Senate Engrossed House Bill

FILED

JANICE K. BREWER
SECRETARY OF STATE

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CHAPTER 213

HOUSE BILL 2125

AN ACT

REPEALING SECTION 11-591, ARIZONA REVISED STATUTES; AMENDING TITLE 11, CHAPTER 3, ARTICLE 12, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 11-591; AMENDING SECTIONS 11-592, 11-593 AND 11-594, ARIZONA REVISED STATUTES; REPEALING SECTION 11-594.01, ARIZONA REVISED STATUTES; AMENDING SECTIONS 11-595, 11-596, 11-597, 11-598, 11-599, 11-600, 36-104, 36-301 AND 36-848, ARIZONA REVISED STATUTES; RELATING TO COUNTY MEDICAL EXAMINERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Repeal

Section 11-591, Arizona Revised Statutes, is repealed.

Sec. 2. Title 11, chapter 3, article 12, Arizona Revised Statutes, is amended by adding a new section 11-591, to read:

11-591. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "ALTERNATE MEDICAL EXAMINER" MEANS A PHYSICIAN WHO HAS TRAINING AND COMPETENCE IN THE PRINCIPLES OF DEATH INVESTIGATION AND WHO PERFORMS OR DIRECTS THE CONDUCT OF DEATH INVESTIGATIONS.

2. "AUTOPSY" MEANS A SURGICAL PROCEDURE IN WHICH INTERNAL ORGANS ARE EXPOSED, REMOVED OR EXAMINED FOR THE IDENTIFICATION OF TRAUMA OR NATURAL DISEASE.

3. "DEATH INVESTIGATION" MEANS THE INVESTIGATION DIRECTED BY A COUNTY MEDICAL EXAMINER OR ALTERNATE MEDICAL EXAMINER INTO THE CIRCUMSTANCES SURROUNDING A DEATH OCCURRING AS PRESCRIBED IN SECTION 11-593.

4. "EXTERNAL EXAMINATION" MEANS AN EXTERNAL INSPECTION OF A BODY.

5. "FORENSIC PATHOLOGIST" MEANS A PHYSICIAN WHO HAS SUCCESSFULLY COMPLETED A PATHOLOGY RESIDENCY AND A FORENSIC FELLOWSHIP OR HAS EXTENSIVE EXPERIENCE PERFORMING FORENSIC AUTOPSIES IN AN OFFICIAL CAPACITY.

6. "INVESTIGATIVE INFORMATION" MEANS INFORMATION RECEIVED BY A MEDICAL EXAMINER OR ALTERNATE MEDICAL EXAMINER FROM LAW ENFORCEMENT, WITNESSES, FAMILY MEMBERS, HEALTH CARE PERSONNEL OR MEDICAL DEATH INVESTIGATORS CONCERNING CAUSE AND MANNER OF DEATH.

7. "MEDICAL DEATH INVESTIGATOR" MEANS A PERSON TRAINED IN THE PRINCIPLES OF DEATH INVESTIGATION.

8. "MEDICAL EXAMINER" MEANS A FORENSIC PATHOLOGIST WHO PERFORMS OR DIRECTS THE CONDUCT OF DEATH INVESTIGATIONS.

9. "MEDICAL INFORMATION" MEANS INFORMATION RECEIVED BY A MEDICAL EXAMINER OR ALTERNATE MEDICAL EXAMINER CONCERNING THE CONDITION OF A NEAR-DEATH PATIENT OR DECEDENT INCLUDING MEDICAL RECORDS, REPORTS OF AN ATTENDING OR PRIMARY CARE PHYSICIAN, NURSE PRACTITIONER, MEDICAL DEATH INVESTIGATOR, OR ORGAN PROCUREMENT ORGANIZATIONS AND PHYSICAL EXAMS BY A MEDICAL EXAMINER OR ALTERNATE MEDICAL EXAMINER.

10. "NURSE PRACTITIONER" MEANS A PERSON LICENSED AND CERTIFIED PURSUANT TO TITLE 32, CHAPTER 15.

11. "ORGAN PROCUREMENT ORGANIZATION" MEANS AN ORGANIZATION LOCATED WITHIN THIS STATE THAT MEETS THE REQUIREMENTS OF SECTION 371 OF 42 UNITED STATES CODE SECTION 273.

12. "PHYSICIAN" MEANS A PERSON LICENSED PURSUANT TO TITLE 32, CHAPTER 13 OR 17.

13. "TISSUE BANK" MEANS A PERSON THAT IS LICENSED OR REGULATED UNDER FEDERAL OR STATE LAW OR ACCREDITED BY A NATIONALLY RECOGNIZED ACCREDITING ORGANIZATION TO ENGAGE IN THE RECOVERY, SCREENING, TESTING, PROCESSING, STORAGE OR DISTRIBUTION OF TISSUE.

Sec. 3. Section 11-592, Arizona Revised Statutes, is amended to read:

11-592. County medical examiner; alternate medical examiners; fund; notification

A. THE BOARD OF SUPERVISORS OF EACH COUNTY MAY APPOINT A FORENSIC PATHOLOGIST TO THE POSITION OF MEDICAL EXAMINER. THE MEDICAL EXAMINER SHALL RECEIVE COMPENSATION AS DETERMINED BY THE BOARD OF SUPERVISORS.

