

Introduced: 3/23/77
Referred: Judiciary

1 IN THE HOUSE

BY MALONE

2 HOUSE BILL NO. 392

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to inquiries into deaths, the public
7 administration of the estates of deceased persons, and
8 establishing the office of state medical examiner; and
9 providing for an effective date."

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

11 * Section 1. AS 18 is amended by adding a new chapter to read:

12 CHAPTER 52. STATE MEDICAL EXAMINER.

13 Sec. 18.52.010. OFFICE OF STATE MEDICAL EXAMINER. There is
14 established in the Department of Public Safety the office of state
15 medical examiner. The office shall be funded by appropriations to the
16 department.

17 Sec. 18.52.020. ALASKA MEDICAL EXAMINER COMMISSION. There is
18 established in the Department of Public Safety the Alaska Medical
19 Examiner Commission. The members of the commission shall be the
20 attorney general or his designee, the commissioner of health and social
21 services or his designee, the commissioner of public safety or his
22 designee, the public defender or his designee, and a member of the State
23 Medical Board established under AS 08.64.010, to be designated by that
24 board.

25 Sec. 18.52.025. MEMBERSHIP, POWERS AND DUTIES OF COMMISSION. (a)
26 The commissioner of public safety or his designee shall be the chairman
27 of the commission. Three members of the commission constitute a quorum.
28 The commission shall meet at least annually and at the request of the
29 state medical examiner or the chairman.

1 (b) The commission shall appoint the state medical examiner in
2 accordance with the provisions of sec. 30 of this chapter. The commis-
3 sion shall establish the policies of the office of state medical ex-
4 aminer and, after consulting with the state medical examiner, adopt
5 regulations to implement the provisions of this chapter in accordance
6 with the Administrative Procedure Act (AS 44.62).

7 Sec. 18.52.030. APPOINTMENT AND QUALIFICATIONS OF STATE MEDICAL
8 EXAMINER. (a) The state medical examiner shall be appointed by and
9 serve at the pleasure of the commission. He shall be the principal
10 executive of the office and serve as executive director of the commis-
11 sion.

12 (b) The state medical examiner shall be a physician licensed to
13 practice medicine in this state and certified by the American Board of
14 Pathology in forensic pathology. If a licensed physician with forensic
15 certification is not available for appointment, the commission may
16 appoint a licensed physician certified by the American Board of Pathology
17 in anatomic and clinical pathology and eligible for certification in
18 forensic pathology.

19 (c) The state medical examiner shall be an exempt employee under
20 AS 39.25.110. He may not engage in the private practice of medicine
21 during his tenure of office.

22 Sec. 18.52.035. APPOINTMENT AND QUALIFICATIONS OF ASSOCIATE AND
23 ASSISTANT MEDICAL EXAMINERS. (a) The state medical examiner may appoint
24 associate and assistant medical examiners necessary to carry out the
25 provisions of this chapter.

26 (b) An associate medical examiner shall be a physician licensed to
27 practice medicine in this state. An associate medical examiner who
28 provides services to the office of state medical examiner on a contractual
29 basis may engage in the private practice of medicine.

1 (c) An assistant medical examiner shall possess such qualifications
2 as may be prescribed by the state medical examiner. The state medical
3 examiner may, with the approval of the administrative director of the
4 court system, appoint magistrates as assistant medical examiners, and
5 may, with the approval of the agency involved, appoint state or local law
6 enforcement officers as assistant medical examiners.

7 Sec. 18.52.040. POWERS AND DUTIES OF STATE MEDICAL EXAMINER AND
8 ASSOCIATE AND ASSISTANT MEDICAL EXAMINERS. (a) The state medical
9 examiner shall

10 (1) file and maintain reports on all deaths requiring inves-
11 tigation under this chapter;

12 (2) approve and provide for facilities and laboratories to
13 be used in investigations under this chapter;

14 (3) conduct death investigation training programs for associ-
15 ate and assistant medical examiners and for law enforcement personnel;

16 (4) establish uniform forensic autopsy and medico-legal
17 death investigation procedures;

18 (5) certify or provide for the certification through an
19 associate medical examiner of the cause and manner of a death requiring
20 investigation under this chapter;

21 (6) maintain a list of active associate and assistant medical
22 examiners;

23 (7) provide statistical information to interested governmental
24 agencies;

25 (8) submit an annual report to the commission detailing the
26 activities and accomplishments of the office in the preceding year as
27 well as a cost analysis of the office; and

28 (9) report to the chairman of the commission at the chairman's
29 request and as necessary concerning the administrative operations of the

1 office as may be prescribed by the commission.

