

MEDICAL EXAMINER REVISIONS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Raymond P. Ward

Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill amends the Utah Medical Examiner Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ extends the amount of time before a death is considered an unattended death;
- ▶ limits who can designate a place where a body can be moved;
- ▶ limits who may request an autopsy for an unattended death;
- ▶ limits who may sign a death certificate once a body is in the medical examiner's custody;
- ▶ clarifies when the medical examiner may refuse to perform an autopsy; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-2-13, as last amended by Laws of Utah 2009, Chapters 66 and 68

26-4-2, as last amended by Laws of Utah 2019, Chapter 349

26-4-9, as last amended by Laws of Utah 2011, Chapter 297

26-4-14, as last amended by Laws of Utah 2019, Chapter 349

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

Section 1. Section **26-2-13** is amended to read:

26-2-13. Certificate of death -- Execution and registration requirements.

(1) (a) A certificate of death for each death that occurs in this state shall be filed with the local registrar of the district in which the death occurs, or as otherwise directed by the state registrar, within five days after death and prior to the decedent's interment, any other disposal, or removal from the registration district where the death occurred.

(b) A certificate of death shall be registered if the certificate of death is completed and filed in accordance with this chapter.

(2) (a) If the place of death is unknown but the dead body is found in this state:

(i) the certificate of death shall be completed and filed in accordance with this section;
and

(ii) the place where the dead body is found shall be shown as the place of death.

(b) If the date of death is unknown, the date shall be determined by approximation.

(3) (a) When death occurs in a moving conveyance in the United States and the decedent is first removed from the conveyance in this state:

(i) the certificate of death shall be filed with:

(A) the local registrar of the district where the decedent is removed; or

(B) a person designated by the state registrar; and

(ii) the place where the decedent is removed shall be considered the place of death.

(b) When a death occurs on a moving conveyance outside the United States and the decedent is first removed from the conveyance in this state:

(i) the certificate of death shall be filed with:

(A) the local registrar of the district where the decedent is removed; or

(B) a person designated by the state registrar; and

(ii) the certificate of death shall show the actual place of death to the extent it can be determined.

58 (4) (a) Subject to Subsections (4)(d) and (10), a custodial funeral service director or, if a
59 funeral service director is not retained, a dispositioner shall sign the certificate of death.

60 (b) The custodial funeral service director, an agent of the custodial funeral service
61 director, or, if a funeral service director is not retained, a dispositioner shall:

62 (i) file the certificate of death prior to any disposition of a dead body or fetus; and

63 (ii) obtain the decedent's personal data from the next of kin or the best qualified person
64 or source available, including the decedent's Social Security number, if known.

65 (c) The certificate of death may not include the decedent's Social Security number.

66 (d) A dispositioner may not sign a certificate of death, unless the signature is witnessed
67 by the state registrar or a local registrar.

68 (5) (a) Except as provided in Section 26-2-14, fetal death certificates, the medical
69 section of the certificate of death shall be completed, signed, and returned to the funeral service
70 director, or, if a funeral service director is not retained, a dispositioner, within 72 hours after
71 death by the health care professional who was in charge of the decedent's care for the illness or
72 condition which resulted in death, except when inquiry is required by Title 26, Chapter 4, Utah
73 Medical Examiner Act.

74 (b) In the absence of the health care professional or with the health care professional's
75 approval, the certificate of death may be completed and signed by an associate physician, the
76 chief medical officer of the institution in which death occurred, or a physician who performed
77 an autopsy upon the decedent, if:

78 (i) the person has access to the medical history of the case;

79 (ii) the person views the decedent at or after death; and

80 (iii) the death is not due to causes required to be investigated by the medical examiner.

81 (6) When death occurs more than ~~[30]~~ 365 days after the day on which the decedent
82 was last treated by a health care professional, the case shall be referred to the medical examiner
83 for investigation to determine and certify the cause, date, and place of death.

84 (7) When inquiry is required by Title 26, Chapter 4, Utah Medical Examiner Act, the
85 medical examiner shall make an investigation and complete and sign the medical section of the

86 certificate of death within 72 hours after taking charge of the case.

87 (8) If the cause of death cannot be determined within 72 hours after death:

88 (a) the medical section of the certificate of death shall be completed as provided by
89 department rule;

90 (b) the attending health care professional or medical examiner shall give the funeral
91 service director, or, if a funeral service director is not retained, a dispositioner, notice of the
92 reason for the delay; and

93 (c) final disposition of the decedent may not be made until authorized by the attending
94 health care professional or medical examiner.

95 (9) (a) When a death is presumed to have occurred within this state but the dead body
96 cannot be located, a certificate of death may be prepared by the state registrar upon receipt of
97 an order of a Utah district court.

98 (b) The order described in Subsection (9)(a) shall include a finding of fact stating the
99 name of the decedent, the date of death, and the place of death.

