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(FORM UPDATED: 08/11/2010)

**WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS**

2001-02

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on ... Corrections and Courts (AC-CC)

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Mike Barman (LRB) (October 2011) ^{May-2012}

Vote Record

Assembly - Committee on Corrections and the Courts

Date: 11/1/01
 Moved by: unanimous consent Seconded by: _____

AB: 170 SB: _____ Clearinghouse Rule: _____
 AJR: _____ SJR: _____ Appointment: _____
 AR: _____ SR: _____ Other: _____

A/S Amdt: LF
 A/S Amdt: _____ to A/S Amdt: _____
 A/S Sub Amdt: LRB 0200/4
 A/S Amdt: _____ to A/S Sub Amdt: _____
 A/S Amdt: _____ to A/S Amdt: _____ to A/S Sub Amdt: _____

- Be recommended for:
- | | |
|--|--|
| <input type="checkbox"/> Passage | <input type="checkbox"/> Indefinite Postponement |
| <input checked="" type="checkbox"/> Introduction | <input type="checkbox"/> Tabling |
| <input type="checkbox"/> Adoption | <input type="checkbox"/> Concurrence |
| <input type="checkbox"/> Rejection | <input type="checkbox"/> Nonconcurrence |
| | <input type="checkbox"/> Confirmation |

Committee Member	Aye	No	Absent	Not Voting
Rep. Scott Walker, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Scott Suder	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Donald Friske	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Carol Owens	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Rick Skindrud	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Gregg Underheim	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Larry Balow	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. G. Spencer Coggs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Mark Pocan	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Pedro Colon	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: _____

Motion Carried Motion Failed

Vote Record

Assembly - Committee on Corrections and the Courts

Date: 11/1/01
 Moved by: Balow Seconded by: Friske
 Clearinghouse Rule: _____
 AB: 170 SB: _____ Appointment: _____
 AJR: _____ SJR: _____ Other: _____
 AR: _____ SR: _____

A/S Amdt: _____
 A/S Amdt: _____ to A/S Amdt: _____
 A/S Sub Amdt: LRB 0200/4
 A/S Amdt: _____ to A/S Sub Amdt: _____
 A/S Amdt: _____ to A/S Amdt: _____ to A/S Sub Amdt: _____

- Be recommended for:
- | | |
|--|--|
| <input type="checkbox"/> Passage | <input type="checkbox"/> Indefinite Postponement |
| <input type="checkbox"/> Introduction | <input type="checkbox"/> Tabling |
| <input checked="" type="checkbox"/> Adoption | <input type="checkbox"/> Concurrence |
| <input type="checkbox"/> Rejection | <input type="checkbox"/> Nonconcurrence |
| | <input type="checkbox"/> Confirmation |

Committee Member	Aye	No	Absent	Not Voting
Rep. Scott Walker, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Scott Suder	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Donald Friske	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Carol Owens	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Rick Skindrud	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Gregg Underheim	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Larry Balow	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. G. Spencer Coggs	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Rep. Mark Pocan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Pedro Colon	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>8</u>	<u>1</u>	<u>1</u>	<u>0</u>

Motion Carried

Motion Failed

Vote Record

Assembly - Committee on Corrections and the Courts

Date: 11/1/01
 Moved by: Underheim Seconded by: Balow
 Clearinghouse Rule: _____
 AB: 170 SB: _____ Appointment: _____
 AJR: _____ SJR: _____ Other: _____
 AR: _____ SR: _____

A/S Amdt: _____
 A/S Amdt: _____ to A/S Amdt: _____
 A/S Sub Amdt: LS 2001H _____
 A/S Amdt: _____ to A/S Sub Amdt: _____
 A/S Amdt: _____ to A/S Amdt: _____ to A/S Sub Amdt: _____

- Be recommended for:
- Passage *as amended*
 - Introduction
 - Adoption
 - Rejection
 - Indefinite Postponement
 - Tabling
 - Concurrence
 - Nonconcurrence
 - Confirmation

Committee Member	Aye	No	Absent	Not Voting
Rep. Scott Walker, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Scott Suder	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Donald Friske	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Carol Owens	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Rick Skindrud	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Gregg Underheim	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Larry Balow	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. G. Spencer Coggs	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Rep. Mark Pocan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Pedro Colon	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>8</u>	<u>1</u>	<u>1</u>	<u>0</u>

