

**Enrolled**  
**House Bill 2322**

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for Oregon State Police)

CHAPTER .....

AN ACT

Relating to medical examiners; amending ORS 97.082, 137.300, 146.003, 146.015, 146.025, 146.035, 146.045, 146.055, 146.065, 146.075, 146.085, 146.088, 146.095, 146.100, 146.103, 146.107, 146.109, 146.113, 146.125, 146.135, 146.171, 176.740, 181A.080, 431A.865, 432.133, 432.138 and 433.449.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** ORS 97.082 is amended to read:

97.082. (1) Except as provided in subsection (2) of this section, whenever a person dies and no autopsy is ordered by a medical examiner or district attorney pursuant to ORS 146.117, an autopsy may not be conducted without the prior written consent of a person within the first applicable class of the following listed classes:

- (a) The spouse of the decedent;
- (b) A son or daughter of the decedent 18 years of age or older;
- (c) Either parent of the decedent;
- (d) A brother or sister of the decedent 18 years of age or older;
- (e) A guardian of the decedent at the time of death;
- (f) A person in the next degree of kindred to the decedent;
- (g) The personal representative of the estate of the decedent; or
- (h) The person nominated as the personal representative of the decedent in the decedent's last will.

(2)(a) Consent required under subsection (1) of this section must be granted on a written autopsy consent form developed pursuant to subsection (3) of this section.

(b) If the person authorized by subsection (1) of this section to grant written consent to conduct an autopsy is not available to grant written consent in person, the authorized person may grant consent by completing the required consent form and returning the signed form, by facsimile or other electronic transmission, to the party requesting permission.

(3) The Public Health Officer, in consultation with the [State] Chief Medical Examiner, shall develop and make available a standardized written autopsy consent form that:

- (a) Grants the person specified in subsection (1) of this section the authority to:
  - (A) Grant permission to conduct an unlimited autopsy;
  - (B) Grant permission to conduct a limited autopsy and to specify what limitations are imposed upon the autopsy; or
  - (C) Refuse permission to conduct an autopsy.

(b) Provides a section for the person specified in subsection (1) of this section to submit specific instructions with respect to tests to be performed during the autopsy and to the disposition of organs and tissue removed for purposes of a limited autopsy.

(c) Provides that the consent signature be accompanied by the signature of a witness.

**SECTION 2.** ORS 137.300 is amended to read:

137.300. (1) The Criminal Fine Account is established in the General Fund. Except as otherwise provided by law, all amounts collected in state courts as monetary obligations in criminal actions shall be deposited by the courts in the account. All moneys in the account are continuously appropriated to the Department of Revenue to be distributed by the Department of Revenue as provided in this section. The Department of Revenue shall keep a record of moneys transferred into and out of the account.

(2) The Legislative Assembly shall first allocate moneys from the Criminal Fine Account for the following purposes, in the following order of priority:

(a) Allocations for public safety standards, training and facilities.

(b) Allocations for criminal injuries compensation and assistance to victims of crime and children reasonably suspected of being victims of crime.

(c) Allocations for the forensic services provided by the Oregon State Police, including, but not limited to, services of the [State] **Chief Medical Examiner**.

(d) Allocations for the maintenance and operation of the Law Enforcement Data System.

(3) After making allocations under subsection (2) of this section, the Legislative Assembly shall allocate moneys from the Criminal Fine Account for the following purposes:

(a) Allocations to the Law Enforcement Medical Liability Account established under ORS 414.815.

(b) Allocations to the State Court Facilities and Security Account established under ORS 1.178.

(c) Allocations to the Department of Corrections for the purpose of planning, operating and maintaining county juvenile and adult corrections programs and facilities and drug and alcohol programs.

(d) Allocations to the Oregon Health Authority for the purpose of grants under ORS 430.345 for the establishment, operation and maintenance of alcohol and drug abuse prevention, early intervention and treatment services provided through a county.

(e) Allocations to the Oregon State Police for the purpose of the enforcement of the laws relating to driving under the influence of intoxicants.

(f) Allocations to the Arrest and Return Account established under ORS 133.865.

(g) Allocations to the Intoxicated Driver Program Fund established under ORS 813.270.

(4) It is the intent of the Legislative Assembly that allocations from the Criminal Fine Account under subsection (3) of this section be consistent with historical funding of the entities, programs and accounts listed in subsection (3) of this section from monetary obligations imposed in criminal proceedings. Amounts that are allocated under subsection (3)(c) of this section shall be distributed to counties based on the amounts that were transferred to counties by circuit courts during the 2009-2011 biennium under the provisions of ORS 137.308, as in effect January 1, 2011.

(5) Moneys in the Criminal Fine Account may not be allocated for the payment of debt service obligations.

(6) The Department of Revenue shall deposit in the General Fund all moneys remaining in the Criminal Fine Account after the distributions listed in subsections (2) and (3) of this section have been made.

(7) The Department of Revenue shall establish by rule a process for distributing moneys in the Criminal Fine Account. The department may not distribute more than one-eighth of the total biennial allocation to an entity during a calendar quarter.

**SECTION 3.** ORS 146.003 is amended to read:

146.003. As used in ORS 146.003 to 146.189 and 146.710 to 146.992, unless the context requires otherwise:

(1) "Approved laboratory" means a laboratory approved by the [State] **Chief Medical Examiner** as competent to perform the blood sample analysis required by ORS 146.113 (2).

(2) "Assistant district medical examiner" means a physician appointed by the district medical examiner to investigate and certify deaths within a county or district.

(3) "Cause of death" means the primary or basic disease process or injury ending life.

(4) "Death requiring investigation" means the death of a person occurring in any one of the circumstances set forth in ORS 146.090.

[5] "*Deputy medical examiner*" means a person appointed by the district medical examiner to assist in the investigation of deaths within a county.]

[6] (5) "District medical examiner" means a physician appointed by the [State] **Chief Medical Examiner** to investigate and certify deaths within a county or district, including a Deputy State Medical Examiner.

