

MAINE STATE LEGISLATURE

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N I N E T Y - S E V E N T H L E G I S L A T U R E

Legislative Document

No. 1113

S. P. 399

In Senate, March 2, 1955.

Referred to Committee on Judiciary. Sent down for concurrence and ordered printed.

CHESTER T. WINSLOW, Secretary.

Presented by Senator Butler of Franklin.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-FIVE

**AN ACT Relating to Records of Unattended Deaths and Injection of Embalming
Fluids Under Medical Examiner's Law.**

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., c. 89, § 244, amended. Section 244 of chapter 89 of the revised statutes is hereby amended to read as follows:

'Sec. 244. Notice of finding of body. Whoever finds the body of any person ~~who may be supposed to have come to his death by criminal violence, or by suicide or in any suspicious or unusual manner~~ **who is supposed to have come to his death by violence or by the action of chemical, thermal or electrical agents or following abortion, or suddenly when not disabled by recognizable disease or who has come to his death unexplained or unattended,** shall immediately notify one of the municipal officers, a police officer or constable if in a city or town; or a member of the board of assessors if in a plantation; and if in an unorganized place, the most readily accessible of such officials in any city, town or plantation within the county. Such official shall immediately take charge of such body and retain custody thereof without moving the same, except as hereinafter provided, until the arrival of a medical examiner, the county attorney, the sheriff or a member of the state police. The official taking charge of said body shall immediately notify the county attorney or sheriff, who shall in turn arrange for the attendance of the most readily accessible medical examiner. If the body, where found, is in danger of being destroyed or damaged by fire, vehicular traffic or otherwise, or of being lost in any body of water, any person may take steps as may seem necessary for its preservation or retention prior to the arrival of the medical examiner, sheriff, a member of the state police or the county attorney,

but in such event shall first, whenever practicable, exactly mark the location and position of the body. If no such danger exists, the body shall not be moved until the arrival of the medical examiner, the sheriff, a member of the state police or the county attorney, and until photographs have been taken or measurements and drawings have been made to record the physical facts relative to the location and position of the body, under the supervision of the county attorney, the state police or sheriff, or unless the Attorney General or the county attorney waives such requirements. After such photographs or such measurements and drawings have been made or have been waived as aforesaid and after the medical examiner has completed such examination as required of him in the following section, the body may be removed to a convenient place. The body shall not be finally released for embalming or burial, except by order of the county attorney or sheriff. If and when it shall appear to the county attorney that the case is one of probable homicide, he shall notify the Attorney General of the fact.'

Sec. 2. R. S., c. 89, § 245, amended. Section 245 of chapter 89 of the revised statutes is hereby amended to read as follows :

'Sec. 245. Proceedings by medical examiner upon receiving such notice. Upon notice that there has been found or is lying within his county the body of a person who is supposed to have come to his death by ~~criminal violence, or by suicide or in any suspicious or unusual manner~~ **violence or by the action of chemical, thermal or electrical agents or following abortion, or suddenly when not disabled by recognizable disease, or any unexplained or unattended deaths,** it shall be the duty of any person having knowledge of such death to notify the medical examiner of the county wherein the body lies and ~~the~~ such medical examiner shall forthwith repair to the place where such body lies and take charge of the same, and before said body is removed, he shall reduce or cause to be reduced to writing a description of the location and position of the body and any and all facts that may be deemed important in determining the cause of death. He shall, upon authorization of the county attorney or the Attorney General, make an autopsy in the presence of a physician and one other discreet person sufficient in his judgment to disclose such facts as may be attainable thereby which may be of assistance in determining the cause of death. He may compel the assistance of such physician and person, by subpoena if necessary, and he shall then and there at the time of such autopsy reduce or cause to be reduced to writing every fact and circumstance disclosed by such autopsy tending to show the manner and cause of death, which record shall be signed by himself and the witnesses who have attended, who shall in addition to their names subscribe their address and place of business. In case at the time of finding of such body there be no medical examiner available within the county by reason of vacancy in the office, incapacity or absence from the county, any medical examiner in an adjoining county may be notified, whose duty it shall be to attend and perform all duties prescribed by sections 243 to 253, inclusive, as though he were a medical examiner within the county.'

Sec. 3. R. S., c. 25, § 382, amended. Section 382 of chapter 25 of the revised statutes is hereby amended to read as follows :

'Sec. 382. Physicians in attendance to furnish certificate of name, age, disease and date of death of deceased. A physician who has attended a person during

his last illness shall within 24 hours after the death of said person make a certificate stating, to the best of his knowledge and belief, the name of the deceased, his age, the disease of which he died and the date of his death and shall either deliver it to the person superintending the burial or leave it with the family of the deceased or at the said physician's office where it may be obtained when called for; and whenever any deceased person did not have the attendance of a physician in his or her last sickness, the person in whose house the said death occurred, or the nearest relative of the deceased shall upon finding the body immediately call a ~~physician~~ **medical examiner** to view the body and give to him all the information concerning said death. Upon receiving this information aforesaid the ~~physician~~ **medical examiner** called shall make a certificate setting forth the data he has obtained from said persons, and to the best of his knowledge and belief the cause of death. After having made the certificate as aforesaid he shall then deliver same to the funeral director in charge of the burial, or leave it with the family of the deceased where it may be obtained when called for; ~~provided, however, that if the physician called in such case is not a medical examiner, and the information obtained concerning said death indicates that said person died under suspicious or unusual circumstances, he shall thereupon call a medical examiner before making and filing said certificate as to the cause of death.~~ Any person who willfully makes a false return or willfully gives false information to be used in preparing a record of death shall be punished as provided in section 401.'

Sec. 4. R. S., c. 25, § 204, repealed and replaced. Section 204 of chapter 25 of the revised statutes is hereby repealed and replaced as follows:

'**Sec. 204. Violent or sudden deaths, embalming fluids not injected until cause of death legally determined.** No person shall inject into any cavity or artery of the body of any person who has died from violence, by the action of chemical, thermal or electrical agents, or following abortion, or suddenly when not disabled by recognizable disease, any fluid or substance, until a legal certificate as to the cause of death from the medical examiner has been obtained, or until legal investigation has determined the cause of death, or written permission to embalm such body has been given by the medical examiner. If a criminal cause of death is alleged or suspected, no fluid or other substance shall be injected into a body until the cause of death is legally established.'