

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 738

By: Coffee and Jolley of the
Senate

3
4 and

5 Bengé and Lamons of the
House

6
7 An Act relating to the Office of the Chief Medical
8 Examiner; * * * amending 51 O.S. 2001, Section 24A.5,
9 * * * which relates to records; * * * amending 63
10 O.S. 2001, Sections 931, * * * which relate to the
11 Office of Chief Medical Examiner; * * * providing for
12 codification; and providing an effective date.

13 AMENDMENT NO. 1. Strike the title, enacting clause and entire bill
14 and insert

15 "(the Office of the Chief Medical Examiner -
16 codification -

17 effective date)

18
19 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

20 SECTION 1. AMENDATORY 63 O.S. 2001, Section 931, as
21 amended by Section 1, Chapter 410, O.S.L. 2005 (63 O.S. Supp. 2008,
22 Section 931), is amended to read as follows:

23 Section 931. A. The Board of Medicolegal Investigations is
24 hereby re-created. The members of the Board shall be:

- 1 1. The Director of the Oklahoma State Bureau of Investigation,
- 2 or a designee;
- 3 2. The State Commissioner of Health, or a designee;
- 4 3. ~~The Dean of the College of Medicine of~~ Chair of the
- 5 Department of Pathology at the University of Oklahoma College of
- 6 Medicine, or a designee;
- 7 4. ~~The President or Dean of~~ Chair of the Department of
- 8 Pathology at the Oklahoma State University Center for Health
- 9 ~~Sciences~~ College of Osteopathic Medicine, or a designee;
- 10 5. The President of the Oklahoma Bar Association, or a
- 11 designee;
- 12 6. The President of the Oklahoma Osteopathic Association, or a
- 13 designee;
- 14 7. The President of the Oklahoma State Medical Association, or
- 15 a designee; ~~and~~
- 16 8. A funeral director, as provided by Section 396.3 of Title 59
- 17 of the Oklahoma Statutes, appointed by the Oklahoma State Board of
- 18 Embalmers and Funeral Directors; and
- 19 9. The Director of the Forensic Science Institute at the
- 20 University of Central Oklahoma.

21 ~~The Chief Medical Examiner shall be an ex officio nonvoting~~

22 ~~member of the Board.~~ B. The Board shall elect one of its members as

23 chair and one of its members as vice-chair. Members of the Board

24 shall receive no compensation for their services on this Board.

1 Regular meetings of the Board shall be held ~~at such times as~~
2 ~~determined by its members~~ monthly, and special meetings may be
3 called by the chair. ~~Four~~ Five members shall constitute a quorum.

4 SECTION 2. AMENDATORY 63 O.S. 2001, Section 932, is
5 amended to read as follows:

6 Section 932. A. The Board is hereby authorized to promulgate
7 rules and regulations in accordance with the Administrative
8 Procedures Act necessary or appropriate to carry out effectively the
9 provisions of this act. ~~Such rules and regulations shall be filed~~
10 ~~with the Secretary of State and shall not be effective until ten~~
11 ~~(10) days after the date of filing. The Board shall, on the date of~~
12 ~~filing, send a copy of the rules and regulations by the United~~
13 ~~States mail to the state regulatory board the licensees of which are~~
14 ~~affected thereby~~

15 B. The Board is authorized to act as a checks and balances
16 system with authority to override any act by the Administrative
17 Director and/or the Medical Examiner that jeopardizes the integrity
18 or successful operation of the agency by a unanimous vote of the
19 Board.

20 SECTION 3. AMENDATORY 63 O.S. 2001, Section 933, is
21 amended to read as follows:

22 Section 933. A. The Office of the ~~Chief~~ State Medical Examiner
23 ~~of the State of Oklahoma~~ is hereby established to be operated under
24 the control and supervision of the Board. The Office shall be

1 administered by the Director of the Office of the State Medical
2 Examiner who may employ such other staff members as the Board shall
3 specify.

4 B. The Office of the State Medical Examiner shall be:

5 1. Remain independent and autonomous from all other agencies in
6 this state;

7 2. Be directed by the Chief Director of the Office of the State
8 Medical Examiner and the Chief Medical Examiner may employ such
9 other staff members as who is appointed by the Board shall specify;
10 and

11 3. Obtain approval by the Legislature before closing any
12 satellite office.

13 SECTION 4. AMENDATORY 63 O.S. 2001, Section 934, is
14 amended to read as follows:

15 Section 934. A. The Board of Medicolegal Investigations shall
16 appoint the Director of the Office of the State Medical Examiner who
17 shall have a minimum of a bachelor's degree in business
18 administration, management, leadership, or a related field from an
19 accredited four-year college or university or a minimum of five (5)
20 years' professional administrative experience as determined by the
21 Board. The Director shall serve at the pleasure of the Board.

22 B. 1. The Board shall appoint a Chief Medical Examiner who
23 shall be a physician licensed to practice in Oklahoma and a
24

1 diplomate of the American Board of Pathology or the American
2 Osteopathic Board of Pathology in forensic pathology.

3 2. The Chief Medical Examiner shall serve at the pleasure of
4 the Board. In addition to the duties prescribed by law, the Chief
5 Medical Examiner may teach in any medical school in this state and
6 conduct special classes for law enforcement officers.

7 SECTION 5. AMENDATORY 63 O.S. 2001, Section 935, as last
8 amended by Section 5, Chapter 269, O.S.L. 2008 (63 O.S. Supp. 2008,
9 Section 935), is amended to read as follows:

10 Section 935. A. 1. The Director of the Office of the State
11 Medical Examiner shall be directly responsible to the Board of
12 Medicolegal Investigations for the management and administration of
13 the Office of the State Medical Examiner.

14 2. The Chief Medical Examiner shall be directly responsible to
15 the Board for the performance of the duties provided for in this act
16 and for the administration of the ~~office of the Chief Medical~~
17 Examiner Division of the Office of the State Medical Examiner. The
18 Chief Medical Examiner may, ~~however,~~ delegate specific duties to
19 competent and qualified deputies who may act for the Chief Medical
20 Examiner within the scope of the express authority granted by the
21 Chief Medical Examiner, subject, however, to such rules as the Board
22 may prescribe.

