

Introduced: 3/1/68
Referred: Judiciary and
Local Government

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE
BY REQUEST

2 HOUSE BILL NO. 653

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act creating the offices of coroner and public
7 administrator in the boroughs."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 07.15 is amended by adding a new section to read:

10 Sec. 07.15.365. POWER TO PROVIDE SERVICES OF CORONERS AND PUBLIC
11 ADMINISTRATORS. All organized boroughs have power to make provision on
12 an areawide basis for the exercise of the powers and duties of coroners
13 and of public administrators in the manner and to the extent required
14 by law and to secure personnel, services and physical facilities for
15 the exercise of these functions, including burial of unclaimed bodies
16 and custody and disposition in accordance with law of unclaimed property
17 found upon deceased persons.

18 * Sec. 2. AS 07.25 is amended by adding new sections to read:

19 Sec. 07.25.110. APPOINTMENT OF CORONERS AND PUBLIC ADMINISTRATORS.
20 In all organized boroughs having a population of 25,000 or more the
21 borough chairman shall, and in organized boroughs having a population of
22 less than 25,000 the borough chairman may, appoint a coroner and a public
23 administrator to serve as officers of the borough on an areawide basis.

24 Sec. 07.25.120. QUALIFICATIONS OF CORONERS AND PUBLIC ADMINISTRA-
25 TORS. Coroners and public administrators must be citizens of the United
26 States, residents of Alaska and be at least 21 years of age.

27 Sec. 07.25.130. COMBINATION OF OFFICE OF CORONER AND PUBLIC
28 ADMINISTRATOR. The borough chairman may consolidate the duties and
29 functions of the coroner and the public administrator by appointing one

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person for filling both offices.

Sec. 07.25.140. BOND OF CORONER AND OF PUBLIC ADMINISTRATOR.
The person or persons appointed to fill the office of coroner and of public administrator shall give bond in the amount and with surety as particularly prescribed by the assembly with regard to the nature and extent of the responsibilities of the office. The premiums on the bonds shall be paid by the borough.

Sec. 07.25.150. OTHER PROVISIONS APPLICABLE. The provisions contained in AS 07.25.070, 07.25.090 and 07.25.100 are applicable to the positions of coroner and public administrator.

Sec. 07.25.160. DUTIES OF CORONER. The coroner shall conduct inquests into causes of death and exercise all authorities and perform all duties of his office in the manner and to the extent provided under AS 12.65.010 - 12.65.110.

Sec. 07.25.170. UNAVAILABILITY OF CORONER. In case of unavailability of the coroner, the duties of his office may be performed by the public administrator and if no coroner or public administrator is available, the duties of his office may be performed by any district judge or magistrate in the borough.

Sec. 07.25.180. POST AUDIT OF CORONER'S ACCOUNT. The provisions of AS 07.20.150 are applicable to the office of coroner. Before auditing and allowing the account of the coroner the assembly shall require from him a verified statement in writing accounting for all money or property found upon persons on whom inquests have been held by him and that the money or property so found has been delivered to the legal representative of the deceased, the public administrator as ex-officio conservator or to the superior court.

Sec. 07.25.190. PUBLIC ADMINISTRATOR AS EX-OFFICIO CONSERVATOR OF DECEASED PERSONS' PROPERTY. The public administrator shall be the

1 ex-officio conservator of the borough, and in this capacity shall take
2 immediate custody of the property within the borough of deceased persons
3 in danger of being wasted, uncared for or lost, pending the appointment
4 of a special administrator or legal representative.

5 **Sec. 07.25.200. PUBLIC ADMINISTRATOR AS LEGAL REPRESENTATIVE.**

6 Whenever, in proper cases, letters of administration have been issued to
7 the public administrator for the estate of a deceased person, he shall
8 perform the duties and be subject to the liabilities of a legal represen-
9 tative and exercise all the powers conferred upon a legal representative
0 with regard to the administration, settlement and distribution of estate
11 of deceased persons.

12 **Sec. 07.25.210. APPLICATION FOR LETTERS.** Whenever the public ad-
13 ministrator is in charge of property in the borough of a deceased person
14 who has no known heirs when no representative has been appointed or if he
15 obtains knowledge of the presence of property in the borough of a deceased
16 person who has no known heirs when no representative has been appointed
17 he shall immediately apply to the superior court for letter of administra-
18 tion on like proceedings as letters are applied for by other persons.

19 **Sec. 07.25.220. INFORMATION TO BE FURNISHED BY OFFICERS.** All
20 peace officers of the state, and all officers of the state or the borough
21 must promptly inform the public administrator of all property known to
22 them, belonging to a decedent without known heirs, which is liable to
23 loss, injury or waste for possible lack of preservation.

24 **Sec. 07.25.230. POST-AUDIT.** The provisions of AS 07.20.150 are
25 applicable to the office of public administrator.

26 **Sec. 07.25.240. CONFLICT OF INTEREST.** The public administrator
27 must have no personal direct or indirect interest in any expenditure
28 made on account of an estate he administers in his official capacity
29 or have or acquire any personal direct or indirect interest in

1 property of the estate or in a transaction incident to the settlement
2 and distribution of the estate.

