

HOUSE BILL NO. 520

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Introduced: 2/16/96

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to death investigations and inquests, coroners, public
2 administrators, and medical examiners, including the state medical examiner;
3 relating to the jurisdiction of district court judges and magistrates in certain cases
4 involving death."

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * **Section 1.** AS 09.55 is amended by adding new sections to read:

7 **ARTICLE 2A. INQUESTS.**

8 Sec. 09.55.062. DEATH INQUESTS. Upon petition by the state medical
9 examiner or a state prosecutor, a judicial officer shall conduct proceedings under
10 AS 09.55.062 - 09.55.069 to determine the cause and manner of a person's death. The
11 prosecutor shall present the evidence in the death inquest and assist the court in
12 instructing the jury and conducting the inquest only when the inquest is based on a
13 petition filed by the prosecutor or when the prosecutor requests to participate in the
14 proceedings.

1 Sec. 09.55.064. JURORS FOR INQUEST. (a) When a death inquest is to be
2 held under AS 09.55.062 - 09.55.069, the judicial officer shall promptly summon six
3 persons qualified by law to serve as jurors to appear before the court.

4 (b) When six jurors attend as required under (a) of this section, they shall be
5 sworn by the court to

6 (1) inquire into the identity of the deceased, and when, where, and by
7 what means the person died;

8 (2) inquire into the circumstances attending the death; and

9 (3) give a true verdict according to the evidence.

10 Sec. 09.55.066. SUBPOENA AND EXAMINATION OF WITNESSES. The
11 judicial officer or a prosecuting attorney may, when necessary to determine the
12 material facts relating to the death, subpoena and examine witnesses for a proceeding
13 under AS 09.55.062 - 09.55.069.

14 Sec. 09.55.068. VERDICT OF INQUEST JURY. After hearing the testimony,
15 the jury or two thirds of its number shall give its written verdict, signed and setting
16 out

17 (1) the name of the deceased and when, where, and by what means the
18 deceased died; and

19 (2) whether the deceased was killed or the death was occasioned by the
20 act of another by criminal means.

21 Sec. 09.55.069. COMPENSATION AND EXPENSES ALLOWED. The
22 members of the jury and witnesses in an inquest under AS 09.55.062 - 09.55.069 are
23 entitled to the same compensation as in civil actions in a district court, and the
24 compensation and other incidental expenses shall be audited and allowed as in the case
25 of other similar expenses. When the judicial officer has submitted the petition to a
26 jury in compliance with AS 09.55.062 and there is no interested party or an estate
27 from which the costs of the proceedings can be audited and allowed, then the costs
28 shall be paid from the "relief fund" created by the laws dealing with lost persons, upon
29 vouchers made out, signed, and sworn to by the judicial officer.

30 * **Sec. 2.** AS 12.65 is amended by adding a new section to read:

31 Sec. 12.65.005. DUTY TO NOTIFY STATE MEDICAL EXAMINER. (a)

1 Unless the person has reasonable grounds to believe that notice has already been given,
2 a person who attends a death or has knowledge of a death, in addition to notifying a
3 peace officer, shall immediately notify the state medical examiner when the death
4 appears to have

5 (1) been caused by unknown or criminal means, during the commission
6 of a crime, or by suicide, accident, or poisoning;

7 (2) occurred under suspicious or unusual circumstances or occurred
8 suddenly when the decedent was in apparent good health;

9 (3) been unattended by a practicing physician or occurred less than 24
10 hours after the deceased was admitted to a medical facility;

11 (4) been associated with a diagnostic or therapeutic procedure;

12 (5) resulted from a disease that constitutes a threat to public health;

13 (6) been caused by a disease, injury, or toxic agent resulting from
14 employment;

15 (7) occurred in a jail or corrections facility owned or operated by the
16 state or a political subdivision of the state or in a facility for the placement of persons
17 in the custody or under the supervision of the state;

18 (8) occurred in a foster home;

19 (9) occurred in a mental institution or mental health treatment facility;

20 or

21 (10) occurred while the deceased was in the custody of, or was being
22 taken into the custody of, the state or a public officer or agent of the state.

