



# Ohio Legislative Service Commission

## Bill Analysis

Bethany Boyd

### **Sub. H.B. 240\*** 131st General Assembly (As Reported by H. State Government)

**Reps.** Huffman and T. Johnson, Hambley, Sweeney, Becker, Grossman, Blessing, Green, Sprague, Hill

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## **BILL SUMMARY**

- Requires, under certain conditions, and authorizes, under other conditions, supplemental compensation for a coroner of a county with a population of 175,001 or more who is a certified forensic pathologist and does not engage in the private practice of medicine.
- Allows a coroner of a county with a population of 175,001 or more, who initially elected not to engage in private practice, to so engage by notifying the board of county commissioners in writing.
- Authorizes a board of county commissioners to contract with another county's coroner to exercise the powers and perform the acts, duties, or functions of the coroner when the coroner dies or resigns and the vacancy cannot be filled by election or appointment, or when no one runs for the office.
- Authorizes a deputy sheriff or law enforcement officer appointed by a coroner as an investigator to receive compensation for services performed in addition to any other compensation allowed by law.
- Modifies the definition of coroner to recognize that the charter counties name their coroners "medical examiners."
- Eliminates, in only charter counties, the two-year eligibility requirement that a coroner be licensed to practice in Ohio as a physician for at least two years.

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\* This analysis was prepared before the report of the House State Government Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

- Defines "legal residence" for purposes of determining the political subdivision responsible for paying the burial expenses of an unclaimed body.
- Changes the requirements for disposition of a deceased person's firearm.
- Requires the Department of Rehabilitation and Correction or the Department of Youth Services, as appropriate, to pay the costs of an autopsy whenever the person who died was an inmate of a "state correctional facility."

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## CONTENT AND OPERATION

### Changes to the law governing coroners

#### Supplemental compensation for coroners who are forensic pathologists

For purposes of compensating coroners, continuing law classifies them based on county population, and pays them according to statutory schedules and whether they elect to engage in the private practice of medicine in a county with a population exceeding 175,000. The bill requires that each coroner who is the coroner in a county with a population of 175,001 or more and who does not elect to engage in the private practice of medicine receive supplemental compensation of an additional 50% of the coroner's annual compensation in each calendar year in which the coroner's office satisfies all of the following:

(1) The office operates as a regional forensic pathology examination referral center, and the operation generates sufficient coroner's laboratory fund income that is in excess of the fund's expenses and is sufficient to provide the supplemental compensation;

(2) The coroner is a forensic pathologist certified by the American Board of Pathology; and

(3) The coroner performs a minimum of 75 post mortem examinations annually.<sup>1</sup>

But, if the coroner does not satisfy (1) or (3), above, the bill authorizes, but does not require, the coroner to receive, on approval of the board of county commissioners, supplemental compensation of up to an additional 25% of the coroner's annual compensation in each calendar year in which the coroner is a Board-certified forensic pathologist and is performing the county's forensic examinations.<sup>2</sup>

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<sup>1</sup> R.C. 325.15(C).

<sup>2</sup> R.C. 325.15(D).



## **Notice regarding coroner's return to private practice**

The bill allows a coroner in a county with a population of 175,001 or more who initially elects not to engage in the private practice of medicine to elect to engage in private practice during the coroner's term of office by notifying the board of county commissioners in writing of the coroner's intention to do so. The notice must state the date on which the coroner will commence private practice, and must be given to the board at least 30 days before that date. On the date stated in the notice, the coroner will be compensated at the reduced rate that applies to a coroner with a private practice.<sup>3</sup>

## **Coroner vacancies**

Under the bill, a board of county commissioners may contract with another county's coroner to exercise the powers and perform the acts, duties, or functions of the coroner when there is a vacancy in the coroner's office as a result of (1) a death or resignation and the vacancy cannot be filled by election or appointment or (2) no one runs for the office of coroner, and, for that reason, the office is vacant. The coroner with whom the board contracts may receive a supplemental payment for services rendered. The bill also specifies that the duration of the contract cannot extend beyond the last day of the term for which there was a vacancy.<sup>4</sup>

## **Coroners' investigators**

A coroner may appoint a deputy sheriff within the county or a law enforcement officer of a political subdivision located within the county as an investigator. The bill authorizes the appointed deputy sheriff or law enforcement officer to receive compensation for services performed as an investigator in addition to any other compensation allowed by law.<sup>5</sup>

Although it is not a violation of the Ohio Ethics Law for a coroner to appoint assistants and employees,<sup>6</sup> the bill's provision appears to add a level of comfort for deputy sheriffs and law enforcement officers acting as investigators for coroners because they are prohibited from using their positions to secure employment as investigators by neglecting to perform their duties as deputy sheriffs or law

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<sup>3</sup> R.C. 325.15(B)(2).

