



LAWS OF ALASKA

1996

Source
CSHB 520(FIN)

Chapter No.
103

AN ACT

Relating to death investigations and inquests, coroners, public administrators, and medical examiners, including the state medical examiner; relating to the jurisdiction of district court judges and magistrates in certain cases involving death.

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

THE ACT FOLLOWS ON PAGE 1

Approved by the Governor: June 25, 1996
Actual Effective Date: September 23, 1996

AN ACT

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

4

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

6

ARTICLE 2A. INQUESTS.

7

8

9

10

11

12

13

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

Chapter 103

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 material
12 facts relating to the death, subpoena and examine witnesses for a proceeding under
13 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 out

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

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

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

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

30 Sec. 12.65.005. DUTY TO NOTIFY STATE MEDICAL EXAMINER. (a)
31 Unless the person has reasonable grounds to believe that notice has already been given,

1 a person who attends a death or has knowledge of a death, in addition to notifying a
2 peace officer, shall immediately notify the state medical examiner when the death
3 appears to have

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

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

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

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

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

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

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

17 (8) occurred in a foster home;

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

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

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

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

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

30 (a) The [IN ADDITION TO APPOINTING MEDICAL EXAMINERS UNDER
31 AS 12.65.010, THE] commissioner of health and social services shall appoint a

Chapter 103

1 [ESTABLISH IN THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES THE
2 POSITION OF] state medical examiner to perform the duties set out in AS 12.65.015 -
3 12.65.025. The commissioner may also appoint a deputy medical examiner and
4 assistant medical examiners to perform or assist the state medical examiner in
5 performing these duties. To be eligible for the position of medical examiner, deputy
6 medical examiner, or assistant medical examiner, a person must be a physician
7 licensed to practice in this state or, if the physician is licensed in another
8 jurisdiction, the physician must be employed by the state or by an agency of the
9 United States government within the state. The state medical examiner, deputy
10 medical examiner, and assistant medical examiners are [IS] in the exempt service
11 under AS 39.25.110.

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

13 (d) The state medical examiner may, through contracts for services, appoint
14 local, regional, and district medical examiners throughout the state to perform or assist
15 in performing the duties assigned to the state medical examiner. To be eligible for
16 appointment as a local, regional, or district medical examiner, a person must be a
17 physician licensed to practice in this state or, if the physician is licensed in another
18 jurisdiction, the physician must be employed by the state or by an agency of the United
19 States government within the state. An appointment under this subsection may be for
20 a term of up to two years.

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

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

27 (1) order that the body of the person who has died not be moved or
28 otherwise disturbed without the permission of the medical examiner;

29 (2) request a peace officer to secure the scene and perform an on-scene
30 investigation;

31 (3) view the remains of the deceased person;

- 1 (4) order the remains of the deceased to be transported to another
2 location;
- 3 (5) perform a post mortem examination;
- 4 (6) perform an autopsy;
- 5 (7) take possession of property considered necessary for the investigation;
- 6 (8) subpoena and examine a person or record necessary in the opinion
7 of the medical examiner to determine the material facts relating to the death; and
- 8 (9) take other actions appropriate under the circumstances to determine
9 the cause and manner of death.

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

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

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

29 (e) The state medical examiner may enter into agreements for services to be
30 performed by persons in the course of medical investigations and may call upon public
31 employees, including a peace officer or a village public safety officer, to perform or

Chapter 103

1 assist in performing the duties specified in this section.

2 (f) The state medical examiner and individuals who perform or assist the state
3 medical examiner in performing the duties of the state medical examiner under this
4 section are immune from civil liability based on determining the cause and manner of
5 a person's death.

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

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

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

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

14 (2) related transportation to the location where the post mortem
15 examination is conducted and then to the community closest to where the death
16 occurred, except that transportation costs to another requested location may be paid
17 to the extent that the costs do not exceed the costs of returning the body to the
18 community closest to where the death occurred;

19 (3) embalming required by law; and

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

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

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

1 is not made for the body under AS 13.50.

2 * **Sec. 8.** AS 12.65 is amended by adding a new section to read:

3 Sec. 12.65.105. **RELEASE OF PROPERTY TO TEMPORARY CUSTODIAN.**

4 A person having possession of tangible personal property of a decedent may release the
5 property to a temporary custodian willing to take custody of and preserve the property
6 pending the appointment of a personal representative or other transfer under AS 13.16.
7 Upon execution of an affidavit that meets the requirements of court rules adopted to
8 implement this section, the person delivering possession of the property is discharged
9 from further obligation as though the person had dealt with the personal representative
10 of the estate, and the temporary custodian is answerable and accountable for the property
11 to any personal representative of the estate or to another person having a superior right.