~~A.~~ B. If the board of supervisors determines that the appointment of a medical examiner is not ~~practical~~ PRACTICABLE, the board of supervisors shall ~~establish a list of licensed physicians who will be available to perform the duties required of a county medical examiner. A licensed physician on the list~~ DESIGNATE ONE OR MORE ALTERNATE MEDICAL EXAMINERS WHO need not be ~~a resident~~ RESIDENTS of the county~~, need not be certified in pathology nor skilled in forensic pathology but shall have agreed to perform medical examinations or autopsies to determine the cause and manner of death on behalf of the county on a contract basis~~. AN ALTERNATE MEDICAL EXAMINER SHALL PERFORM THE DUTIES OF A MEDICAL EXAMINER EXCEPT ALL AUTOPSIES SHALL BE PERFORMED BY A FORENSIC PATHOLOGIST.

~~B.~~ C. If the board of supervisors ~~establishes a list of licensed physicians in lieu of appointing a county~~ DESIGNATES ONE OR MORE ALTERNATE medical ~~examiner~~ EXAMINERS, the board may establish a ~~fund known as the~~ county ~~medical examination~~ fund and shall pay expenses incurred by ~~the licensed physicians~~ ALTERNATE MEDICAL EXAMINERS in the performance of ~~the~~ THEIR duties ~~of the county medical examiner from such fund~~ AND FOR THE COST OF CASES REFERRED TO A FORENSIC PATHOLOGIST.

~~C.~~ D. The sheriff of the county ~~shall be~~ IS responsible for notifying ~~and securing a licensed physician on the list to perform a medical examination or autopsy required by law~~ AN ALTERNATE MEDICAL EXAMINER TO DIRECT A DEATH INVESTIGATION.

~~D. Upon request of the county attorney or the attorney general, the licensed physician employed by the board of supervisors and secured by the sheriff shall be a licensed physician certified in pathology and skilled in forensic pathology.~~

Sec. 4. Section 11-593, Arizona Revised Statutes, is amended to read:

11-593. Reporting of certain deaths; failure to report; classification

A. Any person having knowledge of the death of a human being including a fetal death shall promptly notify the nearest peace officer of all information in the person's possession regarding the death and the circumstances surrounding it under any of the following circumstances:

1. Death when not under the current care of a physician or nurse practitioner for a potentially fatal illness or when an attending physician or nurse practitioner is unavailable to sign the death certificate.

2. Death resulting from violence.

3. Death occurring suddenly when in apparent good health.

4. Death occurring in a prison.

5. Death of a prisoner.

6. Death occurring in a suspicious, unusual or unnatural manner.

7. Death from disease or accident believed to be related to the deceased's occupation or employment.

8. Death believed to present a public health hazard.

9. Death occurring during, IN ASSOCIATION WITH OR AS A RESULT OF anesthetic or surgical procedures.

10. UNIDENTIFIABLE BODIES.

B. The peace officer shall promptly notify the county medical examiner OR ALTERNATE MEDICAL EXAMINER and, except in deaths occurring during, IN ASSOCIATION WITH OR AS A RESULT OF surgical or anesthetic procedures from natural diseases, shall promptly make or cause to be made an investigation of the facts and circumstances surrounding the death and report the results to the medical examiner OR ALTERNATE MEDICAL EXAMINER. If there is no county medical examiner OR ALTERNATE MEDICAL EXAMINER appointed and serving within the county, the county sheriff shall be notified by the peace officer and the sheriff shall in turn notify and secure a licensed physician HAVING THE QUALIFICATIONS OF AN ALTERNATE MEDICAL EXAMINER to perform the ~~medical examination~~ DEATH INVESTIGATION or TO ARRANGE FOR AN autopsy.

~~C. An autopsy is not required for deaths due to natural diseases that occur during surgical or anesthetic procedures, except where the medical examiner determines an autopsy is necessary because any of the following exists:~~

~~1. A public health risk.~~

~~2. Evidence of a crime.~~

~~3. Evidence of inadequate health care.~~

~~4. No clinically evident cause of death.~~

~~D.~~ C. Every person who knows of the existence of a body where death occurred as specified in subsection A of this section and who knowingly fails to notify the nearest peace officer as soon as possible unless the person has good reason to believe that notice has already been given is guilty of a class 2 misdemeanor.

~~E.~~ D. If the deceased was under treatment for accident or illness by prayer or spiritual means alone, in accordance with the tenets and practices of a well-recognized church or religious denomination, and death occurred without a physician or nurse practitioner in attendance, the person who has knowledge of the death shall report all information in the person's possession regarding the death and circumstances surrounding it directly to the county medical examiner or the ~~person performing the duties of a county~~ ALTERNATE medical examiner who may waive an EXTERNAL EXAMINATION OR autopsy if the county medical examiner OR ALTERNATE MEDICAL EXAMINER is satisfied that the death of the person resulted from natural causes.

