

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

The meeting was called to order by Chairman, Representative Michael R. O' Neal at 3:30 p.m. on January 27, 1993 in room 313-S of the Statehouse.

All members were present except:

Representative Clyde Graeber - Excused

Committee staff present:

Jerry Donaldson, Legislative Research
Jill Wolters, Revisor of Statutes
Cindy Wulfkuhle, Committee Secretary

Conferees appearing before the Committee:

Chip Wheelen, Kansas Medical Society
Dr. Alan Hancock, President, Kansas Coroners Association
James Clark, Executive Director, Kansas Counties and District Attorney's Association
Elsie Wolters, Oberlin, Kansas
Loren Phillips, Department of Health & Environment
Anne Smith, Director of Legislation, Kansas Association of Counties
Pam Scott, Kansas Funeral Directors and Embalmers Association
Paul Shelby, Judicial Administrator, Office of Judicial Administration
Mack Smith, Executive Secretary, Kansas State Board of Mortuary Arts

Hearings on HB 2008 were opened relating to district coroners duties, functions and compensation.

Chip Wheelen, Kansas Medical Society, appeared before the committee as a proponent to the bill. He reviewed the major changes in the law that are incorporated into HB 2008. This bill can be described as a technical update of Kansas laws governing unattended or suspicious deaths and the duties of district coroners. (Attachment #1)

Dr. Alan Hancock, President, Kansas Coroners Association, appeared before the committee to answer questions that committee members had. He stated that each of the provisions of this bill answers specific problems that the coroners have had in Kansas.

Chairman O'Neal questioned why the coroners should be able to determine whether or not to withhold an autopsy report when they are not involved in the criminal investigation. Dr. Hancock stated that the reason for withholding the report is to prevent it from becoming public knowledge, the district attorney, law enforcement agency who's investigating the case gets a copy and he keeps the rest of the copies.

James Clark, Executive Director, Kansas Counties and District Attorney's Association, appeared in support of the bill. They believe that the bill is an improvement, but that it does not meet the acute need for forensic pathologists throughout the state. (Attachment #2)

Elsie Wolters, Oberlin, Kansas, appeared as a proponent to the bill. She would like the law to provide a criminal penalty for those who withhold records to the family, and that if the family requests an autopsy that it be done in a timely manner. (Attachment #3)

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

Minutes of the House Committee on Judiciary, Room 313-S, Statehouse, at 3:30 p.m. on January 27, 1993.

Loren Phillips, Department of Health & Environment, appeared before the committee. He had several amendments to the bill, which are compromises between the coroners and the Department of Health & Environment. (Attachment #4)

Pam Scott, Kansas Funeral Directors and Embalmers Association, appeared before the committee to support the proposed amendments of KDHE, particularly the amendment that deals with death certificates. Their main concern is the hardship on the families of the deceased. (Attachment #5)

Paul Shelby, Judicial Administrator, Office of Judicial Administration, appeared in opposition of the bill. He stated that they believe that the autopsy, death and inquisition reports currently being filed in the office of Clerk of the District Court should be filed elsewhere. Also, the coroners need a salary adjustment, but they don't agree with the proposed method to have the budgets come under the judicial branch. (Attachment #6)

Anne Smith, Kansas Association of Counties, appeared before the committee in opposition to the bill. Anne stated that the administrative judges are not held accountable for county budgets. The KAC feels strongly that if the legislature wants county governments under a tax lid, then it should not consider legislation that takes away the authority of county officials to control property taxes. (Attachment #7)

Mack Smith, Executive Secretary, Kansas State Board of Mortuary Arts, appeared before the committee. The Mortuary Arts Board is neither a proponent nor opponent of the bill but is concerned with the amount of time it takes for the family to get a death certificate. (Attachment #8)

The Chairman announced that the hearing on HB 2008 will be left open.

The Committee adjourned at 5:15 p.m. The next Committee meeting is January 28, 1993 at 3:30 p.m. in room 313-S.

GUEST LIST

HOUSE JUDICIARY COMMITTEE

DATE JANUARY 27, 1993

[illegible]



KANSAS MEDICAL SOCIETY

623 SW 10th Ave. • Topeka, Kansas 66612 • (913) 235-2383
WATS 800-332-0156 FAX 913-235-5114

January 19, 1993

TO: House Judiciary Committee
FROM: Kansas Medical Society *Myrtle Green*
SUBJECT: House Bill 2008 as Introduced

The provisions of HB 2008 are the product of a great deal of study and deliberation by the Kansas District Coroners Association and the 1992 Special Committee on Judiciary. It can best be described as a technical update of Kansas laws governing (1) unattended or suspicious deaths and (2) the duties of district coroners. For purposes of considering the various sections of the bill, it may be helpful to keep in mind that most of the existing coroner laws were enacted prior to unification of the courts. The principal features of the bill are as follows:

1. The requirement for an inquest when a suspicious death occurs would be at the discretion of the Coroner in order to avoid costly, unnecessary inquests. In addition, the obsolete laws relating to inquests would be updated and combined.
2. The requirement that coroners' investigations be concluded in a 24-hour period would be repealed as would the required explanation to the state registrar of vital statistics when cause of death cannot be determined within a 3-day period.
3. Statutory Coroner salaries would be repealed and compensation authority would be delegated to the District Court which appoints the Coroner. In addition, the various sections of the law which prorate costs of the Coroner's office among counties in the judicial district in which the Coroner serves would be amended to attribute those costs to the District Court. District Courts already prorate non-salary operating expenses among the counties in the judicial district.
4. A determination as to whether an autopsy should be performed would be made by the Coroner in the district where the cause of death occurred, if known. Otherwise, the Coroner in the district where the investigation takes place would determine if an autopsy is appropriate.

HOUSE JUDICIARY
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5. A new subsection would be added to the statutes to protect the Coroner's records and autopsy reports from public access and legal discovery during the course of an investigation.
6. A new provision would be added to the statutes to require that any time a death certificate indicates other than a natural cause of death, the certificate must be cosigned by the District Coroner.
7. The requirement that a Coroner take blood from victims of vehicle (air, land, water) accidents within eight hours of death and submit samples to the KBI for alcohol and drug tests would be repealed.

These amendments have been endorsed by the Kansas Medical Society and therefore we respectfully request that you take favorable action on HB 2008. Thank you for the opportunity to testify.

CW:cb

Randy Hendershot, President
Wade Dixon, Vice-President
John Gillett, Sec.-Treasurer
Rod Symmonds, Past President



DIRECTOR

Nola Foulston
Dennis Jones
William Kennedy
Paul Morrison

Kansas County & District Attorneys Association

827 S. Topeka Blvd., 2nd Floor • Topeka, Kansas 66612
(913) 357-6351 • FAX (913) 357-6352

EXECUTIVE DIRECTOR, JAMES W. CLARK, CAE • CLE ADMINISTRATOR, DIANA C. STAFFORD

Testimony in Support of

House Bill 2008

Presented to the House Judiciary Committee
by James W. Clark on January 19, 1993

The Kansas County and District Attorneys Association appears in support of HB 2008, particularly Sec. 6(b) which allows a coroner to delay filing the coroner's report if it might jeopardize a criminal investigation. KCDA has sought similar legislation in the past: HB 2385, introduced in 1991, allowed the law enforcement agency investigating the death to request the district court to order that the coroner's report not be disclosed if the court found such disclosure would interfere with a suspected homicide investigation; HB 3044, introduced in 1990, required the approval of the county or district attorney before a coroner's report could be filed if a homicide was suspected.

The rationale for temporary nondisclosure of coroner's reports should be obvious: in many cases, the only other person with knowledge of the manner of death is the perpetrator, and disclosure of such details may lead to false confessions, or worse, "copy cat" crimes. For years, such problems were avoided by informal agreements between coroners and law enforcement. However, such agreements became obsolete with the issuance of Attorney General Opinion 86-5 (1/21/86) which declared that reports prepared by the coroner were subject to the Open Records Act. Continued reliance on such informal agreements subjects the coroner to injunction or mandamus actions, and remedies for such violations may even include payment of attorney fees.

