

LEGISLATIVE BILL 46

Approved by the Governor March 3, 1999

Introduced by Brashear, 4

AN ACT relating to coroners; to amend sections 23-1820, 48-135, and 71-1341, Reissue Revised Statutes of Nebraska, and sections 71-605 and 71-1339, Revised Statutes Supplement, 1998; to require autopsies on minors as prescribed; to harmonize provisions; to provide a duty for the Revisor of Statutes; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. (1) The county coroner or coroner's physician shall perform, at county expense, an autopsy on any person less than nineteen years of age who dies a sudden death, except that no autopsy needs to be performed if (a) the death was caused by a readily recognizable disease or the death occurred due to trauma resulting from an accident and (b) the death did not occur under suspicious circumstances.

(2) The county coroner or coroner's physician shall attempt to establish, by a reasonable degree of medical certainty, the cause or causes of the death, and shall thereafter certify the cause or causes of death to the county attorney.

Sec. 2. Section 23-1820, Reissue Revised Statutes of Nebraska, is amended to read:

23-1820. In each county there is hereby created the office of coroner's physician, who shall be appointed by the coroner of the county and be removable by the coroner, at a salary or schedule of fees or both to be set by the county board and to be paid by the county. Such physician shall certify the cause of death in every case of death in such county not certified by an attending physician and shall perform or cause to be performed an autopsy when requested by the coroner or as provided in section 1 of this act. Such physician shall perform such other services in aid of the coroner as shall be requested by the coroner and shall be reimbursed for mileage at the rate provided in section 81-1176 for each mile actually and necessarily traveled by the most direct route, while in the performance of such physician's duties.

Sec. 3. Section 48-135, Reissue Revised Statutes of Nebraska, is amended to read:

48-135. ~~In~~ Except as provided in section 1 of this act, in all death claims, where the cause of death is obscure or disputed, any interested party may require an autopsy, the cost of such autopsy to be borne by the party demanding the same.

Sec. 4. Section 71-605, Revised Statutes Supplement, 1998, is amended to read:

71-605. (1) The funeral director and embalmer in charge of the funeral of any person dying in the State of Nebraska shall cause a certificate of death to be filled out with all the particulars contained in the standard form adopted and promulgated by the Department of Health and Human Services Finance and Support. Such standard form shall include a space for certificate of veteran status and the period of service in the armed forces of the United States as defined in section 80-401.01 and a statement of the cause of death made by a person holding a valid license as a physician who last attended the deceased. The standard form shall also include the deceased's social security number. Death and fetal death certificates shall be completed by the funeral directors and embalmers and physicians for the purpose of filing with the department and providing child support enforcement information pursuant to section 43-3340.

(2) The physician shall have the responsibility and duty to complete and sign in his or her own handwriting, within twenty-four hours from the time of death, that part of the certificate of death entitled medical certificate of death. In the case of a death when no person licensed as a physician was in attendance, the funeral director and embalmer shall refer the case to the county attorney for a death certificate.

No cause of death shall be certified in the case of the sudden and unexpected death of a child between the ages of one week and three years ~~unless until~~ an autopsy is performed at county expense by a qualified pathologist, ~~unless the parents or guardian signs a written waiver of the right to autopsy pursuant to section 1 of this act.~~ The parents or guardian shall be notified of the results of the autopsy by their physician, community health official, or county coroner within forty-eight hours. The term sudden

infant death syndrome shall be entered on the death certificate as the principal cause of death when the term is appropriately descriptive of the pathology findings and circumstances surrounding the death of a child.

If the circumstances show it possible that death was caused by neglect, violence, or any unlawful means, the case shall be referred to the county attorney for investigation and certification. The county attorney shall, within twenty-four hours after taking charge of the case, state the cause of death as ascertained, giving as far as possible the means or instrument which produced the death. All death certificates shall show clearly the cause, disease, or sequence of causes ending in death. If the cause of death cannot be determined within the period of time stated above, the death certificate shall be filed to establish the fact of death. As soon as possible thereafter, and not more than six weeks later, supplemental information as to the cause, disease, or sequence of causes ending in death shall be filed with the department to complete the record. For all certificates stated in terms that are indefinite, insufficient, or unsatisfactory for classification, inquiry shall be made to the person completing the certificate to secure the necessary information to correct or complete the record.

(3) A completed death certificate shall be filed with the Department of Health and Human Services Finance and Support within five business days after the date of death. If it is impossible to complete the certificate of death within five business days, the funeral director and embalmer shall notify the department of the reason for the delay and file the certificate as soon as possible.

