

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

Senate Bill 605

BY SENATORS MARONEY AND TAKUBO

[Introduced February 10, 2023; referred
to the Committee on Health and Human Resources]

1 A BILL to amend and reenact §61-12-3 of the Code of West Virginia, 1931, as amended; relating
2 to requiring the state medical examiner to enter into contracts and agreements with a
3 procurement organization when necessary to facilitate the efficient and economical
4 recovery of anatomical gifts.

Be it enacted by the Legislature of West Virginia:

ARTICLE 12. POSTMORTEM EXAMINATIONS.

**§61-12-3. Office of Chief Medical Examiner established; appointment, duties, etc., of Chief
Medical Examiner; assistants and employees; promulgation of rules.**

1 (a) The Office of Chief Medical Examiner is continued within the Bureau of Public Health
2 in the Department of Health and Human Resources. The office shall be directed by a Chief
3 Medical Examiner, who may employ pathologists, toxicologists, other forensic specialists,
4 laboratory technicians, and other staff members as needed to fulfill the responsibilities set forth in
5 this article.

6 (b) All persons employed by the Chief Medical Examiner shall be responsible to him or
7 her and may be discharged for any reasonable cause. The Chief Medical Examiner shall specify
8 the qualifications required for each position in the Office of Chief Medical Examiner

9 (c) The chief medical examiner shall be a physician licensed to practice medicine or
10 osteopathic medicine in the State of West Virginia, who is a diplomat of the American Board of
11 Pathology in forensic pathology, or equivalent, and who has experience in forensic medicine. The
12 Chief Medical Examiner shall be appointed by the Commissioner for the Bureau of Public Health
13 to serve a five-year term unless sooner removed, but only for cause, by the Governor or by the
14 commissioner.

15 (d) The Chief Medical Examiner shall be responsible to the commissioner in all matters
16 except that the chief medical examiner shall operate with independent authority for the purposes
17 of:

18 (1) The performance of death investigations conducted pursuant to §61-12-8 of this article;

19 (2) The establishment of cause and manner of death; and

20 (3) The formulation of conclusions, opinions, or testimony in judicial proceedings.

21 (e) The Chief Medical Examiner, or his or her designee, shall be available at all times for
22 consultation as necessary for carrying out the functions of the Office of the Chief Medical
23 Examiner.

24 (f) The Chief Medical Examiner shall cooperate with procurement organizations as defined
25 in §16-19-3 of this code to maximize the opportunity to recover anatomical gifts for the purpose
26 of transplantation, therapy, research, or education. ~~The Chief Medical Examiner may enter into~~
27 ~~contracts and agreements with a procurement organization when necessary to~~ To facilitate the
28 efficient and economical recovery of anatomical gifts, the Chief Medical Examiner, including
29 contracts or agreements shall authorizing authorize the presence of persons approved or
30 assigned by the procurement organization to perform ~~a specific type of duty or duties~~ at the office
31 of the ~~chief medical examiner~~ Chief Medical Examiner necessary to the timely recovery of
32 anatomical gifts including access to electronic medical records and other information necessary
33 to identify a potential donor, evaluate donor eligibility, and obtain authorization for recovery. This
34 position shall be grant funded and provided at no cost to the state.

35 (g) The Secretary of the Department of Health and Human Resources shall propose
36 legislative rules in accordance with the provisions of §29A-3-1 *et seq.* of this code concerning:

37 (1) The proper conduct of medical examinations into the cause of death;

38 (2) The proper methods and procedures for postmortem inquiries conducted by county
39 medical examiners and coroners;

40 (3) The examination of substances taken from human remains in order to determine the
41 cause and manner of death;

42 (4) The training and certification of county medical examiners and coroners; and

43 (5) The procedures necessary to maximize the recovery of anatomical gifts for the purpose
44 of transplantation, therapy, research, or education.

45 (h) The Chief Medical Examiner may prescribe specific forms for record books and official
46 papers which are necessary to the functions and responsibilities of the office of the Chief Medical
47 Examiner.

48 (i) The Chief Medical Examiner, or his or her designee, may order and conduct an autopsy
49 in accordance with the provisions of this code. The Chief Medical Examiner, or his or her
50 designee, shall perform an autopsy upon the lawful request of any person authorized by the
51 provisions of this code to request the performance of the autopsy.

52 (j) The salary of the Chief Medical Examiner and the salaries of all assistants and
53 employees of the office of the Chief Medical Examiner shall be fixed by the Legislature from funds
54 appropriated for that purpose. The Chief Medical Examiner shall take an oath as required by law.
55 The Chief Medical Examiner and his or her assistants may lecture or instruct in the field of legal
56 medicine and other related subjects to the West Virginia University or Marshall University School
57 of Medicine, the West Virginia School of Osteopathic Medicine, the West Virginia State Police,
58 other law-enforcement agencies and other interested groups.