The provisions of Section 6(B) of HB 2008 do give the coroner some discretion regarding filing of coroner's reports, and some protection from Open Records Act requirements. While prosecutors and district attorneys would prefer such discretion themselves, as the earlier bills provided, it is presumed that they will be able to work with their coroners in making the determination to delay the filing of the reports during a pending investigation.

While HB 2008 is a good bill as far as it goes, it does not meet the acute need of forensic pathologists throughout the state. We would refer the Committee to the Interim Study Report on Proposal No. 13 which recommends funding a forensic pathologist faculty position with the University of Kansas School of Medicine, with the added requirement of the performance of autopsy services.

Mr. Chairman, Committee members and guests:

Thank you for giving me a few minutes to talk with you, I'll be brief.

I am a mother who had a 17-year old daughter. A lovable child, not a perfect child but my child none the less. A gift of God.

One morning I found my 17-year old daughter unresponsive in her room. This was foul play or suicide attempt.

My daughter was unresponsive. I don't know what happened.

Initial reports by local authorities were inconclusive either intentionally or unintentionally, ingesting an overdose of drugs.

After the initial shock subsided, I started to question the report. I wanted to know what drug had been ingested, or what happened.

I was advised that the amount of blood supplied to the laboratory was less than the usual amount furnished for testing and was insufficient to allow the lab to do an adequate scan for the presence of specific drugs as embalming fluid was started.

I had the body exhumed for a second examination and the results of that examination were also inconclusive because of the passage of time and the contamination of the tissue by the embalming process.

Logic told me to go on with my life. My daughter was gone and nothing could bring her back. Still doubts persisted and continued I continued to investigate. I won't go into detail of my investigation, I do want to summarize my disturbing findings and to explain what suffering it has caused me:

1. I learned that an adequate blood sample was withdrawn at the time of my daughter's death. Official sources say it was sent to the lab... the lab says it wasn't. Who do you believe?

2. A close friend of one of the officials investigating my daughter's death was said to be involved in the distribution of illegal drugs in the area at the time and who I understand was concerned that my daughter might discuss her prior drug involvement.

3. The out of state doctor who had seen my daughter had given her prescription strength doctor's sample drugs. He was unable to find her records.

The result of all of this is that I stand before you a mother torn between logic and love. I know my daughter wanted nothing more to do with drugs. I know that the outward indications were that she had changed.

And yet...the official report implied self induced drug overdose. I pray that I might have confidence in the official report...but I do not. Too much professional contradictions.

My husband, a practical man, knows that we cannot change this situation and tries to get on with his life. I won't let him; My persistence has stretched his patience to the limit.

Our son and other daughter are also vexed. They would like the truth-and so would I. I hurt inside, and I can't find answers. I have health problems that I suspect are affected of my uncertainty and my family has been under stress - as well as me. All of this could have been prevented and my mourning grief shortened if I had had answers from day one ... but I have no confidence in the official report.

I have no confidence but I could have had if it had been handled professionally. Sections 5, 6, and 7 of your HB 2008 are a good start but they don't go far enough:

1. The law should require that a specified minimum of blood sample and tissue samples be withdrawn and preserved from the bodies of all suspicious or unattended deaths for the minimum of three years.

2. The law should specify either the method of extraction and preservation or delegate the responsibility for specifying the scientific procedures necessary to an appropriate agency such as the department of health or the KBI.

3. The law should specify or have a regulatory agency specify the training necessary to perform these functions.

4. The law should provide for the maintenance of medical records concerning a deceased person for a similar period of at least three years.

5. The law should provide for a criminal penalty for failure to preserve this evidence as provided.

It's too late to save me from my misery. Passage of these simple modifications to your bill won't provide the balm to heal my wounds and may not be sufficient to calm my marriage and family but it may save some other parent or love-one from a life-long agony of uncertainty. Adequate professional laws enforced would be a positive healthy step towards my healing.

Thank you,

Elsie L. Wolters
302 N. Wolfe Street
Oberlin, KS 67749
(913)-475-3946

302 No. Wolf Street
Oberlin, KS 67749
April 6, 1991

Dear Kansas Ways & Means Committee:

Let it be known that you are changing a portion of the Senate Bill No. 405 by amending K.S.A. 22a-233 and repealing the existing section. Please consider the following to be included in this amendment, as this is very important and is the only satisfactory way to protect the victim and their family of an unattended death!

It is very important that this particular portion of the bill become MANDATORY unless the victim of the unattended death has a CHRONIC condition or the cause of death can be determined by CLEAN, ADEQUATE BLOOD SAMPLES!

The bill needs to require the following:

(1)--The actual TESTS that must be made with each AUTOPSY.
(Consult experts! for the type of tests that need to be established.)

(2)--Record of the results of each TEST made a part of each AUTOPSY.

(3)--Record of deposition of SPECIMENS TAKEN FOR TESTS.

(4)--Record as to size/volume, such as CCs, MLs, etc.

(5)--A record of examiners' conclusions based upon TESTS.

Record to be in a safe place, such as the BUREAU OF VITAL STATISTICS or the COUNTY CLERK.

I personally had the experience of an unattended death with our 17-year-old daughter. The coroner did NOT find it necessary, NOR did the county attorney find it necessary to have an autopsy or CLEAN BLOOD SAMPLES of our beloved daughter.

I have had some 14 years of HELL wondering what really happened to our daughter; this is worse than the DEATH itself!

That is why it is necessary for that part of the bill to be MANDATORY in an unattended death.

Please let me know when the hearing will be held on this bill for presentation by myself.

Sincerely yours,

Elsie L. Wolters
Elsie L. Wolters
(913) 475-3946

Attachment #3 — 3
01-27-93

For better laws for protection!



Department of Health and Environment

[REDACTED], Secretary
Robert C. Harder

Reply to:

Testimony presented to
House Judiciary Committee

by

The Kansas Department of Health and Environment

House Bill 2008

H.B. 2008 recommends several changes to the Vital Statistics Act (K.S.A. 65-2412(c), 65-2414, 65-2416(b), 65-2422c, and 65-2426a).

H.B. 2008 recommends changing K.S.A. 65-2412(c) to permit the coroner to complete and sign the medical certification regarding the cause of death to "as soon as possible". The current statute states the medical certification shall be obtained within 24 hours but does allow a provision for filing the cause of death after the prescribed period--a provision that has been struck in H.B. 2008.

K.S.A. 65-2412(d), which is not being changed, states that in every instance a certificate shall be filed prior to interment or disposal of the body. If the certificate is not filed within a specified amount of time, this could become a serious problem as currently it is weeks or even months, in some cases, before a cause of death is determined.

Another concern with the proposed change is the impact such a change could have on our agreement with the National Center for Health Statistics with whom we have a contract that requires the timely submittal of Kansas death data--for which we are reimbursed.

The most serious impact of this revision would be on the families who need certified copies of the death certificate in order to carry on personal business; i.e., to obtain insurance benefits, pay bills, close accounts, etc. Frequently the cause of death is not of interest in these matters; proof of death is the issue.

As a compromise we recommend the revision to K.S.A. 65-2412(c) (Lines 13 and 14) read as follows: "and sign the medical certification within 24 hours ~~as soon as possible after taking charge of the case after receipt of the death certificate or as provided in K.S.A. 65-2414.~~"

Currently, the proposed change in H.B. 2008 to K.S.A. 65-2414 leaves the time frame for determining cause of death completely open ended. As stated above, the necessary provision for allowing a determination of the cause of death beyond the required three days is already in place in K.S.A. 65-2414. We do agree that perhaps the current wording needs to be clarified in order to clear up any misunderstanding about how that is to be done.

We are, therefore, recommending that K.S.A. 65-2414 be changed to read: "K.S.A. 65-2414 is hereby amended to read as follows: 65-2414. If the cause of death cannot be determined within three days, the certification of the cause of death may be filed ~~after the prescribed period, but the attending physician or coroner shall give the state registrar written notice of the reason for the delay as pending.~~ In such cases, the cause of death is to be reported to the State Registrar as soon as possible. This recommended wording will help to clarify any misunderstanding about how certificates should be filed if the cause of death cannot be immediately determined. This procedure is also in compliance with the Model Vital Statistics Act and with current practice in other states.

