



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB2779

Introduced 1/17/2024, by Sen. Doris Turner

SYNOPSIS AS INTRODUCED:

55 ILCS 5/3-3014	from Ch. 34, par. 3-3014
55 ILCS 5/3-3016	from Ch. 34, par. 3-3016
410 ILCS 505/1	from Ch. 31, par. 41
410 ILCS 505/2	from Ch. 31, par. 42
410 ILCS 505/3	from Ch. 31, par. 43

Amends the Counties Code and the Autopsy Act. Provides that autopsies must be performed by board-certified forensic pathologists or, if under the direct supervision of a board-certified forensic pathologist, pathology residents or forensic pathology fellows (rather than a licensed physician must perform autopsies). In the Autopsy Act, further provides that other qualified personnel or other qualified personnel selected by a board-certified forensic pathologist (rather than a physician) may perform (rather than assist) an autopsy. Further amends the Counties Code. Provides that a county in which the body of a deceased person is found shall indemnify and hold harmless a board-certified forensic pathologist who renders services under the provisions for all of the pathologist's conduct arising out of the pathologist's testimony as an expert witness in a criminal proceeding based on the service provided under the provisions, except actions involving willful and wanton misconduct of the pathologist. Conditions the duty of the county to indemnify a board-certified forensic pathologist who rendered services under the provisions for a judgment recovered against the pathologist upon receiving notice of the filing of the action. Provides that, if a board-certified forensic pathologist is made a party defendant to an action and the action against the pathologist is based upon the pathologist's conduct arising out of the pathologist's testimony as an expert witness in a criminal proceeding, then, within 10 days of service of process, the pathologist shall notify the county in which the body of a deceased person was found of the fact that the pathologist has been made a party defendant to the action. Includes requirements for the notice. Provides that the State's Attorney of the county in which the body of the deceased person is found may appear and defend on behalf of the board-certified forensic pathologist. Effective immediately.

LRB103 36619 AWJ 66728 b

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Counties Code is amended by changing
5 Sections 3-3014 and 3-3016 as follows:

6 (55 ILCS 5/3-3014) (from Ch. 34, par. 3-3014)

7 Sec. 3-3014. Autopsy to be performed by board-certified
8 forensic pathologist ~~licensed physician~~; costs; reports.

9 (a) Any medical examination or autopsy conducted pursuant
10 to this Division shall be performed by a forensic pathologist
11 board-certified by the American Board of Pathology ~~physician~~
12 ~~duly licensed to practice medicine in all of its branches, and~~
13 ~~wherever possible by one having special training in pathology.~~
14 In Class I counties, medical examinations or autopsies
15 (including those performed on exhumed bodies) shall be
16 performed by board-certified forensic pathologists ~~physicians~~
17 appointed or designated by the coroner, and in Class II
18 counties by board-certified forensic pathologists ~~physicians~~
19 appointed or designated by the Director of Public Health upon
20 the recommendation of the advisory board on necropsy service
21 to coroners after the board has consulted with the elected
22 coroner. Any autopsy performed by a board-certified forensic
23 pathologist ~~physician~~ so appointed or designated shall be

1 deemed lawful.

2 (b) A pathology resident or forensic pathology fellow may
3 perform an autopsy required under subsection (a) under the
4 direct supervision of a board-certified forensic pathologist.
5 As used in this subsection, "direct supervision" means
6 supervision that is within the facility where a pathology
7 resident or forensic pathology fellow is performing an autopsy
8 and that requires a board-certified forensic pathologist's
9 presence and availability for prompt consultation.

10 The cost of all autopsies, medical examinations,
11 laboratory fees, if any, and travel expenses of the examining
12 physician and the costs of exhuming a body under the authority
13 of subsection (c) of Section 3-3015 shall be payable from the
14 general fund of the county where the body is found. The
15 examining physician shall file copies of the reports or
16 results of his or her autopsies and medical examinations with
17 the coroner and also with the Department of Public Health.

18 No coroner may perform any autopsy required or authorized
19 by law unless the coroner is a pathologist whose services are
20 requested by the coroner of another county.

21 (c) The county in which the body of a deceased person is
22 found shall indemnify and hold harmless a board-certified
23 forensic pathologist who renders services under this Section
24 for all of the pathologist's conduct arising out of the
25 pathologist's testimony as an expert witness in a criminal
26 proceeding based on the service provided under this Section,

1 except actions involving willful and wanton misconduct of the
2 pathologist. The duty of the county to indemnify a
3 board-certified forensic pathologist who rendered services
4 under this Section for a judgment recovered against the
5 pathologist is conditioned upon receiving notice of the filing
6 of the action as required under this subsection.

7 If a board-certified forensic pathologist is made a party
8 defendant to an action and the action against the pathologist
9 is based upon the pathologist's conduct arising out of the
10 pathologist's testimony as an expert witness in a criminal
11 proceeding, then, within 10 days of service of process, the
12 pathologist shall notify the county in which the body of a
13 deceased person was found of the fact that the pathologist has
14 been made a party defendant to the action. The notice must be
15 in writing and filed in the office of the State's Attorney and
16 in the office of the county clerk, either by the pathologist or
17 the pathologist's agent or attorney. The notice shall state
18 the name of the pathologist; that the pathologist has been
19 served with process, including the date the pathologist was
20 served; that the pathologist has been made a party defendant
21 to an action in which it is claimed that an individual has
22 suffered injury to the individual's body or property caused by
23 the pathologist's conduct as an expert witness in a criminal
24 proceeding; the title and number of the case; and the court in
25 which the action is pending. The State's Attorney of the
26 county in which the body of the deceased person is found may

1 appear and defend on behalf of the board-certified forensic
2 pathologist.

