An Act

ENROLLED SENATE
BILL NO. 1183

By: Standridge of the Senate

and

Billy of the House

An Act relating to public health; amending 63 O.S. 2011, Section 931, which relates to the Board of Medicolegal Investigations; requiring certain election to be held annually; limiting time period of certain capacities; amending 63 O.S. 2011, Section 934, which relates to qualifications of the Chief Medical Examiner; permitting Chief Medical Examiner to teach in any educational capacity; amending 63 O.S. 2011, Section 935, which relates to responsibilities of the Chief Medical Examiner; clarifying language; amending 63 O.S. 2011, Section 936, which relates to offices and laboratories; clarifying language; amending 63 O.S. 2011, Section 937, which relates to qualifications of medical examiners; directing Chief Medical Examiner to appoint Deputy Chief Medical Examiner to serve in certain circumstances; amending 63 O.S. 2011, Section 938, which relates to investigations of deaths; removing types of deaths from required investigations; clarifying language; requiring investigations of bodies donated to educational entities; removing restrictions on certain autopsies; amending 63 O.S. 2011, Section 939, which relates to investigation report forms; removing requirement for distribution of certain forms; amending 63 O.S. 2011, Section 940, which relates to notification of deaths; clarifying language; removing certain reference to county medical examiners; removing certain exceptions; amending 63 O.S. 2011, Section 941, which relates to investigations by the Chief Medical Examiner; requiring certain persons to conduct investigations in certain circumstances; requiring

submission of certain items to the Office of the Chief Medical Examiner; permitting medical examiners and designees to deliver certain objects to certain persons; permitting certain persons to access certain records; requiring decedents' bodies to be turned over to funeral directors within certain time period; amending 63 O.S. 2011, Section 941a, which relates to custody of bodies; removing obsolete language; amending 63 O.S. 2011, Section 942, which relates to reports of findings; requiring certain documentation; providing for determination of whether fatalities are drug-related; amending 63 O.S. 2011, Section 942a, which relates to appeals of certain findings; permitting certain persons to appeal certain findings; removing ability of certain persons to appeal certain reports; amending 63 O.S. 2011, Section 944, which relates to collection of specimens; removing authority of certain persons to authorize autopsies; permitting certain persons to collect and retain certain specimens; amending 63 O.S. 2011, Section 945, which relates to autopsies; requiring extent of autopsy to be determined by certain person; removing ability of certain persons to designate physicians to be present at autopsy; amending 63 O.S. 2011, Section 946, which relates to exhuming of bodies; transferring certain duties to certain officials; modifying provisions relating to orders of exhumation; amending 63 O.S. 2011, Section 947, which relates to death certificates; removing reference to certain personnel; directing certain personnel to conduct certain investigations; removing prohibition on certain fees levied by Board of Medicolegal Examinations; amending 63 O.S. 2011, Section 948, which relates to compensation for investigations; removing certain requirements for compensation; placing time limit on certain fee; amending 63 O.S. 2011, Section 948.1, which relates to fee schedule; requiring permits for certain circumstances; authorizing certain fee; amending 63 O.S. 2011, Section 949, which relates to records and evidence; modifying definition; requiring Office of Chief Medical Examiner to deliver certain cases to

district attorneys; removing certain persons from certain documents, judicial proceedings, and fees; removing certain requirements of medical examiners; deleting certain definition; amending 63 O.S. 2011, Section 951, which relates to transporting of bodies; removing requirement of certain persons to transport bodies; requiring Chief Medical Examiner to maintain certain contract; amending 63 O.S. 2011, Section 952, which relates to certain exclusions; prohibiting certain persons from employment with the Office of the Chief Medical Examiner; making gender neutral; amending 63 O.S. 2011, Section 2-309D, as last amended by Section 1 of Enrolled House Bill No. 2665 of the 2nd Session of the 54th Oklahoma Legislature, which relates to the Anti-Drug Diversion Act; requiring medical examiner to report certain information upon certain circumstances; repealing 63 O.S. 2011, Sections 943, 944.1 and 950, which relate to the Office of the Chief Medical Examiner; and providing an effective date.