2 (b) The state medical examiner may

3 (1) perform or direct the performance of an autopsy in any
4 death requiring investigation under this chapter;

5 (2) perform or direct the performance of necessary chemical
6 and toxicological examinations in any death requiring investigation under
7 this chapter;

8 (3) amend a previously completed death certificate in a death
9 requiring investigation under this chapter;

10 (4) order a body exhumed in a death requiring investigation
11 under this chapter;

12 (5) request the assistance of law enforcement personnel in
13 carrying out the provisions of this chapter;

14 (6) appoint or hire staff, including technical, professional
15 or clerical personnel, necessary for the administration of this chapter;

16 (7) obtain necessary technical or professional services on a
17 contractual basis;

18 (8) take possession or exercise control of the body and
19 effects of a deceased and any weapons, instruments, vehicles, buildings,
20 premises or any other thing which he has reason to believe would assist
21 in a determination of the cause and manner of death; and

22 (9) issue subpoenas, administer oaths and take statements in
23 furtherance of a determination of the cause and manner of a death re-
24 quiring investigation under this chapter.

25 (c) An associate medical examiner shall, at the direction of the
26 state medical examiner,

27 (1) perform autopsies in accordance with sec. 70 of this
28 chapter;

29 (2) determine and certify the cause and manner of a death

1 requiring investigation under this chapter; and

2 (3) perform such other related duties as may be required by
3 the state medical examiner.

4 (d) An assistant medical examiner shall

5 (1) immediately notify the state medical examiner of the
6 occurrence of a death requiring investigation under this chapter;

7 (2) conduct investigations as directed by the state medical
8 examiner and file a written report of the investigation with the state
9 medical examiner and with the district attorney nearest the place where
10 the death occurred; and

11 (3) perform other duties as directed by the state medical
12 examiner.

13 Sec. 18.52.050. DEATHS REQUIRING DETERMINATION AND CERTIFICATION
14 OF CAUSE AND MANNER. (a) The office of the state medical examiner
15 shall determine and certify the cause and manner of any human death
16 that affects the health and safety of the public and which

17 (1) is apparently homicidal, suicidal, accidental or occurs
18 under unknown or suspicious circumstances;

19 (2) occurs when the deceased was unattended by a physician
20 during the 24 hours immediately preceding his death;

21 (3) occurs when attended by a physician, if the cause and
22 manner of death are unknown or if the attending physician is unable to
23 certify the cause and manner of death;

24 (4) is related to a disease which might constitute a threat
25 to the public health;

26 (5) results from the apparent introduction into the body of
27 any toxic substance;

28 (6) occurs while the deceased was an inmate of a public in-
29 stitution or in police custody, except when hospitalized for an organic

1 disease at the time of death;

2 (7) results from an industrial or occupational injury; or

3 (8) occurs in another jurisdiction and the body is brought
4 into this jurisdiction without proper medical certification.

5 (b) The commission may by regulation provide for the determination
6 and certification of the cause and manner of any other human death that
7 may affect the health or safety of the public.

8 Sec. 18.52.060. NOTIFICATION OF DEATH REQUIRED. (a) Any person
9 having knowledge of a death requiring investigation under this chapter
10 shall immediately notify either a medical examiner or a state or local
11 law enforcement agency of the fact and location of the death.

12 (b) A state or local law enforcement agency having knowledge of a
13 death requiring investigation under this chapter shall immediately notify
14 a medical examiner of the fact and location of the death.

15 Sec. 18.52.070. AUTOPSY. (a) If in the opinion of the state
16 medical examiner an autopsy is necessary to determine the cause and
17 manner of death, or if requested by a prosecuting attorney or an investi-
18 gating law enforcement agency, an autopsy shall be performed by the state
19 medical examiner or an associate medical examiner.