23 (b) A person who attends a death or has knowledge of a death occurring in
24 circumstances other than those enumerated in (a) of this section may notify the state
25 medical examiners of the death if, in the person's opinion, a death investigation under
26 AS 12.65.020 - 12.65.025 may be appropriate.

27 (c) The body of a person whose death has been or should be reported to the
28 state medical examiner under this section may not be moved or otherwise disturbed
29 without the permission of the state medical examiner.

30 * **Sec. 3.** AS 12.65.015(a) is amended to read:

31 (a) **The** [IN ADDITION TO APPOINTING MEDICAL EXAMINERS

1 UNDER AS 12.65.010, THE] commissioner of health and social services shall **appoint**
2 **a** [ESTABLISH IN THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES
3 THE POSITION OF] state medical examiner **to perform the duties set out in**
4 **AS 12.65.015 - 12.65.025**. The state medical examiner is in the exempt service under
5 AS 39.25.110.

6 * **Sec. 4.** AS 12.65.015 is amended by adding a new subsection to read:

7 (d) The state medical examiner may appoint local, regional, and district
8 medical examiners throughout the state to perform or assist in performing the duties
9 assigned to the state medical examiner. The state medical examiner may appoint any
10 number and designate them to serve the areas that, in the opinion of the state medical
11 examiner, the administration of justice requires. To be eligible for the position of
12 medical examiner under this subsection, a person must be a physician licensed to
13 practice in this state or, if the physician is licensed in another jurisdiction, the
14 physician must be employed by the state or by an agency of the United States
15 government within the state. An appointment under this subsection may be for a term
16 of up to two years.

17 * **Sec. 5.** AS 12.65.020 is repealed and reenacted to read:

18 Sec. 12.65.020. MEDICAL DEATH INVESTIGATIONS. (a) When a death
19 is reported to the state medical examiner under AS 12.65.005, or when a person dies
20 under circumstances that, in the opinion of the state medical examiner, warrant an
21 investigation, the state medical examiner may perform a medical death investigation.
22 In performing the investigation, the state medical examiner may

- 23 (1) order that the body of the person who has died not be moved or
24 otherwise disturbed without the permission of the medical examiner;
- 25 (2) direct a peace officer to secure the scene and perform an on-scene
26 investigation;
- 27 (3) view the remains of the deceased person;
- 28 (4) order the remains of the deceased to be transported to another
29 location;
- 30 (5) perform a post mortem examination;
- 31 (6) perform an autopsy;

1 (7) take possession of property considered necessary for the
2 investigation;

3 (8) subpoena and examine a person or record necessary in the opinion
4 of the medical examiner to determine the material facts relating to the death; and

5 (9) take other actions appropriate under the circumstances to determine
6 the cause and manner of death.

7 (b) When the state medical examiner has completed an investigation or made
8 the inquiry considered appropriate by the examiner, the examiner shall prepare a report
9 of the examiner's findings and conclusions. If the findings and conclusions indicate
10 that the death may have been caused by criminal means, the state medical examiner
11 shall submit a copy of the report to the district attorney responsible for prosecutions
12 in the location where the death occurred. The state medical examiner's investigative
13 report is a privileged and confidential document, not subject to public disclosure under
14 AS 09.25. It may be disclosed to public officers and employees for a public purpose
15 and, when doing so will not interfere with an ongoing investigation or prosecution, to
16 a person who is related to the deceased or who has a financial or personal interest in
17 the estate of the deceased person.

18 (c) The state medical examiner or a prosecuting attorney may petition the court
19 to hold a death inquest under AS 09.55.062 if the findings and conclusions of the state
20 medical examiner, in the opinion of the state medical examiner or prosecuting attorney,
21 warrant the inquest. Otherwise, the state medical examiner shall cause a certificate of
22 death for the deceased person to be completed and filed as prescribed by law.