~~F.~~ E. Each county shall provide to the department of public safety fingerprints of all deceased persons FOR WHOM THE CIRCUMSTANCES OF DEATH REQUIRE AN EXTERNAL EXAMINATION OR AUTOPSY AND whose deaths are required to

be investigated pursuant to this section. These fingerprints shall be on a form provided by the department of public safety and shall be accompanied by such other information regarding the physical description and the date and place of death as the department of public safety may require. Fingerprints taken pursuant to this section shall be used only for the purpose of purging criminal history files. All information and data in the department of public safety that are furnished in compliance with this section are confidential and may be disclosed only on written approval of the director of the department of public safety to the juvenile court, social agencies, public health and law enforcement agencies licensed or regulated by this state.

Sec. 5. Section 11-594, Arizona Revised Statutes, is amended to read:

11-594. Powers and duties of county medical examiner

A. The county medical examiner or ~~a licensed physician employed to perform such functions~~ ALTERNATE MEDICAL EXAMINER SHALL DIRECT A DEATH INVESTIGATION, SHALL DETERMINE WHETHER AN EXTERNAL EXAMINATION OR AUTOPSY IS REQUIRED AND shall:

~~1. Be responsible for medical examination or autopsy of a human body when death occurred under any of the circumstances set forth in section 11-593, subsection A.~~

~~2.~~ 1. Take charge of the dead body ~~of which the medical examiner is notified and, after making inquiries regarding the cause and manner of death, examine the body~~.

~~3.~~ 2. Certify to the cause and manner of death following ~~a medical examination or an autopsy, or both.~~ COMPLETION OF THE DEATH INVESTIGATION, UNLESS THE MEDICAL EXAMINER OR ALTERNATE MEDICAL EXAMINER DETERMINES THERE IS NO JURISDICTION PURSUANT TO SECTION 11-593,

~~4. Make inquiries regarding the cause and manner of death,~~ reduce the findings to writing and promptly make a full report on forms prescribed for that purpose.

3. HAVE SUBPOENA AUTHORITY FOR ALL DOCUMENTS, RECORDS AND PAPERS DEEMED USEFUL IN THE DEATH INVESTIGATION.

~~5.~~ 4. Execute a death certificate provided by the state registrar of vital statistics indicating the cause ~~as well as~~ AND the manner of death for those bodies ~~on~~ FOR which a ~~medical examination or autopsy is performed~~ DEATH INVESTIGATION HAS BEEN CONDUCTED AND JURISDICTION IS ASSUMED.

5. GIVE APPROVAL FOR CREMATION OF A DEAD BODY AFTER A DEATH INVESTIGATION AND RECORD THE APPROVAL ON THE DEATH CERTIFICATE.

6. Notify the county attorney OR OTHER LAW ENFORCEMENT AUTHORITY when death is found to be from other than natural causes.

~~7. Notify the appropriate city, town, county or state law enforcement agency if further investigation by such agency appears necessary.~~

~~8.~~ 7. Carry out the duties specified under section 28-668.

~~9.~~ 8. Carry out the duties specified under title 36, chapter 7, article 3.

9. OBSERVE ALL POLICIES ADOPTED BY THE BOARD OF SUPERVISORS REGARDING CONFLICTS OF INTEREST AND DISCLOSURE OF NONCOUNTY EMPLOYMENT.

B. The county medical examiner OR ALTERNATE MEDICAL EXAMINER may:

~~1. Appoint qualified professional, technical and clerical personnel as necessary for the administration of the office, subject to approval of the board of supervisors.~~

1. ASSIGN TO A MEDICAL DEATH INVESTIGATOR OR OTHER QUALIFIED PERSONNEL ALL ASPECTS OF A DEATH INVESTIGATION EXCEPT THE PERFORMANCE OF AUTOPSIES.

2. Authorize ~~qualified practicing physicians in local areas~~ FORENSIC PATHOLOGISTS to perform ~~medical~~ examinations ~~required of the county medical examiner~~ AND AUTOPSIES. THE MEDICAL EXAMINER OR ALTERNATE MEDICAL EXAMINER MAY AUTHORIZE MEDICAL STUDENTS OR RESIDENTS AND FELLOWS IN PATHOLOGY TRAINING TO PERFORM AUTOPSIES UNDER THE SUPERVISION OF A LICENSED PHYSICIAN WHO IS BOARD CERTIFIED IN ANATOMIC PATHOLOGY, PURSUANT TO PROCEDURES ADOPTED BY THE COUNTY MEDICAL EXAMINER OR ALTERNATE MEDICAL EXAMINER. Authorization and the amount to be paid by the county for ~~physician~~ PATHOLOGY services are subject to approval of the board of supervisors.

3. DELEGATE ANY POWER, DUTY OR FUNCTION WHETHER MINISTERIAL OR DISCRETIONARY VESTED BY THIS CHAPTER IN THE MEDICAL EXAMINER OR ALTERNATE MEDICAL EXAMINER TO A PERSON MEETING THE QUALIFICATIONS PRESCRIBED IN THIS CHAPTER WHO IS EMPLOYED BY OR WHO HAS CONTRACTED WITH THE COUNTY TO PROVIDE DEATH INVESTIGATION SERVICES. THE MEDICAL EXAMINER OR ALTERNATE MEDICAL EXAMINER SHALL BE RESPONSIBLE FOR THE OFFICIAL ACTS OF THE PERSON DESIGNATED PURSUANT TO THIS SECTION AND SHALL ACT UNDER THE NAME AND AUTHORITY OF THE MEDICAL EXAMINER OR ALTERNATE MEDICAL EXAMINER.