100 (c) A certificate of death prepared under Subsection (9)(a) shall:

101 (i) show the date of registration; and

102 (ii) identify the court and the date of the order.

103 (10) It is unlawful for a dispositioner to charge for or accept any remuneration for:

104 (a) signing a certificate of death; or

105 (b) performing any other duty of a dispositioner, as described in this section.

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

107 **26-4-2. Definitions.**

108 As used in this chapter:

109 (1) "Dead body" is as defined in Section [26-2-2](#).

110 (2) "Death by violence" means death that resulted by the decedent's exposure to
111 physical, mechanical, or chemical forces, and includes death which appears to have been due to
112 homicide, death which occurred during or in an attempt to commit rape, mayhem, kidnapping,
113 robbery, burglary, housebreaking, extortion, or blackmail accompanied by threats of violence,

114 assault with a dangerous weapon, assault with intent to commit any offense punishable by
115 imprisonment for more than one year, arson punishable by imprisonment for more than one
116 year, or any attempt to commit any of the foregoing offenses.

117 (3) "Immediate relative" means an individual's spouse, child, parent, sibling,
118 grandparent, or grandchild.

119 (4) "Health care professional" means any of the following while acting in a
120 professional capacity:

121 (a) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title
122 58, Chapter 68, Utah Osteopathic Medical Practice Act;

123 (b) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant
124 Act; or

125 (c) an advance practice registered nurse licensed under Subsection 58-31b-301(2)(d).

126 [(4)] (5) "Medical examiner" means the state medical examiner appointed pursuant to
127 Section 26-4-4 or a deputy appointed by the medical examiner.

128 [(5)] (6) "Medical examiner record" means:

129 (a) all information that the medical examiner obtains regarding a decedent; and

130 (b) reports that the medical examiner makes regarding a decedent.

131 [(6)] (7) "Regional pathologist" means a trained pathologist licensed to practice
132 medicine and surgery in the state, appointed by the medical examiner pursuant to Subsection
133 26-4-4(3).

134 [(7)] (8) "Sudden death while in apparent good health" means apparently instantaneous
135 death without obvious natural cause, death during or following an unexplained syncope or
136 coma, or death during an acute or unexplained rapidly fatal illness.

137 [(8)] (9) "Sudden infant death syndrome" means the death of a child who was thought
138 to be in good health or whose terminal illness appeared to be so mild that the possibility of a
139 fatal outcome was not anticipated.

140 [(9)] (10) "Suicide" means death caused by an intentional and voluntary act of [a
141 person] an individual who understands the physical nature of the act and intends by such act to

142 accomplish self-destruction.

143 ~~[(10) "Unattended death" means the death of a person who has not been seen by a~~
144 ~~physician or physician assistant within the scope of the physician's or physician assistant's~~
145 ~~professional capacity within 30 days immediately prior to the date of death. This definition~~
146 ~~does not require an investigation, autopsy, or inquest in any case where death occurred without~~
147 ~~medical attendance solely because the deceased was under treatment by prayer or spiritual~~
148 ~~means alone in accordance with the tenets and practices of a well-recognized church or~~
149 ~~religious denomination.]~~

150 (11) "Unattended death" means a death that occurs more than 365 days after the day on
151 which a health care professional examined or treated the deceased individual for any purpose,
152 including writing a prescription.

153 ~~[(11)]~~ (12) (a) "Unavailable for postmortem investigation" means that a dead body is:

- 154 (i) transported out of state;
- 155 (ii) buried at sea;
- 156 (iii) cremated;
- 157 (iv) processed by alkaline hydrolysis; or
- 158 (v) otherwise made unavailable to the medical examiner for postmortem investigation
- 159 or autopsy.

160 (b) "Unavailable for postmortem investigation" does not include embalming or burial

161 of a dead body pursuant to the requirements of law.

162 ~~[(12)]~~ (13) "Within the scope of the decedent's employment" means all acts reasonably

163 necessary or incident to the performance of work, including matters of personal convenience

164 and comfort not in conflict with specific instructions.

165 Section 3. Section **26-4-9** is amended to read:

166 **26-4-9. Custody of dead body and personal effects -- Examination of scene of**

167 **death -- Preservation of body -- Autopsies.**

168 (1) (a) Upon notification of a death under Section **26-4-8**, the medical examiner shall

169 assume custody of the deceased body, clothing on the body, biological samples taken, and any

170 article on or near the body which may aid the medical examiner in determining the cause of
171 death except those articles which will assist the investigative agency to proceed without delay
172 with the investigation.

173 (b) In all cases the scene of the event may not be disturbed until authorization is given
174 by the senior ranking peace officer from the law enforcement agency having jurisdiction of the
175 case and conducting the investigation.

