

# 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

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 27, 2008

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## CHAPTER \_\_\_\_\_

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; requiring the Office of the Chief  
9 Medical Examiner to orally report certain findings and deliver a copy of a  
10 certain autopsy report to certain agencies if a case involves the death of a child  
11 in certain circumstances; providing that medical examiners who perform  
12 autopsies may retain any medical evidence, tissue, or organ needed to carry out  
13 the duties of the postmortem examiners law; requiring the Office of the Chief  
14 Medical Examiner to charge a reasonable fee for certain reports; and generally  
15 relating to the State Postmortem Examiners Commission, the Office of the  
16 Chief Medical Examiner, and the postmortem examiners law.

17 BY repealing and reenacting, without amendments,  
18 Article – Health – General  
19 Section 5–301  
20 Annotated Code of Maryland  
21 (2005 Replacement Volume and 2007 Supplement)

22 BY repealing and reenacting, with amendments,  
23 Article – Health – General

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**EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Section 5-305, 5-306(b)(1), 5-309(f), 5-310(b) and (d)(2)(vi), and 5-311(a), (d),  
2 and (e)  
3 Annotated Code of Maryland  
4 (2005 Replacement Volume and 2007 Supplement)

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

7 **Article - Health - General**

8 5-301.

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

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

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

13 5-305.

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

17 (2) The staff shall include:

18 (i) 1 chief medical examiner;

19 (ii) [1 deputy chief medical examiner] **2 DEPUTY CHIEF**  
20 **MEDICAL EXAMINERS;**

21 (iii) [4 assistant medical examiners] **ASSISTANT MEDICAL**  
22 **EXAMINERS;**

23 (iv) [1 toxicologist] **1 CHIEF STATE TOXICOLOGIST, 1 DEPUTY**  
24 **CHIEF STATE TOXICOLOGIST, LEAD TOXICOLOGISTS, AND ASSISTANT**  
25 **TOXICOLOGISTS;**

26 [(v) 2 assistant toxicologists;

27 (vi)] **(V)** 1 serologist;

28 [(vii)] **(VI)** 4 resident medical doctors who are training in forensic  
29 pathology; [and]

1            [(viii)] (VII) [1 chief traffic investigator] **1 CHIEF FORENSIC**  
2 **INVESTIGATOR, 2 DEPUTY CHIEF FORENSIC INVESTIGATORS, LEAD FORENSIC**  
3 **INVESTIGATORS, AND ASSISTANT FORENSIC INVESTIGATORS; AND**

4            (VIII) **1 AUTOPSY SERVICES SUPERVISOR, 1 DEPUTY**  
5 **SUPERVISOR, LEAD AUTOPSY TECHNICIANS, AND ASSISTANT AUTOPSY**  
6 **TECHNICIANS.**

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

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

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

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

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

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

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

25            (2) Arrange for use of the laboratory and other equipment of the  
26 Department, the Baltimore City Health Department, the Department of State Police,  
27 or the Baltimore City Police Department] **SEE THAT PROPER EQUIPMENT IS**  
28 **PROVIDED.**

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

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

34            (1) The fee for an authorized pathologist;

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

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

6 5-306.

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

9 5-309.

10           (f) **(1)** If the case involves the unexpected death of a child, the medical  
11 examiner shall notify the chairperson of the local child fatality review team for the  
12 county in which the child resided.

13           **(2)** IF THE CASE INVOLVES THE DEATH OF A CHILD AND THE  
14 DEATH IS BELIEVED TO BE CAUSED BY ABUSE OR NEGLECT, OR THERE IS  
15 EVIDENCE SUGGESTING THAT THE CHILD WAS A VICTIM OF ABUSE OR NEGLECT,  
16 THE OFFICE OF THE CHIEF MEDICAL EXAMINER SHALL ORALLY REPORT THE  
17 FINDINGS AND DELIVER A COPY OF THE CHILD'S FINAL AUTOPSY REPORT TO  
18 THE LOCAL DEPARTMENT OF SOCIAL SERVICES AND THE LOCAL LAW  
19 ENFORCEMENT AGENCY OF THE COUNTY IN WHICH THE CHILD LAST RESIDED IN  
20 ACCORDANCE WITH § 5-704 OF THE FAMILY LAW ARTICLE.

21 5-310.

22           (b) (1) If the medical examiner who investigates a medical examiner's  
23 case considers an autopsy necessary, the Chief Medical Examiner, [the Deputy Chief  
24 Medical Examiner,] **A DEPUTY CHIEF MEDICAL EXAMINER**, an assistant medical  
25 examiner, or a pathologist authorized by the Chief Medical Examiner shall perform  
26 the autopsy.

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

30           **(3) (1)** **IN ACCORDANCE WITH NORMAL STANDARDS OF**  
31 **MEDICAL PRACTICE, THE MEDICAL EXAMINER PERFORMING THE AUTOPSY MAY**  
32 **RETAIN ANY MEDICAL EVIDENCE, TISSUE, OR ORGAN NEEDED TO CARRY OUT**  
33 **THE DUTIES OF THIS SUBTITLE.**

1                   **(II) THE MEDICAL EXAMINER SHALL DISPOSE OF ANY**  
2 **MEDICAL EVIDENCE, TISSUE, OR ORGAN UNDER SUBPARAGRAPH (I) OF THIS**  
3 **PARAGRAPH IN ACCORDANCE WITH NORMAL STANDARDS OF MEDICAL**  
4 **PRACTICE.**

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

11 5-311.

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

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

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

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

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

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

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

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

23                           (ii)   Does not include a statement of a witness or other  
24 individual.

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

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

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

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

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.