SUBJECT: Medical examiners

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

SECTION 1. AMENDATORY 63 O.S. 2011, Section 931, is amended to read as follows:

Section 931. The Board of Medicolegal Investigations is hereby re-created. The members of the Board shall be:

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

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

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

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

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

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

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

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

The Chief Medical Examiner shall be an ex officio nonvoting member of the Board. The Board shall elect one of its members as chair and one of its members as vice-chair. Elections of board members shall be held annually. An elected member shall not serve in the same capacity for more than two (2) consecutive years. Members of the Board shall receive no compensation for their services on this Board. Regular meetings of the Board shall be held at such times as determined by its members, and special meetings may be called by the chair. Four members shall constitute a quorum.

SECTION 2. AMENDATORY 63 O.S. 2011, Section 934, is amended to read as follows:

Section 934. The Board of Medicolegal Investigations shall appoint a Chief Medical Examiner who shall be a physician licensed to practice in Oklahoma and a ~~diplomate~~ Diplomate of the American Board of Pathology or the American Osteopathic Board of Pathology in forensic pathology. The Chief Medical Examiner shall serve at the pleasure of the Board. In addition to the duties prescribed by law, the Chief Medical Examiner may teach in any ~~medical school in this state and conduct special classes for law enforcement officers~~ educational capacity.

SECTION 3. AMENDATORY 63 O.S. 2011, Section 935, is amended to read as follows:

Section 935. The Chief Medical Examiner shall be directly responsible to the Board for the performance of the duties provided for in this act and for the administration of the office of the Chief Medical Examiner. The Chief Medical Examiner may, however, delegate specific duties to competent and qualified ~~deputies~~ personnel who may act for the Chief Medical Examiner within the scope of the express authority granted by the Chief Medical Examiner, subject, however, to such rules as the Board may prescribe.

SECTION 4. AMENDATORY 63 O.S. 2011, Section 936, is amended to read as follows:

Section 936. The Board shall provide for a central office and shall see that there is maintained a laboratory suitably equipped with facilities for performance of the duties imposed by ~~this act~~ Section 931 et seq. of this title.

SECTION 5. AMENDATORY 63 O.S. 2011, Section 937, is amended to read as follows:

Section 937. The Chief Medical Examiner shall appoint medical examiners for ~~each county of~~ the state. Each medical examiner so appointed shall be a Doctor of Medicine or Osteopathy and Surgery, shall hold a valid ~~license~~ board certification to practice ~~his profession~~ forensic pathology in Oklahoma, and shall hold office at the pleasure of the ~~Board~~ Chief Medical Examiner. ~~In the event there is no qualified person in the county or no person willing to serve as a medical examiner, or in the event the medical examiner is absent from the county in which he serves, or is ill or disqualified by personal interest, the Chief Medical Examiner may in his discretion appoint as a medical examiner for such county a qualified person from another county, or may direct a medical examiner from another county to perform the duties of a medical examiner in both counties. Nothing in this section or act shall prohibit or restrict the Chief Medical Examiner from appointing a medical examiner and directing him to cross a county line. A medical examiner shall not be precluded from holding other public offices created by the laws of the state~~ The Chief Medical Examiner shall appoint a Deputy Chief Medical Examiner to serve in the capacity of the Chief Medical Examiner in the event the Chief Medical Examiner is absent, ill, or disqualified by personal interest.

SECTION 6. AMENDATORY 63 O.S. 2011, Section 938, is amended to read as follows:

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

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

2. Deaths under suspicious, unusual or unnatural circumstances;

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

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

5. ~~Deaths of persons after unexplained coma;~~

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

~~7.~~ 6. Deaths of any ~~inmates~~ persons detained or occurring in ~~any place~~ custody of penal incarceration; and

~~8.~~ 7. Deaths of persons whose bodies are to be cremated, ~~buried at sea,~~ transported out of the state, donated to educational entities, to include limited portions of the body, or otherwise made ultimately unavailable for pathological study.