Motion Carried

Motion Failed





WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2001 Assembly Bill 170

**Assembly Substitute
Amendment 1**

Memo published: November 6, 2001

Contact: Anne Sappenfield, Senior Staff Attorney (267-9485)

Assembly Bill 170 creates the prison mortality and morbidity review board in the Department of Corrections (DOC). Under the bill, the board consists of 11 members. Eight of the members are appointed by the Governor and three of the members are appointed by the Secretary of DOC. The bill requires that the board have co-chairpersons, one of whom is a member appointed from a list submitted by the Medical College of Wisconsin and the other is a member appointed from a list submitted by the University of Wisconsin-Madison Medical School. The board is required to meet at least four times each year.

The bill requires the board to investigate the death of every individual who dies while he or she is an inmate in a state correctional institution. Under the bill, within 72 hours after the death of an inmate in state correctional institution, the Secretary of DOC must notify the Speaker of the Assembly and the President of the Senate, or their designees, and every member of the board, of the death.

The board must prepare a report of the board's investigation of an inmate's death and submit that report to: (1) the appropriate relative of the deceased; (2) the Secretary of DOC; (3) if appropriate, the district attorney (DA); and (4) the Speaker of the Assembly and the President of the Senate, or their designees.

In addition, the board may make recommendations to DOC regarding medical and other prison procedures based on the board's investigation of an inmate's death. The board may also make recommendations to DOC regarding possible disciplinary action against staff who did not follow departmental policies or procedures related to the circumstances surrounding the death of an inmate. The board must also prepare and forward a complaint to the appropriate credentialing board if, during the board's investigation of an inmate's death, the board determines that a medical provider failed to provide proper and necessary medical care to a prison inmate.

The bill also provides the board specific authority in the general investigation of certain deaths as required under current law. First, upon the request of the board, a court must issue a subpoena requiring

the production of documents necessary for the determination of an inmate's cause of death. Second, the board may order the conducting of an autopsy upon the body of an inmate in cases where an inquest might be conducted, notwithstanding the fact that no such inquest is ordered or conducted. Third, if the board has knowledge of the death of an inmate that may be subject to an inquest, the board must notify the DA. The board may request the DA to order an inquest. If the DA refuses to order the inquest, the board may petition the circuit court to order an inquest. Finally, a judge or court commissioner may issue subpoenas for witnesses at the request of the board.

Assembly Substitute Amendment 1 modifies the membership of the board to require 12 members, eight members of whom are appointed by the Governor and four of whom are appointed by the Secretary of DOC. Also, the substitute amendment does not include the provision requiring the appointment of co-chairpersons.

Under the substitute amendment, DOC must notify each member of the appropriate standing committee of the Assembly and Senate of an inmate death in addition to the Speaker of the Assembly, the President of the Senate and each board member.

The substitute amendment does not contain the provision permitting the board to make recommendations to DOC regarding possible disciplinary action against staff who did not follow departmental policies or procedures related to the circumstances surrounding the death of an inmate. In addition, the substitute amendment does not include the provision requiring the board to prepare and forward a complaint to the appropriate credentialing board if, during the board's investigation of an inmate's death, the board determines that a medical provider failed to provide proper and necessary medical care to a prison inmate.

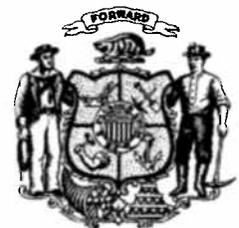
The substitute amendment also excludes the provision requiring the board to notify the DA if the board has knowledge of the death of an inmate that may be subject to an inquest. In addition, under the substitute amendment, the board is not given the authority to request the DA to order an inquest or to petition the circuit court to order an inquest.

The Assembly Committee on Corrections and the Courts recommended adoption of Assembly Substitute Amendment 1 on a vote of Ayes, 8, Noes, 1, and recommended passage of Assembly Bill 170 on a vote of Ayes, 8, Noes, 1, on November 1, 2001.

AS:wu:jal;wu



WISCONSIN STATE LEGISLATURE



Memorandum

AB 170
folder

November 8, 2000

To: Missy Gilbert
From: Leif Jorgensen
Re: Report from NCSL

Missy,

This memo is meant to sum up what I have managed to glean from the latest letter from the NCSL. This is somewhat useful in that it includes a report from the Ombudsman's Office in the state of Nebraska.

