

§ 130A-385. Duties of medical examiner upon receipt of notice; reports; copies.

(a) Upon receipt of a notification under G.S. 130A-383, the medical examiner shall take charge of the body, make inquiries regarding the cause and manner of death, reduce the findings to writing and promptly make a full report to the Chief Medical Examiner on forms prescribed for that purpose. [The following provisions apply:]

The Chief Medical Examiner shall provide directions as to the nature, character and extent of an investigation and appropriate forms for the required reports. The facilities of the central and district offices and autopsy centers and their staff services shall be available to the medical examiners and designated pathologists in their investigations.

- (1) In all cases, the Chief Medical Examiner or the county medical examiner may
 - (i) inspect the decedent's body, (ii) inspect and copy the medical records of the decedent whose death is under investigation, (iii) collect and inspect the decedent's body and personal possessions associated with the death, including clothing on the decedent's body, and (iv) collect tissue and blood samples, cultures, medical images, X-rays, and other medical information obtained through the use of medical equipment.
- (2) In the case of a decedent whose death is not under criminal investigation, the Chief Medical Examiner or the county medical examiner conducting an investigation pursuant to this Article is authorized to inspect all other physical evidence and documents that may be relevant to determining the cause and manner of death of the person whose death is under investigation, and the Chief Medical Examiner or county medical examiner may seek an administrative search warrant pursuant to G.S. 15-27.2 for the purpose of carrying out the duties imposed under this section.
- (3) In the case of a decedent whose death is under criminal investigation, no administrative search warrant shall be issued pursuant to this section, and the Chief Medical Examiner or the county medical examiner is not authorized to inspect other physical evidence or documents at the scene except as permitted by the investigating law enforcement agency. The district attorney or investigating law enforcement agency shall inform the Chief Medical Examiner, the county medical examiner, or the autopsy center, as applicable, that the death is under criminal investigation. Nothing in this subsection prohibits the Chief Medical Examiner or the county medical examiner from being present during the execution of a search warrant by the investigating law enforcement agency.

(a1) The Office of the Chief Medical Examiner shall conduct comprehensive toxicology screening in all child death cases that fall under the jurisdiction of the medical examiner pursuant to G.S. 130A-383 or G.S. 130A-384.

(b) The medical examiner shall complete a certificate of death, stating the name of the disease that, in the opinion of the medical examiner, caused death. If the death was from external causes, the medical examiner shall state on the certificate of death the means of death, and whether, in the medical examiner's opinion, the manner of death was accident, suicide, homicide, execution by the State, or undetermined. The medical examiner shall also furnish any information as may be required by the State Registrar of Vital Statistics in order to properly classify the death.

(c) The Chief Medical Examiner may amend a certificate of death completed by a medical examiner pursuant to subsection (b) of this section.

(d) Upon request by the district attorney, the Office of the Chief Medical Examiner, the local medical examiner, and the autopsy center, as applicable, shall provide a complete copy of the medical examiner investigation file to the appropriate district attorney. For purposes of this subsection, the "medical examiner investigation file" means the finalized toxicology report, the

finalized autopsy report, any autopsy examination notes, any death scene notes, the finalized report of investigation of a medical examiner, the case encounter form, any case comments, any case notes, any autopsy photographs, any scene photographs, and any video or audio recordings of the autopsy examination in the custody and control of the North Carolina Office of the Chief Medical Examiner, a pathologist designated by the Chief Medical Examiner, a county medical examiner appointed under G.S. 130A-382, an investigating medical examiner, or an autopsy center in connection with a death under criminal investigation by a public law enforcement agency. Each records custodian is responsible for providing the portions of the medical examiner investigation file within its custody and control. This is a continuing disclosure obligation, and each records custodian shall provide to the district attorney any records or other materials responsive to the district attorney's request that are discovered or added to the medical examiner investigation file after the request has been made. The district attorney or investigating law enforcement agency shall inform the Chief Medical Examiner, the county medical examiner appointed under G.S. 130A-382, the investigating medical examiner, and the autopsy center, as applicable, when the death is no longer under criminal investigation and the continuing disclosure obligation has terminated.