[7] (6) "Law enforcement agency" means a county sheriff's office, municipal police department, police department established by a university under ORS 352.121 or 353.125 and the Oregon State Police.

[8] (7) "Legal intervention" includes an execution pursuant to ORS 137.463, 137.467 and 137.473 and other legal use of force resulting in death.

[9] (8) "Manner of death" means the designation of the probable mode of production of the cause of death, including natural, accidental, suicidal, homicidal, legal intervention or undetermined.

[10] (9) "Medical examiner" means a physician appointed as provided by ORS 146.003 to 146.189 to investigate and certify the cause and manner of deaths requiring investigation, including the [State] **Chief Medical Examiner**.

(10) "**Medical-legal death investigator**" means a person appointed by the district medical examiner to assist in the investigation of deaths within a county.

(11) "Pathologist" means a physician holding a current license to practice medicine and surgery and who is eligible for certification by the American Board of Pathology.

(12) "Unidentified human remains" does not include human remains that are unidentified human remains that are part of an archaeological site or suspected of being Native American and covered under ORS chapters 97 and 390 and ORS 358.905 to 358.961.

**SECTION 4.** ORS 146.015 is amended to read:

146.015. (1) There is hereby established the State Medical Examiner Advisory Board.

(2) The board shall make policies for the administration of ORS 146.003 to 146.189 and the Department of State Police shall adopt rules to effectuate the policies.

(3) The board shall recommend the name or names of pathologists to the Superintendent of State Police from which the superintendent shall appoint the [State] **Chief Medical Examiner**.

(4) The board consists of 11 members appointed by the Governor who are:

(a) The Chair of the Department of Pathology of the Oregon Health and Science University, who is the chairperson of the board;

(b) The State Health Officer;

(c) A sheriff;

(d) A trauma physician recommended by the State Trauma Advisory Board;

(e) A pathologist;

(f) A district attorney;

(g) A funeral service practitioner and embalmer licensed by the State Mortuary and Cemetery Board;

(h) A chief of police;

(i) A member of the defense bar;

(j) A member of the public at large; and

(k) A member of one of the federally recognized Oregon Indian tribes.

(5) The members described in subsection (4)(a) and (b) of this section may serve as long as they hold their respective positions. The term of office of each member described in subsection (4)(c), (f) and (h) of this section is for four years, except that the position becomes vacant if the member

ceases to be a sheriff, district attorney or chief of police, respectively. The terms of office of the other members of the State Medical Examiner Advisory Board are for four years.

(6) A member of the board is entitled to compensation and expenses as provided in ORS 292.495.

(7) The board shall meet annually at a time and place determined by the chairperson. The chairperson or any four members of the board may call a special meeting upon not less than one week's notice to the members of the board.

(8) Six members of the board constitute a quorum.

**SECTION 5.** ORS 146.025 is amended to read:

146.025. In addition to the duties set forth in ORS 146.015 the State Medical Examiner Advisory Board shall:

(1) Recommend to the Oregon Department of Administrative Services the qualifications and compensation for the positions of [State] **Chief Medical Examiner** and Deputy State Medical Examiner.

(2) Recommend to the county courts the compensation of the district medical examiners and assistant district medical examiners.

(3) Recommend to district medical examiners and district attorneys the qualifications for [deputy medical examiners] **medical-legal death investigators**.

(4) Approve or disapprove of a single district medical examiner's office for two or more counties as provided by ORS 146.065 (5).

(5) Recommend a proposed budget for the [State Medical Examiner's office] **Office of the Chief Medical Examiner** to the Department of State Police.

(6) Annually review the [State] **Chief Medical Examiner's** report prescribed by ORS 146.055 and report to the Superintendent of State Police and to the State Board of Health regarding the operation of the [State Medical Examiner's office] **Office of the Chief Medical Examiner**.

**SECTION 6.** ORS 146.035 is amended to read:

146.035. (1) There is established within the Department of State Police the [State Medical Examiner's office] **Office of the Chief Medical Examiner** for the purpose of directing and supporting the state death investigation program.

(2) The [State] **Chief Medical Examiner** shall manage all aspects of the [State Medical Examiner's] **Office of the Chief Medical Examiner's** program.

(3) Subject to the State Personnel Relations Law, the [State] **Chief Medical Examiner** may employ or discharge other personnel of the [State Medical Examiner's office] **Office of the Chief Medical Examiner**.

(4) The [State Medical Examiner's office] **Office of the Chief Medical Examiner** shall:

(a) File and maintain appropriate reports on all deaths requiring investigation.

(b) Maintain an accurate list of all active district medical examiners, assistant district medical examiners and designated pathologists.

(c) Transmit monthly to the Department of Transportation a report for the preceding calendar month of all information obtained under ORS 146.113.

(5) Notwithstanding ORS 192.501 (36):

(a) Any parent, spouse, sibling, child or personal representative of the deceased, or any person who may be criminally or civilly liable for the death, or their authorized representatives respectively, may examine and obtain copies of any medical examiner's report, autopsy report or laboratory test report ordered by a medical examiner under ORS 146.117.

(b) The system described in ORS 192.517 (1) shall have access to reports described in this subsection as provided in ORS 192.517.

**SECTION 7.** ORS 146.045 is amended to read:

146.045. (1) After consultation with the State Medical Examiner Advisory Board, the [State] **Chief Medical Examiner** shall appoint each Deputy State Medical Examiner.

(2) The [State] **Chief Medical Examiner** shall:

(a) Appoint and discharge each district medical examiner as provided by ORS 146.065 (2).

(b) Designate those pathologists authorized to perform autopsies under ORS 146.117 (2).

(c) Approve those laboratories authorized to perform the analyses required under ORS 146.113 (2).

(3) The [State] **Chief Medical Examiner** may:

(a) Assume control of a death investigation in cooperation with the district attorney.

(b) Order an autopsy in a death requiring investigation.

(c) Certify the cause and manner of a death requiring investigation.

(d) Amend a previously completed report on a death requiring investigation.