23 (d) The state medical examiner may direct the state registrar of vital statistics
24 to amend a death certificate when, in the opinion of the state medical examiner, the
25 death certificate is incomplete or inaccurate.

26 (e) The state medical examiner may enter into agreements for services to be
27 performed by persons in the course of medical investigations and may call upon public
28 employees, including a peace officer or a village public safety officer, to perform or
29 assist in performing the duties specified in this section.

30 (f) The state medical examiner is immune from civil liability based on
31 determining the cause and manner of a person's death.

1 (g) The Department of Health and Social Services shall adopt regulations to
2 implement this section.

3 * **Sec. 6.** AS 12.65.025(a) is amended to read:

4 (a) The **state medical examiner** [COMMISSIONER OF HEALTH AND
5 SOCIAL SERVICES] shall designate the facilities at which post mortem examinations
6 and autopsies ordered under this chapter may be performed. The Department of Health
7 and Social Services shall pay the costs of

8 (1) post mortem examinations and autopsies ordered under this chapter;

9 (2) related transportation **to the location where the post mortem**
10 **examination is conducted and then to the community closest to where the death**
11 **occurred, except that transportation costs to another requested location may be**
12 **paid to the extent that the costs do not exceed the costs of returning the body to**
13 **the community closest to where the death occurred;**

14 (3) embalming required by law; and

15 (4) cosmetology necessary to make the head, face, neck, and hands of
16 the deceased presentable if those parts of the body are disfigured by the **post mortem**
17 **examination** [AUTOPSY].

18 * **Sec. 7.** AS 12.65.100 is amended to read:

19 Sec. 12.65.100. UNCLAIMED BODIES. When a person dies and no person
20 appears to claim the body for burial, and no provision is made for the body under
21 AS 13.50, the [CORONER SHALL NOTIFY THE] Department of Health and Social
22 Services, **upon notification,** [WHICH] shall **request a court order authorizing**
23 [CAUSE] the body to be plainly and decently buried or cremated and the remains
24 decently interred. **A judicial officer shall issue the requested order upon the sworn**
25 **testimony or statement of a representative of the Department of Health and Social**
26 **Services that a person has not appeared to claim the body for burial and**
27 **provision is not made for the body under AS 13.50.**

28 * **Sec. 8.** AS 12.65.110 is amended to read:

29 Sec. 12.65.110. INVENTORY AND DISPOSITION OF PROPERTY. If a
30 body is unclaimed as described in AS 12.65.100 and money or other property
31 belonging to the deceased is found, the **public administrator** [CORONER] shall

1 inventory it [FOR THE CORONER'S RECORDS] and take it into possession [. THE
2 CORONER SHALL, WITHIN 30 DAYS AFTER INTERMENT, TRANSMIT A
3 CERTIFIED COPY OF THE INVENTORY AND THE MONEY OR PROPERTY TO
4 THE PUBLIC ADMINISTRATOR OF THAT JUDICIAL DISTRICT] for disposition
5 under AS 13.16.335 or 13.16.700 [AS 22.15.320].

6 * **Sec. 9.** AS 13.16 is amended by adding a new section to article 6 to read:

7 Sec. 13.16.335. PUBLIC ADMINISTRATOR. (a) The commissioner of
8 health and social services shall appoint a public administrator to administer the estate
9 of a deceased person under this section.

10 (b) When letters of administration are issued to a public administrator by the
11 superior court in the district, the public administrator is the legal custodian of, and
12 shall administer the estate of, a deceased person who leaves property within the
13 district. Letters of administration shall be issued to the public administrator when (1)
14 administration of a decedent's estate is required by law, and (2) a period of 30 days
15 has elapsed from the date of death with no letters testamentary or letters of
16 administration having been applied for and issued to another person entitled by law to
17 administer the estate of the deceased person. Except as otherwise provided in this
18 section, a public administrator shall administer estates as other administrators, and has
19 all the rights and authority, and is subject to all the duties and liabilities, of other
20 administrators.

