



WISCONSIN LEGISLATIVE COUNCIL
PROPOSED REPORT TO THE LEGISLATURE

SPECIAL COMMITTEE ON
THE POWERS AND DUTIES OF
CORONERS AND MEDICAL
EXAMINERS

December 6, 2005

PRL 2005-16

Special Committee on the Powers and Duties of Coroners and Medical Examiners

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PART I

KEY PROVISIONS

OF COMMITTEE RECOMMENDATION

The Special Committee on the Powers and Duties of Coroners and Medical Examiners recommends the following constitutional amendment to the Joint Legislative Council for introduction in the 2005-06 Session of the Legislature.

LRB-4127/P1, Relating to Deleting From the Constitution the Office of Coroner

LRB-4127/P1 is a draft (in the form of an Assembly Joint Resolution) proposing a constitutional amendment, proposed to the 2005 Legislature on first consideration, **deleting from the Wisconsin Constitution the office of coroner**. A proposed constitutional amendment requires adoption by two successive Legislatures, and ratification by the people, before it can become effective.

The effect of deleting the office of coroner from the Constitution would be to leave the then-existing statutory provisions relating to coroners and medical examiners as the controlling law.

PART II

COMMITTEE ACTIVITY

Assignment

The Joint Legislative Council established the Special Committee on the Powers and Duties of Coroners and Medical Examiners and appointed the chairperson by a May 5, 2005 mail ballot. The committee was directed to review current laws and practices on the roles of coroners and medical examiners in the reporting and investigation of deaths to determine if those laws should be revised for enhanced organization and clarity and to achieve greater efficiency, uniformity, and quality in the reporting and investigation of deaths.

Membership of the Special Committee, appointed by a July 21 2005 mail ballot, consisted of two Senators, three Representatives, and six public members. A list of committee members is included as **Appendix 3** to this report.

Summary of Meetings

The Special Committee held three meetings in Madison on the following dates:

September 14, 2005
October 18, 2005
November 22, 2005

At the September 14, 2005 meeting, the Special Committee heard testimony from the following invited speakers:

- **John Larson, Marathon County Coroner**, provided background information on the coroner/medical examiner system in Wisconsin and described the structure and purposes of the Wisconsin Coroners and Medical Examiners Association (WCMEA). He noted that the WCMEA is working on updating and revising ch. 979, Stats., on death investigations.
- **Dr. Anthony D'Alessandro, Division of Transplantation, University of Wisconsin Hospital**, discussed a number of problems relating to the role of coroners and medical examiners in organ and tissue donations, both within and outside of the context of a hospital.
- **Melanie Ramey, The HOPE of Wisconsin**, noted that among the most serious problems with the current system are: (a) no qualifications are required, meaning the office can be occupied by persons with insufficient knowledge to carry out the duties; and (b) it is an elected, constitutionally-specified office and there is no oversight of the office by county boards. She suggested that the current system be replaced with a single statewide system under the direction of a professional medical examiner.
- **Dr. Lynda Biedrzycki, Waukesha County Medical Examiner**, described the staffing, funding, caseload, and operation of the medical examiner system in her county. She stated that an ideal system would include the following: medical direction by a forensic pathologist; educated death investigators who receive continuing training; being locally-based, but with regional cooperation; be independent (i.e., not linked to law enforcement); have written guidelines; and have a problem resolution system.
- **Paul Bucher, Waukesha County District Attorney**, said that coroners and medical examiners need to be knowledgeable about the role of the prosecutor in the death

investigation system. He noted that minimum qualifications, minimum education, and minimum continuing education should all be required in our system.

- **Adam Peer, Rock County Supervisor**, suggested giving county boards authority to remove coroners in the same manner as certain other county officers; making the office nonpartisan; and administering the office on a statewide basis, with uniform standards and qualifications applicable to those holding the office.
- **Susan Dzubay, Pierce County Coroner**, noted that key issues are accountability and the limited resources that are available to offices in many smaller counties. She suggested that: (a) the office be for a four-year term (now a two-year term) for purposes of continuity and stability; and (b) that there be mandatory training at the beginning of the coroner's experience in the office, with continuing education requirements thereafter.

