



State of Wisconsin
2003 - 2004 LEGISLATURE

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**SENATE SUBSTITUTE AMENDMENT 1,
TO 2003 ASSEMBLY BILL 152**

March 11, 2004 – Offered by COMMITTEE ON JUDICIARY, CORRECTIONS AND PRIVACY.

1 **AN ACT** *to amend* 20.916 (9) (f) 1. and 979.025 (1); and *to create* 15.07 (1) (b) 23.,
2 15.145 (4), 146.82 (2) (a) 22., 979.028 and 979.10 (1) (a) 1m. of the statutes;
3 **relating to:** creating a board to review and make recommendations regarding
4 deaths at correctional institutions.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

5 **SECTION 1.** 15.07 (1) (b) 23. of the statutes is created to read:
6 15.07 (1) (b) 23. The members of the inmate and resident mortality board
7 appointed under s. 15.145 (4).

8 **SECTION 2.** 15.145 (4) of the statutes is created to read:
9 15.145 (4) INMATE AND RESIDENT MORTALITY BOARD. There is created in the
10 department of corrections an inmate and resident mortality board consisting of 12
11 members appointed for 4-year terms. Two of the members shall be appointed by the

governor, one of which shall be from the University of Wisconsin Medical School and the other of which shall be a correctional officer. Two members shall be appointed by the president of the senate, one of which shall be from the Medical College of Wisconsin and the other of which shall be a correctional officer. Two members shall be appointed by the speaker of the assembly, one of which shall be a nurse employed by a state agency and the other of which shall be a correctional officer. One member shall be appointed by the minority leader of the senate and shall be a physician from a health care provider other than the University of Wisconsin Medical School. One member shall be appointed by the minority leader of the assembly and shall be a nurse employed by a private health maintenance organization or preferred provider plan. The other 4 members of the board shall be appointed by the secretary of corrections and shall be a warden of a state correctional facility, a manager of a unit within a state correctional facility that provides the health services to inmates, a health care provider who is employed by the department of corrections, and a correctional officer. All of the correctional officers appointed under this subsection shall be from a list provided by the labor organization recognized or certified to represent the employees in the collective bargaining unit that represents correctional officers. At least one member of the board shall be a physician who is a pathologist with subspecialty training in forensic pathology and who is certified by the American Board of Pathology.

SECTION 3. 20.916 (9) (f) 1. of the statutes, as affected by 2003 Wisconsin Act 33, is amended to read:

20.916 (9) (f) 1. Scheduled air travel. Reimbursement for air travel shall be limited to the lowest appropriate airfare, as determined by the director of the office of state employment relations. An employee may be reimbursed for air travel at a

1 rate other than the lowest appropriate airfare only if the employee submits a written
2 explanation of the reasonableness of the expense. Members of the inmate and
3 resident mortality board may not receive reimbursement for air travel.

4 **SECTION 4.** 146.82 (2) (a) 22. of the statutes is created to read:

5 146.82 (2) (a) 22. To the inmate and resident mortality board to enable that
6 board to review the death of an inmate or resident under s. 979.028.

7 **SECTION 5.** 979.025 (1) of the statutes is amended to read:

8 979.025 (1) INMATE OR RESIDENT CONFINED TO AN INSTITUTION IN THIS STATE. If an
9 individual dies while he or she is in the legal custody of the department and confined
10 to a state correctional facility located in this state institution, as defined s. 301.01 (4),
11 but excluding any institution that meets the criteria under s. 302.01 solely because
12 of its status under s. 301.046 or 301.048 (4) (b) or is confined to a county jail or house
13 of correction pursuant to a contract under s. 302.27, the coroner or medical examiner
14 of the county where the death occurred shall perform an autopsy on the deceased
15 individual. If the coroner or medical examiner who performs the autopsy determines
16 that the individual's death may have been the result of any of the situations that
17 would permit the district attorney to order an inquest under s. 979.04 (1) the coroner
18 or medical examiner shall follow the procedures under s. 979.04 (2).