23 B. The Director shall have responsibility for, but not be
24 limited to:

1 1. Establishing written professional qualification requirements
2 for each staff position related to the investigation of deaths,
3 including but not limited to forensic pathologists, laboratory
4 personnel, investigators, and the position of chief investigator
5 that are compatible with state and federal law;

6 2. Establishing minimum requirements for investigators employed
7 on or after November 1, 2009, which at a minimum shall require a
8 bachelor's degree in forensic sciences or a related field, or a
9 combination of education and experience needed to meet requirements
10 for the job. The Director shall ensure that all investigative
11 personnel receive classification as certified death investigators as
12 soon as possible, not to exceed twelve (12) months from having
13 acquired the minimum number of investigative hours needed for
14 testing and that all investigators receive mandatory annual training
15 needed to maintain certification;

16 3. Establishing continuing education requirements for the Chief
17 Medical Examiner and other staff positions related to the
18 investigation of deaths including but not limited to forensic
19 pathologists, laboratory personnel, investigators, and the position
20 of chief investigator;

21 4. Providing quarterly information to the Board regarding
22 operational statistics and issues, advancements in meeting agency
23 goals and benchmarks, critical issues affecting the progress and
24 success of the agency, personnel issues affecting operations, and

1 all complaints against the agency to be heard in executive session
2 during Board meetings;

3 5. Providing minutes of all Board meetings;

4 6. Directing administrative staff in adherence to all state and
5 federal laws associated with human resources, procurement, and
6 budgeting issues of the agency;

7 7. Setting the highest degree of professional standards for
8 medical, investigative, and support personnel in meeting the goals
9 of the agency;

10 8. Establishing professional policies and procedures that
11 provide guidance and direction to all agency personnel, including a
12 policy that mandates criminal history background checks of all
13 prospective employees of the agency;

14 9. Representing the Office of the State Medical Examiner before
15 all legislative bodies and committees addressing budgetary and
16 statutory issues; and

17 10. Supervising the activities of the Office.

18 SECTION 6. AMENDATORY 63 O.S. 2001, Section 936, is
19 amended to read as follows:

20 Section 936. ~~The Board shall provide for a central office and~~
21 ~~shall see that there is maintained~~ The Office of the State Medical
22 Examiner (OSME) shall maintain access to a laboratory suitably
23 equipped with facilities for performance of the duties imposed by
24 this act. The OSME is authorized to contract with independent third

1 parties, except for the Oklahoma State Bureau of Investigation
2 (OSBI) unless otherwise approved by the Legislature, for the
3 effective utilization of all available resources and programs.

4 SECTION 7. AMENDATORY 63 O.S. 2001, Section 937, is
5 amended to read as follows:

6 Section 937. The Chief Medical Examiner shall appoint, with the
7 advice and consent of the Board of Medicolegal Investigations,
8 medical examiners for each county of the state. Each medical
9 examiner so appointed shall be a Doctor of Medicine or Osteopathy
10 and Surgery, shall hold a valid license to practice ~~his~~ the
11 profession in Oklahoma, and shall hold office at the pleasure of the
12 Board. In the event there is no qualified person in the county or
13 no person willing to serve as a medical examiner, or in the event
14 the medical examiner is absent from the county in which ~~he~~ the
15 medical examiner serves, or is ill or disqualified by personal
16 interest, the Chief Medical Examiner may ~~in his discretion~~ appoint
17 as a medical examiner for ~~such~~ the county a qualified person from
18 another county, or may direct a medical examiner from another county
19 to perform the duties of a medical examiner in both counties.
20 Nothing in this section or act shall prohibit or restrict the Chief
21 Medical Examiner from appointing a medical examiner and directing
22 ~~him~~ a medical examiner to cross a county line. A medical examiner
23 shall not be precluded from holding other public offices created by
24 the laws of the state.

1 SECTION 8. AMENDATORY 63 O.S. 2001, Section 939, is
2 amended to read as follows:

3 Section 939. A. The ~~Chief~~ Office of the State Medical Examiner
4 shall prepare and distribute to all medical examiners appropriate
5 forms to be used in filing reports of investigation, with
6 instructions as to their use, and detailed instructions as to the
7 nature, character, and extent of investigation and examination to be
8 made in each case in which investigation is required pursuant to
9 Sections 931 through 954 of this title.

10 B. Except as otherwise provided by law, the ~~Chief~~ Office of the
11 State Medical Examiner shall produce records, documents, evidence or
12 other material of any nature only upon the order of a court of
13 competent jurisdiction. An interested party or litigant in a civil
14 or criminal action may make application for an order to produce such
15 materials. The court, after notice to all parties, including the
16 Chief Medical Examiner, and a hearing on the application, may, upon
17 the showing of good cause, direct the release of a copy or any part
18 of such material. In addition, the court may also direct the
19 payment of reasonable costs by the requesting party for the
20 production of the material. The production of such material shall
21 take place at the Office of the ~~Chief~~ State Medical Examiner unless,
22 upon a showing of good cause, specifically ordered otherwise by the
23 court.

24

1 SECTION 9. AMENDATORY 63 O.S. 2001, Section 940, is
2 amended to read as follows:

3 Section 940. A. 1. All law enforcement officers and other
4 state and county officials shall cooperate with the Chief Medical
5 Examiner and all other medical examiners in making investigations
6 required pursuant to the provisions of Sections 931 through 954 of
7 this title. Said officials and the physician in attendance of the
8 deceased, or other persons when the deceased was unattended by a
9 physician, shall promptly notify the medical examiner of the
10 occurrence of all deaths coming to their attention which, pursuant
11 to the provisions of Sections 931 through 954 of this title, are
12 subject to investigation, and shall assist in making dead bodies and
13 related evidence available for investigation.