20 (b) An autopsy under this section shall be performed in accordance
21 with uniform procedures prescribed by the state medical examiner.

22 (c) A description of the findings and conclusions of the autopsy
23 shall be filed in the office of the state medical examiner and with the
24 office of the district attorney nearest the place where the death
25 occurred.

26 (d) When an autopsy is performed under this section the state
27 medical examiner or associate medical examiner may remove and retain body
28 tissues and body fluids necessary or advisable for scientific purposes.

29 Sec. 18.52.075. LABORATORIES. The state medical examiner shall

1 maintain a laboratory or laboratories suitably equipped with medical,
2 scientific and other facilities for performance of the duties imposed by
3 this chapter. The laboratory or laboratories may be maintained by con-
4 tract or in collaboration with the Department of Public Safety or other
5 agencies in the state which have facilities that can be usefully employed
6 in performing duties under this chapter.

7 Sec. 18.52.077. FORENSIC EXAMINATIONS. In any death requiring
8 investigation under this chapter forensic examinations may be performed
9 by persons other than the state medical examiner. The state medical
10 examiner shall provide for such forensic examinations as are requested
11 by a prosecuting attorney.

12 Sec. 18.52.080. PRESERVATION OF EVIDENCE AND CREMATION OF BODIES.

13 (a) In a death requiring investigation, no person may move a human body
14 or remove or in any way disturb any of the effects of the deceased or
15 instruments or weapons related to the death without the permission of the
16 investigating medical examiner, an investigating law enforcement officer,
17 or a prosecuting attorney.

18 (b) In a death requiring investigation, no person may undress,
19 embalm, cleanse the surface of the body or otherwise alter the appearance
20 of the state of the body without the permission of the investigating
21 medical examiner, an investigating law enforcement officer, or a pro-
22 secuting attorney.

23 (c) In a death requiring investigation, the body may not be cre-
24 mated unless an autopsy has been performed, or a certificate has been
25 furnished to the owner or operator of the crematory by the state medical
26 examiner stating that no autopsy is required.

27 Sec. 18.52.085. AUTHORITY TO ENTER AND SECURE PREMISES. (a) A
28 medical examiner may enter any room, dwelling, building or other place
29 in which he has reasonable cause to believe that a body or other evidence

1 of the circumstances of a death requiring investigation may be found.

2 (b) If refused entry, he may, but need not if exigent circumstances
3 exist, apply to a judge or magistrate for an order to enter the premises,
4 search for and seize a body or any evidence of the cause or manner of
5 death. Upon application supported by an affidavit setting out facts and
6 circumstances tending to show that a body or other evidence of the cause
7 and manner of death is in the place to be searched, the judge shall issue
8 an order to enter and search and seize.

9 (c) To preserve evidence, a medical examiner or an investigating
10 law enforcement officer may

11 (1) place under his custody or control, or enclose or lock
12 any room, dwelling, building or other enclosure;

13 (2) rope off or otherwise restrict entry to any open area; and

14 (3) forbid the entrance of any unauthorized person into an
15 area specified under (1) or (2) of this subsection.

16 (d) No person may enter upon any premises, enclosures or other
17 areas specified in (c) of this section without the permission of the
18 investigating medical examiner or an investigating law enforcement
19 officer.

20 Sec. 18.52.090. DISPOSITION OF BODY AND PROPERTY. (a) Upon
21 identification of a deceased, an investigating law enforcement agency
22 shall promptly attempt to locate a relative or a responsible friend
23 willing to claim the body for burial.

24 (b) When a medical examiner certifies the cause and manner of death
25 of an unknown person, or when a relative or friend is unwilling to claim
26 a body for burial within a reasonable period of time, and no provision
27 is made for the body under AS 13.50, the state medical examiner shall
28 notify the Department of Health and Social Services which shall cause
29 the body to be decently buried or cremated and the remains to be decently

1 interred.

2 (c) The investigating law enforcement agency shall take reasonable
3 action to prevent the destruction or loss of property of a deceased,
4 including premises and vehicles, which is not necessary to retain as
5 evidence and has not been retained by the medical examiner under secs.
6 40(b)(8) and 85(c) and (d) of this chapter, until a relative or a respon-
7 sible friend is notified and assumes responsibility for preserving the
8 property. If within 48 hours a relative or responsible friend cannot
9 be located who will assume responsibility for preserving the property,
10 a district judge, magistrate or public administrator shall take custody
11 and control of the property under AS 22.15.110 and 22.15.350.