21 (c) Before administering an estate, the public administrator shall execute and
22 file with the court system a surety bond in the form and amount to be determined by
23 the court.

24 (d) A public administrator is entitled to compensation in an amount to be
25 determined by the Department of Health and Social Services and is not entitled to fees
26 as other administrators.

27 * **Sec. 10.** AS 18.50.230(d) is amended to read:

28 (d) When a death occurs without medical attendance, or when official inquiry
29 is required, the department shall provide by regulation, in accordance with law, the
30 responsibility for completing and signing the medical certification. This subsection is
31 intended to include, among others, cases involving a medical examiner [OR A

1 CORONER,] and cases involving presumption of death.

2 * **Sec. 11.** AS 22.15.030(a) is amended to read:

3 (a) The district court has jurisdiction of civil cases, including foreign
4 judgments filed under AS 09.30.200 and arbitration proceedings under AS 09.43.170,
5 as follows:

6 (1) for the recovery of money or damages when the amount claimed
7 exclusive of costs, interest, and attorney fees does not exceed \$50,000;

8 (2) for the recovery of specific personal property, when the value of
9 the property claimed and the damages for the detention do not exceed \$50,000;

10 (3) for the recovery of a penalty or forfeiture, whether given by statute
11 or arising out of contract, not exceeding \$50,000;

12 (4) to give judgment without action upon the confession of the
13 defendant for any of the cases specified in this section, except for a penalty or
14 forfeiture imposed by statute;

15 (5) for establishing the fact of death **or cause and manner of death**
16 of any person in the manner prescribed in **AS 09.55.020 - 09.55.069** [AS 09.55.020 -
17 09.55.060];

18 (6) for the recovery of the possession of premises in the manner
19 provided under AS 09.45.070 - 09.45.160 when the value of the arrears and damage
20 to the property does not exceed \$50,000;

21 (7) for the foreclosure of a lien when the amount in controversy does
22 not exceed \$50,000;

23 (8) for the recovery of money or damages in motor vehicle tort cases
24 when the amount claimed exclusive of costs, interest, and attorney fees does not
25 exceed \$50,000;

26 (9) over civil actions for taking utility service and for damages to or
27 interference with a utility line filed under AS 42.20.030;

28 (10) over cases involving injunctive relief for domestic violence under
29 AS 25.35.010 and 25.35.020.

30 * **Sec. 12.** AS 22.15.100 is amended to read:

31 Sec. 22.15.100. FUNCTIONS AND POWERS OF DISTRICT JUDGE AND

1 MAGISTRATE. Each district judge and magistrate has the power

2 (1) to issue writs of habeas corpus for the purpose of inquiring into the
3 cause of restraint of liberty, returnable before a judge of the superior court, and the
4 same proceedings shall be had on the writ as if it had been granted by the superior
5 court judge under the laws of the state in such cases;

6 (2) of a notary public;

7 (3) to issue marriage licenses and to solemnize marriages;

8 (4) to issue warrants of arrest, summons, and search warrants according
9 to manner and procedure prescribed by law and the supreme court;

10 (5) to act as an examining judge or magistrate in preliminary
11 examinations in criminal proceedings; to set, receive, and forfeit bail and to order the
12 release of defendants under bail;

13 (6) to act as a referee in matters and actions referred to the judge or
14 magistrate by the superior court, with all powers conferred upon referees by laws;

15 (7) of the superior court in all respects including but not limited to
16 contempts, attendance of witnesses, and bench warrants;