14 2. The scene of a death subject to the provisions of Sections
15 931 through 954 of this title shall not be disturbed until
16 authorized by the Chief Medical Examiner, ~~his~~ a designee, or a
17 county medical examiner, and the representative of any law
18 enforcement agency which has begun an investigation of the cause of
19 death. Said authorization may be given by telephone. Nothing in
20 Sections 931 through 954 of this title shall prevent the district
21 attorney or ~~his~~ a designee from authorizing the removal of a body
22 when the removal is determined by ~~him~~ such person to be in the
23 public interest and conditions at the scene are adequately
24 documented and preserved by photographs and measurements.

1 B. The death of any patient, inmate, ward, or veteran in a
2 state hospital or other institution, except Oklahoma Medical Center
3 Hospitals and Clinics thereof, shall be reported by the chief
4 administrative officer of the hospital or institution or ~~his~~ a
5 designee to the Office of the ~~Chief~~ State Medical Examiner at the
6 time of the death and prior to release of the body.

7 1. Within thirty-six (36) hours, a written report shall be
8 submitted and shall be accompanied by true and correct copies of all
9 medical records of the hospital or institution concerning the
10 deceased patient.

11 2. The Chief Medical Examiner shall have the authority to
12 require production of any records, documents, or equipment or other
13 items regarding the deceased patient deemed necessary to investigate
14 the death.

15 SECTION 10. AMENDATORY 63 O.S. 2001, Section 941, is
16 amended to read as follows:

17 Section 941. A. Upon receipt of notice of death of any person
18 which under this act is subject to investigation, the medical
19 examiner shall immediately conduct an investigation into the cause
20 and manner of death, and shall comply in detail with the
21 instructions of the ~~Chief~~ Office of the State Medical Examiner as
22 provided for in Section 939 of this title. ~~He~~ The medical examiner
23 may have fingerprints and photographs taken.—~~He~~ and may take charge
24 of any object or writing found on or near the body which ~~he deems~~ is

1 deemed necessary for the purpose of establishing the cause and/or
2 manner of death.

3 B. Upon conclusion of ~~his~~ the investigation and ~~his~~
4 determination that such objects or writings are no longer needed as
5 evidence, the medical examiner shall deliver them to the district
6 attorney for disposition.

7 C. The investigating medical examiner shall have access at all
8 times to any and all medical and dental records and history of the
9 deceased, including, but not limited to, radiographs and
10 electrocardiograms, in the course of ~~his~~ an official investigation
11 to determine the cause and manner of death. Such records may not be
12 released to any other person by the medical examiner, and the
13 custodians of ~~such~~ the records shall incur no liability by reason of
14 the release of ~~such~~ the records to the medical examiner.

15 D. The body of the deceased shall be turned over to the funeral
16 director designated by the person responsible for burial within
17 eighteen (18) hours unless a longer period is necessary to complete
18 the required investigation.

19 SECTION 11. AMENDATORY 63 O.S. 2001, Section 944.2, is
20 amended to read as follows:

21 Section 944.2 For each medicolegal autopsy performed by the
22 Office of the Chief State Medical Examiner under ~~Title 63 of the~~
23 ~~Oklahoma Statutes~~ this title, including the making of required
24 reports, the Office of the Chief State Medical Examiner shall

1 receive a fee of One Hundred Dollars (\$100.00). Such fee shall be
2 paid by the city, town or county in which the death occurred or in
3 which the injury which resulted in death was apparently sustained.
4 Provided that, if the death, or injury resulting in death, occurred
5 within the municipal boundaries of a town or city, the fee shall be
6 paid by that town or city; if the death, or injury resulting in
7 death, occurred within the boundaries of a county and outside any
8 municipal boundaries located in that county, the fee shall be paid
9 by that county.

10 SECTION 12. AMENDATORY 63 O.S. 2001, Section 945, is
11 amended to read as follows:

12 Section 945. A. When properly authorized, an autopsy shall be
13 performed by the Chief Medical Examiner or such person as may be
14 designated by him for such purpose. The Chief Medical Examiner or a
15 ~~person designated by him~~ designee may authorize arterial embalming
16 of the body prior to the autopsy when such person determines that
17 the embalming would in his opinion not interfere with the autopsy.
18 The autopsy shall be made of such parts of the body as is deemed
19 necessary by the person performing the autopsy.

20 B. A full and complete report of the facts developed by the
21 autopsy together with the findings of the person making ~~it~~ the
22 autopsy shall be prepared and filed in the Office of the Chief State
23 Medical Examiner without unnecessary delay. Copies of such reports
24 and findings shall be furnished to district attorneys and law

1 enforcement officers making a criminal investigation in connection
2 with the death. The next of kin, or any one of them if more than
3 one, may designate a physician to be present when the autopsy is
4 conducted.

5 SECTION 13. AMENDATORY 63 O.S. 2001, Section 947, is
6 amended to read as follows:

7 Section 947. A. The certification of death of any person whose
8 death is investigated under this act shall be made by the Chief
9 Medical Examiner, ~~his~~ a designee, or the medical examiner who
10 conducted the investigation, upon a medical examiner death
11 certificate provided by the State Registrar of Vital Statistics.
12 Such death certificates shall be valid only when signed by a duly
13 appointed medical examiner, the Chief Medical Examiner, or ~~his~~ a
14 designee. Copies of all ~~such~~ certificates shall be forwarded
15 immediately upon receipt by the State Registrar of Vital Statistics
16 to the Office of the ~~Chief~~ State Medical Examiner.

17 B. Any certification of death by an attending physician may be
18 referred by the State Registrar of Vital Statistics to the Chief
19 Medical Examiner for investigation and the amending of the original
20 certificate of death by the filing of a medical examiner death
21 certificate by the medical examiner or Chief Medical Examiner when
22 the death is determined by the Chief Medical Examiner to be one
23 properly requiring investigation under Section 938 of this title.

