

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2766/1dn
RLR:bjk:pg

October 30, 2007

1. I eliminated the requirement under s. 979.01 (1) that people report suspected homicides of unborn children under s. 940.01 (1) (b), 940.02 (1m), or 940.05 (2g) because this requirement is redundant to the requirement under s. 979.01 (1) (b) to report any suspected homicide.
2. As we discussed, I added a provision under s. 979.01 (1m) (b) that allows a district attorney to waive notice of certain deaths. However, under this draft, the district attorney cannot waive notice of deaths for which an inquest may be held.
3. I did not specify that the coroner and medical examiner's authority to extract specimens for analysis under s., 979.02 (2) is "without restrictions" because the draft already states that the coroner or medical examiner may extract "any" bodily material, so adding "without restrictions" with respect to what the coroner or medical examiner may extract is redundant. Furthermore, the draft allows a coroner or medical examiner to extract specimens only for analysis "that will assist him or her in conducting a death investigation." Stating that the coroner or medical examiner may extract specimens "without restrictions" would contradict this purpose limitation. Do you want to do that?
4. Please note that I added an exception to the prohibition in s. 979.02 (6) against conducting an autopsy without authorization from the coroner or medical examiner. I assume that the coroner or medical examiner's authorization should not be required if the court orders the autopsy under s. 979.02 (5).
5. Someone was going to check with the district attorneys or DOJ to find out whether the last clause of s. 979.02 (1) should refer to "applicable evidence retention rules" rather than "county evidence retention rules." Do you have an answer?
6. In the September 27, 2007, meeting we discussed adding a requirement to the section on investigation records (s. 979.032) that would require coroners and medical examiners to keep records in accordance with standards established by the board on Medicolegal Investigations. However, the draft that creates the board, LRB-1962, only requires the board to establish training and testing standards. Do you want to require the board to promulgate rules on standards for investigation records, or are the proposed statutory standards under s. 979.032 sufficient?
7. Section 979.038 requires a coroner or medical examiner to notify the parent of a deceased two-year-old of the availability of publicly funded grief counselling. Do you

want to condition this requirement on the availability of such publicly funded grief counselling in case the funding is not provided statewide or is not available in the future? (I presume that such counselling is currently available.)

8. Given that you do not want a district attorney to be able to order an autopsy, do you want to amend s. 979.10 (2), which provides that a coroner or medical examiner must perform an autopsy on a body that is to be cremated if the district attorney or attorney general determines one is necessary to determine the cause and manner of death?

9. Please review s. 69.18 (2) (d) 1., which refers to deaths that are “the subject of a coroner’s or medical examiner’s determination under s. 979.01”. Since no “determination” is called for under s. 979.01, should s. 69.18 (2) (d) 1. refer to deaths that must be reported under s. 979.01 or to deaths that are the subject to an investigation under s. 979.01? Also, a provision in s. 69.18 (3) (a) is conditioned upon whether the cause of death is “subject to an investigation under s. 979.01.” Again, does this reference cover all deaths that must be reported under s. 979.01 or only those that the coroner or medical examiner investigates?

10. As we discussed, I merged the provisions in section 979.24 of the January 8, 2006, draft with current law section 69.18 (4). Please review the treatment of s. 69.18 (4) in this draft. Section 979.24 (6) in the January 8, 2006 draft provides that no person may open a cemetery vault or mausoleum without permission from both the cemetery and the deceased’s next of kin. The first part is not necessary, because current law s. 157.111 already provides that only a cemetery may open a vault or mausoleum. Do you want to condition the cemetery’s authority to open a vault or mausoleum on obtaining permission from the deceased’s next of kin? If so, do you want to make an exception for reburials under s. 157.112 for the purpose of correcting an error?

11. Section 157.70 (3) (a) provides, “Except as provided in s. 979.01,” a person shall immediately notify the director of the historical society of any disturbance of a cataloged burial site. I don’t see anything in s. 979.01 that creates an exception to the duty under s. 157.70 (3) (a). Do you have any objection to eliminating the except clause in s. 157.70 (3) (a)?

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