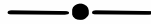


WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1963



ENROLLED

HOUSE BILL No. 87

(By Mr. Speaker, Mr. Singleton, & Mr. White)



PASSED March 12 1963

In Effect July 1 1963 ~~Passage~~



#87

Filed in Office of the Secretary of State
of West Virginia 3-11-63

JOE F. BURDETT
SECRETARY OF STATE

ENROLLED

House Bill No. 87

(By MR. SPEAKER, MR. SINGLETON, and MR. WHITE)

[Passed March 1, 1963; in effect July 1, 1963.]

AN ACT to repeal article twelve, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to enact in lieu thereof a new article, designated article twelve, relating to the creation of a commission on postmortem examinations; providing for a chief medical examiner; the method of performing autopsies; and the duties of county coroners.

Be it enacted by the Legislature of West Virginia:

That article twelve, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed and a new article, designated article twelve, be enacted in lieu thereof, to read as follows:

Article 12. Commission on Postmortem Examinations Established; Rules and Regulations; Office of Medical Examinations; Chief Medical Examiner; Medical Examiners; When Autopsies to Be Made; Duties of County Coroners.

Section 1. Commission on Postmortem Examinations Established.—The commission on postmortem examinations is hereby established. Such commission shall consist of six members, one of whom shall be a member of the West Virginia department of public safety, one of whom shall be qualified to practice law before the West Virginia supreme court of appeals, one of whom shall be a funeral director licensed by the West Virginia board of embalmers and funeral directors, one of whom shall be licensed to practice medicine and surgery by the medical licensing board of West Virginia, one of whom shall be licensed to practice medicine and surgery by the West Virginia board of osteopathy and one of whom shall represent the public generally.

The governor shall make these appointments with the advice and consent of the senate and in making the initial appointments he shall appoint one member for a

18 term of one year, one for a term of two years, one for
19 a term of three years, one for a term of four years, one
20 for a term of five years and one for a term of six years.
21 Thereafter each member shall serve for a term of six
22 years or until his successor in office is duly appointed
23 and qualified.

24 Each year, the commission shall elect one of its mem-
25 bers as chairman, and one as vice chairman. Members
26 of the commission shall receive no compensation for their
27 services as such but they shall be repaid their actual
28 expenses incurred in their service on the commission.
29 The commission shall meet at least every six months
30 and oftener as its duties require.

Sec. 2 Rules and Regulations.—The commission on
2 postmortem examinations may promulgate such rules
3 and regulations not inconsistent with law as it may deem
4 necessary or appropriate to carry out effectively the
5 provisions of this article. Such rules and regulations
6 shall be for administrative purposes only and shall not
7 have the force and effect of law.

Sec. 3. Office of Medical Examinations Established.—

2 The office of medical examinations is hereby established,
3 to be operated under the control and supervision of the
4 commission on postmortem examinations. Such office
5 shall be directed by a chief medical examiner, who shall
6 be appointed by the commission, to serve at the will
7 and pleasure of the commission. The chief medical
8 examiner may employ such assistants, pathologists, tox-
9 icologists, laboratory technicians, regional medical exam-
10 iners and other staff members as the commission may
11 specify.

12 All persons employed by the chief medical examiner
13 shall be responsible to him and may be discharged by
14 him for any reasonable cause. The commission shall
15 specify the qualifications required for each position in
16 the office of medical examinations, and each position
17 shall be subject to such rules and regulations as the
18 commission may prescribe.

19 The chief medical examiner shall be a physician
20 licensed to practice medicine in West Virginia, who is
21 a diplomate or eligible for certification by the American

22 board of pathology or the American osteopathic board
23 of pathology. The salary of the chief medical examiner
24 and the salaries of all assistants and employees of the
25 office of medical examinations shall be fixed by the
26 Legislature from funds appropriated for that purpose.
27 The chief medical examiner shall serve as ex officio secre-
28 tary for the commission, and he shall take such oath and
29 provide such bond as may be required by law. Within
30 the discretion of the commission, the chief medical exam-
31 iner and his assistants shall lecture or instruct in the field
32 of legal medicine and other related subjects to the West
33 Virginia university school of medicine, the department
34 of public safety, other law enforcement agencies, and
35 other interested groups.

Sec. 4. Central Office and Laboratory.—The office of
2 medical examinations shall establish and maintain a cen-
3 tral office and a laboratory having adequate professional
4 and technical personnel and medical and scientific facili-
5 ties for the performance of the duties imposed by this
6 article. The central laboratory and office shall be main-
7 tained in connection with the facilities of the West Vir-

8 ginia university school of medicine, and the commission
9 is hereby empowered to contract for the use of such
10 facilities.