24

1 C. Medical examiner death certificates will not be required in
2 cases investigated solely for the purpose of issuing a permit for
3 transport of a body out of state.

4 D. The Board of Medicolegal Investigations shall not charge a
5 fee for out-of-state shipment of human remains whenever the Office
6 of the ~~Chief~~ State Medical Examiner has not been required to conduct
7 an investigation of the death.

8 SECTION 14. AMENDATORY 63 O.S. 2001, Section 948, as
9 amended by Section 1, Chapter 559, O.S.L. 2004 (63 O.S. Supp. 2008,
10 Section 948), is amended to read as follows:

11 Section 948. A. For each investigation or partial
12 investigation in which the medical examiner is relieved by the Chief
13 Medical Examiner or a designee, the medical examiner shall receive
14 compensation for ~~such~~ services as provided in the rules approved and
15 promulgated by the Board of Medicolegal Investigations, from funds
16 appropriated to the Board ~~of Medicolegal Investigations~~. Where, in
17 the opinion of the Chief Medical Examiner, it is necessary to
18 designate a consultant pathologist to perform an autopsy, such
19 pathologist shall be entitled to a reasonable fee. Such fees shall
20 be payable from funds appropriated to the Board ~~of Medicolegal~~
21 ~~Investigations~~.

22 B. The Office of the ~~Chief~~ State Medical Examiner ~~(OCME)~~ (OSME)
23 shall store biological specimens in the control of the ~~OCME~~ OSME for
24 the potential purpose of independent analyses in matters of civil

1 law, only upon receipt of a written request for ~~such~~ storage and
2 payment of a storage fee. The fee shall be paid by the person
3 requesting storage to the Office of the ~~Chief~~ State Medical
4 Examiner. The Board shall promulgate rules establishing a fee for
5 storage of ~~such~~ biological specimens which shall not exceed One
6 Hundred Dollars (\$100.00) per year. All fees collected pursuant to
7 the provisions of this subsection shall be deposited to the credit
8 of the Office of the ~~Chief~~ State Medical Examiner Toxicology
9 Laboratory Revolving Fund.

10 C. 1. The Office of the ~~Chief~~ State Medical Examiner (~~OCME~~)
11 (OSME) is authorized to perform drug screens on specimens in the
12 custody of the ~~OCME~~ OSME, provided the request is made by an agency
13 or party authorized to receive such information. The ~~OCME~~ OSME may
14 limit drug screens within the technical and physical capabilities of
15 the ~~OCME~~ OSME.

16 2. The authorization for drug screens shall apply only to
17 specimens from cases already within the jurisdiction of the ~~OCME~~
18 OSME and only when the analyses are deemed by the Chief Medical
19 Examiner or Deputy Chief Medical Examiner not to conflict with any
20 investigation of the case by the state.

21 3. The Board of Medicolegal Investigations shall establish a
22 fee for drug screen services by rule. All fees collected pursuant
23 to the provisions of this subsection shall be deposited to the ~~Chief~~

24

1 Office of the State Medical Examiner Toxicology Laboratory Revolving
2 Fund.

3 SECTION 15. AMENDATORY Section 2, Chapter 559, O.S.L.
4 2004 (63 O.S. Supp. 2008, Section 948.1), is amended to read as
5 follows:

6 Section 948.1 A. The Board of Medicolegal Investigations may
7 establish a fee schedule for forensic services, permits and reports
8 rendered to members of the public and other agencies.

9 1. No fee schedule may be established or amended by the Board
10 except during a regular legislative session. The Board shall comply
11 with the Administrative Procedures Act for adoption of rules and
12 establishing or amending any ~~such~~ fee schedule.

13 2. Except as otherwise specified in this section, the Board
14 shall charge fees only within the following ranges:

- 15 a. permit for cremations that occur within the state:
16 One Hundred Dollars (\$100.00) to Two Hundred Dollars
17 (\$200.00),
- 18 b. forensic science service: One Hundred Dollars
19 (\$100.00) to Three Thousand Dollars (\$3,000.00),
- 20 c. report copies: Ten Dollars (\$10.00) for report of
21 investigation, including toxicology, and Twenty
22 Dollars (\$20.00) for an autopsy report, including
23 toxicology,
- 24 d. x-rays: Fifteen Dollars (\$15.00) each,

- 1 e. microscopic slides, Hematoxilyn and Eosin (H&E): Ten
2 Dollars (\$10.00) each,
3 f. special stains: Fifteen Dollars (\$15.00) each, and
4 g. photographs: Twenty-five Dollars (\$25.00) per
5 computer diskette (CD).

6 B. The Board shall base the fee schedule for forensic science
7 services, permits and reports upon reasonable costs of review,
8 investigation and forensic science service delivery; provided,
9 however, the fee schedule shall be within the ranges specified in
10 subsection A of this section. The Board shall continue a system of
11 basic and continuing educational service and training for all
12 personnel who render forensic science services in order to ensure
13 uniform statewide application of the rules of the Board. The Board
14 shall consider the reasonable costs associated with such training
15 and continuing education in setting the forensic science service
16 fees.

17 C. The Board may exempt by rule any agency or class of
18 individuals from the requirements of the fee schedule if the Board
19 determines that the fees would cause an unreasonable economic
20 hardship or would otherwise hinder or conflict with ~~an agency's~~ the
21 responsibilities of an agency.

22 D. All statutory fees currently in effect for permits or
23 forensic science services administered by the ~~Chief~~ Office of the
24 State Medical Examiner and the Board of Medicolegal Investigations

1 within the jurisdiction of the Office of the ~~Chief~~ State Medical
2 Examiner shall remain in effect until such time as the Board acts to
3 implement new schedules pursuant to the provisions of this act.

