

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2015

S

1

SENATE BILL 395

Short Title: Reform Medical Examiner System. (Public)

Sponsors: Senator Tarte (Primary Sponsor).

Referred to: Rules and Operations of the Senate.

March 25, 2015

A BILL TO BE ENTITLED

AN ACT TO REFORM THE NORTH CAROLINA MEDICAL EXAMINER SYSTEM BY (1) ESTABLISHING A REGIONAL OFFICE STRUCTURE; (2) REQUIRING THE OFFICE OF THE CHIEF MEDICAL EXAMINER (OCME) TO OBTAIN AND MAINTAIN NATIONAL ACCREDITATION; (3) ESTABLISHING MINIMUM QUALIFICATIONS, CONTINUING EDUCATION REQUIREMENTS, AND TRAINING REQUIREMENTS FOR PERSONNEL CONDUCTING DEATH INVESTIGATIONS AND AUTOPSIES; (4) INCREASING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS WITHIN OCME DEDICATED TO PERFORMING AND ASSISTING WITH DEATH INVESTIGATIONS AND AUTOPSIES; (5) APPROPRIATING FUNDS TO IMPLEMENT THESE REFORMS; AND (6) ESTABLISHING REPORTING REQUIREMENTS TO MONITOR THE STATUS OF REFORM IMPLEMENTATION.

The General Assembly of North Carolina enacts:

PART I. ORGANIZATIONAL CHANGES

SECTION 1. G.S. 130A-377 reads as rewritten:

"§ 130A-377. Establishment and maintenance of ~~central and district offices~~ regional offices.

The Department shall establish and maintain five regional offices, including a central office, with appropriate facilities and personnel for personnel, to ensure that postmortem medicolegal examinations. ~~District offices, with appropriate facilities and personnel, may also be established and maintained if considered necessary by the Department for the proper management of postmortem examinations.~~ examinations and services are available and properly managed in all regions of the State."

SECTION 2. G.S. 130A-378 reads as rewritten:

"§ 130A-378. ~~Qualifications and appointment~~ Appointment and qualifications of the Chief Medical Examiner.

The Secretary shall appoint the Chief Medical Examiner. The Chief Medical Examiner shall be a forensic pathologist certified by the American Board of Pathology and licensed to practice medicine. The Chief Medical Examiner shall be appointed by the Secretary. In order to maintain this appointment, the Chief Medical Examiner shall fulfill the continuing education requirements of G.S. 130A-382 and carry out the duties and responsibilities set forth in this Article and as assigned by the Secretary."

SECTION 3. G.S. 130A-379 reads as rewritten:

"§ 130A-379. Duties and powers of the Chief Medical Examiner.



1 (a) The Chief Medical Examiner shall ~~perform~~ do all of the following:

2 (1) Ensure that the Office of the Chief Medical Examiner obtains and maintains
3 accreditation by the National Association of Medical Examiners or an
4 alternative national entity approved by the Secretary that accredits
5 postmortem medicolegal examination services.

6 (2) Perform postmortem medicolegal examinations as provided in this Part. The
7 Chief Medical Examiner may, upon request, provide instruction in health
8 science, legal medicine and other subjects related to ~~his~~ the duties of the
9 Chief Medical Examiner at The University of North Carolina, the North
10 Carolina Justice Academy and other institutions of higher learning.

11 (3) Perform autopsies as provided in this Part, provided, however, that the Chief
12 Medical Examiner may not perform more than 100 autopsies per year.

13 (b) Except as restricted in subdivision (a)(3) of this section, the Chief Medical
14 Examiner may assume primary responsibility for any case under the jurisdiction of the Office
15 of the Chief Medical Examiner or appoint another medical examiner to do so."

16 **SECTION 4.** G.S. 130A-380 reads as rewritten:

17 **"§ 130A-380. The Chief Medical Examiner's staff.**

18 (a) The Chief Medical Examiner ~~may~~ shall employ ~~qualified pathologists to serve as the~~
19 following staff in each of the regional offices:

20 (1) Board certified forensic pathologists, who shall perform no more than 100
21 autopsies each per year.

