ENROLLED SENATE
BILL NO. 1522

By: Gumm of the Senate

and

Carey, Adkins, Morgan (Fred), Piatt, Staggs, Vaughn, Winchester, Brannon, Lamons, Harrison, Dorman, Dank and Nance of the House

An Act relating to public health and safety; amending 63 O.S. 2001, Section 949, which relates to medicolegal investigations; requiring the Chief Medical Examiner to track and forward specified information about certain deaths to certain entities; defining term; providing for further notification; clarifying purpose of notification; directing the medical examiner to provide certain explanation and waiver to a newly bereaved family; requiring medical examiner to document receipt of waiver and to forward certain information to specified entities; defining term; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 63 O.S. 2001, Section 949, is amended to read as follows:

Section 949.

A. 1. a. 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.

b. The Chief Medical Examiner shall track and forward, within seventy-two (72) hours after the examination, demographic information on sudden, unexpected and nontraumatic infant deaths including, but not limited to, Sudden Infant Death Syndrome (SIDS), to the Oklahoma SIDS Coordinator at the State Department of Health and the SIDS Foundation of Oklahoma. As used

in this subparagraph, "Sudden Infant Death Syndrome (SIDS)" means the sudden, unexpected death of an apparently healthy infant less than one (1) year of age which remains unexplained following a complete medicolegal analysis and death scene investigation. The Chief Medical Examiner shall follow up with further notification upon final determination of a cause of death. Such notification shall be for statistical reporting purposes only.

2. The office shall promptly deliver to each district attorney having jurisdiction of the case, copies of all records relating to a death for which further investigation may be advisable. Any district attorney or other law enforcement official may, upon request, obtain copies of such records or other information deemed necessary to the performance of 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 to admission, the reports may be requested by any party seeking to admit the records as evidence. The request shall be made to the Office of the Chief Medical Examiner, who shall furnish same~~.~~;

3. The party seeking 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 be 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~~.~~;

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 timely application is made to the court by an interested party or litigant and timely notice of the application is given to the medical examiner. After a hearing, 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~~.~~; and

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.

E. 1. In a case in which possible SIDS is determined as the cause of death of an infant less than one (1) year of age, the medical examiner shall explain to the newly bereaved family that support services are available and can be rendered more efficiently if the family signs a waiver to allow release of confidential information. The medical examiner shall provide such waiver to the family for signatures.

2. The medical examiner shall document receipt of the signed waiver form and shall forward such documentation to the State Department of Health and the SIDS Foundation of Oklahoma, along with information related to the possible SIDS death including, but not limited to, the infant's name, date of birth, date of death, race, parents' names, address and phone number.

3. As used in this subsection, "possible SIDS" means the sudden unexpected, nontraumatic death of an apparently healthy infant less than one (1) year of age.

SECTION 2. This act shall become effective July 1, 2004.

SECTION 3. 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.

Passed the Senate the 26th day of April, 2004.

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Presiding Officer of the Senate

Passed the House of Representatives the 15th day of April, 2004.

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Presiding Officer of the House
of Representatives