



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-2694/1
CMH:ah&cjs

2019 BILL

1 **AN ACT** *to renumber* 175.47 (1) (a); *to amend* 175.47 (title) and (1) (c); and *to*
2 *create* 15.55, 20.508, 20.923 (4) (e) 1c., 20.923 (6) (be), 175.469, 175.47 (1) (ac),
3 (ag), (d) and (e), 175.47 (3m), 175.47 (5) (am) and 230.08 (2) (eg) of the statutes;
4 **relating to:** the creation of an independent use of force review advisory board.

Analysis by the Legislative Reference Bureau

This bill creates an independent use of force review advisory board. Under the bill, the board conducts independent investigations of deaths and serious injuries to law enforcement officers and deaths and serious injuries to others resulting from an action or omission of a law enforcement officer. The board must recommend measures to reduce the probabilities of deaths and serious injuries from similar causes and must also review its previous recommendations to determine if they were implemented and evaluate their effectiveness.

Under the bill, if the board conducts an investigation of an incident involving an officer that resulted in death or a serious injury, its investigation may begin only after any mandatory or criminal investigation concludes. The bill grants the board access to all complete criminal and administrative investigation case files, models or renderings used in an investigation, and evidence and also to the state crime laboratories. The board must acquire experts and use advisors as needed to perform its duties; the experts and advisors include a certified firearms instructor, a defensive and arrest tactics instructor, an expert in cultural competency, a master instructor in professional communications, a master instructor in tactical response, a victim advocate, and a mental health professional.

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When the board completes an investigation, it must prepare an advisory report to be made public and be submitted to the legislature, all law enforcement agencies, and the Law Enforcement Standards Board. The report must identify events or developments that led to the officer-involved death or serious injury and make recommendations to prevent similar incidents in the future. The report must provide demographic information about each incident, share best practices used by law enforcement officers, and recommend practices that the board learns when exercising its review.

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.** 15.55 of the statutes is created to read:

2 **15.55 Independent use of force review advisory board.** There is created
3 an independent use of force review advisory board. The members shall serve
4 renewable 3-year terms and shall consist of all of the following:

5 (1) The director of the training and standards bureau, or his or her designee.

6 (2) One member, appointed by the Wisconsin Chiefs of Police Association.

7 (3) One member, appointed by the Badger State Sheriffs' Association.

8 (4) One member, appointed by the Wisconsin Professional Police Association.

9 (5) One member, appointed by the Wisconsin Sheriffs and Deputy Sheriffs
10 Association.

11 (6) One member, appointed by the Wisconsin Troopers Association.

12 (7) One member, appointed by the Milwaukee Police Association.

13 (8) One member, appointed by the Wisconsin District Attorneys Association.

14 (9) One member, appointed by the Wisconsin police executive group.

15 (10) One member, appointed by the Wisconsin training academy directors.

16 (11) An attorney specializing in criminal defense, appointed by the State Bar
17 of Wisconsin.

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1 **(12)** A mental health professional, appointed by the National Alliance on
 2 Mental Illness, Wisconsin.

3 **(13)** One member, jointly appointed by the dean of the University of Wisconsin
 4 Law School and the dean of the Marquette University Law School.

5 **SECTION 2.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
 6 the following amounts for the purposes indicated:

2019-20 2020-21

7 **20.508 Independent use of force review**
 8 **advisory board**

9 (1) OPERATIONS AND INVESTIGATIONS

10 (a) General program operations GPR A -0- -0-

11 **SECTION 3.** 20.508 of the statutes is created to read:

12 **20.508 Independent use of force review advisory board.** There is
 13 appropriated to the independent use of force review advisory board for the following
 14 programs:

15 **(1)** OPERATIONS AND INVESTIGATIONS. (a) *General program operations.* The
 16 amounts in the schedule for general program operations of the independent use of
 17 force review advisory board.

18 **SECTION 4.** 20.923 (4) (e) 1c. of the statutes is created to read:

19 20.923 **(4)** (e) 1c. Independent use of force review advisory board: executive
 20 director.

