

HOUSE No. 7588

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, October 2, 1973.

The committee on Bills in the Third Reading, to whom was referred the Recommitted Bill establishing the state commission on medicolegal investigation and the office of chief medical examiner (House, No. 3736, changed), report recommending that the same be amended by the substitution of the accompanying bill (House, No. 7588).

For the committee,

JOHN E. MURPHY, Jr.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Three.

AN ACT CREATING A COMMISSION ON MEDICOLEGAL INVESTIGATION, THE OFFICE OF CHIEF MEDICAL EXAMINER.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 6 of the General Laws is hereby
2 amended by adding after section 178, under the caption COM-
3 MISSION ON MEDICOLEGAL INVESTIGATION, the following
4 section: —

5 *Section 179.* There is hereby created a commission on
6 medicolegal investigation, to consist of the attorney general or
7 his designee, the commissioner of public safety or his designee,
8 the dean of the medical school of the University of Massachusetts
9 or his designee, the chief medical examiner and nine persons to
10 be appointed by the governor, one of whom shall be a representa-
11 tive of the Massachusetts Medical Society, one of whom shall be
12 a representative of the Massachusetts Bar Association, one of
13 whom shall be a representative of the Massachusetts Society of
14 Pathologists, one of whom shall be a representative of the district
15 attorneys, one of whom shall be a representative of a school of
16 law, one of whom shall be a representative of the Funeral Direc-
17 tors Association and three representatives of the general public.
18 In making his initial appointments to the commission, the gover-
19 nor shall designate three to serve for a term of three years, three
20 for a term of two years and three for a term of one year. Upon
21 the expiration of the term of an appointee his successor shall
22 serve for a term of three years. The members shall serve without
23 compensation, but shall be reimbursed for travel and other ex-
24 penses actually and necessarily incurred in the discharge of their
25 duties. The commission shall meet at least twice each year. The
26 commission shall elect a chairman and a vice chairman from
27 among its members. The chief medical examiner shall be secre-
28 tary to the commission. Meetings may be called by the chairman,
29 vice chairman, secretary, or any four members. A quorum for the
30 transaction of business shall be seven members. Members may

31 delegate other persons to represent them at meetings of the com-
32 mission, but such delegates shall not vote. The commission may
33 adopt such regulations as are necessary and appropriate to carry
34 out its responsibilities.

35 The commission shall have overall responsibility for the de-
36 velopment of a program of public medicolegal investigation and
37 shall adopt procedures for establishing the highest practicable
38 professional standards for the conduct of medicolegal investiga-
39 tions and the conduct of the office of chief medical examiner.
40 The commission shall divide the commonwealth into appropriate
41 medical examiner districts, for the proper conduct of public
42 medicolegal investigations, which may be changed from time to
43 time and may coincide with the county lines or may be subdivi-
44 sions thereof.

1 SECTION 2. Chapter 38 of the General Laws is hereby
2 amended by striking out sections 1 to 22, inclusive, and inserting
3 in place thereof the following twenty-three sections: —

4 *Section 1.* There shall be a department of medical examiners
5 in this chapter called the department under the supervision and
6 control of a chief medical examiner.

7 *Section 2.* The chief medical examiner shall be appointed by
8 the governor from among a list of no more than five and no less
9 than two nominees recommended by the state commission on
10 medicolegal investigation and shall have tenure until the age of
11 seventy, but may be removed for cause by the governor on the
12 recommendation of the commission after a hearing in accordance
13 with chapter thirty A. The chief medical examiner shall be a
14 diplomate of the American Board of Pathology in Forensic
15 Pathology and shall be licensed to practice medicine in the com-
16 monwealth. The chief medical examiner shall also be the medical
17 examiner for the medical examiner district which includes the
18 city of Worcester.

19 *Section 3.* The chief medical examiner shall supervise all
20 public medicolegal investigations in the commonwealth and all
21 medical examiners and associate medical examiners and all per-
22 sonnel of the office of the chief medical examiner.