22 (2) ~~Associate and Assistant Medical Examiners in the central and district~~
23 ~~offices. The Associate and Assistant Medical Examiners,~~ medical examiners,
24 who shall perform duties assigned by the Chief Medical Examiner.

25 (3) Medicolegal death investigators, who shall assist the Chief Medical
26 Examiner and medical examiners in the performance of their assigned
27 duties.

28 (4) Administrative personnel, who shall provide administrative assistance to the
29 Chief Medical Examiner, medical examiners, and certified medicolegal
30 death investigators.

31 (b) ~~Forensic~~ The Chief Medical Examiner may employ forensic chemists ~~may be~~
32 employed by the Chief Medical Examiner to provide toxicological and related ~~support.~~ support
33 to the regional offices."

34 **SECTION 5.** G.S. 130A-382 reads as rewritten:

35 **"§ 130A-382. County medical examiners; ~~appointment; term of office;~~**
36 **~~vacancies.~~ qualifications, training, and continuing education.**

37 (a) ~~The Chief Medical Examiner shall appoint one or more county medical examiners~~
38 ~~for each county for a three-year term. In appointing~~ hiring ~~medical examiners for each county,~~
39 regional office, the Chief Medical Examiner shall give preference to physicians licensed to
40 practice medicine in this State but may also ~~appoint~~ hire licensed physician assistants, nurse
41 practitioners, nurses, coroners, ~~or emergency medical technician paramedics. A medical~~
42 ~~examiner may serve more than one county. The Chief Medical Examiner may take jurisdiction~~
43 ~~in any case or appoint another medical examiner to do so.~~ technician-paramedics.

44 (b) The Department shall establish annual continuing education requirements for
45 medical examiners employed by the Office of the Chief Medical Examiner. In establishing
46 these requirements, the Department shall require that at least X hours of the total required
47 continuing education hours consist of a Department-approved course specifically designed to
48 address best practices in conducting postmortem medicolegal examinations as well as a review
49 of the laws relating to the duties of a medical examiner under the North Carolina Medical
50 Examiner System. No person shall continue employment with the Office of the Medical

1 Examiner as a medical examiner unless that person completes the continuing education and
2 training requirements established by the Department pursuant to this section.

3 (c) The Department shall develop and administer a mandatory, annual in-service
4 training program for medical examiners. The in-service training program shall provide
5 refresher instruction on (i) the process for certifying deaths in this State, (ii) the process for
6 conducting postmortem medicolegal examinations in this State, including instruction on how
7 best to perform these examinations in cooperation with law enforcement officials, particularly
8 at fatal injury scenes and crime scenes, and (iii) other subjects related to the duties of a medical
9 examiner.

10 (d) Each medical examiner shall be assigned to a specific regional office, and shall
11 primarily handle cases and perform duties within that region, but may handle cases or perform
12 duties within other regions as directed by the Chief Medical Examiner. The Chief Medical
13 Examiner shall base the number of medical examiners assigned to each regional office on the
14 total population of each region."

15 **SECTION 6.(a)** Article 16 of Chapter 130A of the General Statutes is amended by
16 adding a new section to read:

17 **"§ 130A-382A. Medicolegal death investigators; duties; qualifications; certification;**
18 **continuing education.**

19 (a) The Chief Medical Examiner shall assign medicolegal death investigators to each of
20 the regional offices. Their primary responsibility shall be to assist medical examiners with
21 postmortem medicolegal examinations within their assigned region. Medicolegal death
22 investigators may assist medical examiners outside their region as directed by the Chief
23 Medical Examiner to balance workload. The Chief Medical Examiner shall base the number of
24 medicolegal death investigators assigned to each regional office on the total population of each
25 region.

26 (b) No person shall commence employment with the Office of the Chief Medical
27 Examiner as a medicolegal death investigator unless that person meets all of the following
28 qualifications:

29 (1) Is at least 21 years old.

