



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:

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

3 § 302. Officers and employees holding other offices.

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

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

8 § 9101. Definitions.

9 As used in this chapter:

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

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

18 § 9114. Bonds of ~~coroner~~, recorder, clerk of the peace and register of wills.

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

23 execute his or her office of as aforesaid and duly and faithfully fulfill and perform all the trusts and duties to the said
24 office appertaining, and truly and without delay deliver to his or her successor in office, the seal and all the books, records
25 and papers belonging to said office safe and undefaced, and if the said . . . shall truly and without delay pay over to the
26 Receiver of Taxes and County Treasurer or Department of Finance all the fees which it shall be his or her duty to collect
27 and which are to be paid to the Receiver of Taxes and County Treasurer or Department of Finance, then this obligation
28 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~~
29 ~~obligation, the clause beginning with the words "and truly" and ending with the word "undefaced" shall be omitted.~~ virtue.

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

32 § 542. Powers generally.

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

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

38 § 3102. Payment of costs by nonresidents for issuance or execution of writs.

39 No prothonotary, Register in Chancery, clerk of any court, or justice of the peace in this State shall be compelled
40 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
41 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
42 ~~sheriff, coroner, sheriff~~ or constable be compelled to execute any such writ until the legal fees for such services are first
43 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
44 State to the contrary notwithstanding.

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

47 § 4931. Wages in New Castle County; limitation; notice of claim; other liens.

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

53 laborer, clerk or other employee, shall not exceed a sum equal to the wages of such mechanic, laborer, clerk, or other
54 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
55 greater sum. Notice of such claim or debt shall be given to the ~~coroner~~, sheriff, constable, assignee, or other person who
56 shall make or conduct the sale of property subject to the lien or preference hereby provided for.

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

59 § 4971. Time of sale of goods and chattels.

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

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

67 § 4972. Notice of public sale of goods and chattels.

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

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

82 § 4973. Notice of public sale of real estate.

83 (a) Public notice of the sale of lands and tenements under execution process, shall be given by advertisements
84 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,
85 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
86 advertisements shall be posted in the hundred in which the premises are located, and 1, at least, in each of the hundreds
87 which immediately adjoin the hundred. A like advertisement shall be delivered at least 10 days before the day of sale to the
88 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
89 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
90 mansion house or other public place on the premises. Section 4972 of this title respecting the delivery of an advertisement
91 of the sale of goods and chattels under execution process, to each plaintiff in the execution, and also to each plaintiff in any
92 other execution or executions, at the time in the hands of the ~~sheriff or coroner~~, sheriff, shall be in all respects applicable to
93 the case of the sale of lands and tenements under execution process. Notice of such sale shall also be advertised for 2 weeks
94 previous to the time of the sale in:

- 95 (1) A newspaper of general circulation published in the county wherein the property is situated; and
96 (2) A newspaper of general or limited circulation published nearest to the place where the property is situated.

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

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

103 § 4979. Petition for deed.

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

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

115 § 5018. Form of writ.

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

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

120 § 9501. Writs, warrants and process.

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

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

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

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

130 § 5948. Citation; service and return.

131 Before the statement is filed, the Prothonotary shall docket the case in the appearance docket and immediately
132 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
133 Superior Court to make such defense as he or she may have, which citation shall be delivered to the sheriff or, if the sheriff
134 be a party to the contest, to ~~the coroner of the county~~ a local law-enforcement officer, and be served by the sheriff or
135 ~~county coroner~~ law-enforcement officer upon the party defendant in person or, if the party defendant cannot be found, by
136 leaving a copy thereof at the house where the party defendant last resided at least 5 days before the day to which such
137 citation is returnable. The original citation shall be returned to the Prothonotary on or before the first day of the next term of
138 Court after it is issued, and the manner of service shall be endorsed thereon and signed by the officer serving the same.

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

141 § 2704. Disposition of remains.

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

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

150 § 2315. Fees.

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

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

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

154 For copying, per line .05

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

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

159 For recording, filing and indexing certificates, articles of association and any other paper required by law to be
160 recorded by the Secretary of State, the same fees as provided by law for the Recorder, except as otherwise provided in Title
161 8.

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

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

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

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

169 For commission to justices of the peace 10.00

170 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.