



---

---

## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

---

---

<b>2015 Assembly Bill 867</b>	<b>Assembly Substitute Amendment 1</b>
-------------------------------	--

*Memo published:* February 17, 2016      *Contact:* Jessica Karls-Ruplinger, Deputy Director (266-2230)

2015 Assembly Bill 867 makes various changes to death investigations and other duties of coroners and medical examiners, disposition of bodies, and reporting of deaths. The bill also creates licensure of medical examiners, medicolegal investigators, and others, and creates the Medicolegal Investigation Examining Board.

Assembly Substitute Amendment 1 makes changes to various provisions in the bill, including those relating to: (1) the appropriation and rule-making for the Medicolegal Investigation Examining Board; (2) reporting deaths; (3) custody and authorization to move a body; (4) autopsies and other diagnostic procedures; (5) authorization to embalm or dispose of a body; (6) cremation; (7) disposition of unclaimed remains; (8) deposit of cremated remains in a cemetery; and (9) coroner and medical examiner investigation records.

### MEDICOLEGAL INVESTIGATION EXAMINING BOARD

#### Appropriation for the Examining Board

Under the **bill**, all moneys received from fees imposed for licenses in medicolegal investigation and for copies of death certificates are used to: (1) provide training and education to individuals licensed in medicolegal investigation; and (2) support the Medicolegal Investigation Examining Board in performing its duties and functions. The bill also transfers \$270,000 from the appropriation in which fees for copies of death certificates are deposited under current law to a newly created appropriation in the bill that is used for the two purposes, described above.

The **substitute amendment** omits the source of funding from copies of death certificates and the transfer of the \$270,000. Under the substitute amendment, all moneys received from fees imposed for licenses in medicolegal investigation are used for the two purposes provided in the bill.

### Rule-Making by the Examining Board

Under the **bill**, the Medicolegal Investigation Examining Board may promulgate and enforce any rules not inconsistent with the chapter on medicolegal investigation to enforce the chapter.

The **substitute amendment** omits the provision in the bill relating to rule-making.

### REPORTING DEATHS

The **bill** makes various changes to the circumstances under which deaths must be reported to law enforcement agencies, coroners, and medical examiners.

The **substitute amendment** generally omits the changes in the bill relating to reporting of deaths, except that it retains the following provisions in the bill:

- A coroner or medical examiner must, within a reasonable time after receiving notice of a death, notify the district attorney, unless the district attorney, in writing, waives notice for the death.
- A coroner or medical examiner who receives notice of a death, or his or her designee, must notify the deceased's next of kin of the death.
- If the coroner or medical examiner receives notice of the discovery of human remains and determines that the human remains have no forensic significance, he or she must notify the director of the historical society.

### CUSTODY OF AND AUTHORIZATION TO MOVE A BODY

Under the **bill**, after any crime scene investigation has been completed, the coroner or medical examiner who has jurisdiction to investigate a death has legal custody of the deceased's body until he or she releases the body for disposition. In addition, if an individual's death must be reported under specified circumstances, no person may move the individual's body at or from the scene of death without authorization from both the law enforcement agency investigating the death and the coroner or medical examiner to whom the death was first reported.

The **substitute amendment** omits the changes in the bill relating to custody of and authorization to move a body.

### AUTOPSIES AND OTHER DIAGNOSTIC PROCEDURES

The **bill** makes various changes to autopsies and other diagnostic procedures, including specifying circumstances under which a coroner or medical examiner must order that an autopsy and other appropriate diagnostic procedures be performed on the body of the deceased. In addition, the bill repeals a statute governing autopsy for sudden infant death syndrome.

The **substitute amendment** omits the above changes in the bill relating to autopsies and other diagnostic procedures.

### **AUTHORIZATION TO EMBALM OR DISPOSE OF A BODY**

Under **current law**, no person may embalm or perform an autopsy on the body of a person whose death must be reported, unless the person obtains the written authorization of the coroner.

Under the **bill**, no person may embalm or dispose of, by burial, entombment, cremation, delivery to a university or school, or delivery to a medical or dental school anatomy department, the body of a person whose death must be reported, unless the person obtains the written authorization of the coroner or medical examiner. The coroner or medical examiner must issue an authorization **as soon as possible** after being notified of the death.

The **substitute amendment** makes two changes to this provision in the bill. First, it omits the reference to authorization for the disposal of a body. Second, as under current law, it requires the coroner or medical examiner to issue an authorization within **12 hours** after notification of the death, **or as soon as possible** in the event of unexplained, unusual, or suspicious circumstances.

### **CREMATION**

The **bill** provides that if the medical certification of the cause and manner of death of a deceased is completed by a physician, the coroner or medical examiner must review the medical certification before issuing a cremation release for the deceased. A coroner or medical examiner may make or receive a copy of an unfiled death certificate for purposes of this review.

In addition, the bill provides that if a coroner or medical examiner issues an authorization to embalm or dispose of a body but refuses to issue a cremation release for the body, the coroner or medical examiner and the county are not liable for the cost of storing the body.

Lastly, the bill requires a person receiving a body for purpose of medical research or education to request a cremation release from the coroner or medical examiner who has jurisdiction to issue a cremation release before moving the body out of the county served by the coroner or medical examiner.

The **substitute amendment** omits the above provisions in the bill relating to cremation.

### **DISPOSITION OF UNCLAIMED REMAINS**

Under the **bill**, if a person has the corpse of a deceased individual and cannot by exercise of reasonable effort locate a representative of the decedent, or a representative of the decedent refuses to claim the corpse for disposition, the person **must** notify the coroner or medical examiner in the county of residence of the deceased, and the coroner or medical examiner must take custody of the corpse and cause the corpse to be decently buried or cremated.

The **substitute amendment** provides that a person who has a corpse and cannot locate a representative of the deceased **may** notify the coroner or medical examiner.

### **DEPOSIT OF CREMATED REMAINS IN CEMETERY**

Under **current law**, no person may deposit any cremated remains of a corpse in a cemetery without the permission of the person who owns or is in charge of the cemetery.

The **bill** requires the permission of the cemetery authority to deposit cremated remains in a cemetery.

The **substitute amendment** also specifies that permission is required to deposit cremated remains in the casket of another person.

### **CORONER OR MEDICAL EXAMINER INVESTIGATION RECORDS**

Under the **bill**, the coroner or medical examiner must create and maintain for each investigation a record that contains all of the following information: (1) the full name of the deceased and any known alias used by the deceased; (2) a coroner or medical examiner case number; (3) a case activity log; (4) an investigation report containing certain information; (5) a written autopsy report, if an autopsy is conducted; and (6) documentation of the chain of custody of all evidence and property obtained by the coroner or medical examiner. In addition, the bill generally requires a coroner or medical examiner to keep certain records confidential.

The **substitute amendment** omits the provision in the bill relating to investigation records.

### **BILL HISTORY**

On February 12, 2016, Representative Schraa offered Assembly Substitute Amendment 1. On February 16, 2016, the Assembly Committee on State Affairs and Government Operations recommended adoption of the substitute amendment and passage of the bill, as amended, on votes of Ayes, 13; Noes, 0.

JKR:ty