This report details the investigation that was conducted by the Ombudsman's office involving concerns with the health care of inmates in Nebraska, particularly with regard to specific instances.

I don't know what an Ombudsman is. However, this department apparently has quite a bit of oversight power. In some capacity, this department is able to compel action on behalf of the health services in the correctional system. This body describes itself as having limited technical expertise when it comes to medical issues, but a high degree of expertise when it comes to the process of systematically compiling information. This office also claims significant expertise in issues-analysis with respect to administrative policy and practice.

The process of conducting this investigation and ultimately compiling a report in this case apparently followed a particular order. First, there was a complaint from a doctor within the system. There are issues surrounding this doctor, but at this point it suffices to say that a correctional health care provider initiated the investigation by contacting the Ombudsman's office. The Ombudsman office then:

- 1) Conducted initial interviews with the complainant.
- 2) Sent a letter to the Director of Correctional Services outlining the complaint and requesting pertinent information.
- 3) Received a response from Correctional Services.
- 4) Used this information to narrow the inquiry to the core issues.
- 5) Informed Correctional Services of the intention to conduct a full examination.
- 6) Obtained additional documentation from Correctional Services, interviewed staff, collected outside relevant material.
- 7) Formulated data into a report, and made recommendations for change in policy and procedure.

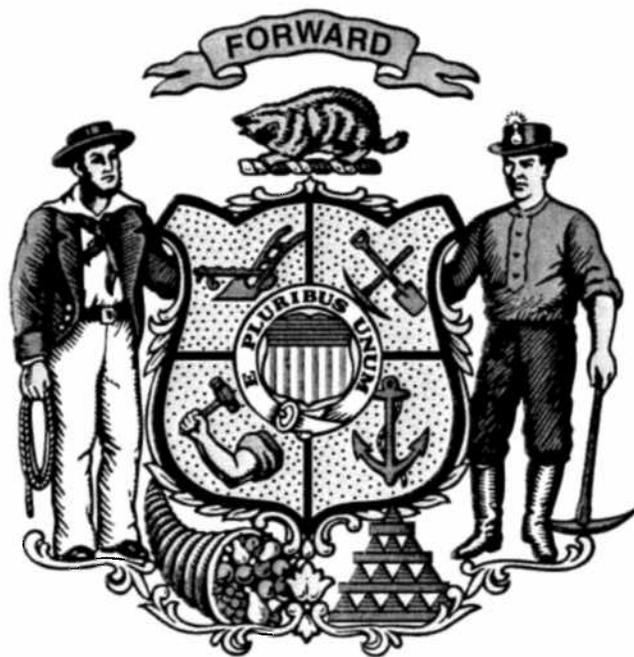
It should be noted that this process had quite the slant to it. This was definitely a political report. The report was complete with complaints about cooperation and cover-up. The complainant was described as a whistleblower, and there was much made about the conspiracy to "get" this person.

This case seems to be an example of how one state is dealing with these issues. However, the person at the NCSL I am in contact with has indicated that this is the only report of this kind that he is aware of. I will continue to attempt to talk to Mr. Mountjoy with the other agency of this type.

I can answer any questions you have about this memo when I return on Friday.

A handwritten signature in black ink, appearing to be 'LJ' or similar initials, written in a cursive style.

Leif Jorgensen



Gilbert, Melissa

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

Importance: High

AB 170 folder

Per our meeting with Sheldon and Sarah yesterday, here is a review of the points for drafting:

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 (I added one more from our discussion of two) selected by the Secretary of the Department of Corrections
- The co-chairs will 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.

Sheldon also talked about returning to an accreditation standard for all institutions. This is a good idea, but we may want to focus on this committee first and then draft a separate bill on the standards.

I mentioned that we might do something on Thursday or Friday on the DNA bill with Norm Gahn at the courthouse. Since the SBA is interesting in reviewing the bill, we should wait until early January on that press conference, but we should put out a release on this bill for a committee TODAY. Please check with Sarah and see if Sheldon is OK with a release on this and with the overview I just gave of our meeting. **The MJS ran a piece on Sunday and an editorial today, so the subject is hot...we should try to get a release out by lunch time.**

Thanks.