(d1) Upon notice from the investigating public law enforcement agency or prosecuting district attorney that a death is under criminal investigation or the subject of a criminal prosecution, any records, worksheets, reports, photographs, tests, or analyses compiled, prepared, or conducted by the Office of the Chief Medical Examiner, a pathologist designated by the Chief Medical Examiner, a county medical examiner appointed under G.S. 130A-382, an investigating medical examiner, or an autopsy center, including any autopsy photographs or video or audio recordings, related to that death shall be treated as records of criminal investigations pursuant to G.S. 132-1.4. Autopsy photographs or video or audio records subject to the provisions of this subsection may only be disclosed or released pursuant to G.S. 130A-389.1. These records may only be disclosed or released as follows and recipients of records pursuant to the following subdivisions may not disclose the identified records to the public unless otherwise authorized by law:

- (1) The custodian of the finalized toxicology report, finalized autopsy report, or finalized report of investigation of a medical examiner may release a copy at a time and location determined by the custodial agency (i) to a personal representative of the decedent's estate to enable the personal representative to fulfill his or her duties under the law, (ii) to a beneficiary of a benefit or claim associated with the decedent for purposes of receiving the benefit or resolving the claim, or (iii) to the decedent's spouse, child or stepchild, parent or stepparent, sibling, or legal guardian.
- (2) The Office of the Chief Medical Examiner, a pathologist designated by the Chief Medical Examiner, a county medical examiner appointed under G.S. 130A-382, an investigating medical examiner, or an autopsy center is not prohibited from disclosing or releasing information or reports when necessary to conduct a thorough and complete death investigation, to consult with outside physicians and other professionals during the death investigation, and to conduct necessary toxicological screenings.
- (3) When disclosing information to the investigating public law enforcement agency or prosecuting district attorney.
- (4) When disclosing or releasing information or reports is necessary (i) to address public health or safety concerns, (ii) for public health purposes, including public health surveillance, investigations, interventions, and evaluations, (iii) to facilitate research, (iv) to facilitate education, (v) to release decedent remains to transporters, funeral homes, family members, or others for final

disposition, (vi) to comply with reporting requirements under State or federal law or in connection with State or federal grants, or (vii) to comply with any other duties imposed by law.

(d2) Records and materials subject to the provisions of subsection (d1) of this section shall continue to be records of criminal investigations pursuant to G.S. 132-1.4 until the Office of the Chief Medical Examiner, county medical examiner, or autopsy center that is custodian of the records (i) receives notification from the investigating public law enforcement agency or the prosecuting district attorney of the conclusion of the criminal investigation or prosecution or the decision to terminate the criminal investigation of the death or (ii) receives notification from the prosecuting district attorney that some portion of the records or materials have been introduced as evidence in a public trial. The notification required by this section shall be made on a form created by the Administrative Office of the Courts and completed by either the investigating public law enforcement agency or the prosecuting district attorney. The Chief Medical Examiner, county medical examiner, or autopsy center may rely on a completed notification form conveyed by a third party. The Office of the Chief Medical Examiner and its staff, the county medical examiner, and the autopsy center and its staff shall have no criminal or civil liability for relying on a notice provided pursuant to this subsection.

(d3) Except as provided in subsection (d4) of this section, any records, worksheets, reports, photographs, tests, or analyses compiled, prepared, or conducted by the Office of the Chief Medical Examiner, a pathologist designated by the Chief Medical Examiner, a county medical examiner appointed under G.S. 130A-382, an investigating medical examiner, or an autopsy center in connection with the death of a child who was under 18 years of age at the time of death, including any autopsy photographs or video or audio recordings, are confidential and may be disclosed or released only with the prior written consent of the deceased child's parent or guardian or as follows:

- (1) The custodian of the finalized autopsy report, finalized toxicology report, or finalized report of investigation of a medical examiner may release a copy at a time and location determined by the custodial agency to (i) a personal representative of the decedent's estate to enable the personal representative to fulfill his or her duties under the law or (ii) a beneficiary of a benefit or claim associated with the decedent for purposes of receiving the benefit or resolving the claim.
- (2) The Office of the Chief Medical Examiner, a pathologist designated by the Chief Medical Examiner, a county medical examiner appointed under G.S. 130A-382, an investigating medical examiner, or an autopsy center is not prohibited from disclosing or releasing information or reports when necessary to conduct a thorough and complete death investigation, to consult with outside physicians and other professionals during the death investigation, and to conduct necessary toxicology screenings.
- (3) When disclosing or releasing information or reports is necessary (i) to address public health or safety concerns, (ii) for public health purposes, including public health surveillance, investigations, interventions, and evaluations, (iii) to facilitate research, (iv) to facilitate education, (v) to release decedent remains to transporters, funeral homes, family members, or others for final disposition, (vi) to comply with reporting requirements under State or federal law or in connection with State or federal grants, or (vii) to comply with any other duties imposed by law.
- (4) The custodian of the finalized autopsy report, finalized toxicology report, finalized report of investigation of a medical examiner, and any related documents shall, upon request, release copies of the report and those

documents to the surviving spouse of the deceased, the deceased's parents, any adult children of the deceased, any legal guardian or custodian of the deceased, any legal guardian or custodian of a child of the deceased, or any person holding power of attorney or healthcare attorney for the deceased.

- (5) The legal representatives of any person authorized to receive records under this section.

Notwithstanding the provisions of this subsection, any materials that are subject to the provisions of subsection (d1) of this section may only be disclosed pursuant to that subsection while the death is under criminal investigation by a public law enforcement agency or during the pendency of criminal charges associated with a death.

(d4) When any records or materials are subject to the provisions of both subsections (d1) and (d3) of this section, the records and materials shall not be disclosed or released except as authorized by subsection (d1) of this section until the Office of the Chief Medical Examiner, county medical examiner, or autopsy center that is custodian of the records or materials has received notification of the conclusion of the criminal investigation or prosecution, the decision to terminate the criminal investigation of the death, or that some portion of the records or materials have been introduced as evidence in a public trial pursuant to subsection (d2) of this section.

(d5) Any person who willfully and knowingly discloses or releases records or materials in violation of subsection (d1) or (d3) of this section, or who willfully and knowingly possesses or disseminates records or materials that were disclosed or released in violation of subsection (d1) or (d3) of this section, is guilty of a Class 1 misdemeanor; provided, however, that more than one occurrence of disclosure, release, possession, or dissemination of the same item by the same person is not a separate offense. No person shall be guilty of a Class 1 misdemeanor under this subsection for disclosing, releasing, possessing, or disseminating records or materials if, at the time of the disclosure, release, possession, or dissemination, notice that the record or material is record of a criminal investigation had not been provided as required by subsection (d1) of this section. A person who discloses or releases information pursuant to subsection (d3) of this section in reliance on the written consent of an individual who represents to be the child's parent or guardian and who acts in good faith without actual knowledge that the representation is false will not be subject to civil or criminal liability. As used in this subsection, the term "disclose" means the act of making records or materials available for viewing or listening by a person or entity upon request, at a time and location chosen by the custodial agency, and the term "release" means the act of the custodial agency in providing a copy of records or materials.

(d6) Any other person or entity seeking disclosure or release of records or materials covered under subsection (d1) or (d3) of this section may commence a special proceeding in the superior court of the county where the death that is the subject of the records or materials occurred to obtain a court order for disclosure or release of the records or materials. The court may conduct an in-camera review of the records or materials. Upon a showing of good cause, a superior court judge may issue an order authorizing the disclosure or release of the records or materials and may prescribe any restrictions or stipulations that the superior court judge deems appropriate. The petitioner shall provide reasonable notice of the commencement of the special proceeding and reasonable notice of the opportunity to be present and heard at any hearing on the matter in accordance with Rule 5 of the Rules of Civil Procedure. The notice shall be provided, in writing, to all of the following:

- (1) The Office of the Chief Medical Examiner.
- (2) The district attorney of the county in which the death occurred.
- (3) The personal representative of the estate of the deceased, if any.
- (4) If the record or material is subject to the provisions of subsection (d1) of this section, the surviving spouse of the deceased. If there is no surviving spouse,

then the notice shall be provided to the deceased's parents, and if the deceased has no living parent, then to the adult child of the deceased or to the guardian or custodian of a minor child of the deceased.