17 (8) to order the temporary detention of a minor, or take other action
18 authorized by law or rules of procedure, in cases arising under AS 47.10, when the
19 minor is in a condition or surrounding dangerous or injurious to the welfare of the
20 minor or others that requires immediate action; the action may be continued in effect
21 until reviewed by the superior court in accordance with rules of procedure governing
22 these cases;

23 (9) to issue a temporary order for injunctive relief in cases involving
24 domestic violence as provided in AS 25.35.010 and 25.35.020;

25 (10) to review an administrative revocation of a person's driver's
26 license or nonresident privilege to drive, and an administrative refusal to issue an
27 original license, when designated as a hearing officer by the commissioner of public
28 safety and with the consent of the administrative director of the state court system;

29 **(11) to establish the fact of death or inquire into the death of a**
30 **person in the manner prescribed under AS 09.55.020 - 09.55.069.**

31 * Sec. 13. AS 22.15.110(a) is amended to read:

- 1 (a) Each district judge and magistrate shall
2 (1) [PERFORM THE DUTIES AND EXERCISE THE AUTHORITY
3 OF CORONER AS PRESCRIBED BY LAW;
4 (2)] record birth, death, and marriage certificates presented to them for
5 record in the manner prescribed by law; **and**
6 **(2) authorize the burial or disposition of bodies under AS 12.65.100**
7 [(3) TAKE CUSTODY AND CONTROL OF AND PRESERVE THE
8 PROPERTY AND ESTATE OF DECEASED PERSONS UNTIL A LEGAL
9 CUSTODIAN IS APPOINTED;
10 (4) REPEALED].

11 * **Sec. 14.** AS 36.30.850(b) is amended to read:

12 (b) This chapter applies to every expenditure of state money by the state,
13 acting through an agency, under a contract, except that this chapter does not apply to

- 14 (1) grants;
15 (2) contracts for professional witnesses to provide for professional
16 services or testimony relating to existing or probable lawsuits in which the state is or
17 may become a party;
18 (3) contracts of the University of Alaska where the work is to be
19 performed substantially by students enrolled in the university;
20 (4) contracts for medical doctors and dentists;
21 (5) acquisitions or disposals of real property or interest in real property,
22 except as provided in AS 36.30.080 and 36.30.085;
23 (6) disposals under AS 38.05;
24 (7) contracts for the preparation of ballots under AS 15.15.030;
25 (8) acquisitions or disposals of property and other contracts relating to
26 airports under AS 02.15.070, 02.15.090, 02.15.091, and AS 44.88;
27 (9) disposals of obsolete property under AS 19.05.060;
28 (10) disposals of obsolete material or equipment under AS 35.20.060;
29 (11) agreements with providers of services under AS 44.47.250;
30 AS 47.07; AS 47.08; AS 47.10; AS 47.17; AS 47.24; AS 47.25.195, and 47.25.310;
31 (12) contracts of the Department of Fish and Game for flights that

1 involve specialized flying and piloting skills and are not point-to-point;

2 (13) purchases of income-producing assets for the state treasury or a
3 public corporation of the state;

4 (14) operation of the state boarding school established under AS 14.16
5 [,] if the State Board of Education or the commissioner of education adopts regulations
6 for use by the state boarding school in procurement and contracting;

7 (15) a contract that is a delegation, in whole or in part, of investment
8 powers held by the commissioner of revenue under AS 14.40.400, AS 14.42.200,
9 14.42.210, AS 18.56.095, AS 37.10.070, 37.10.071, or AS 37.14;

10 (16) a contract that is a delegation, in whole or in part, of investment
11 powers or fiduciary duties of

12 (A) the Board of Trustees of the Alaska Permanent Fund
13 Corporation under AS 37.13;

14 (B) the Alaska Mental Health Trust Authority under
15 AS 37.14.001 - 37.14.099;

16 (17) the purchase of books, book binding services, newspapers,
17 periodicals, audio-visual materials, network information services access, approval plans,
18 professional memberships, archival materials, objects of art, and items for museum or
19 archival acquisition having cultural, historical, or archaeological significance; in this
20 paragraph,

