



SPONSOR: Rep. Cooke & Sen. Poore
Sen. Walsh

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 134

AN ACT TO AMEND TITLES 9, 10, 15, 16 AND 29 OF THE DELAWARE CODE RELATING TO THE DIVISION OF FORENSIC SCIENCE AND THE MEDICAL EXAMINER.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 302, Title 9 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 302. Officers and employees holding other offices.

(a) No receiver of taxes and county ~~treasurer, coroner~~ treasurer or sheriff shall, during his or her term of office, be a member of the county government.

Section 2. Amend § 9101, Title 9 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 9101. Definitions.

As used in this chapter:

“County offices” or “county officers” means the elected or appointed public officers of the respective counties and includes county council members, Levy Court Commissioners, clerks of the peace, members of the boards of assessment, receivers of taxes and county treasurers, collectors of delinquent taxes, registers of wills, sheriffs, recorders, ~~coroners~~ and any other officer, board, commission, department or agency (other than a court or judge) whose jurisdiction is limited to a single county; provided, however, that the Prothonotaries of New Castle County, Kent County and Sussex County shall not be considered to be county offices.

Section 3. Amend § 9114, Title 9 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 9114. Bonds of ~~coroner~~, recorder, clerk of the peace and register of wills.

(a) Every ~~coroner~~, recorder and clerk of the peace, elected or appointed for any county shall, at the next term of the Superior Court in that county, after his or her election or appointment, before entering upon the duties of his or her office, become bound to the State with sufficient surety by a joint and several obligation in the penalty of \$3,000 with condition “that if the above named who has been duly elected (or appointed) to be shall and do well and diligently

execute his or her office of as aforesaid and duly and faithfully fulfill and perform all the trusts and duties to the said office appertaining, and truly and without delay deliver to his or her successor in office, the seal and all the books, records and papers belonging to said office safe and undefaced, and if the said . . . shall truly and without delay pay over to the Receiver of Taxes and County Treasurer or Department of Finance all the fees which it shall be his or her duty to collect and which are to be paid to the Receiver of Taxes and County Treasurer or Department of Finance, then this obligation shall be void and of no effect, or else shall remain in full force and virtue”; ~~except that in the condition of a coroner’s obligation, the clause beginning with the words “and truly” and ending with the word “undefaced” shall be omitted.~~ virtue”.

Section 4. Amend § 542, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 542. Powers generally.

(a) The Superior Court shall have full power and authority to examine, correct and punish the contempts, omissions, neglects, favors, corruptions and defaults of all justices of the peace, sheriffs, ~~coroners~~, clerks and other officers, within this State.

Section 5. Amend § 3102, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3102. Payment of costs by nonresidents for issuance or execution of writs.

No prothonotary, Register in Chancery, clerk of any court, or justice of the peace in this State shall be compelled to issue any writ or other original process in a civil action, or any writ of execution on any judgment, in favor of any person not a resident of this State, unless the costs of the issuing of such writ are first paid or tendered to such officer; nor shall any ~~sheriff, coroner,~~ sheriff or constable be compelled to execute any such writ until the legal fees for such services are first paid or tendered to such officer by the plaintiff in such action, his or her attorney or agent; any law, custom or usage of this State to the contrary notwithstanding.

Section 6. Amend § 4931, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4931. Wages in New Castle County; limitation; notice of claim; other liens.

(a) In New Castle County all debts or claims that may become due or growing due for labor or services rendered by any mechanic, laborer, clerk or other employee of any person or persons, chartered company or association employing laborers, clerks or mechanics in any manner whatsoever, shall be a first lien on all the real and personal property of such employer or employers, and shall be the first to be satisfied out of the proceeds of the sale of such property, whether made by an officer or an assignee of such employer or employers or otherwise. The debt or claim, so secured to the mechanic,

laborer, clerk or other employee, shall not exceed a sum equal to the wages of such mechanic, laborer, clerk, or other employee for 1 month. In no event shall such debt or claim exceed the sum of \$50, though the wages for 1 month may be a greater sum. Notice of such claim or debt shall be given to the ~~coroner~~, sheriff, constable, assignee, or other person who shall make or conduct the sale of property subject to the lien or preference hereby provided for.

Section 7. Amend § 4971, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4971. Time of sale of goods and chattels.

Goods and chattels, taken in execution by a ~~sheriff, or coroner~~, sheriff shall not be sold until the expiration of 30 days after the levy thereon and notice thereof to the defendant, unless the court, issuing the execution, shall, upon application of the plaintiff, or of the officer holding the execution, and on its being shown that the goods and chattels are of a perishable nature, or will create a charge by keeping, order the same to be sold sooner. Such order shall direct reasonable notice of the sale, according to the circumstances.

