

1973 Senate Bill 691

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CHAPTER 272, Laws of 1973

AN ACT to amend 35.84 (2) (figure), 59.12, 59.26, 59.34 (1) and (5), 59.35, 59.365 (4), 59.375, 59.903, 69.41, 102.13 (2), 156.12 (1), 165.75 (3) (b), 255.04 (2) (c), 295.01 (1), 340.01 (3) (h), 346.71, 885.01 (4), 885.12, 893.20 (1), 979.15, 979.19 (5) and 979.20 (title), (1) (intro.) and (3) of the statutes, relating to the medical examiner system (Revisor's Bill).

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 35.84 (2) (figure), line 59 (first column of table) of the statutes is amended to read:

35.84 (2) (figure), line 59 (first column of table). Coroners or medical examiners

SECTION 2. 59.12 of the statutes is amended to read:

59.12 County officers; terms. A county clerk, treasurer, sheriff, coroner, clerk of circuit court, district attorney, register of deeds and surveyor, who shall be a registered land surveyor, shall be elected in each county for full terms at the general election held in each even-numbered year. The regular term of office of each such officer shall commence on the first Monday of January next succeeding his election and shall continue 2 years and until his successor qualifies. In lieu of electing a surveyor in any county, the county board may, by resolution designate that the duties under ss. 59.60 and 59.635 be performed by any registered land surveyor employed by the county. In any county containing one town only, the county board may, by resolution, designate any county office a part-time position, combine 2 or more county offices, and, if concurred in by the town board, combine the offices of county clerk and town clerk and any other county and town offices, provided that the offices combined are not

incompatible and the combination is not expressly forbidden by law. If the town board so concurs, the election shall be for the combined office and no separate election for the town office shall be held until after the county board has by resolution decided to abandon such combination and the town board has concurred by resolution. In counties having a population of 500,000 or more, no county coroner or county surveyor shall be elected ~~after August 25, 1965~~. In any county in which a medical examiner system is instituted, no coroner shall be elected.

SECTION 3. 59.26 of the statutes is amended to read:

59.26 Not to act as attorney. No sheriff, undersheriff, deputy ~~or~~ coroner or medical examiner shall appear or practice as attorney in any court, draw or fill up any writ, pleading or proceeding for a party in any action, nor, with the intent to be employed in the collection of any demand or the service of any process, advise or counsel any person to commence an action or proceeding; and for violation of ~~any of the provisions of this section~~ every such officer shall forfeit not exceeding ~~fifty dollars~~ \$50.

SECTION 4. 59.34 (1) and (5) of the statutes are amended to read:

59.34 (1) Take inquest of the dead when required by law, except that in counties having a population of 500,000 or more and all counties which have instituted the medical examiner system such duty and the powers incident thereto shall be vested exclusively in the office of the medical examiner ~~hereby created~~. Appointment to such office in counties having a population of 500,000 or more shall be made by the county board of supervisors under ss. 63.01 to 63.17. In all other counties, appointment shall be made by the county board. Such office may be occupied on a full or part-time basis and shall be paid such compensation as the county board of supervisors ~~of such county may~~ by ordinance ~~provide~~ provides. The medical examiner may appoint such assistants as the county board ~~shall authorize~~ authorizes. Whenever requested by the court or district attorney, the medical examiner shall testify to facts and conclusions disclosed by autopsies performed by him, at his direction, or in his presence; shall make physical examinations and tests incident to any matter of a criminal nature up for consideration before either court or district attorney when requested so to do; shall testify as an expert for either such court or the state in all matters where such examinations or tests have been made, and perform such other duties of a pathological or medicolegal nature as may be required; and without fees or compensation other than the salary provided.

(5) ~~In counties having a population of 500,000 or more, the~~ The duties exercised by the county coroner and not vested in the medical examiner shall, ~~beginning January 2, 1967,~~ be performed by the county clerk.

