

CHAPTER 691

STATE CRIMINALISTICS LABORATORY AND MEDICAL EXAMINER

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691.1 Laboratory created.

There is hereby created under the control, direction, and supervision of the commissioner of public safety a state criminalistics laboratory. The commissioner of public safety may assign the criminalistics laboratory to a division or bureau within the public safety department. The laboratory shall, within its capabilities, conduct analyses, comparative studies, fingerprint identification, firearms identification, questioned documents studies, and other studies normally performed by a criminalistics laboratory when requested by a county attorney, medical examiner, or law enforcement agency of this state to aid in any criminal investigation. Agents of the division of criminal investigation may be assigned to the criminalistics laboratory by the commissioner. New employees shall be appointed pursuant to chapter 8A, subchapter IV, and need not qualify as agents for the division of criminal investigation and shall not participate in the peace officers' retirement plan established pursuant to chapter 97A.

[C71, 73, 75, 77, §749A.1; C79, 81, §691.1]

2003 Acts, ch 145, §276; 2005 Acts, ch 35, §31

691.2 Presumption of qualification — evidence — testimony.

It shall be presumed that any employee or technician of the criminalistics laboratory is qualified or possesses the required expertise to accomplish any analysis, comparison, or identification done by the employee in the course of the employee's employment in the criminalistics laboratory. Any report, or copy of a report, or the findings of the criminalistics laboratory shall be received in evidence, if determined to be relevant, in any court, preliminary hearing, grand jury proceeding, civil proceeding, administrative hearing, and forfeiture proceeding in the same manner and with the same force and effect as if the employee or technician of the criminalistics laboratory who accomplished the requested analysis, comparison, or identification had testified in person.

A party or the party's attorney may request that an employee or technician testify in person at a criminal trial, administrative hearing, or forfeiture proceeding on behalf of the state or the adverse agency of the state, by notifying the proper county attorney, or in the case of an administrative proceeding the adverse agency, at least ten days before the date of the criminal trial, administrative hearing, or forfeiture proceeding. A party or the party's attorney in any other civil proceeding may require an employee or technician to testify in person pursuant to a subpoena.

[C71, 73, 75, 77, §749A.2; C79, 81, §691.2]

86 Acts, ch 1147, §1; 88 Acts, ch 1029, §1

691.3 Commissioner to make rules.

The commissioner of public safety shall make rules defining the capabilities of the criminalistics laboratory. The commissioner shall make rules governing the handling of items to be processed by the criminalistics laboratory from the time they are forwarded to the laboratory by a county medical examiner or a city or state law enforcement agency or county sheriff until their return to the forwarder. The rules shall prescribe a method of identifying, forwarding, handling and returning items that will maintain the identity and

integrity of the item. An item handled in conformity with the rules shall be presumed to be admissible in evidence as to the period in transit to and from and while in custody of the laboratory without further foundation.

[C71, 73, 75, 77, §749A.3; C79, 81, §691.3]

691.4 Copy of finding to defendant.

The county attorney shall give the accused person, or the accused person's attorney, after an indictment or county attorney's information has been returned, a copy of each report of the findings of the criminalistics laboratory conducted in the investigation of the indictable criminal charge against the accused person at the time of arraignment, or if such report is received after arraignment, upon receipt, whether or not such findings are to be used in evidence against the accused person. If such report is not given to the accused or the accused person's attorney at least four days prior to trial, such fact shall be grounds for a continuance.

[C71, 73, 75, 77, §749A.4; C79, 81, §691.4]

691.5 State medical examiner.

The office and position of state medical examiner is established for administrative purposes within the Iowa department of public health. Other state agencies shall cooperate with the state medical examiner in the use of state-owned facilities when appropriate for the performance of nonadministrative duties of the state medical examiner. The state medical examiner shall be a physician and surgeon or osteopathic physician and surgeon, be licensed to practice medicine in the state of Iowa, and be board certified or eligible to be board certified in anatomic and forensic pathology by the American board of pathology. The state medical examiner shall be appointed by and serve at the pleasure of the director of public health upon the advice of and in consultation with the director of public safety and the governor. The state medical examiner, in consultation with the director of public health, shall be responsible for developing and administering the medical examiner's budget and for employment of medical examiner staff and assistants. The state medical examiner may be a faculty member of the university of Iowa college of medicine or the college of law at the university of Iowa, and any of the examiner's assistants or staff may be members of the faculty or staff of the university of Iowa college of medicine or the college of law at the university of Iowa.

[C71, 73, 75, 77, §749A.5; C79, 81, §691.5]

86 Acts, ch 1245, §1602; 99 Acts, ch 208, §6, 14; 2001 Acts, ch 74, §20

691.6 Duties of state medical examiner.

The duties of the state medical examiner shall be:

1. To provide assistance, consultation, and training to county medical examiners and law enforcement officials.
2. To keep complete records of all relevant information concerning deaths or crimes requiring investigation by the state medical examiner.
3. To adopt rules pursuant to chapter 17A and subject to the approval of the director of public health.
4. To collect and retain autopsy fees as established by rule. Autopsy fees collected and retained under this subsection are appropriated for purposes of the state medical examiner's office. Notwithstanding section 8.33, any fees collected by the state medical examiner that remain unexpended at the end of the fiscal year shall not revert to the general fund of the state or any other fund but shall be available for use for the following fiscal year for the same purpose.
5. To conduct an inquiry, investigation, or hearing and administer oaths and receive testimony under oath relative to the matter of inquiry, investigation, or hearing, and to subpoena witnesses and require the production of records, papers, and documents pertinent to the death investigation. However, the medical examiner shall not conduct any activity pursuant to this subsection, relating to a homicide or other criminally suspicious death, without coordinating such activity with the county medical examiner, and without obtaining

approval of the investigating law enforcement agency, the county attorney, or any other prosecutorial or law enforcement agency of the jurisdiction to conduct such activity.