3 (Source: P.A. 86-962; 87-317.)

4 (55 ILCS 5/3-3016) (from Ch. 34, par. 3-3016)

5 Sec. 3-3016. Sudden unexpected infant death and sudden
6 infant death syndrome. Where an infant under one year of age
7 has died suddenly and unexpectedly and the circumstances
8 concerning the death are unexplained following investigation,
9 an autopsy shall be performed by a board-certified forensic
10 pathologist ~~physician licensed to practice medicine in all of~~
11 ~~its branches who has special training in pathology.~~ When an
12 autopsy is conducted under this Section, the parents or
13 guardian of the child shall receive a preliminary report of
14 the autopsy within 5 days of the infant's death. All suspected
15 sudden unexpected infant death and sudden infant death
16 syndrome cases shall be reported to the Statewide Sudden
17 Unexpected Infant Death Program within 72 hours.

18 Death certificates shall list the cause of death as sudden
19 unexpected infant death or sudden infant death syndrome where
20 this finding is medically justified pursuant to the rules and
21 regulations of the Department of Public Health. Copies of
22 death certificates which list the cause of death of infants
23 under one year of age as sudden unexpected infant death or
24 sudden infant death syndrome shall be forwarded to the
25 Department of Public Health within 30 days of the death with a

1 report which shall include an autopsy report, epidemiological
2 data required by the Department and other pertinent data.

3 (Source: P.A. 101-338, eff. 1-1-20.)

4 Section 10. The Autopsy Act is amended by changing
5 Sections 1, 2, and 3 as follows:

6 (410 ILCS 505/1) (from Ch. 31, par. 41)

7 Sec. 1. a. "Board-certified forensic pathologist" means a
8 forensic pathologist board-certified by the American Board of
9 Pathology. "Physician" means any person authorized to practice
10 medicine in all its branches in accordance with the Medical
11 Practice Act of 1987, as amended, and wherever possible, such
12 "Physician" shall be one having special training in pathology.

13 b. "Hospital" means any place authorized to operate under
14 the "Hospital Licensing Act", approved July 1, 1953, as
15 amended, and any hospital or similar care facility maintained
16 by the State of Illinois or any department or agency thereof.

17 c. "Surviving relative" means the spouse, an adult child,
18 the parent, or an adult brother or sister of the decedent.

19 d. "Written authorization" means any printed, typed or
20 handwritten communication signed by the person granting the
21 authorization.

22 (Source: P.A. 85-1209.)

23 (410 ILCS 505/2) (from Ch. 31, par. 42)

1 Sec. 2. A board-certified forensic pathologist ~~Any~~
2 ~~physician~~ may perform an autopsy upon the body of a decedent;
3 provided,

4 a. he has a written authorization from the decedent (or
5 from an agent of the decedent as authorized by the decedent
6 under the Powers of Attorney for Health Care Law, as now or
7 hereafter amended) to do so; or

8 b. a written authorization from a surviving relative who
9 has the right to determine the method for disposing of the body
10 or a next of kin or other person who has such right; or

11 c. a telegraphic or telephonic authorization from (i) a
12 surviving relative who has the right to determine the method
13 for disposing of the body or a next of kin or other person who
14 has such right or (ii) an agent of the decedent as authorized
15 by the decedent under the Powers of Attorney for Health Care
16 Law, as now or hereafter amended; provided, the telegraphic or
17 telephonic authorization is verified, in writing, by at least
18 2 persons who were present at the time and place the
19 authorization was received;

20 d. where 2 or more persons have equal right to determine
21 the method for disposing of the body, the authorization of
22 only one such person shall be necessary, unless, before the
23 autopsy is performed, any others having such equal right shall
24 object in writing or, if not physically present in the
25 community where the autopsy is to be performed, by telephonic
26 or telegraphic communication to the physician by whom the

1 autopsy is to be performed, in which event, the authorization
2 shall be deemed insufficient.

3 In the case of a suspicious child death, the physician
4 shall be a pathologist certified by the Department of Public
5 Health's Advisory Board on Necropsy Services.

6 Authorization may be given to a physician or hospital
7 administrator or his duly authorized representative, but only
8 a board-certified forensic pathologist ~~physician~~ shall perform
9 the autopsy.

10 (Source: P.A. 86-736.)

11 (410 ILCS 505/3) (from Ch. 31, par. 43)

12 Sec. 3. A pathology resident, forensic pathology fellow,
13 ~~The~~ authorized personnel of a hospital, or other qualified
14 personnel selected by a board-certified forensic pathologist
15 may perform an autopsy required pursuant to this Act under the
16 direct supervision of a board-certified forensic pathologist.
17 As used in this Section, "direct supervision" means
18 supervision that is within the facility where a pathology
19 resident or forensic pathology fellow is performing an autopsy
20 and that requires a board-certified forensic pathologist's
21 presence and availability for prompt consultation ~~physician~~
22 ~~may assist a physician performing an autopsy.~~

23 (Source: Laws 1965, p. 2996.)

24 Section 99. Effective date. This Act takes effect upon
25 becoming law.