

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009

A Bill

HOUSE BILL 1603

4
5 By: Representative Shelby
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7

For An Act To Be Entitled

8
9 AN ACT TO IMPROVE THE INVESTIGATION AND
10 CERTIFICATION OF DEATH IN ARKANSAS; AND FOR OTHER
11 PURPOSES.
12

Subtitle

13
14 TO IMPROVE THE INVESTIGATION AND
15 CERTIFICATION OF DEATH IN ARKANSAS.
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17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code § 12-12-317 is amended to read as follows:
21 12-12-317. Death certificates.

22 (a) The certificate of death of ~~any~~ a person whose death is
23 investigated under ~~the provisions of~~ this subchapter shall be made by the
24 State Medical Examiner or by his or her designee or by the ~~coroner, whoever~~
25 ~~shall have conducted the investigation~~ coroner or his or her certified
26 deputy.

27 (b) However, ~~where~~ when a postmortem examination has been performed,
28 the certificate of death shall be made and signed by the examiner or his or
29 her associates or assistants, ~~whoever shall have~~ has performed the postmortem
30 examination.

31 (c) When a petition is filed with a court of competent jurisdiction to
32 change the cause or manner of death listed on a death certificate ~~which~~ that
33 has been signed by the examiner or by his or her designee, the laboratory
34 shall be notified of ~~such~~ the petition, and the court shall:

35 (1) allowed Allow the examiner or his or her designee ~~shall be~~
36 ~~allowed~~ to hear testimony presented by the petitioner; and



1 ~~(2) shall be given~~ Give the examiner or his or her designee an
2 opportunity to present evidence to the court to support the original ruling
3 of the examiner or his or her assistant who signed the certificate.

4
5 SECTION 2. Arkansas Code § 14-15-302 is amended to read as follows:
6 14-15-302. Coroner's investigation.

7 (a) A coroner's investigation does not include criminal investigation
8 responsibilities. However, the coroner shall assist any law enforcement
9 agency or the State Crime Laboratory upon request.

10 (b)(1) ~~Coroners~~ A coroner shall be given access to all death scenes in
11 order to perform the duties set forth in this subchapter.

12 (2) A coroner ~~is authorized to~~ may issue subpoenas as necessary
13 to secure pertinent medical or other records and testimony relevant to the
14 determination of the cause and manner of death.

15 (c)(1) ~~The coroners and their deputies~~ A coroner or his or her deputy
16 who ~~have~~ has received instruction and have been deemed qualified by the State
17 Crime Laboratory to take and handle toxicological samples from dead human
18 bodies ~~are authorized to~~ may do so for the purpose of determining the
19 presence of chemical agents that may have contributed to the cause of death.

20 (2) Toxicological samples may be taken from dead human bodies in
21 those cases ~~where~~ in which the coroner is required by law to conduct an
22 investigation.

23 (d)(1) ~~No~~ A person, institution, or office in this state ~~who shall~~
24 ~~make that makes~~ is not criminally available information or material under this section ~~shall be~~
25 ~~is not criminally~~ liable for violating any criminal law of this state, nor
26 ~~shall any.~~

27 (2) A person, institution, or office in this state is not be
28 ~~held~~ liable in tort for compliance with this section.

29 (e)(1) A preliminary written report of the coroner's investigation
30 shall be completed within five (5) working days and shall include a
31 pronouncement of death. If indicated, a subsequent report shall be completed.

32 (2) If the death occurred without medical attendance or was the
33 result of a homicide, an accident, or a suicide, then the preliminary written
34 report shall include without limitation the following information regarding
35 the decedent:

- 36 (A) Name;

- 1 (B) ~~Age~~ Date of birth or approximate age if unknown;
- 2 (C) Sex;
- 3 (D) Social security number if available;
- 4 (E) Home address;
- 5 (F) Location where the body was discovered;
- 6 (G) Time of death or approximate time if unknown;
- 7 (H) Condition of the body, including any recent trauma,
- 8 body temperature, and position;
- 9 (I) Any prescribed medications;
- 10 (J) Pertinent medical history;
- 11 (K) Cause and manner of death;
- 12 (L) Photographs or information where photographs may be
- 13 accessed in cases of non-natural deaths and deaths of persons under eighteen
- 14 (18) years of age;
- 15 (M) List of all other governmental entities investigating
- 16 the death; and
- 17 (N) Disposition of the body.

