

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 HOUSE BILL 1580

By: Joyner

4
5
6 AS INTRODUCED

7 An Act relating to public health and safety; amending
8 63 O.S. 2001, Section 949, as amended by Section 1,
9 Chapter 190, O.S.L. 2004 (63 O.S. Supp. 2008, Section
10 949), which relates to records and evidence kept by
11 the Office of the Chief Medical Examiner; giving
12 Chief Medical Examiner the discretion to withhold
13 public release of autopsy reports under certain
14 circumstances; updating language; and providing an
15 effective date.

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

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

20 Section 949.

21 A. 1. a. The Office of the Chief Medical Examiner shall keep
22 full and complete records, properly indexed, giving
23 the name, if known, of every person whose death is
24 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

1 report and detailed findings of the autopsy, if any,
2 shall be a part of the record in each case.

3 b. The Chief Medical Examiner shall track and forward,
4 within seventy-two (72) hours after the examination,
5 demographic information on sudden, unexpected and
6 nontraumatic infant deaths including, but not limited
7 to, Sudden Infant Death Syndrome (SIDS), to the
8 Oklahoma SIDS Coordinator at the State Department of
9 Health and the SIDS Foundation of Oklahoma. As used
10 in this subparagraph, "Sudden Infant Death Syndrome
11 (SIDS)" means the sudden, unexpected death of an
12 apparently healthy infant less than one (1) year of
13 age which remains unexplained following a complete
14 medicolegal analysis and death scene investigation.
15 The Chief Medical Examiner shall follow up with
16 further notification upon final determination of a
17 cause of death. Such notification shall be for
18 statistical reporting purposes only.

19 2. The office shall promptly deliver to each district attorney
20 having jurisdiction of the case, copies of all records relating to a
21 death for which further investigation may be advisable. Any
22 district attorney or other law enforcement official may, upon
23 request, obtain copies of such records or other information deemed
24 necessary to the performance of ~~such~~ the official duties of the

1 district ~~attorney's~~ attorney or other law enforcement ~~official's~~
2 official duties. The Chief Medical Examiner may, in the discretion
3 of the Chief Medical Examiner, withhold the public release of a
4 final autopsy report pursuant to the request of a district attorney
5 or law enforcement agency if release of the records may impede an
6 ongoing criminal investigation.

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

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

18 2. If a party refuses to stipulate to admission, the reports
19 may be requested by any party seeking to admit the records as
20 evidence. The request shall be made to the Office of the Chief
21 Medical Examiner, who shall furnish same;

22 3. The party seeking admission of the reports shall then serve
23 interrogatories concerning the facts to be answered under oath by
24 the person preparing the records. The interrogatories and answers

1 thereto shall be subject to the rules of evidence and may be
2 admissible in evidence in any civil case in a court of competent
3 jurisdiction. Objections to the interrogatories shall be made by
4 any party in accordance with law just as if the interrogatories had
5 been served on the objecting party. Cross interrogatories shall be
6 submitted and shall be answered and admitted in evidence in the same
7 manner as interrogatories;

8 4. The taking of depositions shall then be allowed pursuant to
9 the provisions of Section 3230 of Title 12 of the Oklahoma Statutes;
10 provided, however, depositions shall take place at the Office of the
11 Chief Medical Examiner, a medical examiner, consultant pathologist,
12 or anyone under their supervision or control whose testimony is
13 sought, unless all parties, including the medical examiner, agree
14 the deposition can be taken elsewhere;

15 5. No other testimony of the Chief Medical Examiner, a medical
16 examiner, consultant pathologist, or anyone under their supervision
17 and control shall be admitted in evidence in any civil action in any
18 court of this state, unless timely application is made to the court
19 by an interested party or litigant and timely notice of the
20 application is given to the medical examiner. After a hearing, the
21 court, for good cause shown, may order the appearance of the Chief
22 Medical Examiner, a medical examiner, consultant pathologist, or
23 anyone under their supervision and control for the purpose of
24 testifying and may order that a subpoena be issued for that

1 appearance; provided, however, that such order by the court shall be
2 the exception and not the rule; and

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

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

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

19 E. 1. In a case in which possible SIDS is determined as the
20 cause of death of an infant less than one (1) year of age, the
21 medical examiner shall explain to the newly bereaved family that
22 support services are available and can be rendered more efficiently
23 if the family signs a waiver to allow release of confidential
24

1 information. The medical examiner shall provide such waiver to the
2 family for signatures.

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

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

13 SECTION 2. This act shall become effective November 1, 2009.

14

15 52-1-5290 GRS 01/02/09

16

17

18

19

20

21

22

23

24