

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

SENATE BILL 354

By: Bergstrom

AS INTRODUCED

An Act relating to out-of-state transport of dead bodies; providing for deaths in certain counties with shared state jurisdictional boundaries; authorizing release of body to funeral director in adjoining out-of-state county under certain conditions; stating eligible types of deaths; defining term; requiring a release statement; directing certificate of death be filed within certain time; establishing requirements for out-of-state funeral director to participate in removing eligible bodies from this state; directing out-of-state licenses be filed each year; restricting transport to certain vehicle; prohibiting other methods of transport; subjecting out-of-state funeral director to state jurisdiction; requiring return of body for investigation; directing jurisdictional hold 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 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. 2019 (63 O.S. Supp. 2020, Section 1-329.1), which relates to cremation permits; excepting certain eligible deaths from cremation fee and permit; amending 63 O.S. 2011, Section 938, as amended by Section 6, Chapter 293, O.S.L. 2014 (63 O.S. Supp. 2020, Section 938), which relates to types of deaths

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

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

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

A. When a death occurs in a county of this state that adjoins a
county of another state by a shared state jurisdictional boundary,
and the person legally entitled to take custody of the deceased
person's body in this state desires to utilize the funeral services
of an out-of-state funeral establishment located in the adjoining
out-of-state county, the dead body may be released to such person
without a medical examiner's investigation or this state's
requirement for an out-of-state transport permit or cremation permit
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 1. A natural death that occurs from natural causes such as age
2 or disease. For purposes of this section, a "natural death"
3 specifically excludes any death caused by or suspected to be caused
4 by accident, injury, violence, homicide, suicide, medical procedure
5 or equipment, unnatural or unusual circumstances, a disease that may
6 be a threat to public safety, or a suspicious or undetermined cause;

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

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

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

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

21 6. An attended death caused by a diagnosed fatal or
22 potentially-fatal illness, disease or condition or a natural death
23 that occurs under medical supervision in an Oklahoma licensed
24 nursing home or medical-assisted care facility.

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

13 C. Prior to removing a dead body from this state pursuant to
14 authority of this section, the person legally entitled to take
15 custody of the deceased person's body or the attending medical
16 professional or physician shall personally sign and file the death
17 certificate within twenty-four (24) hours after the death as
18 provided in Section 1-317 of Title 63 of the Oklahoma Statutes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 2. When inquiry as to the cause of death is required by Section
21 938 of this title.

22 Provided, that such certification, if signed by other than the
23 attending physician, shall note on the face the name of the
24

1 attending physician and that the information shown is only as
2 reported.

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

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

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

21 When the person legally responsible for disposition of a dead
22 human body, whose death occurred or was pronounced within this
23 state, desires that the body be cremated, buried at sea, or made
24 unavailable for further pathologic study by other recognized means

1 of destruction or dissolution of such remains, that person shall
2 complete an application-permit form for such procedure provided by
3 the Office of the Chief Medical Examiner. For purposes of Section 1
4 of this act, no application-permit shall be required to transport an
5 eligible body from the county of death in this state to the
6 adjoining out-of-state county for cremation or burial provided the
7 body is held by the out-of-state funeral director for the required
8 seventy-two (72) hours prior to cremation or burial. The Office of
9 the Chief Medical Examiner, in accordance with Section 948.1 of this
10 title, shall charge a fee for each cremation permit issued. The
11 Medical Examiner shall be notified, as required in Section 938 of
12 this title. He or she shall perform the required investigation and
13 shall issue a valid death certificate as required by Section 947 of
14 this title and execute the permit in accordance with rules
15 established by the Office of the Chief Medical Examiner. In order
16 to be valid, each permit must contain an individual number assigned
17 to the particular permit by the Office of the Chief Medical
18 Examiner. A copy of the application-permit form and the original
19 death certificate shall be filed with the State Registrar. The
20 original application-permit form shall be filed by the funeral
21 director with the Office of the Chief Medical Examiner. Such filing
22 shall occur or be postmarked within forty-eight (48) hours of the
23 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 4. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 941a-1 of Title 63, unless there
15 is created a duplication in numbering, reads as follows:

16 After three (3) hours from the time of death for an eligible
17 death type enumerated in subsection A of Section 1 of this act and
18 solely for the purpose authorized in Section 1 of this act, the body
19 of the deceased person may be released to the person legally
20 entitled to take custody thereof upon a signed written release and
21 statement naming the place where the body will be transported for
22 funeral services in the adjoining out-of-state county, unless an
23 attending medical professional, witness, law enforcement officer or
24 emergency first responder has notified the Chief Medical Examiner,

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

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

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

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

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

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

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

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

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

22 7. Deaths of persons whose bodies are to be cremated,
23 ~~transported out of the state,~~ donated to educational entities, to
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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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25

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

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

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

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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