(e) Order a body exhumed in a death requiring investigation.

(f) Designate a Deputy State Medical Examiner as Acting [State] **Chief Medical Examiner**.

(g) After a reasonable and thorough investigation, complete and file a report of death for a person whose body is not found.

(4) Distribution of moneys from the [State] **Chief Medical Examiner's** budget for partial reimbursement of each county's autopsy expenditures shall be made subject to approval of the [State] **Chief Medical Examiner**.

(5) Within 45 days of receipt of information that a person is missing at sea and presumed dead, the [State] **Chief Medical Examiner** shall determine whether the information is credible and, if so, complete and file a report of death for the person presumed dead. If the information is determined not to be credible, the [State] **Chief Medical Examiner** may continue the death investigation.

**SECTION 8.** ORS 146.055 is amended to read:

146.055. (1) The [State] **Chief Medical Examiner** shall assist and advise district medical examiners in the performance of their duties.

(2) The [State] **Chief Medical Examiner** shall perform autopsies, if in the judgment of the [State] **Chief Medical Examiner** such autopsy is necessary in any death requiring investigation, when requested by a medical examiner or district attorney.

(3) The [State] **Chief Medical Examiner** shall regularly conduct training programs for the district medical examiners and law enforcement agencies.

(4) The [State] **Chief Medical Examiner** shall submit an annual report to the State Medical Examiner Advisory Board detailing the activities and accomplishments of the state and each county office in the preceding year as well as a cost analysis of the Office of the [State] **Chief Medical Examiner**.

**SECTION 9.** ORS 146.065 is amended to read:

146.065. (1) In each county there shall be a medical examiner for the purpose of investigating and certifying the cause and manner of deaths requiring investigation.

(2) Each district medical examiner shall be appointed by the [State] **Chief Medical Examiner** with approval of the appropriate board or boards of commissioners and may be discharged by the [State] **Chief Medical Examiner** without such approval.

(3) If the position of district medical examiner is vacant, the local health officer shall temporarily act as medical examiner in cooperation with the [State] **Chief Medical Examiner** until the vacancy is filled.

(4) If the positions of district medical examiner and local health officer are both vacant, the district attorney shall temporarily act as medical examiner in cooperation with the [State] **Chief Medical Examiner** until the vacancy is filled.

(5) Two or more counties, with the approval of the State Medical Examiner Advisory Board and commissioners of each county, may form a district medical examiner's office instead of an office for each such county.

(6) When a county or district has a population of 200,000 or more persons, the [State] **Chief Medical Examiner** may, with the approval of the State Medical Examiner Advisory Board, appoint a Deputy State Medical Examiner for that county or district.

(7) The compensation of the Deputy State Medical Examiner shall be paid by the state from funds available for such purpose.

(8) The services of the Deputy State Medical Examiner may be contracted by the Department of State Police. These contracts may be terminated by either party at any time by written notice

to the other party to the agreement and, upon termination, the appointment of such Deputy State Medical Examiner is terminated.

**SECTION 10.** ORS 146.075 is amended to read:

146.075. (1) The district medical examiner shall serve as the administrator of the district medical examiner's office. Subject to applicable provisions of a county personnel policy or civil service law, the district medical examiner may employ such other personnel as the district medical examiner deems necessary to operate the office.

(2) All expenses of equipping, maintaining and operating the district medical examiner's office, including the compensation of the district medical examiner and assistant district medical examiners, shall be paid by the county or counties of the district from funds budgeted for such purpose.

(3) When a district medical examiner also serves as local health officer, the county shall separately budget the compensation and expenses to be paid for medical examiner's duties.

(4) All expenses of death investigations shall be paid from county funds budgeted for such purpose except that, in counties under 200,000 population upon the approval of the [State] **Chief Medical Examiner**, one-half of the costs of autopsies ordered under ORS 146.117 shall be paid annually by the state from funds for such purpose. If funds available for this payment are insufficient to meet one-half of these costs, even proportional payments to the counties shall be made.

(5) Expenses of burial or other disposition of an unclaimed body shall be paid by the county where the death occurs, as provided by ORS 146.100 (2), in the manner provided by ORS 146.121 (4).

(6) Each district office shall maintain copies of the:

(a) Reports of death investigation by the medical examiner;

(b) Autopsy reports;

(c) Laboratory analysis reports; and

(d) Inventories of money or property of the deceased taken into custody during the investigation.

(7) Reports and inventories maintained by the district office shall be available for inspection as provided by ORS 146.035 (5).

(8) Copies of reports of death investigations by medical examiners and autopsy reports shall be forwarded to the [State Medical Examiner's office] **Office of the Chief Medical Examiner**.

(9) Each district office shall maintain current records of:

(a) All assistant district medical examiners appointed.

(b) Appointments of each [deputy medical examiner] **medical-legal death investigator** appointed for the county or district.

(c) The name, address and director of each licensed funeral home located within the county or district.

(10) Each district office shall immediately in writing notify the [State Medical Examiner's office] **Office of the Chief Medical Examiner** of all appointments and resignations of their medical examiners.

**SECTION 11.** ORS 146.085 is amended to read:

146.085. (1) The district medical examiner shall appoint, subject to the approval of the district attorney and applicable civil service regulations, qualified [deputy medical examiners] **medical-legal death investigators**, including the sheriff or a deputy sheriff and a member of the Oregon State Police for each county. Other peace officers may also be appointed as [deputy medical examiners] **medical-legal death investigators**.

(2) The district medical examiner and the district attorney shall establish qualifications for [deputy medical examiners] **medical-legal death investigators**.

(3) Each [deputy medical examiner] **medical-legal death investigator** shall be individually appointed and the name of the [deputy medical examiner] **medical-legal death investigator** shall be on file in the office of the district medical examiner.

(4) A [deputy medical examiner] **medical-legal death investigator** shall investigate deaths subject to the control and direction of the district medical examiner or the district attorney.

(5) A [deputy medical examiner] **medical-legal death investigator** may authorize the removal of the body of a deceased person from the apparent place of death.

