other: *rpn*  
 FED: \$0.00 TANF: \$0.00 All Funds: \$0.00  
 GPR-REV: \$0.00 SEG-REV: \$0.00 PR-REV: \$0.00  
 no fiscal impact: x unknown impact:



# State of Wisconsin

## LEGISLATIVE REFERENCE BUREAU

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Oct 30, 2000

## MEMORANDUM

**To:** Senator Gwendolynne Moore  
**From:** Robert P. Nelson, Senior Legislative Attorney  
**Subject:** Death in Custody Reporting Act

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I am responding to the legal-drafting questions you raised in your memorandum dated October 20, 2000.

You asked what process Wisconsin must take to comply with the federal requirements under the act. The act requires the state to provide assurances that it is following the guidelines established by the U.S. Attorney General regarding the reporting of death of persons arrested or incarcerated. This requirement is predicated on the attorney general establishing guidelines for the state to follow. I am not aware if those guidelines have been established. When the guidelines are established the state will have a better idea of what must be done to meet the act's requirements. After the guidelines are established, the Department of Corrections may determine that administrative rules are the proper vehicle for implementing the requirements. In the alternative, the legislature could decide that state statutes should be revised to require compliance with the act.

You also asked whether the act affects private prisons. The act, on its face, does not seem to apply to private prisons. However, the language is very broad, applying to "other local or State correctional facility," without mentioning public versus private facilities. The legislative intent appears to require the reporting of deaths of persons incarcerated or arrested, regardless of who owns the prison. Based on the information I presently have, I am unable to determine if private prisons are included in the act. State legislation, if enacted to implement this act, may be able to include private prisons if the federal act does not cover those prisons.

If you do become aware that the U.S. Attorney General issued guidelines regarding this act you could send me a copy for review. You may also want to talk to the staff persons in the Legislative Council that deal with corrections issues to get their opinions. I believe Anne Sappenfield and Don Salm dealt with this area last session.



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**WISCONSIN LEGISLATIVE COUNCIL  
STAFF MEMORANDUM**

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**TO:** SENATOR GWENDOLYNNE MOORE

**FROM:** Anne Sappenfield, Senior Staff Attorney

**RE:** Federal Death in Custody Reporting Act and Private Prisons

**DATE:** February 22, 2001

The Federal Death in Custody Reporting Act was enacted on October 13, 2000. The Act affects current law relating to violent offender incarceration and truth-in-sentencing incentive (VOI/TIS) grants. According to Robert Nikolay, Director, Bureau of Budget and Facilities Management, Department of Corrections (DOC), Wisconsin received approximately \$4.6 million through this grant program last year and plans to apply for the grant this year. According to Mr. Nikolay, the current grant application requires DOC to provide assurances that it will comply with the Death in Custody Reporting Act in order to be eligible for grant funds. Attached to this memorandum is the portion of the grant application that discusses the Death in Custody Reporting Act.

Under the Death in Custody Reporting Act, in order to receive a VOI/TIS grant, a state must have provided assurances that it will follow guidelines established by the U.S. Attorney General to report, on a quarterly basis, information regarding the death of any person who is in the process of arrest, is en route to be incarcerated, or is incarcerated at a municipal or county jail, state prison, or other local or state correctional facility (including any juvenile facility). The Attorney General has not yet established the reporting guidelines.

The Act provides that, at a minimum, the report must include the following:

1. The name, gender, race, ethnicity and age of the deceased.
2. The date, time and location of the death.
3. A brief description of the circumstances surrounding the death.

You have asked whether this Act applies to prisons that are owned and operated by a private entity. It appears that the Act applies only to state and local government prisons and jails. Therefore, if a prison is owned and operated by a private entity and is not considered to be a state prison, it appears the Act does not apply.

Regarding privately owned prisons that house inmates in Wisconsin, if 2001 Assembly Bill 42, relating to lease and operation of correctional facilities is enacted as currently drafted, the Death in Custody Reporting Act would apply to a privately built prison leased by Wisconsin if Wisconsin receives a VOI/TIS grant. Specifically, under Assembly Bill 42, the prison near Stanley is included in the statutory definition of "state prison" and, therefore, would be subject to the same requirements as other Wisconsin state prisons. Assembly Bill 42 was passed by the Assembly on February 14, 2001, and has been referred to the Senate Committee on Economic Development and Corrections.

If you have any questions or would like further information on this subject, please call me at the Legislative Council offices.

AS:rv:wu;tlu

Attachment

## Appendix D

### Guidelines for Implementation of the Death in Custody Reporting Act of 2000

The Bureau of Justice Statistics (BJS) currently collects data on inmate deaths through the National Prisoner Statistics Program, the Census of State and Federal Adult Correctional Facilities, and the Census of Local Jails. In FY 2000, Congress expanded the amount and type of information to be collected and the frequency of reporting through passage of new legislation. The Death in Custody Act of 2000 amends the Violent Crime Control and Law Enforcement Act of 1994 (the Crime Act) to require states receiving funds under the Violent Offender Incarceration/Truth-in-Sentencing Incentive Grant Program (VOITIS) to follow guidelines established by the Attorney General in reporting deaths in custody. This document presents those guidelines.