12 (d) When property of a deceased has been retained by the medical
13 examiner under sec. 40(b)(8) or 85(c) and (d) of this chapter and is no
14 longer required by the medical examiner, a prosecuting attorney, or an
15 investigating law enforcement agency, that property shall be disposed of
16 in accordance with (c) of this section.

17 Sec. 18.52.100. RECORDS AND REPORTS. (a) The records and reports
18 of the office shall be available only to persons having a legitimate
19 interest in them, including member's of the deceased's immediate family
20 or their lawful representatives, a physician who treated the deceased
21 within two years preceding death, insurance companies or other entities
22 or persons with a lawful interest in the settlement of the estate of
23 the deceased, and any governmental agencies including, but not limited
24 to, prosecuting attorneys and law enforcement agencies, concerned with
25 the deaths of persons in the state.

26 (b) The state medical examiner may make reports and records of
27 the office available to persons engaged in bona fide medical or other
28 research if a research program has demonstrated that

29 (1) any threat to individual privacy which might be created

1 by the program has been minimized by methods and procedures designed to
2 prevent injury or embarrassment to any individual; and

3 (2) it will be conducted in a manner that will not reveal,
4 directly or indirectly, the identity of any deceased person.

5 Sec. 18.52.110. DEFINITIONS. In this chapter,

6 (1) "autopsy" means an examination of a body after death
7 including an external examination, opening and internal examination, and
8 the removal of any specimens necessary to a determination of the cause
9 and manner of death;

10 (2) "cause of death" means the primary or basic disease pro-
11 cess or injury ending life;

12 (3) "commission" means the Alaska Medical Examiner Commission;

13 (4) "law enforcement agency" means a public agency which
14 performs as one of its principal functions activities relating to crime
15 prevention, control or reduction, or the enforcement of the criminal
16 laws of the state or any of its political subdivisions or of the United
17 States;

18 (5) "manner of death" means the designation of the probable
19 mode of production of the cause of death, including natural, accidental,
20 suicidal, homicidal or undetermined;

21 (6) "medical examiner" means the state medical examiner,
22 associate medical examiners and assistant medical examiners;

23 (7) "office" means the office of the state medical examiner.

24 * Sec. 2. AS 12.65 is repealed and re-enacted to read:

25 CHAPTER 65. INQUESTS.

26 Sec. 12.65.011. ORDER OF INQUEST. A district judge or magistrate
27 shall, upon application by a prosecuting attorney, order an inquest into
28 the cause of a death requiring investigations under AS 18.52.

29 Sec. 12.65.021. SUMMONING JURORS FOR INQUEST. If an inquest is

1 ordered, the district judge or magistrate shall summon six persons
2 qualified by law to serve as jurors to appear at a specified place to
3 inquire into the cause and manner of the death.

4 Sec. 12.65.031. OATH OF INQUEST JURORS. When six jurors attend,
5 they shall be sworn by the district judge or magistrate to inquire who
6 the deceased was and when, where and by what means he came to his death,
7 to inquire into the circumstances attending his death, and to give a
8 true verdict according to the evidence offered or arising from an in-
9 spection of the body.

10 Sec. 12.65.041. SUBPOENA AND EXAMINATION OF WITNESSES. The dis-
11 trict judge or magistrate or a prosecuting attorney may subpoena and
12 examine as witnesses persons who, in his opinion, have knowledge of any
13 material facts attendant to a determination of the cause and manner of
14 a death requiring investigation under AS 18.52.

15 Sec. 12.65.051. VERDICT OF INQUEST JURY. After hearing any testi-
16 mony, the jury or two-thirds of their number shall give its written
17 verdict, signed by them and setting out the name of the deceased and when,
18 where and by what means he came to his death.

