

HOUSE BILL 394

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By: **Chair, Health and Government Operations Committee (By Request – Departmental – Health and Mental Hygiene)**
Introduced and read first time: January 28, 2008
Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **State Postmortem Examiners Commission – Office of the Chief Medical**
3 **Examiner – Postmortem Examiners Law**

4 FOR the purpose of altering and expanding the requirements for the staff of the State
5 Postmortem Examiners Commission; requiring the Chief Medical Examiner,
6 deputy chief medical examiners, and certain assistant medical examiners to be
7 certified in a certain medical specialty by a certain board; authorizing the
8 Commission to appoint forensic investigators; providing that medical examiners
9 who perform autopsies may retain any medical evidence, tissue, or organ
10 needed to carry out the duties of the postmortem examiners law; requiring the
11 Office of the Chief Medical Examiner to charge a reasonable fee for certain
12 reports; and generally relating to the State Postmortem Examiners
13 Commission, the Office of the Chief Medical Examiner, and the postmortem
14 examiners law.

15 BY repealing and reenacting, without amendments,
16 Article – Health – General
17 Section 5–301
18 Annotated Code of Maryland
19 (2005 Replacement Volume and 2007 Supplement)

20 BY repealing and reenacting, with amendments,
21 Article – Health – General
22 Section 5–305, 5–306(b)(1), 5–310(b) and (d)(2)(vi), and 5–311(a), (d), and (e)
23 Annotated Code of Maryland
24 (2005 Replacement Volume and 2007 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
26 MARYLAND, That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article - Health - General**

2 5-301.

3 (a) In this subtitle the following words have the meanings indicated.

4 (b) "Commission" means the State Postmortem Examiners Commission.

5 (c) "Medical examiner's case" means a death that a medical examiner is
6 required by law to investigate.

7 5-305.

8 (a) (1) The Commission may employ a staff in accordance with the State
9 budget **FOR THE OPERATION OF THE COMMISSION AND TO MAINTAIN**
10 **ACCREDITATION.**

11 (2) The staff shall include:

12 (i) 1 chief medical examiner;

13 (ii) [1 deputy chief medical examiner] **2 DEPUTY CHIEF**
14 **MEDICAL EXAMINERS;**15 (iii) [4 assistant medical examiners] **ASSISTANT MEDICAL**
16 **EXAMINERS;**17 (iv) [1 toxicologist] **1 CHIEF STATE TOXICOLOGIST, 1 DEPUTY**
18 **CHIEF STATE TOXICOLOGIST, LEAD TOXICOLOGISTS, AND ASSISTANT**
19 **TOXICOLOGISTS;**

20 [(v) 2 assistant toxicologists;

21 (vi)] **(V)** 1 serologist;22 [(vii)] **(VI)** 4 resident medical doctors who are training in forensic
23 pathology; [and]24 [(viii)] **(VII)** [1 chief traffic investigator] **1 CHIEF FORENSIC**
25 **INVESTIGATOR, 2 DEPUTY CHIEF FORENSIC INVESTIGATORS, LEAD FORENSIC**
26 **INVESTIGATORS, AND ASSISTANT FORENSIC INVESTIGATORS; AND**27 **(VIII) AUTOPSY SERVICES SUPERVISOR, 1 DEPUTY**
28 **SUPERVISOR, LEAD AUTOPSY TECHNICIANS, AND ASSISTANT AUTOPSY**
29 **TECHNICIANS.**

1 (3) The Commission may employ any physician on a contract basis for
2 part-time services.

3 (b) (1) [Each medical examiner appointed under subsection (a)(2) of this
4 section shall be a physician with at least 2 years postgraduate training in pathology]
5 **THE CHIEF MEDICAL EXAMINER AND DEPUTY CHIEF MEDICAL EXAMINERS**
6 **SHALL BE BOARD CERTIFIED IN ANATOMIC AND FORENSIC PATHOLOGY BY THE**
7 **AMERICAN BOARD OF PATHOLOGY.**

8 (2) **ASSISTANT MEDICAL EXAMINERS APPOINTED ON OR AFTER**
9 **OCTOBER 1, 2008, SHALL BE CERTIFIED BY THE AMERICAN BOARD OF**
10 **PATHOLOGY IN ANATOMIC AND FORENSIC PATHOLOGY OR OBTAIN THAT**
11 **CERTIFICATION WITHIN 3 YEARS OF APPOINTMENT.**

12 (c) With the approval of the Secretary of Budget and Management, the
13 Commission shall set the compensation for personnel appointed under subsection
14 (a)(2) of this section.