The revisions to K.S.A. 65-2416(b) state that all certificates not marked "natural" and signed by anyone but a coroner are to be referred to the coroner and the state registrar is not to certify these certificates. This revision will place an additional burden on the funeral director and/or staff of the Office of Vital Statistics and will result in a delay in the families being able to obtain certified copies. Often the manner of death is not marked on the death certificate even though it is obvious from the cause of death that the manner is none other than natural; i.e., heart attack, cancer, etc. OVS staff cannot, however, make any changes or additions to the medical portion of the death certificate without the approval of the physician or coroner who originally signed the certificate.

Currently OVS staff waits months, in some cases, to get a response from the coroner with regard to the cause of death and sometimes never do receive a final report. In such cases, the family would be unable to carry on their personal business because the State Registrar would not be allowed to issue copies of the record.

Again, we recommend a compromise. We recommend that the revision to K.S.A. 65-2416(b) (Lines 38-41) be changed to read as follows: "For deaths occurring on and after the effective date of this act, the state registrar shall not certify a death certificate in which the ~~cause of death is not marked natural~~ manner of death is marked other than natural unless the death certificate is signed by the district coroner".

The revision to K.S.A. 65-2422c states that "A death certificate...shall not be modified by anyone except the district coroner who signed the death certificate." This proposed revision would not allow any changes to the record--not even changes to the personal data; i.e., social security number, marital status, age, etc.; items that have nothing to do with the medical certification portion. We do not believe that is the intent. The coroner's interest is in the medical certification portion of the death certificate.

Therefore, we recommend that the proposed wording for K.S.A. 65-2422c be revised to read "The medical certification portion of the death certificate signed by a district coroner...." We believe this change will address the coroner's interest in this matter and yet would allow the Office of Vital Statistics to make needed amendments to the personal data. We would support the revision to 65-2422c with this recommended change.

We have no problem with the recommended change to K.S.A. 65-2426a which would allow a facsimile signed copy of the coroner's permit to cremate to authorize a cremation. We believe this is a good idea that takes advantage of current technology.

We would support the change to K.S.A. 65-2426a.

In summary, it should be noted that a certified copy of the death certificate is required, sometimes by law, before the family can obtain necessary funds from various sources. Frequently these funds are required for the family to meet their day-to-day living expenses; i.e., house payments, utilities, etc. Serious consideration needs to be given before laws are changed that will affect the access to those funds--funds for which the family is entitled. Time of death is a very traumatic time for a family. It seems totally inappropriate to add to their burden by implementing laws to resolve issues that can be handled in another manner without affecting the accessibility of their funds.

Testimony presented by: Dr. Lorne A. Phillips
 State Registrar
 Division of Information Systems
 Office of Vital Statistics
 January 27, 1993

1 by the board of county commissioners *administrative judge and*
2 *district judges of the judicial district* and shall be allowed and paid
3 the travel allowance prescribed for coroners and deputy coroners in
4 accordance with the provisions of K.S.A. 22a-228, and amendments
5 thereto, the same to be paid by the board of county commissioners
6 of the county *judicial district* in which the cause of death occurred
7 except that autopsies performed under K.S.A. 1992 Supp. 22a-242,
8 *and amendments thereto*, shall be paid for in accordance with K.S.A.
9 1992 Supp. 22a-242, *and amendments thereto*.

10 (b) The pathologist performing the autopsy shall remove and re-
11 tain, for a period of three years, such specimens as appear to be
12 necessary in the determination of the cause of death.

13 (c) A full record and report of the facts developed by the autopsy
14 and findings of the pathologist performing such autopsy shall be
15 promptly made and filed with the coroner and with the clerk of the
16 district court of the county in which decedent died. If, in any case
17 in which this act requires that the coroner be notified, the body is
18 buried without the permission of the coroner, it shall be the duty
19 of the coroner, upon being advised of such fact, to notify the county
20 or district attorney, who shall communicate the same to a district
21 judge, and such judge may order that the body be exhumed and
22 an autopsy performed.

23 Sec. 8. K.S.A. 65-2412 is hereby amended to read as follows:
24 65-2412. (a) A death certificate or stillbirth certificate for each death
25 or stillbirth which occurs in this state shall be filed with the state
26 registrar within three days after such death and prior to removal of
27 the body from the state and shall be registered by the state registrar
28 if such death certificate or stillbirth certificate has been completed
29 and filed in accordance with this section. If the place of death is
30 unknown, a death certificate shall be filed indicating the location
31 where the body was found as the place of death. A certificate shall
32 be filed within three days after such occurrence; if death occurs in
33 a moving conveyance, the death certificate shall record the location
34 where the dead body was first removed from such conveyance as
35 the place of death.

36 (b) The funeral director or person acting as such who first assumes
37 custody of a dead body or fetus shall file the death certificate. Such
38 person shall obtain the personal data from the next of kin or the
39 best qualified person or source available and shall obtain the medical
40 certification of cause of death from the physician last in attendance
41 prior to burial. The death certificate filed with the state registrar
42 shall be the official death record, except that a funeral director
43 licensed pursuant to K.S.A. 65-1714, and amendments thereto, may

1 verify as true and accurate information pertaining to a death on a
2 form provided by the state registrar, and any such form, verified
3 within 21 days of date of death, shall be prima facie evidence of the
4 facts therein stated for purposes of establishing death. The secretary
5 of health and environment shall fix and collect a fee for each form
6 provided a funeral director pursuant to this subsection. The fee shall
7 be collected at the time the form is provided the funeral director
8 and shall be in the same amount as the fee for a certified copy of
9 a death certificate.

10 (c) When death occurred without medical attendance or when
11 inquiry is required by the laws relating to postmortem examinations,
12 the coroner shall investigate the cause of death and shall complete
13 and sign the medical certification ~~within 24 hours as soon as possible~~
14 ~~after taking charge of the case.~~

within 24 hours after receipt of the death certificate.
or as provided in K.S.A. 65-2414.

15 (d) In every instance a certificate shall be filed prior to interment
16 or disposal of the body.

17 Sec. 9. K.S.A. 65-2414 is hereby amended to read as follows:
18 65-2414. If the cause of death cannot be determined within three
19 days, the certification of the cause of death may be filed after the
20 prescribed period; ~~but the attending physician or coroner shall~~
21 ~~give the state registrar written notice of the reason for the delay.~~

as pending. In such cases, the cause of death is to be
reported to the state registrar as soon as possible.

22 Sec. 10. K.S.A. 65-2416 is hereby amended to read as follows:
23 65-2416. (a) Certificates filed within six (6) months after the time
24 prescribed therefor shall be prima facie evidence of the facts therein
25 stated. Data therein pertaining to the father of a child are prima
26 facie evidence only if the alleged father is the husband of the mother,
27 or if the father has consented in writing that ~~his~~ *the father's* name
28 be entered as the father on the certificate as provided in K.S.A. 65-
29 2409, *and amendments thereto*; if not, the data pertaining to the
30 father of a child are not evidence in any proceeding adverse to the
31 interest of the alleged father, or of ~~his~~ *the alleged father's* heirs,
32 next of kin, devisees, legatees or other successors in interest, if the
33 paternity ~~in~~ *is* controverted.

34 (b) The state registrar of vital statistics is authorized to prepare
35 typewritten, photographic, or other reproductions of original records
36 and files ~~in his office of vital statistics~~. Such reproductions when
37 certified by ~~him~~ *the state registrar* shall be accepted as the original
38 record. ~~For deaths occurring on and after the effective date of this~~
39 ~~act, the state registrar shall not certify a death certificate in which~~
40 ~~the cause of death is not marked natural unless the death certificate~~
41 ~~is signed by a district coroner.~~

manner of death is marked other than natural

42 Sec. 11. K.S.A. 65-2422c is hereby amended to read as follows:
43 65-2422c. The secretary may by regulation, prescribe procedures for

1 making minor corrections to certificates or records. Any certificate
2 so corrected shall be marked "amended," and shall have such further
3 marking as shall be prescribed by the secretary. *A death certificate*
4 *signed by a district coroner acting in the district coroner's official*
5 *capacity shall not be modified by anyone except the district coroner*
6 *who signed the death certificate.*

7 Sec. 12. K.S.A. 65-2426a is hereby amended to read as follows:
8 65-2426a. No dead body, as such term is defined in subsection (4)
9 of K.S.A. 65-2401, *and amendments thereto*, shall be cremated unless
10 a coroner's permit to cremate has been furnished to authorize such
11 cremation. *A telefacsimile signed copy of the coroner's permit to*
12 *cremate which authorizes the cremation shall constitute legal au-*
13 *thorization for such cremation under this section.* The provisions of
14 this section shall be construed as supplemental to and as a part of
15 the uniform vital statistics act. Any person who knowingly violates
16 this section shall, upon conviction, *shall* be fined not more than
17 \$500.