4 SECTION 16. AMENDATORY 63 O.S. 2001, Section 949, as
5 amended by Section 1, Chapter 190, O.S.L. 2004 (63 O.S. Supp. 2008,
6 Section 949), is amended to read as follows:

7 Section 949.

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

16 b. The Chief Medical Examiner shall track and forward,
17 within seventy-two (72) hours after the examination,
18 demographic information on sudden, unexpected and
19 nontraumatic infant deaths, including, but not limited
20 to, Sudden Infant Death Syndrome (SIDS), to the
21 Oklahoma SIDS Coordinator at the State Department of
22 Health and the SIDS Foundation of Oklahoma. As used
23 in this subparagraph, "Sudden Infant Death Syndrome
24 (SIDS)" means the sudden, unexpected death of an

1 apparently healthy infant less than one (1) year of
2 age which remains unexplained following a complete
3 medicolegal analysis and death scene investigation.
4 The Chief Medical Examiner shall follow up with
5 further notification upon final determination of a
6 cause of death. Such notification shall be for
7 statistical reporting purposes only.

8 2. The office shall promptly deliver to each district attorney
9 having jurisdiction of the case, copies of all records relating to a
10 death for which further investigation may be advisable. Any
11 district attorney or other law enforcement official may, upon
12 request, obtain copies of ~~such~~ records or other information deemed
13 necessary ~~to~~ for the performance of ~~such district attorney's or~~
14 ~~other law enforcement official's~~ official duties.

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

19 1. Certified copies of reports pertaining to the factual
20 determinations of views and examination of or autopsies upon the
21 bodies of deceased persons by the Chief Medical Examiner, a medical
22 examiner, consultant pathologist, or anyone under their supervision
23 or control may be admitted in evidence in any civil case in a court
24

1 of competent jurisdiction in this state by stipulation of all
2 parties in the case;

3 2. If a party refuses to stipulate to admission, the reports
4 may be requested by any party seeking to admit the records as
5 evidence. The request shall be made to the Office of the ~~Chief~~
6 State Medical Examiner, who shall furnish same;

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

17 4. The taking of depositions shall then be allowed pursuant to
18 the provisions of Section 3230 of Title 12 of the Oklahoma Statutes;
19 provided, however, depositions shall take place at the Office of the
20 ~~Chief~~ State Medical Examiner, a medical examiner, consultant
21 pathologist, or anyone under their supervision or control whose
22 testimony is sought, unless all parties, including the medical
23 examiner, agree the deposition can be taken elsewhere;

24

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

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

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

24

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

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

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

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

23 SECTION 17. AMENDATORY 63 O.S. 2001, Section 950, is
24 amended to read as follows:

1 Section 950. In the event it is necessary or advisable to
2 perform an autopsy under the provisions of this act in some place
3 other than the laboratories of the Chief Medical Examiner, ~~said the~~ the
4 examiner may authorize payment of a reasonable fee for the use of an
5 appropriate place for the performing of an autopsy, which payment
6 shall be made upon a claim and submitted to the Board of Medicolegal
7 Investigations.

8 SECTION 18. AMENDATORY 63 O.S. 2001, Section 951, is
9 amended to read as follows:

10 Section 951. The Chief Medical Examiner, ~~his a~~ a designee, or a
11 medical examiner shall be authorized to transport bodies of deceased
12 persons of whose death he or she is officially informed to an
13 appropriate place for autopsy or for the performance of scientific
14 tests; provided that, after ~~said the~~ the autopsy ~~shall have been~~ is
15 performed or ~~such~~ tests made, the bodies of ~~such~~ deceased persons
16 shall be returned to the county from which they were brought, or,
17 when so authorized by the district attorney of ~~said the~~ the county and
18 upon request of the nearest relative of the deceased or other person
19 who may be responsible for burial, the body may be transported to
20 some place other than ~~said the~~ the county. The Chief Medical Examiner
21 or ~~his a~~ a designee may authorize payment for the services in
22 transporting the body to the place designated for autopsy, which
23 shall be submitted upon a claim filed with the Board of Medicolegal
24 Investigations.

1 SECTION 19. AMENDATORY 63 O.S. 2001, Section 954, is
2 amended to read as follows:

3 Section 954. A. The Board of Medicolegal Investigations is
4 authorized to accept grants, gifts, fees, or funds from persons,
5 associations, corporations, or foundations for any purpose
6 authorized by the Board.

7 B. There is ~~hereby~~ created in the State Treasury a revolving
8 fund for the Office of the Chief State Medical Examiner to be
9 designated the "~~Chief~~ Medical Examiner Revolving Fund". The fund
10 shall be a continuing fund, not subject to fiscal year limitations,
11 and shall consist of all moneys received from:

12 1. Laboratory analysis fees pursuant to the provisions of
13 Section 1313.2 of Title 20 of the Oklahoma Statutes;

14 2. Grants, gifts, fees or funds from persons, associations,
15 corporations, or foundations pursuant to this section;

16 3. Document fees pursuant to the Oklahoma Open Records Act,
17 Section 24A.1 et seq. of Title 51 of the Oklahoma Statutes; and

18 4. Cremation, burial at sea, or other recognized means of
19 dissolution permit fees pursuant to Section 1-329.1 of this title.

20 All monies accruing to the credit of ~~said~~ the fund are ~~hereby~~
21 appropriated and may be budgeted and expended by the Office of the
22 Chief State Medical Examiner for the duties imposed upon the Board
23 of Medicolegal Investigations by law. Expenditures from ~~said~~ the
24 fund shall be made upon warrants issued by the State Treasurer

1 against claims filed as prescribed by law with the Director of State
2 Finance for approval and payment.

3 SECTION 20. AMENDATORY 10 O.S. 2001, Section 1150.4, is
4 amended to read as follows:

5 Section 1150.4 A. Beginning November 1, 1991, the Director of
6 the Bureau of Vital Statistics shall forward to the Office of the
7 ~~Chief~~ State Medical Examiner on a monthly basis copies of all death
8 certificates of persons under eighteen (18) years of age received by
9 the Bureau of Vital Statistics during the preceding month.

