

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 969

(Delegate Bartlett, *et al.*)

Health and Government Operations

Finance

Death Certificates - Cause or Manner of Death Determinations - Requirements
After Change or Correction (Katherine Morris Death Reclassification Act)

This bill requires a medical examiner, if the cause or manner of death on a death certificate is amended or corrected to be undetermined or homicide, to provide notice to the State’s Attorney and local law enforcement where the body was found of the different finding or conclusion on the cause or manner of death. The medical examiner must also request that the Secretary of Health send the person in interest a new certified death certificate at no cost. An assistant State’s Attorney with knowledge of the case in which the victim’s cause or manner of death was amended or corrected must meet with a person in interest regarding their request that the Office of the State’s Attorney pursue an investigation into the circumstances of the victim’s death. A law enforcement agency, upon notification by a medical examiner that a death certificate has been amended or corrected to be undetermined or homicide, must (1) reopen or reinvestigate an investigation involving the death of a victim whose cause or manner of death was corrected and (2) keep the case open for at least 20 years after being notified.

Fiscal Summary

State Effect: The bill’s requirements for the Maryland Department of Health (MDH) regarding notification and provision of amended certified death certificates can be absorbed with existing budgeted resources. Revenues are not affected.

Local Effect: Assuming a small number of instances in which the cause or manner of death is amended to be undetermined or homicide, State’s Attorney’s offices and local law enforcement agencies can handle any increased workload under the bill using existing resources, as discussed below. Revenues are not affected.

Small Business Effect: None.

Analysis

Bill Summary: An assistant State’s Attorney must meet with a person in interest within 20 days after receiving a request from the person in interest to meet. At the meeting, the assistant State’s Attorney must explain the justification for not pursuing an investigation into the victim’s death despite the amendment or correction to the cause or manner of death on the victim’s death certificate. The meeting may be conducted in person, by telephone, or by other means mutually agreed upon.

Current Law:

Definitions

A “person in interest” means the spouse, adult child, parent, adult sibling, grandparent, or guardian of the person of the deceased at the time of the deceased’s death.

A “law enforcement agency” means a governmental police force, sheriff’s office, or security force or law enforcement organization of the State, a county, or a municipality that by statute, ordinance, or common law is authorized to enforce the general criminal laws of the State. It does not include specified members of the Maryland National Guard.

Duties of a Medical Examiner

A medical examiner must investigate a person’s death if it occurs by (1) violence; (2) suicide; (3) casualty; (4) suddenly, if the deceased was in apparent good health or unattended by a physician; or (5) in any suspicious or unusual manner. If one of those criteria are met, the police or sheriff must immediately notify the medical examiner and the State’s Attorney for the county where the body is found and give the known facts concerning the time, place, manner, and circumstances of the death.

If a person’s cause of death is established to a reasonable degree of medical certainty, the medical examiner who investigates the case must file in the medical examiner’s office a report on the cause of death within 30 days after notification of the case. However, if the medical examiner investigating the case considers an autopsy necessary, an autopsy must be performed by the chief medical examiner or another specified individual.

An individual who performs an autopsy must prepare detailed written findings during the autopsy. The original copy of such findings and the conclusions drawn from them must be filed in the Office of the Chief Medical Examiner (OCME), and a copy must be filed in the office of the medical examiner for the county where the death occurred.

Requesting Amendments or Changes to a Death Certificate

With the exception of cases where the finding is homicide, a person in interest may request that the medical examiner correct findings and conclusions on the cause and manner of death recorded on a death certificate within 180 days after the medical examiner files the findings and conclusions.

If the Chief Medical Examiner denies the request of a person in interest to correct the findings and conclusions on the cause or manner of death, the person in interest may appeal the denial to correct the cause and manner of death to the Secretary, who must then refer the matter to the Office of Administrative Hearings (OAH). A contested hearing before OAH must be a hearing on both (1) the denial of the request and (2) the establishment of the findings and conclusions on the cause and manner of death.

Following a hearing, an administrative law judge (ALJ) must submit findings of fact to the Secretary. After a review of the ALJ's findings, the Secretary, including a designee, must issue an order to either (1) adopt the findings of the ALJ or (2) reject the findings of the ALJ and affirm the findings of the medical examiner. If the ALJ's findings are rejected, the person in interest may further appeal to a circuit court in an appropriate jurisdiction.

If a final decision (by either the Secretary, including a designee, or the appropriate circuit court) establishes a different finding or conclusion on the cause or manner of death of a deceased than that recorded on the certificate of death, the medical examiner must amend the certificate to reflect the different finding or conclusion.

Duties of a State's Attorney

Section 15-102 of the Criminal Procedure Article specifies that a State's Attorney generally must, in the county served by the State's Attorney, prosecute and defend on the part of the State all cases in which the State may be interested.

State/Local Expenditures: According to OCME, the cause or manner of death was amended or corrected on a total of 11 death certificates statewide in 2022 and 2023. The cause or manner of death was not amended or corrected to homicide for any of those death certificates; however, for 6 of the death certificates, the cause or manner of death was amended to be undetermined.

Given the small number of death certificates for which the cause or manner of death was amended or corrected over the past two calendar years, MDH advises that it can absorb the costs associated with issuing revised certified death certificates to persons in interest with existing budgeted resources.

Assuming the number of death certificates for which the cause or manner of death is amended to be undetermined or homicide does not increase significantly in future years, State's Attorney's offices can handle any additional workload with existing budgeted resources. Similarly, local police departments and other law enforcement agencies can likely absorb the limited number of investigations they have to reopen or reinvestigate as a result of the bill using existing resources.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Baltimore City; Montgomery and Prince George's counties; Judiciary (Administrative Office of the Courts); Maryland State's Attorneys' Association; Maryland Department of Health; Department of State Police; Department of Legislative Services

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