18 Sec. 13. K.S.A. 75-2749 is hereby amended to read as follows:
19 75-2749. (a) Any person who knows or has reason to know that a
20 violation of K.S.A. 75-2748, *and amendments thereto*, is being or
21 has been committed must immediately notify the law enforcement
22 agency of the jurisdiction where the violation occurred. A law en-
23 forcement agency shall notify the state historical society of any vi-
24 olation of K.S.A. 75-2748, *and amendments thereto*, which becomes
25 known to the law enforcement agency.

26 (b) Any person who discovers human skeletal remains immedi-
27 ately shall notify the law enforcement agency of the jurisdiction
28 where the remains were found. Upon receipt of such notice, the
29 law enforcement agency immediately shall notify the district coroner
30 or deputy district coroner if required by ~~K.S.A. 22a-231~~ and
31 amendments thereto. ~~If notice to the coroner or deputy coroner~~
32 ~~is not required by K.S.A. 22a-231 and amendments thereto, the~~
33 ~~law enforcement agency immediately shall notify and the state~~
34 ~~historical society.~~

35 (c) Failure to give notice as required by subsection (a) or (b) is
36 a misdemeanor punishable by a fine of not less than \$100 nor more
37 than \$500.

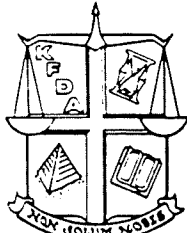
38 (d) Upon notification pursuant to this section or K.S.A. 22a-232,
39 and amendments thereto, the state historical society shall assume
40 jurisdiction over the human skeletal remains, and any goods interred
41 with such remains. The state historical society shall carry out society
42 actions in as expeditious a manner as possible, with particular con-
43 sideration given to circumstances such as construction sites, agri-

The medical certification portion of a

1 cultural interests and kin or descent groups. After disinterment, the
2 remains and goods may be under the control of the state historical
3 society for purposes of study for a period of one year. On a showing
4 of need, the board may extend such period for additional periods
5 of six months. After any period of study authorized by this subsection,
6 disposition or reinterment of the remains and goods shall be under
7 the direction of the board.

8 Sec. 14. K.S.A. 22a-204, 22a-205, 22a-206, 22a-207, 22a-208,
9 22a-209, 22a-210, 22a-211, 22a-212, 22a-213, 22a-214, 22a-215, 22a-
10 227, 22a-228, 22a-230, 28-111, 65-2412, 65-2414, 65-2416, 65-2422c,
11 65-2426a and 75-2749 and K.S.A. 1992 Supp. 22a-231, 22a-232, 22a-
12 233 and 22a-237 are hereby repealed.

13 Sec. 15. This act shall take effect and be in force from and after
14 its publication in the statute book.



AFFILIATED WITH N.F.D.A.

THE KANSAS FUNERAL DIRECTORS AND EMBALMERS ASSOCIATION, INC.

EXECUTIVE OFFICE — 1200 KANSAS AVENUE, P.O. BOX 1904

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LARRY ENFIELD
Norton

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Testimony Presented to

House Judiciary Committee

by the

Kansas Funeral Directors Association

on

House Bill No. 2008

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Mr. Chairman and members of the committee, my name is Pam Scott and I am Executive Director of the Kansas Funeral Directors Association.

I am here to testify in opposition to several of the sections in House Bill No. 2008 that propose to amend provisions of the Vital Statistics Act dealing with death certificates.

I will first address Section 8 of the bill. K.S.A. 65-2412(c) currently requires a coroner to complete and sign a medical certification within 24 hours of taking charge of a case. Section 8 of House Bill No. 2008 proposes to amend K.S.A. 65-2412(c) to allow a coroner to complete and sign a medical certification as soon as possible after taking charge of a case. Since K.S.A. 65-2412(d) requires a medical certification be filed before interment or disposal of a body, it is important the 24 hour requirement not be changed so that funeral arrangements can be made by the family and disposition take place in a reasonable period of time. Also, not placing a time limitation on when a medical certification must be filed will delay a family's ability to obtain a certified death certificate which is needed to carry on personal business after death. A certified death certificate is needed to carry on personal business such as obtaining proceeds of life insurance policies and pre-arranged funeral trusts, closing out bank accounts, and changing title to property. Families are often dependent on obtaining these funds to meet their basic needs of food and shelter. The burden of waiting weeks or months for a death certificate is one additional burden placed on them at a stressful and traumatic time of their lives. It is often weeks or even months before a

cause of death is finally determined. The 24 hour requirements in 65-2412(c), to our knowledge, has not been a problem in the past in that the current provisions of K.S.A. 65-2414 allow the medical certification to be filed with "cause of death pending". This statutory provision has, however, been deleted in Section 9 of House Bill No. 2008.

For this reason, we also oppose the amendment in Section 9 to K.S.A. 65-2414 which deletes the language interpreted to allow death certificates to be issued with cause of death pending. This amendment also removes all time limits in which a determination as to cause of death is to be made. We oppose these amendments to 65-2414 but would support the amendments proposed by the Department of Health and Environment intended to clarify how death certificates can be filed when cause of death is not immediately determinable. They recommend the following amendment: "K.S.A. 65-2414 is hereby amended to read as follows: 65-2414. ' If the cause of death cannot be determined within three days, the certification of the cause of death may be filed ~~after the prescribed period, but the attending physician or coroner shall give the state registrar written notice of the reason for the delay as pending.~~ In such cases, the cause of death is to be reported to the State Registrar as soon as possible.

The KFDDA also opposes the changes made in Section 10 of House Bill No. 2008 which adds language to K.S.A. 65-2414(b) to prohibit the state registrar from certifying a death certificate in those cases where the cause of death is not marked natural unless the death certificate is signed by the district coroner. This will cause undue delay. According to the Office of Vital Statistics at least one-third of all medical certificates received by their office fail to designate a cause of death. In many of those cases the cause of death is not marked even where it is evident the deceased died of natural causes. It may be weeks or months before the Office of Vital Statistics receive a final report from a coroner concerning the cause of death. To prohibit the Office of Vital Statistics from issuing certified death certificates until the coroner finally certifies the cause of death would place great hardship on families of the deceased by prohibiting them from carrying on their personal business. Again, a death certificate is needed to obtain proceeds of life insurance

and pre-need burial plans, to change title to automobiles and deeds, to pay bills, and to close accounts. We see no reason why K.S.A. 65-2414(b) needs to be changed.

Section 11 of the bill amends K.S.A. 65-2422(c) to state that "A death certificate signed by a district coroner acting in the district coroner's official capacity shall not be modified by anyone except the district coroner who signed the death certificate." We believe the drafters intended only modifications to the medical certification portion of the death certificate be required to be made by the district coroner, not all modifications. Much of the information contained in the death certificate are provided by the funeral director not the coroner, and has nothing to do with cause of death. Therefore, we would support the amendment if it is limited to the medical certification portion.

Finally, we support the proposed revisions to K.S.A. 2426(a) contained in Section 12.

Thank you for giving us the opportunity to address our concerns. Please do not hesitate to contact me should you have any questions or need additional information.

House Bill No. 2008
House Judiciary Committee
January 27, 1993

Testimony of Paul Shelby
Assistant Judicial Administrator
Office of Judicial Administration

Mr. Chairman and members of the House Judiciary Committee, I appreciate the opportunity to discuss with you House Bill No. 2008, which relates to district coroners, their duties, functions and compensation.

Section 2 deletes the current salary schedule for district coroners and places an obligation upon the Administrative Judge and the District Judges of the Judicial District to establish the district coroner's salary.

