

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND THIRTEEN

S.P. 309 - L.D. 884

An Act To Improve Death Investigations

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 22 MRSA §3023, first ¶, as amended by PL 2001, c. 222, §2, is further amended to read:

The Chief Medical Examiner shall appoint medical examiners, who have statewide jurisdiction and serve at the pleasure of the Chief Medical Examiner, subject to the Chief Medical Examiner's control and the rules adopted by the Chief Medical Examiner. The medical examiners must be learned in the science of medicine and anatomy, licensed as physicians in this State and ~~bona fide~~ residents of this State. Each medical examiner before entering upon the duties of the office must be duly sworn to the faithful performance of the medical examiner's duty.

Sec. 2. 22 MRSA §3023-A is enacted to read:

§3023-A. Medicolegal death investigators; appointment; jurisdiction

The Chief Medical Examiner may appoint persons who are not physicians as medicolegal death investigators, who have statewide jurisdiction and serve at the pleasure of the Chief Medical Examiner, subject to the Chief Medical Examiner's control and rules adopted by the Chief Medical Examiner. Medicolegal death investigators must meet the certification and training requirements established by the Chief Medical Examiner and must be residents of this State. Medicolegal death investigators may be employees of the Office of the Chief Medical Examiner or serve on a fee-for-service basis as determined by the Chief Medical Examiner. A medicolegal death investigator before entering upon the duties of the office must be duly sworn to the faithful performance of the medicolegal death investigator's duty.

Sec. 3. 22 MRSA §3024, first, 3rd and last ¶¶, as amended by PL 2001, c. 222, §3, are further amended to read:

The salary of the Chief Medical Examiner of the State must be set by the Governor. Other nonsalaried medical examiners and nonsalaried medicolegal death investigators,

upon the submission of their completed report to the Chief Medical Examiner, must be paid a fee of up to \$70 for an inspection and view and are entitled to receive travel expenses to be calculated at the mileage rate currently paid to state employees pursuant to Title 5, section 8. An additional fee of \$50 may be authorized by the Chief Medical Examiner for payment to other nonsalaried medical examiners and nonsalaried medicolegal death investigators for visits to death scenes other than hospitals.

The Chief Medical Examiner may, in an unusual circumstance as determined by the Chief Medical Examiner, prescribe a special fee for the service of a medical examiner or medicolegal death investigator or for any consultant service the Chief Medical Examiner determines necessary.

If the Chief Medical Examiner or employees of that office provide expert opinion or testimony relating to Maine medical examiner cases on behalf of private litigants, the Chief Medical Examiner may set a reasonable fee for these services, preparation leading to them and expenses incurred in providing them. All fees, charges or other receipts must be credited to the General Fund. Medical examiners, medicolegal death investigators and consultants who serve the State on a fee per case basis are excluded from this paragraph and may make private arrangements for these services.

Sec. 4. 22 MRSA §3028, sub-§1, as amended by PL 2001, c. 291, §1, is further amended to read:

1. Authority to conduct investigation. The medical examiner or ~~the person expressly authorized by the Chief Medical Examiner~~ medicolegal death investigator has authority to conduct an investigation and inquiry into the cause, manner and circumstances of death in a medical examiner case. The medical examiner or ~~authorized person~~ medicolegal death investigator shall, if it is determined necessary, immediately proceed to the scene and, subject to the authority of the Attorney General, assume custody of the body for the purposes of the investigation, and shall retain custody until the investigation has been completed or until the Chief Medical Examiner has assumed charge of the case.

Sec. 5. 22 MRSA §3028, sub-§2, as amended by PL 2001, c. 291, §2, is further amended to read:

2. Investigation by law enforcement officer. When death is not suspected to be the result of physical injury attributable to criminal conduct, the medical examiner may elect not to proceed to the scene, or the Chief Medical Examiner may elect not to dispatch a medical examiner or ~~the person expressly authorized by the Chief Medical Examiner under subsection 1~~ medicolegal death investigator to the scene. If the medical examiner elects not to proceed to the scene, or the Chief Medical Examiner elects not to dispatch a medical examiner or ~~authorized person~~ medicolegal death investigator to the scene, the law enforcement officer in charge of the scene shall:

A. Investigate, take photographs and take possession of useful objects as directed by the medical examiner, ~~authorized person~~ medicolegal death investigator or the Office of Chief Medical Examiner pursuant to subsection 4;

C. Remove the body in accordance with the instructions of the medical examiner, ~~authorized person~~ medicolegal death investigator or the Office of Chief Medical Examiner; and

D. Make a report of the investigation available to the medical examiner, ~~authorized person~~ medicolegal death investigator or the Office of Chief Medical Examiner.

