

☛ **13hr_AC-SAGO_ab0530_pt01**



(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2013-14

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on...

**State Affairs and Government Operations
(AC-SAGO)**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (December 2014)

Assembly

Record of Committee Proceedings

Committee on State Affairs and Government Operations

Assembly Bill 530

Relating to: reporting deaths; death investigations and other duties of coroners and medical examiners; disposition of bodies; creating a medicolegal investigation examining board; licensure of coroners, medical examiners, and medicolegal investigation staff members; granting rule-making authority; making an appropriation; and providing penalties.

By Representatives Vruwink, Kleefisch, Loudenbeck, Goyke, Bies, Kahl, Berceau, Pope, Ohnstad and Wachs; cosponsored by Senator Lassa.

November 25, 2013 Referred to Committee on State Affairs and Government Operations

January 28, 2014 **Public Hearing Held**

Present: (12) Representative Weininger; Representatives Craig, Kleefisch, Knodl, Neylon, Kooyenga, Hutton, Nass, Zamarripa, Ringhand, Kahl and Hulsey.

Absent: (1) Representative Kessler.

Excused: (3) Representatives Swearingen, Ripp and Sinicki.

Appearances For

- Amy Sue Vruwink - Rep. - 70th ASM District
- Joel Kleefish - Rep. - 38th ASM District
- Chris Lenzendorf - WI County Medical Examiners
- Scott Rifleman - Coronors
- Tya Gehte
- Vincent Tranchida - Dr. - Dane County Medical Examiner

Appearances Against

- Kyle Christianson - WI Counties Assn

Appearances for Information Only

- None.

Registrations For

- Laurie Parise - WCMEA
- Alan G Klimek - Brown County Medical Examiner

Registrations Against

- None.

Registrations for Information Only

- None.

April 08, 2014

Failed to pass pursuant to Senate Joint Resolution 1

Alison Zikmund
Committee Clerk



MEMORANDUM

TO: Honorable Members of the Assembly Committee on State Affairs and Government Operations

FROM: Kyle Christianson, Director of Government Affairs *KC*

DATE: January 28, 2014

SUBJECT: Opposition to Assembly Bill 530, Relating to reporting deaths; death investigations and other duties of coroners and medical examiners; disposition of bodies; creating a medicolegal investigation examining board; licensure of coroners, medical examiners and medicolegal investigation staff members.

The Wisconsin Counties Association (WCA) opposes Assembly Bill 530 (AB 530).

Assembly Bill 530 was introduced at the request of the Wisconsin Coroner and Medical Examiner Association. The association represents both appointed medical examiners and elected coroners. The association has indicated it believes the bill is necessary to clarify current law relating to death investigations and to ensure those investigations are performed by competent individuals.

WCA supports the public policy goal of ensuring effective death investigations, but WCA has significant concerns regarding the bill's provisions affecting the constitutional office of county coroner.

Assembly Bill 530 imposes new training and licensing requirements on both elected coroners and appointed medical examiners. WCA does not dispute that the state may impose licensing requirements on non-elected public employees who perform certain jobs, such as attorneys, social workers and physicians. However, there does not currently exist any training requirements on other individuals who hold elective office. No training or license is required for any state constitutional office, except Justice of the Supreme Court (who must be an attorney), nor are there any similar requirements for state legislators, county constitutional officers or county supervisors.

County constitutional officers are established in Article IV, Section 4 of the Wisconsin Constitution. They include the sheriff, coroner (if the office is not abolished with the appointment of a medical examiner), register of deeds, district attorney, county clerk and treasurer. The Wisconsin Constitution establishes no qualifications for any of the offices, except that the official be "chosen by the electors of the respective counties." Wis. Stat. Sec. 59.20(1) states further that no person shall hold a county elective office who is not an elector of the county.

The Legislature cannot establish additional qualifications that are not provided in the Wisconsin Constitution. In *State v. Kohler*, 200 Wis. 518, 228 N.W. 895, 907 (1930), the Wisconsin Supreme Court stated:

It is a well-established principle of constitutional law that, where qualifications are prescribed by the Constitution and the methods of removal are provided by the Constitution, the Constitution in those respects is exclusive and it is beyond the power of the Legislature to prescribe additional qualifications or to provide for removal in other than the constitutional method.

