SB738 FULLPCS1 Ken Miller-SAB
4/6/2009 10:36:54 am

COMMITTEE AMENDMENT

HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB738 _____
Of the printed Bill

Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Ken Miller

Adopted: _____

_____
Reading Clerk

STATE OF OKLAHOMA

1st Session of the 52nd Legislature (2009)

PROPOSED COMMITTEE
SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 738

By: Coffee and Jolley of the Senate

and

Benge of the House

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to the Office of the Chief Medical Examiner; amending 63 O.S. 2001, Sections 931, as amended by Section 1, Chapter 410, O.S.L. 2005, 932, 933, 934, 935, as last amended by Section 5, Chapter 269, O.S.L. 2008, 936, 937, 939, 940, 941, 944.2, 945, 947, 948, as amended by Section 1, Chapter 559, O.S.L. 2004, Section 2, Chapter 559, O.S.L. 2004, 949, as amended by Section 1, Chapter 190, O.S.L. 2004, 950, 951 and 954 (63 O.S. Supp. 2008, Sections 931, 935, 948, 948.1 and 949), which relate to the Office of Chief Medical Examiner; modifying membership of the Board of Medicolegal Investigations; changing the name of the Office of the Chief Medical Examiner to the Office of the State Medical Examiner; authorizing certain override; specifying certain requirements of the Office of the State Medical Examiner; providing for the position of the Director; providing for certain qualifications; stating duties; specifying location of Office and laboratory; authorizing certain contracts; specifying certain limitation; authorizing the Oklahoma Capitol Improvement Authority to issue obligations for certain funding; providing for title; providing for certain payments; authorizing employment of professionals in certain circumstances; authorizing certain persons to contract; providing for interest earnings; exempting obligations from taxation;

providing for investment; specifying applicability of certain sections; amending 10 O.S. 2001, Section 1150.4, which relates to child death certificates; modifying statutory reference; amending 20 O.S. 2001, Section 1313.2, as last amended by Section 2, Chapter 437, O.S.L. 2008 (20 O.S. Supp. 2008, Section 1313.2), which relates to definitions; modifying statutory reference; amending 21 O.S. 2001, Section 1154, which relates to autopsies; modifying statutory reference; amending 21 O.S. 2001, Section 1168.4, which relates to discovery of human remains or burial furniture; modifying statutory reference; amending 63 O.S. 2001, Section 1-329.1, which relates to disposal permits; modifying statutory references; amending 63 O.S. 2001, Section 2-315, which relates to controlled dangerous substances; modifying statutory reference; providing for codification; and providing an effective date.

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

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

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

1. The Director of the State Bureau of Investigation, or a designee;

2. The State Commissioner of Health, or a designee;

3. The ~~Dean of the College of Medicine of~~ Chair of the Department of Pathology at the University of Oklahoma College of Medicine, or a designee;

4. The ~~President or Dean of~~ Chair of the Department of Pathology at the Oklahoma State University ~~Center for Health Sciences~~ College of Osteopathic Medicine, or a designee;

5. The President of the Oklahoma Bar Association, or a designee;

6. The President of the Oklahoma Osteopathic Association, or a designee;

7. The President of the Oklahoma State Medical Association, or a designee; ~~and~~

8. A funeral director, as provided by Section 396.3 of Title 59 of the Oklahoma Statutes, appointed by the Oklahoma State Board of Embalmers and Funeral Directors; and

9. The Director of the Forensic Science Institute at the University of Central Oklahoma.

~~The Chief Medical Examiner shall be an ex officio nonvoting member of the Board.~~ B. The Board shall elect one of its members as chair and one of its members as vice-chair. Members of the Board shall receive no compensation for their services on this Board. Regular meetings of the Board shall be held ~~at such times as determined by its members~~ monthly, and special meetings may be called by the chair. ~~Four~~ Five members shall constitute a quorum.

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

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

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

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

Section 933. A. The Office of the ~~Chief~~ State Medical Examiner ~~of the State of Oklahoma~~ is ~~hereby~~ established to be operated under the control and supervision of the Board. The Office shall be administered by the Director of the Office of the State Medical Examiner who may employ such other staff members as the Board shall specify.