18 (3) Nothing in this section shall limit or otherwise restrict
 19 the exercise of professional judgment or discretion by a coroner or prohibit
 20 access to information or testimony necessary to complete a coroner's
 21 investigation.

22
 23 SECTION 3. Arkansas Code § 14-15-303 is amended to read as follows:
 24 14-15-303. Death certificate.

25 If, after conducting an investigation, the law enforcement agency and
 26 prosecuting attorney of the jurisdiction are satisfied that no crime has
 27 occurred, the coroner is satisfied that the death is not the result of a
 28 crime, and the coroner knows to a reasonable certainty the cause and manner
 29 of death, the coroner or his ~~designated~~ or her certified deputy shall ~~proceed~~
 30 ~~to execute a death certificate in the form and manner required by law under §~~
 31 20-18-601 and release the body for final disposition.

32
 33 SECTION 4. Arkansas Code § 20-18-601 is amended to read as follows:
 34 20-18-601. Registration generally.

35 (a)(1)(A) A death certificate for each death that occurs in this state
 36 shall be filed with the Division of Vital Records of the Department of Health

1 or as otherwise directed by the State Registrar of Vital Records within ten
 2 (10) days after the death or the finding of a dead body and shall be
 3 registered if the death certificate has been completed and filed in
 4 accordance with this section.

5 (B) The State Board of Health shall promulgate by rule the
 6 process by which a death certificate shall be filed and by whom a death
 7 certificate may be signed.

8 (2) A fact of death record for each death that occurs in this
 9 state shall be filed with the division within three (3) calendar days after
 10 the death or the finding of a dead body.

11 (3)(A) If the place of death is unknown but the body is found in
 12 this state, the death certificate shall be completed and filed in accordance
 13 with this section.

14 (B) The place where the body is found shall be shown as
 15 the place of death.

16 (C)(i) If the date of death is unknown, it shall be
 17 determined by approximation.

18 (ii) If the date of death cannot be determined by
 19 approximation, the date the body was found shall be entered and identified as
 20 such the date the body was found.

21 (4)(A) If a death occurs in a moving conveyance in the United
 22 States and the body is first removed from the conveyance in this state, the
 23 death shall be registered in this state, and the place where the body is
 24 first removed shall be considered the place of death.

25 (B) If a death occurs on a moving conveyance while in
 26 international waters or air space or in a foreign country or its air space
 27 and the body is first removed from the conveyance in this state, the death
 28 shall be registered in this state, but the certificate shall show the actual
 29 place of death insofar as the place of death can be determined.

30 (C) In all other cases, the place where death is
 31 pronounced shall be considered the place where death occurred.

32 (b) The funeral director or the person acting as the funeral director
 33 who first assumes custody of the dead body shall:

34 (1) File the death certificate and fact of death record;

35 (2) Obtain the personal data from the next of kin or the best
 36 qualified person or source available;

1 (3) Obtain the medical certification from the person responsible
 2 for the medical certification, as set forth in subsection (c) of this
 3 section; and

4 (4) Provide a death certificate that contains sufficient
 5 information to identify the decedent to the certifier of death.

6 (c)(1)(A) The medical certification shall be completed, signed, and
 7 returned to the funeral director within two (2) business days after receipt
 8 of the death certificate by the physician in charge of the patient's care for
 9 the illness or condition ~~which~~ that resulted in death, except when inquiry is
 10 required by § 12-12-315, § 12-12-318, or § 14-15-301 et seq.