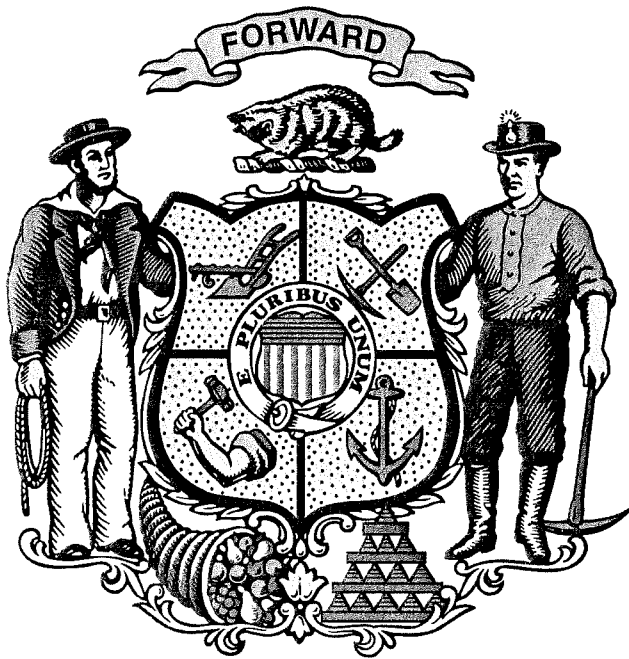
The office of coroner is a constitutional office and there is no constitutional requirement that a person hold a license in medicolegal investigation in order to hold the office of coroner. Therefore, the Legislature cannot impose the licensure requirement on coroners. Assembly Bill 530 acknowledges this limitation on the Legislature's authority by only allowing the medicolegal investigation examining board to recommend removal by the governor if the coroner does not maintain a license in medicolegal investigation.

However, AB 530 imposes a fine of up to \$1,000 and imprisonment of up to 90 days if a coroner does not maintain his or her license in medicolegal investigation. In essence, the bill attempts to accomplish indirectly through the threat of fines and imprisonment what it cannot accomplish directly. It defies logic that the Legislature can pass a law fining or imprisoning a constitutional officer for failing to maintain a license that the Legislature cannot require the constitutional officer to maintain in the first place. The penalty provision is likely unconstitutional and void as applied to coroner and should be removed from the bill.

Finally, the bill imposes a new and unfunded mandate on counties and elected county officials because it requires them to pay the fees for training and licensure. AB 530 waives the licensing fees for individuals who currently hold office, but imposes the fees on all new officeholders, as well as those who renew their licenses.

If the bill is approved, it could open the possibility of the state imposing training and licensure requirements for other county offices, such as treasurers, sheriffs, clerks of courts, registers of deeds, and county clerks – with enforcement through the threat of an attempted removal from office, fines, and imprisonment. Such requirements impose an additional burden on county constitutional officers and county taxpayers.

WCA respectfully requests the Committee oppose Assembly Bill 530.





My name is Chris Lenzendorf and I am a contract lobbyist for the Wisconsin Coroner and Medical Examiner Association. I want to thank Chairman Wieniger and the rest of the committee for allowing us to speak here today. Before going into the particulars of AB-530 I feel as I must preempt the discussion with some background surrounding the people that have the title of Coroner and Medical Examiner here in the state of Wisconsin. It takes a special person to choose these titles as a profession. I am reminded of a story from early in my career as a young funeral director in the early 90's. I started a funeral transport service here in Madison servicing funeral homes and the coroner's offices. My first contract was with the Dane County Coroner's office. I would transport the deceased person from the scene of death to the morgue for the coroner's office. On one particular cold march evening I was told to report to a rural residence on the eastern edge of Dane County. A toddler had wandered out of his grandparents' home and was found dead in the nearby creek. I was only 24 years old and found I was physically well suited for the job but soon discovered I was ill equipped emotionally. John Stanley, who years later would become Dane County Coroner, was on the scene that evening. Having known John for almost a year at that point, I recognized immediately the distress in his eyes. I marveled at his ability to confine his emotions and begin to piece together the puzzle of what had happened that evening. As I waited to do the transport of the discolored toddler, it was brought to John's attention that one of the parents had not been notified yet of the child's death. The father of the boy was just returning to his home several miles away. As the police continued with the investigation, I naively requested to accompany John to the notification, mainly to get some relief from the frigid cold. In the past John and I would typically discuss current events sports, etc. That night neither of us spoke during the ten minute drive to the father's house. The grandparent's pastor arrived simultaneously with us so we proceeded to the house together. The confused father met us at the door and let us in. The man's teenage daughter was having a sleep over with several friends. They were asked to take their sleeping bags downstairs to finish their movie. John softly explained what had happened to his son. The grief that I witnessed that evening is unexplainable. After an hour the father of the child embraced John like they were old friends. It was then that I understood the complexity of John's job. He was a detective one moment, a

