

1 HB553
2 129727-1
3 By Representative Merrill
4 RFD: Judiciary
5 First Read: 21-APR-11

SYNOPSIS: Under existing law, the coroner examines the body of a deceased person and makes a report.

This bill would further provide for the duties of coroner and deputy coroner as to performing an autopsy, and obtaining possession of any objects, medical specimens, or articles that may be helpful in establishing the cause of death.

Existing law provides for the money and property of the deceased to be delivered to the county treasurer within 30 days by the coroner.

This bill would make it 90 days.

This bill would provide for limitation of a coroner's investigation.

Under existing law, a coroner does not have the full power and authority of a peace officer.

This bill would give such power and authority to a coroner.

This bill would provide penalties.

Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the

1 Official ReCompilation of the Constitution of
2 Alabama of 1901, as amended, prohibits a general
3 law whose purpose or effect would be to require a
4 new or increased expenditure of local funds from
5 becoming effective with regard to a local
6 governmental entity without enactment by a 2/3 vote
7 unless: it comes within one of a number of
8 specified exceptions; it is approved by the
9 affected entity; or the Legislature appropriates
10 funds, or provides a local source of revenue, to
11 the entity for the purpose.

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

19
20 A BILL

21 TO BE ENTITLED

22 AN ACT

23
24 To amend Sections 15-4-2 and 15-4-10 of the Code of
25 Alabama 1975, relating to coroners; to provide further for the
26 duties of corner and deputy coroner; to increase the number of
27 days a coroner has to deliver the money and property of the

1 deceased to the county treasurer; to provide limitation of a
2 coroner's investigation; to give a coroner full power and
3 authority of a peace officer; to provide penalties; and in
4 connection therewith would have as its purpose or effect the
5 requirement of a new or increased expenditure of local funds
6 within the meaning of Amendment 621 of the Constitution of
7 Alabama of 1901, now appearing as Section 111.05 of the
8 Official Recompilation of the Constitution of Alabama of 1901,
9 as amended.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. Sections 15-4-2 and 15-4-10 of the Code
12 of Alabama 1975, are amended to read as follows:

13 "§15-4-2.

14 "(a) ~~When a coroner has been informed that a person~~
15 ~~is dead in the county and that such person died~~ Any person
16 finding or having possession of the body of any person whose
17 death occurred without being attended or examined by a legally
18 qualified physician, ~~the coroner shall forthwith proceed to~~
19 ~~the place where the dead person is lying,~~ shall immediately
20 notify the coroner, or his or her deputy, who shall report to
21 the scene within a reasonable time, or the coroner or his
22 deputy may authorize and arrange the transport of the dead
23 body to a designated location to examine the dead body ~~to~~
24 ~~ascertain the cause of death and report same in the same~~
25 ~~manner as inquests are reported~~ in order for him or her to
26 make a determination of the identity or cause or manner of
27 death. No person shall remove the body or remove anything from

1 the body until directed to do so by the coroner or his or her
2 deputy.

3 "(b) The coroner may take possession of any objects,
4 medical specimens, or articles which, in his or her opinion,
5 may be helpful in establishing the identity or cause or manner
6 of death, and he or she can make or cause to be made such
7 tests and examinations of the objects as may be necessary or
8 useful in determining the identity or cause or manner of
9 death. In the event that a criminal prosecution arises, all
10 such objects and articles together with reports of any
11 examinations made upon them, shall be retained by the coroner
12 until their production in evidence is required by the
13 prosecuting authority, unless otherwise directed by written
14 order of the court in which such prosecution is pending.

15 "~~(b)~~ (c) When a coroner is unable to determine the
16 cause of death, he or she may summon any physician or surgeon,
17 or Alabama Department of Forensic Sciences medical examiner,
18 who shall make an external postmortem examination of the dead
19 body and report his or her opinion of the cause of death to
20 the coroner in writing.

21 "~~(c)~~ (d) If the surgeon or physician is unable to
22 determine the cause of death from an external postmortem
23 examination and the coroner has reasonable cause to believe
24 that the deceased came to his or her death by ~~unlawful~~ means
25 listed under subsection (e), the coroner may in such cases
26 order any physician or surgeon, or Alabama Department of
27 Forensic Sciences medical examiner, to perform an autopsy or

1 internal examination on the dead body, and report the findings
2 of such autopsy to the coroner in writing.

3 "(e) A coroner may require an autopsy to be
4 performed when the coroner has reasonable cause to believe
5 that the deceased came to his or her death in the following
6 circumstances:

7 "(1) When the death of a human being appears to be
8 caused by homicide or violence.

9 "(2) When the death of a human being appears to be
10 the result of suicide.

11 "(3) When the death of a human being appears to be
12 the result of the presence of drugs or poisons in the body.

13 "(4) When the death of a human being appears to be
14 the result of a motor vehicle accident and the operator of the
15 motor vehicle left the scene of the accident or the body was
16 found in or near a roadway or railroad.

17 "(5) When the death of a human being occurs while
18 the person is in a state mental institution or mental hospital
19 when there is no previous medical history to explain the
20 death, or while the person is in police custody, a jail, or
21 penal institution.

22 "(6) When the death of a human being occurs in a
23 motor vehicle accident and when an external examination of the
24 body does not reveal a lethal traumatic injury.

25 "(7) When the death of a human being appears to be
26 the result of a fire or explosion.

1 "(8) When the death of a child appears to indicate
2 child abuse prior to the death.

3 "(9) When the postmortem decomposition of a human
4 corpse exists to the extent that external examination of the
5 corpse cannot rule out injury or where the circumstances of
6 death cannot rule out the commission of a crime.