Section 3 does essentially the same with respect to Deputy District Coroners and also allows the Administrative Judge and the District Judges to establish a monthly car allowance in lieu of statutory mileage allowances.

Section 7 requires the Administrative Judge and the District Judges to set the fee to be paid to pathologists completing autopsies within the Judicial District.

Our position on the foregoing is that we agree that coroners need more money and salary adjustments be made. We don't agree with the proposed method. Since coroners duties and responsibilities are more investigative/prosecutorial functions we feel that setting these salaries/expenses should be delegated to either the Legislative Branch of State government or to County Commissioners. It is certainly not a judicial function. I have spoken to a number of judges since this bill was published and they all oppose this proposal.

The appointment process of these coroners is difficult enough for our judges. In some of our rural areas it is extremely hard to find a doctor to serve as coroner.

It is not included in this bill but we also feel that the autopsy, death and inquisition reports currently being filed in the office of Clerk of the District Court should be filed elsewhere. Perhaps back with the County Clerks (Executive Branch) who has a need for the reports. It would seem more practical for both appointment of coroners and their compensation stems from the prosecutory side of government, the executive branch, because the quality of reports is of concern to that branch.

After pointing out the foregoing, I would like to bring to your attention a number of technical problems with this proposal:

First of all it relieves county commissions of the responsibility of establishing coroners' salaries. It is not clear whether reallocating the responsibility of setting salaries to the Administrative and District Court Judges will have an impact upon the District Court's budget. While the bill provides the coroners will be paid by the county, it does not specify from which budget they will be paid. Our position would be that we do not want the coroner's budget a part of the district court budget; (See K.S.A. 20-162 which provides that coroners be paid by county government not by the judiciary.

Also throughout the bill references are made to judicial district(s) as if the term were synonymous with the terms county(ies) and district courts. The terms are not synonymous. The majority of judicial districts in Kansas are comprised of more than one county. We only have seven single county judicial districts. They are: Shawnee, Douglas, Johnson, Sedgwick, Cowley, Reno, and Wyandotte. The remaining twenty-four judicial districts are multi-county. Each county has a district court and each district court has its own clerk and staff. Therefore, to suggest each judicial district has only one district court and one Clerk of the District Court is inaccurate.

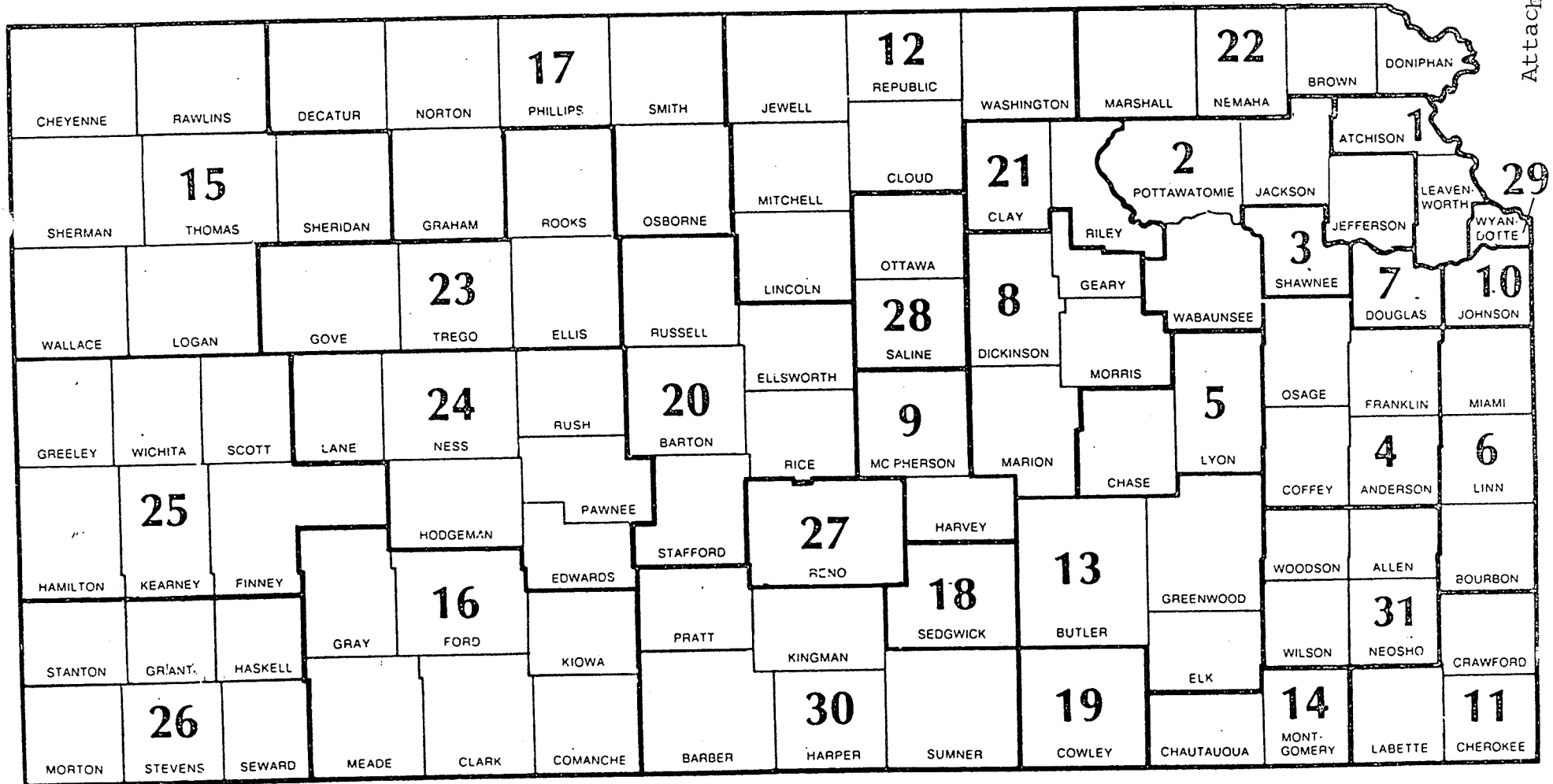
Another example, Section 4(a) provides for summoning a jury of the residents of the judicial district in which a death occurs. Currently, juries are pulled by county, not entire judicial districts. Presently there is no method in multi-county judicial districts for pulling a unified district jury.

Section 6 refers to the Clerk of the District Court of the Judicial District. Again, this assumes that each county (along with its district court) comprises a single judicial district.

This proposal needs a lot of work; we do not feel that we can support this proposal and suggest that you not pass this bill in the present form.

Thank you very much for this opportunity and I would be pleased to answer any questions.

Kansas Judicial Districts (31)



HOUSE BILL No. 2008

By Special Committee on Judiciary

Re Proposal No. 13

12-18

AN ACT concerning district coroners; relating to the duties, functions and compensation thereof; concerning certain vital records; amending K.S.A. 22a-215, 22a-227, 22a-228, 22a-230, 65-2412, 65-2414, 65-2416, 65-2422c, 65-2426a and 75-2749 and K.S.A. 1992 Supp. 22a-231, 22a-232 and 22a-233 and repealing the existing sections; also repealing K.S.A. 22a-204, 22a-205, 22a-206, 22a-207, 22a-208, 22a-209, 22a-210, 22a-211, 22a-212, 22a-213, 22a-214 and 28-111 and K.S.A. 1992 Supp. 22a-237.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 22a-215 is hereby amended to read as follows: 22a-215. The coroner shall cause the body of a deceased person to be delivered to the immediate family or the next of kin of the deceased in accordance with the provisions of K.S.A. 65-904, *and amendments thereto*. If there is no immediate family or next of kin the coroner shall report and make delivery in accordance with the provisions of article 9 of chapter 65 of Kansas Statutes Annotated. If no such delivery is required the coroner shall cause the body of such deceased person to be decently buried, and the expenses to be paid from any property found with the body. If there is no property found with the body and if the deceased was eligible for assistance under the provisions of article 7 of chapter 39 of Kansas Statutes Annotated, burial expenses shall be paid in accordance with the provisions of K.S.A. 39-713d, *and amendments thereto*. Otherwise such burial expenses shall be paid from the county general fund.