10 B. The Office of ~~Chief~~ the State Medical Examiner shall conduct
11 an initial review of child death certificates in accordance with the
12 criteria established by the Child Death Review Board and refer to
13 the Board those cases that meet the criteria established by the
14 Board for specific case review.

15 C. Upon the request of the Board, every entity within the child
16 protection system shall provide to the Board any information
17 requested by the Board.

18 SECTION 21. AMENDATORY 20 O.S. 2001, Section 1313.2, as
19 last amended by Section 2, Chapter 437, O.S.L. 2008 (20 O.S. Supp.
20 2008, Section 1313.2), is amended to read as follows:

21 Section 1313.2 A. As used in this section:

22 1. "Convicted" means any final adjudication of guilt, whether
23 pursuant to a plea of guilty or nolo contendere or otherwise, and
24 any deferred or suspended sentence or judgment;

1 2. "Court" means any state or municipal court having
2 jurisdiction to impose a criminal fine or penalty; and

3 3. "DNA" means Deoxyribonucleic acid.

4 B. Any person convicted of an offense, including traffic
5 offenses but excluding parking and standing violations, punishable
6 by a fine of Ten Dollars (\$10.00) or more or by incarceration or any
7 person forfeiting bond when charged with such an offense, shall be
8 ordered by the court to pay Nine Dollars (\$9.00) as a separate fee,
9 which fee shall be in addition to and not in substitution for any
10 and all fines and penalties otherwise provided for by law for such
11 offense.

12 C. 1. Any person convicted of any misdemeanor or felony
13 offense shall pay a Laboratory Analysis Fee in the amount of One
14 Hundred Fifty Dollars (\$150.00) for each offense if forensic science
15 or laboratory services are rendered or administered by the Oklahoma
16 State Bureau of Investigation, by the Toxicology Laboratory of the
17 Office of the ~~Chief~~ State Medical Examiner or by any municipality or
18 county in connection with the case. This fee shall be in addition
19 to and not a substitution for any and all fines and penalties
20 otherwise provided for by law for this offense.

21 2. The court clerk shall cause to be deposited the amount of
22 One Hundred Fifty Dollars (\$150.00) as collected, for every
23 conviction as described in this subsection. The court clerk shall
24 remit the monies in the fund on a monthly basis directly either to:

1 a. the Oklahoma State Bureau of Investigation who shall
2 deposit the monies into the OSBI Revolving Fund
3 provided for in Section 150.19a of Title 74 of the
4 Oklahoma Statutes for services rendered or
5 administered by the Oklahoma State Bureau of
6 Investigation,

7 b. the Office of the ~~Chief~~ State Medical Examiner who
8 shall deposit the monies into the Office of the ~~Chief~~
9 State Medical Examiner Toxicology Laboratory Revolving
10 Fund provided for in Section 954 of Title 63 of the
11 Oklahoma Statutes for services rendered or
12 administered by the Toxicology Laboratory of the
13 Office of the ~~Chief~~ State Medical Examiner, or

14 c. the appropriate municipality or county for services
15 rendered or administered by a municipality or county.

16 3. The monies from the Laboratory Analysis Fee Fund deposited
17 into the OSBI Revolving Fund shall be used for the following:

18 a. providing criminalistic laboratory services,

19 b. the purchase and maintenance of equipment for use by
20 the laboratory in performing analysis,

21 c. education, training, and scientific development of
22 Oklahoma State Bureau of Investigation personnel, and
23
24

1 d. the destruction of seized property and chemicals as
2 prescribed in Sections 2-505 and 2-508 of Title 63 of
3 the Oklahoma Statutes.

4 D. 1. Any person entering a plea of guilty or nolo contendere
5 to the crime of misdemeanor possession of marijuana shall be ordered
6 by the court to pay a five-dollar fee, which shall be in addition to
7 and not in substitution for any and all fines and penalties
8 otherwise provided for by law for such offense.

9 2. The court clerk shall cause to be deposited the amount of
10 Five Dollars (\$5.00) as collected, for every adjudicated or
11 otherwise convicted person as described in this subsection. The
12 court clerk shall remit the monies in the fund on a monthly basis
13 directly to the Bureau of Narcotics Drug Education Revolving Fund.

14 E. Upon conviction or bond forfeiture, the court shall collect
15 the fee provided for in subsection B of this section and deposit it
16 in an account created for that purpose. Except as otherwise
17 provided in subsection F of this section, monies shall be forwarded
18 monthly by the court clerk to the Council on Law Enforcement
19 Education and Training. Beginning July 1, 2003, deposits shall be
20 due on the fifteenth day of each month for the preceding calendar
21 month. There shall be a late fee imposed for failure to make timely
22 deposits; provided, the Council on Law Enforcement Education and
23 Training, in its discretion, may waive all or part of the late fee.
24 Such late fee shall be one percent (1%) of the principal amount due

1 per day beginning from the tenth day after payment is due and
2 accumulating until the late fee reaches one hundred percent (100%)
3 of the principal amount due. Beginning on July 1, 1987, ninety
4 percent (90%) of the monies received by the Council on Law
5 Enforcement Education and Training from the court clerks pursuant to
6 this section shall be deposited in the CLEET Fund, and ten percent
7 (10%) shall be deposited in the General Revenue Fund. Beginning
8 January 1, 2001, sixty and fifty-three one-hundredths percent
9 (60.53%) of the monies received by the Council on Law Enforcement
10 Education and Training from the court clerks pursuant to this
11 section shall be deposited in the CLEET Fund created pursuant to
12 subsection G of this section, five and eighty-three one-hundredths
13 percent (5.83%) shall be deposited in the General Revenue Fund and
14 thirty-three and sixty-four one-hundredths percent (33.64%) shall be
15 deposited in the CLEET Training Center Revolving Fund created
16 pursuant to Section 3311.6 of Title 70 of the Oklahoma Statutes.
17 Along with the deposits required by this subsection each court shall
18 also submit a report stating the total amount of funds collected and
19 the total number of fees imposed during the preceding quarter. The
20 report may be made on computerized or manual disposition reports.