At the October 18, 2004 meeting, the committee discussed suggestions for alterations to the current coroner system made by members in response to the first meeting of the committee. Issues raised included a lack of county board oversight for coroners, partisan coroner elections, and a lack of professional standards for coroners. A number of members agreed that one solution to the issues raised was the elimination of the constitutional office of coroner, relying instead on the statutory office of medical examiner to perform death investigations. A request was made for a draft constitutional amendment to that effect for consideration at the next meeting. The committee also agreed to discuss issues related to the roles of coroners and medical examiners in organ and tissue donation at its next meeting

At its final meeting on November 22, 2005, Chair Nischke indicated that the committee would not be dealing with tissue bank and organ transplant issues discussed at its first two meetings because a bill had been introduced relating to those issues and the interested parties had agreed to discuss those issues in the context of that bill. The committee voted against a draft of an Assembly Resolution that would have abolished the office of coroner in the Wisconsin Constitution. The committee then discussed a general proposal from committee member (and Dane County Coroner) John Stanley to, among other things, establish training standards for coroners and medical examiners under the current statutory system. Finally, the committee voted in favor of LRB-4127/P1, a draft of an Assembly Joint Resolution to amend the Wisconsin Constitution to delete the office of coroner, leaving as is the current statutes relating to coroners and medical examiners. The vote was Ayes, 6; Noes, 4; and Absent, 1. The staff explained that if introduced and approved by two consecutive sessions of the Legislature and ratified by the voters, this constitutional amendment would allow future Legislatures to revise the statutes relating to coroners and medical examiners as they see fit, without concern for the current constitutional restrictions placed on laws affecting the office of coroner. Committee members were particularly interested in possible statutory provisions that: (1) would increase county oversight of coroners; and (2) would establish qualifications and training requirements for coroners and medical examiners.

PART III

RECOMMENDATION INTRODUCED BY THE JOINT LEGISLATIVE COUNCIL

This part of the report provides background information on, and a description of, the constitutional amendment as recommended by the Special Committee on the Powers and Duties of Coroners and Medical Examiners.

Background

The coroner is a constitutional officer under Article VI, Section 4, of the Wisconsin Constitution. The coroner is elected, by county voters, every two years as a partisan office in the fall general election. [Note: As a result of a constitutional amendment ratified by the voters in April 2005, the coroner's term of office is four years, beginning with the fall 2008 election.] A coroner may be removed from office, for cause, by the Governor, and a vacancy in the office during the term of office is filled through appointment by the Governor. There is no direct statutory oversight of the office of coroner beyond the election process. However, under the Constitution and the statutes, a county may (instead of electing a county coroner) choose to institute an appointed medical examiner system. The medical examiner is appointed by, and is under the direction of, the county board, which may remove the appointee for cause. Two or more counties are permitted to institute a joint medical examiner system. The Constitution abolishes the office of coroner in counties having a population of 500,000 or more (currently only Milwaukee County); such counties have a medical examiner system as set forth in the statutes.

Coroners and medical examiners are, in general, required to investigate deaths and participate in inquest proceedings as necessary and as required by statute. They must testify in court regarding death investigations when requested to do so by the court or the district attorney. A coroner is permitted to act as a coroner in a nearby county when requested to do so. In addition, coroners must exercise certain duties of the sheriff when no sheriff or undersheriff is present in a county, including being keeper of the jail if the sheriff is in jail and serving and executing process (e.g., a court summons) under certain circumstances.

The general provisions relating to the powers and duties of coroners and medical examiners are set forth in ss. 59.34 to 59.38, Stats. The role of coroners and medical examiners in the specific death investigation process are set forth in ch. 979, Stats.

Description

The draft (in the form of an Assembly Joint Resolution) is a proposed constitutional amendment, proposed to the 2005 Legislature on first consideration, deleting from the Wisconsin Constitution the office of coroner. A proposed constitutional amendment requires adoption by two successive Legislatures, and ratification by the people, before it can become effective.

