

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 250

By: Marlatt, Ballenger,
Garrison, Johnson
(Constance), Paddack,
Shortey, Brinkley and
David of the Senate

5 and

6 Armes and Billy of the
7 House

8
9
10 [Office of the Chief Medical Examiner - Chanda
11 Turner Reform Act - codification - noncodification -
effective date]

12 AUTHORS: Add the following House Coauthors: Hilliard, Cockroft,
13 McAffrey, Tibbs, Cox, Condit, Ritze, Scott, Sherrer, Roan
and Hoskin

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

16
17 "(Office of the Chief Medical Examiner - Chanda
18 Turner Reform Act - amending various sections in
19 Title 63 - Chief Administrative Officer -
20 codification - noncodification -
21 effective date)

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23
24 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

1 SECTION 1. NEW LAW A new section of law not to be
2 codified in the Oklahoma Statutes reads as follows:

3 This act shall be known and may be cited as the "Chanda Turner
4 Reform Act".

5 SECTION 2. AMENDATORY 63 O.S. 2001, Section 931, as
6 amended by Section 1, Chapter 410, O.S.L. 2005 (63 O.S. Supp. 2010,
7 Section 931), is amended to read as follows:

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

- 10 1. The Director of the Oklahoma State Bureau of Investigation,
11 or a designee;
- 12 2. The State Commissioner of Health, or a designee;
- 13 3. The Dean of the College of Medicine of the University of
14 Oklahoma, or a designee;
- 15 4. The President or Dean of the Oklahoma State University
16 Center for Health Sciences, or a designee;
- 17 5. ~~The President of~~ A criminal defense attorney with at least
18 five (5) years of experience in homicide cases licensed to practice
19 in this state, appointed by the Oklahoma Bar Association, ~~or a~~
20 ~~designee;~~
- 21 6. The President of the Oklahoma Osteopathic Association, or a
22 designee;
- 23 7. The President of the Oklahoma State Medical Association, or
24 a designee; ~~and~~

1 8. A funeral director and embalmer licensed by the Oklahoma
2 Funeral Board, as provided by Section 396.3 of Title 59 of the
3 Oklahoma Statutes, appointed by the Oklahoma ~~State Board of~~
4 ~~Embalmers and Funeral Directors~~ Board;

5 9. A family member of a victim of violent crime, appointed by
6 the Crime Victims Compensation Board; and

7 10. A prosecutor with at least five (5) years of experience in
8 homicide cases, appointed by the District Attorneys Council.

9 B. The term of membership of each member of the Board shall be
10 four (4) years from the expiration of the term of the member
11 succeeded. Any member having served as a member of the Board shall
12 be eligible for reappointment. Vacancies shall be filled by the
13 appointing authority.

14 C. The Chief Medical Examiner shall be an ex officio nonvoting
15 member of the Board. The Board shall elect one of its members as
16 chair and one of its members as vice-chair. Members of the Board
17 shall receive no compensation for their services on this Board.
18 Regular meetings of the Board shall be held at ~~such times as~~
19 ~~determined by its members, and special meetings may be called by the~~
20 ~~chair~~ least quarterly. ~~Four~~ Six members shall constitute a quorum.

21 SECTION 3. AMENDATORY 63 O.S. 2001, Section 934, is
22 amended to read as follows:

23 Section 934. A. The Board of Medicolegal Investigations shall
24 appoint a Chief Medical Examiner who shall be a physician licensed

1 to practice in Oklahoma and a diplomate of the American Board of
2 Pathology or the American Osteopathic Board of Pathology in forensic
3 pathology. The Chief Medical Examiner shall ~~serve at the pleasure~~
4 of only be terminated for cause by the Board. In addition to the
5 duties prescribed by law, the Chief Medical Examiner may teach in
6 any medical school in this state and conduct special classes for law
7 enforcement officers.

8 B. The Chief Medical Examiner, in his or her discretion, may
9 hire a Chief Administrative Officer. The Chief Administrative
10 Officer shall have a minimum of a master's degree in business
11 administration, management, or a related field from an accredited
12 four-year college or university and a minimum of five (5) years of
13 professional administrative experience as determined by the Chief
14 Medical Examiner. The Chief Administrative Officer shall serve at
15 the pleasure of the Chief Medical Examiner.

