

59.32 COUNTIES

county officer has only such power as is conferred by statute, either expressly or by clear implication. OAG 6–09.

59.33 Powers after term. (1) Every undersheriff and deputy sheriff, compensated for services by fees or by part salary and part fees, may execute and return all writs, processes and orders in their hands at the expiration of the sheriff's term of office and which the undersheriff or deputy sheriff has, before that time, begun to execute by service, levy, advertisement or the collection of money thereon.

(2) In counties where the compensation of sheriffs, undersheriffs and deputies has been changed from the fee to the salary system, the sheriff, immediately upon the expiration of the sheriff's term, shall turn over to the sheriff's successor all writs, processes and orders in the hands of the sheriff, or in the hands of the undersheriff or deputies, whether or not such writs, processes and orders have been partly or fully executed or returned, and such successor shall execute and return or complete the execution and return of such writs, processes and orders.

(3) In case of a vacancy in the office of sheriff, of any county, the undersheriff and deputies then in office having then any writ, process or order in their hands shall have the same authority and be under the same obligation to serve, execute and return the same as if the sheriff had continued in office.

History: 1987 a. 181; 1991 a. 316; 1995 a. 201 s. 295.

59.34 Coroner, medical examiner duties; coroner, medical examiner compatibility. (1) CORONER; MEDICAL EXAMINER; DUTIES. The coroner shall do all of the following:

(a) Participate in inquest proceedings when required by law, except that in any county with a population of 500,000 or more and all counties which have instituted the medical examiner system this duty and the powers incident thereto shall be vested exclusively in the office of the medical examiner. Except as provided under s. 59.38 (5), the board shall appoint the medical examiner. The office may be occupied on a full-time or part-time basis and the officeholder shall be paid compensation as the board by ordinance provides. The duties performed by the county coroner and not vested in the medical examiner shall be performed by the clerk. The medical examiner may appoint such assistants as the board authorizes. Whenever requested by the court or district attorney, the medical examiner shall testify to facts and conclusions disclosed by autopsies performed by him or her, at his or her direction or in his or her presence; shall make physical examinations and tests incident to any matter of a criminal nature up for consideration before either the court or district attorney upon request; shall testify as an expert for either the court or the state in all matters where the examinations or tests have been made; and shall perform such other duties of a pathological or medicolegal nature as may be required.

(b) When there is no sheriff or undersheriff in any county organized for judicial purposes, exercise all the powers and duties of sheriff of that county until a sheriff is elected or appointed and qualified; and when the sheriff for any cause is committed to the jail of that county, be keeper thereof during the time that the sheriff remains a prisoner therein.

(c) Serve and execute process of every kind and perform all other duties of the sheriff when the sheriff is a party to the action and whenever the clerk of the circuit court addresses the original or other process in any action to the coroner as provided in s. 59.40 (2) (o), execute the same in like manner as the sheriff might do in other cases; exercise the same powers and proceed in the same manner as prescribed for sheriffs in the performance of similar duties; and in all cases the coroner and the coroner's sureties shall be liable in the same manner and to the same extent on the coroner's official bonds as sheriffs and their sureties are liable in similar cases.

(d) Perform all other duties that are required by law.

(e) Act as coroner in another county when requested to do so.

(2) CORONER, MEDICAL EXAMINER; COMPATIBILITY WITH OTHER OFFICES. (a) Notwithstanding s. 979.04 (3) and except as provided in par. (b), any person holding office under sub. (1) may also serve as an emergency medical technician, first responder or fire fighter.

(b) 1. No person serving as a coroner or medical examiner, or deputy coroner or medical examiner's assistant, who also serves as an emergency medical technician, first responder, or a fire fighter may participate as a coroner or medical examiner, or deputy coroner or medical examiner's assistant, in any case in which he or she may be required to participate as an emergency medical technician, first responder, or fire fighter. If an apparent or actual conflict of interest arises between the person's duties as coroner or medical examiner and as emergency medical technician, first responder, or fire fighter, the deputy coroner or medical examiner's assistant shall act as coroner or medical examiner in the case in which the conflict exists. If an apparent or actual conflict of interest arises between the person's duties as deputy coroner or medical examiner's assistant and as emergency medical technician, first responder, or fire fighter, a coroner or another deputy coroner, or a medical examiner or another medical examiner's assistant shall act as coroner or medical examiner in the case in which the conflict exists. If there is no coroner, deputy coroner, medical examiner, or medical examiner's assistant available who may act without an apparent or actual conflict of interest, the coroner or medical examiner shall request that the coroner, medical examiner, deputy coroner, or a medical examiner's assistant in another county act as coroner or medical examiner in the case in which the conflict exists. Any fees owed to or expenses incurred by the acting coroner or medical examiner from the other county shall be paid by the county that requested the acting coroner's or medical examiner's services.

