

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED  
5 SENATE BILL NO. 250

6 By: Marlatt, Ballenger,  
7 Garrison, Johnson  
8 (Constance), Paddack,  
9 Shortey, Brinkley and David  
10 of the Senate

11 and

12 Armes and Billy of the  
13 House

14 COMMITTEE SUBSTITUTE

15 An Act relating to the Office of the Chief Medical  
16 Examiner; creating the Chanda Turner Reform Act;  
17 amending 63 O.S. 2001, Sections 931, as amended by  
18 Section 1, Chapter 410, O.S.L. 2005, 934, 935, as  
19 last amended by Section 5, Chapter 269, O.S.L. 2008,  
20 938 and 942 (63 O.S. Supp. 2010, Sections 931 and  
21 935), which relate to the Office of the Chief Medical  
22 Examiner; adding certain members to the Board of  
23 Medicolegal Investigations; specifying term of  
24 membership; providing for the reappointment of  
members to the Board; modifying requirement  
specifying the frequency of meetings of the Board;  
providing for the termination of the Chief Medical  
Examiner; authorizing Chief Medical Examiner to hire  
a Chief Administrative Officer; providing minimum  
qualifications for the Chief Administrative Officer;  
requiring the promulgation of certain minimum  
qualifications, training and experience; prohibiting  
certain employees from engaging in specified actions;  
providing responsibilities of the Chief  
Administrative Officer; directing Chief Medical  
Examiner to assume certain responsibilities under  
certain circumstances; requiring certain  
investigations to be conducted by a physician or an

1 investigator with specified training; requiring  
2 certain investigations to be conducted independently  
3 of law enforcement agencies; directing certain copies  
4 of reports to be distributed upon request; permitting  
5 certain persons to appeal specified findings to the  
6 Board; directing certain members of the Board to  
7 investigate and provide findings on the appeal;  
8 providing for corrections of death certificates in  
9 certain circumstances; permitting certain appeal to  
10 district court; directing the Board to create certain  
11 form; permitting appeals for certain reports;  
12 providing time limitation for appeal; amending 63  
13 O.S. 2001, Section 944, which relates to autopsies;  
14 requiring autopsies for certain types of deaths;  
15 providing for codification; providing for  
16 noncodification; and providing an effective date.

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

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

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

22 SECTION 2. AMENDATORY 63 O.S. 2001, Section 931, as  
23 amended by Section 1, Chapter 410, O.S.L. 2005 (63 O.S. Supp. 2010,  
24 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 Oklahoma State Bureau of Investigation,  
or a designee;

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

1           3. The Dean of the College of Medicine of the University of  
2 Oklahoma, or a designee;

3           4. The President or Dean of the Oklahoma State University  
4 Center for Health Sciences, or a designee;

5           5. A criminal defense attorney with at least five (5) years of  
6 experience in homicide cases licensed to practice in this state,  
7 appointed by the Oklahoma Bar Association, ~~or a designee;~~

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

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

12          8. A funeral director and embalmer licensed by the Oklahoma  
13 Funeral Board, as provided by Section 396.3 of Title 59 of the  
14 Oklahoma Statutes, appointed by the Oklahoma ~~State Board of~~  
15 ~~Embalmers and Funeral Directors~~ Board;

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

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

20          B. The term of membership of each member of the Board shall be  
21 four (4) years from the expiration of the term of the member  
22 succeeded. Any member having served as a member of the Board shall  
23 be eligible for reappointment. Vacancies shall be filled by the  
24 appointing authority.

1        C. The Chief Medical Examiner shall be an ex officio nonvoting  
2 member of the Board. The Board shall elect one of its members as  
3 chair and one of its members as vice-chair. Members of the Board  
4 shall receive no compensation for their services on this Board.  
5 Regular meetings of the Board shall be held at ~~such times as~~  
6 ~~determined by its members, and special meetings may be called by the~~  
7 ~~chair~~ least quarterly. ~~Four~~ Six members shall constitute a quorum.

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

10        Section 934. A. The Board of Medicolegal Investigations shall  
11 appoint a Chief Medical Examiner who shall be a physician licensed  
12 to practice in Oklahoma and a diplomate of the American Board of  
13 Pathology or the American Osteopathic Board of Pathology in forensic  
14 pathology. The Chief Medical Examiner shall ~~serve at the pleasure~~  
15 ~~of~~ only be terminated for cause by the Board. In addition to the  
16 duties prescribed by law, the Chief Medical Examiner may teach in  
17 any medical school in this state and conduct special classes for law  
18 enforcement officers.

19        B. The Chief Medical Examiner, in his or her discretion, may  
20 hire a Chief Administrative Officer. The Chief Administrative  
21 Officer shall have a minimum of a master's degree in business  
22 administration, management, or a related field from an accredited  
23 four-year college or university and a minimum of five (5) years of  
24 professional administrative experience as determined by the Chief

1 Medical Examiner. The Chief Administrative Officer shall serve at  
2 the pleasure of the Chief Medical Examiner.

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

6 Section 935. A. The Chief Medical Examiner shall be directly  
7 responsible to the Board for the performance of the duties provided  
8 for in ~~this act~~ Section 931 et seq. of this title and for the  
9 administration of the office of the Chief Medical Examiner. The  
10 Chief Medical Examiner may, however, delegate specific duties to  
11 competent and qualified deputies who may act for the Chief Medical  
12 Examiner within the scope of the express authority granted by the  
13 Chief Medical Examiner, subject, however, to such rules as the Board  
14 may prescribe. Such rules shall, at a minimum, specify the minimum  
15 qualifications, training and experience required of the deputies.