Any coroner who, over the protest of the immediate family or next of kin of the deceased, delivers or causes to be delivered the body of a deceased person *for final disposition* to a particular embalmer, funeral director or funeral establishment, shall be deemed guilty of a class B misdemeanor and upon conviction thereof shall forfeit ~~his or her~~ *the coroner's* office.

Sec. 2. K.S.A. 22a-227 is hereby amended to read as follows: 22a-227. The district coroner shall receive an annual salary as

by established the office of district coroner in each judicial district of the state. The district coroner shall be a resident of the state of Kansas, licensed to practice medicine and surgery by the state board of healing arts or shall be a resident of a military or other federal enclave within the state and shall be duly licensed to practice medicine and surgery within such enclave.

Sec. 2. K.S.A. 22a-226 is hereby amended to read as follows: 22a-226.

The local medical society or societies in each judicial district shall nominate one or more candidates for the office of district coroner and submit the names of the persons so nominated to the administrative judge of the judicial district on or before January 1, 1991, and every four years thereafter. The administrative judge and district judges of the judicial district shall appoint a district coroner for the district. The appointee may be one of the persons nominated or some other qualified person.

The district attorney or county attorneys in each

the county commissioners of a single county judicial district or the county commissioners of the county with the largest population in multiple county judicial districts

1995

the county commissioners of a single county judicial district or the county commissioners of the county with the largest population in multiple county judicial districts

The district coroner shall serve for a term of four years, which term shall begin on the second Monday in January of the year in which such coroner is appointed, and such coroner's compensation shall be as provided by law. Vacancies in the office of district coroner shall be filled in the same manner as appointments for regular terms of district coroner. Such an appointment shall be for the remainder of the regular term and shall be effective from the date the coroner is appointed and is otherwise qualified for the office.

The coroner shall, before entering upon the duties of the office, take and subscribe an oath or affirmation that such coroner will faithfully, impartially and to the best of the coroner's skill and ability discharge the duties of district coroner.

The district coroner, with the approval of the district judges of the judicial district, may appoint one or more deputy coroners, who shall have the qualifications of and shall have the same duties and authority as the district coroner, except that, whenever a district coroner is unable to appoint a qualified deputy, a special deputy coroner who does not possess the requisite qualifications may be appointed for a term not to exceed one year or until a qualified deputy is appointed, whichever occurs first. The district coroner shall have supervisory authority over all deputy coroners. Deputy coroners, before entering upon the discharge of their duties shall take and subscribe an oath or affirmation to faithfully discharge the duties of their office to the same extent and with like effect as the district coroner.

with the approval of the appropriate county commission

1 follows:

2 In judicial districts having a population of: Per annum
 3 Not more than 30,000 \$1,874
 4 More than 30,000 and not more than 60,000 2,342
 5 More than 60,000 and not more than 100,000 2,928
 6 More than 100,000 and not more than 180,000 .. 4,099
 7 300,000 and over 6,963

8 In any judicial district having a population of more than one
 9 hundred eighty thousand (180,000) and not more than three
 10 hundred thousand (300,000) the district coroner shall receive
 11 an annual salary in an amount to be fixed by resolution of the
 12 board of county commissioners of the county comprising such
 13 judicial district. The salaries above provided shall be in lieu
 14 of any fees for examination of dead bodies fixed by the ~~admini-~~
 15 ~~strative judge and district judges of the judicial district.~~

16 Sec. 2. K.S.A. 22a-228 is hereby amended to read as follows:
 17 22a-228. (a) Deputy district coroners shall receive thirty-five dollars
 18 (\$35) for each dead body examined, except in counties having
 19 a population of more than one hundred forty thousand (140,000)
 20 and less than two hundred twenty thousand (220,000), the first
 21 deputy district coroner shall receive an annual salary of one
 22 thousand seven hundred fifty-seven dollars (\$1,757), and all
 23 other deputies serving in such counties shall receive a fee of
 24 thirty-five dollars (\$35) for each body examined; and except in
 25 counties having a population of more than two hundred twenty
 26 thousand (220,000) and not more than three hundred thousand
 27 (300,000) all deputy district coroners shall receive such com-
 28 pensation as shall be prescribed by resolution of the board of
 29 county commissioners of the county comprising such judicial
 30 district; and except in counties having a population of more
 31 than three hundred thousand (300,000), two (2) deputy coroners
 32 shall each be paid a salary of one thousand seven hundred
 33 fifty-seven dollars (\$1,757) per annum, and all other deputies
 34 serving in such counties shall receive a fee of thirty-five dollars
 35 (\$35) for each body examined a salary or other compensation as
 36 may be prescribed by the ~~administrative judge and district judges~~
 37 ~~of the judicial district.~~

38 (b) Each coroner and deputy district coroner shall be allowed
 39 and paid the allowance prescribed under the provisions of K.S.A.
 40 75-3203a, and amendments thereto, for each mile necessarily and
 41 actually traveled in the service of his office, except in counties
 42 having a population of more than one hundred forty thousand
 43 (140,000) and not more than two hundred twenty thousand

the county commissioners of a single county
judicial district or the county
commissioners of the county with the largest
population in multiple county judicial
districts

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(220,000), the district coroner may receive a car allowance of fifty dollars (\$50) per month for the operation of his car and the first deputy may receive a like amount; and except that in counties having a population of more than two hundred twenty thousand (220,000) and not more than three hundred thousand (300,000) each coroner and deputy coroner may receive a car allowance of seven hundred fifty dollars (\$750) annually; and except in counties having a population of more than three hundred thousand (300,000) the district coroner may receive a car allowance of one hundred dollars (\$100) per month for the operation of his car and each of the two salaried deputies may receive a car allowance of fifty dollars (\$50) per month for the operation of his car *course of official duties as coroner or deputy district coroner, except that in lieu of such allowance the district coroner and deputy district coroner may receive a monthly car allowance as fixed by the administrative judge and district judges of the judicial district for the operation of such coroner's car. The amount of the car allowance may be different for the district coroner and the deputy district coroner as specified by the administrative judge and district judges of the judicial district.*

(c) The annual salary provided for the district coroner in K.S.A. 22a-227, and amendments thereto, the annual salary or other compensation provided for certain deputy district coroners herein under this section, ~~the compensation authorized for a district coroner for holding an inquest in subsection (a) of K.S.A. 22a-230 and amendments thereto~~ and the other fees and expenses authorized to be paid under this section to coroners and deputy district coroners shall be paid by each of the counties in the judicial district in the proportion that the population of each such county bears to the total population of the judicial district. The board of county commissioners of the county having the largest population of the counties contained in such judicial district shall provide for the payment of any such salary, other compensation, fees and expenses from a fund to be set aside by said the board of county commissioners and to which each county in the district shall contribute its share of such salary payments on or before the first day of each month. Fees, expenses and compensation provided for in this section, other than annual salaries, shall be paid by the board of county commissioners of the county in which the death occurred and to which such fees and expenses relate.

Sec. 4. K.S.A. 22a-230 is hereby amended to read as follows:
22a-230. (a) The coroner shall may hold an inquest upon the dead bodies of such persons whose deaths appear to have been caused

the county commissioners of a single county judicial district or the county commissioners of the county with the largest population in multiple county judicial districts

the county commissioners of a single county judicial district or the county commissioners of the county with the largest population in multiple county judicial districts

by unlawful means when the circumstances relating to such deaths are unknown. *The inquest shall be held in accordance with the provisions of this section.* Except as provided in subsection (b), upon being notified of any such death occurring within the district, *if an inquest is to be held*, the coroner shall ~~forthwith~~ summon a jury of six ~~(6)~~ residents of the ~~county judicial district~~ in which the death occurred, at a time and place named, for the purpose of inquiring into the cause of death. In any other case in which this act requires that the coroner be notified, the coroner may also summon, ~~forthwith~~, six ~~(6)~~ citizens of the ~~county judicial district~~ to appear at a time and place named. The provisions of the acts contained in article 10 of chapter 19 of the Kansas Statutes Annotated, relating to an inquest held by a county coroner, and any acts amendatory thereof, shall be applicable to any inquest held pursuant to this section.

county

county

(b) When the coroner has been notified of any death as provided in subsection (a), and the cause of such death occurred in a county other than the county in which the death occurred, the coroner of the county in which the cause of death occurred shall take the responsibility of summoning a jury as provided in subsection (a) for the purpose of inquiring into the death, if requested to do so by the coroner of the county in which the death occurred.