2. If a person serving as coroner under sub. (1) is required to exercise the powers and duties of sheriff under sub. (1) (b), the deputy coroner shall act as coroner or, if there is no deputy coroner, the coroner shall request under the procedures in subd. 1. that another person act as coroner until the coroner is no longer exercising the powers and duties of sheriff.

History: 1973 c. 272; 1983 a. 146, 279, 538; 1989 a. 31, 268, 359; 1991 a. 316; 1995 a. 201 ss. 296 to 299; 1997 a. 35; 1999 a. 56; 2005 a. 127.

A county board in a county under 500,000 can abolish the elective office of coroner and implement a medical examiner system to be effective at the end of the incumbent coroner's term. 63 Atty. Gen. 361.

A medical examiner should be a qualified expert in pathology. 69 Atty. Gen. 44.

Appointment of a law enforcement officer as an assistant medical examiner creates an impermissible conflict between the offices. 75 Atty. Gen. 28.

59.35 Deputy coroner. (1) Within 10 days after entering upon the duties of the office, the coroner shall appoint some proper person, who is a resident of the county, chief deputy coroner, and may appoint as many other deputy coroners as the coroner considers proper. The coroner may fill vacancies in the office of any such appointees, and may appoint a person to take the place of any deputy who becomes incapable of executing the duties of the office. A person appointed deputy coroner for a regular term or to fill a vacancy or otherwise shall hold office during the pleasure of the coroner. Every appointment of a deputy coroner and every revocation of an appointment shall be in writing and filed and recorded in the office of the clerk of the circuit court. In case of a vacancy in the office of coroner, the chief deputy coroner shall in all things and with like liabilities and penalties execute the duties of the office until the vacancy is filled as provided by law.

(2) The coroner shall be responsible for every default or misconduct in office of a deputy coroner during the coroner's term of office, and after the coroner's death, resignation, or removal from office, as well as before. An action for any default or misconduct under this subsection may be prosecuted against the coroner and the sureties on the coroner's official bond or against the coroner's personal representative.

(3) The coroner may require a deputy coroner, before entering upon the duties of the office, to execute and deliver to the coroner a bond in such sum and with such sureties as the coroner may

require, conditioned for the faithful performance of the deputy's official duties; and every default or misconduct of the deputy coroner for which the coroner shall be liable shall be a breach of the bond.

(4) Whenever a medical examiner has been appointed under s. 59.34 (1) (a), this section shall not apply in such counties, nor shall the coroner of such counties be responsible for any default or misconduct in office of the medical examiner.

(5) A person holding office under this section may also serve as an emergency medical technician, a first responder, a fire fighter or a chief, deputy chief or assistant chief of a fire department.

History: 1973 c. 272; 1975 c. 294, 421; 1985 a. 315; 1989 a. 31; 1991 a. 316; 1995 a. 201 s. 306; Stats. 1995 s. 59.35; 1997 a. 35; 1999 a. 56; 2001 a. 102; 2005 a. 39, 127; 2007 a. 97.

A coroner can legally appoint a deputy after the time in sub. (1). 74 Atty. Gen. 198.

59.36 Coroner; fees. The board shall set the fees for all services rendered by the coroner. The fees may not exceed an amount that is reasonably related to the actual and necessary cost of providing the service.

History: 1983 a. 146; 1995 a. 201 s. 307; Stats. 1995 s. 59.36.

59.37 Service when no coroner. Whenever there is a vacancy in the office of coroner, or when the coroner is absent from the county, sick or unable to perform the duties of that office, or for any reason, except the nonpayment of legal fees, refuses to serve and execute legal process against the sheriff in any action commenced in any court of record within the county for which the coroner was or should have been elected, any judge of a court of record or circuit court commissioner of the county may, on proof of the vacancy, sickness, absence or refusal to serve and execute such process, by an order to be endorsed on such process and addressed to him or her, empower any citizen of the county in which such process is to be served and executed to serve and execute the same; and that order shall be sufficient authority to the person therein named to serve and execute such process with like powers, liabilities and fees as the coroner.

History: 1977 c. 449; 1995 a. 201 s. 305; Stats. 1995 s. 59.37; 2001 a. 61.