~~C. The county medical examiner or a licensed physician employed to perform these functions may:~~

~~1.~~ 4. Authorize the taking of ~~anatomical gifts~~ ORGANS AND TISSUES as they prove to be usable for transplants, ~~or~~ other treatment, ~~or~~ therapy, EDUCATION OR RESEARCH if all of the requirements of title 36, chapter 7, article 3 are met. The medical examiner OR ALTERNATE MEDICAL EXAMINER shall give this authorization within a time period that permits a medically viable donation.

~~2.~~ 5. Authorize licensed ~~or authorized~~ physicians, surgeons or trained technicians ~~who~~ TO remove parts of bodies ~~to perform any part of a necessary medical examination~~ provided they follow ~~a~~ AN ESTABLISHED protocol ~~established~~ APPROVED by the medical examiner or ~~a person authorized to act as the~~ ALTERNATE medical examiner.

~~3.~~ 6. Limit the removal of organs or tissues for transplants or other therapy or treatment if, based on a ~~physical examination of the body~~ REVIEW OF AVAILABLE MEDICAL AND INVESTIGATIVE INFORMATION within a time that permits a medically viable donation, THE MEDICAL EXAMINER OR ALTERNATE MEDICAL EXAMINER MAKES AN INITIAL DETERMINATION THAT their removal would interfere with a medical examination, autopsy or certification of death. BEFORE MAKING A FINAL DECISION TO LIMIT THE REMOVAL OF ORGANS, THE MEDICAL EXAMINER OR

ALTERNATE MEDICAL EXAMINER SHALL CONSULT WITH THE ORGAN PROCUREMENT ORGANIZATION. AFTER THE CONSULTATION AND WHEN THE ORGAN PROCUREMENT ORGANIZATION PROVIDES INFORMATION THAT THE ORGAN PROCUREMENT ORGANIZATION REASONABLY BELIEVES COULD ALTER THE INITIAL DECISION AND AT THE REQUEST OF THE ORGAN PROCUREMENT ORGANIZATION, THE MEDICAL EXAMINER OR ALTERNATE MEDICAL EXAMINER SHALL CONDUCT A PHYSICAL EXAMINATION OF THE BODY. If the medical examiner OR ALTERNATE MEDICAL EXAMINER limits the removal of organs ~~or tissue~~, the medical examiner OR ALTERNATE MEDICAL EXAMINER shall ~~provide a written explanation~~ MAINTAIN DOCUMENTATION of this decision AND SHALL MAKE THE DOCUMENTATION AVAILABLE TO THE ORGAN PROCUREMENT ORGANIZATION~~ to the organ procurement agency within three working days of the physical examination~~.

C. A COUNTY MEDICAL EXAMINER OR ALTERNATE MEDICAL EXAMINER SHALL NOT BE HELD CIVILLY OR CRIMINALLY LIABLE FOR ANY ACTS PERFORMED IN GOOD FAITH PURSUANT TO SUBSECTION B, PARAGRAPHS 4, 5 AND 6 OF THIS SECTION.

D. If a dispute arises over the findings of the medical examiner's report, the medical examiner ~~shall~~, upon an order of the superior court, SHALL make available all evidence and documentation to a court-designated licensed forensic pathologist for ~~examination~~ REVIEW, and the results of the ~~examination~~ REVIEW shall be reported to the superior court in the county issuing the order.

E. For providing ~~medical~~ EXTERNAL examinations and ~~reports~~ AUTOPSIES pursuant to ~~subsection C of~~ this section, the medical examiner may charge a fee established by the board of supervisors pursuant to section 11-251.08.

Sec. 6. Repeal

Section 11-594.01, Arizona Revised Statutes, is repealed.

Sec. 7. Section 11-595, Arizona Revised Statutes, is amended to read:

11-595. Right to enter premises; right to seize articles

A. The county medical examiner or ~~any person performing the duties of a county~~ ALTERNATE medical examiner may enter any room, dwelling, building or other place in which the body or evidence of the circumstances of the death requiring investigation may be found, provided that a law enforcement ~~agent~~ AGENCY investigating the death obtains a search warrant for private property other than in the immediate location where the body was found.

B. The county medical examiner or ~~any person performing the duties of a county~~ ALTERNATE medical examiner, with the permission of the law enforcement ~~agent~~ AGENCY investigating the death may take into ~~his or her~~ possession any object or article found on the deceased or in the deceased's immediate vicinity which ~~in his or her opinion~~ may aid in the determination of the deceased's identity or determination of the cause or manner of death. Upon completion of ~~his or her~~ THE findings, the medical examiner or ~~the person performing the duties of a county~~ ALTERNATE medical examiner ~~shall~~, within thirty days, SHALL deliver ~~such~~ THE object or article to the law enforcement agency concerned, TO the legal representative of the deceased or to the county treasurer.