SECTION 5. 59.35 of the statutes is amended to read:

59.35 Special counties; deputies and assistants; powers. (1) ~~In counties having a population of 500,000 or more, the~~ The medical examiner and his assistants shall be compensated for the performance of all their official duties by salaries fixed by the county board of supervisors, which shall be in lieu of any other compensation.

(4) ~~In any such county the~~ The medical examiner and his assistants shall have all the powers of a constable or sheriff to serve subpoenas requiring the attendance of witnesses at any inquest to be held by such medical examiner, or other orders or writs.

SECTION 6. 59.365 (4) of the statutes is amended to read:

59.365 (4) Whenever a medical examiner has been appointed ~~in counties having a population of 500,000 or more as provided in section under s. 59.34 (1), the provisions~~ of this section shall not apply in such counties, nor shall the coroner of such counties be responsible for any default or misconduct in office of such medical examiner.

SECTION 7. 59.375 of the statutes is amended to read:

59.375 (title) Coroner or medical examiner as funeral director, limitation. No coroner ~~or~~, deputy coroner, medical examiner or assistant medical examiner who is a licensed funeral director or embalmer, an owner or operator of a funeral establishment as defined in s. 156.01, or an employe of a funeral establishment, and no funeral establishment with which such coroner ~~or~~, deputy coroner, medical examiner or assistant medical examiner is associated, shall perform any of the services of a funeral director or embalmer upon the body of any person whose death is required by law to be investigated by such coroner ~~or~~, his deputy, medical examiner or assistant medical examiner. Any person who violates this section shall be fined not more than \$50.

SECTION 8. 59.903 of the statutes is amended to read:

59.903 (title) Disposition of unclaimed personal property other than money or securities held by: county institutions, coroner, medical examiner, sheriff. All personal property other than money or securities of deceased persons who at the time of their death are patients at any county institution or whose body is taken in charge by the coroner or medical examiner, shall be preserved by the superintendent of such institution or the coroner or medical examiner for one year unless sooner claimed by a person having the legal right thereto. Annually on July 1 such superintendent or coroner or medical examiner shall make a verified written report listing all such personal property which has remained in his custody for one year without being claimed and giving such facts as to ownership thereof as his records contain. He shall file such report with the sheriff of the county and deliver such property to the sheriff, who shall receipt therefor. Thereupon such superintendent or coroner or medical examiner shall be discharged from further liability for such property, title to which shall then vest in the county. Any property which is left at the county jail for a period of one year after the prisoner has been discharged, transferred or committed and any property, found or stolen, which comes into the hands of the sheriff and in any case remains unclaimed for a period of one year, shall be sold as prescribed in this section. The sheriff shall, on or before August 1 annually, post a notice in 3 public places in the county, briefly describing such property and stating that he will sell the same at public auction on a certain date and at a named place, which auction shall be held accordingly. Any of such property which ~~shall is not be~~ disposed of at such auction shall be sold for the best price obtainable, and if the same cannot be disposed of by sale, shall be destroyed in the presence of the sheriff. The sheriff shall, on or before September 1 annually, remit the proceeds of such auction or general sale to the county treasurer and shall file a verified report of his action in connection therewith. Such proceeds shall become a part of the general fund of the county.

SECTION 9. 69.41 of the statutes is amended to read:

69.41 (title) Coroner's or medical examiner's certificate. Any coroner or medical examiner who holds an inquest on the body of any deceased person or investigates the death of any deceased person under s. 979.20 may make and sign a certificate of death of such person stating the nature of the disease, or the manner of death, and if from external causes or violence whether "probably" accidental, suicidal or homicidal, as determined by the inquest or investigation; and shall furnish such information as may be required by the state registrar to classify the death. Where the cause of death

of a member of the armed forces of the United States is also investigated by competent military authority, the certified statement thereof as to cause of death may be filed with the register of deeds who shall attach such statement to the coroner's or medical examiner's certificate.