(6) The [*deputy medical examiner*] **medical-legal death investigator** may not authorize embalming, order a post-mortem examination or autopsy, or certify the cause and manner of death.

**SECTION 12.** ORS 146.088 is amended to read:

146.088. A district medical examiner, [*deputy medical examiner*] **medical-legal death investigator**, assistant district medical examiner or designated pathologist is deemed to be an officer or employee of a public body for purposes of ORS 30.260 to 30.300 while acting as a district medical examiner, [*deputy medical examiner*] **medical-legal death investigator**, assistant district medical examiner or designated pathologist.

**SECTION 13.** ORS 146.095 is amended to read:

146.095. (1) The district medical examiner and the district attorney for the county where death occurs, as provided by ORS 146.100 (2), shall be responsible for the investigation of all deaths requiring investigation.

(2) The medical examiner shall certify the manner and the cause of all deaths which the medical examiner is required to investigate. The report of death shall be submitted to a county registrar as required by ORS 432.133.

(3) The medical examiner shall make a report of death investigation to the [*State*] **Chief Medical Examiner** as soon as possible after being notified of a death requiring investigation.

(4) Within five days after notification of a death requiring investigation, the medical examiner shall make a written report of the investigation and file it in the district medical examiner's office.

(5) The district medical examiner shall supervise the assistant district medical examiners and [*deputy medical examiners*] **medical-legal death investigators** in cooperation with the district attorney.

(6) The district medical examiner shall regularly conduct administrative training programs for the assistant district medical examiners, [*deputy medical examiners*] **medical-legal death investigators** and law enforcement agencies.

**SECTION 14.** ORS 146.100 is amended to read:

146.100. (1) Death investigations shall be under the direction of the district medical examiner and the district attorney for the county where the death occurs.

(2) For purposes of ORS 146.003 to 146.189, if the county where death occurs is unknown, the death shall be deemed to have occurred in the county where the body is found, except that if in an emergency the [*deceased*] **body** is moved by conveyance to another county and is dead on arrival, the death shall be deemed to have occurred in the county from which the body was originally removed.

(3) The district medical examiner or [*a designated*] **an** assistant **district** medical examiner for the county where death occurs shall be immediately notified of:

(a) All deaths requiring investigation; and

(b) All deaths of persons admitted to a hospital or institution for less than 24 hours, although the medical examiner need not investigate nor certify such deaths.

(4) No person having knowledge of a death requiring investigation shall intentionally or knowingly fail to make notification thereof as required by subsection (3) of this section.

(5) The district medical examiner or [*deputy medical examiner*] **medical-legal death investigator** shall immediately notify the district attorney for the county where death occurs of all deaths requiring investigation except for those specified by ORS 146.090 (1)(d) to (g).

(6) All peace officers, health care providers as defined in ORS 192.556, supervisors of penal institutions and supervisors of hospitals or institutions caring for the ill or helpless shall cooperate with the medical examiner by providing a decedent's medical records and tissue samples and any other material necessary to conduct the death investigation of the decedent and shall make notification of deaths as required by subsection (3) of this section. A person who cooperates with the medical examiner in accordance with this subsection does not:

(a) Waive any claim of privilege applicable to, or the confidentiality of, the materials and records provided.

(b) Waive any claim that the materials and records are subject to an exemption from disclosure under ORS 192.410 to 192.505.

(7) Records or materials described in subsection (6) of this section may be released by the medical examiner only pursuant to a valid court order.

**SECTION 15.** ORS 146.103 is amended to read:

146.103. (1) In a death requiring an investigation, no person shall move a human body or body suspected of being human, or remove any of the effects of the deceased or instruments or weapons related to the death without the permission of a medical examiner, [*deputy medical examiner*] **medical-legal death investigator** or the district attorney.

(2) No person shall move or remove any of the items specified in subsection (1) of this section if the medical examiner or district attorney objects.

(3) A medical examiner, district attorney or [*deputy medical examiner*] **medical-legal death investigator** shall take custody of or exercise control over the body, the effects of the deceased and any weapons, instruments, vehicles, buildings or premises which the medical examiner, district attorney or [*deputy medical examiner*] **medical-legal death investigator** has reason to believe were involved in the death, in order to preserve evidence relating to the cause and manner of death.

(4) In a death requiring investigation, no person shall undress, embalm, cleanse the surface of the body or otherwise alter the appearance or the state of the body without the permission of the medical examiner or the district attorney.

**SECTION 16.** ORS 146.107 is amended to read:

146.107. (1) A medical examiner, [*deputy medical examiner*] **medical-legal death investigator** or district attorney may enter any room, dwelling, building or other place in which the medical examiner, [*deputy medical examiner*] **medical-legal death investigator** or district attorney has reasonable cause to believe that a body or evidence of the circumstances of death requiring investigation may be found.

(2) If refused entry, the medical examiner, [*deputy medical examiner*] **medical-legal death investigator** or district attorney may apply to any judge authorized to issue search warrants for an order to enter such premises, search for and seize a body or any evidence of the cause or manner of death.

(3) Upon application supported by an affidavit setting forth facts and circumstances tending to show that a body or such evidence of death is in the place to be searched, the judge shall issue such order to enter and search and seize.

(4) To preserve evidence, a medical examiner, [*deputy medical examiner*] **medical-legal death investigator** or district attorney may:

(a) Place under the custody or control of the medical examiner, [*deputy medical examiner*] **medical-legal death investigator** or district attorney, or enclose or lock any room, dwelling, building or other enclosure for a period of not more than five days.

(b) Rope off or otherwise restrict entry to any open area.

(c) Forbid the entrance of any unauthorized person into the area specified under paragraphs (a) and (b) of this subsection.

(5) No person shall enter upon the enclosures or areas specified in subsection (4) of this section without the permission of the medical examiner, [*deputy medical examiner*] **medical-legal death investigator** or district attorney.

**SECTION 17.** ORS 146.109 is amended to read:

146.109. (1) Upon identifying the body, the medical examiner shall immediately attempt to locate the next of kin or responsible friends to obtain the designation of a funeral home to which the deceased is to be taken.

