

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 56th Legislature (2017)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 207

By: Bice of the Senate

and

Osborn (Leslie) of the
House

10 COMMITTEE SUBSTITUTE

11 [Office of the Chief Medical Examiner - autopsy
12 reports - sealed - district attorneys - cremation -
13 limitation on fee - effective date]

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

17 SECTION 1. AMENDATORY 63 O.S. 2011, Section 945, as
18 amended by Section 14, Chapter 293, O.S.L. 2014 (63 O.S. Supp. 2016,
19 Section 945), is amended to read as follows:

20 Section 945. A. When properly authorized, an autopsy shall be
21 performed by the Chief Medical Examiner or such person as may be
22 designated by him or her for such purpose. The Chief Medical
23 Examiner or a person designated by him or her may authorize arterial
24 embalming of the body prior to the autopsy when such embalming would

1 in his or her opinion not interfere with the autopsy. The extent of
2 the autopsy shall be made as is deemed necessary by the person
3 performing the autopsy.

4 B. A full and complete report of the facts developed by the
5 autopsy together with the findings of the person making it shall be
6 prepared and filed in the Office of the Chief Medical Examiner
7 without unnecessary delay. Copies of such reports and findings
8 shall be furnished to district attorneys and law enforcement
9 officers making a criminal investigation in connection with the
10 death.

11 C. Copies of the full and complete report of the facts
12 developed by the autopsy together with the findings of the person
13 making the report shall be released by the Office of the Chief
14 Medical Examiner to the public in the most expedient manner
15 available or as requested by the records requester and, under the
16 following conditions, shall be furnished to:

17 1. Prosecutors and any law enforcement agency with authority to
18 make a criminal investigation in connection with the death;
19 provided, such copies shall not be shared with any other entity
20 unless otherwise provided by law;

21 2. The spouse of the deceased or any person related within one
22 degree of consanguinity to the deceased, unless the prosecutor or
23 law enforcement agency making a criminal investigation objects to
24 the release of documents to any family member. Prosecutors and law

1 enforcement agencies shall be prohibited from objecting to the
2 release of the full and complete autopsy report to the family if the
3 decedent was in state custody, in custody of law enforcement, or is
4 deceased due to lethal action of a law enforcement officer; and

5 3. Any insurance company with a contractual relationship with
6 the decedent or the family of the decedent in order to facilitate an
7 insurer's investigation of an insurance claim, or to verify and
8 process insurance claims or insurance benefits in an efficient
9 manner.

10 D. The full and complete report of the facts developed by the
11 autopsy together with the findings of the person making the report
12 shall be withheld from public inspection and copying for ten (10)
13 business days following the date the report is issued by the Office
14 of the Chief Medical Examiner, except as provided for in subsection
15 C of this section.

16 E. At the conclusion of the ten-day period, the full and
17 complete report shall be made available as a public record except
18 when a prosecutor or law enforcement agency declares that the full
19 and complete report contains information that would materially
20 compromise an ongoing criminal investigation.

21 1. Upon such declaration, the prosecutor or law enforcement
22 agency may request from the appropriate district court an extension
23 of time during which the full and complete autopsy report may be
24 withheld.

1 2. When a request for an extension of time has been filed with
2 the court, the full and complete autopsy report in question may be
3 withheld until the court has issued a ruling on the requested
4 extension of time to release the autopsy report. Such requests for
5 an extension of time during which the autopsy may be withheld shall
6 be made on the grounds that release of the full and complete autopsy
7 report will materially compromise an ongoing criminal investigation.

8 3. Courts considering such requests shall conduct a hearing and
9 consider whether the interests of the public outweigh the interests
10 asserted by the prosecutor or law enforcement agency. In response
11 to such requests, the court may order that the autopsy report be
12 made available for public inspection and copying with redaction of
13 the portions that would compromise the criminal investigation.

14 4. If an extension of time is granted by the court, each
15 subsequent extension shall only be ordered by the court for an
16 additional one (1) year and cumulative time extensions shall not
17 exceed more than four (4) years; provided, under no circumstance
18 shall an extension of time be granted by the court if the deceased
19 person was in state custody, in custody of law enforcement or was
20 deceased due to lethal action of a law enforcement officer.

21 5. Any court order obtained pursuant to this subsection shall
22 be served upon the Office of the Chief Medical Examiner.

23 F. In the event that one (1) year has expired from the date of
24 the initial filing of the autopsy report without any person being

1 criminally charged in the case in question and release of the
2 autopsy or portions of the autopsy has been denied on the grounds of
3 materially compromising a criminal investigation, an appeal of such
4 denial may be made to the appropriate district court.