- (5) If the record or material is subject to the provisions of subsection (d2) of this section, to the deceased child's parents or guardian.

In determining good cause, the judge shall consider whether the disclosure or release is necessary for the public evaluation of governmental performance, the seriousness of the intrusion into the family's right to privacy, whether the requested disclosure or release is the least intrusive means available, the need to withhold the records to facilitate the investigation or prosecution of criminal offenses, the rights of the defendant in any ongoing criminal investigation or prosecution, the public interest in having access to the records or materials, and the availability of similar information in other public records, regardless of form. A party aggrieved by an order of the superior court authorized by this subsection may appeal in accordance with Article 27 of Chapter 1 of the General Statutes.

(d7) Any person or entity seeking disclosure or release of records or materials covered under subsection (d1) or (d3) of this section who is alleging that the criminal investigation or prosecution has concluded or been terminated, or that portions of the records or material have been introduced as evidence in a public trial, but that the investigating public law enforcement agency or prosecuting district attorney will not comply with the notification required pursuant to subsection (d2) of this section may commence a special proceeding in the superior court of the county where the death that is the subject of the records or materials occurred for an order compelling disclosure or release of the records or materials.

In any action brought pursuant to this section in which a party successfully compels the disclosure of records or materials, the court shall allow a party seeking disclosure of records or materials who substantially prevails to recover its reasonable attorneys' fees if attributed to those records or materials. The court may not assess attorneys' fees against the governmental body or governmental unit if the court finds that the governmental body or governmental unit acted in reasonable reliance on any of the following:

- (1) A judgment or an order of a court applicable to the governmental unit or governmental body.
- (2) The published opinion of an appellate court, an order of the North Carolina Business Court, or a final order of the Trial Division of the General Court of Justice.
- (3) A written opinion, decision, or letter of the Attorney General.

Any attorneys' fees assessed against a public agency under this section shall be charged against the operating expenses of the agency; provided, however, that the court may order that all or any portion of any attorneys' fees so assessed be paid personally by any public employee or public official found by the court to have knowingly or intentionally committed, caused, permitted, suborned, or participated in a violation of this Article. No order against any public employee or public official shall issue in any case where the public employee or public official seeks the advice of an attorney and such advice is followed.

If the court determines that an action brought pursuant to this section was filed in bad faith or was frivolous, the court shall assess a reasonable attorneys' fee against the person or persons instituting the action and award it to the public agency as part of the costs.

(e) In cases where death occurred due to an injury received in the course of the decedent's employment, the Chief Medical Examiner shall forward to the Commissioner of Labor a copy of the medical examiner's report of the investigation, including the location of the fatal injury and the name and address of the decedent's employer at the time of the fatal injury. The Chief Medical Examiner shall forward this report within 30 days of receipt of the information from the medical

examiner. Upon written request by the Commissioner of Labor, the Chief Medical Examiner shall provide the finalized autopsy report within five months of the date of the request.

(f) If a death occurred in a facility licensed subject to Article 2 or Article 3 of Chapter 122C of the General Statutes, or Articles 1 or 1A of Chapter 131D of the General Statutes, and the deceased was a client or resident of the facility or a recipient of facility services at the time of death, then the Chief Medical Examiner shall forward a copy of the medical examiner's report to the Secretary of Health and Human Services within 30 days after receipt of the report from the medical examiner. (1955, c. 972, s. 1; 1957, c. 1357, s. 1; 1967, c. 1154, s. 1; 1973, c. 476, s. 128; 1977, 2nd Sess., c. 1145; 1983, c. 891, s. 2; 1989, c. 353, s. 2; c. 797; 1991 (Reg. Sess., 1992), c. 894, s. 6; 2000-129, s. 4; 2023-134, s. 9H.7(a); 2024-1, s. 3.5(a); 2024-43, s. 1(b); 2025-28, s. 1.4; 2025-70, s. 2(a).)