<sup>4</sup> R.C. 313.04.

<sup>5</sup> R.C. 313.05(B).

<sup>6</sup> R.C. 102.03(K), not in the bill.



enforcement officers in order to receive compensation for performing that same duty as a coroner's investigator.<sup>7</sup>

## **Coroners of charter counties**

### **Coroner and deputy coroner definitions**

The bill modifies the definition of "coroner," for the purposes of the law governing coroners, to include the medical examiner of a county. Both Cuyahoga and Summit counties, in their charters, named their coroners "medical examiners." (The Ohio Constitution permits the people of any county to adopt or amend a charter that establishes the county's form of government and determines which of its officers are elected and the manner of their election.<sup>8</sup>) The bill also defines "deputy coroner" to mean the deputy coroner or deputy medical examiner of the county in which death occurs or a dead human body is found.<sup>9</sup>

### **Coroner eligibility requirements**

To be eligible for the office of coroner under current law, a person must be (1) a physician who has been licensed to practice in Ohio *for a period of at least two years* immediately preceding election or appointment as coroner and (2) in good professional standing. The bill, only for coroners of charter counties, eliminates the two-year "licensed to practice in Ohio" requirement. So, in Cuyahoga and Summit counties, to be eligible for the office of coroner, a person must be a physician licensed to practice as a physician in Ohio and in good professional standing.<sup>10</sup>

## **Disposition of unclaimed dead body and deceased person's personal effects**

### **Legal residence of a dead person**

When, under continuing law, the body of a dead person is found in a township or municipal corporation, the person was not an inmate of a correctional, benevolent, or

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<sup>7</sup> See R.C. 102.03(D) and (E) and 2921.42(A), not in the bill.

<sup>8</sup> Ohio Constitution Article X, Section 3. R.C. 1.62, which is not in the bill, states that, as used in the Revised Code, references to particular county officers, boards, commissions, and authorities mean the officer, board, commission, or authority of a charter county designated by the charter to exercise the same powers or perform the same acts, duties, or functions that are to be exercised or performed under the applicable section of the Revised Code by officers, boards, commissions, or authorities of nonchartered counties.

<sup>9</sup> R.C. 313.01(B).

<sup>10</sup> R.C. 313.02(A).



charitable institution of Ohio, and the body is not claimed by any person for private interment or cremation at the person's own expense or delivered for the purpose of medical or surgical study or dissection, the body must be disposed of, and the burial must be paid for, by the political subdivision in which the dead person had a legal residence. The bill defines "legal residence" as a permanent place of abode used or occupied as living quarters at the time of a person's death, including a nursing home, hospital, or other care facility.<sup>11</sup>

A dead person's legal residence, under the circumstances described above, determines which political subdivision must pay for disposal of the deceased's body under continuing law, as follows:

(1) If the person was a legal resident of the county, the proper officers of the township or municipal corporation in which the person's body was found must cause it to be buried or cremated at the expense of the township or municipal corporation in which the person had a legal residence at the time of death.

(2) If the person had a legal residence in any other Ohio county at the time of death, the superintendent of the county home of the county in which the body was found must cause it to be buried or cremated at the expense of the township or municipal corporation in which the person had a legal residence at the time of death.

(3) If the person was an inmate of a correctional institution of the county or a patient or resident of a benevolent institution of the county, the person had no legal residence in Ohio, or the person's legal residence is unknown, the superintendent must cause the person to be buried or cremated at the expense of the county.