psychologist and social worker the next. Before John's death several years ago he was a pioneer in initiating this legislation, not because he believed in mandates, but because he believed in the people entering this field and wanted to ensure they had the ability to deal with the intricacies of this job in a professional manner.

It is easy to demonize coroners and medical examiners as a result of what seems to be an endless array of high profile mishaps. Make no mistake some of these mistakes have hurt citizens of Wisconsin, but keep in mind they are a reflection of the complete lack of training to do a very difficult job, not a replication of their character.

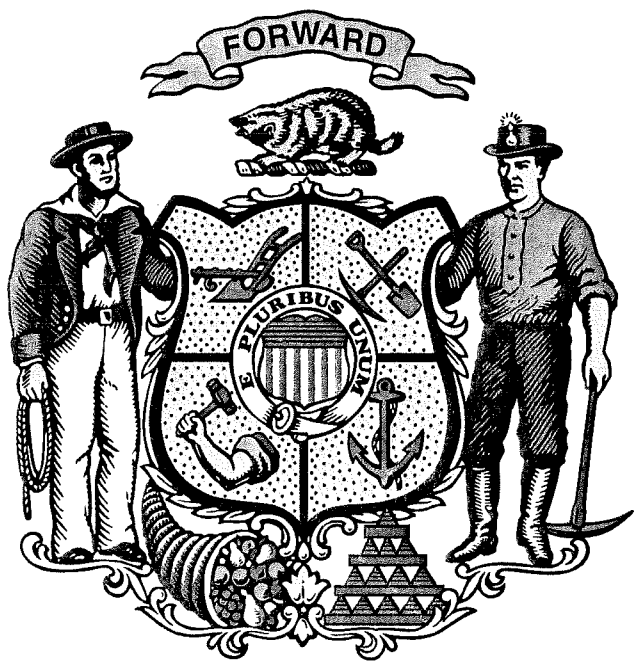
Today you will hear testimony of how desperate the situation has become surrounding this issue. There have been high profile cases that have made it to the media and highlighted the liability that this lack of training has become. Recently the Oneida County Coroner was arrested for using a cadaver spine to train a dog. The Rock County Coroner was arrested for stealing prescription drugs from a body. There is current legislation taking aim at the epidemic of heroin in our state. You will hear testimony of how some heroin overdoses have been consistently mislabeled as asthmatic attacks. We have to come to a conclusion if this is acceptable in the State of Wisconsin.

The Bill in its current form is the entire package. It protects the public and supports the coroner's and medical examiners. With the creation of the new examining board it provides a non-biased sounding board for families and oversight to monitor training.

Highlights of the Bill Include:

- 40 hours of training during first four year cycle
- Complete 24 hours of continuing education each renewal cycle
- Creation of Medicolegal Investigation Examining Board.

I have also included some minor amendments to in your information. I will answer questions to those as you need me to.





**Office of the
Dane County Medical Examiner**

Dr. Vincent Tranchida,
Chief Medical Examiner



Good morning. Thank you for inviting me to speak today. It is an honor to be here in front of all of you today and to speak about this important bill.