(4) Before any dead human body may be cremated, a cremation permit shall first be signed by the county attorney, or by his or her authorized representative as designated by the county attorney in writing, of the county in which the death occurred on a form prescribed and furnished by the Department of Health and Human Services Finance and Support.

(5) A permit for disinterment shall be required prior to disinterment of a dead human body. The permit shall be issued by the Department of Health and Human Services Finance and Support to a licensed funeral director and embalmer upon proper application. The request for disinterment shall be made by the next of kin of the deceased, as listed in section 71-1339, or a county attorney on a form furnished by the department. The application shall be signed by the funeral director and embalmer who will be directly supervising the disinterment. When the disinterment occurs, the funeral director and embalmer shall sign the permit giving the date of disinterment and file the permit with the department within ten days of the disinterment.

(6) When a request is made under subsection (5) of this section for the disinterment of more than one dead human body, an order from a court of competent jurisdiction shall be submitted to the Department of Health and Human Services Finance and Support prior to the issuance of a permit for disinterment. The order shall include, but not be limited to, the number of bodies to be disinterred if that number can be ascertained, the method and details of transportation of the disinterred bodies, the place of reinterment, and the reason for disinterment. No sexton or other person in charge of a cemetery shall allow the disinterment of a body without first receiving from the department a disinterment permit properly completed.

(7) No dead human body shall be removed from the state for final disposition without a transit permit issued by the funeral director and embalmer having charge of the body in Nebraska, except that when the death is subject to investigation, the transit permit shall not be issued by the funeral director and embalmer without authorization of the county attorney of the county in which the death occurred. No agent of any transportation company shall allow the shipment of any body without the properly completed transit permit prepared in duplicate.

(8) The interment, disinterment, or reinterment of a dead human body shall be performed under the direct supervision of a licensed funeral director and embalmer, except that hospital disposition may be made of the dead human body of a stillborn infant with due respect for the stillborn infant and in accordance with existing law when requested by the parents or legal guardian.

(9) All transit permits issued in accordance with the law of the place where the death occurred in a state other than Nebraska shall be signed by the funeral director and embalmer in charge of burial and forwarded to the Department of Health and Human Services Finance and Support within five business days after the interment takes place.

Sec. 5. Section 71-1339, Revised Statutes Supplement, 1998, is amended to read:

71-1339. The right to control the disposition of the remains of a

deceased person, subject to section 1 of this act and unless other directions have been given by the decedent, vests in the following persons in the order named: (1) The surviving spouse; (2) if the surviving spouse is incompetent or not available, or if there be no surviving spouse, adult child of the decedent; (3) a surviving parent of the decedent; (4) an adult brother or sister of the decedent; (5) an adult person in the next degrees of kindred in the order named by the laws of Nebraska as entitled to succeed to the estate of the decedent; (6) the State Anatomical Board; or (7) the county board of the county in which death occurred.

The liability for the reasonable cost of interment devolves jointly and severally upon all kin of the decedent in the same degree of kindred and upon the estate of the decedent and, in cases when the county board has the right to control disposition of the remains under subdivision (7) of this section, upon the county in which death occurred from funds available for such purpose.

Sec. 6. Section 71-1341, Reissue Revised Statutes of Nebraska, is amended to read:

71-1341. A written authorization for an autopsy given by the survivor or survivors, as enumerated in section 71-1339, having the right to control the disposition of remains may, subject to section 1 of this act and when not inconsistent with any directions given by the decedent pursuant to section 71-1340, include authorization for the removal of any specifically named organ or organs for therapeutic or scientific purposes. Pursuant to any such written authorization, any structure or organ may be given to the Director of Regulation and Licensure or to any other therapeutic service operated by any nonprofit agency approved by the Director of Regulation and Licensure, including, but not limited to, a teaching institution, university, college, legally licensed hospital, nonprofit blood bank, nonprofit artery bank, nonprofit eye bank, or nationally recognized nonprofit hormone and pituitary program. The person or persons performing any autopsy shall do so within a reasonable time and without delay and shall not exceed the removal permission contained in such written authorization, and the remains shall not be significantly altered in external appearance nor shall any portion thereof be removed for purposes other than those expressly permitted in this section.

Sec. 7. The Revisor of Statutes shall assign section 1 of this act to Chapter 23, article 18.

Sec. 8. Original sections 23-1820, 48-135, and 71-1341, Reissue Revised Statutes of Nebraska, and sections 71-605 and 71-1339, Revised Statutes Supplement, 1998, are repealed.