Gilbert, Melissa

From: Osterberg, Sarah
Sent: Tuesday, March 20, 2001 2:11 PM
To: Gilbert, Melissa
Subject: more on AB 170

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

From: Todd Winstrom [mailto:toddw@w-c-a.org]
Sent: Tuesday, March 20, 2001 2:17 PM
To: Osterberg, Sarah
Subject: AB 170

Thank you so much for the information. Rep. Wasserman has taken an important role on a number of health care issues and it is no surprise to see that he has taken a lead in crafting a response the problems of prison health care.....

Just to give you, in writing, our suggestions

1) The bill now says....

@ pg. 3 line 17 "At least one member of the board must be a physician who is certified and licensed as a forensics pathologist by the American Board of Pathology."

our suggestion is to add "and at least one member of the board must be a physician who is certified as a psychiatrist by the American Board of Psychiatry and Neurology."

2) The bill now says

@pg. 6 starting at line 23 "... (3) The prison mortality and morbidity board shall prepare a report of the board's investigation of an inmate's death and submit that report to all of the following:

- (a) The appropriate relative of the deceased.
- (b) The secretary of the department of corrections.
- (c) If appropriate, the district attorney.
- (d) The speaker of the assembly and the president of

the senate, or their designees.

our suggestion/request is to add "(e) The protection and advocacy agency designated under s. 51.62(2) or the private, nonprofit corporation with which the agency has contracted under s. 51.62(3)(a)3"

AB 170 is a good approach to the issues of prison health care and we intend to support it. Thank you,

Todd Winstrom



State Medical Society of Wisconsin

Working together, advancing the health of the people of Wisconsin



**To: Representative Frank Urban, Chair
Members, Assembly Committee on Public Health**

**From: Maureen O'Brien, Associate Director, State Legislation
State Medical Society of Wisconsin**

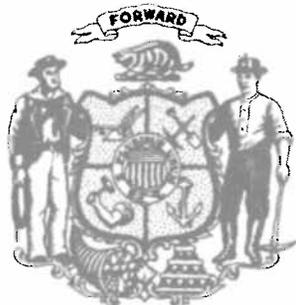
Date: March 21, 2001

Re: Investigation and recommendations regarding inmate deaths

The State Medical Society of Wisconsin (SMS), representing over 9,000 physicians across Wisconsin, supports AB 170. It is disturbing to hear about recent inmates' deaths and this type of board may be able to positively impact the relatives of the inmates. Furthermore, the SMS policy supports prevailing community standards of health care delivery and access for the prison health system. With this type of board in place, perhaps a review of the prison health system could be done in order to ensure proper delivery of appropriate services to the inmates.



WISCONSIN
STATE
ASSEMBLY



S H E L D O N
W A S S E R M A N
STATE REPRESENTATIVE

March 21, 2001

Testimony of Representative Sheldon Wasserman
Before the Joint Hearing of the Assembly Committees
on Public Health and Corrections and the Courts

Assembly Bill 170

Good morning, chairmen Walker and Urban and committee members. I appreciate the opportunity to testify before you today.

Assembly Bill 170 is a bill that Scott Walker and I wrote in response to concerns about the quality of health care within the state prison system.

Michelle Greer died just over one year ago at Taycheedah. Her death, and the deaths of many other inmates have raised serious issues that must be addressed.

An independent review board is an important component in assuring a credible and thorough review of inmate deaths.

AB 170 specifies that such a board would be comprised mostly of members from the Medical College of Wisconsin and the University of Wisconsin Medical School and include at least one licensed forensics pathologist.

I think it is important to involve outside medical professionals in the review process. It should not take long for a group of doctors to read through a medical file and determine whether serious treatment concerns exist. It took me little more than an hour to review Michelle Greer's medical file, and the files of several others after her.

The board will review inmate deaths on a quarterly basis and submit its findings to a relative of the deceased, designees in the Assembly and Senate, the department and, if necessary, the district attorney. In cases of apparent negligence, the board will forward a complaint to the appropriate credentialing agency. The bill also requires notification of the board members and the Assembly and Senate designees within 72 hours of an inmate death.

Steps must be taken now to improve the inmate mortality review process in our state's prisons and jails. Passing Assembly Bill 170 will bring us closer to that goal.

Again, thank you for the opportunity to speak. I would be happy to answer any questions.

