

OKLAHOMA STATE SENATE
CONFERENCE
COMMITTEE REPORT

May 22, 2017

Mr. President:

Mr. Speaker:

The Conference Committee, to which was referred

SB 207

By: Bice of the Senate and Osborn (Leslie) of the House

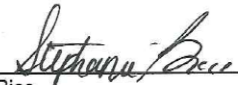
Title: Office of the Chief Medical Examiner; autopsy reports; requiring redaction of certain information for certain period; providing exceptions. Effective date.

together with Engrossed House Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the House recede from all Amendments.
2. That the attached Conference Committee Substitute be adopted.

Respectfully submitted,

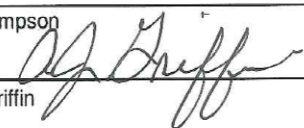
SENATE CONFEREES:

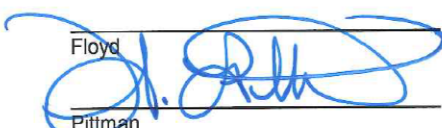

Bice


Rader

Yen

Floyd

Simpson

Griffin


Pittman

HOUSE CONFEREES:

Conference Committee on Public Health

Senate Action _____ Date _____ House Action _____ Date _____

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STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED

SENATE BILL NO. 207

By: Bice of the Senate

and

Osborn (Leslie) of the
House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to the Office of the Chief Medical Examiner; amending 63 O.S. 2011, Section 945, as amended by Section 14, Chapter 293, O.S.L. 2014 (63 O.S. Supp. 2016, Section 945), which relates to autopsy reports; providing procedures for requesting and receiving certain reports and findings; listing parties who shall receive certain reports and findings prior to those reports and findings becoming available to the public; requiring the withholding of certain reports and findings for certain time period; directing the production of certain summary reports; directing that certain summary reports be available to the public without delay; specifying contents of summary reports; providing timeline for release of certain reports and findings as a public record; providing exception; requiring certain written declaration; making such declaration an open record; providing procedures for requesting and receiving an extension of time before release of certain reports and findings as a public record; limiting extensions of time; prohibiting certain extensions of time; providing procedures for certain appeals; providing procedures for service of court orders; providing for certain nullification of extension of time; providing for expiration of opportunities to withhold certain reports; providing certain construction; amending 63 O.S. 2011, Section 1-329.1, which relates to

1 cremation; providing statutory reference; deleting
2 limitation on certain fee; making language gender-
neutral; and providing an effective date.

3
4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

8 Section 945. A. When properly authorized, an autopsy shall be
9 performed by the Chief Medical Examiner or such person as may be
10 designated by him or her for such purpose. The Chief Medical
11 Examiner or a person designated by him or her may authorize arterial
12 embalming of the body prior to the autopsy when such embalming would
13 in his or her opinion not interfere with the autopsy. The extent of
14 the autopsy shall be made as is deemed necessary by the person
15 performing the autopsy.

16 B. A full and complete report of the facts developed by the
17 autopsy together with the findings of the person making it shall be
18 prepared and filed in the Office of the Chief Medical Examiner
19 without unnecessary delay. Copies of such reports and findings
20 shall be furnished to district attorneys and law enforcement
21 officers making a criminal investigation in connection with the
22 death.

23 C. Upon receiving a written, signed and dated records request,
24 a copy of the full and complete report of the facts developed by the

1 autopsy, together with the findings of the person making the report,
2 shall be released by the Office of the Chief Medical Examiner to the
3 public in the most expedient manner available or as requested by the
4 records requester and, under the following conditions, shall be
5 furnished to:

6 1. District attorneys and any law enforcement agency with
7 authority to make a criminal investigation in connection with the
8 death; provided, such copies shall not be shared with any other
9 entity unless otherwise provided by law;

10 2. The spouse of the deceased or any person related within two
11 (2) degrees of consanguinity to the deceased, unless the district
12 attorney or law enforcement agency making a criminal investigation
13 objects to the release of documents to any family member. District
14 attorneys and law enforcement agencies shall be prohibited from
15 objecting to the release of the full and complete autopsy report to
16 the family if the decedent was in state custody, in custody of law
17 enforcement or is deceased due to lethal action of a law enforcement
18 officer; and

19 3. Any insurance company conducting an insurer's investigation
20 of any insurance claim arising from the death of the individual upon
21 whom the autopsy was performed.

22 D. The full and complete report of the facts developed by the
23 autopsy, together with the findings of the person making the report,
24 shall be withheld from public inspection and copying for ten (10)

1 business days following the date the report is generated by the
2 Office of the Chief Medical Examiner, except as provided for in
3 subsection C of this section.

4 E. The Office of the Chief Medical Examiner shall produce a
5 summary report of investigation by the medical examiner at the same
6 time the full and complete report of the facts developed by the
7 autopsy, together with the findings of the person making the report,
8 is released to the parties listed in subsection C of this section.
9 The summary report of investigation shall be made available for
10 public inspection and copying without delay. Any person may obtain
11 a copy of the summary report of investigation in the most expedient
12 manner available or as requested by the records requester.