Section 8. Amend § 4972, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4972. Notice of public sale of goods and chattels.

Public notice of the sale of goods and chattels by a ~~sheriff, or coroner~~, sheriff under execution process, and of the day, hour, and place thereof, shall be given by advertisements posted, at least 10 days before the day of sale, in 5, or more, public and suitable places in the county, 2 of which, at least, shall be in the hundred of the defendant's residence, if the defendant resides in the county. One such advertisement shall, 10 days at least before the day of sale, be delivered to the defendant, and 1 to each plaintiff in the execution, and also to each plaintiff in any other execution, or executions, at the time in the hands of the ~~sheriff, or coroner~~, sheriff or shall be left at the usual place of abode of such defendant and plaintiffs respectively, if there be such place of abode within the county. If any plaintiff in any such execution resides out of the county, such advertisement shall be delivered to the attorney of such plaintiff, if there is an attorney of record, and 1 such advertisement shall be transmitted to such plaintiff by mail, being enclosed and addressed to the plaintiff at the post office nearest the plaintiff's place of abode. Advertisement shall also, at least 10 days before the day of sale, be delivered to the defendant's landlord, or the landlord's agent, if there is such residing in the county. This section and § 4971 of this title do not apply to execution process issued by justices of the peace or the Court of Common Pleas.

Section 9. Amend § 4973, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4973. Notice of public sale of real estate.

(a) Public notice of the sale of lands and tenements under execution process, shall be given by advertisements posted, at least 10 days before the day of sale, in 10 of the most public places of the county where the premises are situated, setting forth the day, hour and place of sale, and what lands and tenements are to be sold, and where they lie. One of the advertisements shall be posted in the hundred in which the premises are located, and 1, at least, in each of the hundreds which immediately adjoin the hundred. A like advertisement shall be delivered at least 10 days before the day of sale to the defendant, or left at the defendant's usual place of abode, if the defendant has a known place of abode in the county; if the defendant does not reside in the county, notice shall be served on the tenant, or if there is no tenant, shall be left at the mansion house or other public place on the premises. Section 4972 of this title respecting the delivery of an advertisement of the sale of goods and chattels under execution process, to each plaintiff in the execution, and also to each plaintiff in any other execution or executions, at the time in the hands of the ~~sheriff or coroner~~, sheriff, shall be in all respects applicable to the case of the sale of lands and tenements under execution process. Notice of such sale shall also be advertised for 2 weeks previous to the time of the sale in:

(1) A newspaper of general circulation published in the county wherein the property is situated; and

(2) A newspaper of general or limited circulation published nearest to the place where the property is situated.

Both newspapers are to be selected by the sheriff. Not more than 3 insertions per week shall be made in any 1 newspaper. If there is only 1 newspaper published in the county at the time, the sheriff may select a newspaper in 1 of the other counties, and if there is no newspaper in the county the sheriff may select 2 in the other counties. The publishers of the newspapers shall not be paid for such advertising a higher rate than their ordinary charges for transient advertisements.

Section 10. Amend § 4979, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4979. Petition for deed.

If a sale is made of lands and tenements by order of the Court of Chancery, or by virtue of an execution, and the officer making such sale, or the purchaser, is dead, or if such officer is out of office, and the purchase money is paid, without a deed being made pursuant to such sale, the purchaser, or other person having right under the purchaser by descent, devise, assignment, or otherwise, may prefer to the Superior Court, or Court of Chancery, at any term of such courts respectively, in the county wherein the premises are situate, a petition representing the facts, and praying for an order authorizing and requiring the sheriff, or if there is legal exception to the sheriff, ~~the coroner~~ a local law-enforcement officer ~~of the county~~ for the time being, to execute and acknowledge a deed conveying to the petitioner the premises so sold, or a just proportion thereof. Thereupon the Court may make an order touching the conveyance of the premises according to justice and equity.

Section 11. Amend § 5018, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5018. Form of writ.

(b) If there is legal exception to the sheriff, the writ may be directed to ~~the coroner~~, a local law-enforcement officer.

Section 12. Amend § 9501 , Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 9501. Writs, warrants and process.

(a) A Justice of the Peace Court may issue all writs, warrants and process proper to carry into effect the powers granted to the justice of the peace.

(b) When no form of writ, warrant or process is prescribed by statute, the court shall frame one in conformity with the law, in substance; and, when substantially right, such process shall not be invalid for any defect in form.