Sec. 8. Section 11-596, Arizona Revised Statutes, is amended to read:

11-596. Removal or disturbance of body or effects or weapons without consent prohibited

A. ~~No~~ A human body or body suspected of being human shall NOT be removed from the place where the death OCCURRED, if the death is of a nature requiring investigation, ~~occurred~~ without first obtaining permission of the county medical examiner or ~~the person performing the duties of a county~~ ALTERNATE medical examiner. ~~No~~

B. Embalming, cleansing of the surfaces of the body or other alteration of the appearance or state of the body, clothing or personal effects shall NOT be performed until the permission of ~~such official~~ THE COUNTY MEDICAL EXAMINER OR ALTERNATE MEDICAL EXAMINER has been obtained. ~~No~~ A FUNERAL DIRECTOR OR EMBALMER WHO RECEIVES CUSTODY OF A HUMAN BODY FROM A COUNTY MEDICAL EXAMINER OR ALTERNATE MEDICAL EXAMINER IS DEEMED TO HAVE THE PERMISSION REQUIRED BY THIS SUBSECTION, UNLESS PERMISSION IS EXPRESSLY WITHHELD BY THE COUNTY MEDICAL EXAMINER OR ALTERNATE MEDICAL EXAMINER.

C. A person, except a law enforcement agent in the performance of ~~his or her~~ THE AGENT'S duties, shall NOT remove from the place of death or from the body of the deceased any of the effects of the deceased, or instruments or weapons that may have been used in the death requiring investigation, ~~unless~~ WITHOUT prior permission of the county medical examiner, ~~the person performing the duties of a county~~ ALTERNATE medical examiner or the investigating law enforcement agent ~~has been obtained~~.

Sec. 9. Section 11-597, Arizona Revised Statutes, is amended to read:

11-597. Autopsies; reports; exemption from liability

A. The county medical examiner or ~~person performing the duties of a county~~ ALTERNATE medical examiner shall conduct ~~such~~ A DEATH investigation ~~as may be required and shall~~ TO determine whether or not the public interest requires an EXTERNAL EXAMINATION, autopsy or other special investigation.

B. AN EXTERNAL EXAMINATION OR AUTOPSY IS NOT REQUIRED FOR DEATHS DUE TO NATURAL DISEASES THAT OCCUR DURING SURGICAL OR ANESTHETIC PROCEDURES UNLESS THE MEDICAL EXAMINER OR ALTERNATE MEDICAL EXAMINER DETERMINES THAT AN EXTERNAL EXAMINATION OR AUTOPSY IS NECESSARY.

C. In ~~his or her~~ THE determination of the need for an autopsy, the county medical examiner or ~~person performing the duties of a county~~ ALTERNATE medical examiner may consider the request for an autopsy made by private persons or public officials. If the county attorney or a superior court judge of the county where the death occurred requests AN AUTOPSY, the county medical examiner ~~or the licensed physician performing the duties of a county medical examiner~~ shall perform ~~an~~ THE autopsy, OR, IN THE CASE OF AN ALTERNATE MEDICAL EXAMINER, AN AUTOPSY SHALL BE PERFORMED BY A FORENSIC PATHOLOGIST.

~~B.~~ D. ~~The county medical examiner or the licensed physician performing the duties of a county medical examiner~~ A FORENSIC PATHOLOGIST shall perform an autopsy in cases of sudden and unexplained infant death in

accordance with protocols adopted by the director of the department of health services. If the MEDICAL examiner OR FORENSIC PATHOLOGIST determines that the infant died of sudden infant death syndrome, the MEDICAL examiner OR FORENSIC PATHOLOGIST shall notify the department of health services. The MEDICAL examiner OR FORENSIC PATHOLOGIST may take tissue samples for ~~research~~ DIAGNOSTIC purposes. ~~from an infant who died of sudden infant death syndrome if the tissue removal is not likely to result in any visible disfigurement, except that tissue samples for research purposes shall not be taken if a parent of the infant objects on the grounds such procedure conflicts with personal beliefs.~~

~~C.~~ E. If an autopsy is performed, a full record or report of the facts developed by the autopsy in the findings of the person ~~making such~~ PERFORMING THE autopsy shall be properly made and filed in the office of the county medical examiner or the board of supervisors. If the person performing the autopsy determines that the report should be forwarded to the county where the death occurred or the county ~~wherein~~ IN WHICH any injury contributing to or causing the death was sustained, ~~he~~ THE REPORT shall ~~forward a copy of the report~~ BE FORWARDED to the county attorney.

~~D.~~ F. A county attorney may request and upon request shall receive from the county medical examiner or ~~a person performing the duties of a county~~ ALTERNATE medical examiner a copy of the report on any autopsy performed.

~~E.~~ G. The county medical examiner or ~~person performing the duties of a county~~ ALTERNATE medical examiner may perform ~~such~~ other tests deemed necessary to determine identity~~,~~ AND THE cause and manner of death and may retain tissues, specimens and other biological materials for subsequent examination.