30 (2) Provides a satisfactory criminal background report from the State Repository
31 of Criminal Histories, which shall be provided by the State Bureau of
32 Investigation upon its receiving fingerprints from the applicant. If the
33 applicant has been a resident of this State for less than five years, the
34 applicant shall provide a satisfactory criminal background report from both
35 the State and National Repositories of Criminal Histories.

36 (3) Holds an associate degree or higher in a medical field from an accredited
37 college, community college, or university or previously served as a coroner
38 in this State.

39 (c) No person shall continue employment with the Office of the Chief Medical
40 Examiner as a medicolegal death investigator unless that person successfully completes the
41 certification program established by the Department pursuant to subsection (d) of this section
42 within six months from the date of hire.

43 (d) The Department shall establish a certification program for medicolegal death
44 investigators. To obtain and maintain certification as a medicolegal death investigator under
45 this program, an applicant shall meet the following minimum requirements:

46 (1) Obtain initial board certification from the American Board of Medicolegal
47 Investigators within six months from the date of hire and maintain that
48 certification for the duration of employment with the Office of the Chief
49 Medical Examiner.

50 (2) Complete the annual in-service training requirements established pursuant to
51 G.S. 130A-380(c).

1 (3) Meet any additional requirements established by the Department."

2 **SECTION 6.(b)** Notwithstanding the provisions of G.S. 130A-382A, as enacted by
3 this act, any person hired into the position of a medicolegal death investigator between July 1,
4 2015, and July 1, 2019, who previously served as a coroner in this State, shall have two years
5 from the date of hire to successfully complete the certification program established by the
6 Department pursuant to G.S. 130A-382A(d), as amended by this act.

7 **SECTION 7.** G.S. 130A-383 reads as rewritten:

8 "**§ 130A-383. Medical examiner jurisdiction.**

9 (a) ~~Upon the death of any person resulting from violence, poisoning, accident, suicide~~
10 ~~or homicide; occurring suddenly when the deceased had been in apparent good health or when~~
11 ~~unattended by a physician; occurring in a jail, prison, correctional institution or in police~~
12 ~~eustody; occurring in State facilities operated in accordance with Part 5 of Article 4 of Chapter~~
13 ~~122C of the General Statutes; occurring pursuant to Article 19 of Chapter 15 of the General~~
14 ~~Statutes; or occurring under any suspicious, unusual or unnatural circumstance, the medical~~
15 ~~examiner of the county in which the body of the deceased is found shall be notified by a~~
16 ~~physician in attendance, hospital employee, law enforcement officer, funeral home employee,~~
17 ~~emergency medical technician, relative or by any other person having suspicion of such a~~
18 ~~death.~~ Upon the death of any person, the physician in attendance, hospital employee, law
19 enforcement officer, funeral home employee, emergency medical technician, relative, or any
20 other person having suspicion that the death occurred under any of the following circumstances
21 shall notify the regional office closest to where the body of the deceased is found:

22 (1) Death resulting from violence.

23 (2) Death resulting from poisoning.

24 (3) Death resulting from accident.

25 (4) Death resulting from suicide or homicide.

26 (5) Death occurring suddenly when the deceased had been in apparent good
27 health.

28 (6) Death unattended by a physician.

29 (7) Death occurring in a jail, prison, correctional institution, or in police
30 custody.

31 (8) Death occurring in State facilities operated in accordance with Part 5 of
32 Article 4 of Chapter 122C of the General Statutes.

33 (9) Death occurring pursuant to Article 19 of Chapter 15 of the General Statutes.

34 (10) Death occurring under any suspicious, unusual, or unnatural circumstance.

35 (a1) No person shall disturb the body at the scene of ~~such a death~~ in any of the
36 circumstances described in subsection (a) of this section until authorized by the medical
37 examiner unless in the unavailability of the medical examiner it is determined by the
38 appropriate law enforcement agency that the presence of the body at the scene would risk the
39 integrity of the body or provide a hazard to the safety of others.