23 In joint co-operation with the medical school of the University
24 of Massachusetts, he may undertake a continuous study of such
25 aspects of medicolegal investigations that would be of mutual

26 advantage to both parties. This co-operation may include the
27 support of laboratory and field research by the medical school,
28 the conduct of appropriate educational and training programs for
29 forensic pathologists, medical examiners, general pathologists,
30 other physicians, forensic scientists, law enforcement personnel
31 and others which are considered of benefit to conduct medico-
32 legal investigations and the chief medical examiner may partici-
33 pate as a member of the faculty of the university in such teaching
34 and research activities that would be of a mutual benefit to the
35 university and his department.

36 *Section 4.* The department shall establish and operate a state
37 forensic science laboratory. Such laboratory shall serve the needs
38 of such department and under proper rules and regulations
39 promulgated by the chief medical examiner, the facilities and
40 service of its professional staff shall be made available to medical
41 examiners in their investigations under the provisions of this
42 chapter. The laboratory shall be under the supervision of the
43 chief medical examiner and shall be headed by a qualified forensic
44 scientist. The head of the laboratory may be a member of the
45 faculty of the University of Massachusetts and may engage in
46 teaching and research activities at the university as will be of
47 benefit to the university and the laboratory and which do not
48 interfere with the carrying out of his duties. The department may
49 establish other regional forensic science laboratories in other
50 parts of the commonwealth as such services are needed.

51 *Section 5.* Within each medical examiner's district there shall
52 be a medical examiner and an associate medical examiner, who
53 shall be responsible for conducting medicolegal investigations in
54 that district under the supervision of the office of the chief medi-
55 cal examiner. The medical examiner of the district shall have
56 primary responsibility for the conduct of investigations in his
57 district. The associate medical examiner shall serve in the place of
58 the medical examiner in his absence or incapacity, and he may
59 assist the medical examiner in investigations or may conduct
60 investigations for the medical examiner when the medical ex-
61 aminer is of the judgment that such assistance will permit the
62 associate medical examiner to gain experience in the field, or
63 because the caseload makes this assistance desirable or for such
64 other reasons as are deemed appropriate by the medical ex-
65 aminer.

66 *Section 6.* The chief medical examiner shall be the appoint-
67 ing authority for all medical examiners and associate medical
68 examiners in the commonwealth and for all personnel of the
69 office of the chief medical examiner. In appointing medical ex-
70 aminers and associate medical examiners, he shall consult with
71 the appropriate district medical society for the district where
72 such appointments are to be made. The chief medical examiner
73 shall also consult with the state commission on medicolegal in-
74 vestigation concerning appointments as medical examiner and
75 associate medical examiner. All medical examiners and associate
76 medical examiners shall be licensed to practice medicine in the
77 commonwealth and shall possess such other qualifications for
78 appointment as the chief medical examiner may by regulation
79 require.

80 The chief medical examiner may appoint such deputy chief
81 medical examiners as he deems necessary for the statewide opera-
82 tion of the program. Such deputies may be appointed from
83 among the personnel of his central office and may be appointed
84 from among the medical examiners serving in districts located in
85 other parts of the state. The chief medical examiner may estab-
86 lish regional branches of the office of the chief medical examiner.
87 Such regional branches may be headed by a deputy chief medical
88 examiner.

89 All medical examiners and associate medical examiners shall be
90 appointed for four-year terms and may be reappointed. They
91 may be removed by the chief medical examiner on the basis of
92 incapacity, incompetence, or other cause. Prior to any such re-
93 moval the chief medical examiner shall notify the examiner of
94 such intention to remove him and shall specify the cause. Such
95 examiner shall have thirty days in which to request a public
96 hearing before the commission on his removal from office. No
97 dismissal of the examiner shall take place unless the commission
98 finds on the basis of such hearing that serious cause exists. If no
99 hearing is requested, the chief medical examiner may remove the
100 examiner no less than thirty days after the examiner has been
101 informed of the intention to remove him.