11 ~~(2)(B)~~ In the absence of the physician, or with his or her
 12 approval, the certificate may be completed and signed by his or her associate
 13 physician, by the chief medical officer of the institution in which death
 14 occurred, by the pathologist who performed an autopsy upon the decedent, or
 15 by a registered nurse as provided in this subsection (c)~~(2) of this section,~~
 16 ~~provided if~~ the individual has access to the medical history of the case,
 17 ~~views the deceased at or after death,~~ and has reviewed the coroner's report
 18 if required and if the death is due to natural causes. The ~~person~~ individual
 19 completing the cause-of-death section of the certificate shall attest to its
 20 accuracy either by a signature or by approved electronic process.

21 (2) The Arkansas State Medical Board shall enforce by rule
 22 subdivision (c)(1) of this section concerning the time period in which the
 23 medical certification shall be executed.

24 (3) A registered nurse employed by the attending hospice may
 25 complete and sign the medical certification of death and pronounce death for
 26 a patient who is terminally ill, whose death is anticipated, who is receiving
 27 services from a hospice program certified under § 20-7-117, and who dies in a
 28 hospice inpatient program or as a hospice patient in a nursing home.

29 (4) If the hospice patient dies in the home, the registered
 30 nurse may make pronouncement of death. However, the ~~county~~ coroner and the
 31 chief law enforcement official of the county or municipality where death
 32 occurred shall be immediately notified in accordance with § 12-12-315.

33 (5) The Department of Health shall provide hospitals, nursing
 34 homes, and hospices with the appropriate death certificate forms, which will
 35 be made available to the ~~attending physicians, coroners, or other certifiers~~
 36 certifier of death. When death occurs outside these health facilities, the

1 funeral home shall provide the death certificate to the certifier of death.

2 (d) If the cause of death appears to be other than the illness or
 3 condition for which the deceased was being treated or if inquiry is required
 4 by ~~either~~ any of the laws referred to in subsection (c) of this section, the
 5 case shall be referred to the office of the State Medical Examiner or coroner
 6 or his or her certified deputy in the jurisdiction where the death occurred
 7 or the body was found for investigation to determine and certify the cause of
 8 death. If the State Medical Examiner or ~~county~~ coroner or his or her
 9 certified deputy determines that the case does not fall within his or her
 10 jurisdiction, he or she shall within twenty-four (24) hours refer the case
 11 back to the physician for completion of the medical certification.

12 (e) When inquiry is required by ~~either~~ any of the laws referred to in
 13 subsection (c) of this section, the State Medical Examiner or coroner or his
 14 or her certified deputy in the jurisdiction where the death occurred or the
 15 body was found shall determine the cause of death and shall complete and sign
 16 the medical certification within forty-eight (48) hours after taking charge
 17 of the case.

18 (f) If the cause of death cannot be determined within forty-eight (48)
 19 hours after death, the medical certification shall be completed as provided
 20 by ~~regulation~~ rule. The attending physician ~~or~~, State Medical Examiner, or
 21 ~~county~~ coroner or his or her certified deputy shall give the funeral director
 22 or person acting as the funeral director notice of the reason for the delay,
 23 and final disposition of the body shall not be made until authorized by the
 24 attending physician ~~or~~, State Medical Examiner, or ~~county~~ coroner or his or
 25 her certified deputy.

26 (g) When a death is presumed to have occurred within this state but
 27 the body cannot be located, a death certificate may be prepared by the state
 28 registrar only upon receipt of an order of a court of competent jurisdiction,
 29 which shall include the finding of facts required to complete the death
 30 certificate. ~~Such a~~ A death certificate prepared under this subsection shall
 31 be marked "Presumptive" and shall show on its face the date of death as
 32 determined by the court and the date of registration and shall identify the
 33 court and the date of the decree.

34 (h) Upon receipt of autopsy results or other information that would
 35 change the information in the cause-of-death section of the death certificate
 36 from that originally reported, the certifier of death shall immediately file

1 a supplemental report of cause of death with the division in order to amend
2 the record.

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