7 "(10) When the death of a human being appears to be
8 the result of drowning.

9 "(11) When the death of an infant appears to be
10 caused by unexplained circumstances in that the infant has no
11 previous medical history to explain the death.

12 "(12) When the death of a human being occurs as a
13 result of an accident.

14 "(13) When the death of a human being occurs under
15 the age of 40 and there is no past medical history to explain
16 the death.

17 "(14) When the death of a human being occurs at the
18 work site and there is no apparent cause of death such as an
19 injury or when industrial toxins may have contributed to the
20 cause of death.

21 "(15) When the body is to be cremated and there is
22 no past medical history to explain the death.

23 "(16) When the death of a human being is sudden and
24 unexplained.

25 "(17) When the death of a human being occurs and the
26 decedent is not receiving treatment by a licensed physician

1 and there is no ascertainable medical history to indicate the
2 cause of death.

3 "(f) When the death occurs during hospice care, the
4 coroner or deputy coroner shall be notified of the death. The
5 coroner or deputy coroner may proceed to the scene of the
6 death for further investigation if warranted.

7 "(g) When the death of a human being occurs within a
8 medical facility within 24 hours of admission or occurs at any
9 time and the death occurs pursuant to subdivisions (1) to
10 (27), inclusive, of subsection (e), or occurs during a
11 surgical or medical procedure, the coroner or deputy coroner
12 shall be notified.

13 "(h) When the death of a human being occurs in a
14 county other than where the incident or injury surrounding
15 that death occurred the coroner shall be notified in the
16 county where the incident or injury occurred.

17 "(i) The coroner or his or her deputy coroner may
18 direct the Department of Forensic Sciences to perform a
19 postmortem exam for any death occurring pursuant to subsection
20 (e).

21 "§15-4-10.

22 "(a) ~~Within 30~~ Except as provided by Section 15-4-1
23 where a criminal prosecution is commenced, within 90 days
24 after an ~~inquest on a dead body~~ investigation, the coroner
25 ~~must~~ shall deliver to the county treasurer any money or other
26 property which may be found on or about the body, unless
27 claimed ~~in the meantime~~ by the legal representatives of the

1 deceased. ~~If he fails to do so, the treasurer may proceed~~
2 ~~against him for the amount or value thereof, on 10 days'~~
3 ~~notice to him and his sureties, or against any of them served~~
4 ~~therewith and recover the same, with 20 percent damages on the~~
5 ~~amount or value thereof.~~

6 "(b) Upon the receipt of the money by the county
7 treasurer, ~~he must place it~~ the money shall be placed to the
8 credit of the county. If it is other property, ~~he must~~ the
9 county treasurer shall sell it within three months at the
10 courthouse of the county at public auction, upon reasonable
11 public notice, and in like manner ~~must~~ shall place the
12 proceeds to the credit of the county.

13 "(c) If such money in the county treasury is
14 demanded in ~~six~~ three years by the legal representatives of
15 the deceased, the county treasurer ~~must~~ may pay ~~it~~ the money
16 to them, after deducting the fees of the coroner, expenses of
17 sale, and five percent on the balance for the county
18 treasurer, or ~~it~~ the money may be paid at any time thereafter
19 upon the order of the county commission."

20 Section 2. (a) An investigation by the coroner shall
21 be limited to inquiries for determining the cause and manner
22 of death, the identity of the deceased, and circumstances
23 surrounding the death.

24 (b) If the investigation by the coroner shall reveal
25 any evidence or suspicion of foul play in regard to the death,
26 he or she, in addition to the requirements of Section 15-4-2
27 of the Code of Alabama 1975, shall immediately notify the law

1 enforcement agency of jurisdiction and shall cooperate fully
2 in such law enforcement agency's criminal investigation.

3 (c) When prescription medications are found at the
4 scene of an investigation by the coroner, the coroner may
5 retain or dispose of the prescription medications pursuant to
6 federal and state guidelines.

7 Section 3. (a) For purposes of enforcing the
8 provisions of this act, coroners who are certified by the
9 Alabama Coroners Training Commission shall have the full power
10 and authority of peace officers in this state, including the
11 power of arrest and the authority to bear arms, and shall have
12 the following powers and authority to do all of the following:

13 (1) Administer oaths.

14 (2) Seize evidence.

15 (3) Detain persons at the scene of the body.

16 (4) Require the production of medical records,
17 books, papers, documents, or other evidence.

18 (5) Employ or enter into contractual agreements with
19 special photographers.

20 (6) May determine death and or pronounce death of a
21 human being where there is not a qualified licensed medical
22 physician present.

23 Section 4. A violation of this act occurs when
24 someone fails to comply with a coroner or a deputy coroner in
25 the performance of his or her duties pursuant to this act and
26 each violation is a Class C felony.

1 Section 5. For purposes of this act and all other
2 laws relating to coroners, duly elected coroners or coroners
3 appropriately appointed to serve, shall be considered to be
4 full time, regardless of compensation.

5 Section 6. Although this bill would have as its
6 purpose or effect the requirement of a new or increased
7 expenditure of local funds, the bill is excluded from further
8 requirements and application under Amendment 621, now
9 appearing as Section 111.05 of the Official Recompilation of
10 the Constitution of Alabama of 1901, as amended, because the
11 bill defines a new crime or amends the definition of an
12 existing crime.

13 Section 7. This act shall become effective on the
14 first day of the third month following its passage and
15 approval by the Governor, or its otherwise becoming law.