59.38 Medical examiner and assistants. (1) **MEDICAL EXAMINER, ASSISTANTS; SALARIES; FEES; REPORT.** The medical examiner and medical examiner's assistants authorized by the board shall be paid semimonthly out of the county treasury of the proper county, for the performance of all their official duties and in lieu of all other compensation, salaries to be fixed by the board. The medical examiner and medical examiner's assistants shall collect for all services performed, except in cases where the county is solely liable, all fees that coroners are by law entitled to receive, and shall keep accurate books of account in which shall be entered from day to day the items of services rendered, the titles of the proceedings in which and the names of the persons for whom rendered, and the fees charged and received, and shall, at the end of every 3 months, render to the board and to the treasurer an accurate report or statement, verified by his or her oath, of all fees and income collected by them or for them during the 3 months; and at the same time they shall pay to the treasurer all fees and incomes collected by them, or which they were entitled by law to charge or receive, not paid to the treasurer. The medical examiner or a medical examiner's assistant shall act as coroner in another county when requested to do so under s. 59.34 (2) (b).

(2) **OFFICE AND RECORDS.** The board shall provide for the use of the medical examiner suitable offices at the county seat, and the medical examiner shall keep in his or her office proper books containing records of all inquests held by the medical examiner, setting forth the time and place of holding the inquests and the names of the jurors serving thereon, together with a brief statement of the inquest proceedings.

(3) **MEDICAL EXAMINER'S BOND.** Before entering upon the duties of office, the medical examiner of the county shall deliver to the clerk a bond, subscribed by 2 or more sufficient sureties, in

such penal sum as the board determines, conditioned for the faithful performance of all official duties as set forth in this chapter and ch. 979 and that he or she will faithfully account for and pay to the treasurer of the county all moneys which may come to him or her belonging to the county, and which by virtue of this chapter and ch. 979 the medical examiner is required to account for and pay as aforesaid.

(4) **SPECIAL COUNTIES; DEPUTIES AND ASSISTANTS; POWERS.** The medical examiner and his or her assistants shall be compensated for the performance of all their official duties by salaries fixed by the board under sub. (1).

(5) **MEDICAL EXAMINER; APPOINTMENT IN POPULOUS COUNTIES.** In a county with a population of 500,000 or more, the county executive shall appoint the medical examiner in the unclassified service, subject to confirmation by a majority of the board. The medical examiner may be dismissed at any time by the county executive with the concurrence of a majority of the members-elect of the board, or by a majority of the members-elect of the board with the concurrence of the county executive. If the county executive vetoes an action by the board to dismiss the medical examiner, the board may override the veto by a two-thirds vote of the members-elect of the board.

History: 1995 a. 201 ss. 300 to 304, 309, 310; 1997 a. 35; 2005 a. 127.

59.39 Coroner or medical examiner as funeral director, limitation. No coroner, deputy coroner, medical examiner or assistant medical examiner who is a licensed funeral director, an owner or operator of a funeral establishment as defined in s. 445.01, or an employee of a funeral establishment, and no funeral establishment with which such a coroner, deputy coroner, medical examiner or assistant medical examiner is associated, shall perform any of the services of a funeral director upon the body of any person whose death is required by law to be investigated by such coroner, his or her deputy, medical examiner or assistant medical examiner. Any person who violates this section shall be fined not more than \$50.

History: 1973 c. 272; 1979 c. 175 s. 53; 1979 c. 221 s. 2202 (45); 1983 a. 485; 1995 a. 201 s. 308; Stats. 1995 s. 59.39.

59.40 Clerk of court. (1) **CLERK OF COURT; DEPUTIES; CHIEF DEPUTY; DIVISION CHIEF DEPUTIES; CALENDAR DEPUTY CLERK IN CERTAIN COUNTIES.** (a) *Counties of less than 500,000 population.* Every clerk of the circuit court shall appoint one or more deputies and the appointments shall be approved by the majority of circuit judges for the county, but shall be revocable by the clerk at pleasure, except in counties having a population of 500,000 or more. The appointments and revocations shall be in writing and shall be filed in the clerk's office. The deputies shall aid the clerk in the discharge of the clerk's duties. In the absence of the clerk from the office or from the court, the deputies may perform all the clerk's duties; or in case of a vacancy by resignation, death, removal or other cause the deputy appointed shall perform all such duties until the vacancy is filled.

(b) *Counties of more than 500,000 population.* In counties having a population of 500,000 or more the clerk shall appoint one chief deputy and 4 assistant chief deputy clerks, 3 calendar deputy clerks, and one or more deputy clerks as the board authorizes. The deputy clerks shall aid the clerk in the discharge of the clerk's duties under the supervision of the clerk, the chief deputy clerk and the assistant chief deputy clerks. The appointments of the chief deputy clerk who is exempt from classified civil service and the calendar deputy clerks shall be in writing and filed in the clerk's office. These appointments shall be approved by the chief judge of the judicial administrative district, but are revocable at the pleasure of the clerk. The chief deputy clerk has all powers and duties of assistant chief deputy clerks, deputy clerks, and other court assistants except bailiffs and reporters and in the absence of the clerk from the office or from the court, the chief deputy clerk may perform all of the clerk's duties; or in case of a vacancy by