~~F.~~ H. When an autopsy or ~~such~~ other tests are performed by ~~the county medical examiner or person performing the duties of a county medical examiner~~ A FORENSIC PATHOLOGIST, no cause of action shall lie against the physician or any other person for requesting the autopsy, ~~or~~ for participating in the autopsy OR FOR RETAINING SPECIMENS OR TISSUES.

Sec. 10. Section 11-598, Arizona Revised Statutes, is amended to read:

11-598. Exhumation; court order

If in any case of sudden, violent or suspicious death a body is buried without any inquiries by the county medical examiner or ~~person performing the duties of a county~~ ALTERNATE medical examiner, the county attorney of the county ~~wherein~~ IN WHICH the body is buried may petition the superior court for an order directing that the body be exhumed and an autopsy BE performed ~~thereon~~. The court after A hearing may order that the body be exhumed and that an autopsy or such other investigation as the court deems appropriate be performed.

Sec. 11. Section 11-599, Arizona Revised Statutes, is amended to read:

11-599. Cremation

When a funeral director or embalmer is requested to cremate or prepare for cremation the body of a dead person, ~~he or she~~ THE FUNERAL DIRECTOR OR EMBALMER or any other person having knowledge of an intention to so cremate shall notify the county medical examiner or ~~if there is no county medical examiner within the county, the county sheriff and request that an examination of~~ ALTERNATE MEDICAL EXAMINER TO REVIEW the death certificate. ~~be made prior to the cremation. If there is no medical examiner within the county, the county sheriff shall notify and secure a licensed physician to examine the death certificate.~~ If after ~~examination~~ REVIEWING THE DEATH CERTIFICATE the county medical examiner or ~~person performing the duties of a county~~ ALTERNATE medical examiner is satisfied that there is no evidence of foul play or violence, ~~he or she~~ THE EXAMINER shall so certify. ~~and a copy of such certification shall be attached to the death certificate.~~

Sec. 12. Section 11-600, Arizona Revised Statutes, is amended to read:

11-600. Burial of indigent deceased; disposal of property

A. When ~~an examination~~ A DEATH INVESTIGATION has been completed by the county medical examiner or ~~the person performing the duties of a county~~ ALTERNATE medical examiner and no other person takes charge of the body of the deceased, the ~~medical~~ examiner shall cause the body to be delivered to the funeral establishment, licensed pursuant to title 32, chapter 12, article 4, closest geographically to the place where the body is pronounced dead, for preservation, disinfection and final disposition. The medical examiner or ~~person performing the duties of a county~~ ALTERNATE medical examiner may establish geographical areas within the county and a rotation system whereby the bodies are delivered equally in sequence to all licensed funeral establishments in each geographical area. All licensed funeral establishments in any incorporated city or town shall be in the same geographical area. Area boundaries in unincorporated areas shall be drawn so as to approximate equal distances between incorporated cities or towns in which a licensed funeral establishment or establishments exist. Upon request of any licensed funeral establishment, in writing, they shall be removed from participation in the receipt of medical examiner cases until they rescind their request. If there is not sufficient property in the estate of the deceased to pay the necessary expenses of the burial, the expenses shall be a legal charge against the county. Upon determination of indigency the funeral establishment shall perform the normal county indigent burial, in the manner and for the fee then being paid by the county, or release the body, upon county request, without fee, to the funeral establishment designated by the county for other indigent burials.

B. Notwithstanding subsection A of this section, the county medical examiner OR ALTERNATE MEDICAL EXAMINER may cause the body to be delivered to a community college under the jurisdiction of a community college district as defined in section 15-1401, if the community college has an accredited

mortuary science program. On acceptance of the body and with proper authorization, the community college mortuary science program shall preserve and disinfect the body, prepare it for final disposition and deliver the body to a licensed funeral establishment pursuant to subsection A of this section for final disposition. For the purposes of this subsection, proper authorization may be provided by the next of kin pursuant to section 36-831, subsection A or the public fiduciary of the county.

C. Within thirty days after the examination, the medical examiner or ~~person performing the duties of the county~~ ALTERNATE medical examiner shall deliver to the public fiduciary of the county or the legal representative of the deceased any money or property found upon the body.

Sec. 13. Section 36-104, Arizona Revised Statutes, is amended to read:

36-104. Powers and duties

This section is not to be construed as a statement of the department's organization. This section is intended to be a statement of powers and duties in addition to the powers and duties granted by section 36-103. The director shall:

1. Administer the following services:

(a) Administrative services, which shall include, but not be limited to, the functions of accounting, personnel, standards certification, electronic data processing, vital statistics and the development, operation and maintenance of buildings and grounds utilized by the department.

(b) Public health support services, which shall include, but not be limited to:

(i) Consumer health protection programs, to include, but not be limited to, the functions of community water supplies, general sanitation, vector control and food and drugs.

(ii) Epidemiology and disease control programs, to include, but not be limited to, the functions of chronic disease, accident and injury control, communicable diseases, tuberculosis, venereal disease and others.

(iii) Laboratory services programs.

(iv) Health education and training programs.

(v) Disposition of human bodies programs.

