

Department of Legislative Services  
Maryland General Assembly  
2023 Session

FISCAL AND POLICY NOTE  
Third Reader

House Bill 863

(Delegate Bartlett)

Health and Government Operations

Finance

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Public Health - Chief Medical Examiner - Corrections to Autopsy Findings and  
Conclusions

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This bill extends the time period within which a person in interest may request the medical examiner to correct findings and conclusions on the cause and manner of death, with specified exception, from within 60 days to within 180 days after the medical examiner files those findings and conclusions.

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Fiscal Summary

**State Effect:** The bill's change can be handled with existing budgeted resources, as discussed below. No material effect on revenues.

**Local Effect:** None.

**Small Business Effect:** None.

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Analysis

**Current Law:** 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 (within the Maryland Department of Health (MDH)), and a copy must be filed in the office of the medical examiner for the county where the death occurred.

With the exception of cases where the finding is homicide, a person in interest (defined as the spouse, adult child, parent, adult sibling, grandparent, or guardian of the person of the deceased at the time of the deceased's death) may request that the medical examiner correct

findings and conclusions on the cause and manner of death recorded on a certificate of death within 60 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 of Health, 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.

If the findings of the medical examiner are upheld by the Secretary, the person in interest who appealed is responsible for the costs of the contested case hearing. Otherwise, MDH is responsible for the costs.

**State Fiscal Effect:** While extending the timeframe within which a person in interest may request a correction to the findings and conclusions on the cause and manner of death from within 60 days to within 180 days may result in more correction requests, MDH advises that relatively few correction requests are received under current law so an extension can likely be handled with existing staff resources. OAH similarly advises that the number of new hearings that may be generated under the bill and any training for ALJs would be minimal and could be handled with existing budgeted resources.

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### **Additional Information**

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

**Designated Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts); Maryland Department of Health; Office of Administrative Hearings; Department of Legislative Services

**Fiscal Note History:** First Reader - March 3, 2023  
km/jc Third Reader - March 20, 2023

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