

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 58th Legislature (2021)

4 ENGROSSED SENATE
5 BILL NO. 354

By: Bergstrom of the Senate

and

Davis of the House

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9 An Act relating to out-of-state transport of dead
10 bodies; providing for deaths in certain counties with
11 shared state jurisdictional boundaries; authorizing
12 release of body to funeral director in adjoining out-
13 of-state county under certain conditions; stating
14 eligible types of deaths; defining term; requiring a
15 release statement; directing certificate of death be
16 filed within certain time; establishing requirements
17 for out-of-state funeral director to participate in
18 removing eligible bodies from this state; directing
19 out-of-state licenses be filed each year; restricting
20 transport to certain vehicle; prohibiting other
21 methods of transport; subjecting out-of-state funeral
22 director to state jurisdiction; requiring return of
23 body for investigation; directing jurisdictional hold
24 on certain bodies; stating jurisdictional hold
period; making jurisdictional hold automatically
expire; providing exception to automatic expiration
time; authorizing the Board of Medicolegal
Investigations and Chief Medical Examiner to
promulgate rules, procedures and forms; providing
alternative to promulgated form; construing
provisions; amending 63 O.S. 2011, Section 1-317, as
last amended by Section 2, Chapter 305, O.S.L. 2019
(63 O.S. Supp. 2020, Section 1-317), which relates to
filing death certificates; requiring certain out-of-
state funeral directors to file death certificates;
modifying language; amending 63 O.S. 2011, Section 1-
329.1, as amended by Section 2, Chapter 385, O.S.L.
2017 (63 O.S. Supp. 2020, Section 1-329.1), which
relates to cremation permits; excepting certain

1 eligible deaths from cremation fee and permit;
2 amending 63 O.S. 2011, Section 938, as amended by
3 Section 6, Chapter 293, O.S.L. 2014 (63 O.S. Supp.
4 2020, Section 938), which relates to types of deaths
5 to be investigated; providing certain exception for
6 required investigation; amending 63 O.S. 2011,
7 Section 947, as amended by Section 16, Chapter 293,
8 O.S.L. 2014 (63 O.S. Supp. 2020, Section 947), which
9 relates to certificate of death; exempting medical
10 examiner certificate of death for certain deaths;
11 amending 63 O.S. 2011, Section 948.1, as last amended
12 by Section 9, Chapter 85, O.S.L. 2015 (63 O.S. Supp.
13 2020, Section 948.1), which relates to fee schedule;
14 exempting certain deaths from certain fees and
15 permits; providing for codification; providing an
16 effective date; and declaring an emergency.

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

18 SECTION 1. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 955.1 of Title 63, unless there
20 is created a duplication in numbering, reads as follows:

21 A. When a death occurs in a county of this state that adjoins a
22 county of another state by a shared state jurisdictional boundary,
23 and the person legally entitled to take custody of the deceased
24 person's body in this state desires to utilize the funeral services
25 of an out-of-state funeral establishment located in the adjoining
26 out-of-state county, the dead body may be released to such person
27 without a medical examiner's investigation or this state's
28 requirement for an out-of-state transport permit or cremation permit
29 provided the out-of-state funeral director is in compliance with the

provisions of this section and the death is one of the following types:

1. A natural death that occurs from natural causes such as age or disease. For purposes of this section, a "natural death" specifically excludes any death caused by or suspected to be caused by accident, injury, violence, homicide, suicide, medical procedure or equipment, unnatural or unusual circumstances, a disease that may be a threat to public safety or a suspicious or undetermined cause;

2. An attended death caused by a diagnosed illness, disease or condition that occurs under medical supervision in an Oklahoma licensed medical facility or hospital excluding a medically unexpected death or a death that occurs during the course of a therapeutic procedure;

3. A stillbirth that occurs under medical supervision in an Oklahoma licensed medical facility or hospital that was known in advance or medically anticipated prior to delivery;

4. An attended death caused by a diagnosed fatal or potentially fatal illness, disease or condition that occurs under medical supervision in an Oklahoma licensed hospice care facility;

5. An attended death caused by a diagnosed fatal or potentially fatal illness, disease or condition that occurs under licensed hospice supervision at home; or

6. An attended death caused by a diagnosed fatal or potentially fatal illness, disease or condition or a natural death that occurs

1 under medical supervision in an Oklahoma licensed nursing home or
2 medical-assisted care facility.