12 * **Sec. 9.** AS 12.65.110 is amended to read:

13 Sec. 12.65.110. **INVENTORY AND DISPOSITION OF PROPERTY.** If a body
14 is unclaimed as described in AS 12.65.100 and money or other property belonging to the
15 deceased is found, the public administrator [CORONER] shall inventory it [FOR THE
16 CORONER'S RECORDS] and take it into possession [. THE CORONER SHALL,
17 WITHIN 30 DAYS AFTER INTERMENT, TRANSMIT A CERTIFIED COPY OF THE
18 INVENTORY AND THE MONEY OR PROPERTY TO THE PUBLIC
19 ADMINISTRATOR OF THAT JUDICIAL DISTRICT] for disposition under AS 13.16
20 [AS 22.15.320].

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

22 (d) When a death occurs without medical attendance, or when official inquiry
23 is required, the department shall provide by regulation, in accordance with law, the
24 responsibility for completing and signing the medical certification. This subsection is
25 intended to include, among others, cases involving a medical examiner [OR A
26 CORONER,] and cases involving presumption of death.

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

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

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

Chapter 103

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

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

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

8 (5) for establishing the fact of death or cause and manner of death of
9 any person in the manner prescribed in AS 09.55.020 - 09.55.069 [AS 09.55.020 -
10 09.55.060];

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

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

16 (8) for the recovery of money or damages in motor vehicle tort cases
17 when the amount claimed exclusive of costs, interest, and attorney fees does not exceed
18 \$50,000;

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

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

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

24 Sec. 22.15.100. FUNCTIONS AND POWERS OF DISTRICT JUDGE AND
25 MAGISTRATE. Each district judge and magistrate has the power

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

30 (2) of a notary public;

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

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

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

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

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

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

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

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

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

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

25 (a) Each district judge and magistrate shall

26 (1) [PERFORM THE DUTIES AND EXERCISE THE AUTHORITY
27 OF CORONER AS PRESCRIBED BY LAW;

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

30 (2) authorize the burial or disposition of bodies under AS 12.65.100;
31 and

Chapter 103

1 (3) upon application by an appropriate person, appoint the person
2 to assume temporary custody [TAKE CUSTODY AND CONTROL] of and preserve
3 the property and estate of deceased persons until disposition of the property is made
4 under AS 13.16 or further order is made by the court [A LEGAL CUSTODIAN IS
5 APPOINTED;

6 (4) REPEALED].

7 * Sec. 14. AS 22.15.310 is amended to read:

8 Sec. 22.15.310. APPOINTMENT. When authorized by the supreme court, the
9 presiding judge in each judicial district shall appoint a person to act as public
10 administrator of the estates of deceased persons [AND AS CORONER].

11 * Sec. 15. AS 22.15.320 is amended to read:

12 Sec. 22.15.320. ADMINISTRATION OF DECEDENTS' ESTATES. When
13 letters of administration are issued to a public administrator by the superior court in the
14 district, the public administrator is the legal custodian of and shall administer the estates
15 of deceased persons who leave property within the district. Letters of administration
16 shall be issued to the public administrator when (1) administration of a decedent's estate
17 is required by law, and (2) a period of 30 days has elapsed from the date of death with
18 no letters testamentary or letters of administration having been applied for and issued to
19 any other person entitled by law to administer the estate of the deceased person. Except
20 as otherwise provided in AS 22.15.310 - 22.15.340 [AS 22.15.310 - 22.15.350], a public
21 administrator shall administer estates as other administrators, and has all the rights and
22 authority, and is subject to all the duties and liabilities of other administrators.