B. ~~No autopsy shall be performed on the body of an executed inmate unless requested by the immediate family of the inmate prior to the execution or unless directed by the Department of Corrections or the Chief Medical Examiner. The Chief Medical Examiner shall not automatically authorize or perform an autopsy in conjunction with an investigation of death of an inmate that resulted from a scheduled execution due to a death sentence imposed pursuant to Title 21 of the Oklahoma Statutes. The Chief Medical Examiner may authorize or perform such an autopsy only when the public interest requires it.~~

~~The provisions of this subsection shall not prohibit an inmate from donating, in writing, his or her body to a teaching medical institution for scientific or research purposes.~~

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

SECTION 7. AMENDATORY 63 O.S. 2011, Section 939, is amended to read as follows:

Section 939. ~~The Chief Medical Examiner shall prepare and distribute to all medical examiners appropriate forms to be used in filing reports of investigation, with instructions as to their use, and detailed instructions as to the nature, character, and extent of investigation and examination to be made in each case in which investigation is required pursuant to Sections 931 through 954 of this title.~~

Except as otherwise provided by law, the Chief Medical Examiner shall produce records, documents, evidence or other material of any nature only upon the order of a court of competent jurisdiction. An interested party or litigant in a civil or criminal action may make application for an order to produce such materials. The court, after notice to all parties, including the Chief Medical Examiner, and a hearing on the application, may, upon the showing of good cause, direct the release of a copy or any part of such material. In addition, the court may also direct the payment of reasonable costs by the requesting party for the production of the material. The production of such material shall take place at the Office of the Chief Medical Examiner unless, upon a showing of good cause, specifically ordered otherwise by the court.

SECTION 8. AMENDATORY 63 O.S. 2011, Section 940, is amended to read as follows:

Section 940. A. All law enforcement officers and other state and county officials shall cooperate with the Chief Medical Examiner and all other medical examiners in making investigations required pursuant to the provisions of Sections 931 through 954 of this title. Said officials and the physician in attendance of the

deceased, or other persons when the deceased was unattended by a physician, shall promptly notify the medical examiner of the occurrence of all deaths coming to their attention which, pursuant to the provisions of Sections 931 through 954 of this title, are subject to investigation, and shall assist in making dead bodies and related evidence available for investigation.

~~The scene of a death subject~~ Subject to the provisions of Sections 931 through 954 of this title, bodies shall not be disturbed until authorized by the Chief Medical Examiner~~,~~ or his or her designee~~, or a county medical examiner,~~ and the representative of any law enforcement agency which has begun an investigation of the cause of death. Said authorization may be given by telephone. Nothing in Sections 931 through 954 of this title shall prevent the district attorney or his or her designee from authorizing the removal of a body when the removal is determined ~~by him~~ to be in the public interest and conditions at the scene are adequately documented and preserved by photographs and measurements.

B. The death of any patient, inmate, ward, or veteran in a state hospital or other institution~~, except Oklahoma Medical Center Hospitals and Clinics thereof,~~ shall be reported by the chief administrative officer of the hospital or institution or his or her designee to the Office of the Chief Medical Examiner at the time of the death and prior to release of the body.

1. Within thirty-six (36) hours, a written report shall be submitted and shall be accompanied by true and correct copies of all medical records of the hospital or institution concerning the deceased patient.

2. The Chief Medical Examiner shall have the authority to require production of any records, documents, or equipment or other items regarding the deceased patient deemed necessary to investigate the death.

SECTION 9. AMENDATORY 63 O.S. 2011, Section 941, is amended to read as follows:

Section 941. Upon receipt of notice of death of any person which under ~~this act~~ Section 931 et seq. of this title is subject to investigation, the medical examiner and the medical examiner's

designee shall immediately conduct an investigation into the cause and manner of death, and shall ~~comply~~ document in detail ~~with the instructions of~~, by the end of their assigned shift, all the facts of the scene to the database of the Chief Medical Examiner ~~as provided for in Section 939 of this title. He may have fingerprints and photographs taken~~. ~~He~~ Decedent specimens, evidence, and photographs shall be sent to the Office of the Chief Medical Examiner. The investigating official of the Office of the Chief Medical Examiner may take charge of any object or writing found on or near the body which ~~he deems~~ is deemed necessary for the purpose of establishing the cause and/or manner of death.

Upon conclusion of ~~his~~ the investigation and ~~his~~ determination that such objects or writings are no longer needed as evidence, the medical examiner ~~shall~~ or the medical examiner's designee may deliver them to the district attorney, law enforcement agency, or family for disposition.