3 B. The types of deaths eligible for removal from the
4 jurisdiction of the county of death in this state to the adjoining
5 out-of-state county for funeral services as authorized by subsection
6 A of this section shall require a signed release by the person
7 legally entitled to take custody of the deceased person's body that
8 contains a clear statement that the body will be removed to the
9 named funeral establishment in the adjoining out-of-state county for
10 professional funeral services. The out-of-state funeral director is
11 required to file the release statement with the Office of Chief
12 Medical Examiner within twenty-four (24) hours of taking custody of
13 the body. The filing may be completed by electronic or digital
14 means as authorized by the Chief Medical Examiner.

15 C. The person legally entitled to take custody of the deceased
16 person's body or the attending medical professional or physician
17 shall personally sign and file the death certificate within seventy-
18 two (72) hours after the death as provided in Section 1-317 of Title
19 63 of the Oklahoma Statutes.

20 D. Prior to removing a dead body from this state pursuant to
21 the authority of this section, the out-of-state funeral director
22 shall have on file with the Office of the Chief Medical Examiner in
23 this state and the county sheriff of the county of this state that
24 adjoins the out-of-state county where the funeral establishment is

1 located a certified copy of the valid license for the out-of-state
2 funeral establishment and his or her funeral director license at the
3 same address. The physical location of the funeral establishment
4 shall be in the adjoining out-of-state county to the county in this
5 state where the death occurred and shall be the same place where the
6 dead body will be taken for funeral services. The out-of-state
7 licenses may be filed once each year and shall be valid for purposes
8 of this section during the license term or calendar year, whichever
9 occurs first.

10 E. Removal and transport of an eligible and authorized dead
11 body from the county of death in this state to the adjoining out-of-
12 state county for funeral services pursuant to the provisions of this
13 section shall be made by the out-of-state funeral director in the
14 funeral establishment's private funeral vehicle. The dead body
15 shall not be shipped, transported by any commercial carrier or
16 transported by any other type of vehicle or method.

17 F. By filing an out-of-state funeral establishment license and
18 an out-of-state funeral director license in this state as authorized
19 by this section, the funeral establishment and funeral director each
20 submit to the jurisdiction of this state for purposes of making and
21 filing reports, certificates and documents required for processing a
22 death in this state and further each voluntarily agrees to be
23 responsible for the costs of return of the dead body removed from
24 this state upon request of an Oklahoma law enforcement officer,

1 district attorney or Chief Medical Examiner as required for
2 investigation of the death. A State of Oklahoma jurisdictional hold
3 shall be placed on a dead body removed under the provisions of this
4 section for seventy-two (72) hours during which time no burial or
5 cremation is authorized by the out-of-state funeral director. The
6 jurisdictional hold shall automatically expire after seventy-two
7 (72) hours from the time the dead body is removed from this state
8 unless the body is required to be returned to this state for
9 investigation.

10 G. For purposes of this section, the attending medical
11 professional or physician shall complete the medical certification
12 of death within forty-eight (48) hours after death as required by
13 law pursuant to Section 1-317 of Title 63 of the Oklahoma Statutes.

14 H. The Board of Medicolegal Investigations together with the
15 Chief Medical Examiner may promulgate rules, procedures and forms to
16 implement and enforce the provisions of this section. In the
17 alternative to a promulgated form, the Chief Medical Examiner may
18 accept a written release statement prepared and filed by the out-of-
19 state funeral director for an eligible and authorized death.

20 I. Nothing in this section shall be construed to restrict or
21 expand the transport, cremation or any permit issuance for a dead
22 body into or out of this state as authorized by another provision of
23 law in this state or the laws of another state's jurisdiction.

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1 SECTION 2. AMENDATORY 63 O.S. 2011, Section 1-317, as
2 last amended by Section 2, Chapter 305, O.S.L. 2019 (63 O.S. Supp.
3 2020, Section 1-317), is amended to read as follows:

4 Section 1-317. A. A death certificate for each death which
5 occurs in this state shall be filed with the State Department of
6 Health, within three (3) days after such death.