(c) If any juror fails to appear, the coroner shall summon the proper number from bystanders immediately, and proceed to impanel them and administer the following oath, in substance: "You do solemnly swear (or affirm) that you will diligently inquire and true presentment make, when, how and by what means the person whose body lies here dead came to death, according to your knowledge, and evidence given you. So help you God."

(d) The coroner may issue subpoenas within the judicial district for witnesses, returnable forthwith, or at such time and place as the coroner shall therein direct. Witnesses shall be allowed the fees provided in K.S.A. 28-125 and amendments thereto. In cases of disobedience of the coroner's subpoena, it shall be the duty of the judge of the district court, on application of the coroner, to compel obedience to the coroner's subpoena by ~~attachment~~ proceedings for contempt as in cases of disobedience of a subpoena issued from the district court.

indirect

(e) An oath shall be administered to the witness, in substance as follows: "You do solemnly swear (or affirm) that the testimony which you shall give to this inquest, concerning the death of the person here lying dead, shall be the truth, the whole truth, and nothing but the truth. So help you God."

(f) The testimony shall be reduced to writing, under the coroner's order, and subscribed by the witness.

(g) The jurors, having inspected the body, if available, heard the testimony, and made all needful inquiries, shall return to the coroner their inquisition in writing, under their hands, in substance as follows, and stating the matter in the following form suggested, as far as found:

State of Kansas, _____ County.

An inquisition held at _____, in _____ county, on the _____ day of _____, A.D., 19____, before me, _____ coroner of such county, on the body of _____ (or, a person unknown), there lying dead; by the jurors whose names are hereunto subscribed. The jurors, upon their oaths, do say (here state when, how, by what person, means, weapon or accident the person died, and whether feloniously). In testimony whereof, the jurors have hereunto subscribe, the day and year aforesaid. Which shall be attested by the coroner.

(h) If the inquisition finds a crime has been committed on the deceased, and name the person the jury believes has committed the crime, the inquest shall not be made public until after the arrest directed in the next subsection.

(i) If the person charged is present, the coroner may order the person arrested by an officer or any other person, and shall then make a warrant requiring the officer or other person to take the arrested person before a judge of a court of competent jurisdiction.

(j) If the person charged is not present, the coroner may issue a warrant to the sheriff of the county, directing the sheriff to arrest the person and take the arrested person before a judge of a court of competent jurisdiction.

(k) The warrant of a coroner in the above case shall be of equal authority with that of a judge of a court of competent jurisdiction. When the person charged is brought before the court, the person charged shall be dealt with as a person held under a complaint in the usual form.

(l) The warrant of the coroner shall recite substantially the transaction before the coroner, and the verdict of the jury of inquest leading to the arrest. ~~The warrant shall be a sufficient foundation for the proceeding of the court instead of a complaint.~~

~~(m) The coroner shall then return to the clerk of the district court the inquisition, the written evidence and a list of the witnesses who testified to material matters.~~

~~(n) The district coroner shall receive such compensation, in addition to other compensation provided by law for the coroner, for holding an inquest as specified by the administrative judge and~~

~~district judges of the judicial district.~~

Sec. 5. K.S.A. 1992 Supp. 22a-231 is hereby amended to read as follows: 22a-231. When any person dies, or human body is found dead in any county of the state, and the death is suspected to have been the result of violence, caused by unlawful means or by suicide, or by casualty, or suddenly when the decedent was in apparent health, or when decedent was not regularly attended by a licensed physician, or in any suspicious or unusual manner, or when in police custody, or when in a jail or correctional institution, or in any circumstances specified under K.S.A. 1992 Supp. 22a-242, and amendments thereto, or when the determination of the cause of a death is held to be in the public interest, the coroner or deputy coroner of the county judicial district in which the cause of death occurred, if known, or if not known, the coroner or deputy coroner of the judicial district in which such death occurred or dead body was found, shall be notified by the physician in attendance, by any law enforcement officer, by the embalmer, by any person who is or may in the future be required to notify the coroner or by any other person.

county

county

Sec. 6. K.S.A. 1992 Supp. 22a-232 is hereby amended to read as follows: 22a-232. (a) Upon receipt of notice pursuant to K.S.A. 22a-231, and amendments thereto, the coroner shall take charge of the dead body, make inquiries regarding the cause of death and reduce the findings to a report in writing. Such report shall be filed with the clerk of the district court of the county judicial district in which the cause of death occurred if known, or if not known the report shall be filed with the clerk of the district court of the judicial district in which the death occurred. If the coroner determines that the dead body is not a body described by K.S.A. 22a-231, and amendments thereto, the coroner shall immediately notify the state historical society.

(b) ~~If in the opinion of the coroner information is present in the coroner's report that might jeopardize a criminal investigation, the coroner may delay the filing of such report until the investigation is complete as determined by the coroner.~~

Sec. 7. K.S.A. 1992 Supp. 22a-233 is hereby amended to read as follows: 22a-233. (a) If, in the opinion of the coroner, an autopsy should be made performed, or if an autopsy is requested in writing by the county or district attorney or if the autopsy is required under K.S.A. 1992 Supp. 22a-242, and amendments thereto, such autopsy shall be performed by a qualified pathologist as may be designated by the coroner. A pathologist performing an autopsy, at the request of a coroner, shall be paid a usual and reasonable fee to be allowed

district or county attorney of the appropriate county for investigative purposes. When the prosecutor determines that there is no further investigative need for the report, it shall be filed in the office of the county clerk in the county in which the death occurred.

board of county commissioners

county

district or county attorney of the appropriate county for investigative purposes. When the prosecutor determines that there is no further investigative need for the report, it shall be filed in the office of the county clerk in the county in which the death occurred.

1 by the board of county commissioners ~~administrative judge and~~
2 ~~district judges of the judicial district~~ and shall be allowed and paid
3 the travel allowance prescribed for coroners and deputy coroners in
4 accordance with the provisions of K.S.A. 22a-228, and amendments
5 thereto, the same to be paid by the board of county commissioners
6 of the county ~~judicial district~~ in which the cause of death occurred
7 except that autopsies performed under K.S.A. 1992 Supp. 22a-242,
8 and amendments thereto, shall be paid for in accordance with K.S.A.
9 1992 Supp. 22a-242, and amendments thereto.

10 (b) The pathologist performing the autopsy shall remove and re-
11 tain, for a period of three years, such specimens as appear to be
12 necessary in the determination of the cause of death.

13 (c) A full record and report of the facts developed by the autopsy
14 and findings of the pathologist performing such autopsy shall be
15 promptly made and filed with the coroner and with the ~~clerk of the~~
16 ~~district court~~ of the county in which decedent died. If, in any case
17 in which this act requires that the coroner be notified, the body is
18 buried without the permission of the coroner, it shall be the duty
19 of the coroner, upon being advised of such fact, to notify the county
20 or district attorney, who shall communicate the same to a district
21 judge, and such judge may order that the body be exhumed and
22 an autopsy performed.

23 Sec. 8. K.S.A. 65-2412 is hereby amended to read as follows:
24 65-2412. (a) A death certificate or stillbirth certificate for each death
25 or stillbirth which occurs in this state shall be filed with the state
26 registrar within three days after such death and prior to removal of
27 the body from the state and shall be registered by the state registrar
28 if such death certificate or stillbirth certificate has been completed
29 and filed in accordance with this section. If the place of death is
30 unknown, a death certificate shall be filed indicating the location
31 where the body was found as the place of death. A certificate shall
32 be filed within three days after such occurrence; if death occurs in
33 a moving conveyance, the death certificate shall record the location
34 where the dead body was first removed from such conveyance as
35 the place of death.