21 F. Any municipality or county having a basic law enforcement
22 academy approved by the Council on Law Enforcement Education and
23 Training pursuant to the criteria developed by the Council for
24 training law enforcement officers shall retain from monies collected

1 pursuant to this section, Two Dollars (\$2.00) from each fee. These
2 monies shall be deposited into an account for the sole use of the
3 municipality or county in implementing its law enforcement training
4 functions. Not more than seven percent (7%) of the monies shall be
5 used for court and prosecution training. The court clerk of any
6 such municipality or county shall furnish to the Council on Law
7 Enforcement Education and Training the report required by subsection
8 D E of this section.

9 G. There is hereby created in the State Treasury a fund for the
10 Council on Law Enforcement Education and Training to be designated
11 the "CLEET Fund". The fund shall be subject to legislative
12 appropriation and shall consist of any monies received from fees and
13 receipts collected pursuant to the Oklahoma Open Records Act,
14 reimbursements for parts used in the repair of weapons of law
15 enforcement officers attending the basic academies, gifts, bequests,
16 contributions, tuition, fees, devises, and the assessments levied
17 pursuant to the fund pursuant to law.

18 H. 1. Any person convicted of a felony offense shall pay a DNA
19 fee of One Hundred Fifty Dollars (\$150.00). This fee shall not be
20 collected if the person has a valid DNA sample in the OSBI DNA
21 Offender Database at the time of sentencing.

22 2. The court clerk shall cause to be deposited the amount of
23 One Hundred Fifty Dollars (\$150.00) as collected, for every felony
24 conviction as described in this subsection. The court clerk shall

1 remit the monies in said fund on a monthly basis directly to the
2 Oklahoma State Bureau of Investigation who shall deposit the monies
3 into the OSBI Revolving Fund provided for in Section 150.19a of
4 Title 74 of the Oklahoma Statutes for services rendered or
5 administered by the Oklahoma State Bureau of Investigation.

6 3. The monies from the DNA sample fee deposited into the OSBI
7 Revolving Fund shall be used for creating, staffing, and maintaining
8 the OSBI DNA Laboratory and OSBI Combined DNA Index System (CODIS)
9 Database.

10 I. It shall be the responsibility of the court clerk to account
11 for and ensure the correctness and accuracy of payments made to the
12 state agencies identified in Sections 1313.2 through 1313.4 of this
13 title. Payments made directly to an agency by the court clerk as a
14 result of different types of assessments and fees pursuant to
15 Sections 1313.2 through 1313.4 of this title shall be made monthly
16 to each state agency.

17 SECTION 22. AMENDATORY 21 O.S. 2001, Section 1154, is
18 amended to read as follows:

19 Section 1154. A. Autopsy means a post mortem dissection of a
20 dead human body in order to determine the cause, seat or nature of
21 disease or injury and includes, but is not limited to, the retention
22 of tissues for evidentiary, identification, diagnostic, scientific
23 and therapeutic purposes.

24

1 B. An autopsy may be performed on the dead body of a human
2 being in the following cases:

3 1. In cases authorized by positive enactment of the
4 Legislature;

5 2. Whenever the death occurs under circumstances in which the
6 medical examiner is authorized as provided in Title 63 of the
7 Oklahoma Statutes to conduct such autopsy; or

8 3. Whenever consent is given to a licensed physician to conduct
9 an autopsy on the body of a deceased person by whichever one of the
10 following assumes custody of the body for purposes of burial:

11 Father, mother, husband, wife, child, guardian, next of kin, or in
12 the absence of any of the foregoing, a friend, or a person charged
13 by law with the responsibility for burial. If two (2) or more such
14 persons assume custody of the body, the consent of one of them shall
15 be deemed sufficient.

16 C. 1. Any physician or hospital authorized to perform an
17 autopsy pursuant to this section, whether by statutory authority or
18 by consent from a person entitled to assume custody of the body for
19 burial, shall be and is authorized to retain such tissue and
20 specimens as the examining physician deems proper. Such tissue and
21 specimens may be retained for examination, dissection or study in
22 furtherance of determining the cause of death, or for evidentiary,
23 diagnostic, or scientific purposes. Except with regard to medical
24 examiners and the Office of the Chief State Medical Examiner, this

1 provision shall not apply if a person entitled to assume custody of
2 the body for burial notifies the physician or hospital performing
3 the autopsy prior to said autopsy of any objection to the retention
4 of tissue and specimens obtained from the autopsy.

5 2. No physician or hospital authorized to perform an autopsy
6 pursuant to this section shall be subject to criminal or civil
7 liability for the retention, examination, dissection, or study of
8 tissue and specimens obtained from said autopsy under existing laws
9 regarding the prevention of mutilation of dead bodies.

10 SECTION 23. AMENDATORY 21 O.S. 2001, Section 1168.4, is
11 amended to read as follows:

12 Section 1168.4 A. All persons who encounter or discover human
13 skeletal remains or what they believe may be human skeletal remains
14 or burial furniture thought to be associated with human burials in
15 or on the ground shall immediately cease any activity which may
16 cause further disturbance and shall report the presence and location
17 of such human skeletal remains to an appropriate law enforcement
18 officer.

19 B. Any person who willfully fails to report the presence or
20 discovery of human skeletal remains or what they believe may be
21 human skeletal remains within forty-eight (48) hours to an
22 appropriate law enforcement officer in the county in which the
23 remains are found shall be guilty of a misdemeanor.

24

1 C. Any person who knowingly disturbs human skeletal remains or
2 burial furniture other than a law enforcement officer, registered
3 mortician, a representative of the Office of the ~~Chief~~ State Medical
4 Examiner, a professional archaeologist or physical anthropologist,
5 or other officials designated by law in performance of official
6 duties, shall be guilty of a felony.