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

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

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

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

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

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

B. 1. The Board shall appoint a Chief Medical Examiner who shall be a physician licensed to practice in Oklahoma and a diplomate of the American Board of Pathology or the American Osteopathic Board of Pathology in forensic pathology.

2. The Chief Medical Examiner shall serve at the pleasure of the Board. In addition to the duties prescribed by law, the Chief

Medical Examiner may teach in any medical school in this state and conduct special classes for law enforcement officers.

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

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

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

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

1. Establishing written professional qualification requirements for each staff position related to the investigation of deaths, including but not limited to forensic pathologists, laboratory

personnel, investigators, and the position of chief investigator that are compatible with state and federal law;

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

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

4. Providing quarterly information to the Board regarding operational statistics and issues, advancements in meeting agency goals and benchmarks, critical issues affecting the progress and success of the agency, personnel issues affecting operations, and all complaints against the agency to be heard in executive session during Board meetings;

5. Providing minutes of all Board meetings;

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

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

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

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

10. Supervising the activities of the Office.

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

Section 936. ~~The Board shall provide for a central office and shall see that there is maintained~~ The Office of the State Medical Examiner (OSME) shall maintain access to a laboratory suitably equipped with facilities for performance of the duties imposed by this act. The OSME shall be located on or immediately adjacent to the University of Central Oklahoma campus or adjacent to the Oklahoma State Bureau of Investigation Forensic Science Laboratory Services Building. The OSME is authorized to contract with

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

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

Section 937. The Chief Medical Examiner shall appoint, with the advice and consent of the Board of Medicolegal Investigations, medical examiners for each county of the state. Each medical examiner so appointed shall be a Doctor of Medicine or Osteopathy and Surgery, shall hold a valid license to practice ~~his~~ the profession in Oklahoma, and shall hold office at the pleasure of the Board. In the event there is no qualified person in the county or no person willing to serve as a medical examiner, or in the event the medical examiner is absent from the county in which ~~he~~ the medical examiner serves, or is ill or disqualified by personal interest, the Chief Medical Examiner may ~~in his discretion~~ appoint as a medical examiner for ~~such~~ the county a qualified person from another county, or may direct a medical examiner from another county to perform the duties of a medical examiner in both counties. Nothing in this section or act shall prohibit or restrict the Chief Medical Examiner from appointing a medical examiner and directing ~~him~~ a medical examiner to cross a county line. A medical examiner

shall not be precluded from holding other public offices created by the laws of the state.

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

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

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

upon a showing of good cause, specifically ordered otherwise by the court.

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

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

2. The scene of a death subject to the provisions of Sections 931 through 954 of this title shall not be disturbed until authorized by the Chief Medical Examiner, ~~his~~ a designee, or a county medical examiner, and the representative of any law enforcement agency which has begun an investigation of the cause of death. Said authorization may be given by telephone. Nothing in Sections 931 through 954 of this title shall prevent the district attorney or ~~his~~ a designee from authorizing the removal of a body when the removal is determined by ~~him~~ such person to be in the

public interest and conditions at the scene are adequately documented and preserved by photographs and measurements.

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

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

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

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

Section 941. A. Upon receipt of notice of death of any person which under this act is subject to investigation, the medical examiner shall immediately conduct an investigation into the cause and manner of death, and shall comply in detail with the instructions of the ~~Chief~~ Office of the State Medical Examiner as provided for in Section 939 of this title. ~~He~~ The medical examiner

may have fingerprints and photographs taken~~. He~~ and may take charge of any object or writing found on or near the body which ~~he deems~~ is deemed necessary for the purpose of establishing the cause and/or manner of death.

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

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

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

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

Section 944.2 For each medicolegal autopsy performed by the Office of the ~~Chief~~ State Medical Examiner under Title 63 of the

Oklahoma Statutes, including the making of required reports, the Office of the ~~Chief~~ State Medical Examiner shall receive a fee of One Hundred Dollars ($100.00). Such fee shall be paid by the city, town or county in which the death occurred or in which the injury which resulted in death was apparently sustained. Provided that, if the death, or injury resulting in death, occurred within the municipal boundaries of a town or city, the fee shall be paid by that town or city; if the death, or injury resulting in death, occurred within the boundaries of a county and outside any municipal boundaries located in that county, the fee shall be paid by that county.