(c) All sheriffs, deputy sheriffs, ~~coroners~~, constables and persons specially authorized by the Chief Magistrate or the Chief Magistrate's designee shall duly serve all legal writs, warrants and process to them directed by any Justice of the Peace Court.

Section 13. Amend § 5948, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5948. Citation; service and return.

Before the statement is filed, the Prothonotary shall docket the case in the appearance docket and immediately issue a citation for the person whose right to the office is contested to appear on the first day of the second term of the Superior Court to make such defense as he or she may have, which citation shall be delivered to the sheriff or, if the sheriff be a party to the contest, to ~~the coroner of the county~~, a local law-enforcement officer, and be served by the sheriff or ~~county coroner~~ law-enforcement officer upon the party defendant in person or, if the party defendant cannot be found, by leaving a copy thereof at the house where the party defendant last resided at least 5 days before the day to which such citation is returnable. The original citation shall be returned to the Prothonotary on or before the first day of the next term of Court after it is issued, and the manner of service shall be endorsed thereon and signed by the officer serving the same.

Section 14. Amend § 2704, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2704. Disposition of remains.

Any approved institution which shall have received a dead body pursuant to this subchapter shall, upon completion of the study thereof, deliver the body as then constituted to the ~~coroner of the county in which such approved institution shall be situate~~ Division of Forensic Science for burial or cremation, and such approved institution shall pay the expenses of such burial or cremation and of the preparation of such body therefor, at the rates provided by law or which are usual and customary in such cases, provided that with the approval of the Inspector of Anatomy mentioned in § 2706 of this title, such an approved institution may retain certain portions of said body for special research or teaching purposes.

Section 15. Amend § 2315, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2315. Fees.

The fees to be charged by the Secretary of State for the use of the State are as follows:

For issuing certificate in private case under the Great Seal \$ 3.00

For issuing certificate in private case under the seal of office 2.00

For copying, per line .05

For receiving, filing and indexing certificates, statements, affidavits, decrees, agreements, surveys, reports and any other papers pertaining to corporations, except as otherwise provided in Title 8 10.00

For receiving, filing and indexing every paper now or hereafter provided by law to be filed with the Secretary of State, except as otherwise provided in Title 8 10.00

For recording, filing and indexing certificates, articles of association and any other paper required by law to be recorded by the Secretary of State, the same fees as provided by law for the Recorder, except as otherwise provided in Title 8.

For proceeding for reinstatement, including the receiving, filing and indexing and all necessary certificates 15.00

For filing certificates of foreign corporations including the receiving, filing, indexing and issuing necessary certificates, \$13 of which shall be paid to each Prothonotary for filing and certificate. 30.00

For certifying acts or resolutions of a private nature, acts of a private character pertaining to the acknowledgement or recording of deeds or other papers or to titles or conveyances of real estate, the fees prescribed in § 909 of this title [repealed].

For commission to Attorney ~~General, coroners~~ General and notaries public, each 15.00

For commission to justices of the peace 10.00

For commission to constables, when appointed by the Governor 10.00

171 Section 16. Amend § 4704, Title 29 of the Delaware Code by making deletions as shown by strike through and
172 insertions as shown by underline as follows:

173 § 4704. Duties of Medical Examiners.

174 (a) The Chief Medical Examiner, ~~the Assistant Medical Examiners and the Deputy Medical Examiners shall~~
175 ~~perform all the medical and other functions formerly devolving upon the coroners, deputy coroners and coroners'~~
176 ~~physicians in the counties of this State and in the City of Wilmington and duties imposed upon them by this chapter.~~
177 Examiner and the Assistant Medical Examiners shall carry out the provisions of this chapter to investigate all deaths
178 throughout the State.

SYNOPSIS

This is a housekeeping bill to remove outdated references to the term "coroner" in the Delaware Code. Created in 1682, the Office of the Coroner was one of the earliest elective offices in Delaware. The primary responsibility of the coroner was to investigate all cases in which a person died while in prison, was killed, died an unnatural death, or the circumstances of the death were unknown. It was also the duty of the coroner to arrest a person believed to have committed murder or manslaughter and to perform the duties of the sheriff when the sheriff was unavailable. The Office of the Coroner was abolished in 1969 and the responsibility for determining the cause of death is now the responsibility of the Medical Examiner. Today, it is outside the Medical Examiner's scope of employment to perform many of the job duties that coroners were historically expected to do, and this bill clarifies that Medical Examiners are only responsible for investigating causes of death throughout the State under the provisions of Chapter 47 of Title 29, relating to forensic science.