I am the acting Chief Medical Examiner of Dane County. I did my medical school training at Wayne State University School of Medicine, in Detroit, Michigan. I did my residency training in combined anatomic and clinical pathology at the University of Michigan in Ann Arbor, Michigan. I did a fellowship training at the Office of the Chief Medical Examiner of the City of New York, under the guidance of Charles S. Hirsch, a great leader in the field of forensic medicine. I further completed two additional subspecialty fellowship trainings in forensic cardiac pathology and forensic neuropathology. I worked as a senior medical examiner in New York City for eight years prior to coming to Dane County, and have performed several thousand medical investigations into causes and manners of death. I have also done cases in Michigan and New Hampshire. I am a board certified physician, pathologist, and forensic pathologist.

Medicolegal investigation plays a vital part of the justice system in matters concerning questions of death. Accurate investigation, examination, reporting, and testimony is critical to determine the cause and manner of death of individuals who die under sudden, unexpected, or violent circumstances. In the United States, the medicolegal investigation of these deaths, including those deemed a possible threat to public safety, is performed by either a coroner system or a medical examiner system.

In Wisconsin, this important function is performed not only by physician medical examiners, but also by coroners and "lay medical examiners".

In this state, there is no particular requirement that an individual must fulfill in order to hold the office of coroner or to be appointed as a lay medical examiner. No investigative training, no medical training... nothing. A person who has never interacted with a dead body in their entire lives could be elected or appointed to a coroner or lay medical examiner position, and be responsible for medicolegal investigation of deaths under his or her jurisdiction.

I am very fond of Wisconsin, and very proud to call it my new home. However, this current situation is a dangerous one for many counties, and one that places Wisconsin behind many other states. Without a minimum of requirements for training, investigation, documentation, or accountability, we cannot ensure a baseline standard of proficiency and competence in coroner and medical examiner death investigation. A county's coroner or medical examiner is often in the position to be the first to point out criminal activity or the threat of a communicable disease outbreak. Their function should assist law enforcement and district attorney's efforts to keep a community safe, rather than hinder them. We must hold the office to a higher standard.

Room 2144, Public Safety Building • 115 W. Doty Street • Madison, Wisconsin 53703

Telephone: (608) 284-6000 • FAX: (608) 284-6015





Office of the
Dane County Medical Examiner
Dr. Vincent Tranchida,
Chief Medical Examiner

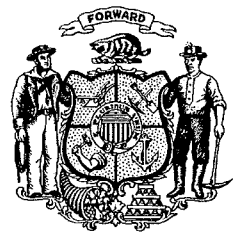


It is my hope that you will vote in favor of this bill. The requirements placed by this bill are neither overwhelming nor draconian. Indeed, they are relatively modest, and there is a great deal more work that needs to be done. But this is a good, reasonable, attainable step in the right direction.





WISCONSIN STATE LEGISLATURE



Many states have amended their law to address education and continuing education for Coroners. Coroner training is mandated in all but five of the twenty eight states that utilize non- physician coroners. Ten states have a hybrid Coroner Medical Examiner system similar to Wisconsin, of which Texas is the only other state that does not have training within this type of system.

The majority of the states provide a one week medicolegal death investigation course for all newly elected coroners within six months to one year of taking office and an average of sixteen hours of annual continuing education. Some state legislation requires their coroners and deputy coroners to become certified. Most state's legislation developed a State Coroner's Board or Training Commission that outlined the powers and duties of the board or commission.

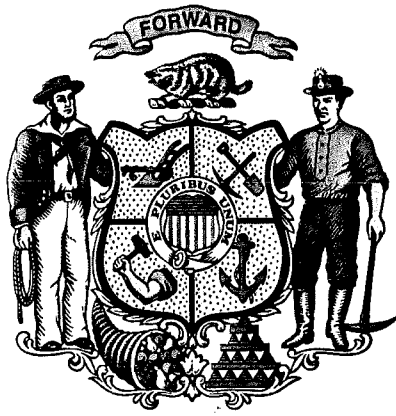
Included in the duties are the provisions to develop coroner training standards for the states, although, Indiana's legislation outlines the specific training topics. There are currently twenty eight states that have coroners in some or all counties. Four states require the coroner to be a physician. The coroner training requirements of the remaining twenty four states are summarized on the following pages. Only five of these twenty eight states do not require training.