16 B. Employees of the Office of the Chief Medical Examiner who  
17 serve solely in an administrative capacity and do not investigate or  
18 autopsy deaths as provided by law shall not be superior to or  
19 infringe upon the authority of the Chief Medical Examiner in matters  
20 regarding the employment of a deputy or the findings of a death  
21 investigation.

22 C. In the event that the Chief Medical Examiner hires a Chief  
23 Administrative Officer, the Chief Administrative Officer shall be  
24 directly responsible to the Board of Medicolegal Investigations for

1 the management and administration of the Office of the State Medical  
2 Examiner. The Chief Administrative Officer shall have  
3 responsibility for, but not be limited to:

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

8 2. Receiving mandatory annual training needed to maintain  
9 certification;

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

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

18 5. Providing minutes of all Board meetings;

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

21 7. Setting the highest degree of professional standards for  
22 investigative and support personnel in meeting the goals of the  
23 agency;

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

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

8       10. Supervising the activities of the Office of the State  
9 Medical Examiner.

10       D. If the Chief Medical Examiner chooses not to hire a Chief  
11 Administrative Officer, the Chief Medical Examiner shall be  
12 responsible for the management and administration of the Office of  
13 the State Medical Examiner. The Chief Medical Examiner shall be  
14 responsible for the duties specified in subsection C of this  
15 section.

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

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

- 1 1. Violent deaths, whether apparently homicidal, suicidal, or  
2 accidental, including but not limited to, deaths due to thermal,  
3 chemical, electrical, or radiational injury, and deaths due to  
4 criminal abortion, whether apparently self-induced or not;
- 5 2. Deaths under suspicious, unusual or unnatural circumstances;
- 6 3. Deaths related to disease which might constitute a threat to  
7 public health;
- 8 4. Deaths unattended by a licensed medical or osteopathic  
9 physician for a fatal or potentially fatal illness;
- 10 5. Deaths of persons after unexplained coma;
- 11 6. Deaths that are medically unexpected and that occur in the  
12 course of a therapeutic procedure;
- 13 7. Deaths of any inmates occurring in any place of penal  
14 incarceration; and
- 15 8. Deaths of persons whose bodies are to be cremated, buried at  
16 sea, transported out of the state, or otherwise made ultimately  
17 unavailable for pathological study.

18 B. Investigations as required under subsection A of this  
19 section shall be conducted independently from any and all law  
20 enforcement agencies.

21 C. No autopsy shall be performed on the body of an executed  
22 inmate unless requested by the immediate family of the inmate prior  
23 to the execution or unless directed by the Department of Corrections  
24 or the Chief Medical Examiner. The Chief Medical Examiner shall not

1 automatically authorize or perform an autopsy in conjunction with an  
2 investigation of death of an inmate that resulted from a scheduled  
3 execution due to a death sentence imposed pursuant to Title 21 of  
4 the Oklahoma Statutes. The Chief Medical Examiner may authorize or  
5 perform such an autopsy only when the public interest requires it.  
6 The provisions of this subsection shall not prohibit an inmate from  
7 donating, in writing, his or her body to a teaching medical  
8 institution for scientific or research purposes.

9 ~~C.~~ D. The Chief Medical Examiner shall state on the certificate  
10 of death of all persons whose death was caused by execution pursuant  
11 to a lawful court order that the cause of death was the execution of  
12 such order.

13 SECTION 6. AMENDATORY 63 O.S. 2001, Section 942, is  
14 amended to read as follows:

15 Section 942. A. Upon completion of his investigation, the  
16 medical examiner shall reduce his findings to writing upon the form  
17 supplied to him which shall be promptly sent to the Chief Medical  
18 Examiner by mail.

19 B. Copies of reports shall be furnished by the Chief Medical  
20 Examiner to investigating agencies having official interest therein.  
21 Copies of reports shall also be furnished to the spouse of the  
22 deceased or any person within one degree of consanguinity of the  
23 deceased upon request and within five (5) business days of the  
24

1 request once the cause and manner of death have been determined and  
2 the death certificate has been issued.

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

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

22 B. The spouse of the deceased or any person within one degree  
23 of consanguinity of the deceased may appeal the written findings of  
24 facts and conclusions of law provided by the Board to the District

1 Court of Oklahoma County for a trial de novo. The Board shall  
2 create a form to be used to file an appeal pursuant to the  
3 provisions of this subsection.

4 C. Reports of the medical examiner made prior to November 1,  
5 2011, may be appealed by the spouse of the deceased or any person  
6 within one degree of consanguinity of the deceased under the  
7 procedures as specified in subsections A and B of this section and  
8 shall be filed no later than November 1, 2012.

9 SECTION 8. AMENDATORY 63 O.S. 2001, Section 944, is  
10 amended to read as follows:

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

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

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

5        3. Deaths of any inmates occurring in any place of penal  
6 incarceration;

7        4. Deaths of persons after unexplained coma; and

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

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

16       SECTION 9. This act shall become effective November 1, 2011.

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18       53-1-7586            GRS            04/13/11  
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