

Senate Bill 496

By: Senators Burke of the 11th, Watson of the 1st, Tillery of the 19th, Kirkpatrick of the 32nd, Hufstetler of the 52nd and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 16 of Title 45 of the Official Code of Georgia Annotated,
2 relating to death investigations, so as to require a medical examiner's inquiry when a
3 pregnant female dies and an inquest; to provide for related matters; to repeal conflicting laws;
4 and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Article 2 of Chapter 16 of Title 45 of the Official Code of Georgia Annotated, relating to
8 death investigations, is amended by revising Code Section 45-16-24, relating to notification
9 of suspicious or unusual deaths, court ordered medical examiner's inquiry, and written report
10 of inquiry, as follows:

11 "45-16-24.

12 (a) When any individual dies in any county in this state:

13 (1) As a result of violence;

14 (2) By suicide or casualty;

15 (3) Suddenly when in apparent good health;

(4) In any suspicious or unusual manner, with particular attention to those individuals 16 years of age and under;

(5) After birth but before seven years of age if the death is unexpected or unexplained;

(6) As a result of an execution carried out pursuant to the imposition of the death penalty under Article 2 of Chapter 10 of Title 17;

(7) When an inmate of a state hospital or a state, county, or city penal institution;

(8) After having been admitted to a hospital in an unconscious state and without regaining consciousness within 24 hours of admission;

(9) As a result of an apparent drug overdose; or

(10) Who is a pregnant female or a female who was pregnant within 365 days prior to such female's death; provided, however, that this paragraph shall not apply to a female whose death resulted from a motor vehicle accident; or

~~(10)~~(11) When unattended by a physician,

it shall be the duty of any law enforcement officer or other person having knowledge of such death to notify immediately the coroner or county medical examiner of the county in which the acts or events resulting in the death occurred or the body is found. For the purposes of ~~this Code section~~ paragraph (11) of this subsection, no individual shall be deemed to have died unattended by a physician when the death occurred while he or she was a patient of a hospice licensed under Article 9 of Chapter 7 of Title 31. For purposes of paragraph (11) of this subsection, an individual shall be deemed to have died unattended by a physician when any such individual has not been seen or treated by a physician within the 180 days prior to such individual's death.

(b) A coroner or county medical examiner who is notified of a death pursuant to subsection (a) of this Code section under circumstances specified in paragraphs (1) through (9) of such subsection shall order a medical examiner's inquiry of that death. A coroner or medical examiner who is notified of a death pursuant to subsection (a) of this Code section under circumstances specified in paragraph (10) of such subsection and whose death was

43 not under circumstances specified in paragraphs (1) through (9) of such subsection shall
44 order a medical examiner's inquiry for such death through a regional perinatal center, as
45 identified by the Department of Public Health. This subsection shall not be construed to
46 prohibit a medical examiner's inquiry of a death if a coroner or county medical examiner
47 is notified of a death under circumstances specified in paragraph ~~(10)~~(11) of subsection (a)
48 of this Code section.

49 (c) Whenever an affidavit is made and filed with a court having criminal jurisdiction
50 attesting that a person came to his or her death by foul play, that court may interrogate and
51 examine witnesses, if any exist, as to the necessity of a medical examiner's inquiry. Should
52 the court decide that a medical examiner's inquiry is essential to the ends of justice, such
53 inquiry shall be ordered by that court.

54 (d) A medical examiner's inquiry required under this Code section shall be reduced to
55 writing and filed as provided in Code Section 45-16-32. At the time of such filing, a copy
56 of the medical examiner's inquiry into a death reported to a coroner or county medical
57 examiner pursuant to paragraph ~~(6)~~(5) of subsection (a) of this Code section shall also be
58 transmitted to the department of family and children services of the county in which the
59 child resided at the time of death."

60 SECTION 2.

61 Said article is further amended by revising subsections (a) and (d) of Code Section 45-16-27,
62 relating to when inquest to be held, special situations, coroner's fee, issuance of subpoenas,
63 cost of copying, and limited disclosure of photographs, as follows:

64 "(a) Coroners shall require an inquest to be conducted in their respective counties as
65 follows:

66 (1) When any individual dies under any circumstances specified in paragraphs (1)
67 through ~~(10)~~(11) of subsection (a) of Code Section 45-16-24; provided, however, that an

inquest shall not be required to be held, although the coroner shall be authorized to hold an inquest, under the following circumstances:

(A) When upon the completion of the medical examiner's inquiry the peace officer in charge and the medical examiner are satisfied that, even though death resulted from violence, no foul play was involved. In this event, the peace officer in charge and the medical examiner shall make a written report of their investigation and findings to the division as set forth in Code Section 45-16-32, and upon their recommendation, the coroner shall make and file a proper death certificate;

(B) When there is sufficient evidence to establish the cause and manner of death, even though the medical examiner's inquiry revealed that death resulted from foul play;