MADISON:
POST OFFICE BOX 8953
MADISON, WISCONSIN 53708
(608) 266-7671
TOLL-FREE NUMBER: 1-888-534-0022
FAX: (608) 266-7038
E-MAIL: rep.wasserman@legis.state.wi.us
WEB PAGE: [http://www.legis.state.wi.us/
assembly/asm22/news/](http://www.legis.state.wi.us/assembly/asm22/news/)

HOME:
3487 NORTH LAKE DRIVE
MILWAUKEE, WISCONSIN 53211
(414) 964-0663


PRINTED ON RECYCLED PAPER





Office of Planning and
Government Affairs

TO: Chairman Scott Walker
Honorable Members of the Committee on Corrections and the Courts

FROM: Kathryn A. Kuhn, Director
Government Affairs

DATE: March 21, 2001

RE: Assembly Bill 170 – Relating to creating a board to investigate and make recommendations regarding inmate deaths.

The Medical College of Wisconsin (MCW) supports Assembly Bill 170, creating a board to investigate and make recommendations regarding inmate deaths. While MCW is a private medical college, it has a long history of partnering with the State of Wisconsin on many public health initiatives. The College stands ready to assist the State in investigating and making recommendations on inmate deaths.

Under current law, upon the death of an inmate in a state correctional institution, the Department of Corrections (DOC) must notify the inmate's relative of the death. Also, if requested, the department is required to provide the relative with a copy of the autopsy or any other information regarding the death. In addition, the District Attorney may order an inquest based on information indicating the death may have been the result of negligence, homicide, or may have occurred under suspicious or unexplained circumstances. If the district attorney does not order an inquest, the coroner or medical examiner may petition a circuit court to order an inquest.

Assembly Bill 170 creates a prison mortality and morbidity board to review inmate deaths and provides the board the authority to order an investigation into the death of the inmate. The prison mortality and morbidity board is required to prepare a report on the investigation and to forward a complaint if appropriate, to the credentialing board.

The Medical College of Wisconsin has the resources through its faculty members to provide a positive contribution to the prison mortality and morbidity board. Much like the peer review process allows physicians to examine circumstances surrounding the medical injury or death of a patient and to learn from it, this board will allow for the same. This committee will also allow health care professionals outside of the prison system, the opportunity to make recommendations about policies and medical procedures that will serve to improve health care in state correctional facilities.

The Medical College of Wisconsin stands ready to assist the State in any way to improve health care and ensure patient safety in Wisconsin correctional facilities.

Thank you for considering my comments. If you have any questions, please contact me at (414)456-8544 or email kkuhn@mcw.edu.





WISCONSIN COALITION FOR ADVOCACY

THE PROTECTION AND ADVOCACY SYSTEM FOR PEOPLE WITH DISABILITIES

21 March, 2001

Assembly Committee on Criminal Justice

In regard to 2001 Assembly Bill 170

This testimony is submitted by and on behalf of the Wisconsin Coalition for Advocacy (WCA). WCA is the official protection and advocacy system for people with disabilities in the State of Wisconsin, as designated by the Governor in accord with the federal Protection and Advocacy for Mentally Ill Individuals Act, 42 U.S.C. §10801 et. seq., and with sec. 51.62, Wis. Stats. WCA has statutorily mandated responsibilities to advocate for the rights and protection of persons with disabilities and to investigate allegations of abuse and neglect of person with disabilities. Under the federal law, WCA is empowered to provide advocacy services for persons with disabilities who are residing in various types of facilities -- including prisons and jails. This testimony is submitted in furtherance of our advocacy responsibilities.

WCA has been, for some time, advocating for the creation of a mechanism to provide for the objective review of inmate deaths and to allow for quality assurance in prison health care services. Any mechanism which meets these needs must include review by independent medical professionals with the power to investigate, obtain documents, subpoena witnesses, order autopsies and take meaningful action in response to its findings. The Prison Mortality and Morbidity Board created by Assembly Bill 170 meets these criteria.

Assembly Bill 170 will benefit the public, the Department of Corrections and inmates with serious health care needs. The work of the Prison Mortality and Morbidity Board will create meaningful accountability in prison health care services. The Board will serve as one critical point for quality assurance -- identifying problems and offering objective, professional guidance as to how to address those problems.

