



AN ACT GENERALLY REVISING LAWS RELATED TO MEDICAL EXAMINERS AND CORONERS; CLARIFYING THE QUALIFICATIONS AND DUTIES OF MEDICAL EXAMINERS; REVISING PROCEDURES RELATED TO HUMAN DEATH INQUIRIES; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 44-3-201, 44-3-203, 44-3-204, 44-3-211, 46-4-122, AND 46-4-123, MCA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 44-3-201, MCA, is amended to read:

"44-3-201. State chief medical examiner. A state chief medical examiner must be appointed by and serves at the pleasure of the attorney general. The state chief medical examiner must be a physician licensed to practice medicine in Montana and must be board-certified in forensic pathology. Once appointed, the state chief medical examiner is supervised by the director of the laboratory of criminalistics. Medical examiners must be free from undue personal, professional, or political influences as they objectively pursue and report the facts and opinions of their death investigations."

Section 2. Section 44-3-203, MCA, is amended to read:

"44-3-203. Associate medical examiners -- qualifications. Associate medical examiners, including but not limited to locum tenens and per diem examiners, must be physicians licensed to practice in Montana, must be board-certified in forensic pathology, and may continue their private practice during their appointment. Associate medical examiners are appointed by, are supervised by, and serve at the pleasure of the state chief medical examiner."

Section 3. Section 44-3-204, MCA, is amended to read:

"44-3-204. Associate medical examiners -- compensation. (~~4~~) Associate medical examiners may

be paid for their services an amount ~~which~~ that the state chief medical examiner considers to be reasonable compensation and may be reimbursed for expenses actually incurred in the performance of their duties.

~~(2) The costs of services performed by associate medical examiners are chargeable to the county for which the service is performed."~~

Section 4. Section 44-3-211, MCA, is amended to read:

"44-3-211. Duties of state chief medical examiner and deputy medical examiner. The duties of the state chief medical examiner and deputy medical examiner include but are not limited to the following:

- (1) providing assistance and consultation to associate medical examiners, coroners, and law enforcement officers;
- (2) providing court testimony when necessary to accomplish the purposes of this chapter;
- (3) stimulating and directing research in the field of forensic pathology;
- (4) maintaining an ongoing educational and training program for associate medical examiners, coroners, and law enforcement officers;
- (5) appointing associate medical examiners; and
- (6) performing autopsies as requested."

Section 5. Section 46-4-122, MCA, is amended to read:

"46-4-122. Human deaths requiring inquiry by coroner -- rulemaking. (1) The coroner shall inquire into and determine the cause and manner of death and all circumstances surrounding a human death:

- ~~(+)(a)~~ that was caused or is suspected to have been caused:
 - ~~(a)(i)~~ in any degree by an injury, either recent or remote in origin; ~~or~~
 - ~~(b)(ii)~~ by the deceased or any other person that was the result of an act or omission, including but not limited to:
 - ~~(i)(A)~~ a criminal or suspected criminal act;
 - ~~(i)(B)~~ a medically suspicious death, unusual death, or death of unknown circumstances, including any fetal death; or
 - ~~(ii)(C)~~ an accidental death; or

~~(e)(iii)~~ by an agent, disease, or medical condition that poses a threat to public health;

~~(2)(b)~~ whenever the death occurred:

~~(a)(i)~~ while the deceased was incarcerated in a prison or confined to a correctional or detention facility owned and operated by the state or a political subdivision of the state;

~~(b)(ii)~~ while the deceased was being pursued, apprehended, or taken into custody by, or while in the custody of, any law enforcement agency or a peace officer;

~~(e)(iii)~~ during or as a result of the deceased's employment;

~~(d)(iv)~~ less than 24 hours after the deceased was admitted to a medical facility or if the deceased was dead upon arrival at a medical facility; or

~~(e)(v)~~ in a manner that was unattended or unwitnessed and the deceased was not attended by a physician at any time in the 30-day period prior to death;

~~(3)(c)~~ if the dead human body is to be cremated or shipped into the state and lacks proper medical certification or burial or transmit permits; or

~~(4)(d)~~ that occurred under suspicious circumstances.

(2) In the case of a fetal death inquiry, the department of justice shall adopt rules governing the respectful transportation to and delivery of the fetus to the location where the autopsy will be performed. The rules must require that a fetus be transported in a crush-proof container that is labeled with the words "fragile-- human remains inside".

Section 6. Section 46-4-123, MCA, is amended to read:

"46-4-123. Inquiry report. (1) The coroner shall make a full report of the facts discovered in all human deaths requiring an inquiry under the provisions of 46-4-122. ~~In the case of a fetal death inquiry under 46-4-122, the department of justice shall adopt rules for respectful transportation and delivery of the fetus to the place where the autopsy will be performed. The rules must require that a fetus be transported in a crush-proof container and be labeled with the words "fragile-human remains inside". The report must be made in triplicate on a form provided by the division of forensic sciences of the department of justice. The coroner and the medical examiner shall each retain one copy and shall deliver the other copy to the county attorney. If the coroner orders an autopsy during the course of an inquiry, the coroner shall also provide the medical examiner~~

~~with a copy of the autopsy report. The forms must be completed and distributed as provided in this section as promptly as practicable.~~

(2) The inquiry report must be:

(a) made using the Montana coroner death management system, if implemented and operational by the local agency;

(b) initiated within 24 hours after the death investigation; and

(c) completed as promptly as reasonable and commensurate with the availability of investigation information, excluding confidential criminal justice information and any other investigative material not necessary to determine cause or manner of death until the case is closed or charges are filed.

(3) The coroner and the medical examiner must each have access to the system. The coroner shall make a copy of the system inquiry report available to the county attorney."

- END -

I hereby certify that the within bill,
HB 313, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2021.

President of the Senate

Signed this _____ day
of _____, 2021.

HOUSE BILL NO. 313

INTRODUCED BY J. GILLETTE

BY REQUEST OF THE ATTORNEY GENERAL

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