

HOUSE BILL 4200

By Odom

AN ACT to amend Tennessee Code Annotated, Title 38,
Chapter 7, relative to the Post Mortem
Examination Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 38-7-102 is amended by deleting the third sentence in its entirety and substituting instead the following:

The Commissioner of Health acting for the state and with the approval of the governor and considering the recommendation made by the Tennessee Medical Examiner Advisory Council, shall appoint a chief medical examiner to direct the division or service, and such other personnel as the Commissioner may find appropriate to the enforcement of the duties and powers of this chapter. The Commissioner is authorized and empowered to spend such funds as may be appropriated for the enforcement of this chapter, and to promulgate rules through the Department of Health to establish fees for autopsies, guidelines for death investigations and forensic autopsies, and other costs and services associated with this chapter.

SECTION 2. Tennessee Code Annotated, Section 38-7-103(a) is amended by deleting the third sentence of subparagraph (a), and replacing it with the following:

In addition to the chief medical examiner's other administrative duties, the chief medical examiner's educational duties shall include developing and providing initial training and regular continuing education to all county medical examiners and medical investigators. The chief medical examiner shall be appointed to a five (5) year term, and may serve unlimited consecutive terms.

SECTION 3. Tennessee Code Annotated, Section 38-7-103, is amended by deleting the first sentence of subsection (b) and substituting it with the following new language:

(b) The Tennessee Medical Examiner Advisory Council shall recommend to the Chief Medical Examiner three (3) deputy state medical examiners, one from each grand division of the State. The Chief Medical Examiner, in consultation with the Advisory Council and with the approval of the Commissioner of Health, shall appoint the three (3) deputy state medical examiners and any assistant state medical examiners needed for regional administrative, professional and technical duties. The deputy medical examiners shall be based in one of the state forensic centers.

SECTION 4. Tennessee Code Annotated, Section 38-7-103, is amended by adding the following new language as a new subdivision (c):

(c) The chief medical examiner shall have investigative authority for certain types of death that are in the interests of the State, including mass fatality incidents (for the identification, examination and disposition of victims' remains) and instances that represent a threat to the public health and/or safety.

SECTION 5. Tennessee Code Annotated, Section 38-7-104, is amended by deleting the first sentence in subsection (a) and replacing it with the following, and deleting the third and fourth sentences in their entirety:

(a) A county medical examiner shall be appointed by the county mayor, subject to confirmation by the county legislative body, based on a recommendation from a convention of physicians resident in the county.

SECTION 6. Tennessee Code Annotated, Section 38-7-104, is amended by deleting subdivision (c) and replacing with the following language:

(c) A county medical examiner shall serve a five (5) year term, and shall be eligible for reappointment by the county mayor with confirmation by the county legislative body.

SECTION 7. Tennessee Code Annotated, Section 38-7-104, is amended by deleting subparagraph (e).

SECTION 8. Tennessee Code Annotated, Section 38-7-104, is amended by deleting the first sentence of subdivision (f) and replacing it with the following language:

(f) The county medical examiner may be suspended by the county mayor for good cause, which shall include, but not be limited to, malfeasance in the performance of the duties of a county medical examiner, criminal conduct, or behavior that is unethical in nature or that is in violation of a relevant code of professional medical responsibility.

SECTION 9. Tennessee Code Annotated, Section 38-7-104, is amended by deleting the first sentence of subdivision (g)(1) and replacing the second sentence with the following language:

A medical investigator shall be a licensed emergency medical technician (EMT), paramedic, registered nurse, physician's assistant or a person registered by or a diplomat of the American Board of Medicolegal Death Investigators and approved by the county medical examiner as qualified to serve as medical investigator.

SECTION 10. Tennessee Code Annotated, Section 38-7-104, is amended by adding a new subdivision:

() County medical examiners and medical investigators shall be required to receive initial training and regular continuing education through the Chief Medical Examiner and to operate according to the death investigation guidelines adopted by the Department of Health.

SECTION 11. Tennessee Code Annotated, Section 38-7-105, is amended by deleting that section in its entirety and replacing it with the following new language:

(a) All autopsies must be performed at a facility accredited by the National Association of Medical Examiners (NAME). A facility must receive accreditation from the

NAME within one year of the effective date of this act, maintain that accreditation, and operate pursuant to NAME guidelines.

