

**OPINION**  
**56-39**

May 11, 1956 (OPINION)

COUNTY CORONERS

RE: Generally

I have your letter of April 30, 1956, requesting our opinion on chapter 115 of the 1955 Session Laws, entitled "County Coroners."

The first question you raise is: Does the deputy coroner have to be a doctor when the coroner is not one?

This is answered by section 5 of chapter 115, which states that the coroner may appoint in writing an assistant coroner who shall be a licensed physician of good standing or a pathologist.

Your second question concerns whether the coroner has the right to authorize the sheriff and state's attorney to order the removal of the body from the place of death to a funeral home when it is impossible for the coroner to go immediately to the scene of the death.

In our opinion, the coroner may, in his discretion, authorize the removal of a body to a place where an autopsy may be performed if he deems it necessary.

You further raise this question: It is necessary for the coroner to see every body at the scene of death? In our judgment this would not be absolutely essential. We think the coroner would be justified in relying upon the report of the state's attorney or sheriff as to whether or not it was necessary for him to go to the actual scene of the death.

Your fourth question relates to the absence of the coroner from the county, and you raise the point as to whether his absence would disqualify him from acting in the case when death occurs during his absence.

It is our opinion that if the coroner returned promptly it would be proper for him to take over the case and conduct an inquest. It would not be wise to delay the inquest unduly, but this is a matter of exercising good judgment on the part of the coroner or his assistant. If the coroner is absent for any considerable period of time, it would be necessary of course for his assistant to act.

Now, on the second page of your letter you raise some questions with reference to the delivery of bodies to medical authorities for purposes of medical research. You raise the question as to what constitutes proper notice to the next of kin, which is found in section 15 of chapter 115 of the 1955 Session Laws. In our opinion the coroner must make a reasonable, determined effort to locate the relatives or friends of the deceased person. This may be done by telephone, telegram, radio, newspaper advertising, or any other means

within the reach of the coroner in trying to locate interested relatives and friends of the deceased.

Your next question is relative to a person who dies while serving a sentence in the state penitentiary or county jail, and you ask whether the family has the right to have the body buried even if at public expense.

I refer you to section 12-4505 of the North Dakota Revised Code of 1943, which reads as follows:

"The officer holding the inquest provided for in section 12-4501 shall cause the body of the deceased to be decently buried, or delivered to the relatives or friends of the deceased if demanded by them within twenty-four hours after the receipt of such body by him, or at any time before its burial."

I do not believe that the relatives can ask the state or county to pay the cost of burial if they take charge of the body, unless it would come under the purview of the welfare board. If they demand the body they themselves must bear the expense of burial, except as provided under the welfare board laws, which we deal with in the answer to the following question.

Further, you ask this question: If a person is required to be buried at public expense, such as in a welfare case, does the family have the right to have the body buried even though they cannot pay anything toward the cost of burial?

Section 23-0603 of the North Dakota Revised Code of 1943, as amended deals with the duty of burying bodies of deceased persons and recites the persons upon whom these duties devolve. Subsection 5 of section 23-0603 of the 1953 Supplement reads as follows:

"If the deceased left no husband, wife, or kindred answering the foregoing description and did not leave means sufficiently to defray his funeral expenses, including the cost of a casket, >The duty! involves upon the county welfare board of the county in which the deceased had residence for poor relief purposes and if such residence cannot be established, then in the county in which the death occurs, and such board shall employ some person to arrange for and supervise the burial. The necessary and reasonable expense thereof, not exceeding one hundred fifty dollars, shall be borne by the county. The county also shall pay reasonable costs of transporting the body to the place of burial when burial is made in a cemetery out of the county in which death occurred, but not exceeding one hundred dollars."

There is a further amendment in the Session Laws of 1955, chapter 299, which reads as follows:

"The provisions of sections 23-0603 and 40-0734 of the North Dakota Revised Code of 1943, as amended, shall not be construed as prohibiting friends or relatives from participating in the costs of burial of county welfare burial cases nor shall such participation be grounds for a reduction in the statutory allowances for burial costs of such person."

I think these laws are clear, but they apply only to welfare cases and would not apply to situations such as you raise in your preceding question.

You further ask how long the coroner can hold an unidentified body before notifying the University.

We agree with your answer that this is a matter within the sound discretion of the coroner. It would be our opinion that after the coroner has exhausted every feasible method of identification and is unable to find any relatives, he would be under obligation to notify the University.

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