The investigating medical examiner or the medical examiner's designee shall have access at all times to any and all medical and dental records and history of the deceased, including, but not limited to, radiographs and ~~electrocardiograms~~ medical records, in the course of his or her official investigation to determine the cause and manner of death. Such records may not be released to any other person by the medical examiner, and the custodians of such records shall incur no liability by reason of the release of such records to the medical examiner. The body of the deceased shall be turned over to the funeral director designated by the person responsible for burial within ~~eighteen (18)~~ twenty-four (24) hours of receipt of the decedent unless a longer period is necessary to complete the required investigation.

SECTION 10. AMENDATORY 63 O.S. 2011, Section 941a, is amended to read as follows:

Section 941a. Within three (3) hours after the death of any person who is at the time of death attended by a licensed ~~medical or osteopathic~~ physician, the body of the deceased shall be released, upon demand, to the person legally entitled to the custody thereof, or his or her representative, unless:

1. A release is signed by the person legally entitled to the custody of the body; or

2. The attending physician has notified the Chief Medical Examiner of the State of Oklahoma, or his or her designee, of the need for further investigation into the cause of death, or has notified the appropriate district attorney of such need; or

3. The laws of this state or the regulations of the Board of Medicolegal Investigations require additional information or examination that cannot be obtained or completed within the above period of time.

SECTION 11. AMENDATORY 63 O.S. 2011, Section 942, is amended to read as follows:

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

2. If the medical examiner finds that the deceased had illicit, prescription or nonprescription drugs in his or her system at the time of death, the medical examiner shall document in his or her findings if the death was:

a. a natural or accidental death with drug involvement,

b. a homicide by drugs,

c. a suicide by drug overdose, or

d. a death with drug involvement, but the manner of death could not be determined.

3. A fatality shall not be considered a drug-related death unless the medical examiner determines that the drug or drugs present in the deceased materially contributed to the death.

B. Copies of reports shall be furnished by the Chief Medical Examiner to investigating agencies having official interest therein. Copies of reports shall also be furnished to the spouse of the

deceased or any person within one degree of consanguinity of the deceased upon request and within five (5) business days of the request once the cause and manner of death have been determined and the death certificate has been issued.

SECTION 12. AMENDATORY 63 O.S. 2011, Section 942a, is amended to read as follows:

Section 942a. A. The ~~spouse of the deceased or any person within one degree of consanguinity~~ next of kin of the deceased may appeal the findings of the medical examiner to the district court of Oklahoma County under a petition for judicial review within two (2) years from the completion of the report. Such appeal shall be made in writing, shall state the nature and reasons for the appeal, and shall be supported by affidavit. The burden of proof shall be on the petitioner to establish by a preponderance of the evidence that the death certificate is in error. The petitioner shall notify the Office of the Chief Medical Examiner in writing upon filing the petition for judicial review. No jury shall be impaneled and no monetary damages shall be awarded under a cause of action filed pursuant to this subsection.

B. The court shall conduct an evidentiary hearing. Should the court find that the findings of the medical examiner are erroneous, the court shall immediately order the Chief Medical Examiner to correct the report and transmit the appropriate paperwork to the State Department of Health for the correction of the death certificate.

~~C. Reports of the medical examiner made prior to November 1, 2011, may be appealed by the spouse of the deceased or any person within one degree of consanguinity of the deceased under the procedures specified in subsection A of this section. Appeals made pursuant to this subsection shall be filed no later than November 1, 2013.~~

SECTION 13. AMENDATORY 63 O.S. 2011, Section 944, is amended to read as follows:

Section 944. When necessary in connection with an investigation to determine the cause and/or manner of death and when the public interest requires it, the Chief Medical Examiner, his or her

designee~~, a medical examiner~~ or a district attorney shall require and authorize an autopsy to be conducted. In determining whether the public interest requires an autopsy the medical examiner or district attorney involved shall take into account but shall not be bound by request therefor from private persons or from other public officials.