(c) Community health services, which shall include, but not be limited to:

(i) Medical services programs, to include, but not be limited to, the functions of maternal and child health, preschool health screening, family planning, public health nursing, premature and newborn program, immunizations, nutrition, dental care prevention and migrant health.

(ii) Dependency health care services programs, to include, but not be limited to, the functions of need determination, availability of health resources to medically dependent, quality control, utilization control and industry monitoring.

(iii) Crippled children's services programs.

(iv) Programs for the prevention and early detection of mental retardation.

(d) Program planning, which shall include, but not be limited to:

(i) An organizational unit for comprehensive health planning programs.

(ii) Program coordination, evaluation and development.

(iii) Need determination programs.

(iv) Health information programs.

2. Include and administer, within the office of the director, staff services, which shall include, but not be limited to, budget preparation, public information, appeals, hearings, legislative and federal government liaison, grant development and management and departmental and interagency coordination.

3. Make rules and regulations for the organization and proper and efficient operation of the department.

4. Determine when a health care emergency or medical emergency situation exists or occurs within the state that cannot be satisfactorily controlled, corrected or treated by the health care delivery systems and facilities available. When such situation is determined to exist, the director shall immediately report such situation to the legislature and the governor. Such report shall include information on the scope of the emergency, recommendations for solution of the emergency and estimates of costs involved.

5. Provide a system of unified and coordinated health services and programs between the state and county governmental health units at all levels of government.

6. Formulate policies, plans and programs to effectuate the missions and purposes of the department.

7. Make contracts and incur obligations within the general scope of its activities and operations subject to the availability of funds.

8. Be designated as the single state agency for the purposes of administering and in furtherance of each federally supported state plan.

9. Provide information and advice on request by local, state and federal agencies and by private citizens, business enterprises and community organizations on matters within the scope of its duties subject to the departmental rules and regulations on the confidentiality of information.

10. Establish and maintain separate financial accounts as required by federal law or regulations.

11. Advise with and make recommendations to the governor and the legislature on all matters concerning its objectives.

12. Take appropriate steps to reduce or contain costs in the field of health services.

13. Encourage and assist in the adoption of practical methods of improving systems of comprehensive planning, of program planning, of priority setting and of allocating resources.

14. Encourage an effective use of available federal resources in this state.

15. Research, recommend, advise and assist in the establishment of community or area health facilities, both public and private, and encourage the integration of planning, services and programs for the development of the state's health delivery capability.

16. Promote the effective utilization of health manpower and health facilities which provide health care for the citizens of this state.

17. Take appropriate steps to provide health care services to the medically dependent citizens of this state.

18. Certify training on the nature of sudden infant death syndrome for use by professional ~~fire fighters~~ FIREFIGHTERS and certified emergency medical technicians as part of their basic and continuing training requirement.

19. Certify training on the nature of sudden infant death syndrome which shall include information on the investigation and handling of cases involving sudden and unexplained infant death for use by law enforcement officers as part of their basic training requirement.

20. Adopt protocols on the manner in which an autopsy shall be conducted under section 11-597, subsection ~~B~~ D in cases of sudden and unexplained infant death.

21. Cooperate with the Arizona-Mexico commission in the governor's office and with researchers at universities in this state to collect data and conduct projects in the United States and Mexico on issues that are within the scope of the department's duties and that relate to quality of life, trade and economic development in this state in a manner that will help the Arizona-Mexico commission to assess and enhance the economic competitiveness of this state and of the Arizona-Mexico region.

22. Administer the federal family violence prevention and services act grants, and the department is designated as this state's recipient of federal family violence prevention and services act grants.

23. Accept and spend private grants of monies, gifts and devises for the purposes of methamphetamine education. The department shall disburse these monies to local prosecutorial or law enforcement agencies with existing programs, faith based organizations and nonprofit entities that are qualified under section 501(c)(3) of the United States internal revenue code, including nonprofit entities providing services to women with a history of dual diagnosis disorders, that provide educational programs on the repercussions of methamphetamine use. State general fund monies shall not be spent for the purposes of this paragraph. If the director does not receive sufficient monies from private sources to carry out the purposes of this paragraph, the director shall not provide the educational programs prescribed in this paragraph. Grant monies received pursuant to this paragraph are nonlapsing and do not revert to the state general fund at the close of the fiscal year.

24. Identify successful methamphetamine prevention programs in other states that may be implemented in this state.

Sec. 14. Section 36-301, Arizona Revised Statutes, is amended to read:

36-301. Definitions

In this chapter, unless the context otherwise requires:

1. "Administrative order" means a written decision issued by an administrative law judge or quasi-judicial entity.

2. "Amend" means to make a change, other than a correction, to a registered certificate by adding, deleting or substituting information on that certificate.

3. "Birth" or "live birth" means the complete expulsion or extraction of a product of human conception from its mother, irrespective of the duration of the pregnancy, that shows evidence of life, with or without a cut umbilical cord or an attached placenta, such as breathing, heartbeat, umbilical cord pulsation or definite voluntary muscle movement after expulsion or extraction of the product of human conception.

4. "Certificate" means a record that documents a birth or death.