Sec. 6. 22 MRSA §3028, sub-§3, as amended by PL 2001, c. 291, §3, is further amended to read:

3. Assistance of law enforcement agency. The medical examiner, the ~~person expressly authorized by the Chief Medical Examiner~~ medicolegal death investigator or the pathologist as described in subsection 8; may request the assistance and use of the facilities of the law enforcement agency having jurisdiction over the case for the purposes of photographing, fingerprinting or otherwise identifying the body. That agency shall provide the medical examiner, ~~authorized person~~ medicolegal death investigator or pathologist with a written report of the steps taken in providing the assistance.

Sec. 7. 22 MRSA §3028, sub-§4, as amended by PL 2001, c. 291, §4, is further amended to read:

4. Possession of useful objects. Except as otherwise directed by the Attorney General, the Attorney General's deputies or assistants, the medical examiner, the ~~person expressly authorized by the Chief Medical Examiner~~ medicolegal death investigator or the Office of Chief Medical Examiner may direct that a law enforcement officer at the scene make measurements, take photographs and take possession of all objects that in the opinion of the medical examiner, ~~authorized person~~ medicolegal death investigator or the Office of Chief Medical Examiner may be useful in establishing the cause, manner and circumstances of death. For these same purposes, the medical examiner, ~~authorized person~~ medicolegal death investigator or the Office of Chief Medical Examiner may direct that a law enforcement officer take possession of any objects or specimens that have been removed from the victim at the scene or elsewhere while under medical care.

Sec. 8. 22 MRSA §3028, sub-§5, as amended by PL 2001, c. 291, §5, is further amended to read:

5. Requests for objects. Any person having possession of any object or objects, as described in subsection 4, shall at the request of the medical examiner or ~~the person expressly authorized by the Chief Medical Examiner~~ medicolegal death investigator give that object or objects to a law enforcement officer, to the medical examiner, to the ~~authorized person~~ medicolegal death investigator or to the Office of Chief Medical Examiner. Medical personnel and institutions turning over any objects or specimens that have been removed from the victim while under medical care are immune from civil or criminal liability when complying with this subsection. Original written or recorded material that might express suicidal intent must be sent to the Office of the Chief Medical Examiner. The Chief Medical Examiner may elect to accept copies in place of originals.

Sec. 9. 22 MRSA §3028, sub-§6, as amended by PL 2011, c. 182, §1, is further amended to read:

6. Examination of body. In all cases, the medical examiner or ~~the person expressly authorized by the Chief Medical Examiner~~ medicolegal death investigator shall conduct a thorough examination of the body except in those cases when the body has already been disposed of and is not being exhumed or when the Chief Medical Examiner or Deputy Chief Medical Examiner determines, after review of available records and known circumstances, that the report of the death of the decedent may be certified and completed without examining the body.

Sec. 10. 22 MRSA §3028, sub-§7, as repealed and replaced by PL 2003, c. 510, Pt. B, §7, is amended to read:

7. Written report. Upon completing an investigation, the medical examiner or ~~the person expressly authorized by the Chief Medical Examiner~~ medicolegal death investigator shall submit a written report of the investigator's findings to the Chief Medical Examiner on forms provided for that purpose. The investigator shall retain one copy of the report.

If an investigator reports suspected abuse, neglect or exploitation to the Chief Medical Examiner, the Chief Medical Examiner, by reporting that information to the department on behalf of the investigator, fulfills the medical examiner's mandatory reporting requirement under section 3477 or 4011-A.

Sec. 11. 22 MRSA §3033, sub-§1, ¶¶B and C, as enacted by PL 2001, c. 222, §12, are amended to read:

B. A pathologist performing an autopsy at the request of a medical examiner or the Chief Medical Examiner may not be held liable for damages for any injury or damage that results from the performance of the autopsy unless it can be shown that the injury or damage resulted from the gross negligence of the pathologist; ~~and~~

C. A professional consultant, who at the request of a medical examiner or the Chief Medical Examiner conducts an examination and renders a report, may not be held liable for damages for any injury or damage that results from the performance of the examination unless it can be shown that the injury or damage resulted from the gross negligence of the consultant; and

Sec. 12. 22 MRSA §3033, sub-§1, ¶D is enacted to read:

D. A medicolegal death investigator may not be held liable for damages for any injury or damage that results from the exercise and discharge of any of the medicolegal death investigator's official duties unless it can be shown that the injury or damage resulted from gross negligence on the part of the medicolegal death investigator.