The effect of deleting the office of coroner from the Constitution would be to leave the existing statutory provisions relating to coroners and medical examiners as the controlling law. This would permit a Legislature, subsequent to ratification of this amendment, to revise the statutes relating to coroners and medical examiners as it sees fit, without concern for the current constitutional restrictions placed on laws affecting the office of coroner. For example, laws could be enacted to: (1) require qualifications for a person to be elected coroner; and (2) eliminate the elected office of coroner and require all counties to establish an appointed medical examiner (or "coroner" if that is the preferred term) system or require a statewide medical examiner system.

Appendix 1

Committee and Joint Legislative Council Votes

LRB-4127/P1 was recommended by the Special Committee on the Powers and Duties of Coroners and Medical Examiners to the Joint Legislative Council for introduction in the 2005-06 Session of the Legislature.

Special Committee Vote

The Special Committee voted to recommend LRB-4127/P1 to the Joint Legislative Council for introduction in the 2005-06 Session of the Legislature. The vote on the constitutional amendment was as follows:

- LRB-4127/P1, relating to deleting from the constitution the office of coroner (first consideration): Ayes, 6 (Rep. Nischke; Sen. Lasee; and Public Members D'Alessandro, Karaskiewicz, Ramey, and Thelen); Noes, 4 (Reps. LeMahieu and Vruwink; and Public Members Rinehart and Stanley); and Absent, 1 (Sen. Risser).

Appendix 2

Joint Legislative Council

Co-Chair

ALAN LASEE

Senate President

2259 Lasee Road
De Pere, WI 54115

Co-Chair

STEVE WIECKERT

Representative

1 Weatherstone Drive
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1112 Violet Avenue
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DAN KAPANKE

1610 Lakeshore Drive
La Crosse, WI 54603

DALE SCHULTZ

Majority Leader
515 N. Central Avenue
Richland Center, WI 53581

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6803 Lora Lee Lane
Schofield, WI 54476

MARK MILLER

4903 Roigan Terrace
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DAVID ZIEN

President Pro Tempore
1716 63rd Street
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SCOTT FITZGERALD

N4692 Maple Road
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FRED A. RISSER

5008 Risser Road
Madison, WI 53705

GLENN GROTHMAN

111 South 6th Avenue
West Bend, WI 53095

JUDY ROBSON

Minority Leader
2411 E. Ridge Road
Beloit, WI 53511

REPRESENTATIVES

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W6382 Waukechon Road
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DEAN KAUFERT

1360 Alpine Lane
Neenah, WI 54956

MARLIN D. SCHNEIDER

3820 Southbrook Lane
Wisconsin Rapids, WI 54494

STEPHEN J. FREESE

Speaker Pro Tempore
310 East North Street
Dodgeville, WI 53533

JIM KREUSER

Minority Leader
3505 14th Place
Kenosha, WI 53144

DAVID TRAVIS

5440 Willow Road
Waunakee, WI 53597

JOHN GARD

Speaker
481 Aubin Street, P.O. Box 119
Peshtigo, WI 54157

ANN NISCHKE

202 W. College Avenue
Waukesha, WI 53186

MICHAEL HUEBSCH

Majority Leader
419 West Franklin
West Salem, WI 54669

MARK POCAN

309 North Baldwin St.
Madison, WI 53703

This 22-member committee consists of the majority and minority party leadership of both houses of the Legislature, the co-chairs and ranking minority members of the Joint Committee on Finance, and 5 Senators and 5 Representatives appointed as are members of standing committees. [s. 13.81, Stats.]