3 Sec. 07.25.250. REPORT OF PUBLIC ADMINISTRATOR. The public
4 administrator must return to the assembly once every six months a
5 verified report of all estates of decedents which have come into his
6 custody as conservator or for which letters have been issued to him
7 during the six month period, stating the value of each estate, the
8 money which has been received from or on account of each estate, the
9 amount and nature of expenses incurred in each estate, the status of
10 administration and of settlement of each estate and the balance, if
11 any, in each estate remaining in his hands. He must attach an affidavit
12 to each report stating that he has no personal direct or indirect
13 interest in any of the expenditures or property of each estate so pre-
14 served or administered. One copy of the report must be filed with the
15 files in each estate so reported in the superior court. The public
16 administrator must publish the report three times during three con-
17 secutive weeks in a newspaper of general circulation published in the
18 borough. If no newspaper is published in the borough, the report must
19 be posted in three public places for a period of 20 days.

20 Sec. 07.25.260. UNAVAILABILITY OF PUBLIC ADMINISTRATOR. In case
21 of unavailability, disqualification or vacancy of office of public
22 administrator the coroner shall perform the duties of ex-officio con-
23 servator of deceased persons' property only. In case of unavailability
24 or vacancy of office of public administrator and of coroner, any district
25 judge or magistrate in the borough may act as ex-officio conservator of
26 deceased persons' property only.

27 * Sec. 3. AS 12.65.020 is amended to read:

28 Sec. 12.65.020. POSTMORTEM EXAMINATION [DUTIES]. When a person
29 dies unattended by a physician, or when no physician is prepared to

1 execute the certificate of death prescribed by the Vital Statistics
2 Act, the coroner in the borough [DISTRICT MAGISTRATE OR DEPUTY
3 MAGISTRATE ASSIGNED TO SERVE THE PLACE] where the death occurs may,
4 by written order, direct a medical examiner to view the remains of the
5 deceased person and to perform the postmortem examination, including
6 an autopsy, as is, in the opinion of the medical examiner, necessary
7 to make a proper determination of the cause of death and to execute
8 the prescribed death certificate. Upon the completion of the examina-
9 tion, the examiner shall, without delay, submit a report of his
10 findings and conclusions to the coroner [DISTRICT MAGISTRATE OR DEPUTY
11 MAGISTRATE]. The coroner [MAGISTRATE] shall order an inquest under
12 this chapter if the findings and conclusions of the medical examiner,
13 together with the other information available to the coroner
14 [MAGISTRATE], warrant the inquest. Otherwise he shall enter an order
15 dispensing with the inquest and shall file the death certificate in
16 the registration district in which death occurred or, if the place of
17 death is unknown, in the registration district where the dead body was
18 found, in accordance with AS 18.50.230 and with regulations of the
19 Department of Health and Welfare [RECORD THE CERTIFICATE OF DEATH AS
20 PRESCRIBED BY LAW].

21 * Sec. 4. AS 12.65.030 is repealed and re-enacted to read:

22 Sec. 12.65.030. DISTRICT JUDGES AND MAGISTRATES AS EX-OFFICIO
23 CORONERS. In communities and areas where no service of a coroner
24 appointed by an organized borough is provided or in cases of unavail-
25 ability or vacancy of office of the coroner and of the public adminis-
26 trator as ex-officio coroner, district judges and magistrates shall
27 serve as ex-officio coroners and shall perform the duties and exercise
28 the authority of that office.

29 * Sec. 5. AS 12.65.070 is repealed and re-enacted to read:

1 **Sec. 12.65.070. POWER TO SUBPOENA AND EXAMINATION OF WITNESS.**

2 The coroner may subpoena and examine as witnesses persons who, in his
3 opinion, have knowledge of the material facts, and also an appointed
4 medical examiner when available, or otherwise a physician, who shall
5 examine the body and give professional opinion as to the cause of death.
6 A record of the testimony shall be made. A witness served with a
7 subpoena may be compelled to attend and to testify, or be punished by
8 the coroner for contempt, in like manner as upon a subpoena issued by
9 a district judge or magistrate.

10 * **Sec. 6. AS 12.65.090 is repealed and re-enacted to read:**

11 **Sec. 12.65.090. CORONER'S WARRANT FOR ARREST OF PERSON CAUSING**
12 **DEATH.** If the jury finds that a crime was committed in the
13 killing, and also charges a person with the commission of the crime,
14 the coroner shall immediately issue a warrant for the arrest of that
15 person, returnable immediately to the nearest district judge or
16 magistrate. The coroner's warrant shall be served statewide and in
17 all respects in the same manner as a warrant of arrest.

18 * **Sec. 7. AS 12.65.100 is repealed and re-enacted to read:**

19 **Sec. 12.65.100. BURIAL OF BODY.** When a coroner holds an inquest
20 upon an unclaimed body and no means or facilities for burial are avail-
21 able, the coroner shall notify the Department of Health and Welfare
22 which shall cause the body to be plainly and decently buried.