Sec. 5. Certain Salaries and Expenses Paid by State.—

2 The salaries of the chief medical examiner, and the tech-
3 nical and clerical personnel in the central office and lab-
4 oratory, the expenses of maintaining the central office and
5 laboratory, the cost of pathological, bacteriological and
6 toxicological services rendered by others than the chief
7 medical examiner and his assistants, and the traveling
8 and other expenses of the members of the commission and
9 of the personnel of the central office and laboratory, shall
10 be paid by the state out of funds appropriated for that
11 purpose.

Sec. 6. Chief Medical Examiner May Obtain Addi-

2 tional Services and Facilities.—Subject to the approval
3 of the commission, the chief medical examiner may, in
4 order to provide facilities for investigating the cause of
5 death as authorized in this article, employ and pay quali-
6 fied pathologists and toxicologists to make autopsies and
7 such pathological and chemical studies and investigations

8 as he may deem necessary, and he may arrange for the
9 use of existing laboratory facilities for such purposes
10 whenever these are available. The commission may pre-
11 pare a list of approved pathologists available for this work
12 in the several counties or sections of the state, and in
13 such case the chief medical examiner may call upon such
14 pathologists where they are available for services in case
15 of need.

Sec. 7. Medical Examiners.—The commission shall
2 appoint for each county in the state a medical examiner
3 to serve for a term of three years and until his successor
4 is duly appointed and takes office. A medical examiner
5 shall turn over and deliver to his successor in office all of
6 the papers, reports and records of his said office. Medical
7 examiners shall be qualified physicians, licensed to prac-
8 tice medicine in West Virginia.

9 Any vacancy in the office of medical examiner shall be
10 filled by the commission, but in the event of any such
11 vacancy, temporary appointment may be made by the
12 chief medical examiner, to expire upon the appointment
13 by the commission of a medical examiner for that county.

14 One person may be appointed to serve as medical exam-
15 iner for more than one county, and the medical examiner
16 need not be a resident of the county which he serves.
17 When it becomes necessary, because of illness, absence,
18 need, or personal interest, the chief medical examiner
19 shall have the power to appoint any other qualified physi-
20 cian in the county in which a death is to be investigated,
21 to act as assistant medical examiner for such county.

Sec. 8. Deaths to Be Reported to Medical Examiners;

2 **Investigations.**—When any person shall die in this state
3 from violence, or by apparent suicide, or suddenly
4 when in apparent good health, or when unattended by a
5 physician, or when an inmate of a public institu-
6 tion not hospitalized therein for organic disease, or
7 from some disease which might constitute a threat to
8 public health, or in any suspicious, unusual or unnatural
9 manner, the medical examiner of the county in which
10 such death occurs shall be immediately notified by the
11 physician in attendance, by any law enforcement officer
12 having knowledge of such death, or by the funeral direc-
13 tor, or by any other person present. Any physician

14 or law enforcement officer, funeral director or embalmer
15 who wilfully fails to comply with this section shall be
16 guilty of a misdemeanor and upon conviction shall be
17 fined not less than fifty dollars nor more than five hun-
18 dred dollars. Upon receipt of such notice, the medical
19 examiner shall take charge of the dead body, make in-
20 quiries regarding the cause and manner of death, reduce
21 his findings to writing, and promptly make a full report
22 thereof to the chief medical examiner on forms prescribed
23 for such purpose, retaining one copy of such report for
24 his own office records, and that of the chief medical exam-
25 iner and should deliver another copy thereof to the
26 prosecuting attorney of such county ^{and} to any attorney of
27 record in any criminal proceedings or civil action where-
28 in the cause of death is an issue. The medical examiner
29 may administer oaths and affirmations, and take affi-
30 davits and make examinations as to any matter within
31 the jurisdiction of his office. The medical examiner shall
32 take possession of any objects or articles which, in his
33 opinion, may be useful in establishing the cause of death,
34 and deliver them to the prosecuting attorney of such

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35 county. For each investigation under this section, includ-
36 ing the making of the required reports, the medical exam-
37 iner shall receive such fee as may be determined by the
38 commission on postmortem examinations, which fee shall
39 be paid by the State.

Sec. 9. Cremation; Permits For.—It shall also be the
2 duty of any person cremating, or causing or requesting
3 the cremation of, the body of any dead person who died
4 in this state, to secure a permit for such cremation from
5 the chief medical examiner, or from the medical examiner
6 of the county wherein such death occurred, and any such
7 person or persons who shall wilfully fail to secure such
8 permit for cremation, upon conviction thereof, shall be
9 fined not less than twenty dollars and not more than five
10 hundred dollars; such permit for cremation shall be acted
11 upon by the chief medical examiner or the medical exam-
12 iner as promptly as possible. A fee of five dollars shall be
13 paid to any medical examiner for his issuance of a permit
14 for cremation, such fee to be paid by the person request-
15 ing such permit.