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

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

B. A full and complete report of the facts developed by the autopsy together with the findings of the person making ~~it~~ the autopsy shall be prepared and filed in the Office of the ~~Chief~~ State

Medical Examiner without unnecessary delay. Copies of such reports and findings shall be furnished to district attorneys and law enforcement officers making a criminal investigation in connection with the death. The next of kin, or any one of them if more than one, may designate a physician to be present when the autopsy is conducted.

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

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

B. Any certification of death by an attending physician may be referred by the State Registrar of Vital Statistics to the Chief Medical Examiner for investigation and the amending of the original certificate of death by the filing of a medical examiner death certificate by the medical examiner or Chief Medical Examiner when

the death is determined by the Chief Medical Examiner to be one properly requiring investigation under Section 938 of this title.

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

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

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

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

B. The Office of the ~~Chief~~ State Medical Examiner ~~(OCME)~~ (OSME) shall store biological specimens in the control of the ~~OCME~~ OSME for the potential purpose of independent analyses in matters of civil law, only upon receipt of a written request for ~~such~~ storage and payment of a storage fee. The fee shall be paid by the person requesting storage to the Office of the ~~Chief~~ State Medical Examiner. The Board shall promulgate rules establishing a fee for storage of ~~such~~ biological specimens which shall not exceed One Hundred Dollars ($100.00) per year. All fees collected pursuant to the provisions of this subsection shall be deposited to the credit of the Office of the ~~Chief~~ State Medical Examiner Toxicology Laboratory Revolving Fund.

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

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

3. The Board of Medicolegal Investigations shall establish a fee for drug screen services by rule. All fees collected pursuant to the provisions of this subsection shall be deposited to the ~~Chief~~ Office of the State Medical Examiner Toxicology Laboratory Revolving Fund.

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

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

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

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

a. permit for cremations that occur within the state: One Hundred Dollars ($100.00) to Two Hundred Dollars ($200.00),

b. forensic science service: One Hundred Dollars ($100.00) to Three Thousand Dollars ($3,000.00),

c. report copies: Ten Dollars ($10.00) for report of investigation, including toxicology, and Twenty

Dollars ($20.00) for an autopsy report, including toxicology,

d. x-rays: Fifteen Dollars ($15.00) each,

e. microscopic slides, Hematoxilyn and Eosin (H&E): Ten Dollars ($10.00) each,

f. special stains: Fifteen Dollars ($15.00) each, and

g. photographs: Twenty-five Dollars ($25.00) per computer diskette (CD).

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

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

D. All statutory fees currently in effect for permits or forensic science services administered by the ~~Chief~~ Office of the State Medical Examiner and the Board of Medicolegal Investigations within the jurisdiction of the Office of the ~~Chief~~ State Medical Examiner shall remain in effect until such time as the Board acts to implement new schedules pursuant to the provisions of this act.

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

Section 949.

A. 1. a. The Office of the ~~Chief~~ State 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~~ for 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~~ State 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~~ State 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, and race of the infant, ~~parents'~~ the names, address, and phone number of the parents.

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

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

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

Section 951. The Chief Medical Examiner, ~~his~~ a designee, or a medical examiner shall be authorized to transport bodies of deceased persons of whose death he or she is officially informed to an appropriate place for autopsy or for the performance of scientific tests; provided that, after ~~said~~ the autopsy ~~shall have been~~ is performed or ~~such~~ tests made, the bodies of ~~such~~ deceased persons shall be returned to the county from which they were brought, or, when so authorized by the district attorney of ~~said~~ the county and upon request of the nearest relative of the deceased or other person who may be responsible for burial, the body may be transported to

some place other than ~~said~~ the county. The Chief Medical Examiner or ~~his~~ a designee may authorize payment for the services in transporting the body to the place designated for autopsy, which shall be submitted upon a claim filed with the Board of Medicolegal Investigations.