5. "Certified copy" means a written reproduction of a registered certificate that a local registrar, a deputy local registrar or the state registrar has authenticated as a true and exact written reproduction of a registered certificate.

6. "Correction" means a change made to a registered certificate because of a typographical error including misspelling and missing or transposed letters or numbers.

7. "Court order" means a written decision issued by:

(a) The superior court, an appellate court or the supreme court or an equivalent court in another state.

(b) A commissioner or judicial hearing officer of the superior court.

(c) A judge of a tribal court in this state.

8. "Custody" means legal authority to act on behalf of a child.

9. "Department" means the department of health services.

10. "Electronic" means technology that has electrical, digital, magnetic, wireless, optical or electromagnetic capabilities or technology with similar capabilities.

11. "Evidentiary document" means written information used to prove the fact for which it is presented.

12. "Family member" means:

(a) A person's spouse, natural or adopted offspring, father, mother, grandparent, grandchild to any degree, brother, sister, aunt, uncle or first or second cousin.

(b) The natural or adopted offspring, father, mother, grandparent, grandchild to any degree, brother, sister, aunt, uncle or first or second cousin of the person's spouse.

13. "Fetal death" means the cessation of life before the complete expulsion or extraction of a product of human conception from its mother and

that is evidenced by the absence of breathing, heartbeat, umbilical cord pulsation or definite voluntary muscle movement after expulsion or extraction.

14. "Final disposition" means the interment, cremation, removal from this state or other disposition of human remains.

15. "Foundling" means:

(a) A newborn infant left with a safe haven provider pursuant to section 13-3623.01.

(b) A child whose father and mother cannot be determined.

16. "Funeral establishment" has the same meaning prescribed in section 32-1301.

17. "Health care institution" has the same meaning prescribed in section 36-401.

18. "Human remains" means a lifeless human body or parts of a human body that permit a reasonable inference that death occurred.

19. "Issue" means:

(a) To provide a copy of a registered certificate.

(b) An action taken by a court of competent jurisdiction, administrative law judge or quasi-judicial entity.

20. "Legal age" means a person who is at least eighteen years of age or who is emancipated by a court order.

21. "Medical examiner" means a ~~physician who meets the requirements of~~ MEDICAL EXAMINER OR ALTERNATE MEDICAL EXAMINER AS DEFINED IN section 11-591~~, subsection B~~.

22. "Midwife" means a person who is either:

(a) Licensed pursuant to chapter 6, article 7 of this title.

(b) Certified as a nurse midwife pursuant to title 32, chapter 15.

23. "Name" means a designation that identifies a person including a first name, middle name, last name or suffix.

24. "Nurse practitioner" means a person licensed and certified as a nurse practitioner pursuant to title 32, chapter 15.

25. "Physician" means a person licensed pursuant to title 32, chapter 13 or 17.

26. "Presumptive death" means a determination by a court that a death has occurred or is presumed to have occurred but the human remains have not been located or recovered.

27. "Register" means to assign an official state number and to incorporate into the state registrar's official records.

28. "Responsible person" means a person listed in section 36-831.

29. "Seal" means to bar from access.

30. "Submit" means to present, physically or electronically, a certificate, evidentiary document or form provided for in this chapter to a local registrar, a deputy local registrar or the state registrar.

31. "System of public health statistics" means the processes and procedures for:

(a) Tabulating, analyzing and publishing public health information derived from vital records data and other sources authorized pursuant to section 36-125.05 or section 36-132, subsection A, paragraph 3.

(b) Performing other activities related to public health information.

32. "System of vital records" means the statewide processes and procedures for:

(a) Electronically or physically collecting, creating, registering, maintaining, copying and preserving vital records.

(b) Preparing and issuing certified and noncertified copies of vital records.

(c) Performing other activities related to vital records.

33. "Vital record" means a registered birth certificate or a registered death certificate.

Sec. 15. Section 36-848, Arizona Revised Statutes, is amended to read:

36-848. Rights and duties at death

A. Rights of a donee created by an anatomical gift are superior to rights of others except with respect to autopsies under section 11-594, subsection ~~C~~ B, paragraph ~~3~~ 6. A donee may accept or reject an anatomical gift. If a donee accepts an anatomical gift of an entire body, the donee, subject to the terms of the gift, may allow embalming and use of the body in funeral services. If the gift is of a part of a body, the donee, on the death of the donor and before embalming, shall cause the part to be removed without unnecessary mutilation. After removal of the part, custody of the remainder of the body vests in the person under obligation to dispose of the body.

B. The time of death shall be determined by a physician or surgeon who attends the donor at death or, if none, the physician or surgeon who certifies the death. The physician or surgeon who attends the donor at death or the physician or surgeon who determines the time of death shall not participate in the procedures for removing or transplanting a part unless the document of gift designates a particular physician or surgeon pursuant to section 36-842, subsection D.

C. If there has been an anatomical gift, a physician, a surgeon or a trained technician may remove any donated parts after the determination of death by a physician or surgeon. The institution where the removal of any donated parts occurs shall notify the funeral director or the person acting in that capacity who first assumes custody of the body about the removal of the body parts.

APPROVED BY THE GOVERNOR MAY 16, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 16, 2007.