13 F. The summary report of investigation shall include, but not
14 be limited to the following information, if known:

15 1. Decedent name, age, birth date, race, sex, home address,
16 examiner notified by name and title and including date and time,
17 location where decedent was injured or became ill, including name of
18 facility, address, city, county, type of premises, date and time;
19 location of death including name of facility, city, county, type of
20 premises, date and time, and location body was viewed by medical
21 examiner including address, city, county, type of premises and date
22 and time;

23 2. If the death was a motor vehicle accident, whether the
24 decedent was the driver, passenger or pedestrian, and the type of

1 vehicle involved in the accident;

2 3. A description of the body, including but not limited to the
3 external physical examination, rigor, livor, external observations
4 including hair, eye color, body length and weight, and other
5 external observations, as well as the presence and location of
6 blood; and

7 4. The probable cause of death, other significant conditions
8 contributing to the death but not resulting in the underlying cause
9 given, manner of death, case disposition, case number, and name and
10 contact information of the medical examiner performing the autopsy,
11 including a signature and certification statement that the facts
12 contained in the report are true and correct to the best of their
13 knowledge and the date the report was signed and generated.

14 G. At the conclusion of the ten (10) business-day-period, the
15 full and complete report shall be made available as a public record
16 except when a district attorney or law enforcement agency with
17 authority to make a criminal investigation in connection with the
18 death declares that the full and complete report contains
19 information that would materially compromise an ongoing criminal
20 investigation. Such declaration shall be in writing to the Office
21 of the Medical Examiner and be an open record available from the
22 Office of Medical Examiner.

23 1. Upon such declaration, the district attorney or law
24 enforcement agency shall request from the appropriate district court

1 a hearing for an extension of time during which the full and
2 complete autopsy report, not including information in the summary
3 report, may be withheld.

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

11 3. Courts considering such requests shall conduct a hearing and
12 consider whether the interests of the public outweigh the interests
13 asserted by the district attorney or law enforcement agency.

14 4. If an extension of time is granted by the court, the initial
15 extension shall be ordered by the court for a period of six (6)
16 months. Subsequent extensions shall only be ordered after a hearing
17 by the court for an additional one year and cumulative time
18 extensions shall not exceed more than four (4) years and six (6)
19 months; provided, under no circumstance shall an extension of time
20 be granted by the court if the deceased person was in state custody,
21 in custody of law enforcement or was deceased due to lethal action
22 of a law enforcement officer.

23 5. In the event that six (6) months have expired from the date
24 of the initial release of the autopsy report without any person

1 being criminally charged in the case in question and release of the
2 autopsy or portions of the autopsy have been denied on the grounds
3 of materially compromising a criminal investigation, an appeal of
4 such denial may be made to the appropriate district court. Courts
5 considering appeals for temporarily withholding an autopsy report
6 shall conduct a hearing and consider whether the interests of the
7 public outweigh the interests asserted by the district attorney or
8 law enforcement agency. In response to such appeals, the district
9 court shall order that the autopsy report be made available for
10 public inspection and copying with no redaction, or shall order an
11 extension of time during which the autopsy report may be withheld
12 under the provisions of this section.

13 6. Any court order obtained pursuant to this subsection shall
14 be served upon the Office of the Chief Medical Examiner by the party
15 requesting or granted the extension by the court.

16 H. An order granting an extension of time shall be applicable
17 to the autopsy report for the duration of the extension; provided,
18 each subsequent time extension shall only be ordered by the district
19 court for an additional twelve-month period of time or less and
20 cumulative time extensions shall not exceed four (4) years and six
21 (6) months; provided, charges being filed against a person in the
22 case in question or an autopsy report being entered into evidence as
23 part of a criminal prosecution nullifies any granted extension of
24 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 and six (6) months after the date the
4 autopsy report was generated, at which time the autopsy report
5 previously withheld on the grounds provided for in this section
6 shall be made available for public inspection and copying.

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

14 K. After ten (10) business days from the release of the full
15 and complete report, nothing in this section shall prohibit the
16 spouse of the deceased or any person related within two (2) degrees
17 of consanguinity to the deceased who has received a copy of the full
18 and complete autopsy report from the Office of the Chief Medical
19 Examiner from authorizing the Office of the Chief Medical Examiner's
20 office to release the full and complete autopsy report to any other
21 person subject to approval by the court.

22 SECTION 2. AMENDATORY 63 O.S. 2011, Section 1-329.1, is
23 amended to read as follows:
24

1 Section 1-329.1. Until a permit for disposal has been issued in
2 accordance with this section, no dead human body whose death
3 occurred within the State of Oklahoma shall be cremated, buried at
4 sea, or made unavailable for further pathologic study by other
5 recognized means of destruction or dissolution of such remains.

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

1 the funeral director with the Office of the Chief Medical Examiner.
2 Such filing shall occur or be postmarked within forty-eight (48)
3 hours of the death.

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

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

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