The states that border Wisconsin all require training for the person responsible for death investigation in their states. Training has the potential to enhance the mortality trend monitoring and the vital statistics qualities recorded in Wisconsin and in turn enhance the health of Wisconsin. Mass casualty training can provide coroners with the specialized skills and knowledge needed in the event of a natural or man-made disaster, improving the confidence of the citizens of Wisconsin in our government institutions preparedness and ability to respond to disasters. Training will optimally facilitate accuracy of death investigations by providing a standard for coroners. The job of coroner is much more than completing a death certificate. Their role has evolved into a role that serves not only the criminal justice system, but has an enormous effect on public health research, allocation of funds, and prioritizing of programs at the local, state and national levels.

CORONER TRAINING REQUIREMENTS BY STATE

State	System	Coroners Elected/ Appointed	Training Required	Initial	Annual
Alabama	ME in some counties; coroners in others	ELECTED	YES	12 hrs.	12 hrs.
Arkansas	State ME; Coroners in every county	Elected/ Appt.	None	0	0
California	Hybrid Coroner/ME	Elected/ Appt.	Yes	Basic Course	24 hrs. 2 years
New York	ME/Coroner Hybrid	Elected and Appt.	Yes	36 CEU/36 from State Association for certification	36 CEU/36 from State Association for certification
North Carolina	State ME; Coroners in 3 counties others converted to MD serving as ME	Appointed	Yes if not MD	0	0
North Dakota	All Coroners MD's		n/a	n/a	
Ohio	Hybrid Coroner; ME	Elected	Yes	16hr.	36 hrs. over 4 year term
Pennsylvania	Hybrid ME; Coroner	Elected	Yes	32-40 Basic Training before taking office	8hrs.
South Carolina	Hybrid ME; Coroner	Elected	Yes	Basic Training by Law Enforcement	16 hrs.
South Dakota	Coroner Only	Elected	Yes	16 hrs. Basic Training by Law Enforcement	8 hrs.
Texas	Hybrid System (Some are Justice of the Peace)	Elected	None	0	0
Washington	Hybrid Coroner; ME	Elected	Yes	5 day course provided by Association	mandatory training provided by Association
Wisconsin	Hybrid	Elected/ Appt.	None	0/ Dropped in previous session	0

Wyoming	Coroners	Elected	Yes	40 basic course	16 hrs.
Colorado	Coroners only every county	Elected	Yes	40 hr. Certification	6 hrs.
Georgia	State ME; coroners in some counties	Elected	Yes	Basic Training Course	16 hrs.
Idaho	Coroners in every County	Elected	Yes	Coroner School W/I 1yr	24 hrs.
Illinois	ME Coroner Hybrid	Elected	Yes	40 hrs.	24 hrs.
Indiana	Coroners Only	Elected	Yes	40 hr. certification W/I 6mos. Deputy Certification W/I 12 MO	8 hrs.
Kansas	All Coroners MD's		n/a	n/a	
Kentucky	State ME; Coroner in every county	Elected	Yes	40 hrs. Medical Death Investigative Training	18 hrs.
Louisiana	All Coroners Required MD				
Minnesota	All Coroners MD's				
Mississippi	State ME; Coroner in every County	Elected	Yes	40 hrs. basic 8-16 hrs. advanced every 4 yrs.	24 hrs.
Missouri	Hybrid	Elected	Yes	20 Medilegal Death Investigation	20 hrs.
Montana	State ME; Coroner in every County	Elected	Yes	40 coroner basic course	24 hrs.
Nebraska	Coroner (County Attorney is Coroner)	Elected	Yes	None	None
Nevada	Sheriff is coroner	Elected/Appt.	Police Training	Police Training	Police Training



-34 years as coroner

- small county, part time position
- no change in 979
- defending credentials
- One more vote than the other guy- homicide testimony
- Lay medical examiner, assuring the county is hiring qualified
- Wisconsin is one four in the nation w/o training standards
- through own initiative training obtained

-surrounding counties

- lack of training
- lack of office, computer technology, needed storage
- case history- missed Heroin

Our responsibilities

Manner & mechanisms of death

Cause of death,

- medically legally important
- statically important

Determine when to move on forensic involvement

What bill provides-

- updated language
- mandated training
 - 40 hrs initial, 5 year recert
- licensing
- money for the mandated training, no county impact
 - \$1.5 mill- two years, \$568 Thou- two years to maintain
- oversight board