40 (a2) For the limited purposes of this Part, expression of opinion that death has occurred
41 may be made by a nurse, an emergency medical technician or any other competent person in
42 the absence of a physician.

43 (b) The discovery of anatomical material suspected of being part of a human body shall
44 be reported to the medical examiner of the county in which the material is found.

45 (c) Upon completion of the investigation and in accordance with the rules of the
46 Commission, the medical examiner shall release the body to the next of kin or other interested
47 person who will assume responsibility for final disposition."

48 **SECTION 8.** G.S. 130A-385 reads as rewritten:

49 "**§ 130A-385. Duties of medical examiner and medicolegal death investigator upon receipt**
50 **of notice; reports; copies.**

1 (a) Upon receipt of a notification under G.S. 130A-383, the medical examiner or a
2 medicolegal death investigator working under the supervision of a medical examiner shall
3 report to the scene, take charge of the body, make inquiries regarding the cause and manner of
4 death, reduce the findings to writing and promptly make a full report to the Chief Medical
5 Examiner on forms prescribed for that purpose.

6 (a1) ~~The Chief Medical Examiner or the county Examiner, a medical examiner-examiner,~~
7 or a medicolegal death investigator working under the supervision of a medical examiner is
8 authorized to ~~inspect~~ do all of the following:

9 (1) Inspect and copy the medical records of the decedent whose death is under
10 investigation.

11 (2) ~~In addition, in an investigation conducted pursuant to this Article, the Chief~~
12 ~~Medical Examiner or the county medical examiner is authorized to inspect~~
13 all physical evidence and documents which may be relevant to determining
14 the cause and manner of death of the person whose death is under
15 investigation, including decedent's personal possessions associated with the
16 death, clothing, weapons, tissue and blood samples, cultures, medical
17 equipment, X rays and other medical images. ~~The Chief Medical Examiner~~
18 ~~or county medical examiner is further authorized to seek~~

19 (3) Seek an administrative search warrant pursuant to G.S. 15-27.2 for the
20 purpose of carrying out the duties imposed under this Article. In addition to
21 the requirements of G.S. 15-27.2, no administrative search warrant shall be
22 issued pursuant to this section unless the Chief Medical ~~Examiner or~~
23 ~~county Examiner, a medical examiner-examiner, or a medicolegal death~~
24 investigator submits an affidavit from the office of the district attorney in the
25 district in which death occurred stating that the death in question is not under
26 criminal investigation.

27 (a2) The Chief Medical Examiner shall provide directions as to the nature, character and
28 extent of an investigation and appropriate forms for the required reports. The facilities of the
29 ~~central and district regional~~ regional offices and their staff services shall be available to the medical
30 examiners and designated pathologists in their investigations.

31 (b) The medical examiner shall complete a certificate of death, stating the name of the
32 disease which in ~~his~~ the opinion of the medical examiner caused death. If the death was from
33 external causes, the medical examiner shall state on the certificate of death the means of death,
34 and whether, in the medical examiner's opinion, the manner of death was accident, suicide,
35 homicide, execution by the State, or undetermined. The medical examiner shall also furnish any
36 information as may be required by the State Registrar of Vital Statistics in order to properly
37 classify the death. The medical examiner shall not delegate these duties to medicolegal death
38 investigators.

39 (c) The Chief Medical Examiner shall have authority to amend a medical examiner
40 death certificate.

41 (d) A copy of the report of the medical examiner investigation may be forwarded to the
42 appropriate district attorney.

43 (e) In cases where death occurred due to an injury received in the course of the
44 decedent's employment, the Chief Medical Examiner shall forward to the Commissioner of
45 Labor a copy of the medical examiner's report of the investigation, including the location of the
46 fatal injury and the name and address of the decedent's employer at the time of the fatal injury.
47 The Chief Medical Examiner shall forward this report within 30 days of receipt of the
48 information from the medical examiner.