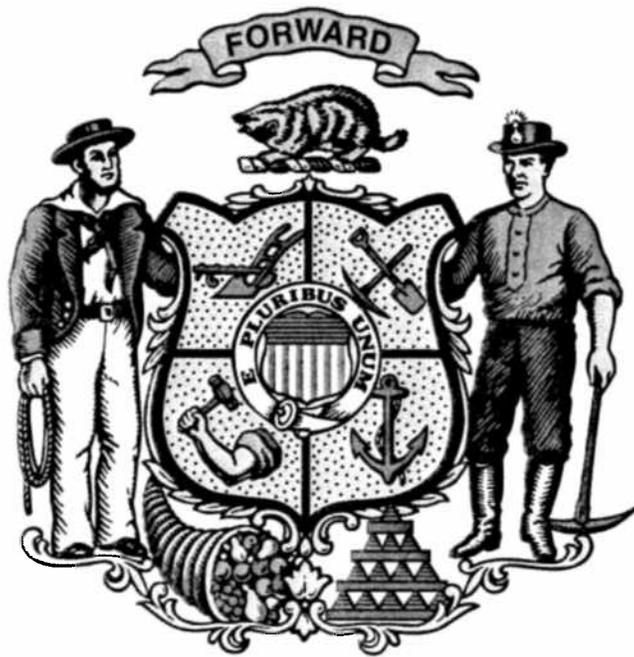
WCA supports Assembly Bill 170 as an appropriate and well-crafted response to the issues of prison health care review. We would offer two suggestions to further improve its provisions. As a large percentage of the deaths reviewed by the committee will involve suicide or related mental health issues, it would be most appropriate for there to be a requirement that one member of the board to be a psychiatrist. Given the interest in accountability and external review, it would also be appropriate to add WCA, the protection and advocacy system designated pursuant to § 51.62, Wis. Stats., to the list of those to whom the board's reports must be distributed to.

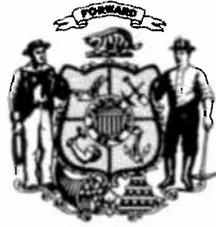
Thank you,

Todd Winstrom

Staff Attorney for Corrections Advocacy

Wisconsin Coalition for Advocacy





BRIAN BURKE
WISCONSIN STATE SENATOR

Senate Chair, Joint Committee on Finance

TESTIMONY OF SENATOR BRIAN BURKE ON ASSEMBLY BILL 170

Before the Assembly Committee on Corrections and the Courts and the
Committee on Public Health
March 21, 2001

I want to thank you, Mr. Chairman, and members of the Committee, for the opportunity to speak to you today in support of Assembly Bill 170 which creates a board to investigate and make recommendations regarding inmate deaths.

This legislation calls for a board to meet quarterly to investigate prisoner deaths, make recommendations to the Department of Corrections and file complaints with the Department of Regulation and Licensing against negligent health care professionals. The legislation stems from concerns about the level of care provided to inmates in Wisconsin. This "mortality and morbidity board" would serve as an accountability mechanism.

The proposal calls for the Medical College of Wisconsin and the University of Wisconsin Medical School to each appoint four members to the review panel. One appointee from each school would co-chair the committee. Additionally, at least one member of the committee must be a board-certified forensics pathologist. The plan also allows the Secretary of the Department of Corrections to appoint three members.

I appreciate your consideration and respectfully seek your support of the bill. I believe that, if enacted, this proposal will benefit both inmates and the Department of Corrections. The panel will either clear the Department of blame or identify problems within the health care delivery system for inmates.



Gilbert, Melissa

From: Grossman Jeffrey E. [je.grossman@hosp.wisc.edu]
Sent: Thursday, October 18, 2001 12:32 PM
To: 'Gilbert, Melissa'
Cc: Hoslet Charles B.
Subject: RE: AB 170 sub (inmate death board)

Looks OK to me. In particular, the composition of the review board looks reasonable.

Thanks for letting me see this.

Jeff Grossman

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

From: Gilbert, Melissa [mailto:Melissa.Gilbert@legis.state.wi.us]
Sent: Thursday, October 18, 2001 11:31 AM
To: Grossman Jeffrey E.
Cc: Hoslet Charles B.
Subject: AB 170 sub (inmate death board)

Here is the sub we drafted to the inmate mortality and morbidity bill. Please review the draft below and let us know ASAP if you have any serious concerns. Also attached is the notice for Tuesday morning's executive session.