SECTION 10. 102.13 (2) of the statutes is amended to read:

102.13 (2) The department may refuse to receive testimony as to conditions determined from an autopsy if it appears ~~(a)~~ that the party offering the testimony had procured the autopsy and had failed to make reasonable effort to notify at least one party in adverse interest or the department at least 12 hours before said autopsy of the time and place it would be performed, or ~~(b)~~ that the autopsy was performed by or at the direction of the coroner or medical examiner for purposes not authorized by ch. 979. The department may ~~in its discretion~~ withhold findings until an autopsy is held in accordance with its directions.

SECTION 11. 156.12 (1) of the statutes is amended to read:

156.12 (1) No embalmer shall embalm a dead human body when he has information reasonably indicating crime in connection with the cause of death, until permission of the coroner or medical examiner has first been obtained.

SECTION 12. 165.75 (3) (b) of the statutes is amended to read:

165.75 (3) (b) The administrator and employes of the laboratory are not peace officers and shall have no power of arrest or to serve or execute criminal process, nor shall they be appointed as deputy sheriffs nor in any manner clothed with police powers by appointment or election to any office. They shall not undertake investigation of criminal conduct except upon the request of a sheriff, coroner, medical examiner, district attorney, warden or superintendent of any state prison, attorney general or governor. The head of any state department may request investigations but in such cases the services shall be limited to the field of health, welfare and law enforcement responsibility which has by statute been vested in the particular state department.

SECTION 13. 255.04 (2) (c) of the statutes is amended to read:

255.04 (2) (c) The commissioners shall furnish, upon periodic request of the sheriff, a current list of the names of persons available for jury duty in mental inquiries and reexaminations, ~~coroner's~~ inquests of the dead and for such other purposes as the sheriff is required by law to summon or select a jury, which list shall contain not less than 100 nor more than 200 names of persons drawn and apportioned under par. (a).

SECTION 14. 295.01 (1) of the statutes is amended to read:

295.01 (1) All attorneys, counselors, clerks, registers, sheriffs, medical examiners, coroners and all other persons in any manner duly elected or appointed to perform any judicial or ministerial services for any misbehavior in such office or trust or for any wilful neglect or violation of duty therein; for disobedience of any process of such court or of any lawful order thereof, or of any lawful order of a judge of such court or of any officer authorized to perform the duties of such judge.

SECTION 15. 340.01 (3) (h) of the statutes is amended to read:

340.01 (3) (h) The county board of supervisors of any county ~~can~~ may authorize the county coroners or medical examiners to use an emergency vehicle for the purpose of traveling en route to the scene of a fatal accident or a death and on such other occasions as are authorized pursuant to par. (e).

SECTION 16. 346.71 of the statutes is amended to read:

346.71 (title) Coroners or medical examiners to report; require blood specimen.

(1) Every coroner or ~~other official performing like functions~~ medical examiner shall on or before the ~~tenth~~ 10th day of each month report in writing to the division of motor vehicles the death of any person within his jurisdiction during the preceding calendar month as the result of an accident involving a motor vehicle and the circumstances of such accidents.

(2) In cases of death involving a motor vehicle in which the decedent was the operator of a motor vehicle or a pedestrian 16 years of age or older and who died within 6 hours of the time of the accident, the coroner or medical examiner shall require that a blood specimen of at least 10 cc. be withdrawn from the body of the decedent within 12 hours after his death, by the coroner or medical examiner or by a physician so designated by the coroner or medical examiner or by a qualified person at the direction of such physician. All morticians shall obtain a release from the coroner or medical examiner prior to proceeding with embalming any body coming under the scope of this section. The blood so drawn shall be forwarded to a laboratory approved by the ~~state board of health~~ department of health and social services for analysis of the alcoholic content of such blood specimen. The coroner or medical examiner causing the blood to be withdrawn shall be notified of the results of each analysis made and shall forward the results of each such analysis to the ~~state board of health~~ department of health and social services. The ~~state board of health~~ department of health and social services shall keep a record of all such examinations to be used for statistical purposes only. The cumulative results of the examinations, without identifying the individuals involved, shall be disseminated and made public by the ~~state board of health~~ department of health and social services.