The Chief Medical Examiner~~,~~ or his or her designee ~~or a medical examiner,~~ may collect and retain such blood, tissue, bone, fluid or body waste specimens as ~~he deems~~ are deemed necessary to carry out his or her duties as specified in ~~this act~~ Section 931 et seq. of this title. No autopsy authorization shall be required as a prerequisite to the collection of such specimens.

SECTION 14. AMENDATORY 63 O.S. 2011, Section 945, is amended to read as follows:

Section 945. When properly authorized, an autopsy shall be performed by the Chief Medical Examiner or such person as may be designated by him or her for such purpose. The Chief Medical Examiner or a person designated by him or her may authorize arterial embalming of the body prior to the autopsy when such embalming would in his or her opinion not interfere with the autopsy. The extent of the autopsy shall be made ~~of such parts of the body~~ as is deemed necessary by the person performing the autopsy. A full and complete report of the facts developed by the autopsy together with the findings of the person making it shall be prepared and filed in the Office of the Chief Medical Examiner without unnecessary delay. Copies of such reports and findings shall be furnished to district attorneys and law enforcement officers making a criminal investigation in connection with the death. ~~The next of kin, or any one of them if more than one, may designate a physician to be present when the autopsy is conducted.~~

SECTION 15. AMENDATORY 63 O.S. 2011, Section 946, is amended to read as follows:

Section 946. A. If death occurred under circumstances as enumerated in Section 938 of this title, and if the body has been buried without proper certification of death, it shall be the duty of the ~~medical examiner~~ investigating official, upon ascertaining such facts, to notify the Chief Medical Examiner and the district

attorney of the county in which the body was buried. The district attorney shall present facts to the judge of the district court of that county, and the judge, after a hearing, may by written order require the body to be exhumed and an autopsy performed by the Chief Medical Examiner or his or her designee. A copy of the court order for exhumation shall be provided to the State Department of Health. A complete report of the facts developed by the autopsy and the findings of the person making the same shall be filed with the Chief Medical Examiner without unnecessary delay and a copy furnished the district attorney of the county within which the death occurred or within which the body was buried, or both.

B. No order for exhumation, as provided for in subsection A of this section, shall be made without notice of the hearing being served upon the decedent's ~~surviving spouse, parents or~~ next of kin, five (5) days prior to the hearing. The notice shall be served in the same manner as provided for by law for the service of summons in a civil action, shall include the date, time and place of the hearing and shall advise the person so notified that he or she has the right to appear and be heard by the court at that time. Provided, that the district attorney may, by affidavit, advise the court that the identity or whereabouts of any persons required to be served with notice under this subsection is unknown and cannot be ascertained with due diligence. Upon finding that the facts stated in the affidavit are true, the court shall not require notice be given.

SECTION 16. AMENDATORY 63 O.S. 2011, Section 947, is amended to read as follows:

Section 947. A. The certification of death of any person whose death is investigated under ~~this act~~ Section 931 et seq. of this title shall be made by the Chief Medical Examiner~~,~~ or his or her designee~~, or the medical examiner who conducted the investigation,~~ upon a medical examiner death certificate provided by the State Registrar of Vital Statistics. Such death certificates shall be valid only when signed by ~~a duly appointed medical examiner,~~ the Chief Medical Examiner~~,~~ or his or her designee. Copies of all such certificates shall be forwarded immediately upon receipt by the State Registrar of Vital Statistics to the Office of the Chief Medical Examiner.

B. Any certification of death by an attending physician may be referred by the State Registrar of Vital Statistics to the Chief Medical Examiner for investigation and the amending of the original certificate of death by the filing of a medical examiner death certificate by the ~~medical examiner or~~ Chief Medical Examiner or his or her designee when the death is determined by the Chief Medical Examiner to be one properly requiring investigation under Section 938 of this title.