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

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

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

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

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

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

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

All monies accruing to the credit of ~~said~~ the fund are ~~hereby~~ appropriated and may be budgeted and expended by the Office of the ~~Chief~~ State Medical Examiner for the duties imposed upon the Board of Medicolegal Investigations by law. Expenditures from ~~said~~ the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 342 of Title 73, unless there is created a duplication in numbering, reads as follows:

A. It is the intent of the Legislature that, in addition to any other authorization provided by law, the Oklahoma Capitol Improvement Authority is authorized to issue obligations to provide funding for improvements to real and personal property and for completion of a laboratory for occupancy by the Office of the State Medical Examiner (OSME) with debt retirement payments to be made as provided herein.

B. The Authority may hold title to the real and personal property and improvements until such time as any obligations issued for this purpose are retired or defeased and may lease the real property and improvements to the Office of the State Medical Examiner (OSME). Upon final redemption or defeasance of the obligations created pursuant to this section, title to the real and

personal property and improvements shall be transferred from the Oklahoma Capitol Improvement Authority to the OSME.

C. For the purpose of paying the costs for acquisition and construction of the real property and improvements and personal property and making the repairs, refurbishments, and improvements to real and personal property, and providing funding for the project authorized in subsection A of this section, and for the purpose authorized in subsection D of this section, the Authority is hereby authorized to borrow monies on the credit of the income and revenues to be derived from the leasing of such real and personal property and improvements, and in anticipation of the collection of such income and revenues, to issue notes, bonds or other evidences of obligation in an amount necessary to generate net proceeds of Thirty Million Dollars ($30,000,000.00) after providing for the costs of issuance, credit enhancement, reserves and other expenses related to the financing. Net proceeds of the financing will be deposited into a construction fund to provide for the financing of the project described in subsection A of this section. Earnings that result from the investment of the construction fund may be used for the project authorized in subsection A of this section or for other legal purposes approved by the Authority, whether issued in one or more series. It is the intent of the Legislature to appropriate to the Office of the State Medical Examiner sufficient monies to make rental payments for the purposes of retiring the obligations created

pursuant to this section. To the extent funds are available from the proceeds of the borrowing authorized by this subsection, the Oklahoma Capitol Improvement Authority shall provide for the payment of professional fees and associated costs related to the projects authorized in subsection A of this section.

D. The Authority may issue obligations in one or more series and in conjunction with other issues of the Authority. The Authority is authorized to hire bond counsel, financial consultants, and such other professionals as it may deem necessary to provide for the efficient sale of the obligations and may utilize a portion of the proceeds of any borrowing to create such reserves as may be deemed necessary and to pay costs associated with the issuance and administration of such obligations.

E. The obligations authorized under this section may be sold at either competitive or negotiated sale, as determined by the Authority, and in such form and at such prices as may be authorized by the Authority. The Authority may enter into agreements with such credit enhancers and liquidity providers as may be determined necessary to efficiently market the obligations. The obligations may mature and have such provisions for redemption as shall be determined by the Authority, but in no event shall the final maturity of such obligations occur later than thirty (30) years from the first principal maturity date.

F. Any interest earnings on funds or accounts created for the purposes of this section may be utilized as partial payment of the annual debt service or for the purposes directed by the Authority.

G. The obligations issued under this section, the transfer thereof and the interest earned on such obligations, including any profit derived from the sale thereof, shall not be subject to taxation of any kind by the State of Oklahoma, or by any county, municipality or political subdivision therein.

H. The Authority may direct the investment of all monies in any funds or accounts created in connection with the offering of the obligations authorized under this section. Such investments shall be made in a manner consistent with the investment guidelines of the State Treasurer. The Authority may place additional restrictions on the investment of such monies if necessary to enhance the marketability of the obligations.

I. Insofar as they are not in conflict with the provisions of this section, the provisions of Section 151 et seq. of Title 73 of the Oklahoma Statutes shall apply to this section.

