

1 STATE OF OKLAHOMA

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

3 SENATE BILL 250

By: Marlatt of the Senate

4 and

5 Armes of the House

6  
7  
8 AS INTRODUCED

9 An Act relating to the Office of the Chief Medical  
10 Examiner; creating the Chanda Turner Reform Act;  
amending 63 O.S. 2001, Sections 931, as amended by  
11 Section 1, Chapter 410, O.S.L. 2005, 934, 935, as  
last amended by Section 5, Chapter 269, O.S.L. 2008,  
12 938, and 942 (63 O.S. Supp. 2010, Sections 931 and  
935), which relate to the Office of the Chief Medical  
13 Examiner; reconstituting the Board of Medicolegal  
Investigations; providing for the length of terms for  
14 members of the Board; modifying requirement  
specifying the frequency of meetings of the Board;  
15 requiring certain approval of the Governor; providing  
for the termination of the Chief Medical Examiner;  
16 requiring the promulgation of certain minimum  
qualifications, training and experience; prohibiting  
17 certain employees from engaging in specified actions;  
requiring certain investigations to be conducted by a  
18 physician or an investigator with specified training;  
requiring certain investigations to be conducted  
19 independently of law enforcement agencies; directing  
certain copies of reports to be distributed upon  
20 request; permitting certain persons to appeal  
specified findings to the Board; directing certain  
21 members of the Board to investigate and provide  
findings on the appeal; providing for corrections of  
22 death certificates in certain circumstances;  
permitting certain appeal to district court;  
23 directing the Board to create certain form;  
permitting certain appeals process for previous  
24 decisions in specified circumstances; amending 63  
O.S. 2001, Section 944, which relates to autopsies;

1           modifying language; requiring autopsies for certain  
2           types of deaths; providing for codification;  
3           providing for noncodification; and providing an  
4           effective date.

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

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

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

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

13          Section 931. A. The Board of Medicolegal Investigations is  
14          hereby re-created. The Board shall consist of seven (7) members  
15          appointed by the Governor and confirmed by the Senate. The members  
16          of the Board shall be:

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

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

20           3. ~~The Dean of the College of Medicine of the University of~~  
21           ~~Oklahoma, or a designee;~~

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

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

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

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

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

10 A family member of a victim of violent crime;

11 2. A member of law enforcement with training and experience in  
12 homicide investigations;

13 3. A criminal defense attorney licensed to practice in this  
14 state with at least five (5) years of experience in homicide cases;

15 4. A retired member of the judiciary who has presided over at  
16 least thirty (30) homicide trials;

17 5. Two physicians licensed to practice in the state with  
18 training and experience in pathology;

19 6. A funeral director who holds a valid license from the  
20 Oklahoma State Board of Embalmers and Funeral Directors.

21 B. Members of the Board shall serve for regular terms of six  
22 (6) years, except for the initial appointments by the Governor which  
23 shall be as follows:

24

1        1. The initial term of three (3) members shall be for two (2)  
2 years;

3        2. The initial term of two (2) members shall be for four (4)  
4 years;

5        3. The initial term of two (2) members shall be for six (6)  
6 years.

7        C. The Chief Medical Examiner shall be an ex officio nonvoting  
8 member of the Board. The Board shall elect one of its members as  
9 chair and one of its members as vice-chair. Members of the Board  
10 shall receive no compensation for their services on this Board.  
11 Regular meetings of the Board shall be held at ~~such times as~~  
12 ~~determined by its members, and special meetings may be called by the~~  
13 ~~chair~~ least once per month. Four members shall constitute a quorum.

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

16        Section 934. The Board of Medicolegal Investigations shall  
17 appoint, upon the approval of the Governor, a Chief Medical Examiner  
18 who shall be a physician licensed to practice in Oklahoma and a  
19 diplomate of the American Board of Pathology or the American  
20 Osteopathic Board of Pathology in forensic pathology. The Chief  
21 Medical Examiner shall ~~serve at the pleasure of the Board~~ only be  
22 terminated for cause by the Board. In addition to the duties  
23 prescribed by law, the Chief Medical Examiner may teach in any  
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1 medical school in this state and conduct special classes for law  
2 enforcement officers.

