

By Mr. Flaherty of Boston, petition of Michael F. Flaherty relative to providing necessary changes in the system of medico-legal investigations. Health Care.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Four.

AN ACT PROVIDING NECESSARY CHANGES IN THE SYSTEM OF MEDICO-LEGAL INVESTIGATIONS.

1 *Whereas*, The deferred operation of this Act would tend to
2 defeat its purpose which is to secure the operations of the office of
3 the Suffolk County Medical Examiner and make necessary re-
4 alignments in the office of Chief Medical Examiner, it is hereby
5 declared an emergency law necessary for the public convenience.

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. Section 1 of Chapter 38 of the General Laws, as
2 most recently amended by Section 2 of Chapter 773 of the Acts of
3 1981, is hereby further amended by striking out the second para-
4 graph and inserting in place thereof the following new para-
5 graph: —

6 One examiner and three associate medical examiners in Suffolk
7 county, one examiner and two associate examiners in Nantucket
8 county, district one in Essex county and in district two Barnstable
9 county and one examiner and one associate examiner in each of the
10 following districts shall be so appointed:.

1 SECTION 2. Section 1B of said chapter 38, as most recently
2 amended by section 3 of chapter 773 of the Acts of 1981, is hereby
3 further amended by striking out the last sentence of the first
4 paragraph and inserting in place thereof the following new
5 sentence: — All fees, expenses and salaries of the medical examin-
6 ers and associate medical examiners and their related operational
7 costs shall be paid by the Commonwealth.

1 SECTION 3. Said section 1B of chapter 38 is hereby further
2 amended by striking out the fifth sentence in the second paragraph
3 and inserting in place thereof the following: — He shall be paid by
4 the office a salary in an amount to be determined by the commis-
5 sion on medico-legal investigation but such salary shall not be less
6 than forty thousand dollars.

1 SECTION 4. Said section 1B of chapter 38 is hereby further
2 amended by striking out the fifth paragraph and inserting in place
3 thereof the following new paragraph: —

4 The chief medical examiner may hire such full time professional
5 staff members including certified pathologists and forensic pathol-
6 ogists as he deems necessary for the statewide operation of his
7 office. The chief medical examiner may designate any certified
8 forensic pathologist so hired as an associate chief medical ex-
9 aminer to assist the chief medical examiner in the statewide opera-
10 tion of his office, to act for him in his absence or incapacity or to
11 supervise the activities of medical examiners in a specific region.
12 Such associate chief medical examiners so designated shall be
13 registered to practice medicine in the commonwealth. The chief
14 medical examiner may establish regional branches of his office.
15 Such regional branches may be supervised by an associate chief
16 medical examiner.

1 SECTION 5. Said section 1B of chapter 38 is hereby further
2 amended by striking out the third sentence of the sixth paragraph
3 and inserting in place thereof the following new sentence: — The
4 chief medical examiner shall be a member and chairman of said
5 panel and shall be available to conduct medico-legal investigations
6 and autopsies.

1 SECTION 6. Said chapter 38 as most recently amended by
2 chapter 773 of the acts of 1981, is hereby further amended by
3 striking out section 2 and inserting in place thereof the following
4 new section: —

5 *Section 2.* The associate medical examiners of Suffolk county
6 shall, at the request of its medical examiner, perform the duties and
7 have the powers of the medical examiner. Each medical examiner
8 shall in each year be entitled to four months' service in the aggre-
9 gate from the associates. Associate medical examiners in the other
10 districts shall, in absence of the medical examiners or in case of

11 their inability to act, perform in their respective counties all of the
12 duties of the medical examiner.

13 The associate medical examiner may assist the medical examiner
14 in investigations or may conduct investigations for the medical
15 examiner when the caseload makes his assistance desirable or for
16 such other reasons as are deemed appropriate by the medical
17 examiner. The commission may authorize a medical examiner or
18 an associate medical examiner to serve on a temporary basis in
19 another district of the same or another county for holidays, week-
20 ends, or other periods in the absence or inability to act of the
21 medical examiner or associate medical examiner for that district,
22 or to serve as the medical examiner or as the associate medical
23 examiner for another county or district where a vacancy exists in
24 the position of medical examiner or associate medical examiner.
25 The commission may authorize an associated medical examiner
26 from another district or county who is willing to serve as the
27 medical examiner for a particular district or county if the positions
28 of medical examiner and associate medical examiner for such
29 county or district are vacant. Such temporary designation shall
30 terminate upon an appointment to such position by the governor.
31 The period of such a temporary assignment shall not exceed the
32 remainder of the term to which such person was appointed by the
33 governor as a medical examiner or associate medical examiner.
34 Compensation for such temporary service shall be provided by the
35 state pursuant to the provisions of section one B.

1 SECTION 7. Sections three and four of said chapter thirty-
2 eight are hereby repealed.

1 SECTION 8. Said chapter 38 is hereby amended by striking out
2 section 5, as most recently amended by section 7 of said chapter
3 773, and inserting in place thereof the following new section: —

4 *Section 5.* In Suffolk county the medical examiner and each
5 associate medical examiner shall receive a salary in an amount to
6 be determined by the commission on medico-legal investigation
7 upon the recommendation of the chief medical examiner but such
8 salary shall not be less than forty thousand dollars for said medical
9 examiner and not less than twenty thousand dollars for such
10 associate medical examiners.

11 Medical examiners and associate medical examiners in other

12 counties shall receive fees set by the commission upon recommen-
13 dation of the chief medical examiner, but not less than as follows:
14 for a view without an autopsy, fifty dollars; for a view and attend-
15 ance at an autopsy, one hundred dollars; for attendance as a
16 witness at an inquest or as a witness in a criminal case in district
17 court, the grand jury or in the superior court, one hundred dollars
18 for each day of such attendance, and for travel related to investiga-
19 tions, attendance at autopsies or being a witness at an inquest or a
20 criminal trial, the current rate per mile traveled as paid other
21 employees of the commonwealth.

1 SECTION 9. Sections seventeen and nineteen of said chapter
2 thirty-eight are hereby repealed.

1 SECTION 10. Notwithstanding any special or general law to
2 the contrary, all persons employed or assigned on a full-time basis
3 in the office of the Suffolk county medical examiner from other
4 agencies in said county, who have been acting in fact as employees
5 of said county, immediately prior to the effective date of this act
6 who held positions classified under chapter thirty-one of the
7 General Laws or had tenure in their positions by reason of section
8 nine A of chapter thirty of the General Laws shall continue in said
9 employment by the commonwealth without impairment of civil
10 service status, seniority, retirement and other rights of the employ-
11 ees, without interruption of their service within the meaning of
12 section nine A of said chapter thirty and chapter thirty-one, and
13 without reduction in their compensation and salary grades, All
14 such employees who, immediately prior to the effective date of this
15 act, are not classified under the provisions of said chapter thirty-
16 one or are not subject to said section nine A of said chapter thirty
17 shall continue to serve in their respective offices or positions with-
18 out impairment of their retirement seniority or other rights and
19 they shall not be lowered in rank or compensation.

20 Nothing in this section shall be construed to confer upon any
21 employee any rights not held immediately prior to the effective
22 date of this act or to prohibit any reduction in salary or grade,
23 transfer reassignment, suspension, discharge, lay-off, or abolition
24 of position not prohibited prior to said effective date.

1 SECTION 11. This act shall take effect as of July 1, 1982.