And, these officials also must provide, at the grave of the person or, if the person's cremated remains are buried, at the grave of the person's cremated remains, a metal, stone, or concrete marker on which the person's name and age, if known, and date of death must be inscribed.<sup>12</sup>

### **Disposition of deceased person's firearm**

Continuing law requires a coroner to take charge and possession of all money, clothing, and other valuable personal effects of a deceased person whose body is unclaimed and who met death as a result of criminal or other violent means, by casualty, by suicide, or in any suspicious or unusual manner, when any person, including a child under two years of age, dies suddenly when in apparent good health,

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<sup>11</sup> R.C. 9.15.

<sup>12</sup> R.C. 9.15.



or when any mentally retarded person or developmentally disabled person dies regardless of the circumstances. The coroner is required to store the money, clothing, and effects in the coroner's office or storage provided by the board of county commissioners.<sup>13</sup>

Current law requires the coroner to sell at public auction the valuable personal effects of the deceased, except firearms, which must be delivered to the police chief of the municipal corporation within which the body is found, or to the sheriff of the county if the body is not found within a municipal corporation. The firearms must be used for law enforcement purposes only or must be destroyed. Upon delivery of a firearm to the police chief or sheriff, the law enforcement officer to whom the delivery is made must give the coroner a receipt for the firearm that states the date of delivery and an accurate description of the firearm.<sup>14</sup>

The bill requires that the coroner deliver the deceased person's firearm to the police chief of the municipal corporation within which the body is found, or to the sheriff of the county if the body is not found within a municipal corporation. Upon delivery in this manner, the police chief or sheriff must give the coroner a receipt for the firearm that states the date of delivery and an accurate description of the firearm. The firearm must be used for evidentiary purposes only.

The bill establishes a procedure in which a deceased person's next of kin or other relative may request that the firearm be given to the next of kin or other relative once the firearm is no longer needed for evidentiary purposes. The bill requires that the police chief or the sheriff give the firearm to the next of kin or other relative who requested the firearm only if the next of kin or other relative may lawfully possess the firearm under applicable law of Ohio or the United States. The police chief or sheriff must keep a record identifying the next of kin or other relative information to whom the firearm is given, the date the firearm was given to the next of kin or other relative, and an accurate description of the firearm. If a next of kin or other relative does not request the firearm or is not entitled to possess the firearm, the firearm must be used at the discretion of the police chief or sheriff. The bill eliminates the requirement that firearms delivered to the police chief or sheriff must be used for law enforcement purposes only or must be destroyed.<sup>15</sup>

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<sup>13</sup> R.C. 313.14(A).

<sup>14</sup> R.C. 313.14(A); repeal of R.C. 313.141.

<sup>15</sup> R.C. 313.14(C); repeal of R.C. 313.141.



The bill limits the requirement that the coroner sell the deceased person's personal effects, except firearms, at public auction, to only those cases in which the county pays the cost of the person's burial.<sup>16</sup>

### Costs of an inmate's autopsy

The bill requires the Department of Rehabilitation and Correction (DRC) or the Department of Youth Services (DYS), as appropriate, to pay the costs of an autopsy whenever the person who died was an inmate of a "state correctional facility." The costs cannot be greater than the actual value of the transportation of the body, services of the technicians, and the facilities and materials used. Money derived from the fees paid for the autopsies must be credited to a special fund for the use of the coroner's laboratory. Continuing law requires that money in the special fund be used to purchase necessary supplies and equipment for the laboratory and to pay any associated administration costs at the coroner's discretion.<sup>17</sup>

The bill<sup>18</sup> defines a "state correctional facility" as a state correctional institution, which includes any institution or facility that is operated by the DRC and that is used for the custody, care, or treatment of criminal, delinquent, or psychologically or psychiatrically disturbed offenders;<sup>19</sup> a state correctional institution that is privately operated and managed;<sup>20</sup> and an "institution," which is a state facility that is created by the General Assembly and that is under the management and control of DHS or a private entity with which DHS has contracted for the institutional care and custody of felony delinquents.<sup>21</sup>

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## HISTORY

ACTION	DATE
Introduced	06-02-15
Reported, H. State Government	---

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<sup>16</sup> R.C. 313.14(B).

<sup>17</sup> R.C. 313.161(B); R.C. 313.16, not in the bill.

<sup>18</sup> R.C. 313.161(B)(2).

<sup>19</sup> R.C. 2967.01, not in the bill.

<sup>20</sup> R.C. 9.06, not in the bill.

<sup>21</sup> R.C. 5139.01, not in the bill.