21 (A) "approval plans" means book selection services in which
22 current book titles meeting an agency's customized specifications are provided
23 to the agency subject to the right of the agency to return those books that do
24 not meet with the agency's approval;

25 (B) "archival materials" means the noncurrent records of an
26 agency that are preserved after appraisal because of their value;

27 (C) "audio-visual materials" means nonbook prerecorded
28 materials, including records, tapes, slides, transparencies, films, filmstrips,
29 cassettes, videos, compact discs, laser discs, and items that require the use of
30 equipment to render them usable;

31 (D) "network information services" means a group of resources

1 from which cataloging information, holdings records, inter-library loans,
2 acquisitions information, and other reference resources can be obtained;

3 (18) contracts for the purchase of standardized examinations for
4 licensure under AS 08;

5 (19) contracts for home health care provided under regulations adopted
6 by the Department of Health and Social Services and for adult residential care services
7 provided under regulations adopted by the Department of Health and Social Services
8 or by the Department of Administration;

9 (20) contracts for supplies or services for research projects funded by
10 money received from the federal government or private grants;

11 (21) guest speakers or performers for an educational or cultural activity;

12 (22) contracts of the Alaska Industrial Development and Export
13 Authority for a clean coal technology demonstration project that

14 (A) is attempting to develop a coal-fired electric generation
15 project;

16 (B) uses technology that is capable of commercialization during
17 the 1990's; and

18 (C) qualifies for federal financial participation under P.L. 99 -
19 190, as amended;

20 (23) disposals of supplies acquired through foreclosure of loans issued
21 under AS 03.10;

22 (24) purchases of curatorial and conservation services to maintain,
23 preserve, and interpret

24 (A) objects of art; and

25 (B) items having cultural, historical, or archaeological
26 significance to the state;

27 (25) acquisition of confidential seismic survey data necessary for pre-
28 sale oil and gas lease analyses under AS 38.05.180;

29 (26) contracts for village public safety officers;

30 (27) purchases of supplies and services to support the operations of the
31 Alaska state troopers or the division of fish and wildlife protection if the procurement

1 officer for the Department of Public Safety makes a written determination that
2 publicity of the purchases would jeopardize the safety of personnel or the success of
3 a covert operation;

4 (28) expenditures when rates are set by law or ordinance;

5 (29) construction of new vessels by the Department of Transportation
6 and Public Facilities for the Alaska marine highway system;

7 (30) contracts entered into with a regional development organization;
8 in this paragraph, "regional development organization" has the meaning given in
9 AS 44.33.026;

10 (31) contracts that are to be performed in an area outside of the country
11 and that require a knowledge of the customs, procedures, rules, or laws of the area; or

12 (32) contracts that are between the Department of Law and attorneys
13 who are not employed by the state and that are for the review or prosecution of
14 possible violations of the criminal law of the state in situations where the attorney
15 general concludes that an actual or potential conflict of interest makes it inappropriate
16 for the Department of Law to review or prosecute the possible violations;

17 (33) contracts between the Department of Natural Resources and
18 contractors qualified to evaluate hydrocarbon development, production, transportation,
19 and economics, to assist the commissioner of natural resources in evaluating
20 applications for oil and gas royalty increases or decreases or other oil and gas royalty
21 adjustments, and evaluating the related financial and technical data, entered into under
22 AS 38.05.180(j);

23 **(34) contracts between a public administrator appointed under**
24 **AS 13.16.335 and a lawyer or a law firm retained to represent the public**
25 **administrator in the administration of the estate.**

26 * Sec. 15. AS 12.65.010, 12.65.030, 12.65.040, 12.65.050, 12.65.060, 12.65.070, 12.65.080,
27 12.65.090; AS 22.15.120(a)(10), 22.15.310, 22.15.320, 22.15.330, 22.15.340, and 22.15.350
28 are repealed.