SECTION 21. AMENDATORY 10 O.S. 2001, Section 1150.4, is amended to read as follows:

Section 1150.4 A. Beginning November 1, 1991, the Director of the Bureau of Vital Statistics shall forward to the Office of the ~~Chief~~ State Medical Examiner on a monthly basis copies of all death

certificates of persons under eighteen (18) years of age received by the Bureau of Vital Statistics during the preceding month.

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

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

SECTION 22. AMENDATORY 20 O.S. 2001, Section 1313.2, as last amended by Section 2, Chapter 437, O.S.L. 2008 (20 O.S. Supp. 2008, Section 1313.2), is amended to read as follows:

Section 1313.2 A. As used in this section:

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

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

3. "DNA" means Deoxyribonucleic acid.

B. Any person convicted of an offense, including traffic offenses but excluding parking and standing violations, punishable by a fine of Ten Dollars ($10.00) or more or by incarceration or any person forfeiting bond when charged with such an offense, shall be

ordered by the court to pay Nine Dollars ($9.00) as a separate fee, which fee shall be in addition to and not in substitution for any and all fines and penalties otherwise provided for by law for such offense.

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

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

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

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

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

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

a. providing criminalistic laboratory services,

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

c. education, training, and scientific development of Oklahoma State Bureau of Investigation personnel, and

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

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

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

E. Upon conviction or bond forfeiture, the court shall collect the fee provided for in subsection B of this section and deposit it in an account created for that purpose. Except as otherwise provided in subsection F of this section, monies shall be forwarded monthly by the court clerk to the Council on Law Enforcement Education and Training. Beginning July 1, 2003, deposits shall be due on the fifteenth day of each month for the preceding calendar month. There shall be a late fee imposed for failure to make timely deposits; provided, the Council on Law Enforcement Education and Training, in its discretion, may waive all or part of the late fee. Such late fee shall be one percent (1%) of the principal amount due per day beginning from the tenth day after payment is due and accumulating until the late fee reaches one hundred percent (100%) of the principal amount due. Beginning on July 1, 1987, ninety percent (90%) of the monies received by the Council on Law Enforcement Education and Training from the court clerks pursuant to this section shall be deposited in the CLEET Fund, and ten percent (10%) shall be deposited in the General Revenue Fund. Beginning January 1, 2001, sixty and fifty-three one-hundredths percent

(60.53%) of the monies received by the Council on Law Enforcement Education and Training from the court clerks pursuant to this section shall be deposited in the CLEET Fund created pursuant to subsection G of this section, five and eighty-three one-hundredths percent (5.83%) shall be deposited in the General Revenue Fund and thirty-three and sixty-four one-hundredths percent (33.64%) shall be deposited in the CLEET Training Center Revolving Fund created pursuant to Section 3311.6 of Title 70 of the Oklahoma Statutes. Along with the deposits required by this subsection each court shall also submit a report stating the total amount of funds collected and the total number of fees imposed during the preceding quarter. The report may be made on computerized or manual disposition reports.

F. Any municipality or county having a basic law enforcement academy approved by the Council on Law Enforcement Education and Training pursuant to the criteria developed by the Council for training law enforcement officers shall retain from monies collected pursuant to this section, Two Dollars ($2.00) from each fee. These monies shall be deposited into an account for the sole use of the municipality or county in implementing its law enforcement training functions. Not more than seven percent (7%) of the monies shall be used for court and prosecution training. The court clerk of any such municipality or county shall furnish to the Council on Law Enforcement Education and Training the report required by subsection D of this section.

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

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

2. The court clerk shall cause to be deposited the amount of One Hundred Fifty Dollars ($150.00) as collected, for every felony conviction as described in this subsection. The court clerk shall remit the monies in said fund on a monthly basis directly to the Oklahoma State Bureau of Investigation who shall deposit the monies into the OSBI Revolving Fund provided for in Section 150.19a of Title 74 of the Oklahoma Statutes for services rendered or administered by the Oklahoma State Bureau of Investigation.

3. The monies from the DNA sample fee deposited into the OSBI Revolving Fund shall be used for creating, staffing, and maintaining

the OSBI DNA Laboratory and OSBI Combined DNA Index System (CODIS) Database.