49 (f) If a death occurred in a facility licensed subject to Article 2 or Article 3 of Chapter
50 122C of the General Statutes, or Articles 1 or 1A of Chapter 131D of the General Statutes, and
51 the deceased was a client or resident of the facility or a recipient of facility services at the time

1 of death, then the Chief Medical Examiner shall forward a copy of the medical examiner's
2 report to the Secretary of Health and Human Services within 30 days of receipt of the report
3 from the medical examiner."
4

5 **PART II. CHANGES TO MEDICAL EXAMINER INVESTIGATION AND AUTOPSY**
6 **FEES.**

7 **SECTION 9.(a)** G.S. 130A-387 reads as rewritten:

8 "**§ 130A-387. Fees.**

9 (a) For each investigation and prompt filing of the required report, the medical
10 examiner shall receive a fee paid by the State. However, if the deceased is a resident of the
11 county in which the death or fatal injury occurred, that county shall pay the fee. The fee shall
12 be ~~one hundred dollars (\$100.00)~~ two hundred fifty dollars (\$250.00).

13 (b) The fee established in subsection (a) of this section does not apply to investigations
14 and reports completed by employees of the Office of the Chief Medical Examiner. To the
15 maximum extent possible, the Office of the Chief Medical Examiner shall use its own
16 employees to complete these investigations and required reports."

17 **SECTION 9.(b)** Section 9(a) applies to medical examiner investigations and
18 reports completed and filed on or after July 1, 2015.

19 **SECTION 9.(c)** G.S. 130A-387, as amended by this act, is repealed effective July
20 1, 2019.

21 **SECTION 10.(a)** G.S. 130A-389 reads as rewritten:

22 "**§ 130A-389. Autopsies.**

23 (a) If, in the opinion of the medical examiner investigating the case or of the Chief
24 Medical Examiner, it is advisable and in the public interest that an autopsy or other study be
25 made; or, if an autopsy or other study is requested by the district attorney of the county or by
26 any superior court judge, an autopsy or other study shall be made by the Chief Medical
27 Examiner or by a competent pathologist designated by the Chief Medical Examiner. A
28 complete autopsy report of findings and interpretations, prepared on forms designated for the
29 purpose, shall be submitted promptly to the Chief Medical Examiner. Subject to the limitations
30 of G.S. 130A-389.1 relating to photographs and video or audio recordings of an autopsy, a
31 copy of the report shall be furnished to any person upon request. A fee for the autopsy or other
32 study shall be paid by the State. However, if the deceased is a resident of the county in which
33 the death or fatal injury occurred, that county shall pay the fee. The fee shall be ~~one thousand~~
34 ~~two hundred fifty dollars (\$1,250)~~ two thousand eight hundred dollars (\$2,800).

35 (b) The fee established in subsection (a) of this section does not apply to autopsies or
36 other studies performed by employees of the Office of the Chief Medical Examiner. To the
37 maximum extent possible, the Office of the Chief Medical Examiner shall use its own
38 employees to complete these autopsies and other studies."

39 **SECTION 10.(b)** Subsection (a) of this section applies to autopsies and other
40 studies authorized by G.S. 130A-389, as amended by this act, that are completed and filed on or
41 after July 1, 2015.

42 **SECTION 10.(c)** G.S. 130A-389, as amended by this act, is repealed effective July
43 1, 2019.

44
45 **PART III. STATUS REPORT ON IMPLEMENTATION OF ORGANIZATIONAL**
46 **CHANGES.**

47 **SECTION 11.** It is the intent of the General Assembly that the Office of the Chief
48 Medical Examiner begin to implement the organizational changes set forth in this act as soon as
49 possible in order to achieve full implementation by July 1, 2019. To that end, beginning
50 January 2016, and every six months thereafter until full implementation, the Office of the Chief

1 Medical Examiner shall provide status reports to the Joint Legislative Oversight Committee on
2 Health and Human Services and the Fiscal Research Division on at least all of the following:

- 3 (1) Efforts and results regarding attainment of national accreditation pursuant to
4 G.S. 130A-382, as amended by this act.
- 5 (2) The number of filled and vacant full-time equivalent forensic pathologist
6 positions.
- 7 (3) The number of filled and vacant full-time equivalent medical examiner
8 positions.
- 9 (4) The number of filled and vacant full-time equivalent medicolegal death
10 investigator positions.
- 11 (5) The number of forensic pathology fellows at the regional autopsy centers
12 located at Wake Forest University and East Carolina University, and the
13 number of fellows retained as employees of the Office of the Chief Medical
14 Examiner following completion of the fellowship.
- 15 (6) The development of continuing education and in-service training
16 requirements for medical examiners.
- 17 (7) The development of a certification program and any training requirements
18 for medicolegal death investigators.
- 19 (8) Any obstacles or concerns regarding full implementation of these
20 organizational changes by July 1, 2019.

21 22 **PART III. APPROPRIATIONS**

23 **SECTION 12.(a)** Additional Full-Time Equivalent Positions. – There is
24 appropriated from the General Fund to the Department of Health and Human Services, Division
25 of Public Health, Office of the Chief Medical Examiner, the sum of __ (\$) for the 2015-2016
26 fiscal year and the sum of __ (\$) for the 2016-2017 fiscal year to establish the following
27 positions within the Office of the Chief Medical Examiner:

- 28 (1) The sum of __ (\$) to establish __ full-time equivalent forensic pathologist
29 positions.
- 30 (2) The sum of __ (\$) to establish __ full-time equivalent medical examiner
31 positions.
- 32 (3) The sum of __ (\$) to establish __ full-time equivalent certified medicolegal
33 death investigator positions.

34 Notwithstanding any provision of Article 16 of Chapter 130A of the General
35 Statutes or any provision of this act, the Chief Medical Examiner may initiate hiring to fill
36 these positions as soon as the funds appropriated in this subsection become available.

37 **SECTION 12.(b)** Forensic Pathologist Fellowships. – There is appropriated from
38 the General Fund to the Department of Health and Human Services, Division of Public Health,
39 Office of the Chief Medical Examiner System, the sum of __ (\$) for the 2015-2016 fiscal year
40 and the sum of __(\$ for the 2016-2017 fiscal year to establish one forensic pathologist
41 fellowship each at the State's regional autopsy centers located at Wake Forest University and
42 East Carolina University. The purpose of these fellowships is to enhance the ability of the
43 State's regional autopsy centers to recruit and retain board-certified forensic pathologists. As a
44 condition of receiving a fellowship, the recipient shall commit to practicing in one of the State's
45 regional autopsy centers for a minimum of ___ years following completion of the fellowship.

46 **SECTION 12.(c)** Increased Death Investigation Fee. – There is appropriated from
47 the General Fund to the Department of Health and Human Services, Division of Public Health,
48 Office of the Chief Medical Examiner, the sum of __ (\$) for the 2015-2016 fiscal year and the
49 sum of __ (\$) for the 2016-2017 fiscal year to increase the death investigation and report fee
50 paid by the State and counties pursuant to G.S. 130A-387, as amended by this act, from one
51 hundred dollars (\$100.00) to two hundred fifty dollars (\$250.00).

1 **SECTION 12.(d)** Increased Autopsy Fee. – There is appropriated from the General
2 Fund to the Department of Health and Human Services, Division of Public Health, Office of
3 the Chief Medical Examiner, the sum of __ (\$) for the 2015-2016 fiscal year and the sum of __
4 (\$) for the 2016-2017 fiscal year to increase the autopsy fee paid by the State and counties
5 pursuant to G.S. 130A-389, as amended by this act, from one thousand two hundred fifty
6 dollars (\$1,250) to two thousand eight hundred dollars (\$2,800).
7

8 **PART IV. EFFECTIVE DATE**

9 **SECTION 13.** Sections 6(b), 9(a), 9(b), 10(a), 10(b), 11, 12(a), 12(b), 12(c), and
10 12(d) of this act become effective July 1, 2015. The remainder of this act becomes effective
11 July 1, 2019.