(2) If unable to promptly obtain a designation of funeral home from the next of kin or responsible friends, the medical examiner or [*deputy medical examiner*] **medical-legal death investigator** shall designate the funeral home. In designating the funeral home, the medical examiner or [*deputy medical examiner*] **medical-legal death investigator** shall be fair and equitable among the funeral homes listed in the office of the district medical examiner.



**SECTION 18.** ORS 146.113 is amended to read:

146.113. (1) A medical examiner or district attorney may, in any death requiring investigation, order samples of blood or urine taken for laboratory analysis.

(2) When a death requiring an investigation as a result of a motor vehicle accident occurs within five hours after the accident and the deceased is over 13 years of age, a blood sample shall be taken and forwarded to an approved laboratory for analysis. Such blood or urine samples shall be analyzed for the presence and quantity of ethyl alcohol, and if considered necessary by the [State] **Chief Medical Examiner**, the presence of controlled substances.

(3) Laboratory reports of the analysis shall be made a part of the [State] **Chief Medical Examiner's** and district medical examiner's files.

**SECTION 19.** ORS 146.125 is amended to read:

146.125. (1) The medical examiner, [*deputy medical examiner*] **medical-legal death investigator**, district attorney or sheriff may temporarily retain possession of any property found on the body or in the possession of the deceased which in the opinion of the medical examiner, [*deputy medical examiner*] **medical-legal death investigator**, district attorney or sheriff may be useful in establishing the cause or manner of death or may be used in further proceedings.

(2) When a medical examiner, [*deputy medical examiner*] **medical-legal death investigator**, district attorney or sheriff assumes control or custody of money or personal property found on the body or in the possession of the deceased, the medical examiner, [*deputy medical examiner*] **medical-legal death investigator**, district attorney or sheriff shall:

(a) Make a verified inventory of such money or property.

(b) File the inventory in the district medical examiner's office.

(c) Deposit the money with the county treasurer to the credit of the county general fund.

(3) If personal property is not retained by the medical examiner, [*deputy medical examiner*] **medical-legal death investigator**, district attorney or sheriff, and is not claimed within 30 days, the inventory shall be filed with the board of county commissioners to be disposed of as follows:

(a) If the property has value, the board may order it sold and after deducting the cost of sale, shall deposit the proceeds of the sale with the county treasurer to the credit of the county general fund.

(b) If the property has no value in the judgment of the board, the board may order the sheriff to destroy such property.

(4) Any expenses incurred by the county in transporting or disposing of the body may be deducted from the money or proceeds of the sale of personal property before it is delivered to a claimant.

(5) If it appears that the person whose death required investigation died wholly intestate and without heirs, the county whose official has control or custody of the property shall notify an estate administrator of the Department of State Lands appointed under ORS 113.235 within 15 days after the death.

(6) If a legally qualified personal representative, spouse, or next of kin:

(a) Claims the money of the deceased, the treasurer shall, subject to the provisions of subsection (4) of this section, deliver such money to the claimant.

(b) Within 30 days, claims the personal property of the deceased, the property shall be delivered to such claimant subject to the provisions of subsections (1) and (5) of this section.

(7) If money of the deceased is not claimed within seven years and is presumed abandoned as provided by ORS 98.302 to 98.436 and 98.992, the board of county commissioners shall order the money paid as required by law.

**SECTION 20.** ORS 146.135 is amended to read:

146.135. (1) The district attorney for the county where the death occurs may order an inquest to obtain a jury finding of the cause and manner of death in any case requiring investigation.

(2) For the purpose of conducting an inquest, the district attorney shall have the powers of a judicial officer as described by ORS 1.240 and 1.250.

(3) The district attorney shall advise the jury of inquest as to its duties and instruct the jury on questions of law.

(4) The district attorney shall cause a record of the inquest proceedings to be made which shall include the written order of inquest, a record of the testimony of witnesses and the written verdict of the jury.

(5) Within a reasonable time after the verdict is returned, the record of inquest shall be filed in the district medical examiner's office for the county where the inquest was held.

(6) A copy of the order of inquest and verdict of the jury shall be filed in the [State Medical Examiner's office] **Office of the Chief Medical Examiner**.

(7) The record of inquest shall be available for inspection as provided by ORS 146.035 (5).

**SECTION 21.** ORS 146.171 is amended to read:

146.171. (1) The Superintendent of State Police shall establish and maintain a file of records relating to unidentified human remains found within the state and of which the Oregon State Police are notified under ORS 146.174. The records shall be maintained in order to facilitate the identification of such remains.

(2) The Superintendent of State Police shall establish the file described under subsection (1) of this section after consultation with the [State] **Chief Medical Examiner** to determine what areas of information generally shall be requested, obtained and preserved in the file. General areas of information determined under this section shall be for the purpose of developing file format and standard forms for collecting data to aid in identifying human remains. Information having potential value in identifying human remains shall not be excluded from a file because it does not fall within a general area of information determined under this section or is not required by federal authorities.

(3) In addition to any other file it maintains, the Department of State Police shall enter appropriate information relating to unidentified human remains into any file maintained by federal authorities to facilitate the identification of such remains. The department shall conform file entries under this subsection to the format prescribed by the authorities responsible for the federal file.

**SECTION 22.** ORS 176.740 is amended to read:

176.740. (1) The Governor may proclaim that a natural disaster or an act of war, terrorism or sabotage has caused the death of unknown persons on a specific date at a specific place.

(2) For the purposes of any civil or administrative proceeding, there is a presumption that a missing person is dead if it is shown that:

(a) The person was at or near the place described in a proclamation under this section on the date specified in the proclamation; and

(b) The person's absence cannot be satisfactorily explained after diligent search.