102 Salaries, fees and expenses for the chief medical examiner, for
103 deputy chief medical examiners, for medical examiners and
104 associate medical examiners, and for all personnel of the office of
105 the chief medical examiner shall be in accordance with regula-

106 tions established by the state commission on medicolegal investi-
107 gation and approved by the commissioner of administration and
108 finance. All medical examiners and associate medical examiners
109 shall be paid on a fee for service basis except where they are
110 appointed to half-time or full-time positions as deputy chief
111 medical examiners or as a part of the staff of the office of the
112 chief medical examiner.

113 Subject to appropriation, all salaries and expenses of the office
114 of the chief medical examiner, as a state agency, shall be incurred
115 and paid by the commonwealth. All fees and expenses of the
116 medical examiners and associate medical examiners shall be paid
117 by the counties in which their services were performed.

118 *Section 7.* When any person in the commonwealth is supposed
119 to have died in one of the following manners: —

120 *a.* Violent deaths, whether apparently homicidal, suicidal, or
121 accidental, including but not limited to deaths due to thermal,
122 chemical, electrical, or radiation injury, and deaths due to crimi-
123 nal abortion, whether apparently self-induced or not;

124 *b.* Sudden deaths not caused by readily recognizable disease;

125 *c.* Deaths under suspicious circumstances;

126 *d.* Deaths of persons whose bodies are to be cremated, dis-
127 sected, buried at sea or otherwise disposed of so as to be there-
128 after unavailable for examination;

129 *e.* Deaths of inmates of public institutions not hospitalized
130 therein for organic disease;

131 *f.* Deaths related to disease resulting from employment or to
132 accident while employed;

133 *g.* Deaths related to disease which might constitute a threat to
134 public health.

135 It shall be the duty of any person having knowledge of any
136 such death immediately to notify the medical examiner of the
137 district wherein the body lies of the known facts concerning the
138 time, place, manner, circumstances, and cause of such death. A
139 physician who, having knowledge of such death, fails to notify
140 the medical examiner shall be punishable by a fine of not more
141 than one hundred dollars. Immediately upon receipt of such
142 notification, the medical examiner shall carefully investigate the
143 cause and circumstances of the death and if as a result he is of
144 the opinion that it may be a case within the above-listed cate-
145 gories, he shall go to the dead body and take charge and juris-

146 diction over it for purposes of the public medicolegal investiga-
147 tion. At any time during such preliminary investigation the
148 medical examiner determines that the aid and advice of the office
149 of the chief medical examiner and of the laboratory of forensic
150 science would be advisable, he may request such assistance. If
151 after examining the body and all circumstances of the case the
152 medical examiner considers a further examination and medico-
153 legal autopsy necessary in the public interest, he shall immedi-
154 ately notify the district attorney of the county wherein the body
155 lies of his decision. The body shall not be moved from the place
156 where it lies until it is viewed by the district attorney or his
157 representative, if at the time he is notified, the district attorney
158 gives notice that he desires to examine the body before it is
159 moved for such autopsy. The medical examiner shall also notify
160 the office of the chief medical examiner of his decision to con-
161 duct a further investigation. He shall make a request to the chief
162 medical examiner for a medicolegal autopsy to be conducted as
163 determined by the chief medical examiner. The chief medical
164 examiner may authorize the medical examiner to perform the
165 autopsy, or may provide the assistance of his own office or of a
166 medicolegal pathologist he may designate from among the panel
167 established under section eight.

168 In any case where the medical examiner, after his preliminary
169 investigation, determines that in his judgement a further investi-
170 gation and medicolegal autopsy is not necessary, he shall notify
171 the district attorney for the county of his determination. If the
172 district attorney nevertheless decides that a further investigation
173 is desirable, he may order such investigation and may request the
174 assistance of the office of the chief medical examiner in con-
175 ducting such examination and in providing for a medicolegal
176 autopsy. In any such case, however, the medical examiner for the
177 district may remain involved in the case and shall, along with the
178 district attorney, receive a copy of the report of the chief
179 medical examiner's office on such case.