7 D. Anyone other than a law enforcement officer, registered
8 mortician, a representative of the Office of the ~~Chief~~ State Medical
9 Examiner, a professional archaeologist or physical anthropologist,
10 or other officials designated by law in performance of official
11 duties, who disturbs or permits disturbance of a burial ground with
12 the intent to obtain human skeletal remains or burial furniture
13 shall be guilty of a felony.

14 E. The law enforcement officer, if there is a reason to believe
15 that the skeletal remains may be human, shall promptly notify the
16 landowner and the Chief Medical Examiner. If remains reported under
17 this act are not associated with or suspected of association with
18 any crime, the State Archaeologist and the State Historic
19 Preservation Officer shall be notified within fifteen (15) days. If
20 review by the State Archaeologist and the State Historic
21 Preservation Officer of the human skeletal remains and any burial
22 furniture demonstrates or suggests a direct historical relationship
23 to a tribal group, then the State Archaeologist shall:

24 1. Notify the State Historic Preservation Officer; and

1 2. Consult with the tribal leader, designated by the Oklahoma
2 Indian Affairs Commission, within fifteen (15) days regarding any
3 proposed treatment or scientific studies and final disposition of
4 the materials.

5 SECTION 24. AMENDATORY 63 O.S. 2001, Section 1-329.1, is
6 amended to read as follows:

7 Section 1-329.1 Until a permit for disposal has been issued in
8 accordance with this section, no dead human body whose death
9 occurred within the State of Oklahoma shall be cremated, buried at
10 sea, or made unavailable for further pathologic study by other
11 recognized means of destruction or dissolution of such remains.

12 When the person legally responsible for disposition of a dead
13 human body, whose death occurred or was pronounced within this
14 state, desires that the body be cremated, buried at sea, or made
15 unavailable for further pathologic study by other recognized means
16 of destruction or dissolution of such remains, that person shall
17 complete an application-permit form for such procedure provided by
18 the Office of the ~~Chief~~ State Medical Examiner. The Office of the
19 ~~Chief~~ State Medical Examiner shall charge a fee of One Hundred
20 Dollars (\$100.00) for each cremation permit issued. The Medical
21 Examiner shall be notified, as required in Section 938 of this
22 title. He shall perform the required investigation and shall issue
23 a valid death certificate as required by Section 947 of this title
24 and execute the permit in accordance with rules established by the

1 Office of the ~~Chief~~ State Medical Examiner. In order to be valid
2 each permit must contain an individual number assigned to the
3 particular permit by the Office of the ~~Chief~~ State Medical Examiner.
4 A copy of the application-permit form and the original death
5 certificate shall be filed with the local registrar of vital
6 statistics of the registration district in which the death occurred
7 or was pronounced. The original application-permit form shall be
8 filed by the funeral director with the Office of the ~~Chief~~ State
9 Medical Examiner. Such filing shall occur or be postmarked within
10 forty-eight (48) hours of the death.

11 If death occurred or was pronounced outside the geographic
12 limits of the State of Oklahoma and the body is brought into this
13 state for such disposal, a transit permit or a permit for removal,
14 issued in accordance with the laws and regulations in force where
15 the death occurred shall authorize the transportation of the body
16 into or through this state and shall be accepted in lieu of a
17 certificate of death as required above. A valid permit issued for
18 disposal of such body in accordance with the laws in the
19 jurisdiction where the body died or death was pronounced shall be
20 authority for cremation or burial at sea or to make the body
21 otherwise unavailable for further pathologic study by other
22 recognized means of destruction or dissolution of such remains.

23 SECTION 25. AMENDATORY 63 O.S. 2001, Section 2-315, is
24 amended to read as follows:

1 Section 2-315. A. Except as otherwise provided by law, any
2 person required to obtain an annual registration pursuant to Section
3 2-302 of this title, or any group home, or residential care home as
4 defined by Section 1-820 of this title shall submit for destruction
5 all controlled dangerous substances which are out of date, which are
6 unwanted, unused or which are abandoned by their owner at their
7 facility due to death or other circumstances.

8 B. All controlled dangerous substances described in subsection
9 A of this section shall be submitted to the Oklahoma City laboratory
10 of the Oklahoma State Bureau of Investigation, along with all
11 required information on forms provided by the Oklahoma State Bureau
12 of Investigation, to the federal Drug Enforcement Administration, to
13 a duly registered reverse distributor, or to the original registered
14 supplier or their registered agent. When any such substance is
15 transported by private contract or common carrier or United States
16 Postal Service for the purpose of destruction, the sender shall
17 require a receipt from such private contract or common carrier or
18 United States Postal Service, and such receipt shall be retained as
19 a permanent record by the sender.

20 C. Controlled dangerous substances submitted to the Oklahoma
21 State Bureau of Investigation pursuant to the provisions of this
22 section shall be destroyed pursuant to the procedures provided in
23 subsection A of Section 2-508 of this title.

24

1 Controlled dangerous substances submitted to any distributors,
2 reverse distributors or their original registered suppliers pursuant
3 to the provisions of this section shall be destroyed by incineration
4 so as to make the substance absolutely unusable for human purposes.
5 An official record listing the property destroyed, the location of
6 destruction and disposal, and the name and title of the person
7 supervising the destruction and disposal shall be submitted to the
8 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control and
9 the federal Drug Enforcement Administration office located nearest
10 the destruction site.

11 D. The Office of the ~~Chief~~ State Medical Examiner is hereby
12 authorized to perform on-site incineration of all controlled
13 dangerous substances which are obtained in the discharge of the
14 official duties of the Chief Medical Examiner. Any record relating
15 to destruction of a controlled dangerous substance shall be
16 maintained as required by the state or federal government and shall
17 be available for inspection by appropriate state or federal
18 government regulatory agencies.

19 E. This section shall constitute a part of the Uniform
20 Controlled Dangerous Substances Act.

21 SECTION 26. This act shall become effective November 1, 2009.”
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24

1 Passed the House of Representatives the 23rd day of April, 2009.

2
3
4 Presiding Officer of the House of
Representatives
5

6 Passed the Senate the ____ day of _____, 2009.

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