

1 SB9
2 194665-1
3 By Senator Coleman-Madison
4 RFD: Governmental Affairs
5 First Read: 05-MAR-19
6 PFD: 01/15/2019

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8 SYNOPSIS: Existing law does not require the Department
9 of Forensic Sciences to notify the next of kin when
10 retaining a deceased person's organs.

11 This bill would require the Department of
12 Forensic Sciences to notify the next of kin when
13 retaining a deceased person's organs.

14 This bill would also prohibit a state
15 medical examiner from retaining an organ of the
16 deceased for research or any other purpose not in
17 conjunction with a determination of the
18 identification or cause of death without
19 notification to and approval by the next of kin and
20 would make any violation a Class C felony.

21 This bill further provides for technical
22 revisions of the duties of the Director of the
23 Department of Forensic Sciences.

24 Amendment 621 of the Constitution of Alabama
25 of 1901, now appearing as Section 111.05 of the
26 Official Recompilation of the Constitution of
27 Alabama of 1901, as amended, prohibits a general

1 law whose purpose or effect would be to require a
2 new or increased expenditure of local funds from
3 becoming effective with regard to a local
4 governmental entity without enactment by a 2/3 vote
5 unless: it comes within one of a number of
6 specified exceptions; it is approved by the
7 affected entity; or the Legislature appropriates
8 funds, or provides a local source of revenue, to
9 the entity for the purpose.

10 The purpose or effect of this bill would be
11 to require a new or increased expenditure of local
12 funds within the meaning of the amendment. However,
13 the bill does not require approval of a local
14 governmental entity or enactment by a 2/3 vote to
15 become effective because it comes within one of the
16 specified exceptions contained in the amendment.

17
18 A BILL
19 TO BE ENTITLED
20 AN ACT
21

22 To amend Section 36-18-2, Code of Alabama 1975,
23 relating to the Director of Forensic Sciences; to require the
24 Department of Forensic Sciences to notify the next of kin when
25 retaining a deceased person's organs; to further provide for
26 technical revisions of the duties of the Director of the
27 Department of Forensic Sciences; to add Section 36-18-2.1 to

1 the Code of Alabama 1975, to prohibit a state medical examiner
2 from retaining an organ of the deceased for research or any
3 other purpose not in conjunction with a determination of the
4 identification or cause of death without notification to and
5 approval by the next of kin; to provide for penalties; and in
6 connection therewith would have as its purpose or effect the
7 requirement of a new or increased expenditure of local funds
8 within the meaning of Amendment 621 of the Constitution of
9 Alabama of 1901, now appearing as Section 111.05 of the
10 Official Recompilation of the Constitution of Alabama of 1901,
11 as amended.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Section 36-18-2, Code of Alabama 1975, is
14 amended to read as follows:

15 "§36-18-2.

16 ~~"The duties of the director shall be (a) The~~
17 director shall have the following duties:

18 "(1) to make ~~Make~~ such investigations, including any
19 necessary autopsy, ~~to be performed by physicians licensed to~~
20 ~~practice medicine in Alabama and recognized and trained in~~
21 ~~forensic medicine and pathology; provided, however, that the~~
22 ~~director may waive this requirement temporarily whenever a~~
23 ~~medical examiner vacancy exists which he is seeking to fill.~~
24 Said investigations of crimes and of unlawful, suspicious, or
25 unnatural deaths ~~and crimes~~ as are ordered by the Governor,
26 the Attorney General, any circuit judge, or any district
27 attorney in the State of Alabama~~7~~.

1 "(2) Cooperate ~~and the director and his staff shall~~
2 ~~cooperate~~ with the coroners, sheriffs, and other police
3 officers in Alabama in ~~their~~ investigations of crimes and
4 deaths from unlawful, suspicious, or unnatural causes when
5 cooperation is requested by the Governor, the Attorney
6 General, any circuit judge, or any district attorney.

7 "(3) Within his or her ~~The director shall within his~~
8 ~~discretion,~~ visit the scene of any crime in the state for the
9 purpose of securing evidence for the state.

10 "(4) The director shall furnish Furnish a certified
11 copy of his or her report of any investigation that the
12 department conducts to the person or persons who ordered the
13 investigation conducted.

14 "(5) The director shall As provided in subsection
15 (b), keep the original reports of all investigations that he
16 or she conducts in his or her office; provided, that the
17 director shall be authorized to ~~photograph or microphotograph~~
18 keep a digital or other electronic copy of any record,
19 document, or photograph two years old or older currently
20 maintained or acquired, received, or produced in the future as
21 a result of his or her duties as prescribed by law.