180 *Section 8.* The chief medical examiner shall supervise all
181 public medicolegal investigations conducted under the authority
182 of this chapter. He shall adopt regulations for the proper conduct
183 of such investigations and the duties of medical examiners,
184 associate medical examiners, and all personnel of the office of
185 the chief medical examiner. The chief medical examiner shall

186 receive from the medical examiners copies of all reports and
187 findings on all public medicolegal investigations. The chief medi-
188 cal examiner shall keep records on all such investigations and
189 shall compile annually a statistical report on all such investiga-
190 tions. Such statistics shall be made a part of his annual report to
191 the state commission on medicolegal investigation and to the
192 governor and the general court. The chief medical examiner shall
193 cooperate with the department of public health in compiling vital
194 statistics and other public health information.

195 For the purpose of performing medicolegal autopsies as a part
196 of a public medicolegal investigation the chief medical examiner
197 shall establish a panel of medicolegal pathologists who shall be
198 available to perform such autopsies on behalf of the office of the
199 chief medical examiner. The qualifications for appointment to
200 this panel shall be established by regulation by the chief medical
201 examiner. Such medicolegal autopsies shall be performed by
202 order of the chief medical examiner who may make such order at
203 the request of a medical examiner or associate medical examiner
204 in an appropriate case in accordance with section seven of this
205 chapter. The work of the medicolegal pathologists shall be under
206 the supervision of the chief medical examiner and the report on
207 specific cases shall be made to the chief medical examiner who
208 shall review the report and, after any further investigation
209 deemed necessary, shall provide his own full report on the case to
210 the medical examiner or associate medical examiner. These
211 pathologists shall be paid such professional fees and necessary
212 expenses as are established by regulation by the state commission
213 on medicolegal investigation and approved by the commissioner
214 of administration and finance.

215 The medical examiner or associate medical examiner conduct-
216 ing a public medicolegal investigation under section seven shall
217 file his report on such investigation with the chief medical ex-
218 aminer and with the district attorney. If he is of the opinion that
219 such death may have been caused by the negligent or intentional
220 act of another, he shall indicate such opinion in his report and
221 shall send a copy to the justice of the district court in whose
222 jurisdiction the body was found, if the place where found and
223 the place where the act may have been committed are in the
224 same county, or if the latter place is unknown; otherwise, such
225 report shall be sent to the district attorney and to the justice of

226 the district court within whose district or jurisdiction the said act
227 may have been committed. The medical examiner or associate
228 medical examiner shall in all cases certify to the town clerk or
229 registrar in the place where the deceased died, and to the depart-
230 ment of industrial accidents in cases where death, in his opinion,
231 was caused by or related to the occupation of the deceased, and
232 to the registrar of motor vehicles in cases where death, in his
233 opinion, was caused by or related to the operation of a motor
234 vehicle, his name and residence, if known; otherwise a descrip-
235 tion as full as may be, with the cause and manner of death.

236 In any case of record in a court of the commonwealth in-
237 volving a death investigated by a medical examiner or by the
238 chief medical examiner and prosecuted by a district attorney, a
239 copy of the report of the investigation including the report and
240 findings of a medicolegal autopsy shall be made available to the
241 defendant or his attorney upon request made to the district
242 attorney.

243 When the further investigation and medicolegal autopsy is
244 ordered by the district attorney in accordance with section seven
245 he shall certify that such order was made to the county commis-
246 sioners, or, if in Suffolk county, to the auditor of Boston.

247 *Section 9.* Upon receipt of the copy of the report of the
248 medical or associate medical examiner as provided in section
249 eight, the court or justice may thereupon hold an inquest. The
250 attorney general or the district attorney may, notwithstanding
251 the fact that no action has been taken by the medical examiner
252 under section six, or that no notification that the death may have
253 been caused by the act or negligence of another has been given to
254 the court or justice under section seven, require an inquest to be
255 held in case of any death supposed to have been caused by ex-
256 ternal means. The court or justice shall give seasonable notice of
257 the time and place of the inquest to the department of public
258 utilities in any case of death by accident upon a railroad, electric
259 railroad, street railway, or railroad for private use, and in any
260 case of death in which a motor vehicle of a common carrier of
261 passengers for hire by motor vehicle is involved, and to the de-
262 partment of public works in any case of death in which any
263 motor vehicle is involved. All persons not required by law to
264 attend may be excluded from the inquest. The district attorney
265 or any person designated by him may attend the inquest and

266 examine the witnesses, who may be kept separate so that they
267 cannot converse with each other until they have been examined.