Sec. 10. When Autopsies Made; Report.—If in the
2 opinion of the chief medical examiner, or of the medical
3 examiner of the county in which the death in question
4 occurred, it is advisable and in the public interest that
5 an autopsy be made, or if an autopsy be requested by
6 either the prosecuting attorney or the judge of the circuit
7 court or other court of record having criminal jurisdiction
8 in such county, such autopsy shall be made by the chief
9 medical examiner, by a member of his staff, or by such
10 competent pathologist as the chief medical examiner
11 shall designate and employ pursuant to the provisions of
12 this article. The chief medical examiner may employ any
13 medical examiner who is a qualified pathologist to make
14 such autopsies, and the fees to be paid hereunder for
15 autopsies hereunder shall be in addition to the fee pro-
16 vided for investigations and made pursuant to section
17 eight of this article. A full record and report of the find-
18 ings developed by the autopsy shall be filed with the
19 office of medical examinations by such person making
20 the autopsy.

21 Within the discretion of the chief medical examiner, or

22 of the person making such autopsy, or if requested by the
23 prosecuting attorney of such county, or of the county
24 where any injury contributing to or causing the death
25 was sustained, a copy of such report of the autopsy shall
26 be furnished such prosecuting attorney.

27 The office of medical examinations shall keep full,
28 complete, and properly indexed records of all deaths in-
29 vestigated, containing all relevant information concerning
30 the death, and the autopsy report if such be made. Any
31 prosecuting attorney or law enforcement officer may
32 secure copies of such records or information necessary
33 to him for the performance of his official duties. Copies
34 of such records or information shall be furnished, upon
35 request, to any party to whom the cause of death is a
36 material issue. Any person performing an autopsy pur-
37 suant to the authority of this section shall be empowered
38 to keep and retain, for and on behalf of the chief medical
39 examiner, any tissue from the body upon which the
40 autopsy was performed which may be necessary for fur-
41 ther study or consideration.

Sec. 11. Exhumation; When Ordered.—If, in any case
2 of sudden, violent or suspicious death, the body is buried
3 without any investigation by the chief medical examiner,
4 or by a medical examiner, it shall be the duty of the
5 medical examiner, upon being advised of such fact, to
6 notify the prosecuting attorney of such county, who shall
7 communicate the same to the judge of the circuit court or
8 other court of record having jurisdiction in such county,
9 and such judge may order that the body be exhumed and
10 an autopsy performed thereon, as provided in section ten
11 of this article, and the pertinent facts disclosed by the
12 autopsy shall be communicated to the prosecuting attor-
13 ney of such county.

Sec. 12. Facilities and Services Available to the Medi-
2 **cal Examiners.**—Pursuant to proper rules and regulations
3 as ²my hereafter be promulgated by the chief medical
4 examiner, the facilities of the office of medical examina-
5 tions and its laboratory, and the services of its profes-
6 sional staff, shall be made available to the medical ex-
7 aminers in their investigations under the provisions of
8 section eight of this article, and to the persons conducting

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9 autopsies under the provisions of section ten of this
10 article.

Sec. 13. Reports and Records Received as Evidence.—

2 Reports of investigations and autopsies, and the records
3 thereof, on file in the office of medical examinations or in
4 the office of any medical examiner, shall be received as
5 evidence in any court or other proceeding, and copies of
6 records, photographs, laboratory findings and records on
7 file in the office of medical examinations or in the office
8 of any medical examiner, when duly attested by the chief
9 medical examiner or by the medical examiner in whose
10 office the same are filed, shall be received as evidence in
11 any court or other proceeding for any purpose for which
12 the original could be received without any proof of the
13 official character of the person whose name is signed
14 thereto unless objected to by counsel: *Provided, however,*
15 That statements or witnesses or other persons and con-
16 clusions upon extraneous matters are not hereby made
17 admissible.

Sec. 14. County Coroners; Duties.—It shall be the

2 duty of the county court of every county, from time to

3 time, to appoint a coroner for such county, who shall hold
4 his office during the pleasure of such court, and shall take
5 the oath of office prescribed for other county officers. The
6 county coroners shall hereafter perform such duties as
7 may be assigned to them under the rules and regulations
8 promulgated by the commission on postmortem examina-
9 tions, and shall be paid such fees or amounts for such
10 services as may be fixed by the commission on postmortem
11 examinations.

Sec. 15. Invalidity of any Provision or Application.—

2 If any provision or application of this article is held in-
3 valid such invalidity shall not affect other provisions or
4 application of this article which can be given effect with-
5 out the invalid provisions or application, and to this end
6 the provisions of this article are declared to be severable.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Roy Parker
Chairman Senate Committee

Ethel L. Caudall
Chairman House Committee

Originated in the House.

Takes effect July 1 - 1967 passage.

Howard Keyser
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Howard W. Carson
President of the Senate

Julius W. Singleton Jr.
Speaker House of Delegates

The within approved this the 11th
day of June, 1963.

W. M. Bauman
Governor