176 (c) Where death appears to have occurred under circumstances listed in Section 26-4-7,
177 the person or persons finding or having custody of the body, or jurisdiction over the
178 investigation of the death, shall take reasonable precautions to preserve the body and body
179 fluids so that minimum deterioration takes place. [~~The body may not be moved without
180 permission of the medical examiner, district attorney, or county attorney having criminal
181 jurisdiction, or his authorized deputy except in cases of affront to public decency or
182 circumstances where it is not practical to leave the body where found, or in such cases where
183 the cause of death is clearly due to natural causes.~~]

184 (d) A person may not move a body in the custody of the medical examiner unless:

185 (i) the medical examiner, or district attorney or county attorney that has criminal
186 jurisdiction, authorizes the person to move the body;

187 (ii) a designee of an individual listed in Subsection (1)(d) authorizes the person to
188 move the body;

189 (iii) not moving the body would be an affront to public decency or impractical; or

190 (iv) the medical examiner determines the cause of death is likely due to natural causes.

191 (e) The body can under direction of [~~a licensed physician or~~] the medical examiner or
192 [~~his designated representative~~] the medical examiner's designee be moved to a place specified
193 by [~~a funeral director, the attending physician,~~] the medical examiner[~~, or his representative~~] or
194 the medical examiner's designee.

195 [~~(2) In the event the body, where referred to the medical examiner, is moved, no~~
196 ~~cleansing or embalming of the body shall occur without the permission of the medical~~
197 ~~examiner.~~]

198 (2) (a) If the medical examiner has custody of a body, a person may not clean or
199 embalm the body without first obtaining the medical examiner's permission.

200 (b) An intentional or knowing violation of [this] Subsection (2)(a) is a class B
201 misdemeanor.

202 (3) (a) When the medical examiner assumes lawful custody of a body under Subsection
203 26-4-7(3) solely because the death was unattended, an autopsy may not be performed unless
204 requested by the district attorney, county attorney having criminal jurisdiction, or law
205 enforcement agency having jurisdiction of the place where the body is found~~[, or a licensed~~
206 ~~physician, or a spouse, child, parent or guardian of the deceased, and a licensed physician].~~

207 (b) The county attorney or district attorney and law enforcement agency having
208 jurisdiction shall consult with the medical examiner to determine the need for an autopsy. ~~[In~~
209 ~~any such case concerning unattended deaths qualifying as exempt from autopsy, a death~~
210 ~~certificate may be certified by a licensed physician. In this case the physician may be~~
211 ~~established as the medical examiner's designated representative. Requested autopsies may not~~
212 ~~be performed when the medical examiner or the medical examiner's designated representative~~
213 ~~determines the autopsy to be unnecessary, provided that an autopsy requested by a district or~~
214 ~~county attorney or law enforcement agency may only be determined to be unnecessary if the~~
215 ~~cause of death can be ascertained without an autopsy being performed.]~~

216 (c) If the deceased chose not to be seen or treated by a health care professional for a
217 spiritual or religious reason, a district attorney, county attorney, or law enforcement agency,
218 may not request an autopsy or inquest under Subsection (3)(a) solely because of the deceased's
219 choice.

220 (d) The medical examiner or medical examiner's designee may not conduct a requested
221 autopsy described in Subsection (3)(a) if the medical examiner or medical examiner's designee
222 determines:

223 (i) the request violates Subsection (3)(c); or

224 (ii) the cause of death can be determined without performing an autopsy.

225 Section 4. Section **26-4-14** is amended to read:

226 **26-4-14. Certification of death by attending health care professional -- Deaths**
227 **without medical attendance -- Cause of death uncertain -- Notice requirements.**

228 ~~[The physician or physician assistant in attendance at the last illness of a deceased~~
229 ~~person who, in the judgment of the physician or physician assistant, does not appear to have~~
230 ~~died in a manner described in Section 26-4-7, shall certify the cause of death to his best~~
231 ~~knowledge and belief. When there is no physician or physician assistant in attendance during~~
232 ~~the last illness or when an attending physician or physician assistant is unable to determine~~
233 ~~with reasonable certainty the cause of death, the physician, physician assistant, or person with~~
234 ~~custody of the body shall so notify the medical examiner.]~~

235 (1) (a) A health care professional who treats or examines an individual within 365 days
236 from the day on which the individual dies, shall certify the individual's cause of death to the
237 best of the health care professional's knowledge and belief unless the health care professional
238 determines the individual may have died in a manner described in Section 26-4-7.

239 (b) If a health care professional is unable to determine an individual's cause of death in
240 accordance with Subsection (1)(a), the health care professional shall notify the medical
241 examiner.

242 (2) For an unattended death, the person with custody of the body shall notify the
243 medical examiner of the death.

244 (3) If the medical examiner ~~[has reason to believe]~~ determines there may be criminal
245 responsibility for ~~[the]~~ a death, ~~[he shall]~~ the medical examiner shall notify:

246 (a) the district attorney or county attorney ~~[having]~~ that has criminal jurisdiction; or

247 (b) the head of the law enforcement agency ~~[having jurisdiction to make further~~
248 investigation of the death] that has jurisdiction to investigate the death.