(C) When no demand for an inquest is made within 30 days after the filing of the death certificate. However, if such demand is made by the party or parties affected by the death, the coroner shall be authorized to hold the inquest;

(D) When upon the completion of the medical examiner's inquiry the medical examiner and peace officer in charge are sufficiently satisfied that death resulted from natural causes, and that medical examiner or coroner is willing to and does sign and file a proper death certificate, and no demand for an inquest is made within 30 days thereafter;

(D.1) In cases of deaths resulting from an accident involving any civil aircraft, it shall be the responsibility of the peace officer in charge to notify the National Transportation Safety Board or the Federal Aviation Administration of such accident, to proceed to the scene and guard the area in such manner that no bodies, wreckage, cargo, or mail shall be moved or disturbed until authorized by a representative of the National Transportation Safety Board or the Federal Aviation Administration except to the extent necessary to remove individuals injured or trapped, to protect the wreckage from further damage, or to protect the public from injury. When it is necessary to move aircraft wreckage, mail, or cargo, sketches, descriptive notes, and photographs shall be made,

if possible, of the original positions and condition of the wreckage and any significant impact marks. The coroner or medical examiner shall assist investigators from the National Transportation Safety Board or the Federal Aviation Administration as authorized by federal law;

(E) When after full and complete investigation no evidence of foul play is found in cases of hidden cause of death which fall under the jurisdiction of the coroner. The coroner shall be authorized to sign the death certificate on the basis of the information given to him or her in the reports of the peace officer in charge and the medical examiner, provided that, in such hidden causes of death, after a complete investigation, if sufficient medical history is obtained by the coroner, the peace officer in charge, or the medical examiner to disclose the cause of death and if the attending physician will sign the death certificate, such cases shall not come under the jurisdiction of the coroner; provided, further, that, if there are sufficient competent eyewitnesses to an act in the opinion of the peace officer in charge, such cases shall not come under the jurisdiction of the coroner; or

(F) In cases of deaths of personnel in the armed forces of the United States government resulting from airplane disasters involving airplanes of the armed forces, including crashes or explosions, which deaths shall not come under the jurisdiction of the coroner. It shall be the responsibility of the peace officer in charge to notify the proper armed forces of the United States government immediately of such airplane crashes or explosions in order that they may send their trained forces to the scene for investigation. It shall be the duty of the peace officer in charge, when notified of such crashes or explosions, to proceed to the scene and guard the area in such manner that no bodies or parts of said airplanes shall be moved or disturbed until the arrival of proper investigating officers from the armed forces of the United States government;

(2) When an inmate of a state hospital or a state, county, or city penal institution dies unexpectedly without an attending physician or as a result of violence. The chief medical

examiner or his or her designee, regional medical examiner, or local medical examiner shall perform all medical examiners' inquiries. The coroner, in those counties in which such office has not been replaced by a local medical examiner, shall hold an inquest after receiving the written reports as set forth in Code Section 45-16-32;

(3) When ordered by a court in connection with a medical examiner's inquiry ordered by that court pursuant to subsection (c) of Code Section 45-16-24; or

(4) Notwithstanding any other provisions of this subsection, no individual shall be deemed to have died unattended by a physician when the death occurred while he or she was a patient of a hospice licensed under Article 9 of Chapter 7 of Title 31."

"(d) Autopsy photographs shall not be subject to disclosure pursuant to Article 4 of Chapter 18 of Title 50; provided, however, that this subsection shall have no application to the disclosure of such photographs to law enforcement agencies and prosecutors for law enforcement purposes or, in closed criminal investigations, to medical schools, medical facilities, and physicians for medical purposes; to the Maternal Mortality Review Committee for deaths under the circumstances specified in paragraph (10) of subsection (a) of Code Section 45-16-24; to individuals who have secured a written release from the deceased's next of kin; or to the next of kin. It shall be the responsibility of the next of kin to show proof of the familial relationship. For purposes of securing a written release or when access to the photographs is requested by the next of kin, the deceased's next of kin shall be:

(1) The spouse of the deceased if living;

(2) If there is no living spouse of the deceased, an adult child of the deceased;

(3) If there is no living spouse or adult child, a parent of the deceased;

(4) If there is no living spouse, adult child, or parent, a sibling of the deceased;

(5) If there is no living spouse, adult child, parent, or sibling of the deceased, a grandparent of the deceased;

(6) If none of the above are living, an uncle of the deceased;

(7) If none of the above are living, an aunt of the deceased; or

(8) If none of the above are living, a first cousin of the deceased.

A superior court may, in closed criminal investigations, order the disclosure of such photographs upon findings in writing that disclosure is in the public interest and that it outweighs any privacy interest that may be asserted by the deceased's next of kin. In any such action, the court shall review the photographs in question in camera and may condition any disclosure on such ~~measures~~ measures as the court may deem necessary to accommodate the interests of the parties before it."

SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.