268 *Section 10.* If it appears that the place where the supposed
269 act or negligence occurred and the place where the body was
270 found are both without the limits of the judicial district of the
271 court notified by the medical examiner under section seven, the
272 court shall nevertheless proceed with the inquest and have con-
273 tinuous and exclusive jurisdiction thereof if either place is within
274 the commonwealth and within fifty rods of the boundary line of
275 such district, unless a prior and like notice shall have been issued
276 by a medical examiner in another medical district in accordance
277 with said section.

278 *Section 11.* A district court about to hold an inquest may
279 appoint an officer qualified to serve criminal process to investi-
280 gate the case and to summon the witnesses, and may allow him
281 additional compensation therefor, payable in like manner as the
282 fees of officers in criminal cases.

283 *Section 12.* If a magistrate believes that an inquest to be held
284 by him relates to the accidental death of a passenger or employee
285 upon a railroad or electric railroad or a traveler upon a public or
286 private way at a railroad crossing, or to an accidental death con-
287 nected with the operation of a street railway or of a railroad for
288 private use, or a motor vehicle for the carriage of passengers for
289 hire under chapter one hundred and fifty-nine A, he shall cause a
290 verbatim report of the evidence to be made and sworn to by the
291 person making it; and the report and the bill for services, after
292 examination and written approval by the magistrate, shall be
293 forwarded to the department of public utilities within thirty days
294 after the date of the inquest, and, when made, a copy of the
295 magistrate's report on the inquest. The bill, when approved by
296 said department, shall be forwarded to the comptroller and paid
297 by the commonwealth, assessed on the person owning or operat-
298 ing such railroad or railway, or motor vehicle, and shall be col-
299 lected in the same manner as taxes upon corporations. The magis-
300 trate may in his discretion refuse fees to witnesses in the employ
301 of the person upon whose railroad or railway, or the person
302 licensed under said chapter one hundred and fifty-nine A for the
303 operation of the motor vehicle in connection with the operation
304 of which, the accident occurred.

305 *Section 13.* The magistrate shall report in writing when,
306 where and by what means the person met his death, his name, if
307 known, and all material circumstances attending his death, and
308 the name, if known, of any person whose unlawful act or negli-
309 gence appears to have contributed thereto. He shall file his report
310 in the superior court for the county where the inquest is held.

311 *Section 14.* If a person charged by the report with the com-
312 mission of a crime is at large, the magistrate shall forthwith issue
313 process for his arrest, returnable before any court or magistrate
314 having jurisdiction. If he finds that murder, manslaughter or an
315 assault has been committed, he may bind over, for appearance in
316 said court, as in criminal cases, such witnesses as he considers
317 necessary, or as the district attorney may designate.

318 *Section 15.* No embalming fluid, or any substitute therefor,
319 shall be injected into the body of any person supposed to have
320 met his death by violence, until a permit, signed by the medical
321 examiner, has first been obtained.

322 *Section 16.* After an autopsy or a view or examination with-
323 out an autopsy, the medical examiner shall deliver the body,
324 upon application, to the husband or wife, to the next of kin, or
325 to any friend of the deceased, who shall have priority in the
326 order named. If the body is unidentified or unclaimed for forty-
327 eight hours after the view thereof, the medical examiner shall
328 deliver it to the board of public welfare of the town where
329 found, which shall bury it in accordance with section seventeen
330 of chapter one hundred and seventeen.