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

~~D. The Board of Medicolegal Investigations shall not 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.~~

SECTION 17. AMENDATORY 63 O.S. 2011, Section 948, is amended to read as follows:

Section 948. A. ~~For each investigation or partial investigation in which the medical examiner is relieved by the Chief Medical Examiner or a designee, the medical examiner shall receive compensation for such services as provided in the rules approved and promulgated by the Board of Medicolegal Investigations, from funds appropriated to the Board of Medicolegal Investigations. Where, in the opinion of the Chief Medical Examiner, it is necessary to designate a consultant pathologist to perform an autopsy, such pathologist shall be entitled to a reasonable fee. Such fees shall be payable from funds appropriated to the Board of Medicolegal Investigations.~~

~~B.~~ The Office of the Chief Medical Examiner (OCME) shall store biological specimens in the control of the OCME for the potential purpose of independent analyses in matters of civil law, only upon receipt of a written request for such storage and payment of a storage fee. The fee shall be paid by the person requesting storage to the Office of the Chief Medical Examiner. The Board shall promulgate rules establishing a fee for storage of such biological specimens which shall not exceed One Hundred Dollars ($100.00) per year for a period of time not to exceed five (5) years. All fees

collected pursuant to the provisions of this subsection shall be deposited to the credit of the Office of the Chief Medical Examiner Toxicology Laboratory Revolving Fund.

~~C.~~ B. 1. The Office of the Chief Medical Examiner (OCME) is authorized to perform drug screens on specimens in the custody of the OCME, provided the request is made by an agency or party authorized to receive such information. The OCME may limit drug screens within the technical and physical capabilities of the OCME.

2. The authorization for drug screens shall apply only to specimens from cases already within the jurisdiction of the OCME and only when the analyses are deemed by the Chief Medical Examiner or Deputy Chief Medical Examiner not to conflict with any investigation of the case by the state.

3. The Board of Medicolegal Investigations shall establish a fee for drug screen services by rule. All fees collected pursuant to the provisions of this subsection shall be deposited to the Chief Medical Examiner Toxicology Laboratory Revolving Fund.

SECTION 18. AMENDATORY 63 O.S. 2011, Section 948.1, is amended to read as follows:

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

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

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

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, Hematoxilyn 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 computer diskette (CD).

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.

4. The Board of Medicolegal Examinations 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.

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

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

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

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

SECTION 19. AMENDATORY 63 O.S. 2011, Section 949, is amended to read as follows:

Section 949.

A. 1. a. The Office of the Chief Medical Examiner shall keep full and complete records, properly indexed, giving the name, if known, of every person whose death is investigated, the place where the body was found, the date, cause, and manner of death and all other relevant information concerning the death. The full report and detailed findings of the autopsy, if any, shall be a part of the record in each case.

b. The Chief Medical Examiner shall track and forward, within seventy-two (72) hours after the examination, demographic information on sudden, unexpected and nontraumatic infant deaths including, but not limited to, Sudden Infant Death Syndrome (SIDS), to the Oklahoma SIDS Coordinator at the State Department of Health and the SIDS Foundation of Oklahoma. As used in this subparagraph, "Sudden ~~Infant~~ Unexpected Death ~~Syndrome (SIDS)"~~ in Infants and Children" (SUDIC) means the sudden, unexpected death of an apparently healthy infant less than one (1) year of age which remains unexplained following a complete medicolegal analysis and death scene investigation. The Chief Medical Examiner shall follow up with further

notification upon final determination of a cause of death. Such notification shall be for statistical reporting purposes only.

2. The office shall promptly deliver to each district attorney having jurisdiction of the case, copies of all ~~records~~ cases relating to a death for which further investigation may be advisable. Any district attorney or other law enforcement official may, upon request, obtain copies of such records or other information deemed necessary to the performance of such district attorney's or other law enforcement official's official duties.

B. No report, findings, testimony, or other information of a medical examiner shall be admitted in evidence in any civil action in any court in this state, except under the following circumstances:

1. Certified copies of reports pertaining to the factual determinations of views and examination of or autopsies upon the bodies of deceased persons by the Chief Medical Examiner~~, a medical examiner, consultant pathologist,~~ or anyone under ~~their~~ his or her supervision or control may be admitted in evidence in any civil case in a court of competent jurisdiction in this state by stipulation of all parties in the case;

2. If a party refuses to stipulate to admission, the reports may be requested by any party seeking to admit the records as evidence. The request shall be made to the Office of the Chief Medical Examiner, who shall furnish same;