21 **SECTION 5.** 20.923 (6) (be) of the statutes is created to read:

22 20.923 **(6)** (be) Independent use of force review advisory board: all staff
 23 employees.

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1 **SECTION 6.** 175.469 of the statutes is created to read:

2 **175.469 Independent use of force review advisory board. (1)**

3 DEFINITIONS. In this section:

4 (a) “Board” means the independent use of force review advisory board.

5 (b) “Law enforcement officer” has the meaning given in s. 165.85 (2) (c).

6 **(2) PURPOSE.** The purpose of the board is to research and review the causes and
7 contributing factors of use-of-force incidents, as provided under this section, by law
8 enforcement officers in the course of their duties. This includes the review of state
9 statutes and police policy manuals, training standards, and hiring practices to make
10 recommendations to improve police tactics, increase the safety of law enforcement
11 officers and all who come into contact with a law enforcement officer, and reduce
12 probabilities of future death and great bodily harm from similar causes and
13 contributing factors.

14 **(3) DUTIES.** The board shall do all of the following in performance of its purpose
15 under sub. (2) and duties under s. 175.47:

16 (a) Determine through an independent investigation and analysis the full
17 range of causes and contributing factors, including the relationship between law
18 enforcement and community demographics, in the deaths of and serious injuries to
19 law enforcement officers, and deaths and serious injuries by law enforcement
20 officers, in the course of their official duties, and recommend measures to reduce the
21 probabilities of deaths and serious injuries from similar causes and involving similar
22 contributing factors.

23 (b) Appoint an executive director, outside the classified service, who shall
24 appoint all staff necessary for performing the duties and exercising the powers of the
25 board.

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1 (c) Develop written policies regarding the conduct of investigations and
2 analyses under s. 175.47 (3m).

3 (d) Communicate with the department of justice and other criminal justice
4 agencies as needed.

5 (e) Prepare and manage an annual budget.

6 (f) Identify and manage actual and perceived conflicts of interest.

7 (g) Apply for funding, as appropriate.

8 (h) Acquire experts and use advisors as needed to perform its duties and other
9 tasks as needed. The experts and advisors include, but are not limited to, a certified
10 firearms instructor, a defensive and arrest tactics instructor, an expert in cultural
11 competency, a master instructor in professional communications, a master
12 instructor in tactical response, a victim advocate, and a mental health professional.

13 (i) Review measures the board previously recommended under par. (a) to
14 determine if they were implemented and to evaluate their effectiveness.

15 **(4) POWERS.** (a) The board may access all criminal and administrative
16 investigation case files, access any models or renderings created or used in an
17 investigation, and examine all evidence.

18 (b) 1. Unless there is agreement between the board and the party providing the
19 files, models or renderings, or evidence, the providing party shall provide an
20 unredacted, unaltered file, model or rendering, or evidence to the board.

21 2. If the file, model or rendering, or evidence provided under subd. 1. contains
22 confidential information or information that is not subject to disclosure pursuant to
23 a request under s. 19.35, the providing party shall redact such information and
24 provide a redacted version to the board in addition to the unredacted version
25 provided under subd. 1. If a redacted version is provided under this subdivision, the

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1 unredacted version provided under subd. 1. is confidential and is not subject to the
2 right of inspection and copying under s. 19.35 (1).

3 (c) The board may access the state crime laboratories.

4 **SECTION 7.** 175.47 (title) and (1) (c) of the statutes are amended to read:

5 **175.47 (title) Review of deaths, injuries, and other incidents involving**
6 **officers.**

7 (1) (c) “Officer-involved death” means a death of an individual that results
8 directly from an action or, if it creates an unreasonable and substantial risk of death
9 or great bodily harm, an omission of a law enforcement officer ~~while the law~~
10 ~~enforcement officer is on duty or while the law enforcement officer is off duty but~~
11 ~~performing activities that are within the scope of his or her law enforcement~~ when
12 the officer is performing official duties.