(3) In administering the estate of an absentee under ORS chapter 117, the court may enter an order directing the [State] **Chief Medical Examiner** to submit a report of death to the county registrar for a decedent presumed to be dead under this section. The county registrar may not charge a fee for receiving a report under this subsection or for issuing a copy of a report submitted under this subsection. The [State] **Chief Medical Examiner** shall indicate on the report of death that the report of death was submitted pursuant to an order entered under this section.

(4) This section does not establish, limit or abrogate the special peril doctrine.

**SECTION 23.** ORS 181A.080 is amended to read:

181A.080. (1) The Department of State Police and the members of the Oregon State Police are charged with the enforcement of:

(a) All criminal laws; and

(b) All laws applicable to highways and the operation of vehicles on highways.

(2) Each member of the state police is authorized and empowered to:

(a) Prevent crime.

(b) Pursue and apprehend offenders and obtain legal evidence necessary to ensure the conviction of the offenders in the courts.

(c) Institute criminal proceedings.

(d) Execute any lawful warrant or order of arrest issued against any person or persons for any violation of the law.

(e) Make arrests without warrant for violations of law in the manner provided in ORS 133.310.

(f) Give first aid to the injured.

(3) Each member of the state police has the same general powers and authority as those conferred by law upon sheriffs, police officers, constables and peace officers. A member of the state police may be appointed as a [*deputy medical examiner*] **medical-legal death investigator**.

(4) The members of the state police are subject to the call of the Governor and are empowered to cooperate with any other instrumentality or authority of this state, or any political subdivision, in detecting crime, apprehending criminals and preserving law and order throughout this state, but the state police may not be used as a posse except when ordered by the Governor.

**SECTION 24.** ORS 431A.865, as amended by section 1, chapter 100, Oregon Laws 2016, is amended to read:

431A.865. (1)(a) Except as provided under subsection (2) of this section, prescription monitoring information submitted under ORS 431A.860 to the prescription monitoring program established in ORS 431A.855:

(A) Is protected health information under ORS 192.553 to 192.581.

(B) Is not subject to disclosure pursuant to ORS 192.410 to 192.505.

(b) Except as provided under subsection (2)(a)(G) of this section, prescription monitoring information submitted under ORS 431A.860 to the prescription monitoring program may not be used to evaluate a practitioner's professional practice.

(2)(a) To the extent that the law or regulation is applicable to the prescription monitoring program, if a disclosure of prescription monitoring information, other than the sex of a patient for whom a drug was prescribed, complies with the federal Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191) and regulations adopted under it, including 45 C.F.R. parts 160 and 164, federal alcohol and drug treatment confidentiality laws and regulations, including 42 C.F.R. part 2, and state health and mental health confidentiality laws, including ORS 179.505, 192.517 and 192.553 to 192.581, the Oregon Health Authority shall disclose the information:

(A) To a practitioner or pharmacist, or, if a practitioner or pharmacist authorizes the authority to disclose the information to a member of the practitioner's or pharmacist's staff, to a member of the practitioner's or pharmacist's staff. If a practitioner or pharmacist authorizes disclosing the information to a member of the practitioner's or pharmacist's staff under this subparagraph, the practitioner or pharmacist remains responsible for the use or misuse of the information by the staff member. To receive information under this subparagraph, or to authorize the receipt of information by a staff member under this subparagraph, a practitioner or pharmacist must certify that the requested information is for the purpose of evaluating the need for or providing medical or pharmaceutical treatment for a patient to whom the practitioner or pharmacist anticipates providing, is providing or has provided care.

(B) In accordance with subparagraph (A) of this paragraph, to a practitioner or pharmacist or to a member of the practitioner's or pharmacist's staff through a health information technology system that is used by the practitioner or pharmacist or a member of the practitioner's or pharmacist's staff to access information about patients if:

(i) The practitioner or pharmacist or a member of the practitioner's or pharmacist's staff is authorized to access the information in the health information technology system;

(ii) The information is not permanently retained in the health information technology system, except for purposes of conducting audits and maintaining patient records; and

(iii) The health information technology system meets any privacy and security requirements and other criteria, including criteria required by the federal Health Insurance Portability and Accountability Act, established by the authority by rule.

(C) To a practitioner in a form that catalogs all prescription drugs prescribed by the practitioner according to the number assigned to the practitioner by the Drug Enforcement Administration of the United States Department of Justice.

(D) To the [State] **Chief** Medical Examiner or designee of the [State] **Chief** Medical Examiner, for the purpose of conducting a medicolegal investigation or autopsy.

(E) To designated representatives of the authority or any vendor or contractor with whom the authority has contracted to establish or maintain the electronic system of the prescription monitoring program.

(F) Pursuant to a valid court order based on probable cause and issued at the request of a federal, state or local law enforcement agency engaged in an authorized drug-related investigation involving a person to whom the requested information pertains.

(G) To a health professional regulatory board that certifies in writing that the requested information is necessary for an investigation related to licensure, license renewal or disciplinary action involving the applicant, licensee or registrant to whom the requested information pertains.

(H) To a prescription monitoring program of another state if the confidentiality, security and privacy standards of the requesting state are determined by the authority to be equivalent to those of the authority.

(b) The authority may disclose information from the prescription monitoring program that does not identify a patient, practitioner or drug outlet:

(A) For educational, research or public health purposes;

(B) To a local public health authority, as defined in ORS 431.003; or

(C) To officials of the authority who are conducting special epidemiologic morbidity and mortality studies in accordance with ORS 413.196 and rules adopted under ORS 431.001 to 431.550 and 431.990.

(c) The Oregon Health Authority shall disclose information relating to a patient maintained in the electronic system operated pursuant to the prescription monitoring program to that patient at no cost to the patient within 10 business days after the authority receives a request from the patient for the information.

(d)(A) A patient may request the authority to correct any information about the patient that is erroneous. The authority shall grant or deny a request to correct information within 10 business days after the authority receives the request.

(B) If the authority denies a patient's request to correct information under this paragraph, or fails to grant a patient's request to correct information under this paragraph within 10 business days after the authority receives the request, the patient may appeal the denial or failure to grant the request. Upon receiving notice of an appeal under this subparagraph, the authority shall conduct a contested case hearing as provided in ORS chapter 183. Notwithstanding ORS 183.450, the authority has the burden in the contested case hearing of establishing that the information included in the prescription monitoring program is correct.