7 B. The funeral director shall personally sign the death
8 certificate and shall be responsible for filing the death
9 certificate. If the funeral director is not available, the person
10 acting as such who first assumes custody of a dead body in
11 accordance with Section 1158 of Title 21 of the Oklahoma Statutes
12 shall personally sign and file the death certificate. For purposes
13 of Section 1 of this act, the out-of-state funeral director shall
14 personally sign and shall be responsible for filing the death
15 certificate in this state. The personal data shall be obtained from
16 the next of kin or the ~~best-qualified~~ best-qualified person or
17 source available. The certificate shall be completed as to personal
18 data and delivered to the attending physician or the medical
19 examiner responsible for completing the medical certification
20 portion of the certificate of death within twenty-four (24) hours
21 after the death. ~~No later than July 1, 2012, the~~ The personal data,
22 and ~~no later than July 1, 2017,~~ the medical certificate portion,
23 shall be entered into the prescribed electronic system provided by
24 the State Registrar of Vital Statistics and the information

1 submitted to the State Registrar of Vital Statistics. The resultant
2 certificate produced by the electronic system shall be provided to
3 the physician or medical examiner for medical certification within
4 twenty-four (24) hours after the death.

5 C. The medical certification shall be completed and signed
6 within forty-eight (48) hours after death by the physician in charge
7 of the patient's care for the illness or condition which resulted in
8 death, except when inquiry as to the cause of death is required by
9 Section 938 of this title. ~~No later than July 1, 2017, the~~ The
10 medical certification portion of certificate data shall be entered
11 into the prescribed electronic system provided by the State
12 Registrar of Vital Statistics and the information submitted to the
13 State Registrar of Vital Statistics.

14 D. In the event that the physician in charge of the patient's
15 care for the illness or condition which resulted in death is not in
16 attendance at the time of death, the medical certification shall be
17 completed and signed within forty-eight (48) hours after death by
18 the physician in attendance at the time of death, except:

19 1. When the patient is under hospice care at the time of death,
20 the medical certification may be signed by the hospice's medical
21 director; and

22 2. When inquiry as to the cause of death is required by Section
23 938 of this title.

1 Provided, that such certification, if signed by other than the
2 attending physician, shall note on the face the name of the
3 attending physician and that the information shown is only as
4 reported.

5 E. A certifier completing cause of death on a certificate of
6 death who knows that a lethal drug, overdose or other means of
7 assisting suicide within the meaning of Sections 3141.2 through
8 3141.4 of this title caused or contributed to the death shall list
9 that means among the chain of events under cause of death or list it
10 in the box that describes how the injury occurred. If such means is
11 in the chain of events under or in the box that describes how the
12 injury occurred, the certifier shall indicate "suicide" as the
13 manner of death.

14 SECTION 3. AMENDATORY 63 O.S. 2011, Section 1-329.1, as
15 amended by Section 2, Chapter 385, O.S.L. 2017 (63 O.S. Supp. 2020,
16 Section 1-329.1), is amended to read as follows:

17 Section 1-329.1. Until a permit for disposal has been issued in
18 accordance with this section, no dead human body whose death
19 occurred within ~~the State of Oklahoma~~ this state shall be cremated,
20 buried at sea, or made unavailable for further pathologic study by
21 other recognized means of destruction or dissolution of such
22 remains, except as otherwise authorized herein.