19 * Sec. 3. AS 18.50.230(a) is amended to read:

20 (a) A death certificate for each death which occurs in the state
21 shall be filed with the local registrar of the registration district in
22 which the death occurred within three days after death and before final
23 disposition of the body or removal of the body from the state, except as
24 provided in AS 18.52 or by regulation [IN SPECIAL PROBLEM CASES]. For
25 the purpose of this section, if the place of death is unknown, a death
26 certificate shall be filed in the registration district in which the
27 dead body is found. When a death occurs on a moving conveyance a death
28 certificate shall be filed in the registration district in which the dead
29 body is first removed from the conveyance.

1 * Sec. 4. AS 18.50.230(c) is amended to read:

2 (c) The medical certification shall be completed and signed within
3 24 hours after death by the physician in charge of the patient's care
4 for the illness or condition which resulted in death except when the
5 death requires investigation under AS 18.52 [AN OFFICIAL INQUIRY OR
6 INQUEST IS REQUIRED] and except as provided by regulation [IN SPECIAL
7 PROBLEM CASES].

8 * Sec. 5. AS 18.50.230(d) is amended to read:

9 (d) When a death occurs without medical attendance, or when
10 investigation under AS 18.52 [OFFICIAL INQUIRE] is required, the depart-
11 ment shall provide by regulation, in accordance with law, the responsi-
12 bility for completing and signing the medical certification. This sub-
13 section is intended to include, among others, cases involving a medical
14 examiner [OR A CORONER], and cases involving presumption of death.

15 * Sec. 6. AS 18.50.240(a) is amended to read:

16 (a) A fetal death certificate for each fetal death which occurs
17 in the state shall be filed with the local registrar of the registration
18 district in which the delivery occurred within three days after the
19 delivery and before final disposition of the fetus or removal of the
20 fetus from the state, except as provided by regulation [IN SPECIAL PRO-
21 BLEM CASES]. However, the filing of a certificate for a product of a
22 pregnancy of less than 20 weeks may be determined by regulation. For
23 the purposes of this section, if the place of fetal death is unknown, a
24 fetal death certificate shall be filed in the registration district in
25 which the dead fetus is found. When a fetal death occurs on a moving
26 conveyance a fetal death certificate shall be filed in the registration
27 district in which the fetus is first removed from the conveyance.

28 * Sec. 7. AS 18.50.240(c) is amended to read:

29 (c) The medical certification shall be completed and signed within

1 24 hours after delivery by the physician in attendance at or after
2 delivery except when an investigation is required under AS 18.52
3 [OFFICIAL INQUIRY OR INQUEST IS REQUIRED] and except as provided by
4 regulation [IN SPECIAL PROBLEM CASES].

5 * Sec. 8. AS 18.50.240(d) is amended to read:

6 (d) When a fetal death occurs without medical attendance upon the
7 mother at or after the delivery, or when investigation under AS 18.52
8 [OFFICIAL INQUIRY] is required, the department shall provide by regula-
9 tion, in accordance with law, the responsibility for completing and
10 signing the medical certification.

11 * Sec. 9. AS 18.50.250(a) is amended to read:

12 (a) The funeral director or person acting as the funeral director
13 who first assumes custody of a dead body or fetus shall obtain a burial-
14 transit permit before final disposition or removal from the state of the
15 body or fetus and within 72 hours after death, except as otherwise
16 authorized by regulation [FOR SPECIAL PROBLEM CASES].

17 * Sec. 10. AS 18.50.250(b) is amended to read:

18 (b) The local registrar of the registration district where the
19 death occurred shall issue a burial-transit permit when a certificate of
20 death or fetal death has been filed in accordance with this chapter,
21 except as otherwise authorized by regulation [IN SPECIAL PROBLEM CASES].

22 * Sec. 11. AS 22.15.110 is repealed and re-enacted to read:

23 Sec. 22.15.110. ADDITIONAL DUTIES OF DISTRICT JUDGE AND MAGISTRATE.
24 Each district judge and magistrate shall

25 (1) record birth, death and marriage certificates presented
26 to him for record in the manner prescribed by law;

27 (2) take custody and control of and preserve the property and
28 estate of deceased persons until a legal custodian is appointed.

29 * Sec. 12. AS 22.15.310 is amended to read:

1 Sec. 22.15.310. APPOINTMENT. When authorized by the supreme court,
2 the presiding judge in each judicial district shall appoint one or more
3 persons [A PERSON] to act as public administrator of the estates of
4 deceased persons [AND AS CORONER].

