

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

SENATE BILL NO. _____

By: Helton

AS INTRODUCED

An Act relating to public health and safety; amending 63 O.S. 1991, Section 949, which relates to records and evidence within the office of the Chief Medical Examiner; limiting the admission into evidence of certain information; allowing the taking of depositions and providing procedures; providing that depositions be admissible in evidence in civil cases; requiring timely application to medical examiner; allowing the issuance of a subpoena as an exception; authorizing certain charges and fees; making certain fee exclusive; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 63 O.S. 1991, Section 949, is amended to read as follows:

Section 949. A. 1. The Office of the Chief Medical Examiner shall keep full and complete records, properly indexed, giving the name, if known, of every person whose death is investigated, the place where the body was found, the date, cause, and manner of death and all other relevant information concerning the death. The full report and detailed findings of the autopsy, if any, shall be a part of the record in each case.

2. The office shall promptly deliver to ~~the~~ each district attorney ~~of each county~~ having ~~criminal~~ jurisdiction ~~over~~ of the case, copies of all records relating to ~~every~~ a death ~~as to~~ for which further investigation may be advisable. Any district attorney or other law enforcement official may, upon request, ~~secure~~ obtain copies of such records or other information deemed necessary ~~by him~~ to the performance of ~~his~~ such district attorney's or other law enforcement official's official duties.

B. No report, findings, testimony, or other information of a medical examiner shall be admitted in evidence in any civil action in any court in this state, except under the following circumstances:

1. Certified copies of reports pertaining to the factual determinations of views and examination of or autopsies upon the bodies of deceased persons by the Chief Medical Examiner, a medical examiner, consultant pathologist, or anyone under their supervision or control may be admitted in evidence in any civil case in a court of competent jurisdiction in this state by stipulation of all parties in the case.

2. If a party refuses to stipulate ~~as~~ to admission, the ~~records reports~~ may be requested by ~~the~~ any party seeking ~~the stipulation as to admission from~~ to admit the records as evidence. The request shall be made to the Office of the Chief Medical Examiner ~~and they,~~ who shall be furnished furnish same.

3. The party seeking ~~the stipulation as to~~ admission of the reports shall then serve interrogatories concerning the facts to be answered under oath by the person preparing the records. The interrogatories and answers thereto shall be subject to the rules of evidence and ~~may~~ shall be ~~admitted~~ admissible in evidence in any civil case in a court of competent jurisdiction. Objections to the interrogatories shall be made by any party in accordance with law just as if the interrogatories had been served on the objecting party. Cross interrogatories shall be submitted and shall be answered and admitted in evidence in the same manner as interrogatories.

4. The taking of depositions shall then be allowed pursuant to the provisions of Section 3230 of Title 12 of the Oklahoma Statutes; provided, however, depositions shall take place at the Office of the Chief Medical Examiner, a medical examiner, consultant pathologist, or anyone under their supervision or control whose testimony is

sought, unless all parties, including the medical examiner, agree the deposition can be taken elsewhere. The depositions shall be subject to the rules of evidence and shall be admissible in evidence in any civil case in a court of competent jurisdiction.

5. No other testimony of the Chief Medical Examiner, a medical examiner, consultant pathologist, or anyone under their supervision and control shall be admitted in evidence in any civil action in any court of this state, unless ~~upon~~ timely application is made to the court by ~~any~~ an interested party or litigant and ~~after~~ timely notice of the application is given to the medical examiner. After a hearing ~~thereon~~, the court, for good cause shown, may order the appearance of the Chief Medical Examiner, a medical examiner, consultant pathologist, or anyone under their supervision and control for the purpose of testifying and may order that a subpoena be issued for that appearance; provided, however, that such order by the court shall be the exception and not the rule.

6. The cost of the records or certified copies thereof shall be paid by the party requesting same. The reasonable fee charged by the Chief Medical Examiner, a medical examiner, consultant pathologist, or anyone under their supervision and control for answering interrogatories or cross interrogatories, submitting to depositions, or providing testimony shall be paid by the party submitting same. This fee shall be in place of any other witness fee allowed by law.

C. Certified copies of reports and findings, exclusive of hearsay evidence, may be admitted in evidence in preliminary hearings and criminal trials by stipulation.

D. Certified copies of reports of investigations by a medical examiner, laboratory reports and/or autopsy reports may be furnished to the next of kin or others having need for them upon written statement and payment of a reasonable fee set by the Board of Medicolegal Investigations.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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