23 When the person legally responsible for disposition of a dead
24 human body, whose death occurred or was pronounced within this

1 state, desires that the body be cremated, buried at sea, or made
2 unavailable for further pathologic study by other recognized means
3 of destruction or dissolution of such remains, that person shall
4 complete an application-permit form for such procedure provided by
5 the Office of the Chief Medical Examiner. For purposes of Section 1
6 of this act, no application-permit shall be required to transport an
7 eligible body from the county of death in this state to the
8 adjoining out-of-state county for cremation or burial provided the
9 body is held by the out-of-state funeral director for the required
10 seventy-two (72) hours prior to cremation or burial. The Office of
11 the Chief Medical Examiner, in accordance with Section 948.1 of this
12 title, shall charge a fee for each cremation permit issued. The
13 Medical Examiner shall be notified, as required in Section 938 of
14 this title. He or she shall perform the required investigation and
15 shall issue a valid death certificate as required by Section 947 of
16 this title and execute the permit in accordance with rules
17 established by the Office of the Chief Medical Examiner. In order
18 to be valid, each permit must contain an individual number assigned
19 to the particular permit by the Office of the Chief Medical
20 Examiner. A copy of the application-permit form and the original
21 death certificate shall be filed with the State Registrar. The
22 original application-permit form shall be filed by the funeral
23 director with the Office of the Chief Medical Examiner. Such filing
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1 shall occur or be postmarked within forty-eight (48) hours of the
2 death.

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

15 SECTION 4. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 941a-1 of Title 63, unless there
17 is created a duplication in numbering, reads as follows:

18 For an eligible death type enumerated in subsection A of Section
19 1 of this act and solely for the purpose authorized in Section 1 of
20 this act, the body of the deceased person may be released to the
21 person legally entitled to take custody thereof upon a signed
22 written release and statement naming the place where the body will
23 be transported for funeral services in the adjoining out-of-state
24 county, unless an attending medical professional, witness, law

1 enforcement officer or emergency first responder has notified the
2 Chief Medical Examiner, or his or her designee, of the need for
3 further investigation into the cause of death, or has notified the
4 appropriate district attorney of such need. In the event
5 investigation into the cause of death is required, the body shall be
6 held by the medical examiner until such investigation is completed.

7 SECTION 5. AMENDATORY 63 O.S. 2011, Section 938, as
8 amended by Section 6, Chapter 293, O.S.L. 2014 (63 O.S. Supp. 2020,
9 Section 938), is amended to read as follows:

10 Section 938. A. All human deaths of the types listed herein
11 shall be investigated as provided by law:

12 1. Violent deaths, whether apparently homicidal, suicidal, or
13 accidental;

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

15 3. Deaths related to disease which might constitute a threat to
16 public health;

17 4. Deaths unattended by a licensed physician for a fatal or
18 ~~potentially-fatal~~ potentially fatal illness;

19 5. Deaths that are medically unexpected and that occur in the
20 course of a therapeutic procedure;

21 6. Deaths of any persons detained or occurring in custody of
22 penal incarceration; ~~and~~

23 7. Deaths of persons whose bodies are to be cremated,
24 ~~transported out of the state,~~ donated to educational entities, to

1 include limited portions of the body, or otherwise made ultimately
2 unavailable for pathological study; and

3 8. Except as provided in Section 1 of this act, deaths
4 transported out of state.

5 B. The Chief Medical Examiner shall state on the certificate of
6 death of all persons whose death was caused by execution pursuant to
7 a lawful court order that the cause of death was the execution of
8 such order.

9 SECTION 6. AMENDATORY 63 O.S. 2011, Section 947, as
10 amended by Section 16, Chapter 293, O.S.L. 2014 (63 O.S. Supp. 2020,
11 Section 947), is amended to read as follows:

12 Section 947. A. The certification of death of any person whose
13 death is investigated under Section 931 et seq. of this title shall
14 be made by the Chief Medical Examiner or his or her designee upon a
15 medical examiner death certificate provided by the State Registrar
16 of Vital Statistics. Such death certificates shall be valid only
17 when signed by the Chief Medical Examiner or his or her designee.
18 Copies of all such certificates shall be forwarded immediately upon
19 receipt by the State Registrar of Vital Statistics to the Office of
20 the Chief Medical Examiner.

21 B. Any certification of death by an attending physician may be
22 referred by the State Registrar of Vital Statistics to the Chief
23 Medical Examiner for investigation and the amending of the original
24 certificate of death by the filing of a medical examiner death

1 certificate by the Chief Medical Examiner or his or her designee
2 when the death is determined by the Chief Medical Examiner to be one
3 properly requiring investigation under Section 938 of this title.