5 * Sec. 13. AS 22.15.320 is amended to read:

6 Sec. 22.15.320. ADMINISTRATION OF DECEDENTS' ESTATES. [WHEN
7 LETTERS OF ADMINISTRATION ARE ISSUED TO A PUBLIC ADMINISTRATOR BY THE
8 SUPERIOR COURT IN HIS DISTRICT, THE PUBLIC ADMINISTRATOR IS THE LEGAL
9 CUSTODIAN OF AND SHALL ADMINISTER THE ESTATES OF DECEASED PERSONS WHO
10 LEAVE PROPERTY WITHIN THE DISTRICT.] Letters of administration shall
11 be issued to a [THE] public administrator when (1) administration of a
12 decedent's estate is required by law, and (2) a period of 45 [30] days
13 has elapsed from the date of death with no letters testamentary or
14 letters of administration having been applied for and issued to any
15 other person entitled by law to administer the estate of the deceased
16 person. Except as otherwise provided in secs. 310 - 350 of this chapter,
17 a public administrator shall administer the estate [ESTATES] as other
18 administrators, and has all the rights and authority, and is subject to
19 all the duties and liabilities of other administrators.

20 * Sec. 14. AS 22.15.340 is amended to read:

21 Sec. 22.15.340. COMPENSATION. A public administrator is entitled
22 to [ANNUAL] compensation in an amount to be determined by the supreme
23 court, and if he is an employee of the judiciary, he is not entitled to
24 fees as other administrators.

25 * Sec. 15. AS 22.15.350 is amended to read:

26 Sec. 22.15.350. OTHER DUTIES [AS CORONER]. In addition to his
27 other duties, a public administrator who is an employee of the judiciary
28 shall perform the duties set out in sec. 110 of this chapter.

29 * Sec. 16. AS 13.15.065(a) is amended by adding a new paragraph to read:

1 (7) a public administrator appointed under AS 22.15.310.

2 * Sec. 16. AS 39.25.110 is amended by adding a new paragraph to read:

3 (16) the state medical examiner.

4 * Sec. 17. INTERIM OPERATION OF ALASKA MEDICAL EXAMINER COMMISSION. (a)

5 Between July 1, 1977 and July 1, 1978, the Alaska Medical Examiner Commission
6 provided for under AS 18.52.020, as enacted in sec. 1 of this Act shall

7 (1) meet at least once, determine the scope of its function and
8 establish rules, as necessary, for complying with this section and its
9 responsibilities under AS 18.52.025, as enacted in sec. 1 of this Act;

10 (2) develop a program and financial plan with a proposed budget for
11 fiscal year 1979 under AS 37.07.050 for submission as required through the
12 Department of Public Safety;

13 (3) establish policies, as necessary, under AS 18.52.025(b), as
14 enacted in sec. 1 of this Act, for the office of state medical examiner;

15 (4) solicit and review applications for the position of state
16 medical examiner.

17 (b) Between July 1, 1977 and July 1, 1978, the Alaska Medical Examiner
18 Commission provided for under AS 18.52.020, as enacted in sec. 1 of this Act
19 may

20 (1) appoint a state medical examiner under AS 18.52.030, as
21 enacted in sec. 1 of this Act, except that an appointment may not be effective
22 before January 1, 1978;

23 (2) adopt regulations, as necessary, under AS 18.52.025(b) to
24 implement AS 18.52, as enacted in sec. 1 of this Act;

25 (3) authorize a state medical examiner appointed under (1) of this
26 subsection to exercise those powers and duties set out in AS 18.52.035(a) and
27 18.52.040(a) and (b), as enacted in sec. 1 of this Act, which are necessary
28 to fully implement this Act on July 1, 1978, except that appointments of
29 associate and assistant medical examiners under AS 18.52.035(a) and contracts

1 for facilities and laboratories and related professional services under
2 AS 18.52.040(a)(2) and (b)(7) may not be effective before July 1, 1978.

3 * Sec. 18. This Act takes effect July 1, 1978, except that sec. 17 of
4 this Act, pertaining to certain provisions of AS 18.52 as enacted in sec. 1,
5 of this Act, takes effect July 1, 1977.

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29