Appendix 3

Powers and Duties of Coroners and Medical Examiners

Representative Ann M. Nischke, **Chair**
202 West College Avenue
Waukesha, WI 53186

Senator Alan J. Lasee
2259 Lasee Road
De Pere, WI 54115

Representative Daniel R. LeMahieu
21 South 8th Street, P.O. Box 700200
Oostburg, WI 53070

Senator Fred Risser
5008 Risser Road
Madison, WI 53705

Representative Amy Sue Vruwink
9425 Flower Lane
Milladore, WI 54454

Anthony M. D'Alessandro, M.D.
Division of Transplantation
H4/766 Clinical Science Center
600 Highland Avenue
Madison, WI 53792-7375

Susan Karaskiewicz
Kenosha County District Attorney's Office
Molinaro Building, 912-56th Street
Kenosha, WI 53140-3736

Melanie G. Ramey, Exec. Dir.
The HOPE of Wisconsin
3240 University Avenue, Suite 2
Madison, WI 53705

Michelle Rinehart, Funeral Director
Gunderson Funeral Home
5203 Monona Drive
Madison, WI 53716

John E. Stanley, Dane Co. Coroner
Public Safety Building, Room 2144
115 West Doty Street
Madison, WI 53703

Thomas Thelen, Medical Examiner
900 Clairemont Avenue
Eau Claire, WI 54701

STUDY ASSIGNMENT: The committee is directed to review current laws and practices on the roles of coroners and medical examiners in the reporting and investigation of deaths to determine if those laws should be revised for enhanced organization and clarity and to achieve greater efficiency, uniformity, and quality in the reporting and investigation of deaths.

11 MEMBERS: 2 Senators, 3 Representatives, and 6 Public Members.

LEGISLATIVE COUNCIL STAFF: Don Salm, Senior Staff Attorney, Dan Schmidt, Senior Analyst, and Julie Learned, Support Staff.

Appendix 4

Committee Materials List

(Copies of documents are available at www.legis.state.wi.us/lc)

November 22, 2005 Meeting

- [Memo No. 2](#), Discussion of Selected Statutory Provisions in Other States Relating to Qualifications of Coroners and Medical Examiners; Examples of States With Statutory Provisions Relating to a Coroners and Medical Examiners Training and Standards Board or Commission (11-14-05)
- [LRB-3899/P1](#), relating to abolishing the office of coroner

October 18, 2005 Meeting

- [Memo No. 1](#), **Suggestions Made at, and in Response to, the September 14, 2005 Meeting of the Special Committee on the Powers and Duties of Coroners and Medical Examiners** (10-06-05)
 - [WLC: 0234/2](#), relating to anatomical gifts and the powers and duties of coroners and medical examiners.
- [Letters](#) submitted by Dr. Anthony M. D'Alessandro (9-20-05)
- [Letter](#) to John Stanley, Dane County Coroner, and [chart](#) submitted by Dr. Anthony M. D'Alessandro (8-04-05)
- [Letter](#) to committee members, from George A. Herrera, Vice President, Donor Services, Musculoskeletal Transplant Foundation (MTF), submitted by Gina Reese, MTF (09-28-05)
- [Handout](#), **UW Organ Procurement Organization (OPO) Coroner/ME/DA Organ Donation Denials**, distributed at the request of committee member Anthony M. D'Alessandro, M.D. (undated)
- [Letter](#) to Kelly M. Mills, M.D., from Anthony M. D'Alessandro, M.D. (06-08-05)

September 14, 2005 Meeting

- [Staff Brief 04-8](#), **Powers and Duties of Coroners and Medical Examiners** (9-2-05)
- [Testimony](#) from Melanie Ramey, Executive Director, The HOPE of Wisconsin
- [Presentation](#) from Lynda Biedrzycki, M.D., Waukesha County Medical Examiner
- [Powerpoint](#) presentation from Adam Peer, Rock County Supervisor
- [Powerpoint](#) presentation from Anthony M. D'Alessandro, M.D., Division of Transplantation
- [Presentation](#) from Susan Dzubay, Office of the Coroner, Pierce County
- [Memorandum](#) from Jayme Sellen, Legislative Associate, Wisconsin Counties Association
- [Chart](#), *Death Investigations, Types of System By States*, provided by The Hospice Organization & Palliative Experts of Wisconsin and Melanie Ramey, The HOPE of Wisconsin