3. The party seeking admission of the reports shall then serve interrogatories concerning the facts to be answered under oath by the person preparing the records. The interrogatories and answers thereto shall be subject to the rules of evidence and may be admissible in evidence in any civil case in a court of competent jurisdiction. Objections to the interrogatories shall be made by any party in accordance with law just as if the interrogatories had been served on the objecting party. Cross interrogatories shall be submitted and shall be answered and admitted in evidence in the same manner as interrogatories;

4. The taking of depositions shall then be allowed pursuant to the provisions of Section 3230 of Title 12 of the Oklahoma Statutes; provided, however, depositions shall take place at the Office of the Chief Medical Examiner~~, a medical examiner, consultant pathologist,~~ or anyone under ~~their~~ his or her supervision or control whose testimony is sought, unless all parties, including the medical examiner, agree the deposition can be taken elsewhere;

5. No other testimony of the Chief Medical Examiner~~, a medical examiner, consultant pathologist,~~ or anyone under ~~their~~ his or her supervision and control shall be admitted in evidence in any civil action in any court of this state, unless timely application is made to the court by an interested party or litigant and timely notice of the application is given to the medical examiner. After a hearing, the court, for good cause shown, may order the appearance of the Chief Medical Examiner~~, a medical examiner, consultant pathologist,~~ or anyone under ~~their~~ his or her supervision and control for the purpose of testifying and may order that a subpoena be issued for that appearance; provided, however, that such order by the court shall be the exception and not the rule; and

6. The cost of the records or certified copies thereof shall be paid by the party requesting same. The reasonable fee charged by the Chief Medical Examiner~~, a medical examiner, consultant pathologist,~~ or anyone under ~~their~~ his or her supervision and control for answering interrogatories or cross interrogatories, submitting to depositions, or providing testimony shall be paid by the party submitting same. This fee shall be in place of any other witness fee allowed by law.

C. Certified copies of reports and findings, exclusive of hearsay evidence, may be admitted in evidence in preliminary hearings and criminal trials by stipulation.

D. Certified copies of reports of investigations by a medical examiner, laboratory reports and/or autopsy reports may be furnished to the next of kin or others having need for them upon written statement and payment of a reasonable fee set by the Board of Medicolegal Investigations.

~~E. 1. In a case in which possible SIDS is determined as the cause of death of an infant less than one (1) year of age, the~~

~~medical examiner shall explain to the newly bereaved family that support services are available and can be rendered more efficiently if the family signs a waiver to allow release of confidential information. The medical examiner shall provide such waiver to the family for signatures.~~

~~2. The medical examiner shall document receipt of the signed waiver form and shall forward such documentation to the State Department of Health and the SIDS Foundation of Oklahoma, along with information related to the possible SIDS death including, but not limited to, the infant's name, date of birth, date of death, race, parents' names, address and phone number.~~

~~3. As used in this subsection, "possible SIDS" means the sudden unexpected, nontraumatic death of an apparently healthy infant less than one (1) year of age.~~

SECTION 20. AMENDATORY 63 O.S. 2011, Section 951, is amended to read as follows:

Section 951. The Chief Medical Examiner~~, his designee, or a medical examiner~~ shall ~~be~~ maintain a contract transport service authorized to transport bodies of deceased persons of whose death he or she is officially informed to an appropriate place for autopsy or for the performance of scientific tests; provided that, after ~~said~~ the autopsy shall have been performed or such tests made, the bodies of such deceased persons shall be returned to the county from which they were brought, or, when so authorized by the district attorney of ~~said~~ the county and upon request of the nearest relative of the deceased or other person who may be responsible for burial, the body may be transported to some place other than ~~said~~ the county. The Chief Medical Examiner or his or her designee may authorize payment for the services in transporting the body to the place designated for autopsy, which shall be submitted upon a claim filed with the Board of Medicolegal Investigations.

SECTION 21. AMENDATORY 63 O.S. 2011, Section 952, is amended to read as follows:

Section 952. It is specifically provided that no embalmer, funeral director, or employee of a funeral home shall be ~~appointed or serve~~ employed in any capacity ~~as or~~ with ~~a medical examiner or~~

~~deputy~~ the Office of the Chief Medical Examiner, nor shall any member of law enforcement including but not limited to peace officers, deputy sheriffs, and reserve deputies.