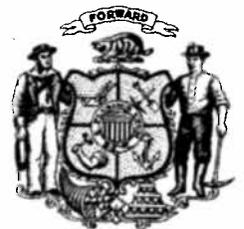
<<Exec.Oct23.2001.doc>>
Feel free to call (6-9180) or e-mail questions. Thanks for your assistance!

Missy
Office of Rep. Scott Walker

> -----Original Message-----
> **From:** Nelson, Robert P.
> **Sent:** Wednesday, October 17, 2001 4:24 PM
> **To:** Gilbert, Melissa
> **Subject:** Here is the draft you requested.
>
> <<01s0200/2>>



WISCONSIN STATE LEGISLATURE



Gilbert, Melissa

From: Walker, Scott
Sent: Monday, October 22, 2001 3:51 PM
To: de Felice, David Patrick; Rep.Wasserman; Rep.Walker
Cc: Gilbert, Melissa; Osterberg, Sarah
Subject: RE: Assembly Corrections EXEC SESSION

Importance: High

Thank you for the note.

The language on the inquest was removed because the Governor used a veto to remove similar language in the budget. It is my belief that the District Attorneys Association will continue to oppose such language and it should be introduced in separate legislation to avoid a veto of Assembly Bill 170.

Second, the removal of the specific disciplinary action against employees was removed after several discussions with DOC administration and with the unions. This does not prohibit the panel from noting errors or from making special recommendations for changes in policy. It does, however, remove the language that would have allowed the committee to bring disciplinary action directly to the panel covering the professional standards of each employee.

Since the panel has the ability to release their report to more people than just the DOC, it seems that there would be incredible pressure for them to act on employee or procedural problems. The problem with the Greer case was not that an independent panel made recommendations to the DOC and they were not followed by DOC. The problem in the Greer case was that no one - outside of DOC - knew about the details of the Greer case and the Inmate Mortality Review Committee was made up entirely of DOC employees.

I believe that a panel that has a committee made up of a majority of members who are not employees of the DOC can make independent and objective recommendations. In my opinion, this is more important than an inquest. Without the inquest language in the bill, this language can become law and provide this level of objective review.

As for the amendments, we can certainly consider them for the floor. This bill will not likely come up until the end of the floor period (Oct/Nov).

Scott Walker

State Representative - Wauwatosa
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—Original Message—

From: de Felice, David Patrick
Sent: Monday, October 22, 2001 3:30 PM
To: Walker, Scott; Rep.Wasserman; Rep.Walker
Cc: Gilbert, Melissa; Osterberg, Sarah
Subject: RE: Assembly Corrections EXEC SESSION

Dear. Rep. Walker:

I have reviewed the substitute to Assembly Bill 170 relating to establishment of an inmate death review board and am disturbed by the changes being proposed to the board and its ability to carry out its responsibilities.

Most disturbing are the changes that would eliminate the ability of the board to petition for an inquest into a death of an inmate, and elimination of the requirements that the board make recommendations to the Department of Corrections on disciplinary action and procedures.

I believe the original bill and its language making explicit the board's responsibilities were necessary to provide an adequate review of inmate deaths in keeping with our charge to restore public trust in Wisconsin's penal institutions following the tragic death last year of an inmate at the Taycheedah Correctional Institution.

I am drafting amendments to the substitute bill and hope you will consider allowing them at the committee meeting Tuesday morning. Unfortunately, our inquiry to your office about the substitute bill occurred just short of the 24 hour

rule for amendments before the committee meets.

In light of the serious changes being proposed to this bill, I would hope the committee would have a chance to vote on the amendments Tuesday to what essentially has become a new, and fundamentally altered bill.

As a courtesy, I have copied this message to the co-author of the bill, Rep. Wasserman.

Sincerely,

Rep. G. Spencer Coggs
Member
Committee on Corrections and the Courts

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

From: Walker, Scott
Sent: Monday, October 22, 2001 10:08 AM
To: Raschka, Adam; Janssen, Andy; Sappenfield, Anne; Thompson, Anne; Karius, Bob; Margolies, Robert S. DOC; Owens, Carol; Coe, Dagny; Lorentz, Daniel; de Felice, David Patrick; Friske, Donald; Eberte, Ed; Wavrunek, Glenn; Balow, Larry; Junck, Linda; Narveson, Linda; Pocan, Mark; Boryczka, Nicole; Colon, Pedro; Skindrud, Rick; Suls, Robert; Suder, Scott; Rep.Coggs; Gary, Tim
Cc: Osterberg, Sarah; Gilbert, Melissa; Pirlot, R.J.; Bjork, Tanya; Swiderski, Julie
Subject: RE: Assembly Corrections EXEC SESSION

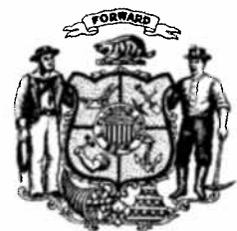
Anyone have any problems with the sub for AB 170?