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 an  
21 investigation.

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

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1 Section 938. A. All human deaths of the types listed herein  
2 shall be investigated as provided by law by a physician licensed to  
3 practice in this state or an investigator certified by the Chief  
4 Medical Examiner to investigate deaths with at least five hundred  
5 (500) hours of education approved by the Board of Medicolegal

6 Investigations:

7 1. Violent deaths, whether apparently homicidal, suicidal, or  
8 accidental, including but not limited to, deaths due to thermal,  
9 chemical, electrical, or radiational injury, and deaths due to  
10 criminal abortion, whether apparently self-induced or not;

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

12 3. Deaths related to disease which might constitute a threat to  
13 public health;

14 4. Deaths unattended by a licensed medical or osteopathic  
15 physician for a fatal or potentially-fatal illness;

16 5. Deaths of persons after unexplained coma;

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

19 7. Deaths of any inmates occurring in any place of penal  
20 incarceration; and

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

1        B. Investigations as required under subsection A of this  
2 section shall be conducted independently from any and all law  
3 enforcement agencies.

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

16        ~~C.~~ D. The Chief Medical Examiner shall state on the certificate  
17 of death of all persons whose death was caused by execution pursuant  
18 to a lawful court order that the cause of death was the execution of  
19 such order.

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

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

3 B. Copies of reports shall be furnished by the Chief Medical  
4 Examiner to investigating agencies having official interest therein.  
5 Copies of reports shall also be furnished to the spouse of the  
6 deceased or any person within one degree of consanguinity of the  
7 deceased upon request and within five (5) business days of the  
8 request once the cause and manner of death have been determined and  
9 the death certificate has been issued.

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

13 A. The spouse of the deceased or any person within one degree  
14 of consanguinity of the deceased may appeal the findings of the  
15 medical examiner to the Board of Medicolegal Investigations within  
16 one year from the completion of the report. Such appeal shall be  
17 made in writing and shall state the nature and reasons for the  
18 appeal. The Board shall investigate the appeal and provide written  
19 findings of facts and conclusions of law within three (3) months of  
20 the request for appeal. The opinions or findings of the member of  
21 the Board who is a family member of a victim of violent crime shall  
22 not be binding on the remaining members of the Board when  
23 determining the facts and conclusions of law, but shall be taken in  
24 advisement by such Board members. Should the Board find that the

1 findings of the medical examiner are erroneous, the Board shall  
2 immediately correct the report and transmit the appropriate  
3 paperwork to the State Department of Health for the correction of  
4 the death certificate.

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

11 C. Findings of the medical examiner made prior to the effective  
12 date of this act may be appealed by the spouse of the deceased or  
13 any person within one degree of consanguinity of the deceased under  
14 the same procedures as specified in subsections A and B of this  
15 section.

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

18 Section 944. A. When necessary in connection with an  
19 investigation to determine the cause and/or manner of death and when  
20 the public interest requires it, the Chief Medical Examiner, ~~his~~ the  
21 Chief Medical Examiner's designee, a medical examiner or a district  
22 attorney shall require and authorize an autopsy to be conducted. In  
23 determining whether the public interest requires an autopsy the  
24 medical examiner or district attorney involved shall take into

1 account but shall not be bound by request ~~therefor~~ from private  
2 persons or from other public officials. In addition, the Chief  
3 Medical Examiner, the Chief Medical Examiner's designee, a medical  
4 examiner or a district attorney shall require and authorize an  
5 autopsy to be conducted for the following types of deaths:

6 1. Violent deaths, whether apparently homicidal, suicidal, or  
7 accidental, including but not limited to, deaths due to thermal,  
8 chemical, electrical, or radiational injury, and deaths due to  
9 criminal abortion, whether apparently self-induced or not;

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

11 3. Deaths of any inmates occurring in any place of penal  
12 incarceration; and

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

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

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

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