SECTION 12. Tennessee Code Annotated, Section 38-7-106, is amended by deleting the first two sentences in subdivision (a) and replacing it with the following language:

(a) A county medical examiner may perform or order an autopsy on the body of any person in a case involving a homicide; suspected homicide; a suicide; a violent, unnatural or suspicious death; an unexpected apparent natural death in an adult; sudden unexpected infant and child deaths; deaths believed to represent a threat to public health or safety; and executed prisoners. When the county medical examiner decides to order an autopsy, the county medical examiner shall notify the district attorney general and the chief medical examiner. The chief medical examiner or the district attorney general may order an autopsy in such cases on the body of a person in the absence of the county medical examiner or if the county medical examiner has not ordered an autopsy.

SECTION 13. Tennessee Code Annotated, 38-7-108, is amended by deleting subdivision (a) in its entirety, and substituting the following language:

(a) Any physician, undertaker, law enforcement officer, or other person having knowledge of the death of any person from violence or trauma of any type, suddenly in apparent health, sudden unexpected death of infants and children, deaths of prisoners or persons in state custody, deaths on the job or related to employment, deaths believed to represent a threat to public health, deaths where neglect or abuse of extended care residents are suspected or confirmed, deaths where the identity of the person is unknown or unclear, deaths in any suspicious/unusual/unnatural manner, found dead, or where the body is to be cremated, shall immediately notify the county medical examiner or the district attorney general, the local police or the county sheriff,

who in turn shall notify the county medical examiner. Such notification shall be directed to the county medical examiner in the county in which the death occurred.

SECTION 14. Tennessee Code Annotated, 38-7-109, is amended by deleting subdivision (a) in its entirety:

(a) When a death is reported as provided in § 37-8-108, it is the duty of the county medical examiner in the county in which the death occurred to immediately make an investigation of the circumstances of the death. The county medical examiner shall record and store the findings, and transmit copies according to the death investigation guidelines developed by the Tennessee Medical Examiner Advisory Council. In any event the county medical examiner is authorized to remove from the body of the deceased a specimen of blood or other body fluids, or bullets or other foreign objects, and retain such for testing and/or evidence if in the county medical examiner's judgment these procedures are justified in order to complete the county medical examiner's investigation or autopsy.

SECTION 15. Tennessee Code Annotated, 38-7-109, is amended by deleting the second sentence of subdivision (b).

SECTION 16. Tennessee Code Annotated, 38-7-109, is amended by deleting subdivision (c) in its entirety.

SECTION 17. Tennessee Code Annotated, 38-7-110, is amended in subdivision (a) and (b) by deleting the language "crime laboratory of the bureau" and "bureau of investigation" and substituting the language "testing laboratory" instead.

SECTION 18. Tennessee Code Annotated, 38-7-110, is amended by deleting the second sentence of subdivision (c), and substituting the following:

c) Medical records of deceased persons, law enforcement investigative reports, and photographs, video and other images of deceased persons shall not be public records.

SECTION 19. Tennessee Code Annotated, 38-7-111, is amended by deleting that section in its entirety.

SECTION 20. Tennessee Code Annotated, 38-7-114, is amended by deleting that section in its entirety.

SECTION 21. Tennessee Code Annotated, 38-7-115, is amended by deleting that section in its entirety.

SECTION 22. Tennessee Code Annotated, 38-7-116, is amended by deleting that section in its entirety.

SECTION 23. Tennessee Code Annotated, Title 38, Chapter 7, is amended by adding the following new Part thereto:

38-7-201

There is hereby created the Tennessee Medical Examiner Advisory Council. The council shall consist of nine (9) members, each of whom shall be a resident of this state. Two permanent members of the council will be the Director of the Tennessee Bureau of Investigation, and the Commissioner of Health or his or her designee. The Governor would appoint one (1) District Attorney General, one (1) District Public Defender, three (3) county Medical Examiners (one from each grand division of Tennessee), one (1) licensed funeral director, and one (1) member of the clergy and one (1) public citizen to the council. All regular appointments to the council shall be for terms of three (3) years each, with a maximum of two (2) consecutive terms. Each member shall serve until a successor is appointed. Vacancies shall be filled by appointment of the governor for the remainder of the unexpired term. Each member of the council shall receive reimbursement for travel expenses in accordance with the provisions of the comprehensive travel regulations promulgated by the department of finance and administration and approved by the attorney general and reporter. The council shall

organize annually and select a chair and other officers as needed. Meetings shall be held at least annually with additional meetings as frequently as may be required. The council shall have the power and duty: To review candidates make a recommendation to the Commissioner of Health on the appointment of the Chief Medical Examiner and deputy state medical examiners; Assist the Chief Medical Examiner in the development and updating of guidelines for death investigations and forensic autopsies in Tennessee, to be promulgated as rules through the Department of Health; and Issue an annual report on death investigations in Tennessee.

SECTION 24. This act shall take effect on July 1, 2008, the public welfare requiring it.