

1 **MEDICAL EXAMINER ACT**

2 1999 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Katherine M. Bryson**

5 AN ACT RELATING TO HEALTH; EXTENDING THE JURISDICTION OF THE STATE  
6 MEDICAL EXAMINER TO INFANT DEATHS AT BIRTH THAT ARE NOT ATTENDED BY  
7 A LICENSED HEALTH CARE PROVIDER; RESTRICTING THE DISCRETION OF THE  
8 MEDICAL EXAMINER TO DECLINE TO PERFORM A REQUESTED AUTOPSY;  
9 FREEZING FEES AT THEIR 1999 LEVEL; AND PROVIDING RETROSPECTIVE  
10 OPERATION.

11 This act affects sections of Utah Code Annotated 1953 as follows:

12 AMENDS:

13 **26-4-7**, as last amended by Chapter 6, Laws of Utah 1984, Second Special Session

14 **26-4-9**, as last amended by Chapter 38, Laws of Utah 1993

15 **26-4-22**, as enacted by Chapter 126, Laws of Utah 1981

16 *Be it enacted by the Legislature of the state of Utah:*

17 Section 1. Section **26-4-7** is amended to read:

18 **26-4-7. Deaths over which medical examiner has jurisdiction.**

19 Upon notification under Section 26-4-8 or investigation by the medical examiner's office,  
20 the medical examiner shall assume custody of the body in all deaths that appear to be:

21 (1) deaths by violence, gunshot, suicide, or accident, except highway accidents;

22 (2) sudden death while in apparent health;

23 (3) unattended deaths except that an autopsy may only be performed in accordance with  
24 the provisions of Subsection 26-4-9(3);

25 (4) deaths under suspicious or unusual circumstances;

26 (5) deaths resulting from poisoning or overdose of drugs;

27 (6) deaths resulting from diseases that may constitute a threat to the public health;

28 (7) deaths resulting from disease, injury, toxic effect, or unusual exertion incurred within  
29 the scope of the deceased's employment;

30 (8) deaths due to sudden infant death syndrome;

31 (9) infant deaths at birth that:

32 (a) are not attended by a physician or certified nurse midwife licensed under Title 58,  
33 Division of Occupational and Professional Licensing; and

34 (b) occur outside of a health care facility, as defined in Section 26-21-2;

35 [(9)] (10) deaths resulting while the deceased was in prison, jail, in police custody, in the  
36 state hospital, or in a detention or medical facility operated for the treatment of the mentally ill or  
37 emotionally disturbed or delinquent persons; and

38 [(10)] (11) deaths associated with diagnostic and therapeutic procedures.

39 Section 2. Section 26-4-9 is amended to read:

40 **26-4-9. Custody of dead body and personal effects -- Examination of scene of death**  
41 **-- Preservation of body -- Autopsies.**

42 (1) Upon notification of a death under Section 26-4-8, the medical examiner shall assume  
43 custody of the deceased body, clothing on the body, biological samples taken, and any article on  
44 or near the body which may aid him in determining the cause of death except those articles which  
45 will assist the investigative agency to proceed without delay with the investigation. In all cases the  
46 scene of the event shall not be disturbed until authorization is given by the senior ranking peace  
47 officer from the law enforcement agency having jurisdiction of the case and conducting the  
48 investigation. Where death appears to have occurred under circumstances listed in Section 26-4-7,  
49 the person or persons finding or having custody of the body, or jurisdiction over the investigation  
50 of the death, shall take reasonable precautions to preserve the body and body fluids so that  
51 minimum deterioration takes place. The body shall not be moved without permission of the  
52 medical examiner, district attorney, or county attorney having criminal jurisdiction, or his  
53 authorized deputy except in cases of affront to public decency or circumstances where it is not  
54 practical to leave the body where found, or in such cases where the cause of death is clearly due  
55 to natural causes. The body can under direction of a licensed physician or the medical examiner  
56 or his designated representative be moved to a place specified by a funeral director, the attending  
57 physician, the medical examiner, or his representative.

58 (2) In the event the body, where referred to the medical examiner, is moved, no cleansing

59 or embalming of the body shall occur without the permission of the medical examiner. An  
60 intentional or knowing violation of this Subsection (2) is a class B misdemeanor.

61 (3) When the medical examiner assumes lawful custody of a body under Subsection  
62 26-4-7(3) solely because the death was unattended, an autopsy shall not be performed unless  
63 requested by the district attorney, county attorney having criminal jurisdiction, or law enforcement  
64 agency having jurisdiction of the place where the body is found, or a licensed physician, or a  
65 spouse, child, parent or guardian of the deceased, and a licensed physician. The county attorney  
66 or district attorney and law enforcement agency having jurisdiction shall consult with the medical  
67 examiner to determine the need for an autopsy. In any such case concerning unattended deaths  
68 qualifying as exempt from autopsy, a death certificate may be certified by a licensed physician. In  
69 this case the physician may be established as the medical examiner's designated representative.  
70 Requested autopsies shall not be performed when the medical examiner or his designated  
71 representative [~~deem~~] considers the autopsy unnecessary, unless the request is by a county or  
72 district attorney or law enforcement agency.

73 Section 3. Section **26-4-22** is amended to read:

74 **26-4-22. Additional powers and duties of department.**

75 (1) The department may:

76 [(1)] (a) establish rules to carry out the provisions of this chapter;

77 [(2)] (b) arrange for the state health laboratory to perform toxicologic analysis for public  
78 or private institutions and fix fees for the services;

79 [(3)] (c) cooperate and train law enforcement personnel in the techniques of criminal  
80 investigation as related to medical and pathological matters; and

81 [(4)] (d) pay to private parties, institutions, or funeral directors the reasonable value of  
82 services performed for the medical examiner's office.

83 (2) Notwithstanding Section 26-1-6, no fee may be increased after January 1, 1999, for a  
84 service related to this chapter.

85 Section 4. **Retrospective operation.**

86 Section 26-4-22 has retrospective operation to January 1, 1999.

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**Legislative Review Note**  
**as of 1-28-99 8:56 AM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**