331 *Section 17.* Medical examiners and associate examiners with-
332 in their respective districts shall, on application and payment or
333 tender of seven dollars, view the body and make personal inquiry
334 concerning the death of any person whose body is intended for
335 cremation, and shall authorize such cremation only when of
336 opinion that no further examination or judicial inquiry concern-
337 ing such death is necessary.

338 *Section 18.* The medical examiner may allow reasonable
339 compensation, payable by the county in the manner provided in
340 section nineteen, for services rendered in bringing to land a
341 human body found in any of the harbors, rivers or waters of the
342 commonwealth, but this provision shall not entitle any person to
343 compensation for services rendered in searching for a dead body.

344 *Section 19.* The medical examiner shall take charge of any
345 money or other personal property of the deceased found on or
346 near the body, and shall, unless such money or property is re-
347 quired as evidence, deliver it to the person entitled to its custody
348 or possession, or, if not claimed within sixty days, to a public
349 administrator. For fraudulent neglect or refusal so to deliver such
350 property within ten days after demand, a medical examiner or an
351 associate medical examiner shall be punished by a fine of not
352 more than five hundred dollars or by imprisonment for not more
353 than two years.

354 *Section 20.* Every medical examiner shall return an account
355 of the expenses of each view or autopsy, including his fees, to the
356 commissioners of the county where held, or in Suffolk county to
357 the auditor of Boston. The commissioners or auditor shall audit
358 the same, and certify to the county treasurer what items therein
359 are just and reasonable, and he shall pay the same to the person
360 entitled thereto. No auditing officer shall certify any fee for an
361 autopsy which was ordered or requested by the district attorney
362 of the district where the body was found until he has received
363 from the district attorney the certificate required by section
364 seven.

365 *Section 21.* Every medical examiner and associate examiner
366 shall annually, on or before March first, transmit to the state
367 secretary certified copies of the records of all deaths by him
368 investigated during the preceding year, and within sixty days
369 after the expiration of his term shall make like returns for so
370 much of the year as he held office. For a refusal or neglect so to
371 do, he shall forfeit not less than ten nor more than fifty dollars.

372 *Section 22.* Each medical examiner and associate examiner,
373 including those in Suffolk county, shall receive from the com-
374 monwealth twenty cents for each of the first twenty deaths re-
375 corded and returned by him in any year, as provided in the
376 preceding section, and ten cents for each additional death so
377 recorded and returned, as certified by the state secretary.

378 *Section 23.* The state secretary shall, at the expense of the
379 commonwealth, prepare and furnish to the medical examiners
380 blank record books and blank forms for returns, and shall cause
381 the returns for each year to be bound together in one volume
382 with indexes; and shall prepare therefrom such tables as will
383 render them of utility, and shall make annual report thereof to

384 the general court in connection with the report required by sec-
385 tion twenty-one of chapter forty-six.

1 SECTION 3. The term of office of all incumbent medical
2 examiners and associate medical examiners on the effective date
3 of this act, shall terminate at the end of that term for which they
4 were appointed unless sooner terminated by resignation. The
5 boundaries of the districts of such medical examiners shall not be
6 changed, consolidated or enlarged during their term of office,
7 without their consent. As vacancies occur in medical examiners
8 districts, as indicated above, the commission on medicolegal in-
9 vestigation shall devise a plan of coverage by a medical examiner
10 of such districts until the same can be integrated into a general
11 plan as authorized by section one hundred and seventy-nine of
12 chapter six of the General Laws.

1 SECTION 4. All appointments and removals authorized in
2 sections two and six of chapter thirty-eight of the General Laws,
3 shall be subject to the applicable provisions of chapter thirty and
4 thirty-one, provided, however, sections nine A and nine B of
5 chapter thirty and chapter thirty-one of the General Laws shall
6 not apply to the following positions: chief medical examiner,
7 deputy chief medical examiner, medical examiners, associate
8 medical examiner, nor to any staff member in the office of chief
9 medical examiner who is licensed to practice medicine in the
10 commonwealth and whose duties involve primarily professional
11 rather than administrative responsibilities.