Scott Walker

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WISCONSIN STATE LEGISLATURE



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State of Wisconsin Department of Corrections

October 22, 2001

Representative Scott Walker, Chair
Committee on Corrections and the Courts
State Capitol, Room 308 North
Madison, WI

Dear Representative Walker:

Thank you for sharing a copy of the Assembly Substitute Amendment (LRB 0200/2) to AB 170 with me, relating to creating a board to investigate inmate deaths. While I appreciate the deletion of many of the original bill's punitive provisions relating to disciplinary actions against staff and complaints to credentialing boards, this legislation still poses a number of problems.

The Department established the Committee on Inmate and Youth Deaths (COIYD) on May 1st. I am enclosing my executive directive regarding this Committee along with a list of the current members. In addition, enclosed is a draft copy of the Committee's reporting tool and the Committee meeting minutes that reference this. This draft provides an illustration of how an internal review is conducted and the type of information that is collected.

While I understand the well-meaning intentions of the proponents of this bill, I believe that the same objectives can be reached with the present COIYD in a less bureaucratic and costly manner. The following are a number of specific comments on AB 170 and the proposed Sub.

1. Clarity of Purpose---The board is entitled the prison mortality and morbidity board. This implies that the board will not only investigate deaths, but issues of illness. If this Committee wants to look at mortality and morbidity it will entail a much greater time commitment and cost.
2. Committee Membership---This provision has been improved in the Sub. However, the addition of a DOC nurse and a correctional officer is problematic. You are in effect requiring a represented employee to participate in decisions that could jeopardize another represented employee's job. This places a tremendous burden on that employee.
3. Uniformity---This legislation only deals with deaths in a state prison, as defined in s. 302.01 WI Stats. We assume you did not intend to include deaths in any contract beds, either in a county jail or out-of-state. What about other institutions operated by the State such as Mendota, Winnebago, D.D. Centers and the Veterans hospital at King? If the intent is a consistent, objective and fair review of State of Wisconsin health care practices why not review the deaths of all persons who reside in state institutions.

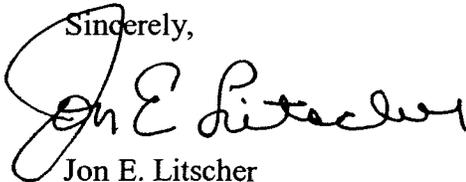
4. Subpoenas---The process in this legislation is still overly legalistic. If we start asking for subpoenas for witnesses, will staff then ask for an attorney to represent them and will this be at DOC's expense?
5. Costs---The Prison Mortality and Morbidity Board must investigate every death in a state prison. It is estimated that 2/3 to 3/4 of deaths are routine and expected. An external investigation of these cases would not likely produce any improvement in the care or treatment of other inmates. The newly created COIYD has the discretion to establish an investigation team to review an unexpected inmate death and report to the Committee. This is a much more streamlined method for investigation and does not waste time or money on unnecessary investigations.

We raise the aforementioned concerns because we believe that AB 170 and the Sub needs major revisions and will have a large fiscal impact on the State. We also raise these concerns because we feel that the current COIYD should be allowed an opportunity to do the assigned tasks to it and have its effectiveness evaluated. There is a sincere effort on the part of the Department and the COIYD to investigate unexpected deaths in a comprehensive manner, including the participation of physicians and other health care staff outside the agency.

Other State facilities outside of the Department of Corrections have similar types of Committees that have operated very well. I believe it is prudent from a fiscal and policy standpoint to give the COIYD more than 5 months to prove that it can handle this very important task in an efficient and cost effective way.

We sincerely ask the Committee on Corrections and the Courts to carefully evaluate the language in AB 170 and its Sub. Thank you for the opportunity to provide my comments.

Sincerely,



Jon E. Litscher
Secretary

Cc: Committee Members