SECTION 22. AMENDATORY 63 O.S. 2011, Section 2-309D, as last amended by Section 1 of Enrolled House Bill No. 2665 of the 2nd Session of the 54th Oklahoma Legislature, is amended to read as follows:

Section 2-309D. A. The information collected at the central repository pursuant to the Anti-Drug Diversion Act shall be confidential and shall not be open to the public. Access to the information shall be limited to:

1. Peace officers certified pursuant to Section 3311 of Title 70 of the Oklahoma Statutes who are employed as investigative agents of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;

2. The United States Drug Enforcement Administration Diversion Group Supervisor;

3. The executive director or chief investigator, as designated by each board, of the following state boards:

a. Board of Podiatric Medical Examiners,

b. Board of Dentistry,

c. State Board of Pharmacy,

d. State Board of Medical Licensure and Supervision,

e. State Board of Osteopathic Examiners,

f. State Board of Veterinary Medical Examiners,

g. Oklahoma Health Care Authority,

h. Department of Mental Health and Substance Abuse Services, and

i. State Board of Health;

provided, however, that the executive director or chief investigator of each of these boards shall be limited to access to information relevant to licensees of the employing board of such executive director or chief investigator;

4. A multicounty grand jury properly convened pursuant to the Multicounty Grand Jury Act; and

5. The Department of Mental Health and Substance Abuse Services and the State Department of Health for statistical, research, substance abuse prevention or educational purposes provided that the consumer's confidentiality is not compromised.

B. This section shall not prevent access, at the discretion of the Director of the Oklahoma Bureau of Narcotics and Dangerous Drugs Control, to investigative information by peace officers and investigative agents of federal, state, county or municipal law enforcement agencies, district attorneys and the Attorney General in furtherance of criminal investigations or prosecutions within their respective jurisdictions, and to registrants in furtherance of efforts to guard against the diversion of controlled dangerous substances.

C. This section shall not prevent the disclosure, at the discretion of the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, of statistical information gathered from the central repository to the general public which shall be limited to types and quantities of controlled substances dispensed and the county where dispensed.

D. This section shall not prevent the disclosure, at the discretion of the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, of prescription-monitoring-program information to prescription-monitoring programs of other states provided a reciprocal data-sharing agreement is in place.

E. Any unauthorized disclosure of any information collected at the central repository provided by the Anti-Drug Diversion Act shall be a misdemeanor. Violation of the provisions of this section shall

be deemed willful neglect of duty and shall be grounds for removal from office.

F. ~~Notwithstanding the provisions of subsection B of this section, registrants shall have no requirement or obligation to access or check the information in the central repository prior to dispensing or administering medications or as part of their professional practices.~~ Registrants shall not be liable to any person for any claim of damages as a result of accessing or failing to access the information in the central repository and no lawsuit may be predicated thereon. ~~Nothing herein shall be construed to relieve a registrant from any duty to monitor and report the sales of certain products pursuant to the provisions of Section 2-309C of this title.~~

G. Information regarding nonfatal overdoses, other than statistical information as required by Section 2-106 of this title, shall be completely confidential. Access to this information shall be strictly limited to the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control or designee, the Chief Medical Examiner, and the registrant that enters the information. Registrants shall not be liable to any person for a claim of damages for information reported pursuant to the provisions of Section 2-105 of this title.

H. Upon completion of an investigation in which it is determined that a death was caused by an overdose, either intentionally or unintentionally, of a controlled dangerous substance, the medical examiner shall be required to report the decedent's name and date of birth to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control. The Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall be required to maintain a database containing the classification of medical practitioners who prescribed or authorized controlled dangerous substances pursuant to this subsection.

SECTION 23. REPEALER 63 O.S. 2011, Sections 943, 944.1 and 950, are hereby repealed.

SECTION 24. This act shall become effective November 1, 2014.

Passed the Senate the 7th day of May, 2014.

Presiding Officer of the Senate

Passed the House of Representatives the 23rd day of April, 2014.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 8th day of May, 2014, at 2:00 o'clock P M.

By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 13th day of May, 2014, at 3:31 o'clock P M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 13th day of May, 2014, at 4:07 o'clock P. M.

By: Chris Benge