



Legal Update

January 10, 2014

An Act Relative to the Release of a Body by a Medical Examiner to a Person Charged with or Convicted of an Offense which Resulted in the Death of the Deceased

On January 8, 2014, Governor Patrick signed “*An Act Relative to the Release of a Body by a Medical Examiner to a Person Charged with or Convicted of an Offense which Resulted in the Death of the Deceased.*” This legislation, taking effect 90 days after January 8, 2014, amends sections 2 and 13 of G.L. c. 38 concerning the release of a deceased’s body by the Office of the Medical Examiner. Chapter 196 of the Acts of 2013 is summarized below, and the complete Act is attached to this email.

Release of Autopsy Report, G.L. c. 38, § 2:

The Office of the Medical Examiner is not precluded by anything in this section from providing a copy of the autopsy report to a decedent’s surviving spouse, person in the first degree of consanguinity, or if neither exists, a person entitled to receive the body.

Release of a Body by the Office of the Medical Examiner, G.L. c. 38, § 13:

Any named person who would be entitled to receive a deceased’s body from the Office of the Medical Examiner shall be prohibited from doing so if charged or convicted of an offense which resulted in the death of the deceased. In such an instance, the order of priority for release will then pass to the next person eligible under this section to receive the body.

A person so charged may, within 24 hours of being charged, petition the probate and family court in the county where the deceased’s death occurred for a determination of what the deceased would have wanted. Within 2 days of receiving a petition, the court must then enter an order regarding the remains or award the right of release to a person the court determines is competent to take care of the disposition of the deceased.

In the event of acquittal or dismissal of the charges, the right of release shall be returned to a person charged with an offense which resulted in the death of the deceased, unless the acquittal or dismissal occurs after the body has already been released.

Any unclaimed or unidentified body shall be released to the Department of Transitional Assistance for burial in accordance with G.L. c. 117A, § 9, provided, however, that the Chief Medical Examiner or a designee first certify the facts of the death to the town clerk where the death occurred.