(e) The information in the prescription monitoring program may not be used for any commercial purpose.

(f) In accordance with ORS 192.553 to 192.581 and federal privacy regulations, any person authorized to prescribe or dispense a prescription drug and who is entitled to access a patient's prescription monitoring information may discuss or release the information to other health care providers involved with the patient's care for the purposes of providing safe and appropriate care coordination.

(3)(a) The authority shall maintain records of the information disclosed through the prescription monitoring program including, but not limited to:

(A) The identity of each person who requests or receives information from the program and any organization the person represents;

(B) The information released to each person or organization; and

(C) The date and time the information was requested and the date and time the information was provided.

(b) Records maintained as required by this subsection may be reviewed by the Prescription Monitoring Program Advisory Commission.

(4) Information in the prescription monitoring program that identifies an individual patient must be removed no later than three years from the date the information is entered into the program.

(5) The authority shall notify the Attorney General and each affected individual of an improper disclosure of information from the prescription monitoring program.

(6)(a) If the authority or a person or entity required to report or authorized to receive or release controlled substance prescription information under this section violates this section or ORS 431A.860 or 431A.870, a person injured by the violation may bring a civil action against the authority, person or entity and may recover damages in the amount of \$1,000 or actual damages, whichever is greater.

(b) Notwithstanding paragraph (a) of this subsection, the authority and a person or entity required to report or authorized to receive or release controlled substance prescription information under this section are immune from civil liability for violations of this section or ORS 431A.860 or 431A.870 unless the authority, person or entity acts with malice, criminal intent, gross negligence, recklessness or willful intent.

(7) Nothing in ORS 431A.855 to 431A.900 requires a practitioner or pharmacist who prescribes or dispenses a prescription drug to obtain information about a patient from the prescription monitoring program. A practitioner or pharmacist who prescribes or dispenses a prescription drug may not be held liable for damages in any civil action on the basis that the practitioner or pharmacist did or did not request or obtain information from the prescription monitoring program.

(8) The authority shall, at regular intervals, ensure compliance of a health information technology system described in subsection (2) of this section with the privacy and security requirements and other criteria established by the authority by rule under subsection (2) of this section.

**SECTION 25.** ORS 432.133 is amended to read:

432.133. (1)(a) A report of death for each death that occurs in this state must be submitted to the county registrar of the county in which the death occurred or to the Center for Health Statistics, or as otherwise directed by the State Registrar of the Center for Health Statistics, within five calendar days after death or the finding of a dead body and before final disposition, and must be registered if it has been completed and submitted in accordance with this section.

(b) If the place of death is unknown, but the dead body is found in this state, the report of death must be completed and submitted in accordance with this section. The place where the body is found must be noted as the place of death except, if in an emergency the decedent is moved by conveyance to another county and is dead on arrival, the death shall be considered to have occurred in the county from where the body was originally moved.

(c) When death occurs in a moving conveyance within or outside the United States and the body is first removed from the conveyance in this state, the death must be registered in this state and the place where the body is first removed shall be deemed the place of death. The report of death may note the actual location of death insofar as it can be determined.

(d) In all other cases, the place where death is pronounced shall be considered the place where death occurred.

(e) If the date of death is unknown, the medical certifier shall determine the date by approximation. If the date cannot be determined by approximation, the date that the body was found shall be entered on the report of death.

(2)(a) The funeral service practitioner or person acting as a funeral service practitioner who first assumes custody of the dead body shall submit the report of death to the county registrar of the county in which the death occurred or to the Center for Health Statistics. In cases where there is no funeral service practitioner or person acting as a funeral service practitioner, the medical examiner shall submit the report of death.

(b) The funeral service practitioner or person acting as the funeral service practitioner shall obtain the personal data from the next of kin or the best qualified person or source available and shall obtain the medical certification from the person responsible for the medical certification.

(c) The funeral service practitioner or person acting as the funeral service practitioner shall provide sufficient information to identify the decedent to the medical certifier within 48 hours after death unless the medical certification has already been submitted.

(3) A medical certification shall be completed within 48 hours after having access to the report of death by the decedent's primary or attending medical certifier who was in charge of the care of the patient for the illness or condition that resulted in death, except when inquiry is required under ORS chapter 146. In the absence or inability of the medical certifier, or with the medical certifier's approval, the report of death may be completed by an associate of the medical certifier, the chief medical officer of the institution where death occurred or the physician who performed an autopsy upon the decedent, provided that the associate, chief medical officer or physician has access to the medical history of the case and death is due to natural causes. The person completing the cause of death shall attest to its accuracy either by signature or by electronic signature.

(4) When inquiry is required under ORS chapter 146, the medical examiner in the jurisdiction where death occurred or the body was found shall determine the cause and manner of death and shall complete and sign the medical certification within 48 hours after taking charge of the case. If the cause or manner of death is unknown or pending investigation, the cause or manner of death shall be noted as such on the report of death.

(5) When the death occurs in a hospital where more than 10 deaths occurred during the previous calendar year, the person in charge of the hospital shall require the medical certification to be reported through the state electronic reporting system and the report of death to include the electronic signature of the medical certifier.

(6)(a) When a death occurs in a hospital described in subsection (5) of this section and the death is not under the jurisdiction of a medical examiner, the person in charge of the hospital or the designated representative of the person in charge of the hospital shall enter the following information on the report of death within 48 hours of death:

(A) If the report of death does not exist in the state electronic reporting system, the name of the decedent, the date of the decedent's birth, the date of the decedent's death and the county in which the decedent died; and

(B) The medical certification of death, accompanied by the signature or electronic signature of the person completing the cause of death as described in subsection (3) of this section.

(b) The partially completed report of death prepared under this subsection shall be made available to the funeral service practitioner or person acting as a funeral service practitioner within 48 hours of death.