19 **SECTION 6.** 979.028 of the statutes is created to read:

20 **979.028 Review of an inmate's or resident's death.** (1) The inmate and
21 resident mortality board may review the circumstances of the death of every
22 individual who is subject to an autopsy under s. 979.025. To facilitate the review, the
23 board shall have access to all medical and prison records related to the deceased
24 inmate. A member of the board shall disqualify himself or herself from any

1 discussion regarding a specific death if he or she determines that he or she cannot
2 act in an impartial manner regarding that death.

3 **(2)** (a) Within 3 business days, as defined in s. 421.301 (6), after the death of
4 a person whose death requires the performance of an autopsy under s. 979.025, the
5 secretary of corrections or the secretary's designee shall send a written notice to
6 every member of the inmate and resident mortality board of the death. The written
7 notification shall include a summary of information related to the person's death,
8 including the date, time, and place of the death. At the next scheduled meeting of
9 the board, the department shall provide the board with the records that are in the
10 custody of the department regarding the person who died, including medical records,
11 and any information obtained as a result of any departmental internal review of the
12 death. At the request of any board member, the department shall provide the
13 member with the records and information obtained as a result of any internal review
14 before the next scheduled meeting of the board.

15 (b) The department shall cooperate with the board and provide any assistance
16 the board requests to review the circumstances of the death of the inmate or resident.
17 The board, while performing its duties, may review medical records of the inmate or
18 resident in the custody of any medical provider; with the approval of the district
19 attorney or attorney general, medical records in the custody of a law enforcement
20 agency; information obtained by the coroner or medical examiner regarding the
21 death of the inmate or resident; and any information collected as the result of an
22 autopsy performed under s. 979.025 or an inquest ordered under s. 979.04.

23 **(3)** Except as provided in sub. (3m), within 30 days after the meeting during
24 which the board completes its review of an inmate's or resident's death, the inmate
25 and resident mortality board shall prepare a summary report of the board's review

1 of an inmate's or resident's death and submit that summary report to all of the
2 following:

3 (a) The appropriate relative of the deceased.

4 (b) The secretary of corrections.

5 (c) If appropriate, the attorney general or district attorney.

6 (d) Notwithstanding s. 13.172 (3), the chairperson and the ranking minority
7 member of the appropriate standing committee of the assembly and senate.

8 **(3m)** If there is a criminal investigation of an inmate's or resident's death, the
9 board may not issue a final report regarding the board's review of the inmate's or
10 resident's death until after that criminal investigation is completed. Any report
11 issued before completion of the criminal investigation is preliminary and is subject
12 to modification based on information received as a result of the criminal
13 investigation.

14 **(4)** The inmate and resident mortality board may make recommendations to
15 the department regarding medical and other prison procedures, based on the board's
16 review of an inmate's or resident's death. The board may also refer concerns or
17 recommendations to the department related to the performance or work rule
18 violations regarding staff who did not follow departmental policies or procedures
19 related to the circumstances surrounding the death. The inmate and resident
20 mortality board shall prepare and forward a complaint to the appropriate
21 credentialing board, as defined in s. 440.01 (2) (bm), if, during the board's review of
22 an inmate's or resident's death, the board determines that a medical provider failed
23 to provide the appropriate, proper, and necessary medical care.

24 **SECTION 7.** 979.10 (1) (a) 1m. of the statutes is created to read:

979.10 (1) (a) 1m. If an autopsy is performed under s. 979.025 (1), the coroner or medical examiner who performed the autopsy; or

SECTION 8. Nonstatutory provisions.

(1) Notwithstanding the length of terms for the members of the inmate and resident mortality board specified in section 15.145 (4) of the statutes, as created by this act, the initial members of the board appointed by the governor and 2 initial members appointed by the secretary of corrections shall be for a term of 4 years; the initial members of the board appointed by the president of the senate and the speaker of the assembly and one initial member appointed by the secretary of corrections shall be for a term of 3 years; and the initial members of the board appointed by the minority leader of the senate and of the assembly and one initial member appointed by the secretary of corrections shall be for a term of 2 years.

(END)