36 (b) The funeral director or person acting as such who first assumes
37 custody of a dead body or fetus shall file the death certificate. Such
38 person shall obtain the personal data from the next of kin or the
39 best qualified person or source available and shall obtain the medical
40 certification of cause of death from the physician last in attendance
41 prior to burial. The death certificate filed with the state registrar
42 shall be the official death record, except that a funeral director
43 licensed pursuant to K.S.A. 65-1714, and amendments thereto, may

1 verify as true and accurate information pertaining to a death on a
2 form provided by the state registrar, and any such form, verified
3 within 21 days of date of death, shall be prima facie evidence of the
4 facts therein stated for purposes of establishing death. The secretary
5 of health and environment shall fix and collect a fee for each form
6 provided a funeral director pursuant to this subsection. The fee shall
7 be collected at the time the form is provided the funeral director
8 and shall be in the same amount as the fee for a certified copy of
9 a death certificate.

10 (c) When death occurred without medical attendance or when
11 inquiry is required by the laws relating to postmortem examinations,
12 the coroner shall investigate the cause of death and shall complete
13 and sign the medical certification ~~within 24 hours~~ *as soon as possible*
14 after taking charge of the case.

15 (d) In every instance a certificate shall be filed prior to interment
16 or disposal of the body.

17 Sec. 9. K.S.A. 65-2414 is hereby amended to read as follows:
18 65-2414. If the cause of death cannot be determined within three
19 days, the certification of the cause of death may be filed after the
20 prescribed period, ~~but the attending physician or coroner shall~~
21 ~~give the state registrar written notice of the reason for the delay.~~

22 Sec. 10. K.S.A. 65-2416 is hereby amended to read as follows:
23 65-2416. (a) Certificates filed within six ~~(6)~~ months after the time
24 prescribed therefor shall be prima facie evidence of the facts therein
25 stated. Data therein pertaining to the father of a child are prima
26 facie evidence only if the alleged father is the husband of the mother,
27 or if the father has consented in writing that ~~his~~ *the father's* name
28 be entered as the father on the certificate as provided in K.S.A. 65-
29 2409, *and amendments thereto*; if not, the data pertaining to the
30 father of a child are not evidence in any proceeding adverse to the
31 interest of the alleged father, or of ~~his~~ *the alleged father's* heirs,
32 next of kin, devisees, legatees or other successors in interest, if the
33 paternity ~~is~~ is controverted.

34 (b) The state registrar of vital statistics is authorized to prepare
35 typewritten, photographic, or other reproductions of original records
36 and files ~~in his office of vital statistics~~. Such reproductions when
37 certified by ~~him~~ *the state registrar* shall be accepted as the original
38 record. *For deaths occurring on and after the effective date of this*
39 *act, the state registrar shall not certify a death certificate in which*
40 *the cause of death is not marked natural unless the death certificate*
41 *is signed by a district coroner.*

42 Sec. 11. K.S.A. 65-2422c is hereby amended to read as follows:
43 65-2422c. The secretary may by regulation, prescribe procedures for

making minor corrections to certificates or records. Any certificate so corrected shall be marked "amended," and shall have such further marking as shall be prescribed by the secretary. *A death certificate signed by a district coroner acting in the district coroner's official capacity shall not be modified by anyone except the district coroner who signed the death certificate.*

Sec. 12. K.S.A. 65-2426a is hereby amended to read as follows:

65-2426a. No dead body, as such term is defined in subsection (4) of K.S.A. 65-2401, *and amendments thereto*, shall be cremated unless a coroner's permit to cremate has been furnished to authorize such cremation. *A telefacsimile signed copy of the coroner's permit to cremate which authorizes the cremation shall constitute legal authorization for such cremation under this section.* The provisions of this section shall be construed as supplemental to and as a part of the uniform vital statistics act. Any person who knowingly violates this section ~~shall~~, upon conviction, *shall* be fined not more than \$500.

Sec. 13. K.S.A. 75-2749 is hereby amended to read as follows:

75-2749. (a) Any person who knows or has reason to know that a violation of K.S.A. 75-2748, *and amendments thereto*, is being or has been committed must immediately notify the law enforcement agency of the jurisdiction where the violation occurred. A law enforcement agency shall notify the state historical society of any violation of K.S.A. 75-2748, *and amendments thereto*, which becomes known to the law enforcement agency.

(b) Any person who discovers human skeletal remains immediately shall notify the law enforcement agency of the jurisdiction where the remains were found. Upon receipt of such notice, the law enforcement agency immediately shall notify the district coroner or deputy district coroner ~~if required by K.S.A. 22a-231 and amendments thereto. If notice to the coroner or deputy coroner is not required by K.S.A. 22a-231 and amendments thereto, the law enforcement agency immediately shall notify and~~ the state historical society.

(c) Failure to give notice as required by subsection (a) or (b) is a misdemeanor punishable by a fine of not less than \$100 nor more than \$500.

(d) Upon notification pursuant to this section or K.S.A. 22a-232, and amendments thereto, the state historical society shall assume jurisdiction over the human skeletal remains, and any goods interred with such remains. The state historical society shall carry out society actions in as expeditious a manner as possible, with particular consideration given to circumstances such as construction sites, agri-

1 cultural interests and kin or descent groups. After disinterment, the
2 remains and goods may be under the control of the state historical
3 society for purposes of study for a period of one year. On a showing
4 of need, the board may extend such period for additional periods
5 of six months. After any period of study authorized by this subsection,
6 disposition or reinterment of the remains and goods shall be under
7 the direction of the board.

8 Sec. 14. K.S.A. 22a-204, 22a-205, 22a-206, 22a-207, 22a-208,
9 22a-209, 22a-210, 22a-211, 22a-212, 22a-213, 22a-214, 22a-215, 22a-
10 227, 22a-228, 22a-230, 28-111, 65-2412, 65-2414, 65-2416, 65-2422c,
11 65-2426a and 75-2749 and K.S.A. 1992 Supp. 22a-231, 22a-232, 22a-
12 233 and 22a-237 are hereby repealed.

13 Sec. 15. This act shall take effect and be in force from and after
14 its publication in the statute book.

22a-226



"Service to County Government"

1275 S.W. Topeka Blvd.
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Executive Director
John T. Torbert, CAE

TO: House Judiciary Committee
Chairman Mike O'Neal

FROM: Anne Smith
Director of Legislation

DATE: January 26, 1993

RE: HB 2008

The Kansas Association of Counties is opposed to HB 2008.

There are several areas of the bill that concern the KAC. The first concern is the issue of salaries being set by the administrative judges but paid out of the county general fund. The section of the bill that gives the administrative judges responsibility for setting the monthly car allowance for the coroners is another concern.

County governments are under a tax lid and are held accountable for increases in their budgets. KAC will resist any efforts by others to set salaries that counties will have to pay.

It all comes down to the issue of accountability. The administrative judges are not held accountable for county budgets. The KAC feels strongly that if the legislature wants county governments under a tax lid, then they should not consider legislation that takes away the authority of county officials to control property taxes.

Thank you for your consideration of our concerns.

HOUSE JUDICIARY
Attachment #7
01-27-93

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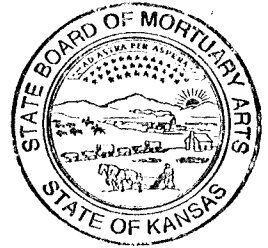
State Board of Mortuary Arts

CREATED AUG. 1, 1907

700 S.W. JACKSON ST., SUITE 904

TOPEKA, KANSAS 66603-3758

(913) 296-3980



HOUSE JUDICIARY COMMITTEE: Representative Michael O'Neal, Chairman

H.B. 2008

Mr. Chairman and members of the Committee:

My name is Mack Smith and I am the Executive Secretary to the Kansas State Board of Mortuary Arts. I appreciate the opportunity to testify before you today.

The only concern that the Mortuary Arts Board has with H.B. 2008 is in adding to the length of time it would take before certified death certificates become available to the general public. These death certificates are often necessary before funds can be made available to the next of kin. Once death occurs there is an obvious transition time where finances need to be tended to. The certified death certificate is often the vehicle that allows this to take place.

Thank you in advance for your considerations. I would be happy to answer any questions.

Respectfully,

Mack Smith, Executive Secretary
Kansas State Board of Mortuary Arts

MS:tab