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

SECTION 23. AMENDATORY 21 O.S. 2001, Section 1154, is amended to read as follows:

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

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

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

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

3. Whenever consent is given to a licensed physician to conduct an autopsy on the body of a deceased person by whichever one of the following assumes custody of the body for purposes of burial: Father, mother, husband, wife, child, guardian, next of kin, or in the absence of any of the foregoing, a friend, or a person charged by law with the responsibility for burial. If two (2) or more such persons assume custody of the body, the consent of one of them shall be deemed sufficient.

C. 1. Any physician or hospital authorized to perform an autopsy pursuant to this section, whether by statutory authority or by consent from a person entitled to assume custody of the body for burial, shall be and is authorized to retain such tissue and specimens as the examining physician deems proper. Such tissue and specimens may be retained for examination, dissection or study in furtherance of determining the cause of death, or for evidentiary, diagnostic, or scientific purposes. Except with regard to medical examiners and the Office of the ~~Chief~~ State Medical Examiner, this provision shall not apply if a person entitled to assume custody of the body for burial notifies the physician or hospital performing the autopsy prior to said autopsy of any objection to the retention of tissue and specimens obtained from the autopsy.

2. No physician or hospital authorized to perform an autopsy pursuant to this section shall be subject to criminal or civil liability for the retention, examination, dissection, or study of

tissue and specimens obtained from said autopsy under existing laws regarding the prevention of mutilation of dead bodies.

SECTION 24. AMENDATORY 21 O.S. 2001, Section 1168.4, is amended to read as follows:

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

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

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

D. Anyone other than a law enforcement officer, registered mortician, a representative of the Office of the ~~Chief~~ State Medical

Examiner, a professional archaeologist or physical anthropologist, or other officials designated by law in performance of official duties, who disturbs or permits disturbance of a burial ground with the intent to obtain human skeletal remains or burial furniture shall be guilty of a felony.

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

1. Notify the State Historic Preservation Officer; and

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

SECTION 25. AMENDATORY 63 O.S. 2001, Section 1-329.1, is amended to read as follows:

Section 1-329.1 Until a permit for disposal has been issued in accordance with this section, no dead human body whose death

occurred within the State of Oklahoma shall be cremated, buried at sea, or made unavailable for further pathologic study by other recognized means of destruction or dissolution of such remains.

When the person legally responsible for disposition of a dead human body, whose death occurred or was pronounced within this state, desires that the body be cremated, buried at sea, or made unavailable for further pathologic study by other recognized means of destruction or dissolution of such remains, that person shall complete an application-permit form for such procedure provided by the Office of the ~~Chief~~ State Medical Examiner. The Office of the ~~Chief~~ State Medical Examiner shall charge a fee of One Hundred Dollars ($100.00) for each cremation permit issued. The Medical Examiner shall be notified, as required in Section 938 of this title. He shall perform the required investigation and shall issue a valid death certificate as required by Section 947 of this title and execute the permit in accordance with rules established by the Office of the ~~Chief~~ State Medical Examiner. In order to be valid each permit must contain an individual number assigned to the particular permit by the Office of the ~~Chief~~ State Medical Examiner. A copy of the application-permit form and the original death certificate shall be filed with the local registrar of vital statistics of the registration district in which the death occurred or was pronounced. The original application-permit form shall be filed by the funeral director with the Office of the ~~Chief~~ State

Medical Examiner. Such filing shall occur or be postmarked within forty-eight (48) hours of the death.

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

SECTION 26. AMENDATORY 63 O.S. 2001, Section 2-315, is amended to read as follows:

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

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

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

Controlled dangerous substances submitted to any distributors, reverse distributors or their original registered suppliers pursuant to the provisions of this section shall be destroyed by incineration so as to make the substance absolutely unusable for human purposes. An official record listing the property destroyed, the location of destruction and disposal, and the name and title of the person supervising the destruction and disposal shall be submitted to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control and

the federal Drug Enforcement Administration office located nearest the destruction site.

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

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

SECTION 27. This act shall become effective November 1, 2009.

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