

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 1958

By: Ritze

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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. 2010, Section
10 949), which relates to records maintained by the
11 Office of the Chief Medical Examiner; clarifying
12 language; and providing an effective date.

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

14 SECTION 1. AMENDATORY 63 O.S. 2001, Section 949, as
15 amended by Section 1, Chapter 190, O.S.L. 2004 (63 O.S. Supp. 2010,
16 Section 949), is amended to read as follows:

17 Section 949. A. 1. a. The Office of the Chief Medical
18 Examiner shall keep full and complete records,
19 properly indexed, giving the name, if known, of every
20 person whose death is investigated, the place where
21 the body was found, the date, cause, and manner of
22 death and all other relevant information concerning
23 the death. The full report and detailed findings of
24 the autopsy, if any, shall be a part of the record in
each case.

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

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

1 B. No report, findings, testimony, or other information of a
2 medical examiner shall be admitted in evidence in any civil action
3 in any court in this state, except under the following
4 circumstances:

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

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

16 3. The party seeking admission of the reports shall then serve
17 interrogatories concerning the facts to be answered under oath by
18 the person preparing the records. The interrogatories and answers
19 thereto shall be subject to the rules of evidence and may be
20 admissible in evidence in any civil case in a court of competent
21 jurisdiction. Objections to the interrogatories shall be made by
22 any party in accordance with law just as if the interrogatories had
23 been served on the objecting party. Cross interrogatories shall be
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1 submitted and shall be answered and admitted in evidence in the same
2 manner as interrogatories;

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

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

22 6. The cost of the records or certified copies thereof shall be
23 paid by the party requesting same. The reasonable fee charged by
24 the Chief Medical Examiner, a medical examiner, consultant

1 pathologist, or anyone under their supervision and control for
2 answering interrogatories or cross interrogatories, submitting to
3 depositions, or providing testimony shall be paid by the party
4 submitting same. This fee shall be in place of any other witness
5 fee allowed by law.

6 C. Certified copies of reports and findings, exclusive of
7 hearsay evidence, may be admitted in evidence in preliminary
8 hearings and criminal trials by stipulation.

9 D. Certified copies of reports of investigations by a medical
10 examiner, laboratory reports and/or autopsy reports may be furnished
11 to the next of kin or others having need for them upon written
12 statement and payment of a reasonable fee set by the Board of
13 Medicolegal Investigations.

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

21 2. The medical examiner shall document receipt of the signed
22 waiver form and shall forward such documentation to the State
23 Department of Health and the SIDS Foundation of Oklahoma, along with
24 information related to the possible SIDS death including, but not

1 limited to, the infant's name, date of birth, date of death, race,
2 parents' names, address and phone number.

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

6 SECTION 2. This act shall become effective November 1, 2011.

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