13 **SECTION 8.** 175.47 (1) (a) of the statutes is renumbered 175.47 (1) (av).

14 **SECTION 9.** 175.47 (1) (ac), (ag), (d) and (e) of the statutes are created to read:

15 175.47 (1) (ac) “Board” means the independent use of force review advisory
16 board.

17 (ag) “Great bodily harm” has the meaning given in s. 939.22 (14).

18 (d) “Officer-involved great bodily harm” means the infliction of great bodily
19 harm to an individual that results directly from an action or, if it creates an
20 unreasonable and substantial risk of death or great bodily harm, an omission of a law
21 enforcement officer when the officer is performing official duties.

22 (e) “Official duties” means actions taken while on duty or, if the actions are
23 within the scope of actions taken while on duty, taken while off duty.

24 **SECTION 10.** 175.47 (3m) of the statutes is created to read:

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1 175.47 **(3m)** (a) The board may investigate and analyze the causes of and
2 contributing factors in an officer-involved death at the conclusion of an active
3 investigation under sub. (3) (a) of the officer-involved death.

4 (b) At the conclusion of an active criminal investigation, if any, of any of the
5 following incidents, the board may investigate and analyze the causes of and
6 contributing factors in the incident:

7 1. A death of a law enforcement officer that results from an intentional action
8 of an individual who is not an officer.

9 2. A death of a law enforcement officer that results from an accident or
10 unintentional action of an individual who is not an officer if the officer is performing
11 official duties.

12 3. Officer-involved great bodily harm.

13 4. Great bodily harm to a law enforcement officer that results from an
14 intentional action of an individual who is not an officer.

15 5. Great bodily harm to a law enforcement officer that results from an accident
16 or unintentional action of an individual who is not a law enforcement officer if the
17 officer is performing official duties.

18 **SECTION 11.** 175.47 (5) (am) of the statutes is created to read:

19 175.47 **(5)** (am) 1. The board shall prepare an advisory report after conducting
20 an investigation and analysis under sub. (3m). An advisory report shall be made
21 public and submitted to the legislature under s. 13.172 (2), to all law enforcement
22 agencies, and to the law enforcement standards board. An advisory report must be
23 prepared at least annually even if an investigation or analysis takes longer than one
24 year. In the report, the board shall identify each incident that was the subject of an
25 investigation. If there is more than one incident identified, the report may present

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1 the data so as to indicate the data are associated with one incident but may not
2 identify the particular incident to which the data are associated. The report shall
3 do all of the following:

4 a. Organize incidents that resulted in a death by type of death and type of
5 instrument used and incidents that resulted in great bodily harm by type of harm
6 and type of instrument used.

7 b. Identify any relevant events or developments that led to or contributed to
8 each incident and any recommendations of the board as to how to prevent similar
9 incidents in the future.

10 c. Provide demographic information about each incident.

11 d. Share best practices used by law enforcement officers that are revealed
12 during board review of incidents.

13 e. Recommend practices that the board learns through its review of incidents.

14 2. The board may not include in the report under subd. 1. any information that
15 was redacted under s. 175.469 (4) (b) 2.

16 3. No part of a report under subd. 1. that is related to an incident under sub.
17 (3m), or to an investigation or analysis of such an incident, may be admitted into
18 evidence or used in an action for damages resulting from the incident.

19 **SECTION 12.** 230.08 (2) (eg) of the statutes is created to read:

20 230.08 (2) (eg) The director and all employees of the independent use of force
21 review advisory board.

22 **SECTION 13. Nonstatutory provisions.**

23 (1) STAGGERING OF TERMS. Notwithstanding the length of terms specified for the
24 members of the board under s. 15.55, the initial members appointed under s. 15.55

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1 (2), (5), (8), and (11) shall be appointed for one-year terms and the initial members
2 appointed under s. 15.55 (3), (6), (9), and (12) shall be appointed for 2-year terms.

3 (END)