22 "(6) Cooperate with the Commissioner of Agriculture
23 and Industries and the State Veterinarian in their
24 investigations of deaths of domestic animals in cases of
25 suspected criminal poisoning of such animals.

26 "(7) Perform such other duties as are prescribed by
27 law or by the Governor or the Attorney General.

1 "(8) Notify the next of kin of the deceased when a
2 medical examiner retains an organ of the deceased in
3 conjunction with a determination of the identification of, or
4 causes or manner of death of the deceased, or the presence of
5 disease in conjunction with the forensic examination.

6 ~~"(b) Such photographs, microfilms or prints made~~
7 ~~therefrom, when duly authenticated, shall have the same force~~
8 ~~and effect at law as the original record or of a record made~~
9 ~~by any other legally authorized means and may be offered in~~
10 ~~like manner and shall be received in evidence in any court~~
11 ~~where such original record or record made by other legally~~
12 ~~authorized means could have been so introduced and received.~~
13 ~~In like manner, reproductions made from such records by~~
14 ~~photographic or like process, when otherwise in compliance~~
15 ~~with applicable statutes, rules and regulations, shall be~~
16 ~~received and treated in any court of this state as fully as~~
17 ~~would a transcription or reproduction of such records made by~~
18 ~~any other means or process. The director may require any~~
19 ~~record, document, or photograph two years old or older made,~~
20 ~~acquired, or received as required by law to be maintained in a~~
21 ~~digital or other electronic format. Digital or other~~
22 ~~electronic copies of records, documents, or photographs, when~~
23 ~~duly authenticated by the director, shall have the same force~~
24 ~~and effect at law as the original record, or of a record made~~
25 ~~by any other legally authorized means and may be offered in~~
26 ~~like manner, and shall be received in evidence in any court~~
27 ~~where such original record, or record made by other legally~~

1 authorized means, could have been introduced and received. All
2 original records, documents, and photographs two years old or
3 older currently maintained and acquired in the future may be
4 destroyed at the discretion of the director, provided
5 ~~photographed or microphotographed~~ digital reproductions of the
6 destroyed material are maintained. ~~The director shall furnish~~
7 ~~a certified copy in the form of reproductions from the~~
8 ~~photographed or microphotographed reports of any investigation~~
9 ~~that he conducts to the person or persons who ordered the~~
10 ~~investigation conducted. The director shall keep photographed~~
11 ~~or microphotographed reproductions of original reports of all~~
12 ~~investigations that he conducts in his office.~~ Reproductions
13 of such materials shall be public records and shall be open to
14 public inspection at all reasonable times. Any person desiring
15 reproductions of original reports shall be furnished same upon
16 payment of the fee now prescribed by law.

17 ~~"It shall be the further duty of the director to~~
18 ~~cooperate with the Commissioner of Agriculture and Industries~~
19 ~~and the State Veterinarian in their investigations of deaths~~
20 ~~of domestic animals in cases of suspected criminal poisoning~~
21 ~~of such animals. The director shall perform such other duties~~
22 ~~as are prescribed by the Governor or the Attorney General of~~
23 ~~Alabama.~~

24 "(c) The director and his or her designated
25 assistants shall exercise the same police authority as any
26 deputy sheriff or state trooper in the State of Alabama."

1 Section 2. Section 36-18-2.1 is added to the Code of
2 Alabama to read as follows:

3 (a) A medical examiner, in any case ordered pursuant
4 to Section 36-18-2 may perform or have performed whatever
5 autopsies or laboratory examinations he or she deems necessary
6 to determine the identification of, or cause or manner of
7 death of the deceased, or to obtain evidence necessary for
8 forensic examination.

9 (b) A medical examiner may not retain or furnish an
10 organ of the deceased for research or any other purpose which
11 is not in conjunction with a determination of the
12 identification of, or causes or manner of death of the
13 deceased, or the presence of disease or which is not otherwise
14 authorized by law, without notification to and approval by the
15 next of kin of the deceased.

16 (c) A person who knowingly and willfully violates
17 subsection (b) shall be guilty of a Class C felony.

18 Section 3. Although this bill would have as its
19 purpose or effect the requirement of a new or increased
20 expenditure of local funds, the bill is excluded from further
21 requirements and application under Amendment 621, now
22 appearing as Section 111.05 of the Official Recompilation of
23 the Constitution of Alabama of 1901, as amended, because the
24 bill defines a new crime or amends the definition of an
25 existing crime.

1 Section 4. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.