

Fiscal Estimate Narratives

DOJ 2/19/2008

LRB Number	07-3706/1	Introduction Number	SB-428	Estimate Type	Original
Description Relating to: reporting deaths, death investigations and other duties of coroners and medical examiners, inquests, disposition of bodies, training and testing requirements for coroners and medical examiners, creating the Board on Medicolegal Investigations, requiring the exercise of rule-making authority, and providing a penalty.					

Assumptions Used in Arriving at Fiscal Estimate

Senate Bill 428 relates to reporting deaths, death investigations and other duties of coroners and medical examiners, inquests, disposition of bodies, training and testing requirements for coroners and medical examiners, and creating the Board of Medicolegal Investigations. The changes proposed in the bill relating to the Board of Medicolegal Investigations and to inquests will have a fiscal impact on the Department of Justice (DOJ).

Board on Medicolegal Investigations:

SB 428 proposes the creation of s. 15.255 (3) creating the Board on Medicolegal Investigations (BMI) and attaching the BMI to the Department of Justice (DOJ). Under the bill, the BMI consists of 10 members appointed to staggered 6-year terms. The BMI shall promulgate rules establishing testing and training requirements for coroners and medical examiners, and standards for the content and maintenance of coroner and medical examiner death investigation records. The BMI shall also promulgate rules regarding public access to coroner and medical examiner death investigation records, create a form that coroners and medical examiners shall use to issue permits for disinterment or reinterment, and notify the governor and the appropriate county board if a coroner or medical examiner does not satisfy testing and training requirements.

For comparison purposes, currently under s. 15.255 (1) & (2), the Law Enforcement Standards Board (LESB) and the Crime Victims Rights Board (CVRB) are attached to DOJ.

Among other duties, the 15 member LESB performs the following: 1) establishes minimum educational and training standards for admission to employment as a law enforcement officer; 2) certifies persons as being qualified to be a law enforcement officer; and 3) decertifies law enforcement officers who terminate employment or are terminated, and who violate or fail to comply with a rule or order of the LESB relating to curriculum or training.

The 5 member CVRB reviews and investigates complaints filed by victims of crime regarding their rights as a crime victim after DOJ first attempts to resolve the complaint through mediation under s. 950.08. If the CVRB determines that a violation of a crime victim's rights has occurred, it has the authority to: issue private or public reprimands of public officials, employees, or agencies; refer to the judicial commission a violation or alleged violation by a judge; seek appropriate equitable relief on behalf of a victim in order to protect his/her rights; and bring civil actions to assess a forfeiture. The CVRB may also issue reports and recommendations concerning the securing and provision of crime victims' rights and services.

Under s. 15.03, any board attached to a department shall exercise its powers, duties, and function prescribed by law, but budgeting, program coordination, and related management functions shall be performed under the direction and supervision of the head of the department. Further, under 165.86, DOJ shall supply all staffing needs of the LESB.

DOJ employs 15 FTEs in its Training and Standards Bureau to execute the LESB's statutory responsibilities and to perform other duties for roughly 15,000 Wisconsin law enforcement officers. DOJ also has assigned staff to the CVRB for administrative purposes, but they are not assigned full-time. Rather, they perform CVRB functions as needed in addition to their DOJ responsibilities. Currently, 1 assistant attorney general serves as legal counsel to the CVRB, 1 program and policy analyst performs case investigation, maintains case records, and coordinates CVRB casework, and 1 program assistant provides general administrative support.

If DOJ is required to expend resources to enable the BMI to perform its many statutory duties described above, DOJ will require additional staff, supplies, and equipment. DOJ estimates it will need a minimum of 2 FTE positions, 1 FTE education consultant familiar with coroner and medical examiner testing and training standards, and standards for the content and maintenance of death investigation records, and 1 FTE office associate to provide general administrative support. DOJ estimates that salary, fringe, supplies, and equipment costs for these 2 FTE positions would total approximately \$145,000.

Inquests:

Senate Bill 428 changes who has authority to order and conduct an inquest. Currently, a district attorney uses his or her discretion in deciding whether to order an inquest regarding a death resulting from criminal activity or under suspicious circumstances. If a district attorney declines to order an inquest, the circuit court may order an inquest. If a district attorney or court orders an inquest, the district attorney appears for the state and presents all evidence which may be relevant or material to the inquest. Under SB 428, the attorney general has the same authority as a district attorney to order, conduct, and represent the state in, an inquest.

If the Attorney General is to order, conduct and represent the state in inquests, it is likely that these cases would be handled by: 1) investigators in DOJ's Division of Criminal Investigation (DCI); and 2) assistant attorneys general in DOJ's Criminal Litigation Unit (CLU).

DCI special agents would respond to the death, examine the scene of the death, locate witnesses, interview witnesses, review local law enforcement reports, interview local law enforcement officers, obtain physical evidence, etc. CLU assistant attorneys general would represent and appear for the state in inquest proceedings. The amount of time an investigator and attorney will spend on each case will depend upon the circumstances of the death, the resources of the local law enforcement agency involved, and the distance between the death scene and DOJ employees.

While DOJ has no way to estimate with any certainty the number of deaths resulting from criminal activity or under suspicious circumstances that DCI investigators would examine, or how many inquests in which CLU attorneys would represent the state, DOJ does estimate that it would require at least 1 FTE investigator and at least 1 FTE attorney to conduct and represent the state in inquests under SB 428. Salary, fringe, supplies and equipment costs for these two positions will cost approximately \$239,000.

It should be noted, DOJ has been informed that the Senate and Assembly authors of SB 428 have agreed to amend the bill to remove the provisions regarding the Attorney General's authority in inquests. If SB 428 is indeed amended to remove the provisions that grant the Attorney General the same authority as a district attorney to order, conduct, and represent the state in, an inquest, DOJ will not require any additional DCI or CLU resources.

Long-Range Fiscal Implications