23 * Sec. 16. AS 36.30.850(b) is amended to read:

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

26 (1) grants;

27 (2) contracts for professional witnesses to provide for professional
28 services or testimony relating to existing or probable lawsuits in which the state is or
29 may become a party;

30 (3) contracts of the University of Alaska where the work is to be
31 performed substantially by students enrolled in the university;

- 1 (4) contracts for medical doctors and dentists;
- 2 (5) acquisitions or disposals of real property or interest in real property,
 3 except as provided in AS 36.30.080 and 36.30.085;
- 4 (6) disposals under AS 38.05;
- 5 (7) contracts for the preparation of ballots under AS 15.15.030;
- 6 (8) acquisitions or disposals of property and other contracts relating to
 7 airports under AS 02.15.070, 02.15.090, 02.15.091, and AS 44.88;
- 8 (9) disposals of obsolete property under AS 19.05.060;
- 9 (10) disposals of obsolete material or equipment under AS 35.20.060;
- 10 (11) agreements with providers of services under AS 44.47.250;
 11 AS 47.07; AS 47.08; AS 47.10; AS 47.17; AS 47.24; AS 47.25.195, and 47.25.310;
- 12 (12) contracts of the Department of Fish and Game for flights that
 13 involve specialized flying and piloting skills and are not point-to-point;
- 14 (13) purchases of income-producing assets for the state treasury or a
 15 public corporation of the state;
- 16 (14) operation of the state boarding school established under AS 14.16
 17 [,] if the State Board of Education or the commissioner of education adopts regulations
 18 for use by the state boarding school in procurement and contracting;
- 19 (15) a contract that is a delegation, in whole or in part, of investment
 20 powers held by the commissioner of revenue under AS 14.40.400, AS 14.42.200,
 21 14.42.210, AS 18.56.095, AS 37.10.070, 37.10.071, or AS 37.14;
- 22 (16) a contract that is a delegation, in whole or in part, of investment
 23 powers or fiduciary duties of
- 24 (A) the Board of Trustees of the Alaska Permanent Fund
 25 Corporation under AS 37.13;
- 26 (B) the Alaska Mental Health Trust Authority under
 27 AS 37.14.001 - 37.14.099;
- 28 (17) the purchase of books, book binding services, newspapers,
 29 periodicals, audio-visual materials, network information services access, approval plans,
 30 professional memberships, archival materials, objects of art, and items for museum or
 31 archival acquisition having cultural, historical, or archaeological significance; in this

Chapter 103

1 paragraph,

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

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

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

12 (D) "network information services" means a group of resources
13 from which cataloging information, holdings records, inter-library loans,
14 acquisitions information, and other reference resources can be obtained;

15 (18) contracts for the purchase of standardized examinations for licensure
16 under AS 08;

17 (19) contracts for home health care provided under regulations adopted
18 by the Department of Health and Social Services and for adult residential care services
19 provided under regulations adopted by the Department of Health and Social Services or
20 by the Department of Administration;

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

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

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

26 (A) is attempting to develop a coal-fired electric generation
27 project;

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

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

1 (23) disposals of supplies acquired through foreclosure of loans issued
2 under AS 03.10;

3 (24) purchases of curatorial and conservation services to maintain,
4 preserve, and interpret

5 (A) objects of art; and

6 (B) items having cultural, historical, or archaeological significance
7 to the state;

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

10 (26) contracts for village public safety officers;

11 (27) purchases of supplies and services to support the operations of the
12 Alaska state troopers or the division of fish and wildlife protection if the procurement
13 officer for the Department of Public Safety makes a written determination that publicity
14 of the purchases would jeopardize the safety of personnel or the success of a covert
15 operation;

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

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

19 (30) contracts entered into with a regional development organization; in
20 this paragraph, "regional development organization" has the meaning given in
21 AS 44.33.026;

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

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

29 (33) contracts between the Department of Natural Resources and
30 contractors qualified to evaluate hydrocarbon development, production, transportation,
31 and economics, to assist the commissioner of natural resources in evaluating applications

Chapter 103

1 for oil and gas royalty increases or decreases or other oil and gas royalty adjustments,
2 and evaluating the related financial and technical data, entered into under
3 AS 38.05.180(j);

4 (34) contracts between the state medical examiner and a provider of
5 medical services to perform or assist in performing the duties assigned to the state
6 medical examiner in AS 12.65.020.

7 * Sec. 17. AS 39.25.110(13) is amended to read:

8 (13) the state medical examiner, deputy medical examiner, and
9 assistant medical examiners appointed under AS 12.65.015 and physicians licensed to
10 practice in this state and employed by the division of mental health and developmental
11 disabilities in the Department of Health and Social Services or by the Department of
12 Corrections;

13 * Sec. 18. AS 12.65.010, 12.65.030, 12.65.040, 12.65.050, 12.65.060, 12.65.070, 12.65.080,
14 12.65.090; AS 22.15.120(a)(10), and 22.15.350 are repealed.