5 G. In the event one (1) year has expired since the date of the
6 initial filing of the autopsy report, criminal charges have not been
7 filed against a person and the autopsy report is being withheld,
8 courts considering appeals to the use of the provisions of this
9 section for temporarily withholding an autopsy report shall conduct
10 a hearing and consider whether the interests of the public outweigh
11 the interests asserted by the prosecutor or law enforcement agency.
12 In response to such appeals, the district court shall order that the
13 autopsy report be made available for public inspection and copying
14 with no redaction, or shall order an extension of time during which
15 the autopsy report may be withheld under the provisions of this
16 section.

17 H. An order granting an extension of time shall be applicable
18 to the autopsy report for the duration of the extension; provided,
19 each subsequent time extension shall only be ordered by the district
20 court for an additional twelve-month period of time or less and
21 cumulative time extensions shall not exceed four (4) years; provided
22 further, charges being filed against a person in the case in
23 question, or an autopsy report being entered into evidence as part
24 of a criminal prosecution, nullifies any granted extension of time.

1 I. The opportunities to withhold an autopsy report or portions
2 of an autopsy report provided in this section shall expire in
3 totality four (4) years after the date the autopsy report was
4 generated, at which time the autopsy report previously withheld on
5 the grounds provided for in this section shall be made available for
6 public inspection and copying.

7 J. Nothing in this section shall prohibit prosecutors or law
8 enforcement agencies from immediately releasing portions of
9 information contained in the full and complete autopsy report for
10 the purposes of assisting with the criminal investigation or
11 apprehension of any person involved in a criminal act that resulted
12 in the death of another person.

13 K. Nothing in this section shall prohibit the spouse of the
14 deceased or any person related within one degree of consanguinity to
15 the deceased who has received a copy of the full and complete
16 autopsy report from the Office of the Chief Medical Examiner from
17 authorizing the Office of the Chief Medical Examiner to release the
18 full and complete autopsy report to any other person subject to
19 approval by the court.

20 SECTION 2. AMENDATORY 63 O.S. 2011, Section 1-329.1, is
21 amended to read as follows:

22 Section 1-329.1 Until a permit for disposal has been issued in
23 accordance with this section, no dead human body whose death
24 occurred within the State of Oklahoma shall be cremated, buried at

1 sea, or made unavailable for further pathologic study by other
2 recognized means of destruction or dissolution of such remains.

3 When the person legally responsible for disposition of a dead
4 human body, whose death occurred or was pronounced within this
5 state, desires that the body be cremated, buried at sea, or made
6 unavailable for further pathologic study by other recognized means
7 of destruction or dissolution of such remains, that person shall
8 complete an application-permit form for such procedure provided by
9 the Office of the Chief Medical Examiner. The Office of the Chief
10 Medical Examiner, in accordance with Section 948.1 of this title,
11 shall charge a fee ~~of One Hundred Dollars (\$100.00)~~ for each
12 cremation permit issued. The Medical Examiner shall be notified, as
13 required in Section 938 of this title. ~~He~~ The Medical Examiner
14 shall perform the required investigation and shall issue a valid
15 death certificate as required by Section 947 of this title and
16 execute the permit in accordance with rules established by the
17 Office of the Chief Medical Examiner. In order to be valid, each
18 permit must contain an individual number assigned to the particular
19 permit by the Office of the Chief Medical Examiner. A copy of the
20 application-permit form and the original death certificate shall be
21 filed with the State Registrar. The original application-permit
22 form shall be filed by the funeral director with the Office of the
23 Chief Medical Examiner. Such filing shall occur or be postmarked
24 within forty-eight (48) hours of the death.

1 If death occurred or was pronounced outside the geographic
2 limits of the State of Oklahoma and the body is brought into this
3 state for such disposal, a transit permit or a permit for removal,
4 issued in accordance with the laws and regulations in force where
5 the death occurred shall authorize the transportation of the body
6 into or through this state and shall be accepted in lieu of a
7 certificate of death as required above. A valid permit issued for
8 disposal of such body in accordance with the laws in the
9 jurisdiction where the body died or death was pronounced shall be
10 authority for cremation or burial at sea or to make the body
11 otherwise unavailable for further pathologic study by other
12 recognized means of destruction or dissolution of such remains.

13 SECTION 3. This act shall become effective November 1, 2017.

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15 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC HEALTH, dated 04/11/2017 -
16 DO PASS, As Amended.

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