16 SECTION 4. AMENDATORY 63 O.S. 2001, Section 935, as last
17 amended by Section 5, Chapter 269, O.S.L. 2008 (63 O.S. Supp. 2010,
18 Section 935), is amended to read as follows:

19 Section 935. A. The Chief Medical Examiner shall be directly
20 responsible to the Board for the performance of the duties provided
21 for in ~~this act~~ Section 931 et seq. of this title and for the
22 administration of the office of the Chief Medical Examiner. The
23 Chief Medical Examiner may, however, delegate specific duties to
24 competent and qualified deputies who may act for the Chief Medical

1 Examiner within the scope of the express authority granted by the
2 Chief Medical Examiner, subject, however, to such rules as the Board
3 may prescribe. Such rules shall, at a minimum, specify the minimum
4 qualifications, training and experience required of the deputies.

5 B. Employees of the Office of the Chief Medical Examiner who
6 serve solely in an administrative capacity and do not investigate or
7 autopsy deaths as provided by law shall not be superior to or
8 infringe upon the authority of the Chief Medical Examiner in matters
9 regarding the employment of a deputy or the findings of a death
10 investigation.

11 C. In the event that the Chief Medical Examiner hires a Chief
12 Administrative Officer, the Chief Administrative Officer shall be
13 directly responsible to the Board of Medicolegal Investigations for
14 the management and administration of the Office of the State Medical
15 Examiner. The Chief Administrative Officer shall have
16 responsibility for, but not be limited to:

17 1. Establishing written professional qualification requirements
18 that are compatible with state and federal law for each staff
19 position related to the investigation of deaths, including but not
20 limited to laboratory personnel and investigators;

21 2. Receiving mandatory annual training needed to maintain
22 certification;

23 3. Establishing continuing education requirements for
24 nonmedical staff positions related to the investigation of deaths;

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

7 5. Providing minutes of all Board meetings;

8 6. Directing administrative staff in adherence to procurement
9 and budgeting issues of the agency;

10 7. Setting the highest degree of professional standards for
11 investigative and support personnel in meeting the goals of the
12 agency;

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

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

20 10. Supervising the activities of the Office of the State
21 Medical Examiner.

22 D. If the Chief Medical Examiner chooses not to hire a Chief
23 Administrative Officer, the Chief Medical Examiner shall be
24 responsible for the management and administration of the Office of

1 the State Medical Examiner. The Chief Medical Examiner shall be
2 responsible for the duties specified in subsection C of this
3 section.

4 SECTION 5. AMENDATORY 63 O.S. 2001, Section 938, is
5 amended to read as follows:

6 Section 938. A. All human deaths of the types listed herein
7 shall be investigated as provided by law by a physician licensed to
8 practice in this state or an investigator approved by the Chief
9 Medical Examiner to investigate deaths with at least six hundred
10 forty (640) hours of education approved by the American Board of
11 Medicolegal Death Investigators:

12 1. Violent deaths, whether apparently homicidal, suicidal, or
13 accidental, including but not limited to, deaths due to thermal,
14 chemical, electrical, or radiational injury, and deaths due to
15 criminal abortion, whether apparently self-induced or not;

16 2. Deaths under suspicious, unusual or unnatural circumstances;

17 3. Deaths related to disease which might constitute a threat to
18 public health;

19 4. Deaths unattended by a licensed medical or osteopathic
20 physician for a fatal or potentially fatal illness;

21 5. Deaths of persons after unexplained coma;

22 6. Deaths that are medically unexpected and that occur in the
23 course of a therapeutic procedure;

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1 7. Deaths of any inmates occurring in any place of penal
2 incarceration; and

3 8. Deaths of persons whose bodies are to be cremated, buried at
4 sea, transported out of the state, or otherwise made ultimately
5 unavailable for pathological study.

6 B. Investigations as required under subsection A of this
7 section shall be conducted independently from any and all law
8 enforcement agencies.

9 C. No autopsy shall be performed on the body of an executed
10 inmate unless requested by the immediate family of the inmate prior
11 to the execution or unless directed by the Department of Corrections
12 or the Chief Medical Examiner. The Chief Medical Examiner shall not
13 automatically authorize or perform an autopsy in conjunction with an
14 investigation of death of an inmate that resulted from a scheduled
15 execution due to a death sentence imposed pursuant to Title 21 of
16 the Oklahoma Statutes. The Chief Medical Examiner may authorize or
17 perform such an autopsy only when the public interest requires it.
18 The provisions of this subsection shall not prohibit an inmate from
19 donating, in writing, his or her body to a teaching medical
20 institution for scientific or research purposes.