SECTION 17. 885.01 (4) of the statutes is amended to read:

885.01 (4) By any arbitrator, coroner, medical examiner ~~of any county having a population of 500,000 or more~~, board, commission, commissioner, examiner, committee or other person authorized to take testimony, or by any member of a board, commission or committee which is authorized to take testimony, within their jurisdictions, to require the attendance of witnesses, and their production of documentary evidence before them, respectively, in any matter, proceeding or examination authorized by law; and likewise by the secretary of revenue and the executive secretary of the dentistry examining board and by any agent of the department of agriculture.

SECTION 18. 885.12 of the statutes is amended to read:

885.12 Coercing witnesses before officers and boards. If any person shall, without reasonable excuse, ~~fail~~ fails to attend as a witness, or to testify as lawfully required before any arbitrator, coroner, medical examiner, board, commission, commissioner, examiner, committee, or other officer or person authorized to take testimony, or to produce a book or paper which he was lawfully directed to bring, or to subscribe his deposition when correctly reduced to writing, any judge of a court of record or court commissioner in the county where the person was obliged to attend may, upon sworn proof of the facts, issue an attachment for him, and unless he shall purge the contempt and go and testify or do such other act as required by law, may commit him to close confinement in the county jail until he shall so testify or do such act, or be discharged according to law. The sheriff of the county shall execute the commitment.

SECTION 19. 893.20 (1) of the statutes is amended to read:

893.20 (1) An action against a sheriff, coroner, medical examiner, town clerk, or constable upon a liability incurred by the doing of an act in his official capacity and in

virtue of his office or by the omission of an official duty, including the nonpayment of money collected upon execution; but this subsection shall not apply to an action for an escape.

SECTION 20. 979.15 of the statutes is amended to read:

979.15 (title) Inquests. In each ~~and every~~ county whose inhabitants exceed in number 500,000 and all counties instituting a medical examiner system all the duties mentioned in the foregoing sections of this chapter shall be performed by the medical examiner appointed pursuant to s. 59.34 (1), who is hereby invested with the exclusive jurisdiction and power to take inquests therein, and in case of the inability of the medical examiner to attend to such duties the medical examiner may deputize one of his assistants to conduct the inquest.

SECTION 21. 979.19 (5) of the statutes is amended to read:

979.19 (5) ~~In counties having a population of 500,000 or more all~~ All the powers and duties granted to or imposed upon the coroner or his deputy in this section are vested in the medical examiner ~~created by~~ appointed under s. 59.34 (1), except that said medical examiner shall not be entitled to the fees provided by sub. (3).

SECTION 22. 979.20 (title), (1) (intro.) and (3) of the statutes are amended to read:

979.20 (title) Reporting deaths required; penalty; taking specimens by coroner or medical examiner. (1) (intro.) All physicians, authorities of hospitals, sanatoriums, institutions (public and private), convalescent homes, authorities of any institution of a like nature, and other persons having knowledge of the death of any person who has died under any of the following circumstances, shall immediately report such death to the sheriff, police chief, medical examiner or coroner of the county wherein such death took place, and the sheriff or police chief shall, immediately upon notification, notify the coroner or, ~~in counties having a population of 500,000 or more,~~ the medical examiner and the coroner or medical examiner of the county where death took place, if the crime, injury or event occurred in another county, shall report such death immediately to the coroner or medical examiner of that county:

(3) In all cases of death reportable under sub. (1) where an autopsy is not performed, the coroner ~~shall have the authority to~~ or medical examiner may take for analysis any and all specimens, body fluids and any other material which will assist ~~the coroner~~ him in ~~learning and~~ determining the cause of death. The specimens, body fluids and other material taken ~~by the coroner~~ under this subsection shall not be admissible in evidence in any civil action against the deceased or his estate, as the result of any act of the deceased.