15 [(d) The Chief Medical Examiner, Deputy Chief Medical Examiner, and
16 assistant medical examiners shall have an office in Baltimore City.]

17 [(e)] (D) For the use of these medical examiners, the Commission shall[:

18 (1) See that proper equipment is provided; or

19 (2) Arrange for use of the laboratory and other equipment of the
20 Department, the Baltimore City Health Department, the Department of State Police,
21 or the Baltimore City Police Department] **SEE THAT PROPER EQUIPMENT IS**
22 **PROVIDED.**

23 [(f)] (E) The Chief Medical Examiner, [the Deputy Chief Medical
24 Examiner,] **A DEPUTY CHIEF MEDICAL EXAMINER**, or an assistant medical
25 examiner shall be on call at all times to perform the duties set forth in this subtitle.

26 [(g)] (F) The State budget shall include an appropriation to carry out this
27 subtitle, including provisions for:

28 (1) The fee for an authorized pathologist;

29 (2) The necessary expenses for transportation of a body for
30 examination by a medical examiner or for autopsy; and

31 (3) In the case of a victim of homicide, the necessary expenses for
32 transportation of the body from the site of the autopsy or examination to a location
33 within the State specified by the victim's family.

1 5-306.

2 (b) (1) The Commission may appoint one or more deputy medical
3 examiners **AND FORENSIC INVESTIGATORS** for each county.

4 5-310.

5 (b) (1) If the medical examiner who investigates a medical examiner's
6 case considers an autopsy necessary, the Chief Medical Examiner, [the Deputy Chief
7 Medical Examiner,] **A DEPUTY CHIEF MEDICAL EXAMINER**, an assistant medical
8 examiner, or a pathologist authorized by the Chief Medical Examiner shall perform
9 the autopsy.

10 (2) If the family of the deceased objects to an autopsy on religious
11 grounds, the autopsy may not be performed unless authorized by the Chief Medical
12 Examiner or by the Chief Medical Examiner's designee.

13 **(3) (I) IN ACCORDANCE WITH NORMAL STANDARDS OF**
14 **MEDICAL PRACTICE, THE MEDICAL EXAMINER PERFORMING THE AUTOPSY MAY**
15 **RETAIN ANY MEDICAL EVIDENCE, TISSUE, OR ORGAN NEEDED TO CARRY OUT**
16 **THE DUTIES OF THIS SUBTITLE.**

17 **(II) THE MEDICAL EXAMINER SHALL DISPOSE OF ANY**
18 **MEDICAL EVIDENCE, TISSUE, OR ORGAN UNDER SUBPARAGRAPH (I) OF THIS**
19 **PARAGRAPH IN ACCORDANCE WITH NORMAL STANDARDS OF MEDICAL**
20 **PRACTICE.**

21 (d) (2) (vi) If the final decision of the Secretary, **OR** of the Secretary's
22 designee, or of a court of competent jurisdiction on appeal, establishes a different
23 finding or conclusion on the cause or manner of death of a deceased than that recorded
24 on the certificate of death, the medical examiner shall amend the certificate to reflect
25 the different finding or conclusion under §§ 4-212 and 4-214 of this article and §
26 10-625 of the State Government Article.

27 5-311.

28 (a) (1) The **OFFICE OF THE** Chief Medical Examiner [and, as to their
29 respective counties, each of the deputy medical examiners] shall keep complete records
30 on each medical examiner's case.

31 (2) The records shall be indexed properly and include:

32 (i) The name, if known, of the deceased;

33 (ii) The place where the body was found;

1 (iii) The date, cause, and manner of death; and

2 (iv) All other available information about the death.

3 (d) (1) In this subsection, "record":

4 (i) Means the result of [a view or] **AN EXTERNAL** examination
5 of or an autopsy on a body; and

6 (ii) Does not include a statement of a witness or other
7 individual.

8 (2) A record of the office of the Chief Medical Examiner or any deputy
9 medical examiner, if made by the medical examiner or by anyone under the medical
10 examiner's direct supervision or control, or a certified transcript of that record, is
11 competent evidence in any court in this State of the matters and facts contained in it.

12 (e) (1) [A medical examiner shall charge a reasonable fee for making
13 insurance and other similar reports] **THE OFFICE OF THE CHIEF MEDICAL**
14 **EXAMINER SHALL CHARGE A REASONABLE FEE FOR REPORTS AS SPECIFIED IN**
15 **A SCHEDULE OF FEES DEFINED IN THE REGULATIONS OF THE OFFICE OF THE**
16 **CHIEF MEDICAL EXAMINER.**

17 (2) A deputy medical examiner may keep any fee collected by the
18 deputy medical examiner.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 2008.