The Office of Justice Programs is the implementing agency for the requirements of the Act, which will be administered by the Corrections Program Office (OJP/CPO) and the Bureau of Justice Statistics (BJS).

BJS is pursuing expanded inmate death reporting in response to a Congressional mandate contained in the FY 2000 appropriations bill. BJS's initiative meets the requirements of the Death in Custody Act of 2000 and will be distributed to all states regardless of whether the state applied for Truth-in-Sentencing funds. However, states applying for these funds are required to provide assurance of intent to comply with the Act and a designated Point of Contact to assist BJS with local collection efforts.

#### Statutory Requirement

The Act requires states applying for VOITIS funds:

*to provide an assurance that it will follow guidelines established by the Attorney General in reporting, on a quarterly basis, information regarding the death of any person who is in the process of arrest, is en route to be incarcerated, or is incarcerated at a municipal or county jail, state prison, or other local or state correctional facility (including any juvenile facility).*

The information reported will include, at a minimum:

- the name, gender, race, ethnicity, and age of the deceased;
- the date, time, and location of death; and
- a brief description of the circumstances surrounding the death.

Each state applying for funds will provide an assurance of intent to follow these guidelines as part of the application for Tier 1 funds due to OJP/CPO on March 1, 2001. In that application, the state will also identify a Point of Contact for this requirement, who may be contacted to assist with encouraging state and local agencies to comply with this data collection effort.



The effort will involve multiple agencies at different levels of government. The assurance affirms that the state government will comply with state-level data collection, will encourage local compliance, and will assist BJS in the data collection effort as needed.

Data are to be collected from state adult correctional agencies, juvenile detention and correctional facilities, and local jails regardless of whether the agency or facility receives VOI/TIS funds. Moreover, the state's uses of VOI/TIS funds do not affect the requirement to submit data.

### **Reporting Mechanisms**

BJS will implement a data collection effort that meets the requirements of the Act. Data will be requested from all states. A three-phased implementation is planned.

Phase One of this effort involves enhanced reporting of all deaths in calendar year 2000 by local jail jurisdictions (cities or counties). A draft of the form to be used for Phase One is included in this document; the form has been submitted to the Office of Management and Budget (OMB) for clearance under the Paperwork Reduction Act and should not change significantly in its final form.

Depending on OMB action, BJS anticipates mailing the form to jail jurisdictions in February 2001. At least 30 days will be provided for completion and return of the form. Each jail jurisdiction will be responsible for completing the form and returning it to BJS by the reporting deadline. During this time period, states should continue reporting deaths under the National Prisoner Statistics and the National Corrections Reporting Programs.

During Phase Two, BJS will implement quarterly reporting for state adult correctional agencies and local jail jurisdictions. The data collection instrument for Phase Two is being developed and will be submitted for OMB approval. It is anticipated that the first collection will be mailed in June 2001 and will encompass the first two quarters of the year. Thereafter, reports will be due to BJS 30 days after the end of each calendar quarter.

Phase Three of implementation involves reporting by municipal lock-ups, state and local juvenile facilities, and privately-operated juvenile facilities. Reporting will also be initiated to capture data on persons who die while being arrested. BJS is studying the feasibility and cost-effectiveness of various methods of collecting this information. Full implementation of Phase Three is expected to occur in 2002.

### **Information Collected**

The form will collect specific information on each deceased inmate, as well as data on the circumstances surrounding each death in the reporting period. This information will include:

- Name
- Date of birth
- Date of death
- Gender

- Race/Ethnicity
- Date of admission to the facility
- Legal status at time of death
- Offense(s)
- Location of death
- Cause of death Autopsy
- Nature of death (pre-existing or emergent medical condition)
- Prior medical treatment in custody
- Time of incident (if death from other than natural causes)
- Place of incident (if death from other than natural causes)

### **Results of the Effort**

Data collected through this effort will be reported to the Attorney General, as required in the Act. It is expected that annual summary statistics will be reported to Congress.

### **For More Information**

If you have questions regarding the Death in Custody Reporting Act procedures, contact Christopher J. Mumola, Policy Analyst, in the Bureau of Justice Statistics at (202) 307-5995 or [ormumolac@ojp.usdoj.gov](mailto:ormumolac@ojp.usdoj.gov). For questions about the relationship of these requirements to the VOI/TIS program, contact Jill Young, Chief of Grants Management, Corrections Program Office, at (800)848-6325, ext. 353-7302, or [youngj@ojp.usdoj.gov](mailto:youngj@ojp.usdoj.gov).



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRBb0988/1

RPN: King

SDC:.....Keckhaver – CN5516, Require ~~the~~ department of corrections to  
comply with the federal death in custody reporting act.

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS SENATE AMENDMENT

TO SENATE SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

1 At the locations indicated, amend the substitute amendment as follows:

2 ✓ 1. Page 1069, line 25: after that line insert:

3 "SECTION 3330g. 301.03 (34) of the statutes is created to read:

4 301.03 (34) Comply with guidelines established by the U.S. attorney general  
✓  
5 under 42 USC 13704 (2) in reporting, on a quarterly basis, information regarding the  
6 death of any person in the custody of the department, including inmates incarcerated  
7 in facilities located outside this state, and provide this information to the Wisconsin  
8 attorney general at the same time that it is submitted to the U.S. attorney general."

9

(END)