6. To adopt rules pursuant to chapter 17A relating to the duties, responsibilities, and operations of the office of the state medical examiner and to specify the duties, responsibilities, and operations of the county medical examiner in relationship to the office of the state medical examiner.

7. To perform an autopsy or order that an autopsy be performed if required or authorized by section 331.802 or by rule. If the state medical examiner assumes jurisdiction over a body for purposes of performing an autopsy required or authorized by section 331.802 or by rule under this section, the body or its effects shall not be disturbed, withheld from the custody of the state medical examiner, or removed from the custody of the state medical examiner without authorization from the state medical examiner.

8. To retain tissues, organs, and bodily fluids as necessary to determine the cause and manner of death or as deemed advisable by the state medical examiner for medical or public health investigation, teaching, or research. Tissues, organs, and bodily fluids shall be properly disposed of by following procedures and precautions for handling biologic material and blood-borne pathogens as established by rule.

9. To collect and retain fees for medical examiner facility expenses and services related to tissue recovery. Fees collected and retained under this subsection are appropriated to the state medical examiner for purposes of supporting the state medical examiner's office and shall not be transferred, used, obligated, or otherwise encumbered. Notwithstanding section 8.33, any fees collected by the state medical examiner shall not revert to the general fund of the state or any other fund.

10. To provide staffing and support for the child death review team and any child fatality review committee under section 135.43.

[C71, 73, 75, 77, §749A.6; C79, 81, §691.6]

86 Acts, ch 1245, §1603; 90 Acts, ch 1233, §39; 99 Acts, ch 208, §7, 14; 2000 Acts, ch 1140, §46; 2000 Acts, ch 1222, §16, 17; 2005 Acts, ch 89, §38; 2006 Acts, ch 1105, §1; 2006 Acts, ch 1184, §120; 2009 Acts, ch 182, §112; 2010 Acts, ch 1031, §398

691.6A Deputy state medical examiner — creation and duties.

The position of deputy state medical examiner is created within the office of the state medical examiner. The deputy state medical examiner shall report to and be responsible to the state medical examiner. The deputy state medical examiner shall meet the qualification criteria established in section 691.5 for the state medical examiner and shall be subject to rules adopted by the state medical examiner as provided in section 691.6, subsection 3. The state medical examiner and the deputy state medical examiner shall function as a team, providing peer review as necessary, fulfilling each other's job responsibilities during times of absence, and working jointly to provide services and education to county medical examiners, law enforcement officials, hospital pathologists, and other individuals and entities. The deputy medical examiner may be, but is not required to be, a full-time salaried faculty member of the department of pathology of the university of Iowa college of medicine. If the medical examiner is a full-time salaried faculty member of the department of pathology of the university of Iowa college of medicine, the Iowa department of public health and the state board of regents shall enter into a chapter 28E agreement to define the activities and functions of the deputy medical examiner, and to allocate deputy medical examiner costs, consistent with the requirements of this section.

99 Acts, ch 208, §8, 14; 2001 Acts, ch 74, §21

691.6B Interagency coordinating council.

An interagency coordinating council is created to advise the state medical examiner concerning the assurance of effective coordination of the functions and operations of the office of the state medical examiner with the needs and interests of the departments of public safety and public health. Members of the interagency coordinating council shall include the state medical examiner, or when the state medical examiner is not available, the deputy state medical examiner; the commissioner of public safety or the commissioner's designee;

the director of public health or the director's designee; and the governor or the governor's designee. The interagency coordinating council shall meet on a regular basis.

99 Acts, ch 208, §9, 14

691.6C State medical examiner advisory council.

A state medical examiner advisory council is established to advise and consult with the state medical examiner on a range of issues affecting the organization and functions of the office of the state medical examiner and the effectiveness of the medical examiner system in the state. Membership of the state medical examiner advisory council shall be determined by the state medical examiner, in consultation with the director of public health, and shall include, but not necessarily be limited to, representatives from the office of the attorney general, the Iowa county attorneys association, the Iowa medical society, the Iowa association of pathologists, the Iowa association of county medical examiners, the departments of public safety and public health, the statewide emergency medical system, and the Iowa funeral directors association. The advisory council shall meet on a regular basis, and shall be organized and function as established by the state medical examiner by rule.

99 Acts, ch 208, §10, 14; 2009 Acts, ch 56, §11

691.7 Commissioner to accept federal or private grants.

The commissioner of public safety may accept federal or private funds or grants to aid in the establishment or operation of the state criminalistics laboratory, and the director of public health or the state board of regents may accept federal or private funds or grants to aid in the establishment or operation of the position of state medical examiner.

[C71, 73, 75, 77, §749A.7; C79, 81, §691.7]

86 Acts, ch 1245, §1604; 99 Acts, ch 208, §11, 14

691.8 Governor to transfer laboratory.

The governor shall by executive order provide for the transfer of any appropriate laboratory facilities, equipment, and technical personnel of the state to the state criminalistics laboratory if such transfer will more effectively and efficiently aid the investigation of crime.

[C71, 73, 75, 77, §749A.8; C79, 81, §691.8]

691.9 Criminalistics laboratory fund.

A criminalistics laboratory fund is created as a separate fund in the state treasury under the control of the department of public safety. The fund shall consist of appropriations made to the fund and transfers of interest, and earnings. All moneys in the fund are appropriated to the department of public safety for use by the department in criminalistics laboratory equipment purchasing, maintenance, depreciation, and training. Any balance in the fund on June 30 of any fiscal year shall not revert to any other fund of the state but shall remain available for the purposes described in this section.

2006 Acts, ch 1030, §80