

**MEDICAL EXAMINER ACT**

1999 GENERAL SESSION

STATE OF UTAH

**Sponsor: Katherine M. Bryson**

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

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

AMENDS:

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

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

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

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

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

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

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

- (1) deaths by violence, gunshot, suicide, or accident, except highway accidents;
- (2) sudden death while in apparent health;
- (3) unattended deaths except that an autopsy may only be performed in accordance with the provisions of Subsection 26-4-9(3);
- (4) deaths under suspicious or unusual circumstances;
- (5) deaths resulting from poisoning or overdose of drugs;
- (6) deaths resulting from diseases that may constitute a threat to the public health;

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

(8) deaths due to sudden infant death syndrome;

(9) infant deaths at birth that:

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

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

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

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

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

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

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

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

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

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

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

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

(1) The department may:

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

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

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

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

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

Section 4. **Retrospective operation.**

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**