(7) Upon receipt of autopsy results or other information that would change the information related to the cause or manner of death, a medical certifier or medical examiner shall submit an amendment to the record of death within five calendar days to the Center for Health Statistics.

(8) When a death that is not the subject of a presumptive death proceeding in a court in this state or another state is presumed to have occurred in this state as the result of a known event in this state, but no remains of the presumed deceased can be located, a report of death may be prepared by the [State] **Chief** Medical Examiner upon receiving an order from a court of competent jurisdiction that contains findings of fact necessary to complete the report of death. A report of death prepared under this subsection shall be marked or flagged "Presumptive" and must show on its face the date of death as determined by the court, the date of registration, the identity of the court and the date of the order.

(9) When a death of a missing person domiciled in this state, and that is not the subject of a presumptive death proceeding in a court of this state or another state, has been determined by a court of competent jurisdiction to have presumptively occurred in another state, a report of death may be prepared by the [State] **Chief** Medical Examiner upon receiving an order from the court that contains findings of fact necessary to complete the report of death. A report of death prepared under this subsection shall be marked or flagged "Presumptive" and must show on its face the date of death as determined by the court, the date of registration, the identity of the court and the date of the order.

(10) When a death occurring in this state has not been registered as prescribed by this section, a report of death may be submitted to the state registrar as described in this section provided that the medical certifier or medical examiner and the funeral service practitioner or person acting as a funeral service practitioner are available to complete the report of death. If the report of death is submitted more than one year after the date of death or the date on which the body was found, the medical certifier or medical examiner and funeral service practitioner or person acting as a funeral service practitioner shall state in accompanying notarized statements that the information submitted is based on records kept in the files of the medical certifier or medical examiner and funeral service practitioner or person acting as a funeral service practitioner. If the medical certifier or medical examiner and funeral service practitioner or person acting as a funeral service practitioner are unavailable to complete the report of death, or decline to complete the report death, then the death shall not be registered except upon the receipt of an order from a court of competent jurisdiction.

(11) A report of death required to be submitted under this section must contain the Social Security number of the decedent when the Social Security number is reasonably available from other records related to the decedent or can be obtained from the person in charge of the final disposition of the decedent.

(12) If a decedent's death was caused by suicide, the person who submits the report of death to the county registrar or to the Center for Health Statistics, or as otherwise directed by the state registrar, shall make reasonable efforts to ascertain whether the decedent was a veteran and, if the decedent was a veteran, whether the decedent served in combat and, if so, where the decedent served. Information acquired under this subsection must be reported to the Center for Health Statistics through the state electronic reporting system.

**SECTION 26.** ORS 432.138 is amended to read:

432.138. (1)(a) A death may be registered by the [State] **Chief** Medical Examiner as specified in ORS 432.133 (8) or (9) upon receipt of an order from a court of competent jurisdiction.

(b) A court order that establishes a record of death shall include all of the following information:

- (A) The decedent's full legal name;
- (B) The date of the decedent's death as determined from evidence presented to the court; and
- (C) The city, county and place in which the decedent died as determined from evidence presented to the court.

(c) A court order that establishes a record of death shall include, if available, all of the following information:

(A) The decedent's date of live birth, city and state or country of live birth, race, ethnicity, sex and Social Security number and the name or names of the decedent's parent or parents, as the name or names appear on a birth record;

(B) The decedent's address, including street address, city, county, state and zip code at the time of death;

(C) The decedent's marital status at the time of death;

(D) The name, as it appears on a birth record, of any surviving spouse; and

(E) The information necessary to complete the medical certification, including the cause and manner of death and, if the death occurred because of an injury, information on how and when the injury occurred, or, if the cause and manner of death are not known, a statement that the cause and manner of death are not known.

(2) On the basis of the information in the court order, the [State] **Chief** Medical Examiner shall prepare a report of death. The State Registrar of the Center for Health Statistics shall use a report of death prepared under this subsection to register the death.

(3) All records of death issued under this section shall show the date of the court order and the name of the court issuing the order.

(4) If the death was registered pursuant to ORS 432.133 (8) or (9), the record of death shall be flagged as being "Presumptive."

**SECTION 27.** ORS 433.449 is amended to read:

433.449. (1) As used in this section:

(a) "Contaminated material" means wastes or other materials exposed to or tainted by chemical, radiological, or biological substances or agents.

(b) "Transmissible agent" means a biological substance capable of causing disease or infection through individual to individual transmission, animal to individual transmission, or other modes of transmission.

(2) Notwithstanding any provision in ORS chapter 97 or 692, during a state of public health emergency, the Public Health Director may:

(a) Prescribe measures to provide for the safe disposal of human remains as may be reasonable and necessary to respond to the public health emergency. Measures adopted under this subsection may include the embalming, burial, cremation, interment, disinterment, transportation and disposal of human remains.

(b) Require any person in charge of disposing of human remains to clearly label the human remains of a deceased person with a communicable disease or transmissible agent with an external, clearly visible tag indicating that the human remains are infected or contaminated and, if known, the communicable disease or transmissible agent or contaminated materials present in the remains.

(c) After a medical examiner has certified the cause and manner of death, order a person in charge of disposing of human remains to dispose of the human remains of a person who has died of a communicable disease or transmissible agent through burial or cremation within a specified time period. To the extent practicable, religious, cultural, family and individual beliefs of the deceased person or the person's family shall be considered when disposing of any human remains.

(3) The Public Health Director must consult and coordinate with the [State] **Chief** Medical Examiner when exercising authority under this section. Nothing in this section is intended to override authority granted to the [State] **Chief** Medical Examiner or district medical examiner under ORS 146.003 to 146.189 and 146.710 to 146.992.

**Passed by House April 26, 2017**

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

**Passed by Senate May 16, 2017**

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Peter Courtney, President of Senate

**Received by Governor:**

.....M.,....., 2017

**Approved:**

.....M.,....., 2017

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Kate Brown, Governor

**Filed in Office of Secretary of State:**

.....M.,....., 2017

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Dennis Richardson, Secretary of State