4 C. Medical examiner death certificates will not be required in
5 cases investigated solely for the purpose of issuing a permit for
6 transport of a body out of state.

7 D. Medical examiner death certificates will not be required for
8 transport of a body from the county of death in this state to the
9 adjoining out-of-state county as authorized by Section 1 of this
10 act.

11 SECTION 7. AMENDATORY 63 O.S. 2011, Section 948.1, as
12 last amended by Section 9, Chapter 85, O.S.L. 2015 (63 O.S. Supp.
13 2020, Section 948.1), is amended to read as follows:

14 Section 948.1. A. The Board of Medicolegal Investigations may
15 establish a fee schedule for forensic services, permits and reports
16 rendered to members of the public and other agencies.

17 1. No fee schedule may be established or amended by the Board
18 except during a regular legislative session. The Board shall comply
19 with the Administrative Procedures Act for adoption of rules and
20 establishing or amending any such fee schedule.

21 2. Except as otherwise specified in this section, the Board
22 shall charge fees only within the following ranges:
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24

- 1 a. permit for cremations that occur within the state:
2 One Hundred Dollars (\$100.00) to Two Hundred Dollars
3 (\$200.00),
- 4 b. forensic science service: One Hundred Dollars
5 (\$100.00) to Three Thousand Dollars (\$3,000.00),
- 6 c. report copies: Ten Dollars (\$10.00) for report of
7 investigation, including toxicology, and Twenty
8 Dollars (\$20.00) for an autopsy report, including
9 toxicology,
- 10 d. x-rays: Fifteen Dollars (\$15.00) each,
- 11 e. microscopic slides, Hematoxylin and Eosin (H&E): Ten
12 Dollars (\$10.00) each,
- 13 f. special stains: Fifteen Dollars (\$15.00) each, and
- 14 g. photographs: Twenty-five Dollars (\$25.00) per compact
15 disc (CD) or other suitable digital storage media.

16 3. Medical examiner permit certificates shall be required in
17 cases investigated solely for the purpose of issuing a permit for
18 transporting a body out of state, except as provided in paragraph 6
19 of this subsection.

20 4. The Board of Medicolegal Investigations shall charge a fee
21 for out-of-state shipment of human remains whenever the Office of
22 the Chief Medical Examiner has not been required to conduct an
23 investigation of the death.
24

1 5. An out-of-state transport permit and cremation permit shall
2 both be required for bodies containing body parts sent out of state
3 or out of country, while remaining body parts remain unused.

4 6. No fee shall be charged, and no permit shall be required for
5 an eligible body transported from the county of death in this state
6 to the adjoining out-of-state county as authorized by Section 1 of
7 this act.

8 B. The Board shall base the fee schedule for forensic science
9 services, permits and reports upon reasonable costs of review,
10 investigation and forensic science service delivery; provided,
11 however, the fee schedule shall be within the ranges specified in
12 subsection A of this section. The Board shall continue a system of
13 basic and continuing educational service and training for all
14 personnel who render forensic science services in order to ensure
15 uniform statewide application of the rules of the Board. The Board
16 shall consider the reasonable costs associated with such training
17 and continuing education in setting the forensic science service
18 fees.

19 C. The Board may exempt by rule any agency or class of
20 individuals from the requirements of the fee schedule if the Board
21 determines that the fees would cause an unreasonable economic
22 hardship or would otherwise hinder or conflict with an agency's
23 responsibilities.

1 D. All statutory fees currently in effect for permits or
2 forensic science services administered by the Chief Medical Examiner
3 and the Board of Medicolegal Investigations within the jurisdiction
4 of the Office of the Chief Medical Examiner shall remain in effect
5 until such time as the Board acts to implement new schedules
6 pursuant to the provisions of this section and Section 948 of this
7 title.

8 SECTION 8. This act shall become effective July 1, 2021.

9 SECTION 9. It being immediately necessary for the preservation
10 of the public peace, health or safety, an emergency is hereby
11 declared to exist, by reason whereof this act shall take effect and
12 be in full force from and after its passage and approval.

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14 COMMITTEE REPORT BY: COMMITTEE ON TRANSPORTATION, dated 04/08/2021 -
15 DO PASS.
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