

**MEDICAL EXAMINER ACT**

1999 GENERAL SESSION

STATE OF UTAH

**Sponsor: Katherine M. Bryson**

AN ACT RELATING TO HEALTH; PERMITTING LAW ENFORCEMENT TO REQUEST THE MEDICAL EXAMINER TO EXERCISE ITS JURISDICTION OVER A DEATH; AND CLARIFYING THE DISCRETION OF THE MEDICAL EXAMINER TO DECLINE TO PERFORM A REQUESTED AUTOPSY OF AN UNATTENDED DEATH.

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

*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) 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) deaths associated with diagnostic and therapeutic procedures; and

(11) deaths described in this section when request is made to assume custody by a county or district attorney or law enforcement agency in connection with a potential homicide investigation or prosecution.

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~~ determines the autopsy to be unnecessary, provided that an autopsy requested by a district or county attorney or law enforcement agency may only be determined to be unnecessary if the cause of death can be ascertained without an autopsy being performed.