21 ~~C.~~ D. The Chief Medical Examiner shall state on the certificate
22 of death of all persons whose death was caused by execution pursuant
23 to a lawful court order that the cause of death was the execution of
24 such order.

1 SECTION 6. AMENDATORY 63 O.S. 2001, Section 940, is
2 amended to read as follows:

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

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

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

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

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

17 SECTION 7. AMENDATORY 63 O.S. 2001, Section 942, is
18 amended to read as follows:

19 Section 942. A. Upon completion of his investigation, the
20 medical examiner shall reduce his findings to writing upon the form
21 supplied to him which shall be promptly sent to the Chief Medical
22 Examiner by mail.

23 B. Copies of reports shall be furnished by the Chief Medical
24 Examiner to investigating agencies having official interest therein.

1 Copies of reports shall also be furnished to the spouse of the
2 deceased or any person within one degree of consanguinity of the
3 deceased upon request and within five (5) business days of the
4 request once the cause and manner of death have been determined and
5 the death certificate has been issued.

6 SECTION 8. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 942a of Title 63, unless there
8 is created a duplication in numbering, reads as follows:

9 A. The spouse of the deceased or any person within one degree
10 of consanguinity of the deceased may appeal the findings of the
11 medical examiner to the Board of Medicolegal Investigations within
12 one (1) year from the completion of the report. Such appeal shall
13 be made in writing and shall state the nature and reasons for the
14 appeal. The Board shall investigate the appeal and provide written
15 findings of facts and conclusions of law within four (4) months of
16 the request for appeal. The opinions or findings of the member of
17 the Board who is a family member of a victim of violent crime shall
18 not be binding on the remaining members of the Board when
19 determining the facts and conclusions of law, but shall be taken in
20 advisement by such Board members. Should the Board find that the
21 findings of the medical examiner are erroneous, the Board shall
22 immediately correct the report and transmit the appropriate
23 paperwork to the State Department of Health for the correction of
24 the death certificate.

1 B. The spouse of the deceased or any person within one degree
2 of consanguinity of the deceased may appeal the written findings of
3 facts and conclusions of law provided by the Board to the District
4 Court of Oklahoma County for a trial de novo. The Board shall
5 create a form to be used to file an appeal pursuant to the
6 provisions of this subsection.

7 C. Reports of the medical examiner made prior to November 1,
8 2011, may be appealed by the spouse of the deceased or any person
9 within one degree of consanguinity of the deceased under the
10 procedures as specified in subsections A and B of this section and
11 shall be filed no later than November 1, 2012.

12 SECTION 9. AMENDATORY 63 O.S. 2001, Section 944, is
13 amended to read as follows:

14 Section 944. A. When necessary in connection with an
15 investigation to determine the cause and/or manner of death and when
16 the public interest requires it, the Chief Medical Examiner, ~~his~~ the
17 Chief Medical Examiner's designee, a medical examiner or a district
18 attorney shall require and authorize an autopsy to be conducted. In
19 determining whether the public interest requires an autopsy the
20 medical examiner or district attorney involved shall take into
21 account but shall not be bound by request ~~therefor~~ from private
22 persons or from other public officials. In addition, the Chief
23 Medical Examiner, a designee of the Chief Medical Examiner, a

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1 medical examiner or a district attorney shall require and authorize
2 an autopsy to be conducted for the following types of deaths:

3 1. Violent deaths, excluding deaths resulting from motor
4 vehicle collisions, whether apparently homicidal, suicidal, or
5 accidental;

6 2. Deaths under suspicious, unusual or unnatural circumstances;

7 3. Deaths of any inmates occurring in any place of penal
8 incarceration;

9 4. Deaths of persons after unexplained coma; and

10 5. Deaths that are medically unexpected and that occur in the
11 course of a therapeutic procedure.

12 B. The Chief Medical Examiner, ~~his~~ a designee or a medical
13 examiner, may collect such blood, fluid or body waste specimens as
14 ~~he deems~~ deemed necessary to carry out ~~his~~ the duties of the Chief
15 Medical Examiner as specified in ~~this act~~ Section 931 et seq. of
16 this title. No autopsy authorization shall be required as a
17 prerequisite to the collection of such specimens.

18 SECTION 10. This act shall become effective November 1, 2011.”
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