



2017 ASSEMBLY BILL 294

May 1, 2017 - Introduced by Representatives HUTTON, E. BROOKS, R. BROOKS, KITCHENS, KOOYENGA, KREMER, SANFELIPPO, SPIROS and THIESFELDT, cosponsored by Senators WANGGAARD and OLSEN. Referred to Committee on Corrections.

1 **AN ACT** *to renumber and amend* 157.02 (1); *to amend* 157.02 (2), 157.02 (5),
2 301.325, 302.14, 973.20 (11) (c) and 979.10 (1) (a) (intro.); and *to create* 157.02
3 (1) (a) and 157.02 (1) (b) 2. of the statutes; **relating to:** burial or cremation and
4 burial of a deceased prison inmate, cremation of an unclaimed corpse, and
5 prohibition on cremation of an unclaimed corpse in cases of homicide.

Analysis by the Legislative Reference Bureau

This bill changes procedures relating to burial or cremation and burial of a deceased prison inmate and cremation of an unclaimed corpse. Under the bill, the Department of Corrections must provide written notification to a deceased inmate's relative informing him or her that DOC will, upon request, provide a copy of any autopsy report or other report regarding the inmate's death and allow the relative to claim the cremated remains of the inmate before the remains are buried. With certain exceptions, the bill allows the superintendent of an institution or other public officer to cremate and bury an unclaimed corpse. The bill prohibits cremation of an unclaimed corpse if the deceased person died as a result of homicide.

The bill also adds an express allowance for DOC to charge a prisoner's estate for some or all of the costs to the department of the prisoner's incarceration or burial or cremation and burial. Under the bill, if an inmate in a state prison has not paid court-ordered restitution at the time of his or her death, DOC is required to assess, collect, and disburse the amount owed from the inmate's wages or other moneys.

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For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 157.02 (1) of the statutes is renumbered 157.02 (1) (am) and
2 amended to read:

3 157.02 (1) (am) When an inmate of any state, county or municipal institution
4 dies, the superintendent or other person in charge of the institution shall
5 immediately notify a relative of the decedent. A public officer having the possession
6 or the disposition of a corpse shall immediately notify a relative of the decedent. If
7 no relative is known, or discoverable by use of ordinary diligence, notice may be
8 dispensed with. ~~In addition, if~~

9 (b) If the deceased had been an inmate of a state correctional institution, the
10 department of corrections shall provide written notification to the relative informing
11 him or her that the department of corrections, upon request, will provide do any or
12 all of the following:

13 1. Provide a copy of any autopsy report or other report or information
14 pertaining to the death.

15 (c) The department of corrections shall describe how ~~the request~~ requests
16 under par. (b) may be made and shall promptly comply with any such request.

17 **SECTION 2.** 157.02 (1) (a) of the statutes is created to read:

18 157.02 (1) (a) In this section, "burial" has the meaning given in s. 157.061 (1).

19 **SECTION 3.** 157.02 (1) (b) 2. of the statutes is created to read:

20 157.02 (1) (b) 2. Allow the relative to claim the cremated remains of the inmate
21 before burial of the remains.

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1 **SECTION 4.** 157.02 (2) of the statutes is amended to read:

2 157.02 (2) TIME ALLOWED RELATIVE TO ACT. If a relative or friend fails to arrange
3 for taking charge of the corpse within a reasonable time after death, the
4 superintendent or other officer may proceed as provided in this section, but relatives
5 or friends may claim the corpse at any time before it has been delivered pursuant to
6 sub. (3) or, if a request is made under sub. (1) (b) 2., after it has been cremated but
7 before burial of the cremated remains under sub. (5).

8 **SECTION 5.** 157.02 (5) of the statutes is amended to read:

9 157.02 (5) OTHER DISPOSITION. If the corpse is not disposed of under subs. (1)
10 to (4), the superintendent or public officer shall properly bury it, or cremate it, subject
11 to s. 979.10, and bury the cremated remains.

12 **SECTION 6.** 301.325 of the statutes is amended to read:

13 **301.325 Prisoner reimbursement to the state.** The department may
14 charge a prisoner or a prisoner's estate for some or all of the costs to the department
15 of the prisoner's incarceration or burial or cremation and burial under s. 157.02 (5).
16 The department may collect from the inmate or his or her estate during his or her
17 incarceration or after his or her release or death, or both. If the prisoner has paid
18 all victim restitution ordered under s. 973.20 or if the department has collected
19 victim restitution pursuant to s. 973.20 (11) (c), the department may use any
20 remaining money held for a prisoner under s. 301.32 (1) to pay for some or all of the
21 costs to the department for the prisoner's burial or cremation and burial under s.
22 157.02 (5). Upon the request of the department, the attorney general may bring a
23 civil action to recover costs under this section that the department has been unable
24 to collect. The department may not recover under this section for any costs already
25 recovered as otherwise provided in chs. 301 to 303. The department shall promulgate

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1 rules providing a method of charging under this section that is based on a prisoner's
2 ability to pay and providing procedures for collection of the costs.

3 **SECTION 7.** 302.14 of the statutes is amended to read:

4 **302.14 Property of deceased inmates, parolees, probationers or**
5 **persons on extended supervision, disposition.** When an inmate of a prison, a
6 parolee of an institution, a person on extended supervision or a person on probation
7 to the department dies leaving an estate, after paying all costs and obligations under
8 ss. 301.32 and 301.325, of \$150 or less in the trust of the warden, superintendent or
9 secretary, the warden, superintendent or secretary shall try to determine whether
10 or not the estate is to be probated. If probate proceedings are not commenced within
11 90 days, the warden, superintendent or secretary shall turn over the money or
12 securities to the nearest of kin as evidenced by the records of the institution and the
13 department.

14 **SECTION 8.** 973.20 (11) (c) of the statutes is amended to read:

15 973.20 (11) (c) If a defendant who is in a state prison or who is sentenced to a
16 state prison is ordered to pay restitution, the court order shall require the defendant
17 to authorize the department to collect, from the defendant's wages and from other
18 moneys held in the defendant's prisoner's account, an amount or a percentage the
19 department determines is reasonable for payment to victims. If an inmate in a state
20 prison or a person sentenced to a state prison has not paid, at the time of his or her
21 death, restitution ordered under this section, the department shall assess, collect,
22 and disburse the amount owed from the inmate's wages or other moneys.

23 **SECTION 9.** 979.10 (1) (a) (intro.) of the statutes is amended to read:

24 979.10 (1) (a) (intro.) No person may cremate the corpse of a deceased person
25 within 48 hours after the death, or the discovery of the death, of the deceased person

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1 unless the death was caused by a contagious or infectious disease. Notwithstanding
2 s. 979.09, no person may cremate an unclaimed corpse if the deceased person died
3 as the result of homicide. No person may cremate a corpse unless the person has
4 received a cremation permit from:

5 (END)