23 * **Sec. 8. AS 12.65.110 is repealed and re-enacted to read:**

24 **Sec. 12.65.110. PROPERTY FOUND ON BODY.** Within 30 days after the
25 inquest upon a dead body, the coroner must deliver to the public ad-
26 ministrator as ex-officio conservator any money or other property,
27 including any writings or documents which may be found upon the body,
28 unless claimed in the meantime by the legal representative of the
29 deceased. The coroner must prepare an inventory of these items for his

1 records and transmit a certified copy of the inventory to the public
2 administrator or to the legal representative who claimed this property.

3 * Sec. 9. AS 13.20.040 is repealed and re-enacted to read:

4 Sec. 13.20.040. PRIORITY IN LETTERS OF ADMINISTRATION.

5 Administraton of the estate of an intestate shall be granted by the
6 superior court in the judicial district where proof of will is authorized
7 as prescribed in AS 13.15.050, and letters thereof issued in the
8 following order:

9 (1) the widow or next of kin, or both, in the discretion of
10 the court;

11 (2) one or more of the principal creditors;

12 (3) any other person, corporation, or national or state
13 banking association competent and qualified whom the court may select;
14 and

15 (4) the public administrator of the borough in which the
16 deceased person died or was a resident at the time of his death or in
17 which he left any property.

18 * Sec. 10. AS 13.20.100 is amended to read:

19 Sec. 13.20.100. SPECIAL ADMINISTRATORS. When for any reason
20 there is a delay in issuing letters testamentary or of administration,
21 and the property of the deceased is in danger of being lost, injured, or
22 depreciated, the judge may appoint a special administrator or the public
23 administrator as the ex-officio conservator of the property of the
24 deceased person of the borough where property of the estate is found
25 to take charge of the estate, who shall qualify in like manner and have
26 the powers and perform the duties of an administrator generally, except
27 that he is not authorized to pay the debts of or otherwise discharge
28 any obligations against the deceased. Upon the issuing of letters
29 testamentary or of administration the powers of the special

1 administrator cease.

2 * Sec. 11. AS 13.20.120(b) is amended by adding a new paragraph to read:

3 (3) administration was granted to a public administrator
4 who has given bond of office as prescribed by the borough assembly
5 unless the court in its discretion requires a new undertaking on
6 grounds of insufficiency pursuant to an application made under AS
7 13.20.140 or on the court's own motion.

8 * Sec. 12. AS 13.30.006 is repealed and re-enacted to read:

9 Sec. 13.30.006. ADMINISTRATION DIRECTED BY COURT. When the court
10 receives information or is advised by the application of a public
11 administrator that administration of an estate \$6,000 or less is
12 authorized in the judicial district under the provisions of AS 13.15.050
13 and AS 13.20.040 and no qualified person has appeared to take charge of
14 the assets, the court shall immediately appoint the public administrator
15 of the borough in which the deceased died or was a resident at the
16 time of his death or in which he left any property or, if the services
17 of a public administrator are unavailable, some person, corporation,
18 or attorney to administer the estate in the manner provided for in the
19 administration of estates of \$6,000 or less. If the value of the
20 entire assets of the estate does not exceed \$2,000, the appointee may
21 in proper cases and in his discretion cause the distributees to
22 achieve a settlement of the estate without administration in the
23 manner provided by AS 13.30.002 - 13.30.005.

24 * Sec. 13. AS 13.30.100 is repealed and re-enacted to read:

25 Sec. 13.30.100. PRESERVATION OF PROPERTY BEFORE ADMINISTRATION.

26 (a) Within the judicial district, the court shall, when the occasion
27 requires entrust the public administrator as ex-officio conservator of
28 a borough in which property of the estate is found, with the physical
29 custody and preservation, before administration, of the property of a

1 deceased person. Upon the appointment of an executor or an ad-
2 ministrator of the estate of a decedent which may have been entrusted
3 to a public administrator hereunder, the public administrator shall
4 deliver all the property of the estate which has come into his pos-
5 session to the executor or administrator, together with a statement
6 of his expense in connection with the care and preservation of the
7 property and estate. All necessary expenses incurred by a public
8 administrator for the care and preservation of an estate under this
9 section are a charge against the estate and shall be paid by the
10 executor or administrator as a part of the expenses of the administra-
11 tion.

12 (b) If the services of a public administrator or of a coroner
13 acting as ex-officio conservator of property of deceased persons are
14 not provided for the location where property of the deceased is found,
15 the court shall, with like effect, appoint a district judge or
16 magistrate to act as ex-officio conservator of the property.

17 * Sec. 14. AS 22.15.110 is repealed and re-enacted to read:

18 Sec. 22.15.110. DUTIES OF DISTRICT JUDGE AND MAGISTRATE. Each
19 district judge and magistrate shall

20 (1) in cases of unavailability or vacancy of office of a
21 coroner appointed by a borough, perform the duties and exercise the
22 authority of coroner as prescribed by law;

23 (2) record birth, death and marriage certificates presented
24 to them for record in the manner prescribed by law;

25 (3) in cases of unavailability or vacancy of office of a
26 public administrator appointed by a borough, take custody and control of
27 and preserve the property and estate of deceased persons until a legal
28 representative is appointed.